

2020 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,¹ members of temporary staff continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits, after leaving the service.

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”)² 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 (EU) 2018/1725 on data protection³, each institution shall publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

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° 2018/1725.

2. Approach for the assessment of cases

The assessment of the cases reported in 2020 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”.

¹ Council Decision (EU) 2016/1351 of 04 August 2016 concerning the Staff Regulations of the European Defence Agency, and repealing Decision 2004/676/EC. (OJ L 219, 12.08.2016, p.1)

² In accordance with Article 1.2 of the EDA Staff Regulations, the AACC is determined in accordance with the relevant provisions of the EDA Council Decision (Council Decision (CFSP)2015/1835, OJ L 266, 13.10.2015).

³ Regulation (EC) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. (OJ L 295, 21.11.2018, p.39).

The decision-making procedure

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.

Scope of publication of individual cases assessed

EDA publishes an overview of all the individual cases of senior staff members it assesses, providing the following details:

- name of the former senior staff member;
- date of end of service;
- description of the former senior staff member's tasks during the last three years at the Agency;
- if applicable, name of proposed employer/client and description of the proposed tasks during the twelve months after leaving the service;
- summary assessment by the AACC and decision,.

3. Specific cases in 2020

In 2020 one senior manager left the Agency. In this instance, as the application for post-employment authorisation came from the former Chief Executive of EDA and considering Articles 7(2) and 10(1) of the EDA Council Decision, the decision on the application submitted fell under the remit of the Head of Agency.

Further details of this specific case and the summary of the assessment and conclusion by the AACC are given in the table below.

Summary of relevant Decisions by the AACC in 2020

CONCERNS

Mr Jorge DOMECCQ - Former Chief Executive at the European Defence Agency

Mr. DOMECCQ was appointed as Chief Executive of EDA by the Steering Board and was engaged by the EDA under contract as temporary staff (AD 16) from 01 February 2015 to 31 January 2020. The duties of the Chief Executive are set out under Article 10 of the EDA Council Decision.

On 28 July 2020, Mr DOMECCQ submitted an application for authorisation to engage in an occupational activity after leaving service in accordance with Article 18 of the Staff Regulations.

END OF SERVICE: 31 January 2020

NEW ACTIVITY

Head of Public Affairs at Airbus Spain / Strategic Advisor at Airbus Defence and Space

ASSESSMENT & DECISION

Based on the assessment of the initial application and additional elements provided, there is no established conflict with the interests of the Agency which could justify a prohibition to engage in the occupational activity, in the sense of Article 18 of the EDA Staff Regulations.

However in order to mitigate any possible perceived conflict of interest, the AAC has decided to impose certain restrictive condition to frame the authorisation of the activity.

As a result, the application for authorisation to engage in occupational activities after leaving service has been approved with the following conditions:

- Until 31/01/2021 – Mr Domeccq should not have contacts with EDA staff for the purpose of lobbying or advocacy on matters for which he was responsible as Chief Executive of EDA;
- Until 31/01/2022 – Mr Domeccq should remove himself from any Airbus decision or task which concerns EDA activities in order to avoid any perceived or real conflict of interests;
- Until 31/01/2022 – Mr Domeccq should abstain from contacts with the Airbus Brussels office for matters which concern EDA.

Additionally, Mr Domeccq has been reminded of his duty under Article 19 of the EDA Staff Regulations to refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.