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**ANNUAL REPORT ON THE APPLICATION  
OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN  
2023**

# ANNUAL REPORT ON THE APPLICATION OF THE CODE OF CONDUCT FOR THE MEMBERS OF THE EUROPEAN COMMISSION IN 2023

## Introduction

The Treaties, in particular Article 17(3) of the Treaty on European Union<sup>1</sup> and Article 245 of the Treaty on the Functioning of the European Union<sup>2</sup>, have laid down the essential ethical principles that govern the conduct of Members of the European 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 Commission<sup>3</sup> 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 covered by the Code, e.g., provisions on meetings with interest representatives or the publication of mission costs. The Code of Conduct forms part of the governance arrangements of the Commission which ‘ensure that the Commission functions as a modern, accountable and performance-oriented institution’.<sup>4</sup>

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<sup>1</sup> ‘The Commission’s term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall 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.’

<sup>2</sup> ‘The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall 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. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead.’

<sup>3</sup> 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>.

<sup>4</sup> See the Communication to the Commission ‘Governance in the European Commission’, C(2020) 4240 final, 24.6.2020, [https://commission.europa.eu/document/download/5faa3c57-4ec3-4b50-8e3e-3688ee394aed\\_en?filename=c\\_2020\\_4240\\_en.pdf](https://commission.europa.eu/document/download/5faa3c57-4ec3-4b50-8e3e-3688ee394aed_en?filename=c_2020_4240_en.pdf).

The ‘Working Methods of the European Commission’<sup>5</sup> 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’.

Article 13(4) of the Code provides that the Commission should publish annually a report on the application of the Code. This is the sixth annual report and covers the year 2023<sup>6</sup>. Like in previous years, the report also covers the activities of the Commission’s Independent Ethical Committee in 2023.

## **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 2023 reflecting the situation on 1 January 2023. In case of changes between 1 January 2023 and the date of the actual signature of the declarations of interests, these changes were taken into account. 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 28 April 2023 in an electronic format on the respective webpage of each Member and in a machine-readable format on the webpage dedicated to the Code of Conduct<sup>7</sup>. The publication

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<sup>5</sup> Communication of the President to the Commission: ‘The Working Methods of the European Commission’, P(2019) 2, 1.12.2019, [https://commission.europa.eu/document/download/325a45ef-a6b1-4e14-bc3c-863e2f53a957\\_en?filename=working-methods.pdf](https://commission.europa.eu/document/download/325a45ef-a6b1-4e14-bc3c-863e2f53a957_en?filename=working-methods.pdf).

<sup>6</sup> The Commission took note of the first, second, third, fourth and fifth 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), on 20 July 2021 (SEC(2021) 299), on 29 May 2022 (SEC(2022) 226) and on 18 April 2023 (SEC(2023) 163); [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](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).

<sup>7</sup> [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](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).

requirements set out in Article 3(5) of the Code<sup>8</sup> were thereby fulfilled. Due to changes in their individual situation, several Members updated their declarations in the course of the year in line with Article 3(3) of the Code<sup>9</sup>. The same scrutiny and publication procedures were followed.

Following the resignation of Commissioner Mariya Gabriel and Executive Vice-President Frans Timmermans in the course of 2023, Ms Iliana Ivanova and Mr Wopke Hoekstra have been appointed by the Council, by common agreement with the President of the Commission, after consultation of the European Parliament. Both new Members have completed and signed a declaration of interests in accordance with Article 3(3) of the Code which was published.

## **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 interlocutors for the Members of the Commission, their respective Heads of Cabinet and the services of the Commission on questions related to the practical implementation of the Members' ethics and transparency obligations, notably the annual and *ad hoc* updates of the declarations 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.

The Secretariat-General organised, in 2023, two meetings of the Network, respectively held on 23 June (9<sup>th</sup> meeting) and 28 September (10<sup>th</sup> meeting) during which the relevant Commission departments responsible, at corporate level, for ethics and transparency regarding the Members of the Commission but also for staff in the Cabinets presented different issues of interest.

Several subjects were discussed, namely the reinforcement of the rules for missions (transport and accommodation) in relation to expenditure covered by third parties, the interpretation to be given to the provisions of Article 8 of the Code of Conduct for the Members of the European Commission regarding external activities during the term of office and the importance to timely reply to requests for access to documents.

