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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 (3) AND (4) OF THE STAFF REGULATIONS)**

Annual Report 2016

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Annual Report 2016

On the basis of Article 16 of the Staff Regulations¹, 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 two 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 the approval subject to appropriate restrictions.

The third paragraph of Article 16 of the Staff Regulations stipulates that for former senior officials, the Appointing Authority shall, in principle, prohibit them, 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 three years in the service.

The fourth paragraph of Article 16 of the Staff Regulations foresees that, in compliance with Regulation (EC) N° 45/2001² of the European Parliament and of the Council, each institution shall 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 in order to ensure the implementation of its obligation, and presents its analysis. In annex to this publication, the Commission provides summary information in relation to 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 Article 5 (a) and (b) of Regulation (EC) N° 45/2001.

¹ 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).

² Regulation(EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1).

The criteria applied to implement Article 16 (3) of the Staff Regulations

Definition of senior officials

In line with Article 16 (3), 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 Advisors “Hors Classe”, having exercised such function at any time during the last three years before leaving the service;
- Directors (including officials that have been called upon to occupy temporarily such post in accordance with Article 7 (2) of the Staff Regulations) and Principal Advisers, having exercised such function at any time during the last three years before leaving the service;
- Heads of Cabinet, having exercised such function at any time during the last three years before leaving the service.

The decision making procedure in the case of Article 16 (3)

Notifications by former senior managers about an envisaged activity are treated as any such notification 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 retired official has worked during the last three 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 as described in Article 16 (3) 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, client or employers on matters for which they were responsible during the last three years in the service. Such activities shall in principle be prohibited by the Appointing Authority during the 12 months after leaving 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 activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could, because of their nature, in practice or theoretically give rise to, or entail, lobbying or advocacy as stated in Article 16 (3) 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 Article 16 (3) of the Staff Regulations.

The Commission further clarifies that the present information covers activities that have been notified and effectively 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 second annual information released by the Commission on the implementation of Article 16 third and fourth paragraphs 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, so as to provide for an exhaustive overview.

Analysis

The present information covers the cases in which the Appointing Authority has taken a decision in the framework of Article 16 (3) of the Staff Regulations, in the year 2015.

The Commission has received no single 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.

The Commission has however received notifications concerning ten envisaged activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could because of their nature, in practice, give rise to, or entail, lobbying or advocacy as stated in Article 16 (3) of the Staff Regulations in particular in regard to 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 Article 16 (3) 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 Article 16 (3) of the Staff Regulations in the future.

Below are the summaries of the decisions which have been taken in 2015, within the framework of Article 16 (3) of the Staff Regulations.

Summary of relevant Decisions by the Appointing Authority in 2015:

End of service: 31 December 2013

CONCERNS

Mr Philip Lowe

Former Director General of the Directorate-General Energy (DG ENER)

NEW ACTIVITY

Advisor on international climate negotiations to the European Climate Foundation (ECF) in Brussels, between June and December 2015 (2 days a month).

DECISION

The Appointing Authority took note that Mr Philip Lowe does not intend to have direct contacts with DG ENER as regards this activity.

The Appointing Authority gave its approval to Mr Philip Lowe to carry out this activity subject to the condition that until the end of December 2015 (e.g. two years after leaving the service), he will not engage in any lobbying or advocacy vis-à-vis Commission staff for ECF and/or for individual companies which are in relation with ECF, on matters for which he was responsible during the last three years while he was Director-General of DG ENER.

End of service: 31 December 2013

CONCERNS

Mr Philip Lowe

Former Director General of the Directorate-General Energy (DG ENER)

NEW ACTIVITY

Self-employed Senior EU adviser for Wilmer Hale, in Brussels for 3 years with a view to giving strategic advice on cases potentially or actually covered by EU competition law, both on substance and procedure.

DECISION

The Appointing Authority took note that Mr Philip Lowe does not intend to have direct contacts with DG ENER in this context.

The Appointing Authority gave its approval to Mr Philip Lowe to carry out this activity subject to the condition that, during a period of two years after leaving the Commission, he will not be involved in any energy related issues which were under the responsibility of DG ENER while he was Director General of DG ENER, in order to avoid any perception of a potential conflict with the legitimate interests of the Commission.

