

**DECISION No 14/2010
OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)
of 21 MAY 2010**

on adopting the Ethical and Organisational Code of Conduct at the EIT

THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY,

Having regard to the Staff Regulations of Officials, and the Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 (hereinafter "the Staff Regulations" and "the CEOS"), in particular articles 11 to 26a of the Staff Regulations, and articles 11 and 81 of the CEOS, relating to Rights and Obligations of Staff;

Having regard to Decision EIT_10_GB_12_09 of 17.02.2010 on the Adoption of Implementing Rules of the Staff Regulations by Analogy to the European Commission, and in particular Commission decision on outside activities and assignments (C(2004) 1597 of 28.04.2004);

Having regard to the Protocol on the Privileges and Immunities of the European Union¹;

Having regard to decision no 3/2010 of the European Institute of Innovation and Technology (EIT) of 07 May 2010 on the Internal Control Standards applicable to the EIT;

Whereas

- (1) In line with the Internal Control Standard² number two, the EIT needs to establish procedures to ensure that all staff are aware of relevant ethical and organisational values, in particular ethical conduct, avoidance of conflict of interest, fraud prevention and reporting of irregularities,

HAS DECIDED AS FOLLOWS:

*Article 1
Scope*

The Ethical and Organisational Code of Conduct of the EIT, as appears in the Annex, is hereby adopted.

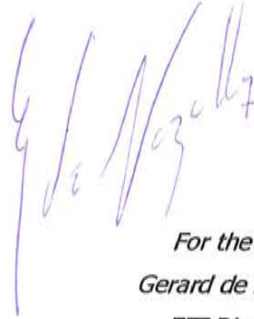
¹ OJ 310/261 of 16.12.2004

² Communication to the Commission No 1341 of 16.10.2007 on the revision of the internal control standards and underlying framework

Article 2
Entry into force

This decision shall enter into force the day following its adoption.

Done at Budapest, 21.05.2010

A handwritten signature in blue ink, appearing to read 'G. de Nazelle', written over a faint grid background.

For the EIT
Gerard de Nazelle
EIT Director

Annex I: Ethical and Organisational Code of Conduct of the EIT

ETHICAL & ORGANIZATIONAL CODE OF CONDUCT

EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)

Table of Content

1. Principles of staff ethics and conduct.....	3
1.1 Ethical principles	3
1.2 EIT values.....	3
2. Behaviour at work	3
2.1 Relations with the hierarchy	4
2.2 Relations among staff.....	4
2.3 Use of means of communications.....	4
3. Relations with the public and EIT stakeholders	5
3.1 Principles on dealing with citizens and stakeholders.....	5
3.2 The citizen's right to information.....	5
3.2.1 Dealing with enquiries (correspondence, telephone calls and e-mails).....	5
3.2.2 Requests for documents.....	6
3.2.3 Requests from the media.....	6
3.3 Rights of interested parties.....	6
3.4 Protection of personal data.....	7
3.5 Non-disclosure of information / confidentiality.....	7
4. Individual obligations	7
4.1 Conduct reflecting on the staff position.....	8
4.2 Avoidance of conflicts of interest (external activities)	8
4.2.1 Gifts, favours and payments	8
4.2.2 Honours and decorations (medals)	8
4.2.3 Declaring the professional activities of spouses or partners	9
4.2.4 Declaring a potential conflict of interest	9
4.2.5 Requesting prior permission for external activities	9
4.2.6 Standing for public office.....	10
4.2.7 Being elected or appointed	10
4.3 Immunity from legal proceedings.....	11
4.4 Right of freedom of expression (publications and speeches).....	11
4.4.1 Publications and speeches on professional and EU matters.....	11
4.4.2 Limitations on the freedom of expression.....	12
4.4.3 Publications and speeches on other (non-EU) matters.....	12
4.5 Obligations after leaving the service.....	13
5. Prevention and remedies	13
5.1 Ethical reasoning.....	13
5.2 Financial liability.....	13
5.3 Serious wrongdoing (Whistleblowing).....	14
5.3.1 The 'whistleblowing' procedure	14
5.4 Harassment.....	15
5.5 Administrative inquiries and disciplinary procedures	15
ANNEX 1	16

1. Principles of staff ethics and conduct

1.1 Ethical principles

To ensure the EIT's independence and credibility, staff employed at the Institute must adhere consistently to an ethical code in order to make sound decisions. The following ethical principles, by analogy to the European Commission, shall govern in all EIT activities:

- **Independence** – Staff conduct and decision-making should be determined by the need to serve the common good and the public interest, and never by any other interests whether private or otherwise or as a result, for example, of political pressure;
- **Impartiality** - in any decisions staff are called upon to make, the approach should be unbiased.
- **Objectivity** - when drawing conclusions, these should be balanced and based on a thorough analysis of the facts and the legal background;
- **Loyalty** – loyalty of its staff is essential for the EIT to maintain its independence and achieve its mission. It is also necessary for the functioning of each service.

Furthermore, the EIT staff shall also consistently adhere to the principles of **integrity, honesty and respect**.

