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**DECISION OF THE EUROPEAN COMMISSION**

**on Former Commissioner Phil Hogan's post term of office professional activities as regards his consultancy firm 'Hogan, Strategic Advisory Services'**

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### **on Former Commissioner Phil Hogan's post term of office professional activities as regards his consultancy firm 'Hogan, Strategic Advisory Services'**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Commission Decision of 31 January 2018 (C(2018) 700 final) on a Code of Conduct for the Members of the European Commission, and in particular Article 11(3) thereof,

Whereas:

- 1) According to Article 245(2) of the Treaty on the Functioning of the European Union, the Members of the Commission, when entering upon their duties, shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and, 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.
- 2) Article 339 of the Treaty on the Functioning of the European Union provides that the Members of the institutions of the Union shall be required, even after their duties have ceased, not to disclose information of any kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
- 3) Article 11 of the Code of Conduct for the Members of the European Commission establishes a specific procedure for the assessment of planned professional activities which the Members or former Members of the Commission intend to take up after they have ceased to hold office. The Commission shall examine the information provided in order to determine whether the nature of the planned activity is compatible with Article 245 of the Treaty on the Functioning of the European Union. If the planned activity is related to the portfolio of the Member or former Member, the Commission shall decide only after having consulted the Independent Ethical Committee unless the planned activity falls within the exceptions foreseen in paragraph 3, second subparagraph, litt. (a) to (f).
- 4) Article 12 of the Code of Conduct establishes that, on request of the President, the Independent Ethical Committee shall advise the Commission on any ethical question related to the Code and provide general recommendations to the Commission on ethical issues relevant under the Code.

- 5) On 1 February 2021, Former Commissioner Phil Hogan informed the Commission of his intention to establish an independent advisory company 'Hogan, Strategic Advisory Services'. The purpose of this company would be: (1) to offer high-level external advice on a routine basis to management; (2) to support management regarding strategic issues; (3) to advise the company on stakeholder engagement; (4) to offer advice regarding the implementation of programmes and campaigns in Europe.
- 6) Mr Hogan stated his awareness regarding the compliance requirements of the Code of Conduct for Commissioners under Article 245 of the Treaty on the Functioning of the European Union and the need to respect confidentiality on all matters relating to his mandate, as outlined in Article 339 of the Treaty on the Functioning of the European Union. Mr Hogan added that he would not engage in any activities on behalf of the company involving agriculture or any matter relating to his nine-month term of office as Commissioner for Trade.
- 7) Mr Hogan indicated that two companies had already approached him to carry out advisory work, namely Vodafone and Proof of Trust.
- 8) With its opinion of 19 June 2020 in the context of a consulting activity notified by another former Member of the Commission, the Independent Ethical Committee had already set clear lines on the conditions to ensure the compatibility of consultancy services performed by former Members of the Commission with Article 245 of the Treaty on the Functioning of the European Union. Nevertheless, in view of the information provided by Mr Hogan, notably as regards his potential first clients, and in line with Article 11(3) of the Code of Conduct for the Members of the Commission, the Independent Ethical Committee was requested, on 17 March 2021, to provide its opinion on Mr Hogan's notification, putting particular emphasis on the nature of both clients.
- 9) The Committee delivered a first opinion, on 4 May 2021, assessing the general compatibility of the services to be provided by Mr Hogan's consultancy company.
- 10) The Committee noted, in this opinion, that Former Commissioner Hogan is the founder of 'Strategic Advisory Services'. In his notification to the European Commission, he had specified that he would 'be mindful of the compliance requirements of the Code of Conduct for Commissioners under Article 245 of TFEU and the need to respect confidentiality on all matters relating to (his) mandates' as required in Article 339 of the TFEU. He has undertaken to 'not engage with any activities on behalf of the company that involves agriculture or any matter relating to (his) 9 months term of office as Commissioner for Trade
- 11) The Committee recalled the applicable legal context and, in line with previous opinions, noted that the Members of the Commission have a right to engage in work and to pursue a freely chosen or accepted occupation after the term of their office,

while this right needed to be balanced with the obligations set out in Article 245 TFEU and the Code of Conduct for the Members of the European Commission.

