

# RULES OF PROCEDURE

## Code of Conduct for the Members and former Members of the Court

THE EUROPEAN COURT OF AUDITORS (the Court),

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 285, 286 and 339 thereof,

Having regard to the Rules of Procedure of the Court, and in particular Articles 3 and 34(1) thereof, and to the Rules for Implementing the Rules of Procedure of the Court, in particular Article 81(4) thereof,

Whereas the Members of the Court are required, in the Union's general interest, to be completely independent in the performance of their duties, neither to seek nor to take instructions from any government or from any other body, and to refrain from any action incompatible with their duties,

Whereas, when entering upon their duties, the Members of the Court give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom,

Whereas Members have a special responsibility in ethical matters since, through their example, they have a significant influence on the culture of the organisation and on facilitating a good working environment,

Whereas this Code of Conduct reflects the fundamental ethical values and principles laid out, for example, in the Code of Ethics of the International Organization of Supreme Audit Institutions (ISSAI 130), such as integrity, independence and objectivity, competence, professional behaviour, confidentiality and transparency,

Whereas the Code of Conduct for the Members of the Court of 8 February 2012 needs to be revised in order to take account of the experience gained in its application and for the Court to ensure the highest ethical standards, as expected of Members of the Court, and to take account of the conclusions of the peer review report on the ethical framework of the Court completed in 2019 by the Supreme Audit Institutions of Croatia and Poland,

Whereas, in order to ensure greater transparency and consistency, all relevant provisions regarding the ethical obligations of Members should be merged into this Code of Conduct, which forms an integral part of the Rules for Implementing the Rules of Procedure of the Court,

Whereas the Court has adopted a policy for maintaining a satisfactory working environment and combating psychological and sexual harassment,

Whereas certain obligations arising from this Code of Conduct in relation to the Members of the Court should also apply to former Members in order to be fully effective,

Has decided to adopt the following *Code of Conduct for the Members and former Members of the Court*:

### Article 1

#### Scope

This Code of Conduct shall apply to the Members of the Court and, where expressly specified, to former Members of the Court.

## I. VALUES AND PRINCIPLES

### *Article 2*

#### **General provisions**

1. Members shall observe the highest standards of ethical conduct and set the tone at the top by their actions.
2. Members shall observe the following ethical values and principles: integrity, independence, objectivity, competence, professional behaviour, confidentiality and transparency, dignity, commitment and loyalty, and discretion and collegiality.

### *Article 3*

#### **Integrity**

1. Members shall act honestly, reliably, in good faith and solely in the public interest.
2. Members shall refrain from accepting any gifts or similar benefits with a value of more than EUR 150. Members shall also refrain from accepting from third parties the covering of manifestly disproportionate subsistence or travel costs.
3. Members may not accept payment for any type of external activity carried out or work published during their term of office.
4. Members shall use the infrastructure and resources placed at their disposal in full compliance with the general and specific rules laid down to that effect, and in particular the Court decisions in force concerning the procedure for recruiting staff to Members' cabinets, representation and reception expenses, and use of the Court's official vehicles.
5. Members of the Court shall choose the members of their cabinets taking into account the demanding nature of the function, the professional profiles required and the need to establish a relationship based on mutual trust between themselves and the members of their cabinets. Spouses, partners and direct family members shall not be part of the cabinets of Members of the Court.

### *Article 4*

#### **Independence**

1. Members shall be free from circumstances or influences that compromise, or may be seen as compromising, their professional judgement.
2. Members shall neither seek nor take any instructions from any institution, body, office or agency of the Union, or from any government or from any other public or private entity.
3. Members shall maintain independence from political influence. In particular, they may not exercise any political office.
4. Members' relations with interest groups shall be compatible with the need to preserve their independence.

### *Article 5*

#### **Objectivity**

1. Members shall act in an impartial and unbiased manner.
2. Members shall avoid any situation that is liable to give rise to a conflict of interest, or that could objectively be perceived as such. A conflict of interest arises where a personal interest could influence the independent performance of a Member's duties. Personal interests include, but are not limited to, any potential benefit or advantage to Members themselves, their spouses, partners or direct family members.

