

I. BACKGROUND/SUMMARY OF THE FACTS/HISTORY

On 9 December 2022, the Commission received a request from the Ombudsman regarding measures in place to ensure that there are no conflicts of interest with external independent experts involved in evaluating project proposals under the European Defence Fund (EDF).

In its reply submitted on 27 April 2023, the Commission informed that it had put in place robust procedures for the EDF, more stringent than those applied for other EU funding programmes, to regulate conflict of interest management. Moreover, the Commission explained the reasons for not publicly disclosing the identity of the independent experts involved in the EDF evaluation and ethics assessment.

On 13 November 2023, the Ombudsman informed the Commission that she had decided to open an own initiative inquiry to examine how the Commission ensures that there are no conflicts of interest with external experts who assist in project proposal evaluations, ethics assessments and costs estimations under the EDF. The Ombudsman requested clarification on the participation of external independent experts in the evaluation of project proposals and in particular on the measures applied by the Commission to avoid conflict of interests in the context of the appointment of experts. The Ombudsman recognised that the EDF Regulation¹ derogates from the principle of publishing the lists of experts assisting in the evaluations, which increases the importance of carrying out a robust assessment of conflict of interest of the appointed experts.

By letter of 8 May 2024, the Commission replied to the inquiry providing detailed answers to the six specific questions asked in the inquiry.

On 9 December 2024, the Ombudsman issued a decision concluding that no further inquiries were justified. As part of the decision, the Ombudsman suggested two improvements and asked the Commission to report on any action taken in relation to the suggestions.

II. OMBUDSMAN'S SUGGESTIONS FOR IMPROVEMENTS

The Ombudsman recommends in her decision that the Commission should take the following two suggestions for improvement on board for the Fund's mid-term review:

- 1. The Commission should require the candidate experts to submit a completed and signed declaration of interest, with a view to improving its capacity to identify and mitigate risks of conflicts of interest.*
- 2. The Commission should use a template for assessing potential conflicts of interest that experts declare, which would ensure that it systematically assess all relevant aspects*

¹ Regulation (EU) 2021/697 of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0697&from=EN>.

related to direct, indirect and potential conflicts of interest that the applicable code of conduct provides for.

III. THE REPLY OF THE EUROPEAN COMMISSION

The Commission welcomes the European Ombudsman decision acknowledging the robust EDF procedures in place for the selection of independent experts.

The Commission takes good note of the suggestions for improvements made by the Ombudsman regarding the external independent experts involved in evaluating project proposals under the European Defence Fund (EDF) and has undertaken the necessary steps to address them, as explained below:

1. As regards the first suggestion,

The Ombudsman recommends requiring *the experts to complete and sign a detailed declaration of interests, including family and financial interests.*

As explained in the reply of 8 April 2024, procedures in place for conflict of interest under the EDF are more stringent than those applied for other EU funding programmes, defence being a sensitive policy area. When the Commission checks the availability of the experts for the EDF evaluation each year it requests the experts to fill in a questionnaire (EU Survey) in which they must declare if they may have a conflict of interest (CoI) in the upcoming calls. The Call Coordination Team assesses the information in the questionnaire and can ask further clarifications, and already excludes certain categories of experts either from all calls or from certain call topics.

In order to handle commercially sensitive information included in the proposals, DG DEFIS has developed a dedicated, highly secured IT application for the management of the evaluation of EDF proposals, called DEFEND-S.

As recollection of the procedure, the EDF Evaluation methodology defines the guidelines for expert assignment:

- 3-5 experts per proposal depending on the proposal complexity
- No two expert with same nationality in a proposal
- No expert from the country of the proposal coordinator
- No conflict of interest

Project Officers are assigned to work in specific call topics. They start compiling the initial pools of experts for each topic already before call closure. Following the above guidelines, they scout potential candidates for experts against the proposals already visible in the IT system as ‘drafts’. Most CoI are prevented at this early stage because a Project Officer already sees the identity of entities in the applying consortia and does not even consider experts potentially affiliated with these organizations (based on screening the CVs for current and previous employment).

In this context, Project Officers already search for additional information on the experts for example through LinkedIn or web searches.

