

Standard Operation Procedures	SOP_071
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Procedure for authorisation of outside activities of staff in service

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Process Responsibility	Process owners and/or Head of Units are accountable for this procedure being adhered to within their respective process or unit. All relevant staff is responsible for the correct implementation of the procedure. Responsibilities for performing specific steps are outlined in the document.



SCOPE AND OBJECTIVES

The scope of this Standard Operating Procedure (SOP) is to regulate how EFSA handles requests from staff members, Seconded National Experts and Participants in the Guest Programme scheme to engage in outside activities, in line with Article 12b of the EU Staff Regulations, Articles 2-7 of the Commission Decision of 29 June 2018 on outside activities and assignments and on occupational activities after leaving the Service applicable to EFSA by analogy, Article 7 (d) of the Decision of the Executive Director laying down rules on the secondment to the European Food Safety Authority of national experts and Article 5(e) of the Decision of the Executive Director laying down rules on the Guest Programme.

The objective of this SOP is to lay down a procedure tailored to EFSA staff members, considering that the vast majority has a scientific background overlapping with the mission of EFSA. It presents the main concepts and general principles underlying EFSA's in-service outside activity policy and provides practical guidelines to EFSA staff members wishing to engage in outside activities. It describes the main steps of the authorization procedure of each planned outside activity.

LEADING PROCESS

9.2.1 Ethics and Integrity



RELEVANT STANDARDS, LEGISLATION AND DOCUMENTS

- Charter of fundamental rights of the EU, and in particular Article 41 thereof
- Treaty on the Functioning of the European Union
- Regulation (EC) No 178/2002 of the European Parliament and of the Council
- Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385)
- Commission Decision of 29.6.2018 on outside activities and assignments and on occupational activities after leaving the Service, C(2018) 4048 final
- Decision of the EFSA Executive Director laying down rules on the secondment to EFSA of national experts
- Decision of the EFSA Executive Director laying down rules on the Guest Programme
- Decision of the Executive Director of EFSA concerning the function of an Ethics Adviser within EFSA
- EFSA's Policy on Independence
- EFSA practical guide to Staff Ethics and Conduct

ABBREVIATIONS AND DEFINITIONS

Corporate activities	Corporate activities are activities done in the interest of the service which contribute to forwarding the objectives of EFSA. Corporate activities are cleared through appropriate channels, i.e. staff members' objectives or case-by-case approvals, and are performed in the context of staff professional duties and as such are carried out during working hours
DMS	EFSA's Document Management System, irrespective of the actual technical solution deployed
EC	European Commission
EFSA	European Food Safety Authority
Ethics Adviser	In accordance with Article 1 of the EFSA Executive Director Decision concerning the function of an Ethics Adviser within EFSA, the function of the Ethics Adviser is allocated to the function of the HoU of LA
EU	European Union
HoU	Head of Unit
LA	Legal Affairs Services unit
LA function	Staff member of the LA unit to which a task is assigned, irrespective of the actual contractual relationship linking him or her to EFSA
Line Manager	Direct superior to which the staff member reports, i.e. Team Leader and/or Head of Unit, Head of Department, Executive Director for the purpose of seeking opinion on the request
Lobbying and advocacy activities	Lobbying activities are activities carried out with the objective of directly or indirectly influencing the formulation or implementation of EFSA's scientific decision-making process.