*Article 6***Competence**

Members shall develop and maintain knowledge and skills relevant for their duties and shall act in accordance with the applicable standards and with due care.

*Article 7***Professional behaviour**

1. Members shall comply with the applicable rules set out in the Treaties, in secondary law and by the Court. They shall avoid any conduct that could discredit the Court.
2. Members of the Court shall be mindful of the importance of their duties and responsibilities; they shall, leading by example, take into account the public nature of their duties and shall conduct themselves in a way that maintains and promotes the public's trust in the Court.

*Article 8***Confidentiality and transparency**

1. Members shall respect the confidential nature of the Court's work. They shall not divulge confidential information of the kind covered by the obligation of professional secrecy, as specified in Article 339 TFEU.
2. Members shall be responsible for the proper handling of any classified, confidential or sensitive documents and information with which they or their cabinet come into contact in the course of their duties.
3. Members shall not use for private purposes, either for themselves or on behalf of others, any information to which they have access by virtue of their official position and which has not been made available to the general public.
4. Members should be mindful that their public office requires enhanced transparency and accountability towards the public. They should balance the need for transparency with confidentiality.

*Article 9***Dignity**

1. Members shall respect the dignity of their office and shall not express themselves, through whatever medium, in a manner that adversely affects its public perception.
2. Members shall behave in a courteous and respectful manner. They shall establish and maintain a working environment that discourages any behaviour that might undermine an individual's dignity.

*Article 10***Commitment and loyalty**

1. Members of the Court shall devote themselves to the fulfilment of their mandate. They shall reside at the place where the Court has its seat.
2. They shall attend the meetings of the Court, of the Chambers, and of the Committees to which they belong, in accordance with Article 6 of the Rules for Implementing the Rules of Procedure of the Court.
3. In the spirit of loyalty, they shall provide their constant support to the Court in the discharge of its prerogatives.

*Article 11***Discretion and collegiality**

1. Members shall act and express themselves, both within and outside the institution, with the restraint their office requires.
2. Members shall under all circumstances respect the collegiate nature of the Court's organisation, and adhere to and take collective responsibility for any decisions adopted by the Court. However, Members may have recourse to the judicial instruments provided for under European Union law if they consider that those decisions have caused them harm.
3. Without prejudice to the President's responsibility for external relations, Members shall have authority outside the Court to communicate and comment upon any reports, opinions or information that the Court has decided to make public, subject to the conditions in paragraph 4 below.
4. Members shall refrain from making any comment outside the Court that:
  - (a) would call into question a decision taken by the Court;
  - (b) could damage the Court's reputation;
  - (c) could be interpreted as a statement of the Court's position on matters that do not fall within its institutional remit or on which the Court has not taken a position; or
  - (d) might involve the Court in any controversy, even after they have ceased to hold office.

*Article 12***External activities**

1. Members shall not engage in any professional activity outside the Court, or in any other external activity, whether gainful or not, that is incompatible with their duties, as specified in Article 286(3) and (4) TFEU.
2. Under the conditions laid down in this article, Members may be authorised to assume unremunerated duties in foundations or similar bodies in the legal, scientific, cultural, artistic, social, sporting or charitable spheres or in educational establishments. Such duties cannot include a management role, decision-making power, or responsibility for or control of the operations of the body in question, but only a representative or advisory role. 'Foundation or similar body' means any non-profit organisation or association engaged in activities in the public interest in the aforementioned areas. Members shall avoid any conflict of interest that could arise, or that could be objectively perceived as arising, from these offices, particularly if the body in question receives any kind of financing from the EU budget.
3. Members may also engage in the following external activities, providing they observe Articles 2 and 10:
  - (a) giving courses in the interests of European integration, the rule of law or ethics, or delivering speeches, or taking part in conferences, provided that either no payment is made or, should a payment be made, that it is paid directly by the organiser to a charity of the Member's choice;
  - (b) publishing a book or writing an article, provided that any royalties from works published in connection with a Member's functions are paid directly by the publisher to a charity of the Member's choice;
4. External activities shall not:
  - (a) undermine the Court's impartiality;
  - (b) create a conflict of interest, or be objectively perceived as creating a conflict of interest;
  - (c) take up an excessive amount of time, taking into account the cumulative impact of a Member's total external activities;
  - (d) afford the Member any pecuniary gain.

