

# **Regulating Conflicts of Interest for Holders of Public Office in the European Union**

**A Comparative Study of the Rules and Standards  
of Professional Ethics for the Holders of Public Office  
in the EU-27 and EU Institutions**

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Disclaimer: The views expressed in this study correspond exclusively to the positions of the authors and they do not necessarily correspond to those of the European Commission.

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## Abbreviations

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BGN - currency of Bulgaria (1 euro = 1,95583 Bulgarian lev)  
CBFSAI - Central Bank and Financial Services Authority of Ireland  
CoI – Conflicts of Interests  
CSPL – Commission for Standards in Public Life in the United Kingdom  
DG – Directorate-General  
EC – European Commission  
ECA – European Court of Auditors  
ECB – European Central Bank  
ECJ – European Court of Justice  
ECT – European Community Treaty  
EIB – European Investment Bank  
EP – European Parliament  
EU – European Union  
EUR – the euro  
EX – example  
HPO – Holders of Public Office  
HR – Human Resources  
ICAC – Australian Independent Commission against Corruption  
IMF – International Monetary Fund  
MEP – Members of the European Parliament  
MNB – The Hungarian National Bank (Hungarian: Magyar Nemzeti Bank) is the central bank of Hungary.  
MP – Members of Parliament  
NGO – Non Governmental Organisation  
OECD – Organisation for Economic Co-operation and Development  
OGE – United States Office of Government Ethics  
SCC – Supreme Chamber of Control  
SIGMA – Support for Improvement in Governance and Management. Sigma is a joint initiative of the OECD and the European Union, principally financed by the EU.  
UN – United Nations

## **Abbreviations of countries**

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BE	Belgium	Kingdom of Belgium
BG	Bulgaria	Republic of Bulgaria
CA	Canada	Canada
CZ	Czech Republic	Czech Republic
DK	Denmark	Kingdom of Denmark
DE	Germany	Federal Republic of Germany
EE	Estonia	Republic of Estonia
IE	Ireland	Ireland
EL	Greece	Hellenic Republic
ES	Spain	Kingdom of Spain
FR	France	French Republic
IT	Italy	Italian Republic
CY	Cyprus	Republic of Cyprus
LV	Latvia	Republic of Latvia
LT	Lithuania	Republic of Lithuania
LU	Luxembourg	Grand Duchy of Luxembourg
HU	Hungary	Republic of Hungary
MT	Malta	Republic of Malta
NL	Netherlands	Kingdom of the Netherlands
AT	Austria	Republic of Austria
PL	Poland	Republic of Poland
PT	Portugal	Portuguese Republic
RO	Romania	Romania
SI	Slovenia	Republic of Slovenia
SK	Slovakia	Slovak Republic
FI	Finland	Republic of Finland
SE	Sweden	Kingdom of Sweden
UK	United Kingdom	United Kingdom of Great Britain and Northern Ireland
US/USA	United States of America	

## **Abbreviations in terms of regulation of Conflicts of Interests**

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- GC – General codes and/or standards for all institutions
- GIC – General codes and/or standards for individual institutions
- GIL – General regulation applicable to individual Institutions
- GL – General regulation applicable to all institutions
- SC – Specific codes and/or standards for all institutions
- SIC – Specific codes and/or standards for specific institutions
- SIL – CoI legislation applicable to individual institutions
- SL – Specific regulation CoI applicable to all institutions

# I. Executive Summary

## 1. General observations

1. With this study of the various national and institutional CoI rules and CoI systems, much insight and interesting information has been found. In many respects this study has given an insight into an area of fascinating complexity. As could be seen throughout the current international reform process in the field of CoI is leading to reforms and innovations that can be of great interest for other national and the EU institutions eager to reform their policies and instruments.
2. At present, in the field of CoI two conflicting trends can be observed. On the one hand, the current development is towards new transparency requirements<sup>1</sup> and the emergence of new forms of accountability.<sup>2</sup> On the other hand, another trend is the appearance of new ethic bureaucracies which have an impact (at least in some countries and institutions) on privacy issues. Within this context, the trend towards more disclosure requirements in registers and the setting up of new (independent) ethics committees and other monitoring bodies should also be seen as an ambivalent development. As this study shows, there is still too little knowledge as to the impact of the above mentioned developments on the effectiveness of the different ethic regimes and ethic instruments. However, this is also partly due to the fact that the monitoring of registers and the working procedures of (many internal) ethic committees are highly intransparent and information is not easily accessible. Neglecting the above mentioned trends towards more transparency and accountability requirements would probably send a wrong signal to the public. Therefore, this report recommends that public registers and (independent) ethics committees are important elements of any CoI regime. These instruments may work internally (through self-regulation) or externally (through independent bodies). What is important is that a stronger emphasis should be placed on the credibility and accountability of these monitoring bodies. Consequently, we propose that these bodies should regularly report on the outcome of their activities. These reports should be published and be accessible by the public
3. This study on Rules and Standards for Holders of Public Office may imply the existence of an ethical deficit and not enough rules and standards exist for HPO. However, our knowledge is limited as regards the number of ethical violations of HPO. Whereas in some institutions CoI may almost not exist at all, in others they are abundant. On the other hand, a single violation by only one HPO may be

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<sup>1</sup> The latest example on the EU level is the request by the European Ombudsman to ask Parliament (on 27 September 2007) to accept a request for public access to information of EU payments received by MEP's to cover their travel expenses and broader "subsistence" and "general expenditure".

<sup>2</sup> Bovens, M., Analysing and Assessing Accountability: A Conceptual Framework, in: European Law Journal, Vol. 13, July 2007, pp. 447; Bovens, M., New Forms of Accountability and EU-Governance, in: Comparative European Politics, 2007, No. 5, pp.104.

sufficient to cast public doubt on the integrity of the whole class of HPO and the whole institution. This is also the case for the EU Institutions. Thus, this study does not suggest that HPO or individual institutions are not sufficiently ethical. However, it does suggest that HPO have a specific public responsibility. Therefore, rules and standards are *one* important instrument in the fight against CoI of HPO.

4. The focus of this study is to analyse the existing “rules and standards” in the field of CoI. Consequently, this study is also emphasising the many different control and monitoring issues. However, this does not imply that the importance of an ethics culture and the need for awareness-building regarding ethical principles etc. should be neglected.
5. The adoption of more rules and standards require that more concentration should be given to implementation issues. The more rules exist, the more management capacity is required to implement these rules and standards. Here, new paradoxes are about to emerge. Whereas individual requirements in fulfilling new obligations (mainly in the field of disclosure policies) are increasing, in many cases control and monitoring bodies (e.g. ethics committees) are still weak and lack resources. Unfortunately, this study also reflects the difficulties in revealing more evidence on implementation, monitoring and enforcement issues. The real challenges are here: how are registers of interest monitored? How are post-employment rules enforced? How do ethics committees work in practice? These are only some of the questions which merit a deeper examination.
6. Sanctions in relation to HPO’s misbehaviour are rare and – mostly – relatively “soft” compared to civil servants. One simple solution would be to suggest more vigour in the enforcement phase and to treat HPO’s as other public employees. However, enforcing CoI of HPO should also consider some specific features of the enforcement of HPO. For example, whereas some HPO enjoy immunity others are confronted with strong media- and public scrutiny. Therefore, the existing judicial- and monitoring bodies should not shy away from enforcing the rules on (mis-) behaviour of HPO. On the other hand, administrative- and legal processes imply the starting of fair, complex and time consuming enforcement procedures. Whereas the enforcement of rules for HPO takes time, the public may ask for a quick response to political scandals. Thus, enforcement requires that specific features of HPO are taken into consideration. Consequently, ethic regimes of civil servants should not be directly used as benchmarks for HPO.
7. Because of the likelihood of more implementation and enforcement challenges in the future as well as growing expectations of the citizens (and the media) as to the integrity of HPO, we believe that weak implementation, monitoring and control mechanisms will be less tolerated in the future. Also growing discrepancies between more rules and standards and weak enforcement practices are likely to create more criticism and public suspicion. Consequently, more people will call for the establishment of independent and effective ethics committees with inquiry

- and even sanctioning and enforcement powers. At the same time, systems of self-regulation will be more and more discredited. Also “more rules, at least when they are managed through self-regulation, may not help to build more public trust.”<sup>3</sup>
8. We recommend that Member States and the European institutions better anticipate these developments and proactively improve the effectiveness of their ethics infrastructure for HPO.
  9. Today there is still very little empirical, statistical and scientific evidence on the effectiveness of (independent) ethics committees (or monitoring bodies). Especially the establishment of independent monitoring committees may also risk to create a new (costly) and maybe even relatively ineffective ethics bureaucracy. On the other hand, not calling for (more) independent monitoring bodies could be seen as an argument in favour of (the current forms of) self-regulation or in favour of weak monitoring bodies. Moreover, the absence of empirical evidence for the effectiveness of monitoring and enforcement instruments cannot be regarded as a proof of their ineffectiveness. Still, we see these bodies as important instruments in the field of CoI.
  10. Therefore, and in order to solve the above mentioned dilemma (between recommendation 7 and 9) we propose that a careful impact-assessment and cost-benefit analysis will be carried out as to the effectiveness and efficiency of different ethic committees (e.g. in the US, Canada, Australia, UK and Ireland).
  11. Most national and EU institutions still focus on the introduction of more and new rules and standards. On the other hand, it seems that only few countries and EU institutions review and evaluate the strengths and weaknesses of their conflicts of interest systems<sup>4</sup>. This is particularly regrettable, because the many reform activities that took place in the last few years provide a wealth of interesting material for evaluation and comparison. However, the lack of information on “implementation and enforcement issues” also makes it difficult to recommend models or certain CoI regimes.
  12. Success in implementing new rules and standards is only possible if the different conflicts of interest systems are shaped to the needs of the specific administration, taking the particularities of the administrative culture and political context into account. Therefore one important conclusion of this study is that new ethics policies should be developed in a manner that respects and reflects the culture of the country and the different institutions. National rules and standards can hardly be purchased as standard “off-the-shelf” products and without taking their roles and repercussions in the respective administrations into account. Moreover, because there is such a multitude of codes, it is not possible to aim at suggesting a

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<sup>3</sup> Saint-Martin, Path Dependency, in: Saint-Martin/Thompson, op cit, p.17.

<sup>4</sup> Evaluations of the anticorruption systems are mostly carried out by international organisations (OECD and the Council of Europe ((GRECO)).

“patent recipe” for a perfect or "correct" code of ethics. Consequently, we remain sceptical as to whether a specific national code should be recommended to the (multicultural) EU institutions at all. Instead, we plead for a careful design and implementation of ethics regime that fits to the proper institutional system, the own structures, processes, resources, culture and tradition. For example, gift giving has a different symbolic importance in many countries, and therefore cannot be eliminated in an attempt to conform to some universal concept of ethical conduct. Also the answer to the question of what should be disclosed in a register of interest is subject to cultural differences. An approach that is too strict may conflict with the rights of the individual in certain countries and prove to be unworkable. There is also the risk that overly strict provisions on professional activities or on post-employment rules of legislators will discourage legislators in some countries from disclosing conflicts of interest. These examples show that offering universal or regional models is extremely difficult.

13. However, while cultural differences may lead to variation in the choice of certain instruments and ethics regime design, little disagreement exists worldwide as to what constitutes unethical behaviour and the need to fight conflicts of interest. Claims that these contextual factors prevent the possibility of learning from each other should be met with suspicion. In reality, many instruments, strategies, rules and standards take similar directions. Also codes of ethics are more and more seen as one important instrument in the fight against unethical behaviour. Also this study shows that codes are useful and important instruments because their introduction also triggers the introduction of other measures (training) and instruments (ethics committees).

## **2. Main empirical findings**

1. The use of law is the predominant form of regulation. Whereas most Member States have adopted general anti-corruption or anti-fraud laws (which include CoI provisions), fewer Member States have also adopted specific CoI laws and regulations. Moreover, only a few Member States have adopted general CoI laws which apply to all institutions. Instead most Member States have different and separate rules for the different institutions.
2. In almost all countries, codes of ethics are designed for the individual institutions. Only rarely do they apply to the whole governmental sector.
3. The new Member States are generally more regulated than the old Member States. Among the old Member States Portugal - followed by the United Kingdom and Spain - also has a highly regulated system. The countries with the lowest number of regulated CoI issues are Austria, Denmark and Sweden.
4. Countries with a high degree of overall regulation density are not necessarily those countries where all five institutions also have a high level of regulation

- density. Parliaments have a relatively high degree of regulation density as to the regulation of declarations of interests and – to a lesser extent – registers of financial interest.
5. As to the institutional comparison, the highest regulatory density can be found for the national/EU Central Banks and for Government. Parliaments are the least regulated institutions.
  6. The relative low degree of regulation of Parliaments in Europe reveals the question whether Parliaments are structurally under-regulated. This study comes to the conclusion that this is (partly) the case. However, this conclusion should not be interpreted in the sense that the simple answer is more regulation, and that ethics regimes of public officials or of other categories of Holders of Public Office should be taken as a benchmark for the regulation of legislators. In fact, legislators need less rules and standards in specific fields. However, clear rules and standards in other fields may be very relevant for this category of HPO.
  7. Generally most of the European institutions are regulated more strictly than the Member States and the different institutions at national level. Only some new Member States have a higher regulation density as regards the regulation of some CoI issues. Amongst the EU institutions great differences exist as to the regulation of the different conflicts of interest within the different institutions.
  8. As to the specific CoI issues, some categories are highly regulated, whereas others are not. Broadly speaking, general ethical principles and obligations are already well regulated. The category of post-employment is the least regulated CoI area among the Member States.
  9. During the last years disclosure policies have become one of the most important instruments in conflicts of interest policies. At present, almost all Member States oblige their HPO to declare their interests. However, a distinction should be made between (public or confidential) declarations of financial interests, the declaration of additional interests and the whether declarations should (or should not) be stored in a register of interest. However, the content of what needs to be declared varies considerably. Whereas the new Member States like Poland, Romania and Bulgaria mostly have very detailed disclosure requirements, others require much less or even on a voluntary basis (Sweden). Other differences concern the degree of openness (public disclosure or internal disclosure) and questions of sanctioning if members do not disclose or disclose too late. The new Member States in particular have very detailed disclosure requirements for all Holders of Public Office, including legislators.

10. In the case of HPO independent and outside control is rare. Mostly the different institutions (or HPO) control themselves – if at all. Despite the current self-regulation practice there seems to be a trend towards the establishment of more external committees. Unfortunately, little is known as to the functions and powers of ethics committees.
11. Codes for the different categories of office holders are also subject to some considerable variation. In fact, the public institutions analysed in this study use codes for many different purposes. In addition, the different codes vary as to their legal and political effects. The differences amongst the different codes, their functions, their political and their legal nature and their meaning in different traditions and cultures suggests that it would be not wise to suggest any form of model code or best practices. From this, we conclude that best practices and model codes should better not be easily recommended.
12. Despite all existing differences and complexities in this study, we believe that it is possible to identify a number of CoI models and to classify a number of national systems in these models. We call these different models conflicts of interest regimes.

## II. RULES AND STANDARDS FOR HOLDERS OF PUBLIC OFFICE

### 1. Introduction

This study compares and analyses the existing rules and standards for Holders of Public Office (HPO)<sup>5</sup> as regards conflicts of interest in the Member States of the EU as well as in the EU institutions. More precisely, this study focuses on the analysis and comparison of the various rules and standards contained in the laws, regulations and codes of conduct for Members of Government, elected Members of Parliament (legislators), Judges of the Court of Justices (Supreme Courts or Constitutional Courts), and Members or Directors of the Courts of Audit and Central or National Banks.

As can be seen throughout this study this is no easy task. The most important challenge when comparing and analysing ethics rules and standards for HPO concerns the access to reliable data (or how to obtain honest answers to sensitive questions). In addition, research into conflicts of interest raises many controversial and sensitive issues. Because of the political nature of the subject matter, research into the world of applied conflicts of interest faces tremendous difficulties. Overall, analysing conflicts of interest policies for HPO involves some of the greatest challenges and difficulties in legal, political and administrative science. To this should be added the difficulty in comparing and analysing different (legal) instruments in different legal and administrative traditions in different languages.

When considering all the existing levels of regulation and the use of the variety of soft and legally binding instruments, it is no surprise that in the field of conflicts of interest, Member States face increasing challenges as to the quality of the existing rules, overlaps of rules, legal fragmentation and a lack of coherence of approaches. As this study will show, there is no shortage of rules and standards in the field of conflicts of interest. In fact, conflicts of interest are becoming more regulated but not necessarily better managed and enforced in many countries.

In contemporary societies it seems that when political scandals and new conflicts of interests appear "...failure is attributed to poor drafting and not enough law; typically the solution is 'smarter' legal interventions...In the aftermath of serious scandal, concerns about guaranteeing integrity and about the appearance of integrity trumps efficiency. Rarely is the integrity/efficiency trade-off even considered"<sup>6</sup>. Thus, calling for new rules and standards is an easy solution to a complex challenge. However, as this study will show, regulating and managing conflicts of interest requires more than a "compliance based approach". In many countries the existing rules and codes of ethics look good in themselves, but this does not mean that the different institutions and the people take them to heart. Often, the rules are nothing but paper. Therefore, the problem is often not the

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<sup>5</sup> In the rest of this document the abbreviation 'HPO' is used.

<sup>6</sup> F. Antechiarico/J.B. Jacobs, *The Pursuit of Absolute Integrity*, Chicago and London, 1996, p.12.

rules but the shortcomings in their implementation and a lack of capacity and effort in the enforcement process. Also codes of ethics are essential at certain times and for certain purposes, but more is needed. Codes only work when they encompass people's existing beliefs and practices and are well designed, understood and supported by those who have to apply them in their daily lives. In addition, codes can only be effective in an atmosphere of trust. "A well-functioning democracy cannot survive without citizen trust and confidence in those who govern. Thus, behaviours or acts by officials that diminish citizen trust and confidence are a direct threat to democratic governance. While trust is a renewable resource, it is much easier to destroy than to renew. Many factors can destroy trust in governmental institutions. However, none may destroy trust easier or faster than unethical behaviour or blatant corruption of public officials"<sup>7</sup>.

In all Member States of the EU and in the EU institutions, conflicts of interest are abundant in those fields where HPO are active. At times, almost all countries and the European institutions<sup>8</sup> are confronted by incidents involving HPO which involve breaches of integrity. This lack of integrity undermines the confidence that people have in public institutions and political systems and affects their authority. In particular media reports about new scandals provoke discussion on the continuing need for new rules and standards for HPO.

In recent years also the European institutions have been repeatedly accused of nepotism, mismanagement and conflicts of interests. Perhaps paradoxically, these accusations have forced the European Commission to become more active in the field and to do more than many others and also more than – for example – the European Parliament<sup>9</sup> and the European Court of Justice. Apart from those rules laid down in the European Community Treaty (ECT), the Court of Justice has almost none of its own ethics rules. Also the European Parliament provides for only some basic principles in its rules of procedure, covering independency, transparency, financial interests, corruptions and immunities. The other EU institutions vary as regards their levels of ethics rules and standards. In their responses to this study the ECJ and the ECB announced that they intend to review their ethics framework.

Despite all the differences that exist, all Member States and the EU-Institutions agree that specific ethics rules and standards are necessary for HPO. More than other "public persons" HPO are exposed to a number of (specific) conflicts of interest. They exercise important positions of power and influence, interact regularly with the private sector, take important decisions which have a financial impact, hold (often) important functions in boards, agencies or committees, possess information about important issues, allocate grants of public funds, make appointments to positions etc. In addition HPO introduce measures to decentralize public services, enhance public-private partnerships, improve customer and citizen orientation, promote outsourcing policies and enhance mobility

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<sup>7</sup> D.C.Menzel, Ethics Management for Public Administrators, New York, p.17.

<sup>8</sup> see for example ECJE C-432/04, 11. July 2006

<sup>9</sup> However, it must be said that some national groups of MEPs are also bound by ethical rules that apply to their national Parliaments (as is for example the case in the UK, NL and LT).

between the public and private sector. All these developments have an impact on the emergence of new conflicts of interests in the wider public service.

Therefore, this study seeks to shed light on the management of conflicts of interest of those who govern Europe.

## **2. Research question and work assignment**

In 2006 the European Commission commissioned the European Institute of Public Administration in co-operation with the University of Helsinki, the University of Vaasa and the Utrecht School of Governance to undertake a comparative study entitled: “Rules and Standards of Professional Ethics for Holders of Public Office in the Member States of the European Union and the EU Institutions.”

According to the mandate given by the European Commission this study was to analyse and compare the various rules and standards of professional ethics contained in the laws, regulations or codes of conduct for ministers or other Members of the Government, elected Members of Parliament, Justices of the Supreme Court, and Members or Directors of the Court of Audit and Central or National Banks. On the EU level it was decided by the European Commission to analyse the situation in the European Commission, the European Parliament, the European Court of Justice, the European Court of Auditors, the European Central Bank and the European Investment Bank.

Another point of interest for the European Commission was to get more information as to the effectiveness of the existing rules and the possibilities of suggesting a model code for the European institutions. These two questions are dealt with in chapter VI and chapter VII.

The main part of this study compares the existing rules and standards (see chapter III). This chapter is divided in three subchapters. The first subchapter (III.1) analyses and compares the rules and standards of the different countries. The second subchapter (III.2) analyses and compares the different institutions and third sub-chapter (III.3) analyses and compares the different conflicts of interests. The chapter will conclude with a comparison of the EU Institutions.

In the questionnaire, which was sent to the Member States and to the individual institutions (see annex 1), we asked the Member States and the institutions to provide information on whether and how they regulate 15 different conflicts of interest issues ranging from declaration of interests and property, rules on confidentiality and loyalty to post-employment policies. Because some of these issues overlap or are of less importance, it was decided to regroup some of them and to do some statistical calculations on the basis of six different CoI categories. For a more detailed description see pages 11-12.

Apart from the analysis of the regulation of existing CoI issues, another objective of this study was to discuss the development of the most important CoI instruments, registers of interests and ethics committees. Chapters IV and V examine the existence and working methods of registers and committees, how they operate, monitoring and enforcement methods, etc. Both chapters will also contain an overview of the existing registers or ethics committees in the EU institutions.

Finally, according to the assignment, this study includes a discussion (in chapter VII) of the need (or not) for a proposal (or draft) for an informal standard model code of conduct which takes account of the provisions common to a majority of the countries studied and those provisions likely to guarantee the ethics standards of the HPO in European institutions. This chapter contains a proposal for a prescriptive conflicts of interest regime model which could be applied by the EU institutions.

The study will be completed by an overview for each country, summarising the rules and standards by type of institution (national Parliament, national Government, Supreme Court, Court of Audit, Central Bank) and by conflict of interest issue. This overview can be found in the appendices to this study.

We hope that this study will generate a productive debate within the EU institutions. Any honest dialogue about ethics requires an ability to communicate about difficult issues and the courage to air open and sometimes dissenting opinions. It is well known that conflicts of interest are considered to be a very serious problem in some countries, whereas they are considered much less of a problem in others. This presents one important challenge for a comparative study: many of the issues which are discussed are complex and sensitive. Consequently, governments, organisations and even national experts shy away from discussing them openly.

We also hope that any debate about this study will generate sufficient scope for all-important viewpoints to be heard in order to achieve fuller understanding. As this suggests, this fundamental dialogue is necessary to establish what constitutes perfect ethical behaviour, since this is unknown at the outset. Such a notion only emerges from the dialogue itself. In fact, this study attempts to look critically, openly and honestly at conflicts of interest policies. During the discussions which took place in 2007, it became clear to us that there are no perfect answers. However, as this study will show, there are some promising answers and many – surprising – results which contradict some widely accepted theoretical concepts.

Finally this study had to be accomplished within less than one year. Without doubt this requirement represented the biggest challenge.

The authors of this study would like to thank Anna Melich (BEPA), Moritz Schwartz, Danielle Bossaert, Cristiana Turchetti and Adriana Dimova for their valuable support and to express our gratitude to the various national experts within the Member States and the European Commission for helping us to carry out this study.

### **3. A network approach: Data collection and data analysis**

Because of the comparative and inter-institutional approach of this study it may be considered as a pioneering work in the field of conflicts of interests in Europe. This study may very well be the most detailed empirical study in the field of conflicts of interests that has been carried out so far. However, the authors of this study were well aware as to the many difficulties and challenges involved in doing this research. To this should be added the fact that the issue as such is highly sensitive and “political”. Consequently, we expected that not all national institutions in the Member States would be willing to contribute. When looking at the response rate, amongst the 27 countries, the European Commission, the European Parliament, the European Court of Justice, the European Court of Auditors, the European Central Bank, the European Investment Bank and a total of 141 institutions, it is quite surprising that so many institutions agreed to contribute to this study. Obviously the high rate of participation confirms the great interest in this subject.

This study was carried out by a network of researchers from the European Institute of Public Administration, the Utrecht School of Governance, the University of Helsinki and the University of Vaasa. In addition we co-operated with an external network – the so-called European Public Administration network (<http://www.eupan.org>). The study was undertaken in the English language. However, the management of the work required that the interpretation and analysis of the research material take place in different languages, given the fact that not all countries and institutions were able and/or willing to reply to our questionnaire in the English language. Another challenge was to examine and to compare very different rules and documents which reflect different cultures and legal traditions. In order to be able to manage these challenges, our expert team combined international and interdisciplinary expertise with legal, political, administrative and cultural science backgrounds and included academics with experience in practical comparative research. Another unique feature of this team was that almost all members of the research team had already gained substantial experience in analysing public ethics in all Member States of the European Union and at EU level. At times 10 different experts from seven different countries (Austria, Netherlands, Germany, Luxemburg, Italy, Bulgaria and Finland) contributed to this study. Over a period of one year the team was in constant contact by email and via an interactive webpage. In addition we organised three workshops and discussed many methodological and other questions.

### **Examples of important issues and questions during the study**

- What is the concept of codes of ethics in different cultures?
- How do you define “rules” and “standards” in the different legal traditions?
- How do you define Ethics Committees and Ethics Commissions?
- Do (new) rules on CoI contribute to the solving of problems or not?
- What is the relationship between rules and standards and the development of public trust?
- Do more rules lead to more or fewer violations of ethics?
- Are some conflicts of interest rules more effective than others?
- How do you regulate post-employment and increase the attractiveness of public posts at the same time?
- How do you combine deterrent policies with the attractiveness of public posts?
- How do you improve enforcement standards and decrease bureaucracy?
- How do you create openness, accountability and transparency but avoid intrusion into privacy?
- Do ethics committees work?
- Is there a future for self-regulation?
- What should be registered? What are the inherent limitations of disclosure policies?
- How do you manage interest effectively and register interest efficiently?
- Should different categories of Holders of Public Office be treated differently?
- What are the advantages/disadvantages of inter-institutional/sectoral approaches to CoI?

Another challenge in this study was to find ways to: a) find the right contact partners within the Member States; b) receive the right data from the Member States; and c) manage and analyse the data within one data management system according to the same criteria.

In order to make contact with the right experts within this network the research team contacted the Finnish EU Presidency in 2006 and asked for assistance and support in sending out a questionnaire to the above-mentioned network. After having received the necessary support from the EU Presidency, a questionnaire (which is attached to this study) was drafted and sent out (by the European Commission) to the Human Resource Management Group within this network. The members of the HRM working group were asked to give the questionnaire to the responsible ethics experts in the national institutions. Another work option was left to the national contact partners: the possibility of contacting the ethics experts directly and reply to the research team with one collective reply covering the five institutions per country.

We received the national data via the European Public Administration Network. This network is composed of governmental officials from all Member States of the EU and the European institutions. This approach worked extremely (and surprisingly) well. In most cases the national experts collected the replies from the different institutions and sent all replies to our research team. In other cases we contacted the relevant experts ourselves or contacted other experts who could help to clarify questions. In addition, bilateral contacts were necessary in many cases in order to gather more material and/or in order to clarify concepts or unclear answers. Finally, as a member of the HRM working group, one member of the project team was in a position to contact the different experts directly and to regularly discuss emerging issues with the different national members of the network. In the end almost all Member States (except Malta and Slovakia) and all EU institutions contributed to our study. In total 78% of all contacted institutions replied to our questionnaire. For an international and comparative study of this size this is an excellent result.

The above-mentioned interactive webpage at the University of Utrecht was designed and managed centrally at the European Institute of Public Administration. Here all members of the research team could upload all incoming information at the same time. Therefore all experts in the team could work on the data in parallel according to their defined tasks.

The quantitative research data consisted of 19 survey questions that were asked from five institutions in all Member States and six European institutions. Therefore, the total data set may include as much as 141 institutions x 19 issues = 3.102 observations. However, we received responses from 110 institutions resulting in 1.968 answers. Adding to this the open-ended qualitative questions, there was even more data to be analysed, interpreted and put in context. Roughly speaking, each institution provided us with about 50 – 100 pages of different documents (relevant legislation, codes of conduct/ethics etc.), so the total amount of received qualitative data is around 5.000 – 10.000 pages. In order to avoid mistakes in data processing and to eliminate inaccuracies in the statistic analysis was done by two independent teams, using different software and methods. Results were counter-checked in order to ensure reliability and compatibility of data.

In view of the complexity of the issues at hand, in many instances it was difficult to judge the accuracy and correctness of the incoming data. For example, in many instances the national institutions did not answer all questions with a “Yes” or a “No”. Instead they did not answer some questions at all. In these cases especially it was difficult to interpret this: is no answer to be interpreted as a case where no rules and standards exist? Or, does this mean that the expert who replied to the questionnaire did not know the answer? In this study we could not fully solve these methodological difficulties, although in some cases we managed to contact the national experts and receive more clarification.

During a first evaluation of answers the team agreed on trying to reduce the number of “No Answers” to the questions as much as possible, and therefore started a second round of more specific investigations. Also, some cases where questions had obviously been misunderstood or misinterpreted could be corrected in this way.

Another objective of this study is to offer a general view of the CoI regulation across the 27 EU countries and the European institutions. The idea is to construct a model that reflects the main dimensions of CoI regulation. A model for ‘regulation density’ was designed to describe the overall level of regulation in a certain country or institution, including the different means of regulation (laws, codes or a combination of them). For this purpose, the level of CoI regulation is measured by a balanced sum variable that consists of six main elements and 12 sub items. The main elements of this model are (1) outside activities, (2) financial disclosure, (3) gifts, (4) post-employment, (5) professional activities and (6) other rules and regulations. The model is balanced in such a way that each element has equal weight in the final model. Each CoI element may consist of one or several sub items. A short description of the main elements as well as their sub items is given in Table 1. The table also shows the weight of each item within its category as well as its impact on the whole model.

**Table 1: Model on Level of CoI Regulation**

	Weight in Category	Weight in Model
Category 1: outside activities		
political activities	50 %	8,33 %
other outside activities (honorary positions or conferences or publications)	50 %	8,33 %
Category 2: financial disclosure		
declaration of financial interests and assets	50 %	8,33 %
HPO’s spouse’s activities	50 %	8,33 %
Category 3: gifts and similar issues		
accepting gifts, decorations or distinctions	33 %	5,50 %
missions, travels	33 %	5,50 %
rules on receptions and representation	33 %	5,50 %
Category 4: post-employment		
restrictions on professional commitments or holding other posts after leaving office	100 %	16,67 %
Category 5: professional activities		
professional confidentiality	50 %	8,33 %
professional loyalty	50 %	8,33 %
Category 6: other rules and regulations		
general rules on impartiality and conflicts of interest	50 %	8,33 %
specific rules on incompatibility of posts and professional activities	50 %	8,33 %

Out of the 141 institutions covered in this study, 88 (62%) responded to all questions that were used to construct the model. In 22 (16%) cases most of the questions were answered but some information was missing. In this group there were 285 valid answers out of total 330 answers, thus 45 answers missing (average 2,0 missing items per institution). 31 (22%) institutions did not contribute to the study.

In order to avoid unnecessary data drop-out, the partially answered 22 cases were included to the model with an assumption that the missing item(s) is 'not regulated'. With this operation the number of valid cases increased from 88 institutions (62%) up to 110 institutions (78%). The drawback of the above operation is that in some cases the missing item may in fact be regulated so the operation may add imprecise information to the model. In order to understand the impact of this operation to the model, the distribution of missing information was analysed. As was found out, the frequency of missing information is rather low with the exception of CoI category number three, gifts and similar issues, where 27% of the data was missing. However, it does not have much impact to the whole dataset in that particular category (5%) and in the whole model its impact is below 1%. Compared to the control group (N=88), it seems that the relative frequency of 'not regulated' has slightly increased<sup>10</sup>. However, we do not know if these cases are missing because of normal random variation or because they are actually less regulated. If the respondent does not know him/herself if the item is regulated or not, it seems reasonable to assume that the item does not have much significance in practice.

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<sup>10</sup> This can also be verified by comparing the level of regulation: the result is similar 67,7% (N=22) vs. 74,1% (N=88).

#### 4. The state of literature and studies in the field of comparative conflicts of interests

Interestingly, literature on governmental ethics is almost exclusively North American, although in Europe the situation is slowly changing<sup>11</sup>. However, in both continents, a) comparative empirical studies on b) conflicts of interests in c) different institutions for d) holders of public service do not yet exist. There may be three main reasons for this:

- a) lack of comparative data
- b) difficulties in comparing and analysing international data and
- c) difficulties in measuring ethics issues<sup>12</sup>

Only in the USA does the Center for Ethics in Government provide for comparative information on laws of ethics and standards of ethics in the different US states<sup>13</sup> (although not for different categories of Holders of Public Office).

So far, most European-wide comparative studies have been undertaken on public officials (Bossaert/Demmke (2005)<sup>14</sup>, Gilman (2005)<sup>15</sup>, OECD (2005)<sup>16</sup>; Salminen/Moilanen (2006)<sup>17</sup>, Bovens/van Lierop/Pikker (2007)<sup>18</sup>. Other comparative studies are more limited and focus mostly on legislators or Members of Government (the National Democratic Institute for International Affairs, 1999<sup>19</sup>, Transparency International 2001<sup>20</sup>, SIGMA 2005<sup>21</sup>, Saint-Martin/Thompson 2006<sup>22</sup>) or deal with more specific aspects of conflicts of interests (e.g. OECD - Post-Employment Study, 2006<sup>23</sup>).

The numerous initiatives, recommendations, reports and studies about ethics and conflicts of interest reflect an increasing interest in the subject but also growing concerns about the development of values, moral and ethical standards, equality and diversity issues in

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- 11 D.C. Menzel, Research on Ethics and Integrity in Governance, in: Public Integrity, 2005, No. 7, pp.147. In Europe one should mention the work of the EGPA-Study Group on Ethics and Integrity of Governance within the European Group of Public Administration. [Http://www.egpa-ethics.eu](http://www.egpa-ethics.eu) (last checked on 25.6 2007)
  - 12 See also: A. Salminen/O-P Viinamäki, Comparative Administrative Ethics, Three Methodological Approaches, Paper presented at the EGPA-Conference in Milan, 6-9 September 2006.
  - 13 [http://www.ncsl.org/programs/ethics/public\\_corruption.htm](http://www.ncsl.org/programs/ethics/public_corruption.htm) (last checked on 22.6.2007).
  - 14 D.Bossaert/C.Demmke, Main Challenges in the Field of Ethics and Integrity in the EU Member States, Maastricht, 2005.
  - 15 S.C. Gilman, Ethic Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons, Washington D.C., 2005.
  - 16 Amongst many studies: OECD, Managing Conflicts of Interest, 31 March 2006, Paris. See also [http://www.oecd.org/topic/0,3373,en\\_2649\\_34135\\_1\\_1\\_1\\_1\\_37447,00.html](http://www.oecd.org/topic/0,3373,en_2649_34135_1_1_1_1_37447,00.html) (last checked on 11 July 2007)
  - 17 T. Moilanen/A.Salminen, Comparative Study on the Public Service Ethics in the EU Member States, Finnish EU-Presidency, Helsinki, 2006.
  - 18 M.Bovens/G.Pikker/K.van Lierop, EU Catalogue of Anti-Corruption and Integrity Measures, Ministry of the Interior and Kingdom Relations, The Hague 2007 (forthcoming)
  - 19 [http://www.oecd.org/document/8/0,3343,en\\_2649\\_34135\\_27068488\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/8/0,3343,en_2649_34135_27068488_1_1_1_1,00.html)  
<http://transparency.org/content/download/13187/133268/version/1/file/TIPPNo1>
  - 20 <http://www1.worldbank.org/devoutreach/september05/textonly.asp?id=339v> and <http://www.imf.org/external/pubs/ft/fandd/2005/09/basics.htm>
  - 21 M. Villoria-Mendieta, Conflict of Interest Policies and Practices in Nine EU Member States: A Comparative Review, SIGMA Paper, No. 36, Paris 2006
  - 22 D.Saint-Martin/F.Thompson, Public Ethics and Governance: Standards and Practices in Comparative Perspective, Amsterdam/Boston/Heidelberg/Boston/New York/Oxford/Paris/San Diego/San Francisco/Singapore/Sydney/Tokyo, Vol. 14, 2006.
  - 23 OECD, Avoiding Conflict of Interest in Post-Employment: Comparative Overview of Prohibitions, Restrictions and Implementing Measures in OECD-Countries, Paris 26-27 January 2006.

general. They also show a general trend towards higher expectations of the public regarding the quality of public services and the credibility of HPO. These expectations do not only concern the field of ethics. Rather, they reflect a general tendency towards higher expectations in fields such as good governance, public performance, legitimacy and accountability, transparency and openness, diversity, non-discrimination and policies on unwelcome behaviour and harassment.

Moreover the discussions on ethics and conflicts of interests should also be understood within the context of new discussions about the corporate responsibility of internationally operating companies, the salaries of top managers, the medical benefit of genetic engineering, euthanasia, the ethics of green shareholding, the social and cultural impact of the new media, our responsibility for climate change, etc. “Achieving an ethos of honesty and transparency becomes the Holy Grail”<sup>24</sup>.

Today, not a day goes by without extensive media coverage of corruption, fraud and unethical behaviour of Holders of Public Office. Consequently discussions about ethical behaviour, conflicts of interests and integrity issues require answers to some very simple but fundamental questions: what is good and proper behaviour in times of changing and reforming government, decentralisation trends, the emergence of public-private partnerships, ongoing internationalisation trends, new threats (terrorism), new challenges (best practices), new opportunities (more and better information technologies) and new values in our societies? These developments show that any discussion about conflicts of interest cannot be separated from an analysis of ethical behaviour in general in our societies.

Unfortunately the increasing (scientific) interest in public ethics has not necessarily produced more clarity and consensus on the right choice of policy instruments. For example, in the field of public disclosure a “myriad of published studies on the public financial disclosure process represents an even broader spectrum of views. For example, some argue that a public reporting system is unnecessary and that requiring the filing and review of confidential reports would sufficiently prevent financial conflicts of interests. Others believe that public scrutiny is essential to deterring potential conflicts of interest and to encouraging confidence in government. Even among those who favour a public disclosure system, there are very different opinions about the items of information that filers should be required to disclose. For example, some believe that filers should be required to report the identities of their assets, but not their values, under the theory that the magnitude of the financial interest is irrelevant to the question whether it creates an actual conflict of interest. Others believe that the value of an asset is a critical predictor of whether it will cause a conflict of interest”<sup>25</sup>.

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24 O.Gay, Comparing Systems of Ethics Regulation, in: Saint-Martin/Thompson, op cit, p.107.

25 OGE, Report to Congress, Evaluating the Financial Disclosure Process for Employees of the Executive Branch, Washington D.C., 2004

Our present understanding of conflicts of interests seems to be more and more paradoxical: on the one hand there have never been so many (regulatory) activities, reforms and studies in this field. On the other hand, scientific evidence about the effectiveness of the different reforms, measures and regulatory strategies is still lacking. Also ethics experts face many difficulties in answering whether ethical challenges are increasing, decreasing – or both? Another development is also striking: whereas the media and the wider public call for the introduction of more rules and standards in the field, many experts point to the potential negative effects of more rules, pointing, for example, to the fact that public discussions on ethics pay too little attention to the impact of ethics policies on administrative reactions, procedures, processes monitoring requirements, costs and civil rights. The first experts to address these problematic issues in detail were Anechiarico and J.B. Jacobs in the year 1996! Thus, literature on the challenges and paradoxes of conflicts of interest policies is still fairly recent.

Naturally, this study can also shed light on only some of the many existing challenges in the field. However, during the analysis of the various studies, reports, publications, laws and codes etc., much insight and many positive developments have been found. It is clearly noticeable that the regulation of conflicts of interest is gaining importance in all Member States. As a result, the current international reform process in the field is leading to a boost in innovation that could also be of great interest for the EU institutions and respective national practice. The international comparison provides a multitude of options for learning from the experiences and problems of others, without ignoring the particularities of national administrative structures.

### **III. CONCEPTUAL FRAMEWORK**

#### **1. Analysing rules and standards in the field of conflicts of interest**

In this study, we differentiate between laws and codes of conduct/ethics. All legally binding acts and provisions (constitution, laws, regulations, acts, statutes) have been treated as laws, whereas codes can be defined as all internal documents and administrative practices (such as codes of ethics etc.). Most existing comparative studies in the field of conflicts of interest compare and describe very different laws, standards and codes of ethics. For example, in some Member States general rules are laid down in the constitution or in the penal codes that refer to ethics (and conflicts of interests). These constitutional or criminal law rules are applicable to more than one institution and apply to the whole country. In other countries the constitution does not regulate ethical issues at all. Rather, in some Member States general or specific rules and standards regulate all or individual institutions. The different degree of regulation and the different levels of regulation suggest that regulation by the Constitution or the general penal code should be handled differently than specifically designed rules on conflicts of interest.

So far very little is known on levels of regulation and instruments in the field of conflicts of interests. Do Member States opt for centralised approaches or sectoral approaches, laws, regulations, administrative practices or codes? Or a new mix of instruments? Answers to these questions are important because the results may allow for an answer to whether the EU institutions should also have a centralised and inter-institutional approach or a decentralised and sectoral approach to ethics.

In order to analyse this question more in detail we have introduced a distinction between

- a) legally binding rules and
- b) internal administrative practices and codes of ethics

Furthermore the study distinguishes between

- a) centralised rules, e.g. generally applicable ethics rules and standards (for example, penal law, law on corruption etc.) for all Holders of Public Office and
- b) specific rules and standards in the field of conflicts of interests

<i>Applicable to (Scope) Type of regulation</i>	<b>ALL INSTITUTIONS (GOVERNMENT, PARLIAMENT, COURT OF JUSTICE, COURT OF AUDITORS, CENTRAL BANK)</b>	<b>INDIVIDUAL INSTITUTION(S) – ‘LESS THAN ALL’ INSTITUTIONS</b>
<b>General rule/and or regulation (including provisions on conflicts of interests)</b>  <i>Compliance based (normative)</i>	<b>General regulation applicable to all institutions [GL]:</b> <ul style="list-style-type: none"> <li>• Constitution</li> <li>• Penal Code</li> <li>• Administrative Acts</li> <li>• Civil Servants Act</li> </ul>	<b>General regulation applicable to individual institutions [GIL]:</b>  EX: Central Bank Act; Court of Auditors Act
<b><i>Integrity based</i></b>	<b>General codes and/or standards for all institutions [GC]:</b>  EX: Seven Principles of Public Life (UK)	<b>General codes and/or standards for individual institutions [GIC]:</b>  EX: Codes of Conduct, Rules of Procedure
<b>Specific rule and/or regulation (explicitly on ethics and conflicts of interests)</b>  <i>Compliance based (normative)</i>	<b>Specific regulation CoI applicable to all institutions [SL]:</b>  EX: Prevention of Corruption Act (SI); Ethics in Public Office Act (IE);	<b>CoI legislation applicable to individual institutions [SIL]:</b>  EX: Incompatibility Act for Government and Parliament (AT)
<b><i>Integrity based</i></b>	<b>Specific codes and/or standards for all institutions [SC]:</b>  EX: Conflicts of Interest and Post- Employment Code for Holders of Public Office (CA)	<b>Specific codes and/or standards for specific institutions [SIC]:</b>  EX: Ministerial Code of Ethics (UK)

In this study another distinction will be introduced between the “regulation density” of rules on CoI in the Member States (and institutions) and the “choice of regulatory instruments”. We define “regulation density” as the quantitative degree of regulation of conflict of issues. For example, if a Member States regulates all conflict of interest issues the country has a high degree of regulation density. The notion of “choice of regulatory instruments” applies to the question whether Member States have adopted laws and/or codes of ethics in the different areas.

During our work we noted that definitions of rules and standards, regulation density and level of regulation are particularly difficult to apply to the EU institutions. The European

Community Treaty (ECT) provides some ethical principles and rules which apply to the different EU institutions. An exception is the European Parliament: the ECT does not provide ethical principles which are applicable to the MEP. Apart from the Treaty principles, the EU institutions have never adopted legally binding ethics rules which can be compared to specific or general laws in the Member States. Also no inter-institutional code of ethics exists. Only the European Code for Good Administrative Behaviour applies to all European institutions. Instead, the different EU institutions have adopted specific codes for their institutions, and also in part for the different categories of HPO within their institutions. Exceptions are the European Court of Justice and the European Parliament. Whereas the Protocol on the Statute of the Court of Justice mentions some principles of ethics and obligations, the Rules of Procedures of the European Parliament (in Annex I) make reference to some ethical duties.

Consequently the EP and the ECJ have no code of ethics. In both cases, neither the protocol of the Statute of the Court of Justice nor the rules of procedure of the EP can be considered as a code of ethics. Normally rules of procedure regulate organisational, financial and technical aspects within an institution. **As to the European Parliament some issues which are regulated in the annexes of the Rules of Procedure regulate ethical issues. Because of this we have decided to treat the EP Rules of Procedure as “rules and standards” within the meaning of our study.**

## **2. Defining conflicts of interest for Holders of Public Office (HPO)**

“Conflicts of interest” is a social, political, economical, cultural and legal concept. It is full of controversy and ambiguity. Conceptions about what should be defined as conflicts of interest are constantly evolving. “In the last several decades, the public standard of morality has become much stricter....Previously accepted conduct...is now deemed unethical and previously unethical conduct is now deemed criminal”<sup>26</sup>. Consequently, the policies on conflicts of interests and the discussions about needs for reforms have become more open and more complex but also more driven by scandals and media interest.

Conflicts of interest of the HPO involve a conflict between public duty and private interests, whereby the HPO has a private interest which could improperly influence the public interest, activities and decisions. In this context a conflict of interest is not necessarily corruption or fraud. However, it constitutes an “abuse of public office for private advantage” and may hold a potential for unfair behaviour. Normally, all governments in the world provide for conflicts of interests standards and norms of the executive, legislative and judicial bodies. Mostly, these standards and rules overlap but are not always the same for the different branches. For example, whereas some countries have general laws on corruption and disclosure policies which apply to all public institutions, the different institutions have also their own regulations, statutes, codes and ethical standards. The reason for this is simple: Different categories of Holders of Public Office have different powers, tasks and functions and work in different organisational settings. Consequently they face different ethical challenges. Overall, the tasks of the

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26 Anechiarico/Jacobs, *The pursuit of Absolute Integrity*, op cit, p. 16.

different categories of HPO determine (to a certain extent) the nature of conflicts of interests.

More governments have moved from managing conflicts of interests through top-down approaches (prohibitions, restrictions, criminal and administrative sanctions) to more complex approaches including education, training, transparency requirements and better monitoring systems.

Nowadays the common standards in the field of conflicts of interests comprise:

- A body of rules, codes, standards and principles. Mostly these instruments enumerate a number of prohibitions and restrictions (e.g. not receiving gifts of over 250 euros). Here, important differences exist as to the number of prohibitions, restrictions and obligations.
- Disclosure policies and registers of interests that require the HPO to register potential conflicts of interests and other interests. Here, differences exist as to transparency requirements, the level of detail of reporting obligations and specific obligations (e.g. whether spouse's activities should be registered or not) etc.
- Monitoring and enforcement mechanisms. Here important differences exist regarding powers and resources of ethics committees and ethics commissions which have the task to advise on ethical questions and/or to monitor and control the development of conflicts of interests within their organisations. Also important differences exist as to (criminal and administrative) sanctions in cases of ethical misconduct.
- Training and education requirements (e.g. Is training compulsory for Holders of Public Office?)

The particular difficulty in regulating and in managing CoI results from the high number of potential conflicts. Conflicts of interest can arise at any time and may range from avoiding personal disadvantages to personal profit seeking. They can have financial or non-financial reasons and include many social and professional activities and interests. For example, a minister, judge, legislator etc. may be a Member of a board, or have personal contacts with lobby groups, NGOs or simply friends. Any of these relationships could be the source of conflicts of interests that could conflict with the public interest of the HPO.

Therefore, most policies in the Member States divide conflicts of interest into two types: pecuniary and non-pecuniary.

**Pecuniary interests** involve situations of financial profit or financial problems. However, financial property or financial interests do not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or other close associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits (such as concessions, discounts, gifts or hospitality) from a particular source.

**Non-pecuniary interests** do not have a financial component. They may arise from personal or family relationships, or other activities. They include any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group.

According to the OECD<sup>27</sup>, conflicts of interest can be actual, perceived or potential.

- An **actual conflict of interest** involves a direct conflict between a public official's current duties and responsibilities and existing private interests
- A **perceived** or **apparent conflict of interest** can exist where it could be perceived, or appears, that a public official's private interests could improperly influence the performance of their duties – whether or not this is in fact the case
- A **potential conflict of interest** arises where a public official has private interests that could conflict with their official duties in the future

There are two other situations that Governments should be aware of when establishing a framework for managing conflicts.

The first situation is where a Holder of Public Office has multiple roles and could be said to wear two hats. In most Member States this may be the case with legislators<sup>28</sup> who are allowed to exercise professional activities next to their position as Parliamentarians. However, wearing “two hats” (in the sense of having conflicting interests) can also be the case if a Judge, Director of the Court of Auditors, Central Bank etc. is an (honorary) member of the board of an agency, NGO or company. Generally said, where individuals have more than one official role it may be difficult to keep the roles separate.

Another situation, which often arises, is the problem of insider dealing which means that Holders of Public Office acquire confidential information that could be useful in relation to other clients or relationships. The corruption risk in this situation is that the Holder of Public Office may be tempted to use the information improperly, to give advantage to another organisation, lobbyists or person or create bias against or prejudicial treatment of another group or person. Mostly these conflicts concern Members of Government and Directors of banks and Directors of Audit Offices more than Judges or legislators.

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27 OECD, OECD Guidelines for Managing Conflicts of Interest, Paris 2003; OECD, Managing Conflicts of Interest, A Toolkit, Paris 2004; OECD, Managing Conflicts of Interest, op cit.

28 Mostly members of Government, Judges or Directors of the Central Bank or the Court of Auditors are not allowed to engage in additional professional activities.

In total, potential conflicts of interests concern different issues such as:

- Violating general principles while exercising public office
- Receiving gifts
- Receiving other benefits
- Political activities
- Lobbyism
- Securing the appointment of relatives and friends
- Memberships of boards, NGOs, companies and non-profit organisations
- Affiliations with trade unions or professional organisations and other personal interests
- Involvement in secondary employment that potentially conflicts with an official's public duties
- Relationships (such as obligations to professional, community, ethnic, family, or religious group in a personal or professional capacity, or to people living in the same household)
- Possession of important information
- Representing and acting for foreign countries
- Misuse of own position for private gain,
- Misuse of government property
- Other professional activities
- Post-employment
- Future employment
- Financial interests
- Different responsibilities to different actors
- Honorary positions
- Invitations for holidays, dinners, speeches, participation in events

Looking at the (still growing) number of potential conflicts of interests one may question whether the “Pursuit of Absolute Integrity”<sup>29</sup> is possible at all or whether this is an illusion. Despite the inherent limitation to regulate “behaviour”, some countries establish impressive lists of prohibitions and restrictions. These restrictions concern different issues such as:

- absolute prohibition to accept gifts
- regulation or restriction of political activities
- prohibition of the appointment of relatives
- restricted membership of boards, NGOs, companies and non-profit organisations
- no affiliations with trade union or professional organisations and other personal interests
- no involvement in secondary employment that potentially conflicts with an official’s public duties
- no undertakings and relationships (such as obligations to professional, community, ethnic, family, or religious group in a personal or professional capacity, or to people living in the same household)
- disclosure of public information
- interdiction to represent and act for foreign countries
- rules on the use of own position for private gains, misuse of government property and information
- resignation requirements
- others

In addition to these prohibitions and restrictions, the different countries and institutions implement new measures as to disclosure duties, general transparency requirements, monitoring and control instruments (such as ethics commissions), and training and awareness policies and reform their administrative and criminal law statutes.

Despite these common trends, the Member States of the EU, the European institutions and Canada and the US differ widely as to the degree of transparency policies, powers of the different ethic commissions and committees, training (obligatory or non-obligatory) and disclosure requirements (e.g. declaration of personal income, declaration of family income, declaration of personal and family assets etc.). In addition, important differences exist as to rules and standards in the field of post-employment policies (existence of cooling-off periods, strict, flexible or no restrictions and control of post-employment activities), complete or only partial restrictions and control of gifts and other forms of benefits, personal and family restrictions on property and divestment requirements.

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<sup>29</sup> According to the title of the publication from Anechiarico/Jacobs, *The Pursuit of Absolute Integrity*, op cit.

As can be seen the area of conflicts of interest is a field of extraordinary complexity and political and legal sensitivity. Only the principle as such is easy to define. However, to resolve a conflict and to distinguish between actual, apparent, real, and potential conflict situations usually requires legal, technical and managerial skills and a fundamental understanding of the many issues and points of view involved. Moreover, the language is confusing: “having an interest” is not the same as being interested in an issue.

### 3. Purpose and objectives of rules and standards

More and better rules on Conflicts of Interest for Holders of Public Office should – at least in theory – lead to more trust, greater accountability, more integrity and less unethical behaviour/corruption. New rules should also provide a tool for identifying and resolving potential conflicts of interest, and also:

- Increase public confidence in the government.
- Demonstrate the high level of integrity of the vast majority of Government officials
- Deter conflicts of interest from arising because official activities would be subject to public scrutiny
- Deter persons whose personal finances would not bear up to public scrutiny from entering public service, and
- Better enable the public to judge the performance of public officials in the light of their outside financial interests

Gradually ethics policies are becoming more important everywhere. The underlying reasons for this worldwide development can be summarized as follows:

- First, Governments are **increasingly** expected to ensure that holders do not allow their private interests to compromise official decision-making
- Second, society is becoming **increasingly** demanding as to behaviour of Holders of Public Office. Consequently potential conflicts of interest may weaken public trust
- Third, **new forms of relationship** have developed between the public and private sector and give rise to increasingly close forms of collaboration between the two sectors
- Fourth, **new forms of mobility** between the public and private sector may provoke more potential conflicts of interests as regards post-employment issues
- Political scandals and **increasing media attention** put **more pressure** on the political actors to do even more in the field of ethics.

Today governments all over the world, public institutions and international organisations like the OECD, SIGMA, the World Bank<sup>30</sup>, the United Nations<sup>31</sup>, the Council of Europe,

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<sup>30</sup> The World Bank, Anticorruption in Transition, A Contribution to the Policy Debate, Washington D.C., 2000

<sup>31</sup> See for example: United Nations, UNDP, Public Service Ethics in Africa, ST/ESA/PAD/SER.E/23, New York 2001

the European Foundations for the Improvement of Living and Working Conditions<sup>32</sup> and NGOs (e.g. Transparency International) are all increasing their efforts to design new strategies on how best to fight unethical behaviour and conflicts of interest. In the past years, numerous reports and studies have been published on corruption, fraud and conflicts of interests. The World Bank, the OECD<sup>33</sup> and the Council of Europe in particular have developed a number of initiatives and developed guidelines and procedures aimed at increasing awareness of the rise in corruption, with a view to fighting this corruption and combating unlawful practices.

At present the World Bank and the IMF in particular are very active in advising the new Member States<sup>34</sup> of the EU (and other countries) in drafting, developing and implementing new conflicts of interest policies and laws. For example, under the heading "Toward a transparency reform scorecard" the World Bank and the IMF support these countries in "effective implementation of conflicts of interest laws, separating business, politics, legislation, and public service, and adoption of a law governing lobbying"<sup>35</sup>. Also, Transparency International<sup>36</sup> is promoting new policies and initiatives in the field. Throughout the last decades the trend was clearly toward more rules and regulations in the field of ethics and conflicts of interests. In the USA and Canada especially rules and standards of conduct were constantly rising. At the same time there is still very little evidence whether conflicts of interest and corruption are decreasing. On the other hand, empirical evidence does not suggest that conflicts of interests are increasing. A study by Mackenzie came to the following conclusion: "Worry about the ethics of public officials greatly exceeds formal evidence of ethical violations."<sup>37</sup>

On the other hand, there is little empirical evidence about the development of conflicts of interest. At the same time the growing interest in public ethics reflects a growing interest in clear values, standards and norms. Apparently there is a trade-off between the growing complexity of our societies and the need for better, clearer and stricter rules. Moral and ethical standards are changing more rapidly than before. Also concepts of conflicts of interest and corruption have changed over the years to include more types of official and private conduct. What was legal a generation ago is considered corrupt today<sup>38</sup>. Because of the increasing number of ethical rules and standards "there are many more laws to be broken nowadays."<sup>39</sup>

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<sup>32</sup> European Foundation for the Improvement of Living and Working Conditions, Preventing Violence and Harassment in the workplace, Dublin 2003.

<sup>33</sup> The OECD ([http://www.oecd.org/searchResult/0,2665,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/searchResult/0,2665,en_2649_201185_1_1_1_1_1,00.html)) has been working on ethics for a number of years and has published a number of guidelines and recommendations on the so-called ethics infrastructure and also comparative and national reports on this issue.

<sup>34</sup> The term "New Member States" means all 12 countries that have become members of the EU after 2004.

<sup>35</sup> <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,pagePK:50004410~piPK:36602~theSitePK:29708,00.html>

<sup>36</sup> <http://www.transparency.org/> (last checked 20 June 2007)

<sup>37</sup> G.S. Mackenzie, Scandal Proof, Do Ethics Laws make Government better?, Brookings Institution, Washington D.C., 2002, p 98.

<sup>38</sup> Alan Rosenthal, The Effects of Legislative Ethics Law: An Institutional Perspective, in: Saint-Martin/Thompson, op cit, p.163

<sup>39</sup> Ibid.163

Modern approaches to ethics do result in more rules and more standards and – at the same time – more insecurity about the right standards. At the same time regulation in the field of conflicts of interest takes a stronger prophylactic approach. Prohibitions are regulated for an increasing variety of circumstances. At the same time requirements for disclosure of interests have shifted from an (original) concentration on financial issues into other non-pecuniary commitments. Also public opinion has shifted towards an objective conception of conflict and a subjective conception of interest

The development of ethics rules and standards is also to a large extent influenced by developments in the media. Today, media coverage around ethics and values is becoming more frequent and more important. Consequently: “The days of unquestioned trust and admiration on the part of (...) the general public are over.”<sup>40</sup>

#### **4. The need for different rules and standards for different HPO**

All public authorities, governmental institutions, Parliaments, Central Banks and Audit offices have one common objective: they must serve the public interest. Public trust and public confidence in the integrity of elected officials, politicians and ministers is fundamental to the rule of law.

A study (2006)<sup>41</sup> in the United Kingdom shows that “Politicians are much less trusted to tell the truth than members of most professions: while the vast majority of the public say they trust doctors, teachers, judges and police officers, less than a quarter trust government ministers, as few as trust estate agents; three in ten trust MPs in general.... The integrity of those who hold public office matters to the public. More people say it is very important that MPs and Government ministers should not take bribes, that they should tell the truth and that they should not use their power for their own personal gain than think it is very important they should be competent at their jobs. Truthfulness is highly prized. Three-quarters of the public think it is ‘extremely important’ that MPs and Government ministers should tell the truth – only the requirement that they should not take bribes is rated as important by more of the public. The public also rate highly the importance of those in public office not using their power for their own personal gain: three-quarters think it very important that MPs and ministers do not use their power for their own personal gain (and only a minority believe that most MPs or ministers actually do so). Few of the public suspect politicians as a group of outright corruption – only 7% say they think ‘all’ or ‘most’ Government ministers take bribes, and 6% that all or most MPs do. However, the 2006 survey found a greater degree of public doubt than in 2003/04: while the last survey found 80% saying that few or no MPs take bribes and only 3% that they didn’t know, the present survey found 21% saying “don’t know”, with those prepared to express confidence that such abuse is rare falling to 63%. A similar shift in opinion was found in perceptions of whether Government ministers take bribes or not. This sharp change from the results of the previous survey applied only to the question of

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<sup>40</sup> Mark.S. Frankel, Professional Codes: Why, How, and with What Impact?, in: Journal of Business Ethics, No.8, p.109.

<sup>41</sup> Social Research Institute, Survey of Public Attitudes towards conduct in Public Life, London 2006, pp.11.

bribery; there was no movement to any similar degree in other aspects of politicians' perceived behaviour. The public apply very similar standards to senior public officials as they do to MPs and Government ministers in terms of the behaviour they demand. In general they express somewhat more confidence that officials are meeting those standards than that politicians are doing so."<sup>42</sup>

This survey shows that a) high standards of integrity are important, b) public perceptions are changing quickly and c) public trust is a very fragile and vulnerable concept. Generally people expect HPO to have very high standards of integrity because they have more power, influence and decision-making discretion than any public official and any private persons. They exercise public powers on behalf of the country. They spend public money for important governmental projects. They raise taxes. They hunt down criminals. They protect the people. They take decisions which have an impact on the fundamental rights of the citizens. They decide on health and on risk protection. For all these important tasks, it is important that they exercise their role properly, and act lawfully, honestly and loyally without acquiring any personal advantage. Because of this standards of integrity must be set at high levels.

However, the different categories of Holders of Public Office are not the same: They have different positions and tasks, enjoy different degrees of media attention, have different powers and work in different organisational, institutional, political and legal settings.

A study by Gaugler in Germany shows that the higher the prestige and the position of an HPO the more companies and organizations seek to establish contact, offer memberships in boards etc. Accordingly former cabinet members frequently assume important positions or functions in companies and organisations after they have left office<sup>43</sup>. In recognising this, it seems appropriate that specific rules and standards seek to regulate ministerial behaviour and take these differences into account<sup>44</sup>. The call to regulate post-employment issues more strongly for (former) Members of the Government also stems from these differences.

#### **4.1. Legislators**

This study shows, the higher the position of a HPO, the stricter the policy, regulations and codes and the more transparency is required. For example, whereas Members of Government are often required to avoid or withdraw from activities, memberships, financial interests or situations that would place them in a real, potential or apparent conflict of interest, legislators are often allowed to take part in professional activities unless these activities are likely to give rise to a conflict of interest. As regards the latter the most important argument for this is that Parliaments should not develop into arenas where only full-time professional politicians are allowed to represent their constituencies.

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<sup>42</sup> Ibid.

<sup>43</sup> M.Gaugler, Bundestagsabgeordnete zwischen Mandat und Aufsichtsrat, VDM, Saarbrücken 2006, p.108.

<sup>44</sup> J.Fleming/I.Holland, Motivating ethical conduct in government ministers, International Institute for Public Ethics Conference, Ottawa, September 2000, No. 1

Another – frequently cited - argument is that legislators should be allowed to keep contact with their profession as this would also be beneficial for Parliamentary systems. Finally, full-time Parliamentarians may lose contact with the “real world” if they are prohibited from exercising other activities. The above-mentioned study from Gaugler (2006) shows that approximately 25% of all German MPs hold additional positions and memberships next to their public function as an MP<sup>45</sup>. Another empirical study on additional professional activities of MPs (in Germany) reveals that 23.1% of all German MPs in the German *Bundestag* carry out another professional activity. In addition, 18.2% of all German MEPs exercise another professional activity (figures for 2003/2004)<sup>46</sup>.

The question whether these additional professional activities should be (more strictly) regulated is the subject of intense discussion. At least finding the right balance between the right to have a professional life, respecting ethical values and avoiding corruption and conflicts of interest remains a real challenge.<sup>47</sup>

Legislators are placed in an area in the political system where conflicting interests are abundant. A comparative study<sup>48</sup> on legislative ethics concluded that “...the problem is not that legislators are inherently corrupt, or will necessarily become so. Rather, the nature of their positions requires legislators to continually face difficult ethical dilemmas. Legislators must constantly decide among competing interests: national, constituent-based, political and personal. This difficulty is amplified by the fact that most legislators simultaneously hold positions in the private sector, and as such are perpetually ‘changing hats’ from one position to the other. In addition, legislators are subject to intense scrutiny by the media, non-governmental organisations and the public at large”<sup>49</sup>. In a way being a politician implies being involved in the political process where different interests come together. Thus, being a legislator means per se being confronted with many conflicting interests. Consequently, it is in the nature of being a Member of Parliament (or a minister) to deal with and to manage these conflicting interests and values.

Obviously politicians face different conflicts of interests than Judges or Directors of Central Banks. Also the media scrutiny is different than for Judges or Directors of banks etc. Legislators also face different accountability and legitimacy challenges. For example, which has primacy: one’s own political career, one’s own professional activities, the party, the electorate, the government or the nation? “Probably legislators face the widest range of potentially conflicting interests: personal, representational and other private pecuniary and non-pecuniary interests. Certain interests are personally inherent: as a resident of a town or province, as a parent, spouse, or child, as a female or male, as indigenous or non-indigenous, and so on. Other interests arise from the representative role: as a member of the legislature, as the representative of his or her electorate and as a

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<sup>45</sup> Gaugler, Bunderstagsbegeordnete, op cit, p. 79.

<sup>46</sup> K.Schmitt/H.Best, Delegationseliten nach dem Systemwechsel, Kernbefunde im Überblick, University of Jena 2005.

<sup>47</sup> See for example Salminen, A., Accountability, values and the ethical principles of public service: the views of Finnish legislators, in: International Review of Administrative Sciences, No. 72, 2006, pp. 171

<sup>48</sup> National Democratic Institute for International Affairs Legislative Research Series, Paper No. 4 Legislative Ethics: A Comparative Analysis, National Democratic Institute for International Affairs (NDI) 1999.

