

**Opinion**  
of the  
**Independent Ethical Committee**  
established  
by the European Commission  
**19 June 2020**

**Subject: Request for an opinion on former Commissioner Günther Oettinger's envisaged post term of office activity as Director of 'Oettinger Consulting, Wirtschafts- und Politikberatung GmbH' and as regards consultancy services by former Members of the Commission in general**

On request of the President of the European Commission, the Independent Ethical Committee, composed of Ms Dagmar Roth-Behrendt, Mr Allan Rosas and Mr Heinz Zourek, delivers the present opinion:

**Procedure**

1. On 6 April 2020, the Secretary-General of the Commission asked the Committee, on behalf of the President of the Commission, to deliver an opinion on the conditions or restrictions which should be imposed
  - 1) on former Commissioner Oettinger in view of his envisaged activity as a Director ('Geschäftsführer') of 'Oettinger Consulting, Wirtschafts und Politikberatung GmbH'
  - 2) and, more generally, on other former Members of the Commission who might be in similar situations in the future, as regards consultancy services,in order to ensure compliance with Article 245 of the Treaty on the Functioning of the European Union and Article 11 of the Code of Conduct.
2. The Committee was consulted for the first time on Commissioner Oettinger's role with regard to the company mentioned above on 31 July 2019. On 8 August 2019, it delivered a partial opinion on measures that should be put in place to prevent, or address, conflicts of interest until the end of the Commissioner's term of office. On

30 September 2019, the Committee concluded furthermore that it was not able to give a favourable opinion on the compatibility of the potentially wide range of activities of the company with Article 245 of the Treaty on the Functioning of the EU. It concluded that it would have to look again at the issue if Commissioner Oettinger notified an activity at a later stage and described more precisely in which specific sectors or policy areas his activity would take place. The present opinion refers to these earlier elements, where relevant for the purpose of this opinion.

## **Facts**

3. On 2 March 2020, former Commissioner Oettinger notified the Commission of his activity as Director ('Geschäftsführer') of 'Oettinger Consulting, Wirtschafts und Politikberatung GmbH'. The notification referred to the fact that, in the past before joining the Commission, he had been active for many years as lawyer and Managing Director of a company for auditing, tax and legal advice, mainly for small and medium-sized enterprises in Germany and that he wanted to build on this previous activity in the future. The company's first client would be a large, family-owned trade firm focussed on the food sector. The notification emphasised that he was well aware of his obligations as former Member of the Commission, notably those set out in Article 245 TFEU and Article 11 of the Code of Conduct and was ready to render regularly account of his activities to the Commission.
4. The company is registered at the district court of Hamburg (Amtsgericht Hamburg). It was founded in 2019 by former Commissioner Oettinger and his partner, in anticipation of possible future activities after the term of office, according to information provided by the Commissioner at the time. The purpose of the company was described by Commissioner Oettinger as providing consulting services to companies, public institutions and individuals in Germany and abroad on economic and political matters. The Commissioner informed the President of the Commission at the time that the purpose was merely the establishment of a legal entity, but without any activity of the company. Neither his partner nor he would perform any business activities with regard to the company, which would go beyond the mere registration of the company, in order to avoid any perception of conflict of interest in the exercise of his tasks as Member of the Commission at the time. In its partial opinion of 8 August 2020, the Committee concluded that the situation resulting from the registration of the company by the Commissioner required strict compliance with a number of restrictions until the end of the term of office in order to be in conformity with the obligations of a Member of the Commission.
5. In September 2019, Commissioner Oettinger confirmed to the Committee that the registration of the company had been made in order to guarantee a swift establishment under the rules of the German district court and informed the Committee that he preferred to handle any business after his retirement from the Commission under a company with limited liability rather than in his own personal and financial capacity. He also declared that he was fully aware of the restrictions on lobbying activities and stressed that he would be especially cautious in choosing or

accepting clients having a direct link with the activities of the Commission or his former portfolio.

