



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

DOCUMENT 2

Brussels,
SG/B4 Ares(2013)

Mrs Benita Ferrero-Waldner

Also by e-mail to:

Dear Mrs Ferrero-Waldner,

The office of the European Ombudsman recently gave a copy of a contract between you and Gamesa to the Commission (attached). The Ombudsman received the copy from a third party.

The Commission has been notified by you of your role with the Supervisory Board of Gamesa on 15 December 2009 and approved that activity on 19 January 2010. However, I note that the activity covered in the attached contract, namely that you would provide Gamesa with your services as an advisor

The related contract, concluded on 25 February 2010, i.e. within the year after you ceased to hold the office of Commissioner, does not seem to have been notified to the Commission as required by the last paragraph of point 1.1.1 of the Code of Conduct for Commissioners adopted by the Commission in 2004 (SEC(2004) 1487/2).

The Commission would appreciate to know if this contract has been implemented, for how long and to understand the reasons why it does not seem to have been notified to the Commission, during the notification period foreseen in the Code of Conduct above mentioned.

Thank you very much in advance for your kind co-operation.

Berk writes

Catherine

Catherine Day

cc: Mr Laitenberger (Head of President Barroso's Private Office)

From: (SG) on behalf of CLAEYS BOUUAERT Donatienne (SG)
Sent: Tuesday 16 July 2013 10:28
To:
Cc: DAY Catherine (SG)
Subject: FW: Ares(2013)2616070 - re Contract with Gamesa
Attachments: Contrat BFW Gamesa.pdf

On behalf of Donatienne Claeys Bouúaert

ARES(2013)2660923

Dear Mrs Ferrero-Waldner,

Following your e-mail of July 15 to the Secretary-General of the Commission, please find enclosed the contract mentioned in her letter to you of 9 July 2013, which, by mistake, was missing as an annex to the e-mail which you have been sent that day (4.39 pm)

Best regards,

Donatienne Claeys Bouúaert
Head of Unit SG/B/4 (Public Service Ethics)



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

Brussels,

DOCUMENT 6

Mrs Benita Ferrero-Waldner

Dear Mrs Ferrero Waldner,

Thank you for your letter of 18 July. I am enclosing a copy of the letter the European Ombudsman sent to the Commission regarding your contract with GAMESA. We do not have any other information on the source of the information to the Ombudsman.

Thank you also for confirming the second contract with GAMESA and for the information you provide. I note that this was not notified previously to the Commission. The fact that the Commission had approved a first contract of a former Commissioner with a company only covered that contract as notified and cannot be deemed to imply agreement to a subsequent modification if such modification is substantial. In view of the fact that the second contract appears to have been concluded during the period when former Commissioners are required to seek authorisation from the Commission I have decided to refer it to the ad hoc Ethical Committee for an ex post opinion. I will keep you informed of their views.

Yours sincerely,

Catherine Day

Annex



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

DOCUMENT 7

Brussels, 25 JUL. 2013
SG/B4 Ares(2013)

Note to the Members of the Ad hoc Ethical Committee

Mr. Rafael García-Valdecasas
Mr Terry Wynn
Mr Michel Petite

Subject: Post-office activity of Mrs Benita Ferrero-Waldner

On 4 July 2013, the Office of the European Ombudsman handed to the Secretariat General of the Commission a copy of a document it received on 6 May 2013, bearing a Spanish stamp and postmark but without indication of the identity of the sender. The document is a copy of a contract (*contrato de arrendamiento de servicios profesionales*) concluded on 25 February 2010 between Mrs Ferrero-Waldner and GAMESA.

I wrote on 9 July to Mrs Ferrero-Waldner to invite her to provide the Commission with the relevant information about this contract which had not been notified to the Commission.

Mrs Ferrero-Waldner replied to me with a letter dated 18 July confirming the existence of such contract and explaining why she had not considered necessary to notify such post-office activity to the Commission.

In view of the link between the scope of the contract above mentioned and Mrs Ferrero-Waldner's portfolio within the Commission until 9 February 2010, the Commission would appreciate to know the Ad hoc Ethical Committee's opinion on the compatibility of this activity with Article 245 of the TFEU and with the Code of Conduct for Commissioners and on the extent of her notification obligations under the Code as regards this activity.

You will find enclosed all the correspondence on this matter. May I ask the Committee to treat this matter on a strict confidential basis and to deliver its opinion as soon as possible after the Summer break.

