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**ANNUAL REPORT ON THE APPLICATION
OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN
2021**

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Introduction

The Treaties, in particular Article 17(3) of the Treaty on European Union and Article 245 of the Treaty on the Functioning of the European Union, have laid down the essential principles that govern the conduct of Members of the Commission. The Code of Conduct for the Members of the European Commission defines and clarifies these principles and sets out how they should be applied in practice.

The current Code of Conduct for the Members of the Commission¹ was adopted by the Commission on 31 January 2018. It replaced the previous Code of 2011, reinforced the rules in several areas, such as the rules on the handling of conflicts of interest, and set rules in areas which were previously not included in the Code, like provisions on meetings with interest representatives or the publication of mission costs.

Article 13(4) of the Code provides that the Commission should publish annually a report on its application. This is the fourth annual report on the application of the new Code and covers the year 2021².

‘The Working Methods of the European Commission’³ emphasise that the President wants ‘a Commission whose internal functioning is based on the principles of collegiality and good governance: with clear roles and responsibilities, a strong commitment to performance management and compliance with the legal framework, clear accountability mechanisms, a high quality and evidence-based regulatory framework, openness and transparency, and high standards of ethical behaviour’. The individual Mission letters to each Member of the Commission recall that ‘a stronger relationship with citizens starts with building trust and confidence’. The President insisted in these letters ‘on the highest levels of transparency and ethics for the College as a whole’. She underlined that ‘there can be no room for doubt about [the] behaviour or [the] integrity’ of the Members of the Commission and that ‘the Code of Conduct for Commissioners sets out the standards and the rules to follow’.

The report also covers the activities of the Commission’s Independent Ethical Committee in 2021.

¹ Official Journal C 65 of 21.02.2018, page 7: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2018:065:TOC>.

² The Commission took note of the first, second and third Annual Reports on the application of the Code of Conduct for the Members of the Commission respectively on 25 June 2019 (SEC(2019) 266), on 12 October 2020 (SEC(2020) 344) and on 20 July 2021 (SEC(2021) 299); https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission_en#annual-reports.

³ P(2019) 2; https://ec.europa.eu/info/sites/info/files/sec2020344_en.pdf.

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

1.1. Update of the declarations of interests of the Members of the Commission

In accordance with Article 3(3) of the Code, the Members of the Commission updated their declarations of interests in the beginning of 2021 reflecting the situation on 1 January 2021. In case of changes between 1 January 2021 and the date of signature of the declarations of interests, these changes were taken into account as well. As set out in Article 4(2) of the Code, the declarations were subsequently scrutinised by the Secretariat-General under the authority of the President in view of their completeness and in view of the compatibility of the declared information with the provisions of the Code. After the completion of this scrutiny, the declarations were published on 26 February 2021 in an electronic format on the respective website of each Member and in a machine-readable format on the website dedicated to the Code of Conduct⁴. This corresponds to the publication requirements set out in Article 3(5) of the Code⁵. Due to changes in their situation in 2021, several Members updated their declarations in the course of the year in line with Article 3(3) of the Code⁶. The same scrutiny and publication procedures were followed.

1.2. Contact points in the cabinets of the Members of the Commission

In order to facilitate compliance with the obligations in the areas of ethics and transparency, the Commission has set up a Network of Ethics and Transparency Contact Points in the cabinets of the Members of the Commission. They are the interlocutors for the Member of the Commission, his or her Head of Cabinet and the services of the Commission on questions related to the practical implementation of the Member's ethics and transparency obligations, notably the annual and ad hoc updates of the declaration of interests; the publication of meetings held with interest representatives and the prior verification of the registration of those interest representatives in the Transparency Register; and the publication of mission costs.

As in 2020, the Secretariat-General organised, in 2021, three online meetings of the Network, during which the relevant Commission departments responsible, at corporate level, for ethics and transparency regarding the Members of the

⁴ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/code-conduct-members-european-commission_en#declarations-of-interests.

⁵ Article 3(5) provides 'Declarations shall be made public in an electronic and machine-readable format.'

⁶ Article 3(3) provides 'Declarations shall be re-submitted on an annual basis on 1 January, and in case of a change in the information to be declared during a Member's term of office, a new declaration shall be submitted at the earliest opportunity and at the latest within two months of the change in question.'

