

The Commission's management of 'revolving doors' situations concerning EU staff

Correspondence - 27/03/2017

Case OI/3/2017/NF - **Opened on** 27/03/2017 - **Decision on** 28/02/2019 - **Institution concerned** European Commission (No maladministration found) |

Follow-up inquiry OI/3/2017/AB-NF on the European Commission's management of 'revolving doors' situations concerning EU staff

Dear Mr President,

On 9 September 2016, I closed my inquiry based on complaints 2077/2012/TN and 1853/2013/TN concerning the Commission's handling of situations where staff leave the EU institutions to work for the private sector and vice versa. My inquiry focused on (a) the risk that former EU officials bring with them confidential information or use their privileged contacts to lobby their former colleagues and (b) the risk of conflicts of interests when new staff work on files connected to their previous employment.

My inquiry led me to issue suggestions and guidelines to strengthen the Commission's procedures for implementing the relevant provisions of the EU Staff Regulation [1] . In the decision closing my inquiry, I welcomed the positive commitments made by the Commission on many aspects dealt with in the inquiry. I also said that I would follow up on the progress made by the Commission in relation to my suggestions and guidelines by **carrying out an own-initiative inquiry starting with an inspection in early 2017** .

Against this background, I have decided to open a follow-up inquiry. This inquiry, like my previous inquiry, does not concern any specific individual, but will rather focus on the systemic issues identified in my previous inquiry. I would also like to clarify that the present inquiry will not concern issues arising from occupational activities taken up by former Commissioners.

As a first step, I would appreciate it if the Commission would provide me with **a list of cases dealt with by the Commission under Articles 11, 12b and 16 of the Staff Regulations during the past two years (2015-2016)**. The list should include all cases of (i) **EU officials**, (ii) **temporary agents** and (iii) **contract agents with access to "sensitive information [2]"** who left the Commission to take up an "occupational activity" [3] (Article 16), including leave on personal grounds (Article 12b). The list should also include all cases of incoming officials and



temporary agents (Article 11).

The list should mention (i) the name of the person concerned, (ii) the type of servant (permanent official, temporary agent, contract agent), (iii) the job title (in particular if s/he had a management role) and (iv) the former occupational activity (for incoming agents) or the new position in the private sector (for persons who have left the service).

I should be grateful if the Commission would provide me with this list **within two months** of receipt of this letter.

My Office will then select a sample of files from the list and contact the Commission to **find a suitable date for an inspection and a meeting**. The meeting will be an opportunity for the Commission to inform my Office of the **actions taken to address the suggestions and guidelines that I made during my previous inquiry** (see annex).

Should your staff have any queries, they may contact Ms Alice Bossière Strategic Inquiries Officer in my Office.

Yours sincerely,

Emily O' Reilly

Annex

Suggestions made by the European Ombudsman in the context of her inquiry based on complaints 2077/2012/TN and 1853/2013/TN

(i) Ensure that the assessment of applications from officials leaving the service is carried out by staff who have not had any direct professional connections with the official concerned. It is particularly important to pay close attention to this requirement in the case of senior officials;

(ii) Where applicable, analyse applications to work outside the Commission on the basis of DG-specific Codes of ethics and integrity;

(iii) Publish online, in respect of decisions to approve requests to work outside the Commission from senior officials, (i) the name of the senior official concerned, (ii) details of the duties carried out in the Commission by that senior official, (iii) details of the duties to be carried out in the new activities, and (iv) the Commission's detailed assessment and conclusions. The Commission should publish all such decisions and the publication should be done as soon as possible and within a timescale and frequency appropriate to the importance of this matter;

(iv) Inform the Ombudsman of each case where exceptional and compelling privacy reasons prevent the publication referred to in point (iii) above. The Ombudsman will then inspect and



assess the file on the decision taken to allow that senior official to work outside the Commission.

- (v) Analyse fully each individual application to work outside the Commission and set out that analysis in well-reasoned and well-documented decisions;
- (vi) Properly record that it has analysed whether the information provided by the official regarding the proposed outside work is sufficiently detailed to allow the Commission to carry out a full analysis of that outside work;
- (vii) Properly record and analyse comments made by other Commission services, particularly when the eventual position of the Commission deviates from those comments;
- (viii) Take all the necessary steps to ensure that the Commission applies the rules on conflicts of interests consistently across the Commission, including by alerting DGs whenever inconsistencies as regards the imposition of conditions are identified;
- (ix) Improve the Ethics and conduct website of the Commission;
- (x) Publish online DG-specific codes or guidelines;
- (xi) Put in place a centralised register of staff applications to work outside the Commission and for conflict of interest assessments of incoming staff;
- (xii) Use the Ombudsman's recommendations when assessing possible conflicts of interest of incoming staff and when analysing whether the prohibition on senior staff leaving the Commission from engaging in lobbying or advocacy vis-à-vis the Commission is complied with;
- (xiii) Take the necessary steps to ensure that all future cases reflect the policy that commitments offered by the officials, aimed at eliminating conflicts of interest, are expressly referred to and analysed in the file.

[1] Decision closing the inquiry based on complaints 2077/2012/TN and 1853/2013/TN concerning the European Commission's handling of the 'revolving doors' phenomenon. Available at:

<https://www.ombudsman.europa.eu/en/cases/decision.faces/en/71136/html.bookmark>

[2] Article 22 of Commission's Decision on outside activities and assignments, 16 December 2013, C(2013) 9037 final.

[3] It will not be necessary to include in the list staff who have moved to another public body, whether at EU or Member State level.