1.2 EIT operational culture

In accordance to the EIT's vision, mission and strategic goals, the operational culture at the EIT shall be governed by the following aspects:

- **Can do approach:** EIT Staff is expected to hold an open attitude to face and solve challenging tasks and goals;
- **Focus:** Based on a results-oriented approach, staff of the EIT shall concentrate on the essentials to meet the organization's challenges;
- **Simplicity:** In the setting up and implementation of activities, the EIT staff shall strive to simplify its working methods and procedures as much as possible, while fully respecting applicable legislation;
- **Speed:** Tasks should be accomplished in a timely and effective manner, responding to the challenges facing the EIT as soon as possible;
- **Curiosity:** EIT staff shall foster the production and development of new ideas or methods to help the continuous improvement of the organization.

2. Behaviour at work

Ethical principles and standards required of EIT staff include the exercise of good judgment and common sense in relationship with hierarchy, other members of staff and external stakeholders.

Furthermore, staff must comply with Article 1d of the Staff Regulations¹ which prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

¹ Staff Regulations of Officials of the European Communities, and Conditions of Employment of Other Servants of the European Communities, Official Journal of the European Union P 45, 14.6.1962 and amendments, consolidated version at http://ec.europa.eu/civil_service/docs/rs100_en.pdf

2.1 Relations with the hierarchy

As stipulated in the Staff Regulations (Article 21), staff have the obligation to "assist and tender advice" to the hierarchy. However, the responsibility of a subordinate does not release a member of staff from his or her own responsibility.

As a general rule, a member of staff must follow instructions, unless they are manifestly illegal or constitute a breach of the relevant safety standards.

If a member of staff receives instructions that he/ she consider to be irregular or likely to give rise to serious difficulties, he/ she should ask for the instruction to be confirmed in writing. The member of staff may then consult the line manager and, subsequently, the Director if necessary. If the latter confirms the orders in writing, he/she should carry them out, unless they are manifestly illegal or breach safety standards.

2.2 Relations among staff

Colleagues should be treated with respect and impartiality, regardless of their position. In a multi-cultural workplace, mutual respect and tolerance of differences are essential ingredients of any good working relationship. This also involves:

- **Teamwork** – working together to achieve common goals;
- **Polite and clear communication** – engaging colleagues by showing respect and encouraging efficiency through clarity of instructions;
- **Conflict resolution** – finding workable solutions through better mutual understanding.

2.3 Use of means of communications

Computer equipment, e-mail and Internet access, telephones, mobile phones and fax machines have been installed for official use. However, they may occasionally be used for private purposes, to a reasonable and limited extent, provided that they are not used:

- for illegal or improper purposes
- in any way that might disrupt the functioning of the service itself
- in any manner contrary to the interests of the EIT or the EU.

For mobile phones, staff will have to indicate private calls on the monthly statements, the cost of which will be deducted from the payroll.

For electronic mail, incidental personal use of the e-mail system is permitted. However, regardless of the content (e.g. entertainment, charity, political campaigns or commercial ends, etc.), staff should refrain from sending messages that are to a wide or even indiscriminate number of addressees and from asking others to send out such messages widely.

With respect to the use of the Internet, attention is drawn to the fact that the EIT server may not be used where, for example, offensive, racist, discriminatory, sexually explicit or other equally inappropriate websites are accessed or where other personal use exceeds reasonable limits. The EIT is entitled to monitor the use of information and communication technologies (ICT) services. In the case of any suspected abuse, the Appointing Authority may request opening an investigation into the use of these services.

3. Relations with the public and EIT stakeholders

In contacts with the public and stakeholders, staff of the EIT should be guided by the principles of openness and transparency, as well as courtesy, helpfulness and efficiency.

3.1 Principles on dealing with citizens and stakeholders

Relations with the public should be based on the following standards:

- **Lawfulness** – staff should act in accordance with the law and apply the rules and procedures laid down in applicable EU and EIT legislation, and implementing rules.
- **Non-discrimination and equal treatment** – staff should respect the principle of non-discrimination and, in particular, guarantee equal treatment for citizens and stakeholders irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation.
- **Proportionality** – staff should ensure that the measures taken are proportional to the aim pursued.
- **Consistency** – staff should be consistent in their behaviour and follow the EIT's normal practice. Any exceptions to this principle should be duly justified.
- **Objectivity and impartiality** – staff should always act objectively and impartially, in the Community interest and for the public good. They should act independently within the framework of the policy fixed by the EIT and their conduct should never be guided by personal or national interest or political pressure.

In relations with interest groups, basic rules of professional ethics described above shall apply. Concretely, addressees should ensure that all representatives of interest groups identify themselves as such, clearly state the capacity in which they are acting and give the names of any other addressee at the EIT or other EU Institutions involved in EIT matters, whom they have contacted on the same subject. All other provisions regarding access to information detailed in the present code shall apply.

3.2 The citizen's right to information

Citizens and stakeholders are entitled to expect a speedy response when they address queries to the EIT.

Furthermore, Article 255 of the EC Treaty² grants citizens a right of access to European Parliament, Council and Commission documents. Furthermore, provisions on access to documents of the EIT are foreseen under a specific decision on this matter³.

3.2.1 Dealing with enquiries (correspondence, telephone calls and e-mails)

The EIT undertakes to answer enquiries from citizens and stakeholders in the most appropriate and rapid manner possible.

As a general rule for written correspondence, a substantive answer should be provided within 15 working days. If this is not possible, a holding response should be given within this period. When replying in writing, an attempt will be done to reply in the language of the citizen, provided it is one of the EU official languages and that the EIT has the capacity to reply in such language. Otherwise, standard replies will be given in English, as this is the working language at the EIT. Proper contact details should also be included.

