



## **EUROPEAN DEFENCE AGENCY**

### **DECISION N° 18/20**

of 20 June 2018

#### **adopting guidelines on gifts and hospitality**

#### **THE CHIEF EXECUTIVE,**

Having regard to Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (hereinafter referred to as “the Council Decision”),<sup>1</sup> notably Articles 10 and 11 thereof,

Having regard to Council Decision (EU) 2016/1351 of 4 August 2016 concerning the Staff Regulations of the European Defence Agency, and repealing Decision 2004/676/EC (hereinafter referred to as “the Staff Regulations”)<sup>2</sup>, and in particular to Articles 11 and 104 thereof,

Having regard to Council Decision (EU) 2016/1352 of 4 August 2016 concerning the rules applicable to national experts seconded to the European Defence Agency, and repealing Decision 2004/677/EC (hereinafter referred to as “the SNE rules”)<sup>3</sup>, and in particular to Article 8 thereof,

Whereas:

- (1) All Agency personnel, whether staff or SNEs, are expected to live up to the highest standards of professional ethics, and to remain independent at all times;
- (2) It is the responsibility of Agency personnel to ensure that their conduct is in line with the Staff Regulations and SNE Rules respectively, in both letter and spirit.
- (3) Guidelines are useful to enable compliance with statutory obligations with respect to gifts and hospitality offers.

**HAS DECIDED AS FOLLOWS:**

#### ***Article 1***

#### **Purpose and scope**

The Guidelines in Annex to this Decision are hereby adopted.

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<sup>1</sup> OJ L 266, 13.10.2015, p.55.

<sup>2</sup> OJ L 219, 12.08.2016, p.1.

<sup>3</sup> OJ L 219, 12.08.2016, p.82.

**Article 2**

**Repeal and entry into force**

The present Decision replaces the Staff Note 06/05 dated 13 December 2005 and shall enter into force on the date of its adoption.

Done at Brussels, on 20<sup>th</sup> June 2018

A handwritten signature in blue ink, appearing to read 'Jorge Domecq', written in a cursive style.

Jorge DOMEcq

Chief Executive



## GUIDELINES ON GIFTS AND HOSPITALITY

### 1. PURPOSE & SCOPE

The current guidelines are addressed to EDA staff members and SNEs (jointly referred to as "Agency personnel") and aim to provide guidance to enable them to comply with their statutory obligations with respect to gifts and hospitality offers.

Agency personnel are expected to live up to the highest standards of professional ethics, and to remain independent at all times.

The EDA Staff Regulations, specifically Article 11 (2), provide that a staff member shall not accept any favour, gift or payment from sources outside of the institution without the permission of the Chief Executive, acting as AACC, as defined under Article 1.2 of the Staff Regulations. Similarly, the SNE Rules set out under Article 8, that SNEs shall act with integrity.

Although staff members who have left the service are not obliged to seek authorisation under Article 11 (and are not subject to these guidelines), Article 18 (§1) of the Staff Regulations and Article 8.3 of the SNE Rules provides that they continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain benefits or advantages.

It is the responsibility of Agency personnel to ensure that their conduct is in line with their respective statutory obligations, in both letter and spirit.

### 2. DEFINITION

#### 2.1. Gifts

A gift is understood to mean:

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

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

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

#### 2.2. Hospitality

Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the institution. It is considered, in the context of these guidelines, to be one particular type of "favour", referred to under Article 11.2 of the Staff Regulations.

### 3. PRINCIPLES

#### 3.1. General considerations

As a general rule, Agency personnel should not accept any direct or indirect gifts or hospitality offered by third parties.

This is most evident where gifts are offered by persons, authorities or organisations which are involved in or are seeking official action by the Agency especially in a sensitive area in which the staff member or SNE is, has been or will likely be active in the foreseeable future. All such gifts should, as a matter of principle, be refused.

In addition, the rules apply to "indirect" gifts or hospitality offered to a third party close to the Agency personnel.

In any event, any situation where the acceptance of a gift or hospitality may lead to real, potential or perceived conflict of interest should be avoided. Any gifts entailing a sum of money, regardless of the amount, must always be refused.

Acceptance of gifts or hospitality may exceptionally be authorised (within the limits indicated under "Specific provisions related to Gifts" below) when it is clear that this will not compromise or reasonably be perceived to compromise the required objectivity and independence of Agency personnel and will not damage the Agency's public image.

This evaluation can only be based in the first place on individual sound judgement in the given circumstances and should be authorised by the AACC in the relevant cases. Requests for AACC authorisation to accept gifts and/or hospitality shall go through the Corporate Services Directorate (Director CSD) and shall be registered to ensure consistency in the application of these Guidelines.

