Commissioners' declarations of interests - Guidelines

2016/2080(INI) - 01/12/2016 - Text adopted by Parliament, single reading

The European Parliament adopted by 615 votes to 5 with 6 abstentions a resolution on Commissioners' declarations of interests – guidelines.

Parliament recalled that one of the pillars of European governance is the strengthening of ethics and transparency within the EU institutions in order to improve European citizens' trust in them.

In its resolution of 8 September 2015, Parliament deemed it important for the Committee on Legal Affairs to issue guidelines in the form of recommendations or an own-initiative report, with a view to facilitating reform of the procedures relating to Commissioners' declarations of interests, while calling on the Commission to revise its **rules relating to Commissioners' declarations of interests**.

The resolution recalled that the aim of scrutinising Commissioners' declarations of financial interests is to ensure that the Commissioners-designate are able to fulfil their mandates completely independently and to ensure maximum transparency and accountability on the part of the Commission.

It also noted that a conflict of interests is defined as 'any interference situation between a public interest and public and private interests that is likely to affect or that appears likely to affect the independent, impartial and objective exercise of a duty'.

While confirming that the Committee on Legal Affairs is **competent and responsible for carrying out a substantive analysis of the declarations of financial interests** by means of an in-depth examination aimed at assessing whether the content of the declaration made by a Commissioner-designate is accurate and conforms to the criteria and principles laid down in the Treaties and the code of conduct, or whether a conflict of interests may be inferred and that it must be able to propose to the President of the Commission the replacement of that Commissioner.

Parliament considered it essential that the Committee on Legal Affairs has **enough time** to ensure that this detailed assessment is effective and also be granted the right to continue with the hearing if it sees a conflict.

Parliament focused on more technical issues such as the procedure for scrutinising declarations of financial interests before the **hearings of the Commissioners-designate**. In this regard, Parliament proposed a series of guidelines which should be applied when the declarations of financial interests are scrutinised by the Committee on Legal Affairs.

Members considered that any change in the financial interests of a Commissioner during her/his term of office or any reshuffling of the allocation of responsibilities between Members of the Commission constitutes a new situation in terms of the possible existence of a conflict of interests. In more serious cases, if no other recommendation is able to provide for a solution to the conflict of interests, as the last resort, the committee responsible for legal affairs can conclude on the **inability of Commissioner-designate to exercise his/her functions**.

In the event of a conflict of interests being identified during a Commissioner's term of office and of the President of the Commission not following Parliament's recommendations for resolving the conflict of interests, the Committee on Legal Affairs may recommend that Parliament ask the President of the Commission to **withdraw confidence in that Commissioner.**

Parliament also recalled the provisions of the code of conduct for Commissioners regarding impartiality, integrity, transparency, diligence, probity, responsibility and discretion. Moreover, it considered that the family interests referred to in point 1.6 of the Code of Conduct for Commissioners should be included in the declarations of financial interests. In order to extend and improve the rules on conflicts of interest, the declarations of interests should also include the details of any contractual relation of the Commissioners-designate which might create a conflict of interests in the performance of their duties.

Members deplored that the code of conduct:

- fails to codify adequately the requirement under Article 245 TFEU that 'both during and after their term of office, Commissioners will respect the obligations, 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';
- fails to lay down any divestment requirements, despite the fact that such requirements must be standard in any ethics regime;
- does not stipulate any concrete time frame for submission of the declaration prior to Parliament's hearing of the Commissioners-designate.

Parliament deplored that the Commission does not report regularly on the implementation of the Code of Conduct for Commissioners, in particular as regards their declarations of interests.

Ex-Commissioners: Parliament pointed out that all ex-Commissioners are banned for 18 months from lobbying 'members of the European Commission and their staff for his/her business, client, or employer on matters for which they have been responsible', but are entitled to a very generous transitional allowance after they leave the Commission of between 40 and 65 per cent of their final basic salary for three years.

Code of conduct for Commissioners: although overall Parliament welcomed the fact that the code of conduct has introduced a provision concerning the reallocation of files between Members of the Commission in the event of potential conflicts of interest, they called for improvements in certain areas. it called on the Commission to revise, as a matter of urgency, the 2011 Code of Conduct for Commissioners to take account of the recommendations made by Parliament and with a view to ensuring:

- that Commissioners **declare all their financial interests**, including assets and liabilities over EUR 10 000 but also all their interests (as shareholders, company board members, advisors and consultants, members of associated foundations, close family interests as well as membership of any non-governmental organisations, secret societies or associations which conceal their existence;
- that Commissioners-designate submit their declarations within a specific time frame and sufficiently well in advance, so that the Ad Hoc Ethical Committee can submit to Parliament its views on potential conflicts of interests well in time for the hearings in Parliament;
- that the declaration is published in a format which is compatible with open data so that it can be easily processed via databases;
- that the code of conduct be amended, in line with Article 245 TFEU, to extend Commissioners' post-office employment restriction to a period of at least three years and not shorter than the length of time during which former Commissioners are eligible for a transitional allowance as defined in Regulation No 422/67/EEC;

- that the Commission reports on an annual basis on the implementation of the Code of Conduct for Commissioners and that the Ad Hoc Ethical Committee draws up and publishes an annual report on its activities, which may include any recommendations on the improvement of the Code of Conduct.

Lastly, Parliament called on the Commission to begin negotiations with Parliament aimed at making any necessary changes to the Framework Agreement on relations between the European Parliament and the European Commission.