



Brussels, 21.12.2018  
C(2018) 9184 final

**COMMUNICATION TO THE COMMISSION**

**ON THE PUBLICATION OF INFORMATION CONCERNING OCCUPATIONAL  
ACTIVITIES OF SENIOR OFFICIALS AFTER LEAVING THE SERVICE  
(ARTICLE 16, FOURTH PARAGRAPH OF THE STAFF REGULATIONS)**

## **COMMUNICATION TO THE COMMISSION**

### **ON THE PUBLICATION OF INFORMATION CONCERNING OCCUPATIONAL ACTIVITIES OF SENIOR OFFICIALS AFTER LEAVING THE SERVICE (ARTICLE 16, FOURTH PARAGRAPH OF THE STAFF REGULATIONS)**

#### **Annual Report 2018**

On the basis of Article 16 of the Staff Regulations<sup>1</sup>, officials, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Those former officials who intend to engage in an occupational activity within two years of leaving the service shall inform the Institution thereof in order to enable it to take an appropriate decision in this respect and, when necessary, to forbid an activity or give the approval subject to appropriate restrictions.

The third paragraph of Article 16 of the Staff Regulations stipulates that for former senior officials the Appointing Authority shall, in principle, prohibit them, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former Institution for their business, clients or employers on matters for which they were responsible during the last three years in the service.

The fourth paragraph of Article 16 of the Staff Regulations foresees that, in compliance with the relevant data protection rules<sup>2</sup>, each Institution shall publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

The Commission explains below the criteria it has chosen in order to ensure the implementation of its obligation, and presents its analysis. In annex to this publication, the Commission provides summary information in relation to the decisions taken under this provision.

The Commission, in its publication, is basing itself on its obligation under the fourth paragraph of Article 16 of the Staff Regulations in combination with the relevant data protection rules<sup>3</sup>.

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<sup>1</sup> As last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ L 287, 29.10.2013, p. 15).

<sup>2</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

<sup>3</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

## **The criteria applied to implement the third paragraph of Article 16 of the Staff Regulations**

### *Definition of senior officials*

In line with the third paragraph of Article 16 of the Staff Regulations the following categories of staff are concerned:

- Directors-General or Deputy Directors-General (including officials that have been called upon to occupy temporarily such posts in accordance with Article 7(2) of the Staff Regulations) and “Hors Classe” Advisors, having exercised either of these functions at any time during their last three years before leaving the service;
- Directors (including officials that have been called upon to occupy temporarily such post in accordance with Article 7(2) of the Staff Regulations) and Principal Advisers, having exercised either of these functions at any time during their last three years before leaving the service;
- Heads of Cabinet, having exercised this function at any time during their last three years before leaving the service.

### *The decision making procedure in the case of the third paragraph of Article 16 of the Staff Regulations*

Notifications by former senior managers about an envisaged activity are treated as any such notification by all staff. The Directorate-General for Human Resources and Security receives the notification and collects the views of the former service(s) in which the former official has worked during the last three years of service, the respective cabinet(s), the Secretariat-General, the Legal Service and the Joint Committee. It is on the basis of these different views that the final decision is taken by the Appointing Authority.

### *The occupational activities concerned*

The activities as described in the third paragraph of Article 16 of the Staff Regulations, are those which constitute lobbying or advocacy vis-à-vis staff of the former senior manager's former Institution for their business, client or employers on matters for which they were responsible during the last three years in the service. Such activities shall in principle be prohibited by the Appointing Authority during the 12 months after leaving the service.

The Commission did not limit its analysis to envisaged activities whose only object or core object would have been lobbying or advocacy activities. Certain notifications concerned activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could, because of their nature, actually or potentially give rise to, or entail, lobbying or advocacy as stated in the third paragraph of Article 16 of the Staff Regulations. In such instances, the Commission has decided to widen the analysis to take account of these possibilities and to assess the notified activity within the framework of the third paragraph of Article 16 of the Staff Regulations.