#### *Former Commissioner Oettinger's position*

6. Former Commissioner Oettinger's position in the company will be Director. He is moreover a shareholder of the company. According to the German Federal Limited Liability Companies Act, the Director of the company has to 'conduct the company's affairs with the due care of a prudent businessman' and represents the company in and out of court.

#### **Legal context**

7. Article 245 of the Treaty on the Functioning of the European Union (TFEU) provides:

*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.*

8. Article 339 of the Treaty on the Functioning of the European Union (TFEU) provides:

*The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.*

9. Article 15(1) and (2) of the Charter of Fundamental Rights of the European Union provides:

*1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.*

*2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.*

10. Article 2(7) of the Code of Conduct for the Members of the European Commission (hereafter the 'Code of Conduct') provides:

*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.*

11. Article 5 of the Code of Conduct provides:

*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.*

12. Article 11 of the Code of Conduct provides:

*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 lobby 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.*

## **Opinion**

13. The Committee notes that Members of the Commission have a right to engage in work and to pursue a freely chosen or accepted occupation after the term of their office. This right needs to be balanced with the obligations set out in Article 245 of the Treaty on the Functioning of the European Union and the Code of Conduct for Members of the Commission, which develops these obligations in more detail.
14. The balance must be proportionate. It can be achieved by imposing restrictions and conditions on a new professional activity where those restrictions and conditions are more proportionate than a simple prohibition or authorisation.
15. The Code of Conduct provides the framework in which the Commission has to establish this balance between the rights and obligations of its Members with regard to concrete, new activities. This balance cannot be established based on an automatic scheme, but requires a case-by-case approach, which takes into account the context and particularities of each individual case.
16. In the present case, the Commission seeks, on the one hand, a general opinion on the restrictions and conditions, which can be typically imposed on consultancy services envisaged by former Members, which can potentially concern a wide range of clients and cover a wide range of topics. Moreover, the Commission seeks an opinion on the restrictions and conditions, which should apply to the concrete consultancy activity envisaged by former Commissioner Oettinger.

### ***The envisaged activities of former Commissioner Oettinger***

17. After the establishment of the company in 2019, former Commissioner Oettinger has now notified a specific function in the company. The scope of activities of Mr Oettinger's company and of his activities as Director of the company remain, however, very broad and unspecified. According to the information provided by Mr Oettinger, these services could range from auditing services, tax and legal advice to more general consultancy services on economic and political matters and do not target specific clients, economic sectors or policy areas. Mr Oettinger informed the Commission about a first client, which is a family-owned trade firm with a focus on the food sector, but did not provide any further details on the mandate.
18. As the Committee underlined before, it is not possible to declare the activity as such compatible with Article 245 TFEU given the potentially wide range of activities and the obvious risk of overlap with areas for which Mr Oettinger has been responsible as Commissioner before.
19. The potential wide range of activities leaves obviously room for Mr Oettinger to focus on activities, which would be compatible with Articles 245 TFEU. The Commission will therefore have to impose restrictions and conditions, which rule out activities in areas, and for clients, which would not be compatible with Article 245 TFEU.

*Restrictions on ‘lobbying’ or interest representation*

20. According to Article 11(4) of the Code of the Conduct, ‘former Members shall not lobby 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.’

21. According to the Code, the term ‘lobbying’ refers to activities, which fall under the scope of the Agreement between the European Parliament and the European Commission of 16 April 2014 on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation (OJ L 277, 19.9.2014, p. 11).