	Advocacy activities are activities conducted by the staff member of EFSA which relate to EFSA's scope of action and intend to influence the work or the public perception of EFSA. Directly influencing means influencing by way of a direct contact or communication with the staff working for EFSA or other action following up on such activities. Indirectly influencing means influencing through activities not conducted directly by the staff member vis-a-vis the staff of EFSA but on which he/she is involved, e.g. managing a team of people who will conduct those activities, or designing such activities, or providing advice to the organisation for which he/she provides professional services
OA	In accordance with Article 1 (a) of the EC Decision on outside activities and post-employment occupational activities, an 'outside activity' as referred to in Article 12b of the SR means any activity and one-off task, paid or unpaid, which is not part of a staff member's duties at EFSA, including those covered by a mission order or an authorisation to travel for work-related reasons such as giving a speech or a presentation, and which cannot reasonably be considered a hobby or leisure activity. The preparation of a publication or speech may only qualify as outside activity if this activity is remunerated and is carried out on the basis of a contract. However, regardless of whether the staff member is remunerated in the course of the preparation of a publication or speech or carries it out on the basis of a contract, if the said publication or speech deals with the work of the EU, the staff member must in any case inform EFSA in advance about the content of the publication or speech via the designated prior information form for publications or speeches
Staff member	EFSA staff members covered by the SR, Seconded National Experts and participants in the Guest Programme
SOP	Standard Operating Procedure
SR	Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385), as last amended



PROCEDURE		
Step 1	1.0 Determination of the activity's status	
Staff Member Line Manager Ethics Adviser	1.1	If a given activity a staff member intends to perform cannot be considered as a corporate activity in the interest of the service, he/she should submit the outside activity request form via the platform in use at the time in EFSA. Steps 2, 3, 4, 5, 6, 7 apply.
	1.2	If, by way of contrast, the activity is considered by the relevant Line Manager in the interest of the service, the given activity qualifies as a corporate activity and not as an OA. In this case, there is no requirement for the activity to undergo the prior authorisation procedure for OA. The terms in which the activity is carried out by the staff member are agreed by the Line Manager, who is also responsible to strike a balance between the risk that the relevant activity raises a problem of conflict of interest and the interest of the service. In case the Line Manager is in doubt about how to strike that balance, he/she seeks the advice of the Ethics Adviser.
	1.3	A staff member invited as an <u>independent expert</u> to contribute to the work of international risk assessment organisations is allowed to engage in those activities as a corporate activity, provided that the participation of the Staff member is considered strategically important by the relevant Line Manager. This is limited to activities organised under the aegis of the organisations listed in ANNEX I to the present SOP.
Step 2	2.0 Assessment criteria, principles, and measures	
LA function Line Manager Ethics Adviser	2.1	EFSA's decision-making on requests to engage in an OA adheres to the principle whereby activities that do not interfere with the performance of the staff member's duties and are not incompatible with the interests of EFSA cannot give rise to conflict of interest with the legitimate interests of EFSA.
	2.2	An activity is deemed receiving prior permission if it fills the following cumulative conditions: i. the activity is unpaid or does not generate revenues; ii. the activity is neither pursued in a professional capacity nor is performed for a commercial entity. iii. the activity is performed outside the staff member's working hours or is covered by a duly approved leave or recuperation; iv. the activity does not compromise or appear to compromise in the eyes of third parties the impartiality of the staff member, because of interests which diverge from those of EFSA; v. the activity does not have a negative impact on the reputation and/or on the trustfulness of EFSA; vi. the activity does not raise any breach of the SR. Some examples of activities for which prior permission is considered to be granted are as follows:



	a) any unpaid activity without any link to the activities of the EU, which is carried out in a purely private capacity and is undertaken from time to time only, upon need, in particular: ✓ charitable and humanitarian activities; ✓ activities relating to sport or wellbeing; ✓ activities deriving from political, religious, trade unionist and/or philosophical convictions; ✓ craftwork, artistic or cultural activities. b) any unpaid teaching activity unless performed for a commercial entity; c) the mere ownership of assets or holdings, or the management of the personal or family fortune, whether in a private capacity or as a shareholder of a company, but not running a business; d) the mere membership of a professional order or association, unless the code of conduct of the order or association conflicts with the staff member's obligations under the SR. 2.3 If the OA does not meet the cumulative conditions outlined in step 2.2, the following criteria are taken into account: i. whether the OA interferes with the performance of a staff member's duties; ii. whether it is compatible with the interests of EFSA, for example because it: ✓ is detrimental to the reputation of EFSA; ✓ damages public trust in the neutrality and objectivity of EFSA; ✓ gives rise to an actual conflict of interest; iii. the statutory link between the concerned staff member and EFSA, the nature of the Staff member's duties, and the level of his/her responsibilities; and/or iv. whether the OA is performed during the working hours agreed with the Line Manager and is not covered by a duly approved leave or recuperation; and/or v. whether the OA by itself or combined with other authorized OAs gives rise to remuneration, including any fees received, exceeding EUR 10 000 per calendar year after deduction of taxes or other duties linked to these activities; - vi.
Step 3	3.0 Submission of the form seeking authorisation to engage in an OA
Staff Member	3.1 A Staff member submits a request for prior authorisation to engage in an OA in the following cases: i. for any new activity; ii. for any change in the authorised OA; iii. any time the Staff member changes post (for OAs still ongoing). 3.2 At least two months before the envisaged starting date of the activity, the Staff member submits the OA request form duly completed and signed



