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**COMMUNICATION TO THE COMMISSION**

**ON THE PUBLICATION OF INFORMATION CONCERNING OCCUPATIONAL  
ACTIVITIES OF SENIOR OFFICIALS AFTER LEAVING THE SERVICE  
(ARTICLE 16, FOURTH PARAGRAPH OF THE STAFF REGULATIONS)**

**Annual Report 2019**

## COMMUNICATION TO THE COMMISSION

### ON THE PUBLICATION OF INFORMATION CONCERNING OCCUPATIONAL ACTIVITIES OF SENIOR OFFICIALS AFTER LEAVING THE SERVICE (ARTICLE 16, FOURTH PARAGRAPH OF THE STAFF REGULATIONS)

#### Annual Report 2019

On the basis of Article 16 of the Staff Regulations<sup>1</sup>, officials, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Those former officials who intend to engage in an occupational activity within 2 years of leaving the service shall inform the Institution thereof in order to enable it to take an appropriate decision in this respect and, when necessary, to forbid an activity or give approval subject to appropriate restrictions.

The third paragraph of Article 16 of the Staff Regulations stipulates that the Appointing Authority shall, in principle, prohibit former senior officials, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former Institution for their business, clients or employers on matters for which they were responsible during the last 3 years in the service.

The fourth paragraph of Article 16 of the Staff Regulations requires, in compliance with the relevant data protection rules<sup>2</sup>, each Institution to publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

The Commission explains below the criteria it has chosen to ensure the implementation of its obligation, and presents its analysis. In annex to this publication, the Commission provides summary information on the decisions taken under this provision.

The Commission, in its publication, is basing itself on its obligation under the fourth paragraph of Article 16 of the Staff Regulations in combination with the relevant data protection rules<sup>3</sup>.

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<sup>1</sup> As last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ L 287, 29.10.2013, p. 15).

<sup>2</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

<sup>3</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions,

## **The criteria applied to implement the third paragraph of Article 16 of the Staff Regulations**

### Definition of senior officials

In line with the third paragraph of Article 16 of the Staff Regulations, the following categories of staff are concerned:

- Directors-General or Deputy Directors-General (including officials that have been called upon to occupy temporarily such posts in accordance with Article 7(2) of the Staff Regulations) and ‘Hors Classe’ Advisers, having exercised either of these functions at any time during the last 3 years before leaving the service;
- Directors (including officials that have been called upon to occupy temporarily such posts in accordance with Article 7(2) of the Staff Regulations) and Principal Advisers, having exercised either of these functions at any time during the last 3 years before leaving the service;
- Heads of Cabinet, having exercised such functions at any time during the last 3 years before leaving the service.

### The decision-making procedure in the case of the third paragraph of Article 16 of the Staff Regulations

Notifications by former senior managers about an envisaged activity are treated as any such notifications by all staff. The Directorate-General for Human Resources and Security receives the notification and collects the views of the former service(s) in which the former official worked during the last 3 years of service, the respective cabinet(s), the Secretariat-General, the Legal Service and the Joint Committee. It is on the basis of these different views that the final decision is taken by the Appointing Authority.

### The occupational activities concerned

The activities described in the third paragraph of Article 16 of the Staff Regulations are those which constitute lobbying or advocacy vis-à-vis staff of the former senior manager’s former Institution for their business, clients or employers on matters for which they were responsible during the last 3 years in the service. Such activities shall in principle be prohibited by the Appointing Authority during the 12 months after the senior official has left the service.

The Commission did not limit its analysis to envisaged activities whose only object or core object would have been lobbying or advocacy activities. Certain notifications concerned

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bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could, because of their nature, actually or potentially give rise to, or entail, lobbying or advocacy as stated in the third paragraph of Article 16 of the Staff Regulations. In such instances, the Commission has decided to widen the analysis to take account of these possibilities and to assess the notified activity within the framework of the third paragraph of Article 16 of the Staff Regulations.