Commission but also for staff in the Cabinets presented different issues of interest, including the 2020 Annual Report on the application of the Code of Conduct. Several ethical issues were recalled and further explained, for example as regards transparency of meetings with interest representatives, the provisions of the Code of Conduct regarding national elections or the annual up-date of the declarations of interests in 2022.

1.3. Participation of the Members of the Commission in national election campaigns

The Code of Conduct, and notably its Article 9, sets the conditions that are applicable when Members of the Commission want to participate in a national election campaign. In this context, it is important to distinguish between institutional activities as Members of the Commission in the general interest, and personal activities in a campaign in support of a specific party, candidate or a manifesto. The institutional activities as Members of the Commission and the participation in a campaign need to be separated from each other as clearly as possible.

Following the ‘Guidelines on Ethical Standards for the Participation of the Members of the European Commission in the Election Campaign’⁷ approved by the Commission in 2019 in view of the European election campaign (in which the Commission clarified the involvement of the Members of the Commission and its practical consequences, notably with regard to the use of Commission resources), the President decided that the Commission should also establish guidelines for the participation of its Members in national election campaigns after consultation of its Independent Ethical Committee⁸. The Secretariat-General prepared draft guidelines on which the Independent Ethical Committee was consulted at the beginning of 2022.

1.4. Transparency of mission expenses

In order to enhance transparency regarding missions (i.e. official business trips) conducted by Members of the Commission, Article 6(2) of the 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’.

⁷ https://ec.europa.eu/info/sites/info/files/guidelines_election_campaign_en.pdf.

⁸ Case 1141/2020/MIG and 1143/2020/MIG;

<https://www.ombudsman.europa.eu/en/correspondence/en/136786>.

In 2021, the Commission published the costs for 511 missions. The publication via the so-called ‘ATMOS’ application provides transparency both on the costs and the purpose of the respective missions. A link to the relevant information can be found on each Member’s respective website.

1.5. Transparency on meetings held with representatives of interests

The commitment to transparency is a priority in the Political Guidelines of President von der Leyen for the period 2019-2024. The Members of the Commission are subject to specific transparency requirements with regard to meetings they hold with interest representatives⁹. Article 7(1) of the Code provides that the Members and their members of Cabinet shall meet only those organisations or self-employed individuals, which are registered in the Transparency Register inasmuch as they fall under its scope. In addition, in line with Article 7(2) of the Code and Commission Decision 2014/839/EU, Euratom¹⁰, Members of the Commission shall make public information on the meetings held by them and the members of their Cabinets with such interest representatives. That information is available on the respective websites of the Members of the Commission. In 2021, the Commission continued its regular and systematic efforts to remind Members of the Commission and their Cabinets of their obligations to publish information on meetings in an accurate and timely manner, which was acknowledged by the European Ombudsman¹¹.

In July 2021, a new Interinstitutional Agreement on the mandatory Transparency Register¹² took effect. By that agreement, measures such as the ones already put in place by the Commission under Article 7 of the Code are formally recognised as part of the architecture of the Transparency Register and are made public on the related website¹³. The agreement further requires interest representatives to satisfy new information requirements when registering in the Transparency Register. In order to implement the new rules, the Commission established, together with the European Parliament and the Council, in the Secretariat of the Transparency Register, a new registration form, as well as new guidelines for applicants and registrants and a new version of the website of the Transparency Register, all of which were made publicly available by the end of September 2021.

⁹ The same transparency requirements are applicable to Directors-General of the Commission.

¹⁰ Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals, OJ L 343, 28.11.2014, p. 22.

¹¹ <https://www.ombudsman.europa.eu/en/doc/correspondence/en/153542>

¹² Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register, OJ L 2017, 11.6.2021, p. 1.

¹³ [Transparency Register \(europa.eu\)](https://transparencyregister.europa.eu)

1.6. Website on the Code of Conduct for the Members of the Commission

In 2019, the European Commission's webpages related to 'Commissioners and Ethics'¹⁴ were updated and made more easily accessible via a new portal on 'Ethics and Good Administration'¹⁵.

