



Jean-Claude JUNCKER
President of the European Commission

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Brussels, **02 FEB. 2017**
Ares (2016) 5746415

Dear Honourable Member,

I would like to thank you, as well as the other 45 co-signatories, for your e-mail and letter of 3 October 2016 regarding the issue of conflicts of interests and the intended steps to minimise these situations as well as the allegations concerning Ms Kroes.

Following the letter that Ms Kroes sent to me on 16 September 2016, I sent a letter to her on 22 September 2016 asking for clarifications and details on the facts. On the basis of her reply, I decided to consult the independent Ad Hoc Ethical Committee on the existence of a violation of the Code of Conduct for Commissioners.

The Committee delivered its opinion on 16 November 2016. Following this opinion, the Commission adopted a decision on 21 December 2016 regarding Ms Kroes, on two different issues: (1) Concerning the non-inclusion in her declaration of interests of 2004 of the fact of having held a post as Director of Mint Holdings, the Commission concluded that this conduct was in breach of the Code of Conduct for Commissioners. Concerning the fact of continuing to feature in the register as a director, the Commission took note of the opinion of the Ad Hoc Ethical Committee of 16 November 2016 that this is a violation of article 245 of the TFEU for which however Ms Kroes cannot be blamed, if she has not been and could not reasonably have been aware of still holding the post not effectively exercised. The Commission took note of Ms Kroes' apologies expressed in her letters of 16 September and 26 September 2016;

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(2) Concerning Ms Kroes' omission to declare her 2015 income whilst having accepted the transitional allowance, the Commission concluded that Ms Kroes did not act with the necessary diligence and was in breach of Article 7(4) of Council Regulation 422/67 in conjunction with article 245 of the TFEU. The Commission further concluded that, while it did not have sufficient elements nor legal ground to seize the Court regarding these breaches and to seek a financial sanction notably in view of the fact that the Commission recovered immediately the money and thus prevented any loss for the budget of the Union following the information later provided by Ms Kroes, Ms Kroes deserves a reprimand which the Commission expressed through the minutes of its meeting¹.

I agree with you that the risk of conflict of interests of former Commissioners should be minimised, while of course not preventing them from ever working again.

Let me underline first that the Members of the Commission may not have any other professional activities during their mandate. Their Declarations of Interests and parliamentary hearings prior to their appointments are designed to assess the risk of conflicts of interests and avoid them if necessary. During their mandate, any situation entailing a possible conflict of interest which might impair the independence of a Member of the Commission has to be notified to the President of the Commission. The President will then take appropriate measures including, if necessary, the reallocation of the file to another Member of the Commission and will also inform in due time the President of the European Parliament of his decision.

As regards your suggestion to introduce a range of sanctions in the Code of Conduct for Commissioners, in accordance with Article 245 TFEU, the Court of Justice is the only competent body to deprive Commissioners or former Commissioners of their right to a pension or other benefits, in the event of any breach of their obligations. This is recalled in section 2.2 of the Code. The President of the Commission has in any case the right to request a Commissioner to resign, according to Article 17.6 last indent TEU and point 2.1 of the Code of Conduct.

In line with the Code of Conduct for Commissioners, the existing rules and notification obligations of former Commissioners' post-employment activities are designed to avoid risks of conflicts of interests with those of the European Union, while preserving the fundamental right of choosing an employment. If a certain type of employment might create a conflict of interest for a certain period of time after leaving the Commission, it cannot be maintained that such a conflict of interest can last forever, even though certain restrictions such as the non-disclosure of commercially sensitive information and the obligation to respect Article 245 TFEU apply indefinitely.

In order to reinforce existing rules under the Code of Conduct for Commissioners, I have decided to consult the European Parliament, on 23 November 2016, on an

¹ <http://ec.europa.eu/transparency/regdoc/rep/10061/2016/EN/PV-2016-2194-F1-EN-MAIN-PART-1.PDF>

amendment to the Code with a view to extend the cooling-off period from 18 months to 2 years for Commissioners and to 3 years for the President of the Commission.

Finally, I recall that this Commission adopted new and mandatory rules on transparency at the beginning of its mandate. These include the obligation for lobbyists to be registered in the Transparency Register prior to any meeting with senior decision-makers in the Commission and the parallel obligation for Commissioners, their members of Cabinet and senior staff of the Commission to make public all their meetings with lobbyists. These rules apply to all lobbyists, including former Members of the Commission.

Yours faithfully,

A handwritten signature in blue ink, consisting of a long horizontal stroke with a small loop at the end and a vertical stroke crossing it near the start.

Copy to the following Honourable Members of the European Parliament, co-signatories of the letter:

Mr Gianni PITELLA, MEP
Mr Eric ANDRIEU, MEP
Mr Nikos ANDROULAKIS, MEP
Mr Guillaume BALAS, MEP
Mr Brando BENIFEI, MEP
Ms Pervenche BERES, MEP
Mr Jose BLANCO LOPEZ, MEP
Ms Mercedes BRESSO, MEP
Mr Nicola CAPUTO, MEP
Mr Sergio COFFERATI, MEP
Mr Richard CORBETT, MEP
Mr Andrea COZZOLINO, MEP
Mr Jean-Paul DENANOT, MEP
Ms Anneliese DODDS, MEP
Mr Knut FLECKENSTEIN, MEP
Ms Tanja FAJON, MEP
Mr Doru FRUNZULICA, MEP
Ms Iratxe GARCIA PEREZ, MEP
Ms Eider GARDIAZABAL RUBIAL, MEP
Mr Jens GEIER, MEP
Ms Ana GOMES, MEP
Mr Roberto GUALTIERI, MEP
Ms Sylvie GUILLAUME, MEP
Mr Sergio GUTIERREZ PRIETO, MEP
Mr Ramon JAUREGUI ATONDO, MEP
Ms Agnes JONGERIUS, MEP
Mr Jeppe KOFOD, MEP
Mr Dietmar KOSTER, MEP
Mr Javier LOPEZ, MEP
Mr Andrejs MAMIKINS, MEP
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Mr Emmanuel MAUREL, MEP
Mr Gilles PARGNEAUX, MEP
Mr Emilian PAVEL, MEP
Mr Pavel POC, MEP
Ms Kati PIRI, MEP
Mr Georgi PIRINSKI, MEP
Ms Christine REVAULT D'ALLONNES BONNEFOY, MEP
Ms Virginie ROZIERE, MEP
Mr Alfred SANT, MEP
Mr Peter SIMON, MEP
Ms Isabelle THOMAS, MEP
Mr Derek VAUGHAN, MEP
Mr Daniele VIOTTI, MEP
Mr Jakob VON WEIZSACKER, MEP