End of service: 31 December 2013

CONCERNS

Mr Philip Lowe

Former Director General of the Directorate-General Energy (DG ENER)

NEW ACTIVITY

Senior adviser for FTI Consulting in Brussels to provide advice to FTI and its clients on the actual and potential impact of European policy and regulation on business strategy and operations.

DECISION

The Appointing Authority took note that Mr Philip Lowe will not have direct or indirect contacts with Commission services before 1 January 2016 as regards his activity as explicitly stipulated in his request and contract with FTI Consulting.

The Appointing Authority gave its approval to Mr Philip Lowe to carry out this activity subject to the condition that he should continue to comply strictly with his obligations relating to professional secrecy, in particular Article 339 TFUE, and avoid any situation which might create an appearance of conflict of interests.

End of service: 28 February 2015

CONCERNS

Mr Constantijn van Oranje-Nassau

Former Head of Cabinet of Vice-President Neelie Kroes

NEW ACTIVITY

Shareholder of his own business to work in particular on the following projects: a) support the Startup Delta initiative lead by former Vice-President, Neelie Kroes (Special Envoy), b) coordinate collaboration between the economic regions of Eindhoven, Amsterdam and Rotterdam, c) develop a strategy to roll out a new Qiy standard and its governance.

DECISION

The Appointing Authority gave its approval to carry out these activities, as described in his request and having regard to the undertakings he indicated in his application.

The Appointing Authority gave its approval to Mr Constantijn van Oranje-Nassau to carry out this activity subject to the following conditions:

- a) during the first two years after leaving the service, he remains bound by the obligation to notify the Commission, when he intends to have new different activities or new clients, related to those for which he was responsible in the Commission in the last 3 years of service and which differ significantly from these listed above, while raising potentially specific concerns under Article 16 of the Staff Regulations.
- b) according to Article 16 (3) of the Staff Regulations, during the 12 months after leaving the service he is 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 as Head of Cabinet.

End of service: 01 June 2014

CONCERNS

Mr Bernd Langeheine

Former Deputy Director General of the Directorate-General Competition (DG COMP)

NEW ACTIVITY

Senior Consultant for Cleary Gottlieb Steen & Hamilton LLP in Cologne, Germany with a view to advising the firm and their clients on questions of EU/German law and policy, in particular in the areas of telecommunications and competition.

DECISION

The Appointing Authority gave its approval to Mr Bernd Langeheine to carry out his activity subject to the following conditions:

- a) He will not deal with any open cases (or possibly new cases linked to closed or open ones) on which he worked or had knowledge of in the framework of his work at DG COMP during his three last years of service, and more particularly those cases listed in an Annex to the AIPN decision. The obligation not to deal with the same case on behalf of different parties is a permanent obligation under the first paragraph of Article 16 of the Staff Regulations.
- b) He will not during the 18 months after leaving the service (i.e. until 30/11/2015) have any professional contacts with the service for which he has been responsible, namely DG COMP.
- c) He will not be involved, during the first two years after leaving the service, in cases which might lead to a conflict with the legitimate interests of the Institution, and will remain bound by the obligation to notify the Commission, in particular the Director-General of DG Competition.

End of service: 31 October 2014

CONCERNS

Mr Jose Manuel Silva Rodriguez

Former Advisor “Hors Classe” of the Directorate General for Agriculture and Rural Development (DG AGRI)

Former Director General DG AGRI

NEW ACTIVITY

Founding member of a private non-profit foundation in the process of establishment in Spain at the moment of the request of authorisation.

DECISION

The Appointing Authority took note that the envisaged activity will not be related to his assignment in the last 3 years of service.

The Appointing Authority gave its approval to Mr Jose Manuel Silva Rodriguez to carry out this activity subject to the following conditions:

- a) As his request is formulated only in general terms, he remains bound by the obligation, during the two years after leaving the service, to notify the Commission when he intends to be involved in a specific activity related to those for which he was responsible in the Commission in the last 3 years of service and which is of a nature such that an impartial observer could consider that there is a connection with his duties during the last three years in service.
- b) According to Article 16(3) of the Staff Regulations, during the 12 months after leaving the service, he is 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.

