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NOTE

From: General Secretariat of the Council
To: Working Party on Information

Subject: Complaint 1069/2019/MIG - Ombudsman's Recommendation
(sponsorship of the Presidency of the Council of the European Union)

1. Upon a complaint from Foodwatch International, the Ombudsman addressed on 15 July 2019 a letter to the Secretary General of the Council and to the President of the European Council related to commercial sponsorship of the Presidencies (document ST 12824/19).
2. In its reply to the Ombudsman, approved by Coreper on 23 October 2019 (document ST12879/19), it was explained that a distinction should be made between i) the activities from the Presidency in the context of its duties related to the provisions of the Treaty and the Council Rules of procedure for which the Presidency has the duty to be neutral and impartial and ii) other Presidency activities which do not fall within the institutional framework of the Council (such as cultural, touristic and scientific events or informal meetings) which remain under the responsibility of the Member State as such.
3. In her draft Recommendation of 6 January 2020 (document ST 5315/20), the Ombudsman notes that, although it is held by a Member State, the Council presidency is functionally a part of the Council and thus of the EU administration.

While she acknowledges that the distinction that the Council draws between different categories of activities that the Presidency organizes may be useful for clarifying, from an internal administrative perspective, whether certain expenses are the responsibility of the Council or the Member State holding the Presidency, she contends that such a distinction is not perceptible or relevant to the wider public. She therefore considers that it falls to the Council to seek to mitigate the risks associated with commercial sponsorship and she finds that the Council's stance that it has no responsibility when it comes to commercial sponsorship of a Council Presidency and its consequent inaction amounts to maladministration. She therefore makes the recommendation that the Council should issue guidance to Member States on the issue of sponsorship of the Presidency to mitigate the reputational risks to the EU.

4. While the Member State holding the Presidency is responsible with regards to how it will finance the costs not covered by the Council's budget, in particular as regards the organization of informal meetings, seminars or social and cultural events on the occasion of the Presidency, the Council may agree to issue guidance on the conditions to be taken into account when having resort to private sponsors to cover some of these costs with a view to avoid any actual or perceived conflict of interests and any possible reputational risks for the Council arising out of the sponsorship. Such conditions should be assessed by the Member State concerned, which may consult with the GSC if it considers it appropriate. The guidance may be inserted in the Presidency handbook.¹
5. The Working Party for information is invited to comment on the Ombudsman draft Recommendation and to provide input on the possibility to issue guidance on this issue to the future Presidencies along the lines suggested in this Note. A draft detailed opinion on the Recommendation will be prepared on the basis of that input. After consulting the WPI, the draft detailed opinion will be submitted to Coreper and Council for approval.

¹ <http://www.mvep.hr/files/file/2018/181212-handbook-of-the-presidency-02-2018-1.pdf>