



EUROPEAN COMMISSION  
Secretariat-General

The Secretary-General

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Mr Olivier HOEDEMAN  
Corporate Europe Observatory  
Rue d'Edimbourg 26  
1050 Brussels

**Subject: Appointment of Mr Jan Frydman as Special Adviser**

Dear Mr Hoedeman,

I acknowledge receipt of your note of 17 April 2015 in which you express concerns with regard to the appointment of Mr Jan Frydman as Special Adviser to Commissioner Malmström. You maintain that there are reasons to believe that the European Commission has not made sufficient efforts to critically scrutinise possible conflicts of interest and that a more thorough assessment might have led to the conclusion that conflicts of interest were unavoidable in this case.

There is no basis for these allegations. The Commission has carried out a proper analysis of possible conflicts of interest before deciding to appoint Mr Frydman, and it did not identify any conflict of interest which would have prevented his appointment.

Special Advisers constitute a specific group and are not directly comparable to officials. Article 5 of the Conditions of Employment of Other Servants of the European Union (CEOS) defines Special Advisers as persons, who by reason of their "*special qualifications and notwithstanding gainful employment in some other capacity*" are engaged to assist one of the institutions of the Union. The CEOS are thus based on the understanding that Special Advisers may have other gainful activities.

Accordingly, the last paragraph of point 5 of the Commission Rules on Special Advisers (C(2007) 6655) provides that the proportionality principle must be observed when checking the absence of conflict of interest and that account must also be taken of the particular status of Special Advisers and of the nature of their duties, given that they are appointed by Members of the Commission specifically because of their expertise and their outside activities. Therefore an outside activity or experience in a specific field does not in itself constitute a reason for excluding the appointment of a Special Adviser with a mandate relating to the same field.

As regards specifically the case of Mr Frydman, he was selected as Special Adviser – with a maximum of six days of work per year – because of the experience in EU-US relations that he acquired as a Commission official (and not because of the professional experience acquired before or after his activity as an official). He retired from the Commission after almost two decades of service, which to a large extent involved work on international trade and regulatory matters in general and transatlantic relations in particular. He was instrumental in developing many of the structures that supported

international, including EU-US, economic cooperation for the past 14 years, which is why Commissioner Malmström found it useful to retain his particular expertise.

The information shown on the CEO website, according to which Mr Frydman has "*a strong pro-ISDS background and a tricky revolving door history*", is not supported by the facts and is misleading. Insofar as these claims are based on his previous work in the company Procter & Gamble and the law firm Mannheimer Swartling, it should be noted that he left his employment with Procter & Gamble, his first job after University, 31 years ago and his work with law firm Mannheimer Swartling 19 years ago. He then joined the European Commission as an official and remained as such for more than 17 years, until his retirement in 2013.

Following his retirement, Mr Frydman returned to Sweden, where he first served as a judge in the Court of Appeal in Stockholm. He later joined a small law firm of eight lawyers (Ekenberg & Andersson), where he is currently employed. These activities were authorised by the Commission under Article 16 of the Staff Regulations.

In his current position, Mr Frydman does not take on any cases that could represent a conflict of interest with his role as a Special Adviser. As a Member of the Swedish Bar Association he is also bound by the strict ethics rules of the Bar which prohibit Members to accept any assignment which would represent a conflict of interest. To avoid even the possible perception of such conflicts, his law firm has published on its website an update, effective as from his appointment, clearly stating this fact. As Mr Frydman explained in detail in reply to your questions, there is no overlap between his work for Commissioner Malmström and his position at Ekenberg & Andersson.

On the basis of these facts, the examination of possible conflicts of interest that was carried out in accordance with the Rules on Special Advisers did not reveal any element which would have stood in the way of Mr Frydman's appointment as Special Adviser. It was confirmed by the Head of Cabinet of Commissioner Malmström in the Statement of Assurance that the tasks performed by Mr Frydman in his capacity as Special Adviser will have no link with cases related to his activities as a lawyer.

On 31 March 2015, CEO published on its website an article based on unjustified assumptions ("*a strong pro-ISDS background and a tricky revolving door history*"). We understand that CEO did not contact Mr Frydman to check whether there was a factual basis for these speculations until later. In the light of the information provided in this letter I trust CEO will rectify the situation.

Yours sincerely,



Catherine Day