The Commission further clarifies that the present information covers activities that have been notified and actually undertaken. In line with the legal provisions in force, it does not cover notifications received and relating to activities which could not, by their very nature, give rise to or entail such lobbying or advocacy.

The present publication represents the fifth annual information released by the Commission on the implementation of the fourth paragraph of Article 16 of the Staff Regulations.

#### Number of activities concerned

Bearing in mind that one notification may refer to several activities, and that one decision may likewise cover several activities, the present information is presented by activities examined to provide for an exhaustive overview.

### **Analysis**

The present information covers the cases in which the Appointing Authority has taken a decision in 2018 under the third paragraph of Article 16 of the Staff Regulations.

The Commission did not receive any notification of an activity where the only or core purpose was that of lobbying or advocacy. There has thus been no corresponding decision of the Appointing Authority.

However, the Commission has received notifications about four envisaged activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could because of their nature, actually or potentially, give rise to, or entail, lobbying or advocacy as stated in the third paragraph of Article 16 of the Staff Regulations in particular for situations in the future. The Appointing Authority has therefore deemed it advisable, as explained above, to assess these particular activities in the framework set by the third paragraph of Article 16 of the Staff Regulations. This has led the Appointing Authority to impose a prohibition of lobbying or advocacy in a conditional authorisation. In other cases, the Appointing Authority reminded the former senior official to bear in mind the rules under the third paragraph of Article 16 of the Staff Regulations in the future.

The four decisions which have been taken in 2018, in line with the third paragraph of Article 16 of the Staff Regulations, are summarised below.

## **Summary of relevant Decisions by the Appointing Authority in 2018:**

End of Service: 31 May 2018

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### **CONCERNS**

Mr Antonio DE LECEA

Former Principal Adviser for DG ECFIN

Former Director for DG ECFIN

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### **NEW ACTIVITY**

Occasional external consultant for the firm Mc Kinsey & Co in Brussels, Belgium.

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### **DECISION**

Mr De Lecea sought authorisation to act as an occasional external consultant for the firm Mc Kinsey & Co in Brussels, Belgium.

The Appointing Authority gave its approval to Mr De Lecea to carry out this activity subject to the following conditions:

- As a former senior manager, according to third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr De Lecea was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on behalf of Mc Kinsey & Co or its clients on matters for which he was responsible during the last three years in the service in DG ECFIN;
- Mr De Lecea was required also make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission;
- Mr De Lecea was furthermore required to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations). In this context, Mr De Lecea was required to refrain from exploiting insights of confidential nature in policy or strategy that he may have acquired in the line of service that have not yet been public or are not commonly available in the public domain;
- It was underlined to Mr De Lecea that even after his duties have ceased, under the first paragraph of Article 16 of the Staff Regulations, he continues to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain

appointments or benefits from any new employer or its clients. In this context, Mr De Lecea was required to refrain from advising or working on behalf of his new employer or its clients on particular files or matters (for example: contracts, grants, cases, claims, investigations, ongoing legislative procedures), in which he participated personally and substantially and that would entail relying upon information received in the line of duty that have not been made public.

Mr De Lecea was also reminded of all other applicable Staff Regulations provisions.

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End of Service: 30 September 2018

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## **CONCERNS**

Mr Christopher JONES

Former Hors Class Adviser for DG ENER

Former Deputy Director General for DG ENER

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## **NEW ACTIVITY**

Self-employed consultant for the law firm Baker & McKenzie, in Brussels, Belgium.

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## **DECISION**

Mr Jones sought authorisation to perform an occupational activity as a self-employed consultant for the law firm Baker & McKenzie, in Brussels, Belgium.