² Official Journal (OJ) of the European Union C 83 of 30.3.2010

³ Decision EIT (08)_GB02_13 concerning the transparency and access to documents at the EIT, under <http://eit.europa.eu/about-eit/official-documents.html>

When answering telephone calls, staff should clearly identify themselves and treat the caller at all times in a courteous and efficient manner. Staff should return telephone calls as promptly as possible.

When dealing with enquiries, only information that has already been made public or is accessible to the public may be given out. On the contrary, staff should explain why the information cannot be disclosed.

Where correspondence can reasonably be considered as "repetitive, abusive and/or pointless", the EIT reserves the right to discontinue any such exchanges of correspondence.

E-mail messages should be treated promptly following the guidelines on telephone calls described above. However, where the e-mail message is, by nature, the equivalent of a letter, it should be handled according to the guidelines on written correspondence described above and should be subject to the same deadlines.

3.2.2 Requests for documents

When a document has been published, access should be given to the relevant webpage on the EIT or related Internet sites where the document is available, to the Publications Office's sales agents or to the nearest documentation or information centre providing free access to documents (Info-Points, European documentation centres, etc.).

A document that has not yet been made public may be distributed following the permission of the Appointing Authority.

Generally, staff members should follow the specific rules for access to documents as laid down in the EIT Decision "Transparency and access to documents at the EIT", from 17th October 2008⁴.

3.2.3 Requests from the media

The Communications service, within the Operations unit, is responsible for contacts with the media. All requests from the media shall then be forwarded to the Communications service or the line management, if staff at the Communication service is not available.

3.3 Rights of interested parties

When dealing with administrative decisions, staff shall respect the following path of action:

- **Listening to all parties with a direct interest.** Where Community law provides that interested parties should be heard, staff, in accordance with the conditions set out by that law, should ensure that an opportunity is given to them to make their views known.
- **Justifying decisions.** As a general rule, full justification for decisions should be given. Where this may not be possible on an individual basis, provision is made for standard replies to be given. These should include the principal reasons justifying the decision taken. However, an interested party who expressly requests a detailed justification should be provided with one, while respecting the rules on non-disclosure of information. The reasons to be given may vary according to the applicable specific rules.
- **Stating arrangements for appeals.** Where Community law provides for it, when notifying

⁴ EIT (08)-GB 02-13, on <http://eit.europa.eu/about-eit/official-documents.html>

an interested party of a measure, staff should clearly state the possibility of lodging an appeal and describe how to submit it (the name and office address of the person or unit with whom the appeal must be lodged and the deadline for doing so).

3.4 Protection of personal data

The EIT and its staff shall respect the rules on the protection of personal privacy and personal data. The principles, the individual's legally enforceable rights and the obligations of the institution concerned with regard to the processing of personal data are laid down in Regulation (EC) No. 45/2001⁵; these are in line with the Data Protection Directive 95/46/EC⁶.

Processing operations cover a wide range of activities from collecting to transfer and storage of data. Except for well-defined special circumstances, it is prohibited to process data on racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership, health or sex life. The data subject has the right to be informed of the processing operations (before the first occurrence) and has the right to access, rectify, and, where appropriate, block or erase data, to object to the processing and to receive compensation for any damage.

3.5 Non-disclosure of information / confidentiality

While the EIT staff is committed to the principles of openness and transparency, there are certain sectors of activity where non-disclosure of information and the confidentiality requirement may be applicable.

Without prejudice to the legislation on the protection of personal data, members of staff, or former members of staff, have an obligation not to disclose, without prior authorisation, information to which they have been exposed in the course of their work, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

Sensitive information related to the activities of the EIT shall be treated with the utmost discretion. For example, this applies to commercially sensitive data in the process of selection of the Knowledge and Innovation Communities (KICs), strategically sensitive data concerning policy instruments considered by the EIT, or staff data managed by the HR service.

Staff members are required to respect the confidentiality that intrinsically applies to business information provided by applicants at particular stages of an activity or project, particularly information relating to the content of tenders submitted for evaluation and selection (for example, details of a project applicant's financial situation or accounts).

4. Individual obligations

To maintain the EIT's independence and credibility, members of staff are subject to certain reasonable requirements which affect the exercise of their duties and can have implications for their private life. For this reason, members of staff are required to request authorisations or provide notifications in various situations (such as conflicts of interest, gifts, external activities, spouse's employment, or publications or speeches on EU-related matters). This must be done on the staff's own initiative.

⁵ OJ L8 of 12.01.2001
⁶ OJ 281, of 23.11.1995

4.1 Conduct reflecting on the staff position

In general terms, staff members should refrain from any action or behaviour which might reflect adversely on their position, as stated in the Staff Regulations (Article 12). This means that the staff's conduct even outside the office must be exemplary. Professional and private behaviour inside or outside the EIT should not bring the European civil service into disrepute.

It is also worth noting that if the acts or behavior of staff members risk bringing the EIT into disrepute, they could be subject to disciplinary proceedings. This could be the case, for example, if they were to be convicted of a crime or a misdemeanour.

When assessing any act or expression of opinion, account will be taken of its impact, especially if it appears to be harmful to the EIT's reputation.