The Commission further clarifies that the present information covers activities that have been notified and effectively undertaken. In line with the legal provisions in force, it does not

cover notifications received and relating to activities which could not, by their very nature, give rise to or entail such lobbying or advocacy.

The present publication is the fourth annual information released by the Commission on the implementation of the fourth paragraph of Article 16 of the Staff Regulations.

#### *Number of activities concerned*

Bearing in mind that one notification may refer to several activities, and that one decision may likewise cover several activities, the present information is presented by activities examined, so as to provide for an exhaustive overview.

### **Analysis**

The present information covers the cases in which the Appointing Authority has taken a decision under the third paragraph of Article 16 of the Staff Regulations, in the year 2017.

The Commission did not receive any notification of an activity where the only or core purpose was that of lobbying or advocacy. There has thus been no corresponding decision of the Appointing Authority.

The Commission has however received notifications concerning 5 envisaged activities which, even if lobbying or advocacy was excluded at the point in time of the notification, could because of their nature, actually or potentially, give rise to, or entail, lobbying or advocacy as stated in the third paragraph of Article 16 of the Staff Regulations in particular for situations in the future. The Appointing Authority has therefore deemed it advisable, as explained above, to assess these particular activities in the framework set by the third paragraph of Article 16 of the Staff Regulations. This has led the Appointing Authority to impose a prohibition of lobbying or advocacy in a conditional authorisation. In other cases, the Appointing Authority reminded the former senior official to bear in mind the rules under the third paragraph of Article 16 of the Staff Regulations in the future.

The 5 decisions which have been taken in 2017, in line with the third paragraph of Article 16 of the Staff Regulations, are summarised below.

## **Summary of relevant Decisions by the Appointing Authority in 2017:**

End of Service: 31 August 2017

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### **CONCERNS**

Mr Detlef ECKERT

Former Director DG EMPL

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### **NEW ACTIVITY**

Senior Advisor for Huawei Technologies Ltd in Brussels, Belgium

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### **DECISION**

Mr Detlef Eckert sought authorisation to become Senior Advisor for Huawei Technologies Ltd in Brussels, Belgium.

The Appointing Authority gave its approval to Mr Eckert to carry out this activity subject to the following conditions:

- As a former senior manager, according to third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr Eckert was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on matters for which he was responsible during the last three years of service;
- Mr Eckert should also make it clear that as from the date of leaving the Commission he would act on this personal capacity never committing the interest or opinions of the Commission;
- Mr Eckert was furthermore required to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations). In this context, Mr Eckert shall refrain from exploiting insights of confidential nature in policy or strategy that he may have acquired in the line of service that have not yet been public or are not commonly available in the public domain.

Mr Eckert was also reminded of the applicable Staff Regulations provisions.

End of Service: 30 June 2017

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## **CONCERNS**

Mr Karl-Friedrich FALKENBERG

Former Senior Adviser for EPSC

Former Director-General for DG ENV

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## **NEW ACTIVITY**

Member of two advisory board meetings per year for the independent advisory board on sustainability 'European Aluminium' in Brussels, Belgium

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## **DECISION**

Mr Karl-Friedrich Falkenberg sought authorisation to participate as member of two advisory board meetings per year for the independent advisory board on sustainability 'European Aluminium' in Brussels, Belgium.

The Appointing Authority gave its approval to Mr Falkenberg to carry out this activity subject to the following conditions:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 12 months after leaving the service, Mr Falkenberg was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on matters for which he was responsible during the last three years in the service;
- Mr Falkenberg was also required to make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission;
- Mr Falkenberg was furthermore required to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

Mr Falkenberg was also reminded of the applicable Staff Regulations provisions.

End of Service: 31 December 2016

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## **CONCERNS**

Mr Jonathan FAULL

Former Director-General in the Secretariat-General

Former Director-General for DG FISMA

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## **NEW ACTIVITY**

Sole shareholder and administrator of 'Faull Consulting SPRL'

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## **DECISION**

Mr Jonathan Faull sought authorisation as sole shareholder and administrator of 'Faull Consulting SPRL'.

