



Brussels, 6.2.2019  
C(2019) 990 final

**COMMUNICATION FROM THE PRESIDENT TO THE COMMISSION**

**ELECTIONS TO THE EUROPEAN PARLIAMENT 2019  
(23 - 26 MAY 2019)**

**GUIDELINES ON ETHICAL STANDARDS FOR THE PARTICIPATION OF THE  
MEMBERS OF THE EUROPEAN COMMISSION IN THE ELECTION CAMPAIGN**

## COMMUNICATION FROM THE PRESIDENT TO THE COMMISSION

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#### GUIDELINES ON ETHICAL STANDARDS FOR THE PARTICIPATION OF THE MEMBERS OF THE EUROPEAN COMMISSION IN THE ELECTION CAMPAIGN

##### 1. Introduction

Since the very beginning of its mandate, this Commission has decided to be a political Commission. The Political Guidelines “A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change” of 15 July 2014 and the Mission Letters to all Members of the Commission constitute the framework for this new and more political approach. All Members of the Commission have been empowered to actively take full political ownership and responsibility for the decisions of the Commission, by being politically active in the Member States through dialogues with citizens, by presenting and communicating our common agenda, by listening to ideas and by engaging with stakeholders<sup>1</sup>. At a time when the European project is challenged more than ever before internally and externally, active engagement of the political level of the Commission with civil society and the public at large is more important than ever before.

Active participation of the Members of the Commission in the campaign is one way to strengthen the democratic debate on the policies to be pursued in the general interest of the European Union. Against this background, the Commission, supported by the European Parliament, has decided to allow its Members to actively participate in the election campaign without having to temporarily withdraw from the Commission for the campaign period.

Article 10 of the Treaty on European Union expressly recognises the importance of representative democracy for the functioning of the Union and the role of political parties at European level in forming European political awareness and expressing the will of citizens of the Union.

The new Code of Conduct for the Members of the Commission<sup>2</sup> (hereinafter “the Code of Conduct”) explicitly provides for such active participation in Article 10(2). Point 4 of the Framework Agreement on relations between the European Parliament and the European Commission (hereinafter “the Framework Agreement”) was amended on 7 February 2018 in order to equally cover such participation.

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<sup>1</sup> Since the start of this Commission, 160 000 citizens of all nationalities, ages, races, religions and from across the political spectrum have now taken part in over 1 200 town-hall style debates in city halls, universities, factories and other places all across the European Union. In December 2018, the European Council welcomed the holding of Citizens’ Dialogues and Citizens’ Consultations as an unprecedented opportunity to engage with European citizens which could serve as an inspiration for further consultations and dialogues (Conclusions of the European Council meeting of 13 and 14 December 2018).

<sup>2</sup> Code of Conduct for the Members of the Commission (C (2018)700), OJ C 65, 21.2.2018, p. 7.

Members of the Commission may consequently be chosen by a European political party as a lead candidate (“*Spitzenkandidat*”) for the position of President of the Commission; stand as a candidate for the European Parliament; or support candidates, a party or a manifesto without having to temporarily withdraw from their duties as Members of the institution.

Unless specified otherwise, the subsequent Guidelines apply to all three types of situation and seek to facilitate the active combination by the Members of the Commission of their duties under the Treaties and their participation to the European elections. The application of the Guidelines and the combination of activities should be guided by the principle of proportionality.

*A clear distinction between a Member’s participation in the campaign and a Member’s institutional activities*

In order to ensure the respect of the principles of independence, integrity and discretion provided for by Article 245 of the Treaty on the Functioning of the European Union and the Code of Conduct, the institutional activities as Members of the Commission and the allowed participation in the campaign need to be distinguished from each other as clearly as possible.

Whereas Members participating in the campaign can support and speak on behalf of a political party, the Commission as an institution – and consequently its Members acting in their institutional capacity – has to be impartial and objective with regard to the campaign. The Commission provides information, promotes common European values as laid down in the Treaties, supports the Parliament’s institutional campaign for making use of the right to vote in the 2019 elections, defends current policies and explains future challenges. However, it cannot promote a specific political party or specific candidates, including Members who stand as a candidate.

*Continuing obligations*

The obligations as Members of the Commission as they result notably from Article 17(3) of the Treaty on European Union and Articles 245 and 339 of the Treaty on the Functioning of the European Union continue to apply during this period in order to ensure the proper functioning of the Commission during the campaign and to guarantee institutional continuity.

For these reasons, it is important to establish guidance that aims at a coherent implementation of all provisions of the Code of Conduct during the election campaign and responds to the commitment made in the Framework Agreement to ensure the respect of the principles of independence, integrity and discretion.

