

### **Best Practices to Prevent and Manage Conflicts of Interests**

The present document has been prepared to provide guidance to Member States on preventing, detecting and handling Conflict of Interests (“CoI”).

Each case must be assessed on its own merits. Therefore, the below is merely intended to provide a non-exhaustive list of best practices, based on the experience of the Commission services. The present document can be the basis to provide guidance to Member States where needed and/or disseminate best practices in the relevant *fora* with Member States authorities. In any case, it should not be read as giving any endorsement or providing binding rules.

The best practices are presented in the form of a table, which is structured as follows: (i) the first column on the left presents hypothetical situations which may potentially give rise to CoI situations under Article 61 of the Financial Regulation<sup>1</sup>, taken from practical experience of the Commission services or from other legal sources (such as the Commission CoI Guidance<sup>2</sup>, or the OECD CoI Guidance<sup>3</sup>); (ii) the second column contains potential mechanisms, i.e. best practices, which can be put in place by national authorities to prevent or manage the corresponding CoI situations – these are inspired by the best practices already implemented in certain Member States or by EU institutions. These situations and best practices are subdivided into different sections, depending on the topics concerned (e.g. general topics, procedures, types of interests, etc.).

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<sup>1</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, *OJ L 193*, 30.7.2018, p. 1–222.

<sup>2</sup> Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation, C/2021/2119, *OJ C 121*, 9.4.2021, p. 1–43.

<sup>3</sup> OECD, Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service, June 2032.

Situations potentially raising Conflict of Interest under Article 61 of the Financial Regulation	Best practices to prevent and manage the Conflict of Interest
<i>A. General topics</i>	
<p><b>Weak control environment</b> on CoI in a certain Member State.</p>	<ul style="list-style-type: none"> <li>- Investment on the control environment of CoI mainly through (i) strengthening the verifications and (ii) conducting training sessions on CoI to actors involved in the implementation of Union funds;</li> <li>- Establish a systematic Risk Analysis process at the level of the managing authority and focus on the areas with the highest likelihood of occurrence and severity (high risk areas);</li> <li>- Consider CoI as a holistic process, affecting all aspects of the processing of EU funds (and not only on the public procurement process);</li> <li>- Enrich CoI prevention and detection mechanisms;</li> <li>- Assign responsibility for carrying out controls to designated project managers or controllers on a sample basis;</li> <li>- Streamline the procedures on reporting CoI;</li> <li>- Ameliorate the process on whistle-blowers in order to properly protect the anonymity of persons.</li> </ul>
<p>In a Member State, ARACHNE and other national IT data mining tools are in place, an extensive system of declaration of absence of CoI exists at all levels of verification, and red flags on CoI help on performing further verifications.</p>	<ul style="list-style-type: none"> <li>- Extend the checks to include also direct awards also looking at potential CoI situations;</li> <li>- Ensure documentation on verifications of direct awards is improved;</li> <li>- Establish visibility/raise awareness and provide easy access to ARACHNE for alerting on CoI situations related to direct awards;</li> </ul>

<p>However, in the same Member State, the <b>potential existence of CoI for direct awards is not checked.</b></p>	<ul style="list-style-type: none"> <li>- Introduce/improve the procedures for dealing with revolving doors (for example, one person working in the managing authority, then stepping out and setting up a company which competes on EU funds and then entering again in the managing authority as key personnel. There should be recruitment and HR checks to avoid these practices).</li> </ul>
<p>In a Member State, <b>declarations of impartiality</b> are not signed by all people involved in the implementation of the EU funds, and <b>checks of declarations</b> of impartiality against other sources of information are not performed in the context of public procurement procedures.</p>	<ul style="list-style-type: none"> <li>- Increase the transparency in selection procedures, for instance, (i) by having the members of evaluation committees provide declarations of impartiality against the tenderers and as regards potential conflicting interests preventing the person from acting impartially (e.g. if a person is associated with a tenderer is then removed from the evaluation panel), (ii) by cross-checks carried out by other entities based on hard evidence (e.g. articles of association of tendering firms, shareholding etc), (iii) by keeping the composition of evaluation committees wide and open to persons outside the close circle of affiliated/connected firms (e.g. university panels should be constituted not only by national/local professors);</li> <li>- Ensure declarations are signed at all levels, including new employees;</li> <li>- Test the impartiality declarations against risk scoring &amp; data mining tools (e.g. ARACHNE);</li> <li>- Raise the awareness of CoI (e.g. recurrent trainings, quizzes and tests, educational material and awareness campaigns, quarterly or annual reports, e.g. on external contacts with lobbyists etc.);</li> <li>- Ensure potentially conflicting interests, including e.g. family ties, are properly checked;</li> </ul>