End of service: 30 November 2014

CONCERNS

Mr Luis Riera Figueras

Former Director in the Directorate- General for International cooperation and Development (DG DEVCO)

Former Principal Adviser DG DEVCO

NEW ACTIVITY

Member of the evaluation committee for the "Fundació la Caixa" in Spain to work for a period of 6 to 8 days, starting on 20 April 2015, as a member of the evaluation committee of projects on socio-economic development for the "Fundació la Caixa" in Spain.

DECISION

The Appointing Authority gave its approval to Mr Luis Riera Figueras, to carry out this activity subject to the following conditions:

- a) If it appeared that a link exists between DG DEVCO and "la Caixa" or between the project to be proposed for evaluation and projects financed from the Commission, he should timely inform the Commission.
- b) According to Article 16 (3) of the Staff Regulations, during the 12 months after leaving the service, he is 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 as Director for DG DEVCO.

End of service: 31 January 2015

CONCERNS

Mr Peter Stub Jorgensen

Former Director in the Directorate-General for employment, social affairs and inclusion (DG EMPL)

NEW ACTIVITY

Self-employed of his own company based in Denmark, giving advice to national government bodies of the Member States on the European Globalisation Adjustment Fund (EGF) and assistance with the application for co-financing from this Fund.

DECISION

The Appointing Authority took note of Mr Peter Stub Jorgensen's commitment not to be dealing with any cases from before 1 February 2015 and to handle new cases only, *e.g.* cases that have not been presented to the Commission.

The Appointing Authority gave its approval to Mr Peter Stub Jorgensen to carry out this activity. Nevertheless, as the contacts Mr Jorgensen might have with colleagues dealing with EGF management could lead to a perceived conflict of interest with the legitimate interest of the Commission, the approval is subject to the following conditions during the first year after leaving the service:

- a) He will not request meetings with any colleagues dealing with the EGF;
- b) He will not participate in meetings between the Commission and the Member States authorities related to the EGF;
- c) According to Article 16 (3) of the Staff Regulations, during the 12 months after leaving the service he is 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 as Director for DG EMPL.

End of service: 28 February 2015

CONCERNS

Mr Bertrand Dumont

Former Head of Cabinet of Commissioner Barnier

NEW ACTIVITY

Directeur de la gestion prudentielle au sein de la direction financière de la société HSBC France.

DECISION

The Appointing Authority took note that the envisaged activity excluded any direct link with the Commission, notably any dialogue with the Commission services about draft texts or planned policies.

The Appointing Authority gave its approval to Mr Bertrand Dumont to carry out this activity subject to the condition that according to Article 16 (3) of the Staff Regulations, in the context of his new activity for the company HSBC France, during the 12 months after leaving the service, he is not allowed to engage in lobbying or advocacy for his employer vis-à-vis staff of the Commission on any matters related to the competence of DG MARKT - currently DG FISMA - and to his last three years in service.

End of service: 30 April 2015

CONCERNS

Mrs Lieve Fransen

Former Director in the Directorate-General for employment, social affairs and inclusion (DG EMPL)

NEW ACTIVITY

Senior advisor for the Non Governmental Organisation SOLIDAR, Brussels.

DECISION

The Appointing Authority gave its approval to Mrs Lieve Fransen to carry out this activity to the conditions that during one year after leaving the service, *eg* up to 30/04/2016:

- a) she does not attend meetings of DG EMPL with SOLIDAR,
- b) she has no professional contacts with her former colleagues in DG EMPL on matters related to SOLIDAR,
- c) she is not involved in the preparation of financing requests from SOLIDAR that would be linked to the EaSI Budget,

with a view to avoiding any appearance of conflict of interests with her activities while she was in charge as Director for Social Policy in DG EMPL up to 30/04/2015.

In addition, the Appointing Authority recalled her that as former senior manager, she is not allowed during the 12 months after leaving the service to engage in lobbying or advocacy vis-à-vis staff of DG EMPL for her business, clients or employers on matters for which she was responsible during the last three years of service.