22. According to this Agreement, ‘lobbying’ means

*‘all activities, which are carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of where they are undertaken and of the channel or medium of communication used, for example via outsourcing, media, contracts with professional intermediaries, think tanks, platforms, forums, campaigns and grassroots initiatives.*

*‘Directly influencing’ means influencing by way of a direct contact or communication with the EU institutions or other action following up on such activities and ‘indirectly influencing’ means influencing through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions.*

*Those activities include in particular: contacting Members and their assistants, officials or other staff of the EU institutions; preparing, circulating and communicating letters, information material or discussion papers and position papers; organising events, meetings, promotional activities, conferences or social events, invitations to which have been sent to Members and their assistants, officials or other staff of the EU institutions; and voluntary contributions and participation in formal consultations or hearings on envisaged EU legislative or other legal acts and other open consultations’.*

23. Paragraphs 10 to 12 of the Agreement clarify that a number of activities do explicitly not constitute ‘lobbying’, namely:

*‘Activities concerning the provision of legal and other professional advice are not covered by the register in so far as:*

- they consist of advisory work and contacts with public bodies in order to better inform clients about a general legal situation or about their specific legal position, or to advise them whether a particular legal or administrative step is appropriate or admissible under the existing legal and regulatory environment;*
- they consist of advice given to clients to help them ensure that their activities comply with the relevant law;*

- they consist of analyses and studies prepared for clients on the potential impact of any legislative or regulatory changes with regard to their legal position or field of activity;
- they consist of representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body; or
- they relate to the exercise of the fundamental right of a client to a fair trial, including the right of defence in administrative proceedings, such as activities carried out by lawyers or by any other professionals involved therein.’

*‘If a company and its advisers are involved as a party in a specific legal or administrative case or procedure, any activity relating directly thereto which does not seek as such to change the existing legal framework is not covered by the register. This subparagraph applies to all business sectors in the European Union.’*

However, the following activities concerning the provision of legal and other professional advice are covered by the register where they are intended to influence the EU institutions, their Members and their assistants or their officials or other staff:

1. the provision of support, via representation or mediation, or of advocacy material, including argumentation and drafting; and
2. the provision of tactical or strategic advice, including the raising of issues the scope of which and the timing of communication of which are intended to influence the EU institutions, their Members and their assistants or their officials or other staff.

*‘Activities of the social partners as participants in the social dialogue (trade unions, employers' associations, etc.) are not covered by the register where those social partners perform the role assigned to them in the Treaties. This paragraph applies mutatis mutandis to any entity specifically designated in the Treaties to play an institutional role.’*

*‘Activities in response to direct and individual requests from EU institutions or Members of the European Parliament, such as ad hoc or regular requests for factual information, data or expertise, are not covered by the register.’*

24. The Committee also notes that activities of, or for the following organisations do not fall under the scope of the Agreement:

- *‘The register does not apply to churches and religious communities. However, the representative offices or legal entities, offices and networks created to represent churches and religious communities in their dealings with the EU institutions, as well as their associations, are expected to register.’*

- *The register does not apply to political parties. However, any organisations created or supported by them which are engaged in activities covered by the register are expected to register.*
  - *The register does not apply to Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions.'*
25. According to Article 11(4) of the Code, former Commissioner Oettinger must not perform such lobbying activities towards the Commission, i.e. the Members of the current Commission and the staff of the Commission for a duration of two years after the end of his term of office, i.e. until 30 November 2021.
  26. Article 11(4) of the Code restricts this automatic prohibition on lobbying to matters for which a former Commissioner was responsible within his or her portfolio.
  27. This limited prohibition of lobbying is appropriate in case former Members perform a professional activity, which requires, from time to time, representing the interests of the new employer towards the Commission. The balance mentioned above usually leads to the conclusion that a former Commissioner can represent these interests also towards the Commission if they are not related to matters for which he or she was responsible before (see in this regard the recent Commission Decisions C(2020) 9006 and 9014 on former Commissioner Oettinger's activities as member of the Board of Trustees of the Foundation 'Stiftung Ordnungspolitik' and of the Centre for European Politics ('Centrum für Europäische Politik'); as President of United Europe, as member of the Steering Committee of the German Council on Foreign Relations (DGAP) and as member of the Advisory Board of the Society for the Promotion of the Württemberg State Museum).
  28. The situation is, however, different if former Commissioners engage in general consultancy activities, which can also be performed without offering and performing 'lobbying' and consultancy services towards the Commission. In this case, they would make use of their previous influential position in the Commission, with which they were entrusted in order to pursue the general interest of the Union, to attract clients, and would capitalise on the experience, insights and relationships that they built within the Commission to exert influence for the benefit of specific individual interests. Given that Members of the Commission are well-known personalities and public persons associated with a wide range of EU policies and issues, the Committee considers that offering, and performing, lobbying service towards the Commission via a consultancy would not be compatible with the principle of integrity established by Article 245 TFEU and the need to preserve public trust in the Commission. The Committee considers therefore that former Commissioner Oettinger and any other former Member of the Commission who intends to offer consultancy services should not offer lobbying services towards the Commission *on any matter* for a period of two years after ceasing to hold office.
  29. The Committee recalls in this regard that, in exceptional cases, the prohibition to lobby can be extended to other EU institutions or bodies if it was part of a former

