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COMMISSION DECISION

of 31.1.2018

on a Code of Conduct for the Members of the European Commission

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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,

Whereas:

- (1) 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;
- (2) In accordance with these provisions, Members of the Commission are chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt. They shall be completely independent and neither seek nor take instructions from any Government or other institution, body, office or entity, they shall refrain from any action incompatible with their duties or the performance of their tasks and they may not engage in any other occupation, whether gainful or not;
- (3) Members of the Commission have political responsibility and the Commission is accountable to the European Parliament. According to Article 10 of the Treaty on European Union, political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union. European and national political parties make known the candidates for President of the Commission they support and the candidate's programme in the context of the elections to the European Parliament. The President of the European Commission is elected by the European Parliament on a proposal of the European Council, taking into account the elections to the European Parliament and after having held the appropriate consultations; and the Commission as a whole is subject to a vote of consent by the European Parliament. This increases the democratic legitimacy of the decision-making process in the Union of which Members of the Commission are part;
- (4) When entering upon their duties, Members of the Commission 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;
- (5) The Code of Conduct for Commissioners of 20 April 2011¹, which defines and clarifies the obligations applicable to Members and former Members of the

¹ C(2011) 2904.

Commission, should be revised in order to take account of the experience gained in its application and be up to the high ethical standards that are expected of Members of the Commission;

- (6) It is appropriate that the Code of Conduct applies to the person proposed as candidate for President of the European Commission as well as Commissioners-Designate as regards disclosure of their interests in due time before their hearing in the European Parliament;
- (7) This Code of Conduct should be applied in line with the Rules of Procedure of the Commission²;
- (8) Members of the Commission are subject to transparency requirements with regard to meetings they hold with organisations or self-employed individuals laid down in the Commission's Decision³ on that matter;
- (9) 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;
- (10) Former Members of the Commission are also bound during the period for which they are entitled to the monthly transitional allowance to make the declarations foreseen in accordance with Article 10(4) of Council Regulation (EU) 2016/300⁴;
- (11) An Independent Ethical Committee should assist the Commission in the application of this Code of Conduct by providing independent advice;
- (12) A Member of the Commission shall resign if the President so requests in conformity with Article 17(6) of the Treaty on European Union;
- (13) Members of the Commission no longer fulfilling the conditions required for the performance of their duties or guilty of serious misconduct may be compulsorily retired or deprived of pension rights or other benefits in accordance with Articles 245 and 247 of the Treaty on the Functioning of the European Union;
- (14) This Code of Conduct should be applied in good faith and with due consideration to the proportionality principle and individual rights;
- (15) This Code of Conduct should replace the Code of Conduct for Commissioners of 20 April 2011⁵;
- (16) The European Parliament was consulted⁶ on the revision of the Code of Conduct in conformity with the Framework Agreement on relations between the European

² C(2000) 3614 of 29 November 2000.

³ C(2014) 9051 of 25 November 2014.

⁴ Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L58, 4.3.2016, p. 1).

⁵ See footnote 1.

⁶ Letter of the President of the Commission of 13 September 2017 to the President of the Parliament.

Parliament and the European Commission⁷ and delivered its opinion on 23 January 2018⁸.

HEREBY ADOPTS THIS CODE OF CONDUCT:

Article 1 - Scope

This Code of Conduct shall apply to the Members of the Commission and, where explicitly specified, to former Members of the Commission, to the person proposed as candidate for President of the European Commission and to Commissioners-Designate.

Article 2 – Principles

- (1) Members shall devote themselves fully to the performance of their duties in the general interest of the Union.
- (2) Members shall behave and perform their duties with complete independence, integrity, dignity, with loyalty and discretion, in compliance with the rules laid down in the Treaties and as spelled out in this Code of Conduct. They shall observe the highest standards of ethical conduct.
- (3) Members have the responsibility to maintain political contacts in view of the accountability of the Commission to the European Parliament and the European electorate and in view of the role of European political parties in the democratic life of the Union.
- (4) Members shall act collegially and assume collective responsibility for any decision taken by the Commission.
- (5) Members shall respect the dignity of their office and shall not act or express themselves, through whatever medium, in a manner which adversely affects the public perception of their independence, their integrity or the dignity of their office.
- (6) Members shall avoid any situation which may give rise to a conflict of interest or which may reasonably be perceived as such. A conflict of interest arises where a personal interest may influence the independent performance of their duties. Personal interests include, but are not limited to, any potential benefit or advantage to Members themselves, their spouses, partners⁹ or direct family

⁷ OJ L304, 20.11.2010, p. 47.