- 12) The Committee underlined that the balance had to be proportionate. It could be achieved by imposing restrictions and conditions on a new professional activity where those restrictions and conditions would be more proportionate than the simple prohibition or authorisation of an activity.
- 13) The Committee underlined that the Code of Conduct provided the framework in which the Commission had to establish this balance between the rights and obligations of its Members with regard to concrete, new activities. It noted that this balance could not be established based on an automatic scheme, but required a case-by-case approach, which took into account the context and particularities of each individual case.
- 14) Regardless of Mr Hogan's potential clients, the Committee noted that Mr Hogan's role and responsibilities, as well as the scope of activities of his company remain very broad and unspecified. According to the information he provided, these services could range from 'high-level external advice to support management regarding strategic issues' and activities to 'advise the company on stakeholder engagement' to providing guidance 'regarding the implementation of programmes and campaigns'. The scope of activities of the company does not seem to target specific clients, economic sectors or policy areas.
- 15) With regard to this activity, the Committee noted, in line with its opinion of 19 June 2020 (mentioned above) and with the Commission decisions C(2020)9037 and C(2021) 9000<sup>1</sup>, addressing restrictions and conditions imposed on consultancy services taken up by former Commissioners, that the potential wide range of these activities left room for Former Commissioner Hogan to focus on activities which would be compatible with Article 245 Treaty on the Functioning of the European Union.
- 16) Following its line formulated first in its above mentioned opinion of 19 June 2020, the Committee considered that Former Commissioner Hogan's activity with 'Hogan, Strategic Advisory Services' should be subject to the same general restrictions on consultancy activities: (a) as concerns lobbying or interest representation, (b) based on the obligations of confidentiality and discretion; (c) based on the principles of collegiality and discretion; and (d) based on the general duties of integrity and discretion.
- 17) In addition, in order to ensure a credible implementation of these restrictions, the Committee recommended, in line with its previous opinions, that the Commission should authorise the activity only on the condition that the former Member informs the Commission every 6 months, for a period of 2 years after the end of the term of

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<sup>1</sup> [https://ec.europa.eu/info/files/commission-decision-c-2020-9037\\_en](https://ec.europa.eu/info/files/commission-decision-c-2020-9037_en).

office, through a list of clients and mandates that he accepted. Given the potentially sensitive character of such commercial and personal information and the privacy of third parties, this information should be treated confidentially by the Commission, in case the former Member asks for such confidentiality.

- 18) The Committee furthermore suggested that, irrespective of this regular information obligation, in case of doubt about the compliance of a mandate or a client with the above-mentioned restrictions, Former Commissioner Hogan should immediately inform the President of the Commission according to Article 13(2) of the Code of Conduct. This appeared to the Committee as being particularly advisable if a possible client is registered in the Joint Transparency Register of the European Parliament and the European Commission or when it is evident that it should have been registered.
- 19) The Committee also considered that the Commission decision should ask former Commissioner Hogan to ensure that his company is registered in the Joint Transparency Register of the European Parliament and the European Commission if he were to engage in activities which are covered by the scope of the Register.
- 20) As a result of its assessment, the Committee reached the conclusion that the Commission should impose the following restrictions and conditions as regards Mr Hogan's consultancy company 'Hogan, Strategic Advisory Services'.
  - i. should not lobby the Commission, its Members or staff, or any of its Executive Agencies on behalf of 'Hogan, Strategic Advisory Services' or its clients until 26 August 2022;
  - ii. himself and his company should not contact the services previously under Mr Hogan's portfolio responsibilities, on behalf of clients of his company until 26 August 2022;
  - iii. should strictly respect Article 339 TFEU, which provides that 'The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components';
  - iv. should not disclose what was said at meetings of the Commission;
  - v. should not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his term of office;
  - vi. should not accept mandates which concern areas in which he disposes of confidential or sensitive information or insights and for which this information and insights are essential to provide appropriate advice. This refers notably, but
- 21) Former Commissioner Hogan:
  - i. should not lobby the Commission, its Members or staff, or any of its Executive Agencies on behalf of 'Hogan, Strategic Advisory Services' or its clients until 26 August 2022;
  - ii. himself and his company should not contact the services previously under Mr Hogan's portfolio responsibilities, on behalf of clients of his company until 26 August 2022;
  - iii. should strictly respect Article 339 TFEU, which provides that 'The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components';
  - iv. should not disclose what was said at meetings of the Commission;
  - v. should not exploit any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his term of office;
  - vi. should not accept mandates which concern areas in which he disposes of confidential or sensitive information or insights and for which this information and insights are essential to provide appropriate advice. This refers notably, but

not exclusively to advice or work on specific files in which former Commissioner Hogan was personally involved through his portfolio responsibilities or as Member of the College (e.g. contracts, policy files, grants, cases, claims, investigations, legislative procedures or negotiations) which are ongoing or, if those are already closed, which are directly connected to them;

- vii. should not provide advice to clients which serves to question or contest decisions and activities that the Commission adopted or performed while he was a Member of the Commission;
  - viii. should not accept mandates in relation to areas for which he was responsible or provide services to clients in relation to other areas, if these clients were major stakeholders in his former areas of portfolio responsibility. This restriction should apply until 26 August 2022;
  - ix. should inform the Commission every 6 months, until 26 August 2022, about his clients and mandates. The Commission should treat this information as confidential, in case the former Commissioner asks for such confidentiality;
  - x. should, in case of doubt about the compliance of a mandate or client with these restrictions, inform the President of the Commission according to Article 13(2) of the Code of Conduct, especially if a possible client is registered in the Joint Transparency Register of the European Parliament and the European Commission or when it is evident that it should have been registered;
  - xi. should, given that the obligations of Article 245 TFEU are not limited in time, continue to respect the general duty to behave with integrity and discretion as regards the acceptance of certain mandates or clients also after 26 August 2022;
  - xii. should register his company ‘Strategic Advisory Services’ in the Joint Transparency Register of the European Parliament and the European Commission before he engages in consulting activities covered by the Register.
- 22) On 12 May 2021, the Independent Ethical Committee delivered two specific opinions assessing, in particular, the compatibility of the services to be provided by Former Commissioner Hogan’s consultancy company to the two companies which had already approached him to carry out advisory work, against the framework of the ethical obligations binding Former Commissioner Hogan.
- 23) The Commission has examined and shares the conclusions formulated in the Independent Ethical Committee’s opinions of 4 and 12 May 2021 with regard to both clients. The present decision reinforces the conditions and restrictions advocated in general terms by the Committee in its opinion of 4 May 2021, in order to establish the appropriate conditions and restrictions applicable to the provision of consultancy services, by ‘Hogan, Strategic Advisory Services’ to all its future clients, in line with

the Committee's conclusions contained in its opinions of 12 May 2021 regarding in particular Vodafone and Proof of Trust.

