



FRONTEX



FRONTEX STAFF

CODE OF CONDUCT





FRONTEX

European Agency for the Management
of Operational Cooperation at the External Borders
of the Member States of the European Union

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Decision of the Executive Director
No 2012/120

**ON THE ADOPTION OF THE FRONTEX STAFF
CODE OF CONDUCT OF 15 NOVEMBER 2012**

THE EXECUTIVE DIRECTOR,
Having regard to the Frontex Regulation, in particular Article 25(3) (d)¹,

WHEREAS:

- (1) The Charter of Fundamental Rights of the European Union, in particular Article 41 thereof, lays down the basic provisions on the right to good administration.
- (2) The European Ombudsman has recommended² that different Union institutions, bodies and decentralized agencies should adopt rules concerning good administrative behaviour of their officials in their relations with the public.
- (3) The European Ombudsman has adopted public service principles for EU civil servants and addressed them to the EU bodies.
- (4) The European Parliament approved a Code of Good Administrative Behaviour which European Union institutions and bodies, their administrations and their officials should respect in their relations with the public³.

1 Council Regulation (EC) No 2007/2004 of 26 October 2004 (OJ L 349, 25.11.2004, p. 1), as last amended.

2 Own-initiative inquiry of the European Ombudsman into the existence and the public accessibility, in the different EU institutions and bodies of a Code of Good Administrative Behaviour for agents and other servants in their relations with the public (O1/1/98/OV).

3 European Parliament Resolution A5-0245/2001 of 6 September 2001 on the European Ombudsman's Special Report to the European Parliament following the own-initiative inquiry into the existence and the public accessibility, in the different Community institutions and bodies, of a Code of Good Administrative Behaviour, (OJ C 72 E, p. 331).

- (5) Members of the Frontex staff ensure high professional and personal standards including in their relations with the public.
- (6) In order to bring the administration closer to the citizens and to guarantee a better quality of administration, a Frontex Staff Code of Conduct (hereinafter the "Code") which contains the basic principles of good administrative behaviour for Frontex staff members when dealing with the public should be adopted.
- (7) The Code is complemented by Frontex Code of Conduct for Persons Participating in Frontex Activities⁴ as regards the performance of duties by Frontex staff members in an activity coordinated or led by Frontex.
- (8) The Code is binding on all staff covered by the Staff Regulations as well as persons employed under private law contracts, experts on secondment and interns working for Frontex.

4 Decision of the Executive Director No 24/2011 of 21 March 2011

After consultation with the Staff Committee,
HAS DECIDED AS FOLLOWS:

Article 1

Scope

The Frontex Staff Code of Conduct (hereinafter the "Code"), setting out principles and rules to guide the conduct of Frontex staff members, annexed to this Decision, as well as its Appendixes, is hereby adopted. Frontex has established its own set of Values as specified in key strategic documents such as the Multiannual Plan. These Values, which are fully compatible with the provisions of the Code, are: Humanity, Open communication, Professionalism, Teamwork and Trustworthiness.

Article 2

Relation with Frontex Code of Conduct for Persons Participating in Frontex Activities

While the Code of Conduct for persons participating in Frontex activities⁵ applies to all participants, including Frontex staff members, in the activities coordinated or led by Frontex as defined in its adopting decision, the present Code applies to the daily performance of the duties of Frontex staff members.

Article 3

Acknowledgement of receipt

Each member of the Frontex staff shall receive appropriate training on the contents of the Code and

5 Decision of the Executive Director No 24/2011 of 21 March 2011

sign an "Acknowledgement of receipt" of the Code, the form for which is contained in Appendix I.

Article 4

Delegation of powers

The Deputy Executive Director may delegate the powers conferred upon him/her by the Code and/or its Appendixes to the Director of the Administration Division.

Article 5

Repeal

The Decisions of the Executive Director No 2008/23 and No 2008/51 of, respectively, 21 May 2008 and 1 October 2008 are hereby repealed and replaced by this Decision.

Article 6

Entry into force

This Decision, its Annex and Appendixes enter into force on the day following its signature.

Done in Warsaw, 15 November 2012

Ilkka Laitinen
Executive Director

FRONTEX STAFF CODE OF CONDUCT

The references to Information and Transparency team in Annexes V and VI of the Code of Conduct should be understood as to the Communications team and the Press Office, respectively.

