Subject: Conflicts of interest in the Commission

According to a number of press reports (in particular in the Financial Times, the Wall Street Journal, Handelsblatt, La Tribune, El Pais, the New York Times, Le Figaro, the Washington Post and Süddeutsche Zeitung) the Commission granted an official, an IT expert, six months’ unpaid leave so that he could go and work for Microsoft.

Again according to the press a group of companies competing with Microsoft expressed opposition to the Commission's approach because they considered that it was jeopardising the current investigations into Microsoft's alleged anti-competition strategies.

Can the Commission say how many officials are currently on unpaid leave?

In how many cases can the Commission guarantee that the leave has not been used in situations where there is a potential conflict of interests?

Can the Commission say what its reform process has done or will do to combat what appears to be one of its main problems?

Answer given by Mr Kinnock on behalf of the Commission

(10 February 2003)

The Commission would also refer the Honourable Member to the replies given to Written Question E-3061/02 by M. Bösch (1) and H-818/02 by Mrs Van Brempt during question time at Parliament's December II 2002 session (2).

As at 21 January 2003, 566 officials were on unpaid leave on personal grounds. Of these, 11% are employed in the private sector.

Article 40 of the Staff Regulations of officials of the Communities provides that an established official may be granted unpaid leave on personal grounds in exceptional circumstances and at his or her own request. 'Exceptional circumstances' within the meaning of Article 40 of the Staff Regulations may include the possibility that an official works for a certain time in the private sector in order to broaden his or her knowledge and experience. Since the Commission takes the view that the Institution can benefit from an exchange of know-how with the private sector, the use of unpaid personal leave for engagement in the private sector is therefore, in principle, acceptable.

The Commission is nonetheless very conscious of the fact that certain outside engagements could produce a conflict of interest for the official. For this reason, an official wishing to engage in an outside activity during his or her leave has to request explicit authorisation from the appointing authority. Where such authorisation is granted, the official on leave on personal grounds continues to be bound by the provisions of the Staff Regulations, notably the obligations of integrity, discretion (3) and confidentiality. Permission for leave would not be granted where there are grounds for believing that the activities undertaken could constitute or lead to a conflict of interest.

In the nature of permitted absence for other work, the Commission cannot give an absolute guarantee that an official will not breach his or her obligations, neither can the Commission track every move of officials during their unpaid leave. However, in the event of the Commission learning that an official is engaging in an activity that has not been authorised or that an authorised activity is being exercised in a way that is not consistent with his or her obligations, the Commission will take appropriate measures.

It should be noted that, in the case referred to by the Honourable Member, the official in question was asked to sign an additional declaration to the effect that he would respect the obligations imposed on him by the Staff Regulations in order to ensure that he was aware of all potential consequences that his behaviour might have.
The Commission does not underestimate the importance of this issue but the low incidence of the use of unpaid personal leave for other temporary employment means that the matter cannot be regarded as ‘one of its main problems’. Instead, it is an issue to be seen in the context of the modernisation of the career structure and administration of the Commission and it is, and will continue to be, considered and monitored seriously within those parameters. Clearly, despite the low incidence of alternative employment whilst on personal leave, the Commission would not be willing to tolerate any engagements which involved conflicts of interest.

The rules governing leave on personal grounds derive in part directly from the Staff Regulations. In addition, the Commission is currently considering whether it would be appropriate to draw up a ‘code of conduct’ in order to ensure that officials on such leave and their potential employers are also fully apprised of these obligations. This may include more detailed information on the range of obligations incumbent on the official taking leave on personal grounds as well as a revision of the rules implementing the principle of incompatibility.

(1) OJC 155 E, 3.7.2003, p. 83.
(3) Articles 16 and 17 of the Staff Regulations.

(2003/C 161 E/119)

WRITTEN QUESTION E-3623/02
by Helmut Kuhne (PSE) to the Commission
(16 December 2002)

Subject: Alleged misuse of EU funds in Portugal

A letter from an EU citizen has drawn my attention to a case in which EU funds have allegedly been misused. The case involves the Quinta da Marinha Golf Resort in Cascais, which was allegedly operated by a firm called ‘Six-Investimentos Turisticos SA’.

According to my correspondent, that firm ‘unjustifiably’ received funds from the EU with which, inter alia, to finance the construction of a gigantic hotel. In this connection, it is also alleged that the firm failed to comply with the provisions which must apply when EU funds are being used with regard to the training of the Quinta Da Marinha staff.

Finally, the firm is also accused of having pursued a policy of concluding consecutive six-monthly or yearly contracts with the staff and/or the practice of concluding subsequent contracts using the name of a different firm so that, in the event of a staff member being made redundant, the firm would not be liable for any financial compensation, as would be the case if an employee of the firm had been employed for more than one year.

Can the Commission confirm that appropriations from the structural funds were indeed allocated to this project and/or to this firm?

If so, can the Commission indicate the criteria on which the local authorities assessed the project as being eligible for aid and whether it agrees with them?

With regard to the accusations of circumvention of worker’s rights, does the Commission have any means at its disposal with which it might directly or indirectly penalise such conduct by undertakings?

Answer given by Mr Barnier on behalf of the Commission
(4 February 2003)

The Honourable Member’s question refers to possible irregularities concerning a project for investment in tourism in Portugal, part-financed by the Structural Funds.

The assistance granted to the project in question fell under an aid scheme approved by the Commission (SIFIT – Tourism support system). It constituted operational assistance under the Community support framework II for Portugal: ‘Operational programme for the modernisation of the economic fabric’. In accordance with the principle of subsidiarity, the Portuguese authorities themselves select the projects to be part-financed.