

Promoting effective
anti-corruption
framework
in the CEE countries.

Conflict of Interest

EU SUMMARY RESEARCH

on current institutional enforcement mechanisms of Conflict of interest

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FOREWORD

This paper was prepared under the “Promoting effective anti-corruption framework in the CEE countries” project; a joint project of 5 countries (Visegrad 4 and Estonia). The project’s overall objective is to enhance institutional anticorruption (AC) frameworks in CEE countries for more effective AC measures enforcement. The project sets a broad approach to so-called soft corruption areas, often regarded as preventive areas for hard corruption. This approach consists of researches, comparative analyses, best practice studies and recommendations for the specific situations of post-communist EU countries. Results from researches and best practice studies will be used for formulating a set of general recommendations for CEE countries on specific AC measures to be enforced, including the possibility of establishing or improving a national ACA, according to international commitments.

The most favourable factor in this project is the multiplication of experience and expertise thanks to the cooperation of 5 national anticorruption NGOs: Oživení Czech Republic, Institute of Public Affairs Poland, EKINT Hungary, Transparency International Slovakia and Transparency International Estonia.

The aim of the EU summary research is to review existing provisions in the selected EU countries in the areas analyzed to find best practices of institutional enforcement mechanisms. These examples will serve as inspiration for national recommendation.

The scope of the proposed research is limited to institutional enforcement mechanisms in 3 areas: Conflict-of-Interest, Political Party Financing and Access to Information. The basic assumption is that each country (V4 and Estonia) does have some legislative provisions on the 3 areas mentioned, and thus institutional enforcement mechanisms exist to some level in each country.

The aim of this paper is to make an overview of EU countries’ existing institutional enforcement mechanisms in the area of conflict of interest, which will serve as background for CEE national recommendations. These recommendations will be useful for national governments in the development of enforcement mechanisms at the national level.

I. FRAMEWORK / OVERVIEW

TERMINOLOGY AND METHODOLOGY

Most of the EU member states do not use the concept of conflict of interest literally, and the legislation usually does not provide a legal definition on conflict of interest¹. In general, the concept of conflict of interest as a legal term is relatively new. In most countries it has been introduced in the legislation as an issue of the fight against corruption. As a result, the types of conflict of interest recognized in the CEE legislation primarily include holding a public office simultaneously with other private or public jobs or positions, or an economic conflict of interest. With the increased contacts between the private and the public sectors due to the increasing trend towards private-public partnerships, conflicts of interest situations are becoming more frequent.

This paper uses as a conceptual reference the OECD's generic definition of conflict of interest: *"A conflict of interest involves a conflict between the public duty and the private interest of a public official, in which the official's private-capacity interest could improperly influence the performance of their official duties and responsibilities²."*

For the purpose of this paper the term *"public office holder"* is being used generically to refer to public servants, civil servants, public employees, elected officials, or any other kind of official who performs public functions or duties on behalf of the State, a government, or a government organization, where the exercise of lawful power is involved. This choice reflects that the main sources of conflicts of interest in OECD countries are: (1) secondary employment in the private sector; (2) private-public partnerships, and (3) shareholdings in an entity with a contractual or regulatory relationship with the government³.

The methodology chosen for this paper is a standardised content analysis of relevant documents. This qualitative analysis is based on relevant sources focusing on the issues as well as national and international comparative studies of conflict of interest. The paper also employs a secondary analysis of data/results of research done in the field so far⁴. Other sources were comparative studies and assessments of national systems made by international organisations, principally the OECD, the Council of Europe's Group of States against Corruption (GRECO) and The World Bank. International online resources, as well as the legal texts of particular countries, were also examined.

¹ Compare with conflict of interest definitions in USA, eg. Utah: § 76-8-109. Failure of member of Legislature to disclose interest in measure or bill. (a) *"Conflict of interest"* means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an entity that the officeholder is required to disclose under the provisions of this section, and that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

Available at: <http://www.ncsl.org/research/ethics/50-state-table-conflict-of-interest-definitions.aspx>

² BERTÓK, János. *Managing conflict of interest in the public service: OECD guidelines and overview*.

Paris, France: Organisation for Economic Co-operation and Development, c2003, p 59. ISBN 92-641-0489-5.

³ Transparency International, *Global Corruption Report 2003*, p. 320. Available at: http://archive.transparency.org/publications/gcr/gcr_2003

⁴ DISMAN, Miroslav. *Jak se vyrábí sociologická znalost: Příručka pro uživatele*. 3.vyd. Praha: Karolinum, 2000, 374 s. ISBN 80-246-0139-7, s. 166.