GENERAL PROVISIONS

Article 1

Objectives

1. The Frontex Staff Code of Conduct (hereinafter referred to as the “Code”) aims at promoting professional values and high personal standards to all Frontex staff members for the performance of their duties and to meet the objectives of good administrative behaviour.
2. In their relations with the public, Frontex and its staff members shall respect the rules and principles which are laid down in the Code.
3. Hereafter the term “Frontex staff members” refers to the persons defined in Article 2.
4. The term “public” refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

Article 2

Personal scope of application

1. The Code shall apply to the staff covered by Article 17 of the Frontex Regulation.
2. It is also binding upon:
 - a) seconded national experts;
 - b) persons employed under private law contracts and;
 - c) interns

Article 3

Material scope of application

1. This Code contains the general principles of good administrative behaviour which apply to all relations of Frontex and its staff members with the public unless they are governed by specific provisions.
2. The principles set out in this Code also apply to the relations among the staff members themselves, unless those relations are governed by the Staff Regulations or other specific provisions.

GENERAL PUBLIC SERVICE PRINCIPLES

Article 4

Quality service and public interest

1. Frontex staff members have a duty to serve the Union and the interests of its citizens. They should make recommendations and decisions only to serve these interests.
2. Frontex staff members are mindful of their position of public trust and set a good example to others.

Article 5

Lawfulness

Frontex staff members act in accordance with the law and apply the rules and procedures laid down in the legislation of the European Union. The staff members shall, in particular, take care that decisions which affect the rights or interests of individuals or parties have a basis in law and that their content complies with the law.

Article 6

Absence of discrimination

1. In dealing with requests from the public, in taking decisions and/or performing activities, Frontex staff members ensure that the principle of equality

of treatment is respected. To this end, members of the public who are in the same situation shall be treated in a similar manner.

2. If any difference in treatment is made, the staff members must ensure that it is justified by the objective relevant features of the particular case. The staff members are to avoid any unjustified discrimination between members of the public based on nationality, 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.

Article 7

Proportionality

1. When taking decisions and/or performing activities, Frontex staff members must ensure that the measures taken are proportional to the aim pursued. The staff members are to avoid restricting the rights of citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation to the purpose of the action pursued.
2. When taking decisions and/or performing activities, Frontex staff members respect the fair balance between the interests of private persons and the general public interest.

Article 8

Absence of abuse of power

Frontex staff members exercise powers solely for the purposes for which they have been conferred by the relevant provisions. Frontex staff members avoid using those powers for purposes which have no basis in the law, or which are not motivated by any public interest.

Article 9

Legitimate expectations, consistency and advice

1. Frontex staff members are consistent in their administrative behaviour. The staff members follow Frontex normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case; in such circumstances these grounds shall be recorded in writing.
2. Frontex staff members respect the legitimate and reasonable expectations that members of the public have in light of how Frontex has acted in the past.
3. Frontex staff members, where necessary, advise the public on how a matter which comes within his or her remit is to be pursued and how to proceed in dealing with the matter.

Article 10

Fairness and integrity

1. Frontex staff members act impartially, fairly and reasonably.
2. Frontex staff members are also guided by a sense of propriety and conduct themselves at all times in a manner that would bear the closest public scrutiny.

Article 11

Respect for others and courtesy

1. Frontex staff members act respectfully to each other and to members of the public.
2. Frontex staff members are service-minded, correct, courteous and accessible in relations with the public. When answering correspondences, telephone calls and e-mails, the staff members shall try to be as helpful as possible and reply as completely and accurately as possible to questions which are asked.
3. If an error occurs which negatively affects the rights or interests of a member of the public, the staff member acknowledges the mistake, apologises for it and endeavours to correct the negative effects resulting from his or her error in the most expedient way and to inform the member of the public of any rights of appeal pursuant to Article 26.

Article 12

Objectivity and transparency

1. When taking decisions and/or performing activities, Frontex staff members are open-minded, guided by evidence and open to hear different viewpoints. They take into consideration objective relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.
2. In procedures involving comparative evaluations, Frontex staff members make recommendations and take decisions only on merit and any other factors expressly prescribed by law.

3. Frontex staff members ensure that all instructions, directives and required duties are carried out promptly and diligently, unless they are manifestly illegal or constitute a breach of the relevant safety standards.
4. Frontex staff members are willing to explain their activities and to give reasons for their actions. They should welcome public scrutiny of their conduct, including their compliance with public service principles.

Article 13

Impartiality and independence

1. Frontex staff members are impartial and independent. The staff members will abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.
2. The conduct of the staff members is never to be guided by personal, family or national interest or by political pressure. The staff members do not take part in a decision in which he or she, or any close member of his or her family, has a financial interest.
3. The staff members take all the necessary steps to avoid conflicts of interest and the appearance of such conflicts. They take swift action to resolve any conflict that arises. This obligation continues after leaving office.
4. In order to ensure impartiality and independence, Frontex staff members have to declare their interests.
5. Guidance on Independence and Impartiality, in particular conflict of interests is contained in Appendix II.

Article 14

Gifts and favours

1. Frontex staff members shall not seek or accept from any government, authority, organisation, persons or any other source outside of Frontex any honour, decoration, favour, gift or payment of any kind whatsoever, in connection with their work in Frontex.
2. Exceptionally, gifts and favours may be accepted after prior permission from the Deputy Executive Director.
3. Guidance on the acceptance of gifts and favours, in particular hospitality is contained in Appendix III.

