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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Dimitris Avramopoulos' post term of office activity as
member of the Honorary Board of the Association Against Impunity and for
Transitional Justice**

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, litt. (a) to (f).
- 4) On 4 September 2020, Former Commissioner Dimitris Avramopoulos notified to the Commission his envisaged post term of office activity as member of the Honorary Board of the Association Against Impunity and for Transitional Justice (hereafter: AITJ or Association). He underlined that his remunerated appointment was envisaged for a period of one year and added information on the Association, namely the data published in the Belgian Official Journal.
- 5) The Commission noted that the Association aims at promoting the fight against impunity for serious violations of human rights and crimes against Humanity, for which reason the envisaged activity appeared to be linked to Former Commissioner Avramopoulos' former portfolio on Migration, Home Affairs and Citizenship. Therefore, in line with Article 11(3) of the Code of Conduct for the Members of the Commission, the Commission requested, on 25 September 2020, the Independent

Ethical Committee's opinion on the compatibility of the activity with Article 245 of the Treaty on the Functioning of the European Union.

- 6) On 9 October, Mr Avramopoulos provided complementary information on the Honorary Board of AITJ and the tasks and responsibilities he was expected to fulfil.
- 7) On 26 October, upon request of the Independent Ethical Committee, the Commission wrote to Mr Avramopolos inviting him to provide additional information, namely on the link between the remuneration and the activities he was expected to perform and on how Mr Avramopoulos intended to perform the envisaged activity in compliance with the obligations imposed on him by the Treaty on the Functioning of the European Union and the Code of Conduct for the Members of the Commission.
- 8) Mr Avramopoulos replied to the Commission on 18 November. He underlined that, for the time being, his participation would entail an active promotion of the activities of the Association at international level. He underlined that his envisaged implication in the Association will not involve any lobbying towards the EU institutions but rather advocacy and awareness campaigns, as for example publication of articles, participation to conferences, launching events, giving interviews, discussing with governmental and non-governmental organisations on common goals for fairness and justice. Mr Avramopoulos furthermore underlined that he would refrain from using sensitive information or insights gained during his mandate as Member of the Commission. He noted that his envisaged activity would lead him to work in areas outside the scope of his responsibilities as Member of the Commission, such as raising awareness for Human Rights violations, to end impunity and bring justice in several cases. He also informed the Commission that AITJ was currently not listed in the Transparency Register but planned to register as soon as it would resume work and have a physical presence in Brussels following the Covid 19 pandemic.
- 9) The Committee delivered its opinion on 10 December 2020.
- 10) The Committee analysed the nature of the Association Against Impunity and for Transitional Justice, its goals and activities, its organisational structure, the Former Commissioner's expected position, the Association's expected funding as well as its links with the European Commission.
- 11) The Committee noted that the Association Against Impunity and for Transitional Justice is a non-profit association created in September 2019, registered under Belgian law and based in Brussels. The Association's declared goal is to 'fight against impunity for serious violations of human rights and crimes against humanity' and make the principle of accountability 'a central pillar of the architecture of international justice'. According to information provided by Former Commissioner Avramopoulos, the Association aims to 'address the most sensitive issues in the international human rights law context as well as the needs of the most vulnerable groups'. Although there are already international and regional mechanisms in place, the Association aims to 'strengthen the existing actions and measures in order to increase their effectiveness'.

- 12) According to the statutes of AITJ, its activities encompass advocacy, communication, political and engagement campaigns as well as research. The activities are listed in the statutes as follows: (i) promote the fight against impunity together with war crimes, crimes against humanity and genocide as a fundamental principle for the rule of law, functioning democratic institutions and good governance; (ii) support and reinforce the efficiency of existing national and international systems related to the fight against impunity and transitional justice as well as human rights; (iii) promote a global strategy on impunity and transitional justice to ensure a more comprehensive vision of the matter; (iv) fill the gap between existing judicial mechanisms and the victims, by ensuring their rights are respected and by identifying responsibility and reparation mechanisms to be implemented; (v) reinforce the impact and visibility of actions and initiatives on the matter, by building on already existing networks and creating multilateral partnerships; (vi) support the EU's role as regards the fight against impunity and violations of international human rights and as regards the EU's promotion of democratic values and fundamental rights principles; (vii) contribute to the 2030 UN Agenda for Sustainable Development; (viii) support international judicial jurisdictions such as the International Criminal Court or ad-hoc courts in pursuing their goal through (a) the organisation of information campaigns, conferences, debates, study visits (b) partnerships with similar associations and (c) researches and studies. The Committee also noted additional activities of AITJ mentioned on its website.
- 13) As regards the organisational structure according to the Association's statutes, the Committee noted that it consists of a President, a Management Board and a General Assembly. In addition, the Committee noted that AITJ is assisted by an Honorary Board, which is however not registered in its statutes. The President of the Management Board is the highest-ranking executive and legal representative of the Association and is responsible for making corporate decisions and managing the overall operations and resources. The Management Board of the Association is composed of three administrators, including the President, as well as a Secretary-General and a Treasurer. The Management Board is in charge of helping the Association set its goals, supporting executive duties and ensuring the organisation has adequate resources at its disposal. The Management Board is overall responsible for the managerial tasks and transactions of the Association. The General Assembly is the governing body of the Association, as it provides strategies and directions and controls the activities of the Management Board.
- 14) As regards the Honorary Board, according to information provided by Former Commissioner Avramopoulos, its tasks and responsibilities consist in the 'promotion of the values and the activities of the association, in particular its annual report on the global state of impunity'. More specifically, the members of the Honorary Board are expected to be involved in the following tasks: (i) advocating inside and outside the EU regarding the fight against impunity and the principle of accountability in international justice; (ii) participating in targeting campaigns; (iii) taking part in conferences; (iv) networking; (v) participating to the Board's annual meetings; (vi) publishing articles.
- 15) On 9 October 2020, at the time of the information provided by Mr Avramopoulos, five high-ranking personalities had already agreed to sit on the Honorary Board, namely: a former Prime Minister of France, a former Member of the European

