

**DECISION NO 14-II-8(1)**  
**OF THE ADMINISTRATIVE BOARD**  
**OF THE EUROPEAN FISHERIES CONTROL AGENCY**  
**of 17 October 2014**

**adopting the policy on the prevention and management of conflicts of interest of the  
European Fisheries Control Agency**

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THE ADMINISTRATIVE BOARD OF THE EUROPEAN FISHERIES CONTROL AGENCY

Having regard to Council Regulation (EC) No 768/2005 of 26 April 2005<sup>1</sup> establishing a Community Fisheries Control Agency<sup>2</sup> (hereinafter referred to as 'EFCA'), and in particular Articles 23(2)(h) and 28 thereof,

Having regard to AB Decision 08-I-13(1) of 13 March 2008 concerning Implementing Rules on Confidentiality at EFCA,

Having regard to AB Decision 09-I-07 of 19 March 2009 concerning the revised rules for Seconded National Experts,

**Whereas:**

- (1) EFCA should avoid conflicts of interest in the implementation of its activities.
- (2) Integrity and high standards of professional conduct by all those involved in the tasks and activities of EFCA are crucial for its independence and reputation.
- (3) In the interest of ensuring confidentiality, members of the Administrative Board, EFCA staff, interim staff, trainees, seconded national experts, visiting experts and consultants are all required to sign respective confidentiality undertakings, in accordance with Article 2 of AB Decision 08-I-13(1).
- (4) Specific provisions on conflict of interest for EFCA contractors, including temporary agency personnel (interims) providing services at EFCA, are laid down in the general conditions of EFCA's contracts, and thus there is no need to establish additional rules for them.
- (5) EFCA's Advisory Board is composed of representatives of the Advisory Councils provided for by Article 43 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy<sup>3</sup>. The Advisory Board represents stakeholders who are not employed by EFCA and advises the Executive Director in the performance of his duties under EFCA's Founding Regulation. One of its members takes part in the deliberations of the Administrative Board without the right to vote. The names of the Advisory Board representative and alternate as well as the Advisory Council represented are published on EFCA's website. Members of the Advisory Board do not carry out any duties where independence is required and thus there is no need to establish specific rules on conflict of interest for them.
- (6) It is understood that EFCA staff, seconded national experts, external remunerated experts, trainees and members of the Administrative Board should have a professional interest in the work they are involved in; one aspect of integrity is to demonstrate that they act for the good of EFCA, notably by pursuing its objectives, upholding EFCA's Founding Regulation and protecting EFCA's general interests.

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<sup>1</sup> As amended.

<sup>2</sup> Since 1/1/2012 'European Fisheries Control Agency'.

<sup>3</sup> OJ L 354, 28.12.2013, p. 22.

- (7) Article 6(3), (5) and (7) of the Decision of the Administrative Board No 09-I-07 of 19 March 2009 concerning the revised rules for Seconded National Experts lays down the rules on conflict of interest for Seconded National Experts.
- (8) Points 4, 5.3.1 and 5.4.3 of the Rules governing the official traineeships scheme of the European Commission (Commission Decision of 2 March 2005 - C(2005)458), which are applied by EFCA in accordance with point C of the Service Level Agreement signed between the European Commission's Traineeships Office Unit and EFCA on 3 June 2014, lay down the rules on conflict of interest for trainees.
- (9) A balance must be struck between the importance of ethics and independence obligations and the possible intrusion in the right to privacy of the persons concerned.
- (10) To encourage a culture of integrity and of responsible management of conflicts of interest as well as in the light of the functions of the Executive Director and the Heads of Unit, and considering EFCA's core business, those persons should submit a yearly declaration of conflicts of interest.
- (11) Taking into account the high level of responsibility and the decision-making powers of the members of the Administrative Board, the Executive Director and the Heads of Unit, who have positions of key importance, there is a presumption of openness for personal data concerning persons in such posts. Thus, the publication of declarations of interest of those persons on EFCA's website is necessary to ensure public accountability and to encourage public trust by showing the public that those persons are working in the interest of the European Union. However, the presumption of openness for personal data does not cover the publication of résumés which should be on a voluntary basis,

HAS DECIDED AS FOLLOWS:

*Article 1*  
*Objective*

This decision lays down the EFCA policy on the prevention and management of conflicts of interest (hereinafter referred to as 'policy') and establishes practical arrangements and proportionate measures for avoiding or managing apparent, potential and real conflict of interest (hereinafter referred to as 'conflict of interest') at EFCA.