Article 15

Discretion

1. Frontex staff members have the right to freedom of expression, with due respect to the principles of loyalty and impartiality as well as the obligations of professional secrecy and confidentiality.
2. Frontex staff members respect the obligation of professional secrecy and refrain from any unauthorised disclosure of information. This obligation continues after leaving office.
3. Frontex staff members sign a "Declaration of Confidentiality and Discretion" as contained in Appendix IV, which has to be reconfirmed at the time of any contract renewal.
4. The classification of information shall be treated in accordance with the Frontex Security Manual⁶.
5. Guidance on confidentiality and discretion is given in Appendix IV.

6 Decision of the Executive Director 23/2011 of 17 March 2011

Article 16

Dealing with information

1. Frontex staff members exercise the utmost care in dealing with information and may not give interviews or briefings to the media regarding Frontex activities unless explicit authorisation is given conforming to the rules contained in Appendix VI to this Code.
2. The release of information to the European Anti-fraud Office, the Court of Auditors and the Commission's Internal Audit in the course of their respective duties does not constitute a breach of confidentiality.
3. Guidance on publications, speeches or lectures of information is given in Appendix V.

Article 17

Protection of personal data

1. Frontex staff members who deal with personal data respect the privacy and the integrity of the individual in accordance with the provisions of Regulation (EC) No 45/2001 of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the EU institutions and bodies and on the free movement of such data⁷.
2. Frontex staff members may not process personal data for non-legitimate purposes or transmit of such data to non authorised persons.

⁷ OJ L 8/1, 12.01.2001.

DEALING WITH ENQUIRIES AND CORRESPONDENCE

Article 18

Replying to letters in the language of the citizen

Frontex staff members ensure that every member of the public, who writes to Frontex in one of the Treaty languages, receives an answer in the same language.

Article 19

Acknowledgment of receipt and indication of the competent staff member

1. Every letter or complaint to Frontex shall receive an acknowledgment of receipt within a period of two weeks, except if a substantive reply can be sent within that period.
2. The reply or acknowledgment of receipt indicates the name and the telephone number of the staff member who is dealing with the matter, as well as the Unit to which he or she belongs.
3. No acknowledgment of receipt and no reply need be sent in cases where letters or complaints are improper or abusive because of their excessive number or because of their repetitive or pointless character. In these cases Frontex may discontinue any such exchange of correspondence.

Article 20

Obligation to transfer to the competent Unit within Frontex

1. If a letter or complaint to Frontex is addressed or transmitted to a Division, Unit or Sector which has no competence to deal with it, the file is transferred without delay to Frontex Registration.
2. The Division, Unit or Sector which originally received the letter or complaint notifies the author of this transfer and indicates the name and the telephone number of the staff member to whom the file has been passed.
3. The staff member shall alert the member of the public to any errors or omissions in documents and provide an opportunity to rectify them.

Article 21

Requests for information

1. The staff member shall, when he or she has responsibility for the matter concerned, provide members of the public with the information that they requested, provided that the provisions set out in the Frontex Security Manual are respected. When appropriate, the staff member gives advice on how to initiate an administrative procedure within his or her field of competence.
The staff member takes care that the information communicated is clear and understandable.
2. If an oral request for information is too complicated or too comprehensive to be dealt with, the staff member advises the member of the public concerned to formulate his or her demand in writing.

3. If, because of its confidentiality, a staff member may not disclose the information requested, he or she indicates to the member of the public concerned the reasons why he or she cannot communicate the information.
4. Further to requests for information on matters for which he or she has no responsibility, the staff member directs the requester to the competent member of staff and indicates his or her name and telephone number. Further to requests for information concerning another European institution or body, the staff member shall direct the requester to that institution or body.
5. Where appropriate, the staff member, depending on the subject of the request, directs the member of the public seeking information to the Unit responsible for providing information to the public.

Article 22

Requests for public access to documents

The staff member deals with requests for access to documents in accordance with the rules adopted by the Frontex Management Board (Decision 14/2006 of 21 September 2006) and in accordance with the general principles and limits laid down in Regulation (EC) No 1049/2001⁸.

8 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents [O] L 145, 31.05.2001, p. 43)

Article 23

Right to be heard and to make statements

1. In cases where the rights or interests of individuals or parties are involved, the staff member ensures that, at every stage in the decision making procedure, the rights of defence are respected.
2. Every member of the public has the right, in cases where a decision or an activity affecting his or her rights or interests has to be taken, to submit written comments and, when needed, to present oral observations before the final decision is taken.