4.2 Avoidance of conflicts of interest (external activities)

Staff of the EIT shall vow to maintain the EIT's independence and credibility by avoiding any perceived or potential conflict of interest. This applies specifically on the areas below:

4.2.1 Gifts, favours and payments

Staff of the EIT should not accept gifts, favours or payments from governments or any other source outside the institute without obtaining prior permission from the Appointing Authority. Staff offered any gifts, favours or donations with a combined value of more than € 50 given by the same source in any given year, may apply for permission to accept them, giving a justification.

When deciding on such matters, the Appointing Authority takes into consideration the following factors:

- the motive behind offering the gift, favour or donation
- the possible consequences for the EIT's interests
- the value of the gift, favour or donation
- the number of gifts, favours or donations given by the same source, or the total number received during the course of a year

Only if it can be clearly demonstrated to be in the interests of the EIT will approval be given to accept gifts in kind, particularly trips or excursions organised by third parties.

4.2.2 Honours and decorations (medals)

Similarly, except for services rendered before the staff's appointment or during special leave for military or other national service and in respect of such service, staff should not accept from any government or other source an honour or decoration without prior permission from the Appointing Authority, since it might otherwise reasonably be considered that the honour has been granted for services rendered to a national government while nevertheless working for the EIT, which could give rise to doubts about the impartiality of the EIT itself. Article 11 of the Staff Regulations covers this specific chapter.

Only national honours and decorations awarded by a sovereign state or official medals awarded by a sovereign state or an official organ of that state (ministry, regional or local authorities, etc.) or recognised by an official authority (Prix Charlemagne, Carnegie Hero Fund, etc.) are subject to restrictions outlined in Article 11 of the Staff Regulations.

In deciding, the Appointing Authority will take into consideration the following factors:

- the motive behind giving the decoration;
- the possible consequences for the EIT's interests.

4.2.3 Declaring the professional activities of spouses or partners

In line with Article 13 of the Staff Regulations, staff have an obligation to inform the Appointing Authority if their spouses are "in gainful employment", in order to prevent any appearance of a conflict of interest, which could arise because of the respective professional activities.

In this context, unmarried, legally recognised partners are regarded as spouses. In order to avoid any possible conflict of interest, the Appointing Authority may decide, after consulting the Staff Committee, to transfer a member of staff to another post, if the spouse's employment may lead to a situation of conflict of interest.

4.2.4 Declaring a potential conflict of interest

As stipulated in the Staff Regulations (Article 11a), staff members are prohibited, during the performance of their duties, from dealing with any matter in which they have a direct or indirect personal interest that has the potential to compromise their independence and, by extension, the Institution's interests.

Such situations can arise when:

- there is some link between the work of a member of staff and his/her private interests, or those of their family or partner;
- the staff member finds him/herself in a situation that could reasonably lead to allegations being made of bias or partiality, in light of his/her personal interests.

In such a situation, or in case of any doubt as to whether the circumstances could give rise to concerns over a conflict of interests, staff should notify the Appointing Authority immediately in written.

A conflict of interest that may arise within the framework of a budgetary action is defined by the Financial Rules of the EIT⁷ (Article 35).

4.2.5 Requesting prior permission for external activities

In order to ensure the EIT's independence and integrity, all members of staff need to ask for prior authorisation to take on external professional activities, paid or unpaid. The conditions applicable to the engagement in external activities are detailed in Commission decision on external activities⁸, adopted by the EIT by analogy to the European Commission⁹.

According to these rules, such an external activity should not:

- be so time consuming as to impact negatively on the work at the EIT, or constitute a job in itself;
- give rise to any possible appearance of a conflict of interest or be in some other way discreditable, so as to risk bringing the EIT into disrepute.

⁷ European Commission Decision C(2009) 2661, of 03.04.2009, at http://eit.europa.eu/fileadmin/Content/Downloads/PDF/Official_documents/EIT_Financial_Regulation.pdf

⁸ Commission decision of 28.04.2004 on outside activities and offices - C(2004)1597/10

⁹ Decision EIT_10_GB_12_09 from 17.02.2010 on the Adoption of Implementing Rules of the Staff Regulations by Analogy to the European Commission

Staff wanting to engage in any type of activity outside the EIT, whether paid or unpaid, must obtain prior permission from the Appointing Authority.

While respecting these conditions, staff members are likely to be authorised to carry out voluntary work, charity work, or limited teaching activities.

Staff is, however, not allowed to carry out any of the following types of work:

- outside work, whether paid or unpaid, in a "profession" (such as architect, lawyer, economist, accountant, IT professional, engineer, interpreter, doctor, translator, etc.);
- work in private companies, even if it is unpaid and the role is merely nominal (such as non-executive director, unpaid adviser, etc.);
- teaching or other pedagogical work, whether paid or not, for more than 100 hours per academic year, unless the Appointing Authority deems such work beneficial to the EIT.

Any request for external activity should be submitted two months before the staff member plans to start the work in question, to allow sufficient time for processing the request.

Before making its decision, the EIT reserves the right to assess each case on its own merits with regard to the type of work proposed.

The maximum net annual remuneration that staff may receive for any authorised external activities undertaken outside the EIT is € 4500 (after taxes). Anything over this amount must be turned over to the EIT.

No outside work may be performed either on the premises of the EIT or during normal working hours.

Permission granted under Article 12b of the Staff Regulations is valid for a maximum of one year from the date of the decision, or a lesser period, which will be stated in the decision. To extend or renew permission, a fresh application must be submitted.

