

Complaint 1408/2015/OV
Report on the inspection at the Commission on 21 October 2015

Representatives from the Commission:

- Ms Dorthe CHRISTENSEN, Secretariat-General F.3
- Mr Thomas FICH, SG.F.3
- Ms Martine LEVEQUE, DG Human Resources and Security (DG HR)
- Mr Michael BERGER, DG HR
- Ms Luminita NICOLAIE, DG HR
- Ms Véronique VANLANDUYT, DG HR
- Mr Thibault BALTHAZAR, DG HR

Representatives from the Ombudsman's Office:

- Mr Lambros PAPADIAS, Head of Unit, Complaints and Inquiries Unit 3
- Mr Olivier VERHEECKE, Principal Legal Adviser, Complaints and Inquiries Unit 3

The inspection took place at the premises of the Commission (DG HR, Rue de la Science 11) in Brussels and began at 10 h.

The Ombudsman's representatives first explained the purpose and the procedure for the inspection. They referred to the complainant's allegations and claims set out in the Ombudsman's letter of 15 September 2015 to President Juncker (and in particular to the press release of 18 December 2014 in which the Commission publicly announced that Mr Stoiber had been appointed as Special Adviser on Better Regulation). They explained that, as pointed out in the Ombudsman's letter, they wanted to inspect the documents from the Commission's file concerning 1) the assessment by DG HR of the conflict of interest issue, 2) the Legal Service's assessment, as well as 3) documents relating to the publication of the press release of 18 December 2014.

The Commission's representatives first clarified that the file submitted for inspection to the Ombudsman's representatives was only DG HR's own file, and that they did not have the documents from DG Communication relating to the press release. The Ombudsman may wish to inspect these documents separately.

They then explained in detail and in chronological order the various steps (including the consultation of the Legal Service and DG BUDG, and information to the Budgetary Authority) in the procedure followed by DG HR in checking whether there could be a potential conflict of interest if Mr Stoiber were to be appointed as a Special Adviser. This procedure was initiated on 18 November

2014 and culminated in the Commission deciding, on 4 March 2015, in agreement with the President, to appoint the various Special Advisers whom had been proposed.

Upon these clarifications, the Ombudsman's representatives inspected the file and in particular the following documents:

- 1) Note of 18 November 2014 from the Director-General of DG HR to Heads of Cabinet launching the 2015 exercise of designations of Special Advisers (CONFIDENTIAL);
- 2) Commission webpage on the "*High Level Group on Administrative Burdens*";
- 3) Commission memo of 14 October 2014 "*The High Level Group on Administrative Burdens - Questions and Answers*";
- 4) Commission press release of 18 December 2014 on Mr Stoiber's appointment;
- 5) Letter of 18 December 2014 from Friends of the Earth Europe (FoEE) and Corporate Europe Observatory (CEO) to the Secretary-General of the Commission requesting public access to documents and information;
- 6) Commission internal transmission fiche of 23 December 2014 concerning the complainant's request for public access (CONFIDENTIAL);
- 7) E-mail of 5 January 2015 from the Cabinet of President Juncker to DG HR (CONFIDENTIAL);
- 8) Request for the appointment of Mr Stoiber as Special Adviser, submitted by the Cabinet of President Juncker to DG HR on 5 January 2015 (CONFIDENTIAL);
- 9) Declaration of activities by Mr Stoiber (in German), dated 7 January 2015 ("Annex 2") as well as a webpage document "*ProSiebenSat.1 - Beirat*" and the document "*Deloitte gründet Anternehmensbeirat*";
- 10) CV of Mr Stoiber (description) in German;
- 11) Declaration on the Honour (of no conflict of interest) by Mr Stoiber of 7 January 2015 ("Annex 1");
- 12) Statement of Assurance by the Director of Cabinet of President Juncker ("Annex 4"), dated 15 January 2015 (CONFIDENTIAL);
- 13) Wikipedia information on Mr Stoiber;
- 14) An annex (6 pages) with extracts (in German) from Articles of i) the Conditions of Employment of Other Servants of the EU and ii) the Staff Regulations of officials of the EU, signed by Mr Stoiber and dated 7 January 2015;
- 15) E-mail of 15 January 2015 from the Cabinet of President Juncker to DG HR (CONFIDENTIAL);
- 16) E-mail exchange of 19-20 January 2015 between DG HR and the Cabinet of President Juncker (CONFIDENTIAL);