The portal contains three sections: 'Code of Conduct for the Members of the European Commission'; 'The Independent Ethical Committee' and 'Former European Commissioners' authorised activities'. In the last section, all Commission decisions on post term of office activities of former Members were published,

The last section of the portal has been regularly updated in 2021 notably as concerns the decisions of the Commission on the post-mandate activities of former Members of the Commission, alongside the corresponding opinions of the Independent Ethical Committee, in accordance with Article 11(7) of the Code. (See section 2.2 below).

2. FORMER MEMBERS OF THE COMMISSION

2.1. Rights and duties of the Former Members of the Commission

The duties of integrity and discretion enshrined in Article 245 of the Treaty on the Functioning of the European Union continue to apply to the former Members of the Commission beyond their term of office and are unlimited in time. Against this background, the post term of office professional activities envisaged by the Former Members of the Commission must be assessed and duly approved by the Commission during a two-year period following the end of their term of office (three-year period as concerns former Presidents – cf. below section 2.2).

Under Council Regulation 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders, the former public office holders are entitled to a transitional allowance for a limited period. This right entails an obligation to inform their previous institutions about other forms of remuneration for new gainful activities during the period in which they are entitled to receive the above-mentioned allowance.

¹⁴ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics_en.

¹⁵ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration_en.

2.2. Post term of office activities of Members of the Commission and corresponding Commission decisions

Article 11 of the Code provides that post term of office activities envisaged by former Members must be notified to the Commission so that the Commission can take a decision on their compatibility with Article 245(2) of the Treaty on the Functioning of the European Union. If the planned activity is related to the portfolio of the former Member, the Commission can only decide after consultation of the Independent Ethical Committee. Members can also seek advice from the Secretariat-General on the application of the Code to activities which they might envisage.

In 2021, the Commission adopted 20 decisions on 21 post term of office activities¹⁶ envisaged by former Members of the Commission under President Juncker and under President von der Leyen (i.e. activities of Former Commissioner Hogan). In most cases, these activities were approved subject to conditions and / or restrictions which were deemed necessary to ensure full compatibility with Article 245 of the Treaty on the Functioning of the European Union and the Code of Conduct for the Members of the Commission.

The breakdown of the activities approved per type of activity is the following: 5 academic activities; 5 activities in the private sector; 3 activities for NGOs; 2 activities in the public sector at Member State/regional level; 2 activities for think-tanks; 2 consultancy activities; 1 activity for an international organisation; 1 independent/self-employed activity.

All decisions as well as 12 related opinions of the Independent Ethical Committee¹⁷ adopted in 2020 and 2021¹⁸, on 13 activities¹⁹, were published as required by Article 11(7) of the Code²⁰.

Five Decisions adopted in 2020 and 2021 (four consulting activities and one activity as lawyer) required the former Commissioners to provide information at regular intervals on the implementation of the Commission decisions. This information was provided and monitored by the Secretariat-General in view of compliance with the decisions.

For most of the Members of the Commission under the Presidency of Jean-Claude

¹⁶ One decision covered two activities.

¹⁷ If the planned activity is related to the portfolio of the former Member, the Commission shall only decide after having consulted the Independent Ethical Committee; see Article 11(3) of the Code. In other cases, it can decide without consultation.

¹⁸ 8 out of the 12 opinions mentioned were adopted in 2021. The remaining 4 opinions were adopted in 2020 while the decisions were taken in 2021.

¹⁹ One opinion covered two activities.

²⁰ https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/former-european-commissioners-authorized-occupations_en.

Juncker, with the exception of Former President Juncker himself²¹, the compulsory notification period enshrined in Article 11 of the Code of Conduct for the Members of the Commission ended on 30 November 2021.

Altogether, the Commission has so far taken 78 decisions on 86 activities of former Members of the Juncker Commission. These numbers raise to 80 decisions and 88 activities if the decisions involving a former Member of the current Commission, namely Former Commissioner Hogan, are taken into account.

In addition to the activities, which required decisions of the Commission upon notification from its former Members, one former Member was appointed by the Commission as Special Envoy of the European Union for the Freedom of Religion.

The Commission also took note of information on ‘public office’ activities of four former Members. Such activities do not require Commission approval, according to Article 11(6) of the Code of Conduct.