⁸ Letter of the President of the European Parliament of 23 January 2018 to the President of the Commission.

⁹ Stable non matrimonial partner as defined in Article 1(2)(c) of Annex VII of the Staff Regulations.

members. A conflict of interest does not exist where a Member is only concerned as a member of the general public or of a broad class of persons.

- (7) Former Members shall respect the obligations arising from their duties that continue to have an effect after their term, in particular the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits in line with Article 245 of the Treaty on the Functioning of the European Union, and the obligations specified in this Code of Conduct.

Article 3 – Declaration of interests

- (1) Members shall declare any financial or other interests or assets which might create a conflict of interest in the performance of their duties or are otherwise relevant for the performance of the duties. For the purposes of this Article, a Member's interests can include the interests of spouses, partners¹⁰ and minor children. Each Member shall do so by submitting the completed declaration form set out in Annex 1, which sets out all the information that Members are required to declare under this Code, and shall assume responsibility for its content.
- (2) The requirements in paragraph (1) shall also apply to the person proposed as candidate for President of the Commission and to Commissioners-Designate who shall submit the declaration to the European Parliament in due time in order to allow the Parliament to examine the declarations.
- (3) 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.
- (4) The declaration shall identify:
 - (a) financial interests, including assets and liabilities, that might be considered to be capable of giving rise to a conflict of interest, and in any case where the value of an investment exceeds EUR 10,000. These financial interests may be in the form of a specific financial holding in an entity's capital, in particular, shares, or any other form of financial interest, such as bonds or investment certificates. This obligation applies to financial interests of spouses, partners¹¹ and minor children where those might be considered to be capable of giving rise to a conflict of interest;
 - (b) all activities, professional or otherwise, distinguishing between activities engaged in over the last ten years which ended before the Member took up office, such as company board member, advisor or consultant, member of

¹⁰ See footnote 7.

¹¹ See footnote 7.

a foundation or similar body or of an educational institution, and those functions of an honorary nature and/or attributed for life or functions which are formally suspended by direct effect of the law during the Member's mandate, which are maintained while respecting Article 8(2);

- (c) every entity in which the Member has an interest or in which or for which he or she exercised an activity as specified in sub-paragraphs (a) and (b) above, except entities in which the Member owns holdings which are managed on an independent basis by a third party, unless they are linked to specific industries like sector or thematic funds. In the case of a foundation or similar body, the purpose of the entity shall be stated;
 - (d) membership of associations, political parties, trade unions, non-governmental organisations or other bodies, if their activities, in public or private, are intended to influence the exercise of public functions;
 - (e) any property owned either directly or through a real estate company, with the exception of homes reserved for their exclusive use and that of their family;
 - (f) the ongoing professional activities of spouses or partners, setting out the nature of the activity, the title of the position held, and if applicable the name of the employer.
- (5) Declarations shall be made public in an electronic and machine-readable format.

Article 4 – Procedure for conflicts of interest

- (1) Members shall recuse themselves from any decision or instruction of a file and from any participation in a discussion, debate or vote in relation to a matter that falls under Article 2(6).
- (2) Declarations submitted under Article 3 shall be scrutinised under the authority of the President.
- (3) Members shall inform the President of any situation that falls under Article 2(6) as soon as they become aware of it.
- (4) The President shall take any measure he considers appropriate, in the light of the information referred to in paragraphs (2) and (3) or other available information, if necessary after consultation of the Independent Ethical Committee, such as:
 - (a) the reallocation of a file to another Member or to the responsible Vice-President. The President shall inform the President of the European Parliament in due time of any such reallocation;

- (b) the request for the sale or placing in a blind trust of the financial interests referred to in Article 3(4)(a) where these give rise to a conflict of interest in the area of the Member's portfolio responsibilities.

Article 5 – Collegiality and discretion

- (1) Members shall comply with the duty of loyalty towards the Commission and discretion in discharging their duties. They shall act and express themselves with the restraint that their office requires.
- (2) Members shall refrain from disclosing what is said at meetings of the Commission.
- (3) Without prejudice to the disciplinary provisions applicable to officials and other agents, Members are responsible for the proper handling and any external transmission by members of their Cabinets of classified documents, of sensitive information or of confidential documents submitted to the College for adoption or information.
- (4) Members shall not make any comment that would call into question a decision taken by the Commission or which may harm the Commission's reputation.