INTRODUCTION

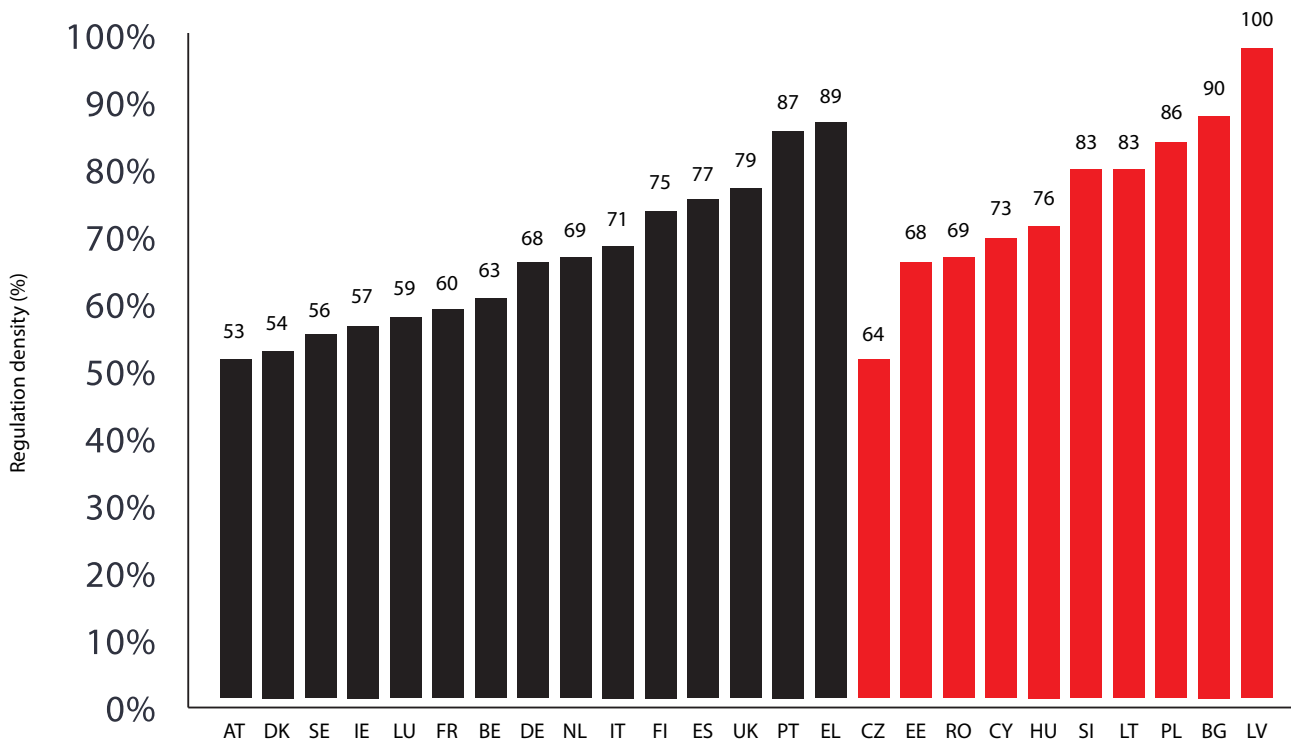
The essence of conflict of interest is violating the socially acceptable balance between the public office holders' personal interest and the public interest. Conflict of interest situations that are not properly managed may lead to corruption – they can distort competition and the allocation of public resources. It is visualized as a threat to national development. Identifying and resolving conflict of interest situations, is also crucial to good governance, maintaining trust in public institutions and democracy in general.

In practice, conflict of interest systems in EU member states are far from being standardized internationally and may differ even within a state. Generally speaking, conflicts of interests can be approached in one of two ways: restrictions (1) or disclosure (2)⁵.

Nowadays the common EU member states standards in the field of conflicts of interests are comprised of⁶:

1. A set of rules, codes, standards and principles. Mostly these instruments enumerate a number of prohibitions, restrictions and obligations. Here, important differences exist as to the number of prohibitions, restrictions and obligations. Restrictions on conduct, incompatibilities or engagements aim to prevent situations that frequently give rise to conflicts of interest.

The results of recent relevant studies of conflict of interest have tended to become more numerous and stricter during the last decades. We can see an increase in the number of rules and standards which show the conflict of interest regulation density by EU member states⁸.