	together with the relevant supporting documents (if any) through the dedicated IT tool. The form requests to provide, inter alia: i. the type of planned activity; ii. a description of the activity that he or she wishes to undertake, the place in which the activity is to be carried out and the expected duration of the activity; iii. the name and address of the organisation beneficiary of the activity; and iv. an indication of the expected remuneration, as well as any financial arrangement for the activity, if any. 3.3 Steps 3.1 and 3.2 are also applicable to requests of Staff members in the following situations: i. those working part-time at their own request, with regard to requests for permission to engage in <u>unpaid</u> OA during the part of the time they are not working for EFSA¹; ii. those employed on structural part-time basis, with regard to requests to engage in an OA during the part of the time they are not working for EFSA, whether paid or unpaid; iii. those benefiting from parental or family leave, with regard to requests for permission to engage in unpaid OA²; iv. those holding a public office when the OA is not directly related to the public office mandate.
Step 4	4.0 Assessment of the OA request
LA function	4.1 Once the OA request is received, the LA function creates the relevant folder in the dedicated DMS space with restricted access to the LA function in charge of the request and to the Line Manager of the concerned Staff member. 4.2 The LA function checks whether the form contains all requested information. If the form submitted by the Staff member is incomplete or unclear, the LA function in charge requests additional information via the relevant IT tool. The timeline for processing the request is suspended pending the receipt of the additional information/clarification. 4.3 Once the form is deemed completed, the LA function starts the assessment of the activity notified under step 3.2. 4.4 If, based on the information provided in the form, it appears that the activity for which the staff member has requested authorisation is not in

¹ Paid OAs are prohibited unless part-time work is authorised to allow that Staff member to hold a public office and the paid OA is directly related to the public office concerned.

² Staff members benefiting from parental or family leave cannot engage in paid outside activities.



		fact an OA (e.g. because it falls within the notion of hobby or leisure activity), the requester is informed accordingly via the relevant IT tool and the assessment discontinued. LA will also close the request in the relevant IT tool. 4.5 If, based on the information provided in the form and the accompanying supporting documents, the LA function finds that the activity covered by the request meets the conditions outlined in step 2.2, i.e. the OA constitutes an activity for which prior permission is deemed to be granted, it closes the file, informs the Staff member via the relevant tool and the processing of the request is discontinued. 4.6 Conversely, if, based on the information provided in the form and the accompanying supporting documents, the LA function concludes that the activity in question does not constitute an activity for which prior permission is deemed to be granted, the form is automatically considered an application for prior permission to engage in an OA and the steps 5 and 6 apply.
Step 5	5.0	Decision on the OA request
Line Manager	5.1	As follow up of step 4.5, the Ethics Adviser seeks the opinion of the concerned Staff member's Line Manager.
	5.2	The Line Manager, taking into account the assessment criteria set out in step 2.3, provides in the OA form its opinion which can be favourable, unfavourable or favourable under certain conditions.
Ethics Adviser	5.3	After taking into account the opinion of the relevant Line Manager, the Ethics Adviser takes the decision according to the following options: ✓ approval of the OA with no conditions; ✓ approval of the OA subject to conditions; ✓ prohibition of the OA. When imposed, conditions are identified on a case-by-case basis, balancing EFSA's integrity with the respect of the fundamental right to engage in work and to pursue authorised OA. In accordance with the proportionality principle, no conditions are imposed if not strictly necessary to protect the interests of EFSA.
LA function	5.4	The Ethics Adviser records in the form the decision taken under step 5.3 and signs the form.
	5.5	No later than two months from the notification as per step 3.1, the LA function notifies to the concerned Staff member the decision on the OA request as an attachment in the relevant IT tool.
	5.6	The LA function saves the notification sent to the Staff member in the relevant DMS folder and, if applicable, closes the request in the relevant IT tool.



