

## 2017 Annual Report

### on implementation of Article 18 of the EDA Staff Regulations

#### **1 . Legal basis**

On the basis of Article 18 of the EDA Staff Regulations,<sup>1</sup> members of temporary staff, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Those former members of temporary staff who intend to engage in an occupational activity within two years of leaving the service, shall inform the institution thereof in order to enable it to take an appropriate decision in this respect and, when necessary, to forbid an activity or give the approval subject to appropriate restrictions.

The third paragraph of Article 18 of the Staff Regulations stipulates that for former senior officials, the authority authorised to conclude contracts (hereinafter “AACC”) shall, in principle, prohibit them, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during the last three years in the service.

The fourth paragraph of Article 18 of the Staff Regulations foresees that, in compliance with Regulation (EC) N° 45/2001<sup>2</sup> on data protection, each institution shall publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

The Agency explains below the criteria it has chosen in order to ensure the implementation of its obligation and presents its analysis. In annex to this Communication, the Agency provides summary information in relation to the decisions taken under this provision.

The Agency, in its publication, is basing itself on its obligation under the fourth paragraph of Article 18 of the Staff Regulations in combination with Article 5 (a) and (b) of Regulation (EC) N° 45/2001.

#### **2. Approach for the assessment of cases**

The assessment of the case reported in 2017 was based on the criteria and procedure set out below:

##### Definition of senior members of temporary staff

“senior members of temporary staff”, as referred under Article 18(§3) refers to staff members occupying functions corresponding to the type of post in grades AD 14 and above, namely:

- Chief Executive and the Deputy Chief Executive
- Directors (including officials that have been called upon to occupy temporarily such post in accordance with Article 9 (2) of the Staff Regulations)

They are referred to hereinafter as “senior managers”.

##### The decision-making procedure

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<sup>1</sup> Council Decision (EU) 2016/1351 of 04 August 2016 concerning the Staff Regulations of the European Defence Agency, and repealing Decision 2004/676/EC. (OF L 29, 12.08.2016, p.1)

<sup>2</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. (OJ L 8, 12.01.2001, p.1).

Notifications by former senior managers about an envisaged activity are treated as any such notification made by staff under Article 18, i.e. CSD/HR Unit receives the notification and collects the views of the relevant service(s) in which the former staff member has worked during the last three years of service, as well as the view of the Legal Advisor, as needed. The AACC will take a final decision based on these different views.

#### Occupational activities of senior managers

In addition, for senior managers, “occupational activities” constituting lobbying or advocacy vis-à-vis staff of the former senior manager's former institution for their business, client or employers on matters for which that senior manager was responsible during the last three years in service, shall in principle be prohibited by the AACC during the 12 months after leaving the service.

The assessment of the Agency is not limited to envisaged activities whose only object or core object would have been lobbying or advocacy activities. Indeed, even if lobbying or advocacy is excluded at the point in time of the notification, certain activities could, in practice or theory, give rise to, or entail, lobbying or advocacy because of their nature. In such instances, the Agency has decided to widen the analysis to take account of these possibilities and to assess the notified activity within the framework of Article 18 (§3) of the Staff Regulations.

It is further clarified that the present information covers activities that have been notified and effectively undertaken. In line with the legal provisions in force, it does not cover notifications received and relating to activities which could not, by their very nature, give rise to or entail such lobbying or advocacy.

The present publication represents the first annual information released by the Agency on the implementation of Article 18 (§ 3 and 4) of the Staff Regulations.

#### Number of activities concerned

Bearing in mind that one notification may refer to several activities, and that one decision may likewise cover several activities, the present information is presented by activities examined, so as to provide for an exhaustive overview.

#### Analysis

The present information covers the cases in which the Appointing Authority has taken a decision in the framework of Article 18 (§3) of the Staff Regulations, in the year 2017.

The Agency has received no notification of an activity where the only or core purpose was that of lobbying or advocacy. There has thus been no corresponding decision of the AACC.

The Agency has however received a notification concerning one envisaged activity which, even if lobbying or advocacy was excluded at the point in time of the notification, could because of its nature, in practice, give rise to, or entail, lobbying or advocacy as stated in Article 18 (§3) of the Staff Regulations in the future.

This has led the Agency to remind the former senior official to bear in mind the rules under Article 18 (§3) of the Staff Regulations in the future.

A separate annex provides the summary of the decision which has been taken in 2017, within the framework of Article 18 (§3) of the Staff Regulations.

## Summary of relevant Decisions by the AACC in 2017

End of service: 31 March 2017

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### CONCERNS

Mr Pete ROUND

Former Director Capability, Armament and Technology Directorate

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### NEW ACTIVITY

Director of PKR Solutions Ltd., a private consultancy firm based in the UK.

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### DECISION

The AACC took note that Mr Pete Round's activity, as notified, has no direct or indirect link with EDA as regards this activity.

The AACC gave its approval to Mr Pete Round to carry out this activity on 03 April 2017.

In addition, the Agency reminded by a letter dated 29 May 2017 that as former senior manager, he is not allowed during the 12 months after leaving the service to engage in lobbying or advocacy vis-à-vis staff of the Agency for his business, clients or employers on matters for which he was responsible during the last three years of service.