

Moving Europe towards a sustainable and safe railway system without frontiers.

Guide

For assessing declarations of interests submitted by Management Board members

1. <i>Process</i>	Governance (GOV)
2. <i>Process Owner</i>	Management Board
3. <i>Purpose and Customers</i>	<p>The purpose of the document is to develop or revise the guidelines for assessing Public declarations of interest (PDol) for Management Board (MB) members of the European Union Agency for Railways (ERA). It aims to ensure transparency, integrity, and compliance with Col rules, safeguarding the decision-making process.</p> <p>The primary beneficiaries include the ERA Management Board, conflict of interest review panel members and auditors. It will also serve ERA's stakeholders, ensuring that ERA maintains public trust and regulatory compliance.</p>
4. <i>Scope</i>	<p>The scope of this document covers:</p> <ul style="list-style-type: none"> • <i>the process of declaring and assessing potential conflicts of interest for MB members;</i> • <i>the steps for mitigating risks related to conflict of interests;</i> • <i>decision making exclusions, participation guidelines, and document access controls for MB members with declared interests;</i> • <i>compliance with ERA's legal framework in particular amended MB decision no 162 (article 7).</i>
5. <i>Legal Basis</i>	Amended Decision n° 162 of the Management Board of the European Union Agency for Railways adopting rules for the prevention and management of conflicts of interest in respect of the members of the Management Board of the European Union Agency for Railways
6. <i>Links with other (Sub)Processes /documents</i>	Risk management (RIM) Management Board rules of procedures
7. <i>Process Input</i>	Submission of declarations of Interest (DoI) by MB members (upon appointment, annually, or when circumstances change). Financial and professional interests disclosed by MB members. Personal or familial relationships that may influence decision-making.
8. <i>Process Output</i>	Clear risk assessments for each MB member. Documented mitigating actions (recusals, voting restrictions, document access limitations). Periodic updates to declarations and decisions related to MB members' PDols.
9. <i>Enablers</i>	ERA's legal framework. Management Board secretariat and Ethics officer support
10. <i>Process Constraints</i>	Variability in the completeness or accuracy of declarations submitted by MB members.

	<p>Limited resources for conducting in-depth assessments of declarations.</p> <p>Wide range of possible conflict of interest situations which provide a certain margin of discretion to determine whether a particular interest is substantial enough to give risk to a potential conflict of interest, taking into account the specific circumstances.</p>
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1. Introduction/context

The European Union Agency for Railways (ERA) operates within a regulatory framework that requires its Management Board (MB) members to maintain impartiality and avoid conflicts of interest (CoI). To ensure transparency and integrity in decision-making, ERA has established guidelines for assessing and managing conflicts of interest for MB members. These guidelines align with Amended Decision n° 162 of the Management Board of the European Union Agency for Railways adopting rules for the prevention and management of conflicts of interest in respect of the members of the Management Board of the European Union Agency for Railways (hereinafter Amended Decision No 162), which outlines the rules for preventing and managing conflicts to uphold ERA's regulatory and governance standards.

Conflicts of interest may arise due to personal, financial, or professional relationships held by MB members that could compromise their objectivity. These guidelines provide a step-by-step process to assess PDols, identify potential conflicts, and apply appropriate mitigation measures to protect the Agency's decision-making processes from undue influence or bias.

ERA's reputation and operational integrity depend on the effective management of conflicts of interest. Compliance with these guidelines will enhance transparency, trust, and adherence to legal frameworks, safeguarding the impartiality of the Management Board in carrying out its regulatory duties. These guidelines apply to both new and existing MB members, covering initial submissions, annual updates, and any significant changes in declared interests.

2. Description

2.1. Submission of PDol

MB members are required to submit their Dols:

- *upon their appointment*
- *annually thereafter,*
- *whenever their interests change significantly. MB members are responsible of communicating any significant change to the MB Board or to the CoIRP.*

2.2. Initial screening by the ERAs' Ethics officer

The ERA's Ethics officer (hereinafter referred to as the ethics officer) conducts an initial screening of the PDol with the objective of identifying any potential areas of conflict of interest that require further review.

