

DECISION OF THE GOVERNING BOARD

N°3/2023

Granting permission to engage in post-employment activities

THE GOVERNING BOARD OF THE EUROPE'S RAIL JOINT UNDERTAKING,

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014¹, and in particular Article 17(2)(h) thereof,

Having regard to the Staff Regulations of Officials of the European Union, and, in particular, Article 12b thereof, and to the Conditions of Employment of Other Servants of the European Union, and, in particular, Articles 16 and 17 thereof,

Having regard to the Governing Board decision GB-23/2018 (which applies to EU-RAIL by means of Governing Board decision GB-02/2021 of 21 December 2021), on the adoption by analogy of the Commission Decision on outside activities and assignments and on occupational activities after leaving the Service, No C(2018)4048;

Whereas:

- 1) On 9 January 2023, Mr. Carlo Borghini, the Executive Director of the Europe's Rail Joint Undertaking, requested to end service and retire as of 1 March 2023;
- 2) On 26 January 2023, Mr Carlo Borghini submitted an application for authorisation to engage in paid post-employment activities, as Assistant Secretary General at the North Atlantic Treaty Organization (NATO);
- 3) Mr Carlo Borghini informed EU-RAIL that in the above-mentioned role he would be called to perform the following activities: Executive Management of the organization which includes HR, ICT, Facilities, Procurement and Budget related to the overall organization at global level;
- 4) The Governing Board, acting as Appointing Authority, assessed whether the notified activities could lead to a conflict with the legitimate interests of EU-RAIL. In doing so, the Governing Board took into account the following factors:

¹ OJ L 427, 30.11.2021, p. 17.

- (i) the relation between the occupational activity and the work carried out by the former staff member during the last three years of service;
- (ii) whether the occupational activity would involve working on specific files for which the former staff member was responsible during the last three years of service;
- (iii) the occupational activity would risk harming the reputation of the former staff member and/or EU-RAIL, for example by retroactively casting doubt on the former staff member's impartiality while he or she was still in service, thereby tarnishing EU-RAIL's image;
- (iv) the quality of a future employer (e.g. whether it is a public authority or a private/commercial company) or the situation of self-employment;
- (v) whether the envisaged activity would involve representing outside interests vis-à-vis EU-RAIL;
- (vi) whether or not the envisaged activity is remunerated.

5) In light of the above, the activities to be performed by Mr Carlo Borghini do not fall within the field of activities of EU-RAIL;

6) In addition, based on the submissions of Mr Carlo Borghini, the envisaged activities do not lead to a potential conflict with the legitimate interest of EU-RAIL;

7) The Joint Committee was consulted, as per Article 16 of the Staff Regulations of Officials of the European Union;

8) As a result, the paid post-employment activities identified by Mr Carlo Borghini can be authorised.

HAS DECIDED AS FOLLOWS

Article 1

Mr Carlo Borghini is granted permission to engage in paid post-employment activities as of 1 March 2023.

Article 2

This authorization is subject to the conditions enumerated hereafter:

- (i) Mr Carlo Borghini is prohibited, for a period of twelve months after leaving the service, from engaging in lobbying or advocacy, vis-à-vis staff of the European Commission, on behalf of the North Atlantic Treaty Organization (NATO) on matters for which he was responsible during the last three years in the service, or any other organization he would be working for during the next year;

- (ii) After leaving the service, Mr Carlo Borghini continues to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits from any new employer or its clients, to avoid any situation that might create a risk of real, potential or perceived conflict of interest;
- (iii) In case Mr Borghini would be leaving the NATO in a shorter period of time, the aforementioned duty also includes refraining from advising or working on behalf of any of Mr Borghini's clients on particular files or matters (for example: contracts, policy files, grants, funding programs, claims, investigations, ongoing legislative procedures, etc.) in which he participated personally and substantially and that would entail relying upon information received in the line of duty that has not been made public.
- (iv) Mr Carlo Borghini remains bound by the statutory obligation to refrain from any unauthorised disclosure of information received in the line of duty during his work at EU-RAIL (formerly Shift2Rail Joint Undertaking 'S2R JU'), unless that information has already been made public or is accessible to the public. This statutory obligation also entails refraining from exploiting confidential information, e.g. policy, strategy or information regarding internal processes that he may have acquired in the line of duty and that have not yet been made public;
- (v) Mr Carlo Borghini has the obligation, for a period of twenty-four months after leaving the service, to inform the EU-RAIL Governing Board² if he intends to engage in any new occupational activity and submit a new application for authorisation to engage in an occupation after leaving for assessment of the EU-RAIL Governing Board, using a specific form for EU former staff.

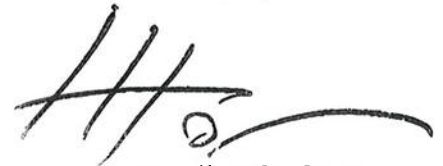
² In accordance with the Council Regulation (EU) No 2021/2085, the Governing Board of the Europe's Rail Joint Undertaking exercises the powers conferred by the Staff Regulations of Officials of the European Union laid down in the Staff Regulations on the Appointing Authority and by the CEOS on the Authority Empowered to Conclude a Contract of Employment.

Article 3

This Decision shall take effect on the day of its adoption and shall be notified to Mr Carlo Borghini.

Done at Brussels, on 23 February 2023.

For the Governing Board,



Henrik HOLELEI
The Chairperson