*Article 13***Obligations of Members after ceasing to hold office**

1. After ceasing to hold office, former Members shall respect those obligations arising from their duties that continue to have an effect after their term, in particular the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits in line with Article 286(4) TFEU, and the obligations specified in this Code of Conduct.
2. They shall continue to be bound by the duties of discretion and collegiality, as laid down in Article 11, with respect to the activities performed during their term of office. In accordance with Article 339 TFEU, the obligation of professional secrecy shall continue to apply after Members have ceased to hold office.

**II. PROCEDURAL RULES***Article 14***Declaration of Interests**

1. Members shall submit a Declaration of Interests:
  - (a) within a maximum of one month of taking office;
  - (b) on an annual basis on 31 January;
  - (c) at any time, in the event of significant changes in the information to be declared (including new external activities covered by paragraph 10); and
  - (d) on leaving office.
2. These Declarations of Interests shall be submitted to the President using the form in Annex I to this Code of Conduct.
3. The Declaration of Interests shall contain the items listed in paragraphs 4 to 11 of this Article.
4. Members of the Court shall declare any financial interests, assets, or liabilities that might create or objectively be perceived as creating a conflict of interest in the performance of their duties.
5. This includes individual holdings in company capital, in particular shares, and other forms of holding such as convertible bonds or investment certificates. Units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared.
6. Any property owned either directly or through a real estate company shall be declared, and its approximate location and nature identified, with the exception of homes reserved for the exclusive use of the owner and their family. This shall not include moveable assets.
7. These obligations apply to the financial interests of spouses, partners <sup>(1)</sup> and minor children, where those interests might be objectively considered capable of giving rise to a conflict of interest.
8. On first taking office, Members shall declare all activities, professional and honorary, engaged in during the previous three years.
9. Members shall, in order to obviate any potential risk of conflict of interests, declare any professional activities of their spouses or partners <sup>(2)</sup>.
10. Members shall declare all current external activities in addition to declaring them in accordance with the specific procedure laid down in Article 16(1). This shall exclude external activities falling under Article 12(3).

<sup>(1)</sup> Stable non-matrimonial partner as defined in Article 1(2)(c) of Annex VII of the Staff Regulations.

<sup>(2)</sup> *Ibid.*

11. Members shall declare any decoration, prize or honour bestowed on them.
12. Members are responsible for their own declarations.
13. The President of the Court shall examine the declarations from a formal point of view, with the support of the Legal Service. The Declaration of Interests made by the President shall be examined by the Member next in order of precedence to the President under Article 5 of the Rules of Procedure.
14. Following this examination and with due regard to the protection of personal data, these Declarations of Interests shall be published on the Court's website.
15. The President shall take account of the declarations when proposing the assignment of the Member to a Chamber or Committee of the Court, in order to avoid any possible conflict of interests.
16. If Members are confronted with a situation outside the scope of the Declaration of Interests that may give rise to a conflict of interest, they shall inform the President of the Court. Following an examination by the Ethics Committee, the matter shall be submitted to the Court, which shall take any measure it considers appropriate.

#### *Article 14a*

#### **Members' obligations regarding certain contractual relationships**

1. Any long-term contractual relationships between Members and staff of the Court, whether or not they involve any remuneration, shall be declared to the Ethics Committee, which is responsible for their examination.
2. Members shall not enter into long-term rental, sub-rental, or loan agreements with staff of the Court.

