



Brussels, 23.6.2021
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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 Advisory Board of the European Partnership for an Innovative
Campus Unifying Regions Alliance' (EPICUR)**

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 foreseen in paragraph 3, second subparagraph, lit. (a) to (f).
- 4) On 29 January 2021, Former Commissioner Günther Oettinger notified the Commission about his intention to become member of the Advisory Board of the European Partnership for an Innovative Campus Unifying Regions (EPICUR).
- 5) EPICUR is an academic alliance of 8 universities from across Europe in the framework of the European Universities Initiative. Its Advisory Board has a consultative role within EPICUR's governance structure. It has been formed in order to advise EPICUR on transversal topics related to its activities: education and training,

research, knowledge transfer, strengthening European regions, reinforcing multilingualism and building a virtual inter-university. It has two concrete missions: to advise the EPICUR Alliance on the project implementation, and to support and promote the EPICUR Alliance in specific domains (lobby), including on European level. As the European Universities Initiative is a pilot project launched by the European Commission in 2019, via the Erasmus+ programme, Mr Oettinger's envisaged activity for EPICUR could be seen as being linked with his former Commission portfolio on Budget and Human Resources. Against this background, and in line with Article 11(3) of the Code of Conduct for the Members of the Commission, the Independent Ethical Committee was requested, on 11 February 2021, to provide an opinion on the compatibility of Mr Oettinger's envisaged activity with Article 245 of the Treaty on the Functioning of the European Union.

- 6) The Committee delivered its opinion on 11 March 2020. The Committee examined successively the nature of the European Universities Initiative and of EPICUR, EPICUR's organisational structure, the scope of Former Commissioner Oettinger's envisaged position and the links of EPICUR with the Commission.
- 7) The Committee noted first that the European Universities Initiative is a pilot project launched by the European Commission in 2019, via the Erasmus+ programme. As regards EPICUR, the Committee noted that it is one of 17 selected academic alliances which won the 2019 call for European Universities Initiative. EPICUR is composed of 8 European universities, namely the University of Amsterdam, the University of Strasbourg, the University of Freiburg, the Aristotle University of Thessaloniki, the University of Natural Resources and Life Sciences (Austria), the Karlsruhe Institute of Technology, the University of Haute-Alsace and the Adam Mickiewicz University (Poland).
- 8) EPICUR is officially registered in Strasbourg, as the University of Strasbourg is the official programme coordinator of the alliance. EPICUR gathers around 307 000 students, 40 000 staff members, 118 faculties and 156 research groups.
- 9) EPICUR was selected under the European Universities Initiative based on the relevance of its proposal as regards its European added value, its level of ambition and innovation, the geographical balance of the participating universities, the quality of the cooperation arrangements between them and its long-term strategy for sustainability and dissemination. According to publicly available information, EPICUR's vision of a European University 'for the future is to create a place where all boundlessly mobile students, doctoral candidates and staff can acquire a broad, interdisciplinary, academic perspective strongly rooted in European traditions, irrespective of their nationality, mother tongue, cultural or socio-economic background'.
- 10) EPICUR's stated goal is to create a university that prepares 'well-informed, open-minded and responsible European citizen's to create new knowledge and become drivers of transnational innovation'. As set out on the alliance's website, EPICUR's

stated values and driving principles are those of ‘mutual trust, reciprocity, responsibility and fair partnerships’.

- 11) In order to achieve this goal, EPICUR follows four main objectives which are (1) enhancing multilingualism and intercultural awareness through a better connectivity and free movement of student, teachers, researchers and staff, (2) developing models for innovative and student-centred teaching methods, (3) providing thriving frameworks for the next generation of European researchers and (4) developing sustainable governance structures for long-term collaboration in teaching and research.
- 12) In a more concrete way, the alliance’s work is organised around six projects, which are key actions to be developed for the years to come, each managed by one or more of the partner universities. These key projects are meant to achieve EPICUR’s objectives: (1) steering the alliance, (2) promoting multilingualism and inclusive governance, (3) implementing innovative methods of learnings, (4) open the way to an inter-university campus using a student and staff-centred approach, (5) strengthen and connect European regions and (6) disseminating and sharing good practices and sustainable cooperation.
- 13) As regards EPICUR’s organisational structure, the Committee noted that it is essentially composed of a Steering Committee, a Project Management team, a Student Board and an Advisory Board. The Steering Committee is the main decision-making body and is composed of 8 voting members, with 1 representative from each partner university. The Project Management team is the day-to-day management organ of the alliance and is responsible for establishing the links between local partners and the Steering Committee. It is also in charge of ensuring correct and timely execution of the alliance’s project by all partners. As regards the Student Board, this organ is composed of 15 students representing all partner universities.
- 14) The Committee underlined that the Advisory Board, to which Former Commissioner Oettinger has been invited, is a consultative organ of the alliance. It advises the Steering Committee and is presented as a ‘space of exchange between European experts, where EPICUR’s strategies will be discussed and recommendations sought in order to enhance EPICUR’s influence among European institutions’. Members of the Board are required to ‘provide recommendations for governance and indications on how the Advisory Board can help disseminating EPICUR results in the EU’.
- 15) The Committee noted that, at the current stage, the Advisory Board is still in a set-up phase and is expected to be composed of 8 members: 2 from academia, 2 from the industry/research area, 2 from civil society and 2 from the political sphere. The Chair of the Steering Committee is also expected to chair the Advisory Board. Other members of the Steering Committee will participate in the Advisory Board meetings, but without being considered as members. According to information provided by Former Commissioner Oettinger, the Advisory Board is expected to meet with the Steering Committee twice in 2021 and twice in 2022 or ‘with such frequency as the

Steering Committee deems necessary'. In addition, the Steering Committee may contact the Board 'by written procedure in between meetings to discuss on specific matters'.