All activities above mentioned amount to 93 activities whose breakdown is the following: 25 academic activities (including management activities in academic institutions); 12 activities for NGOs and cooperation activities at international level; 11 activities in the private sector; 11 activities for think-tanks; 7 consulting activities; 6 activities for international organisations / bodies; 6 activities in the civil service or pursuing public interest; 4 ‘public offices’; 4 speaking activities (via framework contracts); 2 independent/self-employed activities²²; 2 activities in the cultural sector; 2 publishing activities; 1 Commission appointment.

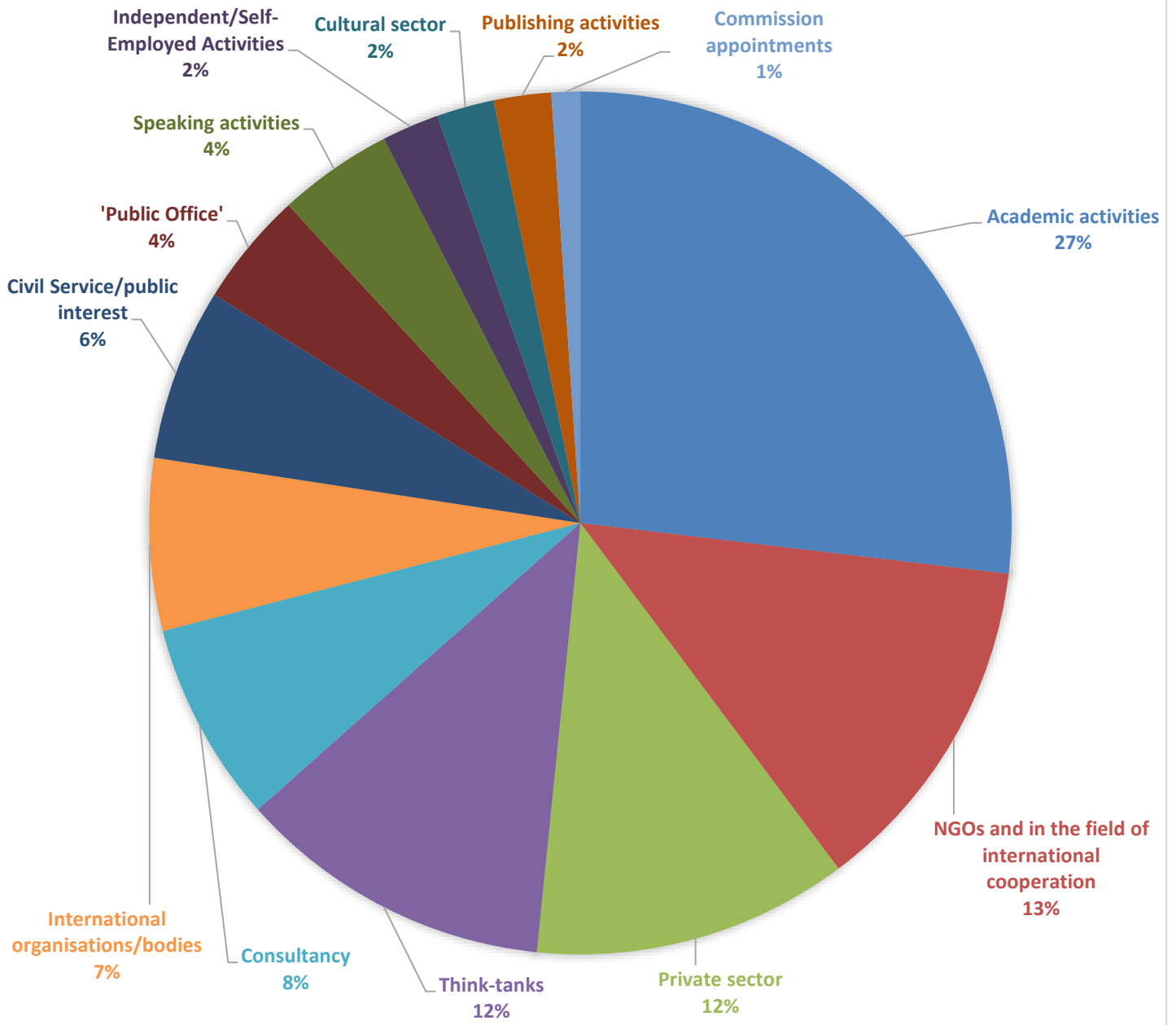
In this regard, it is important to recall that, based on Article 12(3) of the Code, former Members have the possibility to be heard in case the Independent Ethical Committee considers adopting a negative opinion. In several cases in which the Committee informed the Commission about the possibility of a negative opinion or submitted comments and further questions to a former Member, the former Members decided to withdraw their notification or to stop an activity for a specific client.²³

²¹ The notification period is 3 years as concerns the Former President and 2 years as concerns the other Members of the Commission.

