

## **Decision in case 724/2021/AMF on how the European Commission applied its internal rules on conflicts of interest concerning the appointment of a special adviser to the EU High Representative and Commission Vice-President**

Decision

**Case 724/2021/AMF - Opened on 03/06/2021 - Decision on 03/06/2021**

Dear Ms X,

On 14 April 2021, you submitted a complaint to my Office on behalf of Friends of the Earth Europe, Corporate Europe Observatory and Re:Common. Your complaint was against the European Commission and concerned the application of its internal rules [1] on conflicts of interest as regards a special adviser to the EU High Representative and Commission Vice-President.

I have consistently taken the position that robust rules and practices are needed to ensure that no conflicts of interest arise between the work that special advisers carry out for the Commission and their outside activities. This is all the more important given the high-level access and influence enjoyed by special advisers. This is why, in 2016, I launched a strategic inquiry on Commission special advisers [2], which I concluded with ten suggestions for improvement. These included adopting a more proactive approach to assessing potential conflicts of interest and using more effective “mitigating measures” to address the risks at stake.

The Commission has acknowledged that, while the special adviser in this case notified it of her new role at an energy company in May 2020, it was not until August 2020 that the Directorate-General for Human Resources carried out the mandatory check to ensure that there was no conflict of interest. This was, however, one month after her official appointment and only after it had been alerted to the risk following a public access request. This is of course regrettable and it is important that the Commission remains vigilant to ensure that its administration always conducts an effective and timely conflict of interest assessment.

Having said that, I note that the contract of the special adviser was valid from **8 July 2020 until 31 March 2021**. According to the documentation provided with your complaint, in March 2021 the Cabinet of the High Representative informed the European External Action Service that: “*since her appointment, [the special adviser] has not undertaken any mission, participated to any*



*conference, delegation or visit, nor contributed to any procedure, position paper, non-paper, memo or presentation in her capacity as [s]pecial [a]dvis[e]r. Consequently, there has been so far no remuneration made for any day of work or activity".* From the information publicly available on the Commission's website, it appears that the Commission no longer has a contract with the special adviser [3] .

Under the rules [4] governing the work of the Ombudsman, it is a pre-condition for opening an inquiry into a complaint that the Ombudsman finds grounds for an inquiry. [5]

After a careful analysis of all the information you have sent us, my view is that there are not sufficient grounds to open an inquiry [6] as (i) the contract of the special adviser has now expired; (ii) it appears that the Commission did not make use of her services over the course of her contract; and (iii) the Commission has acknowledged the procedural shortcomings in the assessment it conducted in 2020.

While I appreciate that you may be disappointed with this outcome, I thank you for having brought this matter to my attention. I hope you find these explanations helpful.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 03/06/2021

[1] Rules on special advisers to the Commission, available at:  
[commission-decision-rules-on-special-advisers\\_c2007\\_6655\\_en\\_0.pdf](#) (europa.eu)

[2] See Decision of the European Ombudsman setting out suggestions following her strategic inquiry OI/6/2016/AB on the Commission's special advisers, available at:  
<https://www.ombudsman.europa.eu/en/decision/en/80338> [Link]

[3] See: Special advisers to the European Commission | European Commission (europa.eu)

[4] These are set out in the Treaty on the Functioning of the European Union and in the Statute of the European Ombudsman.

[5] Article 228 of the Treaty on the Functioning of the European Union says:

"In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds (...)"

[6] Full information on the procedure and rights pertaining to complaints can be found at  
<https://www.ombudsman.europa.eu/en/document/70707> [Link]

