

From:
ALTER-EU
The Alliance for Lobbying Transparency and Ethics Regulation
Rue d'Edimbourg 26
1050 Bruxelles



To:
Commissioner Šefčovič
European Commission
1049 Brussels
Belgium

24 November 2011

Dear Commissioner Šefčovič,

Re: The Staff Regulations and the revolving door

Today, the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) launches a report, which is enclosed with this letter, and a major campaign to address the problem of the revolving door between the EU institutions and the lobby industry in Brussels.

We are writing to ask you to overhaul the revolving door rules (including Article 16) as part of the current review of the Staff Regulations, and to ask for a meeting with you to discuss these issues further.

Our comprehensive report details more than 15 cases of individuals who have gone through the revolving door between the EU institutions and lobby firms and organisations. We believe these cases provoke profound conflicts of interest which the Commission, EU agencies and other institutions are failing to address seriously. Our report highlights a number of flaws with the current rules and procedures:

- **The EU institutions impose only weak conditions on former staff who accept new jobs which provoke apparent conflicts of interest; the institutions including the Commission are too reluctant to implement cooling-off periods or bans on lobbying jobs** (see all cases in the report but especially Mogens Peter Carl, Bruno Dethomas, Jean-Philippe Monod de Froideville). In the cases featured here, the EU institutions did not impose any cooling-off period to block an official taking up a particular appointment, and only occasionally put any conditions or restrictions in place. When it does impose conditions, there appears to be **no system whereby the authorities monitor an ex-official's new employment to ensure that he has abided by the terms and conditions set out within the institution's authorisation.**
- **The staff regulations do not systematically cover members of staff on temporary contracts** (see the Mårten Westrup case). It is untenable that different

rules apply to officials depending on whether they are permanent staff or whether they are employed on a contract. Conflicts of interest are conflicts of interest no matter what kind of employment basis an employee has. In addition, a contract employee's access to "sensitive information" is irrelevant to any assessment of potential conflicts of interest.

- The rules applied when officials join an EU institution from a lobby job are unclear and **there appear to be no specific procedures which are automatically applied to review the conflicts of interest when new staff join** (see Mårten Westrup and Laura Smillie cases). Significant conflicts of interest can be created when lobbyists or others from industry move into a related job in the EU institutions.
- **The EU institutions are unaccountable on the revolving door issue.** For example, the Commission does not pro-actively publish a list of cases nor does it maintain an internal database of all decisions made on revolving door cases.
- **Some former EU staff may be using their time in office to negotiate future private sector roles.** The rapidity of some of the moves that ex-officials have made into the private sector immediately upon leaving a European institution, suggests that these roles may have been negotiated while the official was in public office. This would create significant conflicts of interest if the job negotiations have influenced their work as a public official.
- **An unclear and narrow understanding of conflicts of interest appears to be applied by the EU institutions when judging revolving door cases.** The institutions seem to accept unquestioningly statements from the applicants that no conflicts of interest exist or no lobbying will take place (see Bruno Dethomas and Luc Werring cases). Yet, according to the precautionary approach taken by the OECD's definition of conflicts of interest, decision-making authorities should always consider the extent to which ex-staff members could exploit know-how, expertise and contacts gained whilst working at the EU institutions, giving new employers or clients an advantage.
- **Decisions are being made on incomplete information.** The decision-making authorities accept what they are told, and make decisions based on a line or two of information provided by the former EU official in their authorisation request.
- Of the cases featured in this report, at least four did not receive authorisation before starting at least some of their new posts (see Derek Taylor, John Bruton, Thomas Lönngren and Petra Erler cases). This implies that **some staff may not be aware of the current rules or are not obeying them.** There appears to be no sanctions in place to ensure that officials notify the institution in due time.
- **There is no common procedure for implementing article 16 of the staff regulations across the EU institutions.** Specifically, each European institution and agency has to decide how to implement this element of the staff regulations. A common procedure could help to ensure that the regulations have a higher profile and are taken more seriously.

We know that the Commission is currently reviewing elements of the staff regulations. In your confirmation hearing before the Parliament in January 2010, you highlighted the

intention to evaluate how restrictions on post-employment activities could be incorporated into the Staff Regulations. ALTER-EU agrees with this and urges you to add the issue of the revolving door to the agenda of the current review of the Staff Regulations and specifically to include the following proposals:

- A mandatory cooling-off period (or ban) of at least two years for all EU institution staff members entering new posts which involve lobbying or advising on lobbying, or any other role which provoke a conflict of interest with their work as an EU official
- Tackling the loopholes in the current rules including the exclusion of staff on (temporary) contracts
- Scrutiny of all staff joining EU institutions for potential conflicts of interest. Where there is a potential conflict of interest between their old job and their new EU role, those persons must recuse themselves from such matters
- Ensure sufficient resourcing to be able to investigate and monitor revolving door cases
- Publish a full and updated list of all revolving door cases on EU institutions' websites

A detailed set of proposals is enclosed within our report.

We look forward to hearing from you and would appreciate meeting with you to discuss these issues in more detail at the earliest opportunity.

Yours sincerely,

The ALTER-EU steering committee

Helen Darbshire (Access Info Europe)
Erik Wesselius (Corporate Europe Observatory)
Marc Gruber (European Federation of Journalists)
Paul de Clerck (Friends of the Earth Europe)
Jorgo Riss (Greenpeace EU Unit)
Katrina Perehudoff (Health Action International Europe)
Timo Lange (LobbyControl)
William Dinan (Spinwatch)

Enclosure: *Block the revolving door: why we need to stop EU officials becoming lobbyists*