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European Union

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COVER NOTE

From:	Ms Emily O'Reilly, European Ombudsman
date of receipt:	10 September 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. prev. doc.:	8298/24
Subject:	Sponsorship of the Presidency of the Council of the European Union

Delegations will find in Annex a copy of a letter dated 9 September 2024 and addressed by the European Ombudsman to Ms. Thérèse Blanchet, Secretary-General of the Council of the European Union, accompanied by a closing note and a report on a meeting of European Ombudsman's representatives with representatives of the General Secretariat of the Council of the European Union on the corporate sponsorship of the Presidency of the Council of the European Union on 12 June 2024.

Personal data have been redacted.



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Ms Thérèse Blanchet
Secretary-General
Council of the European Union

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Cc: [REDACTED]@consilium.europa.eu

Strasbourg, 09/09/2024

Subject: Closing note on the strategic initiative on sponsorship of the Presidency of the Council of the European Union (SI/3/2024/MIG)

Dear Ms Blanchet,

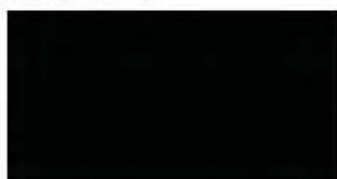
Please find enclosed my above closing note. I have decided to close this strategic initiative with the following conclusion:

The Ombudsman commends the Council of the European Union for adopting Guidance on the use of sponsorship, which was an important step in raising awareness of the risks related to the use of sponsorship by its Presidency. However, concerns remain and the Ombudsman encourages the Council to assess how best to address these when taking stock of the implementation of the Guidance at the next possible opportunity. The Council could focus, in particular, on the points addressed in the Ombudsman's assessment above.

In addition, please find enclosed, for your information, the final version of the report on the meeting that took place on 12 June 2024.

I would like to thank your colleagues for their good cooperation throughout this strategic initiative.

Yours sincerely,



Emily O'Reilly
European Ombudsman

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Enclosures:

- Closing note on SI/3/2024/MIG
- Report on Meeting



Emily O'Reilly

European Ombudsman

Closing note

on the strategic initiative on sponsorship of the
Presidency of the Council of the European Union (case
SI/3/2024/MIG)

The Ombudsman carried out this strategic initiative to follow-up on her previous inquiry on the issue of sponsorship of the Presidency of the Council of the European Union. In response to that inquiry, the Council adopted non-binding rules for the use of sponsorship by its Presidency ('the Guidance') that aimed to avert related risks, such as conflicts of interest and reputational risks for the Council and the EU. To examine the impact that this measure had, the Ombudsman set out questions to the Council as to how it raises awareness of those rules, how it supports Member States in implementing them and whether (and if so, how) it monitors their implementation.

Whilst the Ombudsman welcomed the Council's efforts towards ensuring the implementation of the Guidance, she concluded that the concerns related to the use of sponsorship had not been fully addressed.

The Ombudsman encouraged the Council to take stock of how the Guidance has been implemented and to explore possible other measures that could help mitigate the risks associated with the use of sponsorship.

Background

1. The Presidency of the Council of the European Union rotates among the 27 EU Member States every six months. In addition to other responsibilities, the Member State holding the Presidency plans, coordinates and chairs meetings of the Council, represents all Member States in negotiations with other EU institutions, including on legislative files, and communicates to the public on the activities of the Council.
2. The Presidency may also organise up to five informal meetings of ministers as well as seminars and social and cultural events in its own country. As such events are not formal Council events, the Member State is responsible for any costs related to their organisation, and independently chooses how it will finance these.
3. Over the years, it has become common practice that Member States use sponsorship to cover the costs related to these informal events. This practice has been the subject of repeated criticism by civil society activists and others.
4. In 2019, the Ombudsman dealt with a complaint about the use of sponsorship by the Council Presidency. The civil society organisation was concerned about the potential negative implications of this practice. The Ombudsman inquired into the matter and found that the use of sponsorship carries a reputational risk for the Council and for the EU as a whole. This risk is even greater when, during a specific Presidency, there are deliberations

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on EU policy or EU legislation that could affect a sponsor's private interests. The Ombudsman found that it was the Council's responsibility to addressing the risks associated with sponsorship and recommended¹ that the Council should provide guidance to Member States in order to mitigate the reputational risks to the EU.