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<sup>8</sup> Article 3(5) provides 'Declarations shall be made public in an electronic and machine-readable format.'

<sup>9</sup> 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.'

### 1.3. Transparency requirements

According to point V of the Working Methods of the European Commission, transparency should characterise the work of the Members of the Commission and of their Cabinets.

Transparency concerning interest representation and contacts with stakeholders is particularly important to allow citizens to follow the activities and contacts of interest representatives. The Commission applies strict requirements to guarantee that such transparency is sufficiently ensured.

Article 7(1) of the Code sets out that the Members and members of their Cabinet shall meet only those organisations or self-employed individuals, which are registered in the Transparency Register established pursuant to the relevant Interinstitutional Agreement<sup>10</sup> inasmuch as they fall under its scope. In addition, in accordance with Article 7(2) of the Code and Commission Decision 2014/839/EU, Euratom<sup>11</sup>, Members of the Commission shall make public information on all meetings held by them and members of their Cabinet with organisations or self-employed individuals on issues relating to policymaking and implementation in the Union<sup>12</sup>. The Commission publishes systematically such information<sup>13</sup> in a standardised format on the websites of the Members of the Commission within two weeks following the meeting. A list of published meetings is also made available on the entry of the registrant concerned in the Transparency Register<sup>14</sup>.

To further enable citizens to access that information in a comprehensive manner, the Commission publishes consolidated datasets of its meetings with interest representatives on its official portal for European data<sup>15</sup>.

In 2023, the Secretariat-General of the Commission continued its systematic practice of recalling to the attention of Members of the Commission and their Cabinets the requirements and modalities of recording the information on

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<sup>10</sup> 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 207, 11.6.2021, p. 1.

<sup>11</sup> 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.

<sup>12</sup> These obligations also apply to Directors-General of the Commission.

<sup>13</sup> The information that is made public consists of the date of the meeting, the location, the name of the Member of the Commission and/or member of the Cabinet, the name of the interest representative and the subject of the meeting.

<sup>14</sup> [https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register\\_en](https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register_en)

<sup>15</sup> <https://data.europa.eu/data/datasets/european-commission-meetings-with-interest-representatives?locale=en>.

meetings with interest representatives in the dedicated IT tool in an accurate and timely manner.

For reasons of transparency, pursuant to Article 6(2) of the Code, the Commission also publishes an overview of mission expenses per Member every two months covering all missions undertaken.<sup>16</sup>

In 2023, the Commission published an overview of expenses for 1 048 missions. The published information ensures transparency regarding both the costs and the purpose of the respective missions. A link to the relevant information can be found on each Member's respective webpage.

#### **1.4. Webpage on the Code of Conduct for the Members of the Commission**

The European Commission has a dedicated webpage related to 'Commissioners and Ethics'<sup>17</sup> which is accessible via the portal on 'Ethics and Good Administration'<sup>18</sup>.

The webpage on 'Commissioners and Ethics' contains three sections: 'Code of Conduct for the Members of the European Commission'; 'The Independent Ethical Committee' and 'Former European Commissioners' authorised activities'.

## **2. FORMER MEMBERS OF THE COMMISSION**

### **2.1. Ethical obligations of former Members after the end of their mandate**

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.

As from 1 December 2022, the notification obligation enshrined in Article 11 of the Code of Conduct for the Members of the Commission regarding envisaged post term of office activities does not apply any more to any former Member of the last

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<sup>16</sup> An exception is made if 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.

<sup>17</sup> [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics\\_en](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration/commissioners-and-ethics_en).

<sup>18</sup> [https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration\\_en](https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/ethics-and-good-administration_en).

Commission whose term ended on 30 November 2019.<sup>19</sup> The two-year notification obligation of Former Commissioner Hogan who left the Commission in 2020 expired on 25 August 2022. Former Commissioner Gabriel and Former Executive Vice-President Timmermans left the Commission in 2023 and were informed about their obligations after the end of the mandate.

As mentioned in the previous annual report, public allegations had been made in 2022 that ethical obligations with regard to an alleged post-mandate activity for UBER had not been respected by a former Member of the Commission from 2004 to 2014. The Commission took steps to clarify the matter with the former Member concerned herself. The European Anti-Fraud Office (OLAF) which is also in charge of investigating serious breaches of professional duties by Members opened an inquiry to verify the allegations and establish the facts. In 2023, the Commission received the final report of the European Anti-Fraud Office. According to this report, the investigation did not establish any evidence of fraud or irregularity affecting the financial or other interests of the European Union, or any serious wrongdoings relating to the discharge of professional duties. Accordingly, the Office did not make any recommendation for action. The Commission took note of these findings and subsequently closed the procedure. The matter demonstrates that the ethical framework applicable to the Members of the Commission provides a comprehensive set of rules and procedures.

