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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Carlos Moedas' post term of office professional activity for
the Aga Khan University**

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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,

Considering that:

- 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, litt. (a) to (f).

- 4) On 24 March 2021, Former Commissioner Carlos Moedas notified his intention to accept an assignment as member of the Chancellor's Commission of the Aga Khan University. Active in Pakistan, in Kenya, in Tanzania, in Uganda, in Afghanistan and in the United Kingdom, the Aga Khan University, together with the Aga Khan Foundation and the other entities forming the Aga Khan Development Network, is an important lever of His Highness the Aga Khan's philanthropic worldwide action towards the Ismaili Community, whose spiritual leader he is. Research appears to be crucial at the level of the Aga Khan University but also, more generally, at the level of the Aga Khan Development Network. Against this background, and notwithstanding the exception foreseen by Article 11(3), second subparagraph, lit. (d) of the Code of Conduct for the Members of the Commission, the Independent Ethical Committee was consulted, on 19 May 2021, on the compatibility of Mr Moedas' envisaged activity with Article 245 of the Treaty on the Functioning of the European Union.
- 5) The Committee delivered its opinion on 29 May 2021. The Committee analysed the nature of the Aga Khan University, in the overall context of the Aga Khan Development Network, its composition, its governing structure, its funding, its links with the European Commission and Former Commissioner Moedas' expected position.
- 6) The Committee observed that the Aga Khan University is one of ten entities which compose the Aga Khan Development Network. The latter works in over 30 countries through a wide variety of programmes and appears as the overall framework under which are carried out all His Highness the Aga Khan's philanthropic, social, cultural, educational and academic activities.
- 7) The Committee noted that the Aga Khan University is an autonomous university created in 1983. It is chartered by the Government of Pakistan as an international university with the authority to operate programmes and campuses anywhere in the world. The Aga Khan University has currently more than 2 800 students in several campuses across six countries, namely Pakistan, Kenya, Tanzania, Uganda, Afghanistan and the United Kingdom.
- 8) According to Article 4 of its Charter, the purposes of the University are the promotion and dissemination of knowledge and technology and to provide for instruction, training, research, demonstration and service in the health sciences and such other branches of learning in Pakistan and abroad. Moreover, the University is a fully autonomous body with freedom to govern its academic functions in order to achieve its objectives.
- 9) The two main departments of the University are its Faculty of Arts and Sciences and its Faculty of Health Sciences. In addition, as part of its health sciences program, the Aga Khan University operates 7 teaching hospitals and 300 outreach medical centres in South Asia and East Africa.

- 10) The Committee underlined that the University's governance structure is composed of a Chancellor (His Highness the Aga Khan), a Board of Trustees, composed of 16 members, which ensures the general supervision and control of the University, and a President who is also the Chief Executive Officer of the University. The latter bears overall responsibility for the direction, organisation, administration and programmes of the University in accordance with the guidelines and general policies formulated by the Board of Trustees and for the implementation of the decisions and policies of the Board of Trustees.
- 11) As regards the Aga Khan University's links with the Commission, the Committee noted that, according to the Financial Transparency System of the European Commission, the University received EU funds: In 2017, the Aga Khan University was the beneficiary of a grant with 13 other universities from the Education, Audiovisual and Culture Executive Agency in the framework of the 'Development Cooperation Instrument' for an action called 'international higher education capacity building'; in 2018, the Aga Khan University received a grant from the European Research Council Executive Agency in the framework of the programme 'Horizon 2020' for 'exploring cultural memory in the pre-modern Islamic world; and in 2019, the Aga Khan University, together with seven other universities, were the beneficiaries of a grant for an action called 'leveraging evidence to reduce perinatal mortality and morbidity'. This grant was awarded by the Directorate-General for Research and Innovation in the framework of the programme 'Horizon 2020'.
- 12) The Committee furthermore noted that the Aga Khan University is not registered in the Joint Transparency Register of the European Parliament and the Commission.
- 13) In relation to Former Commissioner Moedas's position, the Committee underlined that it will consist of serving as member of the Chancellor's Commission, which will include 12-14 core members, the majority of which external to the university. Only five members will be from the Aga Khan University's Board of Trustees.
- 14) The Committee noted that the Commission to which Mr Moedas has been invited is expected to reflect on the University's activities since its creation, to conduct an assessment of the development of the institution in its first 40 years, to propose a roadmap for its next 25 years and to provide recommendations on the future of the University and higher education.
- 15) Furthermore, the Commission will address questions concerning geographical balance, growth into a full-scale liberal arts University, the future of its health services interests, strategies to strengthen capacity for high impact research, institutional viability and sustainability, and the intellectual, technical and financial resources and governance structures necessary to achieve Aga Khan University's future ambitions.