5. The Council agreed with the Ombudsman that reputational risks to the EU should be avoided and following that inquiry, in June 2021, issued "*Guidance for Presidency best practice on the use of sponsorship*" (the 'Guidance').² The Guidance acknowledges that it is for the Member States to decide whether they want to use sponsorship, given that they are responsible for any costs related to holding the Presidency that are not covered by the Council's budget. However, if a Member State decides to do so, the Guidance states that it should "*carefully consider the possible impact of the choice of sponsors on the reputation of the Council or the EU.*" In addition, the Member States should "*put in place all measures necessary to avoid any conflict of interests and possible reputational risks for the Council or the EU arising out of the sponsorship.*"

6. Nonetheless, and despite the Guidance, the use of sponsorship by the Presidency has continued and has remained subject to criticism. The European Parliament, in particular, remains concerned about the influence that sponsors might (expect to) have on EU policy and law-making.³

The initiative

7. On 15 March 2024, the Ombudsman wrote⁴ to the Council to follow-up on her previous inquiry into the matter. She asked the Council to share its experience with the Guidance it adopted and, specifically whether and, if so, how the Council (i) raises awareness among Member States about its Guidance, (ii) supports Member States in the run-up to and during the time they are holding the Presidency and (iii) monitors the application of its Guidance.

8. On 12 June 2024, the Ombudsman's team held a meeting with representatives of the General Secretariat of the Council (GSC) in which it obtained the Council's replies to a list of questions that had been shared in advance.⁵

Replies of the Council

9. As a general point, the GSC stated that the informal activities for which some Member States decide to seek sponsorship must be distinguished from the formal Presidency activities that fall within the Council's responsibility. Informal activities fall solely within the responsibility of the Member State concerned and the Council can act only within the

¹ Recommendation of the European Ombudsman on sponsorship of the Presidency of the Council of the European Union (case 1069/2019/MG): <https://www.ombudsman.europa.eu/en/recommendation/en/123134>.

² The full text of the Guidance is available at: <https://data.consilium.europa.eu/doc/document/ST-10325-2021-JNT/en/pdf>.

³ See, for example, documentation on a workshop organised by the European Parliament in June 2023: https://www.europarl.europa.eu/RegData/etudes/STUD/2023/757730/IPOL_STU2023/757730_EN.pdf.

⁴ The full letter is available at: <https://www.ombudsman.europa.eu/en/opening-summary/en/183504>.

⁵ The meeting report is available at: <https://www.ombudsman.europa.eu/en/doc/inpection-report/en/182214>.

powers conferred upon it by the Treaties. The Council is not involved in the organisation of such informal events and the related costs are not covered by the Council's budget.

10. As regards awareness raising, the GSC explained that the Guidance had been included in the 'Handbook of the Presidency', which is the main source of information for Member States when preparing for and holding the Council Presidency.

11. In addition, in the run-up to the Presidency, the GSC offers seminars and briefings that may include an early training raising awareness on matters such as the use of sponsorship. The GSC explained that these seminars are not mandatory and if an incoming Presidency does not request them, the GSC usually informs this Member State about the existence and the importance of the Guidance in the context of other, bilateral meetings that take place early in preparation of the upcoming Presidency.

12. Member States may also raise any questions they might have with the GSC which will then address them, including through the Working Party on Information. This may include any issues related to a risk of conflict of interest on which the Council could then conduct an ad hoc assessment, within the limits of its competences.

13. Concerning possible monitoring of compliance with the Guidance by Member States holding the Presidency to safeguard reputational risks to the EU, the GSC said that, given that informal events organised by the Presidency do not fall within the Council's remit, there is no standard monitoring procedure of the implementation of the Guidance. Accordingly, the Council generally does not collect information on the use of sponsorship, though individual Member States may share such information during Council meetings or on their respective Presidency website.