<sup>49</sup> National Democratic Institute for International Affairs, op cit, p.3

member of a political party. Further interests arise from outside activities as a member of a non-political organisation, as a businessman, professional, farmer, grazier, or employee. Another important difference between legislators and other categories of Holders of Public Office is the fact that, in most countries, the constitution assigns the Parliament the responsibility for the regulation of its Members of Parliament. Because of this – and it is different to the situation in the public services – Members of Parliament have little interest in monitoring themselves and deciding upon the setting up of independent ethics committees. Instead rules of conflicts of interest for Members of Parliament are generally enforced through a system of self-regulation.

Conflicts of interests may also occur because in most countries legislators decide on essential parts of their own remuneration. In addition, politicians decide upon the laws and regulations, on party and election finance and on lobbying issues. Finally they also legislate on behalf of their own interests when defining their own rules and standards in the field of conflicts of interest. Also Parliamentary immunity is an issue for the Parliament itself. In many countries, this constitutes a sensitive issue, since Parliamentarians are almost exempt from any civil or criminal prosecution. Moreover, enforcing sanctions imply the starting of time-consuming procedures (whereas the public may ask for quick responses to political scandals).

Thus, legislators are – at least partly – regulating themselves. This is problematic as it raises suspicion and raises doubts about independence, fairness, and accountability. As a consequence more countries are thinking about the introduction of external inter-institutional ethics committees or independent offices. “This is because traditional systems of self-regulation are more and more discredited. They can no longer command public confidence”<sup>50</sup>. Yet, countries like Canada and Britain have recently adopted measures allowing for the first time the involvement of “outsiders” in their system of ethics regulation, making it less internal and more external. The move towards a more external form of ethics regulation is designed to enhance public trust and confidence in the procedures that Parliament uses to discipline its Members. It is intended to *de-politicize* the process of ethics regulation. The goal is to mitigate the perception that MPs face an inherent and inescapable conflicts of interest when they sit in judgment on fellow MPs. Yet, even if the maxim that ‘no one should be the judge in his own cause’ has great moral power it seems difficult to oppose”<sup>51</sup>. However, trends differ widely. Whereas many Parliaments have at least established different forms of self-regulation others do not even have this. The European Parliament has the so-called Quaestors who are responsible for monitoring the ethical conduct of MEPs. However, until today little is known as to the internal control of ethical standards by the Quaestors.

Our results in this study suggest that Parliaments, as genuinely self-regulating bodies, are generally comparatively “under-regulated”, i.e. have at their disposal a significantly less developed set of ethics related provisions and instruments. For example, our study shows that parliaments have less rules and standards in the field of gifts than other institutions.

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<sup>50</sup> Ibid.

<sup>51</sup> D. Saint-Martin, Path-Dependence and Self-Reinforcing Processes in the Regulation of Ethics in Politics. Toward a Framework for Comparative Analysis, in: Saint-Martin/Thompson, Public Ethics and Governance, op cit., p.6

At the same time, this conclusion should not be interpreted in the sense that the simple answer is *more regulation* and that ethics regimes of public officials or of other categories of Holders of Public Office should be taken as a benchmark for the regulation of legislators.

As we have seen, CoI are abundant for legislators. This also means that legislators need specific rules and standards in the field of CoI. In addition, they need to be trained on CoI and must be made aware of (un-) ethical issues. At the same time, legislators need less rules and standards in specific fields (such as post-employment, the regulation of political, professional- and outside activities). However, clear rules and standards in the field of gift taking, nepotism and lobbying may be very relevant for this category of HPO.

## 4.2. Ministers and representatives of Government

Surprisingly little research has been undertaken on the executive, yet ministers face different motivations and have different responsibilities than Parliamentarians in general. Despite the widespread existence of established accountability mechanisms such as Parliamentary commissions, ethics advisors, ethics committees and Parliamentary procedures, it is difficult to find out whether Parliaments are able to effectively monitor the ethics policies on the executive.

What makes ministers a special case for ethical consideration? It is the different degree of power that significantly distinguishes ministers from their Parliamentary colleagues. As senior members of their parties they wield considerable influence both inside and outside Parliament, demonstrating considerable autonomy and discretion in their dealings with colleagues and the public in general. The central place of the cabinet and the ministry in the political system itself puts the power of ministers on another plane to that of Parliamentarians on the whole<sup>52</sup>. “Their status gives them wide access to public sector confidential files and other privileged information. A minister also has the right to expert advice on matters pertaining to his/her portfolio and ready access to lobby groups with whom policy is discussed. Overall, the minister is in a very powerful, information-rich position. The potential abuses of this often confidential information make ministers vulnerable to ethical errors”<sup>53</sup>. “Additionally, ministers are subject to a variety of pressures – answerable not only to their constituents, but unlike their backbench counterparts, to the cabinet, the prime minister, special interest groups and Parliament. These kinds of often conflicting pressures in a party political system can be particularly onerous to co-ordinate and arguably expose ministers to potentially unethical situations”<sup>54</sup>.

In reality, the most stringent codes of ethics and rules on conflicts of interest apply to ministers, as ministerial positions include the power to decide upon public funds and programmes. Also, ministers are typically exposed to more sensitive information than Parliamentarians. Ministers are more likely to face a direct conflict between their public duty and private interest since, unlike legislators, they exercise specific discretionary powers. In addition, ministers have many different responsibilities. They are responsible to the Government for the administration of their portfolio, they are constitutionally responsible to Parliament, responsible to constituents and to the broader public, responsible to the president, prime minister or chancellor, responsible to the cabinet and responsible to the own political party. Consequently, ministers are subject to more detailed regulation by the various mechanisms discussed below.

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<sup>52</sup> International Institute for Public Ethics Conference, Ottawa, September 2000, p.3

<sup>53</sup> Ibid

<sup>54</sup> Fleming/Holland, Motivating ethical conduct in government ministers, op cit, p.4

### **4.3. Other Holders of Public Office**

Directors of banks and Audit Offices similarly exercise important powers either in the National Banks or audit offices or in the European Central Bank and European Court of Auditors. Consequently, many rules concerning conflicts of interest overlap for these categories of Holders of Public Office. The same is true as regards the relationship between codes of the European Central Bank and the National Banks. The codes of the European Central Bank in particular have a strong impact on the codes, standards and rules of the National Banks. This seems to be to a lesser extent the case for the relationship between the European Court of Auditors and national auditors. Directors of banks and audit offices are only indirectly responsible to the electorate. For example, the European Central Bank is a politically autonomous body. This fact could also be reflected when designing common ethical standards.

Mostly Parliamentarians and ministers are more frequently required to disclose their interests in public, whereas requirements for disclosure are mostly only open to internal monitoring bodies in the banking sector (as is the case in the European Central Bank where disclosure is made internally to the Board of Governors etc.). On the other hand, rules and regulations in the field of insider dealing are often stricter for bankers and auditors than for legislators. This can be explained by the fact that bankers and auditors have direct access to confidential inside information as to bank transfers, developments on the financial markets etc. The fact that these bodies are in possession of very sensitive financial information and data requires that these fields are regulated more strictly. Similarly the position of Judges of the Constitutional Courts requires specific standards as to political independence and neutrality.

**Table 2: Potential need to decide upon rules and standards for different categories of HPO as regards different CoI**

	<b>Government</b>	<b>Parliament</b>	<b>Supreme Court</b>	<b>Court of Auditors</b>	<b>Central Bank</b>
<b>Political activities</b>			Yes	Yes	Yes
<b>Professional activities</b>	Yes		Yes	Yes	Yes
<b>Gifts, donations</b>	Yes		Yes	Yes	Yes
<b>Activities during term</b>	Yes	Yes	Yes	Yes	Yes
<b>Post-employment</b>					Yes
<b>Information, insider dealing</b>	Yes		Yes	Yes	Yes
<b>Recusal</b>	Yes	Yes	Yes	Yes	Yes
<b>Divestment</b>	Yes				
<b>Honorary positions, membership</b>	Yes	Yes	Yes	Yes	Yes

## **IV. COMPARATIVE OBSERVATIONS – RULES AND STANDARDS IN THE MEMBER STATES AND THE EU INSTITUTIONS**

### **1. General observations**

In this study we presented a list of 15 different conflicts of interest to the Member States, the EU Institutions and the different institutions. In our questionnaire (see attached to the study) the research team asked the Member States to state whether or not they regulate these issues and whether they have adopted legally binding provisions, or codes of ethics, or both instruments in these areas. In addition, we asked the Member States, the EU institutions and the different institutions to provide data on whether they provide for training for the different categories of HPO, whether they have established specific registers of interests and whether specific ethics committees for the different institutions exist.

In the following we will present an empirical analysis of our findings (based on the analysis of the replies of the institutions from 25 participating Member States and the EU institutions who contributed to this study). The following comparisons present an analysis of the existing standards and rules in a) the Member States, b) the different institutions, c) per type of conflict of interest and d) among the EU institutions. The statistical analysis as to “regulation density” in the Member States and the different institutions is based on analysis of six CoI categories (as already mentioned in chapter I.3).

### **2. Specific comparisons**

#### **2.1. Country comparisons**

All countries accept that the effective management of conflicts of integrity require an integrative policy which depends not only on the introduction of effective punitive measures, but also on guidance, prevention and (management) instruments for increasing awareness. Proper behaviour should be supported by an overall ethical-friendly environment, characterised by the fact that the variables are interdependent. This means, for instance, that it is much more difficult to promote integrity where the separation of powers between the executive and the judiciary is blurred than in a system with a clear division of powers. Also, relations between the political and the private sector are very sensitive and give cause for conflicts of interest. With increased contacts between those two sectors due to the increasing trend towards private-public partnerships, conflicts of interest situations are becoming more frequent.

The trend in most countries is clearly to strive for a higher degree of transparency with regard to the private lives of HPO. For example, new requirements include an obligation to register additional jobs, private income or shares, or an obligation to provide

information about the jobs/activities of his/her partner, which may be in conflict with his/her public position. There are also rules which refer to the acceptance of gifts and invitations in order to prevent unwanted external influence on decision-making. This may include a dinner offered by a private firm or accepting a gift which can involve a holiday to an attractive place offered by an applicant in a public procurement procedure. Moreover, another observation is that the higher the position the stricter the policy, regulations and codes and the more transparency is required. In all Member States Members of Government are required to avoid or withdraw from activities, memberships, financial interests or situations that would place them in real, potential or apparent conflict of interest.

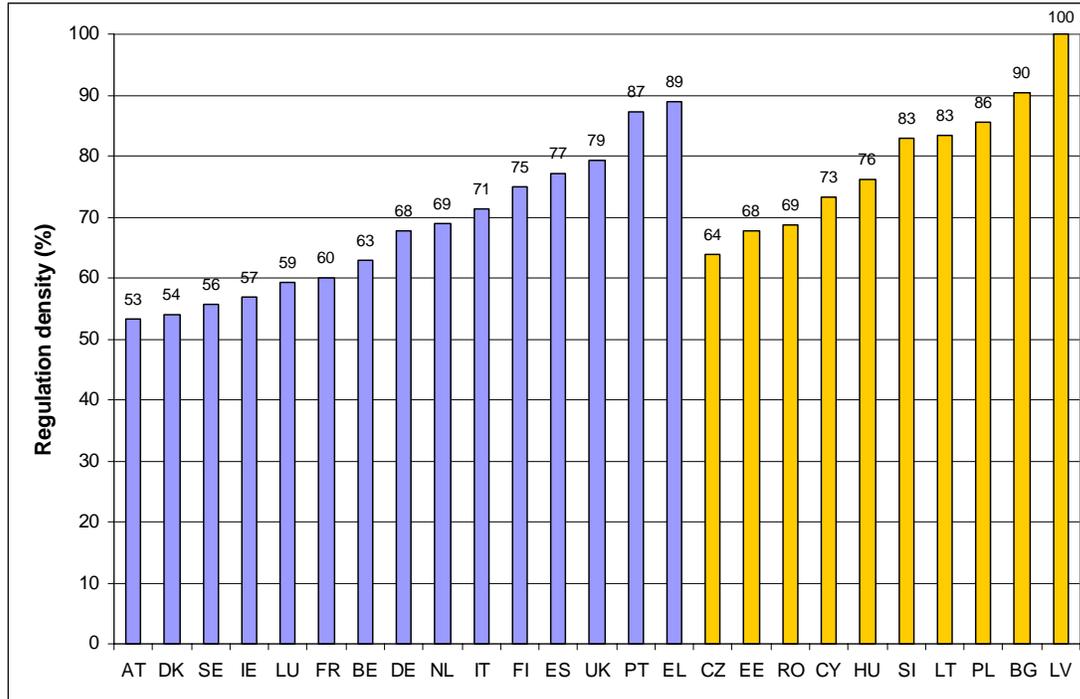
Consequently, modern conflicts of interest systems are no longer based purely on law, compliance and penalising wrongdoing. In fact, they are oriented towards preventing CoI from happening and encouraging proper behaviour through guidance and orientation measures, such as training and the introduction of codes of conduct. Consequently, all countries – to different degrees – offer a wide range of instruments in the fight against unethical behaviour and the emergence of conflicts of interest.

However, a comparison of the rules and standards in the Member States of the EU cannot be made without difficulty. Two countries did not participate to this study. Other countries did not contribute to this study for all five institutions. Consequently, important information was missing for some countries. Consequently, in some instances these countries could not be compared to the other countries. Despite these methodological difficulties, our data allows for the presentation of trends and the drawing of some general conclusions.

### **2.1.1. Regulation density**

Not surprisingly, the Member States and the European institutions differ enormously as to regulation density but also as to the numbers of conflicts of interests which are not regulated at all. Despite differences in detail, some conclusions can be drawn. For example, the new Member States have a higher regulation density than the “old” EU Member States. Latvia and then Bulgaria are the countries with the highest regulation density in Europe.

**Figure 1: CoI regulation density by Member State**



To sum up, the new Member States are generally more regulated than the old Member States (80,5% vs. 66,5%). The strictest system is used in Latvia where all CoI categories are regulated for all institutions (100%). Among the old Member States Portugal - followed by the United Kingdom and Spain - also has a highly regulated system. The countries with the lowest number of regulated CoI issues are Austria, Denmark and Sweden.<sup>55</sup>

### 2.1.2. Choice of regulatory instruments

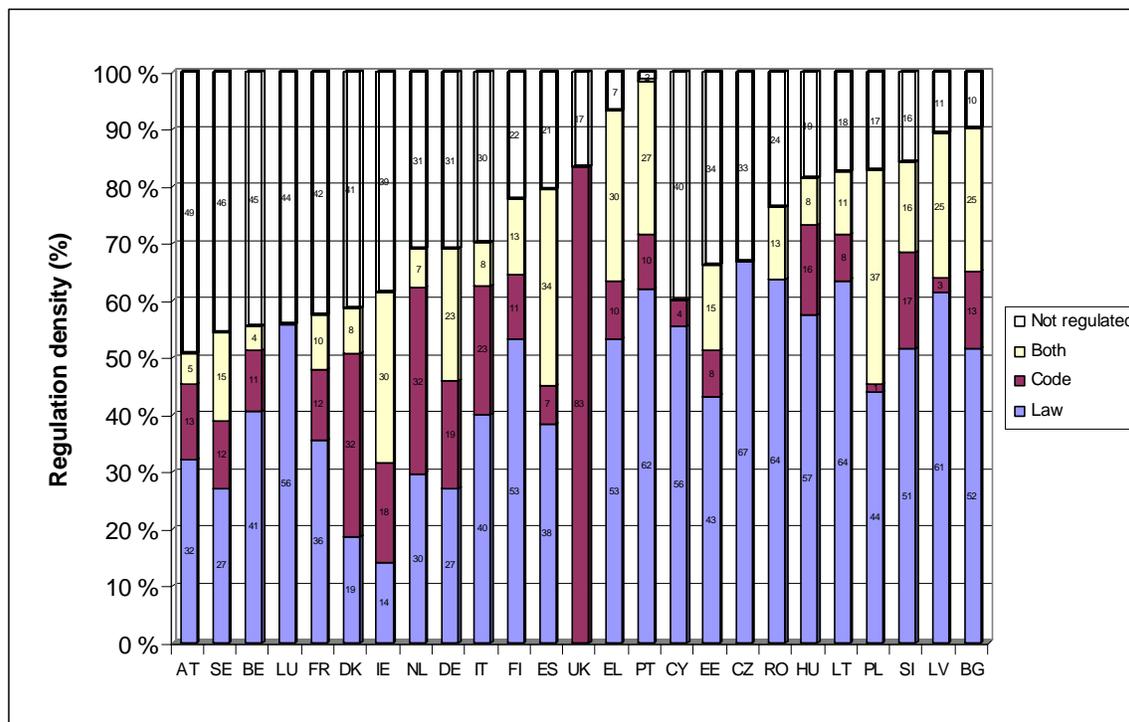
The situation is equally diverse when analyzing the level of regulation in the field of legal instruments. Whereas in some countries the constitution establishes some general ethical principles, in other countries the Constitution is “silent” on ethical issues. In addition, different administrations and institutions within the Member States have produced additional administrative circulars, codes of ethics, guidelines, rules as to lobbyism and harassment, documents on whistle blowing and guidelines for the prevention of fraud, abuse of organisational resources, insider dealings etc. To this should be added standards on good governance, good administration, citizen standards and standards on service delivery.

As can be seen in the table below, the use of law is the predominant form of regulation (60%). Whereas most Member States have adopted general anti-corruption or anti-fraud

<sup>55</sup> As to the old Member States of the EU, Greece has the highest regulation density figure. However, Greece has only answered for one institution (Court of Justice). Therefore, the high percentage may be misleading in this case.

laws (which include CoI provisions), fewer Member States have also adopted specific CoI laws and regulations. Moreover, only a few Member States have adopted general CoI laws which apply to all institutions. Instead most Member States have different and separate rules for the different institutions. The same can be said for codes which are used in 19% of the cases. In almost all countries, codes of ethics are designed for the individual institutions. Only rarely (as in the case of the “Seven Principles of Public Life” in the UK) do they apply to the whole governmental sector. Moreover, whereas some Member States have highly regulated systems, other countries only regulate some specific topics. In 21% of the cases the CoI issues are regulated both by legislation and by code of conduct/ethics. Another distinction can be made between the regulatory instruments: here, it is important to note the differences between the majority of countries who regulate CoI by general and/or specific sectoral laws and regulations (and codes) and the United Kingdom, and for a part the Netherlands and Denmark, which regulate CoI almost exclusively, in the case of the UK, or partly, in the case of Denmark and the Netherlands, by means of general and specific sectoral codes.

**Figure 2: Comparing instruments: Form of CoI regulation by Member State<sup>56</sup>**



<sup>56</sup> It should be noted that the form of regulation and the regulation density are not fully comparable. When we analysed ‘regulation density’ we weighted certain issues over other. For example, post-employment had more weight in the model than honorary positions. However, weighting is not meaningful when analysing the form of regulation. Regulation density is a theoretical construct based on 12 CoI items, while the form of regulation is simply the sum of all 15 CoI items.

Also our study does not allow for clear answers to this question. There seems to be a trend toward more regulation (mostly by laws and regulation) and more standards (mostly by codes) and also the regulation of an increasing number of conflicts of interest.

If this observation is correct, comparisons with the United States are becoming ever more interesting. With the adoption of the “Honest Leadership and Open Government Act” in the US (which has probably the most regulated system worldwide) efforts are being undertaken to further regulate the system in even more details. This concerns measures which aim at regulating lobbying more strongly, toughen rules on receiving gifts and “revolving doors policies” and expanding public disclosure of lobbyists activities.

## **A Step towards more detailed rule-making in the US: Honest Leadership and Open Government Act of 2006<sup>57</sup>**

### **Summary:**

Extends from one to two years the lobbying ban for former senior executive personnel, former Members of Congress, and legislative branch officers and employees.

Denies floor privileges to any former Members and House officers if he or she is a registered lobbyist or agent of a foreign principal.

Requires public disclosure by Members of Congress and senior congressional staff of employment negotiations.

Amends the Lobbying Disclosure Act of 1995 (LDA) to revise requirements for lobbying disclosures reports.

Amends the Rules of the House of Representatives to: (1) exclude gifts from lobbyists from the gift ban exceptions; and (2) prohibit privately funded travel by a Member, Delegate, Resident Commissioner, officer, or employee.

Establishes the Office of Public Integrity within the Office of Inspector General of the House.

Amends the LDA to increase the penalty for failure to comply with lobbying disclosure requirements.

Requires certification that congressional travel meets certain conditions, subject to civil fines for false certifications.

Establishes mandatory annual ethics training for House employees.

<sup>57</sup> The following summary is provided by the Congressional Research Service, which is a nonpartisan government entity that serves Congress and is run by the Library of Congress. The summary is taken from the official website [THOMAS](http://www.govtrack.us/congress/bill.xpd?tab=summary&bill=h109-4682) <http://www.govtrack.us/congress/bill.xpd?tab=summary&bill=h109-4682> (last time checked 10 October 2007)

Makes it out of order to consider any reconciliation legislation which has the net effect of reducing the surplus or increasing the deficit compared to the most recent Congressional Budget Office (CBO) estimate for any fiscal year.

Limits recorded electronic votes to 20 minutes, except in certain circumstances.

Makes requirements for earmarks in funding measures.

Makes it out of order to consider a resolution providing for adjournment sine die unless, during at least 20 weeks of the session, a quorum call or recorded vote was taken on at least four of the weekdays (excluding legal public holidays).

Makes it out of order, with certain exceptions, for the House to consider a bill or joint resolution until 24 hours, or in the case of legislation containing a district-oriented earmark or limited tax benefit, until three days after copies of such measure are available.

Makes a motion to request or agree to a conference on a general appropriation bill in order only if the House expresses its disagreements with the Senate in the form of numbered amendments.

Requires all provisions on which the two chambers disagree to be open to discussion at any meeting of a conference committee.

Prescribes minimum requirements for political appointees holding public safety positions.

Amends the Office of Federal Procurement Policy Act (OFPPA) to require an executive agency, after awarding a contract, to make specified information regarding it available to the public, including over the Internet in a searchable database.

Amends the Federal Property and Administrative Services Act of 1949 (FPASA) to prohibit awarding of a monopoly federal contract to a single contractor.

Specifies conditions under which such contracts may be awarded.

Amends the FPASA to require revision of the Federal Acquisition Regulation to require competition for certain multiple award contracts.

Provides for suspension and debarment of unethical contractors.

Amends the federal criminal code to impose fines and penalties on cheating taxpayers and wartime fraud.

Revises requirements and prohibitions regarding contractor conflicts of interest.

Requires disclosure of certain government contractor overcharges.

Subjects individuals to penalties for improper sole-source contracting procedures.

Prescribes disclosure requirements for organizations established to raise funds for creating, maintaining, expanding, or conducting activities at a former or existing presidential archival depository or its facilities.

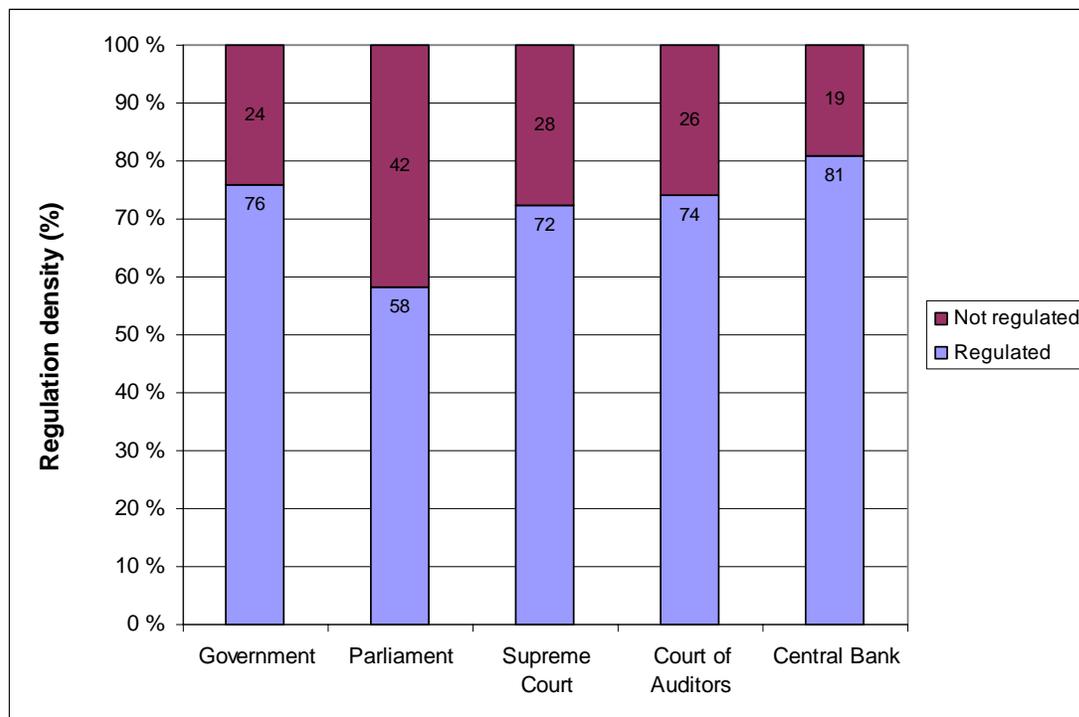
The US case raises the question whether countries and organisations find themselves in a regulatory process until a turning point is reached from which these systems are becoming over-regulated<sup>58</sup>. As to the European Union this may be the case for countries such as Latvia, Bulgaria, Poland and Romania. These countries have highly regulated CoI systems which are similar to the US model (except for the area of post-employment). However, there is very little known as to daily experience in the implementation, management and enforcement of the different rules and standards in practice.

## 2.2. Institutional comparisons

### 2.2.1. Regulation density

As our comparative data show, the highest regulatory density can be found for the national/EU Central Banks and for Government. Parliaments are the least regulated institutions.

Figure 3: Regulation density of the EU Member States by institutions



Whereas the differences between the Central Banks and Governments are not very significant, they are significant between all institutions and the Parliaments. The relative low degree of regulation of Parliaments in Europe reveals the question whether Parliaments are structurally under-regulated. And if so, why that is the case? Most US

<sup>58</sup> N. Behncke, Ethik-Maßnahmen für die öffentliche Verwaltung – Modeerscheinung oder Mauerblümchen?, in: Bogumil, J./Jann, W./Nullmeier, F. (eds.), Politik und Verwaltung, Politische Vierteljahresschrift, No.37/2006, p.269

literature suggests that Parliaments are indeed structurally under-regulated because legislators must regulate themselves. However, in reality most Parliaments are not very eager to regulate themselves.

The under-regulation of Parliaments seems indeed to be problematic. Studies by Transparency International<sup>59</sup> show that the political sector is one of the most corrupt sectors of all. If this observation is correct one should also derive from this the conclusion that legislators should be more strongly regulated.

Other observations are equally important:

1. Countries with a high degree of overall regulation density are not necessarily those countries where all five institutions also have a high level of regulation density. For example, the governmental level in Austria is relatively strongly regulated whereas the Parliament and the Supreme Court are not. This makes an interesting contrast with Germany where the Government is less regulated but the Parliament and the Court are more regulated. Another interesting case is the United Kingdom where all conflicts of interest issues are regulated for the governmental level.

These few cases show that it is important to analyse the different institutions separately. In the following we will examine the different institutions from a comparative point of view.

2. Institutions with a relatively low degree of regulation density (e.g. Parliaments) do not necessarily have a low degree of regulation density as regards all CoI issues. For example, Parliaments have a relatively high degree of regulation density as to the regulation of declarations of interests and – to a lesser extent – registers of financial interest. Today in most countries, Parliaments have rules on the obligations regarding financial declarations and registers.

**Table 3: Declaration of Financial Interests and Assets by Type of Institution<sup>i</sup>**  
(Frequencies in parenthesis)

Type of Institution	Declaration of Financial Interests
Government	95% (22)
Parliament	95% (21)
Supreme Court	65% (20)
Court of Auditors	63% (19)
Central Bank	81% (21)
EU-27 average	81% (103)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

A possible explanation for this overall contradictory picture may be that often legislators are allowed to exercise additional (professional) activities whereas this is much less the case in other institutions. Another explanation is the fact that “lobbying” may be stronger in Parliaments than in Courts or banks.

<sup>59</sup> See Sectors mostly affected by corruption, Transparency International, CPI-Index 2004.

On the other hand Government does not always have a high degree of regulation density. The analysis of “outside and professional” activities shows that this issue is much stronger regulated for Governments and much less so for Parliaments. In total, the Central Banks, Court of Auditors and the Supreme Courts have a much higher degree of regulation density than Governments.

**Table 4: Regulation of Political Activities by Type of Institution (N=27)<sup>i</sup>**  
(Frequencies in parenthesis)

Type of Institution	Government	Political Activities
	Government	62% (21)
	Parliament	70% (20)
	Supreme Court	86% (21)
	Court of Auditors	89% (18)
	Central Bank	95% (21)
	EU-27 average	80% (101)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

In most Member States, however, disparities of regulation exist among the different types of professional activities. For example, many national Parliaments have at least some regulatory instruments regulating incompatibility of posts and professional activities before or during the term of office, but rules on outside political activities are less frequently in place. Not surprisingly, the Supreme or Constitutional Courts regulate political activities most strictly. Similarly the highest percentage of rules and regulations for Directors of the Courts of Audit and the Directors of the Central Banks can also be found in the field of outside political activities.

At least these few comparisons show that the same conclusion which has been drawn for the comparative country analysis can also be drawn for the comparative analysis of the institutions: whereas it is possible to identify which country or institution is more strongly (or less) regulated than another, this does not mean that as regards the regulation of specific individual CoI issues less regulated institutions (or countries) have more (and stricter) rules in individual cases.

### **2.2.2. Choice of regulatory instruments**

Another interesting level of analysis is to examine the choice of regulatory instruments. Here our findings show that the dominant regulatory instrument is still the law (especially in the Supreme Courts and in Government). However, one important exception is the Central Banks, which have a relatively high level of regulation by codes of ethics. The Court of Auditors uses codes relatively widely. In contrast, the Supreme Courts and Parliaments do not use codes to a large extent.

**Table 5: Form of regulation by type of institution**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Government	23% (71)	48% (150)	16% (49)	14% (44)	100% (314)
Parliament	40% (122)	45% (138)	9% (28)	6% (20)	100% (308)
Supreme Court	29% (88)	50% (152)	5% (14)	16% (50)	100% (304)
Court of Auditors	28% (77)	40% (113)	11% (30)	21% (60)	100% (280)
Central Bank	20% (63)	32% (100)	28% (87)	19% (59)	100% (309)
EU-27 average	28% (421)	43% (653)	14% (208)	15% (233)	100% (1519)

Especially in the case of the regulation of gifts, missions and travel it can be seen that the Central Bank use codes of ethics extensively and (much) more than the other institutions.

**Table 6: Means of regulating gifts by type of institution**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Government	14% (3)	48% (10)	10% (2)	29% (6)	100% (21)
Parliament	29% (6)	48% (10)	10% (2)	14% (3)	100% (21)
Supreme Court	19% (4)	48% (10)	5% (1)	29% (6)	100% (21)
Court of Auditors	0% (0)	37% (7)	16% (3)	47% (9)	100% (19)
Central Bank	5% (1)	24% (5)	43% (9)	29% (6)	100% (21)
EU-27 average	14% (14)	41% (42)	17% (17)	29% (30)	100% (103)

**Table 7: Means of regulating missions and travels by type of institution**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Government	11% (2)	39% (7)	22% (4)	28% (5)	100% (18)
Parliament	50% (10)	35% (7)	15% (3)	0% (0)	100% (20)
Supreme Court	32% (6)	47% (9)	21% (4)	0% (0)	100% (19)
Court of Auditors	22% (4)	33% (6)	22% (4)	22% (4)	100% (18)
Central Bank	45% (9)	10% (2)	35% (7)	10% (2)	100% (20)
EU-27 average	33% (31)	33% (31)	23% (22)	12% (11)	100% (95)

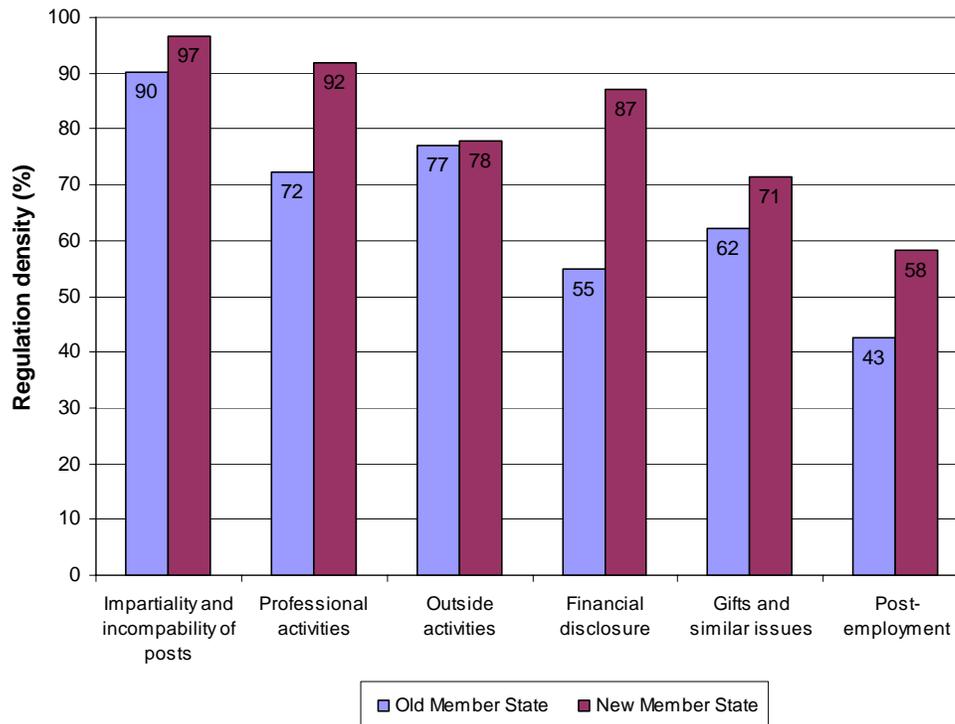
## 2.3. Conflicts of interest comparison

After having looked at the most important country and institutional comparisons we will now move into the area of individual CoI issues. Here too it is possible to draw some interesting conclusions. However, we will refrain from analysing the regulation of all individual conflicts of interests as this would overburden the study.

### 2.3.1. Regulation density

A comparative overview of the regulation density by CoI category reveals the differences between the different CoI categories, as well as some differences between the old and new Member States (Figure 4). Whereas some categories are highly regulated, others are not. Broadly speaking, general ethical principles and obligations are already well regulated. In fact, the highest degree of regulation concerns two general principles: rules on impartiality and rules on incompatibility of posts. These general principles are mentioned (or enumerated) in many laws and codes. The category of post-employment is the least regulated CoI area among the Member States. We will discuss these and other CoI categories in more detail later in this section. Figure 4 also shows that the new Member States have introduced more regulations than the old Member States. The most remarkable difference can be found with regard to financial disclosure, where the new Member States have considerably more strict regulations (87%) than the old Member States (55%).

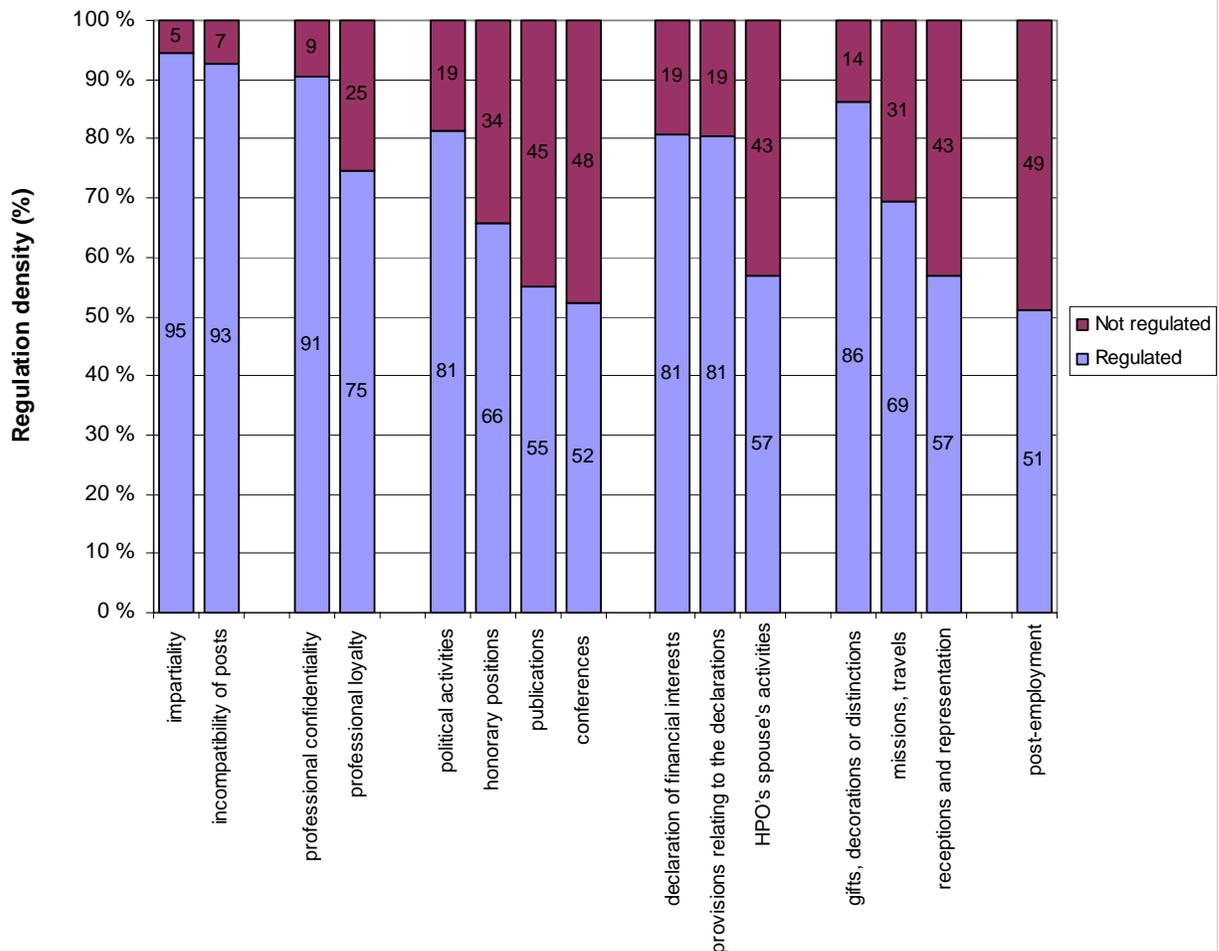
Figure 4: Regulation density by category - all institutions in the Member States (%)



In the following section, the study discusses the CoI items included in the previous CoI categories. Figure 5 analyses the individual CoI items (sorted by CoI category), and

Table 8 provides information on the individual CoI issues by type of institution.

**Figure 5: Regulation Density of CoI Issues and by CoI Category**



Impartiality and incompatibility of posts are the two most regulated single items, as already indicated in Figure 4. In the category of professional activities, we find professional confidentiality (91%) more regulated than professional loyalty (75%). Professional confidentiality is an important issue which is mentioned in almost all codes in the Central Banks and Court of Auditors. In the next category regarding outside activities, the most regulated issue is political activities. Political activities are strongly regulated with the understandable exception of ministers and legislators (see

Table 8 for inter-institutional comparison). A further analysis reveals that rules and standards related to honorary positions (66%), publications (55%) and conferences (52%) are less regulated. This is not surprising given the fact that these issues are of less importance overall.

In the next CoI category regarding financial disclosure, declaration of financial interests and assets as well as the provisions related to them are generally widely regulated (81%), although the members of the Supreme Court (65%) and Court of Auditors (63%) are less subject to them than other HPO. Furthermore, the regulation of spouse's activities constitutes one of the most conflictory issues. As can be seen in Figure 5, this issue is more rarely regulated (57%). Consequently, many Member States and institutions require the declaration of financial interests but without demanding information as to the spouse's activities. When looking at an inter-institutional comparison it is evident that Parliaments do not regulate spouse's activities as frequently as other institutions. Another issue which is quite highly regulated is the category of gifts and similar issues. Generally, gifts are quite regulated (86%). Rules and standards on missions or travels (67%), as well as rules on receptions and representation (55%), are less frequent.

According to the data, post-employment is the least regulated CoI area of all. Interestingly, many new Member States have also introduced rules on post-employment (58%). It seems that post-employment in particular is under-regulated. Although some countries have prohibitions and restrictions in laws, regulations and codes to avoid conflicts of interest in post-public employment, this is not the case in the majority of countries. In approximately 49% of all cases analysed post-employment issues are not regulated. Differences as to the percentages of institutions which do not have regulation at all in the field of post-employment rules range from 33% in the Central Banks to 71% in the Parliaments. Some Member States have very extensive and strict rules and different cooling-off periods for different categories of HPO. Others do not have cooling-off periods at all. For example, France prohibits post-employment in any corporation owned or subsidized by the Government, and also in real-estate-related firms or banks. In Austria a Member of the Government may not be appointed President of the Court of Audit for four years after his/her term of office. The Act of 6 August 1931 does not allow former Belgian MPs to mention their former capacity in documents or publications concerning profit-seeking companies. Appointments to remunerated state functions at the federal level are prohibited before, at the earliest, one year after the end of their mandate (except for ministers, Judges in the Constitutional Court, diplomats, governors and secretaries general of provinces). However, half of the institutions included in this study do not have any regulations on post-employment. This is an issue where (at least some of) the European countries and the USA and Canada differ considerably.

**Table 8: Regulation of CoI issues by type of institution**

	Government	Parliament	Supreme Court	Court of Auditors	Central Bank	EU-27 average
impartiality	95% (22)	81% (21)	95% (21)	100% (19)	100% (21)	94% (104)
incompatibility of posts	95% (22)	85% (20)	95% (21)	89% (19)	95% (21)	92% (103)
professional confidentiality	100% (21)	70% (20)	95% (20)	89% (19)	100% (21)	91% (101)
professional loyalty	86% (21)	38% (21)	90% (21)	83% (18)	75% (20)	74% (101)
political activities	62% (21)	70% (20)	86% (21)	89% (18)	95% (21)	80% (101)
honorary positions	65% (20)	70% (20)	57% (21)	61% (18)	75% (20)	66% (99)
publications	55% (20)	33% (21)	60% (20)	53% (19)	71% (21)	54% (101)
conferences	48% (21)	50% (20)	55% (20)	42% (19)	62% (21)	51% (101)
declaration of financial interests and assets	95% (22)	95% (21)	65% (20)	63% (19)	81% (21)	81% (103)
provisions relating to the declarations	95% (22)	90% (21)	65% (20)	63% (19)	85% (20)	80% (102)
HPO's spouse's activities	68% (22)	43% (21)	50% (20)	63% (19)	62% (21)	57% (103)
gifts, decorations or distinctions	86% (21)	71% (21)	81% (21)	100% (19)	95% (21)	86% (103)
missions, travels	89% (18)	50% (20)	68% (19)	78% (18)	55% (20)	67% (95)
receptions and representation	65% (20)	30% (20)	42% (19)	67% (18)	74% (19)	55% (96)
post-employment	52% (21)	29% (21)	55% (20)	47% (19)	67% (21)	50% (102)

However, from the more important issues post-employment seems to be under-regulated given the fact that conflicts of interests are abundant in this field. In the United States “there has been an increasing concern about former members of the administration, former lawmakers, and their staff gaining undue access as lobbyists because of the relationships they have made while working for the Government”<sup>60</sup>. Similar developments were reported in Germany<sup>61</sup>. Thus, there is some evidence that the issue of post-employment in particular is highly under-regulated.

Although many countries have prohibitions and restrictions in laws, regulations and codes to avoid conflicts of interest in post-public employment this is not the case in the majority of countries. In approximately 50% of all cases analysed post-employment issues are not regulated. Differences as to the percentages of institutions which do not

<sup>60</sup> <http://rules.senate.gov/newsroom/PR07/080207reform.htm> (last time checked on 10 October 2007, p.2).

<sup>61</sup> DER SPIEGEL, Diskrete Dienste, No. 2/2007, pp.32.

have regulation at all in the field of post-employment rules range from 33% in the Central Banks to some 70% in the Parliaments.

To conclude, the existing differences in regulation density suggest that those Member States that already have a relatively high degree of regulation density should not be advised to continuously add new laws and regulations. Rather, they should be recommended to introduce regulatory impact assessments and reform their regulatory systems only in those areas in which more and better rules are really needed. Otherwise, there is a danger that these Member States and institutions will over-regulate their integrity systems.

### 2.3.2. Choice of regulatory instruments

After having analysed the most important results as to the regulation density of the different issues, we now look at the choice of regulatory instruments of the different issues. Here, the most important result is that laws are still the predominant type of regulation. General principles such as impartiality, confidentiality and loyalty in particular are those CoI issues which are most regulated by laws and codes of ethics. On the other hand, declarations of financial interests, post-employment issues and spouse's activities are much less regulated by codes.

**Table 9: Comparing instruments: Form of CoI regulation by Member State**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Austria	49% (37)	32% (24)	13% (10)	5% (4)	100% (75)
Belgium	45% (33)	41% (30)	11% (8)	4% (3)	100% (74)
Bulgaria	10% (6)	52% (31)	13% (8)	25% (15)	100% (60)
Cyprus	40% (18)	56% (25)	4% (2)	0% (0)	100% (45)
Czech Republic	33% (9)	67% (18)	0% (0)	0% (0)	100% (27)
Germany	31% (23)	27% (20)	19% (14)	23% (17)	100% (74)
Denmark	41% (31)	19% (14)	32% (24)	8% (6)	100% (75)
Estonia	34% (25)	43% (32)	8% (6)	15% (11)	100% (74)
Greece	7% (2)	53% (16)	10% (3)	30% (9)	100% (30)
Spain	21% (15)	38% (28)	7% (5)	34% (25)	100% (73)
Finland	22% (10)	53% (24)	11% (5)	13% (6)	100% (45)
France	42% (31)	36% (26)	12% (9)	10% (7)	100% (73)
Hungary	19% (14)	57% (43)	16% (12)	8% (6)	100% (75)
Ireland	39% (22)	14% (8)	18% (10)	30% (17)	100% (57)
Italy	30% (12)	40% (16)	23% (9)	8% (3)	100% (40)
Lithuania	18% (13)	64% (47)	8% (6)	11% (8)	100% (74)
Luxembourg	44% (19)	56% (24)	0% (0)	0% (0)	100% (43)
Latvia	11% (8)	61% (46)	3% (2)	25% (19)	100% (75)
Netherlands	31% (23)	30% (22)	32% (24)	7% (5)	100% (74)
Poland	17% (13)	44% (33)	1% (1)	37% (28)	100% (75)
Portugal	2% (1)	62% (39)	10% (6)	27% (17)	100% (63)
Romania	24% (13)	64% (35)	0% (0)	13% (7)	100% (55)
Sweden	46% (27)	27% (16)	12% (7)	15% (9)	100% (59)
Slovenia	16% (11)	51% (36)	17% (12)	16% (11)	100% (70)

United Kingdom	17% (5)	0% (0)	83% (25)	0% (0)	100% (30)
EU-27 average	28% (421)	43% (653)	14% (208)	15% (233)	100% (1515)

For example, in the case of the regulation of spouse’s activities law is the dominantly used regulatory instrument. Codes play a significant role only for Government and for the Central Banks. All Courts of auditors and almost all Parliaments do not regulate this issue by codes at all.

Overall this case shows that the choice law as regulatory instrument is still the most important regulatory instrument. The importance and the use of codes vary from issue to issue. Whereas 68% of governments, 63% of all Courts of auditors, and 62% of all Central Banks regulate spouse’s activities, roughly only 53% of all Courts of Justice and not more 43% of Parliaments have regulatory provisions. The regulation of “outside activities and honorary positions” also seems to be a CoI issue where the use of regulatory instruments differs widely. Whereas 29% of all Central Banks, 22% of the Courts of audit and still some 14% of governments regulate this issue by codes, this is only the case for approximately 5% of all Parliaments. As regards this particular issue, Courts of Justice are not deploying this instrument at all. However, this issue is mostly regulated by law.

**Table 10: Regulation of political activities by type of institution<sup>i</sup>**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Government	38% (8)	48% (10)	14% (3)	0% (0)	100% (21)
Parliament	30% (6)	55% (11)	5% (1)	10% (2)	100% (20)
Supreme Court	14% (3)	62% (13)	0% (0)	24% (5)	100% (21)
Court of Auditors	11% (2)	56% (10)	22% (4)	11% (2)	100% (18)
Central Bank	5% (1)	57% (12)	29% (6)	10% (2)	100% (21)
EU-27 average	20% (20)	55% (56)	14% (14)	11% (11)	100% (101)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

Like most other CoI policies, post-employment issues are usually regulated by law. In the Parliaments and the Courts of auditors post-employment is almost exclusively regulated by laws.

This is an interesting difference with the situation in the US and in Canada; post-employment issues are strongly regulated in laws and in codes in the USA. The OECD has also discussed the need to regulate post-employment issues in laws and in codes. According to the OECD many countries are in a process of strengthening and reinforcing these provisions<sup>62</sup> “Accepting future employment or appointment, for example, to a board of Directors, advisory or supervisory bodies, and misusing “insider information” are at the centre of new reforms and new prohibitions and restrictions. At the same time new dilemmas are also discussed more frequently.

<sup>62</sup> OECD, Avoiding Conflict of Interest in Post-Employment, op cit.

**Table 11: Regulation of post-employment by type of institution<sup>i</sup>**  
(Frequencies in parenthesis)

	Not regulated	Law	Code	Both	Total
Government	48% (10)	33% (7)	10% (2)	10% (2)	100% (21)
Parliament	71% (15)	29% (6)	0% (0)	0% (0)	100% (21)
Supreme Court	45% (9)	45% (9)	0% (0)	10% (2)	100% (20)
Court of Auditors	53% (10)	42% (8)	0% (0)	5% (1)	100% (19)
Central Bank	33% (7)	38% (8)	14% (3)	14% (3)	100% (21)
EU-27 average	50% (51)	37% (38)	5% (5)	8% (8)	100% (102)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

In the field of post-employment the country and inter-institutional disparities are considerable. Whereas some countries regulate this issue by law and codes, other countries regulate this issue by code or not at all (in the case of seven countries data was not available). Ireland and the UK are the two states where codes are used. In Belgium and Spain both laws and codes exist. No regulation is in place in Germany, Denmark, Estonia, Finland, France, the Netherlands, Slovenia and Sweden. Interestingly, most countries which have a long tradition of rule of law and (or countries who are perceived as abiding by the law very strictly – Germany, Denmark, Finland, the Netherlands, Sweden) do not have rules on restrictions of professional commitments or holding posts after leaving office<sup>63</sup>.

Parliaments also regulate post-employment issues very differently. Whereas Parliaments in the new Member States tend to have more and more detailed rules regarding conflicts of interests (four out of five new Member States answering this question have legal rules for post-employment of MPs: Cyprus, Hungary, Latvia and Slovenia) in total only a few Member States regulate post-employment issues for their Parliamentarians. As to the Supreme Courts which participated in this study approximately half of them have rules and standards in the field of post-employment. Approximately 10% combine laws and codes and one fourth rely on provisions of law. Codes alone were not found to be an instrument for regulating post-employment for the Courts of Justice. As for the Courts of audit the results show a low regulation density. As with the Courts of Judges regulation exclusively by codes seems not to be applied in any cases). The number of countries without any regulation for their Court of Auditors is considerable. Many Courts of auditors reported that there was no data available and no answer could be given to this question. Finally, post-employment is regulated for less than half of the Directors of Central Banks. In many cases there were no data as to this issue.

<sup>63</sup> No data were available for the Czech Republic, Greece, Luxembourg, Malta and Slovakia.

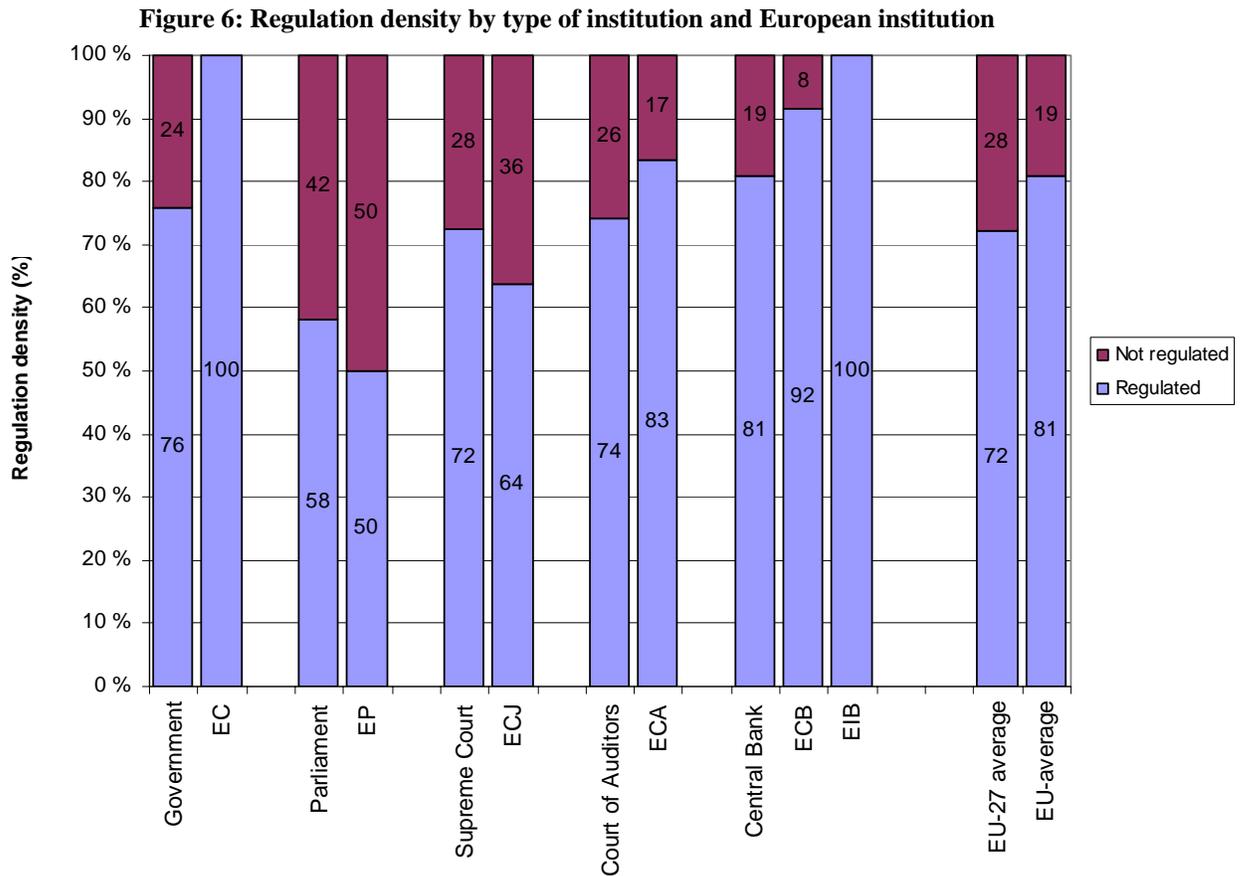
### 3. Conflicts of interest and the European institutions – Comparative observations

#### 3.1. Institutional comparison

##### 3.1.1. Regulation density

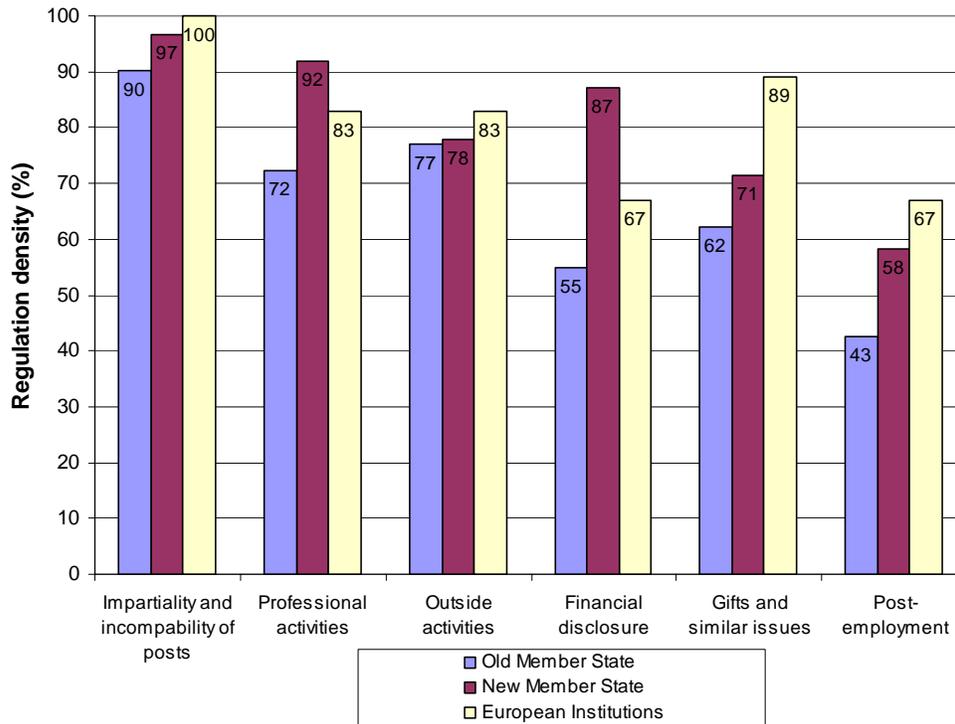
At present the various EU institutions have entirely different and separate rules and standards in the field of conflicts of interests for Holders of Public Office. By studying regulation density amongst the six EU institutions, it can be seen that the European Investment Bank and the European Commission occupy the first rank of issues regulated, followed by the European Central Bank and the European Court of Auditors (ECA). The institutions with the highest number of unregulated issues are the European Court of Justice and the European Parliament.

A comparison between national institutions and EU institutions (see Figure 6) presents an interesting result. With the exception of the EP and the ECJ, the regulation density in all EU institutions is higher than in the national institutions. The difference regarding both the EP and ECJ to their national counterparts being 8% each, the average regulation density of the in EU institutions is still 9% higher than in national institutions (81% vs. 72%).



Generally most of the European institutions are regulated more strictly than the Member States and the different institutions at national level. Only some new Member States have a higher regulation density as regards the regulation of some CoI issues.

**Figure 7: CoI Issues by European institutions and old and new Member States**

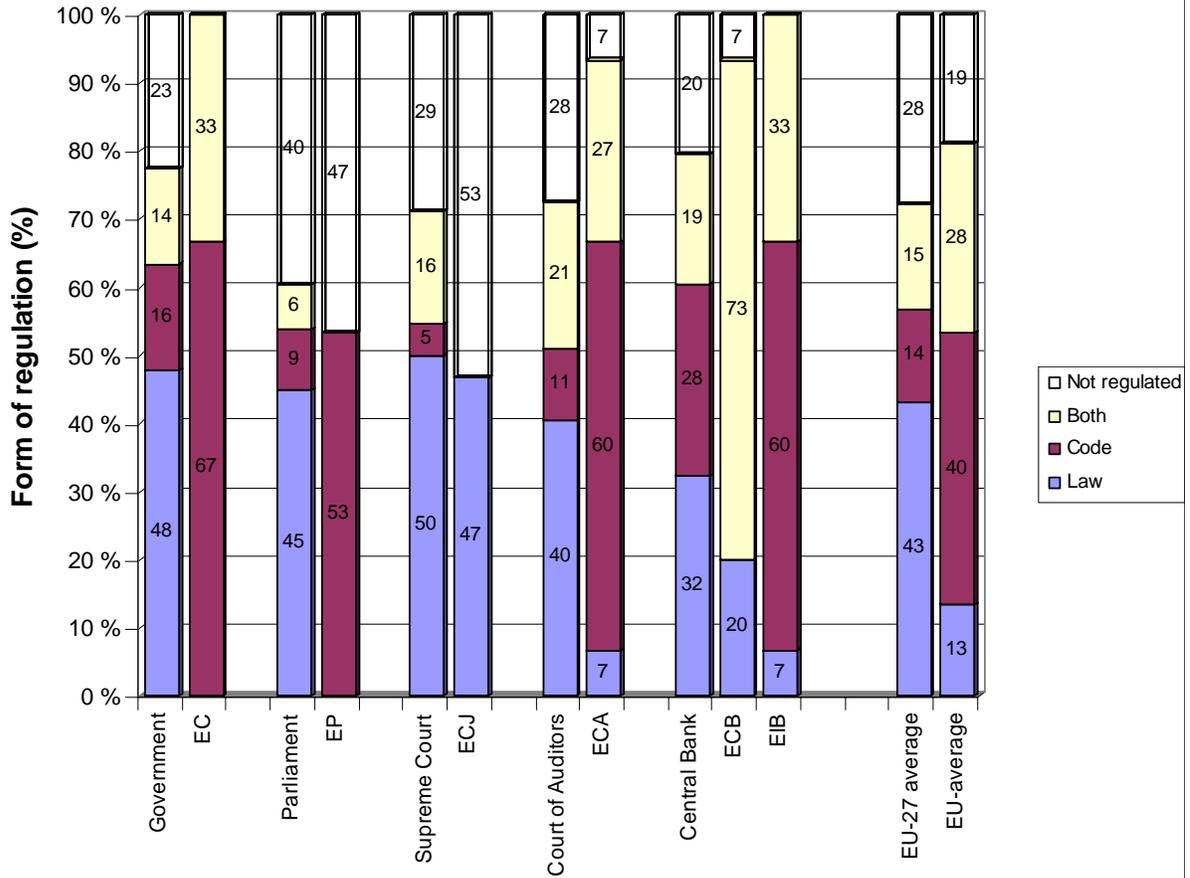


### 3.1.2. Choice of regulatory instruments

Because of the lack of secondary law, the most important regulatory instrument of the EU Institutions is codes. In total, the EU institutions have adopted more than ten different codes which regulate the different HPO.

Contrary to the situation in the Member States, the different EU institutions are not regulated by “law”. Only the EC Treaty makes special reference to the regulation of conflicts of interest in the different chapters that regulate the different EU institutions. Secondary law (EU regulations, EU directives etc.) that regulates the CoI of the Holders of Public Office of the different EU institutions does not exist.

**Figure 8: Form of regulation by type of institution and European institution**



Thus, the existing rules and standards for the Court of Justice stem almost exclusively from existing rules in the Treaty articles and from the Protocol to the Statute of the Court of Justice. Apart from these rules the European Court of Justice has almost no other rules (and no codes) that govern the behaviour of the Judges and advocates general etc. of the ECJ.

The situation is different for the European Parliament. As regards this Institution the ECT does not contain any rules as to CoI of HPO in the European Parliament. The existing rules of the EP are only those that are mentioned in the Rules of Procedures of the European Parliament (and especially in Annex I of the Rules of Procedures). Thus, because it was not possible to classify the Rules of Procedures of the EP as a Law, we have decided to classify the Rules of Procedures (in the following table) as a Code within the meaning of this study. From a methodological point of view, this was the only way to recognize that the EP has specific ethical standards. However, generally, rules of procedures can not be classified as codes of ethics.

**Table 12: Codes within the European institutions**

<b>Institution</b>	<b>Code</b>
European Parliament	No Code (Rules of Procedure)
European Court of Justice	No Code (Protocol on the Statute of the Court of Justice)
Court of Auditors	Code of Good Administrative Conduct for Staff Code of Conduct for the Members of the Court Rules for Implementing the Rules of Procedure
European Central Bank	Code of Conduct of the ECB Code of Conduct for the Members of the Governing Council Supplementary Code of Ethical Criteria for the Members of the Executive Board ECB Staff Rules
European Commission	Code of Conduct for Commissioners
European Investment Bank	Statement on Governance at the EIB (incl. provisions regarding the Chief Compliance Officer) Code of Conduct for the Members of the Board Code of Conduct for the Members of the Audit Committee Management Committee Code of Conduct

These codes are very different and range from Statements on Governance, Codes of Good Administrative Conduct and Codes of Conduct to Codes of Ethical Criteria. In some cases there are even differences within one institution. For example, the Management Committee Code of Conduct in the EIB differs to the Code of Conduct for the Members of the Board of Directors of the EIB. Also the Code of Conduct of the European Central Bank is different to the Code of Conduct for the Governing Council of the ECB. These few cases show that each code is designed toward the proper structure of the organisation in question.

Differences can also be seen as to the length and content of the different texts. Compared to the codes of the EIB and ECB, the Code of Conduct for the Members of the Court of Auditors is relatively short. Another specific case is the Statement on Governance of the EIB which introduces the function of Chief Compliance Officer at the EIB. No other document has introduced such a function.

The Court of Justice has announced that it intends to develop a new code of ethics. If this happens the European Parliament will be the only EU Institution without a proper code of ethics.

These differences as regards the codes are not surprising as such. Moreover, it is nothing special if some institutions have more detailed rules and standards than others. For example, given their specific duties and tasks the Commissioners and MEP have less detailed standards. For example, the Commissioners are bound to respect the duties of independence, impartiality, the duty to behave with integrity and discretion as regards the

acceptance of posts, appointments, benefits and functions after they have ceased to hold office (Art. 213 (“) of the ECT and of the duty confidentiality (Art. 287 ECT). The Code of Conduct for Commissioners adds that “they shall refrain from disclosing what is said at meetings of the Commission”). This example illustrates that different categories of Holders of Office must have specific ethical standards which are designed towards the specific tasks and duties. Consequently, it does make little sense to design one detailed code of ethics for all Holders of Public Office in the different institutions.

## **3.2. Conflicts of interest comparison**

### **3.2.1. Regulation density and choice of instruments**

Amongst the EU institutions great differences exist as to the regulation of the different conflicts of interest within the different institutions. For example, whereas the European Commission regulates the duty to register the spouse’s activities this is not the case in the ECB, the EP and the ECJ. Other interesting differences concern the focus on specific topics: whereas the European Commission and the European Investment Bank regulate post-employment (and establish specific ad hoc committees in this area) other EU Institutions do not regulate this issue at all. The ECB mentions post-employment issues in Art. 3.1.2. of the Code of Conduct of the ECB from 8 March 2001.