In case of staff applying for leave on personal grounds, the Appointing Authority can make its acceptance of a request subject to reasonable and proportionate conditions, in view of the intended activity during the period requested, and can even refuse to grant such leave, if appropriate.

4.2.6 Standing for public office

Staff wishing to stand for public office, such as standing as a candidate in municipal, regional, national or European elections, must notify the Appointing Authority, as stipulated in the Staff Regulations (Article 15). The Appointing Authority will decide whether, in the period up to the date of the election or appointment, the staff member:

- must make a request for leave on personal grounds (CCP);
- must take annual leave;
- can be authorised to work part-time; or
- can continue to work with no changes to the working hours.

4.2.7 Being elected or appointed

If elected or appointed to a position, the staff member concerned must notify the Appointing Authority without delay.

Then, on the basis of the Director's opinion and taking into consideration the interests of the EIT, the importance of the public office in question, the duties it would involve and the remuneration and

expenses to which the staff member would be entitled, the Appointing Authority will decide whether the staff member:

- must make a request for leave on personal grounds (CCP);
- must take annual leave;
- can be authorised to work part-time; or
- can continue to work with no change to the working hours.

Current administrative practice in the European Commission is for the Appointing Authority to require staff elected to national parliaments (either upper or lower house) or the European Parliament to take special leave (CCP) for the whole term of office. The EIT shall decide on case by case basis, taking this common practice in other Institutions as a reference.

If the Appointing Authority decides to allow the staff member to continue working as normal, special leave of no more than 12 days a year may be granted on the basis of a duly substantiated formal request.

4.3 Immunity from legal proceedings

Under the Protocol on the Privileges and Immunities of the European Union¹⁰, which applies to staff employed by the EIT, staff shall be "... immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office." Furthermore, the Host agreement¹¹ signed between the EIT and the Hungarian Government also refers to the immunity of staff of the EIT, including exceptions to it, and the inviolability of the EIT premises in Budapest.

However, it is worth noting that immunity from legal proceedings is to be accorded solely in the interests of the EIT. The protection granted against proceedings before national courts (civil or criminal) covers only acts relating to professional life.

For matters relating to private life, staff members are subject to national civil and criminal law. Article 23 of the Staff Regulations stipulates that "officials shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force."

4.4 Right of freedom of expression (publications and speeches)

The Staff Regulations (Article 17a(1)) grant the right to freedom of expression "with due respect to the principles of loyalty and impartiality." These principles are primarily of relevance when a staff member expresses him/herself on professional or EU matters, especially with regard to publications or speeches.

4.4.1 Publications and speeches on professional and EU matters

If a staff member wants to publish or to have published, either on his/her own or with other parties, a document, such as an article or a book, on anything dealing with his/her work or EU matters, he/she must inform the Appointing Authority in advance, as stipulated in the Staff Regulations (Article 17a(2)).

The Appointing Authority must be provided with any information, in particular a copy, in electronic

¹⁰ OJ C 310/261 of 16.12.2004

¹¹ Host Agreement between the European Institute of Innovation and Technology and the Government of the Republic of Hungary, 23.03.2010 – not published

form, of the document intended for publication. This must be accompanied by a summary, in electronic form, in English, as the working language of the EIT, in case the original is only available in a different language.

Where the Appointing Authority can demonstrate that the matter is liable to prejudice seriously the legitimate interests of the Communities, it has to inform the staff member of its decision within 30 working days of receipt of the information. If it does not reply within this time limit, it is considered to have had no objections. However, it should be noted that the lack of a reaction does not prejudice the possible application of such a provision as Article 12 of the Staff Regulations, if the publication turns out to contain material which is, for example, defamatory or insulting, nor the possible application of Article 24 of the Staff Regulations, if other members of staff request assistance against what they may see as defamatory statements in the work. The author remains personally responsible for the published material.

These rules and procedures also apply to speeches and any form of public or private communication outside the scope of the professional duties of EIT staff, where they relate to EU matters and are or may be published.

4.4.2 Limitations on the freedom of expression

While the Staff Regulations (Article 17a(1)) grant officials and other staff the right to freedom of expression, this is subject to the following conditions being met:

- staff members must show restraint and caution in expressing differing opinions, in particular when the latter are closely linked to the subject and nature of their duties in the two preceding years;
- such opinions or any others regarding Community policies must be expressed with moderation and under the staff member's sole responsibility (i.e. with a disclaimer).

Remuneration

If the publication (including its writing/preparation) or speech would entitle the staff member to any financial payment, he/she must ask the Appointing Authority for prior authorisation to accept it.

Royalties received for publications, to which the Appointing Authority raised no objections, are not subject to the net annual ceiling of € 4500 that applies to work authorised to undertake outside the EIT.

If a publication or speech forms part of the work during a mission for the EIT (e.g. a fee for a speech made while on outside assignment, which would count as part of the staff member's normal work), the staff member must specify the exact amount received at the moment of requesting the mission or at the subsequent expenses claim.

If a payment is done after the mission expenses have been reimbursed, the staff member shall inform the service responsible for dealing with reimbursement of mission expenses. For any amounts received for speeches outside the frame of a mission, the staff member must inform the payroll officer at the HR service. The received amounts are then deducted either from the balance of a mission expenses claim or from the next salary payment.