Article 6 – Specific provisions with regard to the principle of integrity

- (1) Members shall manage the material resources of the Commission in a responsible manner. They shall use their Cabinets and the Commission's infrastructure and resources in full compliance with the relevant rules.
- (2) Members shall conduct missions in compliance with the rules in the Financial Regulation, the internal rules on the implementation of the general budget of the European Union, the Guide to Missions and the rules set out in Annex 2. A mission is defined as travel in the exercise of his or her duties by a Member away from the Commission's place of work. Free travel offered by third parties must not be accepted unless it is in accordance with diplomatic or courtesy usage or unless the President has authorised it beforehand. For reasons of transparency, 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.
- (3) Members shall comply with the rules governing receptions and professional representation in the relevant Commission decision^{12 13}. Expenses not covered by

¹² C(2007)3494 of 18 July 2007.

that decision will be paid from the Member's flat rate allowance provided for in Article 7 of Regulation 2016/300.

- (4) Members shall not accept any gift with a value of more than EUR 150. When, in accordance with diplomatic and courtesy usage they receive gifts worth more than this amount, they shall hand them over to the Commission's Protocol Department. In case of doubt as to the value of a gift, an evaluation shall be undertaken under the authority of the Director of the Office of Infrastructure and Logistics in Brussels, whose decision on the matter shall be final. The Commission's Protocol Department shall keep a public register of the gifts handed over in accordance with this paragraph which shall identify the donor.
- (5) Members shall not accept hospitality, except in accordance with diplomatic and courtesy usage. Attendance upon invitation to any events where Members represent the Commission shall not be considered as hospitality.
- (6) Members shall notify the President of any decoration, prize or honour awarded to them. Should a prize include a sum of money or valuables, it should be donated to a charity of their choice; valuable objects can also be handed over to the Protocol Department.
- (7) Members shall choose the members of their Cabinets in line with the rules set by the President¹⁴ and on the basis of objective criteria taking into account the demanding nature of the function, the professional profiles requested and the need to establish a relationship based on mutual trust between the Member and the member of Cabinet. Members may not choose spouses, partners and direct family members to form part of their Cabinet.

Article 7 – Transparency

- (1) Members and their members of Cabinet shall meet only those organisations or self-employed individuals, which are registered in the Transparency Register established pursuant to the Inter-institutional agreement on this matter between the European Parliament and the Commission of 16 April 2014¹⁵ inasmuch as they fall under its scope.
- (2) They shall make public information on such meetings in accordance with the Commission Decision of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals¹⁶.

¹³ For the use of the College's global envelope, see Annex 2.

¹⁴ C(2014) 9002 of 1 November 2014.

¹⁵ OJ L 277, 19.9.2014, p.11.

¹⁶ C(2014) 9051 (OJ L 343, 28 November 2014, p. 22).

Article 8 – External activities during term of office

- (1) Members shall not exercise any professional activity, gainful or not, or public functions of whatever nature, other than those resulting from the performance of their duties. This paragraph is without prejudice to maintaining functions of an honorary nature and/or attributed for life, or functions which are formally suspended by direct effect of law during the Member's mandate as Commissioner, as long as the independence of the Member is guaranteed.
- (2) Members may engage in the following external activities, while respecting Articles 2 and 5:
 - (a) giving occasionally unpaid courses in the interests of European integration, provided that the President is duly informed, and other communication activities on areas of European interest;
 - (b) publishing a book provided that any royalties in a work published in connection with a Member's functions are paid over to a charity of their choice, and provided that the President is duly informed;
 - (c) writing articles, delivering speeches or taking part in conferences provided that either no payment is made or, should a payment be made, it is paid over to a charity of their choice;
 - (d) holding honorary unpaid posts in foundations or similar bodies in the political, legal, cultural, artistic, social, sporting or charitable fields or in educational or research establishments, provided that the President is duly informed. "Honorary posts" means posts in which the holder has no management role, no decision-making power and no responsibility or control of the operations of the body in question. The expression "foundations or similar bodies" means not-for-profit establishments or associations which carry out activities in the general interest in the fields referred to in the first sentence. The post must not involve any risk of conflict of interest. Such risk exists in particular when a body receives financing from the EU budget.

