



COMMISSION EUROPÉENNE

SECRÉTARIAT GÉNÉRAL

Bruxelles, le 24 juin 2019

SEC(2019) 266 final

**ANNUAL REPORT ON THE APPLICATION
OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN
2018**

<p style="text-align: center;">ANNUAL REPORT ON THE APPLICATION OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN 2018</p>
--

Introduction

The European Commission adopted a new Code of Conduct for the Members of the Commission on 31 January 2018. This is the first annual report on the application of the new Code, as is provided in its Article 13(4), covering the year 2018.

1. THE NEW CODE OF CONDUCT FOR THE MEMBERS OF THE COMMISSION

1.1. The adoption of a new Code of Conduct for the Members of the Commission

As part of the agenda for democratic change set out in President Juncker's Guidelines for the new Commission and since the beginning of its mandate, the Juncker Commission put great emphasis on transparency and on ethical rules that are up to the highest standards.

The Commission took a number of initiatives in this regard such as:

- a proposal for an Interinstitutional Agreement on a mandatory Transparency Register covering the European Parliament, the European Commission and, for the first time, the Council of the EU¹;
- decisions providing that Members, members of their Cabinets and Directors-General shall only meet those interest representatives that are registered on the Transparency Register, and shall publish information on their meetings^{2 3 4};
- enhancing transparency and scrutiny through a better law-making agenda;
- making participation in Commission expert groups for certain types of members conditional upon registration in the Transparency Register.

As part of this agenda, the Commission approved, in principle, on 12 September 2017, a new Code of Conduct for the Members of the Commission. The text was subsequently forwarded to the European Parliament for its opinion in line with the Framework

¹ COM (2016) 627 final – Proposal for an Interinstitutional Agreement on a mandatory Transparency Register.

² OJ L 277, 19.9.2014, p. 11-24.

³ C (2014) 9004 – The Working Methods of the European Commission 2014-2019, p. 9-10.

⁴ OJ L 343, 28.11.2014, p. 22-24.

Agreement on the relations between the European Parliament and the European Commission⁵. The Commission formally adopted the Code on 31 January 2018.

In order to make it accessible to all citizens in their respective languages, the new Code was published in all official languages in the Official Journal of the European Union⁶.

The main changes of the new Code are set out below.

The Code explicitly recognises the political role and responsibility of the Commission and its Members as set out in the above-mentioned Guidelines of the President.

The Code extends the obligatory notification period for post term of office activities of former Members of the Commission, which is also the period during which 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 portfolio. This period has been extended to two years for Members, which corresponds to the maximum period fixed by the Council for the perception of a transitional allowance under Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders. For a former President, this period has been extended to three years due to the particular role of the President.

The new Code introduces the possibility for the Members of the Commission to stand as candidates in the elections to the European Parliament without having to take an unpaid electoral leave from the Commission. This has also been inserted in the Framework Agreement agreed by the European Parliament and the European Commission by an amendment of 17 February 2018⁷. Active participation of the Members of the Commission in the European election campaign is one way to strengthen the democratic debate on the policies to be pursued in the general interest of the European Union and can therefore be part of the political role of a Member of the Commission. The rule is different for Members participating in national, regional or local election campaigns due to the different character of such elections, which are governed by national law and do not concern an institution of the Union.

In addition, the new Code introduces a number of other substantial improvements such as:

- a definition of 'conflict of interest' and an obligation not only to avoid situations of conflict of interest but also situations that might be reasonably be perceived as such;

⁵ https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=uriserv:OJ.L_.2010.304.01.0047.01.FRA&toc=OJ:L:2010:304:TOC.

⁶ C (2018) 700 final; OJ C 65, 21.2.2018, p. 7.

⁷ OJ L 45, 17.2.2018, p. 46.