*Article 2*  
*Scope*

This decision shall apply to EFCA staff, Seconded national experts, external remunerated experts, trainees and members of the Administrative Board.

*Article 3*  
*Definition of conflict of interest*

1. A conflict of interest generally refers to a situation where the impartiality and objectivity of a decision of EFCA is or might be perceived as being compromised by a personal interest held or entrusted to a given individual falling under the scope of this decision..

2. Relevant personal interest may be of financial or non-financial nature and it may concern a personal or family relationship or professional affiliations (including additional employment or "outside" appointments or former employments or appointments) and other relevant outside activities.
3. Not only actual independence but also perception of independence is important, since it can impact on EFCA's reputation by raising doubts about the conclusions reached. The appearance of conflict of interest can constitute a reputational risk to EFCA, even if it turns out to be unsubstantiated. As a result, giving due consideration to proportionality, specific backgrounds, all relevant facts and mitigating circumstances, a risk of perceived conflict of interest shall be treated as if it were an actual conflict.

*Article 4*  
*Declarations of interest*

1. A declaration of interest does not imply the existence of any conflict of interest. Declaring an interest does not necessarily mean having an actual or potential conflict of interest, nor does it automatically disqualify a person from participating in the activities of EFCA.
2. The primary responsibility for assessing whether an interest might impede independence or influence judgement and for declaring any possible conflict of interest is placed on the person concerned.
3. The person concerned shall be directly responsible for updating the declarations of interest whenever their situation changes in respect of the interests declared.

*Article 5*  
*Content of declarations of interest*

Declarations of interest shall include at least the following information on all interests that are (or could be perceived as) related to EFCA's activities:

- (a) Past activities: Posts held over the last five years in foundations or similar bodies, educational institutions, companies or other organisations with indication of the nature of the post and the name of those bodies; Other membership/ affiliations or professional activities held over the last five years, including services, liberal professions, consulting activities and relevant public statements.
- (b) Current activities: Posts held in foundations or similar bodies, educational institutions, companies or other organisations with indication of the nature of the post and the name of those bodies; Other membership/ affiliations or professional activities held, including services, liberal professions, consulting activities and relevant public statements.
- (c) Above a minimum threshold of 10,000 EUR<sup>4</sup> any direct financial interests (managerial stakes in companies, including ownerships of patents or any other relevant intellectual property rights) or assets (shares and/ or securities held in companies) or grants or other funding which might create a conflict of interests in the performance of duties, with

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<sup>4</sup> or comparable amounting to a voting right of 5% or more in a company (notwithstanding their financial value).

indication of their number and value, as well as the name of the company/ provider of the grant/ funding.

- (d) Any other relevant interests.
- (e) Spouse's/ partner's/ dependent family members' current activity and financial interests above a minimum threshold of 10,000 EUR<sup>5</sup> that might entail a risk of conflict of interest. The responsibility for a complete and truthful declaration shall lie exclusively with the person who declares his own interest and those held by his spouse/ partner/ dependent family members. In order to maintain privacy, the names of the aforementioned household members do not need to be declared.

*Article 6*  
*Management of conflict of interest*

1. Members of the Administrative Board shall follow the specific policy laid down in the Annex to this decision.
2. Staff members shall follow the procedures laid down in the conflict of interest handbook for EFCA staff made available on EFCA's intranet.
3. As laid down in Article 16 of the Staff Regulations, the Administrative Board shall, in principle, prohibit former Executive Directors of EFCA, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of EFCA for their business, clients, employers on matters which they were responsible for during the last three years in the service.
4. External remunerated experts selected following the procedure laid down in Article 287 of the Rules of Application of the Financial Regulation applicable to the general budget of the European Union adopted by Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 shall sign a declaration of absence of conflict of interest and confidentiality when they are offered a contract.