Article 24

Reasonable time-limit for taking decisions or recommendations

1. The staff member ensures that a decision or recommendation on every request or complaint to Frontex is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public and for answers to administrative notes which the staff member has sent to his superiors requesting instructions regarding the decisions or recommendations to be taken.
2. If a request or a complaint to Frontex cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time-limit, the staff member informs the author thereof as soon as possible. In that case, a definitive decision or recommendation should be notified to the author in the most appropriate manner and in due time.

Article 25

Duty to state the grounds of decisions or recommendations

1. Every decision or recommendation of Frontex which may adversely affect the rights or interests of an individual or party shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision or recommendation.
2. The staff member avoids making decisions or recommendations which are based on brief or vague grounds or which do not contain individual reasoning.
3. If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the staff member guarantees that he or she will subsequently provide an individual reasoning to any member of the public who expressly requests it.

Article 26

Indication of the possibilities of appeal

1. A decision or recommendation of Frontex which may adversely affect the rights or interests of a member of the public must contain an indication of the appeal possibilities available for challenging the decision or recommendation. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the time-limits for exercising them.
2. In particular the decisions refer to the possibility of judicial proceedings and complaints to the Court

of Justice of the European Union and the European Ombudsman under the conditions specified in, respectively, Articles 263 and 228 of the Treaty on the Functioning of the European Union.

Article 27

Notification of the decision or recommendation

1. The staff member ensures that decisions or recommendations which affect the rights or interests of individual persons or parties are notified in writing, as soon as the decision or recommendation has been taken, to the person or parties concerned.
2. The staff member abstains from communicating the decision or recommendation to other sources until the person or parties concerned have been informed.

Article 28

Keeping of adequate records

Frontex' Divisions shall keep adequate records of their incoming and outgoing mail, of the documents they receive, and of the measures they take.

FINAL PROVISIONS

Article 29

Publicity for the Code

Frontex takes effective measures to ensure that this Code enjoys the widest possible publicity among the public, in particular by making it available on its Internet site.

Article 30

Right to complain to the Executive Director and the European Ombudsman

Any failure of Frontex staff members to comply with the principles and rules set out in this Code may be the subject of a complaint to the Executive Director or the European Ombudsman in accordance with Article 228 of the Treaty on the Functioning of the European Union and the Statute of the European Ombudsman⁹.

Article 31

Revision

Within two years after the entry into force of this Code, Frontex will review its implementation and submit a report to the European Ombudsman.

⁹ Decision of the European Parliament on the Regulations and General Conditions governing the performance of the Ombudsman's duties, OJ L 113/15, 4.5.1994.

APPENDIX I

ACKNOWLEDGEMENT OF RECEIPT¹⁰ DECLARATION ON THE FRONTEX STAFF CODE OF CONDUCT

I, the undersigned, declare that I understand and have taken note of the provisions laid down in the Frontex Staff Code of Conduct

Surname and Name: _____

Personnel number: _____

Date: _____

Signature: _____

¹⁰ The signed copy of the Acknowledgement of receipt is filed in the staff member personal's file.

APPENDIX II

GUIDANCE ON INDEPENDENCE AND IMPARTIALITY

Members of the Frontex staff have to carry out their duties independently, impartially and act always with the best interests of the Agency in mind. They shall neither seek nor take any instructions from any government, authority, organisation, private legal entity or persons outside Frontex.

Seconded national experts carry out their duties and conduct themselves solely with the interests of Frontex in mind and do not take instructions from any authority including their seconding home authority.

During the performance of their duties, a member of the Frontex staff is prohibited from dealing with any matter in which he/she has a direct or indirect personal interest that has the potential to compromise his/her independence.

Members of the Frontex staff who are in a situation where the performance of their tasks in Frontex is incompatible with any other interest or where a conflict of interests is likely to arise has to inform immediately the Deputy Executive Director.

The Deputy Executive Director shall take appropriate measures, such as exempting the member of the Frontex staff from responsibility in the matter at hand.

The direct managers of the Seconded National Experts (SNEs) shall take all the necessary measures

to prevent potential situations of conflict of interests between the SNE and his/her seconding Member State. They will, in particular, avoid that the SNE deals with matters involving their respective seconding home authority.

A conflict of interest situation may occur in the following cases:

- Where there is some link between the work of a member of the Frontex staff and his private interests, or those of his family or partner;
- Where a member of the Frontex staff is in a situation that could reasonably lead to a presumption of bias or loss of independence on his part, in light of his personal interests.

A member of the Frontex staff in the performance of his/her duties may not deal with a matter in which, directly or indirectly, he/she has a personal interest such that may impair his independence or give rise to the appearance of partiality.

A member of the Frontex staff may neither keep nor acquire, directly or indirectly, in undertakings which have dealings with Frontex, any interest of such kind or magnitude as might impair the independence of his/her duties.