#### *Article 15*

#### **Acceptance of gifts and similar benefits**

1. If, by virtue of diplomatic and courtesy usage, Members receive gifts or similar benefits of a value of more than EUR 150, they shall hand them over to the Secretary-General. In case of doubt, they shall declare to the Secretary-General any gift received in the performance of their duties, asking for an assessment of its value.
2. The Secretariat of the Court shall keep a register of gifts and similar benefits with a value of more than EUR 150, identifying the donors, which shall be publicly available on the Court's website.
3. This Article shall not apply to authorised official missions involving a Member's participation in an event where the organiser bears certain costs (for example, travel or hotel costs).

#### *Article 16*

#### **Members' obligations regarding external activities**

1. Members shall declare without delay to the President of the Court all external activities or changes to a declared activity, using the form in Annex II. Members shall describe the external activities as accurately as possible according to each of the criteria listed in paragraph 3.
2. The President shall forward any such declaration concerning external activities to the Ethics Committee, which is responsible for its examination.
3. To that end, the Ethics Committee shall examine any existing or requested external activity in the light of the general criteria laid down in Article 12(4).

4. By way of exception, external activities pursuant to Article 12(3)(a) and (b) shall be declared to the President using the form in Annex II and sent for information purposes to the Ethics Committee, which shall not issue an opinion unless it deems this necessary.

5. Activities falling within the scope of the Court's Decision on the mission expenses of the Members of the Court cannot constitute 'external activities' within the meaning of Articles 12 and 16 of this Code. Members remain free to provide any such information they see fit to the Ethics Committee, purely for its information. Conversely, an external activity declared under this Code cannot benefit from reimbursement under the Court's Decision on the mission expenses of the Members of the Court.

#### Article 17

### Members' occupations after ceasing to hold office

1. Whenever Members or former Members of the Court intend to engage in an occupation during the two years after they have ceased to hold office, they shall declare it to the President of the Court using the form in Annex III as soon as they become aware of the matter, and if possible with at least two months' notice.

2. For the purposes of this Code, 'occupation' means any professional activity, whether gainful or not. It excludes:

- (a) honorary, unremunerated offices in foundations or similar organisations, with no link to the activities of the European Union, in the political, legal, scientific, cultural, artistic, social, sporting or charitable sphere or in educational establishments;
- (b) the mere management in a private capacity of assets or holdings or personal or family fortune; and
- (c) comparable activities.

3. The President shall forward such declarations for examination by the Ethics Committee. The Ethics Committee shall examine whether the nature of the planned occupation is compatible with Article 286(4) TFEU and the present Code, whether it undermines the Court's impartiality, and whether there is a conflict of interest.

4. Where necessary, the Ethics Committee shall, in carrying out this examination under paragraph 3, identify and assess if there are any specific and substantiated risks to the criteria in paragraph 3 arising from reports for which the Member acted as Reporting Member in the last two years of his or her mandate. The Committee shall also have regard to Article 15 of the EU Charter of Fundamental Rights on the Freedom to choose an occupation and the right to engage in work.

5. If the Ethics Committee considers that the occupation would be incompatible with Article 286(4) TFEU and the present Code, the President shall inform the former Member, who shall refrain from engaging in that activity.

6. By way of exception, where the former Member intends to engage in public office, a conflict of interest is, in principle, not to be expected.

### III. ORGANISATIONAL FRAMEWORK

#### Article 18

### The Ethics Committee

1. The Court hereby establishes an Ethics Committee, which shall consider any matter of an ethical nature it deems relevant to the standards laid down in this Code and the reputation of the Court, including their further improvement.