- 16) It is expected that the Commission will meet approximately six times over a two-year period (June 2021- June 2023). The primary deliverable for the Commission will be a formal report which will be reviewed and approved by its members before its submission to the Chancellor in 2023.
- 17) On the basis of the facts established, the Committee assessed the compatibility of Former Commissioner Moedas's envisaged activity for the Aga Khan University, against the framework of the applicable legal context.
- 18) First, and in line with previous opinions, the Committee recalled that former 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, while this right needs to be balanced with the obligations set out in Article 245 of the Treaty on the Functioning of the European Union and in the Code of Conduct for the Members of the European Commission. The Committee underlined that the balance has to be proportionate. It can be achieved by imposing restrictions and conditions on a new professional activity where those restrictions and conditions would be more proportionate than a simple prohibition or authorisation of an activity. The Committee underlined that the Code of Conduct provides the framework in which the Commission had to establish this balance between the rights and obligations of its Members with regard to concrete, new activities. The Committee noted that this balance cannot be established based on an automatic scheme and requires a case-by-case approach, which takes into account the context and particularities of each individual.
- 19) Concerning specifically Mr Moedas' expected activity, the Committee considered that it does not represent a risk with regard to the interests of the Commission and the European Union. Mr Moedas will only meet six times over a two-year period (June 2021- June 2023) with other members of the Chancellor's Commission. In addition, the envisaged position is not directly linked to the acquisition or distribution of EU funds and will normally not require any interaction with the European Commission.
- 20) The Committee considered that there were no legal or other impediments to accepting an assignment as member of the Chancellor's Commission of the Aga Khan University. However, a number of restrictions should be recalled and set out explicitly in the Commission decision based on Article 11(3) of the Code of Conduct, in order to ensure the compatibility of the activity with the obligations applying after the end of the mandate.
- 21) The Committee considered that the Commission should recall, in its decision, the provisions of Article 11(4) of the Code, which provides that 'Former Members shall not lobby Members or their staff on behalf of their own business, that of their employer or client, on matters for which they were responsible within their own portfolio'. This would also cover any potential activity with a view to obtaining EU funding.

- 22) The Committee also noted that there is a risk that specific information or insights that Former Commissioner Moedas obtained during his term of office are relevant to the work of the Chancellor's Commission of the Aga Khan University. This might concern information obtained in areas falling within his previous portfolio in the Commission or in other areas in which he was involved via his collegial responsibilities in the Commission.
- 23) The Committee thus noted that the Commission decision should stress that, according to Article 339 of the Treaty on the Functioning of the European Union, Members of the Commission are required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
- 24) The Committee furthermore considered that the Commission decision should also underline the importance for Former Commissioner Moedas to comply with the duties of collegiality and discretion, as laid down in Article 11(1) and Article 5 of the Code of Conduct, with respect to the Commission's decisions and activities during his term 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 Moedas obtained during his mandate, be it within his portfolio responsibilities or within the College. In this context, the Committee noted that compliance with this restriction is particularly important concerning information relating to Mr Moedas's former portfolio on Research, Science and Innovation, which may be of interest for the Chancellor's Commission. Should any activity of this Commission be related to such protected information and should the Former Commissioner be involved in this activity, he should recuse himself from this discussion or file.
- 25) Finally, the Committee noted that the Commission decision should recall that, in case former Members have a doubt with regard to their obligations, they must inform the President of the Commission in a timely manner and before acting on the matter relating to which the doubts arise, according to Article 13(2) of the Code.
- 26) Therefore, based on the above-mentioned information, the Committee concluded that Former Commissioner Moedas' envisaged activity as member of the Chancellor's Commission of the Aga Khan University would be compatible with Article 245 of the Treaty on the Functioning of the European Union, subject to the respect of the conditions as specified in its opinion.
- 27) The Commission has considered the Independent Ethical Committee's opinion and shares its conclusions.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Moedas' envisaged activity as member of the Chancellor's Commission of the Aga Khan University is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the respect, by Mr Moedas, of the general obligations which apply to former Members of the Commission under the Treaties and the Code of Conduct for the Members of the Commission and, in particular, subject to the following conditions:

- 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 Moedas shall refrain from lobbying Members of the Commission or Commission staff on behalf of the Aga Khan University or of any of the entities forming the Aga Khan Development Network on matters for which he was responsible during his mandate. This includes in particular the prohibition to lobby in view of obtaining funds from EU programmes falling within Mr Moedas' previous portfolio responsibilities. Lobbying' includes also indirect lobbying in the sense of Article 3(2) of the 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 which covers activities carried out with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the Institutions of the European Union including inter alia: (a) organising or participating in meetings, conferences or events, as well as engaging in any similar contacts with Union institutions; (b) contributing to or participating in consultations, hearings or other similar initiatives; (c) organising communication campaigns, platforms, networks and grassroots initiatives; (d) preparing or commissioning policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out research.
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Moedas shall refrain from participating in any activity or decision-making procedure within the Aga Khan University 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;
- Mr Moedas shall also refrain from participating in any activity, any decision-making procedure or any discussion which might be related to protected information he acquired in the context of his functions as Member of the Commission, namely with regard to his former portfolio responsibilities.

- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Moedas remains bound by the duties of collegiality and discretion with respect to the Commission’s decisions and activities during his term of office. This includes not only refraining from disclosing what was said at meetings of the Commission but also refraining from calling into question decisions taken by the Commission during his term of office as well as a general duty to apply a high sense of discretion with regard to the use of information and insights that he has 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 Moedas shall inform the President of the Commission, in case of doubt with regard to the application of the Code of Conduct or the application of this decision, in a timely manner and before acting on the matter relating to which the doubts arise.

Done at Strasbourg, on 6 July 2021.

The President
Ursula von der Leyen