There are essentially three categories of interests:

(a) Financial interests

Any financial interest in the industry dealing with equipment for Frontex for administrative purposes or dealing with equipment for border management or research institutes working on border management related equipment, including the holding of stocks and shares, stock options, equities, bonds, partnership

interests in the capital of such a company, one of its subsidiaries or a company in the capital of which it has a holding;

(b) Work carried out for the industry dealing with equipment for Frontex for administrative purposes or dealing with equipment or any kind of services for border management or research institutes working on border management related equipment or services

During the preceding five years, all activities performed for or on behalf of such a company, whether or not these activities have been subject to regular or occasional remuneration in cash or kind, including:

- Participation in the internal decision-making of such a company (e.g. board membership, executive or non-executive directorship);
- Permanent or temporary membership of the personnel of such a company;
- Work contracted out by such companies, through consultancy or otherwise.

(c) Other links with industry dealing with equipment for Frontex for administrative purposes or dealing with equipment or any kind of services for border management or research institutes working on border management related equipment or services

During the preceding five years, all assistance and support received from industry, whether associated with direct or indirect pecuniary or material benefits, including:

- Grants for study or research allocated by the industry;
- Fellowships or sponsorships endowed by such industry.

What are direct and indirect interests?

Interests can be direct or indirect depending on their likely or potential impact on the individual's behaviour at a given point in time.

Direct interests

Interests of personal benefit to the individual at any point in time, likely to influence or give the appearance of influencing his or her behaviour.

Indirect interests

Other interests that may have some influence over the individual's behaviour and therefore have to be neutralised. Indirect interests should be scrutinised so that precautions can be taken in order to ensure the impartiality of decision taking. Appropriate actions could include precluding the individual from certain functions or tasks (e.g. rapporteur, expert, project manager) or requiring abstention from part of the relevant proceedings like tender procedures.

When to declare?

If at any time in the course of their duties members of the Frontex staff become aware of any potential conflict, they have to immediately inform the Deputy Executive Director.

Initial declaration

Upon nomination as a member of the Frontex staff (including appointment as a seconded national expert or conclusion of an employment contract under the private law), each individual has to fill out the Public Declaration of Interests (see form Attached).

The individual should state, in particular, the type and nature of interests, specifying whether they are general or relate to a specific product or other tender, recruitment, etc. If the conflict is product-related, prior involvement of rapporteurs and experts should be stated in relation to competing products as well as past and current links with companies.

Updates

Declarations of interests should be updated annually, where necessary.

Filing

The declaration will be filed by the Human Resources Sector in the personal files of each staff member.

Directly supervising Directors, Heads of Unit and Heads of Sector receive a copy of their subordinates' declarations. The Deputy Executive Director receives a copy of the declarations of the Directors. In addition, the Director of the Administration Division receives a copy of the declarations of the Executive Director and Deputy Executive Director.

Hierarchy responsibilities

The respective Head of Director shall:

- Remind members of the Frontex staff of their obligations to declare their interests;
- Assess and monitor regularly the declarations and
- Make preliminary appraisals of the compatibility of interests declared with general or specific tasks of the individual member of the Frontex staff.

Review

If a member of the Frontex staff wishes to review the declaration of interest, he/she may contact the Head of Human Resources and Services Unit in order to make an appointment for further proceedings.

Anyone who wishes to review the declaration of interest of a member of the Frontex staff has to address a request to the Director of Administration Division.

DECLARATION OF INTERESTS

Surname and Name: _____

Position in Frontex: _____

Please list below all interests in the industry dealing with equipment for Frontex for administrative purposes or dealing with equipment for border management or research institutes working on border management equipment, if any¹¹:

1. Employment in the above mentioned industry or research institutes during the past five years. Please specify the dates:

Previous year:

Yes No

Name of the company/institute
(please specify dates)

More than 1 year ago but less than 3 years ago:

Yes No

Name of the company/institute
(please specify dates)

¹¹ If you have no interest for the relevant section, please indicate "none. If necessary, use backside.

More than 3 years ago¹²:

Yes No

Name of the company/institute
(please specify dates)

2. Financial interests in the capital of a company dealing with equipment for administrative purposes or for border management¹³:

Name of the company:

Type of shares or financial interests	Number of shares	Date acquired or sold (Please specify which)

¹² Information relating to interests older than 5 years does not need to be provided.

¹³ Members of the Frontex staff have to inform about any changes occurring (sales, purchases, etc)

3. Work you previously carried out in return for payment, including paid/unpaid traineeships, on behalf of the industry dealing with equipment for border management or a research institute during the past five years (Please specify the dates):

4. Other interests or facts, whether or not related to the industry dealing with equipment for border management, which you consider should be made know to Frontex and the public, including matters relating to the members of your household:

I, _____,
hereby declare that the only direct or indirect interests I have in the industry dealing with equipment for border management or any other industry interests related to my position in Frontex are those listed above.

