

## 2023 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 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”)<sup>2</sup> 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 protection<sup>3</sup>, 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(1)(a) and (b) of Regulation (EU) 2018/1725.

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

The assessment of the cases reported in 2023 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 staff members”.

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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. (OJ L 219, 12.08.2016, p.1)

<sup>2</sup> 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).

<sup>3</sup> Regulation (EU) 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

Senior staff members intending to engage in post-employment activities within two years after leaving the service, shall submit their request to the Ethics Officer using a dedicated form. The request must be submitted before engaging in the occupational activity and shall allow EDA at least 30 days to make its decision. If the request is incomplete, the Agency will request additional information and the 30-day period will be suspended until the requested information is provided.

The Ethics Officer will provide a first opinion on the senior staff member's request after having consulted the relevant services where necessary. Subsequently, the head of HR Unit and the CSD Director will provide their opinion on the request.

After receiving the observations of the Head of HR unit and CSD Director, the Ethics Officer will consult with EDA's Staff Committee.

After receiving the observations of EDA's Staff Committee, the Ethics Officer will prepare a consolidated draft decision, which will be sent for assessment by the Deputy Chief Executive. Once the Deputy Chief Executive's assessment is received, the draft decision will be sent to the AACC for approval and signature.

### Occupational activities of senior staff members

For senior staff members, "occupational activities" constituting lobbying or advocacy vis-à-vis staff of the former senior staff member's former institution for their business, client or employers on matters for which that senior staff member 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. 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 2023**

#### ***a. Director Capability, Armament and Planning (CAP)<sup>4</sup>***

In 2023, the Director CAP submitted a third application for authorisation to engage in an occupational activity after leaving EDA. This request was refused by the AACC.

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

#### ***b. Deputy Chief Executive***

In 2023, the Deputy Chief Executive left the Agency, and filed an application for authorisation to engage in an occupational activity after leaving EDA.

This activity was authorised by the AACC.

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

#### ***c. Director Industry, Synergies and Enablers (ISE)***

In 2023, the Director of Industry, Synergies and Enablers (ISE) Directorate at the EDA left the Agency, to go on retirement.

The Agency received no notification of the intention to engage in an occupational activity which in practice or theoretically would give rise to or entail lobbying advocacy, as he retired.

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<sup>4</sup> In 2022, the Director Capability, Armament and Planning (CAP) at the European Defence Agency left the Agency and filed a first application for authorisation to engage in an occupational activity after leaving EDA, followed by a second application a few months after his departure. The first request was authorised, the second was refused by the Chief Executive, acting as AACC.

## **Summary of relevant Decisions by the AACC in 2023**

### **CONCERNS**

#### **1) Mr Martin KONERTZ – Former Director of Capability, Armaments and Planning (CAP) Directorate at the European Defence Agency.**

Mr KONERTZ was appointed EDA CAP Director as of 1 April 2017, as temporary staff (AD 14) under the EDA Staff Regulations for an initial duration of three years, extended for two years in 2020.

Mr KONERTZ's duties included the management of six (6) Units (Cooperation Planning, PESCO, Air Domain, Maritime Domain, Land & Logistics, Information Superiority) with activities covering capability projects and activities including ad hoc projects, CDP/SCC. CARD, PESCO annual products.

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END OF SERVICE: 31/03/2022

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### **NEW ACTIVITY**

#### **Third application**

On 17 April 2023, Mr KONERTZ filed a new application for authorisation to engage in an occupational activity after leaving the service, describing the role as Consultant for Diehl Defence GmbH & Co KG providing advice and support in analysis and decision making at strategic level.

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### **ASSESSMENT & DECISION**

On 12 May 2023, 2, the AACC responded to the application noting that Mr KONERTZ, in his former capacity as CAP Director at EDA, was involved in a broad range of related strategic issues and information, not available for public disclosure. Furthermore, the AACC highlighted the fact that the company Diehl Defence GmbH & Co KG had been contracting with EDA repeatedly, and had shown interest in the collaborative procurement on ammunition ongoing at the time.

The assessment conducted by the AACC concluded that the risk of conflict between Mr KONERTZ's previous EDA position, the envisaged role at Diehl and the collaborative procurement on ammunition, could adversely affect the Agency's legitimate interests and reputation.

Thus, based on this assessment and in line with Article 18 of the EDA Staff Regulations, the AACC refused Mr KONERTZ's occupational activity as Consultant for Diehl Defence GmbH & Co KG, and further reminded him of his obligation to inform the Agency of any change in his professional situation within two years after leaving EDA, i.e. until 31 March 2024.

## 2) Mr Olli RUUTU – Former Deputy Chief Executive

Mr RUUTU was appointed EDA Deputy Chief Executive as of 16 March 2018, as temporary staff (AD 15) under the EDA Staff Regulations for an initial duration of three years, extended in 2021 with a new end of contract date on 31 January 2023.

Mr RUUTU's duties included deputizing in the absence of the Chief Executive and authorising organizational and advisory activities.

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END OF SERVICE: 31/01/2023

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### NEW ACTIVITY

#### Application

On 3 April 2023, Mr RUUTU applied for authorisation to engage in an occupational activity after leaving the service indicating he would be working for the Ministry of Defence of Finland with a contract duration of 5 years.

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### ASSESSMENT AND DECISION

On 12 April 2023, based on an assessment of the application and elements provided, the AACC authorised Mr RUUTU's occupational activity with the Ministry of Defence of Finland.

Additionally, Mr RUUTU was 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.