Experts who do not sign the declaration shall not be allowed to work under the contract in question. In case of a conflict of interest of the expert with tasks under the offered contract, EFCA shall not contract the expert for those tasks.

*Article 7*  
*Yearly declarations and publicity*

1. Without prejudice to the relevant provisions of the Staff Regulations and CEOS, the Executive Director and the Heads of Unit shall submit declarations of interest on a regular basis at least once a year.
2. The name, function and declaration of interest of the persons in the posts mentioned in paragraph 1 shall be published on the EFCA website in the interest of transparency, with

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<sup>5</sup> or comparable amounting to a voting right of 5% or more in a company (notwithstanding their financial value).

due respect to EU rules on protection of personal data. The Executive Director's résumé is published on a voluntary basis.

*Article 8*  
*Training and awareness rising*

1. Each member of the Administrative Board shall receive a copy of this decision. In addition, this decision shall be made easily accessible on EFCA's intranet to staff members, seconded national experts and trainees.
2. EFCA shall raise staff awareness to ensure the provision of information on the policy and the knowledge of its practical application. This shall be done via induction information and regular information sessions on conflict of interest and/or specifically dedicated to the post-employment regime so that rules are well understood. EFCA shall also provide training on how to deal with various concrete situations, based on experience of implementation.
3. Seconded National Experts shall be reminded upon the beginning of their secondment of their duties in respect of management and prevention of conflict of interest as laid down in Article 6(3), (5) and (7) of the Decision of the Administrative Board No 09-I-07 of 19 March 2009 concerning the revised rules for Seconded National Experts.
4. Trainees shall be reminded upon the beginning of their traineeship of their duties in respect of management and prevention of conflict of interest as laid down in Points 4, 5.3.1 and 5.4.3 of the Rules governing the official traineeships scheme of the European Commission.


*Article 9*  
*Monitoring and assessment*

The effectiveness of the policy on the prevention and management of conflicts of interest shall be monitored and assessed regularly with a view to adapting it to possible new risks.

*Article 10*  
*Entry into force and publicity*

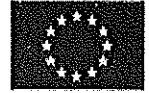
This decision shall take effect on the day of its adoption and shall be published on EFCA's intranet and website in a clear and easily identifiable manner.

Done at Vigo on 17 October 2014

  
Reinhard Priebe  
Chair of the Administrative Board

**ANNEX**

**EFCA Administrative Board Conflict of Interest Policy**



## EFCA Administrative Board Conflict of Interest Policy



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## 1. Introduction

The Commission and the Member States are represented within the Administrative Board in order to control effectively the functions of the Agency, entrusted with the necessary powers, as stipulated in Article 23 of Regulation (EC) No 768/2005 of the Council of 26 April 2005 establishing a Community Fisheries Control Agency<sup>6</sup>, as amended (hereinafter referred to as 'Founding Regulation'), to *inter alia* adopt the work programme of the Agency for the coming year, adopt the final budget of the Agency before the beginning of the financial year, adopt the annual report on the Agency's activities and appoint the Executive Director.

The Administrative Board recognises that the members of the Administrative Board are carefully selected by Member States and Commission, relying upon the trust in their integrity and judgment. Therefore, the Administrative Board reasonably expects that no member would ever use his position for personal gain.

However, the Administrative Board recognises the sensitivity of the tasks to be performed and the need to define a concept of conflict of interest, as well as the need to lay down practical arrangements and proportionate measures for avoiding or managing apparent, potential and real conflicts of interest (hereinafter referred to as 'conflict of interest').