14. Nevertheless, in light of this strategic initiative, the GSC took the opportunity to consult those Member States that have held the Presidency since the Guidance was issued. This survey showed that, in principle, Member States have continued to make use of sponsorship, although the legal form of relevant agreements varied.⁴ The Member States in question mentioned different factors that underlie the decision to make use of sponsorship, for example, the need to provide certain services (such as transportation or logistics), the goal of a carbon neutral Presidency, and the need for financial support when organising events (e.g. use of venues, catering services).

15. The GSC was not aware of the criteria used by Member States when concluding sponsorship (or similar) contracts but they stated that Member States generally conduct public tenders, in line with their respective codes of conduct/ethics when looking for sponsors. They noted that the Council logo cannot be used by sponsors or partners. The GSC was also unaware of any considerations on conflicts of interest or reputational risks that might have influenced the decision to use sponsorship by the Member States concerned.

16. As regards possible concerns raised by the public, the GSC informed the Ombudsman's team that the Council had not received any formal complaints or

⁴ Member States also concluded 'partnership agreements' and 'collaboration agreements' which are different to sponsorship agreements under the relevant national legislation.

(parliamentary) questions on the use of sponsorship by its Presidency since the adoption of the Guidance.

17. Finally, asked about the possibility to provide a budget for the costs related to the organisation of informal meetings and events by the Presidency, as suggested by the European Parliament⁷, the GSC reiterated that budgetary aspects were the sole responsibility of the Member States.

The Ombudsman's views

18. The Ombudsman welcomes the adoption of the Guidance by the Council in June 2021. She considers that this was an important step in making Member States aware of the risks related to the use of sponsorship.

19. The Ombudsman also welcomes Council and Member States' efforts to gather information on the use of sponsorship during the last three years for the purpose of this strategic initiative.

20. Based on the information provided, the Ombudsman notes that the Council endeavours to ensure that Member States preparing for holding the Presidency are made aware of the existence and the importance of the Guidance. Not only has the Guidance been included in the Handbook for the Presidency, it forms part of the seminar content offered to the Presidency by the Council, and the Member States may be reminded of it on other occasions, if needed.

21. The Ombudsman also notes the support that the Council offers to Member States in the run-up to and during the time they are holding the Presidency in relation to any questions they might have in relation to the use of sponsorship, including on possible conflicts of interest.

22. However, as noted in the opening letter to this strategic initiative, it appears that, despite the adoption of the Guidance by the Council and its efforts to draw Member States' attention to the Guidance's existence, the concerns raised by various stakeholders are not fully addressed.

23. For example, there remains a lack of transparency around the identity of sponsors and the nature of their support and what they gain in return. This is particularly regrettable, as it appears that, even after the adoption of the Guidance, there have been deliberations on EU legislation that has the capacity to have an influence on sponsors' private interests.

24. In addition, sponsors were still permitted to use the *Presidency* logo (which usually features the EU flag) for commercial purposes. In fact, whilst the use of the Council logo is prohibited under the Guidance issued by the Council, the Ombudsman notes that there is no such ban as regards the use of the respective *Presidency* logo.

⁷ See European Parliament resolution of 23 October 2019 with observations forming an integral part of the decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2017, paragraph 15: https://www.europarl.europa.eu/doceo/document/TA-9-2019-0040_EN.html#title2

25. As set out in the Ombudsman's previous inquiry⁸ and illustrated by recent events, the public does not always draw a distinction between the different categories of activities of the Presidency of the Council, but may perceive any activity as linked to the Council and therefore the EU administration as a whole.

26. In light of all this, the Ombudsman has concerns as to whether the Guidance has achieved the goals it was drawn up for, that is, to mitigate the risks associated with the use of sponsorship. It is therefore unsurprising that the public, including the European Parliament, remains concerned about this practice.⁹

27. The Ombudsman therefore encourages the Council to take stock of how the Guidance has been implemented so far with a view to updating it so that it would capture all forms of sponsorship, and enable the Council to monitor reputational concerns that may arise.

Conclusion

The Ombudsman closes this initiative with the following conclusion:

The Ombudsman commends the Council of the European Union for adopting Guidance on the use of sponsorship, which was an important step in raising awareness of the risks related to the use of sponsorship by its Presidency. However, concerns remain and the Ombudsman encourages the Council to assess how best to address these when taking stock of the implementation of the Guidance at the next possible opportunity. The Council could focus, in particular, on the points addressed in the Ombudsman's assessment above.