Other interesting features concern the fact that the different codes within the EIB (page 4 of the Code of Conduct for the Members of the Board of Directors, p.8 of the Management Committee Code of Conduct), CoA (Art 6 of the Code for the Members of the Court, Art. 1 of the Code for the Members of the Court) and the ECB (Art. 3.2. of the Code of Conduct of the ECB, Art. 3 of the Code of Conduct for the Members of the Governing Council, Art. 5 of the Code of Conduct for the Members of the Governing Council) are more focused on issues such as insider dealing, independency, confidentiality and secrecy than the Code for the Members of the European Commission.

Other differences concern the nature and content of the declaration of financial interests in a register of interest (threshold of 50,000 EURO in the Court of Auditors), the existence and role of ethics committees and the regulation of post-employment rules. As regards the latter, differences range from existing and monitored to non-existent.

**Comparison of rules and standards in the EU institutions**

<b>Institution</b>	<b>Rules and Standards</b>
European Commission	<p>Art. 213 (2) ECT, Art. 287 ECT            Code of Conduct of Commissioners (SEC (2004), 1487/2 of 24 November 2004)            On-line permanent publication of the Declarations of Interests of Commissioners and public register of received gifts with a value of more than EUR 150            Note from the President and Mrs Kroes to the Members of the Commission on the identification of actual or potential conflicts of interest concerning the Commissioner for Competition (SEC(2004) 1541 of 1 December 2004)            Proposal for an Agreement between the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee and the Committee of the Regions establishing an Advisory Group on Standards in Public Life /* SEC/2000/2077 final</p> <p>Ad hoc ethics committee on activities post-employment (in operation) established by Decision C (2003) 3570 of 21 October            No external ethics committee with investigative or sanctioning powers – procedures for self-regulation by the President of the European Commission</p>
European Parliament	<p>Art. 189 – 201 ECT            Art. 9 Rules of Procedure, Annex I Rules of Procedure of January 2007            “Parliament <b>may</b> lay down rules” (Art. 9 RoP)            No codes            Register of Interest            No ethics committee (self-regulation by Bureau of EP and Quaestors)</p>
European Court of Justice	<p>Art. 222 ECT            Statute of the ECJE (January 2007)            No codes (in preparation)            No register on declaration of interests (in preparation)            No control, no sanctions            No ethics committee</p>
European Court of Auditors	<p>Art. 246 ECT, 247 ECT, 248 ECT            Code of Conduct of the Members of the Court,            Decision No. 92 – 2004 lays down the rules for implementing the rules of procedure of the Court of Auditors, esp. Art. 5 and 6            Register of Interest – only public if Court agrees            Art. 4 of the Code of Conduct requires “A special committee of three Members shall be instructed to examine Members' outside activities”.</p>
European Central Bank	<p>Statute of the ESCB, three Codes of Conduct applicable to the Executive Board Members of the ECB (OJ 2001/C 76/11; OJ 2002/</p>

	<p>C123/06); OJ 2006/C 230/09, Rules on Insider Trading, ECB Decision ECB/2004/2 and ECB/2004/11; Rules of Procedure, Rules on Professional Conduct and Professional Secrecy</p> <p>Register of Interest</p> <p>Art 7 of the Code of Conduct: “The Governing Council shall appoint an Ethics Adviser to provide guidance to the Members of the Governing Council”.</p>
European Investment Bank	<p>Art. 266 – 267 ECT</p> <p>Statute of the EIB, Rules of Procedure, Statement on Governance at the EIB, Code of Conduct of the Members of Board of Directors of the EIB (22 July 2003), Code of Conduct of Members of the Audit Committee of the EIB, Management Committee Code of Conduct, Register of Interest</p> <p>Audit Committee</p> <p>An ad hoc ethics committee provided by Art. 2.4.10 of the Management Code of Conduct</p>

Interestingly, the existing rules on post-employment are also different inside the European Commission. Whereas the Staff Regulations and the Commission Decision on “outside activities and assignments” (2004) require former officials, for a period a 2 years after leaving the Commission to inform the Institution on envisaged assignments or outside activities, the Code of Conduct for Commissioners obliges Commissioners only for a period of one year after the end of their term of office to inform the Commission “in good time” of their intention to engage in an occupation. However, one should also bear in mind that Commissioners shall respect their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. This is a permanent obligation. Moreover, the Court of Justice, on application by the Council or the Commission, may, in the event of infringement to that duty, on the basis of Article 213(2) third paragraph in fine, rule that the Commissioner concerned be deprived of his right to a pension or other benefits in its stead). Finally, the above mentioned one-year period applies only to the obligation to inform the Commission on envisaged post-Commission occupations, the duty of integrity and discretion applies life-long; similarly former officials are as well subject to a permanent duty of integrity and discretion as regards the acceptance of certain appointments or benefits ex vi Article 17 paragraph 2 of the Staff Regulations.

Despite the fact that the relatively vague provisions for Commissioners have been criticised for being too short (and that the Code imposed no sanction in case of non-compliance) they are still longer than the six-month period of the European Investment Bank. All the institutions do not regulate this issue in detail (at least more specifically). The European Parliament, the Court of Auditors and the European Court of Justice do not have post-employment rules at all.

## V. REGISTERS AND FINANCIAL DISCLOSURE POLICIES

### 1. General

During the last years disclosure policies have become one of the most important instruments in conflicts of interest policies. At present, almost all Member States oblige their HPO to declare their (financial) interests. However, a distinction should be made between (public or confidential) declarations of financial interests, the declaration of additional interests and the whether declarations should (or should not) be stored in a register of interest. Whereas in some cases HPO have obligations to declare “only” their financial interests, in most cases they must also declare other issues (like professional activities, honorary memberships, presentations etc.) in registers of interest. Thus the most important questions concern what should be declared, whether (or not) the declarations should be made public, whether (or not) independent bodies should have the power to monitor the registers and whether (or not) there should be sanctions for non-compliance<sup>64</sup>.

The popularity of public disclosure “seems due in part to the ease of implementation and the clear message it sends of a commitment to transparency in government.”<sup>65</sup> In addition, obligations to declare personal interests in public will contribute to establishing a more open and transparent political sector, which is vital if legitimacy and citizen's trust is to be increased.

Despite the popularity of these instruments, discussions on the pros and cons of registration obligation and obligation to register financial interests remain the subject of vivid discussions within the countries and the different institutions.

<b>Pro register, public disclosure and against professional activities</b>	<b>Against disclosure, public disclosure and in favour of professional activities</b>
<ul style="list-style-type: none"> <li>– Legislators should serve the public interest and not the private interest</li> <li>– Today, being a legislator is a full-time job. Generally, pay of legislators is structured in a way that legislators do not need another job</li> <li>– Additional professional activities would require too much time</li> </ul>	<ul style="list-style-type: none"> <li>– Legislators are not civil servants (and should never be) and should be allowed to exercise additional activities</li> <li>– Too detailed public disclosure requirements violate fundament rights (right to privacy, right to exercise a profession etc.)</li> </ul>

<sup>64</sup> H.H. von Arnim, Der gekaufte Abgeordnete – Nebeneinkünfte und Korruptionsproblematik, in: Neue Zeitschrift für Verwaltungsrecht, No. 3, 2006, pp.249.; C.Waldhoff, Das missverständene Mandat: Verfassungsrechtliche Maßstäbe zur Normierung der erweiterten Offenbarungspflichten der Abgeordneten des Deutschen Bundestages, in: Zeitschrift für Parlamentsfragen, No. 2/2006, pp. 251; S. Muhle, Mehr Transparenz bei Nebeneinkünften von Abgeordneten? Zur Weiterentwicklung des Abgeordnetenrechts in Niedersachsen, in: Zeitschrift für Parlamentsfragen, No. 2/2006, pp.266..

<sup>65</sup> Transparency International, Gerard Carney, Working Paper: Conflict of Interest: Legislators, Ministers and Public Officials, on the webpage of TI. <http://www.transparency.org/> (last checked on 11 July 2007)

<ul style="list-style-type: none"> <li>– Additional activities influence the work of legislators. Consequently, private activities constitute a challenge to the need to act in the public interest</li> <li>– The constituency has a right to know what legislators are doing, how much money they receive and from whom</li> <li>– Public disclosure is the best way to control and to deter legislators. It is also a means of monitoring whether legislators use their mandate for the public and not the private cause</li> <li>– Citizens have a right to know whether political decisions are the outcome of economic and private interests</li> <li>– Additional and professional interests necessarily produce conflicts of interest</li> <li>– In order to be in the position to judge the performance of a legislator people have the right to know what kind of potential conflicts of interest exist</li> <li>– Transparency and openness are important elements of a democracy</li> <li>– Self-regulation does not work in many instances. Thus, control is necessary</li> </ul>	<ul style="list-style-type: none"> <li>– Experience shows that registers are not very functional. Often, the public is not interested in the media. However, registers are abused by the media</li> <li>– The introduction and monitoring of registers creates unnecessary bureaucracy</li> <li>– Public disclosure does not reduce conflicts of interest</li> <li>– Additional activities do not necessarily create conflicts of interests</li> <li>– Additional activities allow for legislators to keep contact with “reality” (and with former jobs)</li> <li>– Legislators do not need to work full-time</li> <li>– Disclosure requirements can have negative effects as regards jobs that require a certain confidentiality (advocates etc.)</li> <li>– Too much transparency can harm individual freedom</li> <li>– Voters should best judge and scrutinise the behaviour of legislators – and not registers</li> </ul>
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One main criticism against declaration of interests in registers is that the reporting systems are usually too simplistic, as they merely require a HPO to report in a very general way. An interesting illustration of this example is the comparison of financial declarations in the European Commission with those in the European Parliament. Whereas some Commissioners make relatively detailed declarations, almost all of the MEPs make very general statements in their forms (or simply reply “Nothing to declare”). This case illustrates that declarations and registers work only if requirements (as to what must be declared) are clear and known. Second, there must be a means to monitor these declarations and registers effectively (and independently). Thirdly, there must be credible sanctions for non-compliance. If all of this does not exist, it will be difficult to detect wrong, misleading or partial information. On the other hand, financial disclosure policies and registers must be designed in such a way that the collection, storage and management of detailed financial disclosure forms will not cause a new conflicts of interest bureaucracy.

Another problem is a legal challenge: Whereas in some countries politicians are required to declare detailed information (e.g. also the income and assets of their family) in a register, in other countries detailed requirements to register are not easily accepted. For example, some countries believe that registers are in conflict with fundamental rights (rights to privacy, personal rights, family rights etc.). Because of the different attitudes towards registers and financial declarations some Member States require very detailed disclosure requirements, whereas others ask for much less information.

In Germany, the question of whether public registers are allowed and whether declarations should include detailed financial information was even the subject of a legal case in the German Constitutional Court (*Bundesverfassungsgericht*) in 2007. Actually the German Constitutional Court turned down the lawsuit of nine German Members of Parliament against the German Parliament's Register of Financial Interest. The lawsuit aimed at a new code of the *Bundestag*, which obliges Members of Parliament to notify the Parliament President of their incomes and those of their family to their mandate. The ruling now paves the way for this new code, which has been on hold due to the lawsuit since early 2006.

Despite these ongoing discussions, financial disclosure requirements are generally seen as an important instrument to reduce conflicts of interest. As our empirical analysis shows in only a few cases declarations of financial interests do not exist at all.

However, the content of what needs to be declared varies considerably. Whereas the new Member States like Poland, Romania and Bulgaria mostly have very detailed disclosure requirements, others require much less or even on a voluntary basis (Sweden). Other differences concern the degree of openness (public disclosure or internal disclosure) and questions of sanctioning if members do not disclose or disclose too late. The new Member States in particular have very detailed disclosure requirements for all Holders of Public Office, including legislators. There are bans on honoraria, limits on outside earned income, and restrictions on the acceptance of gifts.

### Examples of disclosure requirements in a new Member State

Country	Content of disclosure requirements
Bulgaria	<p>The persons under art. 2, para 1 (Law for Publicity of the Property of Persons Occupying High State Positions) shall declare in the public register the following property and income:</p> <ol style="list-style-type: none"> <li>1. real estate</li> <li>2. motor, road, water and air vehicles</li> <li>3. cash, takings and liabilities over 5 thousand levs in local or foreign currency</li> <li>4. securities, shares in limited liability companies and limited joint-stock companies, personal stock in joint-stock companies, including that acquired through participation in privatisation transactions, other than bond (mass) privatisation</li> <li>5. income other than that for the position occupied by the persons under art. 2, para 1 and 3, received during the preceding calendar year when they exceed 500 levs</li> </ol> <p>(2) Subject to declaration shall be security and expenses made by or in favour of the persons under art. 2, para 1 and 3 with their consent, when they are not paid by own resources or by resources of the institution they occupy the position for:</p> <ol style="list-style-type: none"> <li>1. education</li> <li>2. travel outside the country</li> <li>3. other payments of a unit price exceeding 500 levs.</li> </ol>

Finally, another distinction concerns the time management of registers. Some countries require HPO not only to file financial reports, but also to file them within a given period. A majority of the countries surveyed provide an exact schedule of disclosure requirements, although the specifics vary. Polish legislators, for example, must file a financial disclosure statement within 30 days of taking office, and annually thereafter. So too in Germany, where each member must file at the beginning of their four-year term, but must also report any additional income, honoraria, or gifts during that period. Some countries, such as the Czech Republic and Ireland, merely require that members file annually.

In the following overview we will present the state of affairs as to our empirical findings.

## 2. Empirical results as to registers and financial declarations

Registers are more frequently used in Parliament and Government than in the Courts of Justice (Supreme Courts), the Central Banks and the Courts of Auditors. Most of these registers are publicly accessible. However, the registers of most other institutions (Supreme Courts, Courts of Auditors, Central Banks) are not publicly accessible.

In Latvia and Poland (both Members States) registers are used by all five institutions.

**Table 13: Registers in the EU Member States by institutions<sup>i</sup>**  
(Frequencies in parenthesis)

Type of Institution		Register
	Government	81% (21)
	Parliament	86% (21)
	Supreme Court	48% (21)
	Court of Auditors	53% (19)
	Central Bank	50% (20)
EU-27 average		64% (102)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

### **Is there a register or not?**

Registers are most dominantly used by Parliaments (86%) and Governments (81%). However, in a few cases there is no formal register, but there are provisions that have more or less the same function. An example of this is the situation for the Court of Auditors in Lithuania: there is no official register, but the tax administrator verifies the accuracy of the data included in property declarations, and collects and safeguards the declarations filed, as well as other data on the property owned by residents obtained from other sources. Another example is the Court of Auditors in Denmark: there is no formal register, but regulations concerning declarations of financial interests are embodied in the Instructions for the Auditor General. This means that the actual percentage of provisions on declaration of financial interests by HPO is probably higher.

### **Is it publicly accessible?**

Most registers of Government and Parliament are publicly accessible. Belgium is an exception: both registers are confidential. Registers regarding the Courts of Justice, the Courts of auditors, and central or National Banks show a mixed picture: most of them are not publicly accessible.

### **What details does it contain?**

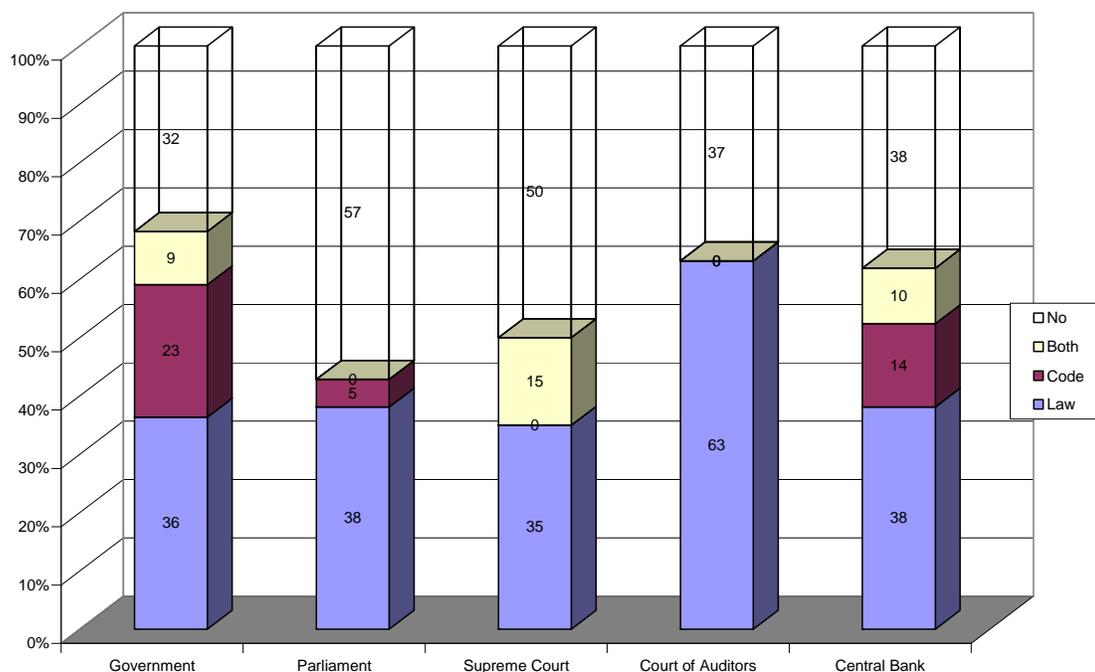
It is difficult to sketch a general picture. Only Bulgaria and Romania have provided detailed information for most institutions. In Bulgaria, Members of Government, Judges of the Supreme Court, and Directors of the Central Bank have to declare the following property and income: real estate; motor road, water and air vehicles; cash, receivables and liabilities over BGN 5,000 in local or foreign currency; securities, shares in limited liability companies and limited partnerships, registered shares in joint-stock companies, also acquired through participation in privatisation transactions, other than bond (mass)

privatisation; income, other than that for the position occupied by these persons received during the preceding calendar year if they exceed BGN 500. In Romania, the declaration of Members of Parliament, Magistrates of the Supreme Court, Directors of the audit office, and Directors of the Central Bank includes own goods, common goods including those of children, and also information as to land, property, production spaces, shares, capital, arts and antiques, foreign exchange deposits, cars, tractors, boats, jewellery and other goods.

### What are the requirements for spouses?

Important differences exist as to whether the spouse’s activities should also be declared. Some Member States oblige the HPO to declare his/her spouse’s activities. The purpose of this rule is to make it more difficult for the HPO to circumvent financial disclosure rules by transferring income, financial interests, property, assets etc. to their spouse or other members of their family. However, our study reveals that many countries do not require a disclosure of spouse or family activities. In total, rules on the declaration of spouse’s activities exist for only half of all institutions. Most Parliaments have no rules as to the activities of spouses. In some countries this raises privacy issues.

**Figure 9: Institutional preferences for means of regulation in the Member States: Regulation of declaration of HPO's spouse's activities**



### Who monitors the register and how often is it updated?

Sometimes monitoring is done internally, but most of the time this is done externally by another institution. An example of internal monitoring is the register for Members of Parliament in the Netherlands. This register is kept in the Clerks’ Office. Romania provides another example of internal monitoring; the wealth declaration of deputies and senators in Romania are submitted to the President of the Chamber they are part of. An example of external monitoring is the Register of Parliament in Belgium: this is kept by

the Court of Auditors. Hungary offers another example: here the Parliamentary Committee on Immunity, Conflicts and Mandate Inspection takes care of the managing of the declaration of wealth of the President of the Supreme Court.

There is little information on the updating of registers. When information is provided, it is mostly annual. This is the case for example for Members of Government in Bulgaria, Hungary, Ireland, and Romania. The registers for Members of Parliament in Germany, Ireland, and the United Kingdom are published on websites and updated regularly.

### **Are there sanctions for non-compliance?**

Information is only available in one case: Members of Parliament in Belgium who fail to file a property declaration commit a misdemeanour and are liable to punishment of a fine of up to 5,000 euros.

## **2.1. Government**

### **Is there a register or not?**

Seventeen out of 21 Member States (who responded to this issue) have registers on declaration of interests for Members of Government: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Hungary, Ireland, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, Spain, Sweden and the United Kingdom (81%); four Member States have no register, namely Germany, France, Italy and the Netherlands (19%).

### **Is it publicly accessible?**

Most of the registers are publicly accessible. The register for Members of Government in Belgium is confidential. In Bulgaria, the declaration of financial interests is made public; however, it cannot be published in the mass media or in any other way without the written consent of the person. In Hungary, the declarations are published on the webpage of the Government. In Latvia, the public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service. In Spain a comprehensive statement of senior officials' financial position is published, excluding information related to their location and safeguarding the holders' privacy and security. The reports on declarations in Romania are public, and they are published on the website of the relevant institution.

### **What details does it contain?**

In Bulgaria, the law requires a declaration of property, income, and expenses (real estate, motorised vehicles, cash, takings and liabilities, securities, shares, income, etc). In Denmark, the questionnaire concerns personal and economic interests. Holders of political posts in Portugal must file a declaration of no-disqualification or impediment, stating all offices, duties and professional activities performed by the applicant, as well as any shares initially held. The register of the European Commission includes professional activities, other remunerated functions or activities, and any support from third parties.

### **What are the requirements for spouses?**

No information is available.

**Who monitors the register and how often is it updated?**

In Austria, the register is kept by the Board of Audit; this board reports to the President of the National Council. In Belgium, the register is kept by the Court of Auditors. In Portugal, holders of political posts must file a declaration with the Constitutional Court which reviews, monitors and confirms declarations submitted. In Romania, the President sends the declaration to the President of the Constitutional Court, the Prime Minister to the President of Romania, and the Members of Government send their declarations to the Prime Minister. Some registers are updated every year. This is the case in for example Bulgaria, Hungary, Ireland, and Romania.

**Are there sanctions for non-compliance?**

No information is available.

**2.2. Parliament****Is there a register or not?**

Eighteen Member States (out of 21 countries who have replied to this question) have a register for Members of Parliament: Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Slovenia, Spain, Sweden, and the United Kingdom (86%); three (14%) Member States have no register: Austria, Italy and Romania.

**Is it publicly accessible?**

The register for Members of Parliament in Belgium is confidential. Property declarations have to be sent to the Court of Auditors in a sealed envelope. They can only be opened at the request of a Judge who is investigating criminal offences that a Member of Parliament allegedly committed in the performance of his duties. The registers in Germany are accessible through a webpage and are published in the handbook of the German *Bundestag*. The same counts for Members of Parliament in Ireland: the register is published on the website of the House. In Lithuania, the public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service. In Portugal, individuals' lists of interest are available to the public for consultation. The register in the United Kingdom is available for public inspection in the Committee Office of the House of Commons and is also available on the Internet.

**What details does it contain?**

Members of Parliament in Belgium have to file a "property declaration" at the beginning and at the end of their term of office with the Court of Auditors. This declaration consists of an overview of all savings, shares, real estate and high value movable property held by the Member of Parliament concerned. In the Netherlands, Members of Parliament are obliged to enter the other positions they have (paid and unpaid) in a public register and also details of the remuneration they receive. Members of Parliament in Portugal have to make a declaration of no-disqualification or impediments, stating all offices, duties and professional activities performed by the applicant, as well as any shares they hold. In Romania, deputies and senators are obliged to declare their wealth in writing. This declaration includes own goods and common goods, as well as those of children. The

declaration also includes information as to land, property, production spaces, shares, capital, arts and antiques, foreign exchange deposits, cars, tractors, boats, jewellery and other goods.

**What are the requirements for spouses?**

Little information is available. There are requirements for spouses of Members of Parliament in Hungary and Romania.

**Who monitors the register and how often is it updated?**

In Hungary, the property statement – except for the property statement from relatives – is publicised by the Speaker of Parliament. The property statement of relatives is kept by the Immunity, Incompatibility and Mandate Examination Committee of the Parliament. In Ireland, completed declarations are sent by Members of Parliament to the Standards in Public Office Commission or in the case of a “nil return” to the Clerk of the House concerned (either the *Dáil* or *Seanad*). In either case all the actual completed declarations are sent to the Clerk of the House concerned where they are tabulated and published on the Houses of the *Oireachtas* website. In the Netherlands this register is also held in the Clerks Office. The wealth declaration of deputies and senators in Romania are submitted to the President of the Chamber they are part of. The duty of compiling the register for Members of Parliament in the United Kingdom rests with the Parliamentary Commissioner for Standards.

Little information is provided on the updating of the registers. In Germany the register is updated regularly on the webpage of the *Bundestag*. The declarations of Members of Parliament in Ireland are also published on a website and updated regularly. In the United Kingdom, the register is updated annually. Between publications the Register is regularly updated in loose-leaf form and is available in that form for public inspection in the Committee Office of the House of Commons.

**Are there sanctions for non-compliance?**

Only a little information is available. In Belgium, any person who fails to file a property declaration commits a misdemeanour and is liable to punishment by a fine of up to 5,000 euros.

### **2.3. Supreme Court**

**Is there a register or not?**

Ten Member States (of the 21 who replied to this question) have a register for Judges of the Supreme Court: Estonia, Finland, Hungary, Latvia, the Netherlands, Poland, Romania and Slovenia (48%); 11 Member States have no register: Austria, Belgium, Bulgaria, Czech Republic, Denmark, France, Germany, Ireland, Luxembourg, Portugal and Spain (52%). The European Court of Justice has a register. The Supreme Court of Lithuania does not have a special register on declarations of financial interests of the Judges. However, according to the Law on Adjustment of Public and Private Interests in Public Service, a candidate judge has an obligation to declare his private interests and to deliver the declaration direct to the Chief Commission on Official Ethics 15 days before

appointment. If the details of the declaration have changed, the Judge is expected to immediately amend the declaration. Each year Judges also have to declare their personal income and property for the State Tax Inspectorate.

### **Is it publicly accessible?**

The declaration of wealth in Hungary, except that of relatives, is public. The declaration of wealth available to the public does not contain any identification data. In Latvia, the public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service. In case of the European Court of Justice, the President of the Court of Auditors is in charge of keeping the register confidential. If an outside party wishes to consult the register, the College of Members has to give prior approval. In Poland, the register is not publicly accessible; Judges have to submit their declarations to the First President of the Court who examines them and deposits them at the Secret Information Office of the Supreme Court. The Taxation Office is also informed and checks the financial statements too.

### **What details does it contain?**

In Bulgaria, Judges of the Supreme Court have to declare in the Public Register the following property and income: real estate; motor road, water and air vehicles; cash, receivables and liabilities over BGN 5,000 in local or foreign currency; securities, shares in limited liability companies and limited partnerships, registered shares in joint-stock companies, also acquired through participation in privatisation transactions, other than bond (mass) privatisation; income other than that from the position occupied received during the preceding calendar year if it exceeds BGN 500. Magistrates in Romania are obliged to declare their assets in writing. This declaration includes one's own goods and common goods, as well as those of children. The declaration also includes information as to land, property, production spaces, shares, capital, arts and antiques, foreign exchange deposits, cars, tractors, boats, jewellery, and other goods. In case of the European Court of Justice, interests and assets over 50,000 euros and unremunerated outside activities have to be declared. Only courses given free of charge need not be declared.

### **What are the requirements for spouses?**

In Hungary, the person obliged to make this declaration has to enclose the declaration of his/her spouse or partner in life living in the same household, as well that of his/her children. The register of the European Court of Justice is also applicable for spouses.

### **Who monitors the register and how often is it updated?**

In Finland, declarations are made to the Ministry of Justice. The Office of the National Court of Justice takes care of managing the declaration of wealth of Judges of the Supreme Court in Hungary. The Parliamentary Committee on Immunity, Conflicts and Mandate Inspection takes care of the managing of the declaration of wealth of the President of the Supreme Court. In Romania, the declaration is submitted to the President of the Constitutional Court.

There is little information on the updating of the registers. In Estonia, there is an obligation to present an annual declaration of interests. The Judges and the President of the Supreme Court in Hungary have to declare their wealth every three years.

### **Are there sanctions for non-compliance?**

No information is available.

## **2.4. Court of Auditors**

### **Is there a register or not?**

Ten Member States (of the 19 who answered to this question) have a register for Directors of the Court of Auditors: Austria, Belgium, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Portugal and Sweden (53%). 9 Member States have no register: Czech Republic, Denmark, France, Germany, Greece, Luxembourg, Netherlands, Slovenia and Spain (47%). The European Court of Auditors has a register of declaration of financial interests. The Court of Auditors in Denmark has no register, but regulations concerning this issue are embodied in the Instructions for the Auditor General. In Lithuania there is also no register, but the tax administrator verifies the accuracy of the data included in property declarations, and collects and safeguards the declarations filed as well as other data on the property owned by residents obtained from other sources.

### **Is it publicly accessible?**

In Hungary, the property declarations of senior officials and auditors are not public. In Latvia, the public part of information on public officials' assets, income and financial liabilities is available on the homepage of State Revenue Service. The declarations of financial interests in Poland are confidential and not made public. The register of the European Court of Auditors is also not made public. In Portugal, the register is held by the Constitutional Court which maintains a national open register.

### **What details does it contain?**

In Romania, the Director of the Audit Office is obliged to declare his wealth in writing. This declaration includes own goods and common goods, as well as those of children. The declaration includes also information as to land, property, production spaces, shares, capital, arts and antiques, foreign exchange deposits, cars, tractors, boats, jewellery and other goods.

### **What are the requirements for spouses?**

Little information is available. The register of the European Court of Auditors is not applicable to spouses of Members of the Executive Board.

### **Who monitors the register and how often is it updated?**

In Hungary, the property declarations of the President and the Vice Presidents of the State Audit Office are registered and verified by the Parliamentary Committee on Immunity, Conflicts and Mandate Inspection. The property declarations of the senior officials and auditors are registered and verified by the President of the State Audit Office. In Poland, the President of the SCC passes his declaration on to the President of Supreme Court. The other HPO pass their declarations on to the General Director of the SCC, who scrutinizes them. In Romania the declaration of financial interests of the Director of the Audit Office is submitted to the President of the Constitutional Court. There is little information on updating the registers. Top managers of the Court of Audit

in Portugal have to present a declaration of interests, assets, incomes and activities to the Constitutional Court every year.

**Are there sanctions for non-compliance?**

No information is available.

**2.5. Central or National Bank**

**Is there a register or not?**

Ten Member States (of the 20 Member States who have answered this question) have a register for Directors of National or Central Banks: Bulgaria, France, Hungary, Ireland, Latvia, Lithuania, Poland, Portugal, Romania and Spain (50%); 10 Member States have no register: Austria, Belgium, Cyprus, Denmark, Estonia, Germany, Italy, Netherlands, Sweden and Slovenia (50%).

In the case of Ireland, the information is not stored in register format. However, the Secretary of the CBFSAI holds the disclosure of interests forms submitted under the Code of Conduct for the Disclosure of Interests in a secure area. In Portugal, for professional activities, including training, conferences and teaching, staff are legally obliged to declare and ask for approval and an internal register is maintained. In Denmark there is no register, but there is a system with random checks. Latvia does also not have a register, but the public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service. In Lithuania there is no separate register on the Board's declarations of financial interests, but there is a common register of declaration of financial interests for all who have to declare an interest under the Law on declaration of property of residents of the Republic of Lithuania. In Slovenia too, there exists no specific register for declaration of financial interests. Nevertheless, a declaration of financial interests and assets may be implicitly understood as a prerequisite for proper implementation of the principle of limited ownership of securities according to the Code of Conduct for employees of the Bank of Slovenia, since the employees are not allowed to directly or indirectly own stock in Slovene banks and savings banks. However, evidencing or registering of such declarations (whether in the form of a statement or an inventory) is not envisaged. The European Central Bank has no register.

**Is it publicly accessible?**

Little information is available. In the case of Hungary, the declaration of wealth, except that of relatives, is public.

**What details does it contain?**

In Bulgaria, Directors of the Central Bank have to declare the following property and income in the Public Register: real estate; motorized vehicles; cash, receivables and liabilities over BGN 5,000 in local or foreign currency; securities, shares in limited liability companies and limited partnerships, registered shares in joint-stock companies, also acquired through participation in privatisation transactions, other than cases of bond (mass) privatisation; income, other than that for the position occupied, received during

the preceding calendar year if it exceeds BGN 500. In Romania, the declaration includes one's own goods and common goods, as well as those of children etc. It also includes information as to land, property, production spaces, shares, capital, arts and antiques, foreign exchange deposits, cars, tractors, boats, jewellery, and other goods.

**What are the requirements for spouses?**

In Hungary, the person obliged to make this declaration has to enclose the declaration of his/her spouse or partner in life living in the same household, as well that of his/her children. In Romania the declaration also includes goods of children and other spouses. In Spain, the statement includes the activities and net worth situation of non-separated spouses and their dependent children.

**Who monitors the register and how often is it updated?**

In Ireland, the forms submitted by Directors, as required by the Ethics in Public Office Acts, are sent via the Secretary to the CBFSAI who then submits them to the Standards in Public Office Commission but retains a copy for the CBFSAI. In Poland, the statement of the President of National Bank of Poland is transmitted to the First President of the Supreme Court; the First President of the Supreme Court analyses the information from the statement. In Romania, the declaration is submitted to the President of the Constitutional Court. In Spain, the statement is submitted to the *Oficina de Conflictos de Intereses* and inscribed in the Register of Interests of Senior Officers. The *Oficina de Conflictos de Intereses* is an independent body organically assigned to the Minister in charge of Public Service Affairs (*Ministerio de Administración Pública*). There is little information available on how often registers are updated, but in the case of Hungary and Spain declarations must be updated each year.

**Are there sanctions for non-compliance?**

No information is available.

## Registers on declaration of financial interests in Member States of the EU

Table 14: Registers on Declarations of Financial Interests by Member State (N=27)

	Government	Parliament	Supreme Court	Court of Auditors	Central Bank
Austria	1	0	0	1	0
Belgium	1	1	0	1	0
Bulgaria	1	.	0	1	1
Cyprus	1	1	.	.	0
Czech Republic	.	.	0	0	.
Denmark	1	1	0	0	0
Estonia	1	1	1	1	0
Finland	.	1	1	.	.
France	0	1	0	0	1
Germany	0	1	0	0	0
Greece	.	.	1	0	.
Hungary	1	1	1	1	1
Ireland	1	1	0	.	1
Italy	0	0	.	.	0
Latvia	1	1	1	1	1
Lithuania	1	1	1	1	1
Luxembourg	.	.	0	0	.
Malta	.	.	.	.	.
Netherlands	0	1	1	0	0
Poland	1	1	1	1	1
Portugal	1	1	0	1	1
Romania	1	0	1	.	1
Slovakia	.	.	.	.	.
Slovenia	1	1	1	0	0
Spain	1	1	0	0	1
Sweden	1	1	.	1	0
United Kingdom	1	1	.	.	.
Total	17 (81%)	18 (86%)	10 (48%)	10 (53%)	10 (50%)

Values: 0=No 1=Yes .=Not known/not applicable

### 3. Registers on financial interests in the EU Institutions

In the European Commission Commissioners must declare outside activities i.e. honorary, unpaid posts in political, cultural, artistic or charitable foundations or similar bodies and in educational institutions currently held and held over the last 10 years. They must also declare any financial interest or asset which might create a conflicts of interest in the performance of their duties. The financial interests which must be declared are any form of individual holding in company capital. This therefore includes shares but also any other form of holding such as convertible bonds or investment certificates. Units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared. Any property owned either directly or through a real estate company must be declared, with the exception of homes reserved for the exclusive use of the owner or

his/her family. Other property the possession of which could create a conflict of interests, especially from a tax point of view, must also be declared. To obviate any potential risk of a conflict of interests, Commissioners are required to declare the **professional activities of their spouses**. The declaration must state the nature of the activity or the title of the position held and, if applicable, the name of the employer. The declaration shall include **any holdings by the Commissioner's spouse** which might entail a conflict of interest.

### **Registers in the EU institutions**

<b>EU Institutions</b>	<b>Yes</b>	<b>No</b>
EU Commission	<b>Yes</b>	
Europ. Parliament	<b>Yes</b>	
Court of Justice		<b>No</b>
Court of Auditors	<b>Yes</b>	
Central Bank	<b>Yes</b>	
Europ. Investment Bank	<b>Yes</b>	

Other European institutions have less detailed rules as to the financial interests of spouses. The rules of procedures of MEPs oblige them to declare their professional activities and any other remunerated functions or activities as well as any financial and material support. These declarations must be updated every year. These provisions are much more general than in the Commission and the rules on sanctions also allow for a lot of flexibility.

In the European Court of Auditors the financial interests that must be declared include any form of individual financial participation in the capital of an enterprise. They include shareholdings, but also any other form of participation such as, for example, convertible bonds and investment certificates. Declarations must also include the total amount of all other financial interests which do not exceed 50,000 euros. Land and property must be declared, as must other assets which do not exceed 50,000 euros. The President and the Members of the Management Committee of the EIB must declare outside activities (posts in foundations or similar bodies currently held and held over the last 10 years and posts in educational institutions currently held and held over the last 10 years), their spouses' professional activities (other than academic or unpaid), financial interests (shares and stocks, insurance policies and bank deposits), assets (real estate and other property) and loans or liabilities. In the European Central Bank the executive Board Members have to submit a written statement about the patrimony, source of wealth and the prospective assets to the President.

### Disclosure requirements in the EU institutions

Institution/EU body	Duties to declare	Specification
EU Commission	<p><b>Outside activities (honorary, unpaid posts in political, cultural, artistic or charitable foundations or similar bodies and in educational institutions. The declaration must include honorary posts held over the last ten years and must distinguish between posts held before the Member of the Commission took up office and those which will continue after that point.</b></p> <p><b>Any financial interest or asset</b> which might create a conflict of interests            Any form of individual holding in company capital. Shares, holding – (convertible bonds or investment certificates – units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared)</p> <p>Any <b>property</b> owned either directly or through a real estate company must be declared, with the exception of homes reserved for the exclusive use of the owner or his/her family</p> <p><b>Other property</b> the possession of which could create a conflict of interest, especially from a tax point of view, must also be declared</p> <p>A declaration of the <b>professional activities of their spouses</b> (nature of the activity or the title of the position held and, if applicable, the name of the employer). The declaration shall include <b>any holdings by the Commissioner’s spouse</b> which might entail a conflict of interest</p>	<p><b>Professional activities: No according to their Code of Conduct, Commissioners may not engage in any other professional activity, whether paid or unpaid</b></p> <p>Financial interests: Yes</p> <p>Property: Yes</p> <p>Assets: Yes</p> <p>Loans/Liabilities: No</p> <p>Spouse’s activities: Yes</p> <p>Spouse’s financial interests: Partly</p>
EU Parliament	MEPs must declare their professional activities and activities or functions which have been remunerated	<p>Professional activities: Yes</p> <p>Financial interests: No</p>

		Property: No Assets: No Loans/Liabilities: No Spouse's activities: No Spouse's financial interests: No
Court of Justice	No register	None
Court of Auditors	<b>Outside activities</b> (honorary, unremunerated offices in foundations or similar organisations in a political, cultural, artistic or charitable sphere or in educational establishments) The <b>financial interests</b> that must be declared include <b>any form of individual financial participation</b> in the capital of an enterprise. They include shareholdings, but also any other form of participation such as, for example, convertible bonds and investment certificates. Declarations must also include the total amount of all other financial interests <b>which do not exceed 50,000 euros</b> <b>Land and property must be declared</b> <b>Other assets which do not exceed 50,000 euros.</b> <b>Spouse's professional activities must also be declared</b>	Professional activities: Yes Financial interests: Yes Property: Yes Assets: Yes Loans/Liabilities: No Spouse's activities: Yes Spouse's financial interests: Not clear
Central Bank	Executive Board Members shall submit to the President a written statement about the patrimony, source of wealth and the prospective management <b>of their personal assets</b> during their term of office	Professional activities: No Financial interests: Yes Property: Yes Assets: Yes Loans/Liabilities: No Spouse's activities: No

		Spouse's financial interests: No
Investment Bank	The President and the Management Committee must declare <b>outside activities</b> (posts in foundations or similar bodies currently held and held over the last 10 years and posts in educational institutions currently held and held over the last 10 years), <b>spouse's professional activities</b> (other than academic or unpaid), <b>financial interests</b> (stocks and shares, insurance policies and bank deposits), <b>assets</b> (real estate and other property) and <b>loans or liabilities</b> .	Professional activities: Yes  Financial interests: Yes  Property: Yes  Assets: Yes  Loans/Liabilities: Yes  Spouse's activities: Yes  Spouse's financial interests: Yes

In the EP the rules of procedure stipulate that the names of Members who have not completed the register within the due time limit will be published in the minutes after due warning. The rule then goes on to state: *"If the Member continues to refuse to submit the declaration after the infringement has been published, the President shall take action in accordance with Rule 124 to suspend the Member concerned"*. However when "checking" the declarations on the webpage of the European Parliament many declarations are filled in with "Nothing to declare". This practice puts into question the usefulness of the instrument as such. Therefore, we advise that **all** institutions should have obligatory registers that are open to the public. The content and the question of what should be declared should be left to the individual institutions. For example, this concerns questions such as whether the spouse's activities should be also listed or whether reporting thresholds should be introduced. Probably more important than detailed reporting obligations are credible monitoring and control mechanisms. So far this does not seem to be the case for all EU institutions (and most of all the ECJ).

## VI. ETHICS COMMISSIONS

### 1. Introduction

Principles of ethics for HPO cast suspicion on any process in which Holders of Public Office discipline themselves. “No one should be the judge in his own cause.”<sup>66</sup> This maxim has guided judges of controversies and makers of constitutions since ancient times. It expresses fundamental values of due process and limited government, providing the foundation for the separation of powers, judicial review<sup>67</sup> etc. Consequently most other professions and most other institutions have come to appreciate that self-regulation of ethics is not adequate and have accepted at least a modest measure of outside discipline.

In the case of HPO independent and outside control is rare. Mostly the different institutions (or HPO) control themselves – if at all. This current practice is not satisfying since only outside and independent bodies are able to oversee and to monitor ethics rules and standards in a fair and impartial way. Outside bodies would also “be likely to reach more objective, independent judgments. It could more credibly protect Members’ rights and enforce institutional obligations without regard to political or personal loyalties. It would provide more effective accountability and help restore the confidence of the public in the ethics process. An additional advantage that should appeal to all Members: an outside body would reduce the time that any Member would have to spend on the chores of ethics regulation.”<sup>68</sup>

Finally, the “move toward a more external form of ethics regulation is designed to enhance public trust and confidence in the procedures that Parliament uses to discipline its Members. It is intended to depoliticise the process of ethics regulation”<sup>69</sup>. However, as our empirical findings show (see below in this chapter), HPO are very reluctant to accept independent experts to judge their CoI. This does not mean that the Member States and the different institutions are not willing to establish any form of control. In fact, Member States often agree on the above-mentioned forms of institutional self-control and establish internal reporting obligations and monitoring mechanisms.

Despite current practice the development seems to be towards the establishment of more external committees.

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<sup>66</sup> Thompson Overcoming the Conflict of Interest in Congressional Ethics, Prepared for the Panel on “Congressional Ethics Enforcement”, op cit, p.2

<sup>67</sup> Thompson Overcoming the Conflict of Interest in Congressional Ethics, Prepared for the Panel on “Congressional Ethics Enforcement”, op cit, p.2

<sup>68</sup> Thompson, Overcoming the Conflict, op cit, p.18

<sup>69</sup> Saint-Martin, Path-Dependency, in: Saint-Martin/Thompson, op cit, p.6

## Self-regulation or independent forms of ethics committees – main differences

Self-regulation committees	Independent ethics committees
Members are internal experts, officials or elected/nominated HPO	Members are independent experts
Internal oversight. Committee Members oversee their peer’s compliance with ethics rules	External oversight. Commission oversees HPO’ compliance with ethics rules
Can be an office, Parliamentary Committee, presidential office within own organisation	Independent with own budget, mostly controlled by Parliament
Duties can include: Advising colleagues on CoI Creating awareness for violations of rules of ethics	Duties can include: providing ethics training, investigating ethics complaints own inquiry determining penalties issuing advisory opinions receiving financial disclosure and monitoring reporting statements
Exist in most EU countries and in EU institutions	Pure models do not exist: US, Canada, Australia, to a lesser extent IRL and UK

### 2. Structural features – powers, functions and resources

Unfortunately, little is known as to the functions and powers of ethics committees. From what is known it seems that Member States provide for ethics bodies that give advice but only few are allowed to investigate allegations and/or to impose sanctions. Other important differences include budgetary powers, and responsibilities for collecting and analysing private disclosure statements by Members (or whether this is done by the personnel administration, the President etc.). However, from a comparative point of view, very little is known as to the operation of these – relatively intransparent – ethics committees, commissions etc. Also little evidence exists as to their internal operations, budgets, rules of procedure and working styles. In the United States, the Congress (House of Representatives and Senate) and the Judiciary all have different ethics committees. In addition, thirty-six states have ethics commissions, which vary enormously in size and capacity. “Budgets vary from 5,000 dollars in Michigan to 7 million dollars in California”<sup>70</sup>.

In Europe, the best known ethics committee is probably the Committee on Standards in Public Life and Privileges in the UK. In a survey by Saint-Martin the author shows that “Ethics commissions in the US are generally more powerful than in the Canadian provinces and in Britain. Their mandate is broader and covers thousands of government

<sup>70</sup> Menzel, Ethics Management, op cit, p. 135.

employees. And as a rule, they have the power to conduct investigations at their own instigation”<sup>71</sup>. Key differences between ethics commission in the US and those in Westminster concern the fact that the US commission covers officials in the executive branch whereas most commissions in the Westminster system focus on the legislative branch. The main role of the British Committee on Standards and Privileges is investigating cases which have been recommended by the Parliamentary Commissioner for Standards. The Committee can also recommend penalties to be voted on by Parliament. According to Saint-Martin the most powerful ethics commission is probably the Australian Independent Commission against Corruption (ICAC)<sup>72</sup>. Its main function is to investigate allegations of unethical conduct by Members of Parliament, judges, ministers, police officers and all employees in government departments and local authorities.

**Table 15: Differences between ethics committees and ethics commissions**<sup>73</sup>

<b>Country</b>	<b>Advisory Function</b>	<b>Enforcement</b>	<b>Own Inquiry</b>	<b>Budget/ Resources per year</b>
Australia (ICAC)	Yes	Yes	Yes	15 million Australian \$
UK	Yes	No	No	Not known
USA (fed.)	Yes	No	No	Approx. 7.5 million \$
USA (California)	Yes	Not known	Yes	6 million \$ (2004)
USA (New York City)	Yes	Yes	Yes	1.5 million \$
Canada (fed.)	Yes	Yes	Yes	5.026 Canadian \$ (2006/2007)
European Commission Ad Hoc Ethical Committee for Commissioners (2003)	Yes	No	No	2,100 euros
European Commission Proposal for an Inter-Institutional Committee (2000)	Yes	No	No	Not known
Ireland	Yes	No but inquiries	Generally not	886.000 €(2005)

<sup>71</sup> D. Saint-Martin, Should the Federal Ethics Counsellor Become an Independent Officer of Parliament?, in: Canadian Public Policy, Analyse de Politiques, Vol. XXIX, Np. 2/2003, p.202.

<sup>72</sup> Saint-Martin, Should the Federal Ethics Counsellor Become an Independent Officer, op cit.

<sup>73</sup> Some data were taken from Saint-Martin, Should the Federal Ethics Counsellor Become an Independent Officer of Parliament?, op cit, p. 203.

In its Annual Report for 2004, the Irish Standards Commission noted that while it can appoint an Inquiry Officer where a complaint is made in relation to a specified act or a contravention of the Ethics Acts, it cannot do so if it is acting on its own initiative and has not received a complaint.

Despite the fact that little is known as to Ethics Commissions and Ethics Committees in general, there seems to be a trend towards the introduction of more of these bodies. In most cases these committees are neither independent bodies nor do they have important monitoring and enforcement powers. Most institutions in the Member States of the EU are of the opinion that any form of self-regulation has the advantage that it is simpler, easier and less conflictual. Therefore, at least currently the Member States and the European institutions prefer this model.

The problem with this practice is that the public increasingly tends to question practices where public institutions regulate their own ethical conduct. More and more it seems that any form of self-regulation causes suspicion. On the other hand, arguments against and in favour of the creation of an independent ethics watchdog are still more based on faith than on empirical evidence. There is also much confusion and exaggeration linked to independent watchdogs. In particular the challenge facing legislative ethics committees is how to ensure their credibility with the press or the public. Most professions – including doctors, lawyers and teachers – discipline their own members through internal committees without facing accusations of attempts to protect their own. However, legislators who intend to discipline their fellow members face a higher level of scrutiny, one resulting from a commitment to public service.

Our data suggests that there is also some link between codes of ethics and the existence of ethics committees (see Table 16: Ethics Committees by Code of Ethics/Conduct<sup>i</sup>). In one third of the cases in which an institution had adopted a code of conduct/ethics, it also had established an ethics committee to provide guidance and monitoring on ethical issues. This is logical, since the adoption of the code would expectedly lead to establishing such committees. On the other hand, to function effectively committees need to have a code that sets the standards for ethical behaviour.

**Table 16: Ethics Committees by Code of Ethics/Conduct<sup>i</sup>**  
(Frequencies in parenthesis)

		Ethics Committees		
		No	Yes	Total
Code of Ethics/ Conduct	No	75% (27)	25% (9)	100% (36)
	Yes	66% (48)	34% (25)	100% (73)
EU-27 average		69% (75)	31% (34)	100% (109)

<sup>i</sup> The total number total cases in each category does not correspond to 27 since unregulated or missing cases have been excluded.

However, the actual difference between those institutions that had a code of conduct/ethics and those that were lacking it did not seem to be very significant. Among the institutions that did not have a code, in one fourth of the cases they still seemed to have an Ethics Committee. The presence of these committees in the absence of a code also stems from the fact that in the majority of these cases the Ethics Committees were in fact Parliaments' standing committees.<sup>74</sup> Nevertheless, it may be somewhat debateable whether these committees can be considered typical Ethics Committees, since the regulation of ethical practices constitutes only a part of their overall responsibilities.

In the EU many Member States have established an internal body that oversees the conduct of the members of the institution. Depending on the institution in question these may take the form of a Parliamentary Committee or a specific Central Bank committee. In other cases the President of the Parliament is in charge of overseeing ethical standards. A model that depends on legislators investigating and sanctioning their fellow members can be problematic. Dennis F. Thompson notes that legislators "rarely report improprieties of their colleagues or even of the members of their colleagues' staffs, and they even more rarely criticise colleagues in public for neglecting their legislative duties."<sup>41</sup> Germany has adopted a somewhat market-oriented approach: the President of the Federal *Diet* discloses any violations to the voters, thereby letting them decide the member's political fate. Another institutional model involves establishing a regulatory system within the legislature or executive. Such a system is typically created through internal standing rules rather than through legislation. It generally takes the form of a Parliamentary committee composed of members, combined with an independent Parliamentary commissioner or commission. Ireland and the United Kingdom adopted this model in the wake of several ethics scandals in the mid-1990s. In the British House of Commons, members appoint a Parliamentary Commissioner for Standards who, along with the Registrar, maintains the Register of Members' Interests.

At EU level the European Commission proposed the setting up of an Advisory Committee on Standards in Public Life (SEC (2000) 2077 final).

The main features of the Commission's proposal were:

- The Advisory Committee should provide advice on ethical standards in the European bodies whilst excluding the possibility of monitoring individual cases. Each institution would be entitled to seek the advice of the committee on its own initiative. However, the request would have to relate to the ethical standards of only the institution putting forward the request
- The European bodies would have to commit themselves to co-operating fully with the Committee (through providing information, attending hearings etc.)
- The Advisory Group should consist of five external experts to be appointed by common agreement of the European institutions
- The criteria for the selection process were: independence, impeccable record of professional behaviour, sound knowledge of the existing legal framework and the working methods of the European institutions, geographical balance, and gender balance

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<sup>74</sup> These cases being Austria, Cyprus, Hungary, Lithuania, Portugal and Spain.

This model would have no sanctioning powers and also no powers as to the management and monitoring of registers of interest. However, despite some differences it has some similarities with the UN Ethics Office, which has also a more consultative and advisory role and of which the tasks are:

- Administering the organisation’s financial disclosure programme
- Undertaking the responsibilities assigned to it under the organisation’s policy for the protection of staff against retaliation for reporting misconduct and for co-operating with duly authorised audits or investigations
- Providing confidential advice and guidance to staff on ethical issues (e.g., conflicts of interest), including administering an ethics helpline
- Developing standards, training and education on ethics issues, in co-ordination with the Office of Human Resources Management and other offices as appropriate, including ensuring annual ethics training for all staff
- Such other functions as the Secretary-General considers appropriate for the Office

The inter-institutional proposal of the European Commission was not welcomed by the European Parliament. The consequence is that inter-institutional as well as sectoral independent ethics committees are still lacking on EU level. Instead, the Commission set up its own ad hoc ethics committee for Commissioners in 2003 in the field of post-employment. This ad hoc ethical committee is not empowered to provide advice on outside activities during the term of office of Commissioners. Our study suggests that this situation needs to be changed. More and more, it seems that any form of no regulation or self-regulation will cause growing public suspicion. The EU institutions are called to act – either on an inter-institutional level (and according to the proposal pending from the Commission), for their own institutions or for both.

### **3. Statistical results**

Our study shows that ethics committees and ethics commissions have only partly been introduced in the Member States. None of the Member States has an ethics committee for each of the five institutions. Most ethics committees have been established within Parliament.

In some cases Member States indicated they do not have formal ethics committees. However, in practice they have installed other types of committees. For instance, Slovenia answered that except for the Court of Justice they do not have ethics committees for any of the institutions. But in accordance with the Prevention of Corruption act, a Commission on Prevention of Corruption exists for both Parliament and Government. These committees both have an internal and an external committee. The external committee deals with ethical questions; the internal committee supervises the performance of tasks of the external committee.

Formally Lithuania also has no committees for any of the institutions, except for Parliament, but misconduct and acts in conflict with the Code of Ethics for Judges must be brought before the Commission for Judicial Ethics and Discipline.

In new Member States committees exist relatively more often. Sometimes the committee's authority is regulated by law. For example, in Latvia the authority and the procedures of the Judicial Disciplinary Committee are regulated by the Judicial Disciplinary Liability Law, and by the Regulations on the Judicial Disciplinary Committee. In Slovenia the Commission on the Prevention of Corruption was founded as laid down in the Prevention of Corruption Act which applies to several institutions.

**Table 17: Ethics Committees by Type of Institution and Member State (N=27)**

	Government	Parliament	Supreme Court	Court of Auditors	Central Bank
Austria	1	1	0	0	0
Belgium	0	0	0	0	0
Bulgaria	0	.	0	0	0
Cyprus	0	1	.	.	0
Czech Republic	.	.	0	1	.
Denmark	0	1	0	0	0
Estonia	1	0	1	0	0
Finland	0	0	0	.	.
France	0	0	0	1	0
Germany	0	0	1	0	1
Greece	.	.	1	0	.
Hungary	0	1	0	0	1
Ireland	1	1	0	.	1
Italy	0	0	.	.	1
Latvia	0	1	1	1	1
Lithuania	0	1	0	0	0
Luxembourg	0	.	0	0	.
Malta	.	.	.	.	.
Netherlands	0	0	0	0	0
Poland	0	1	1	0	0
Portugal	0	1	0	0	0
Romania	0	1	0	.	0
Slovakia	.	.	.	.	.
Slovenia	0	0	1	0	0
Spain	1	1	0	0	0
Sweden	0	0	.	0	0
United Kingdom	1	1	.	.	.
<b>Total</b>	<b>5 (22%)</b>	<b>12 (57%)</b>	<b>6 (29%)</b>	<b>3 (16%)</b>	<b>5 (25%)</b>

Values: 0=No 1=Yes .=Not known/not applicable

As is already the case in the regulation of conflicts of interests, the new Member States are also more active in this area than the old Member States: More new Member States have established ethics committees than older Member States.

**Table 18: Ethics committees by old and new Member States**  
(Frequencies in parenthesis)

	No	Yes	Total
Old Member State	73% (44)	27% (16)	100% (60)
New Member State	65% (28)	35% (15)	100% (43)
EU-27 average	70% (72)	30% (31)	100% (103)

### **Is it internal/external?**

The majority of ethics committees are internal. In case of the Central or National Banks, all five ethics committees are internal. Examples are:

- the permanent Commission on Ethics and Procedures in the Parliament in Lithuania
- a committee in Italy where the Central Bank set up an evaluation team within the Legal Affairs Department to examine and share opinions on questions concerning the application of the Code of conduct
- the Irish Standards in Public Office Commission that provides advice to Members of the Government

An example of an external ethics committee is the Commission for Standards in Public Life (CSPL) in the United Kingdom. This committee was set up as an Advisory Non-Departmental Public Body.

### **Is it independent?**

There is little information available on the issues of independence of the committees. The fact that most committees are internal might indicate their limited independence.

### **What is their budget?**

There is no information available regarding the budget that committees have.

### **Does it have inquiry rights, conduct investigations upon its own initiative? Does it have an advisory function and/or sanctioning possibilities?**

Most ethics committees have an advisory function and no sanctioning possibilities.

### **Who are its members and who appoints them?**

The members can be Members of the Court (Court of Auditors), Magistrates (Court of Justice), or members from each parliamentary group (Parliament). The Ethics Committee of the Hungarian Central Bank consists of five members with different positions and backgrounds; the Chairman of the Committee is the managing director who guides the HR Department, the members are the representatives of the trade union, HR Department, Department of Law, and the representative of the bank elected directly by the employees of the bank.

The European Investment Bank’s committee consists of leading personalities from the financial sector.

The committees regarding national Parliaments are often institutionalised as Parliamentary committees.

**Who does the committee report to?**

The data received do not provide information on the question of how and to whom the committees should report.

**What is the distribution of committees in the different Institutions?**

In none of the Member States does an ethics committee exist in all five institutions. Latvia seems to be an exception: except from the Government, all institutions have installed Ethics Committees. On the other hand, in many Member States such as the Netherlands and Belgium institutions do not use Ethics Committees.

In fact, ethics committees have mostly been introduced in Parliaments but much less in the Governments, Court of Auditors, Supreme Courts and Central Banks. Ethics Committees are most dominantly used by Parliament (57%). Within the Courts of Auditors, only 16% make use of a committee. Compared to the use of registers, committees are less often used as an instrument.

**Table 19: Ethics committees in the Member States**  
(Frequencies in parenthesis)

		Mean
Type of Institution	Government	22% (23)
	Parliament	57% (21)
	Supreme Court	29% (21)
	Court of Auditors	16% (19)
	Central Bank	25% (20)
EU-27 average		30% (104)

The situation is not very much different on EU level where none of the EU institutions have a powerful ethics committee. The European Commission, the Court of Auditors and the European Investment Bank allow for the establishment of an ad hoc ethics committee (mostly in the area of monitoring of post-employment issues). The Statute of the European Central Bank calls for the invitation of external ethics advisors.

**Table 20: Ethics Committees in the European institutions**

EU Institution	Yes	No
European Commission	<b>Ad hoc committee</b>	
Europ. Parliament		<b>No</b>
Court of Justice		<b>No</b>
Court of Auditors	<b>Committee</b>	
Central Bank	<b>Advisors</b>	
European Investment Bank	<b>Ad hoc committee and Compliance Officer</b>	

### **3.1. Government**

#### **Is there an ethics committee?**

Five out of 23 Member States have installed an ethics committee for Members of Government: Austria, Estonia, Ireland, Spain, and the United Kingdom (22%); 18 Member States have no ethics committee (78%): Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovenia and Sweden (78%). Four countries did not answer. The European Commission has a specific ad hoc ethical committee with advisory capacity on the issue of post-Commission employment.

#### **Is it internal/external?**

Four of the five ethics committees that are installed at Government level are external: the Committee on the Application of the Anti-Corruption Act in Estonia, the Standards in Public Office Commission in Ireland, the Conflicts of Interest Office in Spain, and the Committee on Standards in Public Life in the United Kingdom. These committees mostly cover other institutions as well.

In the case of Slovenia, the Government does not have an ethics commission, nevertheless there is a commission responsible for assisting the competent authorities on ethical issues – the Commission on Prevention of Corruption. The European Commission, in accordance with the last paragraph of point 1.1.1 of the Code of Conduct for Commissioners, established a specific ad hoc ethical committee with advisory capacity on the issue of post-Commission employment. At the European Parliament the *Bureau du PE* and Quaestors are responsible for keeping a register and drawing up detailed rules for the declaration of outside support, and a Commission *des affaires juridique*.

#### **Is it independent?**

There is little information available on the issue of independence of the committees.

#### **What is their budget?**

There is no information available regarding the budget that committees have.

#### **Does it have inquiry rights, conduct investigations upon its own initiative?**

Most ethics committees at governmental level do not seem to have inquiry rights, or can conduct investigations at their own initiative. The Conflicts of Interest Office in Spain might be an exception. The Court of Justice Committee in Estonia – the Judges' Disciplinary Committee – discusses disciplinary matters concerning misconduct in terms of law or code of ethics.

#### **Does it have advisory function and/or sanctioning possibilities?**

Most of the ethics committees seem to have an advisory function. The Conflicts of Interest Office in Spain might be an exception.

**Who are its members and who appoints them?**

There is no information available on who are in the committees and by whom they are appointed.

**Who does the committee report to?**

The data received do not provide information on the question of how and to whom the committees should report.

**3.2. Parliament****Is there an ethics committee?**

Twelve out of 21 Member States have an ethics committee installed for Members of Parliament: Austria, Cyprus, Denmark, Ireland, Hungary, Latvia, Lithuania, Poland, Portugal, Romania, Spain, and the United Kingdom (57%). Nine Member States have no ethics committee at Parliament level: Belgium, Estonia, Finland, France, Germany, Italy, Netherlands, Slovenia and Sweden (43%). Six Member States did not answer. The European Parliament does not have an ethics committee.

Cyprus has a Parliamentary committee specifically responsible for ensuring the application of its provisions on the Declaration and Control of the Assets of the President, the Ministers and the Members of the Parliament of the Republic of Cyprus.

Germany has no special committee, but has a Parliamentary committee with an advisory role. In Hungary, the Parliament has no ethics committee, but the Immunity, Incompatibility and Mandate Examination Committee of the Parliament fulfils ethical tasks related to, for example, the immunity affairs of the Members of Parliament. In the case of Slovenia, the Government also does not have an ethics commission; nevertheless, there is an independent commission – outside the Parliament – that deals with ethical questions and performs tasks for all holders of public functions (deputies, ministers etc). Furthermore, the National Assembly set up a commission – inside Parliament - in accordance with the Prevention of Corruption Act which supervises the performance of tasks of the Independent Commission.

**Is it internal/external?**

The ethics committee in Ireland is internal. Actually in Ireland each of the two Houses (the Dáil and Seanad) have their own committee, called Committees on Members' Interests.

Although Slovenia does not have a formal ethics committee, there is an internal and external committee. The external committee deals with ethical questions, the internal committee supervises the performance of tasks of the external committee.

**Is it independent?**

Although Slovenia does not have a formal ethics committee, the body which deals with ethical questions in Slovenia has both an internal and an external sub-committee. The external committee is independent.

**What is their budget?**

There is no information available regarding the budget that these committees have.

**Does it have inquiry rights, conduct investigations upon its own initiative?**

There is little information available on the rights and possibilities for ethics committees to undertake inquiries. The functions of the committee in Ireland are not only advising, but also investigating and deciding sanctions for Members of Parliament.

**Does it have advisory function and/or sanctioning possibilities?**

There is little information available on the sanctioning possibilities of the committees. The Irish Committees on Members' Interests are allowed to sanction. The committee in Romania that is called the Juridical Committee on Appointments, Discipline, Immunities and Validations is authorised to sanction ('application of disciplinary sanctions').

**Who are its members and who appoints them?**

There is little information available on who is in the committees and by whom they are appointed. In Spain the committee consists of one member from each parliamentary group. It has a chairman, a vice chairman and a secretary who are representatives of the three largest Parliamentary groups at the beginning of the Parliamentary term.

**Who does the committee report to?**

The data received do not provide information on the question of how and to whom the committees should report.

### **3.3. Supreme Court**

**Is there an ethics committee?**

Six out of the 21 Member States have an ethics committee for Judges of the Supreme Court (29%): Estonia, Germany, Greece, Poland, Slovenia and Latvia. Fifteen Member States have no register: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Hungary, Ireland, Lithuania, Luxembourg, Netherlands, Portugal, Romania and Spain (71%). Six Member States did not answer. The European Court of Justice has no ethics committee.

Lithuania has no formal committee. Nevertheless the Judicial Council and chairman of the Court concerned may initiate disciplinary action against the Judge in the case of an act incompatible with the Judge's honour and in conflict with the requirements of the Code of Ethics for Judges, discrediting the office of the Judge and undermining the authority of the Court. Any misconduct must be brought before the Commission of the Judicial Ethics and Discipline. In Portugal too no formal committees exist; the functions

of advice and control of the conduct of Judges in the ethical aspect is the responsibility of the Higher Council of Magistrature and the Higher Council of Administrative and Tax Courts. Slovenia has no formal committees, but the Juridical Council gives its opinion on questions regarding actions by other Judges in line with judicial ethics. Furthermore the Slovenian Association of Judges has its own Council for Judicial Ethics, linked with the (non-binding) Code of the Association.

**Is it internal/external?**

There is no information available regarding the question whether the committees function mainly internally or externally. The German committee is an internal committee. The Latvian committee – the Judicial Disciplinary Committee – is external.

Although Lithuania does not have a formal ethics committee, there is an external commission, the Commission of the Judicial Ethics and Discipline. Poland also does not have a formal ethics committee, but the existing permanent commission on Judges' professional ethics of the National Judicial Council could be considered as an internal committee. The board of the Supreme Court is authorised to adopt resolutions on ethical issues.

**Is it independent?**

There is little information available on the issue of independence of the committees.

**What is their budget?**

There is no information available regarding the budget that committees have.

**Does it have inquiry rights, conduct investigations upon its own initiative?**

There is no information available on the rights and possibilities to undertake inquiry.

**Does it have an advisory function and/or sanctioning possibilities?**

There is little information available on the sanctioning possibilities. The committee in Estonia – the Judges' Disciplinary Committee - discusses disciplinary matters concerning misconduct in terms of law or code of ethics. The committee in Latvia has the authority to decide on disciplinary and administrative violations by Judges of the district (city) Courts, by the Land Registry, by the regional Courts and by Supreme Court Justices. This committee ensures that those named officials who do not follow the law while in the office are held accountable. Disciplinary proceedings may be initiated by the Minister of Justice, the Chief Justice of the Supreme Court or the chairpersons of lower and regional Courts.