²² One activity as lawyer and one activity as mediator.

²³ For more information, see the chapters on the Independent Ethical Committee in this report and in the previous report on 2020 or the public decisions of the Commission and opinions of the Committee.

BREAKDOWN OF 93 ACTIVITIES



3. OTHER ISSUES AND CO-OPERATION

3.1. Interinstitutional ethics body

As set out in the 2019-2024 Political Guidelines for the Commission, President von der Leyen supports the creation of an independent ethics body common to all EU institutions. The reasoning is that the institutions of the European Union should be open and beyond reproach on ethics, transparency and integrity if Europeans are to have faith in the Union.

The design of such a body touches upon sensitive aspects of the institutional balance between EU institutions and must respect the institutional autonomy and the particularities of each institution as well as the functions of its Members. All these aspects will be discussed with the other institutions and the two advisory bodies. These discussions could lead to a possible future joint agreement to create an ethics body common to all EU institutions.

3.2. Contacts with the National Administrations

The Secretariat-General follows ongoing developments regarding ethical standards and rules in other EU and international institutions as well as in the Member States and established a number of contacts on an ad hoc basis at working level, e.g. with the French *Haute Autorité pour la Transparence de la Vie Publique* and the other EU institutions. This helps compare the different rules, their interpretation and application to similar situations which the political members of those institutions or governments face.

4. INDEPENDENT ETHICAL COMMITTEE

Article 12 of the Code establishes an Independent Ethical Committee which, upon request of the President, advises the Commission on any ethical question related to the Code and provides general recommendations to the Commission on ethical issues relevant under the Code.

The Committee is composed of three independent external members selected for their competence, experience, independence, professional qualities, impeccable record of professional behaviour and experience in high-level functions in European, national or international institutions. The composition of the Committee reflects experiences in different institutions or functions.²⁴

According to Article 11(3) of the Code, the Committee has to be consulted on post term of office activities if the planned activity is related to the portfolio of the former Member.

²⁴ For information on the members see the report on 2019 ([SEC\(2020\) 344](#)) and the relevant website: https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics/independent-ethical-committee_en.

Article 13 provides that the annual report on the application of the Code shall include the work of the Independent Ethical Committee.

In 2021, in line with Article 11(3) of the Code of Conduct, the Committee adopted 8 opinions on envisaged activities of former Members of the Commission, which were followed by a Commission decision approving the activities in question.

In one case, the Committee had questions and comments with regard to a notified envisaged activity of a former Member. The former Member decided subsequently not to pursue his notification. Consequently, the Commission closed the procedure and an opinion of the Committee was not required any more. In another case, the opinion of the Committee, endorsed by the Commission, led a former Member to stop contracts with certain clients.

The Committee's deliberations and opinions are based on the merits of each file. In assessing the files, the Committee has regularly taken into consideration the following elements:

- the risk of casting doubt on the independent decision-making process of the institution during the term of office of the former Member in relation to links between the previous responsibilities as Member of the Commission and the new activity;
- the possibility to protect sensitive / confidential information and insights obtained during the term of office while performing the new activity;
- in view of possible risks for the decision-making process in the Commission in the future, the possibility to perform the new activity in compliance with the restrictions on lobbying and avoiding possible risks in relation to the use of contacts within the Commission;
- the need to ensure respect of the principles of collegiality and discretion with regard to decisions and activities of the Commission during the former Member's term of office.

In addition to the conditions and restrictions recommended by the Committee, it underlined in several opinions that, in case former Members have a doubt with regard to their obligations, they should inform the President of the Commission in a timely manner and before acting on the matter relating to which the doubts arise, according to Article 13(2) of the Code of Conduct.

In one case, the Committee was asked for an opinion based on Article 12 of the Code of Conduct regarding a specific situation linked to a post term of office activity previously authorised. The preliminary comments of the Committee shared with the Commission and the former Member concerned helped clarifying the situation.