

EUROPEAN EXTERNAL ACTION SERVICE



Human Resources Directorate

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2019 ANNUAL REPORT OF THE EUROPEAN EXTERNAL ACTION SERVICE

ON THE PUBLICATION OF INFORMATION CONCERNING OCCUPATIONAL ACTIVITIES OF SENIOR OFFICIALS AFTER LEAVING THE SERVICE (ARTICLE 16, FOURTH PARAGRAPH OF THE STAFF REGULATIONS)

On the basis of Article 16 of the Staff Regulations¹, officials, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Those former officials who intend to engage in an occupational activity within 2 years of leaving the service shall inform the Institution thereof in order to enable it to take an appropriate decision in this respect and, when necessary, to forbid an activity or give approval subject to appropriate restrictions. Pursuant to Article 1b (a) of the Staff Regulations, the European External Action Service (hereinafter referred to as the EEAS) is an institution of the Union as regard to the implementation of the Staff Regulations.

The third paragraph of Article 16 of the Staff Regulations stipulates that the Appointing Authority shall, in principle, prohibit former senior officials, during 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former Institution for their business, clients or employers on matters for which they were responsible during the last 3 years in the service.

The fourth paragraph of Article 16 of the Staff Regulations requires, without prejudice to relevant data protection rules², each Institution to publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

The EEAS explains below the criteria it has chosen to ensure the implementation of its obligation, and presents its analysis. In annex to this publication, the EEAS provides summary information on the decisions taken under this provision.

¹ As last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 (OJ L 287, 29.10.2013, p. 15).

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The criteria applied to implement the third paragraph of Article 16 of the Staff Regulations

Definition of senior officials

In line with the third paragraph of Article 16 of the Staff Regulations and the definitions laid down in Decision ADMIN (2018) 2 of the High Representative, the following categories of staff are considered "Senior Officials":

AD 15-AD 16 Secretary-General, Deputy Secretary-General, Director-General, Managing Director, Head of Delegation – MD, Hors Classe Adviser, Manager In mobility – MD

AD 14-AD 15 Deputy Managing Director, Director, Head of Delegation – Dir, Principal Adviser, Manager In mobility – Dir

The decision-making procedure in the case of the third paragraph of Article 16 of the Staff Regulations

Notifications by former senior managers about an envisaged activity are treated as any such notifications by all staff. The Rights, Obligations and Medical Cell Division within the Human Resources Directorate (DG.BA.HR.3) receives the notification and collects the view of the Joint Committee and any other views or information that may be relevant for the proper assessment of the file. It is on the basis of these different views and information that the decision is taken by the Appointing Authority.

The occupational activities concerned

The activities described in the third paragraph of Article 16 of the Staff Regulations are those which constitute lobbying or advocacy vis-à-vis staff of the former senior manager's former Institution for their business, clients or employers on matters for which they were responsible during the last 3 years in the service. Such activities shall in principle be prohibited by the Appointing Authority during the 12 months after the senior official has left the service.

The EEAS does not limit its analysis to envisaged activities whose only object or core object would have been lobbying or advocacy activities. Certain notifications concerned activities which, even though lobbying or advocacy was excluded at the point in time of the notification, could, because of their nature, actually or potentially give rise to, or entail, lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during the last three years in the service, as stated in the third paragraph of Article 16 of the Staff Regulations. In such instances, the EEAS conducts its analysis to take account of these possibilities and to assess the notified activity within the framework of the third paragraph of Article 16 of the Staff Regulations.

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In the analysis, the Appointing Authority also draws on Articles 19, 20 and 21 of the Commission Decision C(2018) 4048 on outside activities and assignments and on occupational activities after leaving the Service, which is applicable by analogy by virtue of Decision ADMIN(2018) 23 of the Director General for Budget and Administration of the EEAS, which took effect on 1 September 2018.

The EEAS further clarifies that the present information covers activities that have been notified and actually undertaken. In line with the legal provisions in force, it does not cover notifications received and relating to activities which could not, by their very nature, give rise to or entail such lobbying or advocacy.

The present publication represents the annual information released by the EEAS on the implementation of the fourth paragraph of Article 16 of the Staff Regulations for the year 2019.

Number of activities concerned

A single notification may refer to several activities. However, the present information is presented by reference to the ex-official concerned.

