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ANNUAL REPORT ON THE APPLICATION OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN 2022
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Introduction

The Treaties, in particular Article 17(3) of the Treaty on European Union¹ and Article 245 of the Treaty on the Functioning of the European Union², have laid down the essential ethical principles that govern the conduct of Members of the Commission. The Code of Conduct for the Members of the European Commission defines and clarifies these principles and sets out how they should be applied in practice.

The current Code of Conduct for the Members of the Commission³ was adopted by the Commission on 31 January 2018. It replaced the previous Code of 2011, reinforced the rules in several areas, such as the rules on the handling of conflicts of interest, and set rules in areas which were previously not included in the Code, like provisions on meetings with interest representatives or the publication of mission costs.

‘The Working Methods of the European Commission’⁴ emphasise that the President wants ‘a Commission whose internal functioning is based on the principles of collegiality and good governance: with clear roles and responsibilities, a strong commitment to performance management and compliance with the legal framework, clear accountability mechanisms, a high quality and evidence-based regulatory framework, openness and transparency, and high standards of ethical behaviour’.

¹ ‘The Commission’s term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.’

² ‘The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead.’

³ Official Journal C 65 of 21.02.2018, page 7: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2018:065:TOC>.

The individual Mission letters to each Member of the Commission recall that ‘a stronger relationship with citizens starts with building trust and confidence’. The President insisted in these letters ‘on the highest levels of transparency and ethics for the College as a whole’. She underlined that ‘there can be no room for doubt about [the] behaviour or [the] integrity’ of the Members of the Commission and that ‘the Code of Conduct for Commissioners sets out the standards and the rules to follow’.

Article 13(4) of the Code provides that the Commission should publish annually a report on the application of the Code. This is the fifth annual report and covers the year 2022⁵. Like in previous years, this report also covers the activities of the Commission’s Independent Ethical Committee in 2022.

1. IMPLEMENTATION OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE COMMISSION

1.1. Update of the declarations of interests of the Members of the Commission

In accordance with Article 3(3) of the Code, the Members of the Commission updated their declarations of interests in the beginning of 2022 reflecting the situation on 1 January 2022. In case of changes between 1 January 2022 and the date of signature of the declarations of interests, these changes were taken into account as well. As set out in Article 4(2) of the Code, the declarations were subsequently scrutinised by the Secretariat-General under the authority of the President in view of their completeness and in view of the compatibility of the declared information with the provisions of the Code. After the completion of this scrutiny, the declarations were published on 7 April 2022 in an electronic format on the respective website of each Member and in a machine-readable format on the website dedicated to the Code of Conduct⁶. This corresponds to the publication requirements set out in Article 3(5) of the Code⁷. Due to changes in their situation in 2022, several Members updated their declarations in the course of the year in line with Article 3(3) of the Code⁸. The same scrutiny and publication procedures were followed.

⁵ The Commission took note of the first, second, third and fourth Annual Reports on the application of the Code of Conduct for the Members of the Commission respectively on 25 June 2019 (SEC(2019) 266), on 12 October 2020 (SEC(2020) 344), on 20 July 2021 (SEC(2021) 299) and on 29 May 2022 (SEC(2022) 226); https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission_en#annual-reports.

⁶ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission_en#declarations-of-interests.

⁷ Article 3(5) provides ‘Declarations shall be made public in an electronic and machine-readable format.’

⁸ Article 3(3) provides ‘Declarations shall be re-submitted on an annual basis on 1 January, and in case of a change in the information to be declared during a Member’s term of office, a new declaration shall be submitted at the earliest opportunity and at the latest within two months of the change in question.’

1.2. Contact points in the cabinets of the Members of the Commission

In order to facilitate compliance with the obligations in the areas of ethics and transparency, the Commission has set up a Network of Ethics and Transparency Contact Points in the Cabinets of the Members of the Commission.

They are the interlocutors for the Members of the Commission, their respective Heads of Cabinet and the services of the Commission on questions related to the practical implementation of the Members' ethics and transparency obligations, notably the annual and *ad hoc* updates of the declarations of interests; the publication of meetings held with interest representatives and the prior verification of the registration of those interest representatives in the Transparency Register; and the publication of mission costs.

The Secretariat-General organised, in 2022, two meetings of the Network, respectively held on 1 April (7th meeting) and 9 December (8th meeting) during which the relevant Commission departments responsible, at corporate level, for ethics and transparency regarding the Members of the Commission but also for staff in the Cabinets presented different issues of interest.