	<ul style="list-style-type: none"> <li>- Make sure that that all hierarchical levels are notified in case of a CoI situation (even a perceived one);</li> <li>- Employ risk-scoring tools, e.g. ARACHNE, to identify any links that may indicate a potential CoI and analyse the risk rating of the indicators. Focus checks on the key riskiest areas. Based on the principle of proportionality, checks may target mostly employees who are closer to decision-making (i.e. with higher CoI risk). A high-risk rating may require cross-checks, e.g. with external databases (such as national registries for legal persons, tax, companies/business activity, trade, court). Nil declarations may also require further checks.</li> </ul>
<p>In a Member State, the verification of potential conflict of interests and checks on veracity of declarations in public procurement <b>vary significantly</b> among different authorities.</p>	<ul style="list-style-type: none"> <li>- Ensure homogeneity on the verification of CoI by focusing on key riskiest areas, reflecting prior risk assessment to be validated and shared among managing authorities;</li> <li>- Introduce obligatory annual targeted training sessions for all managing authority staff;</li> <li>- Share findings, main issues and best practices among managing authorities within the Member State;</li> <li>- Introduce horizontal procedures on the uniformity of the checks ensuring the veracity of declarations, e.g., by establishing a checklist for those who need to carry out the checks;</li> <li>- Set out the chain of command/responsibility for verifying and take action against conflict of interests, for instance (i) by introducing a designated officer or committee with the mandate to verify employee’s declarations on conflict of interest or (ii) by establishing a two-step verification process to oversee employees found to be in a</li> </ul>

	<p>conflict of interest situation (e.g. the designated supervisor first makes a general check of all the employees, to see if they have submitted a CoI declaration, and second, more in-depth and personal checks of individual employees, especially where inconsistencies or potential issues are detected in their declarations).</p>
<p><b><i>B. Procedures and enforcement</i></b></p>	
<p><b>Lack of procedures</b> for establishing a CoI, and proportional consequences for non-compliance with CoI rules, including e.g. <b>disciplinary sanctions</b>.</p>	<ul style="list-style-type: none"> <li>- <i>Personal consequences.</i> Non-compliance with the organisation’s CoI policy should generally be regarded as, at minimum, a disciplinary matter, while more serious breaches involving an actual conflict could result in sanctions for abuse of office, or prosecution for e.g., a corruption offence, in accordance with applicable national law. Other sanctions may apply to the public official depending on the seriousness of the breach – for example, a simple failure to register a relevant interest as required, compared with a more serious refusal to resolve an actual conflict of interest of which the public official is aware. Sanctions should be proportionate and enforceable, including, e.g., a potential impact on the appointment or career of the public official involved, change of duties, position or location.</li> <li>- <i>Management measures.</i> Good management can provide effective complementary forms of redress for breaches of CoI policy/rules and can be effective in dissuading those who would seek to benefit, directly or indirectly, from such breaches. Such measures could include retroactive cancellation of affected decisions (where possible/feasible) and tainted contracts, and exclusion of the beneficiaries – whether</li> </ul>