In accordance with Article 28 of EFCA's Founding Regulation, "*the members of the Administrative Board shall make a declaration of interests indicating either the absence of any interests which might be prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be made annually in writing or whenever a conflict of interests may arise in relation to the items on the agenda. In the latter case the member concerned shall not be entitled to vote on any such items.*"

The present 'EFCA Administrative Board Conflict of Interest Policy' is adopted specifically for the EFCA Administrative Board, recognising its role and responsibilities (hereinafter referred to as 'Policy').

## 2. Purpose

The purpose of this Policy is to establish the principles governing impartiality, independence and objectivity of the members of EFCA's Administrative Board and their alternates and define the measures to ensure their practical application in order to prevent and mitigate the risk that past, current or future interests might improperly influence the impartiality, independence and objectivity of the Board members during the performance of their duties.

Furthermore, it defines types of conflict of interest and a procedure for identifying and handling it.

It should be noted that this Policy is based on the principle that interests declared in a transparent way are not per se considered to represent conflicts of interest. So this Policy is not to ban or sanction the holding of interests by members of the Administrative Board but to facilitate in a transparent and consistent manner the handling of situations where conflicts of interest may arise. It must be stressed that this document describes the main principles which apply.

## 3. Scope

This Policy shall apply to all members and alternate members of the Administrative Board (hereinafter referred to as the 'Board member(s)'), in the performance of their functions.

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<sup>6</sup> Since 1/1/2012 'European Fisheries Control Agency'.

#### **4. Conflict of interest**

A conflict of interest is an apparent, potential or real conflict between the public duty and personal or vested interests of a Board member, in which the Board member has direct or indirect interests which could improperly influence the performance of his official duties and responsibilities.

Personal and vested interests may be of financial or non-financial nature and may concern a personal or family relationship or professional affiliations (including additional employment, "outside" appointments or former employments or appointments).

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 are interests of personal benefit to the individual at the time of declaration, likely to influence or give the appearance of influencing his behaviour. Indirect interests should be considered as other interests that may have some influence over the individual's behaviour and may require mitigation.

In this context, the conflict of interest can also be actual or apparent, which can be said to exist where the impartiality and objectivity of a decision of the Administrative Board is or might in the public perception be compromised by an interest held by, or entrusted to, a Board member.

A conflict of interest can create an appearance of impropriety that can undermine confidence in the person, profession, or the organisation.

A conflict of interest may exist even if no unethical or improper act results from it. On the other hand, the holding of interests does not automatically give rise to a conflict of interest, if the independence and objectivity of decisions are not at risk.

It is recognized that it is often difficult to objectively assess whether a conflict of interest situation exists.

#### **5. Policy statement**

The Board members shall undertake to act independently in the public interest. The Board members shall not be guided by personal interest or any outside influences of whatever kind. The Board members shall make their best efforts to refrain from involving themselves in any activity that would result in a conflict of interest and abstain from handling matters which involve their own interest, or those of their family and relatives.

The primary responsibility for assessing whether an interest might impede independence or influence judgment and for declaring any possible conflict of interest is placed on the Board member concerned.

#### **6. Declaration of commitment and confidentiality**

Taking into account the sensitivity of the tasks to be performed by the Administrative Board of EFCA and the need to ensure that the principles of impartiality, fairness and transparency are properly applied, in the exercise of their functions, declarations of commitment and confidentiality are requested from each Board member.

The Board members shall be subject to the requirements of confidentiality even after their duties have ceased.

For the above purposes, the Board members complete and submit upon their appointment a commitment of independence as well as a confidentiality undertaking, the latter in accordance with

Annex I to AB Decision No 08-I-13(1) of 13 March 2008 concerning Implementing Rules on Confidentiality at EFCA.

## **7. Interests and conflict of interest of the Board members**

### 7.1. Interest

As already mentioned under point 1 and in accordance with Article 28 of EFCA's Founding Regulation, interests to be declared are any activities or interests in relation to any matter covered by Administrative Board business, including the agenda of a meeting, *"which might be prejudicial to their independence or any direct or indirect interest which might be considered prejudicial to their independence"*.

