

Reply of the Commission to the request for information from the European Ombudsman - Strategic initiative SI/4/2020/PL

The European Commission would like to thank the European Ombudsman for the follow-up letter and for its appreciation of the Commission services. The Commission continues to deliver an unprecedented response to the coronavirus crisis, particularly by guiding and coordinating the Member States' measures, supporting the public health sector and by mitigating the social and economic impacts of the crisis. While responding to the crisis, the Commission continues to uphold the highest accountability and transparency standards.

The requested additional explanations that were not included in the previous reply of the Commission of 4 August 2020 are provided below.

1.

a) The Commission's commitment to uphold the highest transparency and accountability standards remains constant. Despite the current crisis, any contacts with interest representatives need to comply with the transparency standards of the Commission.

b) The Commission publishes information on all meetings of Commissioners, their Cabinet members and Directors-General with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union, in accordance with Commission Decisions 2014/838/EU, Euratom¹, and 2014/839/EU, Euratom². Since the outbreak of the pandemic in March 2020, the Commission has published information on more than 1500 meetings held by Members of the College and their advisors with interest representatives. As traditional physical meetings have been replaced by virtual ones, the Commission has decided to treat conference calls as 'meetings' within the respective meaning of the above referenced Decisions. This guarantees a public record of all relevant contacts. To ensure uniform application of the rules, the Commission has provided guidance in a written form (checklists, FAQs, etc.), via a dedicated helpdesk and through coaching.

The Joint Transparency Register Secretariat has continued to screen all incoming entries on the Transparency Register with the objective of only allowing those organisations that provide the necessary data to register. This vigilance enhances the reliability of the database.

c) The reform on a mandatory Transparency Register, which was recently agreed on by the Commission, the European Parliament and the Council of the EU, will create a stronger framework for managing relations with interest representatives, not just in the Commission but also in the other two institutions. Given these efforts and the continued advancements on transparency that the Commission has demonstrated in recent years, launching a global review of its transparency policy would be premature at this point in time. Nevertheless, the

¹ Commission Decision 2014/838/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals, OJ L 2014, 28.11.2014, p.19.

² Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals, OJ L 2014, 28.11.2014, p.22.

Commission needs to be conscious of living in a constantly evolving environment shaped by new influencing strategies and technologies. The Commission therefore remains ready to adapt its working methods as and when necessary.

2.

d) The Joint Procurement Agreement for medical countermeasures³ (hereafter, JPA) enables the joint purchase of equipment and supplies. The coronavirus crisis has required public authorities to procure products and services at a large scale with unprecedented urgency. To maintain highest transparency standards, the main coronavirus response website contains up-to-date information on purchases made under the aforementioned mechanism⁴.

It should also be noted that all procurements under the JPA have followed rules laid down in the Financial Regulation. More specifically, evaluation committee members are appointed following the rules on composition and designation procedure laid down in the Financial Regulation, as well as in Article 9 of the JPA⁵, which include all safeguard measures to ensure their competence, impartiality and absence of conflict. In addition, the relevant contract award notices have been published in the Supplement to the Official Journal (OJS)⁶. At the same time, the Commission has responded to numerous requests for access to documents by citizens, Members of the European Parliament or journalists, thereby ensuring transparency of the process.

e) The procurement directives, particularly Directive 2014/24/EU, allow for the possibility to shorten the general deadlines for publication in situations of urgency. The directives can facilitate the purchase of medical countermeasures required to respond to the COVID-19 crisis. The Commission has provided guidance⁷ on how these general rules can be applied in the context of the current crisis.

The procurement directives for Member States, and the Financial Regulation for the Commission, oblige contracting authorities to publish contract award notices in the Supplement to the Official Journal – the Tenders Electronic Daily (‘TED’). This includes justifications for the use of the chosen procedures. The use of the flexibilities provided to Member States in the procurement directives can be monitored effectively therein.

3.

f) On 16 March 2020, after being mandated by Member States, the Commission established an advisory panel on the coronavirus pandemic⁸, whose mandate was renewed on 22 October 2020⁹. The panel is published on the Register of Commission expert groups, where

³ C(2014) 2258 final, 10.04.2014 (https://ec.europa.eu/health/sites/health/files/docs/key-document/c2014_2258_en.pdf). More information about the mechanism can be found on: https://ec.europa.eu/health/security/preparedness_response_en

⁴ Ensuring the availability of supplies and equipment: https://ec.europa.eu/info/live-work-travel-eu/health/coronavirus-response/public-health_en#ensuring-the-availability-of-supplies-and-equipment

⁵ https://ec.europa.eu/health/sites/health/files/docs/key-document/c2014_2258_en.pdf

⁶ <https://ted.europa.eu>

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.CI.2020.108.01.0001.01.ENG>

⁸ C(2020) 1799 final

⁹ C(2020) 7414 final

substantial information on the panel's main features is provided¹⁰. The panel's agendas and summaries of the meetings are available to the public through a dedicated coronavirus response website which provides an access guidance and a direct link to those agendas and meeting summaries¹¹, as well as information on the composition and the operations of the panel and the means to ensure transparency¹².

g) The declarations on the absence of conflict of interests of the members of the panel are publicly available through the Register of expert groups.

For the Commission
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¹⁰ <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3719>

¹¹ https://ec.europa.eu/health/advisorypanel_covid19_en

¹² <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3719&news=1>