	<p>corporations, individuals, or associations, etc. – from future processes. Such exclusion measures may operate for a given period of time, within given contract monetary limits, or for certain types of activities.</p> <ul style="list-style-type: none"> <li>- <i>Contractual measures.</i> Already at the stage of concluding agreements with beneficiaries, e.g. regarding a grant, the responsible authority could consider introducing contractual provisions on CoI, which may lead, e.g., to suspension/rejection of payment, recovery of undue payments, or exclusion from participating in award procedures or from implementing Union funds.</li> </ul>
<p>Lack of <b>monitoring</b> mechanisms to detect breaches of CoI rules.</p>	<ul style="list-style-type: none"> <li>- <i>Controls.</i> Ensure that management and internal controls as well as external oversight institutions – such as independent auditors or an ombudsman – work together to detect those who do not comply with required standards. Appropriate reporting for independent oversight institutions, and the publication of regular reports on the implementation of arrangements and procedures to manage situations where the integrity of public officials could be at stake, and on the progress of any investigation, can play an important role in encouraging compliance with CoI policy, and discouraging abuse of the same arrangements and procedures.</li> <li>- Examples of best practices of control and monitoring mechanisms from the Member States include: <ul style="list-style-type: none"> <li>o Cross-checking employees and their relatives with national registries for legal persons to check if any hold positions or shares in private companies;</li> <li>o Regular inspections by superiors and/or verification on a sample basis by</li> </ul> </li> </ul>

	<p>internal audit (in particular, of employees who have not reported any potential conflicts of interest);</p> <ul style="list-style-type: none"><li>○ Appointment of public officials with a risk-prevention mandate (e.g. a “Conflict of Interest Compliance Officer” or a “Corruption Prevention and Transparency Manager”), who may for instance report on changes in employee’s CoI declarations to their managers;</li><li>○ The application of the four-eyes principle ensures that every administrative procedure of the project is verified by at least two employees;</li><li>○ System of special supervision of employees in sensitive positions.</li></ul> <p>- <i>Complaint-handling.</i> Develop complaint mechanisms to deal with allegations of non-compliance and devise effective measures to encourage their use. Provide clear rules and procedures for whistleblowing and take steps to ensure that those who report violations in compliance with such rules are protected against reprisal, and that the complaint mechanisms themselves are not abused. In particular, whistle-blowing policies and rules should include elements such as what to report, how to report, to whom to report, where to find support, the protection of personal data, the protection measures for whistle-blowers, how their reporting will be investigated and communicated and the consequences for people who retaliate against whistle-blowers.</p> <p>- Clear external communication strategy to raise awareness on the importance to avoid fraud, corruption and conflict of interest and communicate clear messages on the</p>
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	<p>penalties envisaged for such cases.</p> <ul style="list-style-type: none"> <li>- Creation of policies and processes (including information sharing) to work with other national and international stakeholders, such as the Anti-fraud Coordination Services in the Member States, OLAF, EUROPOL.</li> </ul>
<p>Absence of <b>alert</b> mechanisms to <b>prevent</b> the risk of CoI.</p>	<ul style="list-style-type: none"> <li>- Establishing specific risk indicators that may help alert to the risk of CoI, including the following risk indicators: <ul style="list-style-type: none"> <li>o absence of a declaration of CoI, where mandatory or requested;</li> <li>o staff member of the contracting authority, just before joining it, worked for a firm that may bid in a tender to be prepared by the staff member;</li> <li>o staff member of the contracting authority has immediate family working for a firm that may bid in a tender;</li> <li>o amendment to the terms and conditions of the contract signed between the beneficiary and the contractor;</li> <li>o relationships/acquaintance between the beneficiary and staff of the authority involved in budget implementation or between the final beneficiary and contractors;</li> <li>o beneficiary and procured subcontractor share office space/premises/address, or similarity in company names indicates economic interdependence;</li> <li>o evaluation committee members do not have the necessary technical expertise to evaluate the submitted bids and are steered by one individual;</li> <li>o subjective elements are overrepresented in the criteria system or in the evaluation of a tender,</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ specifications are very similar to the winning bidder's product or services, especially if the specifications include a set of very specific requirements that very few bidders could meet;</li> <li>○ estimated/maximum amount of the contract is not disclosed in the publicly available procurement documents (only registered internally), but the bid is very close to that internally established amount (for example, 1-2 % difference);</li> <li>○ beneficiary created immediately prior to the application for the grant;</li> <li>○ few applicants or fewer applicants than expected for a call for proposals/tenders;</li> <li>○ the same enterprise repeatedly wins successive contracts;</li> <li>○ poor execution of contract does not result in application of penalties or in the exclusion of the contractor/service provider from being awarded further contracts.</li> </ul> <p>- Set-up of a system to collect reliable and comprehensive evidence in order to assess risks of conflict of interests (such as a repository of documents).</p>
<p>Lack of <b>monitoring</b> during the legislative or policy-making process concerning the implementation of measures financed by the EU</p>	<ul style="list-style-type: none"> <li>- Involved staff at national level is require to immediately report any situations perceived as CoI in the decision-making process by preparing an official note that includes a summary of the main events and to inform immediately the hierarchy.</li> <li>- Staff involved in the preparation of legal acts, administrative instructions, guidelines,</li> </ul>