Several subjects were discussed, namely the rules applicable to the participation of Members of the Commission in national election campaigns, contacts with former Commissioners following the end of their so-called 'cooling-off period', a reminder of the rules on the publication of meetings with interest representatives of Commissioners and Cabinet members, the preparation of the annual update of the declarations of interest of the Members of the Commission and a reminder of the rules applicable to gifts and hospitality received by the Members of the Commission and Commission staff.

1.3. Transparency requirements

According to point V of the Working Methods of the European Commission, transparency should characterise the work of all the Members of the Commission and of their Cabinets.

Transparency concerning interest representation and contacts with stakeholders is particularly important in order to allow citizens to follow the activities and be aware of the potential influence of interest representatives. The Commission applies strict requirements to guarantee that such transparency is sufficiently ensured. Article 7(1) of the Code sets out that the Members and members of their Cabinet shall meet only those organisations or self-employed individuals, which are registered in the Transparency Register established pursuant to the relevant Interinstitutional Agreement⁹ inasmuch as they fall under its scope.

⁹ Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register, OJ L 207, 11.6.2021, p. 1.

In addition, in accordance with Article 7(2) of the Code and Commission Decision 2014/839/EU, Euratom¹⁰, Members of the Commission shall make public information on all meetings held by them and members of their Cabinet with organisations or self-employed individuals on issues relating to policy-making and implementation in the Union¹¹.

The information that is made public consists of the date of the meeting, the location, the name of the Member of the Commission and/or member of the Cabinet, the name of the interest representative and the subject of the meeting. The Commission publishes systematically that information in a standardised format on the websites of the Members of the Commission within two weeks following the meeting. A list of published meetings, in downloadable form (.pdf file) is also made available on the profile of the interest representative concerned in the Transparency Register¹².

In 2022, the Secretariat-General of the Commission continued its systematic practice of recalling to the attention of Members of the Commission and their Cabinets the requirements and modalities of encoding the information on meetings with interest representatives in the dedicated IT tool in an accurate and timely manner. In addition, in order to further enable citizens to access the information on published meetings in a user-friendly and comprehensive format, the Commission publishes that information as a dataset on data.europa.eu¹³.

For reasons of transparency, pursuant to Article 6(2) of the Code, the Commission also publishes an overview of mission expenses per Member every two months covering all missions undertaken unless publication of this information would undermine the protection of the public interest as regards public security, defence and military matters, international relations, or the financial, monetary or economic policy of the Union or a Member State. In 2022, the Commission published an overview of expenses for 1112 missions. The published information ensures transparency regarding both the costs and the purpose of the respective missions. A link to the relevant information can be found on each Member's respective website.

1.4. Website on the Code of Conduct for the Members of the Commission

The European Commission has a dedicated webpage related to 'Commissioners and Ethics'¹⁴ which is accessible via the portal on 'Ethics and Good Administration'¹⁵.

The webpage on 'Commissioners and Ethics' contains three sections: 'Code of Conduct for the Members of the European Commission';

¹⁰ 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 343, 28.11.2014, p. 22.

¹¹ These obligations also apply to Directors-General of the Commission.

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¹³ [European Commission - Meetings with interest representatives - Data Europa EU](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics_en)

¹⁴ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics_en.

¹⁵ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration_en.

‘The Independent Ethical Committee’ and ‘Former European Commissioners’ authorised activities’. In the last section, all Commission decisions on post term of office activities of former Members were published.

2. FORMER MEMBERS OF THE COMMISSION

2.1. Former Commissioners’ ethical obligations following the end of their mandate

The duties of integrity and discretion enshrined in Article 245 of the Treaty on the Functioning of the European Union continue to apply to the former Members of the Commission beyond their term of office and are unlimited in time

As from 1 December 2022, the notification obligation enshrined in Article 11 of the Code of Conduct for the Members of the Commission regarding envisaged post term of office activities does not apply any more to any former Member of the last Commission¹⁶

Following the end of their ‘cooling-off periods’ the Members of the Commission were reminded in 2022 of the general obligations set out in Article 245 of the Treaty on the Functioning of the European Union which continue to apply after the end of the notification period as well as of the continuing obligations of professional secrecy and discretion with respect to the Commission’s decisions and activities during the term of office enshrined in Article 339.

With regard to one former Member of one of the previous Commissions, public allegations were made that ethical obligations had not been respected after the end of the mandate. The Commission took steps to clarify the matter with the former Member concerned. Since then, the European Anti-Fraud Office (OLAF) which is also in charge of investigating serious breaches of professional duties by Members has opened an inquiry to verify the allegations and establish the facts. The Commission cooperates with the Office and will examine the situation based on the findings of the Office once the inquiry is closed. The case demonstrates that the ethical framework applicable to the Members of the Commission provides a comprehensive set of rules and procedures.