Commissioner's duties to represent the Commission within an organisation or exercise specific Commission prerogatives towards such an organisation (see with regard to the European Investment Bank, the European Investment Fund and the European Bank for Reconstruction and Development paragraph 46 of the Committee's opinion of 17 June 2019 on the application of Vice-President Katainen for the position of President of the Finnish Innovation Fund SITRA and Article 1, third indent, of the Commission Decision of 30 October 2019; with regard to Executive Agencies see paragraph 36 of the Committee's opinion of 27 November 2019 on Commissioner Moedas' envisaged post term of office activity as Member of the Board of Trustees of the Gulbenkian Foundation and Article 1, first indent, of the Commission Decision of 11 December 2019).

30. In the case of former Commissioner Oettinger, the Commission could consider extending the prohibition to lobby the Commission on any matter, to the Executive Agencies, given the close link between those agencies and the Commission and the broad responsibilities of a Commissioner for the budget.

*Restrictions based on the obligations of confidentiality and discretion*

31. In any consultancy or advisory activity, former Commissioner Oettinger and any other former Member engaged in similar activities must strictly respect Article 339 TFEU, which provides that *'The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.'*
32. In addition, they must not, according to Article 11(1) of the Code in conjunction with Article 5(2), disclose what was said at meetings of the Commission.
33. Finally, they must show in general a high sense of discretion with regard to the use of information and insights that they obtained in the performance of their duties, be it with regard to the functioning of the Commission or the Commission's relations with other institutions, Member States, third countries or third parties. They should not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that they obtained during their term of office. If former Members have a doubt in this regard, they must 'inform the President in a timely manner and before acting on the matter relating to which the doubts arise', according to Article 13(2) of the Code.
34. With regard to the duties of confidentiality and discretion, it is important that former Members who engage in consultancy or advisory services, do not accept mandates which will necessarily lead to a conflict between the need to advise the client appropriately and the obligation not to use confidential information or other sensitive information and insights obtained during the performance of their duties.
35. Consequently, neither former Commissioner Oettinger nor other former Members who envisage engaging in consultancy services should accept mandates, which refer

to areas in which they dispose of such information or insights and for which this information and these insights are essential to provide appropriate advice. Examples for such situations would be mandates which concern advice on specific files in which the former Members were personally involved through their portfolio responsibility or as Member of the College (e.g. legislative procedures, negotiations, contracts, policy files, grants, cases, claims or investigations) and which are still ongoing or, if they are already closed, are directly connected to them, e.g. advice on a second application after a first rejected application or advice on a new legislative proposal which is closely linked to a previous proposal of the Commission.

#### *Restrictions based on the duties of collegiality and discretion*

36. According to Article 11(1) of the Code, former Members continue to be bound by the duties of collegiality and discretion, as laid down in Article 5 of the Code, with respect to the Commission's decisions and activities during their term of office. Beyond the above-mentioned duty not to disclose what was said at meetings of the Commission and to show discretion with regard to information and insights obtained during the term of office, this means that former Members shall not make any comment that would call into question a decision taken by the Commission during their term of office or which may harm the Commission's reputation in relation to the former Member's term of office. With regard to consultancy services, this means that former Members cannot advise a client in a way that serves to question or contest decisions and activities that the Commission adopted or performed while they were a Member of the Commission themselves.