	<p>etc. implementing measures financed by EU funds should report any CoI situations and immediately inform hierarchy in written, e.g. by drafting a registered note detailing the circumstances. If possible, the persons involved should also propose mitigating measures.</p>
<p><b>C. Activity after leaving public office / revolving doors</b></p>	
<p>A civil servant who has recently left the service would enter into <b>new employment or private business</b> relations in a field linked to their previous functions or, conversely, that a person with a <b>recent business background</b> in a certain field would be recruited to a related public function (for example, a civil servant, shortly after positively evaluating the request for a financing, quits the public service and joins the entity which received the financing).</p> <p><i>[An example of this would be a situation when a civil servant, in short period after positively evaluating the request for co-financing, quits the service and starts working for that specific company. According to OLAF, irregularities like this were reported in IMS.]</i></p>	<ul style="list-style-type: none"> <li>- Appropriate provisions to deal with conflicting interests related to new professional activities after leaving the civil service (e.g. restrictions to work on certain files for a limited period of time);</li> <li>- Restrictions, for a limited period of time, from professional contacts with former colleagues or from representing opposing parties after leaving the service;</li> <li>- Quarantine periods, where a public official must refrain from accepting job offers or carrying out activities or consultancy services related to the responsibilities exercised in the public office previously held, for a set period of time (usually between 1 and 2 years). The quarantine rules may also apply to commercial transactions and share purchases. Compliance of these rules could be ensured for instance by reports submitted by said officials to a supervisory body on the activities pursued after termination, and/or subsequent verifications and checks in national registries.</li> </ul>

<i>D. Family interests</i>	
<p><b>Employment</b> by members of Parliament, members of Government or local executives <b>of a person from the family.</b></p>	<ul style="list-style-type: none"> <li>- Members of Parliament, members of Government or local executives are forbidden to employ as a parliamentary assistant or member of their cabinet a person from their ‘first family circle’ (spouse, children and parents);</li> <li>- For the employment of a person from the ‘second family circle’ (brothers, sisters, brothers-in-law, sisters-in-law, nephews or nieces, ex-spouse, etc.), the law obliges the employment to be declared.</li> </ul>
<p>A national civil servant dealing with a matter related to the implementation of Union funds in which they have a family interest. For instance, an immediate family member of the person directly or indirectly owns a <b>company applying for EU funding.</b></p>	<ul style="list-style-type: none"> <li>- A person concerned is required to make a declaration of any situation where they are asked to deal with a matter in which they have a family interest, such as the companies owned by their immediate family, the professional activity of spouses (including a partner with whom the individual has a registered non-marital partnership) and possibly of other immediate family members.</li> </ul>
<i>E. Interests linked with emotional life</i>	
<p>Persons involved in budget implementation are affected by an <b>emotional life</b> factor that could compromise their impartiality and objectivity. This could in particular result from friendships or enmities, family relationships, party affiliations, associations or religious beliefs.</p>	<ul style="list-style-type: none"> <li>- Reduction of personal (one-on-one) contacts between employees and beneficiaries, for instance through the development of better monitoring systems, and by developing routines for in-person meetings.</li> </ul>

