

Brussels, 22.4.2020 C(2020) 9014 final

DECISION OF THE EUROPEAN COMMISSION

on former Commissioner Günther Oettinger's post term of office professional activity as member of the Board of Trustees of the Foundation 'Stiftung Ordnungspolitik' and of the Centre for European Politics ('Centrum für Europäische Politik')

EN EN

DECISION OF THE EUROPEAN COMMISSION

on former Commissioner Günther Oettinger's post term of office professional activity as member of the Board of Trustees of the Foundation 'Stiftung Ordnungspolitik' and of the Centre for European Politics ('Centrum für Europäische Politik')

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:

- 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.
- 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 Article 11(3), second subparagraph.
- 4) On 26 February 2020, former Commissioner Günther Oettinger informed the Commission about his intention to engage in a post term-of-office activity as member of the Board of Trustees ('Kuratiorium') of the Foundation 'Stiftung Ordnungspolitik' and of the Centre for European Policy ('Centrum für Europäische Politik').

- The Foundation 'Stiftung Ordnungspolitik' is a non-profit organisation, which aims at fostering academia, research and education. It was established in December 1999. According to its own description, it 'endeavours to foster and develop the ordoliberal tradition of the Freiburg school of economics as founded by Walter Eucken, further expounded by Friedrich August von Hayek and turned into policy by Ludwig Erhard'. It declares to 'support the principles of a free, democratic, market-based system in Germany, Europe and the rest of the world'.
- The Foundation declares to formulate 'workable policy options' and bring 'the importance of ordoliberal thought into the public consciousness using the academic advancement of ordoliberalism as a basis'. It promotes the work of institutions dedicated to the dissemination of those principles and supports projects, which pursue the above-mentioned purpose. The Foundation also organises events and conferences to which it regularly invites renowned politicians, scientists and economists.
- 7) The Foundation's governance structure is composed of an Executive Board and a Board of Trustees. It is financed by the income from its own endowment, by donations from the civil society and by income from surveys. The Foundation does not receive funding from the European Budget.
- 8) The Foundation is registered in the European Union's Transparency Register as a 'think tank/research/academic institution' whose fields of interest cover the full range of EU policies.
- 9) The Centre for European Policy is the Foundation's think tank on the policy of the European Union. The Centre fulfils the Foundation's tasks for all issues of European decision-making. It analyses major European policy projects in terms of the criteria of the Centre's economic principles in order to inform politics, media and the public.
- 10) The Centre provides the wider public with up-to-date information and comprehensive background knowledge about policy proposals of the EU. It evaluates EU proposals based on 'modern, liberal, market-based ordoeconomics before they are adopted', 'highlights economic and legal consequences', drafts 'practicable policy options for Europe', and intends to contribute to the 'transparency of the democratic decision-making process in the EU'.
- 11) The policy areas followed by the Foundation and the Centre for European Policy include the full range of EU policies. However, the gist and core activity of the Foundation and of the Centre for European Policy is the promotion of a concept and a vision of regulatory policy and not the pursuit of specific private or commercial interests, or of financial gains. For this reason, the envisaged activity is not specifically related to former Commissioner Oettinger's portfolios on Energy (Barroso II Commission), on Digital Economy and Society (Juncker Commission) and on Budget and Human Resources (Juncker Commission). The consultation of the Independent Ethical Committee is consequently not necessary.
- As concerns the nature of the post, the envisaged activity is to become a member of the Board of Trustees. This does not include any executive functions. The activity does not present any risk of incompatibility either with former Commissioner Oettinger's role as a former 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 in conjunction with Article 5, as concerns the protection of confidentiality of sensitive information, the protection of collegiality and discretion and the prohibition of lobbying during a period of two years after his term of office.

HAS DECIDED AS FOLLOWS:

Article 1

Former Comissioner Günther Oettinger's envisaged activity as member of the Board of Trustees of the Foundation 'Stiftung Ordnungspolitik' and of the Centre for European Policy ('Centrum für Europäische Politik') is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the following conditions:

- 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 the Foundation and the Centre for European Policy 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;
- In line with Article 11(1) of the Code of Conduct for the Members of the Commission, in conjunction with Article 5 of the Code, 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;
- In accordance with Article 11(4) of the Code of Conduct for the Members of the Commission, former Commissioner Oettinger shall refrain from lobbying the Members of the Commission or their staff on behalf of the above-mentioned organisations, for a period of two years following his term of office, on matters for which he was responsible within his portfolios.

Done at Brussels, on 22 April 2020.

The President Ursula von der Leyen