I further declare that should any changes occur and should it appear that I have or acquire additional interests that should be made known to Frontex. I shall forthwith declare them and complete a new public declaration of interests.

I undertake to update this form as required by changing circumstances and to confirm the information declared in the current form yearly.

Date: _____

Signature: _____

GUIDANCE ON GIFTS AND HOSPITALITY

The purpose of these guidelines is to enable staff members to comply with their statutory obligations with respect to gifts and hospitality offers.

1. DEFINITION OF GIFTS

A gift is understood to mean:

- a sum of money or any physical object, or
- the possibility to participate for free in events which are open to the public or are private in nature, are only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or – any other advantage with a pecuniary value such as accommodation or transport costs.

Low value items given for purely information purposes (brochures, booklets, catalogues) are not considered as gifts in this context.

Indirect gifts are those which are not offered directly to staff members, but to a third party that is close to the staff member.

Gifts that are offered to Frontex are not covered by these guidelines.

2. DEFINITION OF HOSPITALITY

Article 11 of the Staff Regulations furthermore refers to favours. These guidelines deal with hospitality offers, which are considered to be one particular type of favour. Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the institution.

PRINCIPLES

3. GENERAL CONSIDERATIONS

It should be stressed that as a general rule, staff members should not accept any direct or indirect gifts or hospitality offered by third parties.

This is most evident where gifts are offered by persons, authorities or organisations which are involved in or are seeking official action by Frontex especially in a sensitive area in which the staff member is, has been or will likely be active in the foreseeable future. All such gifts should be in principle refused. In addition, the rules apply to "indirect" gifts or hospitality offered to a third party that is close to the staff member. In any event, any situation where the acceptance of a gift or hospitality may lead to real, potential or perceived conflicts of interest should be absolutely avoided. Any gifts entailing a sum of money, regardless of the amount, must always be refused.

Acceptance of gifts or hospitality may, exceptionally be authorised (within the limits indicated under the "Specific provisions related to Gifts" below) when it is clear that this will not compromise, or reasonably be perceived to compromise, the staff member's objectivity and independence and will not damage Frontex public image. This evaluation can only be based

in the first place on sound judgement from the staff member in the given circumstances, and then should be confirmed by the Deputy Executive Director in the relevant cases.

4. RELEVANT CRITERIA

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

In this respect, certain factors may point towards the likelihood that authorisation could be granted, for instance, when the offer of a gift or hospitality has a low value or is addressed to a large number of persons. On the other hand, there are factors which may point towards the likelihood that authorisation would be refused, for instance when the offer of a gift or hospitality has a high value or is addressed to a single staff member.

In general terms, for the purposes of the assessment of a given request, the following factors could be relevant – it being understood that the factors mentioned are not exhaustive, and that they will be neither individually nor collectively decisive but form part of a case-by case analysis:

- depending on the context, the nature of the source offering the gift or hospitality (private/public);
- the apparent motive behind the offer of the gift or hospitality;
- the link between the entity offering the gift or hospitality and Frontex (for example procurement procedures, cases under investigation, financial interests).

- the nature and estimated value of the gift or hospitality, including whether there have been one or several offers from the same source;
- the individual or collective destination of the offer;
- the functions of the staff member;
- the benefits for the service expected from the participation of the staff member at the event in question.

Gifts and hospitality motivated solely by a family relationship or personal friendship, or in a context not related in any way to the staff member's duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations. However, even here situations may arise when acceptance can be perceived as compromising the staff member's independence.

SPECIFIC PROVISIONS

5. SPECIFIC PROVISIONS RELATED TO GIFTS

In the first place, staff members should always remember that **they should not accept any gifts** as a general rule and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out above, gifts should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

- *(1) Prior permission by the Deputy Executive Director is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative procedures, for a gift worth up to €50.*

In this respect it is important to stress that this threshold does not mean that any staff member may consider himself or herself at liberty to accumulate a number of gifts below the set value, bearing in mind that an accumulation may be seen to compromise the staff member's objectivity and independence, or may damage Frontex' public image.

- *(2) Explicit prior permission by the Deputy Executive Director is required for a gift worth **between €50 and €150.***

If the Deputy Executive Director authorises acceptance, the gift may be kept. Again, it is stressed that this threshold does not mean that any staff member may consider himself or herself at liberty to accumulate a number of gifts – which will also be an element taken into consideration by the Deputy Executive Director.

- *(3) **Gifts with a value higher than €150 shall be refused if feasible.***

If refusal is not feasible the general considerations below apply. For the sake of transparency, the staff member should inform the immediate hierarchical superior, preferably in written form, that the gift or sum of money has been offered and refused.

Offers of any sum of money must always be refused by the staff member.