4.4.3 Publications and speeches on other (non-EU) matters

For publications or speeches not related to work content do not require any authorisation to be published. However, if the publication (including its writing/preparation) or speech could be considered an external activity, notably, if under contract, and/or would entitle any financial payment,

the staff member must ask the Appointing Authority for prior authorisation to accept it (see also section above on "Requesting prior permission for external activities"). Royalties received for publications are not subject to the annual ceiling of € 4500 that applies to outside activities.

4.5 Obligations after leaving the service

After leaving the service, former staff members are still subject to certain obligations. In particular, they must « *behave with integrity and discretion* », as stipulated in the Staff Regulations (Article 16).

Former staff members are therefore bound not to accept any duties or professional activities after leaving the service that would be incompatible with the interests of the EIT or the EU. Staff members must inform the EIT in case of taking up an occupational activity, whether paid or unpaid, within two years of leaving the service. If that activity is related to the work carried out during the last three years of service and could lead to a conflict of interests, the Appointing Authority could forbid the staff member from undertaking it or give its approval subject to any conditions it sees fit. The EIT has 30 working days to notify the staff member of its decision. If no such notification has been received by the end of this period, this is deemed to constitute implicit acceptance.

Recipients of an invalidity allowance or a pension may only take up gainful employment if they have first been authorised by the Appointing Authority.

It should also be noted that former staff must « *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* », in line with the Staff Regulations (Article 17).

5. Prevention and remedies

Notwithstanding the rules in place, it may happen that problematic situations arise. The EIT has a series of means of resolving these problems, ranging from prevention to disciplinary procedures.

5.1 Ethical reasoning

In trying to resolve possible ethical dilemmas, which can arise when different values and principles come into conflict with one another, the following reasoning process is recommended to members of staff:

- > **Analyse the situation** by looking at the facts, circumstances and relevant rules, in order to identify possible options;
- > **Consider the consequences** of the different options, as well as the consequences of not acting;
- > **Check** whether other persons involved (hierarchy, colleagues) agree with the options you identify or see alternatives;
- > **Take action** based on the best option identified;
- > **Evaluate** the real impact of an action and any feedback, as such experience can serve as a precedent or a good point of departure when faced with a similar situation in the future.

5.2 Financial liability

As laid down in the Staff Regulations (Article 22), members of staff could be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct in

connection with the performance of their duties. This does not concern a simple error or a slight mistake causing financial damage. However, financial liability could be invoked if a member of staff has breached a legal obligation, caused financial damage and is guilty of deliberate misconduct or gross negligence. In such cases, all relevant circumstances are taken into account before any decision is taken.

Furthermore, articles 45 to 49 of the financial rules of the EIT describe the liabilities of the different financial actors at the EIT. Staff members involved in the EIT financial circuits are bound by these and all other applicable rules to financial operations.

In case of evidence of fraudulent behavior, the EIT shall apply similar mechanisms, by analogy, than those applied to the European Commission, based on the support of the European Antifraud Office (OLAF).

5.3 Serious wrongdoing (Whistleblowing)

All organisations face the risk of things going seriously wrong or of unknowingly harbouring corrupt behaviour. The Staff Regulations seek to address the problem through requiring staff to report any possible serious wrongdoing (Article 22a) and by providing adequate protection for staff reporting such cases (Article 22b). In absence of a developed set of procedures and rules, the EIT shall apply by analogy a similar way of proceeding than that applied at the European Commission, as described below.

5.3.1 The 'whistleblowing' procedure

Staff members are obliged to report facts pointing to a possible illegal activity, including fraud or corruption, or to a serious failure to comply with the professional obligations of EIT staff. This obligation only applies to facts discovered in the course of or in connection with professional duties at the EIT.

If a member of staff becomes aware of any serious wrongdoing, depending on who is involved, he/she should report it in writing and without delay to either the corresponding line Manager or the Appointing Authority directly.

Whoever receives this information is required to transmit it without delay to OLAF.

When such information is received from a whistleblower, OLAF or the EIT must:

- inform the whistleblower within 60 days of how much time is needed to take appropriate action; and
- take appropriate action within the period of time indicated.

If no appropriate action is taken within that time, the member of staff may turn to another EU institution – the President of either the Council, the European Parliament or the Court of Auditors, or the Ombudsman. Given the duties of discretion and loyalty, this should be an option of last resort, justifiable only if the staff member concerned honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and he or she allowed the EIT or OLAF a reasonable period of time to take appropriate action. If such an external disclosure is necessary, it is advisable to let the facts speak for themselves. The duties of discretion and loyalty imply that reporting serious wrongdoing beyond these other EU institutions (for example, to the press) is not permitted.

The EIT shall strive to protect the identity of the whistleblowers to prevent any unwanted

consequences from their actions.

5.4 Harassment

The EIT does not countenance harassment, in line with the Staff Regulations (Article 12a). In the work environment, the Staff Regulations distinguish between two particular types of harassment – psychological and sexual. To deal with such cases, the EIT it shall apply by analogy the procedure in use by the European Commission¹².

Psychological harassment

Psychological harassment covers all forms of sustained, intentional, abusive behaviour, whether this be repetitive or systematic conduct, words, acts, gestures or writing which may undermine the personality, dignity or physical or psychological well being of a person. It comes in many different guises: bullying, antagonism, pressure, offensive behaviour, even refusal to communicate - all examples of unacceptable behaviour which may, in isolation, appear of little consequence. When occurring on a regular basis, however, these kinds of behaviour may cause serious harm to the person towards whom they are directed.

