



Brussels, 28.10.2020
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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Günther Oettinger's post term of office professional activity
as Member of the Supervisory Board of Herrenknecht AG**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Commission Decision of 31 January 2018 (C(2018) 700 final) on a Code of Conduct for the Members of the European Commission, and in particular Article 11(3) thereof,

Whereas:

- 1) According to Article 245(2) of the Treaty on the Functioning of the European Union, the Members of the Commission, when entering upon their duties, 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.
- 2) Article 339 of the Treaty on the Functioning of the European Union provides that the Members of the institutions of the Union shall be required, even after their duties have ceased, not to disclose information of any kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
- 3) Article 11 of the Code of Conduct for the Members of the European Commission establishes a specific procedure for the assessment of planned professional activities which the Members or former Members of the Commission intend to take up after they have ceased to hold office. The Commission shall examine the information provided in order to determine whether the nature of the planned activity is compatible with Article 245 of the Treaty on the Functioning of the European Union. If the planned activity is related to the portfolio of the Member or former Member, the Commission shall decide only after having consulted the Independent Ethical Committee unless the planned activity falls within the exceptions set out in Article 11(3), second subparagraph, lit. (a) to (f).
- 4) On 27 August 2020, Former Commissioner Günther Oettinger informed the Commission about his intention to engage in a post term of office activity as member of the Supervisory Board of Herrenknecht AG.

- 5) Herrenknecht AG is a family-run and -owned joint-stock company specialised in manufacturing tunnel-boring machines. Its headquarters is in Schwanau, Baden-Württemberg, Germany. The company was established in 1977 by Martin Herrenknecht who is its CEO still today. Its governance structure is composed of a Management Board ('Vorstand'), a Supervisory Board ('Aufsichtsrat'), which Former Commissioner Oettinger is invited to join and the General Meeting of stockholders ('Hauptversammlung').
- 6) Herrenknecht AG is part of the Herrenknecht Group, which encompasses around 70 subsidiaries and associated companies in Germany and abroad. Their products are used for tunnelling, mining and exploration. Herrenknecht presents itself as the leading premium supplier worldwide for all-round technology solutions in mechanized tunnelling for tunnel infrastructure of all kinds, as well as for underground energy source and raw materials extraction.
- 7) The purpose of the company and the envisaged activity are not specifically related to Former Commissioner Oettinger's previous portfolios since 2010. The fact that their products are used by economic operators in a variety of economic sectors like transport, raw materials or energy does not constitute a sufficient link to create an obligation to consult the Independent Ethical Committee or create otherwise a sensitive link with the previous portfolios of Former Commissioner Oettinger. The consultation of the Independent Ethical Committee is therefore not necessary.
- 8) The activity does not present any risk of incompatibility either with Former Commissioner Oettinger's role as Member of the Commission or with the interests of the institution, provided that Mr Oettinger abides by the relevant provisions of the Treaty on the Functioning of the European Union, notably Article 339, and of the Code of Conduct for the Members of the Commission, namely Article 11(1), in conjunction with Article 5, and Article 11(4) as concerns the protection of confidentiality of sensitive information, the duties of collegiality and discretion with respect to the Commission's decisions and activities during his terms of office, and the prohibition to lobby the Commission and its staff during a period of two years after his term of office on matters for which he was responsible within his portfolios.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Günther Oettinger's envisaged activity as member of the Supervisory Board of Herrenknecht AG is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the respect of the obligations imposed by Article 339 of the Treaty on the Functioning of the European Union and by the Code of Conduct for the Members of the Commission, in particular Article 11(1), in conjunction with Article 5, and Article 11(4) as concerns the protection of confidentiality of sensitive information, the duties of collegiality and discretion with respect to the Commission's decisions and activities during his term of office, and the prohibition to lobby the Members of the Commission or its staff on behalf of or for the interests of Herrenknecht AG or for the Herrenknecht Group during a

period of two years after his term of office on matters for which he was responsible within his portfolios..

Done at Brussels, on 28 October 2020.

The President
Ursula von der Leyen