- *(4) **General considerations.***

In general terms, the following applies:

- If the Deputy Executive Director refuses to authorise acceptance or if a gift is unwanted, it can be returned to the source, if this is feasible.

- Alternatively it can be donated to the Frontex lottery or to an appropriate charitable organisation.
- As a courtesy, the staff member should inform the sender, unless this would be diplomatically inappropriate, that the gift cannot be accepted and will be transmitted to charity,
- Where the staff member is in doubt as to whether the refusal of a gift would be contrary to social, courtesy or diplomatic usage, or that it might create otherwise embarrassing situations, he/she should bring the matter to the attention of the Deputy Executive Director who will decide on a possible refusal.

Finally, the value amounts mentioned above should be estimated in good faith.

6. SPECIFIC PROVISIONS RELATED TO HOSPITALITY

(a) Hospitality in general

In the first place staff members should always remember that **they should not accept any hospitality** as a general rule and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out above, hospitality should therefore only be accepted if in line with or required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

- (1) *Prior permission by the Deputy Executive Director is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative practice.*

- of hospitality in the form of lunches or dinners strictly linked to the function of the staff member, and as such not prejudicial to the interests and public image of Frontex, and in which he/she participates in agreement with his hierarchy and in the interest of the service.
- of occasional offers of simple meals, refreshments, snacks etc.

Even if such hospitality offers can be accepted without prior formal authorisation, in the interest of transparency and in the interest of the person concerned, Directors, given the specific nature and sensitivity of their work, may wish to introduce additional rules such as a recommendation that staff inform their immediate hierarchical superior in writing/by e-mail of the acceptance of such an offer.

As in the case of gifts, it is important to stress that this presumption of authorisation does not mean that any staff member may consider himself or herself at liberty to accumulate a number of hospitality offers, bearing in mind that an accumulation may be seen to compromise the staff member's objectivity and independence, or may damage Frontex' public image.

- (2) *Explicit prior permission by the Deputy Executive Director is required.*

In cases not covered by the previous heading, or if the staff member judges that there is a doubt as to the appropriateness of accepting or refusing a hospitality offer, prior authorisation should be received from the Deputy Executive Director'. If prior authorisation is not feasible, the Deputy Executive Director's agreement should be sought as soon as

possible subsequent to the event. In any event the staff member's immediate superior should be informed.

Again, it is stressed that that this does not mean that any staff member may consider himself or herself at liberty to accumulate a number of hospitality offers – which will also be an element taken into consideration by the Deputy Executive Director.

In case of any doubt, staff members are invited to consult their hierarchy or local ethics correspondent.

(b) Hospitality offered during missions

The mission order will as a rule cover all predictable offers of hospitality, based on the mission programme – notably meals, accommodation and transport. These will not be considered as hospitality offers if the programme of the mission and the participation of the staff member has been authorised – as they form part of the performance of his or her duties in the interests of the service. The acceptance of these offers will then be declared in the mission expenses statement.

It is within the discretion of each Director to give practical advice, in addition to the general approach as defined in points 1 and 2 above, on what can be considered as usual and acceptable practice in view of avoiding real or perceived potential conflicts of interest, based on its own specific experiences in the domain.

7. ENFORCEMENT

Staff members are reminded that infringements of Article 11 expose them to the risk of disciplinary action.

APPENDIX IV

GUIDANCE ON CONFIDENTIALITY AND DISCRETION

Frontex is a public body of the European Union. Members of the Frontex staff are subject to a general duty of confidentiality under the Lisbon Treaty.

Frontex recognizes that members of staff have access to sensitive information. The respect of confidentiality is an essential part of the relationship between Frontex, EU Institutions, Member States and Third Countries, as well as other third parties. Members of the Frontex staff have to treat information on Frontex activities with the utmost discretion and confidentiality. This is of particular importance in view of the sensitive nature of its tasks and the potential security implications and legal consequences of a disclosure of sensitive information to the public.

Members of the Frontex staff have to exercise the greatest discretion both during the service and after leaving Frontex. The duty of confidentiality applies under all circumstances, whether in the workplace or at home. Members of the Frontex staff have to avoid as much as possible discussing sensitive information outside the workplace. Utmost discretion should be exercised when discussing work-related subjects with third parties including family and friends and with colleagues or third parties in a public place e.g. public transport.

Members of the Frontex staff are advised to exercise care when answering questions so as not to supply any information where this is not public. The provenance of the party posing a question should always be ascertained and questions should be put in writing where possible. Common sense must be applied regarding indirect questions seeking to obtain information. Where it is not possible to clear a presentation or a statement in advance within Frontex (e.g. answers to questions in a panel discussion or in other similar situations) it is advisable to give a disclaimer (e.g. that the views presented are those of the individual and may not be understood or quoted as being made on behalf of Frontex or reflecting the position of Frontex).

