

## **Decision of the European Ombudsman on internal rules concerning the exercise of an occupational activity after leaving the service of the European Union (Article 16 of the Staff Regulations)**

Declarations and transparency - 07/03/2016

The European Ombudsman has adopted internal rules on the exercise of an occupational activity after leaving the service of the European Union.

These internal rules have been adopted after consultation of the Ombudsman's Staff Committee and Data Protection Officer.

These rules are based on the following considerations:

- (a) Whereas the European Ombudsman plays a central role in promoting the highest ethical behaviour by officials of the EU institutions, bodies, offices and agencies and intends to make a lasting contribution to enhance the European Union citizens' trust in the EU civil service and the EU institutions, including the European Ombudsman;
- (b) Whereas the European Ombudsman strives to ensure that EU officials are aware of the circumstances in which conflicts of interest can arise and that EU institutions, bodies, offices and agencies apply effective procedures for the avoidance, identification, disclosure and management of conflicts of interest situations;
- (c) Conscious that, under the Staff Regulations, EU officials must behave with integrity and discretion as regards the negotiation and acceptance of an occupational activity after the end of their employment in the EU public service;
- (d) Determined to ensure that EU officials exercise their legitimate right to take up job offers after leaving the service of the EU within the framework of maximum transparency;

### **The Ombudsman has adopted the following rules:**



## **Article 1 Substantive and temporal scope of application**

This decision applies to officials, temporary agents [1] , and contract agents [2] (hereinafter, 'staff members') who have been employed by the European Ombudsman and who intend to engage in an occupational activity, whether gainful or not, within two years of leaving the European Union public service.

Article 2 Duty to inform the European Ombudsman for a period of two years after leaving the European Union public service

1 . The Personnel, Administration and Budget (PAB) Unit shall inform, in writing, any staff member leaving the Office, at least one month before his/her date of departure, about his/her continuing obligations to the Ombudsman, in particular under Articles 16, 17 (2) and 19 of the Staff Regulations.

2. A staff member intending to engage in an occupational activity, whether gainful or not, within two years of leaving the European Union public service, shall inform the Ombudsman in writing.

3. Upon receipt of the information, the PAB Unit shall ask the staff member concerned to complete the Declaration to exercise an occupational activity form (hereinafter, 'the form') in Annex I.

4. When completing the form, the staff member concerned must provide the following information:

- a description of his/her tasks in the last three years of service in the Ombudsman's Office;
- a description of the activity that he/she wishes to take up including information on the position he/she is to occupy and the expected duration of the activity;
- the name, and correct details of the potential employer and its field of activity;
- the links with his/her former functions in the Ombudsman's Office, if any.

5. In the event a staff member fails to comply with the duty to inform, the Ombudsman may take appropriate measures.

6 . Without prejudice to the staff members' duty to inform, the PAB Unit shall proactively send reminders to departing staff members of the obligation to behave with integrity and discretion as regards the acceptance of certain appointments or benefits at all times. These periodical reminders should be sent (a) at least one month before, (b) six months after, and (c) 18 months after the end of a staff member's service.

## **Article 3 Assessment by the Appointing Authority**



1. The PAB Unit is the lead service of the Ombudsman's Office in the application of this decision. Upon receipt of the form, the PAB Unit will carry out a preliminary assessment and make a proposal for a decision to the Ombudsman. When the staff concerned is a member of the Ombudsman's Cabinet, the decision shall exceptionally be taken by the Secretary-General.
2. As soon as possible and no later than 30 working days of receiving complete information necessary to take a decision, the Ombudsman, after consulting the Ombudsman's Joint Committee, shall notify the decision to the former staff member.
3. Having regard to the interests of the service, the Ombudsman may, if the occupational activity relates to the work the staff member carried out during the last three years of service and could lead to a conflict with the legitimate interests of the Office, either forbid the staff member from undertaking it or give an approval subject to conditions. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance.
4. The Appointing Authority's decision, whether negative or positive, shall contain his/her assessment and conclusions in respect of any possible conflict with the legitimate interests of the institution, including any imposed conditions.
5. Where the preliminary analysis suggests that the activity should be forbidden or conditions be set, the staff member concerned shall be informed in writing and given the opportunity to make comments before the decision is taken, within 15 days [3] .
6. The Ombudsman's permission to exercise an occupational activity is limited to employment with the employer named therein, and to any person with whom the employer subsequently merges or transfers the undertaking in which the former staff member is employed. If any change to the information given occurs, the former staff member concerned shall inform the Ombudsman without delay. The Ombudsman shall determine whether it is necessary to modify the conditions of authorisation or, in exceptional circumstances, to withdraw his/her permission in the light of such a change.

## **Article 4 Senior officials leaving the EU public service**

1. Senior officials of the European Ombudsman's Office shall be subject to the following specific provisions. For the purpose of this decision, 'senior official' refers to officials occupying functions corresponding to the type of posts of Secretary-General at grade AD15/AD16, Director and Principal Adviser at grade AD14/AD15, the Head of the Ombudsman's Cabinet and Administrators in the Ombudsman's Cabinet.
2. The Ombudsman prohibits senior officials, during the period of twelve months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of the Ombudsman's Office for their business, clients or employers on any matter for which they were at any stage responsible during the last three years in the service.



## Article 5 Transparency

1. Decisions taken for senior officials shall be published on the *ethics* section of the Ombudsman's website.
2. The Ombudsman shall publish the following information:
  - his/her name and the date of departure from the Ombudsman's Office;
  - a description of the tasks he/she carried out in the Ombudsman's Office during the previous three years;
  - a description of the duties he/she intends to carry out in the new position, including the name of the new employer/organisation;
  - the Ombudsman's assessment and conclusions.
3. In order for the Ombudsman to carry out the balancing exercise required under Regulation 45/2001 [4], the senior official shall be informed that, when submitting a declaration of exercise of an occupational activity, he/she may put forward any exceptional compelling reasons that he/she has as to why publication of the information set out in point 5.2 above would undermine the protection of his/her privacy and integrity.
4. The publication as set out in point 5.1 above will happen as soon as possible.

## Article 6 Data protection

The processing of personal data by the Ombudsman is governed by Regulation 45/2001. A detailed privacy statement on data protection is included in the form.

## Article 7 Entry into force

This decision enters into force on the day of its adoption.

Emily O'Reilly

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[1] According to Article 11 of the CEOS, Article 16 of the Staff Regulations also applies to



temporary agents.

[2] According to Article 81 of the CEOS, Article 11 of the CEOS also applies to contract agents.

[3] Where the Ombudsman's decision is taken while the staff member is still in the Ombudsman's service, additional conditions, for instance, dealing with files or complaints in which the staff member's prospective employer might have an interest, may be imposed.

[4] 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).