

2018 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, 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 (EU) 2018/1725 on data protection², 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 2018 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

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

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. (OF L 29, 12.08.2016, p.1)

² 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 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

The European Defence Agency publishes an overview of all the individual cases of senior staff members it assesses. It thereby mentions 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 conclusion.

3. Specific cases in 2018

In 2018 two senior managers left the Agency.

The Agency received no notification of the intention from either to engage in an occupational activity which in practice or theoretically would give rise to or entail lobbying or advocacy