For information that has been classified as restricted, confidential, secret, or top secret, the relevant rules from the Frontex Security Manual apply. Requests for access to documents are to be channelled through the Information and Transparency Team.

In case of any doubt about the correct handling of information members of the Frontex staff should seek guidance from their superiors or from the Frontex Security Officer.

The Frontex Security Officer, in cooperation with relevant Frontex Units, gives once a year an updated briefing on confidentiality and security issues. Evidence of presence in these briefings, which are obligatory for each member of the Frontex staff, will be filed by the Frontex Security Officer.

Members of the staff shall sign the attached Declaration.

DECLARATION OF CONFIDENTIALITY AND DISCRETION

I, _____
(Name and Surname),

(Title),

In view of the following definitions:

Frontex activities

All internal and external activities, including any meetings of the Divisions, Units and Sectors of Frontex, its Working Parties, Expert Groups, or any other such meeting, and work as an expert.

Frontex Internal Information

All information, facts, data and other matters of which I acquire knowledge, either directly or indirectly, as a result of my daily work.

Sensitive documents

All drafts, preparatory information, documents and any other material, together with any information contained therein, to which I have access, either directly or indirectly, as a result of my participation in Frontex activities, as well as any records or notes made by me relating to classified information or documents.

Hereby undertake:

- To treat both classified and non-classified information and documents in accordance with the rules laid down in the Frontex Security Manual,
- Not to disclose (or authorise any other person to disclose) in any way, to any third, party any sensitive information or document,
- Not to use (or authorise any other person to use) any sensitive information or document other than for the purpose of my work in connection with Frontex activities and
- To dispose of non classified and classified materials as soon as I have no future use for them.

This undertaking shall not be limited in time, but shall not apply to any documents or information that I can reasonably prove was known to me before the date of this undertaking or which becomes public knowledge by any means other than as a result of a breach of any of the above undertakings.

Date _____

Signature _____

APPENDIX V

GUIDANCE ON PUBLICATIONS, SPEECHES AND LECTURES

1. Publications, speeches or lectures on a subject relating to the work of Frontex

1.1. General principles and procedure

Members of Frontex staff wishing to publish a text, give a speech or lecture in their private capacity on a subject relating to the work of Frontex or the European Union must obtain prior permission in writing from the Deputy Executive Director. The text, speech, interview or lecture must also be cleared by the Deputy Executive Director.

All requests must be channelled through the Information and Transparency Team.

1.2. Honoraria

Honoraria for publications, speeches or lectures directly relating to the activities of Frontex are not permitted.

2. Publications, speeches and lectures on a subject which is not related to the work of Frontex

2.1. General principles and procedure

Permission to publish a text, give a speech or lecture on a subject not related to the work of Frontex will,

as general rule, be granted. However, Frontex staff members must obtain prior permission from the Deputy Executive Director.

The request must be channelled through the Information and Transparency Team.

2.2. Honoraria

Honoraria may be accepted provided that the preparation work is done during the staff member's free time and that permission has been obtained in advance.

GUIDANCE ON DISCRETION AND COMMUNICATION

Contacts with the media

Due to the highly political environment in which Frontex operates, the Agency has had to adopt a rather restrictive policy regarding the contacts of its staff with the media.

Briefly put, apart from the Executive Director and his Deputy, **only selected members of the Information and Transparency Team are authorised to talk to the media on behalf of Frontex.**

It may however happen that a journalist is interested in interviewing a person who has specialist knowledge of a specific area. In such cases, Information and Transparency Team will direct the journalist to a qualified member of staff and advise him/her on how to respond to the questions.

Sometimes media representatives ask individual staff members for information or request interviews directly. **All such requests must be immediately forwarded to Information and Transparency Team** who will decide on the best way to deal with them. They may then issue an authorisation, after approval by the DED.

Participation in conferences

It is important to keep in mind that many of the public events (conferences, workshops etc) that Frontex employees take part in may be attended by journalists. Furthermore, nowadays, conferences or meetings are often recorded by the organisers and made publicly available through electronic media (such as YouTube etc), therefore **it is essential for the speakers to keep in mind that whatever they say may eventually be quoted**. Be diplomatic and stick to what you know. If you have any doubt about the appropriateness of statements you plan to make as part of your talk or presentation, please get in touch with Information and Transparency Team ahead of time for advice. If you are asked a question outside your field of expertise or which appears to be of a political or controversial nature, do not respond directly: tell your interlocutor that you have made a note of the question and will get a prompt reply from Information and Transparency Team.

Rules on the use of social media

Social media are very easily accessible to journalists and others and unguarded comments by staff might inadvertently be damaging in a number of ways. **Frontex staff must not use social media to communicate on Frontex-related activities. No unauthorised pictures or films, nor any information about Frontex activities, should be released on social media (such as Twitter, Facebook, YouTube etc) – even off-duty.**





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