#### *Restrictions based on the general duties of integrity and discretion*

37. Articles 2(6) and 11(1) of the Code recall that former Members continue to be bound by their duty of 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.
38. The Committee notes that the Commission took a decision in 2011, which concerned an activity of a former Member in relation to a company, co-owned by the former Member himself, with a potentially broad spectrum of activities and clients. The Commission decided in this case that the company should not have any professional contacts with the Commission services over which the former Commissioner had authority during his *last* mandate as Commissioner for a period of 26 months as of the end of the term of office. This number of months was chosen to harmonise the period with a period imposed on a former staff member involved with the same company. Moreover, during this period, the company should not provide its services to any company or person, which had been the addressee or benefited from individual decisions, grants or contracts prepared or handled by the services under the responsibility of the former Commissioner during his second mandate.

39. In line with this precedent, the Committee considers that the former Commissioner and his company should not, for clients of his company, contact the services previously under Mr Oettinger's portfolio responsibilities, including those held in a previous mandate. This affects namely the Directorate-Generals for Energy, for Communications Networks, Content and Technology, for Informatics; for Budget, for Human Resources and Security, for Translation, for Interpretation, the European Anti-Fraud Office, the Offices for Infrastructure and Logistics in Brussels and Luxembourg, the Office for the Administration and Payment of Individual Entitlements, the European School of Administration and the European Personnel Selection Office. This should also apply to executive agencies, which fell into the scope of Commissioner Oettinger's portfolio responsibilities.
40. Moreover, the Committee considers that former Commissioner Oettinger and former Members in general should not accept any consultancy mandate in any area of their previous responsibilities. Even when former Members change portfolio, they continue to participate in the Commission's collegial decision-making process, usually maintain contacts with staff of services previously under their responsibility and will unavoidably be perceived as being closely associated to the developments in the previous area of responsibility given the above-mentioned collegial responsibility of the Commission.
41. The Committee considers therefore that former Members who intend to provide consultancy services should not accept mandates in relation to any area for which they were responsible, or provide services to clients in relation to other policy areas, if these clients were major stakeholders in their former areas of portfolio responsibility. 'Major stakeholder' is to be understood in this context in terms of significance of the stakeholder for the specific market, significance of the impact of the Commission activities in this area on the stakeholder and significance of the involvement of the stakeholder in the EU decision-making process in this area such as lobbying activities towards the Commission. The reason for this restriction on mandates and clients is not only the above-mentioned risk of conflicting duties with regard to the protection of information and insights obtained during the term of office. It is also to avoid that, retroactively, doubts are cast on decisions and activities of the Commission in the previous areas of responsibility of the former Member.
42. For former Commissioner Oettinger, these areas are energy, the digital single market as well as budget and human resources.
43. With regard to the Commission Decision of 2011, the Committee considers that the fact of having obtained a grant or a contract by the Commission or being the addressee of a Commission decision is an element, which certainly needs to be taken into account to evaluate if a consultancy service for a specific client is appropriate. However, it should not be an automatic criterion for exclusion given the high number of addressees and beneficiaries of such decisions by the Commission and its services and the procedural safeguards in the decision-making process of the Commission. It depends therefore, in the Committee's view, rather on the particular significance of a case as regards the amounts at stake, the sensitivity of a decision or the degree of

involvement of a former Member in the decision, which are relevant for the evaluation of the compatibility with Article 245 TFEU.