The Appointing Authority gave its approval to Mr Jones to carry out this activity subject to the following conditions:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr Jones was not allowed to engage in lobbying or advocacy on behalf of Baker & McKenzie or its clients vis-à-vis staff of the Commission on matters for which he was responsible during the last three years in the service;
- Mr Jones was also required to abstain, during an additional period of 6 months which follows the above mentioned period of 12 months, from having professional contacts aiming at lobbying or advocacy, towards staff of DG ENER on behalf of Baker & McKenzie or its clients on matters related to the work he carried out during the last three years of service;
- Mr Jones was furthermore required in the 24 months after the service to refrain from giving advice on all specific files and projects for which he was responsible during the last three years in service;
- Mr Jones was also required to make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission and to refrain from associating his former position at the European Commission with his new role and tasks within Baker & McKenzie or its clients;

- Moreover, it was underlined to Mr Jones that even after his duties have ceased, under the first paragraph of Article 16 of the Staff Regulations, he continues to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits from any new employer or its clients. In this context, Mr Jones was required to refrain from advising or working on behalf of his new employer or its clients on particular files or matters (for example: contracts, grants, cases, claims, investigations, ongoing legislative procedures), in which he participated personally and substantially and that would entail relying upon information received in the line of duty that have not been made public;
- Mr Jones was furthermore required to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations). In this context, Mr Jones was required to refrain from exploiting insights of confidential nature in policy or strategy that he may have acquired in the line of service that have not yet been public or are not commonly available in the public domain.

Mr Jones was also reminded of all other applicable Staff Regulations provisions.

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End of Service: 28 February 2018

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## **CONCERNS**

Mr Juho ROMAkkANIEMI

Former Head of Cabinet Vice-President Jyrki Katainen

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## **NEW ACTIVITY**

Chief Executive Officer – Finnish Chamber of Commerce in Helsinki, Finland.

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## **DECISION**

Mr Romakkaniemi sought authorisation to perform an occupational activity as Chief Executive Officer of the Finnish Chamber of Commerce in Helsinki, Finland.

The Appointing Authority gave its approval to Mr Romakkaniemi to carry out this activity subject to the following conditions:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr Romakkaniemi was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on matters for which he was responsible during the last three years in the service;
- Moreover, Mr Romakkaniemi, for the first 12 months after leaving the service, when seeking to engage in professional contacts with the Commission that do not involve any lobbying or advocacy, was required to limit these contacts (i) only to the Members of the Commission, to staff of their Cabinets, and to the Directors-General of the Commission and (ii) only to matters falling in the scope of both the Commission Decisions of 25 November 2014 (C(2014) 9051 final)<sup>4</sup> and (C(2014) 9048 final)<sup>5</sup>;
- Mr Romakkaniemi was also required, if giving speeches or providing opinions, to make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission;

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<sup>4</sup> Commission Decision of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals (C(2014) 9051 final).

<sup>5</sup> Commission Decision of 25 November 2014 on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals (C(2014) 9048 final).

- Mr Romakkaniemi was put under the obligation to refrain also from any unauthorised disclosure of information received in the line of duty during his work at the Commission, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations). In this context, Mr Romakkaniemi was required to refrain from exploiting insights of confidential nature in policy or strategy that he may have acquired in the line of service that have not yet been public or are not commonly available in the public domain.

Mr Romakkaniemi was also reminded of all other applicable Staff Regulations provisions.

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End of Service: 31 October 2018

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## **CONCERNS**

Mr Alain SCRIBAN

Former Principal Adviser for DG HOME

Formerly seconded in the interest of the service to the European Bank for Reconstruction and Development - EBRD

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## **NEW ACTIVITY**

Special Adviser – European Landowner’s Organization in Brussels, Belgium.

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## **DECISION**

Mr Scriban sought authorisation to perform an occupational activity as Special Adviser at the European Landowner’s Organization in Brussels, Belgium.

The Appointing Authority gave its approval to Mr Scriban to carry out this activity subject to the following conditions:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr Scriban was not allowed to engage in lobbying or advocacy on behalf of the European Landowner’s Organization or its members vis-à-vis staff of the Commission on matters for which he was responsible during the last three years in the service;
- Mr Scriban was also required to make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission;
- Mr Scriban was furthermore required to refrain from any unauthorised disclosure of information received in the line of duty during his work at the Commission, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

Mr Scriban was also reminded of all other applicable Staff Regulations provisions.