

**EUROPEAN COMMISSION:**  
**TAKE ACTION TO STOP REVOLVING DOORS**  
**OPEN LETTER TO PRESIDENT VON DER LEYEN,**  
**EXECUTIVE VICE-PRESIDENT TIMMERMANS, VICE-**  
**PRESIDENT JOUROVÁ, AND COMMISSIONER-DESIGNATE**  
**MCGUINNESS**

*Brussels, 1 October 2020*

Dear President von der Leyen, Executive Vice-President Timmermans, Vice-President Jourová, and Commissioner-Designate McGuinness,

With the support of 29 organisations, we urge you to act regarding the practice of revolving doors that has repeatedly damaged the reputation and independence of the EU institutions - recently in the European Banking Authority (EBA) with its executive director, Adam Farkas, moving to be the CEO of one of the most powerful financial lobby groups in Brussels, the Association for Financial Markets in Europe (AFME).

In May this year, the EU Ombudswoman Emily O'Reilly deemed it "maladministration" that the EBA allowed the aforementioned move of Adam Farkas. This judgement followed an outcry from the civil society and the European Parliament (EP). Already in January the EP passed a resolution condemning the EBA decision, asking the Commission to strengthen its rules on revolving doors.

In the following, we state where we see a need to strengthen the existing rules as well as their enforcement.

**1. Enforce the rules: We call on the Commission to duly enforce the rules on post-public employment within the Commission and in all EU agencies.**

Art. 16 of the EU Staff Regulations provides for the legal basis to forbid a job move by officials of the EU institutions to engage in lobbying. The Ombudswoman, in her [inquiry into the EBA case](#), criticised the fact that the option to forbid a job move was not invoked by the EBA: "If this move did not justify using the legal option (...) to forbid someone from moving to such a role, then no move would." It is worth noting that the EBA is not the only example. We frequently see other EU institutions ignore that option.

**2. Sharpen the rules: We call on the Commission to sharpen the rules concerned with revolving doors**

The EBA case has shown that the existing rules (esp. Art. 16 in the EU Staff Regulations and Art. 1 in the Commission Decision C(2018) 4048), apart from not being applied properly, are not sufficient to protect the integrity and independence of the EU institutions.

We argue it is necessary to sharpen the Staff Regulations in at least three ways:

- Make the existing *possibility* to forbid a job move an obligation, when a conflict of interest cannot be ruled out.
- Extend the rules for a lobby ban period to avoid undue lobbying to two and three years for senior officials and presidents or executive directors respectively.
- Reform the rules so that an authorization granted for a job move can be reversed if rules have not been complied with properly.

The Commission Decision needs to be sharpened in terms of at least one point: The EBA case has made it clear that the wording in the Commission Decision on the "fundamental right to engage in work" is being used to override all other concerns. This became clear from statements made by, among others, the Chairman of the EBA.

Yet, forbidding one specific job for a certain amount of time is not the same as preventing the right to engage in work. We thus see a clear need for changes to be made in the Commission Decision in order to clarify that the fundamental right to work is not jeopardized by forbidding specific job moves, when they are in conflict with the responsibilities laid out in the Staff Regulations and EU Treaties.

**3. Strong rules across the EU: We call on the Commission to make sure that strong rules on conflict of interest and revolving doors are implemented across all EU institutions**

Revolving doors are not a challenge for the EBA alone. There have also been cases concerning other EU institutions which have been widely considered as illegitimate moves from a public to a private institution. This has undermined the public trust in EU institutions. The answers given by 27 EU agencies to MEP Sven Giegold, when asked how they deal with conflict of interest, also show the unevenness and lack of consistency in the implementation of the EU Staff Regulations. Rules on conflict of interest should thus follow the same high standard across all EU institutions, making sure that revolving doors are stopped and the independence of EU institutions is maintained.

**4. Conflicting EU rules: We call on the Commission to explain how two EU rules can be in conflict with each other and ask to harmonize these rules. Meanwhile, the Commission should make sure that EU Staff Regulations are fully complied with.**

Another case at the EBA shows that two EU rules contradict each other: According to Art. 11 of the EU Staff Regulations, the management and all staff at the EBA must avoid any conflict of interest regarding the banks they supervise and can have no economic stakes in those banks. Yet, the Chairperson of the EBA, José Manuel Campa, holds shares of his former employer, Banco Santander, which is a bank supervised by the EBA. Confronted with the matter, the EBA stated in a letter to the Greens of the EP from 27 November 2019 that Mr Campa is obliged to hold his shares of Banco Santander due to the rules laid out in Art. 92 and 94 of Directive 2013/36/EU (the Capital Requirements Directive). Obviously, two rules are contradicting each other here. We find it unacceptable that the Chairman of the EBA has an economic stake in a bank he is supposed to supervise. A procedure should be in place to deal with these kinds of contradictions and to ensure that the regulations designed to protect the integrity of the institutions and to eliminate the risk of corruption cannot be overridden.