Analysis

The following information covers the cases in which the Appointing Authority has taken a decision in 2019 under the third paragraph of Article 16 of the Staff Regulations.

The EEAS received in total twenty notification of intention to engage in occupational activity after leaving the service. Out of the twenty, five occupational activities were notified by former EEAS Senior Staff.

The EEAS did not receive any notification of an activity where the only or core purpose was that of lobbying or advocacy.

However, the EEAS has received notifications of envisaged activities which, even though lobbying or advocacy was excluded at the point in time of the notification, could because of their nature, actually or potentially, give rise to, or entail, lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during the last three years in the service, as stated in the third paragraph of Article 16 of the Staff Regulations in particular for situations in the future. The Appointing Authority has therefore assessed, as explained above, these particular activities in the light of the third paragraph of Article 16 of the Staff Regulations. This has led the Appointing Authority to impose a prohibition of lobbying or advocacy in a conditional authorization.

The five decisions, which have been taken in 2019, in line with the third paragraph of Article 16 of the Staff Regulations, are summarized below.

Summary of relevant Decisions by the Appointing Authority in 2019:

1. Mr. James MORAN

Former Principal Adviser for EEAS.MD.MENA, Former Head of Delegation

End of Service: 31 August 2017

NEW ACTIVITY

Member of the Gerson Lehrman Group's Council (www.glgpartners.com) and consultant on investment and political risk.

DECISION

Mr. Moran sought authorization to act as an occasional consultant for the New York based platform Gerson Lehrman Group.

The Appointing Authority found that the proposed activity is related to the work carried out by Mr. Moran in his last three years of service and may potentially lead to a conflict with the legitimate interest of the service. Therefore, the Appointing authority decided not to grant permission for Mr. Moran to carry out this activity before 1 September 2019 (the end date of the two year period envisaged in article 16 (2) of the Staff Regulations).

2. Mr. David O'SULLIVAN

Former Head of Delegation in Washington

End of Service: 28 February 2019

NEW ACTIVITIES

1. Self-employed consultant (open ended)
2. Senior Advisor, European Policy Centre (open ended)
3. Distinguished Fellow, German Marshall Fund (until July 2020)
4. Delivering the keynote speech for the University of Notre Dame, Nanovic Forum (Indiana, US)

1. DECISION

Mr. O’Sullivan sought authorization to perform an occupational activity as a self-employed consultant in Brussels, Belgium.

The Appointing Authority gave its approval to Mr. O’Sullivan to carry out this activity subject to a number of conditions, including:

- in accordance with the third paragraph of Article 16 of the Staff Regulations, not to engage, during the twelve months after leaving the service, in any lobbying or advocacy vis-à-vis staff of the EEAS on behalf of his clients, on matters for which he was responsible during the last three years in the service;
- the statutory obligation to refrain from any unauthorized disclosure of information received in the line of duty during his work at the EEAS, unless that information has already been made public or is accessible to the public (Article 17 of the Staff Regulations), and, in this context, to refrain from exploiting insights of confidential nature in policy, strategy or internal processes that he may have acquired in the line of service and that have not yet been public or are not commonly available in the public domain;
- the obligation, within two years after leaving the service, to inform the EEAS if he intends to engage also in any new occupational activity.

2. DECISION

Mr. O’Sullivan sought authorization to perform an occupational activity as Senior Advisor for the European Policy Centre in Brussels, Belgium.

The Appointing Authority granted permission to Mr. O’Sullivan to carry out this activity.

3. DECISION

Mr. O’Sullivan sought authorization to perform an occupational activity as Distinguished Fellow of the German Marshall Fund.

The Appointing Authority granted permission to Mr. O’Sullivan to carry out this activity.

4. DECISION

Mr. O’Sullivan sought authorization to deliver the keynote speech for the University of Notre Dame, Nanovic Forum (Indiana, US).

The Appointing Authority granted permission to Mr. O’Sullivan to carry out this activity.

Mr. O’Sullivan’s attention was raised to his obligations to inform the Head of the EU

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Delegation in Washington before speaking in public or participating in an official event in the country of formal accreditation.

Mr. O'Sullivan's attention was further raised to his obligation to inform immediately the Appointing Authority if the authorized activity could generate a potential conflict of interest.