The Council will be informed of this closing note.



Emily O'Reilly
European Ombudsman

Strasbourg, 09/09/2024

⁸ See footnote 1, paragraph 18.

⁹ See, for example, documentation on a workshop organised by the European Parliament in June 2023, footnote 3.



REPORT ON THE MEETING OF THE EUROPEAN OMBUDSMAN REPRESENTATIVES WITH REPRESENTATIVES OF THE GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION

STRATEGIC INITIATIVE: SI/3/2024/MIG

Case title: Corporate sponsorship of the Presidency of the Council of the European Union

Date: Wednesday, 12 June 2024

Physical location: Council premises

Present

General Secretariat of the Council of the EU

Administrator, Unit GIP.B Presidency preparation and horizontal policies, Directorate-General for General and Institutional Policy

Administrator, Unit COMM.2.C Information Services, Directorate-General for Communication and Information - Transparency

Legal Adviser, Directorate JUR.4 Institutional and Administrative Questions, Staff Regulations and Litigation, Legal Service

Trainee

European Ombudsman - Directorate of Inquiries

██████████ Legal Expert

██████████ Inquiries Coordinator

██████████ Inquiries Officer

██████████ Inquiries Trainee

Purpose of the meeting

The purpose of the meeting was for the Ombudsman to receive an update from the General Secretariat of the Council (GSC) concerning the 'Guidance for Presidency best practice on the use of sponsorship'¹, which was issued in June 2021. In particular, the Ombudsman representatives were interested in understanding whether, and if so, how the GSC (i) raises awareness among Member States about the guidance, (ii) supports Member States in the run-up to and during the time they are holding the Presidency and (iii) monitors the application of the guidance.

¹ Available at: <https://data.consilium.europa.eu/doc/document/ST-10325-2021-INIT/en/pdf>.

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Introduction and procedural information

The Ombudsman team introduced themselves, thanked the GSC representatives for meeting with them and set out the purpose of the meeting. They outlined the legal framework that applies to meetings held by the Ombudsman, in particular, that the Ombudsman would not disclose to the public any information identified by the GSC as confidential, without its prior consent.²

The Ombudsman team explained that they would draw up a draft report on the meeting to be sent to the GSC to ensure that the contents were factually accurate and complete. The meeting report would then be finalised, included in the file and published on the Ombudsman website. No confidential information would be included in the report or otherwise provided to the public.

Information exchanged

On how the Council raises awareness among Member States about its guidance

The GSC explained that the 'Guidance for Presidency best practice on the use of sponsorship' (the 'Guidance') is included in the 'Handbook of the Presidency', which is a living document translated into all EU official languages and is shared with the Member States ('MS'). It functions as the main source of information for MS when preparing for and holding the Presidency of the Council.

In addition, in the run-up to the Presidency, the GSC offers seminars and briefings, for example on organisational, staffing and decision-making procedures, and is available for questions to the incoming Presidency. This may include an early training raising awareness on matters such as the use of sponsorship. The seminars offered by the GSC are optional and individualised.

In the past, most of the incoming Presidencies opted for the awareness raising seminars offered by the GSC. If an incoming Presidency does not request those seminars, the GSC usually informs this incoming Presidency in the context of other, informal meetings that start taking place early in preparation of the upcoming Presidency about the existence and importance of the Guidance.

Preparatory seminars offered by the GSC usually start taking place one and half years prior to the start of the respective Presidency.

On whether the Council monitors the application of its Guidance

The GSC explained that the informal activities for which some MS decide to seek sponsorship must be distinguished from the formal Presidency activities that fall within the Council's responsibility. When holding the Presidency, the relevant MS may organise cultural, scientific, or social events taking place in its capital or elsewhere within its territory. These informal activities fall solely within the responsibility of the MS concerned. This means that the GSC is not involved in the organisation of such events and the costs of such events are not covered by the Council budget.