**5. Consult the public: We call on the Commission to do a public consultation when creating an independent body to supervise and enforce the rules on revolving doors.**

We welcome that Vice-President Jourová has been entrusted by the President of the Commission to work with the EP and the Council on setting up an independent ethics body common to all EU institutions. We see this process as a crucial step towards better enforcement of ethics rules. In light of the fundamental importance of supervising mechanisms to maintain public trust in the EU institutions, we ask the Commission to be inclusive, so as to ensure that the widespread concerns over revolving doors are properly included in the decision on the role and mandate of the ethics body.

**6. Create a culture of integrity by fostering staffs' knowledge and skills**

An important step in the creation of functional ethics systems is to ensure that the staff are familiar with the rules in place and understand why they exist. Yet, a report by the European Court of Auditors found the EU staff lacking in knowledge of ethics rules. The European Commission should spearhead a move towards improving staff knowledge and understanding of the ethical framework by providing supporting material and encouraging the staff to attend relevant training.

We sincerely hope you will consider the issues above and reply.

Attachments: List of signatories, Annex

# SIGNATORIES

## 29 Civil Society Organisations



LVOA

ALLIANCE OF  
LITHUANIAN CONSU  
ORGANIZATIONS



**BANKTRACK**



**Corporate  
Europe  
Observatory**



**FUEL  
POVERTY  
ACTION**



**PositiveMoney**





## SIGNATORIES LIST

1. Aitec
2. Alliance of Lithuanian Consumer Organizations
3. ALTER-EU
4. Anticor
5. Association For Promotion Sustainable Development
6. Attac acordem
7. Attac France
8. BankTrack
9. Change Finance
10. Corporate Europe Observatory
11. EPSU
12. etika
13. Fair Finance International
14. Finance Watch
15. Fuel Poverty Action
16. Fund Our Future
17. Global Policy Forum Europe
18. LobbyControl
19. Positive Money UK
20. Reclaim Finance
21. Sciences Citoyennes
22. Secours Catholique - Caritas France
23. Society for International Development
24. Talousdemokratia ry
25. The Good Lobby
26. Transnational Institute
27. Transparency Task Force
28. Veblen Institute for Economic Reforms
29. Zukunftskonvent

# ANNEX – Additional information on requests 1, 2 and 3

## On request 1:

In her inquiry into the case of revolving doors in the EBA the Ombudswoman sees three risks associated with revolving doors:

- **Conflicts of interest:** “Maintaining public trust in the EBA is an important interest of the EBA, and of the EU. [...] The approval of the move creates the understandable impression that the EBA, despite its obligations to ensure the highest degree of independence from the financial sector, allows its senior staff to maintain very close ties with that sector.”
- **Disclosing confidential information:** “Even assuming the best efforts of the former Executive Director, he cannot be made to forget the confidential information that he is aware of, which must be assumed to be significant. Even if he endeavours not to disclose this information to AFME colleagues, he cannot be expected to prevent that information from at least influencing his decisions at AFME.”
- **Engaging in inappropriate lobbying:** “The Restriction Decision – while going beyond the 12 months lobbying ban set out in the Staff Regulations – is still arguably too short in this context. Given the highest level contacts that the former Executive Director maintained, at the EBA and at other EU institutions and bodies, since 2011, there are strong reasons to believe that he would still be able to use his contacts, once the Restriction Decision expires.”

She finds that all three risks materialize in the EBA case and criticizes the fact that the option to forbid a job move, as provided for in Art. 16 of the EU Staff Regulations, was not invoked: “If this move did not justify using the legal option [...] to forbid someone from moving to such a role, then no move would.” She continues: “The EBA was created from the ashes of the 2008 financial crash – a crisis, in part, defined by regulatory failure and so-called ‘regulatory capture’ by the financial industry. In allowing its former Executive Director to join a major financial lobby association, the EBA risked perpetuating one of the core regulatory problems it was created to fix. [...] EU institutions must however always maintain the highest standards, and assess revolving door cases in terms of protecting that wider public interest.”

## On request 2:

The European Parliament in its resolution B9-0047/2020 of 13.1.2020 calls on the Commission to identify “stronger measures for the prevention of conflicts of interest that arise when senior officials of EU bodies leave their posts to take up private-sector employment or when individuals coming from the private sector are appointed to senior positions in an EU body.” We support this request.

In its answer to the EP resolution the Commission states that it “indeed regularly engages in revising its implementing rules to integrate as far as possible the lessons learnt from experience.” The experience that the EBA allowed its executive director to move to AFME, in spite of the rules set out in Art. 16 of the EU Staff Regulations, clearly demonstrates the need to sharpen the rules on revolving doors.

The Farkas case has shown that the current option to prohibit a job move is not being applied and that the prohibition to lobby directly or indirectly cannot be duly enforced and supervised by the EU institutions, which renders these measures inadequate to protect the integrity and independence of the EU institutions. Thus, we argue it is necessary to sharpen the rules in at least the four following ways:

- **Include the obligation to forbid a job move if a conflict of interest cannot be ruled out:** In light of the maladministration found by the Ombudswoman to have taken place in the Farkas case, the Commission should consider changing Art. 16 from “In the case of former senior officials as defined in implementing measures, the appointing authority shall, in principle, prohibit [...]” to “In the case of former senior officials as defined in implementing measures, the appointing authority shall prohibit [...]” – emphasis added. To strengthen this point, the Commission should also ensure that the contracts of high level staff provide for the legal option to reject a job move. Further, the Commission should ensure that all EU agencies have clear public criteria for identifying activities that could lead to real or perceived conflict of interest and a precise list of private institutions where taking up a new position should give rise to enhanced scrutiny.