Thank you very much in advance for your kind co-operation.

Catherine Day

cc: Mr Laitenberger (Head of President Barroso's Private Office)

DOCUMENT 8

Ref. Ares(2013)3213016 - 09/10/2013

Ad Hoc Ethical Committee

TO	Mrs Catherine Day, Secretary General of the European Commission	DATE	01 October 2013
COPY TO	Mr Laitenberger, Head of President Barros's Private office	FILE REF	Ares (2013)2756760
FROM	Rafael Garcia-Valdecasas Michel Petite Terry Wynn	DIRECT DIAL	

Re :

- Request n°12 from the European Commission
- Post-office activities of Mrs. Benita Ferrero-Waldner

I. FACTS

1. By letter of 25 July 2013, the Secretary General of the European Commission requested the opinion of the *Ad Hoc* Ethical Committee (the "**Ethical Committee**"), on post-office activity entered into by Mrs. Ferrero-Waldner with the firm GAMESA corporaci3n Tecnol3gica S.A., registered in Vitoria (Spain).
2. According to the above-mentioned letter and the attachments thereto, on 4 July 2013, the Secretariat General of the Commission received a copy of a contract (contrato de arrendamiento de servicios profesionales) which was concluded on 25 February 2010 between Mrs. Ferrero-Waldner and GAMESA from the Office of the European Ombudsman. This document was received by the Ombudsman on an anonymous basis.
3. On 9 July 2013, the Secretary General wrote to Mrs. Ferrero-Waldner to invite her to provide the Commission with the relevant information about this contract, which had not been notified to the Commission.

Mrs. Ferrero-Waldner replied on 18 July 2013, confirming the existence of the contract and explaining why she had not considered it necessary to notify such post-office activity to the Commission.

of 24/11/2004 (SEC/2004) 1487/2 para 1.1.1, requiring that Commissioners inform the Commission during the 12 months after they have ceased to hold office).

9. The Ethical Committee examines below whether the contract of 25 February 2010

10. The function _____ of GAMESA, as notified, entails

activity compatible with article 245(2) and the Code of Conduct in its opinion of 14 January 2010 and the decision of the commission of 19 January 2010.

11. The contract signed on 25 February 2010, _____
a contract of provision of services ("*contrato de arrendamiento de servicios*"),

_____ Mrs. Ferrero-Waldner.

The objects described in this contract are for Mrs. Ferrero-Waldner:

- to provide GAMESA

12. Accordingly, the Ethical Committee is of the opinion that the contract of 25 February 2010, which is here under consideration, should have been notified to the Commission "in good time", pursuant to paragraph 1.1.1 of the 2004 Code of Conduct.

III. COMPATIBILITY WITH ARTICLE 245(2) TFEU AND THE CODE OF CONDUCT

13. The Ethical Committee now turns to the issue of the compatibility of the activity, which forms the subject of the contract of 25 February 2010, with article 245(2) TFEU and with the Code of Conduct for Commissioners.

Regarding the latter, the Committee refers to the Code of 24/11/2004 which was applicable at the time when the contract was signed, and of which the Ethical Committee believes the Commission should have been informed (see Part II above).

14. According to the Preamble and object of the contract, described above at paragraph 11, Mrs. Ferrero-Waldner will assume her contractual professional services

She will be in the position of provider of services for GAMESA

15. In this respect, the Committee confirms that there is a clear link between the scope of the contract and Mrs. Ferrero-Waldner's portfolio within the commission, held until 9 February 2010.

16. As to the content of the contract and its compatibility with article 245(2) TFEU,

17. Firstly, the tasks related to the _____ of GAMESA
Mrs. Ferrero-Waldner is in charge of
GAMESA

It can be expected that

IV. CONCLUSION

20. For the reasons above, it is the opinion of the Ethical Committee that :

- the contract of 25 February 2010 should have been notified to the Commission "in good time", pursuant to paragraph 1.1.1 of the 2004 Code of Conduct;

- had the contract of 25 February 2010 been notified, the Ethical Committee would have taken the view that the contract did not offer sufficient guarantee of its compatibility with article 245(2) TFEU and the Code of Conduct, and would have advised the Commission to require further commitments from Mrs. Ferrero-Waldner and a narrower definition of the scope of her task as a consultancy service provider for GAMESA.