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DECISION OF THE EUROPEAN COMMISSION

on Former Commissioner Janusz Wojciechowski's post term of office professional activities as lawyer and in the context of charity foundation 'Helping the Wronged'

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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 the second paragraph of Article 245 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 paragraph 3, second subparagraph, litt. (a) to (f).
- 4) Article 12 of the Code of Conduct establishes that, on request of the President, the Independent Ethical Committee shall advise the Commission on any ethical question

related to the Code and provide general recommendations to the Commission on ethical issues relevant under the Code.

- 5) On 23 August 2024, Commissioner Janusz Wojciechowski informed the Commission of his intention, on the one hand, to resume, following the end of his mandate as Member of the Commission, his former professional activity as an ‘advocate’ and to reestablish a law firm in Poland and, on the other hand, to be active in a charity foundation he had set up, named *‘Helping the Wronged’*. Mr Wojciechowski underlined that he had practised the profession of ‘advocate’ between 1993 and 2016, before his appointment to the European institutions. As concerns ‘Helping the Wronged’, Mr Wojciechowski explained that this charity provides free legal assistance to people affected by unjust judgements in criminal and family matters. Mr Wojciechowski underlined that he is specialised in criminal and family matters, the domain at the core of his envisaged post term of office activities but unrelated to the scope of his Commission responsibilities.
- 6) Mr. Wojciechowski emphasised his awareness of his obligations as a former Member of the Commission and more precisely as concerns the avoidance of conflicts of interests. Mr Wojciechowski thus stated his determination, as concerns both activities, to refrain from taking up matters directly related to his function in the Commission.
- 7) The potentially very broad range of clients and areas of law covered by this profession, combined with the strict professional secrecy linked to this profession, raises the question whether, and if so, which restrictions are necessary and appropriate to ensure the compatibility of the activity as lawyer with Article 245 of the Treaty on the Functioning of the European Union. Against this framework, in line with Article 12(1) of the Code of Conduct for the Members of the Commission, the Independent Ethical Committee was consulted, on 12 September 2024, to provide an opinion on the compatibility of Mr Wojciechowski’s envisaged activities with Article 245 of the Treaty on the Functioning of the European Union.
- 8) The consultation request underlined that, on 18 December 2020, the Independent Ethical Committee had already delivered an Opinion on former Commissioners’ post term of office activities as lawyers, and more precisely on the appropriate conditions and restrictions which should be set in any Commission Decision authorising this activity. The request for an opinion also covered Commissioner Wojciechowski’s envisaged involvement with *‘Helping the Wronged’*, in view of the link between this charity and Mr Wojciechowski’s intended post term of office activity as ‘advocate’.
- 9) Mr Wojciechowski was informed about the consultation of the Independent Ethical Committee and, at the request of the Committee, provided additional information on his envisaged post term of office activities on 21 October 2024.
- 10) The Committee delivered its opinion on 8 November 2024.

The Independent Ethical Committee's assessment of Mr Wojciechowski's activity as 'advocate' ("*adwokat*" = lawyer)

- 11) The Committee : (1) recalled the legal framework applicable to the assessment of Former Commissioners' post term of office activities; (2) established the nature of Commissioner Wojciechowski's envisaged activity as 'advocate', namely against the framework of the Polish legal background; (3) assessed the scope of Mr Wojciechowski's envisaged activity as 'advocate' notably against the framework of the Committee's opinion of 18 December 2020 on Former Commissioners' activities as lawyers; and, finally (4) drew its conclusions on the restrictions and conditions which the Committee deemed necessary in order to ensure the compatibility of Mr Wojciechowski's envisaged activity as 'advocate' with Article 245 of the Treaty on the Functioning of the European Union.
- 12) On the basis of the Polish legal framework in force, the Committee considered that the nature of the activity mentioned by Mr Wojciechowski as 'advocate' (in Polish "*adwokat*"), was equivalent to the activity as lawyer, such as assessed by the Committee in its above mentioned opinion of 18 December 2020.
- 13) As regards the scope of the activity, the Committee noted that, as notified to the Commission, the scope of Commissioner Wojciechowski's envisaged activity as lawyer would be well-defined and specific and would involve representing clients in the specific fields of criminal or family law and providing legal advice in these areas.
- 14) Given Commissioner Wojciechowski's specialisation in criminal and family law, the Committee noted the unlikeliness that Mr Wojciechowski activities as a lawyer would conflict with the areas for which he was responsible as Commissioner for Agriculture. The potential activities and legal areas would allow Commissioner Wojciechowski to focus on activities which would be compatible with Article 245 TFEU. The Committee considered that the Commission would therefore only have to impose restrictions and conditions ruling out activities in specific areas and for specific clients.
- 15) The Committee furthermore assessed the scope of Mr Wojciechowski envisaged activity as lawyer, establishing the link between this precise activity and the general features of the activity as lawyer such as assessed in the Committee's above mentioned Opinion of 18 December 2020. In this opinion, the Committee had already assessed the issue of the compatibility of the profession of lawyer with Article 245 Treaty on the Functioning of the European Union and had recommended conditions and restrictions that should be set out in any Commission decision authorising the profession of lawyer in similar situations in the future, as regards an activity as lawyer.
- 16) In this context, the Committee also took into account its opinion of 19 June 2020 regarding Former Commissioners' post term of office activities in relation to consulting services. This latter opinion of was taken into account by the Committee to formulate its proposed restrictions on lobbying and interest representation.
- 17) The Committee went on analysing the extent to which the restrictions proposed by the Committee in both opinions mentioned above would be applicable to Mr Wojciechowski's activity as lawyer.