*Applicability of the Guidelines*

The present Guidelines apply as of their adoption until the last day of the elections. Their applicability does not depend on any other national or European rule establishing official campaign periods.

These Guidelines are without prejudice to any more specific provisions in legislation on campaign rules in the Member State concerned.

## **2. The election process**

With its Communication of 13 February 2018 to the Leaders' informal meeting of 23 February 2018 on "A Europe that delivers: Institutional options for making the European Union's work more efficient" (COM(2018)95 final) and with its Recommendation of 14 February 2018 to the Member States and to the European and national political parties on "Enhancing the European nature and efficient conduct of the 2019 elections to the European Parliament" (C(2018) 900 final), the Commission set out its views on the upcoming European elections<sup>3</sup>.

The Commission notably recommended the consolidation of the system of lead candidates for President of the Commission ("*Spitzenkandidaten*"), based on its first implementation in the 2014 elections. The Commission suggested that sufficiently early ahead of the elections, ideally by the end of 2018, each European political party should make known the candidate for the function of President of the European Commission they support. Moreover, national political parties should ensure that their political information in view of the elections to the European Parliament is also used to inform citizens about the candidate for the function of President of the European Commission they support.

### *National and European legislation on the rules for the election campaign*

National and European legislation on campaign rules for the elections to the European Parliament apply. Members participating in the campaign are advised to make the necessary arrangements with their parties or campaign organisations in order to abide by these rules.

## **3. Ethical standards for the participation of Members in the campaign**

### **a) Participation of Members in the campaign**

Members can participate in the campaign (Article 10(2) of the Code of Conduct) as candidate for the European Parliament, lead candidate for the position of President of the Commission or as representative of a political party without being a candidate; they can also support a political party, a manifesto or a candidate. These activities must be clearly distinguished from their institutional activities as Members of the Commission.

### **b) Information of the President**

Members of the Commission shall inform the President in writing of their intention to participate in the European election campaign and of the role they expect to play in the campaign (Article 10(3) of the Code of Conduct). They shall do so as soon as the role they can reasonably expect to play in the campaign has been clarified.

Any change of that role in the course of the campaign shall also be communicated to the President.

This can require information of the President at several stages of the pre-election process.

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<sup>3</sup> OJ L45, 17.2.2018, p. 40.

### **c) Declaration of interests**

Members who have been formally nominated as candidate for the European Parliament or lead candidate for the position of President of the Commission shall immediately update Section V of their Declaration of interests (Article 3 of the Code of Conduct).

### **d) Availability for the performance of duties**

Members participating in the campaign must ensure institutional continuity and make arrangements for the continued performance of their duties. This concerns in particular the participation in the decision-making process of the Commission, notably regular attendance of the weekly meeting of the College, and the exercise of portfolio duties such as participation in trilogues or the exercise of empowerments.

### **e) Use of Commission resources**

Members participating in the campaign may not use the Commission's human or material resources for activities linked to the campaign (Article 10(5) of the Code of Conduct). This means in particular:

#### *Staff*

Members cannot rely upon staff of the Commission services or their Cabinets for activities linked to the campaign. This is without prejudice to the possibility to revert to staff at any moment in time for the exercise of a Member's institutional duties.

#### *Travel*

Travel of a Member of the Commission for the sole purpose of the campaign cannot be considered as mission and cannot be reimbursed by the Commission. The related cost does not need to be published under Article 6(2) of the Code of Conduct.

Campaign activities in the margins of a mission are acceptable, as long as a clear distinction between institutional and campaign activities is made at all times and as long as missions are not organised for the purpose of the campaign. Section 7 of Annex 2 of the Code of Conduct applies.

Members cannot rely on a Commission Representation or EU Delegation for organising travel for the purpose of the campaign or to support campaign activities.

Expenses incurred for travel for the purpose of the campaign may be covered by third parties (usually the national or European political party of the Member) in line with the applicable legislation on campaign rules in the Member State concerned and Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations<sup>4</sup>.

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<sup>4</sup> OJ L 317, 4.11.2014, p.1.

#### **f) Public statements and interventions in the campaign**

As participants in the campaign, Members can make public statements or interventions on behalf of any political party of which they are members (Article 10(6) of the Code of Conduct).

Members should ensure that a distinction can be made between their public statements and interventions as participants in the campaign and those made in an institutional capacity.

While participating in the campaign, Members shall bear in mind their obligations of independence, integrity, dignity, loyalty and discretion as Members of the Commission (Articles 2(2) and 2(5) of the Code of Conduct).