2. The Committee's composition is laid down in Article 33 of the Court's Rules Implementing the Rules of Procedure.

3. The Committee shall elect a chairperson from among its Members.

4. The Committee shall convene at the request of its chairperson or following a request for an opinion submitted to it by the President or a Member of the Court. The Committee's deliberations shall be confidential.
5. The Committee shall issue an opinion within 30 days of being consulted. On a proposal from its chairperson, the Committee may issue an opinion by written procedure. By way of exception, when consulted under Article 17, it shall issue an opinion as soon as possible.
6. The Committee shall adopt its opinions by majority vote. Its opinions shall be reasoned with reference made to any dissenting view. Such opinions shall immediately be communicated to any Member or former Member that may be concerned by the Committee's opinion and forwarded to the President and Court for their information.
7. Where the Committee must consider a declaration of interests or a declaration concerning an external activity of a Member of the Committee, that Member shall be substituted by an alternate Member of the Committee and shall not take part in the Committee's work on the matter.
8. The Ethics Committee shall fulfil the role assigned to it in the decision setting out the Court's policy for maintaining a satisfactory working environment and combating psychological and sexual harassment.
9. The Legal Service shall assist the Ethics Committee in its tasks and provide secretarial support.
10. A contract shall be signed between the Court and the external Member of the Committee laying down their rights and obligations with regard to their mandate, including the amount of the fees.

#### *Article 19*

#### **Interaction between the Members, the Ethics Committee and the Court**

1. The President and the Members and former Members of the Court may seek the Committee's advice on any ethical question, in particular relating to the interpretation of this Code of Conduct.
2. Members shall immediately report in writing to the President and the relevant Dean any perceived undue influence on, or threat to, their independence by any entity external to the Court.
3. Members and former Members of the Court shall fully cooperate with the Committee, in particular regarding the provision of any information and supporting documents it has requested. They shall have the right to be heard.
4. A Member or former Member disagreeing with an opinion of the Ethics Committee adversely affecting him or her shall, within five working days from the date of receipt of the opinion, give reasons for such disagreement in writing to the President, who shall without delay refer the matter to the Court for its consideration and final decision. Where the referral concerns an envisaged occupation under Article 17, the Court shall deal with the matter without delay.
5. The effects of the Committee's opinion so referred to the Court shall be suspended. The Court shall give any provisional instruction on the matter referred as it may deem appropriate until it has adopted its final decision. The Member or former Member concerned shall comply without delay with such a Court instruction and final decision.
6. The President of the Court shall ensure that the Committee's opinions and any resulting instructions and decisions of the Court are acted upon.
7. Each year, the Court shall adopt a report on the application of this Code of Conduct, including the work of the Ethics Committee. It shall be published on the Court's website.

*Article 20***Cooperation with the EPPO and OLAF**

Without prejudice to the relevant provisions of the Treaty on the Functioning of the European Union, in particular the Protocol on Privileges and Immunities, and the texts relevant to their application, in particular the procedural guarantees laid down in Council Regulation (EU) 2017/1939 <sup>(3)</sup> and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council <sup>(4)</sup>, the Members of the Court shall cooperate fully with the European Public Prosecutor's Office and the European Anti-Fraud Office in the context of enquiries and investigations undertaken by them.

**IV. GENERAL AND FINAL PROVISIONS***Article 21***Application of the Code of Conduct**

1. The President and Members of the Court shall ensure that this Code of Conduct is observed and that it is applied in good faith and with due consideration to the principle of proportionality. The existing internal and external controls of the Court are applicable to activities under this Code.
2. In the interpretation of this Code, and without prejudice to its provisions, which contain a complete set of rights and obligations, account should be taken of any relevant European and international practices and standards.

*Article 22***Final provisions**

1. This Code of Conduct forms part of the Rules for Implementing the Rules of Procedure of the Court, to which it shall be annexed.
2. It repeals and replaces the Code of Conduct for the Members of the Court of 10 February 2022.
3. It shall enter into force with immediate effect.
4. Article 14(8) of the revised Code of Conduct shall not apply to Members whose terms of office are underway at the time of adoption of the present Code.
5. This Code of Conduct shall be notified to former Members, sent for information to the European Parliament and to the Council, and published in the *Official Journal of the European Union*.

Done at Luxembourg, 7 April 2022.

