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COMMUNICATION TO THE COMMISSION

**Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts
and Hospitality for the staff members**

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Guidelines on Gifts and Hospitality

PURPOSE OF THE GUIDELINES AND DEFINITIONS

1. PURPOSE OF THE GUIDELINES

The European civil service is expected to live up to the highest standards of professional ethics, and to remain independent at all times. This is why the Staff Regulations, specifically Article 11 (2), provide that an official shall not accept any favour, gift or payment from sources outside of the institution without the permission of the Appointing Authority. In these guidelines, the term "official" includes officials, temporary agents, contractual agents and special advisors.

The current guidelines are addressed to staff members covered by Article 35 of the Staff Regulations, i.e. in active employment, on secondment, on leave on personal grounds, on parental or family leave, and on military leave.

However, for officials who are not in active employment in the Commission, any gifts and hospitality that they might receive which are not related, and may not be reasonably perceived to be related, in any way to their capacity as officials, (including, for example, gifts received in a new professional capacity while they are on leave on personal grounds) are not deemed to be covered by Article 11 of the Staff Regulations or by these guidelines.

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 16 (1) of the Staff Regulations provides that they continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain benefits.

It is the responsibility of all staff members to ensure that their conduct is in line with the Staff Regulations in both letter and spirit. The purpose of these guidelines is to enable staff to comply with their statutory obligations with respect to gifts and hospitality offers.

2. DEFINITION OF 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.

Gifts that are offered to the institution (Article 19 of the Financial Regulations) are not covered by these guidelines.

3. DEFINITION OF HOSPITALITY

Article 11 of the Staff Regulations furthermore refers to favours. These guidelines deal with hospitality offers, which are considered to be one particular type of favour. Hospitality is defined as an offer of food, drink, accommodation and/or entertainment from any source outside the institution.

PRINCIPLES

4. GENERAL CONSIDERATIONS

It should be stressed that as a general rule, staff members 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 Commission especially in a sensitive area in which the staff member is, has been or will likely be active in the foreseeable future. All such gifts should be in principle refused. In addition, the rules apply to "indirect" gifts or hospitality offered to a third party that is close to the staff member. 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 absolutely 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 staff member's objectivity and independence and will not damage the Commission's public image. This evaluation can only be based in the first place on sound judgement from the staff member in the given circumstances, and then should be confirmed by the Appointing Authority in the relevant cases.

5. 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 for the staff member concerned, 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 staff member.

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 the Commission (for example procurement procedures, cases under investigation, financial interests in a special EU policy, 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 destination of the offer;
- the functions of the staff member;
- the benefits for the service expected from the participation of the staff member 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 staff member's duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations. However, even here situations may arise when acceptance can be perceived as compromising the staff member's independence.

SPECIFIC PROVISIONS

6. SPECIFIC PROVISIONS RELATED TO GIFTS

In the first place staff members 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 in points 1, 2, 4 and 5 above, gifts should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

- *(1) Prior permission by the Appointing Authority is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative procedures for a gift worth up to €50.*

In this respect it is important to stress that this threshold does not mean that any staff member 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 staff member's objectivity and independence, or may damage the Commission's public image.

- (2) *Explicit prior permission by the Appointing Authority is required for a gift worth between €50 and €150.*

If the Appointing Authority authorises acceptance, the gift may be kept. Again, it is stressed that this threshold does not mean that any staff member 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 Appointing Authority.

- (3) *Authorisation for gifts with a higher than €150 value will be refused by the Appointing Authority.*

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

Offers of any sum of money must always be refused by the staff member.

- (4) *General considerations.*

In general terms, the following applies:

- If the Appointing Authority 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 sent to the OIB. The gifts transmitted by the staff members based in any location, are donated by OIB to an appropriate charitable organisation.
- As far as gifts returned to the source or sent to OIB are concerned, such action shall not be considered as "acceptance" in the meaning of the Staff Regulations, provided that the staff member immediately informs his immediate hierarchical superior.
- As a courtesy, the staff member should inform the sender, unless this would be diplomatically inappropriate, that the gift cannot be accepted and will be transmitted to charity,
- Where the staff member 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 Appointing Authority which will decide on a possible refusal.

Finally, the value amounts mentioned above should be estimated in good faith.

7. SPECIFIC PROVISIONS RELATED TO HOSPITALITY

(a) Hospitality in general

In the first place staff members should always remember that **they 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 in points 1, 3, 4 and 5 above, hospitality should therefore only be accepted if in line with or if required by social, courtesy or diplomatic usage. In that case, the following administrative arrangements apply:

- (1) *Prior permission by the Appointing Authority is presumed to be granted, in accordance with Article 11 of the Staff Regulations and in the interest of expedient administrative practice:*
 - of hospitality in the form of lunches or dinners strictly linked to the function of the official, and as such not prejudicial to the interests and public image of the Commission, and in which the official participates in agreement with his hierarchy and in the interest of the service;
 - of occasional offers of simple meals, refreshments, snacks etc.

Even if such hospitality offers can be accepted without prior formal authorisation, in the interest of transparency and in the interest of the person concerned, some Directorates-General, given the specific nature and sensitivity of their work, may wish to introduce additional rules such as a recommendation that staff inform their immediate hierarchical superior in writing/by e-mail of the acceptance of an offer.

As in the case of gifts, it is important to stress that this presumption of authorisation does not mean that any staff member 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 the staff member's objectivity and independence, or may damage the Commission's public image.

- (2) *Explicit prior permission by the Appointing Authority is required:*

As a general rule staff members should keep in mind that there is no such a thing as a free lunch. In cases not covered by the previous heading, or if the staff member judges that there is a doubt as to the appropriateness of accepting or refusing a hospitality offer, prior authorisation should be received from the Appointing Authority. If prior authorisation is not feasible, the Appointing Authority' agreement should be sought as soon as possible subsequent to the event. In any event the official's immediate superior should be informed.

Again, it is stressed that that this does not mean that any staff member 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 Appointing Authority.

In any case of doubt, staff members are invited to consult their hierarchy or their local ethics correspondent.

(b) **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 programme of the mission and the participation of the official has 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.

Particular prudence is necessary in sensitive situations. For instance staff members participating in inspections and similar missions should whenever possible inform their immediate superior or team leader on an *ad hoc* basis, and in accordance with any other specific provisions, when hospitality is offered in the course of such missions. If this is impossible, they should exercise their individual judgement and act according to the principles set out in these guidelines. Any hospitality thus accepted should be declared in the mission expense statement

In this respect, it is within the discretion of each Directorate-General to give practical advice, in addition to the general approach as defined in points 1 and 2 above, on what can be considered as usual and acceptable practice in view of avoiding real or perceived potential conflicts of interest, based on its own specific experiences in the domain.

8. ENFORCEMENT

Staff members are reminded that infringements of Article 11 expose them to the risk of disciplinary action on the basis of Article 86 and Annex IX of the Staff Regulations.

9. REVISION

The practical application and effectiveness of the guidelines on gifts and hospitality will be evaluated after two years following its adoption. In the light of this evaluation, these guidelines may be revised as appropriate.