- 16) The Committee furthermore recalled the information provided by Mr Oettinger, according to which the members of the Advisory Board are expected 'through their capacity', to represent the alliance's interest and 'through lobbying' to help advance EPICUR's interests on a European level.
- 17) The Committee went on assessing the nature of Former Commissioner Oettinger's envisaged position as a member of EPICUR's Advisory Board. The Committee underlined Mr Oettinger's statement that this was an honorary function, although travel and accommodation for attending meetings and activities could be supported by the alliance. He would be expected to sign a code of conduct once officially nominated.
- 18) The Committee furthermore underlined that, as a member of the Advisory Board, Former Commissioner Oettinger would be expected to advise the EPICUR Steering Committee on 'transversal topics related to its activities: education and training, research, knowledge transfer, strengthening European regions, reinforcing multilingualism and building a virtual inter-university'. According to information provided by Mr Oettinger, he would be expected to advise the alliance on the project implementation and support the EPICUR alliance in specific domains, answer questions from the Steering Committee, comment on specific decisions before their approval and include perspective through his vast knowledge, as well as participate in the dissemination of EPICUR's work, notably through the diffusion of information within his network.
- 19) Finally, on EPICUR's links with the European Commission, the Committee noted that EPICUR is not registered in the Joint Transparency Register of the European Parliament and the European Commission. Among the partner universities of the alliance, three are registered in the Joint Transparency Register: the Aristotle University of Thessaloniki, the Karlsruhe Institute of Technology and the University of Natural Resources and Life Sciences. The Committee also noted, according to the Financial Transparency System of the European Commission, that the University of Strasbourg, in its capacity of programme coordinator for the alliance, was the recipient of EUR 5 million granted over three years by the European University Initiative and the Erasmus + programme. This financial commitment is under the responsibility of EACEA (Education, Audiovisual and Culture Executive Agency).
- 20) On this basis, the Committee assessed the compatibility of the envisaged activity against the framework of the applicable legal context.
- 21) First, and in line with previous opinions, the Committee noted that the Members of the Commission have a right to engage in work and to pursue a freely chosen or accepted

occupation after the term of their office, yet knowing that this right needs to be balanced with the obligations set out in Article 245 TFEU and the Code of Conduct for the Members of the European Commission.

- 22) Concerning Mr Oettinger's envisaged activity, and on the basis of its nature and circumstances as described above, the Committee considered that it does not represent a risk with regard to the interests of the Commission and the European Union. Mr Oettinger will not be remunerated for his position and will only meet twice in 2021 and twice in 2022 with other members of the Board and the Steering Committee. In addition, the envisaged position is not directly linked to the acquisition or distribution of EU funds. Furthermore, the Former Commissioner's envisaged contribution to participate in the EPICUR's project is fully in line with the European Commission's policies and objectives.
- 23) The Committee concluded that there were no legal or other impediments pleading against authorising Mr Oettinger to accept the function of member of the Advisory Board of EPICUR. It stressed, however, that a number of restrictions and conditions should be recalled and set out explicitly in the Commission decision in order to ensure the compatibility of the activity with the obligations applying after the end of the mandate. The Committee referred in particular to future decisions on the allocation of funds from the European budget implemented directly by the Commission or other EU bodies such as executive agencies. In this regard, the Committee advised to recall explicitly a number of provisions of the Code of Conduct and the Treaty on the Functioning of the European Union. As regards Article 11(4) of the Code, it highlighted that the term 'lobbying' includes indirect lobbying in the sense of influencing the Commission 'through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions' as set out in paragraph 7 of the Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation and applies independently of the location of the employment. The Committee underlined that the prohibition to lobby does not affect participation in public events or general exchanges of, and on, publicly available information with Members of the Commission or Commission staff.
- 24) The Commission has considered the Independent Ethical Committee's opinion and shares its conclusions.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Günther Oettinger's envisaged activity as member of the Advisory Board of the European Partnership for an Innovative Campus Unifying Regions (EPICUR) is

compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the following conditions and restrictions :

- In accordance with Article 11(4) of the Code of Conduct for the Members of the Commission, during a period of two years following his term of office, Former Commissioner Oettinger shall refrain from lobbying the Members of the Commission or their staff, directly or indirectly, on behalf of EPICUR or of any of the Universities which are part of this alliance, on matters for which he was responsible within his portfolios, in particular as concerns future decisions of the Commission on the allocation of funds.
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Oettinger shall refrain from participating in any activity or decision-making procedure within EPICUR which might involve using information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components. Should any activity of the Advisory Board of EPICUR be related to such protected information and the former Commissioner be involved in this activity, he should recuse himself from this discussion or file;
- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Oettinger remains bound by the duties of collegiality and discretion, with respect to the Commission’s decisions and activities during his terms of office. This includes not only refraining from disclosing what was said at meetings of the Commission, but also a general duty to apply a high sense of discretion with regard to the use of information and insights that former Commissioner Oettinger obtained during his mandate, be it within his portfolio responsibilities or within the College;
- In line with Article 13(2) of the Code of Conduct for the Members of the Commission, Former Commissioner Oettinger shall inform the President of the Commission, in a timely manner, if and when he has a doubt with regard to the application of the present Decision or to his obligations deriving from the Treaty on the Functioning of the European Union and the Code of Conduct for the Members of the Commission before acting on the matter in relation to which the doubt arises.

Done at Brussels, on 23 June 2021.

The President
Ursula von der Leyen