Article 9 – Participation in national politics during the term of office

- (1) Members may participate in national politics as members of national political parties or an organisation of the social partners (such as trade unions) or in a national election campaign, including regional or local elections, provided that this does not compromise their availability for service in the Commission and the priority given to their Commission duties over party commitment. Participation as members of national political parties or an organisation of the social partners includes the holding of honorary or non-executive functions in bodies of the party

structure, but excludes management responsibilities. Political contacts in the capacity as Member of the Commission remain unaffected.

- (2) Members shall inform the President of their intention to participate in a national, regional or local election campaign and the role they expect to play in the campaign. If they intend to stand for election or otherwise play an active role in the election campaign, they must withdraw from the work of the Commission for the entire period of active implication and at least for the duration of the campaign. In other instances, the President, taking into account the particular circumstances of the case, shall decide whether the envisaged participation in the election campaign is compatible with the performance of the Member's duties. Members so withdrawing from the work of the Commission shall be granted "unpaid electoral leave" by the President and may not use the Commission's human or material resources during that period. The President shall duly inform the President of the European Parliament of the granting of this leave and of which Member will take over the relevant responsibilities during the period of leave.
- (3) Members shall abstain from making public statements or interventions on behalf of any political party or organisation of the social partners of which they are members, except when standing for election/ participating in an election campaign in accordance with paragraph (2). This is without prejudice to the right of Members to express their personal opinions. Members so participating in electoral campaigns shall undertake to refrain from adopting a position in the course of the campaign that would not be in line with the duty of confidentiality or infringe the principle of collegiality.

Article 10 – Participation in European politics during the term of office

- (1) Members may participate in European politics as members of European political parties or organisations of the social partners at European level provided that this does not compromise their availability for service in the Commission and the priority to be given to their Commission duties over party commitment. Participation as members of European political parties or organisations of the social partners at European level includes the holding of political, honorary or non-executive functions in bodies of the party structure, but excludes management responsibilities. Political contacts in the capacity as Member of the Commission remain unaffected.
- (2) Members may participate in electoral campaigns in elections to the European Parliament, including as candidates. They may also be chosen by European political parties as lead candidate ("Spitzenkandidat") for the position of President of the Commission.

- (3) Members shall inform the President of their intention to participate in an election campaign within the meaning of paragraph (2) and the role they expect to play in the campaign.
- (4) The President shall inform the European Parliament in due time whether one or more Members will stand as candidates in electoral campaigns for elections to the European Parliament, as well as of the measures taken to ensure the respect of the principles of independence, integrity and discretion provided by Article 245 of the Treaty on the Functioning of the European Union and this Code of Conduct.
- (5) Members standing as candidates or participating in an electoral campaign within the meaning of paragraph (2) may not use the Commission's human or material resources for activities linked to the electoral campaign.
- (6) Members shall abstain from making public statements or interventions on behalf of any European political party of which they are members, except when standing for election or participating in an election campaign in accordance with paragraphs (3) and (4). This is without prejudice to the right of Members to express their personal opinions. Members so participating in electoral campaigns shall undertake to refrain from adopting a position in the course of the campaign that would not be in line with the duty of confidentiality or infringe the principle of collegiality.

Article 11 – Post term of office activities

- (1) After ceasing to hold office, former Members shall continue to be bound by their duty of integrity and discretion pursuant to Article 245 of the Treaty on the Functioning of the European Union. They shall continue to be bound by the duties of collegiality and discretion, as laid down in Article 5, with respect to the Commission's decisions and activities during their term of office.
- (2) Former Members shall inform the Commission with a minimum of two months' notice of their intention to engage in a professional activity during a period of two years after they have ceased to hold office. For the purposes of the present Code, "professional activity" means any professional activity, whether gainful or not, other than any unpaid activity which has no link with the activities of the European Union and which does not give rise to lobbying or advocacy vis-à-vis the Commission and its services such as:
 - (a) charitable or humanitarian activities;
 - (b) activities deriving from political, trade unionist and/or philosophical or religious convictions;
 - (c) cultural activities;

