



# CODE OF CONDUCT

**For the European Data Protection Supervisor  
and the Assistant Supervisor**

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## 1. INTRODUCTION

The European Data Protection Supervisor and the Assistant Supervisor (hereafter “the Supervisors”) shall be chosen from persons whose independence is beyond doubt and that have demonstrated the ability to act with the required independence<sup>1</sup>.

The EDPS’ mission as laid down in Regulation (EC) No 45/2001 requires that they behave in accordance with the principles of independence, impartiality, integrity and loyalty, both during and after their term of office<sup>2</sup>. In this respect, as also clarified by the Court of Justice, data protection supervisory authorities must enjoy an independence which allows them to perform their duties free from any external influence, direct or indirect, which is liable to have an effect on their decisions<sup>3</sup>. Thus, ruling out all relevant risks of actual, apparent or potential conflict of interest helps to preserve the Supervisors’ independence.

The EDPS Rules of Procedure reaffirm the principle that the Supervisors act impartially and objectively when performing their tasks, guided by high professional standards, integrity, transparency, sound governance and good administration<sup>4</sup>.

This additional policy document, drafted in the form of a Code of Conduct (hereafter “the Code”), builds on best practices particularly from national Data Protection Authorities and of other European institutions (e.g. the Code of Conduct of the Members of the Court of Auditors, the Code of Conduct of the Members of the Court of Justice, the Code of Conduct of the European Commissioners or the Code of Conduct of the European Ombudsman). It also reflects the principles enshrined in the above mentioned Rules of Procedure of the EDPS and the Code of Conduct for the EDPS staff<sup>5</sup>, and high ethical standards of behaviour.

This Code serves as a reference point for our stakeholders and for the general public on the accountability of the Supervisors to integrate ethical insights into their daily work as independent regulator and policy advisor in the field of data protection, following the new EU institutional framework and the Lisbon treaty.

Therefore, the objective of this Code of Conduct goes beyond the applicable rules regarding the overall conduct incumbent upon the Supervisors by virtue of their office.

<sup>1</sup> Article 42, para 2, Regulation (EC) No 45/2001; Vacancy notices COM/2014/10354 and 10353, in O.J. C 163, A/6, 28 May 2014.

<sup>2</sup> Article 44 - Independence.

1. The European Data Protection Supervisor shall act in complete independence in the performance of his or her duties.
2. The European Data Protection Supervisor shall, in the performance of his or her duties, neither seek nor take instructions from anybody.
3. The European Data Protection Supervisor shall refrain from any action incompatible with his or her duties and shall not, during his or her term of office, engage in any other occupation, whether gainful or not.
4. The European Data Protection Supervisor shall, after his or her term of office, behave with integrity and discretion as regards the acceptance of appointments and benefits.

<sup>3</sup> See Case C-518/07, *Commission v Germany*, judgment of 9 March 2010, at paragraph 30) The Court added the requirement to remain above all suspicion of partiality in Case C-614/10, *Commission v Austria*, judgment of 16 October 2012, at paragraph 52 (affirmed, Case C-288/12, *Commission v Hungary*, 8 April 2014).

<sup>4</sup> Article 3 EDPS Rules of Procedure adopted with the EDPS Decision of 17 December 2012, in [http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1396006447311&uri=CELEX:32013D0504\(03\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1396006447311&uri=CELEX:32013D0504(03)).

<sup>5</sup> Code of conduct in: [http://www.edpsnet.ep.parl.union.eu/edpsnet/webdav/site/edpsnet2/shared/Ethics/Code\\_of\\_conduct/CODEEDPS%20newlogo.pdf](http://www.edpsnet.ep.parl.union.eu/edpsnet/webdav/site/edpsnet2/shared/Ethics/Code_of_conduct/CODEEDPS%20newlogo.pdf).

## 2. MEETINGS AND CONFERENCES OUTSIDE THE EU INSTITUTIONS

Attendances by the Supervisors at professional meetings with organisations or self-employed individuals outside the EU institutions are published, at a minimum, on the institution's website. Similarly, all conferences in which the Supervisors participate are published on the EDPS website, together with formal speaking notes if any.

The information made public includes the date and location of the meeting or conference, the name of the Supervisor or Assistant Supervisor attending and the name of the representative of the organisation or self-employed individual or the name of the institution or of the organiser of the conference and the subject of the meeting or the conference.