- a far-reaching declaration of interests as part of the measures to avoid conflicts of interest; it includes not only the interests of Commissioners and spouses/partners but, under certain conditions, also the interests of a Commissioner's minor children;
- the possibility for the President to request the sale of a financial interest or its placement in a blind trust;
- publication every two months of information about each Commissioner's travel expenses;
- integration into the Code of the rule that Members and the members of their Cabinets shall only meet those interest representatives that are registered on the Transparency Register⁸ and shall publish information on their meetings;
- replacement of the Ad hoc Ethical Committee by a permanent Independent Ethical Committee whose mandate is extended and whose Members are selected according to well-defined criteria; it also provides the offer of secretarial support to the Committee in order to facilitate and strengthen its work;
- publication of all Commission decisions and of related opinions of the Independent Ethical Committee on post term of office activities;
- in addition to the sanctions set out in Articles 245 and 247 of the Treaty on the Functioning of the EU, a possibility for the Commission to formally express a 'reprimand' to a Commissioner or former Commissioner and to make it public;
- finally, annual reporting on the application of the Code including the work of the Independent Ethical Committee.

1.2. The amendment to the Framework Agreement

The possibility for the Members of the Commission to stand as candidates in European elections without having to take unpaid electoral leave from the Commission was introduced as an amendment of point 4 of the Framework Agreement on relations between the European Parliament and the European Commission. This amendment was signed by the Presidents of both institutions on 7 February 2018 and published in the Official Journal of the European Union on 17 February 2018⁹.

2. IMPLEMENTATION OF THE NEW CODE OF CONDUCT

The new Code of Conduct required several measures to give effect to its provisions. This was namely the case as concerns the following areas:

⁸ Established pursuant to the Interinstitutional Agreement between the European Parliament and the Commission of 16 April 2014.

⁹ OJ L 45, 17.02.2018, p. 46.

2.1. The update of the declarations of interests of the Members of the Commission

Besides broadening the scope of the declarations of interests, Article 3(5) of the Code states that the ‘declarations shall be made public in an electronic and machine-readable format’. On 31 January 2018, the first set of the new declarations of interests of all Members of the Commission was published both in the new machine-readable and in PDF formats on the respective websites of each Member and on a page of the Europa website¹⁰.

Due to changes of their situation, several Members updated their declarations in the course of the year in line with Article 3(3) of the Code.

2.2. Transparency on missions carried out by the Members of the Commission

In order to enhance transparency regarding the missions conducted by Members of the Commission, Article 6(2) of the new Code states that ‘the Commission will publish an overview of mission expenses per Member every two months, covering all missions undertaken unless publication of this information would undermine the protection of the public interest as regards public security, defence and military matters, international relations, or the financial, monetary or economic policy of the Union or a Member State’.

The Commission created a new application enabling the Members of the Commission to publish the required information related to their missions. Several training sessions were organised in order to enable Cabinet assistants to ensure these reporting obligations. On 28 February 2018, the relevant information on a first set of missions was published, covering the missions undertaken during the period January-February 2018.

Since then, information regarding Commissioners’ mission costs and the purpose of the respective missions has been published on a rolling two-monthly basis, as set out in the Code of Conduct. A link towards the relevant information can be found on the Commissioners’ respective websites.

2.3. Setting up a reinforced Independent Ethical Committee

The new Code replaced the former Ad hoc Ethical Committee by a new reinforced committee: the ‘Independent Ethical Committee’. In line with Article 12(8) of the new Code, the Commission ‘shall provide secretarial support to the Committee’.

¹⁰ https://ec.europa.eu/info/files/machine-readeable-versions-all-declarations-interests_en

In order to respect the independence of the Committee, the Commission left it to the Committee to define its needs in this regard. In line with the requests of the Committee, the Commission provided logistical and secretarial support in order to facilitate the work of the Committee.

2.4. Guidelines for the participation of the Members of the European Commission in the European election campaign

Article 10(4) of the Code provides that the President shall take measures to ensure the respect of the principles of independence, integrity and discretion provided by Article 245 TFEU and the Code when Members stand as candidates in the electoral campaign for elections to the European Parliament.