In particular, they shall undertake to refrain from adopting a position in the course of the campaign that would not be in line with the duty of confidentiality or infringe the principle of collegiality (Article 10(6), last sentence, of the Code of Conduct). They shall notably not criticise or dissociate themselves from decisions or positions taken by the Commission.

#### **g) Social media and websites**

In general, Members can speak on behalf of the Commission on social media. When they do so, they can use the Commission's visual identity for their respective social media accounts.

Their accounts are usually managed or co-managed by Commission staff.

During the campaign, however, the above-mentioned distinction between institutional activities of a Member and the participation in the campaign as well as the prohibition to use human or material resources of the Commission for the campaign, also apply to Members' use of social media.

In order to respect these principles and to take into account the personal link between the account and the Member as a person, Members who stand as a lead candidate shall follow model 1; Members who stand as a candidate or participate otherwise in the campaign shall follow model 2. This shall apply as soon as they use their account for campaign purposes.

<i><b>Model 1</b></i>	<i><b>Model 2</b></i>
<p><i>Members who are <u>lead candidate</u> continue to use their accounts, but only as a clearly designated campaign account of a lead candidate; this means that they:</i></p> <ul style="list-style-type: none"> <li><i>• indicate this modified purpose clearly in the title, introduction, biography, description or profile and the visual identity of the account,</i></li> <li><i>• make it transparent for their followers in order to allow them to unfollow/unsubscribe if they do not wish to be exposed to campaign-related messages (e.g. an explicit message in this regard recalling the possibility to unsubscribe/unfollow),</i></li> <li><i>• and either temporarily create a separate institutional account or refer interested users to accounts of the Commission or relevant Directorate(s)-General.</i></li> </ul>	<p><i>Members who stand <u>as candidate or participate otherwise in the campaign</u> continue to use their accounts but:</i></p> <ul style="list-style-type: none"> <li><i>• they make it clear in the title, introduction, biography, description or profile that the account serves now – at least – two purposes: an institutional purpose and a campaign purpose;</i></li> <li><i>• they make clear that Commission resources are not involved in the management of campaign related messages (e.g. indicating in the profile information that there are two teams managing the account: one for the campaign, one for institutional activities; or that campaign messages are personal messages of the Member her- or himself);</i></li> <li><i>• they withdraw, for the duration of the campaign, the Commission's visual identity from the account (background banners, Commission logo etc.); they can use the visual identity however for specific messages in their institutional capacity.</i></li> </ul>

### *Websites*

Members cannot use their Commission website for the purposes of the campaign.

### **h) Meetings with interest representatives**

In line with the distinction to be made between Members' campaign and institutional activities and the prohibition to use Commission resources, campaign meetings cannot take place in the Commission premises.

While meetings of Members as lead candidate, as candidate or as representative of a party in the framework of the campaign do formally not fall under the obligations of Article 7 of the Code of Conduct, this must not lead to a circumvention of these obligations.

Therefore, Members should apply Article 7 of the Code of Conduct whenever a meeting has the "objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions" in relation to their current mandate.

If a meeting combines both campaign and institutional issues, or in case of doubt about the character of a meeting, Members shall only meet organisations and self-employed individuals which are registered, inasmuch as they fall under the scope of the Transparency Register, and publish such meetings on the Member's website.

In general, the Commission encourages Members participating in the campaign as candidates to apply similar transparency standards for their campaign.

### **i) Gifts**

Members cannot accept any gift with a value of more than EUR 150 neither in their campaign nor in their institutional activities.

When they receive gifts in their campaign activities worth more than this amount, they shall:

- either hand it over to their party or campaign organisation in line with the applicable legislation on campaign rules in the Member State concerned and Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations<sup>5</sup>;
- or hand them over to the Commission's Protocol Department in line with Article 6(4) of the Code of Conduct.

In case of doubt as to the value of the gift, they shall ask for an evaluation in line with Article 6(4) of the Code of Conduct.

If the acceptance of a gift by a Member or its handing over to the party or campaign organisation could lead to a conflict of interest under Article 2(6) of the Code of Conduct, the procedure for conflicts of interest foreseen in Article 4 of the Code must be followed (recusal from a file; information of the President).

### **j) Hospitality**

Members cannot accept hospitality, except in accordance with diplomatic or courtesy usage. Attendance upon invitation to any events where they represent their party shall not be considered as hospitality.

This applies without prejudice to the applicable legislation on campaign rules in the Member State concerned and Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations<sup>6</sup>.

If the acceptance of hospitality including attendance upon invitation to an event where they represent their party, could lead to a conflict of interest under Article 2(6) of the Code of Conduct, the procedure for conflicts of interest foreseen in Article 4 of the Code of Conduct must be followed (recusal from a file; information of the President).