**Who are its members and who appoints them?**

There is no information available on who is in the committees and by whom they are appointed.

**Who does the committee report to?**

The data received do not provide information on the question of how and to whom the committees should report.

### **3.4. Court of Audit**

#### **Is there an ethics committee?**

Three out of 19 Member States have an ethics committee for Directors of the Court of Auditors (16%): Czech Republic, France and Latvia; 16 Member States have no ethics committee: Austria, Belgium, Bulgaria, Denmark, Estonia, Germany, Greece, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovenia, Spain and Sweden (84%). Eight Member States have not answered. The European Court of Auditors has an ethics committee.

#### **Is it internal/external?**

There is no information available regarding the question whether the committees function mainly internally or externally. The committees of France, Czech Republic and the committee of the European Court of Auditors are internal.

#### **Is it independent?**

There is no information available on the issues of independence of the committees.

#### **What is their budget?**

There is no information available regarding the budget that committees have.

#### **Does it have inquiry rights, conduct investigations upon its own initiative?**

There is little information available on inquiry rights.

The Code of Conduct and the Rules for Implementing the Rules of Procedure provide for a committee responsible for examining outside activities of the Members of the European Court of Auditors. Members of the European Court of Auditors have to declare their outside activities to the President of the Court who forwards these to a committee which is composed of three Members of the Court, who are preferably not engaged in outside activities. The President of the Court ensures that negative recommendations by the committee are implemented. The committee is apparently only competent to judge on outside activities. The Code of Conduct and the Rules for Implementing the Rules of Procedure provide for a committee responsible for examining outside activities of the Members of the Court of Auditors.

#### **Does it have an advisory function and/or sanctioning possibilities?**

There is little information available on the sanctioning possibilities of committees. The role of the French *Collège de Déontologie* is to examine questions on conflicts of interest (integrity, neutrality, discretion, secrecy and impartiality) of the people in charge and to carry out a reflection on these questions. The commission advises on how to interpret, evolve and adapt the principles in the existing ethics charter.

#### **Who are its members and who appoints them?**

There is little information available on who are in the committees and by whom they are appointed. The ethics committee in the Czech Republic - Disciplinary Chamber - is composed of the State Audit Office President and two Members of the Supreme Court. The committee of the European Court of Auditors is composed of three Members of the

Court (who are preferably not engaged in outside activities). The French ethics committee, the *Collège de Déontologie*, is made up of three Magistrates. The Committee of European Court of Auditors consists of three members who should preferably not be engaged in any outside activities.

#### **Who does the committee report to?**

The data received do not provide information on the question how and to whom the committees should report.

### **3.5. Central or National Bank**

#### **Is there an ethics committee?**

Five out of 20 Member States have an ethics committee for Directors of National or Central Banks: Germany, Hungary, Ireland, Italy and Latvia (25%); 15 Member States have no register: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, France, Lithuania, Netherlands, Poland, Portugal, Romania, Slovenia, Spain and Sweden (74%). Seven Member States did not answer. Both the European Central Bank and the European Investment bank have provisions regarding ethics commissions.

Germany has an advisor for corporate governance, whose main task is to interpret the code of conduct for the management board and the EZB Council. The Central Bank and Financial Services Authority of Ireland does not have an ethics committee or advisory group, but it does have an Ethics Advisor (a former Governor). In Italy, an evaluation team has been set up within the Legal Affairs Department to examine and share opinions on questions concerning the application of Code of conduct.

In Lithuania there is no specific ethics committee, but the code of ethics lays down that Members of the Board should consult each other and that employees should consult each other or any Member of the Board. Within the Bank of Slovenia no committee or advisory group exists; however, the General Secretary is entitled to the interpretation of the code.

According to the Code of Conduct for the Members of the Board of Directors of the European Investment Bank, an Ad Hoc Ethics Committee is set up in the Terms of Reference.

The European Central Bank appoints an Ethics Advisor to the Executive Board in order to ensure a consistent interpretation of the Code of Conduct of the ECB and the Supplementary Code of Ethical Criteria for the Members of the Executive Board.

#### **Is it internal/external?**

All five committees of the Central Banks operate with an internal focus.

#### **Is it independent?**

There is little information available on the issues of independence of the committees.

The Ethics Advisor in Ireland is an independent person of appropriate standing and experience and is available for Directors to consult in confidence in case of uncertainty about any issue relating to the annual disclosure of interests requirements.

**What is their budget?**

There is no information available regarding the budget that committees have.

**Does it have inquiry rights, conduct investigations upon their own initiative?**

No information is available on the rights and possibilities to undertake inquiry.

In Hungary, one of the tasks of the Ethics Committee is to closely follow the enforcement of the rules of the code and to take initiatives to amend the internal regulations in the framework of this.

**Does it have an advisory function and/or sanctioning possibilities?**

There is little information available on the sanctioning possibilities. Most committees seem to have an advisory function and no sanctioning possibilities.

**Who are its members and who appoints them?**

Little information is available on who is in the committees and by whom they are appointed. In Hungary, the Ethics Committee of the Central Bank has five members; the chairman of the Committee is the director of the HR Department, the members are the representatives of the trade union, HR Department, Department of Law, and the representative of the bank elected directly by the employees of the bank. In the case of the European Investment Bank, the Ad Hoc Ethics Committee consists of three members who are leading persons in the financial sector.

**Who does the committee report to?**

The data received provide little information on the question how and to whom the committees should report. In the case of Hungary, the Ethics Committee prepares annual reports for the Governor of the MNB. The Ad Hoc Ethics Committee of the EIB is consulted by the Secretary General in accordance with the Presidency of the EIB. Information is not disclosed to third parties.

### **3.6. Ethics commissions in the EU institutions**

Important differences also exist amongst the EU institutions as regards the existence of ethics commissions and/or ethics officers. Compared to countries like the USA, Canada and Australia, the EU institutions have no external ethics committees or inter-institutional ethics bodies. Instead, some of the European institutions have established internal committees or advisors who should be consulted on ethical questions. For example, the European Commission and the European Investment Bank have established ad hoc committees which should be consulted concerning post-employment issues. Also the Code of Conduct and the Rules for Implementing the Rules of Procedure of the European Court of Auditors provide for a committee responsible for examining outside activities of the Members of the Court of Auditors. To this should be added the Ethics Advisor of the

European Central Bank and the Compliance Officer in the European Investment Bank. The European Court of Justice and the European Parliament have no advisory bodies.

Because of the non-existence of (independent) external ethics committees (**with investigative and/or sanctioning powers**), all EU institutions rely on the principle of self-regulation of conflicts of interest. Self-regulation means that the ultimate decision-making and sanctioning powers will be decided by internal bodies or persons.

Interesting cases concern the Code of Conduct of Commissioners, the Code of the European Investment Bank and of the European Court of Auditors. For example, the Code of Conduct of Commissioners stipulates: “Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, whether this be at the end of their term or upon resignation, they shall inform the Commission in good time. The Commission shall examine the nature of the planned occupation. If it is related to the content of the portfolio of the Commissioner during his/her full term of office, the Commission shall seek the opinion of an ad hoc ethics committee. In the light of the committee's findings it will decide whether the planned occupation is compatible with the last paragraph of Article 213(2) of the Treaty” (1.1.1. Outside activities, Code of Conduct for Commissioners).

The Code of the Investment Bank is very similar. According to the Code former members of the Board of Directors shall “**submit for adjudication to the Secretary General**” any official/professional position proposed to them”, for a period of six months following the termination of their mandate. If the **Secretary General** considers that a potential conflict of interest could arise, **he** will advise **the President of the Bank** to submit it to the Ethics Committee (Code of Conduct of the Board of Directors, p.4).

In the European Court of Auditors Art. 6 of Decision No. 92 – 2004 rules: “Members shall declare their outside activities to the President of the Court who forwards these to a Committee which is composed **of three Members of the Court**, who shall preferably not be engaged in outside activities.”

When reading these rules carefully it can be seen that the ultimate decision-making powers on conflicts of interest should be kept internal. There is no space here to discuss more extensively whether these forms of self-regulation are effective, credible or whether they may even produce new conflicts of interest for those persons who must ultimately decide. In most cases the decision-making power is given to internal persons (the Commission, the President, Members of the Court of Auditors) who are in close contact with the person in question.

Another interesting case of self-regulation concerns the note from the President and Mrs Kroes to the Members of the Commission on the identification of actual or potential conflict of interest concerning the Commissioner for Competition (SEC(2004) 1541 of 1 December 2004). This document provides for a number of detailed steps to be taken in order to identify and to evaluate actual and potential CoI of the Commissioner for Competition. Here a key role is given to the Director General of DG Competition and to

the Director General of the Legal Service who shall assess whether the particular situation relates to a:

- Category I situation (factual circumstances involving a specific undertaking listed in Annex 2 during the time that the Commissioner served in boards or as an advisor)
- Category II situation (factual circumstances involving any specific undertaking listed in Annex 2 although the Commissioner was not serving on a board or as an advisor), and
- Category III situation (other factual circumstances that may give rise to a potential conflict of interest)

Whereas the rules and standards which are laid down in this international arrangement may be impressive<sup>75</sup>, it is another question whether they do not create new dilemmas for the Directors-General concerned and the President of the European Commission when analysing actual or potential CoI. The President may decide on the reallocation of the dossier to another Commissioner or to decide to take the case himself. It should be stressed that, in accordance with the Framework Agreement on relations between the European Parliament and the Commission, the President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Commissioner unable to perform his/her duties. The same framework agreement adds that the President of the Commission shall inform the President of Parliament of all cases of reallocation of dossiers due to possible conflicts of interest.

Thus, according to these rules the ultimate decision on a breach of the Code by a Commissioner lies with the President of the European Commission. This raises the question whether the ultimate power to decide on breaches of interests of individual Commissioners will not produce another conflict of interest for the President of the Commission. Even if he/she is neutral would he/she have an interest in provoking a crisis within his/her own commission? Or would he/she be tempted to save the face of the Commission? And what happens if the President breaches the code? A similar question arises as to the position of the Quaestors in the European Parliament.

In the Court of Auditors too internal conflicts of interest may be provoked when Members of the Court declare their outside activities to the President of the Court who forwards these to a committee which is composed of three Members of the Court, who shall *preferably* not be engaged in outside activities (*Decision No. 92 – 2004*) The President of the Court ensures that negative recommendations by the committee are implemented. This practice also poses enormous challenges as to the independent behaviour of the President.

However, the European Commission and the EIB (and partly the CoA) are still far ahead of the other institutions that have no or even weaker forms of internal self-regulation. In order to change this situation the European Commission proposed setting up an Advisory Committee on Standards in Public Life in the year 2000. The purpose of the 2000

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<sup>75</sup> It should be mentioned here that additional detailed ethical rules on financial interests, gift policies, insider dealing and personal relationships apply to the Staff of DG Competition as well as to seconded national experts and the Cabinet of the Commissioner.

proposal was to propose a very “light” form of ethics committee. The committee’s tasks were to offer independent advice to the European institutions on standards of ethics. It was NOT expected to comment on individual cases. However, the European Parliament did not support the proposal made by the Commission in 2000 for a single advisory ethics committee. Rather the Parliament felt that it should have its own ethics committee and not a single body competent for all institutions. However, until the present no such committee has been set up.

## VII. EVIDENCE AS TO THE EFFECTIVENESS OF CONFLICTS OF INTEREST REGIMES

### 1. Positive aspects of rules and standards in the field of conflicts of interest policies

Most supporters of more and better rules and ethical standards claim that rules and standards are important because Holders of Public Office “hold positions of such importance and such accountability that the public can claim a reasonable right to know some of the details of their personal finances and the potential conflicts those might create.”<sup>76</sup>

Especially in the field of registers of financial interest, requirements for more transparency and declaration of information etc. reveal important information to the public which would otherwise be kept secret. For example, in the United States a study from the Center for Public Integrity shows that “more than 28 percent of state legislators who reported their finances sat on a committee with authority over at least one of their personal interests in 2001 (...). Eighteen percent disclosed ties to organizations registered to lobby state Government. And 10 percent were employed by other government agencies...”<sup>77</sup> The publication of these figures may not be sufficient to discipline office holders and improve ethical behaviour because public exposure acts as a stimulus. However, only the fact that public disclosure is not hidden from public view enables the public to control HPO at all.

The same argument can be used for strict regulations on gift policies. Apart from the regulation of general ethical principles gifts and related benefits are by far the most regulated item in the field of conflicts of interest. Our study shows that only 14% of all institutions have no regulations in the field of gifts. Almost all Courts of Auditors and Central Banks that contributed to our study have rules in this field. In the literature some authors suggest that laws of ethics that had “the greatest impact on the legislative process are those that ban or limit gifts (...) from lobbyists or their principals, or laws that simply require their disclosure. In most states these laws have reduced gift giving and gift taking”<sup>78</sup>. “Gift bans and gift disclosure requirements have been highly effective.”<sup>79</sup> If this observation is correct the situation in Europe looks relatively positive. On the other hand, the answer from national Parliaments to our study reveal that 30% of all Parliaments have **not** regulated gifts, decorations and distinctions. Given the importance of this subject this is too high a figure.

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<sup>76</sup> Mackenzie, op cit, p.168.

<sup>77</sup> The Center of Public Integrity, D. Dagan Personal Politics, Special Report, 24 September 2004.

<sup>78</sup> Saint-Martin/Thompson, op cit, p. 172.

<sup>79</sup> Ibid

**Table 21: Regulation of Gifts and similar issues by Type of Institution (N=27)<sup>i</sup>**  
(Frequencies in parenthesis)

		Accepting gifts, decorations or distinctions	Missions, travels	Rules on receptions and representation
Type of Institution	Government	86% (21)	89% (18)	65% (20)
	Parliament	71% (21)	50% (20)	30% (20)
	Supreme Court	81% (21)	68% (19)	42% (19)
	Court of Auditors	100% (19)	78% (18)	67% (18)
	Central Bank	95% (21)	55% (20)	74% (19)
	EU-27 average	86% (103)	67% (95)	55% (96)

<sup>i</sup> The number of total cases in each category does not correspond to 27 since missing cases are excluded.

Other positive effects of rules and standards are that they contribute in transforming cultures. One example is the British example of the **Seven Principles of Public Life**<sup>80</sup> which is one of the few European standards of ethics which is applicable for all Holders of Public Service. The Seven Principles were set out by the Committee on Standards in Public Life and became a well known standards document – also on the international level.

The seven principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

<sup>80</sup> [http://www.public-standards.gov.uk/about\\_us/the\\_seven\\_principles\\_of\\_life.aspx](http://www.public-standards.gov.uk/about_us/the_seven_principles_of_life.aspx)

## **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

## **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **Leadership**

Holders of public office should promote and support these principles by leadership and example.

The popularity of these principles may have also convinced other countries (like Slovenia, Bulgaria and Romania) to adopt centralised codes of ethics.

Mostly, partisans in favour of more or better rules do not pretend that more rules and standards will decrease corruption and conflicts of interest. However, additional standards may deter HOPs from questionable behaviour! More or better-designed rules are also meant to eliminate the sometimes arbitrary practices and privileges inherited from the past. The process of accessions of the new Member States to the EU in 2004 and 2007 had the positive effect that all new Member States reformed their laws on ethics, corruption and conflicts of interest. Today, the regulation density is higher in these countries than in the former member countries. This is certainly a positive development.

In the meantime most of the new Member States have introduced more and stricter rules for all governmental institutions. Despite all the problems in implementing and enforcing these rules this can be considered as a positive process.

In addition, the process of elaborating rules and codes of standards may have important educational effects. "It would be unfortunate if the emphasis on a code of ethics as a product obscured the value of the process by which a code is developed and subsequently revised. This process is a time of critical self-examination by both individual members and the profession as a whole. The profession must institutionalise a process whereby its moral commitments are regularly discussed and assessed in the light of changing conditions both inside and outside the profession. The widespread participation of members in such an effort helps to reinvigorate and bring into sharp focus the underlying values and moral commitments of their profession. It is a time of testing one's professional ethics against those of colleagues and for testing the profession's ethics against the experience of its members and the values of society. This process of self-criticism, codification, and consciousness-raising reinforces or redefines the profession's collective responsibility and is an important learning and maturing experience for both individual members and the profession."<sup>81</sup>

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<sup>81</sup> Frankel, op cit, p. 112/113.

So far only few studies have demonstrated a clear connection between rules and standards in the field of conflicts of interests and a decrease in conflicts. However, a study by Fain shows that strict gift policies (so-called zero gift policies) have a positive impact on gift taking. Strict gift policies may seem extreme by prohibiting public officials from receiving gifts from anyone. However, they eliminate any doubt, are easy to understand and also easy to enforce.<sup>82</sup>

Other experts claim that “strict rules, standards and management instruments in the field of conflicts of interest bring other benefits for public sector organisations. First and foremost, opportunities for corruption or improper conduct are reduced. Second, effective policies and procedures for identifying, disclosing and managing conflicts of interest mean that unfounded accusations of bias can be dealt with more easily and efficiently. Third, the organisation can demonstrate its commitment to good governance by addressing an issue that is commonly associated with corruption and misconduct. Fourth, a transparent system that is observed by everyone in an organisation as a matter of course will also demonstrate to members of the public and others who deal with the organisation that its proper role is performed in a way that is fair and unaffected by improper considerations.

Fifth, failure to identify, declare and manage a conflict of interest is where serious corruption often begins and this is why managing conflicts of interest is such an important corruption prevention strategy.”<sup>83</sup> Another empirical study by Feldheim and Wang demonstrates that ethical behaviour of public officials improves public trust. The authors find higher levels of public trust in cities where managers have higher perceptions of ethical behaviour. Furthermore, “integrity, openness, and loyalty to the public interest (...) are crucial in increasing public trust.”<sup>84</sup>

## **2. Challenges and unintentional side-effects of rules and standards in the field of conflicts of interest policies**

Interestingly, critical approaches as to the effects of conflicts of interest rules are abundant in the USA and in the UK but much less in continental Europe. This can be explained by the fact that the US system provides for more and stricter rules and standards of ethics, more control and monitoring requirements than most other European countries and the existence of a real (ethics) bureaucracy. Some experts also claim that ethical problems are more discussed in the US than in continental Europe because of differences in culture and tradition. Behncke<sup>85</sup>, for example, believes that ethics as a policy issue is much less important in Germany because German public officials have a stronger public service ethos than their colleagues in the US. In Germany most top-

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<sup>82</sup> H. Fain, The Case for a Zero Gift Policy, in: Public Integrity, Winter 2002, pp. 61.

<sup>83</sup> Independent Commission against Corruption and Crime, Managing Public Ethics in the Public Sector, Guidelines, Australia, Sydney 2004

<sup>84</sup> M.A. Feldheim/X.Wang, Ethics and Public Trust, in: Public Integrity, 2003-2004, Vol. 6, pp. 73

<sup>85</sup> N.Behnke, Ethik-Maßnahmen für die öffentliche Verwaltung – Modeerscheinungen oder Mauerblümchen?, in: J.Bogumil/W.Jann/F.Nullmeier (ed.s.), Politik und Verwaltung, Politische Vierteljahresschrift, No. 37/2006, pp. 250.

officials “grow up” in a legalistic administrative culture. The positive side of the “lawyers’ monopoly” in the strong legalistic tradition in Germany is that HPO are – generally – well aware of existing rules and standards in the field of ethics. Other issues also play an important role: Traditionally German top-officials are also less mobile (for example as to moving between the public and private sectors) than their US counterparts and face fewer ethical risks.

## 2.1. Ethics rules and public trust

Critics (Anechiarico and Jacobs<sup>86</sup>, Mackenzie<sup>87</sup>, Stark<sup>88</sup>, Saint-Martin/F.Thompson<sup>89</sup>, Behncke<sup>90</sup>, Bovens<sup>91</sup> etc.) argue that more rules of ethics do not necessarily provide an efficient response to the decline of public trust and integrity issues but may cause even more cynicism regarding public and political institutions. The problem, critics say, is that the expansion of ethics regulations and more public discussions about the need for more and better (conflicts of interest) rules have not contributed to a rise in public confidence in government. In fact, the calls for more and better ethics have the opposite effect. More “ethics regulations and more ethics enforcers have produced more ethics investigations and prosecutions....Whatever the new ethics regulations may have accomplished...they have done little to reduce publicity and public controversy about the ethical behavior of public officials.”<sup>92</sup>

Most ethics experts are indeed of the opinion that more rules, even if well managed may not build more trust, Contrary to this, they may decrease public trust “by generating a sense that all lawmakers are fundamentally untrustworthy”<sup>93</sup>. The most prominent case is the situation in the United States where “Legions of lawyers and journalists earn their living from ethics lawsuits and scandals. In particular after scandals, a new wave of conflicts of interest, financial disclosure or gift acceptance regulations seemed to be the appropriate way to re-establish public trust by signalling that “something was being done.” These ethics measures have mostly been introduced by politicians with an eye on the perceived problem of decreasing public trust. The intention of *increasing* public trust, however, was never met in reality. Quite to the contrary, meanwhile the ethics infrastructure in the US has reached a level in which it contributes to further *undermining* public trust....The complaint about scandals, corruption and low ethical standards always seems justified and the promise to establish higher standards is always likely to be a promising means to gain votes. Similarly, most presidential candidates from Dwight D. Eisenhower to Bill Clinton tried to gain profile by emphasising the “ethics gap” and announcing uniform and higher standards of behavior for the federal government,

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<sup>86</sup> Annechiarico/Jacobs, *The Pursuit of Absolute Integrity*, op cit, .

<sup>87</sup> Mackenzie, *Scandal Proof*, op cit.

<sup>88</sup> Stark, *Conflict of Interest*, op cit.

<sup>89</sup> Saint-Martin/Thompson, op cit.

<sup>90</sup> Behncke, *Modeerscheinungen*, op cit

<sup>91</sup> M. Bovens, *Het Ongelijk van Dales*, in: *Bestuurskunde*, 2006/1, pp.64.

<sup>92</sup> Mackenzie, op cit, p.112.

<sup>93</sup> B.A. Rosenson, *The Costs and Benefits of Ethics Laws*, in: Saint-Martin/Thompson, *Public Ethics and Governance*, op cit, p.137

tightening post-employment restrictions or enlarging the financial disclosure requirements.”<sup>94</sup>

As Behnke shows “in spite of the individual rationality of these strategies, the collective irrationality lies in the fact that ever more transparency, ever higher standards and tighter regulations create ever more violations of ethical rules, more scandals and more investigations, thus undermining the legitimacy of the institution and destroying public trust and creating collective costs that far outweigh the individual benefits. In addition to the individual rationality leading to collective irrationality, the last element that makes the situation a real Prisoners' Dilemma is the fact that no built-in mechanism can stop this arms race.”<sup>95</sup> The assumption on the part of the legislators and Members of Government who favour the adoption of new rules and standards is that this will have a positive effect and increase public trust in Government. However, a strong focus on ethics, too strict approaches, too much publicity and too many rules may also undermine public trust.

## 2.2. Ethics rules as a political instrument

The more rules and standards are introduced, the more often rules and standards can be violated. Consequently, media and the public may interpret this as a sign of declining ethical standards. “Thus, rather than decreasing the number of cases of unethical behavior, by declaring behavior unethical which was formerly in accordance with the rules, the absolute number of scandals and cases of unethical behavior *increases*, thus creating the appearance of public officials becoming more unethical. In reality, however, higher ethical standards lead to an overall more ethical public service.”<sup>96</sup>

However, from a political point of view it is difficult to be against new initiatives and new rules in the field. Regulating ethics policies is popular. Consequently, being against more rules and standards is risky – from a political point of view. On the other hand, ethics policies are becoming more and more politicised. Ethics is slowly emerging as a perfect policy field in electoral campaigns. Politicians can be sure that calls for new initiatives will be applauded by the citizenry because these calls reflect a widespread perception in European societies that levels of corruption and conflicts of interest are increasing and something must be done. From the point of view of a Holder of Public Office (and even more of a legislator or a Minister) it would not only be detrimental to be against new or even higher ethical standards. In fact, the call for higher ethical standards and tighter rules of ethics are more and more the subject of election campaigns in many countries.

The downside of this development is that it becomes more difficult to avoid that ethics as a policy issue is abused as a moral stigmatisation. More and more politicians use

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<sup>94</sup> Nathalie Behncke, Ethics as Apple Pie The arms race of ethical standards in congressional and presidential campaigns”, EGPA-Paper, "Ethics and Integrity of Governance: A transatlantic dialogue", Leuven , June 2005, p.1/2

<sup>95</sup> Behncke, Ethics as Apple Pie, op cit, p.3

<sup>96</sup> Behncke, Ethics as Apple Pie, op cit, p.8

“accusations of unethical conduct as a political weapon...”<sup>97</sup> Rules of ethics in particular are resources that politicians mobilise to attack and discredit their opponents. Consequently, ethics are increasingly used as a moral instrument with the aim of denouncing political opponents.

### **2.3. Ethics rules as effective instruments in the fight against corruption**

Rules of ethics can only be one instrument in the fight against corruption, fraud and conflicts of interest. The reasons for corruption, fraud etc. are too complex and there are too many variables that cause corruption which cannot be discussed here. However, the results of our study show that particularly many new EU Member States have introduced very detailed and strict rules in the field of conflicts of interests. Often these countries are also those with a high degree of perceived corruption and fraud. The adoption of new and stricter measures in these countries is also a reaction to important real life concerns and problems; these rules are introduced with the best intentions. A different question is whether these countries have the necessary capacities and skills to properly implement, manage, monitor and enforce the rules which they have adopted.

Obviously, the existence of strict rules and standards is no guarantee of an ethical government. Especially in some of the new Member States it seems that one of the objectives of the introduction of strict and detailed rules (covering all categories of Holders of Public Office) was to prophylactically prohibit HPO “from entering into an ever-increasing number of specified, factually ascertainable sets of circumstances because they might lead to inner conflict.”<sup>98</sup> Another objective was obviously to satisfy the requirements of EU membership. The situation in some of the new Member States is in an interesting contrast with the situation in most Scandinavian countries which have much fewer rules and standards in place but at the same time relatively low levels of corruption and bribery.

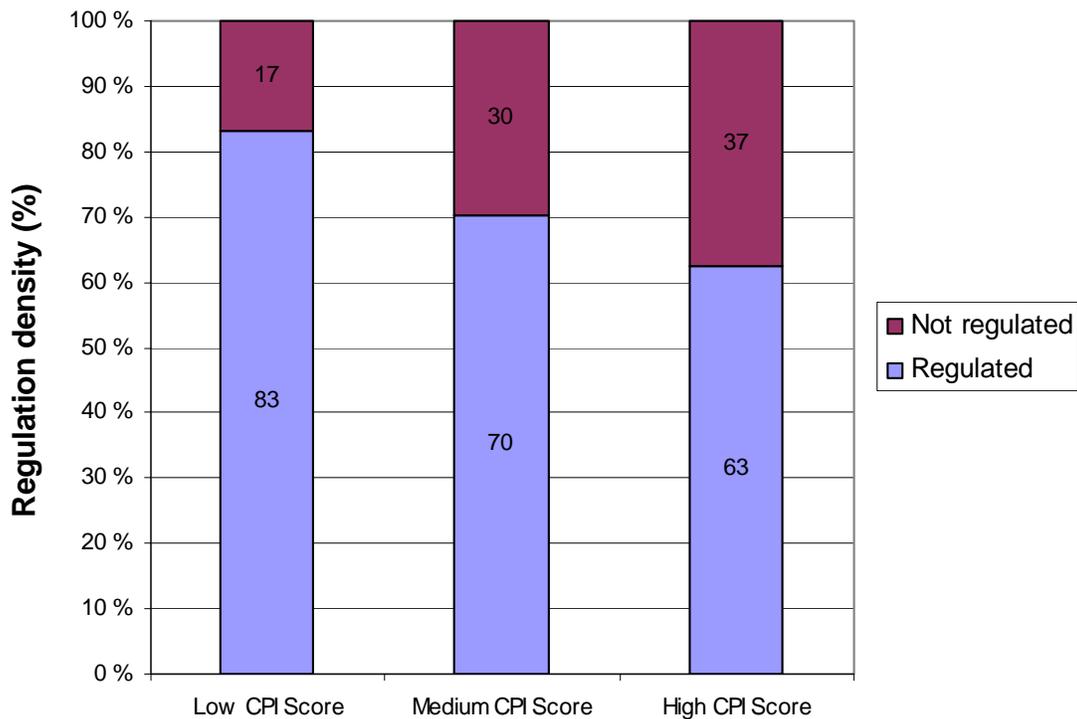
In our study our calculations on regulation density address the relation between the level of corruption and the level of regulation. They support the hypothesis that more regulations do not lead to less corruption. Instead, it seems that more regulation is not required in those situations or countries where high levels of public trust exist.

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<sup>97</sup> Robert Williams, *The Ethics Eruption: Sources and Catalysts*, in: Saint-Martin/Thompson, *Public Ethics and Governance*, op cit, p.41.

<sup>98</sup> Stark, *Conflict of Interest*, op cit, p.264

**Figure 10: Comparing CPI score and regulation density<sup>99</sup>**



This short analysis allows for two conclusions:

- First, there is no automatic link between strict rules and a low degree of corruption (and conflicts of interest). Also a low degree of regulation density may be perfectly compatible with a low number of conflicts of interests.
- Second, this is not to say that countries with a high level of corruption and conflicts of interests should have fewer rules in place.

This comparison shows that tough and strict rules are not a necessary condition for low levels of conflicts of interest. Moreover, too many ethics measures can damage the public interest instead of enhancing it. This is the case if the introduction of more rules supports the perception that these rules were introduced because of the existing high level of corruption and conflicts of interest. The problem is that subjective perceptions of increasing levels of conflicts of interest “risk to reflect citizens’ general predispositions towards government, rather than actual experienced corruption.”<sup>100</sup>

## 2.4. Ethics rules and the regulatory quality

Particularly highly regulated countries and institutions face the challenge of a poor quality of rules, overlapping rules and a low level of awareness of the existing rules and

<sup>99</sup> CPI score refers to Transparency International’s Corruption Perceptions Index that was published in 2006. The following categorisation is used: low CPI score refers to scores below 5, medium CPI score refers to scores from 5 to 7,5 and high CPI score refers to scores above 7,5.

<sup>100</sup> Stephen van de Walle, Decontaminating Subjective Corruption Indicators, Paper presented at the EGPA-Conference, Leuven, June 2005, p.16

standards (which are mostly not codified into one document but fragmented over several documents).

Because of the tendency to regulate an ever-increasing number of issues and situations, in the United States one evaluation report of the Office of Government Ethics (2006) points out: “The Government’s and the public’s interests in public financial disclosure, however, must be balanced against the privacy interests of, and burden on, filers. Considering these sometimes competing interests, we have concluded that the current public financial disclosure system requires reporting more information than is useful or necessary to achieve its fundamental goals of preventing conflicts of interest and maintaining the public’s confidence in Government. It is not the general subject of the information requested, but rather the level of detail required, that is burdensome and overly intrusive”<sup>101</sup>.

Consequently, the Office of Government Ethics suggests “to improve the public financial disclosure reporting requirements by: (1) raising certain monetary reporting thresholds; (2) reducing the number of valuation categories prescribed for assets, income, transactions, and liabilities; (3) shortening certain reporting time-periods; and (4) eliminating the requirement to report information that is unnecessary for conflicts analyses”<sup>102</sup>.

The present trend towards more regulation of ethical rules in the United States also shows that highly regulated ethics regimes are not necessarily more effective and efficient than other less regulated regimes. However, the present trend towards more regulation but also more criticism against too many rules is still very much a US and Canadian phenomenon. Most US and Canada administrations and legislators are increasingly criticising the potential negative impact of too tight rules and requirements in registers and tight post-employment rules that have negative impacts on individual careers, the attractiveness of top positions in government and recruitment and retention policies. As the Canadian Ethics Commissioner mentioned in his Annual Report (2005): “A pitfall of this approach is that a requirement to provide a more detailed public disclosure of assets, holdings and corporate interests may deter well-qualified and experienced persons from seeking or accepting public office because of legitimate privacy concerns”<sup>103</sup>. Another US study<sup>104</sup> in the National Institute of Health came to the conclusion that strict obligations as to the duty to divest financial interests and prohibitions as to outside activities had a negative impact on the ability of the different agencies to recruit and retain staff. Also many employees were of the opinion that it would better to just enforce the rules better rather than strengthening the rules. More than 50% of employees felt that these rules had a negative impact.

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<sup>101</sup> Office of Government Ethics, Report to the President and to Congressional Committees on the Conflict of Interest Laws Relating to Executive Branch Employment, Washington D.C., January 2006

<sup>102</sup> Ibid.

<sup>103</sup> B. Shapiro, Ethics Commissioner, Office of the Ethics Commissioner, Issues and Challenges, October 2005

<sup>104</sup> US Department of Health and Human Services, Evaluation of the Impact of the New NIH Rules on Recruitment and Retention, October 26, 2006 (PPT-Presentation)

These examples in the US (and partly in Canada) suggest that European administration may learn from these experiences while avoiding too many rules, too much bureaucracy and too burdensome reporting requirements etc. As figure 11 indicates, there is even a negative correlation (-0,427) between regulation density and the CPI score.

Because too many rules and standards may either be in conflict with other rights, unworkable, counter-productive in practice, or may create impediments to bringing experienced people into public office the OECD has also started to warn that too strict approaches, excessive prohibitions and restrictions have perverse effects. Therefore a modern conflicts of interest policy should strike a balance between the need to regulate CoI issues and guaranteeing individual and organisational freedom and flexibility.<sup>105</sup>

## **2.5. Ethics rules, disclosure policies and effectiveness**

Already in 1996 Anecharico and Jabobs found that despite “the millions of dollars spent on setting up the financial disclosure apparatus in New York City, only three public officials have ever been caught for intentional violations! The ritual performance of filling out disclosure forms on an annual basis has become a symbolic act...Of more than 12,000 forms filled in 1994, only 1,000 were reviewed for conflicts of interest.”<sup>106</sup>

From a more practical issue, in the USA the working time needed to fill in the financial disclosure forms correctly is increasing everywhere (not counting the time needed to check them and to propose and enforce measures to prevent conflicts of interest) Meanwhile, even professional ethics advisors in the United States (OGE and other Ethics Committees) are critical as to the usefulness of extended financial disclosure requirements. As Mackenzie shows the immense quantity of publicly available data on financial interests are abused by the rainbow press. Such a use of the register information, however, is not very helpful for the image of the public service and the whole political system.<sup>107</sup>

Evidence in the United States shows that HPO “who have been caught violating only disclosure rules rarely suffer any serious sanctions from their colleagues, let alone voters. In the period of some of the most active committee activity (1977-1992), only three of the sixteen cases involving disclosure violations considered by the committees involved no other charges. Of the seven cases in which a committee decided to impose a sanction, only one did not involve other charges. Only two of those sanctioned were defeated for re-election...Another deficiency of disclosure is that it does not cover some conduct that raises serious ethical questions at all. It cannot satisfy legitimate concerns about the jobs that members take after they leave office, the province of post-employment rules. Disclosure here simply comes too late. For some other misconduct, such as conflicts of interest violations, disclosure reveals too little. These violations often come to light only after careful investigation of complex financial relationships. Neither voters nor reporters are usually in a position to conduct such investigations.

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<sup>105</sup> OECD, *Managing Conflicts of Interest*, 31 March 2006, op cit, p. 8.

<sup>106</sup> Anecharico/Jacobs, *The Pursuit of Absolute Integrity*, op cit, p.55.

<sup>107</sup> Mackenzie, *Scandal Proof*, op cit, especially pp.87-149.

What is disclosed is generally not used effectively. Stories on the financial resources of members are rarely presented in a way that would best help voters make balanced judgments about the ethics of members. The press is often most interested in who the wealthiest members are, how much their spouses make, or who takes the most expensive trips paid by corporations.”<sup>108</sup>

Experience in the USA and in Canada especially shows that the EU institutions (and of course, the Member States) would be advised not to copy other institutional models. At present, only a few European countries (for example, the United Kingdom, Ireland, Romania, Poland, Bulgaria etc.) have disclosure requirements that can be compared to those in the United States.

Thus, even if disclosure policies are important they mostly reveal conflicts of interest without providing any guidance for resolving them. In order to offer possible suggestions one option could be the one proposed by Thompson: “Independent ethics committees could regularly review the financial activity of members, identify potential problems, and recommend measures to correct them. They would publicize information only if members failed to correct the problems. Committees could ask for much more information than is now disclosed, but most members would have to make much less public. As always, leaks would be a risk, but both ethics committees have unusually good records in protecting confidential information. Furthermore, the information could be targeted more specifically to the problems that particular members may have. More relevant than the range of amounts of members’ holdings is their history of relationships and patterns of investments.”<sup>109</sup>

## **2.6. Ethics rules and costs of a professional ethics regime**

Even if new ethics rules and standards have brought the expected results, any analysis must also include the potential costs of the introduction of new ethics policies. What are the financial, organisational and personnel costs of regulations, standard setting, management, monitoring and training? Also the costs of monitoring the behaviour of holders of public officials have to be mentioned. In the USA and in Canada almost every state has at its disposal special ethics committees and monitoring bodies. Menzel estimates that “nearly 15,000 full and part-time ethics officials can be found in the federal executive branch.”<sup>110</sup> In 2004 the City of Los Angeles alone had an Ethics Management Programme with a budget of over two million dollars and 24 employees.<sup>111</sup>

In Canada the Office of the Ethics Commissioner has 34 employees and a budget of 5,026,000,00 Canadian dollars for the year 2006-2007. In the USA “not only have the ethics handbooks of the three central ethics co-ordination bodies, the ethics committees of House and Senate and the Office of Government Ethics, steadily grown thicker over

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<sup>108</sup> Thompson, *Overcoming Conflicts of Interest in Congressional Ethics*, op cit, p.6.

<sup>109</sup> Thompson, *Overcoming Conflicts of Interest in Congressional Ethics*, op cit, p.7.

<sup>110</sup> Menzel, *Ethics Management*, op cit., p.15.

<sup>111</sup> Menzel, *Ethics Management*, op cit, p. 88.

the years, incorporating ever more regulations, exceptions and illustrations as to how to interpret the rules in practice; the costs have increased also in terms of personnel which is needed to interpret ethics rules, to train public officials in ethical behavior and to execute ethics regulations.”<sup>112</sup> In the Office of Government Ethics “the task alone of collecting and checking the yearly financial disclosure forms consumes the whole workforce of several persons.”<sup>113</sup> In his cost-benefit analysis of the US ethics system Mackenzie comes to the conclusion that the total costs amount to millions of dollars. In comparison, the Ethics Committee in Ireland has a budget of less than 1 million euros (2005). The cost estimate of the (proposed) Ad Hoc Committee for the European Commission was estimated at 2,100 euros per year (2003). However, the tasks of the ad hoc ethics committee in particular cannot be compared to the US and Canadian examples. However, these examples show that building up professional ethics cannot be done without the parallel allocation of a (considerable) budget.

Especially when considering the above-mentioned figures it is at least questionable whether all Member States of the EU would be ready to follow the US or Canadian example. Moreover, it is at least doubtful whether some of the (mostly new) Member States (who have reformed their regulatory systems and adopted detailed ethical rules, standards and highly sophisticated disclosure requirements) were aware of the cost implication for the implementation, monitoring and enforcement requirements of these rules. Clearly, the adoption of more detailed rules and standards alone does not suffice. Instead, in all cases they must also be accompanied by the introduction of additional monitoring, educational and control mechanisms. Rules and standards without capacity-building mechanisms and “awareness” are rather useless. As we have seen already, this logic applies – although to a different degree – to all Member States. Clearly, too little is being done in the field of training for HPO.

## **2.7. Ethics rules and the limits of transparency requirements**

More transparency, openness, accountability, new ethical rules and access to government-held information, as well as more effective declaration of interests by HPO, are widely applauded as remedies for public and individual deficiencies. The theory of public financial disclosure especially is rooted in US post-Watergate concepts of “Government in the Sunshine,” which aims to increase public confidence in the integrity of HPO. However, in reality “these policies are often more preached than practiced, more often invoked than defined, and indeed might ironically be said to be mystic in essence, at least to some extent.”<sup>114</sup>

Especially in the field of conflicts of interests, requirements for more transparency and declaration of information etc. are supposed to discipline institutions and office holders making information about their potential conflicts of interest public. Like this, transparency especially is positively related with ethical behaviour because public exposure is presumed to act as a stimulus: The more the public knows about HPO, the

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<sup>112</sup> Behncke, *Ethics as Apple Pies*, op cit.

<sup>113</sup> Mackenzie, *Scandal Proove*, op cit, p.206 (pp. 116ff.)

<sup>114</sup> C. Hood/D.Heald (eds.), *Transparency, The Key to Better Governance?* Oxford, 2006.

better they behave. Transparency and openness requirements are also popular since they are widely supposed to make institutions and their office holders both more trustworthy and more trusted. In addition, more reporting requirements about conflicts of interest should contribute positively to public trust. Thus, many experts in the field propose that HPO should be required to disclose more personal information.

However, these suggestions are not without difficulties. For example, public disclosure requires effective management systems and may produce (depending on how strict the requirements are and how many HPO are required to make detailed reports) huge quantities of information. Another question is whether this information – which is offered for public scrutiny – is of interest and understandable for the wider public. So far, experience suggests that this is not the case. For example, in Canada “there’s surprisingly a great interest in having a public registry but there seems to be very little interest in reading it.”<sup>115</sup> Also in the USA: “This has become one of the great empty rituals in all American life. Almost no one looks at any of these reports.”<sup>116</sup>

Another challenge is that financial disclosure and public registers can easily be politically abused because of “the high degree of partisanship that occurs on a given issue.” Political parties seem to use the instrument of public disclosure for their own political purposes. Similarly, declarations and registers offer many ways of being abused for populist (media) purposes. On a more personal level, financial reporting can also provoke jealousy over income, activities and unequal rewards. Thus, despite all positive intentions the reporting requirement does not only have the intended effect. Instead it also has a number of unintentional, negative effects.

It remains to be seen whether this trend towards more transparency requirements and reporting obligations will continue. Especially in the US, claims for more freedom of information, transparency, and rules on ethics and conflicts of interests have increased. However, especially since 11 September 2001, claims for other rights built on confidentiality, secrecy and the restriction of the right to privacy have also become more prominent. It is still an open question how the past trend towards more openness and transparency will be combined with new trends which call for more control, tighter management of information, better individual performance monitoring, restriction of human rights etc.

## **2.8. Ethics rules and the need for training of HPO**

If the number of CoI rules and standards increase, HPO must be made aware of the rules adopted. While adopting new rules and standards is a key element to any successful ethics regime, Holders of Public Office also need to be educated about those rules. Training is an important instrument in any strategy to raise awareness of the existence of rules and standards. However, “one-stop training” will not be enough either. The effective implementation of a conflicts of interest policy will require the ongoing education of all HPO. Of course, one important challenge is to convince ministers,

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<sup>115</sup> Shapiro, Office of the Ethics Commissioner, Issues and Challenges 2005.

<sup>116</sup> Mackenzie, Scandal Prove, op. cit, p. 154.

legislators, Judges and directors to take the necessary time and to participate in training courses. Another challenge will be to convince HPO of the need for training. The findings in this study show that training on conflicts of interest for HPO is strongly underdeveloped. Many Member States do far too little in order to make HPO sufficiently aware of the existence of these rules. In total only 27 % of all HPO receive training.

**Table 22 Training Programmes by Code of Ethics/Conduct**  
(Frequencies in parenthesis)

		Training programmes		
		No	Yes	Total
Code of Ethics/ Conduct	No	86% (30)	14% (5)	100% (35)
	Yes	69% (50)	31% (22)	100% (72)
Total		75% (80)	25% (27)	100% (107)

Whereas training as such is underdeveloped, some institutions offer training courses for their HPO. However, the figures differ amongst the different institutions. According to the answers from the Member States most training programmes are offered for the Members of Court of Auditors. Only a few Central Banks and Parliaments offer training for their HPO. In the United Kingdom, the Government offers training courses for Holders of Public Office. From our analysis we draw a clear conclusion that conflicts of interests training programmes should be offered for every institution and for every category of HPO. Training programmes and teaching courses can raise awareness and give realistic and practical descriptions of the circumstances and relationships that can lead to conflicts of interest. This is particularly important for HPO in Government and the Parliaments who face rapidly-changing new developments and many different ethical dilemmas. In addition, most HPO in Government and Parliament face many delicate situations in different dossiers and situations such as subsidy policies, private-public partnerships, privatisation issues, deregulation programmes, relations with non-government organisations, the interchange and the personal contact with lobbyists, voters, political parties, the media etc.; in all these cases potential conflicts of interests are not far away.

In this study we could also find evidence that countries who have introduced codes also provide more training than those countries and/or institutions that regulate CoI exclusively by laws. These findings are important because they imply that codes as a regulatory instrument are important: If the Member States and the different institutions decide to adopt codes of ethics it is also more likely that training is offered.

Of course, ideally, a HPO should not only be trained in ethics but also have (at any time) access to organisational support, guidelines, advice and other information that will help him/her to identify and disclose a conflict of interest. In addition, those who attend training days should not only be those who are interested in these subjects anyway (or who are involved in ethics management issues).

Getting advice on dealing with CoI is also important: In the Member States the task of providing advice is mostly delegated to ethics committees. For example, in Ireland the Ethics Commission is explicitly charged with providing advice to members (and may also maintain a high degree of confidentiality). The United States House Committee on Standards of Official Conduct similarly emphasises education and counselling. Indeed, an important part of the Committee's work "is responding to questions from, and providing advice to, House Members and staff regarding the laws, rules and standards that govern their official conduct. Committee staff are available to provide informal advice over the telephone, by e-mail, or in person, and the Committee will provide a formal written opinion in response to a proper written inquiry."<sup>117</sup> The Committee also distributes a lengthy *House Ethics Manual* to assist Members with interpreting the rules. Another example is Art. 7 of the Code of the European Central Bank which provides advice on ethical matters to the members of the ECB Council.

These few cases document why ethics committees are important. They should not only control and monitor CoI. Instead they should also support and help HPO.

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<sup>117</sup> See US-Committee on Standards of Official Conduct, <http://www.house.gov/ethics/CommitteeAddress.htm> (last time checked on 5 September 2007)

<b>Positive effects of rules and standards</b>	<b>Negative effects or unintentional side-effects of rules and standards</b>
<ol style="list-style-type: none"> <li>1. Strict rules have a deterrent effect. They give clear signals as to what is not allowed</li> <li>2. Citizens have higher expectations. Therefore stricter rules and standards are necessary</li> <li>3. The public and the media do not tolerate any form of self-regulation of HPO any more. Therefore, external forms of control will increase the credibility and accountability of HPO</li> <li>4. Stricter rules limit the possibility of HPO allowing private interests to be in conflict with public duties</li> <li>5. Rules and standards force HPO to be more sensitive to ethically challenging situations</li> <li>6. HPO benefit from the existence of clear standards of conduct and clear prohibitions</li> <li>7. It is politically important to be in favour of more ethics. Citizens support more and better forms of control and accountability</li> <li>8. Ethics rules are cheap to adopt Everybody is in favour of them</li> <li>9. More rules are necessary because politicians have access to a great deal of power and influence. People place a tremendous amount of trust in politicians</li> <li>10. Ethics rules do not deter HPO from corrupt behaviour but from questionable behaviour</li> <li>11. Ethics laws that have had the greatest impact on the legislative process are those that ban or limit gifts</li> <li>12. More rules and laws have not increased morals and decreased corruption. But they have succeeded in transforming cultures</li> <li>13. Today, more situations are brought to attention that once were accepted without question</li> </ol>	<ol style="list-style-type: none"> <li>1. More rules do not enhance public trust. Contrary to this, they may contribute to decreasing levels of public trust.</li> <li>2. There is no evidence that more rules reduce conflicts of interest and corruption.</li> <li>3. Mostly, ethics rules are poorly designed, largely because they often represent hasty responses to scandals</li> <li>4. Too strict rules violate legislators' privacy</li> <li>5. Strict post-employment rules may deter some would-be legislators from running from office</li> <li>6. The call for new conflicts of interest rules contribute to a negative public conception of legislators</li> <li>7. Most ethics rules and standards are poorly enforced</li> <li>8. There is little correlation between strict rules and high levels of integrity</li> <li>9. Ethics rules are resources that politicians can easily mobilise to attack and discredit their opponents. They use accusations of unethical conduct as a political weapon</li> <li>10. It is very rare that a HPO is punished over violations of ethics standards.</li> <li>11. Monitoring and enforcing requires additional resources</li> <li>12. Often disclosure requirements are highly bureaucratic</li> <li>13. Detailed registers of interest can only be managed with difficulty</li> <li>14. Strict rules may have negative effects on recruitment issues or deter talented people from accepting important positions as HPO</li> </ol>

### **3. Are conflicts of interest increasing?**

One important development in the field of ethics is the growing importance of international organisations and NGOs. In particular international organisations like the OECD and the World Bank claim that conflicts of interest are increasing and consequently levels of public trust are decreasing.

There is no time and space here to discuss all these developments. However, claims that conflicts of interests are increasing (and levels of public trust are decreasing) are difficult to prove with hard facts. Instead, the findings of this study suggest that:

- a) Often, general calls for more rules are not always the best solution. For example, it may well be that while post-employment conflicts are on the rise, gift taking and nepotism is decreasing. Simply asking for more rules would be an ineffective way of managing these issues.
- b) Today, it is increasingly popular to link the discussions on conflicts of interest with those about the development of public trust. Many people believe that more rules and standards bring higher levels of public trust. In reality, the concept of public trust is very complex.<sup>118</sup> For example, whereas many observers believe that levels of public trust are constantly decreasing, in reality levels of public trust vary from country to country and from institution to institution. Also levels of public trust fluctuate. For example, Bovens and Wille<sup>119</sup> discuss ten different factors that have an impact on the level of public trust (performance of the public sector, general perceptions of the government, the economic situation, scandals and dramas, media reporting, change of political culture, changing expectations, emergence of a new generation with different values, changing role of middle class). Bovens/Wille come to the conclusion that the perception of the policies of the government has the strongest impact on the sudden changes of public trust.

Not long ago politicians and other HPO were not suspected of having conflicts of interest when exercising additional honorary positions. Today almost all ancillary activities are seen as sources of potential conflicts of interests. This can be interpreted in positive but also in more critical ways. For example, strict regulations for HPO can be justified with the importance of their position and the impact of the decisions they take on the society in general. The difficulty is that it is important to distinguish between ethical requirements and moral requirements. The higher the ethical requirements for legislators and ministers, the more it is likely that “ethics” will be abused for political reasons or – also – by the media. Throughout the last years especially ethical issues are also becoming a political instrument. Ethics are also increasingly linked with moral arguments. Despite the fact that rules which regulate conflicts of interest should not involve moral judgments on HPO’ ethics, laws are also becoming a “moral measurement” and people and the media “place stigma” on HPO who violate them<sup>120</sup> According to Stark the “problem with conflict of interest law is that it has become a mortal stigmatisation when, in reality, it is just law.”<sup>121</sup>

Consequently, positive intentions can easily turn into unintentional and perverse effects. Therefore a better balance is needed between effective rules and standards and the need to avoid too much scrutiny and suspicion. It is true that HPO have an important public mission. At the same time they are “watched”, controlled, monitored and distrusted as never before.

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<sup>118</sup> S.van de Walle, Perceptions of Administrative Performance: The Key to Trust in Government?, Dissertation, University of Leuven, Nr. 79, 2004.

<sup>119</sup> M.Bovens/A.Wille, Waar bleef het vertrouwen in de overheid?, in: Bestuurskunde, 2006/4, pp.50.

<sup>120</sup> A. Stark, Conflict of Interest in American Public Life, Harvard, Cambridge, 2000, p.266.

<sup>121</sup> Ibid.

Thus, the danger is that ever more rules, tougher disclosure requirements, stricter monitoring structures, and additional transparency requirements will reveal more violations of rules and standards. However, this development produces the opposite of what rule-makers intend to achieve: public trust is decreasing because the citizens have the perception that their Holders of Public Office are less ethical than they were before. Ultimately, the price to be paid for the introduction of more rules and standards can also be ever more public disappointment.

Despite the growing amount of literature, studies and policy recommendations there is still no common understanding as regards the development of conflicts of interest. The difficulties cannot only be found in the difficulties in detecting conflicts of interests. Today, the existence of more rules in the field of conflicts of interests also brings possibilities for more violations of the rules. However, increasing number of violations is no indicator that conflicts of interest are increasing as such. Only decades ago, fewer violations were detected because fewer rules were in place. However, it could well be that conflicts of interests were more numerous than today.

Demmke suggests that dynamics, contradictions and unintentional side effects of governmental reform processes produce neither less nor more ethical challenges. Rather new reform initiative and changing concepts of governance always create new forms of unethical behaviour, conflicts of interests and new ethical challenges. At the same time new rules and standards, growing awareness and new policies also have a positive impact as to the effectiveness of measures. Consequently, certain ethical challenges may also be reduced, decrease or even disappear.<sup>122</sup> This observation is comparable to those by Thompson in the United States who observes that “Ethics in Congress deserves greater attention not because members are more corrupt (they are not), not because citizens are more distrustful (they are), but because the institution itself continually poses new ethical challenges. The complexity of the institutional environment in which Members of Congress work invites more calls for accountability and creates new occasions for corruption. As the circumstances of potential corruption change, so too must the institutions of actual enforcement.”<sup>123</sup>

Also this study will not be able and give a reliable picture as to the development of conflicts of interest. In fact, there seems to be more evidence for the argument that whereas some forms of unethical behaviour decrease, others are rather stable and others increase. Also different forms of conflicts of interest may increase and decrease at the same time. Therefore new rules and standards may be important in new emerging areas of conflicts of interest. However, rules and standards in different fields may also have a different impact “– financial disclosure will impact one way and gift restrictions will impact in a very different manner. If that is the case, each measure has to be considered on its own...”<sup>124</sup>

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<sup>122</sup> C. Demmke, Ethik und Integrität in den öffentlichen Diensten in Europa, in: Zeitschrift für öffentliche und gemeinwirtschaftliche Unternehmen, 2006, 1., pp. 68.

<sup>123</sup> D. F. Thompson Overcoming the Conflict of Interest in Congressional Ethics, Paper for the Panel on “Congressional Ethics Enforcement”, Woodrow Wilson International Center, Washington, D.C., January 16, 2007, p.22.

<sup>124</sup> Saint-Martin/Thompson, Lessons, in: Saint-Martin/Thompson, op cit, p.159.

### Are Conflicts of Interest increasing – or not?

Field/Sector	Increase/Decrease?
<b>General values, standards and principles</b> Acceptance of laws, standards, principles and values	Values are changing, overall no loss of values Generally higher expectations as to ethical behaviour More awareness of rules and standards, Generally high level of distrust of HOPs
<b>Corruption</b> <b>Bribery</b>	Overall, little evidence about developments, Indexes on Bribery and Corruption (Transparency International) Generally no evidence on increasing levels of corruption and fraud.
<b>Nepotism</b>	Little evidence, more awareness for negative consequences due to recent scandals (e.g. in the World Bank). Because of more awareness decreasing rather than increasing.
<b>Fraud and Theft</b> Abuse of organisational resources	More possibilities to abuse internal and org. resources for own benefit. Especially as regards the abuse of information technologies for own purposes
<b>Violation of general principles such as confidentiality, serving the public interest, loyalty etc.</b>	Generally no evidence about increasing levels of CoI More rules and standards lead to more violations? Higher requirements as to declarations of interests
<b>Conflicts of interests – involvement in post employment activities that potentially conflict with duties</b>	Possibly increasing levels of CoI due to more contact with private sector, more mobility etc.; however, also more rules and standards
<b>Involvement in professional activities, secondary activities, memberships that potentially conflict with duties</b>	Possibly increasing during to more contacts with lobbyists. However, secondary activities, memberships, honorary activities not seen as posing CoI for a long time. Thus, new CoI
<b>Abuse of position, information, insider dealings</b>	No evidence, possibly increasing levels because of more contacts between private- and public sector. Also more regulated
<b>Gift taking and taking of benefits</b>	Possibly decreasing due to more awareness of strict rules

The development of the different forms of unethical behaviour and conflicts suggest that reforms should concentrate on some issues more than on others and regulate CoI – according to the issue at stake – with a different mix of instruments. Whereas in some cases strict and new rules make sense, in others soft instruments and awareness raising may be more effective. Thus, it becomes of primary interest to find answers to the question of which instruments are best designed to fight the different forms of unethical behaviour. Can some of these problems be better confronted with more and stronger rules? With codes? More transparency? More training? Or alternatively could these objectives also be better achieved with fewer standards and fewer requirements? As necessary as these discussions are, still the focus of the CoI discourse discussion is about the effectiveness and the pros and cons of (more) rules and standards in the field. Partisans and opponents of the different camps can roughly be divided into those who a) claim that more and better rules are needed and those b) who believe that new rules and regulatory regimes may impact negatively and have contradictory effects. In the following we will present the arguments of both sides.

## VIII. CODES OF ETHICS IN THE MEMBER STATES AND THE EU-INSTITUTIONS – BEST PRACTICES FOR THE EU INSTITUTIONS?

### 1. Introduction

Since the main objective of this study is to compare and to analyse the existing rules and standards in the field of conflicts of interest, we will refrain from discussing theoretical concepts in more depth. However, throughout the work on this study we realised that the field of comparative conflicts of interest still lacks a credible comparative theory.<sup>125</sup> This means there is also a lack of knowledge as to best practices and the identification of clear criteria for effective model codes and CoI regimes. For example, many experts believe that conflicts of interest reforms are scandal-driven processes. On the other hand, the theory of path-dependency (which is very much linked to identifying the importance of national tradition and national culture) could also be very useful in the field of conflicts of interest. In their comparative study Saint-Martin and Thompson show that scandal-driven theories have difficulties accounting for the differences between the USA and Great Britain.<sup>126</sup> On the other hand, the path-dependency theory would offer important explanations as to the existing differences between the US and the UK model. However, it is difficult to explain why Roman law countries with a long legalistic tradition do not only have less formal and written norms on CoI than the US but also less rules and standards than the UK.

Traditionally, countries with a Roman law tradition have regulated the status and conditions of civil servants with much greater precision than countries with a Common law tradition. Especially in countries like France, Germany, Spain etc. ethics and corruption have been regulated with great precision in the constitutions and by many pieces of different (and often fragmented) legislation. Consequently soft-law approaches were seen as a (less important) complement to the existing hard-law approaches. Although codes of ethics have existed for a long time in countries like France, Spain, and Germany, they “rarely seem to have been seen by civil service managers or by civil servants themselves as real ethical guides.”<sup>127</sup>

In these countries administrative conduct was mainly based on the strong public service ethos of acting in the public interest and fulfilling one's duties. Often, top public servants had a strong legal education and were not as mobile as their counterparts in the United States. Thus, conflicts of interests were seen as being regulated sufficiently. In addition, the strong public service ethos and the bureaucratic features of the public service systems (career systems) contributed to the position that additional soft-instruments were not necessary. This can also be seen in our study. Whereas some Member States regulate the

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<sup>125</sup> Ari Salminen etc.

<sup>126</sup> Saint Martin, in: Saint-Martin/Thompson, *Public Ethics and Governance*, op cit, pp. 5.

<sup>127</sup> D.Hine, *Codes of Conduct for public officials in Europe – common label, divergent purposes*, Paper delivered at the International Conference on “Governance and Political Ethics”, University of Montreal, 14-15 May 2004, p.7.

field of ethics for holders of public office almost exclusively by the way of codes (UK, NL) the traditional career systems (France, Germany etc.) use the instrument of a code only as a supplement to the already existing (and mostly detailed) legal instruments. For example, for French legislators, given the “volume of legislation already on the statute books, and the detail in which it existed; it is certainly difficult to see what would have been added by a code of conduct.”<sup>128</sup> In the French context, nobody believes that a code adds anything.

The situation is very different in the Common Law countries (but also in countries like the Netherlands). In the UK “...very few words have ever been put into hard law regarding either ethical behaviour, or the role and status of civil servants. This is not to say that their role and status is unclear...but this does not depend on formal law”<sup>129</sup>. Because of this the so-called soft-law approaches have a greater importance in the UK than in many other countries. Consequently, our study also confirms that the UK manages the field of conflicts of interest almost entirely by the way of codes. Thus, informal institutions and procedures, such as ethics committees, can also be found in the UK, but are still quite unpopular in other countries.

Interestingly, traditional Roman law countries have also started with important ethics reforms within the last years. Today, changing values, more mobility, public-private partnerships, more contacts between the public and private sector, the flexibilisation of career systems, the introduction of new public management instruments etc. have had a tremendous impact on approaches to ethics. In traditional career systems too, the public service ethos and administrative conduct is based more and more on managerial thinking, performance, motivation and individual responsibility. Today no one foregoes providing performance incentives, because the public servant ethic and duty ethic represent a performance ethic that is not only based on values, but also on material performance incentives. Changing values, decentralisation and individualisation processes force (especially) the Roman law countries to adopt more soft-law approaches and offer more individual guidance and training.

These few examples show that in order to understand the specific models, different codes of ethics, instruments of ethics and ethic typologies, the different models should always be analysed within the own institutional “history”. But also theories like scandal driven theories, path-dependence theories, modernisation theories etc. cannot yet sufficiently explain not only the many differences that exist but also the many overlapping reforms and innovations across very different traditions and cultures. Consequently, identifying role models and best practices remains a huge challenge.

## **2. The diversity of codes**

Professional codes of conduct have existed since antiquity. Especially when applied to the professions – doctors, lawyers and public servants – they have always been an

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<sup>128</sup> Hine, Ibid.

<sup>129</sup> Hine, Ibid.

important expression of values, ethical standards and principles. One important common feature of almost all codes is their overall purpose: codes should guide behaviour. However, it is not clear how and whether they fulfil this objective. For example, codes may be only useful for those people who want guidance because they want to act ethically. If a Holder of Public Office wants to act unethically, it is very unlikely that a code will stand in the way. “If the moral reward of doing the right thing is not sufficient to stop someone acting corruptly, why would the existence of a code do so?...One answer might be that in reality few individuals have no moral sense, but many have underdeveloped ones.”<sup>130</sup> Consequently, codes should have an educational effect. “However, once written down, significant problems arise”. For example, codes without an effective institutional implementation strategy and support from the top are likely to be relatively useless. The same is true if no enforcement and no sanctions for misconduct exist. According to Gilman, “Successful codes rely on an environment ready to nurture them.”<sup>131</sup>

Our study shows that no country regulates ethics exclusively by laws, regulations and procedural norms. Especially in the field of ethical misconduct it seems to be inadequate to regulate ethical behaviour only by legislation and by administrative and criminal law. Instead, the notion of political and public sector values require softer instruments too such as codes. “Structural developments...put a new emphasis on soft ethics measures like training and information as contrasted to rules and sanctions”<sup>132</sup>. Despite this, codes of ethics are still mainly used as an instrument supplementing other legal instruments. The situation is only different in the National Banks which use codes more widely than the other EU institutions.

Examples of the existence of many different codes can be found on the webpage of the OECD<sup>133</sup> which has set up an “Observatory on Ethics Codes and Codes of Conduct in OECD Countries.” The different examples represent different cultures and regulatory traditions.

Our analysis shows that many codes regulate general ethical principles. They are much less used for regulating post-employment issues and declaration of financial interests. In these fields, laws are still the predominately used. Also codes are used very widely for a number of CoI issues. However, they are mostly used as a complementary instrument.

Other differences are evident: For example, the Code of Conduct for United States Judges is very different (and more detailed) to many other codes for Judges from the EU Member States. The same could be said for the British “Ministerial Code” which is a 48-page “Code of Ethics and Procedural Guidance for Ministers.” This code is very different to many other codes for Holders of Public Office of governmental level. To make things

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<sup>130</sup> Hine, Codes of Conduct,, in: Saint-Martin/Thompson, op cit, p.45.

<sup>131</sup> S.Gilman, Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons, Washington, DC, 2005.

<sup>132</sup> N. Behncke (Strohm), Why Germany does not (yet?) have a Nolan Committee?, in: Polis, Nr. 53/2001, University of Hagen, p.26.

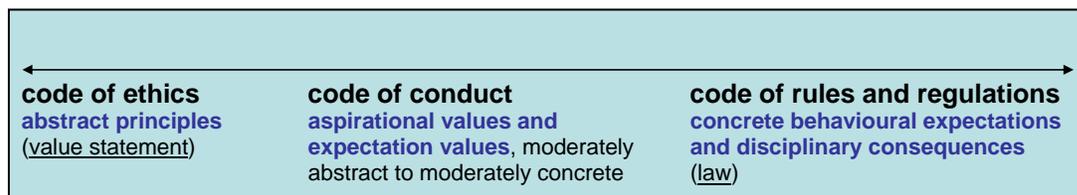
<sup>133</sup> [http://www.oecd.org/document/12/0,3343,en\\_2649\\_201185\\_35532108\\_1\\_1\\_1\\_1.00.html](http://www.oecd.org/document/12/0,3343,en_2649_201185_35532108_1_1_1_1.00.html) (last time checked on 11 July 2007).

even more complicated there are countries with relatively simple codes – the British “Code of the Committee for Standards in Public Life” – and very complex codes – the codes of the US Office of Government Ethics. As regards the British code the approach is based mainly on values to guide behaviour whereas the US codes are more compliance oriented. Also the different codes for the EU institutions are very different (see chapter IV, 3).