Sexual harassment

Sexual harassment means unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of men and women at work. This can include any unwelcome verbal, non-verbal or physical behaviour. The essential characteristic is that it is unwanted by the recipient.

EIT policy

In line with the policy put in place by the Commission, in the event of a possible case of harassment the EIT shall first recommend an informal procedure aimed at finding a solution internally, based on a solid scrutiny of the evidence and facts related to the case. Practical administrative solutions may be proposed when appropriate.

In case the situation cannot be solved under an informal procedure, and before the EIT puts in place formal instruments to deal with these cases, the EIT shall seek support from the European Commission's Investigation and Disciplinary Office (IDOC) in order to launch a formal procedure.

5.5 Administrative inquiries and disciplinary procedures

The disciplinary system, which essentially involves administrative inquiries and disciplinary procedures, applies to any failure by a staff member or former staff member to comply with his or her obligations under the Staff Regulations, whether intentionally or through negligence.

Examples of cases where inquiries/disciplinary procedures have been conducted at other EU Institutions include: breaches of financial rules (such as public procurement), conflicts of interests (favouritism), corruption, allegations of psychological or sexual harassment, convictions in a criminal case, theft of material, committing fraud and falsifying documents, abuse of IT-equipment, and improper behaviour.

In the absence of the necessary structure at the EIT to deal with these cases, administrative inquiries

¹² Decision (C(2006)1624/3/déf

can be carried out by either the European Anti-Fraud Office (OLAF) or IDOC, depending on the nature of the case. For cases involving fraud and other serious financial irregularities, the EIT shall seek support from OLAF, whereas cases involving a breach on Staff Regulations will be consulted with IDOC.

ANNEX 1

STAFF REGULATIONS

Title II: Rights and obligations of officials¹³

Article 11

An official shall carry out his duties and conduct himself solely with the interests of the Communities in mind; he shall neither seek nor take instructions from any government, authority, organisation or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Communities.

An official shall not without the permission of the appointing authority accept from any government or from any other source outside the institution to which he belongs any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service.

Article 11a

1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.

2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter.

¹³ As stated in articles 11 and 81 of the CEOS, all these provisions apply by analogy to Temporary and Contract Agents.

3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.

Article 12

An official shall refrain from any action or behaviour which might reflect adversely upon his position.

Article 12a

1. Officials shall refrain from any form of psychological or sexual harassment.

2. An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly.

3. "Psychological harassment" means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

4. "Sexual harassment" means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender.

Article 12b

1. Subject to Article 15, an official wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Communities, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the activity or assignment in question is such as to interfere with the performance of the official's duties or is incompatible with the interests of the institution.

2. An official shall notify the Appointing Authority of any changes in a permitted outside activity or assignment, which occur after the official has sought the permission of the Appointing Authority under paragraph 1. Permission may be withdrawn if the activity or assignment no longer meets the conditions referred to in the last sentence of paragraph 1.

Article 13

If the spouse of an official is in gainful employment, the official shall inform the appointing authority of his institution. Should the nature of the employment prove to be incompatible with that of the official and if the official is unable to give an undertaking that it will cease within a specified period, the appointing authority shall, after consulting the Joint Committee, decide whether the official shall continue in his post or be transferred to another post.

Article 14

Repealed

Article 15

1. An official who intends to stand for public office shall notify the Appointing Authority. The Appointing Authority shall decide, in the light of the interests of the service, whether the official concerned:

- (a) should be required to apply for leave on personal grounds, or
- (b) should be granted annual leave, or
- (c) may be authorised to discharge his duties on a part-time basis, or
- (d) may continue to discharge his duties as before.

2. An official elected or appointed to public office shall immediately inform the Appointing Authority. The Appointing Authority shall, having regard to the interests of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out those duties, take one of the decisions referred to in paragraph 1. If the official is required to take leave on personal grounds or is authorised to discharge his duties on a part-time basis, the period of such leave or part-time working shall correspond to the official's term of office.

Article 16

An official shall, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.

Officials intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service shall inform their institution thereof. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him from undertaking it or give its approval subject to any conditions it thinks fit. The institution shall, after consulting the Joint Committee, notify its decision within 30 working days of being so informed. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance.

Article 17

1. An official 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. An official shall continue to be bound by this obligation after leaving the service.

Article 17a

1. An official has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.

2. Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Communities shall inform the Appointing Authority in advance.

Where the Appointing Authority is able to demonstrate that the matter is liable seriously to prejudice the legitimate interests of the Communities, the Appointing Authority shall inform the official 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 Appointing Authority shall be deemed to have had no objections.

Article 18

1. All rights in any writings or other work done by any official in the performance of his duties shall be

the property of the Community to whose activities such writings or work relate. The Communities shall have the right to acquire compulsorily the copyright in such works.

2. Any invention made by an official in the course of or in connection with the performance of his duties shall be the undisputed property of the Communities. The institution may, at its own expense and on behalf of the Communities, apply for and obtain patents therefore in all countries. Any invention relating to the work of the Communities made by an official during the year following the expiration of his term of duty shall, unless proved otherwise, be deemed to have been made in the course of or in connection with the performance of his duties. Where inventions are the subject of patents, the name of the inventor or inventors shall be stated.

3. The institution may in appropriate cases award a bonus, the amount of which shall be determined by the institution, to an official who is the author of a patented invention.