*For the Court of Auditors*  
Klaus-Heiner LEHNE  
*President*

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<sup>(3)</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>(4)</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

## ANNEX I

## DECLARATION OF INTERESTS

(pursuant to Article 14)

Full name:

I. **Financial interests, assets and liabilities** (Article 14(4) and (5) of the Code of Conduct)

Indicate any such items that might create or objectively be perceived as creating a conflict of interest in the performance of your duties.

Indicate for each interest:

The type of interest (e.g. shares, bonds, loans, other interest or liability)	The entity concerned (e.g. company, bank, fund)	The size of the interest (e.g. number of shares)

II. **Financial interests of spouse, partner or minor** children that might objectively be considered capable of giving rise to a conflict of interest (Article 14(7) of the Code of Conduct)

Specify the names of the spouse, partner or minor children concerned, together with the same information as required under I.

III. **Real Estate** (Article 14(6) of the Code of Conduct)

Any property owned either directly or through a real estate company, identifying its approximate location and nature <sup>(1)</sup>. It is not considered necessary to stipulate the value of properties.

IV. **Previous activities** (Article 14(8) of the Code of Conduct) <sup>(2)</sup>

Please indicate the nature of the post(s), the name of the body and its objective/activity.

V. **Current external activities** (Articles 14(10) of the Code of Conduct) <sup>(3)</sup> <sup>(4)</sup>

Please indicate the title of each activity and describe its nature and objective.

VI. **Spouse's or partner's professional activities** (Article 14(9) of the Code of Conduct)VII. **Decorations, prizes and honours and additional relevant information** (Article 14(11) of the Code of Conduct)

I hereby declare that the information given above is true.

Date:

Signature:

This declaration will be made public in line with Article 14(14) of the Code.

<sup>(1)</sup> As laid down in Article 14(6), this shall not include 'homes reserved for the exclusive use of the owner and their family'.

<sup>(2)</sup> The declaration under this paragraph should be made by new Members on commencing their first term. As and when their declaration is updated, this part should be copied without alteration. Members starting a further (second or third) 6-year term, where there is no interruption between mandates, are exempt from making the declaration under this paragraph.

<sup>(3)</sup> The external activities listed in Article 12(3)(a) and (b) are not declared here but instead dealt with in accordance with Article 16(4).

<sup>(4)</sup> If you have just started your first mandate and one or more of your external activities is still under examination following your declaration under Article 16, you must nevertheless list them in full and add the following footnote: 'This external activity is currently under examination by the Court's Ethics Committee'. Once the procedure under Article 16(3) is completed, please submit an updated Declaration of Interests reflecting the consequences of the procedure.

## ANNEX II

**DECLARATION OF AN EXTERNAL ACTIVITY**

(pursuant to Articles 12 and 16)

Full name:

**Title of the external activity:**

**Description:**

*Please describe the activity as accurately as possible, attaching any relevant documentation.*

**Information:**

*Please provide information demonstrating for evaluation purposes whether the activity:*

- (a) *undermines the Court's impartiality;*
- (b) *engenders a conflict of interest;*
- (c) *takes up an excessive amount of time (both separately and taking into account your cumulated external activities);*
- (d) *affords you any pecuniary gain.*

**Intended date of the external activity:**

**List any travel or subsistence costs covered by third parties:**

I hereby declare that the information given above is true.

Date:

Signature:

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## ANNEX III

## DECLARATION OF AN OCCUPATION

(Pursuant to Article 17 <sup>(1)</sup>)

Full name:

**Intended occupation:**

**Description:**

*Please describe the occupation as fully and accurately as possible, attaching any relevant documentation as annexes:*

**Information:**

*Please provide information demonstrating for evaluation purposes whether the occupation:*

(a) *undermines the Court's impartiality:*

(b) *engenders a conflict of interest:*

**Intended starting date for the occupation:**

I hereby declare that the information given above is true.

Date:

Signature:

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<sup>(1)</sup> Please note that activities that fall under the exception provided for in Article 17(2)(a), (b) or (c) do not need to be declared.