HAS DECIDED AS FOLLOWS:

*Article 1*

Former Commissioner Phil Hogan's envisaged activities in the framework of his consulting company 'Hogan, Strategic Advisory Company' are compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the respect of the conditions and restrictions set out in Articles 2 and 3.

*Article 2*

Former Commissioner Hogan shall, in all circumstances, bear in mind all the obligations impending on him as former Member of the Commission and shall adopt an extremely prudent approach when carrying out advisory work to clients.

*Article 3*

Former Commissioner Hogan :

- a. shall not lobby the Commission, its Members or staff, or any of its Executive Agencies on any matter on behalf of 'Hogan, Strategic Advisory Company' or any of its clients until 26 August 2022; the term 'lobbying' includes indirect lobbying in the sense of influencing the Commission 'through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions' as set out in paragraph 7 of the Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation and applies independently of the location of the employment; it covers any activity with a view to obtaining EU funding and also includes advice to clients on how to lobby and to exert influence on the Members of the current Commission and the staff of the Commission;
- b. shall refrain from contacting, for his clients, the services previously under his portfolio, namely the Directorate-General for Agriculture and Rural Development and the Directorate-General for Trade until 26 August 2022;

- c. shall bear in mind that the duties of integrity and discretion established by Article 245 of the Treaty on the Functioning of the European Union continue to apply even after two years to any possible contacts, with the European Commission, on behalf of his clients;
- d. shall strictly respect, even after the end of the two years period following the end of his mandate at the European Commission, Article 339 of the Treaty on the Functioning of the European Union, which provides that the Members of the Commission are required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components;
- e. shall comply with the duties of collegiality and discretion, as laid down in Article 11(1) and Article 5 of the Code, with respect to the Commission's decisions and activities during Former Commissioner Hogan's terms of office. This includes not only refraining from disclosing what was said at meetings of the Commission, but also a general duty to apply a high sense of discretion with regard to the use of information and insights that he obtained during his mandate, be it within his portfolio responsibilities for 'Agriculture and Rural Development' and 'Trade' or within the College;
- f. shall refrain from exploiting any insights of a confidential or sensitive nature in policy, strategy or internal processes that he obtained during his terms of office for the benefit of his clients;
- g. shall not accept mandates which concern areas in which he has obtained confidential or sensitive information or insights during his term of office and for which this information or these insights are essential to provide appropriate advice. This refers notably, but not exclusively, to advice or work on specific files in which Former Commissioner Hogan was personally involved through his portfolio responsibilities or through his collegial responsibility as Member of the College (e.g. contracts, policy files, grants, cases, claims, investigations, legislative procedures or negotiations) and which are ongoing, or, if they are already closed, on files which are directly connected to those files;
- h. shall not provide advice to clients which serves to question or contest decisions and activities that the Commission adopted or performed while he was a Member of the Commission;
- i. shall not accept mandates from clients, or provide advice to clients, in relation to areas for which he was responsible, namely agriculture and rural development and international trade, or provide services to clients in relation to other areas if these clients were major stakeholders in his former areas of portfolio responsibilities. This restriction applies until 26 August 2022;



- j. shall inform the Commission in December 2021 and June 2022, about his clients and contracts. The Commission will treat this information as commercial and personal information in line with the existing legislation, in case Mr Hogan asks for the protection of this information;
- k. shall inform the President of the Commission, according to Article 13(2) of the Code of Conduct in case of doubt with regard to the application of the Code of Conduct or the application of this decision, before acting on the matter relating to which the doubts arise, especially if a possible client is registered in the Joint Transparency Register of the European Parliament and the European Commission or when it is evident that it should have been registered;
- l. shall continue to respect the duty to behave with integrity and discretion as regards the acceptance of certain contracts or clients after 26 August 2022, given that the obligations of Article 245 TFEU are not limited in time;
- m. shall register his company ‘Hogan, Strategic Advisory Services’ in the Joint Transparency Register of the European Parliament and the European Commission before he engages in consulting activities covered by the Register.

The conditions and restrictions set out in lit. a), b), g), h) and i) shall also apply to Former Commissioner Hogan’s company.

The conditions and restrictions set out in lit. a) to m) apply with regard to all clients, including the two clients notified by Former Commissioner Hogan, Vodafone and Proof of Trust.

Done at Strasbourg, on 8 June 2021.

*The President*  
*Ursula von der Leyen*