<i>F. Interests linked with political or national affinity</i>	
Public officials participating in political organisations or other public entities ( <b>‘outside appointments’</b> ).	<ul style="list-style-type: none"> <li>- Public officials or employees shall be aware of the circumstances, including the required authorisation procedures, under which a public official may undertake an appointment on the board or controlling body of a community group, an NGO, a professional or political organisation, another government entity, a government-owned corporation, or a commercial organisation which is involved in a contractual, regulatory, partnership, or sponsorship arrangement with their employing organisation. For example, the relevant circumstances could be defined in staff regulations, guidelines from the organisation/entity/body, etc.</li> </ul>
<i>G. Economic interests</i>	
National civil servants holding <b>shares in private companies</b> .	<ul style="list-style-type: none"> <li>- Prohibition for persons occupying managerial positions in government administration (e.g. minister, secretary of state, head of central office) or members of parliament to hold more than a certain threshold of shares in private companies, e.g. 10 %.</li> <li>- Anyone holding a public sector position must not carry out any trading activities if they own, e.g., over 10 % of a company’s shares.</li> </ul>
National civil servants holding <b>management positions</b> in private companies and management of financial assets.	<ul style="list-style-type: none"> <li>- Ministers and members of Parliament must not be part of supervisory or managerial bodies of private companies and if they own shares in a private company of, e.g., 0.5 % or more, they must transfer their consequential management rights to another</li> </ul>

	<p>person for the duration of their mandate;</p> <ul style="list-style-type: none"> <li>- Officials who have financial responsibilities and whose hierarchical level or the nature of their duties so warrants must, within two months of their appointment, take all steps to ensure that their financial assets are managed, during the duration of their duties, under conditions which exclude any right of scrutiny on their part.</li> </ul>
<p>Acceptance of <b>gifts</b> by public officials.</p>	<ul style="list-style-type: none"> <li>- Prohibiting or limiting the possibility of civil servants, Head of State, ministers and members of Parliament to accept gifts.</li> </ul>
<p>Holding of <b>government contracts</b> by public officials.</p>	<ul style="list-style-type: none"> <li>- Prohibiting or limiting the possibility of civil servants (including Head of State, ministers and members of Parliament etc.) to hold government contracts directly or indirectly, when the value of such contracts is above a specific financial threshold.</li> </ul>
<p>Civil servants having <b>employment contracts</b> with private entities.</p>	<ul style="list-style-type: none"> <li>- Checking information provided by company register databases, databases of EU and national bodies for checking work contracts between natural persons and legal persons, public registers, employees' files and any other relevant information available to EU institutions and national authorities could be valuable tools to prevent CoI situations, while taking into account the data protection rules.</li> <li>- Mandatory civil servants' declaration of outside professional activities, in particular paid activities above a certain financial threshold. Providing a maximum overall amount for outside activities of civil servants involved in the implementation of the</li> </ul>

	Union budget.
Holding of <b>assets</b> by public officials.	<ul style="list-style-type: none"> <li>- Annual publication of information on income and assets of senior officials who have taken office during that year.</li> <li>- Annually, staff of national authorities must submit to a central office (e.g. the Tax State Inspectorate under the Ministry of Finance) a declaration of assets and income for themselves and for their family.</li> </ul>
<b><i>H. Other direct and indirect personal interests</i></b>	
<b>Agricultural land</b> , in cases where the land is eligible, entitles a beneficiary to receive direct payments under the European Agricultural Guarantee Fund.	<ul style="list-style-type: none"> <li>- The person concerned cannot be involved in the decision-making process determining the eligibility of a particular plot of land.</li> <li>- Conditions at which eligible land is sold to private entities or individuals must be checked (also) against CoI rules. If the agricultural land is eligible for direct payments, the sale of such land from public authorities to private individuals or companies may amount de facto to a decision on the grant of an agricultural EU subsidy. Therefore, a CoI may arise if the decision-making related to the sale is affected by an actual or potential (or perceived) CoI of the actors involved in the sale.</li> </ul>
National civil servants having <b>past interests</b> .	<ul style="list-style-type: none"> <li>- Declaration on past interests (see also above on revolving doors).</li> <li>- Past interests are relevant as long as the person continues to have</li> </ul>

obligations/liabilities stemming from past positions/ employment (during a specific period for ‘cooling off’ and abstention from exercise of duties which may interfere with duties of past employment).