In light of this specific framework, there is no standard monitoring procedure of the implementation of the Guidance. However, the MS may raise any questions they have with

² Articles 4.8 and 8.3 of the European Ombudsman's Implementing Provisions



the GSC which will then address them, including through the Working Party on Information. In the past, the Council also received four parliamentary questions on the use of sponsorship to which it replied.³

On whether the Council is aware of the use of sponsorship since the adoption of the Guidance

The GSC said that they are aware that the use of sponsorship has continued since the Guidance was adopted. However, the Council did not ask to collect such information. Incoming Presidencies may share preliminary information regarding the (possible) use of sponsorship when presenting their planned communication and transparency activities for the semester to the other MS at a meeting of the Working Party on Information. Member States are also encouraged to publish, where appropriate, the list of selected sponsors. Some MS shared detailed information on their use of sponsorship on their respective Presidency website.

Following the opening of this strategic initiative, the GSC contacted those MS that have held the Presidency since the Guidance was issued in order to obtain relevant information. This survey showed that, in principle, MS continue to make use of sponsorship, although two MS had concluded “partnership agreements” and “collaboration agreements” respectively. Two MS replied that the Presidency as such had not made use of sponsorship but that certain Ministries or regional/communal authorities might have done so in the context of events they organised.

In terms of sponsors, almost all MS that had made use of sponsorship had agreements with car manufacturers. Other sponsors included a paper mill, telecommunications companies, logistics companies and producers of soft drinks and beer.

As for the reasons, the MS mentioned different factors that underlie the decision to make use of sponsorship, such as the necessity for certain services (in particular transportation and logistics), the goal of a carbon neutral Presidency, and the need for financial support to provide certain services and organise events (e.g. use of venues, catering services).

The GSC was not aware of the criteria used by MS when concluding sponsorship (or similar) contracts but they stated that MS generally conduct public tenders, in line with their respective codes of conduct/ethics when looking for sponsors. They added that the Council logo cannot be used by sponsors or partners.

The GSC was also not aware of any considerations on conflicts of interest or reputational risks that might have influenced the decision of those MS which made use of sponsorship.

On whether the Council assesses if the MS holding the Presidency took adequate measures to prevent any conflicts of interest and/or reputational risks for the Council and the EU administration

The GSC reiterated that the Council can only act within the powers conferred upon it by the Treaties. When holding the Presidency, the relevant MS may organise informal

³ See https://www.europarl.europa.eu/doceo/document/E-8-2021-001374_EN.html, https://www.europarl.europa.eu/doceo/document/E-8-2019-003909_EN.html, https://www.europarl.europa.eu/doceo/document/E-8-2019-001390_EN.html and https://www.europarl.europa.eu/doceo/document/E-8-2019-001085_EN.html



meetings, seminars, and social and cultural events. These informal activities fall solely within the responsibility of the MS concerned.

However, should a MS bring any issue related to a risk of conflict of interest to its attention, the Council could conduct an ad hoc assessment, within the limits of its competences.

On whether the Council has received any complaints from the public about the use of sponsorship by the Presidency or complaints related to its Guidance

The GSC referred to the four written parliamentary questions the Council had received between 2019 and 2021. The replies, which explain that it is for the MS to decide whether to make use of sponsorships, are available online.⁴

In addition, in 2019 and 2020, the Council received a considerable number of letters in the context of a campaign by a civil society organisation on ending Presidency sponsorship. The Council replied to these letters, explaining the responsibilities of the MS and sharing information on the intent to issue Guidance.⁵

The Council has not received any complaints/questions on the matter since the adoption of its Guidance.

On the possibility of providing a budget for MS to cover the costs related to informal meetings organised during their Presidency

The Ombudsman team noted that, in a resolution in the context of the 2017 discharge procedure concerning the implementation of the general budget of the EU, the European Parliament had suggested the budgetisation of costs of informal meetings organised by the Council Presidency.

The GSC reiterated that informal meetings are the sole responsibility of the MS, also in budgetary aspects.

Conclusion of the meeting

The GSC representatives provided the Ombudsman team with a copy of the 'Handbook of the Presidency'.

The Ombudsman team thanked the GSC representatives for their time and for the information provided, and the meeting ended.

Brussels, 27 June 2024



Legal Expert



Inquiries Officer

⁴ See footnote 3

⁵ See: <https://www.foxwatch.org/en/and-eu-council-sponsorship-deals-now>