In 2018, the Commission prepared measures in this regard and the President consulted the Independent Ethical Committee on a set of draft guidelines. The Committee delivered its opinion on 26 October 2018, which was subsequently made public¹¹.

On 6 February 2019, after having held an orientation debate, the Commission took note of the President's Communication to the Commission on the Guidelines for the participation of the Members of the European Commission in the 2019 European election campaign¹².

In line with point 4, sixth paragraph, of the Framework Agreement and Article 10(4) of the Code of Conduct, the President informed the European Parliament as well as the Council of these Guidelines.

The Guidelines were published on the European Commission's website regarding ethics and integrity for the Members of the European Commission¹³.

The guidance aims to ensure a coherent implementation of all provisions of the Code of Conduct for the Members of the Commission during the election campaign so that they comply with their obligations as Members of the Commission as they result notably from Articles 17(3) TEU, 245 and 339 TFEU.

¹¹ https://ec.europa.eu/info/sites/info/files/opinion_draft-guidelines_participation-of-members-in-the-campaign-ep-elections_en.pdf.

¹² C(2019) 990 final – Elections to the European Parliament 2019 (23-26 May 2019): Guidelines on ethical standards for the participation of the Members of the European Commission in the election campaign.

¹³ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/codes-conduct/ethics-and-integrity-eu-commissioners/rules-commissioners-regarding-ethics-and-integrity_en

The Guidelines stipulate that the Members of the Commission taking part in the European Parliament election campaign:

- must inform the President that they intend to participate in the European Parliament election campaign and of the role they expect to play in the campaign;
- must ensure institutional continuity and arrange for the continued performance of their duties, including their participation at the weekly College meetings and in negotiations with the European Parliament and the Council;
- are not allowed to use the Commission's human or material resources for activities linked to the campaign.
- when speaking in public, should distinguish between statements made in their institutional capacity and statements made in their role of campaign participants.
- at all times, while participating in the campaign, must continue to act with the required independence, integrity, dignity, loyalty and discretion. They must not be taking positions that would go against their duty of confidentiality or infringe the principle of collegiality. They must notably not criticise or dissociate themselves from decisions or positions taken by the Commission.
- when it comes to Commissioners' social media presence, they should make a clear distinction between activity in their capacity of campaign participants and activity in their institutional capacity.
- cannot use their Commission website for the purposes of the campaign or use Commission premises for meetings with campaign purposes.

The Guidelines also provide guidance on the Commission's institutional activities in relation to the European elections.

2.5. Update of the website

Following the adoption of the new Code of Conduct, the Commission's website related to ethics and integrity of the Members of the Commission was updated to provide better, clearer and more comprehensive information for interested stakeholders¹⁴.

¹⁴ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/codes-conduct/ethics-and-integrity-eu-commissioners_en.

3. INDEPENDENT ETHICAL COMMITTEE

Following the establishment of the new Independent Ethical Committee, its members issued new declarations, certifying an absence of conflicts of interests between their duties as members of the Independent Ethical Committee and their other personal interests including professional, family or financial interests. In these declarations, they also committed to informing the other members of the Committee and the Commission, in writing if, in the performance of their duties, they are asked to deal with a matter in which they have a personal interest such as to impair their independence. These declarations, together with their updated CVs, were published on the Committee's website¹⁵.

The Independent Ethical Committee held two meetings in 2018: its first meeting was held on 22 March and was devoted to assessing the improvements and reinforcements brought by the new Code of Conduct for the Members of the Commission and their workload implications. The second meeting was held on 26 September and was devoted to the preparation of the Committee's opinion on the draft Commission Guidelines for the participation of the Members of the European Commission in the European election campaign¹⁶.

This Annual Report will be published.

¹⁵ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/codes-conduct/ethics-and-integrity-eu-commissioners/independent-ethical-committee_en.

¹⁶ https://ec.europa.eu/info/sites/info/files/opinion_draft-guidelines_participation-of-members-in-the-campaign-ep-elections_en.pdf.