

How to nudge Barroso out of the revolving door

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The appointment of former EC chief José Manuel Barroso as an adviser at Goldman Sachs has raised eyebrows, but many observers have fretted to comment that the move, though morally questionable, was entirely legal. But how legitimate is this defence in reality? [Alberto Alemanno](#) and [Benjamin Bodson](#) argue the time has come to redefine what we think of as tolerable in the political space and offer three avenues through which citizens can oppose this turn of events.



While in post-Brexit Europe many people might lose their jobs, someone has already got a new one as a result of the outcome of the British referendum. Former European Commission President José Manuel Barroso's unwise move to Goldman Sachs is not only a slap in the face for European citizens who continue to defend European ideals, but also epitomises what is wrong with our political system: namely our acceptance of the systemic imbalance in the representation of interests that exists in the policy process. After all, why should Goldman Sachs benefit from Barroso's experience, contacts and endless influence in the post-Brexit negotiations but not the public?



The silhouette of former European Commission President José Manuel Barroso (credits: [European Parliament](#)).

The timing and gravity of Barroso's actions provides a unique opportunity for EU citizens to channel their anger at something that looks increasingly indefensible in our societies. Yet the ensuing furore and indignation among political leaders and some civil society organisations is likely to fade quickly. Alongside the European Commission's official statement, which grants approval to Barroso's new job, virtually all observers have fretted to state that this move is entirely 'legal'. Once more, the dominant refrain is: let the doors revolve!

The time has come to de-normalise what we continue to accept as tolerable in our political space. This does not necessarily require regulation and sanctions per se, but merely to nudge political leaders to align their unprincipled behaviours to the dominant *Zeitgeist*. How to actually do that? Contrary to the rhetoric embraced by the Juncker

Commission – and blindly echoed by most media outlets – we argue that there are legal obligations preventing Barroso from taking up the job, and there are avenues to actually make that happen.

Barroso left the European Commission 20 months ago. While the cooling-off period during which former Commissioners can neither “lobby nor advocate with members of the Commission and their staff for her/his business, client or employer” lasts for 18 months, there exists a deeper, long-lasting commitment “to promote the general interest of the Union and take appropriate initiatives to that end” (article 17 (1) TEU). This translates into a duty “to behave with integrity and discretion as regards the acceptance... of certain appointments and benefits” (Article 245 TFEU) and not to disclose information (Article 339 TFEU).

Both duties apply also “after they have ceased to hold office”. This is what explains why, to help mitigate the personal and professional burden that those extra duties may have on their lives, former Commissioners receive (including Barroso) a transitional allowance for the duration of 36 months (not 18). This equals between 40 and 65 per cent of their final basic salary depending on the length of service. When examined from this perspective, Barroso’s move not only looks politically inopportune, but may also emerge as legally questionable. And there are three main avenues available to prevent him from taking on his position at Goldman Sachs.

The legal avenue

Article 245 TFEU offers the possibility to act against a former Member of the Commission before the European Court of Justice in case of breach of their duty to “behave with integrity and discretion” as well as, arguably in this case, their duty not to disclose information. While this possibility is open solely to the Council (acting by a simple majority) and to the Commission, citizens can however pressure the Juncker Commission and/or a majority of Member States to act. If successful, this action may lead the Court to “[deprive Barroso] of his right to a pension or other benefits in its stead”.

The deterrence effect of a pecuniary sanction may be questionable (especially for one of the ‘happy few’), but a judgment of the Court would nevertheless name and shame Barroso. Most importantly, it would set a precedent capable of realigning the practice of our political leaders to the new Zeitgeist. Although the Juncker Commission has initially provided formal support to its former President, should the pressure of public opinion mount it might become difficult for both the Commission and national governments not to react. The mere attempt at registering a European Citizen Initiative calling the Commission to act (either against Barroso or by changing the Code of Conduct) might actually contribute to producing such an effect.

The administrative avenue

Another, complementary option, could be to trigger the consultative competence entrusted to the Ad Hoc Ethical Committee (made up of a former Commission director-general, an ex-MEP and a former EU judge) by the Code of Conduct of Commissioners (point 2.3). President Juncker could ask the Committee how to interpret the obligations stemming from the Code in such a case. The Commission would then have to reconsider Barroso’s new position in light of the committee’s findings and verify whether his endeavour is compatible with Article 245 TFEU. Failure to do so might also prompt the involvement of the EU Ombudsman, as the guardian of an open, efficient, and independent European administration.

The campaigning avenue

Eventually an effective ‘shame’ campaign may induce Barroso to give up his role. Moreover, such a campaign, by relying on an unconventional and unprecedented coalition of individual MEPs, their political families, civil society organisations, grassroots movements and independent media, might also nudge both the Juncker Commission and some Member States to consider the avenues previously identified. Barroso’s legacy can still be saved, and possibly enhanced, should he accept that this time he is not fit for the job.

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Note: This article gives the views of the authors, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.

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