44. As regards the timeframe for these restrictions on the acceptance of certain clients and mandates, the Committee considers two years after the end of the term of office as appropriate. This would be coherent with Article 11(2) and (4) of the Code. It is, however, important to underline that the duties of integrity and discretion established by Article 245 TFEU are unlimited in time. Therefore, the acceptance of a mandate or a client can, in exceptional cases, even after two years, constitute a breach of the duties of discretion and integrity. In case of doubt, former Members should inform the President in compliance with Article 13(2) of the Code.

#### *Implementation of the restrictions*

45. In order to ensure a credible implementation of the restrictions mentioned above, the Committee recommends that the Commission should authorise consultancy activities only on the condition that former Members inform the Commission every 6 months, for a period of 2 years after the end of the term of office, through a list of clients and mandates that they accepted. Given the potentially sensitive character of such commercial and personal information and the privacy of third parties, this information should be treated confidentially by the Commission, in case former Members ask for such confidentiality.

## Conclusion

46. The Committee concludes that the Commission should impose the following restrictions and conditions on former Commissioner Oettinger's activity for Oettinger Consulting:

- 1) Former Commissioner Oettinger should not lobby the Commission, its Members or staff, or any of its Executive Agencies on behalf of Oettinger Consulting or clients of Oettinger Consulting until 30 November 2021.
- 2) Former Commissioner Oettinger should strictly respect Article 339 TFEU, which provides that *'The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.'*
- 3) Former Commissioner Oettinger should not disclose what was said at meetings of the Commission.
- 4) Former Commissioner Oettinger should not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his term of office.
- 5) Former Commissioner Oettinger should not accept mandates which concern areas in which he disposes of confidential or sensitive information or insights and for which this information and insights are essential to provide appropriate advice. This refers notably, but not exclusively to advice or work on specific files in which former Commissioner Oettinger was personally involved through his portfolio responsibility or as Member of the College (e.g. contracts, policy files, grants, cases, claims, investigations, legislative procedures or negotiations) which are ongoing or, if those are already closed, which are directly connected to them.
- 6) Former Commissioner Oettinger should not provide advice to clients, which serves to question or contest decisions and activities that the Commission adopted or performed while he was a Member of the Commission.
- 7) Former Commissioner Oettinger and his company should not, on behalf of clients of his company, contact the services previously under Mr Oettinger's portfolio responsibilities, including those held in a previous mandate until 30 November 2021. This concerns the Directorates-Generals for Energy, for Communications Networks, Content and Technology, for Informatics; for Budget, for Human Resources and Security, for Translation, for Interpretation, the European Anti-Fraud Office, the Offices for Infrastructure and Logistics in Brussels and Luxembourg, the Office for the Administration and Payment of Individual Entitlements, the European School of Administration and the European Personnel Selection Office.

- 8) Former Commissioner Oettinger should not accept mandates in relation to areas for which he was responsible or provide services to clients in relation to other areas, if these clients were major stakeholders in his former areas of portfolio responsibility. 'Major stakeholder' is to be understood in this context in terms of significance of the stakeholder for the specific market, significance of the impact of the Commission activities in this area on the stakeholder and significance of the involvement of the stakeholder in the EU decision-making process in this area such as lobbying activities towards the Commission. The areas concerned are energy, the digital single market as well as budget and human resources. This restriction should apply until 30 November 2021.
  - 9) Former Commissioner Oettinger should inform the Commission every 6 months, until 30 November 2021, about his clients and mandates. The Commission should treat this information as confidential, in case the former Commissioner asks for such confidentiality.
  - 10) Given that the obligations of Article 245 TFEU are not limited in time, former Commissioner Oettinger should continue to respect the duty to behave with integrity and discretion as regards the acceptance of certain mandates or clients after 30 November 2021, too.
  - 11) In case of doubt about the compliance of a mandate or client with these restrictions, former Commissioner Oettinger should inform the President of the Commission according to Article 13(2) of the Code of Conduct.
47. The Committee recommends that the Commission should examine in all cases related to the provision of general consultancy services by a former Member of the Commission whether these restrictions and conditions should be imposed.

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