## **2.2. Post term of office activities of the Members of the Commission**

Former Commissioner Gabriel and Former Executive Vice-President Timmermans left the Commission in 2023. Both engaged in public office which did not require a notification and authorisation by the Commission according to Article 11(6) of the Code of Conduct.

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<sup>19</sup> Former President Juncker's 'cooling-off period' of three years ended respectively on 25 August and 30 November 2022.

### 3. CO-OPERATION WITH EXTERNAL STAKEHOLDERS

#### 3.1. Interinstitutional Ethics Body

The Commission adopted on 8 June 2023 a Communication to the other institutions and advisory bodies with a proposal for an interinstitutional ethics body.<sup>20</sup> It is accompanied by a draft agreement to establish an ethics body between all seven institutions and two advisory committees mentioned in Article 13 of the Treaty on the European Union<sup>21</sup> and a financial statement.

The proposal results from the President's Political Guidelines<sup>22</sup> which support the creation of an 'independent ethics body common to all EU institutions', to ensure trust in the EU and its institutions with regard to 'ethics, transparency and integrity'. Vice-President Jourová has been entrusted in her Mission letter to work with the other institutions to achieve this.

The draft agreement proposes to establish an interinstitutional body to develop ethical standards, which all institutions should commit to implement in the internal rules for their members.

The body would be a permanent structure to standardise what is expected of persons holding the highest political or institutional functions in the EU. It would hence foster a common understanding of the respective obligations of members as they result from the founding Treaties of the EU. So far, there has been no mechanism for establishing common standards for the expected performance of duties by members and no interinstitutional forum for coordination and discussion of the ethical rules for members. Finally, the ethics body, as proposed by the Commission, would not duplicate existing structures, such as the European Ombudsman, the European Anti-Fraud Office (OLAF)<sup>23</sup>, or the European Public Prosecutor's Office (EPPO).

Vice-President Jourová chaired a political meeting with all institutions and advisory committees on 7 July 2023. All institutions and advisory bodies committed to engage in discussions on the proposal. Since then, negotiations have continued at a sustained pace, at both political and technical level, with the aim of reaching an agreement as quickly as possible.

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<sup>20</sup> COM(2023) 311 final, 8.6.2023; [https://commission.europa.eu/publications/proposal-creation-interinstitutional-ethics-body\\_en](https://commission.europa.eu/publications/proposal-creation-interinstitutional-ethics-body_en)

<sup>21</sup> European Parliament, European Council, Council, Commission, European Central Bank, Court of Auditors, Court of Justice, Committee of the Regions, European Economic and Social Committee.

<sup>22</sup> [https://commission.europa.eu/system/files/2020-04/political-guidelines-next-commission\\_en\\_0.pdf](https://commission.europa.eu/system/files/2020-04/political-guidelines-next-commission_en_0.pdf).

<sup>23</sup> See in this regard section 2.1 of this report.



### **3.2. Contacts with National Administrations and Civil Society**

The Secretariat-General continued to follow developments regarding ethical standards and rules in other EU and international institutions as well as in the Member States. The contacts help compare different rules and approaches regarding ethical rules for the political members of institutions and governments.

## **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.

The current members of the Committee (Mr Allan Rosas, a former Judge at the European Court of Justice, Ms Elisabeth Morin-Chartier, a former Member and Quaestor of the European Parliament and Mr Jerzy Plewa, a former Director-General in the Commission) were appointed on 20 July 2022<sup>24</sup> and held one meeting 2023. During this meeting, they were informed of the ongoing interinstitutional discussions on the creation of an interinstitutional ethics body, had a meeting with Vice-President Jourová and held an exchange of views notably with regard to the forthcoming period of compulsory notifications of post term of office activities of Members of the Commission.

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<sup>24</sup> C(2022) 5097 - [https://commission.europa.eu/system/files/2022-07/c20225097\\_en.pdf](https://commission.europa.eu/system/files/2022-07/c20225097_en.pdf).