The name of employers of the close-to-final pool of experts per topic are further compared to the full list of applicants in the topics that shares a budget. Project Officers exclude an expert if her/his organization is among the applicants in any of the proposal under the topics.

Before the expert contracts are sent out for signature, Project Officers check once more the availability of an expert to a topic (not proposal) informally via an email. At this stage some experts may tell the Project Officers that contrary to the original information in the survey, they have later become somehow involved in a proposal in this topic or have discovered a connection to a proposal. These experts will not be contracted to the topic.

The standard expert contract used by the Commission includes an annex of Expert Code of Conduct, with a definition of CoI. By signing the contract, the experts confirm that if they are or become aware of a CoI, they must immediately inform the Commission and stop working until further instructions.

As already explained in the Commission' reply, after the signature of the contract, the Commission provides a targeted briefing to the selected experts on the rules that apply to CoI and the procedure to follow if detecting a potential CoI.

Within the DEFEND-S system, when an expert is assigned to begin the evaluation of a proposal, she/he is asked to review the proposal documents (particular focus on project abstract and consortium composition) and to electronically sign a "Declaration on conflict of interests and Non-disclosure", separately for each proposal. ***Until this declaration is signed they cannot proceed with the next steps of the evaluation.*** Alternatively, the expert flags a potential CoI regarding a proposal which is then assessed by the Call Coordination Team. If the CoI is confirmed, the expert is excluded from evaluating the proposal or the topic, depending on the nature of the CoI,

In order to implement the Ombudsman suggestion, taking into account the EDF derogations from the publication of the lists of experts assisting in the evaluations, DG DEFIS will be asking for more detailed information from the experts on financial interests and family connections. This will be done directly in the expert identification survey. Furthermore, DG DEFIS is already working on developing within DEFEND-S a "functionality" that would check the experts against information in the proposals and automatically indicate CoI based on the information provided in the survey. In concrete terms, beyond the declaration of the a) current and previous employment (with description of the roles in the boards) the expert candidates will be asked to b) list their family connections that can have links with the defence industry, and to c) list their direct financial investments (e.g. shares) in defence companies without any further quantification of the amounts invested. DEFEND-S will automatically check the list of entities in expert's declaration against the list of entities that are part of a proposal submitted under EDF call. This will constitute an upgrade of the current CoI procedure: the expert information on financial and family links with the defence industry will be available and DEFEND-S will perform the comparison that will further structure and reinforce the one done by the Project Officers.

DG DEFIS aims to add information in expert CVs into this IT tool during 2025. As part of subsequent IT developments, the intention is to have the tool become capable to automatically search for expert affiliations, beyond the information provided by the experts themselves, for example in publication databases, corporate websites etc., publicly available on-line.

2. As regards the second suggestion,

The Ombudsman suggested that the Commission should record in a more structured way the assessment of all the situations of conflict of interests.

Experts are matched to topics and proposals by the Project Officers manually. When a CoI is declared, the Commission (Project Officer and the Call Coordination Team) assesses whether the situation actually is a CoI. In line with the Expert Code of Conduct, the conclusion may be: a) no CoI and the expert is maintained, b) exclusion from the evaluation for a proposal, c) exclusion from the evaluation for the proposal and for all proposals competing for the same call budget-split, and, d) exclusion from the entire evaluation (termination of the contract). The reasoning of the assessment and the ruling **is currently recorded in DEFEND-S** and there is already a structured record for all these situations in place (for EDF 2025 calls, the financial and family links that risk generating a CoI will also be recorded).

Currently, there are no records of early CoI before the experts have been assigned to the proposals because experts with a potential CoI are not further considered by the Project Officer in their search. The recording of the CoI begins only when the experts have been assigned to specific proposals in DEFEND-S.

In order to implement the Ombudsman suggestion, DG DEFIS will add in DEFEND-S that when the expert declares CoI (or if the Commission recognises it on their behalf) the expert will need to state a reason for potential conflict of interest. Besides, when the expert matching becomes more automatised, gradually from 2025 onwards, DG DEFIS will be able to better record experts excluded already at early stages.

Conclusion

The Commission has taken the necessary steps to implement the suggestions from the European Ombudsman. Both suggestions should be fully incorporated in the evaluation procedures in time for the EDF calls under the work programme of 2026.

For the Commission

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