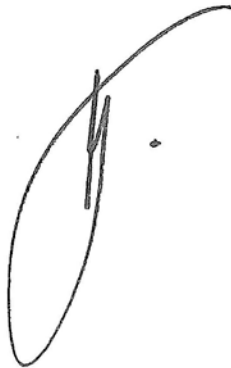
- 17) (Amended) Statement of Assurance by the Director of Cabinet of President Juncker ("Annex 4"), dated 20 January 2015 (CONFIDENTIAL);
- 18) Internal Commission fiche on budget appropriations concerning Mr Stoiber as a Special Adviser (CONFIDENTIAL);
- 19) Two inter-service consultation fiches (CONFIDENTIAL);
- 20) Letter of 26 January 2015 from the Director-General of DG BUDG to the Committee on Budgets of the Council of the EU (CONFIDENTIAL);
- 21) Note of 21 January 2015 from the Director-General of DG HR to the Director-General of DG BUDG (CONFIDENTIAL);
- 22) E-mail exchange of 21-22 January 2015 between DG HR and DG GROW in relation to contracts awarded to Deloitte when Mr Stoiber was the chair of the High Level Group on administrative burdens (CONFIDENTIAL), including an 8-page table (contracts by contractor) (CONFIDENTIAL) and an invoice from Deloitte (CONFIDENTIAL);
- 23) Letter of 27 January 2015 from the Commission's Secretariat-General to Mr Stoiber consulting him on the complainant's request for public access to documents (CONFIDENTIAL);
- 24) Reply of 30 January 2015 of Mr Stoiber to the above letter (CONFIDENTIAL).
- 25) E-mail exchange of 30 January 2015 between the Commission's Secretariat-General and DG HR (CONFIDENTIAL);
- 26) Supplement to the declaration of activities by Mr Stoiber (in German), dated 2 February 2015;
- 27) E-mail of 3 February 2015 from the Cabinet of President Juncker to DG HR (CONFIDENTIAL);
- 28) (Amended) Statement of Assurance by the Director of Cabinet of President Juncker ("Annex 4"), dated 9 February 2015;
- 29) Follow-up fiche concerning the conflict of interest assessment (CONFIDENTIAL);
- 30) Reply of 11 February 2015 from the Commission's Secretariat-General to FoEE/CEO's letter of 18 December 2014 (reply to the initial application for access);
- 31) E-mail of 11 February 2015 from the Commission's Secretariat-General to DG HR concerning the above letter (CONFIDENTIAL);
- 32) Letter of 16 February 2015 from DG HR to FoEE/CEO;
- 33) (Amended) Internal Commission fiche on budget appropriations concerning Mr Stoiber as a Special Adviser (CONFIDENTIAL);
- 34) Extract of the minutes of the Commission College meeting of 4 March 2015 concerning the appointment of the Special Advisers;
- 35) Contract of Employment of Mr Stoiber, signed on 6 March 2015 (CONFIDENTIAL);
- 36) Letter of 6 March 2015 from the Director-General of DG HR to Mr Stoiber (CONFIDENTIAL);

- 37) Letter of 6 March 2015 from the Director-General of DG HR to the Head of Cabinet of President Juncker (CONFIDENTIAL);
- 38) Letter of 25 May 2015 from FoEE/CEO to the Secretary-General of the Commission;
- 39) Commission internal transmission fiche of 26 May 2015 concerning the confirmatory application (CONFIDENTIAL);
- 40) Two replies of 28 May and 12 June 2015 from the Commission's Secretariat-General to FoEE/CEO.

The confidential documents were stamped as such and initialled by Mr BERGER and Mr VERHEECKE.

The Ombudsman's representatives thanked the Commission's representatives for their assistance and the inspection was terminated at 11.30 h.

Brussels, 21 October 2015

A stylized handwritten signature consisting of a large, sweeping loop on the left and a vertical stroke on the right.

Lambros PAPADIAS

A handwritten signature in cursive script, appearing to read 'O. Verheecke', with a horizontal line drawn through it.

Olivier VERHEECKE