- These declarations should: (a) be limited to a certain period, for example to 5 years or as long as the person continues to have liabilities/obligations related to those past positions/employment situations; and (b) be requested from the person concerned as soon as possible (and should be updated as soon as a change in the interest situation occurs). Declarations could include, for example, interests relevant to the management of contracts, to decision-making and to helping prepare or give policy advice.
- Such declarations should contain: (i) a clear reference to the tasks concerned and to the subject matter, (ii) the signatory’s full name, date of birth, position in the organisation and detailed functions, (iii) the date of signature.
- A declaration should enable the signatory to officially declare: (a) whether they have interests they perceive to be or may be perceived to be in conflict with the implementation of the EU budget and/or whether they are in a conflict of interest linked to the implementation of the EU budget, (b) whether there are circumstances (including interests) that might place them in a conflict of interest in the near future, and (c) that they will immediately report any possible conflict of interest in the event of any circumstance that might lead to such a conclusion. An explanatory note could be attached to

	the declarations to give signatories clear guidance.
<p>A member of an <b>advisory group</b> participates in a call for proposal in the context of a programme/project in relation to which they had provided advice to the authority carrying out the tender.</p>	<ul style="list-style-type: none"> <li>- Article 61 FR applies also to members of Advisory groups in relation to budget implementation. In this situation, the existence of an actual or perceived conflict of interest will have to be assessed on a case-by-case basis, depending on a number of factors, such as, for example, the degree of participation of the person in the discussions of the advisory group related to the tender in question, the role played by that person in the decision-making process, the extent to which they were actually in possession of information which is not in public domain and would give a competitive advantage over other tenderers, the timespan of the events, potential adoption of remedial measures, etc.</li> <li>- If it emerges from the facts of the case that the advisory group’s member applying for a tender was unable to exercise their functions in an impartial and objective manner, that would give rise to a CoI, or, at least, to a situation that may objectively be perceived as CoI under Article 61 FR. For instance, there would be a CoI if members were able to steer or influence the decision-making process of the advisory group concerning that call or its preparatory acts in favour of their future tender proposal, as that could potentially bring their own interest into conflict with the public ones. Similarly, if an advisory group’s members were to obtain, thanks to their role, important information on the tender in advance compared to other tenderers leading to a competitive advantage in the selection process, that could also qualify as a conflict of interest.</li> </ul>

	<ul style="list-style-type: none"> <li>- Therefore, in order to prevent both actual and perceived CoI, it would be advisable to request members of the advisory groups to (i) declare their intention to participate in future calls for tenders in the context of the programme in question, at the moment they are appointed as member of the advisory group, or as early as possible, so as to take the necessary measures to manage the potential CoI situation in due time, and, in any case, (ii) declare to the granting authority their role as advisory group's member and, if applicable, their involvement in the preparation of that specific call, at the moment of their potential application for a tender in the context of the same programme, and the possible remedial measures already taken in this regard.</li> <li>- Once the responsible authority will have received such declaration, they will have to check the existence of a CoI in the specific case, and the measure necessary to address it, if any, will have to be designed based on the specific circumstances of the case.</li> </ul>
<p><b>Partnerships</b> with the business and non-profit sectors.</p>	<ul style="list-style-type: none"> <li>- Mechanisms for resolving CoI situations must be kept up-to-date in the context of increasing co-operation between public organisations and the business and non-profit sectors. This is particularly crucial when appointing representatives to public bodies from other sectors to benefit from their particular experience, knowledge and involvement.</li> <li>- Engage representatives of the business and non-profit sectors in reviewing the policy in order to have their views on the problems of implementation, and possible</li> </ul>

	<p>applications of the policy.</p> <ul style="list-style-type: none"> <li>- Ensure that proposed standards reflect actual public expectations by involving the business and non-profit sectors in the design of new integrity measures. Consultations could be used to identify or negotiate mutually acceptable solutions and encourage co-operation in the implementation process.</li> </ul>
<p>A representative of an <b>NGO belonging to an umbrella organisation</b> that is an <b>evaluator</b> for an EU-funded project of another NGO belonging to the same umbrella organisation, <b>as well as an umbrella organisation sub-granting EU funds to its member organisations.</b></p>	<ul style="list-style-type: none"> <li>- Article 61 of the Financial Regulation is applicable to NGOs involved in implementing EU funds (e.g. supervising, evaluating and approving a wide array of public funds).</li> <li>- When members of advisory groups represent general interests (such as NGO representatives), it is important to distinguish between sectoral or societal interests that they officially represent in the advisory group on the one hand and the members' personal interests on the other hand, if any. Being part of the same umbrella organization, in itself, does not automatically lead to a CoI. A case-by-case assessment is necessary.</li> <li>- A CoI arises when certain factors (such as, for example, a direct financial gain from a decision, including gifts, hospitality or non-economic interests, or a close personal relationship with individuals involved in the projects being evaluated) exist that could threaten the objectivity of the evaluation or decision-making process. However, a CoI can arise even if the person does not actually benefit from the situation. It is sufficient that circumstances compromise the objective and impartial</li> </ul>