The Appointing Authority gave its approval, subject to certain conditions, to Mr Faull to carry out this activity but explicitly required him to notify the Commission, by introducing a specific request under Article 16 of the Staff Regulations, when he intends to engage in a specific activity or group of activities within the framework of "Faull Consulting SPRL" during the two years after leaving the service.

In addition, the following conditions were imposed for this activity:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 18 months after leaving the service, he was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on matters for which he was responsible during the last three years of service as Director-General in the Secretariat-General and for DG FISMA and on any matter related to Commission's activities;
- During the 2 years period after the date of his retirement, Mr Faull was required also to refrain from having professional contacts for his clients with his former colleagues in the Secretariat-General and DG FISMA;
- Mr Faull was also required to make it clear to his interlocutors that this activity is carried out in his personal capacity, not representing in any way the position or interests of the Commission;
- Mr Faull shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations).

Mr Faull was also reminded of the applicable Staff Regulations provisions.

End of Service: 31 December 2016

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## **CONCERNS**

Mr Jonathan FAULL

Former Director-General in the Secretariat-General

Former Director-General for DG FISMA

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## **NEW ACTIVITY**

Chair of the Public Affairs – Europe for Brunswick Group and partner in its Brussels office

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## **DECISION**

Mr Jonathan Faull sought authorisation to engage, via his company “Faull Consulting SPRL”, as Chair of the Public Affairs – Europe for Brunswick Group and partner in its Brussels office.

The Appointing Authority gave its approval to Mr Faull to carry out this activity subject to the conditions imposed for his activity as sole shareholder and administrator of ‘Faull Consulting SPRL’, as they would fully apply because he would provide his services via his company.

In addition the Appointing Authority imposed the following additional restrictions:

- Mr Faull was required to refrain, during 18 months after leaving the service, from giving advice to clients on specific files for which he was responsible while in the service;
- During 24 months after leaving the service, he was required to refrain from contributing to Brunswick's activities or to Brunswick client's files directly linked to the conduct of negotiations under Article 50 TEU; by way of example, this may include, inter alia, advising Brunswick Group or its clients, on the development of opinions, recommendations, studies, position papers or decisions conceived for or to be used within the conduct of the negotiations under Article 50 TEU;
- Mr Faull was also required to make it clear that the result of his activity (for example, advice, position papers, opinions) is not to be used in the framework of the negotiations under Article 50 TEU.



End of Service: 31 December 2016

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## **CONCERNS**

Mr Jonathan FAULL

Former Director-General in the Secretariat-General

Former Director-General for DG FISMA

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## **NEW ACTIVITY**

Consultant for the 'Caisse de dépôt et placement du Québec', Canada

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## **DECISION**

Mr Jonathan Faull sought authorisation as consultant for the 'Caisse de dépôt et placement du Québec', Canada.

The Appointing Authority gave its approval to Mr Faull to carry out this activity subject to the following conditions:

- As a former senior manager, according to the third paragraph of Article 16 of the Staff Regulations, during 18 months after leaving the service, Mr Faull was not allowed to engage in lobbying or advocacy vis-à-vis staff of the Commission on matters for which he was responsible during the last three years of service as Director-General in the Secretariat-General and for DG FISMA and on any matter related to Commission's activities;
- Mr Faull was also required, during 24 months after leaving the service, to abstain from having professional contacts for "Caisse de dépôt et placement du Québec" with his former colleagues in the Secretariat-General and DG FISMA;
- Mr Faull shall refrain also from any unauthorised disclosure of information received in the line of duty during your work at the Commission, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations), and, in this context, refrain from exploiting insights of confidential nature in policy, strategy or internal processes that he may have acquired in the line of service and that have not yet been public or are not commonly available in the public domain.

Mr Faull was also reminded of the applicable Staff Regulations provisions.