Direct or indirect interests include among others financial, business or professional interests of the Board members as well as personal or family relationships.

Thus, when declaring interests, Board members shall also declare current direct interest of household members (i.e. spouse/ partner and children living at the same address as the individual). In order to maintain privacy, the names of household members do not need to be declared.

### 7.2 Conflict of interest

In general terms, situations and relationships should be considered to be conflicts of interest if the declared interest is likely to improperly influence the performance of the Board member's official duties and responsibilities as a member of EFCA's Administrative Board or if the impartiality and objectivity of a decision of the Board member is or might in the public perception be compromised by the interest held by, or entrusted to, the Board member.

For example, a conflict of interest of a financial nature may exist when individuals have a financial stake because of a secondary employment, investment in a company/institute operating in a related field or intellectual property rights whose value may be influenced in either a negative or positive sense by a decision of the Administrative Board, e.g. with regard to a planned administrative arrangement.

A conflict of interest may also arise where, during the preceding five years, assistance and support from stakeholders of the Agency were received, whether associated with direct or indirect pecuniary or material benefits. Conflict of interest can also exist in cases of interests of non-pecuniary or material benefit to the individual, during the preceding five years, arising from professional activities or affiliation with national or international organisations or bodies with tasks similar to EFCA. This also includes participation in public interest groups, professional societies, clubs or organisations which have an agenda or an interest or involvement in the Agency's work.

Situations of conflicts of interest may occur e.g. in the context of decisions of the Administrative Board regarding the annual work programme of the Agency.

## **8. Preventive measures**

Preventive measures that deal with emergent conflict of interest situations shall be identified and facilitated. It is considered to be important to develop and sustain an open organisational culture where conflict of interest or measures dealing with conflict of interest matters can be freely raised and discussed. The Board members shall also accept responsibility for arranging their private affairs so as to prevent conflicts of interest. In case of the possibility of existence of conflict of interests, Board members are obligated to undertake all necessary measures with a view to preventing private interest influence.

The Board members shall be enabled to foresee potential conflicts, where feasible: for example by providing significant meeting agendas in advance and by recording in meeting proceedings any conflicts that arise and the measures taken to resolve them.

Consistency and openness in resolving or managing conflict of interest situations shall be ensured, for example by providing up-to-date information about the Administrative Board's policy, rules and administrative procedures regarding conflict of interest, or by encouraging discussion on how specific situations have been handled in the past and are expected to be handled in the future.

## **9. Declarations of interest**

### 9.1. Annual written declaration of interest

The Board members shall make an annual written declaration of interest indicating either the absence of any interests which might be prejudicial to their independence or all those direct or indirect interests which might be considered prejudicial to their independence. Thus, each year, the Board members shall complete and submit a specific form.

At each meeting of the Administrative Board, the Chairperson shall remind the Board members to submit their annual written declaration of interests.

### 9.2. Declaration of interest (meeting)

At the beginning of each meeting of the Administrative Board the Chairperson shall ask if anyone of the participants has any direct or indirect interests in relation to any matter on the agenda of the meeting. Members of the Administrative Board concerned are required to give an oral declaration of such interests.

Oral declarations of interest resulting in a conflict of interest are recorded in the minutes of the relevant meeting as well as the measures taken to resolve them. Alternatively it shall be noted in the minutes that simultaneously with the adoption of the agenda of the Board meeting it has been stated that there were no conflicts of interest in relation to any matter on the agenda of the meeting.

### 9.3. Assessment and evaluation of declared interests

If a Board member declares any direct or indirect interests in relation to any matter on the agenda of the meeting that could be prejudicial to his independence, the Administrative Board will jointly evaluate whether a declared interest constitutes a conflict, based on the information provided by the Board member. The final decision remains with the Chairperson of the Administrative Board.

In order to evaluate whether a declared interest constitutes a conflict the Chairperson of the Administrative Board may seek additional background information with regard to the information that was declared.

If the Chairperson of the Administrative Board declares any direct or indirect interests in relation to any matter on the agenda of the meeting that could be prejudicial to his independence, he shall be replaced by the Deputy Chairperson.