Step 6	6.0	Obligations of Staff members engaging in authorised OAs
Staff member	6.1	Staff members authorised to engage in an OA remain subject to the obligations under the SR as, for instance, those provided in Articles 11 and 11a related to situations of conflict of interest. In addition: i. Staff members are not allowed to make use in the context of their OA of any unpublished material or data which they have access to as part of their role in EFSA; ii. Staff members remain at all times at EFSA's disposal; iii. The OA cannot be performed during normal working hours or using EFSA's infrastructure, equipment or facilities or any financial support from EFSA.
Step 7	7.0	Ex-post control for maximum annual net remuneration ceiling
LA function	7.1	Every year by the end of January, the LA function initiates the ex-post remuneration check to verify, for paid authorised OAs, the respect of the maximum annual net remuneration ceiling of 10.000 Euro.
Staff member	7.2	The exercise in step 7.1 starts with an open call published on the EFSA intranet portal inviting the concerned Staff members to complete an ex-Post Control Form for the amounts they received during the previous year.
	7.3	No later than 20 working days from the publication referred to in step 7.2, relevant Staff members send via email to ethics-integrity@efsa.europa.eu the filled-in ex-Post Control Form.
Ethics Adviser	7.4	The LA function collects and saves the forms in a dedicated DMS folder and Excel sheet and performs verification on the annual remuneration, reporting its findings to the Ethics Adviser.
	7.5	The Ethics Adviser validates the report. In cases of non-compliances with the remuneration ceiling, the Ethics Adviser proposes appropriate next steps.



RECORDS

Reference	Title	Source or Link/Location
Step 3	Submission of the form notifying the intention to engage in an OA	IT tool and LA DMS
Step 5	Decision on the notified OA	LA DMS
Step 6	Obligations of Staff members engaging in an authorized OA	IT tool and LA DMS
(optional) Step 7	Appeal under Article 90(2) of the SR	LA DMS
Step 8	OA ex-post control on remuneration cap	EFSA intranet portal and LA DMS



ANNEX I – Risk assessment bodies

1) International:

- WHO (including regional offices (e.g. WHO-Europe) and WHO agencies (e.g. IARC))
- FAO (including IPPC, Codex Alimentarius)
- Joint FAO/WHO Expert Committees (e.g. JECFA, JMPR, JEMRA)
- Other UN bodies:
 - UN Environmental Programme
 - POP Review Committee
 - GHS Committee
 - Strategic Approach to International Chemicals Management (SAICM)
- OECD
- OIE
- EPPO*
- Council of Europe
- EMA*
- ECHA*
- ECDC*
- EEA*

2) Non-EU (including members of International Food Chemical Safety Liaison Group and International Microbiological Food Safety Liaison Group):

- US-FDA*
- US-EPA*
- US Department of Health and Human Services (National Toxicology Program)
- US Centers for Disease Control and Prevention (US-CDC)
- USDA and USDA agencies (e.g. FSIS*, APHIS* and ARS*)
- Health Canada*
- Canadian Food Inspection Agency*
- Food Safety Commission of Japan*
- Food Standards Australia New Zealand*
- New Zealand Ministry for Primary Industries*
- China National Center for Food Safety Risk Assessment*
- ANVISA/Brazil*
- ACHIPIA/Chile*

** Organisations with which EFSA has signed (or envisages to sign) a cooperation agreement*