- (d) the mere management of assets or holdings or personal or family fortune, in a private capacity;
 - (e) or comparable activities.
- (3) 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, and if the planned activity is related to the portfolio of the former Member, it shall decide only after having consulted the Independent Ethical Committee.
- Without prejudice to the possibility for the President to seek its opinion in cases of doubt, the Independent Ethical Committee does not need to be consulted where former Members intend to:
- (a) continue to serve the European interest in an Institution or Body of the European Union;
 - (b) take up functions in the national civil service of a Member State (at national, regional or local level)
 - (c) engage with international organisations or other international bodies dealing with public interests and in which either the EU or one or several of its Member States are represented;
 - (d) engage in academic activities;
 - (e) engage in one-off activities for a short duration (1 or 2 working days);
 - (f) accept honorary appointments.
- (4) Former Members shall not lobby¹⁷ 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 for a period of two years after ceasing to hold office.
- (5) In the case of a former President, the periods set out in paragraphs (2) and (4) shall be three years.
- (6) The duties set out in paragraphs (2) and (4) shall not apply where the former Member is engaging in public office.
- (7) Decisions taken under paragraph (3) determining compatibility with Article 245 of the Treaty on the Functioning of the European Union and related opinions of the Independent Ethical Committee shall be made public with due consideration to the protection of personal data.

¹⁷ All activities falling under the scope of the Transparency Register, see Article 7.

Article 12 – The Independent Ethical Committee

- (1) The Commission hereby establishes an Independent Ethical Committee. On request of the President, the Committee shall advise the Commission on any ethical question related to this Code and provide general recommendations to the Commission on ethical issues relevant under the Code.
- (2) The President shall set the time limit within which an opinion shall be given.
- (3) Members or former Members concerned shall co-operate fully with the Committee, in particular by providing all the relevant additional information requested. They shall have the possibility to be heard if the Committee considers issuing a negative opinion.
- (4) The Committee shall consist of three members selected for their competence, experience, independence and professional qualities. They shall have an impeccable record of professional behaviour as well as experience in high-level functions in European, national or international institutions. The composition of the Committee should reflect experiences in different institutions or functions. The members are appointed by the Commission, on a proposal from the President. They shall sign a declaration on the absence of conflicts of interest. Their term is three years, renewable once. If a member ceases office before the completion of the term, the Commission appoints, on a proposal from the President, a new member for the remainder of the term.
- (5) The Committee shall elect a permanent chairperson from among its members. The chairperson convenes meetings further to receiving a request from the President.
- (6) The deliberations of the Committee shall be confidential.
- (7) Where an opinion is not adopted unanimously, it shall include any dissenting point of view.
- (8) The Commission, in accordance with the relevant administrative rules, shall reimburse travel and subsistence expenses for the Committee's meetings, and shall provide secretarial support to the Committee.¹⁸

Article 13 – Application of the Code

- (1) The President, assisted by the Independent Ethical Committee, shall ensure the proper application of this Code of Conduct.
- (2) Members or former Members shall inform the President in a timely manner if they have doubts with regard to the application of this Code before acting on the matter relating to which the doubts arise.

¹⁸ This is without prejudice to other administrative provisions concerning the status of the members and their rights.

- (3) In case of an infringement of this Code of Conduct which does not warrant a referral to the Court of Justice in accordance with Article 245 or 247 of the Treaty on the Functioning of the European Union, the Commission may decide, taking into account the opinion of the Independent Ethical Committee and on proposal of the President, to express a reprimand and, where appropriate, make it public.
- (4) The Commission shall publish annually a report on the application of this Code of Conduct including the work of the Independent Ethical Committee. The reports shall be published on a website dedicated to the application of this Code of Conduct.

Article 14 – Entry into force

- (1) The present Code of Conduct shall repeal and replace the Code of Conduct of 20 April 2011 and the Decision establishing the ad hoc ethical committee of 21 October 2003¹⁹. The current Committee and its members shall fulfil the remainder of their mandate under the present Code.
- (2) As regards former Members whose term has ended before the entry into force of this decision, Article 11(2) to (6) does not apply. Section 1.2 of the Code of Conduct of 20 April 2011 remains applicable to them.
- (3) It shall enter into force on 1 February 2018.
- (4) Article 10(2) to (5) shall apply from the date of entry into force of the amended Framework Agreement on relations between the European Parliament and the European Commission. Until that date, Section 1.1, paragraphs 8, 9 and 10 of the Code of Conduct for Commissioners of 20 April 2011²⁰ shall continue to apply to the participation of Members of the Commission in electoral campaigns in elections to the European Parliament.

Done at Brussels, 31.1.2018

For the Commission

The President

¹⁹ C(2003) 3750 of 21 October 2003.

²⁰ See footnote 1.