



Meeting request concerning how the European Commission handles the challenge of staff 'revolving doors'

Correspondence - 19/10/2021

Case OI/1/2021/KR - **Opened on** 03/02/2021 - **Institution concerned** European Commission |

Ms Ursula von der Leyen

President

European Commission

Strasbourg, 15/10/2021

Strategic inquiry OI/1/2021/KR

Subject: Meeting concerning how the European Commission handles the challenge of staff 'revolving doors'

Dear President,

My inquiry team has now inspected 100 Commission files concerning applications by (former) Commission staff members to take up an activity either after leaving or while on unpaid leave from the Commission, in the context of my inquiry into how the Commission manages such 'revolving doors' moves.

Thank you for your cooperation thus far. I have now decided that it is necessary for my inquiry team to meet with the relevant representatives of the Commission to discuss the questions as set out in Annex I, and the questions concerning individual cases (Annex II) [1].

As Ombudsman, I recognise the difficulty in striking a balance between the right to work and to pursue a career of one's choice, and the need to avoid a perceived or actual conflict of interest between the private interest now being served and the public interest. Restricting the right to pursue a certain career must be proportionate and necessary for the purpose of achieving a legitimate public interest, for example to maintain public trust in an independent



administration.

That said, when closing my previous inquiry into how the Commission handles this issue in February 2019, I stated the following:

“The Commission arguably needs to make a more robust assessment when senior staff leave the Commission for the private sector and where such a move could lead to a conflict with the interests of the Commission. This is particularly relevant at this time in light of the very significant and high profile cases initiated in recent years by [the Directorate-General for Competition Policy]”.
[2]

I would be grateful if your office could contact Ms Angela Marcos Figueruelo and/or Mr Koen Roovers, two of the inquiries officers who are handling this inquiry, to agree the arrangements for the meeting, preferably to take place before mid-November 2021.

Information or documents that your institution considers to be confidential will not be made public without the prior agreement of the Commission. [3]

Thank you for your continued cooperation.

Yours sincerely,

Emily O'Reilly

European Ombudsman

Enclosures:

- Annex I with general questions;
- Annex II with questions concerning individual cases.

Annex I

Questions about the Commission’s approach to revolving door situations

Regarding decisions on post-employment activities of former staff members [4] :

1. Based on the inspection, it seems that the option of forbidding a new job, as included in Article 16 of the Staff Regulations by the legislator, is used rarely. Of the Article 16 decisions adopted by the Commission in 2019, 2020 and 2021 (to date), how many included a (temporary) ban on the intended activity?



2. How does the Commission ensure consistency in the decisions it takes regarding new jobs of former staff members that may appear to pose comparable conflict of interest risks?

Such risks could include anticipatory actions by a staff member prior to moving to a new role which may lack impartiality; or future activities directly related to the individual's work during the last three years of service with the Commission.

3. When the Directorate-General (DG) that a former staff member worked at most recently is consulted by the DG for Human Resources (HR), "guidelines" are provided in attachment to be used for the assessment of the former staff member's intended job.

Could you please provide a copy of these guidelines?

4. How does the Commission ensure compliance with the restrictions that are included in its decisions to mitigate the risks of conflicts of interest related to new jobs of former staff members?

Are there instances where these risks have been realised and, if so, what actions have been taken?

5. Does the Commission accept that former staff members – barred by it from working on certain cases or issues directly linked to their former roles – might nonetheless advise their new colleagues on such matters – for example within a law firm?

If the Commission does recognise this as a risk, what does it do to counter such risk by way of monitoring?

6. Where former staff members who participate in the Commission's 'active senior' initiative [5] also apply to take up an (remunerated) outside activity, how does the Commission ensure compatibility and no potential conflict of interest?

7. How does the Commission address any risk of conflicts of interest between former staff members' roles as special advisors to the Commission and their post-employment activities?

8. When a former staff member's most recently worked at DG is consulted on various job authorisation requests by the former staff member, does the DG receive copies of the Commission decisions when they are adopted?

If not, why not?

9. The Commission consults the Joint Committee of staff and institutional representatives on requests for authorisation of post-employment activities of former staff members. The Joint Committee can provide its opinion based on a written procedure, or based on an in-person discussion.



What are the criteria for the holding of an in person meeting?

10. Does the Commission inform the Joint Committee of the final decisions on requests for authorisation of intended jobs of former staff members, once they are adopted?

Regarding decisions on outside activities of staff who are on unpaid leave on personal grounds [6]
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11. How does the Commission ensure consistency in the decisions it takes related to outside activities of staff members who are on unpaid leave on personal grounds that may appear to pose a comparable risk of conflict of interest, for example because of a risk of reputational damage to the Commission?

12. How does the Commission ensure compliance with the restrictions included in its decisions that aim to mitigate the risk of conflicts of interest related to outside activities of staff members who are on unpaid leave?

13. Does DG HR seek more detailed information, beyond the general description of the activity submitted by the applicant?

This may arise for example if the staff member is moving to a law firm or consultancy where questions might arise around the nature of the clients and cases that the staff member intends to work for/on?

If so, can you provide some examples?

[1] Given that these questions contain personal data, they are included in an annex to be treated confidentially at this stage of the inquiry.

[2] See: <https://www.ombudsman.europa.eu/en/decision/en/110608> , paragraph 43.

[3] Please clearly mark such material 'Confidential'. Encrypted emails can be sent to our dedicated mailbox Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.

[4] This concerns decisions based on Article 16 of the Staff Regulations, see <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01962R0031-20140501> .

[5] Under the 'active senior' initiative, former staff members may participate on a voluntary basis in unpaid assignments or activities exercised within the Commission.

[6] This concerns decisions based on Article 12b in combination with Article 40 of the Staff



Regulations , see

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01962R0031-20140501> .