Source: Regulating conflict of interest for Holders of Public Office in the European Union

⁵ World Bank. Available at: https://agidata.org/Pam/Documents/COI%20Primer_30Sep2013.pdf

⁶ DEMMKE, Christoph a kol.: Regulating Conflict of Interest for Holders of Public Office in the European Union Maastricht: European Institute of Public Administration, 2008. ISBN 978-929-2030-063. http://ec.europa.eu/dgs/policy_advisers/publications/docs/hpo_professional_ethics_en.pdf

⁷ Effectiveness of good governance and ethics in central administration: evaluating reform outcomes in the context of the financial crisis, http://www.dgaep.gov.pt/upload/RI_estudos%20Presid%C3%A2ncias/ETHICS_REPORT_FINAL.pdf

⁸ Ch DEMMKE, Christoph a kol.: Regulating Conflict of Interest for Holders of Public Office in the European Union Maastricht: European Institute of Public Administration, 2008. ISBN 978-929-2030-063. http://ec.europa.eu/dgs/policy_advisers/publications/docs/hpo_professional_ethics_en.pdf

The strictest system is used in Latvia where all monitored conflict of interest categories⁹ are regulated for all institutions¹⁰ (100%). The countries with the lowest number of regulated conflict of interest issues are Austria, Denmark and Sweden. It appears that regulations do not necessarily lead to less corruption. For example, most Nordic EU member states have much fewer rules and standards in place than other member states but at the same time have relatively low levels of corruption and bribery¹¹.

2. Disclosure policies and registries of interests that require registering potential conflicts of interests and other interests. Here, differences exist regarding transparency requirements, the level of detail of reporting obligations and specific obligations (e.g. whether a spouse's activities should be registered or not) as well as regarding the monitoring of these obligations.

An integral element of anticorruption frameworks in recent years has become the use of financial disclosure systems. A disclosure system requires public office holders to disclose any interests that may compromise their ability to serve as unbiased agents of the public service. As the potential conflict of interest situations have grown, more countries have begun enacting laws requiring public office holders to submit income and asset declarations, mostly as a part of broader anticorruption strategies.

Income and asset declarations provide the means to monitor potential or existing conflict of interests. In Central and Eastern Europe, the strong motivation of many countries to join the European Union prompted the adoption of various anti-corruption laws. The introduction of asset declarations was the easy way for governments to demonstrate their determination to do something about the problem of corruption. *The task of the candidate countries was eased by the fact that the European Commission never possessed any hard evidence of the effectiveness of any particular solutions regarding public officials' declarations. As a result, almost any demonstrated effort – even if largely a formality – by countries to strengthen their systems usually counted as progress*¹².

Risks or conflicts of interest may be addressed with any combination of restrictions or disclosures; however disclosure systems require a significant capacity for auditing or reviewing disclosure forms and the establishment of a credible threat of consequences through the effective enforcement of sanctions.

Many countries have conflict of interest systems that have evolved from restrictions-based models to a hybrid model that incorporates some form of disclosure.

- Monitoring and enforcement mechanisms. Here important differences exist regarding the power and resources of ethics committees and ethics commissions. Also important differences exist as to (criminal and administrative) sanctions in cases of ethical misconduct.

To be analyzed in details in the following chapters.

- Training, education and guidance.

⁹ Impartiality and incompatibility of posts, professional activities, outside activities, financial disclosure, gifts and similar issues, post-employment

¹⁰ Government, parliament, supreme court, court of auditors, central bank.