In another matter, questions were raised if a former Member of the Commission had complied with the restrictions established by the Commission decision authorising an activity after the end of the mandate. In that case, the Commission clarified the situation both with the former Member and internally and concluded that the restrictions had been duly respected.

¹⁶ Former Commissioner Hogan’s and Former President Juncker’s ‘cooling-off periods’ ended respectively on 25 August and 30 November 2022.

2.2. Post term of office activities of the Members of the Commission

A detailed presentation of the post-mandate activities of the former Members of the Commission under the Presidency of Jean-Claude Juncker is contained in section 2.2 of the previous (fourth) report on the implementation of the Code of Conduct for the Members of the Commission ¹⁷.

An additional activity was approved by the Commission on 20 July 2022. It raises from 93 to 94 the total number of authorised post term of office activities of former Members of the Juncker Commission, including Former Commissioner Hogan, who served in the current College until 26 August 2020¹⁸.

3. CO-OPERATION WITH EXTERNAL STAKEHOLDERS

3.1. Interinstitutional Ethics Body

Discussions around the creation of an Interinstitutional Ethics Body continued in 2022, following the commitment expressed in President von der Leyen's Political Guidelines for the Commission 2019-2024 to support the creation of an Ethics Body common to all EU institutions.

On 18 February 2022, the Commission replied¹⁹ to the resolution of the European Parliament of 16 September 2021 on strengthening transparency and integrity in the EU institutions by setting up an independent EU ethics body (2020/2133(INI))²⁰.

In March 2022, President von der Leyen sent letters to the Presidents of all other EU institutions²¹ on a possible joint agreement to establish an EU Ethics Body. After receipt of the replies of all institutions in June 2022, the Commission set up a meeting with the interested institutions at technical level in September 2022. Discussions continued afterwards and in 2023, and were impacted by the allegations concerning links between certain private organisations, third countries and Members of the European Parliament.

3.2. Contacts with National Administrations and Civil Society

The Secretariat-General continued to follow developments regarding ethical standards and rules in other EU and international institutions as well as in the Member States.

¹⁷ SEC(2022) 226 of 29 May 2022 cfr https://commission.europa.eu/system/files/2022-05/sec2022226_en.pdf

¹⁸ In fact 89 activities approved, one Commission appointment and 4 'public office' activities simply 'noted' by the Commission, whereas they do not need the Commission approval in line with article 11 of the Code of Conduct for the Members of the Commission

¹⁹ SP(2022)54;
[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2133\(INI\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2133(INI)&l=en)

²⁰ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0396_EN.html

²¹ The institutions set out in Article 13 TEU as well as the Economic and Social Committee and the Committee of Regions.

The Secretariat-General had notably contacts, to share experience and discuss ethical matters, with the Belgian *Federale Deontologische Commissie/Commission fédérale de déontologie* and the European Network for Public Ethics, a network of twelve public integrity authorities from EU Member States. The contacts established help compare different rules and approaches regarding ethical rules for the political members of institutions and governments.

Where possible, the Secretariat-General also exchanged views with experts from civil society or the academic field.

4. INDEPENDENT ETHICAL COMMITTEE

Article 12 of the Code establishes an Independent Ethical Committee which, upon request of the President, advises the Commission on any ethical question related to the Code and provides general recommendations to the Commission on ethical issues relevant under the Code. In 2022, the Committee was consulted once on a general question related to the Code.

The Committee is composed of three independent external members selected for their competence, experience, independence, professional qualities, impeccable record of professional behaviour and experience in high-level functions in European, national or international institutions. The composition of the Committee reflects experiences in different institutions or functions.

On 20 July 2022, the Commission adopted a decision²² appointing the members of the Independent Ethical Committee for a period of three years, until 19 July 2025. The Commission appointed Mr Allan Rosas, a former Judge at the European Court of Justice, Ms Elisabeth Morin-Chartier, a former Member and Quaestor of the European Parliament and Mr Jerzy Plewa, a former Director-General in the Commission. Two previous members of the Committee, Ms Dagmar Roth-Behrendt and Mr Heinz Zourek, could not be reappointed after serving two terms.

The members of the Committee held their first meeting on 5 October 2022, during which they held an exchange of views with the previous members of the Committee and discussed the organisation of the future work of the Committee.

²² C(2022) 5097 - https://commission.europa.eu/system/files/2022-07/c20225097_en.pdf