- **Extend the rules for a lobby ban period to avoid undue lobbying:** The Ombudswoman states that “the Restriction Decision (on a lobbying ban for two years) - while going beyond the 12 months lobbying ban set out in the Staff Regulations - is still arguably too short in this context.” We agree with her and see no reason why senior officials in the EBA should not comply with the same cooling-off periods that are relevant for the other EU institutions (like the College of Commissioners), with senior officials having to respect a two year lobbying ban and presidents or executive directors having to comply with a three year lobbying ban.
- **Reform the rules so that an authorization granted for a job move can be reversed if rules have not been complied with properly:** To maintain trust in EU institutions, a job move that was not compliant with EU rules has to be revised. In its [resolution B9-0047/2020 of 13.1.2020](#) the EP also “calls on (the EBA Board of Supervisors and the EBA Management Board) to review their decision”. The discussion about an independent EU ethics body should include such a mandate. Yet, we see it necessary that apart from this option, which will take some time to develop, a short-term solution is being implemented to avoid further damage to the trust in EU institutions.
- **Clarify that the right to work is not jeopardized by forbidding one specific job move:** As the EBA justified the approval of Mr Farkas’s job move with his fundamental right to engage in work as set out in Art. 21 of the [Commission Decision C\(2018\) 4048 of 29.6.2018](#), the Commission should consider clarifying that the right to work does not override the option to forbid a problematic job move. Not granting authorization for one specific job does not jeopardize the general and fundamental right to work, but merely forbids a person from taking up a particular problematic job.

### On request 3:

Revolving doors are not a challenge for the EBA alone. More EU institutions had to deal with cases that were widely considered illegitimate moves from a public to a private institution, undermining the public trust in EU institutions. In its 2019 special report, “The ethical frameworks of the audited EU institutions: scope for improvement”, the [European Court of Auditors](#) recommended that the EU Institutions work together “to harmonise the elements of their ethical frameworks and make further efforts to share good practice on the ethical matters”. Rules on conflict of interest should be the same across all EU institutions, making sure that revolving doors are stopped and the independence of EU institutions is maintained.

For instance, within the European Central Bank, the case of Natacha Valla has been strongly debated: while she is still [deputy director at the Directorate General for Monetary Policy](#) (as of 15th of July 2020), she is also currently [holding a position as a board member within Tikehau Capital](#) since May 2020, and was announced as [future board member of the french company LVMH](#) in April 2020. This case raises once again serious concerns, especially since the ECB has been very active on financial markets recently through different asset purchase programmes, such as the Corporate Sector Purchase Program, purchases out of which [LVMH was the French company that benefited the most](#).

Regarding other EU agencies, the unevenness and lack of consistency in the way they apply the EU Staff Regulations and Commission Decisions has been outlined recently by the answers they gave to MEP Sven Giegold when asked, in a letter, how they plan to take into account the Ombudsman decision. This is a fact that raises some concerns.

More precisely, we note that within the answers given by these EU agencies (full list below) regarding post-employment regulations in the light of the Ombudsman decision, certain elements are particularly worrying:

- While almost all EU agencies mention that, according to Art. 16 of EU Staff Regulations, they have the option to forbid a job move, only one agency considers such forbidding to be compulsory when senior staff are willing to undertake lobbying or advocacy activities directed towards the agencies they are employed in.
- Very few EU agencies have already established lists of industries and activities that are at high risk of leading to a potential real or perceived conflict of interest. Many are not even intending to create such lists. The European Union Agency for Law Enforcement Training (CEPOL) even explicitly mentions it is opposed to the creation of such lists.
- Similarly, almost none of the agencies has defined clearly what activities fall within the ‘lobbying’ or ‘advocacy’ categories.

- Only one EU agency has mentioned the possibility to impose sanctions on staff members not complying with the EU Staff Regulations or with restrictions imposed by appointing authorities when allowing a job move. This reveals the absence, within these agencies, of functioning frameworks that ensure a proper implementation of restrictions imposed on leaving staff members. For instance, within the European Medicine Agency, former senior staff members are only “advised not to exploit relationships with former colleagues”, but no scheme exists to ensure such relationships will not be exploited.
- Not all agencies annually publish an anonymized list of cases they had to deal with regarding post-employment regulations and conflicts of interest.

These unevennesses do not constitute all of the discrepancies we could notice in the way each and every agency interprets the EU Staff Regulations, but we deem these to be the most important ones.

[EU agencies that responded to MEP Sven Giegold: BEREC, CEDEPOF, CEPOL, CHAFEA, EASA, EASHW, ECDC, EEA, EFSA, EIGE, EMA, EMCDDA, EMSA, EIOPA, ESA, INEA, ISS, SRB. EU agencies that did not respond to MEP Sven Giegold: ESMA, FRONTEX]