



**Implementation  
of the European Ombudsman's suggestions resulting from  
the 2<sup>nd</sup> own-initiative inquiry  
on the revolving doors phenomenon  
OI/3/2017 AB-NF**

*20 January 2022*

# EO's own-initiative inquiry on the revolving doors phenomenon

- The inquiry was carried out between 2017 and 2019 and concerned decisions Article 16, Article 11 and Article 12b40 of the Staff Regulations.
- That inquiry was quoted as an example of a good cooperation by the European Ombudsman in her 2020 Report.
- EO's key findings:
  - Commission has high standards in the area of ethics and transparency and should continue to lead by example
  - Commission's management of requests for authorisation of occupational activities after leaving the service was technically in line with the Staff Regulations.
- EO did not find maladministration and made no formal recommendations
- EO issued 6 general and 19 technical suggestions

# State of play 1/5

|   | General suggestions   | Commission reply / state of play   |
|---|---|--|
| 1 | The European Commission to take a more robust approach to cases involving senior managers (consider prohibition).                                       | The European Commission prohibited fully several activities of staff members including of a senior manager, where deemed necessary (3 cases in 2019, 3 in 2020 and 4 in 2021). The ban on lobbying & advocacy (Article 16(3) of the Staff Regulations) is applied strictly, complemented by a ban on contacts and ring-fencing measures, where necessary.  |
| 2 | Forbid former senior managers from working on matters relating to the work carried out at the Commission.   | The Appointing Authority takes into consideration precise tasks performed at the Commission, the envisaged activity, the link between the two and the risk of any real, potential or perceived conflict of interest.   |
| 3 | Respect the 30 working day time-limit for Article 16 of the Staff Regulations (SR) decisions.   | Since 2018, all Article 16 SR decisions have been delivered on time.   |
| 4 | Develop measures to monitor senior managers' compliance with their ethics obligations.  | Article 16 SR decisions are communicated to the relevant Commission department of the former staff member, where they are disseminated on a need-to-know basis. This is an effective means of control, for instance, in case of a ban on professional contacts or on lobbying vis-à-vis the former DG or the Institution. Moreover, the Commission actively follows publicly available information and relies on external scrutiny. It duly follows up every alleged breach of compliance. The Investigation & Disciplinary Office (IDOC) has the power to investigate further and impose sanctions where appropriate. |
| 5 | Ensure greater transparency as regards the one-year lobbying and advocacy ban for former senior staff members (publish immediately all cases assessed). | The current practice of publishing the Article 16(4) SR report on a yearly basis is fully in line with the Staff Regulations and data protection requirements. The Article 16(4) SR report for 2019 & 2020 contained statistics on the domains of the senior managers' post-service occupational activities.   |
| 6 | Publish senior managers' lobbying and advocacy bans directly in the Transparency Register.  | The Article 16(4) SR report is now available on the Transparency Portal.   |

# State of play 2/5

|     | Technical suggestions   | Commission reply / state of play   |
|-----|---|--|
| i   | <b>Incoming 'revolving doors' moves:</b> include information on “type of posts offered”.  | Information is included in the conflict of interest form filled in upon the recruitment.   |
| ii  | <b>Incoming 'revolving doors' moves:</b> remove statement that the Appointing Authority will not check if no conflict of interest is identified by the individual or by DG responsible for recruitment or reinstatement upon return from leave on personal grounds. | The statement has been removed. The Appointing Authority performs checks of all conflict of interest forms filled in upon recruitment or reinstatement.  |
| iii | <b>Incoming 'revolving doors' moves:</b> the HR Business Correspondents to perform checks of conflict of interest upon recruitment.   | The conflict of interest upon recruitment form was revised and completed with a comprehensive guidance, brought to the attention of candidates, recruiting services and ethics contact persons from all Commission departments.  |
| iv  | <b>Articles 12b &amp; 40 SR:</b> ensure more detailed opinions of hierarchy on staff's requests.  | The e-form for hierarchical superiors' opinion on staff member's request contains a number of guiding questions to render their contribution more detailed (where relevant).   |
| v   | <b>Articles 12b &amp; 40 SR:</b> ensure staff to fill in the start & end date of the activity by removing from the e-form the reference to the status of « employee ».  | Following the European Ombudsman's decision closing the second inquiry on the revolving doors phenomenon in 2019, the Commission clarified that an outside activity during leave on personal grounds is authorised for the duration of the leave. Status of « employee » is not linked to the duration of the outside activity but to the duration of the employment relationship with the organisation. |