- 18) The Committee successively covered the restrictions: (1) on lobbying or interest representation; (2) on the obligations of confidentiality and discretion; (3) on the duties of collegiality and discretion; and (4) on the general duties of integrity and discretion.
- 19) Taking into account its opinions on previous comparable post term of office activities, the Committee considered the question of the implementation of the restrictions. In several past opinions, the Committee recommended imposing an obligation of regular information every six months until the end of the two-year period following the end of the term. In the present case, in view of the nature of the work that was announced and the low probability of a conflict of interest, the Committee considered that Commissioner Wojciechowski should only report if there arises an overlap between the activities of his law firm and his former Commission portfolio, within the limits of what is allowed under Polish law. Given the potentially sensitive character of such commercial and personal information and the privacy of third parties, this information should be treated confidentially by the Commission, in case Commissioner Wojciechowski asks for such confidentiality.
- 20) As a result of its analysis, the Committee came to the conclusion that the Commission should impose the following restrictions and conditions on Commissioner Wojciechowski's envisaged activity as lawyer:
 - a) Commissioner Wojciechowski should not lobby the Commission, its Members or staff, or any of its Executive Agencies on behalf of his clients during a period of two years after the end of his term as Commissioner.
 - b) Commissioner Wojciechowski should strictly respect Article 339 TFEU, which provides that 'The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be 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.'
 - c) Commissioner Wojciechowski should not disclose what was said at meetings of the Commission.
 - d) Commissioner Wojciechowski should not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his term of office.
 - e) Commissioner Wojciechowski should not advise or represent clients in areas in which he has access to confidential or sensitive information or insights and for which these information and insights are essential for providing advice. This refers notably, but not exclusively to specific files in which Commissioner Wojciechowski was personally involved through his portfolio responsibility or as Member of the College (e.g. contracts, policy files, grants, cases, claims, investigations, legislative procedures or negotiations) which are ongoing or, if those are already closed, which are directly connected to them.

- f) Commissioner Wojciechowski should not advise or represent clients in matters, which serve to question or contest decisions and activities that the Commission adopted or performed while he was a Member of the Commission.
- g) Commissioner Wojciechowski should not, on behalf of his clients, contact the Directorate-General for Agriculture of the European Commission, during a period of two years after the end of his term as Commissioner.
- h) Commissioner Wojciechowski should not advise or represent clients in relation to areas for which he was responsible or in relation to other areas if these clients were major stakeholders in his former areas of portfolio responsibility. ‘Major stakeholder’ is to be understood in this context in terms of significance of the stakeholder for the specific market, significance of the impact of the Commission activities in this area on the stakeholder and significance of the involvement of the stakeholder in the EU decision-making process in this area such as lobbying activities towards the Commission. The area concerned is agriculture. This restriction should apply for a duration of two years after the end of his term as Commissioner.
- i) Commissioner Wojciechowski should inform the Commission if there arises a possible overlap between the activities of his law firm and his former Commission portfolio, within the limits of what is allowed under Polish law. The Commission should treat this information as confidential in case Commissioner Wojciechowski asks for such confidentiality.
- j) Given that the obligations of Article 245 TFEU are not limited in time, Commissioner Wojciechowski should continue to respect the duty to behave with integrity and discretion as regards the acceptance of certain mandates or clients after the end of the period of two years following his mandate.
- k) In case of doubt about the compliance of a mandate or client with these restrictions, Commissioner Wojciechowski should inform the President of the Commission according to Article 13(2) of the Code of Conduct.

The Independent Ethical Committee’s assessment of Mr Wojciechowski’s involvement with charity foundation ‘*Helping the Wronged*’

- 21) The Committee assessed the nature of Commissioner Wojciechowski's intended activity with regard to the charity foundation ‘*Helping the Wronged*’, assessed the scope of this activity and took note of the clarifications provided by Mr Wojciechowski, at the request of the Committee, regarding the fact that the charity's full name (in Polish) was yet to be determined, knowing nonetheless that its primary objective would be to offer legal advice to individuals who cannot afford it.
- 22) The Committee noted that the charity foundation would initially operate with a minimal structure, consisting solely of Commissioner Wojciechowski himself, and that its

financing would solely come from Commissioner Wojciechowski's private resources, without recourse to external donors or partnerships.