In accordance with Article 5(a) of Regulation (EC) No 45/2001 of the European Parliament and of the Council, personal information related in the previous paragraph will be made public on the basis of a privacy notice sent to the participants at a professional meeting once the meeting has been confirmed.

The professional meetings of the Supervisors with representatives of other EU institutions and bodies and data protection authorities, in their supervisory or consultative roles, being intrinsic to their duties and daily work, are registered and available on request.

## 3. OUTSIDE ACTIVITIES DURING THE TERM OF OFFICE

The Supervisors devote themselves to the fulfilment of their mandate. They are mindful of the importance of their duties and responsibilities, they take into account the public character of their duties and conduct themselves in a way that maintains and promotes the public's trust in the EDPS. In particular, when engaging in outside activities, whether professional or private, the Supervisors refrain from any action or behaviour which might reflect adversely upon the Institution.

The Supervisors may not exercise any political office and may not engage in any other professional activity, whether gainful or not, during the term of office.

The Supervisors may not accept payment for any form of outside activity made during their mandate. Should a payment be unavoidable (e.g. for protocol or tax reasons), the money received is declared to the Institution and donated to a charity.

The Supervisors may engage in academic, cultural or scientific activities (such as conferences, courses, lectures, seminars, research groups, scientific committees, etc.) and the publications relating from them. They may also hold unremunerated honorary posts in foundations or similar bodies<sup>6</sup> engaged in such activities or in the social, sporting or charitable domains, provided that their participation does not significantly impact the performance of their duties. Any intellectual property rights resulting from such publications belong to the Supervisors and are declared in Annex 1 if higher than 150 € per year. Should a payment be unavoidable (e.g. for protocol or tax reasons), the income received is declared to the Institution and donated to a charity (reimbursement of expenses is not to be considered as a remuneration).

<sup>6</sup> The expression 'foundations or similar bodies' means non-profit organisations or associations which carry out activities in the general interest in the aforementioned domains.

All such unremunerated activities or posts are listed in the declaration of interests referred to in section 4 below and published on the EDPS website, with particular regard to cases where the institution or organisation in question receives any kind of financing from the EU budget or the workload generated by their participation may significantly impact the performance of their duties.

In any case, the Supervisors shall not engage in any managerial or administrative activity which might compromise their independence or give rise to an actual, potential, or apparent conflict of interests.

#### **4. CONFLICTS OF INTEREST, FINANCIAL INTERESTS AND ASSETS AND DECLARATION OF INTERESTS**

The Supervisors avoid any situation liable to give rise to a conflict of interest. They do not deal with matters in which they have any personal interest which could impair their impartiality. Depending on the circumstances, a personal interest may relate to their own interests but also to family relatives, people with whom they may have close friendship or manifest enmity or people or organisations with which the Supervisors have been professionally linked up to three years before their appointment. If they are confronted with a situation that may give rise to a conflict of interest, they inform the Management Board and the Ethics Officer.

The Supervisors declare those relevant financial interests or assets which might create an actual, apparent, or potential conflict of interest in the performance of their duties.

The Supervisors' declarations of interests include relevant information about past occupational activities, memberships, on-going non-remunerated activities, holdings, and other financial interests.

The Supervisors also declare those relevant professional activities of their spouses/partners which may entail a conflict of interest.

The declaration of interests is revised when information changes and at least every year. The declarations are published on the institution's website. The declaration of interests form is available in annex 1.

#### **5. MISSIONS**

The Supervisors make the most efficient use of the resources made available to them for missions and travelling taking also into consideration the speaking engagements policy published in the institution's website<sup>7</sup>.

The EDPS has signed a Service Level Agreement<sup>8</sup> with the Paymaster's Office of the Commission (PMO) to which many tasks have been outsourced. The Supervisors act in accordance with the relevant principles in the Code of Conduct for Commissioners and in the EDPS guide for missions which is de facto the same as the guide for Commission officials.

<sup>7</sup> [https://secure.edps.europa.eu/EDPSWEB/edps/EDPS/Events/Speaking\\_eng\\_policy](https://secure.edps.europa.eu/EDPSWEB/edps/EDPS/Events/Speaking_eng_policy).

<sup>8</sup> Service-Level Agreement relating to the cooperation between the EDPS and PMO of the European Commission 2015.

The missions of the Supervisors are published in the institution's website so long as they refer to the attendance of conferences or meetings published in accordance with section 2 of this Code.