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<sup>5</sup> OJ L 317, 4.11.2014, p.1.

<sup>6</sup> OJ L 317, 4.11.2014, p.1.

### **k) Financial or material support to the campaign of a Member by third parties**

Any offer of financial or material support to the campaign must be referred to the party or campaign organisation.

The financial or material support for the campaign and the personal, notably financial, interests of a Member who participates in the campaign must be strictly separated.

This applies without prejudice to the applicable legislation on campaign rules in the Member State concerned and Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations<sup>7</sup>.

If the acceptance of financial or material support to the campaign by the Member's party or campaign organisation could lead to a conflict of interest of the Member under Article 2(6) of the Code of Conduct, the procedure for conflicts of interest foreseen in Article 4 of the Code of Conduct must be followed (recusal from a file; information of the President).

### **l) Conflicts of interest related to campaign activities**

The participation in a campaign to seek election or re-election from the citizens is an intrinsic part of the institutional cycle in a democracy. Neither the participation in a campaign nor the expression of a political view as such results in a conflict of interest.

However, there might be situations where the involvement of a Member in a specific file might be reasonably perceived as a conflict of interest in the meaning of Article 2(6) of the Code of Conduct. This might notably be the case in formal administrative procedures which require full impartiality or in particularly sensitive dealings of the Commission with third parties where a Member who stands at the same time as candidate could be perceived as privileging the pursuit of personal interests as a candidate over the general interest of the Union.

In particular, Members participating in the campaign as candidates must carefully consider to which extent their participation in the campaign could be reasonably perceived as leading to a situation where their personal interest as candidate may influence the independent performance of their duties.

In such cases, Articles 4 and 13(2) of the Code of Conduct apply. Members shall inform the President of any such situation or in case of doubt. The President shall take any measure he considers appropriate.

### **m) Information of the President in case of doubts and infringements**

Members shall inform the President and ask for his guidance if they have doubts with regard to the application of the Code of Conduct and these Guidelines before acting on the matter. (Article 13(2) of the Code of Conduct).

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<sup>7</sup> OJ L 317, 4.11.2014, p.1.

Articles 245 and 247 of the Treaty on the Functioning of the European Union, and Article 13(3) of the Code of Conduct apply in case of infringements of a Member's obligations under the Treaties and the Code of Conduct.

#### **4. Commission's institutional activities in relation to the European elections**

Section 3 does not apply to any form of activities of Members as representatives of the Commission. Such activities are part of the institutional function as Member of the Commission and are governed by European Union law.

Accordingly, Members can engage, as part of their official duties, in activities designed to inform and raise awareness of European issues, encourage citizens to use their right to vote, and to present a positive and active defence of the Commission's record and that of the other institutions over the last Parliamentary term. The Members of the Commission can also challenge the programmes of political groups if they undermine the work of the Commission or the other institutions<sup>8</sup>.

##### *Impartiality*

Institutional activities as Members of the Commission require impartiality with regard to specific candidates, parties and their programmes, and must not promote an individual candidate or a party.

##### *Citizens' dialogues and other events organised by the Commission*

Members may continue to participate in Citizens' dialogues and other events organised by or on behalf of the Commission in their institutional function to discuss general EU issues or portfolio related subjects. They should however evaluate the circumstances of each event and take into account the context in the Member State, e.g. if such participation could be reasonably perceived as inappropriate during the official campaign period in a given Member State, notably if the Member participates actively in the campaign. Members must pay attention to respect the institutional character of such events which must not constitute a campaign event.

When events are specifically organised by or on behalf of the Commission in order to provide a public platform to candidates and parties in the election campaign, they must not privilege a Member who stands as a candidate compared to other candidates (e.g. by ensuring a representative composition of panels of parties or candidates).

#### **5. Information of the European Parliament**

The President shall inform the European Parliament in due time whether one or more Members will stand as candidates in electoral campaigns for elections to the European Parliament, as well as of the measures taken to ensure the respect of the principles of independence, integrity and discretion provided by Article 245 of the Treaty on the Functioning of the European Union and this Code of Conduct (Article 10(4) of the Code of

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<sup>8</sup> See Communication from the President to the Commission of 2 April 2014 on Commission participation and participation by Members of the Commission in the forthcoming European elections, SEC(2014)193.

Conduct and Point 4 of the Framework Agreement on relations between the European Parliament and the European Commission).

**6. Contact**

In case of questions related to these Guidelines, Members and their Cabinets can turn to the President or the Secretary-General.