	<p>exercise of this person’s functions. The involvement of the person affected by the potential CoI has to be reasonably significant. Other important aspects need to be considered, such as the nature and importance of the responsibilities exercised (including whether they are political, administrative, legislative or executive), the existing functional or hierarchical links, the nature of the decision-making process and its transparency and openness to public scrutiny.</p>
<p>Discrepancies between <b>evaluation procedures related to EU funds and state budget funds</b> and regulatory compliance for NGO-related funding.</p>	<ul style="list-style-type: none"> <li>- While Member States remain competent for adopting supplementary and possibly even more detailed and/or stricter national rules, they should align or supplement more lenient or incomplete national rules in order to improve the legal certainty of the applicable rules where the EU budget is concerned.</li> <li>- In any event, the obligation foreseen in Article 61 FR to take appropriate measures to prevent and address situations of CoI is of direct application and prevails over possible conflicting national rules.</li> </ul>
<p>A member of a <b>public foundation board</b>, within the framework of European Union programmes, approves the results of a call for proposals on a particular project application in a situation in which there is a potential CoI because of her/his role as representative of an NGO.</p>	<ul style="list-style-type: none"> <li>- Article 61 of the Financial Regulation is applicable to NGOs involved in implementing EU funds (e.g. supervising, evaluating and approving a wide array of public funds).</li> <li>- The members of the public foundation Board have the power to approve the rules (terms of reference) of calls for proposals, and the rules and the composition of the evaluation committee, as well as to take the final decision on the evaluations of calls for proposals namely to approve the list recommended by the evaluation committee</li> </ul>

	<p>or to refer the project application back to the evaluation committee for re-evaluation. This power gives members of the public foundation Board advanced access to information about upcoming calls for proposals and the possibility to influence the criteria set for calls for proposals.</p> <ul style="list-style-type: none"><li>- Therefore, even if members of the public foundation Board abstain from voting on proposals from their own organisation, they can influence the rules of calls for proposals as well as the ranking of proposals.</li><li>- It is advisable that members of the public foundation Board who are or risk to be in a situation of CoI, would (i) declare such a situation, and (ii) refrain, as a consequence, from participating in the selection process or from approving the results of the call for proposals (resignation from the public foundation Board being mandatory if the situation cannot be sufficiently addressed by such abstention).</li><li>- The declaration of CoI as well as the adoption of measures to address it should be properly documented. The set-up of the public foundation Board could be modified so that it can function effectively even if some members abstain.</li><li>- The possible remedial measures to be applied when a CoI is established depend on several factors and mostly on the timing of its occurrence.</li><li>- In case the conflict of interest is detected in time e.g., before any binding legal commitment, then the affected project proposals could be reevaluated by an</li></ul>
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	<p>alternative evaluator or if needed the full selection procedure could be cancelled and subsequently relaunched without the participation of persons falling under the conflict of interest.</p> <ul style="list-style-type: none"><li>- In case there is already a legal commitment with the selected entities (grant contract) and or already payment(s) executed a financial correction should be applied as an appropriate corrective measure for the projects co-financed by EU funds. Nevertheless, these financial corrections aim for the protection of the EU budget where a clear quantification of the financial impact is not possible and are to be implemented between the national authorities and the Commission. National authorities have the prerogative to assess and decide whether the corrections are to be enforced at the level of the final recipients. On top of the financial corrections, the national authorities should be asked to remedy their management and control systems and install relevant control mechanisms to prevent the occurrence of CoI.</li></ul>
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