



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate B – Better Regulation and Administration  
The Director

Brussels, **30 AVR. 2010**  
SG/B/4/DCB Ares(2010)

Mr Olivier Hoedeman  
[olivier@corporateeurope.org](mailto:olivier@corporateeurope.org)

**Subject: Mrs Ferrero Waldner's post mandate activities.  
Your mail dated 24/03/2010 – ref ARES (2010)163073.**

Dear Mr Hoedeman,

The Secretary General will respond formally to your confirmatory request of 24 March last. In addition to your request to review the access to documents application, you have also raised questions about the notion of conflict of interest and the composition of the Commission's Ad Hoc Ethical Committee.

You consider that the Commission and the Ad hoc Ethical Committee may have interpreted the concept of conflict of interests too narrowly. In your opinion the risk of appearance of a potential conflict of interest was not sufficiently assessed in the present case.

Although we do not share your conclusions, we take note of your opinions. I can assure you that in applying the procedures foreseen by the Code of Conduct for Commissioners and with due consideration to the Treaty, the Commission applies critical judgement to ensure that both the letter and the spirit of the provisions concerning post mandate activities of former Commissioners are respected.

In the case of the notification made by Mrs. Ferrero-Waldner of her intention to take up an assignment as member of the supervisory board of Munich RE and because of a potential link with her wide portfolio - the Ad hoc ethical Committee was requested to give an opinion on the envisaged post mandate activities and the Commission was invited to assess their compatibility with Article 245(2) of the TFEU.

After due consideration of all elements and in line with the opinion of the Ad-hoc Ethical Committee, the Commission has concluded that the activities envisaged are compatible with the above mentioned article of the Treaty, which foresees the obligation to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. During her mandate Ms Ferrero Waldner never intended nor had the occasion, to act in favour of Munich RE.

The same procedure and assessment were followed as concerns Mrs. Ferrero-Waldner's further notification concerning her intention to become a member of the supervisory board of Gamesa Corporación Tecnológica, a member of the International Advisory Board of Norman Foster Associates, and a non remunerated member of the Advisory Committee of the international relations foundation Fride.

As regards your suggestion to introduce a cooling off period, it can only refer to situations presenting a risk of conflict of interests. In all such cases, the Commission would anyway decide that the planned occupation is not compatible with the Treaty, which has the same effect as imposing a cooling-off period.

You also consider it insufficient to rely on the goodwill of a former Commissioner to respect and interpret confidentiality requirements. We cannot agree with you in questioning Commissioners' honesty without grounds. Commissioners are chosen because of their competence, and their independence is a key requirement of the Treaties.

However, to cover all angles, the TFUE also addresses the scenario of the breach of trust and, if a Member of the Commission should be found guilty of serious misconduct, the Court of Justice could apply sanctions (including depriving of the pension).

Concerning your comments about the Commission's Ad hoc Ethical Committee, the appointment as a Member specifically requires knowledge of the legal framework within which the Commission must operate. The Members of the Committee are selected on the basis of their competence, experience and professional qualities.

The Commission considered it appropriate to appoint former respected members of three different institutions, meeting the requirements of the position: a former Member of the European Parliament, a former Judge at the Court of First Instance of the European Community (as from 1 December 2009, the General Court), and a former Director-General of the European Commission's Legal Service.

Your criticism of Mr Petite's appointment is unfair and unfounded; he was appointed as a Member of the Commission's ad hoc Ethical Committee on the basis of his experience, high professional values and integrity.

As a final and more general comment, the Commission has an ethical system, whereby at the core lie individual obligations and responsibility deriving from a shared ethical culture, but these ethical values are guided by a set of key rules. For Commissioners these rules stem from the Treaties, and the Code of Conduct develops them into more detail. I can assure you that when assessing a concrete situation, the Commission looks beyond a mechanical application of procedures and applies not only the letter but also the spirit of the rules.

Yours sincerely,



Hubert Szczechowski

Cc: Ms Day, Ms Claeys Bouúaert