## **6. REPRESENTATION EXPENSES AND HOSPITALITY**

The Supervisors use the resources made available for covering the cost of representation and hospitality expenses in the most appropriate, efficient, and transparent way for the purposes of their representative functions and in the interests of the institution in accordance with the provisions of the present Code of conduct.

Representation expenses are covered by budget item 2015 "Expenditure in connection with the activities of the institution" of the EDPS budget.

The Supervisors may extend and accept invitations to receptions or events and offer or accept customary hospitality if such engagements are associated and compatible with their duties and in the interest of the institution.

The Supervisors shall follow the applicable financial procedure mentioned in annex 2.

## **7. GIFTS**

The Supervisors may accept in performing their duties protocol gifts of a value up to EUR 150. Exceptionally and by virtue of protocol or courtesy, they may accept gifts of a greater value, which are handed over to the institution and become its property.

Gifts offered by the Supervisors should be of a symbolic nature and may not include wine, spirits or tobacco.

The Ethics Officer of the EDPS keeps a list of gifts offered of a value higher than 50 EUR and received. The list, which shall be made available upon request, includes the following information: date, name of person receiving/offering the gift, institution, description, and approximate value.

## **8. DECORATIONS OR HONOURS**

Any decoration, prize or honour awarded to the Supervisors should be compatible with their public status and should not compromise their independence or give rise to an actual, potential, or apparent conflict of interest.

All decorations, prizes or honours are declared to the Management Board and the Ethics Officer and published on the institution's website.

If a prize is accompanied by a financial reward, the full amount is donated to a charity of their choice and made public.

## **9. POST TERM-OF-OFFICE ACTIVITIES**

After ceasing to hold office, the former Supervisors continue to be fully bound by the duty of integrity, discretion and confidentiality.

Whenever former Supervisors intend to engage in a professional activity or occupation during the three years after they have ceased to hold office, they shall inform the Management Board beforehand. The Management Board shall assess whether the occupation is in conflict of interest or incompatible with their former duties.

In any event, during such a cooling-off period, the Supervisors:

- may engage in their former public office;
- may engage in a new public office or take up a post in a non-profit organisation, provided that they abstain from any activity in conflict of interest or otherwise incompatible with their former duties;
- may engage in academic activities;
- may provide advice on ensuring compliance with data protection principles, excluding institutions or private companies that during their term or office have been subject to EDPS supervision or directly affected by EDPS decisions;
- may not be employed by private companies that during their term of office have been subject to EDPS supervision or directly affected by EDPS decisions.

## **10. INFORMATION ABOUT THE OBLIGATIONS OF THIS CODE AND ITS APPLICATION**

This code applies to the Supervisors in office as of the date of its adoption. In order to ensure that new Supervisors are aware of their legal obligations and expected standards of behaviour resulting from this Code, the Ethics Officer of the EDPS shall communicate the content of this Code to the new Supervisor and/or Assistant Supervisor upon appointment.

The Management Board will intervene on his/her own will or at the request of the Ethics Officer of the EDPS in the way provided in this Code.

When acting as a replacement for the Supervisors or upon delegation, the Director of the EDPS shall observe the requirements of this Code.

## ANNEX 1 - Declaration of interests

### European Data Protection Supervisor/Assistant European Data Protection Supervisor Declaration of Interests

Year

Full name:

#### I. PREVIOUS ACTIVITIES

- 1.1 Relevant posts held over the last 5 years, in foundations or similar bodies (Please indicate the nature of the post, the name of the body and its objective/activity)
  
- 1.2. Posts held over the last 5 years in educational institutions  
(Please indicate the nature of the post and the name of the institution)
  
- 1.3. Post held over the last 5 years in the governing, supervisory and advisory organs of companies and other bodies devoted to commercial or economic activities.  
(Please indicate the nature of the post and the name and the business of the company or other body)
  
- 1.4. Other professional activities held over the last 5 years, including services, liberal profession, consulting activities or research funding.  
(Please indicate the nature of the activity)

## II. OUTSIDE ACTIVITIES

11.1. Posts currently held in foundations, similar bodies or educational institution  
(Please indicate the nature of the post, the name of the body and its objective/ activity)