The objectives and functions of codes also differ widely. “Every profession faces the difficult task of trying to maintain a balance between fulfilling its functions for its members and for the larger community. This difficulty is reflected in codes of ethics, which are intended to appeal to many interests such as, for example, the general public, the media, clients, the profession's members, other professions, and government. These interests will on occasion overlap, while at other times they will diverge. It is not surprising, therefore, that a code of professional ethics which, after all, defines a profession's relationship to these various interests, reflects this reality.”<sup>134</sup>

Overall, the current deployment of codes of conduct for the different institutions follows a fragmented approach and is inconsistent.<sup>135</sup> Especially “in terms of institutional clarity, however, it is important to understand what different political systems mean when they use the term ‘codes of conduct.’”<sup>136</sup> “A code may be a statement of the quasi-constitutional status of the relevant reference group.....It may be a very general statement of the ethical climate in which the public service should operate. It may be a guide to more detailed ethical behaviour applying to the whole of the public service or to particular categories....Or it may contain general statements of what the public can expect ....”<sup>137</sup>

Codes for the different categories of office holders are also subject to some considerable variation. In fact, the public institutions analysed in this study use codes for many different purposes. In addition, the different codes vary as to their legal and political effects. Also as regards the term “code” many countries differentiate between code of ethics, code of conduct and code of rules and regulations.<sup>138</sup>



Generally, most codes can be divided in three types. Whereas code of ethics discuss general and abstract principles of behaviour, code of rules and regulations set more concrete behavioural expectations. These codes may also have disciplinary consequences

<sup>134</sup> Frankel, Professional Codes, op cit, p. 111.

<sup>135</sup> Hine, Codes of Conduct, in: Saint-Martin/F.Thompson, op cit, p. 65.

<sup>136</sup> Hine, Codes of Conduct, in: Saint-Martin/F.Thompson, op cit, p. 66.

<sup>137</sup> Hine, Codes of Conduct, in: Saint-Martin/F.Thompson, op cit, p. 5.

<sup>138</sup> M. Van Wart, Codes of Ethics as Living Documents, in: Public Integrity, Vol. 5, No. 4, pp. 331.

in the case of non-compliance. Codes of conduct are within these two extremes: generally, they contain norms that set both aspirational values and expectation values. Therefore, their level of abstractness varies from moderately abstract to moderately concrete. This distinction is a heuristic device and in practice these terms are used in a more or less interchangeable way.

According to Frankel “three types of codes of ethics can be identified. An *aspirational* code is a statement of ideals to which practitioners should strive. Instead of focusing on notions of right and wrong, the emphasis is on the fullest realisation of human achievement. Another type is an *educational* code, one which seeks to buttress understanding of its provisions with extensive commentary and interpretation. A conscious effort is made to demonstrate how the code can be helpful in dealing with ethical problems associated with professional practices. A third type is a *regulatory* code, which includes a set of detailed rules to govern professional conduct and to serve as a basis for adjudicating grievances. Such rules are presumed to be enforceable through a system of monitoring and the application of a range of sanctions. Although conceptually distinct, in reality any single code of professional ethics may combine features of these three types. A decision about which type of code is appropriate for any single profession at a particular point in time will necessarily reflect a mixture of both pragmatic and normative considerations”<sup>139</sup>.

#### Categories of Codes

- Legally-binding or voluntary
- Aspirational, compliance oriented or regulatory,
- Educational or public relations
- Integrative ethics instrument or guideline
- Combined with sanctions or without deterrent mechanisms
- Detailed or general/short

One of the main weaknesses of codes of conduct, however, is that in most cases, they are characterised by weak enforcement mechanisms compared to other instruments. This means that, on the one hand, they are very vulnerable to non-observance and violations, and, on the other hand, their successful implementation depends to a large extent on the existence of an environment of trust and an ability to ensure organisational adherence to a code. In addition, the HPO themselves must provide for leadership and must actively support the codes as “living documents”.

Another significant factor to consider is consultation with all key stakeholders in the development phase, or in a more general way the involvement of all key persons in the drafting of such a code. A further prerequisite for an effective code of conduct is that its content is expressed in such a way that it can easily be understood and implemented by HPO. This hurdle can be overcome by drafting a code which is clear, consistent,

<sup>139</sup> Frankel, Professional Codes, op cit, pp.110-111.

comprehensive, and which has a practical application. Consistency means that it harmonises with existing legislation and procedures, while clarity should aim to minimise ambiguity. However, the objective of more clarity is just as difficult to achieve as the requirement for less bureaucracy in the Member States or better regulation at EU and national level.

A further significant factor for guaranteeing an effective functioning of codes relates to the implementation phase. Quite often, drafting and adopting codes of conduct is looked upon as being an end in itself. Once adopted, they are often forgotten and not further implemented. However, this is only the first step, and in order to make the code a viable document and part of the organisational culture, training and raising awareness of the content of the codes should be an ongoing task. Moreover, as regards communicating the various codes, many administrations focus on the distribution via Internet and intranet. It is therefore unlikely that HPO are regularly reminded in their daily lives of the existence of codes. One may also doubt whether these are the most effective communication channels.

The differences amongst the different codes, their functions, their political and their legal nature and their meaning in different traditions and cultures suggests that it would be not wise to suggest any form of model code or best practices. From this, we conclude that best practices and model codes should better not be easily recommended. For example, Hine suggests that whereas the best known and most popular codes for HPO are probably the British, US and Canadian codes<sup>140</sup> the German code “seems to get close to what we might think of as a model code of conduct. It is detailed, practical, and apparently taken quite seriously by departments and individual civil servants alike.”<sup>141</sup> However, a totally different question is whether the German code would “fit” into other legal and administrative cultures. Obviously, national codes cannot be exported easily and do have not the same meaning, acceptance and purpose in other administrative cultures. We conclude from this that whether there is a case for introducing common codes across differing legal, administrative and institutional cultures “might be thought of as questionable”<sup>142</sup>.

### **3. Compliance-based ethics regimes and integrity-based ethics regimes – a useful concept for the EU?**

If the discussion on common codes is questionable, what else could be recommended as good international practice? In the previous chapter we discussed the difficulties involved in identifying model codes. In this chapter we will go one step further and ask whether it may be possible – instead – to identify effective models of conflicts of regimes. Thus, we will move away from a discussion of single codes to the discussion of broader concepts

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<sup>140</sup> For example the British Ministerial code: A Code of Ethics and Procedural Guidance for Ministers, the Canadian Conflict of Interest and Post-Employment Code for Public Office Holders or the US-Standards of Ethical Conduct for Employees of the Executive Branch.

<sup>141</sup> Hine, Codes of Conduct, in: Saint-Martin/Thompson, op cit, p. 66.

<sup>142</sup> Hine, Codes of Conduct, in: Saint-Martin/Thompson, op cit, p. 66.

and approaches. As we will see, it is much easier to define model concepts than model codes.

In the international literature, a "classical distinction" proposed by the OECD in the mid-90s serves as a widely accepted model for the different approaches to ethics. According to this approach the Member States may be classified according to:

- a) compliance-based ethics regimes (law), and
- b) integrity-based ethics regimes (code of ethics)

For example, countries like the United Kingdom and Germany differ widely as to their approaches to ethics. Germany has a highly professionalised public service and clear and detailed regulations against all instances of corrupt behaviour such as bribery, fraud, corruption and conflicts of interest. "In Germany, to start with, the mere notion of 'ethics' is still quite unusual: Instances of ethical or unethical behaviour are thought of rather in terms of "legal" or "illegal" behaviour. Ethics measures are mostly found to be laws proscribing certain types of behaviour, establishing control mechanisms and stating sanctions in case of violations. They are embedded in the tradition and strong systematic of the German legal system. This means that usually they form paragraphs or articles of particular law books such as the criminal law or the public service law. Consequently they can be changed or adapted only through a formal process of legislation passed by Parliament. The rules are stated in a very parsimonious manner, expressing nothing more than the dry judicial facts. This prevalent type of ethics measures is called by the OECD "Compliance-based ethics management" (OECD, 2000, 25).<sup>143</sup> The OECD calls this the "low road" approach: setting minimum standards beyond which behavior should not fall. The emphasis is on policing actions and catching wrongdoing, reinforcing the tendency to manage by rules because they provide a base-line for identifying error.<sup>144</sup>

Whereas the compliance-based approach is more based on rules and enforcement, the integrity-based approach focuses on soft-instruments and codes. Elements of an "Integrity-based ethics management are codes of ethics, a central ethics coordination body, ombudsmen or procedural arrangements, which aim at avoiding unethical behavior by raising awareness and enhancing the sensitivity for delicate situations, are only rarely found in Germany."

The integrity-based approach is more focused on results and less on legislation and legal control mechanisms by the Courts. "While there are clear rules against illegal behavior, and sanctions applied when those are breached, the focus is the actions or effects that should be achieved, rather than the behaviour that should be avoided. This suggests an emphasis on:

- the definition of overall aspirational "values" for the public sector (the OECD calls this the "high road")

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<sup>143</sup> N. Behncke, Monitoring public administrators or signalling trustworthiness to the demos? The two functions of ethics regulations, in: Polis, No. 61, 2004, University of Hagen, p.3.

<sup>144</sup> State Service Commission New Zealand, An Ethics Framework for the State Sector, Occasional Papers, Wellington, No 15, p.11.

- *what* is achieved rather than *how* it was achieved (that is, a focus on ends rather than means), and
- Encouraging good behaviour rather than policing errors and punishing bad behaviour

As this study will show (too) many countries do not fit into either of the two scenarios. Also our case “Germany” provides for more and more elements of a compliance based and an integrity based model.

Also both approaches can include either detailed or general, bureaucratic or flexible, “tough” or “loose” requirements as to the management of conflicts of regimes. For example, France as a representative of a country with a compliance based approach does not regulate almost 40% of all analysed categories of conflicts of interest. Also Germany has a relatively high record of conflicts of interest which are not regulated at all. Contrary to this, the regulation density in an integrity-based system (like the United Kingdom) can be higher than in a compliance based-system. Also the Netherlands, as a country with an integrity based approach, also has an equally high number of issues that are not regulated as Germany. The main difference between both countries is that Germany regulates mainly by way of laws and codes whereas the Netherlands focus on codes.

These examples show that comparisons between compliance-based countries and integrity-based countries are problematic and may lead to simplistic conclusions. Although the authors of this study find it useful to offer generalised typologies we were not convinced that this classification offered by the OECD is the most accurate way to describe the reality. For example, whereas the OECD model suggests that compliance-based countries face more enforcement challenges we believe that this can be also the case in integrity-based countries.

Today, most countries seem to fall into a spectrum that combines self-management and self-regulatory practices, independent and external monitoring practices – and legal approaches (including stricter sanctions for non-compliance.)<sup>145</sup> During the last 10 years, there has been growing evidence that countries are working to strengthen their legal systems (more regulations) and at the same time introducing more codes of conduct as well. This has been the general trend throughout Europe. For example, Finland has traditionally relied on legal instruments but during the last ten years they have introduced a number of soft instruments such as values statements and codes of conduct. Thus, these regimes are not necessarily mutually exclusive. Therefore, if a country wants to foster good behaviour, basic legal norms and top approaches are needed. These rules can be set in legislation, or in code of conduct. If properly used, legislation and a code of conduct complement each other effectively. Moreover, many classically compliance-based regimes are in a process of introducing more and more policies of self-regulation and introducing more soft instruments.

Thus, the OECD model is an interesting but also a very simplified model since it does not reflect the growing complexities of CoI concepts in the Member States and on EU level.

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<sup>145</sup> Saint-Martin, Path-Dependency, op cit., 6.

Pure forms of either of these models do not exist and – consequently – cannot be recommended to the EU institutions. Instead other models should be explored.<sup>146</sup>

#### **4. “Strict”, “moderate” and “soft” conflicts of interest regimes and models**

Despite all existing differences and complexities in this study, we believe that it is possible to identify a number of CoI models and to classify a number of national systems in these models. We call these different models conflicts of interest regimes. For example, the USA have a very strict ethics regime which includes a high regulatory density, the existence of a detailed number of restrictions and prohibitions, broad requirements as to register and disclosure requirements, strict post-employment rules, relatively powerful and independent ethics committees etc. In contrast to this Sweden has a relatively low degree of regulation density, only few restrictions and prohibitions, voluntary disclosure policies and no external ethics committees. In our study we call the US model the “tough” conflicts of interest regime and the Swedish model the “soft” conflicts of interest regime.

In our study we have classified most Member States into three different categories of conflicts of interest regimes. We believe that this prescriptive model can also be very helpful for the different EU institutions when thinking about possible future reforms.

Despite the existing difficulties in defining role models or best practices in the field of conflicts of interest concepts and (even more) for codes of ethics it is possible to classify the different conflicts of interest regimes into three categories. Here, we distinguish between those countries and institutions

- who regulate, prohibit and restrict a number of issues, require a detailed number of reporting obligations and have independent control and monitoring mechanisms in place – Model 1: restrictive approach
- who regulate, prohibit and restrict a number of issues but leave room for some exceptions and have less strict control mechanisms in place – Model 2: moderate approach
- who are mostly based on voluntary approaches and rely on different forms of self-regulation and self-enforcement – Model 3: soft approach

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<sup>146</sup> For example, Maesschalck has elaborated an interesting classification by adopting the grid-group theory. See J. Maesschalck, *Approaches to Ethics Management in the Public Sector*, *Public Integrity*, Winter 2004/2005, Vol.7, 2005, pp.21.

## MODEL 1 – RESTRICTIVE APPROACH

<b>Rules and standards</b>	<b>Content, restrictions and requirements</b>
Rules, standards and general ethical principles	Existence of general and specific rules and standards applicable to all institutions High degree of regulation (high number of prohibitions, restrictions etc.)
Financial declaration and register of interests	Financial declarations and register of interests Obligatory reporting Annual reporting Obligatory updating  Detailed requirements (few exceptions) Information on spouse's activities required Public access to register  Monitoring of register by public and by internal or external control mechanisms (e.g. ethics commission) Sanctions for non-compliance
Ethics committee	Mostly no self-regulation Inter-institutional and/or sectoral committee Guaranteed resources Advisory role Training role Own inquiry rights Monitoring and sanctioning powers Independent composition
Post-employment rules	Prohibition to exercise activities after leaving the position which are related to the former functions Cooling-off period
Professional activities	General restrictions on additional activities (except legislators)

## Model 2 – MODERATE APPROACH

<b>Rules and standards</b>	<b>Content, restrictions and requirements</b>
Rules, standards and general ethical principles	Some specific standards for individual institutions High number of regulations (prohibitions, restrictions etc.) as to different conflicts of interests
Financial declarations and registers of interests	Some financial declarations and registers of interest Obligatory reporting Annual reporting Obligatory updating  Detailed disclosure requirements that allow for exceptions (e.g. for self-employed persons, money thresholds etc.). Few requirements on spouse's activities Public access (internal and/or external)  Monitoring by public and internal control mechanisms (mostly by internal offices or by the president) Sanctions available but not used in practice
Ethics committee	Mostly self-regulation Mostly internal office/commission Limited or no resources Mostly advisory role No own inquiry rights No monitoring and sanctioning powers Composed of nominated/elected experts from own institution or outside
Post-employment rules	No rules or notification duties when taking up a new position No cooling-off period
Professional activities	Exceptions, legislators are allowed to exercise additional activities

### Model 3 – SOFT APPROCH

Rules and standards	Content, restrictions and requirements
Rules, standards and general ethical principles	Some specific standards for individual institutions Moderate number of restrictions and prohibitions
Financial declarations and register interests	Some financial declarations and existence of registers Voluntary and/or confidential reporting Voluntary annual reporting Optional updating  Disclosure requirements that allow for exceptions (e.g. for self-employed persons, money thresholds etc.) No requirements on spouse's activities Public access (internal and/or external) or restricted access  No monitoring by public and internal control mechanisms (mostly internal offices or president) Sanctions available but not used in practice
Ethics committee	Self-regulation (if existing) No committee
Post-employment rules	No rules
Professional activities	Exceptions, legislators are allowed to exercise additional activities

It is difficult to classify the EU Institutions in one of these models. Apart from the relevant treaty provisions the European institutions are mostly regulated by codes of ethics. The strictest regime applies to the European Commission, although the European Commission has only established an ethics committee with very restricted tasks and competences. Consequently, the European Commission should be classified between Model I and Model II. On the other hand, the weakest regimes are those of the European Parliament and the European Court of Justice. However, the European Parliament has an obligatory register of interest but only very few general rules and standards as to conflicts of interest restrictions and prohibitions. Both institutions (The ECJ and the EP) have no internal- or external ethics committee. We have no information on the monitoring role of the Quaestors in the EP. Likewise, we have no information on training activities within most institutions (a part from the European Commission). The Court of Justice has some rules and standards but no register and ethic committee etc. All existing rules derive from the ECT and from the Statute of the ECJ. Thus, whereas the EP could possibly be

classified according to the model III, the European Court of Justice would not fit in any of these models. The other EU institutions would probably fit best into model II although the EIB has a more developed ethic regime than the ECB.

### Most important standards and instruments in the EU institutions

Rules and standards	EU institutions
Rules, standards and codes	General rules and standards as regulated in the ECT Additional specific codes for COM, ECB, EIB and Court of Auditors Parliament has no code but Rules of Procedures (Annex I) ECJ (none)
Register of interest	All institutions except for the ECJ
Register requirements	Detailed in COM, EIB, Rules allow for flexibility in CoA, EP and ECB, No regulation of spouses in EP and ECB,  No register in ECJ
Monitoring of register	Generally public access to registers - not in ECB, in ECA only if College of Members approve General monitoring responsibility by president of the institution Quaestors monitor in EP Sanctions may be decided by the ECJ or internally No register in ECJ
Post-employment	EC – Rules on information on activities after hafting left the Commission (one-year period) EIB – Rules on post-employment (six-month period) No or only general rules in other institutions (e.g. Art. 4 of Statute of the ECJ states: “When taking up their duties, they [the Judges] also give solemn undertaking that, both during and after their term of office, they will respect the obligation arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have cease to hold office, of certain appointments or benefits.
Ethics committee	None of the institutions have an external ethics committee EIB has an ad hoc committee on post employment and a Compliance Officer, ECA and COM have ad hoc committees, respectively, on outside activities and on post-employment occupations All bodies have only advisory powers and no own

	inquiry and enforcement powers (except the Compliance Officer in the EIB)
Professional activities	Restrictions for all institutions, MEPs are allowed to exercise professional activities

<b>EU-institution</b>	<b>Conflicts of ethics regime model</b>
European Investment Bank	Model 1/Model 2
European Commission	Model 1/Model 2
European Court of Auditors	Model 2
European Central Bank	Model 2/Model 3
European Parliament	Model 3
European Court of Justice	Cannot be classified into the different models because of the lack of a code of ethics, register, monitoring arrangements and an ethic committee

## **IX. CONCLUSIONS AND RECOMMENDATIONS**

This study shows that more regulations do not necessarily lead to less CoI and corruption. Instead, it seems that more regulation is not required in those situations or countries where high levels of public trust exist. On the other hand, tough and strict rules are not a necessary condition for low levels of conflicts of interest. From this, the study draws the conclusion that there is also no ideal type of CoI system: the need for different CoI systems as well as conditions for their successes and failures depend to a large extent on the particular socio-cultural environment. Consequently, so-called “high-trust” countries need different rules and standards than “low-trust” countries with a high level of corruption. In addition, regulation as such is only one instrument and does not solve by itself any problem. Therefore, emphasis should always be put on the need for an integrity-infrastructure which consists of a pro-active approach towards CoI (and ethics in general) including a combination of awareness raising instruments (incl. leadership) transparency policies, rules and standards as well as deterrent measures.

### **1. Recommendations to the EU Member States**

1. Generally speaking there is no evidence that conflicts of interests are increasing as such. Therefore, asking for the introduction of more and stricter rules would send the wrong signal and would (possibly) be even counterproductive. Moreover, conflicts of interest include many different situations. Whereas some issues (e.g. post-employment) deserve more attention and better rules and standards, other issues (e.g. gift policies) are generally well managed. Therefore, we recommend that new policies should be designed diligently and only after having carried out a careful cost-benefit analysis.
2. Whereas in the USA public integrity measures tend to be over-restrictive this can not be said for the majority of the Member States of the EU. However, the present trend in many Member States seems to point towards the regulation of an ever-increasing number of issues. At present, this is particularly the case in the new Member States. However, as this study shows, too many and too restrictive rules may become counterproductive. Another challenge is the implementation and the enforcement of the rules in practice. Whereas a certain minimal set of rules is necessary and absolutely needed, too many and too tight restrictions and prohibitions can be costly, bureaucratic, and potentially even ineffective. Therefore, we recommend a finely balanced approach between risk and regulation. In particular (some of) the new Member States should move away from the concentration on more regulatory activity. Instead, these countries would be well advised to focus on implementation and enforcement issues.
3. Despite these warnings against overregulation, this study also shows that some CoI issues may be under-regulated in some institutions and EU Member States. The findings of this survey do not confirm that all governments and institutions

are aware of the potential risks of conflicts of interest as a result of Holders of Public Office leaving public office. In fact, our comparative analysis of conflicts of interest issues has shown that post-employment is the least regulated CoI issue of all. This may be problematic since leaving the position (because of a career stop, retirement, stepping down, ending the appointment etc.) raises legitimate questions about the future use of the special knowledge and insight of former Holders of Public Office. Holders of Public Office have unique and important (and often confidential) inside information which is sensitive and can produce an unfair advantage over competitors. Suspicion of impropriety, such as the potential misuse of “insider information”<sup>147</sup> for the illicit benefit of former Holders of public office is a widely shared concern across most EU countries (and also within most EU institutions). Clearly, the future challenge lies in balancing issues like the need to avoid conflicts of interests with the need to maintain mobility between the different sectors and the need to ascertain the attractiveness of public sector employment. Nevertheless, we recommend paying more attention to potential conflicts of interest regarding post employment.

## 2. Recommendations to the EU institutions

1. Some EU institutions (especially the European Commission and the European Investment Bank) have already established a relatively sophisticated conflicts of interest infrastructure. However, this is not the case in a number of other Institutions. The Court of Justice and the European Parliament especially should (at least) adopt proper “minimum” rules and standards in the field of conflicts of interest. We are not aware of any CoI violations in the ECJ and our study does not suggest that HPO in the ECJ are not sufficiently ethical. However, it does suggest that the introduction of standards for HPO in the ECJ could send an important signal to the public and could contribute to the prevention of future CoI in the ECJ. During the work on this study the ECJ has already signalled that it plans to adopt a code and a register.
2. At the same time, the ethic regimes of other EU Institutions should not be used as simple benchmarks for the ECJ and the EP. For example, parliaments in general have a lower degree of regulation density than Banks and Governments. In addition, whereas Parliaments need to focus on specific items (e.g. lobbying) more closely than Courts of Justice, other CoI may be less relevant (such as the regulation of post-employment).
3. However, it may be recommendable to use comparable national institutions as benchmarks. As this study shows, both the ECJ and the EP have a less developed ethical regime than comparable institutions at the national level. This is especially the case of the EP. Over the past fifteen years, the European Parliament’s institutional weight has increased, and its powers have been strengthened,

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<sup>147</sup> Information not available to the public, such as classified government information (e.g. on policy intention, national security, etc), data on personal privacy as well as commercially sensitive information (e.g. trade secrets).

especially with the introduction of co-decision and control rights over the Commission. Due to this evolution, there is less reason to manage CoI in the EP differently than in the national parliaments.

4. The ECJ and the EP are advised to adopt a code of conduct. In the case of the EP this may be even more important than for the ECJ, since the existing rules and standards of the EP are exclusively regulated by the Rules of Procedures of the EP (and partly by national rules and standards). Other ethical rules for the members of the EP do not exist.
5. However, adopting a code of conduct is not sufficient. Much time and energy is usually spent in designing, formulating, and adopting a code but many institutions stop here. The code remains a ‘paper tiger’ and is never implemented or monitored. The future challenge should be to “utilise the dynamics which have emerged from the formulation of the code. This will support a continuous process of reflection on the central values and standards contained in the code”<sup>148</sup>. This recommendation is valid for all EU-Institutions.
6. Only a few Member States have inter-institutional codes of ethics, because of the very distinctive and specific institutional features of the different institutions. Consequently, we advise that rules and standards are (generally) designed to the specific needs of the different European institutions (and HPO). Different EU institutions should have their own specific rules and standards that fit their specific institutional needs and particularities. Nevertheless, there may be room for a general and short, aspirational code for all EU institutions. Such an aspirational code for the EU Institutions may give a signal to the public that the EU institutions take these issues very seriously and may have a certain public relations effect. On the national level, the British *Seven Principles of Public Life* Code is probably the best-known example of such an aspirational code in Europe. Another example, on the EU level, is the Code on Good Administrative Behaviour. In line with the latter example, we propose that this inter-institutional code should be managed and promoted by the European Ombudsman.
7. Such an inter-institutional aspirational code should contain general principles and obligations which are also applicable in all Member States such as:
  - In carrying out their official duties, HPO should arrange their private affairs in a manner that will prevent real, apparent or potential conflicts of interest from arising.
  - If conflicts of interest arise they should be resolved in favour of the public interest.
  - HPO should not have private interests that would be affected by actions in which they participate.

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<sup>148</sup> A.Nijhof/S.Cludts/O.Fisscher/A.Laan, Measuring the Implementation of Codes of Conduct. An Assessment Method Based on a Process Approach of the Responsible Organisation, in: *Journal of Business Ethics*, No.45, 2003, pp.65 (65)

- HPO should not abuse their power position and use public property for private interests.
  - HPO should not support private interests or persons in their dealings where this would result in preferential treatment for these persons.
  - HPO should not knowingly take advantage of (insider) information that was obtained in the course of their duties as a HPO.
  - HPO should avoid preferential treatment or assistance to family or friends.
8. Because of the different roles, powers, functions and obligations of the different EU institutions and the fact and that the EU institutions are too diverse, it is advisable that each EU institution adopts its own specific codes that regulates the particular conflict of interests that HPO might face. This implies that the EP and the ECJ should devise their own specific codes.. All institutions should have rules and standards regarding transparency, confidentiality, and secrecy. Similarly, all should have rules and standards (albeit different ones) on gifts, memberships, honorary activities etc. We would also advise that the European Commission, the Court of Justice, the Court of Auditors and the European banks have rules and standards in the field of post-employment, insider dealing, incompatibility of posts, professional activities and outside (professional) activities. It is recommended that these institutions regulate post-employment of their office holders for a period of at least one year. This issue is less salient for members of the EP. Finally, all institutions should have rules and standards on financial (public) disclosure and ethics committees. Each institution should be free to regulate additional issues on the misuse of positions for private gain or the misuse of government property, nepotism etc.
  9. The design of gift policies in particular should be left to the individual institutions. Generally, receiving gifts is more problematic for legislators and Members of Government than for other HPO. The presentation of gifts to political representatives is generally perceived as an expression of friendship, respect, and politeness. However, gifts may also represent compensation for political favours. In order to protect Members of Government and legislators and the integrity of their positions, these institutions should be advised to design specific policies on gifts. Generally, HPO should not accept or solicit any gifts, hospitality, or other benefits that may have a real or apparent influence on their objectivity in carrying out their official duties or that may place them under obligation to those who offer the gifts. Gifts, hospitality, and other benefits may only be accepted if they are not received on a regular basis, are of minimal value and are within the normal standards of courtesy, or protocol.
  10. Probably more important than having detailed CoI regimes is to have a credible monitoring and control mechanism in place, the crucial issues being transparency and accessibility of information, monitoring and enforcement.
  11. The public increasingly tends to question practices where public institutions regulate their own ethical conduct. Forms of self-regulation tend to cause

suspicion. However, little evidence exists as to the effectiveness of (independent) ethic committees. In the Member States only few countries have established an independent Ethics Committee or an Office of Government Ethics. We consider it advisable that the EU institutions have their own ethics committees that have the authority to advise both about general issues and about specific cases. In some instances, it may be advisable to give these ethics committees the authority to decide upon specific conflicts of interest that have been brought before it (instead of the present peer system). Another possibility would be to establish an independent Standards in Public Office Commission which would have advisory tasks and/or supervisory and monitoring tasks. This Office may be set up under the authority of the European Ombudsman. An interesting model may be the Irish Standards in Public Office Commission (<http://www.sipo.gov.ie/en/AboutUs/>). On the EU level, the EIB has established the position of an independent compliance officer. However, as regards the latter no (public) evidence exists as to this position and its work in practice.

12. As regards the Commission, it seems questionable (especially in the light of the institutional architecture defined by the EC Treaty, article 217), whether it would be legally possible to establish an Ethics Committee with sanctioning powers and the authority to decide upon specific conflicts of interest concerning the EU Commissioners. Despite these legal restrictions, we believe that the existing Ad-hoc Committee has a too limited role. It is only responsible for post-employment issues. We recommend that an ethics committee is established with a broader mandate (advising HPO, restricting monitoring role, public role).
13. The findings in this study show that registers of interest that are open to the public are a popular and widely used instrument in the Member States. However, our study also cast doubts as to the effectiveness of registers and also to the potential political abuse of public registers. On the other hand, HPO have access to a great deal of power and influence. In addition, people place a tremendous amount of trust in HPO. Therefore they should also be subject of public scrutiny (and not only by being exposed to the voters' verdict). Thus we welcome the intention of the European Court of Justice to establish a register of interest (which should be open to the public). We would also suggest that the ECJ introduces its own ethic committee and/or participates in the setting up of an Independent Standards in Public Office Commission.
14. At present, not all institutions have credible monitoring and enforcement mechanisms as to their registers of interest. In most cases, the declarations of interest are sent to the president of the institutions. However, it is questionable whether the office of the President has the necessary means and resources to "manage" the monitoring of registers. Thus, this form of self-regulation may lack credibility and deterrent effects. We propose the establishment of independent monitoring officers whose task would be to report annually (and publicly) on the received data. The content and the question of what should be declared in a register of interests should be left to the individual institutions. For example, this

concerns questions such as whether the spouse's activities should be also listed and whether reporting thresholds should be introduced.

15. This study shows that although more rules and standards exist, HPO are not made sufficiently aware of the existing rules and trained on how to implement them. Consequently, we propose increased effort in the training of HPO and also in other awareness-raising techniques that aim at enhancing knowledge of the rules.
16. Our study shows that the strict conflicts of interest regimes that have been adopted in Anglo-Saxon countries and in some of the new Member States do not score well on a cost-benefit analysis. They are quite costly in terms of bureaucratic and financial burdens. Moreover, there is an inverse relation between the density of regulation in the member states and their scores on the Corruption Perception Index. Also, there is too little evidence that a strict regime will indeed enhance popular trust and reduce corruption. Consequently, we would not advise implementing these models. As to our proposed CoI regime menu, the moderate regime (model II) would be most advisable, as it would require the EU institutions to install a regime of ethical rules and institutions, without burdening them with a series of very elaborate forms and procedures. The moderate regime would, however, go quite a bit beyond the present state of affairs. This would imply that some EU institutions (mostly the European Parliament and the Court of Justice) would have to step up their efforts to regulate and enforce ethical rules and standards.

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# XI. ANNEXES

## ANNEX 1 – QUESTIONNAIRE

### 1. Standards of conduct for Holders of Public Office

Below you will find a list of ethical issues that are regulated in many member states by law and/or code of conduct. In some countries, these issues are not formally regulated - they are part of administrative culture, habits and tradition. What is the situation as regards the parliamentarians? **Are there any specific standards concerning**

Please note that the options *Law* and *Code of Conduct* are not exclusive. You can mark both options if needed. If the Code of Conduct has a legal status in your country you can mark both options and write a comment below.

	Law	Code of Conduct	Unregulated
a) declaration of financial interests and assets .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) HPO's spouse's activities .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) provisions relating to the declaration of interests .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) outside activities: political activities .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) outside activities: honorary positions .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) outside activities: conferences .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) outside activities: publications .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) professional confidentiality .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) professional loyalty .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) missions, travels .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k) rules on receptions and representation .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l) accepting gifts, decorations or distinctions .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m) general rules on impartiality and conflicts of interest .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n) specific rules on incompatibility of posts and professional activities before or during the term of office .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o) restrictions on professional commitments or holding other posts after leaving office .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
p) other rules and standards, what .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

2. If your institution uses a code of conduct or several codes, please specify its name:

**Please send a copy of the code of conduct to the survey conductors** as a file attachment or as a paper copy. The Code of Conduct for Commissioners is a good example of a code.

3. Please make a list of relevant legislation concerning the above issues that are relevant in defining the professional ethics for the holders of the public offices. In many countries

this includes laws such as the Constitution, Penal Code, Act on Openness of Government Activities etc. What laws are relevant in your country concerning the holders of public office in this institution?

**Please send a copy of the relevant legal provisions to the survey conductors** as a file attachment or as a paper copy. If you send the whole laws, please highlight the relevant parts.

4. Does your institution provide training programs concerning professional ethics for the holders of public office (e.g., how to act in a conflict-of-interest situation)?

- yes; please provide more information on training:
- no

5. Does your institution have an ethics committee or advisory group on ethics responsible for assisting the competent authorities when they are called upon under the terms of a code of conduct or similar provisions to rule on certain aspects of the application of these rules?

- yes; please provide more information on committees:
- no

6. Do you have a register on declarations of financial interests?

- yes; please provide more information how the register operates:
- no

## ANNEX 2 – DATA MATRIX

### List of conflict-of-interest items used in the study

Abbreviation	Description
a1	Political activities
a2	Honorary positions
a3	Conferences
a4	Publications
a5	Specific rules on incompatibility of posts and professional activities
b1	Declaration of financial interests and assets
b2	HPO's spouse's activities
b3	Provisions relating to the declaration of interests
c1	Accepting gifts, decorations or distinctions
c2	Missions, travel
c3	Rules on receptions and representation
d1	Restrictions on professional commitments or holding other posts after leaving office
e1	General rules on impartiality and conflicts of interest
e2	Professional confidentiality
e3	Professional loyalty
e4	Other rules and standards

#### Values

0	Not regulated
1	Regulated by law
2	Regulated by code of ethics/conduct
3	Regulated by law and code of ethics/conduct
.	Not known/not applicable

### List of other issues included in the study

Abbreviation	Description
f1	Training programs concerning professional ethics
f2	Ethics committee or advisory group on ethics
f3	Register on declarations of financial interests

#### Values

0	No
1	Yes
.	Not known/not applicable

## Members of Government

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3
AT	Austria	1	1	0	0	1	1	0	1	1	1	1	0	1	1	1	.	0	1	1
BE	Belgium	0	0	0	0	1	1	0	1	0	2	2	3	3	1	2	0	0	0	1
BG	Bulgaria	1	1	1	1	3	1	1	1	3	3	1	1	3	1	3	.	0	0	1
CY	Cyprus	0	0	0	0	0	1	2	1	1	0	0	1	2	1	1	.	0	0	1
CZ	Czech Republic	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
DE	Germany	1	1	0	0	1	0	0	0	3	2	0	0	0	1	2	1	0	0	0
DK	Denmark	2	2	0	2	3	3	2	3	1	1	0	0	1	1	0	.	0	0	1
EE	Estonia	0	0	0	0	1	1	0	1	1	1	0	0	1	1	1	.	0	1	1
EL	Greece	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
ES	Spain	2	3	3	3	3	3	3	3	3	3	3	3	3	3	3	.	1	1	1
FI	Finland	1	1	3	3	1	1	2	1	3	3	3	0	3	1	1	.	1	0	.
FR	France	0	0	0	2	1	2	0	2	0	0	0	0	1	1	1	.	0	0	0
HU	Hungary	1	1	1	1	1	1	0	1	2	1	2	0	1	1	1	.	0	0	1
IE	Ireland	.	.	3	.	2	3	3	3	3	3	3	2	2	2	3	3	0	1	1
IT	Italy	0	0	0	0	1	1	1	1	.	.	.	1	1	.	.	.	0	0	0
LT	Lithuania	1	.	1	1	1	1	1	1	1	1	1	1	1	1	1	.	1	0	1
LU	Luxembourg	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	0	.
LV	Latvia	1	1	0	0	1	1	1	1	1	1	1	1	1	1	1	.	1	0	1
MT	Malta	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NL	Netherlands	0	2	0	0	2	2	0	2	0	2	0	0	2	1	0	.	0	0	0
PL	Poland	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	.	0	0	1
PT	Portugal	1	1	1	1	1	1	1	1	.	.	.	1	1	1	1	.	0	0	1
RO	Romania	1	1	1	1	1	1	1	1	.	.	.	.	1	1	1	.	0	0	1
SE	Sweden	0	0	0	0	1	3	2	2	3	3	3	0	1	1	0	.	1	0	1
SI	Slovenia	0	0	1	1	1	1	1	1	1	.	0	0	2	3	2	0	0	0	1
SK	Slovakia	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
UK	United Kingdom	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	.	1	1	1

## Members of Parliament

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3
AT	Austria	1	0	0	0	1	0	0	0	1	0	0	0	1	1	0	0	0	1	0
BE	Belgium	1	0	0	0	1	1	0	1	0	0	0	1	0	1	0	.	0	0	1
BG	Bulgaria	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
CY	Cyprus	1	1	0	0	1	1	0	1	0	0	0	1	1	1	1	1	0	1	1
CZ	Czech Republic	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
DE	Germany	3	3	3	3	1	3	0	3	3	0	0	0	2	2	0	.	0	0	1
DK	Denmark	0	2	2	0	3	2	0	2	2	2	2	0	0	2	0	.	0	1	1
EE	Estonia	0	0	0	0	1	1	0	1	1	1	0	0	1	1	1	.	0	0	1
EL	Greece	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
ES	Spain	1	1	1	1	1	1	0	1	0	0	0	0	1	1	0	0	0	1	1
FI	Finland	2	2	0	0	1	2	0	2	0	0	0	0	1	0	0	0	0	0	1
FR	France	1	2	2	1	.	1	0	1	1	0	0	0	1	0	0	0	0	0	1
HU	Hungary	0	0	0	0	1	1	1	1	1	0	0	1	0	1	0	.	0	1	1
IE	Ireland	1	1	1	1	0	1	1	1	3	1	0	0	2	0	0	.	1	1	1
IT	Italy	1	1	0	0	1	1	1	0	0	2	0	1	1	0	0	0	0	0	0
LT	Lithuania	1	1	1	0	1	1	1	1	1	1	0	0	1	1	0	.	1	1	1
LU	Luxembourg	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
LV	Latvia	1	1	0	0	1	1	1	1	1	1	3	1	3	1	1	.	1	1	1
MT	Malta	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NL	Netherlands	0	1	1	0	1	1	0	1	1	1	0	0	0	1	0	.	0	0	1
PL	Poland	3	3	3	3	1	1	1	1	3	0	1	0	3	0	3	.	1	1	1
PT	Portugal	1	1	1	1	1	1	1	1	1	1	1	0	1	1	1	.	0	1	1
RO	Romania	1	0	0	0	1	1	0	1	0	0	0	0	1	.	3	.	0	1	0
SE	Sweden	0	0	0	0	0	1	0	1	1	.	3	0	1	1	0	2	0	0	1
SI	Slovenia	.	.	.	1	1	1	1	1	1	1	.	1	1	1	1	1	0	0	1
SK	Slovakia	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
UK	United Kingdom	0	2	2	0	0	2	2	2	2	2	2	0	2	0	2	0	0	1	1

### Judges of Supreme Court

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3
AT	Austria	1	0	0	0	1	0	0	0	0	0	0	0	1	1	1	.	0	0	0
BE	Belgium	1	0	1	1	1	0	0	0	1	0	0	1	1	1	1	0	0	0	0
BG	Bulgaria	1	1	0	0	1	1	1	1	1	1	0	1	3	1	3	0	0	0	0
CY	Cyprus	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
CZ	Czech Republic	0	1	0	1	1	1	0	1	1	0	0	1	1	1	0	0	0	0	0
DE	Germany	1	0	1	0	1	0	0	0	3	1	.	0	1	1	1	0	.	1	0
DK	Denmark	0	0	0	0	1	1	0	1	0	0	0	0	1	1	1	.	0	0	0
EE	Estonia	3	2	0	2	3	1	0	1	3	2	2	.	3	3	2	.	0	1	1
EL	Greece	1	3	2	2	3	3	3	3	3	2	0	0	3	3	3	.	0	1	1
ES	Spain	1	1	1	1	1	0	0	0	1	.	.	1	1	1	1	.	1	0	0
FI	Finland	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	1
FR	France	1	0	1	1	1	0	0	0	0	0	0	1	1	1	1	.	0	0	0
HU	Hungary	3	1	1	1	1	1	0	1	2	2	2	0	3	3	1	.	1	0	1
IE	Ireland	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IT	Italy	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
LT	Lithuania	3	1	1	1	1	1	1	1	3	1	1	1	3	3	3	.	0	0	1
LU	Luxembourg	1	0	0	0	1	0	1	1	1	1	1	0	1	1	1	.	1	0	0
LV	Latvia	3	3	2	2	1	1	3	1	3	1	3	3	3	3	3	.	1	1	1
MT	Malta	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NL	Netherlands	1	1	0	0	1	1	1	0	1	2	0	0	1	1	1	0	0	0	1
PL	Poland	1	0	0	0	3	1	3	1	3	1	0	3	3	1	3	0	0	1	1
PT	Portugal	1	1	.	.	1	.	.	.	1	.	1	1	1	.	1	.	0	0	0
RO	Romania	3	1	1	3	3	1	1	1	1	1	1	1	3	3	3	.	0	0	1
SE	Sweden	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
SI	Slovenia	1	0	1	1	3	1	1	1	1	1	0	0	3	3	3	0	0	1	1
SK	Slovakia	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
UK	United Kingdom	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

### Directors of Court of Audit

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3	
AT	Austria	1	0	0	0	1	0	0	0	3	3	0	0	1	3	3	.	0	0	1	
BE	Belgium	.	0	0	0	1	1	1	1	1	2	0	0	1	0	0	1	0	0	1	
BG	Bulgaria	2	1	0	2	1	1	1	1	2	1	1	0	2	3	2	.	1	0	1	
CY	Cyprus	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
CZ	Czech Republic	1	.	0	0	1	1	1	1	1	.	.	0	1	1	1	.	0	1	0	
DE	Germany	1	3	1	1	3	0	0	3	3	1	0	1	1	3	1	1	1	0	0	
DK	Denmark	1	0	0	0	1	0	0	0	2	2	2	0	1	3	0	.	0	0	0	
EE	Estonia	0	1	0	0	3	1	1	2	3	0	3	1	3	3	3	.	0	0	1	
EL	Greece	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0
ES	Spain	1	1	1	1	1	0	0	0	1	1	3	1	1	3	3	.	0	0	0	
FI	Finland	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
FR	France	2	0	3	2	3	0	0	0	3	1	0	3	3	3	3	2	1	1	0	
HU	Hungary	1	1	1	1	3	1	0	1	3	2	2	0	3	2	2	.	1	0	1	
IE	Ireland	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
IT	Italy	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
LT	Lithuania	0	0	0	0	0	1	1	1	1	0	1	1	1	0	1	2	0	0	1	
LU	Luxembourg	1	0	0	1	1	0	1	0	1	0	0	0	1	1	.	.	.	0	0	
LV	Latvia	1	1	0	0	1	1	1	1	3	3	1	1	3	3	3	2	1	1	1	
MT	Malta	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
NL	Netherlands	3	3	3	2	1	0	1	0	2	3	2	0	1	2	2	.	0	0	0	
PL	Poland	3	3	0	0	3	1	1	1	3	0	0	0	3	3	3	3	1	0	1	
PT	Portugal	2	3	2	2	3	1	1	3	3	3	3	1	3	3	3	2	1	0	1	
RO	Romania	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
SE	Sweden	1	0	0	0	0	1	0	0	3	2	2	0	1	2	0	.	1	0	1	
SI	Slovenia	2	1	1	1	3	3	1	2	1	1	1	1	3	3	2	.	0	0	0	
SK	Slovakia	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	
UK	United Kingdom	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	

### Directors of National Bank

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3
AT	Austria	2	2	2	2	0	0	0	0	2	2	2	0	2	2	2	2	0	0	0
BE	Belgium	1	0	0	0	1	1	0	1	2	0	2	1	2	3	2	2	0	0	0
BG	Bulgaria	1	1	2	1	3	3	1	3	2	3	3	0	3	3	2	2	0	0	1
CY	Cyprus	1	1	0	0	1	1	0	1	1	0	0	1	1	1	1	.	0	0	0
CZ	Czech Republic	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
DE	Germany	1	2	2	2	2	2	0	2	3	2	2	2	3	3	2	.	0	1	0
DK	Denmark	2	2	2	2	3	0	0	2	2	2	2	0	2	1	0	.	0	0	0
EE	Estonia	1	1	0	0	1	1	1	1	1	0	0	0	1	1	1	0	0	0	0
EL	Greece	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
ES	Spain	2	2	2	2	3	3	3	3	3	0	0	3	3	3	0	.	0	0	1
FI	Finland	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
FR	France	1	.	1	1	1	1	0	1	0	0	0	1	1	1	0	.	0	0	1
HU	Hungary	1	1	1	1	1	1	1	1	2	2	2	1	1	1	1	.	1	1	1
IE	Ireland	3	0	2	2	2	3	3	3	3	3	2	0	3	3	2	0	0	1	1
IT	Italy	1	2	2	2	3	1	0	2	2	2	1	2	3	3	2	0	0	1	0
LT	Lithuania	0	3	2	2	1	1	2	1	2	0	2	1	3	3	2	.	0	0	1
LU	Luxembourg	1	0	0	1	1	0	1	0	1	0	0	0	1	1	.	.	.	.	.
LV	Latvia	1	1	0	0	1	1	1	1	1	1	1	1	3	3	3	2	1	1	1
MT	Malta	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
NL	Netherlands	2	2	2	2	2	1	2	.	2	2	2	2	2	3	2	.	1	0	0
PL	Poland	3	3	0	1	3	1	1	1	3	1	2	3	3	3	3	.	1	0	1
PT	Portugal	2	3	3	2	3	1	1	1	3	2	.	3	3	3	3	.	0	0	1
RO	Romania	1	0	0	0	1	1	1	1	1	.	.	0	1	1	0	.	0	0	1
SE	Sweden	1	1	0	0	1	3	0	2	3	0	2	1	1	3	0	.	0	0	0
SI	Slovenia	2	0	2	2	1	0	2	0	2	0	2	1	2	3	3	3	0	0	0
SK	Slovakia	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
UK	United Kingdom	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

### Members of European Institutions

		a1	a2	a3	a4	a5	b1	b2	b3	c1	c2	c3	d1	e1	e2	e3	e4	f1	f2	f3
EC	European Commission	2	2	2	2	3	2	2	2	2	2	2	3	3	3	3	.	0	0	1
EP	European Parliament	2	0	0	0	2	2	0	2	2	2	2	0	2	0	0	.	0	0	1
ECJ	Court of Justice of the European Communities	1	0	0	0	1	0	0	0	0	1	0	1	1	1	1	.	0	0	0
ECA	European Court of Auditors	3	3	2	2	2	2	2	2	1	2	2	0	3	2	3	.	1	1	1
ECB	European Central Bank	3	1	3	3	3	3	0	3	3	1	1	3	3	3	3	.	0	1	1
EIB	European Investment Bank	3	1	3	2	2	2	2	2	2	2	2	3	2	3	3	.	0	1	1

## ANNEX 3 – COUNTRY PROFILES

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### Summary: conflicts of interest policy in Austria

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#### General profile

Austria joined the European Union in 1995.

For four of the institutions in Austria most issues (Government) or practically all issues (Parliament, Judges and auditors) are regulated by law. As for the Central Bank, most issues are regulated by code, and only a few by law.

Out of laws concerning possible conflicts of interest, the Incompatibility Act of 1983 is central: it is applicable to all officials in most institutions. Besides this law and other general laws, two institutions have specific laws: The Supreme Court (Supreme Court Act of 1953) and Court of Audit (Court of Audit Act, 1948).

Out of the unregulated issues the following are remarkable:

- a) no declaration of financial interests and assets: Parliament, Supreme Court, Court of Audit, Central Bank
- o) no restrictions on professional commitments or holding other posts after leaving office for most of the institutions, except regarding precisely defined functions for (former) Members of the Government.

Initially, the declaration of incomes above 140.000€ for all HPO to the register of the Court of Audit was mandatory by law (Meldepflicht gem. §8 Bezügebegrenzungsgesetz). After being brought before the Administrative High Court in 2003, the Supreme Court finally annulated the law in 2004 on the grounds of the constitutional right to the protection of privacy and the data protection directive (Directive 95/46/EC).

The Supreme Court and the Central Bank do not have a public register on declaration of financial interests also.

There is a Parliamentary Incompatibility Committee, entitled to discuss and decide about individual cases of conflicts of interests and incompatibility.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	11 out of 15 items regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 6 + SIL 5) <sup>149</sup>	Yes	Yes
Parliament	5 out of 15 regulated (33,33%) - 10 unregulated (66,67%)	Law (GL 3 + SIL 2)	Yes	No
Supreme Court	5 out of 15 regulated (33,33%) - 10 unregulated (66,67%)	Law (GL 3 + GIL 2)	No	No
Court of Auditors	7 out of 15 items regulated (46,67%) - 8 unregulated (53,33%)	Law (GL 3 + GIL 5) Code (SC 2)	No	No
Central Bank	10 out of 15 items regulated (66,67%) - 5 unregulated (33,33%)	Code (SC all) + GL where applicable	No	No

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## **Members of Government**

### In general:

Most of the issues are regulated by law. There has been no reference to a code of conduct.

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<sup>149</sup> The abbreviations GL, GIL, SL, SIL, SC etc. refer to the definition chart on p. 17 of the study.

Relevant laws:

- Incompatibility Act of 1983 (Official Gazette of the Republic of Austria, No. 330/1983) (SIL);
- Constitutional law on Ministerial responsibility (Official Gazette of the Republic of Austria, No. 1/1930, and No. 100/2003, “Ministerverantwortlichkeit”) (GIL)
- Revenue Act (‘Bundesbezügegesetz’ Official Gazette of the Republic of Austria, No. 273/1972, and 392/1996) (SL);
- Travel Expenses Regulation (Official Gazette of the Republic of Austria, No. 45/1995) (SL)

More specific:

*A - Professional activities*

Most professional activities are regulated by law (specific rules on incompatibility of posts and professional activities before or during the term of office regulated by law, although outside activities like political activities, honorary positions are unregulated.

*B - Declaration of income*

For the Austrian Government most of the issues regarding declaration of income (declaration of financial interests and assets, provisions relating to the declaration of interests) are regulated by law. The HPO’ spouses’ interests and assets are unregulated.

*C - Gifts, missions, travels*

Accepting gifts as well as missions and travels are regulated by law (Penal Code § 310 (2): Geschenkkannahme) Decorations, distinctions as well as receptions and representation are not regulated.

*D - Post-employment*

There are restrictions on professional commitments or holding posts after leaving office, i.e. a former Member of the Government may not be appointed director of the Court of Audit within one year after leaving office.

*E - Other Conflicts of Interests*

Other conflicts of Interests (e.g. general rules on impartiality and conflicts of interest, professional confidentiality and professional loyalty) are regulated by law.

*Instruments*

The Austrian Government does not provide training to HPO. The competent ethics committee is the Parliamentary Incompatibility Committee. According to the Incompatibility Act, a register on the declaration of financial interests is kept by the Court of Audit.

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## Members of Parliament

### In general:

Generally, issues regarding conflicts of interests are regulated by law. The Austrian Parliament does not have a code of conduct.

Some questions were not answered. It could be assumed that regulation does not exist. These issues concern:

- Rules on receptions and representation
- Outside activities: political activities
- Outside activities: honorary positions
- Outside activities: conferences

Relevant laws:

- Incompatibility Act (SIL)
- Rules of Procedure (Geschäftsordnung) of the National Council (SIC)

### More specific:

#### *A - Professional activities*

The Austrian Parliament has regulated specific rules on incompatibility of posts and professional activities before or during the term of office and rules on writing publications. The issues that are not regulated are outside activities concerning political activities, honorary positions and conferences.

#### *B - Declaration of income*

The Austrian Government has regulated all issues regarding the declaration of income (declaration of financial interests and asset, HPO' spouses' activities, provisions relating to the declaration of interests) by law.

#### *C - Gifts, missions, travels*

Two out of the three issues are regulated: the acceptance of gifts, decorations, distinctions and rules considering missions, travels. There seems to be no rules on receptions and representation.

#### *D - Post-employment*

There seems to be no restrictions on professional commitments or holding posts after leaving office.

#### *E - Other Conflicts of Interests*

All other issues (general rules on impartiality and conflicts of interest, professional confidentiality, professional loyalty and others rules and standards) are regulated.

#### *Instruments*

The Austrian Parliament does not provide training to HPO and the relevant Parliamentary committee for conflict of interests issues is the Incompatibility Committee. But there is a register on declaration of financial interests: according to the provisions in the Incompatibility Act, deputies have to declare their property.

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## **Judges of the Supreme Court**

### In general:

Most of the issues are regulated by law. There has been no reference to a code of conduct for Judges of the Austrian Constitutional Court.

### Relevant laws:

- Constitutional Court Act of the Republic of Austria (GL)
- Penal Code of the Republic of Austria (GL)

### More specific:

#### *A - Professional activities*

All outside activities are regulated by law except activities related to honorary positions, these are unregulated. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

#### *B - Declaration of income*

No legal regulations regarding the declaration of income.

#### *C - Gifts, missions, travels*

Rules on accepting gifts are regulated by law. Missions, travels, decorations and distinctions, receptions and representation are unregulated.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are unregulated.

#### *E - Other Conflicts of Interests*

By law (Supreme Court Act, 85/1953), Judges are excluded from rulings under clearly defined circumstances. According to the VFGG of 1953 (Law on the Constitutional Court) § 2 (4) former Members of the Parliament at the time of passing a certain law are excluded from decisions about the constitutionality of these particular laws. Furthermore, professional confidentiality is regulated by law ('Amtsverschwiegenheit').

### *Instruments*

The Austrian Supreme Court does not provide any training programs and there is neither an ethics committee, nor a register for financial interests.

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## **Members or Directors of the Court of Audit**

In general:

Most issues in the Austrian Court of Audit are regulated law, the Court of Audit Act of 1948. There has been no reference made to a code of conduct.

Relevant laws:

- Incompatibility Act of 1983
- Court of Audit Act, No. 143/1948
- Penal Code
- Decree on reimbursement of costs related to business trips abroad.

More specific:

*A - Professional activities*

Almost all professional activities are regulated by law (outside activities: honorary positions, conferences and publications). The outside activities regarding political activities are regulated by code. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

*B - Declaration of income*

One of the issues is regulated by law, one is regulated by code and one is regulated by both code and law.

*C - Gifts, missions, travels*

All issues concerning gifts, missions, travels are regulated by law.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated not regulated.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality as well as professional loyalty are regulated by law.

*Instruments*

The Court of Audit does not provide training programmes. Furthermore, neither registers, nor ethics committees exist.

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## **Members or Directors of the Central or National Banks**

In general:

Most issues are regulated by the code of conduct, some of them are governed by law.

Code:

- The Code of Conduct for employees of the National Bank of Austria

Relevant laws:

- National Bank Act
- Penal Code

More specific:

*A - Professional activities*

Rules regarding honorary positions are unregulated. Specific cases of incompatibility of posts and professional activities before or during the term of office are regulated by law. Conferences and publications are regulated by the code of conduct.

*B - Declaration of income*

HPO' spouses' activities as well as declaration of financial interests and assets are not regulated.

*C - Gifts, missions, travels*

Missions and travels as well as accepting gifts, receptions and representations are regulated by code. Decorations and distinctions have not been mentioned.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not regulated.

*E - Other Conflicts of Interests*

All other issues on the topic of Conflicts of Interests are regulated by code and professional confidentiality is regulated by the code of conduct.

*Instruments*

There are no further instruments relating to the issue of conflicts of interests. There is no specific training program concerning professional ethics for the directors of the Central Bank of Austria. Also, no specific register for declaration of financial interests is available.

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## Summary: conflicts of interest policy in Belgium

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### General profile

Belgium is one of the six founding members of the European Coal and Steel Community, and since 1957 of the European Atomic Energy Community and European Economic Community, now the European Union.

For all four institutions roughly half of the issues are regulated. Also for all four institutions most outside activities are unregulated.

There is a specific law on conflicts of interest that is directly applicable to Members of Government and Parliament and only indirectly to directors of the National Bank ('Wet van 2 mei 1995 betreffende de verplichting om een lijst van mandaten, ambten en beroepen, alsmede een vermogensaangifte in te dienen'): this law regulates the declaration of financial interests. Interestingly, these declarations are confidential.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	9 out of 15 issues regulated (60%) - 6 issues unregulated (40%)	Law (GL 2 + SL 2 + SIL + GIL) + Code (GC 3)	No	Yes
Parliament	6 out of 15 issues regulated (40%) - 9 issues not regulated (60%)	Law (GL, GIL, SIL)	No	Yes
Supreme Court	9 out of 15 issues regulated (60%) - 6 issues unregulated (40%)	Law	No	No
Court of Auditors	7 out of 15 issues regulated (50%) - 7 issues not regulated (50%) - 1 N/A	Law (GL 4 + GIL 2 + SL)	No	No
Central Bank	10 out of 15 issues regulated (66,67%) - 5 issues not regulated (33,33%)	Law (GL 2, GIL, SL) + Code (GC, SC)	No	No

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## Members of Government

### In general:

Half of the issues are regulated: half of them by law and half by code. Among the unregulated issues are all outside activities. There are no training programs and there is no ethics committee, but there is a register on declarations of financial interests. This register is confidential.

Relevant laws:

- Grondwet (GL)
- Wet openbaarheid bestuur (GL)
- Wet betreffende de verplichting om een lijst van mandaten, ambten en beroepen, alsmede een vermogensaangifte in te dienen (SL)
- Wet betreffende de classificatie en veiligheidsmachtiging, veiligheidsattesten en veiligheidsadviezen (SL)
- Wet houdende vaststelling van de onverenigbaarheden en ontzeggingen betreffende de ministers, gewezen ministers en ministers van staat, alsmede de leden en gewezen leden van de wetgevende kamers (SIL)
- Gemeentewet (GIL)

Relevant codes:

- Ministeriele omzendbrieven (GC)
- Nota van de studiedienst van de Kanselarij van de Eerste Minister inzake Demande d'informations – Ancien Premier Ministre – Avantages – Restrictions quant à l'exercice d'activités politiques ou commerciales (GC)
- Informatienota betreffende de bezoldiging en vergoeding van regeringsleden (GC)

### More specific:

#### *A - Professional activities*

All outside activities are unregulated; specific rules are regulated by law.

#### *B - Declaration of income*

Declaration of financial interests and assets, and provisions relating to the declaration of interests are regulated by code; spouses' activities are unregulated.

#### *C - Gifts, missions, travels*

Accepting gifts is unregulated; missions and travels, and rules on receptions and representation are regulated by code.

#### *D - Post-employment*

Regulated both by law and code.

*E - Other Conflicts of Interests*

General rules are regulated by law and code, professional confidentiality is regulated by law, professional loyalty is regulated by code, and other rules and standards are unregulated.

*Instruments*

There are no training programmes and no ethics committee for Members of Government. There is a register on declaration of financial interests, but it is confidential.

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## **Members of Parliament**

In general:

Few issues are regulated, all of them by law; there is no code. No training programs, no ethics committee, but there is a register on declarations of financial interests. This register is confidential.

Relevant laws:

- Constitution
- Act of Parliament
- Rules of procedures of the Houses of Parliament

Relevant codes:

More specific:

*A - Professional activities*

Of the outside activities, only political activities are regulated by law. Specific rules are also regulated by law.

*B - Declaration of income*

Declaration of financial interests and assets, and provisions relating to the declaration of interest are regulated by law. Spouses' activities are unregulated.

*C - Gifts, missions, travels*

Unregulated.

*D - Post-employment*

Regulated by law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional loyalty are unregulated. Professional confidentiality is regulated by law.

*Instruments*

No training programs and no ethics committee. As regard to the register on declaration of financial interests, Members of Parliament have to file a "property declaration in the beginning and at the end of their office with the Court of Auditors." This declaration consists of an overview of all savings, shares, real-estate and high value movable property held by the Member of Parliament concerned. It aims at providing a financial statement of the wealth of each MP in the beginning and at the end of his term of office. The property declarations of Members of Parliament are confidential. Property declarations are send to the Court of Auditors in a sealed envelop. They can only be opened at the request of a Judge who investigates criminal offences that a Member of Parliament allegedly committed in the performance of his duties. After decease or five years after the end of the last mandate, the declarations are returned. Any person who fails to file a property declaration commits a misdemeanour and is liable to punishment of a fine of up to 200,000 BEF (5000 EUR).

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## **Judges of the Supreme Court**

N/A

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## **Members or Directors of the Court of Audit**

### In general:

Half of the issues are regulated. Only one of them is regulated by code (missions and travels); the other seven by law.

Relevant laws:

- European Convention on Human Rights as to the exercise of the Court's jurisdictional competence (GIL)
- Constitution (GL)
- Penal Code (GL)
- Court of Auditors' organic law of 29 October 1846 (GIL)
- Law on the formal motivation of administrative acts of 29 July 1991 (GL)
- Law on the publicity of administration of 11 April 1994 (GL)
- Special and ordinary laws of 2 May 1995 and special and ordinary laws of 26 June 2004 on the obligatory submission of a list of mandates, functions and occupations as well as a declaration of assets (SL)

Relevant codes:

-

### More specific:

#### *A - Professional activities*

Outside political activities are unregulated. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by law.

#### *B - Declaration of income*

Unregulated.

#### *C - Gifts, missions, travels*

Missions and travels are regulated by code, and accepting gifts, decorations and distinctions by law. There are no rules on receptions and representation.

*D - Post-employment*  
Unregulated.

*E - Other Conflicts of Interests*

There are general rules (law) on impartiality and conflicts of interest. Professional confidentiality and professional loyalty are unregulated.

*Instruments*

No training programs, no ethics committee. As regard to the register on declaration of financial interests: 'Sinds 1 januari 2005 is tal van openbare mandatarissen en hoge ambtenaren bij wet de verplichting opgelegd geregeld twee documenten in te dienen bij het Rekenhof, nl. een lijst van mandaten, ambten en beroepen, enerzijds, en een vermogensaangifte, anderzijds. Deze indieningsverplichtingen moeten echter niet noodzakelijk tegelijkertijd worden vervuld. De mandatenlijsten worden na controle gepubliceerd in een editie van het Belgisch Staatsblad. Wat de onder gesloten omslag ingediende vermogensaangiften betreft, deze worden altijd ongeopend bewaard in een daartoe speciaal beveiligde opslagruimte.'

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## **Members or directors of the central or National Bank**

In general:

11 out of 16 issues are regulated, either by law or code. One of these issues is regulated both by law and code: professional confidentiality. Five issues are not regulated. There are no training programmes, ethics committee, and register on declaration of financial interests.

Regarding a register on the declaration of financial interests, the Belgian legislation in the field of declaration of financial assets is not applicable to the directors of the bank in their role as Members of the Board of directors. However, since the directors are also Member of the Bank's council of regency, this legislation is nevertheless applicable to them.

Relevant laws:

- Organic Act dd. 22 February 1998 of the National Bank of Belgium (GIL)
- Penal Code: article 458 (GL)
- Companies Act: article 523 (GL)
- Wet van 2 mei 1995 betreffende de verplichting om een lijst van mandaten, ambten en beroepen, alsmede een vermogensaangifte in te dienen (SL)

Relevant codes:

- Belgian Code on Corporate Governance (GC)
- Deontologische code van de Nationale Bank van België (SC)

More specific:

*A - Professional activities*

Except for political activities, all outside political activities are unregulated. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by law.

*B - Declaration of income*

Declaration of financial interests and assets, and provisions relating to the declaration of interest are regulated by law. Spouses' activities are unregulated.

*C - Gifts, missions, travels*

Accepting gifts, decorations and distinctions, and receptions and representation are regulated by code. Missions and travels are unregulated.

*D - Post-employment*

Regulated by law.

*E - Other Conflicts of Interests*

There are general rules (code) on impartiality and conflicts of interest. Professional confidentiality is regulated both by law and code. Professional loyalty is regulated by code. Among other rules and standards is to show all due restraint in the conduct of all private financial dealings (code).

*Instruments*

None.

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## Summary: conflicts of interest policy in Bulgaria

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### General profile

Bulgaria is a new Member State of the EU: it joined the EU on 1 January 2007.

For four of the institutions in Bulgaria (Government, Supreme Court, Court of Auditors, Central Bank) most issues are regulated by law. In the Central Bank most issues are regulated by both law and a code. There is a lack of information on Parliament.

Out of laws concerning possible conflicts of interest, Law for the Publicity of the Property of Persons Occupying State Positions is central- it is applicable to all five institutions. In addition to it, in the Central Bank there is also a code. In the Court of Auditors, there are two specific regulations- National Audit Office Act and Code for the Auditor' Conduct.

Out of the unregulated issues the following is remarkable: There are no restrictions on professional commitments or holding other posts after leaving office concerning Court of Auditors and the Central Bank.

In conclusion there is a strong tendency in Bulgaria to regulate possible conflicts of interests of HPO by law. Both laws and codes of conduct are recent: most of them have been amended during the last years.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	All issues regulated	Law (SL 1+ GL1)+ Code (SC 1)	No	Yes
Parliament	N/A	N/A	N/A	N/A
Supreme Court	12 out of 15 regulated (80 %) - 3 unregulated (20 %)	Law (GL 1+ GIL 1+ GC 1+ SL 1)	No	Yes
Court of Auditors	13 out of 15 regulated (86,67%) - 2 unregulated (13,33 %)	Law (GIL 1+ SL 1)+ Code (SC 1)	No	Yes
Central Bank	14 out of 15 regulated (93,33 %) - 1 unregulated (6,67%)	Law (GIL 1+SL 1+GL 2+ SIL 1) + Code (GC 1+ SC 1)	No	Yes

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## Members of Government

### In general:

All issues are regulated by law. In addition there is a code of ethics.

### Relevant laws

- Law on Publicity of the Property of Persons Occupying State Positions- a declaration for property, income and expenses (real estate, motor road, water, air vehicles, cash, takings and liabilities, securities, shares, income etc. Declaration is made public; each person shall have the right to access to the data. However, it shall not be published by the mass media or in any other way without the written consent of the person.
- Penal Procedure Code of the Republic of Bulgaria (Prom. SG 83/ 18 October 2005)

### Relevant Code

- Code of ethics of senior executive Government officials (State Gazette No. 92 of 2005)

### More specific:

#### *A - Professional activities*

All professional activities are regulated by law- outside political activities, honorary positions, conferences, publications as well as the specific rules on incompatibility of posts and professional activities before or during the term of office

#### *B - Declaration of income*

The Bulgarian Government has regulated all issues regarding declaration of income (declaration of financial interests and asset, HPO' spouses' activities, provisions relating to the declaration of interests) by law.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions and missions, travels, rules on reception and representation is regulated by law.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

Other conflicts of Interests (e.g. general rules on impartiality and conflicts of interest, confidentiality, professional loyalty) are regulated by law.