Commission, a former Minister of Interior of Italy, a UN expert on Yemen and a Nobel Peace Prize Laureate.

- 16) As regards Former Commissioner Avramopoulos's position at AITJ, the Committee underlined that the Former Commissioner would be expected to fulfil the tasks listed above and would act as a promoter of the values and activities of the association, namely the fight against impunity, the protection of human rights and the principle of accountability. As Member of the Honorary Board, Former Commissioner Avramopoulos would participate in conferences, networking events, the annual Board meeting and advocate for the cause. According to the additional information provided by Mr Avramopoulos as regards the specificities of his tasks, he would be expected to engage in advocacy and awareness-raising campaigns, as for example publication of articles, participation in conferences, launching events, giving interviews.
- 17) The Committee specifically noted that Mr Avramopoulos had informed the Commission that he would be remunerated for a period of one year. The Committee also underlined that Mr Avramopoulos had indicated that he was fully aware of his obligations under the Treaties and the Code of Conduct for the Members of the Commission. He had ensured his activity would take place without using sensitive information or insights gained during his mandate as Commissioner and without engaging in lobbying activities towards the European Commission. Mr Avramopoulos had also specified that his activity would lead him to work in fields which would be different than the ones which had been under his responsibility during his mandate.
- 18) As regards the funding of the Association Against Impunity and for Transitional Justice, the Committee acknowledged the information provided by Former Commissioner Avramopoulos, according to which the sources of funding of the association are mostly donations. The Committee also noted that, according to the Financial Transparency System of the European Commission, the Association Against Impunity and for Transitional Justice had not received funds from the European Union budget.
- 19) Finally, on the links between the Association Against Impunity and for Transitional Justice and the European Commission, the Committee noted that the Association was not registered in the Joint Transparency Register of the European Parliament and the Commission, yet observing that Mr Avramopoulos had indicated that AITJ planned to register as soon as it would resume work and have a physical presence in Brussels once the public health situation allows.
- 20) Based on these elements, the Committee assessed the compatibility of Former Commissioner Avramopoulos' notified position against the framework of the applicable legal context.
- 21) First, and in line with previous opinions, the Committee recalled that former Members of the Commission had a right to engage in work and to pursue a freely chosen or accepted occupation after the term of their office, while this right needed 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.
- 22) Concerning Mr Avramopoulos' specific position, the Committee underlined the scope of the envisaged activity, the additional responsibilities foreseen and the

absence of responsibilities expected as regards the day-to-day management of the Association and the acquisition or management of funds. In addition the Committee noted the general assurance given by Mr Avramopoulos that he was aware of his obligations under the Treaties and the Code of Conduct and would respect them at all times in this position.

- 23) The Committee did not see any legal or other impediments which should lead to preventing Mr Avramopoulos from accepting the envisaged activity as long as he would respect the obligations set out in the Treaties and in the Code of Conduct for the Members of the Commission.
- 24) In this regard, the Committee highlighted in particular Article 11(4) of the Code of Conduct, i.e. the obligation not to lobby Members or staff of the Commission on behalf of AITJ on matters for which Mr Avramopoulos was responsible within his portfolio for a period of two years after ceasing to hold office. The Committee noted that this includes lobbying in view to obtaining funds from EU programmes falling within his previous portfolio responsibilities.
- 25) The Committee also considered that the Commission should explicitly recall 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.
- 26) The Committee considered also that the Commission should recall that Former Commissioner Avramopoulos 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. The Committee underlined that the Commission should recall that Mr Avramopoulos must show in general a high sense of discretion with regard to the use of information and insights that he obtained during his mandate.
- 27) The Committee concluded that Former Commissioner Avramopoulos' envisaged activity as member of the Honorary Board of the Association Against Impunity and for Transitional Justice would be compatible with Article 245 of the Treaty on the Functioning of the European Union, subject to the respect of his commitments and the conditions mentioned above.
- 28) The Commission has considered the Independent Ethical Committee's opinion and shares its conclusions.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Dimitris Avramopoulos' envisaged activity as member of the Honorary Board of the Association Against Impunity and for Transitional Justice is compatible with Article 245(2) of the Treaty on the Functioning of the European Union,

subject to the respect, by Mr Avramopoulos, 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 line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Avramopoulos 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 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 Avramopoulos shall refrain from lobbying Members of the Commission or Commission staff on behalf of the Association Against Impunity and for Transitional Justice 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 Avramopoulos' previous portfolio responsibilities;
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Avramopoulos shall refrain from participating in any activity or decision-making procedure within the Association Against Impunity and for Transitional Justice 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.

Done at Brussels, on 3 February 2021.

The President
Ursula von der Leyen