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DECISION OF THE EUROPEAN COMMISSION

**on Former Commissioner Günther Oettinger's post term of office professional activity
as President of the EBS University of Business and Law (EBS Universität für
Wirtschaft und Recht)**

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on Former Commissioner Günther Oettinger's post term of office professional activity as President of the EBS University of Business and Law (EBS Universität für Wirtschaft und Recht)

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, lit. (a) to (f).

- 4) On 19 May 2021, Former Commissioner Günther Oettinger notified the Commission about his intention to accept a position as President of the EBS University of Business and Law (EBS Universität für Wirtschaft und Recht). The EBS University of Business and Law is a private university in Germany with a state accreditation as an academic institution with university status. It is part of the non-profit foundation SRH, a leading provider of educational and health services. Its shareholders are the SRH Holding via the SRH Higher Education Ltd and the EBS Alumni Association. It encompasses three schools: the EBS Law School, the EBS Business School and the EBS Executive School. The University underlines its international orientation, its close proximity to business and its place in a comprehensive network of international partner universities, companies and alumni.
- 5) The governing structure of the EBS University of Business and Law is mainly composed of its Senate, its Executive Committee and its University Council. The other levels in the University's corporate governing structure are the Rector, the Pro-Rectors, the Managing Director, the Ethics Committee and the Honours Committee. The Faculties, with their representatives, form the decentralised part of the University's governing structure.
- 6) The President of the University is elected by the University Council upon proposal of the shareholders and requires confirmation by the Senate. The President represents the University, has the competence to establish guidelines for the University, prepares and chairs the meetings of the Senate, and is responsible for the implementation of the Senate's decisions.
- 7) According to the Financial Transparency System of the European Commission, the EBS University of Business and Law has not received EU funds directly administered by the Commission departments. In any case, this possibility does not create a sufficient link with Former Commissioner Oettinger's portfolio on Budget to require a consultation of the Independent Ethical Committee. The consultation of the Independent Ethical Committee is therefore not necessary.
- 8) In addition, in its opinion delivered on 23 December 2019 on a comparable post term of office activity envisaged by another former Member of the Commission, the Independent Ethical Committee concluded that there were no legal or other impediments which should prevent the Former Commissioner in question from accepting an important governing position in another European university. The Committee recommended, however, a certain number of restrictions in order to ensure the compatibility of the envisaged activity with the obligations applying after the end of the mandate. The Committee considered that a restriction should apply in particular to future decisions of the Commission on the allocation of funds. The Commission

followed the Committee's conclusion in the case assessed by the Independent Ethical Committee¹ and also in a second comparable situation².

- 9) Without prejudice to the restrictions stated above, Mr Oettinger's envisaged activity as President of the EBS University of Business and Law does not present any risk of incompatibility with the Former Commissioner's role as Member of the Commission or with the interests of the institution, provided that Mr Oettinger abides by the relevant provisions of the Treaty on the Functioning of the European Union, notably Article 339, and of the Code of Conduct for the Members of the Commission, namely Article 11(1), in conjunction with Article 5, and Article 11(4) as concerns the protection of confidentiality of sensitive information, the protection of collegiality and discretion and the prohibition of lobbying during a period of two years after his term of office.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Günther Oettinger's envisaged activity as President of the EBS University of Business and Law (EBS Universität für Wirtschaft und Recht) is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the following conditions and restrictions :

- In accordance with Article 11(4) of the Code of Conduct for the Members of the Commission, during a period of two years following his term of office, Former Commissioner Oettinger shall refrain from lobbying the Members of the Commission or their staff on behalf of the EBS University of Business and Law, on matters for which he was responsible within his Commission portfolios, in particular as concerns future decisions of the Commission on the allocation of funds. Participation in public events and general exchanges of, and on, publicly available information with Members of the Commission or staff of the Commission do not fall under this restriction.
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Oettinger shall refrain from participating in any activity or decision-making procedure within the EBS University of Business and Law which might involve using information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components.

¹ Decision C(2020) 9000 of 5 February 2020

² Decision C(2020) 9023 of 27 May 2020

- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Oettinger remains bound by the duties of collegiality and discretion, with respect to the Commission's decisions and activities during his terms of office.

Done at Brussels, on 30 June 2021.

The President
Ursula von der Leyen