Article 19

An official shall not, without permission from the appointing authority, disclose on any grounds whatever, in any legal proceedings information of which he has knowledge by reason of his duties. Permission shall be refused only where the interests of the Communities so require and such refusal would not entail criminal consequences as far as the official is concerned. An official shall continue to be bound by this obligation after leaving the service.

The provisions of the preceding paragraph shall not apply to an official or former official giving evidence before the Court of Justice of the European Communities or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of one of the three European Communities.

Article 20

An official shall reside either in the place where he is employed or at no greater distance therefrom as is compatible with the proper performance of his duties.

Article 21

An official, whatever his rank, shall assist and tender advice to his superiors; he shall be responsible for the performance of the duties assigned to him.

An official in charge of any branch of the service shall be responsible to his superiors in respect of the authority conferred on him and for the carrying out of instructions given by him. The responsibility of his subordinates shall in no way release him from his own responsibility.

Article 21a

1. An official who receives orders which he considers to be irregular or likely to give rise to serious difficulties shall inform his immediate superior, who shall, if the information is given in writing, reply in writing. Subject to paragraph 2, if the immediate superior confirms the orders and the official believes that such confirmation does not constitute a reasonable response to the grounds of his concern, the official shall refer the question in writing to the hierarchical authority immediately above. If the latter confirms the orders in writing, the official shall carry them out unless they are manifestly illegal or constitute a breach of the relevant safety standards.

2. If the immediate superior considers that the orders must be executed promptly, the official shall carry them out unless they are manifestly illegal or constitute a breach of the relevant safety standards. At the request of the official, the immediate superior shall be obliged to give such orders in

writing.

Article 22

An official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connection with the performance of his duties.

A reasoned decision shall be given by the appointing authority in accordance with the procedure laid down in regard to disciplinary matters.

The Court of Justice of the European Communities shall have unlimited jurisdiction in disputes arising under this provision.

Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which gives rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.

Information mentioned in the first subparagraph shall be given in writing.

This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a Member of an institution or any other person in the service of or carrying out work for an institution.

2. Any official receiving the information referred to in paragraph 1 shall without delay transmit to OLAF any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22b

1. An official who further discloses information as defined in Article 22a to the President of the EIT or of the Court of Auditors or of the Council or of the European Parliament, or to the European Ombudsman, shall not suffer any prejudicial effects on the part of the institution to which he belongs provided that both of the following conditions are met:

- (a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
- (b) the official has previously disclosed the same information to OLAF or to his own institution and has allowed the OLAF or that institution the period of time set by the Office or the institution, given the complexity of the case, to take appropriate action. The official shall be duly informed of that period of

time within 60 days.

2. The period referred to in paragraph 1 shall not apply where the official can demonstrate that it is unreasonable having regard to all the circumstances of the case.

3. Paragraphs 1 and 2 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 23

The privileges and immunities enjoyed by officials are accorded solely in the interests of the Communities. Subject to the Protocol on Privileges and Immunities, officials shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force.

When privileges and immunities are in dispute, the official concerned shall immediately inform the appointing authority.

The laissez-passer provided for in the Protocol on Privileges and Immunities shall be issued to officials in grades grade AD 12 to AD 16 and equivalent grades. Where the interests of the service so require, this laissez-passer may be issued, by special decision of the appointing authority, to officials in other grades whose place of employment lies outside the territory of the Member States.

Article 24

The Communities shall assist any official, in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack to person or property to which he or a member of his family is subjected by reason of his position or duties.

They shall jointly and severally compensate the official for damage suffered in such cases, in so far as the official did not either intentionally or through grave negligence cause the damage and has been unable to obtain compensation from the person who did cause it.

Article 24a

The Communities shall facilitate such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with its own interests.

Such training and instruction shall be taken into account for purposes of promotion in their careers.

Article 24b

Officials shall be entitled to exercise the right of association; they may in particular be members of trade unions or staff associations of European officials.

Article 25

Officials may submit requests concerning issues covered by these Staff Regulations to the Appointing Authority of their institution.

Any decision relating to a specific individual which is taken under these Staff Regulations shall at once be communicated in writing to the official concerned. Any decision adversely affecting an official shall state the grounds on which it is based.

Specific decisions regarding appointment, establishment, promotion, transfer, determination of administrative status and termination of service of an official shall be published in the institution to which the official belongs. The publication shall be accessible to all staff for an appropriate period of time.

Article 26

The personal file of an official shall contain:

- (a) all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

Documents shall be registered, numbered and filed in serial order; the documents referred to in subparagraph (a) may not be used or cited by the institution against an official unless they were communicated to him before they were filed.

The communication of any document to an official shall be evidenced by his signing it or, failing that, shall be effected by registered letter to the last address communicated by the official.

An official's personal file shall contain no reference to his political, trade union, philosophical or religious activities and views, or to his racial or ethnic origin or sexual orientation.

The precedent paragraph shall not however prohibit the insertion in the file of administrative acts and documents known to the official which are necessary for the application of these Staff Regulations.

There shall be only one personal file for each official.

An official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file and to take copies of them.

The personal file shall be confidential and may be consulted only in the offices of the administration or on a secure electronic medium. It shall, however, be forwarded to the Court of Justice of the European Communities if an action concerning the official is brought.

Article 26a

Officials shall have the right to acquaint themselves with their medical files, in accordance with arrangements to be laid down by the institutions.