#### 3.2. Relevant criteria

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

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

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

- depending on the context, the nature of the source offering the gift or hospitality (private/public);
- the apparent motive behind the offer of the gift or hospitality;
- the link between the entity offering the gift or hospitality and EDA (for example: procurement procedures, etc...)
- the nature and estimated value of the gift or hospitality, including whether there have been one or several offers from the same source;
- the individual or collective nature of the offer;
- the job function of the intended recipient;

- the benefits for the service expected from the participation of Agency personnel at the event in question.

Gifts and hospitality motivated solely by a family relationship or personal friendship, or in a context not related in any way to the Agency personnel's duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations or Article 8 of the SNE Rules. However, even here situations may arise when acceptance can be perceived as compromising independence.

#### 4. SPECIFIC PROVISIONS

##### 4.1. Specific provisions related to gifts

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

Subject to the general principles set out above, gifts should therefore only be accepted if in line with or required by social, courtesy or diplomatic usage.

In those cases, the following provisions apply:

- a) Prior permission by the AACC is **presumed to be granted** in the interest of expedient administrative procedures for a **gift worth up to €50**.

This threshold does not mean that Agency personnel may consider himself or herself at liberty to accumulate a number of gifts below the set value, bearing in mind that an accumulation may be seen to compromise the required objectivity and independence of Agency personnel, or may damage the Agency's public image.

- b) Explicit **prior permission** by the AACC is required for a gift worth between **€50 and €150**.

If the AACC authorises acceptance, the gift may be kept. Again, it is stressed that this threshold does not mean that Agency personnel may consider himself or herself at liberty to accumulate a number of gifts - which will also be an element that will be taken into consideration by the AACC.

- c) Authorisation for gifts with a **value higher than €150** will be **refused** by the AACC.

Such gifts must thus be refused. For the sake of transparency, Agency personnel should inform their immediate hierarchical superior, preferably in written form, that the gift or sum of money has been offered and refused.

The value amounts mentioned above should be estimated in good faith. Finally, offers of any sum of money must always be refused.

In addition to the above, the following consideration will apply to the handling of gifts:

- a) If the AACC refuses to authorise acceptance or if a gift is unwanted, it can be returned to the source, if this is feasible; alternatively, it can be donated to an appropriate charitable organization;
- b) As far as gifts returned to the source or donated to charity are concerned, such an action shall not be considered as "acceptance", provided that Agency personnel immediately informs their immediate hierarchical superior.
- c) As a courtesy, Agency personnel should inform the sender, unless this would be diplomatically inappropriate, that the gift cannot be accepted and will be donated to charity,
- d) Where Agency personnel is in doubt as to whether the refusal of a gift would be contrary to social, courtesy or diplomatic usage or might create otherwise embarrassing situations, he/she should bring the matter to the attention of the Strategy and Policy Unit for advice and the AACC for a

decision on a possible refusal.

## 4.2. Specific provisions related to hospitality

### *Hospitality in general*

Agency personnel **should not accept any hospitality** as a general rule and should make use of sound judgement in order to assess, in the given circumstances, if acceptance could be envisaged.

Subject to the general principles set out above, hospitality should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage.

In those cases, the following provisions apply:

- a) Prior permission by the AACC is **presumed to be granted** in the interest of expedient administrative practice:
  - of hospitality in the form of lunches or dinners strictly linked to the Agency function , and as such not prejudicial to the interests and public image of the Agency, and in which the Agency personnel participate in agreement with their hierarchy and in the interest of the service;
  - of occasional offers of simple meals, refreshments, snacks etc.

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

- b) **Explicit prior permission** by the AACC is required in cases not covered by the previous heading, or if there is a doubt as to the appropriateness of accepting or refusing a hospitality offer.

As a general rule Agency personnel should keep in mind that there is no such a thing as a free lunch. If prior authorisation is not feasible, the AACC's agreement should be sought as soon as possible subsequent to the event. In any event their immediate superior should be informed.

Again, this does not mean that Agency personnel may consider himself or herself at liberty to accumulate a number of hospitality offers - which will also be an element that will be taken into consideration by the AACC.

### *Hospitality offered during missions*

The mission order will as a rule cover all predictable offers of hospitality, based on the mission programme - notably meals, accommodation and transport. These will not be considered as hospitality offers if the participation to and programme of the mission have been authorised - as they form part of the performance of his duties in the interest of the service. The acceptance of these offers will then be declared in the mission expense statement.

## 5. ENFORCEMENT

Staff members are reminded that infringements of Article 11.2 expose them to the risk of disciplinary action on the basis of Article 139 of the Staff Regulations.

SNEs are reminded that failure to comply with the provisions of Article 8 of the SNE Rules, including the obligation to act with integrity, shall entitle the Agency to terminate the secondment in accordance with Article 10.2 of the SNE Rules.