- 23) The Committee underlined that, according to Article 11(2)(a) of the Code of Conduct for the Members of the Commission, a former Commissioner's involvement in charitable or humanitarian activities does not constitute a 'professional activity' in the sense of the obligation of notification stipulated in the Code of Conduct.
- 24) The Committee noted however that both activities notified by Mr Wojciechowski shared a very similar focus on assistance of individuals in the fields of criminal and family matters. Thus, to the extent that the activity as an advocate and for the charity foundation were linked, the restrictions applying to the activity as advocate mentioned above should also apply to Mr Wojciechowski's involvement with '*Helping the Wronged*'.

The Independent Ethical Committee's conclusions for the two activities notified

- 25) Based on the above-mentioned considerations, the Committee concluded that both envisaged activities could be considered compatible with Article 245 TFEU and therefore authorised on the condition that the above-mentioned obligations, conditions, and restrictions would be explicitly and in full set out in the Commission decision and brought to the attention of Former Commissioner Wojciechowski.

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- 26) The Commission has considered the Independent Ethical Committee's opinion on the two notified activities and shares its conclusions

HAS DECIDED AS FOLLOWS:

Article 1

Former Commissioner Janusz Wojciechowski's envisaged activity as lawyer ('advocate' - '*Adwokat*') is compatible with Article 245 of the Treaty on the Functioning of the European Union, subject to the respect of the conditions and restrictions set out in Article 2.

Article 2

Former Commissioner Wojciechowski:

- a) shall not lobby the Commission, its Members or staff, or any of its Executive Agencies on behalf of his clients during a period of two years after the end of his term as Commissioner;
- b) shall strictly respect Article 339 of the Treaty on the Functioning of the European Union;

- c) shall not disclose what was said at meetings of the Commission;
- d) shall not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his term of office;
- e) shall not advise or represent clients in areas in which he had access to confidential or sensitive information or insights and for which these information and insights are essential for providing advice. This refers notably, but not exclusively to specific files in which Former Commissioner Wojciechowski was personally involved through his portfolio responsibility or as Member of the College (e.g. contracts, policy files, grants, cases, claims, investigations, legislative procedures or negotiations) which are ongoing or, if those are already closed, which are directly connected to them;
- f) shall not advise or represent clients in matters, which serve to question or contest decisions and activities that the Commission adopted or performed while he was a Member of the Commission;
- g) shall not, on behalf of his clients, contact the Directorate-General for Agriculture of the European Commission, during a period of two years after the end of his term as Commissioner;
- h) shall not advise or represent clients in relation to areas for which he was responsible or in relation to other areas if these clients were major stakeholders in his former areas of portfolio responsibility. ‘Major stakeholder’ is to be understood in this context in terms of significance of the stakeholder for the specific market, significance of the impact of the Commission activities in this area on the stakeholder and significance of the involvement of the stakeholder in the EU decision-making process in this area such as lobbying activities towards the Commission. The area concerned is agriculture. This restriction should apply for a duration of two years after the end of his term as Commissioner.
- i) shall inform the Commission if there arises a possible overlap between the activities of his law firm and his former Commission portfolio, within the limits of what is allowed under Polish law. The Commission shall treat this information as confidential in case Former Commissioner Wojciechowski asks for such confidentiality.
- j) shall continue to respect the duty to behave with integrity and discretion as regards the acceptance of certain mandates or clients after the end of the period of two years following his mandate, such as stipulated in Article 245 of the Treaty on the Functioning of the European Union.
- k) In case of doubt about the compliance of a mandate or client with these restrictions, Former Commissioner Wojciechowski shall inform the President of the Commission according to Article 13(2) of the Code of Conduct for the Members of the Commission.

Article 3

Former Commissioner Janusz Wojciechowski's implication in the charity foundation 'Helping the Wronged' is compatible with Article 245 of the Treaty on the Functioning of the European Union, provided Mr Wojciechowski abides by the applicable conditions and restrictions set out in Article 2, insofar as his activity as lawyer ('advocate) and the activity for the charity foundation are linked.

Article 4

In line with Article 13(2) of the Code of Conduct for the Members of the Commission, Former Commissioner Wojciechowski shall inform the President of the Commission, in a timely manner if he has doubts on any situation regarding the application of the Code of Conduct for the Members of the Commission in relation to his post term of office activities mentioned in Article 1 to Article 3.

Done at Brussels, on 11 December 2024.

The President
Ursula von der Leyen