11.2. Additional relevant information (e.g. other functions of an honorary nature and/or attributed for life)

11.3. Incomes resulting from intellectual property rights higher than 150 € per year

## III. FINANCIAL INTERESTS

Shares: (for an amount higher than 30.000 Euros or in a financial interest that would create an actual, apparent or potential conflict of interest in the exercise of my duties)

| Company | Number of shares | Total current value |
|---------|------------------|---------------------|
|---------|------------------|---------------------|

Other stock:

| Company | Number of securities | Total current value |
|---------|----------------------|---------------------|
|---------|----------------------|---------------------|

## IV. REAL STATE ASSETS AND ANY OTHER PROPERTIES, WHICH MIGHT CREATE AN ACTUAL, APPARENT OR POTENTIAL CONFLICT OF INTEREST IN THE PERFORMANCE OF MY DUTIES

Real estate:

Other property:

IV. SPOUSE'S/ PARTNER'S PROFESSIONAL ACTIVITY AND FINANCIAL INTERESTS, WHICH MAY CREATE AN ACTUAL, APPARENT OR POTENTIAL CONFLICT OF INTEREST IN THE PERFORMANCE OF MY DUTIES

I hereby declare that the information given above is correct. I hereby acknowledge that this information will be published on the EDPS website, that I have received the privacy notice regarding the processing of my personal data and that I have informed my spouse/partner about the collection/publication of the data contained in this declaration.

Date:

Signature:

## ANNEX 2 - Procedure to be followed by the Supervisors for representation expenses

### 1. Scope of the procedure

The procedure applies to all purchases (restaurant bills, gifts etc.) made by the Supervisors as representation expenses.

The Authorising officers by delegation (AOD) and sub-delegation (AOS), in accordance with the principle of sound financial management, shall be responsible for judging the appropriateness of the purchases made by the Supervisors as well as ensuring compliance with the procedures and legality of the actions undertaken. They shall also ensure that the gifts offered by the Supervisors are consistent with their Code of Conduct and the legal obligations of the persons receiving them.

If the procedure described in point 2 ("Financial steps of the procedure") cannot be followed, an explanatory note signed by the corresponding Supervisor should be sent to the Director of the EDPS secretariat. Furthermore, if a particular event does not allow the EDPS to comply with the Financial Regulation, the operational transaction should be included in the "Register of Exceptions", justified and approved before the adoption of corrective measures.

Please note that the explanatory note differs from the "Register of Exceptions"; the explanatory note deals with the EDPS' internal rules whereas the "Register of Exceptions" deals with the Financial Regulation (FR).

### 2. Financial steps of the procedure

For purchases under EUR 1.000, the representation expenses will be reimbursed upon submission of a reimbursement request according to the following procedure:

- > The person in charge<sup>9</sup> collects the supporting documents (invoices, receipts, tickets) and registers the amounts and the nature of the events (i.e. working lunch, coffee, etc.) in a table (see example below).

| N° | Date | Nature of the event | External participants | EDPS participants | Amount |
|----|------|---------------------|-----------------------|-------------------|--------|
|    |      |                     |                       |                   |        |
|    |      |                     |                       |                   |        |
|    |      |                     |                       |                   |        |

- > Four times a year (March, June, September, November) the person in charge prepares a request for reimbursement to the attention of the Head of the HRBA Unit reporting the total amount of the representation expenses for the given period<sup>10</sup>.
- > The request of reimbursement shall include all the supporting documents previously collected as well as the above mentioned table for the concerned period.

<sup>9</sup> The secretary of the Supervisor / Director.

<sup>10</sup> In exceptional cases, when the amount of a specific expense is considered substantial, the request for reimbursement can be submitted separately.

- > The request for reimbursement, once received by the HRBA, will be registered and processed in ABAC by the finance team within the following 7 working days.
- > The reimbursement shall be authorised and paid into the bank account that is currently used to pay the salaries of the Supervisor.
- > The table will be stored in a file in the CMS (access restricted to the Records Management Sector). The original supporting documents will be kept in the financial files according to the corresponding archiving rules.

For purchases higher than EUR 1.000 and up to EUR 15.000, Art. 104 FR of procurement procedures in general, and Art 137 RAP on low-value contracts in particular, will apply. Nevertheless, in normal circumstances these purchases will become an event or reception organised by the institution and therefore would not be any more considered as representation expense.

If this procedure cannot be followed the transaction shall be considered as an exception to the Financial Regulation and therefore recorded in the Register of exceptions duly documented.