Declared interests can be classified according to the following indicative levels:

- a) A conflict of interest is "non-existent" if the declared interest cannot be expected to cause any conflict of interest.

- b) A conflict of interest is "possible" if the declared interest poses a potential conflict of interest by default, for example because there might be a potential benefit to the individual arising from the respective decision of the Administrative Board. Whether a potential conflict of interest will result in a factual or perceived conflict of interest depends hereby on the nature of that particular potential conflict, the subject at issue, the behaviour of others, etc. A conflict of interest is also "possible" if a conflict of interest cannot be excluded.
- c) A conflict of interest is "existent" if the declared interest obviously implies a factual or perceived conflict.

#### 9.4. Resolution measures

The decision on the nature of participation of a member of the Administrative Board in a specific meeting shall be taken by the Chairperson of the Administrative Board after consultation of all Board members not concerned. The decision shall be taken depending on the level of conflict of interest defined in point 9.3 and determined as a result of the assessment made by the Board members not concerned. The consultation shall take place without the presence of the Board member concerned.

If a declared interest might pose a factual or perceived (i.e. "existent") conflict of interest for the Board member concerned, it is in the interest of EFCA, the Administrative Board as well as of the individual with that interest that there is no involvement in that particular decision. This non-involvement, i.e. the consequent decision to abstain or step down shall be made explicit and noticeable from minutes, reports and opinions.

In order to resolve or manage the conflict positively the following resolution measures shall be taken:

- a) Conflict of interest is "non-existent": Involvement in all activities is permitted to the Board member concerned.
- b) Conflict of interest is "possible": The Board member concerned can be present when the Administrative Board examines specific items of its agenda which are affected by the possible conflict of interest in question. He may answer questions addressed specifically to him but he cannot actively participate in the final discussion and has no right to vote.
- c) Conflict of interest is "existent": The Administrative Board examines specific items of its agenda affected by the conflict in question without the presence of the Board member concerned or takes all other such actions necessary.

#### **10. Breach of trust and remedial actions**

In case it appears that a Board member failed to declare relevant interests resulting in a possible or existent conflict of interest, the Administrative Board shall evaluate whether this may be considered as a breach of trust. The final decision remains with the Chairperson of the Administrative Board.

The Chairperson of the Administrative Board may seek additional background information with regard to the information that was not declared. The subsequent discussion shall take place without the presence of the Board member concerned.

If as a result of the evaluation made by the Administrative Board, the Chairperson confirms that the concerned Board member was involved in a decision without having declared an interest, the Board shall undertake remedial actions, in particular to review or cancel that decision if seriously

affected by the conflict of interest. This implies carrying out an ex post review of the person's activities and contributions to the agency's output.

In addition, the Chairperson of the Administrative Board shall inform the appointing Member State or Commission as the case may be for appropriate action. The respective Member State or Commission is responsible for adopting any formal decision as a consequence of a conflict of interest or breach of trust, when being informed of a situation described above.

The Board member concerned shall be kept informed of any decision and action taken by the Administrative Board.

### **11. Transparency**

Upon request, minority opinions shall be included in the minutes of Board meetings, thereby ensuring transparency on divergent views.

Apart from the policy itself, the following shall be published on the EFCA website in the interest of transparency:

- a) the Board members' names together with the name of their employer;
- b) the rules of procedure of the Board;
- c) the minutes of the Board meetings along with the list of participants;
- d) the Board members' written declarations of interest with due respect to EU rules on protection of personal data.

The Board members' résumés are published on the EFCA website on a voluntary basis.

### **12. Monitoring and review**

EFCA monitors the submission of annual written declarations of interest by Board members to ensure a proper control of the written declarations of interest and compliance with legal obligations. The target for this Key Performance Indicator is set at 100% of written declarations filled in and shall be included in EFCA's annual activity report.

The Administrative Board shall regularly assess this policy with regard to its effectiveness, in order to adapt it to possible new risks.