Key areas of focus:

- *Financial interests in the railway industry or related sectors.*
- *Professional positions or advisory roles in organizations that may have a vested interest in ERA decisions.*
- *Close personal relationships or familial connections with stakeholders*

2.3. Report

A report summarising the preliminary findings, highlighting any possible areas of concern is communicated to the other members of the CoIRP.

Communication regarding the report shall occur via email and/or during formal CoIRP meetings as needed.

2.4. Methodology for assessing PDols

The CoIRP reviews the ethics officer report and conduct detailed assessment of any identified conflicts of interest based on specific criteria.

Criteria:

There are no specific interests that are disallowed or that can impose certain restrictions 'prima facie'. Declared interests are subject to case-by-case assessment.

The assessment is conducted with the understanding that the members of the Board represent Member States or institutional interests.

When assessing the relevant interests, the following criteria shall be considered:

Nature of declared Interest:

- **Personal vs. Non-Personal:** weigh the nature of the interest, differentiating between personal (directly held) and institutional (indirect) interests. For non-personal interests, the role/position held in the institution is crucial for evaluation.
- **Close Family members interest:** consider interests held by members of the same household, such as spouse, partner, or dependent children. Only current interests are relevant for family members.

Relevance to MB Activities:

- **Direct relevance to Agenda:** evaluate the relationship between the declared interest and the agenda items of the MB meeting or the broader MB activities. Interests directly related to decision-making and HR matters are of higher concern.

Timeliness of the interest:

- **Current vs past interests:** differentiate between current interests and those within the past five years, except for investments, intellectual property, and family interests (only current matters).

Nature and value of Interest:

- **Significant financial interest:** Assess the value and nature of the financial interest, especially if it exceeds thresholds such as ownership above EUR 10,000 or voting rights of 5% or more in a company.

Degree of influence on decision-making:

- **Position and voting rights:** Weigh the MB member's role in the specific decision-making process. This includes their voting rights, their leadership role (e.g., chair of a working group), and their potential influence on outcomes.

Risk of perceived bias or alleged loss of independence:

- **Repeated Bias or allegations:** Consider the risk of bias accusations or reputational damage. Repeated involvement of a member in activities where their independence is questioned would lower their capacity to contribute impartially.

Type of conflict:

- **Actual, potential, or perceived conflicts:** Evaluate whether the conflict is actual (clear and present), potential (may arise), or perceived (doubtful but plausible). Each type of conflict requires a tailored response, but actual conflicts carry more weight.

Non-railway Interests:

- Ensure that any interests involving non-railway companies with interactions with ERA in procurement or related fields (e.g., IT, facility management) are taken into account, even if not directly related to railway competence.

2.5. Mitigating measures

There is no "one-size-fits-all" approach to mitigating conflicts of interest as each situation may present unique or nuanced factors that do not always align with standard expectations. Conflicts of interest vary in complexity depending on the nature of the declared interest, the influence of the MB member, and the specific agenda items involved. Moreover, assessments are based on the information provided at the time, which may not always fully capture subtleties or future risks. Therefore, a flexible, case-by-case assessment is essential to address both expected and unexpected conflict scenarios effectively.

The CoIRP proposes tailored mitigating measures based on the assessment, ensuring flexibility to address specific circumstances. Possible measures include:

- **Full participation:** *No conflict exists; the member participates fully without restrictions.*
- **Declaration of interests:** *The member declares ad-hoc potential conflict of interest issues during meetings*
- **Limited participation:** *The member attends but refrains from discussing or voting on specific agenda items.*
- **Recusal:** *The member is excluded from discussions, decisions, or voting on conflicting agenda items.*
- **Document/information access restrictions:** *The member is denied access to documents/information related to the conflict.*
- **Exclusion:** *The member is fully excluded from meetings or activities related to the conflict.*
- **Position reconsideration:** *In extreme cases, the member's role is reviewed with the Appointing Authority.*

This approach provides a tailored response to various types of conflict while maintaining transparency and minimizing undue influence.

3. Proxy prohibition:

MB members or alternates with identified CoIs must not appoint a proxy to represent them. If the alternate is absent, the Appointing Authority must formally appoint a new representative or a proxy to ensure impartiality.

4. Templates / Forms

5. Records

Declaration of interests, assessments and recommendations shall be recorded in the extranet of the CoIRP.