



Ilze Juhansone
Secretary General
European Commission
Rue de la Loi 200
1049 Bruxelles
Belgium

Object: The Commission's handling of the appointment of Nathalie Tocci as special advisor to Josep Borrell.

Dear Ms Juhansone,

I am writing to you today to make a complaint about the Commission's handling of the possible conflict of interests of High-Representative Josep Borrell's special adviser Nathalie Tocci.

Point 5 of the rules on special advisors lays out very clearly the procedure to follow. We have noticed several instances of the Commission not following those rules.

In particular, we believe that the following shows that the process was mis-handled to such a degree that it constitutes maladministration:

- The Cabinet of High Representative Borrell failed to notify DG ADMIN that the special adviser had taken up employment at ENI;
- The mitigating measures proposed to reduce the perception of a conflict of interest related to Ms Tocci's employment at ENI were only introduced after we submitted an access to documents request related to this topic;
- The statement of assurance issued by Borrell's Cabinet failed to adequately assess the conflict of interest inherent between Ms Tocci's employment at ENI and her role as special adviser to the High Representative;
- The measures put in place to mitigate the conflict of interest are insufficient and not enforceable.

Firstly, it appears that the cabinet of Mr Borrell did not notify DG ADMIN of Ms Tocci's change of employment and her position on the board of directors of ENI. Indeed, on May 28th, Mr Henk Post (Acting Director HR.C) notified Mr Pedro Serrano (Head of Cabinet of Vice-President Borrell) about the proposed mitigation measures to be included in the Statement of Assurance in order to mitigate Ms Tocci's perceived conflict of interest. Such mitigation measures however still refer to Edison SpA (Ms Tocci's previous position) although she had already been appointed as Eni's board member since May the 13th.

It was only after we submitted an access to document request in July 2020, that DG ADMIN had to proactively ask the Cabinet of Mr Borrell to update the information relating to Ms Tocci's employment. DG ADMIN also then had to highlight the importance of following the process correctly. Following DG Admin's request, Ms Tocci updated her declaration of activities on the 6th of August, adding her position at Eni. The Cabinet then subsequently updated the Statement of Assurance on the 10th of August.

However, due to the failure of the Cabinet of Mr Borrell to inform DG Admin of Tocci's appointment at Eni on the 13th of May, DG Admin had been unable to vet this potential conflict of interest for about two months. Actually, DG Admin's assessment of Tocci's conflict of interest in relation to her position at Eni, and the formulation of the appropriate mitigation measures, was completed in just a few days (between the 6th and the 10th of August).

It is also worth noting the existence of a previous Statement of Assurance filled in by Ms Tocci, and signed by Mr Pedro Serrano on the 28th of May. That Statement of Assurance does mention Ms Tocci's position at Eni. Furthermore, this Statement of Assurance was not provided to us in our first access to document request submitted in July 2020, but only in response to the second request in September 2020.

To this day, Ms Tocci's CV on the Commission's website is not updated to include her activities at ENI.

ENI is one of the top oil and gas companies in the world. It has tremendous [lobby power](#) in the EU, reporting in 2019 between €1,250,000 and €1,499,999. ENI has an office in Brussels and has held at least 49 lobby meetings at the highest levels of the Commission since 2014, including at least 2 with the External Action Service.

ENI is a global player in the energy field. In 2019, the company declared operating in 66 countries around the world. It has major investments in areas of the world that are highly relevant for the EU's global policy, such as Iran, the Eastern part of the Mediterranean, and Nigeria. Having a member of their organisation being appointed special advisor on the EU Global strategy is a tremendous advantage for the company.

It is clear that there is a significant overlap between the activities and interests of ENI and the work of Josep Borrell and Ms Tocci's contribution to it. Firstly, energy is a fundamental pillar of the EU Global Strategy, which Ms Tocci is advising on while sitting in the board of a major oil & gas corporation. Furthermore, the fact that a board member of Eni - a company that holds huge interests in the Eastern Mediterranean region - is advising on the EU foreign policy, within which that region is currently on top of the agenda, can be extremely problematic. A proof of which is the recent episode when Mr Stano had to clarify that Ms Tocci's comment on Greece and Turkey did not reflect the EU position.

Therefore, the mitigating measure that Ms Tocci should not interfere in the field of activities of ENI is incompatible with her role of advisor on the EU's global strategy.

Moreover, the specific measures included in Ms Tocci's statement of assurance, a mere recommendation to not lobby or intervene on matters of ENI's work and not have bilateral meetings with members of DG ENER, are not specific enough, nor enforceable. It lacks a definition of the matters of ENI's work. Considering that ENI's work relates to a broad variety of issues, such as energy supply, oil and gas exploration, palm oil development, energy transition, there is a significant risk that Ms Tocci's scope of advice to the EEAS will overlap with ENI's activities. The recommendations also leave open that Ms Tocci can have contact with DG ENER that is not bilateral, e.g. including other advisors or lobbyists, and it does not cover other DGs of the Commission that cover ENI's activities, such as DG CLIMA.

Furthermore, Ms Tocci holds a very senior position within Eni, even in relation to the rest of Non-Executive Directors, being one of only two that have been appointed to three different Board [Committees](#). According to the company [remuneration policy](#), this would make Ms. Tocci Eni's highest paid Non-Executive Director.

In 2017, the Ombudsman issued [recommendations](#) on the appointment of special advisers which include strong conflict of interest measures. In our opinion, the handling of this case is not in line with the Ombudsman's recommendations.

It is also important to note the controversial nature of ENI's presence around the world. The company and its CEO - Claudio Descalzi - are currently on trial in Italy over international corruption charges, for allegedly paying a €1.1 billion bribe for the acquisition of the OPL245 oil block in Nigeria. In July, the Italian prosecutors requested an eight-year prison sentence for Mr Descalzi and a €900 million penalty for Eni. Appointing a person representing such a company as special advisor puts EU's integrity at risk and reflects badly on the Union.

In conclusion, both the handling of the appointment of Ms Tocci and the measures put in place to mitigate her conflict of interest did not properly follow the rules for special advisers nor did they protect the integrity and independence of EU policy-making and therefore constitute maladministration.

We're looking forward to your assessment of the case.

Yours sincerely,

Myriam Douo on behalf of Friends of the Earth Europe, Corporate Europe Observatory and Re:Common.