# State of play 3/5

|      | Technical suggestions  | Commission reply / State of play  |
|------|--|---|
| vi   | <b>Article 16 SR:</b> ensure more factual details are provided in the hierarchy's opinion on the staff's requests.   | Detailed guidance is provided to the hierarchical superiors. The required level of details in their opinion is proportionate to identified risks. As a result, quality of hierarchy's opinions has improved considerably. |
| vii  | <b>Article 16 SR:</b> staff members to provide the (intended) employer's or self-owned company's website and, where relevant, the Transparency Register entry.   | Article 16 SR form has been revised to include the mention of the website. Nevertheless, where relevant, this information is checked by the Appointing Authority when assessing staff members' requests.                  |
| viii | <b>Article 16 SR:</b> specify in the Article 16 SR form which supporting documents concerning envisaged activity could be provided by staff members to demonstrate compatibility with the Institution's interests. | The Article 16 SR form has been revised accordingly.  |
| ix   | <b>Article 16 SR:</b> use "shall" or "will not" in the restrictions.   | Implemented.  |
| x    | <b>Article 16 SR:</b> use "shall" or "not being allowed to" when imposing a lobbying and advocacy ban.   | Implemented.  |

# State of play 4/5

|      | Technical suggestions   | Commission reply / state of play  |
|------|---|---|
| xi   | <b>Article 16 SR:</b> systematically ask the former staff member to inform the new employer of any conditions imposed by the Commission and to provide the Commission with proof of such information. | The Commission cannot <u>oblige</u> former staff to do so. It would mean interfering into a bilateral relationship between the former staff member and the new employer. However, in some cases, the Commission <u>asked</u> former staff members to inform their new employers of the conditions imposed in their Article 16 SR decisions. |
| xii  | <b>Article 16 SR:</b> systematically inform the former staff member's Directorate-General (DG) of any conditions imposed in Article 16 SR decision.   | Article 16 SR decisions are systematically communicated to HR Business Correspondents, who further share the information on the conditions imposed on a need-to-know basis within the former staff member's DG of origin.   |
| xiii | <b>Article 16 SR:</b> Article 16(4) SR report to include all senior manager cases assessed.   | The Article 16(4) SR report's content is fully in line with the Staff Regulations requirements. Moreover, the reports for 2019 & 2020 contained statistics on activity fields of senior managers' post-service occupational activities.   |
| xiv  | <b>Article 16 SR:</b> Article 16(4) SR report to include a link to the former staff members' (intended) employer's entry on the Transparency Register, where applicable.                              | The Commission contends that providing such a link would raise serious legal concerns, including as regards compliance with data protection rules and eventually would provide misleading information to the general public.  |
| xv   | <b>Article 16 SR:</b> actively inform colleagues of a former senior staff member that s/he has been placed under a lobbying and advocacy ban for a certain period of time.                            | Article 16 SR decisions are systematically communicated to DGs. The DGs share information on the restrictions imposed to relevant staff members on a need-to-know basis.  |

# State of play 5/5

|       | Technical suggestions   | Commission reply / state of play   |
|-------|---|--|
| xvi   | <b>Article 16 SR:</b> publish, directly on its ethics website and in a timely manner, information under Article 16(4) SR on each case assessed with a view to the one-year lobbying and advocacy ban for former senior staff members.                               | The current practice of publishing Article 16(4) SR report on a yearly basis is fully in line with the SR and data protection requirements. The report for 2019 & 2020 contained statistics on activity fields of senior managers' post-service occupational activities. |
| xvii  | <b>Article 16 SR:</b> publish, directly on the Transparency Register entry of the (intended) employer's company information on individual cases assessed with a view to the imposition of a lobbying and advocacy ban under Article 16(4) of the Staff Regulations. | The Article 16(4) SR annual report is now available on the Transparency Portal to give to it additional visibility.  |
| xviii | <b>Article 16 SR:</b> facilitate the publication on the Transparency Register of information under Article 16(4) SR for former senior staff of other EU institutions, bodies, offices, and agencies.  | The Commission contends that it is not in a position to publish information on the Transparency Register under of Article 16(4) SR for former senior officials of other EU institutions.   |
| xix   | <b>Article 16 SR:</b> publish aggregate and anonymised yet informative data on all staff members' departures during a given year.   | Article 16(4) SR report for 2019 & 2020 contained statistics on activity fields of senior managers' post-service occupational activities   |

# Ethics procedures today

- Applied in a proportionate way, our procedures ensure a robust protection of the Institution's legitimate interests.
- Appointing Authority's decisions are based on substantiated opinions and are delivered within the statutory deadlines.
- Our reporting is fully transparent, in line with the Staff Regulations requirements and respects personal data protection rules.
- There is more ethical awareness thanks to our guidance, training sessions, reach out to the ethics contact persons and public scrutiny.

Thank you