*Instruments*

The Bulgarian Government does not provide training to HPO and did not establish an ethics committee. But they do have a register on declaration of financial interests.

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**Members of Parliament**

N/A

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**Judges of the Supreme Court**

In general:

Almost all issues are regulated by law. Only a few issues are not regulated (participation in outside activities like conferences (1) and publications (2) as well as rules on receptions and representation (3)).

Relevant laws:

- Constitution of the Republic of Bulgaria
- Constitutional Court Act
- Rules on the Organization and activities of the Constitutional Court
- Law for publicity of the property of persons occupying high state positions

More specific:

*A - Professional activities*

All outside activities are regulated by law, except activities related to participation in conferences or publications, these two are unregulated.

*B - Declaration of income*

All issues with regard to declaration of income are regulated by law.

*C - Gifts, missions, travels*

Rules on missions, travels and on accepting gifts, decorations, distinctions and issues are regulated by law. Rules on receptions and representation are unregulated.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated.

*E - Other Conflicts of Interests*

All other issues regarding conflicts of interests are regulated by law.

*Instruments*

The Bulgarian Supreme Court does not provide any training programs and there is no ethics committee. But there is a register on declaration of financial interests.

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**Members or directors of the Court of Audit**

In general:

The Court of Audit has regulated most issues. Out of all issues, none are regulated by law. Some are regulated by code (5). And two issues- participation in outside activities: conferences as well as the restrictions on professional commitments or holding posts after leaving office are not regulated.

Relevant code:

- Code for the Auditor' Conduct.

Relevant Law:

- National Audit Office Act
- Law for the Publicity of the Property of Persons Occupying State Positions requires a declaration of property, income and expenses (real estate, vehicles, financial assets and liabilities, securities, shares, income etc.) Declaration is made public; each person shall have the right to access the data. However, it shall not be published by the mass media or in any other way without the written consent of the person.

More specific:

*A - Professional activities*

Half of the professional activities are regulated by law (outside activities: honorary positions, specific rules on incompatibility of posts and professional activities before or during the term of office and the register on declaration of financial interests). The outside activities regarding political activities and publications are regulated by code. There is no regulation concerning outside political activities: conferences.

*B - Declaration of income*

All issues are regulated by law.

*C - Gifts, missions, travels*

All issues concerning gifts, missions, travels are regulated by law, except receptions and representation, which are not regulated.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not regulated.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional loyalty are regulated by code. Professional confidentiality is regulated by law.

*Instruments*

The Court of Auditors does not have an ethics committee, however it has some training programs concerning ethics for HPO. In addition there is a “Public Register” directorate in the National Audit Office of the Republic of Bulgaria. The main activity of the “Public Register” directorate is keeping and maintaining a register on declarations of financial interests, according to the Law for Publicity of the Property of Persons Occupying High State Positions.

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**Members or Directors of the central or National Banks**

In general:

Most issues are regulated by both law and code (8). Four issues are regulated by law, three by code and one issue is not regulated at all.

Relevant code:

- Rules of Procedure of the Governing Council of the Bulgarian National Bank
- Code of Conduct for Employees of the Bulgarian National Bank

Relevant law:

- Bulgarian National Bank Act
- Public Disclosure of the Property of High Public Officials Act
- Labour Code
- Social Insurance Code
- Ordinance on Business Trips and Training Abroad

More specific:

*A - Professional activities*

Outside political activities, outside activities like honorary positions and publications are regulated by law. Outside activities: conferences are regulated by code. Both specific rules on incompatibility of posts and professional activities before or during the term of office and the register on declaration of financial interests are regulated by code and law.

*B - Declaration of income*

HPO spouses' activities are regulated by law. The declaration of financial interests and assets and provisions relating to the declaration of interests are regulated by both law and code.

*C - Gifts, missions, travels*

The acceptance of gifts, decorations, distinctions is regulated by code. Missions, travels, rules on receptions and representation are regulated by both law and code.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not regulated.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality are regulated by code and law. Professional loyalty is regulated by code only.

*Instruments*

The Bulgarian Central Bank does not provide any training programs and there is no ethics committee. But it disposes a register on declaration of financial interests.

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## Summary: conflicts of interest policy in Cyprus

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### General profile

Cyprus is a new Member State of the EU: it joined the EU on 1 May 2004.

In the Parliament and the Central Bank in Cyprus, most issues are regulated by law. In the Government one third of the issues are regulated by law, another third by code and the rest are not regulated.

From all laws, the criminal law applies to all institutions in Cyprus. It prohibits people employed in the public service to disclose any confidential information or documents. In addition to this law, there is a law providing for the declaration of financial assets of officials of the Republic of Cyprus. The Central Bank has its specific law: The Central Bank of Cyprus Law.

It is interesting to note that in Cyprus the following issues are not regulated:

- Outside activities ("Outside activities [...], rules on accepting gifts, missions, travels [...] are not formally regulated. They are part of ethical standards.")
- HPO' spouses' activities
- No regulation of missions and travels

Most conflicts of interest in Cyprus are regulated by law and in some cases by codes. Usually laws are pretty recent- most of them are adopted after 2001.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	8 out of 15 regulated (53,33%) - 7 unregulated (46,67%)	Law (SIL 1+ GL 1)	No	Yes
Parliament	9 out of 15 regulated (60%) - 6 unregulated (40%)	Law (GL 2+ SIL 1+ GC 1)	Yes	Yes
Supreme Court	N/A	N/A	N/A	N/A
Court of Auditors	N/A	N/A	N/A	N/A
Central Bank	10 out of 15 regulated (66,67%) - 5 unregulated (33,33%)	Law (SL 1+ GIL 1+ GL 1)	No	Yes

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## Members of Government

### In general:

In the Government most issues are regulated. One third of them by law, another third by code and the rest are not regulated.

### Relevant laws:

- Declaration of the Control of Assets of the President, the Ministers and the Members of the Parliament: a register is kept at the office of the President of the House of Representatives, Law 49(I) 2004
- Criminal code

### More specific:

#### *A - Professional activities*

In Cyprus, specific rules on incompatibility of posts and professional activities before or during the term of office, outside political activities, honorary positions, conferences and publications are not regulated currently.

#### *B - Declaration of income*

Declaration of financial interests and assets and Provisions relating to the declaration of interests are regulated by Law 49(I) 2004 (2) on Declaration of the Control of Assets of the President, the Ministers and the Members of the Parliament. HPO spouses' activities are not regulated.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is regulated by art. 102 of the Criminal Code. Law on participation in missions and travels as well as receptions and representation is currently pending before the Parliament in Cyprus.

#### *D - Post-employment*

Post-employment in Cyprus is not yet regulated. Government is due to adopt a bill, pending before the relevant Special Parliamentary Committee.

### *E - Other Conflicts of Interests*

Professional confidentiality is regulated by art. 135 of the Criminal code. When it comes to General rules on impartiality and conflicts of interest and professional loyalty, no strict regulation exists. However, all Members of the Government take oath on the Constitution and declare their respect for its provisions.

### *Instruments*

There are no training programs concerning ethics for HPO or ethics committees. But there is a register on declaration of financial interests, based on Law 49(I)/2004 on declaration of assets of the president, ministers and Members of the Parliament.

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## **Members of Parliament**

### In general:

In Cyprus, half of the issues in the Parliament are regulated. For most of them, this is done by law. The other half of the issues is not regulated.

### Relevant code:

There is no code of conduct regulating issues in the Parliament.

### Relevant laws:

- The Constitution of the Republic of Cyprus (*Article 70*) – “The office of a Representative shall be incompatible with that of a Minister or of a member of a Communal Chamber or of a member of any municipal council including a Mayor or of a member of the armed or security forces of the Republic or with a public or municipal office or, in the case of a Representative elected by the Turkish Community, of a religious functionary. For the purposes of this Article “public office” means any office of profit in the service of the Republic or of a Communal Chamber the emoluments of which are under the control either of the Republic or of a Communal Chamber, and includes any office in any public corporation or public utility body.”
- The Rules of Procedure of the House of Representatives (*Article 44*) – “In case a Member of a Committee has a direct personal interest in relation to the matter under consideration by a Committee, he should inform accordingly the Chairman and the Members of the Committee at the opening of the meeting or as soon as the existence of such an interest becomes evident in the course of the discussion.”
- Law 49(I) of 2004 on the Declaration and Control of the Assets of the President, the Ministers and the Members of the Parliament of the Republic of Cyprus.

- Criminal law- According to section 135(1) of the Criminal Law, a person employed in the public service is prohibited to publish or disclose any confidential information

More specific:

*A - Professional activities*

Outside activities like conferences and publications are not regulated, while outside political activities, honorary positions and Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by the Constitution of Cyprus.

*B - Declaration of income*

In Cyprus, the declaration of financial interests and assets as well as the provisions relating to the declaration of interests are regulated by Law 49(I) 2004 (2) on Declaration of the Control of Assets of the President, the Ministers and the Members of the Parliament. However, HPO' spouses' activities are not regulated.

*C - Gifts, missions, travels*

Accepting gifts or participation in missions and travels is not explicitly regulated, but it is included in provisions of the Criminal Code, Art 102: "Any person who, being employed in the public service, receives any property or benefit of any kind for himself, on the understanding, express or implied, that he shall favour the person giving the property or conferring the benefit, or any one in whom that person is interested, in any transaction then pending, or likely to take place, between the person giving the property or conferring the benefit, or any [other] whom he is interested [in], and any person employed in the public service, is guilty of misdemeanour and liable to imprisonment for two years and to a fine. [sic]"

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

All issues falling in this category (general rules on impartiality and conflicts of interest, professional confidentiality, professional loyalty, other rules and standards) are regulated by law. General rules on impartiality and conflicts of interest are contained in Art. 44 of the Rules of Procedure of the House of Parliament. Professional confidentiality is regulated by Art. 135 of Criminal Law: "A person employed in the public service that publishes or discloses any confidential information or event or document is guilty of misdemeanour [...]"

*Instruments*

There are no training programs concerning ethics for HPO. However, there is a register on declaration of financial interests, based on Constitutional provision and Law 49(I)/2004 on declaration of assets of the President, Ministers and Members of the

Parliament. The register is kept within the office of the speaker of the Parliament and a Special Parliamentary Committee is established in order to ensure the compliance with the law.

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## **Members or Directors of the Central Bank**

### In general:

Issues are either regulated by law (the majority of them) or they are not regulated at all.

### Relevant laws:

- Law providing for the declaration of financial assets of certain officials of the Republic of Cyprus and for the control of their assets - Law 50(I)/2004
- The Central Bank of Cyprus Law - Law 138(I)/2002
- Criminal Law - Cap. 154

### More specific:

#### *A - Professional activities*

Outside political activities, participation in conferences and the specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by Law of 2002 on the Central Bank of Cyprus, Nr. 138(I) 2002, Art. 14: "A person shall not be qualified to be a director if he holds any position which may create a conflict of interest between his duties as director and that position; and in particular if he: (a) is a Minister, or Member of the House of Representatives; (b) is a member of a Municipal Council, including a Mayor; (c) is a member of the armed or security forces of the Republic; (d) is the holder of a public office in a municipal authority or [...] acting as a deputy in such post." Honorary positions and publications are not regulated.

#### *B - Declaration of income*

The declaration of financial interests and assets as well as the provisions relating to the declaration of interests are regulated by Law 50(I) 2004, providing for the declaration of financial assets of certain officials of the Rep. of Cyprus (applicable to the governor and directors of the CBC): every official has the duty to provide declaration of financial interests to the Board, established for the purposes of this law (5). This declaration is done in a period of 3 months after the appointment and renewed once every 3 years after appointment. In addition there is a duty to provide the same declaration within a period of 3 months after the termination or expiration of the mandate. However, HPO spouses' activities are not regulated at all.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions is regulated by the Penal code, Art 102: "Any person who, being employed in the public service, receives any property or benefit of any kind for himself [...] is guilty of misdemeanour and liable to imprisonment for two years

and a to a fine." But no regulation in relation to missions, travels as well as rules on receptions and representation exists.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office is regulated by Law on the Central Bank of Cyprus Art 19: "The Governor and Deputy Governor [...(2)] shall not take in the Republic any office or accept interest in any banking or financial institution or their subsidiary operating in the Republic or controlled by an organisation operating in the Republic and which is supervised by the bank or receive there from remuneration whatsoever for a period of two years after the termination of their appointment."

*E - Other Conflicts of Interests*

All issues are regulated by the Law on the Central Bank of Cyprus.

*Instruments*

There are no training programs or ethics committees, however a register on declaration of financial interests, based on Law 50(I)/2004, exists.

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## Summary: conflicts of interest policy in the Czech Republic

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### General profile

The Czech Republic is a new Member State of the EU: it joined the EU on 1 May 2004.

Both within the Supreme Court and the Court of Auditors there is a strong tendency to regulate possible conflicts of interest by specific law; there are no codes. This Conflict of Interest Act seems to be applicable to all five institutions.

Both institutions do not have ethics committees; the Court of Auditors has a register on the declaration of financial interests.

Institution	Issues regulated	Form of regulation	Ethics Committee	Public register
Government	N/A	N/A	N/A	N/A
Parliament	N/A	N/A	N/A	N/A
Supreme Court	9 out of 15 items regulated (60%) - 6 items not regulated (40%)	Law (SIL, GIL, GL)	No	No
Court of Auditors	9 out of 15 items regulated (75%) - 3 items not regulated (25%) - 3 items N/A	Law (SIL, GIL)	Yes	No
Central Bank	N/A	N/A	N/A	N/A

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### Members of Government

N/A

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### Members of Parliament

N/A

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## **Judges of the Supreme Court**

### In general:

More than half of the issues (9 out of 16) are regulated. These are all regulated by law. Seven issues are not regulated.

### Relevant laws:

- Act on conflict of interests (SIL)
- Act on penal proceedings (GL)
- Act on administrative rules of Court (GIL)

### More specific:

#### *A - Professional activities*

Of the outside activities, honorary positions and publications are regulated; political activities and conferences are unregulated. And there are specific rules on incompatibility of posts and professional activities before or during the term of office.

#### *B - Declaration of income*

Declaration of financial interests and assets, and provisions relating to the declaration of interests are regulated. Spouses' activities are unregulated.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions and issues is regulated. Missions and travels, and rules on receptions and representation are unregulated.

#### *D - Post-employment*

Regulated.

#### *E - Other Conflicts of Interests*

There are general rules on impartiality and conflicts of interest, and professional confidentiality is regulated. Professional loyalty and others rules and standards are not regulated.

#### *Instruments*

The Slovenian Supreme Court does not provide any training programs, there is no ethics committee and there is no register.

## **Members or Directors of the Supreme Audit Office**

### In general:

The Supreme Audit Office (SAO) has regulated 9 out of 19 issues, all of them regulated by law. Three issues are not regulated and four have N/A.

The SAO did not adopt its own code of ethics; it uses the INTOSAI Code of ethics in professional education.

### Relevant laws:

- Supreme Audit Office Act (GIL)
- Conflict of Interest Act (SIL)

### More specific:

#### *A - Professional activities*

Almost all professional activities are regulated by law (honorary positions, conferences and publications). The outside activities regarding political activities are regulated by code. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

#### *B - Declaration of income*

One of the issues is regulated by law, one is regulated by code and one is regulated by both code and law.

#### *C - Gifts, missions, travels*

All issues concerning gifts, missions, travels are regulated by law.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality are regulated by both code and law. Professional loyalty is regulated by code.

#### *Instruments*

There are no training programs, and there is no register. The Court of Audit does have an ethics committee. This committee is composed of the president of the Supreme Audit Court and two Members of the Supreme Court.

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## **Members or Directors of the central or National Banks**

N/A

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## Summary: conflicts of interest policy in Denmark

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### General profile

Denmark has been a member of the EU since 1973.

In Denmark most rules and standards in the field of conflicts of interest are regulated in the form of codes of conduct.

Outside activities are not regulated in the Supreme Court and in the Court of Auditors. Most issues are strictly regulated in the Central Bank by a code of conduct.

Government and Parliament have registers of declaration of financial interests. The other institutions do not have registers.

The Supreme Court is the only institution that does not have regulation on accepting gifts, missions and travels.

None of these institutions have restrictions on professional commitments or holding posts after leaving office.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	11 items out of 15 regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 3+ SL 1)+ Code (GC 1)	No	Yes
Parliament	9 items out of 15 regulated (60%) - 6 unregulated (40%)	Code (SC 1)	Yes	Yes
Supreme Court	6 items out of 15 regulated (40%) - 9 unregulated (60%)	Law (SL 2+ GL 1)	No	No
Court of Auditors	7 items out of 15 regulated (46,67%) - 8 unregulated (53,33%)	Law (GIL 1) + Code (GC 1)	No	No
Central Bank	11 items out of 15 regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 1+ GIL 1) + Code (GC 1)	No	No

---

## Members of Government

### In general:

Practically all issues are regulated by law or by laws and codes of conduct.

Compared to Finland and Sweden, Denmark is regulating more issues by laws and codes.

#### Relevant codes:

- Questionnaire concerning personal and economic interests of Members of Government

#### Relevant laws:

- Constitutional Act of Denmark of June 5, 1953
- Consolidating act no 273 of 20th April 2004 on Ministers' fees and pensions etc. with later amendments.
- Danish Public Administration Act
- Penal Code

### More specific:

#### *A - Professional activities*

Members of Government must disclose information concerning their political activities or honorary positions if they are becoming member of some associations. There is no regulation concerning conferences.

#### *B - Declaration of income*

When HPO accept a new office they must withdraw from previous other positions in associations, institutions and private companies etc.

#### *C - Gifts, missions, travels*

There are no general provisions concerning ministers' acceptance of gifts. Ministers are subject to the same rules concerning the acceptance of gifts as civil servants, members of the municipal councils, Members of Parliament etc. If a civil servant accepts gifts this can be made subject to sanctions according to section 144 of the Penal Code. There are no regulations or codes of conduct concerning decorations and distinctions.

There is no legislation as to travels and missions concerning the Members of Government. Existing rules and standards are based on ethical principles. As a general rule no payment or sponsorship must be received to cover the travel expenses of ministers or their spouses.

#### *D - Post-employment*

There is no regulation in this section.

*E - Other Conflicts of Interests*

According to the Public Administration Act no relative shall be allowed to decide, to take part in deciding, or otherwise to assist in the consideration of the matter in question. Professional loyalty is not regulated.

*Instruments*

There are no training programs and ethic committees in Government.

---

## **Members of Parliament**

In general:

Half of the issues are not regulated. Declaration of incomes, gifts, missions and travels are all regulated by codes of conduct.

Most of the remaining conflicts of interest are unregulated.

Relevant codes:

- Members of Parliament cannot hold positions within the judiciary or in specific boards or councils related to the judiciary during the term of office.

Relevant laws:

- No data available.

More specific:

*A - Professional activities*

Honorary positions and conferences are regulated by codes of conduct. Register on declaration of financial interests is regulated both by law and codes of conduct. The other issues are not regulated.

*B - Declaration of income*

Generally, all issues in this section are regulated by codes of conduct. The only exception is HPO' spouses' activities which are not regulated.

*C - Gifts, missions, travels*

All of these matters are regulated by codes of conduct.

*D - Post-employment*

There is no regulation in this section.

*E - Other Conflicts of Interests*

Professional confidentiality has been regulated by codes of conduct. The other issues are not regulated.

#### *Instruments*

The Danish Parliament has an ethics committee called “Committee of the Standing Order in the Parliament (CSOP).” There is no training program in the Parliament.

The register on declaration of financial interests states that all Members of the Parliament are recommended by CSOP to make a statement of all of their incomes etc.

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## **Judges of the Supreme Court**

### In general:

Most of the issues are unregulated. In Denmark’s Supreme Court many issues are strictly regulated. However, there are no regulations in the field of gifts, missions and travels.

Spouses’ activities are not regulated.

Relevant codes:

- No specific information concerning relevant codes of conduct

Relevant laws:

- Administration of Justice Act
- Penal Code
- Provisions for officials

### More specific:

#### *A - Professional activities*

Specific rules on incompatibility of posts are the only matter in this section which is regulated by law. Other issues have no regulations.

#### *B - Declaration of income*

No rules and standards as to spouses’ activities.

#### *C - Gifts, missions, travels*

There are no regulations at all in this section.

#### *D - Post-employment*

There are no regulations at all in this section.

*E - Other Conflicts of Interests*

All matters are regulated by law.

*Instruments*

There are no training programs or ethics committees.

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**Members or directors of the Court of Audit**

In general:

Half of the issues are not regulated. The other half is either regulated by codes of conduct or by law.

Declaration of income is not regulated. Gifts, missions and travels are regulated by codes of conduct.

Relevant codes:

- No specific code of conduct, but guidelines for professional confidentiality, missions and travels, receptions and representation and accepting gifts.

Relevant laws:

- The Auditors General Act, especially section 1: Instruction for the Auditor General.

More specific:

*A - Professional activities*

In outside activities none of the matters is regulated by law, but in political activities civil servant must observe that being a member in a political party shall not be in conflict with the function of an Auditor general.

Specific rules on incompatibility of posts are regulated by law.

*B - Declaration of income*

There is no regulation in this part.

*C - Gifts, missions, travels*

All issues are bound to codes of conduct.

*D - Post-employment*

No regulation at all.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are regulated by law. Professional confidentiality is bound to law and codes of conduct but professional loyalty has no regulation.

*Instruments*

The Court of Auditors does not have training programs or ethic committees.

---

## **Members or Directors of the central or National Bank**

In general:

Most of the issues in general are regulated by codes of conduct. Some issues are not regulated and few issues are regulated by law.

Relevant codes:

- Rules on other activities and travel rules

Relevant laws:

- Penal Code § 152 and Act on Denmark's National Bank §6, available on [www.nationalbanken.dk](http://www.nationalbanken.dk)

More specific:

*A - Professional activities*

All matters in outside activities are regulated by code. Specific rules on incompatibility of posts are regulated by both law and codes of conduct.

The Central Bank does not have any register on declaration of financial interests, but they do have a system with random checks.

*B - Declaration of income*

Provisions relating to the declaration of interests are regulated by codes of conduct. The rest of the issues are not regulated.

*C - Gifts, missions, travels*

All matters are regulated by codes of conduct.

*D - Post-employment*

There is no regulation concerning these issues.

*E - Other Conflicts of Interests*

Professional loyalty is not regulated. General rules on impartiality and conflicts of interest are regulated by a code of conduct. Professional confidentiality is regulated by law.

*Instruments*

The Central Bank does not have any training programs and ethic committees.

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## Summary: conflicts of interest policy in Estonia

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### General profile

Estonia is a member of the EU since 2004.

In Estonia there are ethical committees in the Government and the Supreme Court. Strongly regulated are gifts, missions and travels, and declaration of income.

Also, most of the other conflicts of interest are strictly regulated.

Out of the unregulated issues the following issues are remarkable:

- a) Professional activities within the Government and the Parliament are not regulated. However, all other institutions have very strict regulations in this area.
- b) There is very little focus on training. In addition, Estonia has no ethics committee. This is in contrast to the existing rules and standards which are very strict.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	8 out of 15 items regulated (53,33%) - 7 unregulated (46,67%)	Law (GL 1+SL 2+SIL 1) + Code (SC 1)	Yes	Yes
Parliament	8 out of 15 items regulated (53,33%) - 7 unregulated (46,67%)	Law (GL 2+ SIL 2+ SL 1)	No	No
Supreme Court	12 out of 15 items regulated (85,71%) - 2 unregulated (14,29%) - 1 N/A	Law (GL 1+ GIL 1) + Code (SC 1)	Yes	Yes
Court of Auditors	11 out of 15 items regulated (73,33%) - 4 unregulated (26,67%)	Law (GIL 1+SL 2+SIL 1) + Code (SC 1)	No	Yes
Central Bank	10 out of 15 items regulated (66,67%) - 5 unregulated (33,33%)	No reply	No	No

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## Members of Government

### In general:

Practically there is no regulation regarding professional activities. However, the issue of declaration of income, gifts, missions and travels, and other conflicts of interest are all regulated by law.

Relevant codes:

- The Public Service Code of Ethics is an annex to the Public Service Act. However the code does only partially apply to ministers.

Relevant laws:

- Constitution
- Government of the Republic Act
- Anti-Corruption Act
- Public Service Act

### More specific:

#### *A - Professional activities*

No regulations concerning outside activities. Specific rules on incompatibility of posts are regulated by law. The register on declaration of financial interests is regulated by the Anti-Corruption Act, Chapter 2.

#### *B - Declaration of income*

HPO' spouses' activities are unregulated, but there are some rules: for example, joint property or joint ownership shall be declared.

#### *C - Gifts, missions, travels*

Accepting gifts, missions and travels is regulated by law.

#### *D - Post-employment*

No regulation concerning these matters.

#### *E - Other Conflicts of Interests*

All issues are regulated by law. Professional loyalty is also “covered” by the Oath.

### *Instruments*

There is no training program within Government. However Estonia has an ethics committee: “The select Committee on the Application of Anti- Corruption Act”.

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## Members of Parliament

### In general:

Parliament is regulated similarly to the Government. However, the Parliament has no ethics committee.

Practically there is no regulation in professional activities. However, declaration of income, gifts, missions and travels, and other conflicts of interest are regulated by law.

All other issues are regulated by law.

Relevant codes:

- There is no code of conduct for a Member of the Riigikogu.

Relevant laws:

- The Constitution of the Republic of Estonia
- Riigikogu (Parliament) Internal Rules Act
- Anti-Corruption Act
- Public Service Act and
- Riigikogu rules of Procedure Act

### More specific:

#### *A - Professional activities*

No regulations in outside activities. Specific rules on incompatibility of posts are regulated by law.

The Register on declaration of financial interests is regulated within the Anti-Corruption Act, Chapter 2.

#### *B - Declaration of income*

HPO' spouses' activities are unregulated, but there are some rules: common property, ownership etc. shall be declared in the declaration of economic interests.

#### *C - Gifts, missions, travels*

Accepting gifts, missions and travels are regulated by law.

Participation in missions and travels is regulated by law. These issues are decided by the Board of the Riigikogu (Parliament) according to the general guidelines concerning official travel abroad of Members of Riigikogu.

#### *D - Post-employment*

No regulation concerning these matters.

*E - Other Conflicts of Interests*

All issues are regulated by law. Professional loyalty must be declared in the Oath of Minister.

*Instruments*

There are no training programs or ethics committees.

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## **Judges of the Supreme Court**

In general:

Most of the issues are regulated and most of them by code of conduct. Professional activities are strictly regulated.

Issues such as gifts, missions and travels are regulated by codes of conduct.

Relevant codes:

- Judge's Code of Ethics

Relevant laws:

- Constitution
- The Courts Act

More specific:

*A - Professional activities*

These issues are strictly regulated. Outside activities, honorary positions and publications are regulated by codes of conduct. The rest of the issues are regulated by codes of conduct and by law.

Concerning the register on declaration of financial interests: All Judges are obliged to present annual declaration of interests. The declaration must be presented to the relevant commission at the Parliament.

*B - Declaration of income*

HPO' spouses' activities are not regulated. However, the declaration of financial interests and assets is regulated by law.

*C - Gifts, missions, travels*

Accepting gifts is strictly regulated by law and codes of conduct, but missions, travels and rules on receptions and representation are regulated by codes of conduct.

*D - Post-employment*

No answer for these matters.

*E - Other Conflicts of Interests*

Professional loyalty is unregulated.

The rest of the issues in this section are strictly regulated by law and codes of conduct.

*Instruments*

The Supreme Court has no training programs. However, there is an ethics committee (the Judges' disciplinary committee) which discusses disciplinary matters concerning misconduct.

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**Members or directors of the Court of Audit**

In general:

Most of the issues are regulated by law.

There is some regulation in professional activities. Gifts, missions, travels and other conflicts of interest are strictly regulated.

Relevant codes:

- The Auditors Code of Ethics of the National Audit Office of Estonia (NAOE)

Relevant laws:

- State Audit Office Act
- Public Information Act
- Public Service Act and
- Anti-Corruption Act

More specific:

*A - Professional activities*

In outside activities: conferences and publications are unregulated as part of the professional activities.

The other issues are regulated by law or codes of conduct or by both instruments. The Court of Audit has a register on declaration of financial interests.

*B - Declaration of income*

Declaration of financial interests and assets and HPO spouses' activities are regulated by law. The provisions relating to the declaration of interests are regulated by a code of conduct.

*C - Gifts, missions, travels*

Missions and travels are unregulated but the other issues are regulated strictly by law and codes of conduct.

*D - Post-employment*

Regulated by law.

*E - Other Conflicts of Interests*

All parts of these matters are strictly regulated by law and codes of conduct.

*Instruments*

There are no training programs or ethics committees in the Court of Audit.

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## Members or Directors of the central or National Bank

### In general:

Half of issues in the Central Bank are regulated. There are no codes of conduct in the Central Bank's activities. The strictest regulation concerns the declaration of income. Most of other conflicts of interests are regulated by law.

Relevant codes:

- No particular specifications available in response

Relevant laws:

- No particular specifications available in response

### More specific:

#### *A - Professional activities*

Half of these matters are regulated by the law. Outside activities are not regulated.

There is no register on declaration of financial interests.

#### *B - Declaration of income*

All matters are regulated by law.

#### *C - Gifts, missions, travels*

Accepting gifts is the only part of these matters which is regulated by law. The other issues are not regulated.

#### *D - Post-employment*

No regulation concerning these issues.

#### *E - Other Conflicts of Interests*

All matters are regulated by law.

#### *Instruments*

No training programs, register on declaration of financial interests and ethics committee.

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## Summary: conflicts of interest policy in France

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## General profile

France is one of the founding members of the EU.

In France there is a tendency to strong regulation. All institutions have regulated approximately half of the issues: 47% in Government, 53% in Parliament, and 53% in the Supreme Court.

Two institutions regulated an exceptional amount of issues. The Court of Auditors regulated 73% of the issues (most of the issues are regulated by both code and law). The bank regulates 60% of the issues, all by law.

All institutions regulate issues by law (varying from 2 out of 15 issues in Government, 6 out 15 issues in Parliament, 7 out 15 issues in the Court of Auditors, 8 out 15 issues in the Supreme Court and 9 out 15 in the French Central Bank).

The Supreme Court and the Central Bank share that all regulated issues are covered by laws only. The other institutions use a combination of both code and laws to regulate. The French Government is the only institution where most issues are regulated by code-out of the 7 regulated issues, 5 are regulated by code (and 2 by law).

The Court of Auditors is the only French institution that uses both law and code to regulate issues (47%).

Out of the unregulated issues the following are remarkable:

- a) rules on receptions and representation (all institutions)
- b) HPO' spouses' activities (all institutions)
- c) accepting gifts, decorations or distinctions (Government, Supreme Court, Central Banks)
- d) outside activities; honorary positions (Government, Supreme Court, Central Banks)
- e) all three issues regarding declaration of income are unregulated in the Supreme Court and the Court of Auditors

Type of law that is used by the French institutions is general (constitution and penal code). The Parliament, the Supreme Court and the Central Bank are subjected to specific law.

Furthermore, the Government, the Supreme Court and the Court of Auditors do not have registers for the declaration of financial interests, only the Central Bank and the Parliament do. The only institution with an ethics committee is the Court of Auditors.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
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Government	7 out of 15 items are regulated (46,67%) - 8 unregulated (53,33 %)	2 issues (13%) are regulated by general law (GL), 5 issues (13%) are regulated by Code (33%).	NO	NO
Parliament	8 out of 15 items are regulated (57,14%) - 6 unregulated (42,86 %) - 1 N/A	6 issues (40%) are regulated by general law (GL), 2 issues (13%) are regulated by code (GIC)	NO	YES
Supreme Court	8 out of 15 items are regulated (53,33%) - 7 out of 15 are unregulated (46,67 %)	8 issues (53%) are regulated by both general law and specific law (GL and SIL )	NO	NO
Court of Auditors	10 out 15 issues is regulated (66,67) - 5 unregulated (33,33 %)	7 issues are regulated by both law and code (47%), 3 are regulated by code (20%), 1 issue is regulated by law (7%)	YES	NO
Central Bank	9 out of 15 issues are regulated by law (64,29%), 5 out of 15 unregulated (35,71%)	9 out of 15 issues (60%) are regulated by general institution law (GIL 9)	NO	YES

N.B. France interpreted the concept of Code of Conduct as ‘règles non écrites,’ unwritten rules.

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**Members of the Government**

## In general

Half of the issues (7 out of 15) are regulated by the French Government. 5 of the regulated issues are regulated by code. 2 of the regulated issues are regulated by law.

Relevant Laws:

The laws that apply are both general laws:

- Constitution (GL)
- Penal code (GL)

The issues regulated by law are general rules on impartiality and restrictions on professionals' commitment or posts and professionals' activities during the term of office.

## More specific

### *A - Professional activities*

3 out of the 4 professional activities are unregulated (political activities, honorary positions and conferences). For publications there is a code. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by law.

### *B - Declaration of income*

Declaration of financial interests and assets and provisions relating to the declaration of interests are regulated by law. HPO' spouses' activities are unregulated.

### *C - Gifts, missions, travels*

The French Government has no rules at all on issues regarding gifts, missions, travel. All issues are unregulated (accepting gifts, decorations, and distinctions; missions and travels; rules on receptions and representation).

### *D - Post-employment*

Professional commitments or holding posts after leaving office is unregulated.

### *E - Other Conflicts of Interests*

All issues regarding other conflicts of interest are regulated. General rules on impartiality and conflicts of interest is regulated by law. Professional confidentiality and professional loyalty are regulated by code.

### *Instruments*

Government does not make use of a register or a committee.

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## **Members of Parliament**

## In general

The French Parliament regulates half of the issues (8 out of 15- 53%). 2 of the regulated issues are regulated by code (General Institution Code), 6 of the regulated issues are regulated by law.

Relevant laws:

The laws that apply to the Parliament are both general laws:

- *Constitution* (GL)
- *Penal code* (GL)

Relevant codes:

- *Code electoral* (GIL)

## More specific

### *A - Professional activities*

Out of the outside activities: honorary positions and conferences are regulated by code. Publications and political activities are regulated by law.

### *B - Declaration of income*

Declaration of financial interests and assets and provisions relating to the declaration of interests are regulated by code. HPO spouses' activities are unregulated.

### *C - Gifts, missions, travels*

The acceptance of gifts, decorations, and distinctions is regulated by law. Missions and travels and rules on receptions and representation are unregulated.

### *D - Post-employment*

Professional commitments and holding posts after leaving office are unregulated.

### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are regulated by law. Professional confidentiality and professional loyalty are unregulated.

### *Instruments*

The Parliament does not have a committee, but they do have a register.

---

## **Judges of the Supreme Court**

### In general

8 out of 15 items are regulated (53%), 7 out of 15 are unregulated (47%). All these issues are regulated by law.

### Relevant law:

- Constitution (article 57), (GL)
- Ordonnance n° 58-1067 portant loi organique sur le conseil constitutionnel (SIL)

### More specific

#### *A - Professional activities*

Except for 'honorary positions' all issues regarding professional activities are regulated by law (political activities; the incompatibility of posts and professional activities before or during the term of office apply; conferences and publications). Honorary positions are unregulated.

#### *B - Declaration of income*

The French Supreme Court has no rules at all on issues regarding declaration of income (declaration of financial interests and assets, HPO spouses' activities, provisions relating to the declaration of interests).

#### *C - Gifts, missions, travels*

The French Supreme Court has no rules at all on issues regarding gifts, missions, travel (accepting gifts, decorations, and distinctions; missions and travels; rules on receptions and representation).

#### *D - Post-employment*

Professional commitments or holding posts after leaving office is regulated by law.

#### *E - Other Conflicts of Interest*

All issues regarding other conflicts of interest (general rules on impartiality and conflicts of interest, professional confidentiality, professional loyalty) are regulated by law.

### *Instruments*

Supreme Court does not make use of a register or a committee.

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## Members of the Court of Auditors

### In general:

Out of all institutions the Court of Auditors is most regulated. 11 out of 15 issues are regulated. The Court uses both law and codes. 7 out of 11 issues are regulated by both law and code. 3 out of 11 issues are regulated by code. 1 issue is regulated by law.

All issues regarding declaration of income are unregulated (3). The issues regarding honorary positions and rules on reception and representation are unregulated (2)

### Relevant codes:

- Code: “Charte de déontologie commune à la cour et aux Chambres régionales et territoriales des comptes”.

### Relevant law:

- Code des juridictions financières
- Le Code pénal
- La loi n° 83-634 du 13 juillet 1983 portant droits et obligations des fonctionnaires
- La loi n° 93-122 du 29 janvier 1993 relative à la prévention de la corruption et à la transparence de la vie économique et des procédures publiques.

### More specific:

#### *A - Professional activities*

Except honorary positions (unregulated), all issues regarding professional activities are regulated. Publications and political activities are regulated by code. Conferences and professional activities before or during the term of office are regulated by both code and law.

#### *B - Declaration of income*

The French Supreme Court has no rules at all on issues regarding declaration of income (declaration of financial interests and assets, HPO spouses' activities, provisions relating to the declaration of interests).

### *C - Gifts, missions, travels*

Missions, travels are regulated by law, accepting gifts, decorations, distinctions is regulated by code and law. Rules on receptions and representation is the only unregulated issue in this section.

### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by code and law.

### *E - Other Conflicts of Interests*

All issues regarding other conflicts of interest are regulated by both code and law (general rules on impartiality and conflicts of interest, professional confidentiality and loyalty).

### *Instruments:*

The Court of Auditors does not have a register, but they do have a committee. This committee is called: the “college of deontology” and consists of three magistrates whose role is to examine the questions regarding prevention of the conflicts of interests, integrity, neutrality, discretion, secrecy and impartiality. They reflect on these questions and propose adaptation to the principles in the charter.

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## **Directors of the Central Bank**

### In general:

The majority of issues within the Central Bank are regulated (9 out of 16 issues, 60%).

### Relevant law:

- Code monétaire et financier (articles L 142-7 et L 142-9)

The bank does not have or use a code.

### More specific:

### *A - Professional activities*

All professional activities are regulated by law. (There is no answer for honorary positions).

*B - Declaration of income*

Declaration of financial interests and assets and provisions relating to the declaration of interests are regulated by law. HPO spouses' activities are unregulated.

*C - Gifts, missions, travels*

The Central Bank has no rules at all on issues regarding gifts, missions, travel (accepting gifts, decorations, and distinctions; missions and travels; rules on receptions and representation).

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality are regulated by law. Professional loyalty is unregulated.

*Instruments*

The bank does not have a committee, but they do have a register.

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## Summary: conflicts of interest policy in Germany

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### General profile

Germany is a founding member of the EU.

None of the German institutions has most or all issues regulated. The Government and the Court of Auditors share that for the issues regulated, most are covered by laws or a combination of laws and codes. As for the Supreme Court, if regulated, most issues are settled by laws. In the Central Bank, there is a tendency to regulate by codes and the Parliament uses a combination of all possibilities for those issues, namely code, laws and the combination of both.

Out of the unregulated issues the following are remarkable:

- a) no declaration of financial interests and assets: Government, Supreme Court, and Court of Auditors
- b) no restrictions on professional commitments or holding other posts after leaving office: Government, Parliament, and Supreme Court
- c) no general rules on impartiality and conflicts of interest: Government
- d) no specification of rules on HPO' spouses' activities: Government, Parliament, Supreme Court, Court of Auditors, and Central Bank

Furthermore, the Government, the Supreme Court, the Court of Auditors and the Central Bank do not have registers for the declaration of financial interests. The Parliament, having introduced such a register, has temporarily suspended its register awaiting a ruling of the Supreme Court on the issue after six MPs have filed a lawsuit against it.

In sum, Germany shows a heterogenic picture of different means used to counter conflicts of interest. The country shows a slight preference for laws, followed closely by law-codes combinations and solutions relying solely on codes. There exists no specific law on conflicts of interest applicable to all institutions.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	7 out of 15 items are regulated (46,67%) - 8 unregulated (53,33%)	Law (GIL 5) Code (GC 3)	No	No
Parliament	10 out of 15 items regulated (66,67%) - 5 unregulated (33,33%)	Law (GIL 8) Code (GC 8)	No	Yes (pending a decision)
Supreme Court	8 out of 15 items are regulated (57,14%) - 6 unregulated (42,86%) - 1 N/A	Law (GIL 9) Code (SC 1)	Yes	No
Court of Auditors	12 out of 15 items are regulated (80%) - 3 unregulated (20%)	Law (GIL 13) Code (GC 5)	No	No
Central Bank	14 out of 15 items are regulated (93,34%) - 1 unregulated (6,67%)	Law (GIL 4) Code (GC 13)	Yes	No

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## **Members of Government**

### In general:

Less than half of the issues are regulated. If regulated, most issues are either covered by law or by a combination of a law and a code.

### Relevant laws:

- Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung (Bundesministertgesetz - Law on the legal relationships of Members of the federal Government)

### General laws applicable also to Members of Government:

- Grundgesetz (Basic Act)
- Strafgesetzbuch (penal law)

More specific:

*A - Professional activities*

Most professional activities are regulated by law. Specific rules on outside political activities, honorary positions and on the incompatibility of posts and professional activities before or during the term of office apply. Outside activities like publications and participation in conferences are unregulated.

*B - Declaration of income*

The German Government has no rules at all on issues regarding declaration of income (declaration of financial interests and assets, HPO spouses' activities, provisions relating to the declaration of interests).

*C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is regulated by law and a code. Missions and travels are regulated by a code. Rules on receptions and representation do not exist.

*D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest do not exist. For confidentiality and other rules and standards there is a law. Professional loyalty is regulated in a code.

*Instruments*

The German Government does not provide training to HPO and did not establish an ethics committee. A register on declaration of financial interests does not exist as well.

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## **Members of Parliament**

In general:

Most of the issues are regulated either by law, by a combination of a law and a code or solely by a code.

Relevant laws:

- Gesetz über die Rechtsverhältnisse der Mitglieder des Deutschen Bundestages (AbgG - Law on the legal relationships of Members of the German Parliament)

Relevant Codes:

- Verhaltensregeln für Mitglieder des Deutschen Bundestages (code of conduct for Members of the German Parliament)

General laws applicable also to Members of Parliament:

- Grundgesetz (Basic Act)
- Strafgesetzbuch (penal law)

More specific:

*A - Professional activities*

All professional activities are regulated by law or a combination of laws and codes. Specific rules on outside political activities, honorary positions, on the incompatibility of posts and professional activities before or during the term of office as well as on publications and the participation in conferences apply.

*B - Declaration of income*

The German Parliament has no rules on HPO spouses' activities. Issues regarding the declaration of income (declaration of financial interests and assets, provisions relating to the declaration of interests) are regulated by both laws and codes.

*C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is regulated by law and a code. Missions and travels as well as receptions and representation are not regulated.

*D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest and on confidentiality are regulated in a code. For other rules and standards there was no answer available from Germany. Professional loyalty is not regulated.

*Instruments*

The German Parliament does not offer trainings to HPO and did not establish an ethics committee. A register on declaration of financial interests has been established, but is currently suspended due to a pending lawsuit of six MPs at the Supreme Court.

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**Judges of the Supreme Court**

In general:

Slightly more than 50% of the issues are regulated for Judges of the Supreme Court. At the Court, issues tend to be regulated by laws even though in one case (accepting gifts, decorations, and distinctions) a law is in force in combination with a code.

Relevant codes:

- Verhaltensregel über die Annahme von Geschenken an Richter und Richterinnen des Bundesverfassungsgerichts (Code of conduct for Judges of the German Supreme Court on accepting gifts) of 17 December 2003
- Geschäftsordnung des Bundesverfassungsgerichtes (GOBVerfG – Rules of procedure of the German Supreme Court)

Relevant laws:

- Gesetz über das Bundesverfassungsgericht (BVerfGG – Law on the Federal Supreme Court)

More specific:

*A - Professional activities*

Specific rules on outside political activities and participation in conferences are regulated by law. The same applies to specific rules on incompatibility of posts and professional activities before or during the term of office. Honorary positions as well as publications have not been addressed specifically.

*B - Declaration of income*

There are no laws or codes on the declaration of income (HPO' spouses' activities, declaration of financial interests and assets, and provisions relating to the declaration of interests).

*C - Gifts, missions, travels*

While there is no information available on rules pertaining to receptions and representation, there is a law on missions and travels as well as a combined law-code regulation for accepting gifts, decorations, and distinctions.

*D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest, on loyalty and on confidentiality are regulated in a law. Further rules and standards do not exist.

### *Instruments*

The Supreme Court has an ethics committee, but a register for declaration of financial interests is not in place. An answer on training programmes was not available.

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## **Members or directors of the Court of Audit**

### In general:

Most of the issues are regulated for Members or Directors of the Court of Audit. At the Court, issues tend to be regulated by laws or laws in combination with codes.

Relevant laws:

- Bundesrechnungshofgesetz (BRHG – Federal law for the Court of Auditors)

Relevant codes:

- Geschäftsordnung des Bundesrechnungshofes vom 19.11.1997 (GO-BRH – Rules of procedure of the German Court of Auditors Of 19 November 1997)
- Prüfungsordnung des Bundesrechnungshofes vom 11.07.1985 (PO-BRH – Rules on Auditing of the German Court of Auditors)

### More specific:

#### *A - Professional activities*

All professional activities are regulated either by law or by a law and a code together. This includes political and honorary activities, participation in conferences and publications and any other job incompatible with the office of an HPO.

#### *B - Declaration of income*

There is a law and a code on general provisions for declaration of interests, but no such regulation as concerns specific public declarations of financial interests or assets. Spouses' activities are not regulated either.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations and distinctions is regulated by means of law and code. Missions and travels are covered by a law. No specific regulation exists on receptions and representation.

#### *D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by law.

#### *E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest and on loyalty are regulated by law. Confidentiality is regulated in a law and a code. Further rules and standards do exist in the form of a law.

#### *Instruments*

The Court of Auditors offers training programmes on ethical questions for HPO. It does not have an ethics committee or a register on the declaration of financial interests.

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## **Members or Directors of the Central Bank**

### In general:

Most of the issues are regulated for Members or Directors of the Central Bank in Germany. At the bank, more than 50% of all issues are regulated with codes.

Relevant codes:

- Verhaltenskodex für die Mitglieder des Vorstands der Deutschen Bundesbank (Code of conduct for the Directors of the Central Bank)
- Additionally, there are internal unpublished guidelines on the problem of insider trading

Relevant laws:

- Bundesbank Gesetz (BundesbankG – Central Bank Law)

### More specific:

#### *A - Professional activities*

All professional activities are regulated by a code (honorary activities, publications, conferences and specific rules of incompatibility with other posts) except for political activities, which are covered by law.

#### *B - Declaration of income*

There is a code on the general provisions for the declaration of interests and a code as regards specific public declarations of financial interests or assets. Spouses' activities are not regulated.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations and distinctions is regulated by means of law and code. Missions and travels are covered by a code. A code also exists on receptions and representation.

#### *D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by code.

#### *E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest and on confidentiality are regulated by law and code. Loyalty is regulated in a code. For further rules and standards no answer was given.

*Instruments*

The Central Bank has a corporate governance officer who acts in an ethics advisory capacity. There are no special trainings and a register on the disclosure of financial interests does not exist.

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## Summary: conflicts of interest policy in Greece

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### General profile

Greece joined the European Union in 1981. The country has a republican structure with a single-chamber Parliament, founded on the constitutions of 1975.

Information on conflict of interest policies in the Greek institutions was only available as regards the Supreme Court and Court of Audit. Most conflict of interests issues are strictly regulated for both of these institutions.

Institution	Issues regulated	Form of regulation	Ethics committee	Public register
Government	N/A	N/A	N/A	N/A
Parliament	N/A	N/A	N/A	N/A
Supreme Court	13 out of 15 items are regulated (100%) - 2 unregulated	Law (GL+ GIL 11) Code (SIC 12)	Yes	Yes
Court of Auditors	All 15 items are regulated (100%)	Law (GL+ GIL 13)	No	No
Central Bank	N/A	N/A	N/A	N/A

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### Judges of the Supreme Court

#### In general:

13 out of the 15 conflict of interest issues are regulated for Judges of the Supreme Court, most of them (9 out of the 15) by a combination of laws and codes.

According to the Greek Constitution (article 89) and the Code of Conduct for Judges (article 41), the following restrictions concerning incompatibility for all Greek Judges are in force:

1) Judicial functionaries shall be prohibited from performing any other salaried service or practicing any other profession. Exceptionally, judicial functionaries may be elected members of the Academy or professors of Universities. They may also sit on councils or committees with disciplinary or jurisdictional duties and they may participate in drafting law or audit committees, when specially provided by law.

2) The assignment of administrative duties to judicial functionaries is prohibited. By exception, senior Judges can undertake commitments related to the education of other Judges, since these duties are considered judicial.

3) Judicial functionaries participate in arbitration courts, only within the limits of their judicial duties.

4) Participation of judicial functionaries in the Government is prohibited.

Furthermore, the provisions of article 91 of the Code of conduct introduce certain restrictions to Judges for specific social activities. Particularly, behavior indicating lack of loyalty to the country and to the democratic form of Government or undermining the democratic legitimacy is prohibited to Judges. Similarly, judicial functionaries are prohibited from participating in actions leading to the abolition of the democratic legitimacy or in organizations which either have secret goals or they impose secrecy to their members. Subsequent to their retirement, Judges do not have any restrictions on professional activities.

Relevant codes:

- Code of conduct for Judges of Areios Pagos (the Greek Supreme Court)

Relevant laws:

- Constitution of 1975 of the Republic of Greece

More specific:

#### *A - Professional activities*

Specific rules on outside political activities and participation in conferences are regulated by law. The same applies to specific rules on incompatibility of posts and professional activities before or during the term of office. Honorary positions as well as publications have not been addressed specifically.

#### *B - Declaration of income*

All issues relating to the declaration of income (HPO' spouses' and close relatives' activities, declaration of financial interests and assets, and provisions relating to the declaration of interests) are regulated by a combination of law and code.

#### *C - Gifts, missions, travels*

While the issue of accepting gifts, decorations and distinctions is regulated by law and code, missions and travels is regulated by law alone. Rules on receptions and representation do not exist.

#### *D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest, on loyalty and on confidentiality are regulated by law and code of conduct.

*Instruments*

Judges act as trainers in the education programs for judicial functionaries, but there is no training on ethics for Judges themselves. The Supreme Court has an ethics committee by intermediary of the Inspectors of Judicial Functionaries, as well as a register for declarations of financial interests. The “Photen Esxes” (Register on declarations of financial interests of judicial functionaries, their spouses and close relatives) is kept by the Office of the Attorney General.

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## **Members or Directors of the Court of Audit**

In general:

All issues for Members or Directors of the Court of Audit are regulated by law.

Relevant code:

- A draft code of conduct, the “Internal Regulation on the official duties of the judiciary in the Elegktiko Syndedrio (Hellenic Court of Audit)” is expected to be adopted by the Court’s plenum in autumn.

Relevant laws:

- Articles 46, 87 and 100A of the Constitution of Greece
- Law 1756/1988 “Code of the Courts’ organisation and the status of the judiciary” (esp. Part I, section 2, Arts. 33 subsequent)
- Law 3213/2003 “Declaration and control of the financial assets of the deputies, public servants and employees”

More specific:

*A - Professional activities*

All professional activities are regulated by law. This includes political and honorary activities, participation in conferences and publications and any other job incompatible with the office of an HPO.

*B - Declaration of income*

There is a law on general provisions for declaration of interests, as well as on public declarations of financial interests or assets and spouses’ activities.

*C - Gifts, missions, travels*

Accepting gifts, decorations and distinctions is regulated by means of law as well as missions and travels and receptions and representation.

*D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest and on loyalty are regulated by law. Confidentiality is regulated in a law and a code. Further rules and standards do exist in form of a law.

*Instruments*

The Court of Auditors does not offer training programmes on ethical questions, nor does it have an ethics committee or a register on the declaration of financial interests.

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## Summary: conflicts of interest policy in Hungary

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### General profile

Hungary, along with a group of other countries including Estonia, Lithuania and Slovenia, joined the European Union on the 1<sup>st</sup> of May 2004.

The predominant mode of regulating the conflicts of interest situations is the use of legal instruments. Government and Parliament rely solely on legal rules, while the Court of Justice, Court of Auditors and Central Bank have also adopted a code of conduct. However, these codes cover only some issues and the main instrument in these cases is legislation. Generally speaking, HPO' professional activities, the declaration of income as well as other conflicts of interests are regulated by law. Gifts, missions and travels are typically regulated by internal regulations, spelled out by the leader of the organisation. In most cases, there are no restrictions on HPO' post-employment, nor are their spouses' activities regulated.

Interest conflicts are regulated by institutional laws. However, the general principles of property declarations for all institutions are defined in the Act on the Legal Status of Members of Parliament.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 2, SIL 1)	No	Yes
Parliament	7 our of 15 items regulated (46,67%) - 8 unregulated (53,33%)	Law (GL 1, SIL 1)	Yes	Yes
Supreme Court	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 1, SIL 1) + Code (GC 1)	No	Yes
Court of Auditors	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 2, SIL 1) + Code (GC 1)	No	Yes
Central Bank	15 out of 15 items regulated (100%)	Law (GL 2, SIL 1) + Code (SC 1)	Yes	Yes

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## Members of Government

### In general:

13 out of 15 items are regulated. Most of them are regulated by law (11). Two items—rules on receptions and representation, and accepting gifts, decorations or distinctions, are controlled by internal regulations. These regulations are introduced by the leader of the organisation and they are obligatory only in the frame of the particular organisation. Internal regulations cannot be in opposition to the act or decree, but they can regulate some matters or activities in a more detailed manner. In the present study, these kinds of internal regulations were categorised as a ‘code’. Two issues, HPO’ spouses’ activities and restrictions on professional commitments or holding other posts after leaving office, are not regulated.

It should be noted that the Government’s mandate shall end upon establishment of a conflict of interest on the part of the prime minister (Constitution, art. 33/A), and minister's term shall cease upon declaration of a conflict of interest (Constitution, art. 33/B).

### Relevant laws:

- 1949:XX Act on the Constitution of the Republic of Hungary
- 2006:LVII Act on Central Public Administration Organisations and the Legal Status of the Members of the Government and the State Secretaries
- 1992:XXIII Act on the Legal Status of Civil Servants

### Relevant codes:

There are some internal regulations, but no proper code of conduct.

### More specific:

#### *A - Professional Activities*

All professional activities are regulated by law.

#### *B - Declaration of Income*

A minister who is a Member of the Parliament shall declare his/her wealth in accordance with the regulations related to the Members of Parliament (see the section on Members of the Parliament for more details). A minister who is not a Member of the Parliament shall declare his/her wealth in 30 days on his/her appointment, and subsequently every year, and in 30 days after the termination of his/her mandate, with the data contents in annex of Act related to the legal status of the Members of Parliament. Declarations are registered by the prime minister’s office and are published on the webpage of the Government. Activities of a minister’s spouse are not included.

#### *C - Gifts, Missions, Travels*

Regulations on missions and travels are regulated by law. Regulations on accepting gifts, decorations and distinctions as well as rules on reception and representation are regulated by internal regulations.

#### *D - Post-employment*

Post-employment is regulated by law (Act on the Legal Status of Members of Parliament, Section 14b). According to the law, an MP shall not be a leading official or a member of the supervisory board of a concessionaire company; nor shall he have the right to act as leader (chief executive officer) either in an employment relationship or other work-related legal relationship with the company carrying on economic activity, while his mandate is in effect and within two years after the termination of his mandate.

#### *E - Other Conflicts of Interests*

There are general rules on impartiality and conflicts of interest, and regulations on professional confidentiality and loyalty.

#### *Instruments*

Presently, the Hungarian Government does not hold training programmes concerning ethical issues for ministers, and there is no committee on ethics. There is a register on declaration of financial interests which operates according to the provisions in the Act LV of 1990 on the Legal Status of Members of Parliament (Chapter III, sections 9-23). The declarations are registered by the prime minister's office and are published on the webpage of the Government.

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## **Members of Parliament**

### In general:

7 out of 15 items are regulated by law, all other items are unregulated. Parliament has begun the preparations to creating a code of conduct.

Relevant laws:

- 1949:XX Act on the Constitution of the Republic of Hungary
- 1990:LV Act on the Legal Status of Members of Parliament

### More specific:

#### *A – Professional Activities*

Act on the Legal Status of Members of Parliament contains detailed rules regarding the incompatibility of posts and the issues of economic incompatibility during the MP's term. However, political activities and honorary positions are not regulated, and there are no regulations related to conferences or publications.

#### *B - Declaration of Income*

Act on the Legal Status of Members of Parliament contains detailed rules concerning the declaration of income. Parliament Members are obliged to make property statements to

the speaker of Parliament about their property, income and economic interests. With his/her own statement, the MP shall enclose the statement of his/her spouse or partner in life and his/her child, living in the same household. Procedure concerning the property statement can be initiated at the speaker of Parliament by anybody. In the event of initiation the speaker hands over the case to the Immunity, Incompatibility and Mandate Examination Committee of the Parliament. The procedure pursued by the committee will be governed by the Standing Orders of the Parliament.

*C - Gifts, Missions, Travels*

Member of Parliament shall not receive a present or a gratis grant exceeding, in each individual case, two months' amount of the current basic salary of MPs. On presents and gratis grants not reaching such value, a record shall be kept by MPs as part of their property statement. Travels as such are not regulated, and there are no detailed rules on receptions and representation.

*D - Post-employment*

Post-employment is regulated by law.

*E - Other Conflicts of Interests*

Parliament Members shall not unlawfully obtain or use confidential information. There are no regulations related to professional loyalty or general rules on impartiality and conflicts of interest.

*Instruments*

The Hungarian Parliament does not arrange training programmes concerning ethical issues for Members of Parliament. The Parliament has a committee that is responsible for certain ethical issues, among other tasks. The chairman of the Immunity, Incompatibility and Mandate Examination Committee will analyse whether there are any grounds of incompatibility. In the case of instituting a procedure of incompatibility, the Committee of Immunity, Incompatibility and Mandate Examination shall inquire into the case within 30 days. The detailed rules of the procedure of the examination board shall be established by the Standing Orders of the Parliament. According to the Constitution, a majority of two-thirds of the votes of the Members of Parliament present shall be required for the Parliament to establish a conflict of interest (art. 20/A).

Records on the property statements and the activities, subject to the obligation to announce as well as any other records in connection with incompatibility shall be kept by the Committee of Immunity, Incompatibility and Mandate Examination. The property statement will be publicised by the speaker of Parliament. The property statement of the relatives will be kept with the committee. The property statement of the spouse or partner in life and child(ren) living together with the Member may be inspected only by the Members of the Immunity, Incompatibility and Mandate Examination Committee, in the course of the procedure related to the property statement of the Member.

## **Judges of the Supreme Court**

### In general:

13 out of 15 items are regulated. Seven of them are regulated by law, three by code of conduct and three items by both law and code of conduct. The category of gifts, missions and travels is regulated by internal regulations. Two issues, HPO spouses' activities and restrictions on professional commitments or holding other posts after leaving office, are not regulated.

Relevant laws:

- 1949:XX Act on the Constitution of the Republic of Hungary
- 1997:LXVII Act on the Legal Status and Remuneration of the Judges

Relevant codes:

- Code of Conduct of the Hungarian Judicial Association (February 2005)

### More specific:

#### *A - Professional Activities*

All professional activities are regulated by law. Judges may not be members of political parties and may not engage in political activities (Constitution, art. 50). Political activities are regulated also in the code of conduct.

#### *B - Declaration of Income*

Judges of the Supreme Court are subject to financial disclosure. According to the Act on the Legal Status and Remuneration of the Judges (Section 10/A-10/F), Judges shall declare their wealth in 30 days on their appointment and subsequently in every three years. The person obliged to make this declaration shall enclose the declaration of his/her spouse or partner in life living in the same household, as well that of his/her children. The Office of the National Court of Justice takes care of the managing of the declaration of wealth. The president of the Supreme Court shall declare his wealth in 30 days on their appointment and subsequently in every three years, and hand it over to the speaker of the Parliament. The Parliamentary Committee on Immunity, Conflicts and Mandate Inspection takes care of the managing of the declaration of wealth. The declaration of wealth - except that of the relatives - is public. The declaration of wealth brought to public shall not contain any identification data.

#### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated by internal regulations.

#### *D - Post-employment*

The Judges of the Supreme Court are not subject to post-employment restrictions.

#### *E - Other Conflicts of Interests*

Standards on professional loyalty are set in law. General rules on impartiality and conflicts of interest as well as standards concerning professional confidentiality are set both in legislation and in code of conduct.

### *Instruments*

The Supreme Court provides training related to the ethical behaviour. A publication titled “The Judicial Ethics and Honourable Proceedings” was published in 2007. It contains the basic questions pertaining to issues including the judicial ethics, legal culture and the code of conduct in the annex. Supreme Court does not have an ethics committee, although the Judges of the Supreme Court are members of the Judicial Association and under its Ethics Committee's authority. There is a register on the declaration of financial interests. The Judges shall declare their wealth within 30 days from the day of their appointment and subsequently in every three years. The person obliged to make this declaration shall enclose the declaration of his/her spouse or partner in life living in the same household, as well that of his/her children. The Office of the National Court of Justice watches over of the managing of the declaration of wealth. The president of the Supreme Court shall declare his/her wealth within 30 days from the day of his/her appointment and subsequently in every three years, and hand over the statement to the speaker of the Parliament. The Parliamentary Committee on Immunity, Conflicts and Mandate Inspection watches over the managing of the declaration of wealth. The declaration of wealth – except that of the relatives – is public. The declaration of wealth brought to public shall not contain any identification data.

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## Members or Directors of the Court of Audit

### In general:

13 out of 15 items are regulated. Majority of them are regulated by law (6), two by the INTOSAI Code of Ethics and three by both law and code of ethics. The code of ethics is a model code for Supreme Audit Institutions, issued by the International Organisation of Supreme Audit Institutions (INTOSAI). The INTOSAI Code of Ethics is intended to be seen as a foundation for national codes of ethics to be developed by each supreme audit institution. However, the code is not adjusted for the Hungarian State Audit Office. The category of gifts, missions and travels is regulated by internal regulations. Two issues, HPO spouses' activities and restrictions on professional commitments or holding other posts after leaving office, are not regulated.

### Relevant codes:

- INTOSAI - Code of Ethics and Auditing Standards. Issued by the Auditing Standards Committee at the XVIth Congress of INTOSAI in 1998

### Relevant laws:

- 1949:XX Act on the Constitution of the Republic of Hungary
- 1992:XXIII Act on the Legal Status of Civil Servants
- 1989:XXXVIII Act on the State Audit Office

### More specific:

#### *A - Professional Activities*

All professional activities are regulated by law, and specific rules on incompatibility of posts and professional activities before or during the term of office are also regulated by the INTOSAI Code of Ethics. The code emphasises the importance of political neutrality: auditors should maintain their independence from political influence in order to discharge their audit responsibilities in an impartial way. Auditors should also avoid all relationships with managers and staff in the audited entity and other parties which may influence, compromise or threaten the ability of auditors to act and be seen to be acting independently.

#### *B - Declaration of Income*

Members of the State Audit Office are subject to financial disclosure regulated by law. Their spouses' activities are not regulated.

### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated by internal regulations. The INTOSAI Code of Ethics states that auditors should protect their independence and avoid any possible conflict of interest by refusing gifts or gratuities which could influence or be perceived as influencing their independence and integrity (art. 23).

### *D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are set in legislation and in the code of ethics. According to the code, auditors should not use their official position for private purposes and should avoid relationships which involve the risk of corruption or which may raise doubts about their objectivity and independence (art. 25). Standards on professional confidentiality and loyalty are also set in the code of ethics.

### *Instruments*

State Audit Office provides training related to the ethical behaviour. Training is based on the Annual Training Plan regulated in the Act on Civil Servants. The Annual Plan contains training on ethical standards and anticorruption measures. State Audit Office does not have an ethics committee or advisory group on ethics.

The president and the vice-presidents of the State Audit Office at the time of their election and then annually, and also the senior officials and auditors of the State Audit Office at the time of their appointment and then biannually, shall make property declarations. The property declarations of the president and the vice-presidents are registered and verified by the Parliamentary Committee on Immunity, Conflicts and Mandate Inspection. The property declarations of the senior officials and auditors are registered and verified by the president of the State Audit Office. The property declarations of senior officials and auditors are not public.

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## **Members or Directors of the central or National Bank**

### In general:

All items are regulated, most of them by law (12). The three items in the category of gifts, missions and travels are regulated by internal regulations. Hungarian National Bank has a code of conduct, but it does not cover the area of conflicts of interest.

### Relevant laws:

- 1949:XX Act on the Constitution of the Republic of Hungary
- 2001:LVIII Act on Hungarian National Bank

- Code of Labour

Relevant codes:

- Ethical Code of the Hungarian National Bank (October 2003)

More specific:

#### *A - Professional Activities*

All professional activities are regulated by law. For example, the employees of the National Bank may not establish and may not maintain a membership relationship, employment relationship or other legal relationship as an executive officer or member of the supervisory board at a financial institution or investment enterprise. They may not hold ownership interests in a financial institution or investment enterprise (Act on Hungarian National Bank, art. 57). The Members of the Monetary Council of the Hungarian National Bank may only carry out other activities which are compatible with their Central Bank decision- making duties. Members may not hold office in political parties and may not carry out public activities on behalf of or in the interest of political parties (art. 58).

#### *B - Declaration of Income*

According to the Act on Hungarian National Bank (art. 58/A), the Governor and the deputy Governors of the Hungarian National Bank shall declare their wealth in 30 days on their appointment, and subsequently every year, with the data contents in Annex 6 of Act XXIII of 1992 on the Legal Status of Civil Servants. The person obliged to make this declaration shall enclose the declaration of his/her spouse or partner in life living in the same household, as well as that of his/her children. Employees of the National Bank shall declare their wealth at the time of taking up their positions at the Bank, and subsequently, every two years, in accordance with the rules relating to civil servants. These declarations are registered and inspected by the Governor of the National Bank. These declarations of wealth shall not be brought to public.

#### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated by internal regulations.

#### *D - Post-employment*

Post-employment is regulated by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are set in the Act on Hungarian National Bank. Rules on professional confidentiality and loyalty are also set in the same Act. Regarding the professional secrecy, the Act argues that the employees of the National Bank and the members of its Supervisory Board shall be required not to disclose any state secrets, bank secrets, securities secrets and business secrets of which they gain knowledge in the course of discharging their duties at the Bank. Such an obligation to maintain secrecy shall remain even after their duties have ceased (art. 54).

#### *Instruments*

Hungarian National Bank provides continuous internal training on how to perform work in an ethical way. At the time when the Bank's Ethical Code came into force the Ethics Committee was formed. The Committee consists of five members. The chairman of the Committee is the managing Director who guides the HR Department. The members consist of the representatives of the trade union, HR Department, Department of Law and the representative of the Bank elected directly by the employees of the bank. The committee should pay attention to the enforcement of the rules set out in the code, and take initiatives to amend the internal regulations in the frame of this code. It should also provide interpretation of the rules of the Code of Conduct and give guidance on moral standards. Committee prepares annual reports for the Governor of the National Bank.

The declaration of wealth – except that of the relatives – is public, and an exact copy of it shall be made public by the Speaker of Parliament on the website of the Parliament. These declarations of wealth shall be registered by the Parliamentary Committee on Immunity, Conflicts and Mandate Inspection (Act on Hungarian National Bank, art. 58/A).

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## Summary: conflicts of interest policy in Ireland

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### General profile

The Republic of Ireland joined the EU in 1973.

For 3 out of 4 institutions almost all issues are regulated. The Supreme Court is an exception: none of the issues is regulated, but are ‘governed by tradition and convention’. The same counts for a register on declaration of financial interests: 3 out of 4 do have such a register, Supreme Court is the exception.

In case of the Government and the Central Bank most issues are mainly regulated by code; in the case of Parliament most issues are regulated by law.

There is specific law on possible conflicts of interest that is applicable for 3 of 4 institutions:

- The Ethics in Public Office Act 1995
- The Standards in Public Office Act 2001.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	12 out of 15 issues regulated (100%) - 3 issues N/A	Law (SL 2) + Code (SC)	Yes	Yes
Parliament	10 out of 15 issues regulated (66,67%) - 5 issues not regulated (33,33%)	Law (SL 2) + Code (SC)	Yes	Yes
Supreme Court	All issues unregulated (100%)	-	No	No
Court of Auditors	N/A	N/A	N/A	N/A
Central Bank	13 out of 15 issues regulated (86,67%) - 2 issues not regulated (13,33%)	Law (GIL + SL 2) + Code (SC 3)	Yes	Yes

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## Members of Government

### In general:

Almost all issues are regulated by code, 6 out of 16 issues are regulated by law and code. Only one out of four outside activities is regulated: conferences.

Relevant codes:

- Code of Conduct for Office Holders (SC)

Relevant laws:

- Ethics in Public Office Act 1995 (SL)
- Standards in Public Office Act 2001 (SL)

### More specific:

#### *A - Professional activities*

Of the outside activities, only conferences are regulated (law + code). Specific rules are regulated by code.

#### *B - Declaration of income*

All regulated by law and code.

#### *C - Gifts, missions, travels*

All regulated by law and code.

#### *D - Post-employment*

Regulated by code.

#### *E - Other Conflicts of Interests*

General rules, professional confidentiality, and other rules and standards regulated by code; professional loyalty regulated by law and code.

#### *Instruments*

There is no training, but there is an ethics committee: advice is provided to Members of the Government by the Standards in Public Office Commission. And there is a register: Each year Members of the Oireachtas are required to make a statement of such registrable interests that they have to the Standards in Public Office Commission. The statements are forwarded by the Standards Commission to the Clerk of the Dáil or Seanad, as appropriate. Each Clerk establishes a Register of Members' Interests, which is publicly available.

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## Members of Parliament

In general:

More than half of the issues are regulated, most of them by law. Unregulated are: professional loyalty, rules on receptions and representation, specific rules on incompatibility of posts and professional activities before or during the term of office, and restrictions on professional commitment or holding posts after leaving office. All instruments are in place.

Relevant codes:

- The Guidelines and code of conduct for Members of Seanad Éireann (SC)

Relevant laws:

- Ethics in Public Office Act 1995 (SL)
- Standards in Public Office Act 2001 (SL)

More specific:

*A - Professional activities*

All outside activities are regulated by law: political activities, honorary positions, conferences, and publications. Specific rules are unregulated.

*B - Declaration of income*

Regulated by law

*C - Gifts, missions, travels*

Missions and travels are regulated by law, accepting gifts by law and code, and rules on receptions and representation are unregulated.

*D - Post-employment*

Unregulated.

*E - Other Conflicts of Interests*

General rules and professional confidentiality are regulated by code; professional loyalty and other rules and standards are unregulated.

*Instruments*

Induction seminars are held at the start of every new Dáil. Not all members attend. Information is also included in induction information packs given to all Members and formal published guidelines [attached] are issued every January to assist Members in completing their registration of interests. Each of the two Houses [Dáil and Seanad] has their respective Committees on Members' Interests which have the functions broadly of advising, investigating and deciding sanctions for Members. Completed declarations of financial interests are sent by the Members of Parliament to the Standards in Public Office Commission or in the case of a "nil return" to the Clerk of the House concerned [either Dáil or Seanad]. In either case, all of the actual completed declarations are sent to

the Clerk of the House concerned, where they are tabulated and published on the Houses of the Oireachtas website. Amendments to registers are similarly published.

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## **Judges of the Supreme Court**

### In general:

Ten out of 15 issues are marked as unregulated; the remaining issues are unmarked, so we assume that these are unregulated as well. And there are no instruments. However: 'In Ireland the conduct of Judges is not currently the subject of formal regulation or a formal code of conduct. The conduct of Judges is governed by tradition and convention which require that they observe high standards of probity in their personal and public conduct. These conventions and principles are all-embracing, the minimum standard of which is that a Judge should not conduct him or herself in private or public in a manner which would call in question his or her personal probity or bring the Judiciary into disrepute. If a Member of the Court has any doubts on the ethics of any matter he may raise it with the President of the Court for guidance or ruling and the President may in turn, if he or she considers it appropriate to do so, consult with other Members of the Court. The one matter which is expressly governed by a norm, is the constitutional provision which prohibits a Judge from holding any position of emolument other than his or her judicial office. The Constitution also provides for the removal of a Judge from office, pursuant to a resolution of both Houses of the Oireachtas (Parliament) for "stated misbehaviour" or "incapacity".

While that is the traditional and current position, statutory provisions which will provide for the drawing up of a formal code of conduct for Judges generally, including those of the Supreme / Constitutional Court, is in the course of preparation in consultation with the Judiciary.'

Relevant laws:

-

Relevant codes:

-

More specific:

*A - Professional activities*

Unregulated

*B - Declaration of income*

Blank

*C - Gifts, missions, travels*

Missions and travels, and rules on receptions and representation are unregulated; accepting gifts, decorations and distinctions is blank.

*D - Post-employment*

Unregulated

*E - Other Conflicts of Interests*

Unregulated

*Instruments*

None

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### **Court of Auditors**

N/A

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### **Members or Directors of the Central or National Bank**

In general:

Some issues are regulated by code, some by law and code. All three issues related to the declaration of income (B) are regulated by law and code.

Relevant laws:

- Central Bank Act 1942 (GIL)
- Ethics in Public Office Act 1995 (SL)
- Standards in Public Office Act 2001 (SL)

Relevant codes:

- Code of Conduct for Board Members (SC)
- Code of Conduct for Disclosure of Interests by Board Members (SC)
- Code of Ethics and Behaviour (strictly confidential) (SC)

More specific:

*A - Professional activities*

Four out of five issues are regulated by law; out of the outside activities, honorary positions are unregulated.

*B - Declaration of income*

All three activities are regulated by law and code.

*C - Gifts, missions, travels*

Missions and travels, and accepting gifts, decorations and distinctions are regulated by law and code; rules on receptions and representation by code.

*D - Post-employment*

Unregulated.

*E - Other Conflicts of Interests*

General rules and professional confidentiality are regulated by law and code, professional loyalty is regulated by code, and other rules and standards are unregulated.

*Instruments*

There is no training and the Central Bank and Financial Services Authority does not have an Ethics Committee, but it does have an Ethics Advisor. The Central Bank does have a register, although not stored in 'register' format: the Secretary of the CBFSAI holds the disclosure of interest forms submitted under the Code of Conduct for the Disclosure of Interest in a secure area. In addition, the forms submitted by Directors as required by the Ethics in Public Office Acts, are sent via the Secretary to the CBFSAI who then submits them to the Standards in Public Office Commission but holding a copy for the CBFSAI also.

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## Summary: conflicts of interest policy in Italy

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### General profile

Conflict of interest issues have quite rightly attracted considerable attention from the Italian public during the past few years.

The centre left was strongly criticized by its own supporters for failing to pass conflict-of-interest legislation when it was in power from 1996 to 2001. A law was subsequently passed by Berlusconi's centre-right coalition in July 2004, which allowed the then premier to retain ownership of his companies providing he did not manage them himself. Under the law, Government officials are barred from holding management or operative roles in major private companies, but not from owning them. It affects all politicians involved in the Government, from the prime minister to undersecretaries. Italy's Antitrust Authority has the task of monitoring the work of ministers to see that their acts do not benefit their own companies.

At present, the Italian Government is about to introduce a new conflict of interest law that would bar Government officials from holding management or operative roles in major private companies, but not from owning them.

An article approved by the House's committee on 12/5/2007 would prevent people with businesses worth more than 15 million euros from holding Government office. This has been a priority in order to prevent a repetition of the situation which allowed former Prime Minister Silvio Berlusconi to own mass media holdings worth an estimated \$16 billion including commercial broadcaster Mediaset, Mondadori, Italy's largest publisher; the financial services group Mediolanum; football club AC Milan; the Medusa film company; and shares in the Blockbuster video chain and Spanish TV group Telecinco.

A draft reform law currently pending before the House's Constitutional Affairs Committee is expected to be passed by the floor.

The Central Bank's conflicts of interest policy regulated by a combination of code and law.

There exists no specific law on conflicts of interest applicable to all institutions.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	6 out of 15 items are regulated (60%) - 4 unregulated (40%) - 5 N/A	Law (2SIL) (4SL)	No	No
Parliament	8 out of 15 items regulated (53,33%) - 7 unregulated (46,67%)	Law (2 SIL) (5 SL) Code (1)(SIC)	No	No
Supreme Court	N/A	N/A	N/A	N/A
Court of Auditors	N/A	N/A	N/A	N/A
Central Bank	14 out of the 15 items (93,33%) are regulated - 1 is unregulated (6,67%)	Law (SL)(3) Code (SIC) (8) Law and code (3)	Yes	No

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## **Members of Government**

### In general:

Less than half of the issues are regulated. If regulated, most issues are regulated by law.

### Relevant laws:

- law n.215. 20 July 2004, Provisions concerning the resolution of conflicts of interests

### General laws applicable also to Members of Government:

- law n. 41.5 July 1982, Disposizioni per la pubblicità della situazione patrimoniale di titolari di cariche elettive e di cariche direttive di alcuni enti. (Declaration on financial interests and assets)

More specific:

*A - Professional activities*

Most professional activities are unregulated, except for specific rules on outside political activities, honorary positions and on the incompatibility of posts and professional activities before or during the term of office, which are regulated by law n. 215.

*B - Declaration of income*

The issues regarding declaration of income are regulated by law n.441.5 July 1982 on the declaration of financial interests and assets.

*C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is unregulated. Rules on receptions and representation do not exist.

*D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by the law.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest do not exist.

*Instruments*

The Italian Government does not provide training to HPO and did not establish an ethics committee. A register on declaration of financial interests does not exist.

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**Members of Parliament**

In general:

Most of the issues are regulated by law. Only the issues in relation to missions and travels are regulated by code.

Relevant laws:

- law n.215. 20 July 2004, Provisions concerning the resolution of conflicts of interests

Relevant Codes:

- A code of conduct is included in the Parliament regulation

General laws applicable also to Members of Parliament:

- law n.441.5 July 1982, Disposizioni per la pubblicità della situazione patrimoniale di titolari di cariche elettive e di cariche direttive di alcuni enti (Declaration on financial interests and assets)

More specific:

*A - Professional activities*

Most professional activities are regulated by law. There is no regulation on the subject of outside political activities, conferences and publications.

*B - Declaration of income*

The declaration of income is regulated by law n.441.

*C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is unregulated. Missions and travels are regulated by code.

*D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest are regulated by law. Professional confidentiality and loyalty are unregulated. There is no regulation on other rules and standards.

*Instruments*

The Italian Parliament does not offer training to HPO and did not establish an ethics committee. There is no register on declaration of financial interests.

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### **Judges of the Supreme Court**

No answer

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### **Members or Directors of the Court of Audit**

No answer

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### **Members or Directors of the Central or National Bank**

In general:

Most of the issues are regulated for Members or Directors of the Central Bank. At the Bank, more than 50 % of all issues are regulated with codes.

Relevant laws:

- law n.215. 20 July 2004, Provisions concerning the resolution of conflicts of interest

Relevant codes:

- Code of conduct for the Central Bank

More specific:

*A - Professional activities*

All professional activities are regulated by code except for political activities which are regulated by law. The specific rules on incompatibility of posts and professional activities are regulated by the combination of code and law.

*B - Declaration of income*

Most of the issues related to the declaration of income are regulated by law except for the HPO spouses' activities which are regulated by the code.

*C - Gifts, missions, travels*

Accepting gifts, decorations and distinctions is regulated by code. Receptions and representation are regulated by law.

*D - Post-employment*

Professional commitments or holding posts after leaving office are regulated by code.

*E - Other Conflicts of Interest*

General rules on impartiality and conflicts of interest and on confidentiality are regulated by law and code. Loyalty is regulated in a code. For further rules and standards there is no regulation.

*Instruments*

The Central Bank has an ethics committee. There are no special trainings and a register on declaration of financial interests does not exist.

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## Summary: conflicts of interest policy in Latvia

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### General profile

Latvia, along with a group of other countries including Estonia, Lithuania and Slovenia, joined the European Union on the 1<sup>st</sup> of May 2004.

In Latvia, conflicts of interest are regulated by Law on Prevention of Conflicts of Interest in Activities of Public Officials. It is one of the most comprehensive laws in Europe: only two HPO outside activities, publications and conferences are not within its scope. The law came into force in 2002 and it repealed the previous law on the Prevention of Corruption. It is the role of the Corruption Prevention and Combating Bureau (KNAB) to control the implementation of the law. KNAB is also responsible for verifying the financial declarations, as well as overseeing that political parties obey the party financing rules. Parliament, Court of Justice, Court of Auditors and Central Bank have also adopted a code of conduct.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 3, SL 1, SIL 1)	No	Yes
Parliament	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 2, SL 1, SIL 1) + Code (SC 1)	Yes	Yes
Supreme Court	15 out of 15 items regulated (100%)	Law (GL 4, SL 1) + Code (GC 1)	Yes	Yes
Court of Auditors	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 3, GIL 1, SL 1) + Code (SC 1)	Yes	Yes
Central Bank	13 out of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 2, GIL 1, SL 1) + Code (SC 1)	Yes	Yes

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## Members of Government

### In general:

13 out of 15 items are regulated by law. Two forms of outside activities, conferences and publications, are not regulated.

Relevant laws:

- Constitution of the Republic of Latvia (1922)
- Law on Prevention of Conflicts of Interest in Activities of Public Officials (2002)
- Law on Openness of Information (1998)
- Law on Structure of the Cabinet of Ministers (1993)
- Law on Structure of Public Administration (2002)

### More specific:

#### *A - Professional Activities*

Professional activities are regulated by the law on Prevention of Conflicts of Interest in Activities of Public Officials, with the exception of conferences and publications.

#### *B - Declaration of Income*

Declarations of financial interests are regulated by the Law on Conflicts of Interests in the Actions of Public Officials (Chapter IV: Declarations of Public Officials). Public officials shall submit the declarations to the Prevention and Combating of Corruption Bureau. The declaration shall specify, among other things, information on other offices that the public official holds in addition to the office as a public official, as well as on the work-performance contracts or authorisations which he or she performs or in which he or she performs specified obligations, as well as information on all kinds of income obtained during the reporting period. The cabinet shall determine the reporting period for which the declaration shall be submitted, as well as the procedures for completion, submission, registration and keeping thereof.

#### *C - Gifts, Missions, Travels*

Regulations in this category are regulated by the aforementioned law (section 13). Ministers, like other public officials, are prohibited from accepting gifts directly or indirectly. A gift is any financial or other kind of benefit including services, transfer of rights, release from obligations, refusal from any rights in favour of a public official or his or her relatives, as well as other activities by which any benefit is granted to such persons. A public official in relation to his or her activities in the office of the public official is permitted to accept only diplomatic gifts. Diplomatic gifts are gifts that official representatives of foreign states present to the President, Chairperson of the Parliament, Prime Minister, Minister for Foreign Affairs and officials of the Ministry of Foreign Affairs during official or work visits in accordance with protocol. Gifts are the property of the State or the relevant local Government. Diplomatic gifts shall be registered in the

Unified State Protocol Register of the Ministry of Foreign Affairs, and the Minister for Foreign Affairs shall decide on their utilisation.

Public officials are permitted to accept gifts from their relatives outside the performance of the duties of office of the public official. Gifts from other natural or legal persons outside the performance of the duties of office of the public official are permitted only if the value of the gift received from one person within a time period of one year shall not exceed the amount of a minimum monthly salary and the public official has not issued an administrative act or performed supervision, control, inquiry or punitive functions in relation to the donor within a time period of two years before the receipt of the gift. If a public official has accepted gifts from natural or legal persons outside the performance of the duties of office of the public official, he or she is not entitled to issue administrative acts or perform supervision, control, enquiry and punitive functions in relation to the donor for the time period of two years after the acceptance of the gift.

The law has also detailed regulations on prohibition to be a representative as well as restrictions on advertising.

#### *D - Post-employment*

Post-employment restrictions are defined in the Law on Prevention of Conflicts of Interest in Activities of Public Officials. Generally speaking, restrictions are applicable to a two-year period after the HPO has ceased to perform his or office duties. During that time, the HPO is prohibited to obtain the property of such merchant – as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies – in relation to which during performing his or her duties this public official has taken decisions on procurement for State or local Government needs, allocation of State or local Government resources and State or local Government privatisation fund resources or has performed supervision, control or punitive functions (section 10).

#### *E - Other Conflicts of Interests*

Public officials are prohibited from preparing or issuing administrative acts, supervising, controlling, performing inquiry or punitive functions, and entering into contracts or from performing other activities in which such public officials, their relatives or counterparties are personally or financially interested (section 11). Issues of professional confidentiality and loyalty are also regulated by law.

#### *Instruments*

The Corruption Prevention and Combating Bureau (KNAB) has organized a seminar on conflicts of interests for Members of Government. In addition, KNAB has published a brochure on ethics of public officials. There is no committee on ethics, however.

Financial declarations are available to public. To ensure the protection of personal data, the declarations contain a part that is publicly accessible and a part that is not publicly accessible. The part of the declaration that is not publicly accessible is the place of residence and personal identification number of the public official, his or her relatives and other persons specified in the declaration, as well as counterparties, including debtors

and creditors specified in the declaration. The public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service. The declarations of the Ministers are also published in the official Gazette of the Government of Latvia.

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## **Members of Parliament**

### In general:

11 out of 15 items are regulated by law, two are regulated by law and Code of Ethics, and two items are unregulated. The Code of Ethics for Members of the Parliament came into force in 2006. This Code is quite abstract and does not provide concrete, detailed rules. The central instrument to regulate the conflicts of interest situations is the Law on Prevention of Conflicts of Interest in Activities of Public Officials.

Relevant codes:

- Code of Ethics for Members of the Parliament (Saeima) of the Republic of Latvia. An attachment to the Rules of Procedure of the Parliament, adopted on March 2, 2006

Relevant laws:

- Constitution of the Republic of Latvia (1922)
- Law on Prevention of Conflicts of Interest in Activities of Public Officials (2002)
- Law on Openness of Information (1998)
- Rules of Procedure of the Parliament (1994)

### More specific:

#### *A - Professional Activities*

Professional activities are regulated by law excluding publications which are not regulated.

#### *B - Declaration of Income*

Declarations of financial interests are regulated by the Law on Conflicts of Interests in the Actions of Public Officials. A description of these regulations is given in the previous chapter regarding the Members of Government.

#### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated in detail in the Law on Conflicts of Interests in the Actions of Public Officials. A description of these regulations is given in the previous chapter on the Members of Government. Some items in the Code discuss the rules on reception and representation, thus complementing the legal regulations.

#### *D - Post-employment*

Post-employment is regulated by law.

#### *E - Other Conflicts of Interests*

Other conflicts of interests are regulated by law. The Code of Ethics contains some general rules on conflicts of interests. For example, article 9 states that conflicts of personal or national interests are not allowed and Members of Parliament have to avoid situations that may create the impression that such a conflict exists.

#### *Instruments*

Corruption Prevention and Combating Bureau has published and distributed a brochure on ethics of public officials. Training on ethics was provided when the Code of Ethics was developed. The Mandate, Ethics and Submissions Committee within the Parliament, supervises the observance of the Code of Ethics and reviews cases concerning violations of the Code of Ethics. The Committee shall examine the case on the violation of the Code of Ethics in a public meeting not later than two weeks after the initiation of the case. A two-thirds majority is required to have a closed meeting instead of a public meeting. Holding a closed meeting can be proposed by any member of the Committee. The Committee consists of one Member elected from each Parliamentary group. Members of the Committee shall refrain from activities which can be deemed as an unjustified maligning of political opponents or as an unjustified defence of the behaviour of another Parliament Member on the basis of his/her political affiliation. Once the Committee has determined that a violation of the Code of Ethics has occurred, it can give an oral warning or issue a written warning that is announced at the Parliament sitting, and publish its decision in the official Gazette of the Government of Latvia (Rules of Procedure of the Parliament, art. 179).

The public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of the State Revenue Service.

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### **Judges of the Supreme Court**

#### In general:

9 out of 15 items are regulated by law and Code of Ethics, four are regulated solely by law, and two by the Code of Ethics. The ethics of Supreme Court Judges are defined in the Code of Ethics of Latvian Judiciary, which was adopted by the Latvian Judicial Conference in 1995. The Code contains detailed rules which are grouped into five 'canons' that are further divided into subparagraphs<sup>150</sup>.

#### Relevant codes:

- Code of Ethics of Latvian Judiciary, adopted by the Latvian Judicial Conference on April 20, 1995

#### Relevant laws:

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<sup>150</sup> However, according to some critical views, the Code has not been applied in practice. The principle that a Judge may be subject to liability for dishonourable actions is interpreted narrowly, and violations of the Code of Ethics do not constitute grounds for disciplinary liability. Judicial Independence in Latvia. Open Society Institute 2001.

- Constitution of the Republic of Latvia (1922)
- Law on Prevention of Conflicts of Interest in Activities of Public Officials (2002)
- Law on Openness of Information (1998)
- Law on Judicial Power (1992)
- Judicial Disciplinary Liability Law (1994)

More specific:

*A - Professional Activities*

All professional activities are regulated by law and/or code. For example, a Judge shall not be a member of any political organisations or parties, give speeches for a political organisation, solicit funds or make contributions to support a political organisation or its candidate (Code of Ethics, canon 5). In his/her free time, a Judge may deliver lectures and speeches, write for mass media as well as participate in any other extra-judicial events which do not contradict with the ethics code (canon 4).

*B - Declaration of Income*

Declarations of financial interests are regulated by the Law on Conflicts of Interests in the Actions of Public Officials. A description of these regulations is given in the previous chapter regarding the Members of Government.

*C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated in detail in the Law on Conflicts of Interests in the Actions of Public Officials. Code of Ethics also discusses the rules on reception and representation, thus complementing the legal norms. Judges should regulate their extra-judicial activities in a manner that is not in conflict with their judicial duties. According to the Code, a Judge shall not accept nor prompt the family members residing permanently in the Judge's family, to accept gifts, services or loans from any persons, except gifts from friends or relatives in special cases (jubilees, anniversaries, weddings) and a loan from an ordinary credit institution, which is available to all other persons not being Judges. A Judge shall not act as a personal representative, trustee, fiduciary or other person of trust, except in the cases of settlement of legacy or deposit for a member of his/her family, on the condition that such activities shall not prevent the Judge from fair performance of his/her office duties (canon 4).

*D - Post-employment*

Post-employment is regulated by law and code.

*E - Other Conflicts of Interests*

Other conflicts of interests are regulated by law and code. The Code of Ethics contains some general rules on conflicts of interests. For example, it states that a Judge shall perform the duties of the office impartially and diligently, so that he or she is not swayed by interests of separate persons, public protests, or fear of criticism. A Judge shall disqualify himself/herself in a proceeding in which the Judge personally, his/her spouse

or other relatives and family members have financial interest in the subject matter or in a party to the proceeding. A Judge shall not disclose confidential information, which s/he has obtained being in the office (canon 3).

#### *Instruments*

Corruption Prevention and Combating Bureau has published and distributed a brochure on ethics of public officials. Apart from this, there is no specific training available on ethics for the Judges of the Supreme Court.

The Judicial Disciplinary Committee is a body of judicial self-governance that was created by the Judicial Conference. It has the authority to decide on disciplinary and administrative violations by Judges of the district and regional courts and by Supreme Court Justices. Disciplinary proceedings may be initiated against a Judge or a Justice for an intentional violation of the law committed while conducting court proceedings, for failure to carry out the responsibilities of his or her office, for activities incompatible with a judicial position, for a flagrant violation of the judicial code of ethics, for an administrative offence, for refusal to discontinue his or her membership in a political party or a political organization, and for failure to follow the restrictions and prohibitions set forth in the Law on Prevention of Conflicts of Interest in the Activities of Government Officials. Disciplinary proceedings may be initiated by the Minister of Justice, the Chief Justice of the Supreme Court or the chairpersons of lower and regional courts. The authority and the procedures of the Judicial Disciplinary Committee are regulated by the Judicial Disciplinary Liability Law and by the Regulations on the Judicial Disciplinary Committee. The organisational and the financial aspect of the Judicial Disciplinary Committee are provided by the Supreme Court. The chair of the Committee is the Chief Justice of the Supreme Court.

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### **Members or Directors of the Court of Audit**

#### In general:

8 out of 15 items are regulated by law, five are regulated by law and Code of Ethics, and two items are unregulated. The central instrument to regulate the conflicts of interest situations is the Law on Prevention of Conflicts of Interest in Activities of Public Officials.

#### Relevant codes:

- Code of Ethics of the State Audit Office (2006)

#### Relevant laws:

- Constitution of the Republic of Latvia (1922)
- Law on Prevention of Conflicts of Interest in Activities of Public Officials (2002)
- Law on Openness of Information (1998)

- Law on Structure of Public Administration (2002)
- Law on State Audit Office (2002)

More specific:

*A - Professional Activities*

Professional activities are regulated by law. There are no regulations related to conferences or publications. State Audit Office Law also requires that the Auditor General, Members of the Council of the State Audit Office, heads of sectors of audit departments shall, for their term of office, discontinue activities in political parties (section 31).

*B - Declaration of Income*

Declarations of financial interests are regulated by the Law on Conflicts of Interests in the Actions of Public Officials. A description of these regulations is given in the previous chapter regarding the Members of Government.

*C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated in detail in the Law on Conflicts of Interests in the Actions of Public Officials. They are also addressed in the Code of Ethics of the State Audit Office.

*D - Post-employment*

Post-employment is regulated by law.

*E - Other Conflicts of Interests*

Other conflicts of interests are regulated in detail in the Law on Conflicts of Interests in the Actions of Public Officials. They are also addressed in the Code of Ethics of the State Audit Office.

*Instruments*

A seminar on public administration ethics for senior officials was organised by the Latvian School of Public Administration on January 2007. Also, Corruption Prevention and Combating Bureau has published and distributes a brochure on ethics of public officials. The Commission of Ethics of the State Audit Office has been established on 21 August, 2006.

The public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service.

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**Members or Directors of the Central or National Bank**

In general:

13 out of 15 items are regulated by law. Three of these are also regulated by the Code of Conduct of the Bank of Latvia. Code comprises the principles and conventional standards with regard to the responsibilities and duties entrusted to the employees, interpersonal relationships and dealings with other institutions and the community. The Code draws on the set of applicable legislation of the Bank of Latvia and supports abidance by it. The Code has a separate chapter on conflicts of interest and personal dealings. Interestingly, it is not limited only to official actions, but also expects employees to ensure accuracy in their private financial matters and timely meeting of their financial obligations (section 3.8).

Relevant codes:

- Code of Conduct of the Bank of Latvia, adopted on November 11, 2004.

Relevant laws:

- Constitution of the Republic of Latvia (1922)
- Law on Prevention of Conflicts of Interest in Activities of Public Officials (2002)
- Law on Openness of Information (1998)
- Law on the Bank of Latvia (1992)

More specific:

#### *A - Professional Activities*

Professional activities are regulated by law. Restrictions on holding more than one position by the Members of the Council of the Bank of Latvia and the Board are laid down by the Law on the Prevention of the Conflicts of Interest in Activities of Public Officials. Employees shall refrain from holding additional jobs, liable to give rise to potential conflicts of interest and to discredit the Bank of Latvia. Members of the Board are prohibited from engaging directly or indirectly in any commercial activity (Law on Bank of Latvia, art. 32). There are no regulations dealing with conferences or publications.

#### *B - Declaration of Income*

Declarations of financial interests are regulated by the Law on Conflicts of Interests in the Actions of Public Officials. A description of these regulations is given in the previous chapter regarding the Members of Government.

#### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated in detail in the Law on Conflicts of Interests in the Actions of Public Officials. According to the Code of Conduct, employees shall not accept gifts, which are in any way connected with deals related to the operation of the Bank of Latvia, and shall refuse the invitation to participate in undertakings liable to give rise to suspicions with regard to a potential conflict of interest or discredit the Bank of Latvia. Gifts, other than souvenirs presented by cooperation partners, shall be deemed property of the Bank of Latvia (sections 3.4 – 3.5).

#### *D - Post-employment*

Post-employment is regulated by law.

#### *E - Other Conflicts of Interests*

Other conflicts of interests are regulated by law and the Code of Conduct. Professional loyalty is the first of the five basic principles stated in the Code of Conduct. According to it, employees shall conduct themselves in a manner that maintains and boosts the public trust in the Bank of Latvia. Loyalty shall mean more than diligent implementation of the duties entrusted and instructions given by the management; it shall imply creative support, participation and contribution in relationships with the Bank of Latvia's management and colleagues (section 1.1). According to the Law on the Bank of Latvia, HPO have no right to disclose confidential information that has become known to them as a consequence of their service or function. This confidentiality obligation shall be in effect also after the expiry of the term of office or the termination of employment relationship (art. 33).

#### *Instruments*

Corruption Prevention and Combating Bureau has published and distributed a brochure on ethics of public officials. However, there does not seem to exist a special training available on ethics for the Directors of the Bank of Latvia. Adherence to the Code shall be supervised by the Ethics Committee of the Bank of Latvia, approved by the President of the Bank of Latvia (Code of Conduct, art. 5.2). The public part of information on public officials' assets, incomes and financial liabilities is available on the homepage of State Revenue Service.

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## Summary: conflicts of interest policy in Lithuania

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### General profile

Lithuania, along with a group of other countries including Estonia, Latvia and Slovenia, became a member the European Union on the 1<sup>st</sup> of May 2004.

The predominant mode of regulating conflicts of interest situations is the use of legal instruments. Law on the Code of Conduct for State Politicians applies to Members of Government and Members of Parliament. Law on the Adjustment of Public and Private Interests in the Public Service applies to all institutions in this study. The Judges of the Supreme Court and the Directors of the National Bank are also subject to Code of Ethics.

Generally speaking, laws and codes of conduct regulate the interest conflicts relatively well. Only the Court of Auditors (State Control) was found to be less regulated.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	14 out of 15 items regulated (100%) - 1 N/A	Law (GL 2, SL 2)	Yes	Yes
Parliament	11 our of 15 items regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 2, SL 2, SIL 1)	Yes	Yes
Supreme Court	15 out of 15 items regulated (100%)	Law (GL 4, SL 2, GIL 1) + Code (GC 1)	No	Yes
Court of Auditors	8 out of 15 items regulated (53,33%) - 7 unregulated (46,67%)	Law (GL 3, GIL 1, SL 1)	No	Yes
Central Bank	13 our of 15 items regulated (86,67%) - 2 unregulated (13,33%)	Law (GL 5, GIL 1, SL 1) + Code (SC 2)	No	Yes

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## Members of Government

### In general:

14 out of 15 items are regulated by law. Regulations on honorary positions are not known. Law on the Code of Conduct for State Politicians applies to the Members of the Government and the Members of the Parliament.

### Relevant laws:

- Constitution of the Republic of Lithuania (1992)
- Law on the Code of Conduct for State Politicians (2006)
- Law on the Adjustment of Public and Private Interests in the Public Service (1997)
- Law on Declaration of the Property and Income of Residents (1996)

### More specific:

#### *A - Professional Activities*

All professional activities are regulated by law. According to the Constitution, Ministers may not hold any other office subject to nomination or election, may not be employed in business, commercial or other private institutions or companies, and may not receive any remuneration other than the salary established for their respective Government offices and compensation for creative activities (art. 99).

#### *B - Declaration of Income*

Law on Declaration of the Property and Income of Residents requires that Ministers declare their properties, all types of income and gift sums of money on annual basis. It is the role of the State Tax Inspectorate to verify the accuracy of the data and send the declarations to be published in the official gazette. These requirements apply also to the HPO' spouses. Private interests shall be registered in the Register of Private Interests of Politicians (Law on the Code of Conduct for State Politicians, art. 5).

#### *C - Gifts, Missions, Travels*

Regulations on gifts, missions and travels are regulated by the Law on the Adjustment of Public and Private Interests in the Public Service (art. 14). A person employed in the public service may not accept gifts or services or grant them if this may cause an adversarial conflict of public and private interests. However, this does not apply to persons who received gifts or services pursuant to the international protocol or traditions usually related to the official duties of the person employed in the public service. In case the value of the gifts exceeds 1 minimum life standard (MLS) and the value of services exceeds 5 MLS, the person employed in the public service must declare that within the calendar month. The declaration shall be appended to the annual declaration and shall be its appendix. In case the value of the gift exceeds 5 MSL, the gift shall be considered the property of the state or municipality. Such a gift shall be evaluated and kept in the manner laid down by the Chief Official Ethics Commission.

#### *D - Post-employment*

Post-employment is regulated by law.

#### *E - Other Conflicts of Interests*

There are general rules on impartiality and conflicts of interest, and regulations on professional confidentiality and loyalty. One of the principles of conduct discussed in the Law on the Code of Conduct for State Politicians is impartiality. Ministers should not have contractual or any other relations which could hinder proper fulfilment of the duties of a state politician and would restrict his freedom of self-determination when taking decisions and shall be objective when taking decisions and avoid prejudices (art. 4).

#### *Instruments*

Lithuania's Government has had courses and seminars on ethical issues. If a Member of the Government violates the Code of Conduct for State Politicians, it is the role of the Parliament's Ethics and Procedures Commission to investigate Minister's conduct (Law on the Code of Conduct for State Politicians, art. 6). The law contains detailed rules of procedure how to conduct these investigations. As an outcome of the investigations, the Commission can state that a politician has violated the principles of the conduct. It can also give substantial recommendations, and it can recommend making a public apology. If there are reasons to suspect that there are elements of a criminal act, the Commission submits the material to pre-trial investigation institutions or the prosecutor's office. The Commission's decisions are public and they are published in the official gazette and on the responsible institution's Internet site. Property declarations are published in the official gazette.

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### **Members of Parliament**

#### In general:

11 out of 15 items are regulated by law, all other items are unregulated. The specific law on the Code of Conduct for State Politicians and the specific institution law, namely the Statute of the Parliament of the Republic of Lithuania, are the two main laws that regulate the conflicts of interest situations.

Relevant laws:

- Constitution of the Republic of Lithuania (1992)
- Law on the Code of Conduct for State Politicians (2006)
- Statute of the Parliament of the Republic of Lithuania (1994)
- Law on the Adjustment of Public and Private Interests in the Public Service (1997)
- Law on Declaration of the Property and Income of Residents (1996)

More specific:

*A – Professional Activities*

All professional activities are regulated by law with the exception of publications which are not regulated.

*B - Declaration of Income*

The general requirements for the declaration of financial and other interests are laid down in the Law on the Code of Conduct for State Politicians (art. 5). The specific regulations are set in the Law on Declaration of the Property and Income of Residents. For more details, see the previous chapter on Members of Government.

*C - Gifts, Missions, Travels*

Regulations on gifts, missions and travels are regulated by law. However, there are no specific regulations on receptions and representation.

*D - Post-employment*

Post-employment is not regulated by law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are set in the Statute of the Parliament that has a separate article on the obligation to avoid conflicts of interest (art. 18). Parliament Members should submit an annual private interests declaration, as well as a declaration if new circumstances turn out, to the Commission on Ethics and Procedures. The requirement to deliver a private-interest declaration is based on the Law on the Adjustment of Public and Private Interests in Civil Service.

*Instruments*

There has been training courses for Parliamentarians on Government ethics. Parliament's Ethics and Procedures Commission started functioning in 1995. The Commission is responsible for supervising the conduct of MPs. All parliamentary groups have to be represented in the Commission at the rate of their proportional size. The Commission oversees that the Parliament is working according to the ethical standards, and it has the authority to examine violations of ethics and legal acts. Parliament may temporarily remove a Member from the chamber until the end of the sitting of that day if he or she does not carry out the recommendations of the Commission (Statute of the Parliament,

art. 21). More details of the Commission's actions are given in the previous chapter on Members of Government. Property declarations are published in the official gazette.

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## **Judges of the Supreme Court**

### In general:

All 15 items are regulated. All of them are covered by law, and five issues are also covered by the Code of Ethics for Judges. The legislative framework is extensive, and the Code of Ethics is also quite detailed. The Code is applicable to all Judges without reservations. The Code has been prepared according to the Constitution of the Republic of Lithuania, the Law on Courts, the basic principles of judicial impartiality of the United Nations, the recommendations of the Committee of Ministers of the Council of Europe, the Universal Charter of the Judge, also the European Charter on the statute for Judges, and other national and international acts which regulate the activities of the Courts and Judges (art. 4).

### Relevant codes:

- Code of Ethics for Judges, approved by the General Meeting of Judges on 28 June 2006

### Relevant laws:

- Constitution of the Republic of Lithuania (1992)
- Law on Courts (1994, reformed in 2002)
- Law on the Declaration of Assets by Residents (2003)
- Law on the Adjustment of Public and Private Interests in the Public Service (1997)
- Statute of the Supreme Court of Lithuania (1995)
- Code of Civil Procedure (2002)
- Code of Criminal Procedure (2002)

### More specific:

#### *A - Professional Activities*

All professional activities are regulated by law. According to the Constitution, Judges may not hold any other elected or appointed office, and they are not allowed to work in any business, commercial, or other private establishments or enterprises. They may not receive any remuneration other than the remuneration established for the Judge and payment for educational or creative activities. Judges may not participate in the activities of political parties and other political organisations (art. 113). Also the Code of Ethics emphasises that Judges should behave in a politically neutral way (art. 7).

#### *B - Declaration of Income*

According to the Law on Adjustment of Public and Private Interests in the Public Service, 15 days before an appointment, a candidate for the Judge has an obligation to declare his private interests and to deliver the declaration directly to the Chief Commission on Official Ethics. The Commission monitors ethical behaviour of public servants and has the power to penalise those who violate the provisions of the law. If the data of the declaration has changed, the Judge is expected immediately to amend the declaration. Each year, Judges also have to declare their personal income and property for the State Tax Inspectorate.

#### *C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated by legal measures and Code of Ethics.

#### *D - Post-employment*

The Judges of the Supreme Court are subject to post-employment restrictions.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interests as well as standards concerning professional confidentiality and professional loyalty are set both in the legislation and in the Code of Ethics. For example, a Judge must notify in writing the Chairman of the Court about the judicial proceedings to which the Judge himself is a party<sup>151</sup> (Law on Courts, art. 43).

#### *Instruments*

Supreme Court does not provide training related to ethical behaviour. Supreme Court does not have an internal ethics committee or an advisory group. However, the Judicial Council and the chairman of the Court concerned may initiate disciplinary action against the Judge. A proposal must be brought before the Commission of the Judicial Ethics and Discipline. A disciplinary action may be brought against a Judge, inter alia, for an action demeaning the judicial office. An act demeaning the judicial office shall be an act incompatible with the Judge's honour and in conflict with the requirements of the Code of Ethics for Judges, discrediting the office of the Judge and undermining the authority of the Court. Any misconduct in office – negligent performance of any specific duty of a Judge or omission to act without a good cause – shall also be regarded as an act demeaning the office of a Judge.

Disciplinary action instituted by the Commission of the Judicial Ethics and Discipline has to be brought before the Court of Honour of Judges. The Court of Honour of Judges may, upon hearing and determining disciplinary action, apply disciplinary sanctions. The Judicial Court of Honour may by its decision advise the President of the Republic or the Parliament to apply following procedure provided by the law: to appoint the Judge to a judicial office at a Court of a lower level; to dismiss the Judge; to institute impeachment proceedings against the Judge.

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<sup>151</sup> This applies also to judicial proceedings to which the Judge's spouse, children/adopted children, parents/adoptive parents, brothers, sisters/adoptive brothers, sisters also the children/adopted children, parents/adoptive parents, brothers, sister/adoptive brother, sisters of his spouse are a party if the case where the Judge works falls within the jurisdiction of the court where the Judge works.

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## **Members or Directors of the Court of Audit**

### In general:

8 out of 15 items are regulated, all of them by law. The State Control (Court of Audit) does not have a Code of Conduct.

Relevant laws:

- Constitution of the Republic of Lithuania (1992)
- Law on the State Control of the Republic of Lithuania (1995)
- Law on Lobbying Activities of the Republic of Lithuania (2000)
- Law on the Adjustment of Public and Private Interests in the Public Service (1997)
- Law on Declaration of the Property and Income of Residents (1996)

### More specific:

#### *A - Professional Activities*

The professional activities are not regulated.

#### *B - Declaration of Income*

Members of the State Control have to submit their and their family members' income and property declarations as well as declarations on private interests (Law on State Control, art. 31).

#### *C - Gifts, Missions, Travels*

Gifts, receptions and representations are regulated by legal measures. A description of these regulations is given in the previous chapter regarding the Members of Government. Missions and travels are not regulated.

#### *D - Post-employment*

Post-employment is regulated by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are set in the Law on the Adjustment of Public and Private Interests in the Public Service. There seems to be no regulations on professional confidentiality.

#### *Instruments*

The State Controller has not provided training programmes. There is no ethics committee. The tax administrator shall verify the accuracy of the data included in property declarations, collect and safeguard the declarations filed as well as other data on the property owned by residents obtained from other sources. Data of the declarations of the Auditor General, Auditor general deputies, public servants of the State Control, who held office on 31 December of the calendar year for which the property is declared, shall be made public without a written consent of these residents.

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### **Members or Directors of the Central or National Bank**

#### In general:

13 out of 15 items are regulated. Six items are regulated solely by Code of Ethics, four by law, three by law and Code, and two issues are unregulated. The Board of Directors has its own Code of Ethics. The Code has been developed having regard to the Constitution of the Republic of Lithuania, the Law on Public Administration, the Labour Code of Republic of Lithuania, the Law on Reconciling Public and Private Interests in Public Service, the Code of Conduct of the European Central Bank, other legal acts, and practices of foreign Central Banks (art. 3). The employees of the Bank are regulated by a separate Code of Ethics.

Relevant codes:

- Code of Ethics of the Board of Bank of Lithuania. Board Resolution No. 175, 11.11.2004
- Code of Ethics of Employees of Bank of Lithuania. Board Resolution No. 5, 13.1.2005

Relevant laws:

- Constitution of the Republic of Lithuania (1992)
- Law on Bank of Lithuania (1994)
- Law on Public Administration (1999)
- Labour Code (2002)
- Penal Code
- Law on the Adjustment of Public and Private Interests in the Public Service (1997)

- Law on Declaration of the Property of Residents (1996)

More specific:

*A - Professional Activities*

There are no specific provisions in the law or in the Code of Ethics to prevent HPO' political participation. Law on Bank of Lithuania has a general clause that states that the Members of the Board may only be employed at the Bank of Lithuania and they may not engage in any other activities that would cause a conflict of private and public interests (art. 16). There is a tradition on the principle of independence that the Members of the Board do not belong to any political association and are not involved in political activities. A Board Member may not accept a royalty for delivery of lectures and speeches, except in cases when they are attributed to scientific or pedagogical work approved by the Board. If national and international practices prohibit from accepting a royalty it shall be transferred to the Bank of Lithuania.

*B - Declaration of Income*

Board Members are subject to declaration of income.

*C - Gifts, Missions, Travels*

Board Members may accept invitations to receptions, cultural events, including parties, provided they are related with the office. If the invitation says, the Board Member may participate in the reception or event with his or her spouse. Also gifts are regulated in the Code of Ethics. These regulations are identical to the practices described previously in chapter regarding the Members of Government. Missions and travels are not regulated.

*D - Post-employment*

Post-employment is regulated by the Law on Bank of Lithuania. Members of the Board must, during the first year after their duties have ceased, avoid any conflict of private and public interests that would be caused by their new activities. When intending to engage in the activities that the HPO consider might cause a conflict of private and public interests, they shall inform in writing the Board of the Bank of Lithuania and shall seek its opinion before committing themselves (art. 16).

*E - Other Conflicts of Interests*

Board Members have an obligation to protect the official and bank secrets. This obligation continues to exist after the end of an employment relationship with the Bank of Lithuania or after the end of any other service or function related to the Bank of Lithuania (Law on Bank of Lithuania, art. 19). Standards regarding professional loyalty are set in the Code of Ethics. General rules on impartiality and conflicts of interest are regulated by both law and Code.

*Instruments*

Lithuanian National Bank does not provide training programmes concerning ethics for the holders of public office. It also does not have a specific committee on ethics. However, the Codes of Ethics settles that Members of the Board are consulting each other as well as employees are consulting each other or any Member of the Board. There

is a common register on the declaration of financial interests for all who have to declare interest under the Law on Declaration of Property of Residents of Republic of Lithuania. There is no separate register on the Board's declarations of financial interests.

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## Summary: conflicts of interest policy in Luxembourg

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### General profile

Luxembourg is a founding Member State of the EU.

For the Supreme Court, the Central Bank and the Court of Auditors, most issues on conflicts of interest policy are regulated by law. For the Supreme Court, a few issues are regulated by the Constitution and one issue is regulated by the code on civil procedure.

So far, Luxembourg has introduced a code in none of the three institutions.

Out of laws concerning possible conflicts of interest, le '*statut general des fonctionnaires de l'Etat*' is central; it is applicable to 3 institutions. The conflicts of interest policy of the Parliament is regulated by different texts.

Out of the unregulated issues, the following are remarkable:

- no declaration of financial interests and assets
- no restrictions on professional commitments or holding posts after leaving office.

There is a strong tendency in Luxembourg to regulate possible conflicts of interests of HPO by law. The regulation of conflicts of interest topics by code is currently under discussion.

Institution	Issues regulated	Form of regulation	Public register
Government	N/A	N/A	N/A
Parliament	N/A	N/A	N/A
Supreme Court	10 out of 15 items regulated (66,67%) - 5 issues unregulated (33,33%)	Law and Constitution	No
Court of Auditors	7 out of 15 items regulated (50%) - 7 issues unregulated (50%) - 1 N/A	Law	No
Central Bank	7 out of 15 items regulated (50%) - 7 issues unregulated (50%) - 1 N/A	Law	No

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## Judges of the Supreme Court

### In general:

More than half of the issues are regulated. Most of the issues are regulated by law. A few things are arranged by the Constitution.

### Constitution:

- Article 54, article 110

### Relevant laws:

- Law of 7 March 1980 on the judicial organization, article 99, article 100, article 101, article 104, article 105-109
- Penal code, article 250, article 458
- Law of 22 June 1963 concerning the remunerations of civil servants
- Code of civic procedure, article 378

### More specific:

#### *A - Professional activities*

Most professional activities are regulated by law, although outside activities like honorary positions, publications and conferences are unregulated.

#### *B - Declaration of income*

The declaration of financial interests and assets is not regulated, while the HPO spouses' activities are regulated by law.

#### *C - Gifts, missions, travels*

All three issues are regulated.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not foreseen by law.

#### *E - Other Conflicts of Interests*

All other issues are regulated.

### *Instruments*

Training on professional ethics is delivered in the framework of the introductory courses and the traineeship of the 'attachés de justice'.

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## **Members or Directors of the Court of Audit**

### In general:

The rules on conflicts of interest are regulated by law.

Relevant laws:

- *Statut général des fonctionnaires de l'Etat.*

### More specific:

#### *A - Professional activities*

There exist specific rules on outside activities in the field of political activities. The issues that are not regulated are outside activities concerning honorary positions and conferences.

#### *B - Declaration of income*

The declaration of financial interests and asset and the HPO spouses' activities are not regulated by law.

#### *C - Gifts, missions, travels*

The acceptance of gifts, decorations and distinctions is regulated by law. There are no rules on missions, travels, receptions and representations.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not foreseen by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and professional confidentiality are regulated by the statute.

#### *Instruments*

Not foreseen by the statute of civil servants.

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## **Members or Directors of the Centralor National Banks**

Idem as under Members or Directors of the Court of Audit.

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## Summary: conflicts of interest policy in The Netherlands

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### General profile

The Netherlands shows a heterogenic picture with regard to regulation. Over all institutions 31% is not regulated, 28% is regulated by law and 28% is regulated by code. Only in 7% the Dutch institutions choose a combination of both code and law. The laws and codes that apply have in many cases a specific nature (GIL, SIL and SC).

For the institutions in the Netherlands quite some issues are not regulated. For example, none of the institutions developed legal restrictions on professional commitments or holding posts after leaving office, except for the Central Bank.

Another typical Dutch variation of regulation is the development of Standing Orders. Both the Parliament and the cabinet have their own Standing Orders which regulate for example honorary positions (both), missions, traveling, the acceptance of gifts (Parliament) and general rules on impartiality and conflicts of interest and declaration of financial interest (Government).

All institutions regulated the issue of professional confidentiality by law. In the case of the Government professional confidentiality is the only issue regulated by law, in the case of the Central Bank it is the only issue regulated by code and law.

The Dutch institutions use little instruments. Training, an ethics committee and a register on declaration of financial interest is only used by the Dutch Parliament and Court of Justice.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Public register</b>
Government	7 out of 15 issues (46,67%) regulated - 8 unregulated (53,33%)	law 7% (GL and SIL) code 40% (SC)	No
Parliament	8 out 15 issues (53,33%) regulated - 7 (47,67%) unregulated	53 % Law (GL and GIL), no code	Yes
Supreme Court	10 out of 15 issues regulated (66,67%) - 5 unregulated (33,33%)	Law 60% (GL and GIL) Code 7% (SC)	Yes
Court of Auditors	12 out of 15 issues regulated (80%) - 3 out of 15 unregulated (20%)	Law 20% (GL), Code 33 % (GC and SC), Code and law 27%	No
Central Bank	14 out of 15 issues regulated (100%) - 1 N/A	Law (GL and GIL) Code (GC and SC)	No

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## **Members of Government**

### In general:

Approximately half of the issues are regulated by the Dutch Government. All these issues are regulated by code, which is described in a letter from the Prime Minister to the Parliament (December 22, 2002). The code prescribes candidate ministers to end all (additional) functions; both paid jobs as well as honorary jobs. Candidates are obligated to send the prime minister a letter to inform him on possible financial interest and additional jobs. The PM informs the Parliament. The code aims at avoiding any appearance of conflict in relation to financial and commercial interests. Therefore, a candidate minister is asked if there is any control or authority that is not executed during the period of ministerial office.

The only issue that is regulated by law is ‘professional confidentiality’ (penal code).

Code:

- code/ procedure on possible conflicts of interest of new ministers during formation of a new cabinet

Relevant laws:

- Standing Orders of Cabinet (reglement van orde)
- Penal code; Wetboek van strafrecht: Article 272, Article 98a

More specific:

*A - Professional activities*

Most of the professional activities are not regulated. Only two issues are regulated, namely 'Outside activities: honorary positions' and 'Specific rules on incompatibility of posts and professional activities before or during the term of office'. Both are regulated by the above mentioned code.

*B - Declaration of income*

Also 'Declaration of financial interests and assets' and 'Provisions relating to the declaration of interests' are regulated by the above mentioned code. Spouses' activities of HPO are not regulated.

*C - Gifts, missions, travels*

Missions, travels are regulated by code. The other two issues are unregulated.

*D - Post-employment*

There is no regulation regarding 'Restrictions on professional commitments or holding posts after leaving office'.

*E - Other Conflicts of Interests*

'General rules on impartiality and conflicts of interest' are determined by code and 'Professional loyalty' is unregulated. Rules on 'Professional confidentiality' are prescribed by law (penal code, article 44. and 98.) and by the Standing Orders of Cabinet. There is also a pledge of secrecy concerning anything said or done during council of ministers. The issue of confidentiality is thereby double-regulated.

*Instruments*

There is no training, ethics committee or register.

## **Members of Parliament**

In general:

Half of the issues are regulated. These issues are regulated by law. Several issues are regulated in the constitution, in special law and in the Standing Orders of the Parliament. The Dutch Parliament does not have a code of conduct, but they do have a public register on additional positions, gifts and traveling.

Relevant laws:

- Constitution
- Standing Orders of the Parliament (in Dutch: Reglement van Orde)

- Act on Incompatibility
- Act on side-income of political functionaries

More specific:

*A - Professional activities*

Specific rules on incompatibility of posts and professional activities before or during the term of office and outside activities, 'honorary positions' and 'conferences' are regulated by law. Political activities and publications are unregulated.

*B - Declaration of income*

Also 'Declaration of financial interests and assets' and 'Provisions relating to the declaration of interests' are regulated by law. Spouses' activities of HPO are not regulated.

*C - Gifts, missions, travels*

'Missions, travels' and 'Accepting gifts, decorations, distinctions' are regulated by law. There are no rules regarding receptions and representation.

*D - Post-employment*

There is no regulation regarding 'Restrictions on professional commitments or holding posts after leaving office'.

*E - Other Conflicts of Interests*

'General rules on impartiality and conflicts of interest' and 'Professional loyalty' are unregulated. Rules on 'Professional confidentiality' are prescribed by law.

*Instruments*

The Dutch Parliament does not provide training. Neither do they have an ethics committee.

According to our respondents, the Dutch Members of Parliament are 'obliged' to enter the other positions they have (paid and unpaid) in a public register and also what remuneration they receive. This register (as the travel and gifts register) is held in the Clerks office.

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## Supreme Court

### In general:

The majority of issues are regulated (9 out of 16). All these issues are regulated by law. Only one issue is regulated by code: missions, travels. This general code for Judges also applies to Judges of the Supreme Court.

### Relevant codes:

- Judicial Impartiality Guidelines (in Dutch: Leidraad voor rechters, Leidraad onpartijdigheid van de rechter).

### Relevant laws:

- Constitution
- Wet op de rechterlijke organisatie: Reglement van Inwendige Dienst
- Wet organisatie en bestuur gerechten (Wet OBG)
- Wet rechtspositie rechterlijke ambtenaren

### More specific:

#### *A - Professional activities*

Most professional activities are regulated by law: political activities, honorary positions and incompatibility of posts and professional activities before or during the term of office. The two items not regulated are conferences and publications.

#### *B - Declaration of income*

The declaration of financial interests and assets and the HPO' spouses' activities are regulated by law. There are no provisions relating to the declaration of interests.

#### *C - Gifts, missions, travels*

Two out of three issues are regulated- one by code (missions, travels) and one by law (accepting gifts, decorations and distinctions).

#### *D - Post-employment*

There is no regulation regarding 'Restrictions on professional commitments or holding posts after leaving office'.

#### *E - Other Conflicts of Interests*

All issues concerning other conflicts of interest are regulated. Professional confidentiality and professional loyalty are regulated by code. General rules on impartiality and conflicts of interest are regulated by law.

### *Instruments*

There is neither training, nor an ethics committee. According to respondents there is a general (public) register of honorary positions for all types of judicial positions that also applies to Supreme Court Judges. The register gives insight in positions like memberships of academies, academic fora, advisory board of conferences, editing of journals etc. However this does not give insight in financial interests.

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## **Court of Audit**

### In general:

Compared to the other institutions, the Court of Audit is severely regulated. Almost all issues are covered by law (11) and some of them both by law and code (7).

### Relevant codes:

- Code of conduct (Gedragcode Algemene Rekenkamer)
- IntoSAI code.

### Relevant laws:

- General Administrative Law Act, section 2, subsection 5

### More specific:

#### *A - Professional activities*

Except for conferences and publications all issues regarding professional activities are regulated. Specific rules on incompatibility by law, publications by code and political activities, honorary positions and conferences all three by both code and law.

#### *B - Declaration of income*

Only HPO' spouses' activities are regulated by law. Declaration of financial interests and assets (publication of declarations) and provisions relating to the declaration of interests are not regulated.

#### *C - Gifts, missions, travels*

All issues are regulated by law. Accepting gifts, decorations, distinctions and missions, travels are regulated by both law and code.

#### *D - Post-employment*

There is no regulation regarding 'Restrictions on professional commitments or holding posts after leaving office'

#### *E - Other Conflicts of Interests*

All issues are regulated. General rules on impartiality and conflicts of interest are regulated by law. Professional confidentiality and professional loyalty are both regulated by code.

*Instruments:*

There is no training, ethics committee or register.

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## **National Banks**

In general:

The National Bank in the Netherlands has regulated all issues (100%). This is usually done by code (85,71%), except for the issue of professional confidentiality. This issue is regulated by both code and law.

Relevant codes:

- Gedragscode DNB, 7 juni 2006
- Regeling onvereenigbare functies, 10 oktober 2005
- Regeling inzake tegenstrijdige belangen, 11 oktober 2005
- Statuten van de Nederlandsche Bank N.V, 13 maart 2007
- Reglement van orde van de Nederlandsche Bank N.V. (o.a. artikel 17)

The Central Bank is currently revising these regulations.

Relevant laws:

- Bankwet 1998

More specific:

*A - Professional activities*

We received answers to 4 out of the 5 questions in this section (information on political activities is missing). Specific rules on incompatibility of posts and professional activities before or during the term of office and outside activities (conferences, honorary positions and publications) are regulated by code.

*B - Declaration of income*

Rules on HPO' spouses' activities are regulated by code. Information on provisions relating to the declaration of interests and declaration of financial interests and assets is missing.

*C - Gifts, missions, travels*

Rules on accepting gifts, decorations, distinctions are regulated by code. Information on the regulation of rules on receptions, representation and on missions, travels is missing.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by code.

*E - Other Conflicts of Interests*

All issues regarding conflicts of interest are regulated. General rules on impartiality and conflicts of interest and professional loyalty are regulated by code. Professional confidentiality is regulated by both code and law.

*Instruments:*

There is no training, ethics committee or register.

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## Summary: conflicts of interest policy in Poland

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### General profile

Poland, along with a group of other countries including Estonia, Lithuania and Slovenia, joined the European Union on the 1<sup>st</sup> of May 2004.

In Poland, conflicts of interest are regulated by a number of laws. For example, Members of the Government are regulated by the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions and the Council of Ministers' resolution on the Rules and Regulations on Work of the Council of Ministers, while Parliamentarians are regulated by the Act on the Exercise of the Mandate of a Deputy or Senator. There is no single law that would contain most of the necessary regulations for all institutions. Besides legal measures, all institutions included in this study with the exception of the Government have adopted Codes of Conduct.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	15 out of 15 items regulated (100%)	Law (GL 7, SL 2, SIL 1)	No	Yes
Parliament	12 out of 15 items regulated (80%) - 3 unregulated (20%)	Law (GL 3, GIL 4) + Code (SC 1)	Yes	Yes
Supreme Court	11 out of 15 items regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 4, SL 1) + Code (GC 1)	Yes	Yes
Court of Auditors	10 out of 15 items regulated (66,67%) - 5 unregulated (33,33%)	Law (GL 1, GIL 1, SL 1) + Code (SC 1)	No	Yes
Central Bank	14 out of 15 items regulated (93,33%) - 1 unregulated (6,67%)	Law (GL 3, GIL 1, SL 1) + Code (SC 1)	No	Yes

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## Members of Government

### In general:

All 15 items are regulated by law. There are two main legal documents that apply to Ministers: the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions and the Council of Ministers' resolution on the Rules and Regulations on Work of the Council of Ministers. These documents refer directly to ministers and other Members of Government. There are also a number of other relevant laws. However, they are more general in nature and have a wider application.

### Relevant laws:

- Constitution of the Republic of Poland (1997)
- Act on the Access to Public Information (2001)
- Penal Code (1997)
- Labour Code (1974)
- Act on Limitation of Economic Activity by Persons Who Exercise Public Functions (1997)
- Act on the State Staffing Pool and High-ranking State Posts (2006)
- Act on Protection of Disclosed Information (1999)
- Act on Remuneration of the Top State Officials (1981)
- Rules and Regulations on Work of the Council of Ministers. Resolution no. 49 of the Council of Ministers, 19.3.2002
- Detailed Rules for Remuneration of the Top State Officials. Regulation of the President of the Republic of Poland, 25.1.2002

### More specific:

#### *A - Professional Activities*

According to the Constitution, a Member of the Council of Ministers shall not perform any activity inconsistent with their public duties (art. 150). Professional activities are also regulated by the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions and the Council of Ministers' resolution on the Rules and Regulations on Work of the Council of Ministers.

#### *B - Declaration of Income*

Members of Government are required to declare their financial interests. This is regulated by the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions.

### *C - Gifts, Missions, Travels*

Regulations in this category are regulated by the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions.

### *D - Post-employment*

Post-employment is regulated by the aforementioned Act.

### *E - Other Conflicts of Interests*

Issues included in this category are regulated by the Council of Ministers' resolution on the Rules and Regulations on Work of the Council of Ministers.

### *Instruments*

There are no training programmes available for the Members of the Government and there is no committee on ethics. The Members of Government are required to declare their financial interests. The Register was established under provisions of the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions (art. 12). It is run by the State Election Commission (SEC) and it is open to the public. Once a year SEC publishes a separate document including all information from the Register.

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## **Members of Parliament**

### In general:

Poland's Parliament has a bicameral structure consisting of two chambers: the Sejm (lower chamber) and the Senate (upper chamber). Regarding the regulations on conflicts of interests, both chambers are subject to the same legislation, most notably being the Act on the Exercise of the Mandate of a Deputy or Senator. However, the lower chamber has adopted a code of ethics while the upper chamber has no code. Both chambers have their own committees on ethics. This study analyses only the operations of the lower chamber (Sejm).

12 out of the 15 items are regulated. Most of the items (7) are regulated by both law and code of ethics, five items by law and two items are unregulated. The code of ethics, Principles of Deputies' Ethics, came into force in 1998. However, it is quite abstract and short. The key instrument to regulate the conflicts of interest situations is the Act on the Exercise of the Mandate of a Deputy or Senator.

Relevant codes:

- Principles of Deputies' Ethics. Resolution of the Parliament [Sejm] of the Republic of Poland of 17 July 1998.

Relevant laws:

- Constitution of the Republic of Poland (1997)
- Act on the Exercise of the Mandate of a Deputy or Senator (1996)

- Standing Orders of the Sejm of the Republic of Poland (1992)

More specific:

*A - Professional Activities*

Professional activities are regulated by law and code of ethics. Regulations concerning outside activities (political activities, honorary positions, conferences and publications) have a rather general character, both in law and in the code of ethics. There are no specific provisions relating exactly to these areas, except some behavioural principles regarding political activities (Principles of Deputies' Ethics, art. 1-6).

In the third article on impartiality, the Code of Ethics states that a Deputy should be guided by the public interest. He or she should not exploit his or her office in order to obtain any personal gain or the gain of persons close to him or her, neither should he or she enjoy benefits which might influence his or her activity as a Member of Parliament. According to the Constitution, deputies are not permitted to perform any business activity involving any benefit derived from the property of the State Treasury or local Government or to acquire such property. If this is violated, the deputy shall be brought to accountability before the Tribunal of State, which shall adjudicate upon forfeiture of the mandate (art. 107). Deputies and Senators shall not conduct any business activity on their own account or together with other persons, with utilisation of State or communal property, and shall not manage such activity and serve as representative or plenipotentiary in the conduct of such activity (Act on the Exercise of the Mandate of a Deputy or Senator, art. 34).

A person cannot be a Deputy and Senator at the same time (Constitution, art. 102). Moreover, the Constitution states that the mandate of a Deputy shall not be held jointly with some other offices such as the office of the President of the National Bank and the President of the Supreme Chamber of Control (art. 103).

*B - Declaration of Income*

Declarations of financial interests are regulated by the Act on the Exercise of the Mandate of a Deputy or Senator. Deputies and Senators are obliged to lodge a statement relating to their financial status. The financial statement shall concern both separate assets and assets held within matrimonial community of the spouses. However, regulation of spouse's activities is rather limited. It relates to those situations when the spouse acquired from the State Treasury (other State legal person, local Government units or their associations, or a communal legal person) any assets which have been subject to acquisition by means of tender. Such assets should be described in a financial statement lodged by Deputies and Senators. The Marshal of the Sejm or the Marshal of the Senate shall transfer a copy of the financial statement to the appropriate tax office.

Information included in the financial statement shall be public, except for information concerning the home address of a Deputy or Senator and the location of real estate. Data contained in the statements shall be analysed by appropriate committees. The subject performing analysis of the statement shall be entitled to compare the contents of the analysed statement with the contents of previously lodged statements and with the copy

of the attached annual tax return (PIT). Any failure to lodge financial statements shall involve responsibility according to regulations and forfeiture, until lodgement of such statement, of the right to salary. False representations or concealment of the truth in the financial statement shall involve responsibility under the Criminal Code (art. 247).

Furthermore, any information concerning the interests of Deputies' spouses shall be disclosed in the Register of Interests within the scope of the article 35a of the Act on the Exercise of the Mandate of a Deputy or Senator. Deputies should disclose any relation between their personal interests and decisions in whose taking they participate (art. 4 of Principles of Deputies' ethics).

#### *C - Gifts, Missions, Travels*

Members of Parliament may not receive gifts which may undermine constituents' confidence in the exercise of the mandate (Act on the Exercise of the Mandate of a Deputy or Senator, art. 33). There are no specific rules concerning MP's missions or travels, although they are required to keep a standard of conduct based on the provision that Members of the Parliament should exercise their parliamentary mandates always having the good of the Nation in mind.

#### *D - Post-employment*

There are no post-employment restrictions.

#### *E - Other Conflicts of Interests*

Regarding professional loyalty, the Constitution states that Deputies shall be the representatives of the Nation, not bound by any instructions of the electorate (art. 104). Professional confidentiality does not apply to the Parliamentarians as such and it is not regulated by law or code of ethics.

#### *Instruments*

The Chancellery of Parliament organises a seminar for the newly-elected deputies concerning the most important issues connected with the execution of the mandate. One of the topics discussed during seminars includes the ethical aspects of the mandate.

Sejm has its own ethics committee called Deputies' Ethics Committee<sup>152</sup>. It consists of one member from each Deputy club (Standing Orders of the Sejm, art. 143). The committee is responsible for supervising whether deputies are working according to the ethical standards defined in the Parliament Resolution on Principles of Deputies' Ethics. The committee may reproach, admonish or reprimand a Deputy. Resolutions adopted by the Committee shall be publicised. The Deputies' Ethics Committee is regulated by the Standing Orders of the Sejm (Chapter 13, art. 143-148).

The interests of the Members of Parliament, as well as their spouses, are disclosed in the Register of Interests (Act on the Exercise of the Mandate of a Deputy or Senator, art. 35a). All statements of financial status lodged by Parliamentarians are public.

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<sup>152</sup> The upper chamber has a Committee on Rules, Ethics and Senatorial Affairs.

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## **Judges of the Supreme Court**

### In general:

11 out of the 15 items are regulated. Of these, six are regulated by law and Code of Ethics, and the remaining five solely by law. The ethics of the Supreme Court Judges are defined in the Professional Ethic Rules for Judges which was adopted by the National Judicature Council in 2003.

### Relevant codes:

- Professional Ethic Rules for Judges. Annex to the resolution No 16/2003 of the National Judicature Council, 19.2.2003

### Relevant laws:

- Constitution of the Republic of Poland (1997)
- Act on the Supreme Court (2003)
- Act on the Common Courts System (2001)
- General Assembly of the Supreme Court Justices. Resolution of December 1, 2003 adopting Supreme Court Bylaws
- Act on National Judicature Council (2001)
- Regulation of the President of Poland of December 22, 2001 on the Particular Proceeding of the Activity of the National Judicature Council and the Procedure before the Council (2001)
- Penal Code (1997)

More specific:

*A - Professional Activities*

The specific rules on incompatibility of posts and professional activities are defined by legislation and Code of Ethics. According to the Constitution, Judges of the Supreme Court shall not belong to political parties, trade unions or perform public activities incompatible with the principles of independence of the Courts and Judges (art. 178). However, there are no specific regulations regarding other typical outside activities such as honorary positions, conferences and publications.

*B - Declaration of Income*

Judges of the Supreme Court are required to declare their financial interests. See the paragraph on *Instruments* below for more details.

*C - Gifts, Missions, Travels*

Accepting gifts is regulated by law and Code of Ethics. Rules on travels and missions are set in legislation. There are no specific regulations regarding rules on receptions and representation.

*D - Post-employment*

Post-employment is regulated by law and code.

*E - Other Conflicts of Interests*

Other conflicts of interests are covered by law and Code of Ethics.

*Instruments*

Supreme Court has not provided specific training on ethics for the Judges.

There is a special body that functions as an ethics committee. Its actions are based on the Constitution and the Act on National Judicature Council. The Council shall adopt the Professional Ethic Rules for Judges and ensure the observance of this Code. The Council has a permanent commission dealing with the ethical issues. Also, the Board of the Supreme Court may adopt resolutions or express opinions on Justices' conduct which has been found to infringe the Code of Ethics (Supreme Court Bylaws, art. 19).

According to the Act on Supreme Court (art. 38), Justices shall submit their financial statements to the First President of the Supreme Court. The specific contents of the financial statements are defined in the Common Courts System Act (art. 87). It is the role of the First President to examine the contents of the financial statements. He or she shall compare them with statements of previous years and he or she will deposit them at the Secret Information Office of the Supreme Court. The taxation office is informed and it shall examine the financial statements as well. If it finds any infringement in their contents, it shall demand corrections and may institute relevant proceedings.

## **Members or Directors of the Court of Audit**

### In general:

The Supreme Chamber of Control is the chief organ of state audit and it is subordinate to the Parliament. The Council of the Supreme Chamber of Control consists of the President as its chairman, Vice-Presidents, the Director General and 14 Members. The Members of the Council are appointed by the Marshal of the Sejm for the term of three years. The persons making up the Council are independent in the fulfilment of their functions and have the right to have their minority opinion included in the minutes.

10 out of the 15 items are regulated. Most of the items (7) are regulated by law and the Code of Ethics, and three items are regulated by law. The remaining five items are unregulated. The principal instruments to regulate the conflicts of interest situations are the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions, the Act on the Supreme Chamber of Control and the Code of Ethics of the Auditor of the Supreme Chamber of Control. It should be noted here that in developing the Code the authors have taken into account the principles outlined in the INTOSAI Code of Ethics<sup>153</sup>.

Relevant codes:

- Code of Ethics of the Auditor of the Supreme Chamber of Control

Relevant laws:

- Constitution of the Republic of Poland (1997)
- Act on the Supreme Chamber of Control (1994)
- Act on Limitation of Economic Activity by Persons Who Exercise Public Functions (1997)

### More specific:

#### *A - Professional Activities*

The President of the Supreme Chamber of Control shall not hold any other post, except for a professorship in an institute of higher education, nor perform any other professional activities. The President of the Supreme Chamber of Control shall not belong to a political party, a trade union or perform public activities incompatible with the dignity of his office (Constitution, art. 205). Like the President of the Supreme Chamber of Control, neither Vice-Presidents nor the Director General may become members of political parties or trade unions or hold other posts, except university professorships.

The Code of Ethics suggests that auditors should maintain full independence, objectivity and impartiality in their work. To effectively oppose outside pressures, auditors should refrain from becoming involved in any activity or relationship that can or could have an impact on their independence and objectivity (art. 2.1). Furthermore, an auditor should openly distance himself or herself from any political influences or pressures that may

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<sup>153</sup> The INTOSAI Code of Ethics is directed at the individual auditor, the head of the Supreme Audit Institution, executive officers and all individuals working for or on behalf of the Supreme Audit Institution who are involved in audit work.

lead to his or her being partial, and should not engage in activities that might serve political aims (2.7). The Code of Ethics has also detailed rules how to prevent, detect and avoid conflicts of interest (2.2). There are no specific regulations related to conferences or publications.

#### *B - Declaration of Income*

HPO must declare all financial interests and assets under the Act on Limitation of Economic Activity by Persons Who Exercise Public Functions. The declaration includes the financial resources and property owned by the HPO and together with his or her spouse, except for separate spouse's possession. Each HPO is required to declare only the economic activity of his or her spouse.

#### *C - Gifts, Missions, Travels*

The Code of Ethics addresses the issue of accepting different benefits. According to the Code, auditors are not allowed to accept benefits (e.g., gifts, bonuses, discounts) from the audited entity, its representatives or other parties concerned, nor allow the other auditors from the team, for who s/he is responsible, to accept benefits that might influence their professional judgement. There are no specific regulations related to missions and travels, or receptions and representation.

#### *D - Post-employment*

Post-employment is not regulated.

#### *E - Other Conflicts of Interests*

Other conflicts of interest are regulated by legislation. They are also addressed in the Code of Ethics. Auditors should keep information obtained while performing their professional duties confidential and shall not use or disclose such information except when it is required by a legal or professional obligation. The Code of Ethics sees loyalty as part of professionalism (art. 5.5).

#### *Instruments*

An auditor has an obligation to improve his or her skills and professional knowledge required for discharging his or her duties. The Chamber organises the audit training for newly-employed auditors which covers the practical as well as the ethical issues. Moreover, there are many other courses concerning these matters.

The Supreme Chamber of Control does not have an ethics committee.

The President of the Supreme Chamber of Control shall pass on his or her declaration to the President of the Supreme Court. The other HPO pass on their declarations to the General Director of the Supreme Chamber of Control, who shall scrutinise them. These declarations are confidential and shall not be made public.

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**Members or Directors of the Central or National Bank**

In general:

14 out of the 15 items are regulated. The majority of them (8) are regulated by legislation and the Code of Ethics. Of the remaining items, five are regulated by law, one by the Code and one is unregulated.

The Management Board directs the activities of the National Bank. A Member of the National Bank of Poland's (NBP) Management Board authorised by the President of the NBP shall be entrusted with responsibilities regarding the analysis of the application of the Code of Ethics and the interpretation of the Code of Ethics as regards breaches of the Code. A Member of the NBP Management Board authorised by the President shall issue detailed guidelines as required (art. 4.1). A Member of the NBP Management Board, authorised by the President, shall submit summary information including an assessment of the functioning of the Code of Ethics during the previous year together with any proposals concerning amendments of the Code of Ethics to the Management Board by March 31 each year.

Relevant codes:

- Code of Ethics for Employees of the National Bank of Poland, adopted on July 29, 2004 by Regulation No. 13/2004 of the President of the National Bank of Poland

Relevant laws:

- Constitution of the Republic of Poland (1997)
- Act on National Bank of Poland (1997)
- Labour Code (1998)
- Penal Code (1997)
- Act on Limitation of Economic Activity by Persons Who Exercise Public Functions (1997)

More specific:

*A - Professional Activities*

Professional activities are regulated by the Code of Ethics and by law. Employees of the NBP have an obligation to refrain from engaging in party activities during the performance of their official duties and on NBP premises (Code of Ethics, art. 10; see also Act on National Bank of Poland, art. 14). Furthermore, the Code emphasises the principle of impartiality. The Code also provides detailed rules on conflicts of interest (art. 4-8).

*B - Declaration of Income*

Declaration of financial interests and assets is regulated by law.

*C - Gifts, Missions, Travels*

Gifts, missions and travels are regulated by law and the Code of Ethics.

*D - Post-employment*

Post-employment is regulated by law and the Code of Ethics. The Code of Ethics has three statues regarding this issue (art. 8). First, an employee of the PNB shall not enter into conversations concerning potential employment in other institutions during the performance of his or her duties. Second, after consulting his/her current immediate superior, an employee shall refrain from performing duties that may be in connection with his or her next employer upon entering negotiations concerning future employment or performing professional activity after the termination of his or her employment with the NBP. Third, after the termination of his or her employment with the NBP, an employee shall exercise extraordinary caution with regard to undertaking any actions in connection with his or her former employment with the NBP, and in particular shall not use or disclose to persons from outside the NBP any information not made public by the NBP that he or she obtained in connection with the performance of his or her duties at the NBP.

*E - Other Conflicts of Interests*

Other conflicts of interests are regulated by law and the Code of Ethics.

*Instruments*

Training is provided by external institutions. National Bank does not have an ethics committee. The property statements procedure is similar to what is used in the Court of Audit (Supreme Chamber of Control). See the respective section for more information.

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## Summary: conflicts of interest policy in Portugal

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### General profile

Portugal acceded the European Union on 1 January 1986 as the 12<sup>th</sup> Member State.

In Portugal most issues in the Parliament, Government and the Supreme Court are regulated by law. In the Court of Auditors and the Central Bank law, code and a combination of the two ways of regulation is found.

Out of all Portuguese laws, the Constitution is a central one. It applies to Parliament, Government and Supreme Court. There are specific codes and laws applicable to the Court of Auditors and the Central Bank. The “*Audit Manual*” and “*INTOSAI Code of Ethics*” are in force for some years for auditors and audit managers. In addition, an “*Ethical Chart*” and “*Guidelines for an Ethical Conduct*” are under discussion for future approval. And the Central Bank uses the “Code of Conduct of Banco de Portugal”.

Out of the unregulated issues the following are remarkable:

1. No restrictions on professional commitments or holding posts after leaving office in the Parliament
2. No declaration of financial interests and assets and HPO’ spouses’ activities in the Supreme Court

So in conclusion there is a strong tendency in Portugal to regulate possible conflicts of interests of HPO by law. Most laws are not new. Some have been adopted during the 80s, others date from the 90s and there are some more recent as well.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	11 out of 15 regulated (100%) - 4 N/A	Law (GL 2)	No	Yes
Parliament	14 out of 15 issues are regulated (93,33%) - 1 unregulated	Law (GL 2)	Yes	Yes
Supreme Court	8 out of 15 regulated (100%) - 7 N/A	Law (GL 1+ GC 1+ SIL 1)	No	No
Court of Auditors	All of the 15 issues are regulated	Law (GL 1+GIL 1)+ Code (SC 1)	No	Yes
Central Bank	14 out of 15 issues regulated (100%) - 1 N/A	Law (GIL 3+ SL 3)+ Code (SC 1+ GL 1)	No	Yes

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## Members of Government

### In general:

Most issues are regulated by law. There is no code of conduct.

Relevant laws:

- Constitution
- Law n° 64/93, of 26 August
- Decree-Law n° 196/93, of 27 May

### More specific:

#### *A - Professional activities*

All professional activities are regulated by law- outside political activities, honorary positions, conferences, publications as well as the specific rules on incompatibility of posts and professional activities before or during the term of office.

#### *B - Declaration of income*

The Portuguese Government has regulated by law all issues in relation to income declaration- declaration of financial interests and asset, HPO' spouses' activities, provisions relating to the declaration of interests.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions is regulated by law and missions, travels, rules on reception and representation are not regulated.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest, professional confidentiality and professional loyalty are regulated by law. There are no other rules and standards that are regulated in this category.

#### *Instruments*

The Government does not provide training to HPO and did not establish an ethics committee. But there is a register on declaration of financial interests. Holders of political posts must file with the Constitutional Court which reviews, monitors and confirms declarations submitted within sixty days after taking office, a declaration of no-disqualification or impediments, stating all offices, duties and professional activities performed by the applicant, as well as any initial shareholding.

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## Members of Parliament

### In general:

Most issues are regulated by law (no regulation for outside political activities, honorary positions, conferences, publications as well as missions and travels). There is no code of conduct.

### Relevant laws:

- Constitution (art. 154)
- Law 64/93 of 26<sup>th</sup> August

### More specific:

#### *A - Professional activities*

From all professional activities only the incompatibility of posts and professional activities before or during the term of office is regulated by law. Outside political activities, honorary positions, participation in conferences and publications are not regulated.

#### *B - Declaration of income*

All issues with regard to declaration of income are regulated by law.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions, missions and travels as well as the rules on receptions and representation are regulated by law.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are not regulated.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest, professional confidentiality and professional loyalty are regulated by law. Other rules and standards in the category are not regulated.

### *Instruments*

Training programs concerning ethics for HPO do not exist, however there is an ethics committee and a register on declaration of financial interests. For Parliamentarians an open list of interests was created in the Assembly of the Republic in 1993. Holders of political posts must file the Constitutional Court within sixty days after taking office, a declaration of no-disqualification or impediments, stating all offices, duties and professional activities performed by the applicant, as well as any initial shareholding. Individuals' lists of interest are available to the public for consultation.

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## **Judges of the Supreme Court**

### In general:

From all 15 issues, 8 are regulated by law. As for the remaining 7 issues no information was available.

Relevant code: Formally there is no code of conduct, however a number of legal provisions governing this matter exist.

Relevant laws:

- Constitution (article 216)
- Code of Civil Procedure (articles 122 - 126)
- Law 21/85, of 30<sup>th</sup> July (Statute of Judicial Magistrates - articles 11, 12, 13)

### More specific:

#### *A - Professional activities*

All professional activities (outside activities: political activities, outside activities: honorary positions, incompatibility of posts and professional activities before or during the term of office) except publications and participation in conferences are regulated by law.

#### *B - Declaration of income*

Neither the declaration of financial interests and assets, nor HPO' spouses' activities or provisions relating to the declaration of interests are regulated.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions as well as the rules on receptions and representation are regulated by law. However, there is no regulation for participation in missions/travels.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest, professional confidentiality and professional loyalty are regulated by law.

#### *Instruments*

The Portuguese Supreme Court does provide some training concerning ethics for its Judges, but only in their initial phase of training. There is neither an ethics committee, nor a register on declaration of financial interests.

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## **Members or Directors of the Court of Audit**

### In general:

All issues in the Court of Audit are regulated. Some of them (3) by law, others by code (4), but the biggest part (9) is regulated by both code and law.

Relevant codes:

- Audit Manual
- INTOSAI Code of Ethics
- An “Ethical Chart” and “Guidelines for an Ethical Conduct” are under discussion for future approval

Relevant law:

- Constitution

More specific:

*A - Professional activities*

Outside political activities, participation in conferences and publications are regulated by code. Outside activities: honorary positions and rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

*B - Declaration of income*

The declaration of financial interests and assets and HPO’ spouses’ activities is regulated by law. Provisions relating to the declaration of interests are regulated by both law and code.

*C - Gifts, missions, travels*

All issues concerning gifts, missions, receptions are regulated by both law and code.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest, professional loyalty as well as professional confidentiality are regulated by law. For other rules and standards there is a code.

*Instruments*

In the Portuguese Court of Audit, there is no ethics committee. However, courses are delivered on ethical principles and rules, including also questionnaires of self-evaluation and group discussions on case studies, mainly about audit situations (ex. auditing activities in connection with relatives or close friends, accepting (or not) invitations from

auditees, expressing opinions, taking care of confidential information). In addition, top managers have to present to the Constitutional Court every year a declaration of interests, assets, incomes and activities, which maintains a national open register.

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## **Members or Directors of the Central or National Banks**

### In general:

Eight out of 15 issues in the Central Bank are regulated by both law and code. Three are regulated by code, two by law and two are not regulated.

Relevant code:

- Code of Conduct of Banco de Portugal
- Code of Administrative Procedure

Relevant law:

- Organic Law of Banco de Portugal (in particular, articles 60, 61 and 64)
- Legal Framework of Credit Institutions and Financial Companies (in particular article 80)
- Legal Framework of Public Institutes (in particular article 48)
- Legal Framework concerning incompatibilities of holders of public office (in particular articles 3 and 7)
- General rules on public control of the wealth of public office holders ( articles 4, n° 2; 5)
- General rules concerning appointment of holders of management positions in Public Administration (articles 1, n° 2; 2, 12, 16 and 17)

### More specific:

#### *A - Professional activities*

Outside activities: political activities and outside activities: publications are regulated by code, while honorary positions, participation in conferences and incompatibility of posts and professional activities before or during the term of office are regulated by both law and code.

#### *B - Declaration of income*

The declaration of financial interests and assets, HPO' spouses' activities and provisions relating to the declaration of interests are regulated by law.

*C - Gifts, missions, travels*

Accepting gifts, decorations, and distinctions is regulated by both law and code. For the participation of Members of the bank in missions/travels there is a code. No rules on receptions and representation exist.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are strictly regulated by a combination of code and law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest, professional confidentiality and professional loyalty are regulated by code and law.

*Instruments*

The Portuguese Central Bank does not provide any training programs and there is no ethics committee. But there is a register on declaration of financial interests. For professional activities, including training, conferences and teaching, the bank's staff is obliged to declare and ask for approval and an internal register in relation to the issue is maintained.

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## Summary: conflicts of interest policy in Romania

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### General profile

Romania is a new Member State of the EU: it joined the EU on 1 January 2007.

As for the Romanian Government and Parliament most issues are regulated by law. In the Supreme Court there are both laws and a combination of law and code. Unfortunately, there is lack of information on the Court of Auditors.

Of all laws, the Constitution and the Penal Code apply to all Romanian institutions that have been studied. In addition, there is a special Code of conduct for civil servants, which is regulated at the level of law as well as another law regarding Civil Servants Statute. There is also a special code for the Judges in the Supreme Court.

Out of the unregulated issues the following are remarkable:

- no regulation on restrictions on professional commitments or holding posts after leaving office in both the Government and the Parliament
- no declaration of HPO' spouses' activities in the Parliament
- no regulation on accepting gifts or participating in missions and travels for the Members of the Parliament
- no register on declaration of financial interests

So in conclusion it can be said that some tendencies to regulate possible conflicts of interest exist in Romania, however they are not very strong. In addition, full picture of the situation cannot be provided since information on the Court of Auditors lacks as well as not enough data for the Central Bank is given.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	13 out of 15 regulated (100%) - 2 N/A	Law (GL 6 + SL 7)	No	Yes
Parliament	6 out of 15 regulated (42,86%) - 8 unregulated (57,14%) - 1 N/A	Law (GC 1 + SL 1 + SIL 1)	Yes	No
Supreme Court	All issues regulated	Law (SC 1 + GL 3 + SIL 2 + SL 2)	No	Yes
Court of Auditors	N/A	N/A	N/A	N/A
Central Bank	N/A	Law (SIL 1+ SL 3 + GIL 1)	N/A	Yes

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## Members of Government

### In general:

Almost all issues are regulated by law. The two exceptions are: restrictions on professional commitments or holding posts after leaving office and participation in missions and travels.

### Relevant Code:

- Code of Conduct of civil servants
- Code of Conduct of contractual personnel

### Relevant laws:

- The Constitution of Romania, amended and completed by the provisions of Law no. 429/2003;
- Law no. 477/2004 regarding the Code of Conduct of contractual personnel within the public authorities and institutions;
- Law no. 161/2003 for ensuring the transparency in public offices, civil service and within the business environment, preventing and sanctioning the corruption;
- Law no. 215/2001 on the Local public administration, amended by Law no. 286/2006;
- Law no. 78/2000 on the Prevention, detection and penalization of corruption;
- Law no. 115/1996 on Statement and control of property of officials, magistrates, civil servants and other persons having leading positions;
- Romanian Penal Code

### More specific:

#### *A - Professional activities*

All professional activities are regulated by law- outside political activities, honorary positions, conferences, publications as well as the specific rules on incompatibility of posts and professional activities before or during the term of office

#### *B - Declaration of income*

In the Romanian Government all issues related to the declaration of income are regulated by law- declaration of financial interests and asset, HPO spouses' activities, provisions relating to the declaration of interests.

#### *C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions as well as the rules on reception and representation are regulated by law. However, there are no special rules for the participation in missions and travels for Members of the Romanian Government.

#### *D - Post-employment*

There are no special restrictions on professional commitments or holding posts after leaving office.

#### *E - Other Conflicts of Interests*

Other conflicts of Interests (e.g. General rules on impartiality and conflicts of interest, confidentiality, Professional loyalty) are regulated by law.

#### *Instruments*

The Romanian Government does not provide training to HPO and did not establish an ethics committee. But they do have a register on declaration of financial interests.

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### **Members of Parliament**

#### In general:

Some issues in the Parliament (around 1/2) are regulated by law. However, there is a pretty considerable amount of issues that are not regulated at all.

#### Relevant Code:

- Senate's Order nr. 10/11994 on certain rules of parliamentary polemic sanctions a series of rules regarding the conduct during the debates in the Senate.

#### Relevant laws:

- Law nr. 161/2003 on certain measures for providing the transparence in exercising public high offices, public offices and business environment offices, prevention and punishment of corruption
- Law nr. 96/2006 on the Statute of the Deputies and Senators

#### More specific:

#### *A - Professional activities*

Outside activities: political activities and incompatibility of posts and professional activities before or during the term of office are regulated by law. In contrast, outside activities: honorary positions, conferences and publications are not regulated.

#### *B - Declaration of income*

In the Romanian Parliament, the declaration of financial interests and assets and the provisions relating to the declaration of interests are regulated by law, but HPO' spouses' activities are not regulated.

*C - Gifts, missions, travels*

None of the issues in relation to gifts, participation in missions and travels or receptions and representation is regulated by law.

*D - Post-employment*

Like in the Government, there are no special restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are regulated by law. Professional loyalty is regulated by both law and code. Confidentiality as well as other rules and standards is not regulated by special provisions.

*Instruments*

The Romanian Parliament does not provide training to HPO and it does not have a register on declaration of financial interests, but it has established an ethics committee.

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## **Judges of the Supreme Court**

In general:

In the Supreme Court half of the issues are regulated by law and the other half by a combination of law and code.

Relevant code:

- Deontological Code for the Judges and prosecutors approved by Decision of the Superior Council of Magistracy No. 328/2005
- Relevant law:

Relevant law:

- Constitution of Romania;
- Decision of the Superior Council of Magistracy No. 328/2005 approving the Deontological Code for the Judges and prosecutors;
- Law No. 303/2004, on the Statute of Judges and prosecutors;
- Law No. 115/1996, on declaring and control of assets the dignitaries, magistrates, civil servants and of certain persons with management positions;
- Emergency Ordinance No. 14/2005, amending the forms for the declaration of assets and the declaration of interests;
- Law No. 161/2003, Title concerning the conflicts of interest and incompatibilities;
- Law No.251/2004 regarding certain measures concerning the gifts received during official protocol actions;
- Code of Civil Procedure;
- Code of Criminal Procedure

More specific:

*A - Professional activities*

Outside activities: honorary positions and participation in conferences are regulated by law. Outside political activities, publications and incompatibility of posts and professional activities before or during the term of office are regulated by both law and code.

*B - Declaration of income*

All issues with regard to declaration of income in the Romanian Supreme Court are regulated by law.

*C - Gifts, missions, travels*

All issues in relation to gifts, participation in missions and travels or receptions and representation are regulated by law.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

All other issues regarding conflicts of interests are regulated by a combination of law and code.

*Instruments*

The Romanian Supreme Court does not provide any training programs and there is no ethics committee. However, there is a register on declaration of financial interests.

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**Members or Directors of the Court of Audit**

N/A

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**Members or Directors of the Central or National Banks**

In general:

There is not enough data provided by the Romanian Central Bank, so it is not possible to make an in- depth analysis.

The most relevant issues concerning professional ethics, declaration of financial interests and the regulation of the conflicts of interest with reference to the Governor of the National Bank of Romania are stipulated in Law 312/2004 on the Statute of the National Bank of Romania and in some other legislation with broader coverage.

At present, there is no Code of Conduct, but there are some internal regulations regarding receptions and representation as well as cost and conditions for business travel.

Relevant laws:

- The Law No.115/1996 on declaring and control of the wealth of the dignitaries, magistrates, civil servants and of certain persons with management positions, published in Romania's Official Monitor Part I, No. 263 / October 28, 1996, with the ulterior amendments.
- The Law No.182/2002 on protection of classified information, published in Romania's Official Monitor Part I, No. 248 / April 12, 2002, with the ulterior amendments.
- The Law No.161/2003 on certain steps for assuring transparency in performing high official position and business positions, for prevention and sanctioning the corruption, published in Romania's Official Monitor Part I, No. 279 / April 21, 2003, with the ulterior amendments.
- The Law No.251/2004 regarding some measures related to the goods received without payment with the occasion of protocol actions in exercising the mandate or function, published in Romania's Official Monitor Part I, No. 561 / June 24, 2004.
- The Law No.312/2004 on the Statute of the National Bank of Romania, published in Romania's Official Monitor Part I, No. 582 / June 30, 2004.

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## Summary: conflicts of interest policy in Slovenia

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### General profile

Slovenia is a new Member State of the EU: it joined the EU on 1 May 2004.

For four of the institutions in Slovenia most issues (Government) or practically all issues (Parliament, Judges and Auditors) are regulated by law. The Central Bank is an exception: most issues of this institution are regulated by code, and only a few by law. Out of these institutions, only Parliament does not have a code.

Out of the laws concerning possible conflicts of interest, the Prevention of Corruption Act (2004) is central: it is applicable to all institutions (SL). This act contains regulations on restrictions as regards profitable activity, receiving of gifts and operations, and on supervision of the financial situation of functionaries. Besides this law and other general laws, two institutions have specific laws: Parliament (Deputies Act, 1992) and Court of Audit (Court of Audit Act, 2001).

Out of the unregulated issues the following are remarkable:

- a) (no) declaration of financial interests and assets: Central Bank
- o) (no) restrictions on professional commitments or holding other posts after leaving office: Government, Parliament, Supreme Court

In addition, the Court of Audit and the bank are the only institutions that do not have a public register on declaration of financial interests. The Supreme Court has an internal ethics committee.

In conclusion, there is a strong tendency in Slovenia to regulate possible conflicts of interests of HPO by law. Both laws and codes of conduct are recent: most of them are adopted in the nineties or early 2000.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	11 out of 15 items regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 1+SIL 2+SL 1) + Code (GC 1)	No	Yes
Parliament	11 out of 15 regulated (100%) - 4 unregulated	Law (GIL 1+ SL 1+ GC 1)	No	Yes
Supreme Court	12 out of 15 regulated (80%) - 3 unregulated (20%)	Law (GIL 2+ SL 1+ GL 1) + Code (SC 1)	Yes	Yes
Court of Auditors	15 out of 15 regulated (100%)	Law (SL 1+GIL 1+ GC 1 + SIL 2) + Code (SC 1)	No	No
Central Bank	11 out of 15 regulated (73,33%) - 4 unregulated (26,67%)	Law (GL 1+SL 1) + Code (SC 1)	No	No

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## **Members of Government**

### In general:

11 out of the 16 issues are regulated. Most of these issues are regulated by law (9). Two issues are arranged by code, and 5 issues are unregulated.

### Code:

- ‘Code of Conduct for Public Employees’ (Official Gazette of the Republic of Slovenia, No. 8/2001). The Government engaged itself by the resolution to apply the code mutatis mutandis for the ministers and other functionaries.

### Relevant laws:

- Penal Code (Official Gazette of the Republic of Slovenia, No. 63/94 and following);
- Reimbursement Amount of Labour Costs Act (Official Gazette of the Republic of Slovenia, No. 87/97, 9/98 and 48/2001);
- Reimbursement of Travel Expenses Abroad Regulation (Official Gazette of the Republic of Slovenia, No. 38/94 and following) and most of all
- Prevention of Corruption Act (Official Gazette of the Republic of Slovenia, No. 2/2004) in use until the decision of the Constitutional Court of the Republic of Slovenia that withheld the new Incompatibility of Holding Public Office with Profitable Activity Act (Official Gazette of the Republic of Slovenia, No. 20/2006) which replaced The Prevention of Corruption Act.

More specific:

*A - Professional activities*

Most professional activities are regulated by law (specific rules on incompatibility of posts and professional activities before or during the term of office regulated by law and outside activities like conferences, publications), although outside activities like political activities, honorary positions are unregulated.

*B - Declaration of income*

The Slovenian Government has regulated all issues regarding declaration of income (declaration of financial interests and asset, HPO' spouses' activities, provisions relating to the declaration of interests) by law.

*C - Gifts, missions, travels*

Accepting gifts, decorations, distinctions and missions, travels is regulated by law. Rules on receptions and representation are unregulated.

*D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office regulated.

*E - Other Conflicts of Interests*

Other conflicts of Interests (e.g. General rules on impartiality and conflicts of interest, confidentiality, Professional loyalty) are regulated by code. Professional confidentiality is regulated by both law and code.

*Instruments*

The Slovenian Government does not provide training to HPO and did not establish an ethics committee. But they do have a register on declaration of financial interests. This register operates according to the provisions in the Prevention of Corruption act (art. 32-39).

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**Members of Parliament**

In general:

Practically all issues are regulated by law (12). The Slovenian Parliament does not make use of a code: some draft Codes of Conduct for deputies were prepared (the last one in 2005), but they were not adopted.

Relevant laws:

- Deputies Act
- Prevention of Corruption Act
- Rules of Procedure of the National Assembly

More specific:

*A - Professional activities*

The Slovenian Parliament has regulated specific rules on incompatibility of posts and professional activities before or during the term of office and rules on writing publications. The issues that are not regulated are outside activities concerning political activities, honorary positions and conferences.

*B - Declaration of income*

The Slovenian Parliament has regulated all issues regarding declaration of income (declaration of financial interests and asset, HPO' spouses' activities, provisions relating to the declaration of interests) by law.

*C - Gifts, missions, travels*

Two out of the three issues are regulated: the acceptance of gifts, decorations, and distinctions, and missions and travels. There are no rules on receptions and representation.

*D - Post-employment*

There are no restrictions on professional commitments or holding posts after leaving office.

*E - Other Conflicts of Interests*

All issues (general rules on impartiality and conflicts of interest, professional confidentiality, professional loyalty and others rules and standards) are regulated.

*Instruments*

The Slovenian Parliament does not provide training to HPO and does not have an ethics committee. But there is a register on declaration of financial interests: according to the provisions in the Prevention of Corruption act, Chapter 4, especially Article 36, deputies have to declare their property.

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## **Judges of the Supreme Court**

In general:

12 issues are regulated: 10 of them by law, and 4 of them by both law and code (professional confidentiality, professional loyalty, general rules on partiality and conflicts of interest, and specific rules on incompatibility of posts and professional activities). Four issues are not regulated: restrictions on professional commitments or holding posts after leaving office, honorary positions, rules on receptions and representation, training programs).

Relevant code:

- The Slovenian Association of Judges adopted in 2001 the Code of Judicial Ethics. However, this is not the official code of the Supreme Court, it is the code of the Association. Membership of the Association is not obligatory for all Judges, so the Code bounds only the members of the Association.

Relevant laws:

- Courts Act of the Republic of Slovenia
- Prevention of Corruption Act
- Penal Code of the Republic of Slovenia
- Judicial Service Act

More specific:

*A - Professional activities*

All outside activities are regulated by law except activities related to honorary positions, these are unregulated. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

*B - Declaration of income*

All issues with regard to declaration of income are regulated by law.

*C - Gifts, missions, travels*

Rules on missions, travels and on accepting gifts, decorations, distinctions and issues are regulated by law. Rules on receptions and representation are unregulated.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated.

*E - Other Conflicts of Interests*

All other issues regarding conflicts of interests are regulated by code. And professional confidentiality is regulated by code and law.

*Instruments*

The Slovenian Supreme Court does not provide any training programs.

There is an ethics committee. According to the Courts Act of the Republic of Slovenia the Judicial Council hears and decides on the justifiability of an appeal of a Judge who believes that his/her legal rights, his/her independent position or the independence of judiciary have been violated. Furthermore, the Judicial Council gives its opinion on other relevant matters. In practice, the Council was asked by a group of Judges whether certain

actions by other Judges were in line with judicial ethics. In replying to this question the Council referred to the Judicial Service Act as well as to other, unregulated rules.

Furthermore the Supreme Court make use of register on declaration of financial interests operates according to the provisions in the Prevention of Corruption Act (art. 32-39).

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## **Members or Directors of the Court of Audit**

### In general:

The Court of Audit has regulated all issues (15). Most of them are regulated by law (9). Some are regulated by code (3). And some issues are regulated by both code and law (4).

Code:

- Code of ethics of the state auditors

Relevant laws:

- Prevention of corruption act,
- Court of Audit Act,
- Rules of procedure of the Court of Audit,
- Decree on accepting and identifying of gifts,
- Decree on reimbursement of costs related to business trips abroad.

### More specific:

#### *A - Professional activities*

Almost all professional activities are regulated by law (Outside activities: honorary positions, conferences and publications). The outside activities regarding political activities are regulated by code. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by both code and law.

*B - Declaration of income*

One of the issues is regulated by law, one is regulated by code and one is regulated by both code and law.

*C - Gifts, missions, travels*

All issues concerning gifts, missions, travels are regulated by law.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality are regulated by both code and law. Professional loyalty is regulated by code.

*Instruments*

The Court of Audit does not have instruments. There is no training, no register and no committee on ethics.

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## **Members or Directors of the Central or National Banks**

In general:

Most of the regulated issues are regulated by code (9). Two issues are covered by law and one issue is regulated by both code and law. Four issues are unregulated.

However, according to the Slovenian Central Bank the term "unregulated" does not necessarily mean that standards are not regulated at all, since they may be defined in different internal acts (e.g. travels, although not from the aspect of professional ethics) or fulfilled within traditional habits and behavior as well as administrative culture.

Relevant code:

- The Code of Conduct for employees of the Bank of Slovenia.

Relevant laws:

- Penal Code or Employment Relationships Act
- Prevention of corruption act

(This law only covers the so called "officials/functionaries", which are according to this law (taking into account the Bank of Slovenia) only the Governor and the Members of the board of the Bank of Slovenia.)

More specific:

*A - Professional activities*

Most political activities are regulated by code. Rules regarding honorary positions are unregulated. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by law.

*B - Declaration of income*

HPO' spouses' activities are regulated by code. The declaration of financial interests and assets and provisions relating to the declaration of interests are unregulated.

*C - Gifts, missions, travels*

There are no rules on missions, travels. The acceptance of gifts, decorations, distinctions and rules on receptions and representation are regulated by code.

*D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

*E - Other Conflicts of Interests*

All other issues on the topic of conflicts of interests are regulated by code and professional confidentiality is regulated by both code and law.

*Instruments*

There are no further instruments used. There is no specific training program for the Directors of Bank of Slovenia concerning professional ethics. However, certain trainings for the Directors are conducted on a yearly or ad hoc basis, covering some aspects of professional behavior (including ethical standards to be applied) in managing their human resources and conducting their managerial tasks.

There is no ethics committee or advisory group. However, the General Secretary is entitled for the interpretation of the Code.

There is no specific register available for declaration of financial interests. Nevertheless, a declaration of financial interests and assets may be implicitly understood as prerequisite for proper implementation of principle of limited ownership of securities according to the Code of conduct for employees of the Bank of Slovenia, since the employees are not allowed to directly or indirectly own stock in Slovenian banks and savings banks. However, evidencing or registering of such declarations (whether in form of a statement or an inventory) is not envisaged.

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## Summary: conflicts of interest policy in Spain

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### General profile

In Spain there is a tendency to strong regulation.

The Spanish Government regulated 100% of the issues. All issues except one (political activities) are regulated by code and law. This is close to the strongest form of regulation that is possible. With regards to other institutions, 60 to 80% of the issues are regulated. While the Government regulates almost all issues by law and code, Parliament does not make use of a code at all. Spain shows a preference for laws and for law-codes combinations.

Out of the unregulated issues the following are remarkable:

- a) Parliament does not have any rules on gifts, missions and travel
- b) Both the Supreme Court and the Court of Auditors do not have any regulation on issues regarding declaration of interests

Spain shows a heterogenic picture with regard to the instruments. Both Government and Parliament have both an ethics committee and a register in place, while the Supreme Court and the Court of Auditors have neither an ethics committee, nor a register.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics Committee</b>	<b>Public register</b>
Government	All items are regulated (100%)	1 issue is regulated by code (7%), 14 by both law and code regulated (93%) Law: GL Code: SC	Yes	Yes
Parliament	9 out of 15 items are regulated (60%) - 6 unregulated (40%)	All issues are regulated by general law (GL en SIL)	Yes	Yes
Supreme Court	10 out of 15 items are regulated (76,92%) - 3 unregulated (23,08%)	All 10 issues (67%) are regulated by general law and specific law (GL and GIL)	No	No
Court of Auditors	12 out 15 issues is regulated (80%) - 3 unregulated (20%)	9 issues are regulated by law (60%), 3 are regulated by law and code (20%)	No	No
Central Bank	12 out 15 issues is regulated (80%) - 3 unregulated (20%)	8 out of 15 issues (53%) are regulated by law, 4 are regulated by law and code (27%)	No	Yes

### **Government:**

#### In general

All HPO offices must live up to the obligations laid down by law with regard to avoiding any activity or interest which might compromise the independence and impartiality of HPO. Their conduct must be inspired and be guided by principles of ethics and good conduct, which have not yet been expressly stated in the regulations and are therefore regulated by code in addition.

Except for the issue of outside political activities, all issues are covered both by law and code. This issue is regulated by the code.

Relevant law:

- Constitution

Relevant code:

- Code for Good Government for Members of the Government and those who occupy top posts in the General State Administration (review took place in 2005).

### More specific

#### *A - Professional activities*

All professional activities are regulated. Political activities are regulated by code. Specific rules on incompatibility of posts and professional activities before or during the term of office and the other outside activities (honorary positions, conferences and publications) are regulated by both code and law.

#### *B - Declaration of income*

All issues regarding declaration of income are regulated by code and law.

#### *C - Gifts, missions, travels*

All issues regarding gifts, missions, travels are regulated by code and law.

#### *D - Post-employment*

Professional commitments or holding posts after leaving office is regulated by code and law.

#### *E - Other Conflicts of Interests*

All issues regarding other conflicts of interest are regulated by code and law.

#### *Instruments*

The Spanish Government has both a committee and a register.

---

## **Members of Parliament**

### In general

Relevant law:

- Art. 70 of the Spanish Constitution (GL),
- Elections Law (Ley Orgánica del Régimen Electoral General), (GIL)
- Standing Orders (Reglamento del Congreso de los Diputados). (GIL)
- There is also a decision of the Buros of both Chambers on a Register of interests (Acuerdo de las Mesas del Congreso de los Diputados y el Senado en materia de Registro de intereses)

Relevant code:

- No code

### More specific

#### *A - Professional activities*

All professional activities are regulated by law.

#### *B - Declaration of income*

Declaration of financial interests and assets and provisions relating to the declaration of interests are regulated by law. HPO' spouses' activities are unregulated.

#### *C - Gifts, missions, travels*

The Parliament has no rules at all on issues regarding gifts, missions, travel (Accepting gifts, decorations, and distinctions; Missions and travels; Rules on receptions and representation).

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are unregulated.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and professional confidentiality are regulated by law. Professional loyalty is unregulated.

#### *Instruments*

The Spanish Parliament has both a committee and a register.

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## **Judges of the Supreme Court**

### In general

Relevant law:

- The Spanish Constitution
- The Judiciary Act (*LOPJ: Ley Orgánica del Poder Judicial*)
- The Act regulating the holding of multiple posts by Senior Officials (*Ley de incompatibilidades*)
- The Criminal Code

### More specific

#### *A - Professional activities*

All professional activities are regulated by law.

### *B - Declaration of income*

The Spanish Supreme Court has no rules at all on issues regarding declaration of income (declaration of financial interests and assets, HPO' spouses' activities, provisions relating to the declaration of interests).

### *C - Gifts, missions, travels*

The only data available in this section is on accepting gifts, decorations, distinctions; this is regulated by law. (information on rules on receptions and representation and missions, travels is missing).

### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

### *E - Other Conflicts of Interests*

Professional loyalty, professional confidentiality and general rules on impartiality and conflicts of interest are all regulated by law.

### *Instruments*

A register for declarations of financial interests is not in place and a register on declaration of financial interests does not exist also.

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## **Member or Directors of the Court of Audit**

Relevant code:

- There is not a specific “Code of Conduct” at the Spanish Court of Audit. The rules existing are included in the Institution’s Acts and in the Organic Act of the Judicial Power.
- There are also some prescriptions in the Spanish Court of Audit Internal Audit Rules, operating in an orienting way.

Relevant law:

- Criminal Code
- National Rule (Real Decreto 462/2002, de 24 de mayo, Sobre Indemnizaciones por razón del servicio)
- Ley Orgánica 2/1982, de 12 de mayo, del Tribunal de Cuentas (Court of Audit Organic Act 2/1982, of 12th May) Sections 30 to 34.
- Ley 7/1988, de 5 de abril, de Funcionamiento del Tribunal de Cuentas (Court of Audit Functioning Act 7/1988, of 5th April). Sections 24 to 26.
- Ley Orgánica 6/1985, de 1 de Julio, del Poder Judicial (Judicial Power Organic Act 6/1985, of 1st July). Sections 378 to 404 bis.
- Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal (Criminal Code).Ley 5/2006, de 10 de abril, de regulación de los conflictos de intereses de

los miembros del Gobierno y de los Altos Cargos de la Administración General del Estado (Regulating Act of the Conflicts of Interest of Members of the Government and Holders of State Office), that could be applicable as a supletory regulation.

#### More specific

##### *A - Professional activities*

All professional activities are regulated by law. The honorary positions are allowed if they are not remunerated and do not imply the position of Director, manager, administrator, counsellor, partner or any other that involves a direct intervention, administrative or economic, in societies or enterprises, public or private.

##### *B - Declaration of income*

The Spanish Court of Auditors has no rules at all on issues regarding declaration of income (declaration of financial interests and assets, HPO' spouses' activities, provisions relating to the declaration of interests).

##### *C - Gifts, missions, travels*

All issues regarding gifts, missions, travels are regulated. Rules on accepting gifts and decorations, distinctions are regulated by law. Rules on receptions, representation and missions are both regulated by code and law.

##### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by law.

##### *E - Other Conflicts of Interests*

All issues regarding conflicts of Interests are regulated. General rules on impartiality and conflicts of interest are regulated by law. Rules on professional confidentiality and professional loyalty are regulated by code and law.

##### *Instruments*

A register for declarations of financial interests is not in place and a register on declaration of financial interests does not exist as well.

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## **Members or Directors of the National Bank**

### In general

The National Bank of Spain regulates issues of conflicts of interest by the Statute of the Bank, a Code of Conduct and by some issues by general legal provisions.

Relevant code:

- Code of Conduct for the Governing Bodies of the Banco de España

Relevant law:

- Law 13/1994, of 1 June 1994, on the Autonomy of the Banco de España
- Law 6/2006, of 10 April 2006, regulating the conflicts of interests of Members of National Government and senior officers in the National Administration
- Legislative Royal Decree 1298/1986, of 28 June 1986, on the Adaptation of the Law in Force on Credit Institutions to that of the European Communities
- Penal Code

### More specific

#### *A - Professional activities*

All issues regarding professional activities are regulated by code. Specific rules on incompatibility of posts and professional activities before or during the term of office are regulated by code and law.

#### *B - Declaration of income*

All issues regarding declaration of income are regulated by code and law.

#### *C - Gifts, missions, travels*

Rules on accepting gifts, decorations, distinctions are regulated by code and law. Missions, travels and rules on receptions and representation are unregulated.

#### *D - Post-employment*

Restrictions on professional commitments or holding posts after leaving office are regulated by code and law.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest and rules on professional confidentiality are regulated by code and law. Professional loyalty is unregulated.

#### *Instruments*

There is a register, but there is no ethics committee in place.

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## Summary: conflicts of interest policy in Sweden

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### General profile

Sweden joined the EU in 1995. The population is approximately 9 million.

Government, Parliament, Court of Auditors and Central Bank have in common the fact that outside activities of HPO are not regulated.

In contrast to Finland, in Sweden accepting gifts, participation in missions and travels is more strictly regulated by law and/or codes of conduct. However, post-employment issues are not regulated - except from the Central Bank, which has restrictions on professional commitments by law.

None of the above mentioned institutions have ethics committees or advisory groups but most of them have specific training programs (concerning ethics for HPO) and registers for declaration of financial interests.

<b>Institution</b>	<b>Issues regulated</b>	<b>Form of regulation</b>	<b>Ethics committee</b>	<b>Public register</b>
Government	9 items out of 15 regulated (60%) - 6 unregulated (40%)	Law (GL 3+GIL 1+SIL 2+SL 1) + Code (GC 1+SC 3)	No	Yes
Parliament	6 items out of 15 regulated (42,86%) - 8 unregulated (57,14%) - 1 N/A	Law (SIL 2+GL 1)	No	Yes
Supreme Court	N/A	N/A	N/A	N/A
Court of Auditors	7 items out of 15 regulated (46,67%) - 8 unregulated (53,33%)	Law (GL 1+SIL 1+GIL 1) + Code (SC 1+ GC 3)	No	Yes
Central Bank	10 items out of 15 regulated (66,67%) - 5 unregulated (33,33%)	Law (GL 2+GIL 1+SL 1) + Code	No	No

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## Members of Government

### In general:

In Sweden's Government half of the issues are unregulated and the other half is regulated by law.

Gifts, missions, travels and declaration of financial interests and assets are strictly regulated (law).

### Relevant laws:

- The Instrument of Government, art 9; The Penal Code, Ch.20, sec.2; The Administrative Procedure Act, Sec. 11 and 12, Law on Official Secrets, Government Offices' Rules on Representation, Decree on Official Flights, Government's Decision 2006-10-26: Register on Ownerships of Financial Instruments for the Members of the Government.

### Relevant codes:

- Government Offices' Ethical Guidelines, Guidelines regarding the Official Travels by Council of State's Cars, Informing the Politicians in the Government Offices, Government's Brief 1996/97:56 on the Conflicts of Interest for the Council of the State

### More specific:

#### *A - Professional activities*

Government has practically no regulations regarding professional activities, except for specific rules on incompatibility of posts that are regulated by law.

#### *B - Declaration of income*

The declaration of financial interests and assets is regulated by law and codes of conduct. HPO spouses' activities are not regulated.

#### *C - Gifts, missions, travels*

These issues are regulated by law and code of conduct.

#### *D - Post-employment*

There is no regulation in this section.

#### *E - Other Conflicts of Interests*

Professional loyalty is unregulated, but professional confidentiality is regulated by law. General rules on impartiality and conflicts of interest are regulated by law.

#### *Instruments*

The Government provides special training program for newly appointed ministers, including sessions on ethics issues. There is no ethics committee in the Government, but a register on declaration of financial interests exists.

---

## Members of Parliament

### In general:

Half of the issues are unregulated. There are no regulations regarding HPO' spouses' professional activities. Gifts, missions and travels are strictly legislated. Most of the other conflicts of interest are regulated by law.

### Relevant codes:

- According to the received information there is no code of conduct in the Swedish Parliament

### Relevant laws:

- The Riksdag (Parliament) Act and The Swedish Penal Code
- Act on registration of MPs' commitment and financial interests

### More specific:

#### *A - Professional activities*

There is no regulation concerning professional activities in Parliament.

#### *B - Declaration of income*

As mentioned earlier, there are no regulations for Parliamentarians' spouses.

#### *C - Gifts, missions, travels*

These issues are strictly regulated by law (Penal Code) and by code of conduct.

#### *D - Post-employment*

No regulation in this section.

#### *E - Other Conflicts of Interests*

Professional loyalty is not regulated, but general rules on impartiality, conflicts of interest and professional confidentiality are regulated by specific legal acts.

#### *Instruments*

No training programmes as well as an ethics committee are provided for the Swedish Parliament.

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## Judges of the Supreme Court

N/A

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## **Members or Directors of the Court of Audit**

### In general:

Generally half of the issues are regulated by law. The other half is not regulated. The strictest regulated parts concern gifts, missions and travels.

Relevant codes:

- Audit Guide
- Policy and rules for travels and entertainment
- Guidelines concerning conflicts of Interest
- Other internal administrative policies with ethical rules and guidelines
- Code of ethics

Relevant laws:

- The Constitution
- The Instrument of Government
- The Riksdag Act
- Several other laws and regulations concerning public employment

### More specific:

#### *A - Professional activities*

Only parts of professional activities are regulated by law, e.g. political activities. The rest of the issues are not regulated, except for specific rules on incompatibility of posts, which are regulated by codes of conduct.

#### *B - Declaration of income*

Declaration of financial interests and assets are regulated by law.

#### *C - Gifts, missions, travels*

Accepting gifts is regulated by law and by the code of conduct. The rest of the issues are regulated by law.

#### *D - Post-employment*

No regulation.

#### *E - Other Conflicts of Interests*

General rules on impartiality and conflicts of interest are regulated by law. Professional confidentiality is regulated in a code of conduct.

#### *Instruments*

There are comprehensive professional training programs for financial audit and performance audit. There is no ethics committee.

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## **Members or Directors of the Central or National Bank**

### In general:

Most of the issues in the Central Bank are regulated by law. However, the received data is relatively “thin.”

Relevant codes:

- According to the existing data, there are no codes of conduct in the Central Bank

Relevant laws:

- Sweden’s Riksbank Act (1988:1385)
- Penal Code
- Administrative Procedure Act
- Secrecy Act

### More specific:

#### *A - Professional activities*

Only outside activities: conferences and publications are not regulated. The rest of the issues are regulated by law.

#### *B - Declaration of income*

HPO’ spouses’ activities have no regulations. Provisions relating to the declarations of interests are regulated by code of conduct. Declaration of financial interests and assets are regulated by law and code of conduct.

#### *C - Gifts, missions, travels*

Mission and travel issues have no regulations, the rest of the cases have regulations. Accepting gifts are strictly regulated by law and code of conduct. Receptions and representations are regulated by codes of conduct.

#### *D - Post-employment*

Restrictions on professional commitments are regulated by law.

#### *E - Other Conflicts of Interests*

These issues are very strictly regulated. Professional confidentiality is regulated by law and codes of conduct. General rules on impartiality and conflicts of interest by law.

#### *Instruments*

No training programs and ethics committee.



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## Summary: conflicts of interest policy in the United Kingdom

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### General profile

The United Kingdom has been a member of the European Union since 1973.

There is no specific law on conflicts of interest that is applicable to all institutions; the issues in both Government and Parliament are mainly regulated by specific codes.

Both institutions have an ethics committee and public registers on declaration of financial interests.

Institution	Issues regulated	Form of regulation	Ethics Committee	Public register
Government	15 out of 15 issues regulated (100%)	3 issues regulated by law (GL, GIL) and 15 issues regulated by code (SC)	Yes	Yes
Parliament	10 out of 15 issues regulated (66,67%) - 5 issues unregulated (33,33%)	All issues regulated by code (SC)	Yes	Yes
Supreme Court	N/A	N/A	N/A	N/A
Court of Auditors	N/A	N/A	N/A	N/A
Central Bank	N/A	N/A	N/A	N/A

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### Members of Government

#### In general:

All issues are regulated by code. This code makes clear that the Prime Minister is the ultimate judge of the standards of behaviour expected of a Minister. Ministers are expected to observe the Seven Principles of Public Life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership). This regulation does not involve any laws.

There is an external ethics committee and there is a public register on declaration of financial interests.

Relevant codes:

- Ministerial Code: A Code of Ethics and Procedural Guidance for Ministers (SC)

Relevant laws:

- The Ministerial Code says that Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000 (GL)
- Ministers must also at all times comply with the requirements which Parliament has laid down: for the House of Commons this concerns the Amendment Ministerial Accountability To Parliament, and for the House of Lords it is the Resolution Ministerial Accountability (GIL)

More specific:

*A - Professional activities*

All issues regulated. The code describes limitations to publications and public positions. Ministers should give up any other public appointment they may hold. Where it is proposed that such an appointment should be retained, the Prime Minister must be consulted.

*B - Declaration of income*

All issues regulated. The code explains that on appointment to each new office, Ministers are advised to provide their Permanent Secretary with a full list in writing of all interests which might be thought to give rise to a conflict. The list should cover not only the Minister's personal interests but also those of a spouse, partner or children. The Permanent Secretary will arrange a meeting with the Minister to discuss the list and to consider what advice is necessary and from what source, and what further written information is needed. Where it is proper for a Minister to retain a private interest, it is the rule that he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it and that the Minister should remain entirely detached from the consideration of that business.

### *C - Gifts, missions, travels*

All issues regulated. The code contains rules on accepting gifts. No Minister or public servant should accept gifts up to £140, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts are offered to a member of their family. Receipt of gifts should be reported to the Permanent Secretary.

### *D - Post-employment*

Regulated: on leaving office, Ministers should seek advice from the independent Advisory Committee on Business Appointments about any appointments they wish to take up within two years of leaving office. This is not necessary for unpaid appointments in non-commercial organizations or appointments in the gift of the Government, such as Prime Ministerial appointments to international organizations. Although it is in the public interest that former Ministers should be able to move into business or other areas of public life, it is equally important that there should be no cause for any suspicion of impropriety about a particular appointment.

### *E - Other Conflicts of Interests*

All issues (general rules on impartiality and conflicts of interest, professional confidentiality, and professional loyalty) regulated, except for other rules and standards.

### *Instruments*

The National School for Government provides formal training events for Ministers for a number of years. These trainings regard among others 'Induction to working in Government for new Departmental Ministers and Whips', 'Good practice on financial and risk management in Government Departments' and several trainings on parliamentary and committee procedures.

Further, there is an ethics committee: The Committee on Standards in Public Life (CSPL). This Committee was established in 1994 and is an Advisory Non-Departmental Public Body. The Committee is not founded in statute and has no legal powers, either to compel witnesses to provide evidence or to enforce its recommendations. In particular, it has no powers to investigate individual allegations of misconduct. The committee examines concerns on standards of conduct of, *alter alia*, holders of public office. In addition, in response to a recommendation made by the CSPL the Prime Minister appointed an Independent Adviser on Ministers' Interests. This Adviser provides advice to Ministers and Permanent Secretaries on the handling of Ministers' private interests. Under the Ministerial Code it is for individual Ministers to decide whether and what action is needed to avoid a conflict or perception of a conflict.

And there is a register on declaration of financial interests: Ministers are required to comply with the Register of Members Interests in respect of their membership of the Houses of Parliament. There are separate copies for the House of Commons and the House of Lords.

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## Members of Parliament

### In general:

Ten issues are regulated, all of them by code. This code regulates the following topics: public duties of Members, general principles of conduct, rules of conduct, registration and declaration of interests, and duties in respect of the parliamentary commissioner for standards and the committee on standards and privileges. The code is accompanied by a guide to the rules relating to the conduct of Members of Parliament.

There is an internal ethics committee and there is a public register on declaration of financial interests.

Relevant codes:

- The Code of Conduct for Members of Parliament (SC)

Relevant laws:

- Standing Orders (GIL)

### More specific:

#### *A - Professional activities*

Of the outside activities, honorary positions and conferences are regulated; political activities and publications are unregulated. And there are no specific rules on incompatibility of posts and professional activities before or during term of office.

#### *B - Declaration of income*

All issues regulated.

#### *C - Gifts, missions, travels*

All issues regulated.

#### *D - Post-employment*

Unregulated.

#### *E - Other Conflicts of Interests*

There are general rules on impartiality and conflicts of interest. Professional loyalty is regulated, however, professional confidentiality is unregulated, and there are no other rules and standards.

*Instruments*

There are no training programs concerning professional ethics for Members of Parliament.

There is an ethics committee: according to the Standard Orders Nos. 149 & 150, there is Committee on Standards and Privileges and a Parliamentary Commissioner for Standards. The main task of the committee is to oversee the work of the Parliamentary Commissioner for Standards. Among the duties of the Commissioner is to monitor the operation of the Code of Conduct and the Register of Members' Interests. When in doubt, Members should seek the advice of the Parliamentary Commissioner for Standards who, if necessary, will seek adjudication from the Committee on Standards and Privileges.

And there is a register on declaration of financial interests: under the Resolution agreed by the House on 22nd May 1974, and under the Code of Conduct, Members are required to register their pecuniary interests in a Register of Members' Interests. The duty of compiling the Register now rests with the Parliamentary Commissioner for Standards, whose functions are set out in Standing Order No. 150. The Register is published soon after the beginning of a new Parliament, under the authority of the Committee on Standards and Privileges, and annually thereafter. Between publications the Register is regularly updated in a loose leaf form and, in that form, is available for public inspection in the Committee Office of the House of Commons. It is also available on the Internet. At the discretion of the Commissioner copies of individual entries in the Register may be supplied on request.

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**Judges of the Supreme Court**

N/A

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**Members or Directors of the Court of Audit**

N/A

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**Members or Directors of the Central or National Bank**

N/A

## ANNEX 4 – CoI profiles of EU institutions

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### European Commission

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#### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
All 15 items are regulated: 100%  (Average EU-27, Governments: 76%)	67% of issues regulated by code; and 33% by both law and code;	Ad-hoc committees in the field of post-employment	Yes	<i>Model 1/ Model 2</i>

\* According to the classification scheme presented on pp. 139-143 of the report.

#### Relevant rules and standards:

- Art. 213 (2) ECT, Art. 287 ECT
- Code of Conduct of Commissioners (SEC (2004), 1487/2 of 24 November 2004)
- Note from the President and Mrs Kroes to the Members of the Commission on the identification of actual or potential conflicts of interest concerning the Commissioner for Competition (SEC(2004) 1541 of 1 December 2004)

#### Instruments:

##### (1) Committees

- Ad hoc ethical committee on activities post-employment (in operation) established by Decision C (2003) 3570 of 21 October

##### (2) Registers and declarations

- On-line permanent publication of the Declarations of Interests of Commissioners and public register of received gifts with a value of more than EUR 150

#### Contains:

- Any **financial interest** or asset which might create a conflicts of interests
- Any form of **individual holding in company capital**. Shares, holding – (convertible bonds or investment certificates – units in unit trusts, which do not constitute a direct interest in company capital, do not have to be declared)
- Any **property owned** either directly or through a real estate company must be declared, with the exception of homes reserved for the exclusive use of the owner or his/her family
- **Other property** the possession of which could create a conflict of interest, especially from a tax point of view, must also be declared
- **Outside activities** (honorary, unpaid posts in political, cultural, artistic or charitable foundations or similar bodies and in educational institutions.

- A declaration of the **professional activities of their spouses** (nature of the activity or the title of the position held and, if applicable, the name of the employer). The declaration shall include **any holdings by the Commissioner's spouse** which might entail a conflict of interest.

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## European Parliament

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### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
8 out of 15 items are regulated: 53%  (Average EU-27, Parliaments: 58%)	8 out of 15 issues (53%) regulated by code (Rules of Procedure); the rest is unregulated;	No	Yes	<i>Model 3</i>

\* According to the classification scheme presented on pp. 139-143 of the report.

### Relevant rules and standards:

- Art. 9 Rules of Procedure, Annex I Rules of Procedure of January 2007: “Parliament **may** lay down rules” (Art. 9 RoP)
- No other codes

### Instruments:

#### (1) Committees

- No ethics committee (self-regulation by Bureau of EP and Quaestors)

#### (2) Registers and declarations

- Register of interest

#### *Contains:*

- MEPs must declare their professional activities and activities or functions which have been remunerated

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## European Court of Justice

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### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
7 out of 15 items are regulated: 47%  (Average EU-27, Supreme Courts: 72%)	7 of the 15 issues (47%) regulated by law; the rest is unregulated; code in preparation	No	No (in preparation)	N/A

\* According to the classification scheme presented on pp. 139-143 of the report.

### Relevant rules and standards:

- Art. 222 ECT
- Statute of the ECJE (January 2007)
- Code of conduct in preparation

### Instruments:

#### (1) Committees

- No ethics committee

#### (2) Registers and declarations

- No register on declaration of interests (in preparation)

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## European Court of Auditors

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### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
14 out of 15 items are regulated (93%)  (Average EU-27, Governments: 74%)	9 items (60%) are regulated by code, 1 by law (6 %) and 4 issues (27%) by both law and code; 1 item is unregulated;	Yes	Yes	<i>Model 2</i>

\* According to the classification scheme presented on pp. 139-143 of the report.

### Relevant rules and standards:

#### *Law*

- Art. 246 ECT, 247 ECT, 248 ECT
- Decision No. 92 – 2004 lays down the rules for implementing the rules of procedure of the Court of Auditors, esp. Art. 5 and 6

#### *Code*

- Code of Conduct of the Members of the Court

### Instruments:

#### (1) Committees

- Art. 4 of the Code of Conduct requires “A special committee of three Members shall be instructed to examine Members' outside activities”.

#### (2) Registers and declarations

- Register of Interest (public only if Court agrees)

#### *Contains:*

- The **financial interests** that must be declared include **any form of individual financial participation** in the capital of an enterprise. They include shareholdings, but also any other form of participation such as, for example, convertible bonds and investment certificates. Declarations must also include the total amount of all other financial interests **which do not exceed 50,000 euros**
- **Land and property** must be declared
- **Other assets which do not exceed 50,000 euros**
- **Outside activities** (honorary, unremunerated offices in foundations or similar organisations in a political, cultural, artistic or charitable sphere or in educational establishments)
- **Spouse’s professional activities** must also be declared

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## European Central Bank

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### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
14 out of 15 items (93%) are regulated.  (Average EU-27, Central Banks: 81%)	3 of issues (20%) regulated by law; and 11 (73%) by both law and code;	Yes	Yes	<i>Model 2/ Model 3</i>

\* According to the classification scheme presented on pp. 139-143 of the report.

### Relevant rules and standards:

- Statute and Rules of Procedure of the ESCB
- Three Codes of Conduct applicable to the Executive Board Members of the ECB (OJ 2001/C 76/11; OJ 2002/ C123/06); OJ 2006/C 230/09
- Rules on Insider Trading, ECB Decision ECB/2004/2 and ECB/2004/11
- Rules on Professional Conduct and Professional Secrecy

### Instruments:

#### (1) Committees:

- Art 7 of the Code of Conduct: “The Governing Council shall appoint an Ethics Adviser to provide guidance to the Members of the Governing Council”.

#### (2) Registers and declarations:

- Register of Interest

#### *Contains:*

- Executive Board Members shall submit to the President a written statement about the patrimony, source of wealth and the prospective management **of their personal assets** during their term of office

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## European Investment Bank

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### Overview:

Issues regulated	Form of regulation	Ethics Committee	Public register	Regime category*
All 15 items are regulated: 100%	9 issues (60%) regulated by code; 1 (7%) by law, and 5 issues (33%) regulated by both law and code;	Yes	Yes	<i>Model 1/ Model 2</i>

\* According to the classification scheme presented on pp. 139-143 of the report.

### Relevant rules and standards:

- Art. 266 – 267 ECT
- Statute and Rules of Procedure of the EIB
- Statement on Governance at the EIB,
- Code of Conduct of the Members of Board of Directors of the EIB (22 July 2003)
- Code of Conduct of Members of the Audit Committee of the EIB
- Management Committee Code of Conduct

### Instruments:

#### (1) Committees

- Audit Committee
- An ad hoc ethics committee provided by Art. 2.4.10 of the Management Code of Conduct

#### (2) Registers and declarations

- Register of Interest

#### *Contains:*

- **Financial interests** (stocks and shares, insurance policies and bank deposits)
- **Assets** (real estate and other property) and **loans or liabilities**
- **Outside activities** (posts in foundations or similar bodies currently held and held over the last 10 years and posts in educational institutions currently held and held over the last 10 years)
- **Spouse's professional activities** (other than academic or unpaid)