¹¹ CPI Index 2012, <http://www.transparency.org/cpi2012/results>

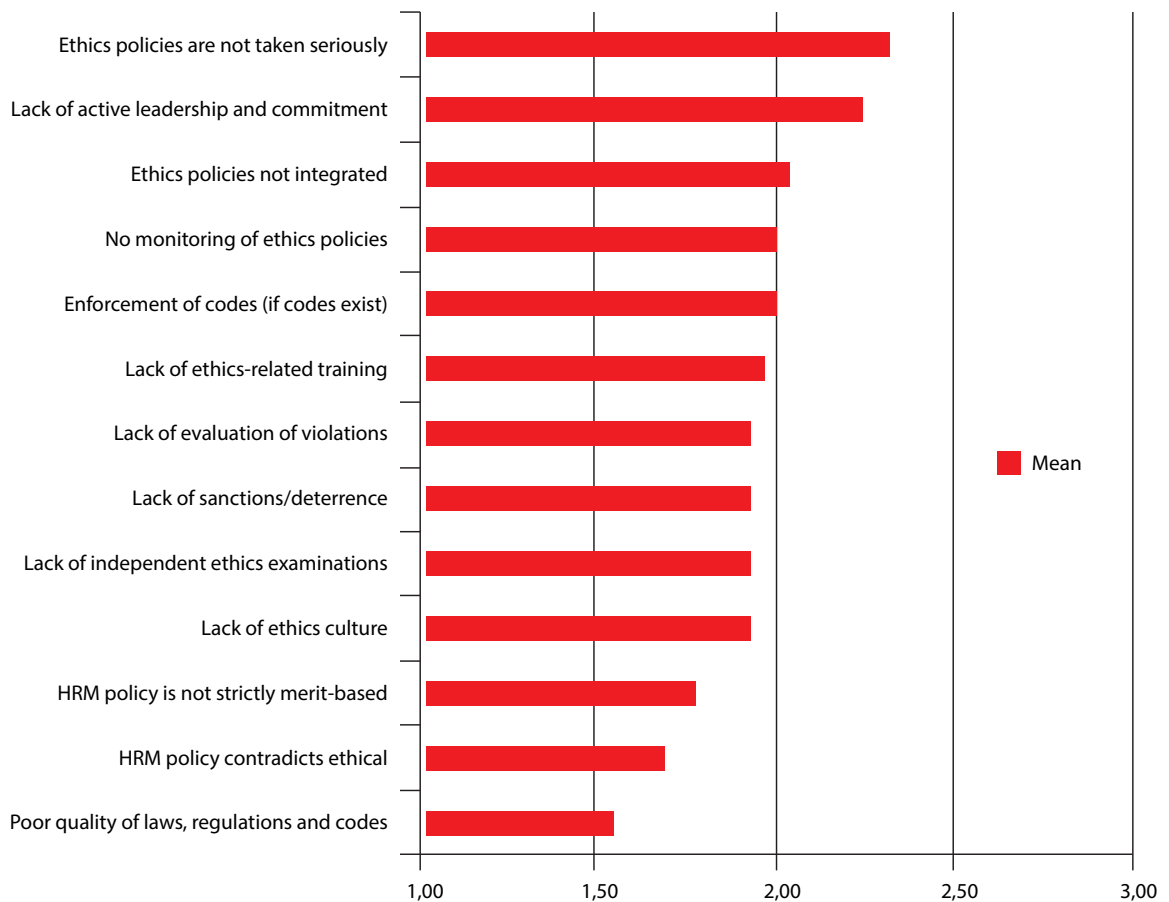
¹² OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing. <http://dx.doi.org/10.1787/9789264095281-en>

II. EU CONFLICT OF INTEREST ENFORCEMENT MECHANISMS OVERVIEW

The major obstacles and difficulties for an effective ethics policy which were identified in the study “Effectiveness of good governance and ethics in central administration: Evaluating reform outcomes in the context of the financial crisis (2011)¹³” are shown in Figure 7.

Major obstacles and difficulties for an effective ethics policy

(1 = not an obstacle, 2 = minor obstacle, 3 = major obstacle)



Source: Effectiveness of good governance and ethics in central administration: evaluating reform outcomes in the context of the financial crisis. (2011)

The study reveals that there is low level of the monitoring of ethics policies as well as the enforcement of codes. This conclusion was confirmed by Demmke¹⁴, namely there are problems when it comes to the implementation and effectiveness of the ethics rules.

¹³ Effectiveness of good governance and ethics in central administration: evaluating reform outcomes in the context of the financial crisis, http://www.dgaep.gov.pt/upload/RI_estudos%20Presid%C3%A2ncias/ETHICS_REPORT_FINAL.pdf

¹⁴ http://soc.kuleuven.be/io/ethics/paper/Paper%20WS2_pdf/Christoph%20Demmke.pdf

Rules and instruments	Implementation	Effectiveness
Integrity policy	Almost all Member States	Ethics is gaining political importance
Disciplinary legislation	All Member States	Few dismissals per year, trend towards stronger enforcement
Codes of ethics	Almost all Member States, different implementation with regard to governmental levels and the private sector	Mostly perceived as purely theoretical, next step is better implementation
Conflicts of interest I	All Member States	Different in detail, difficulties in implementation and monitoring
Conflicts of interest II - Register of Interests	Gaining acceptance in more Member States	The management of register of interests is crucial. Danger of new bureaucracy, effective per case

Source: Ethics in the civil services of the Member States of the EU – Many Paradoxes but no need to be pessimistic. (2007) (data selection)

To select an exemplary or best practice EU member state in conflict of interest enforcement mechanisms is rather difficult. To recommend best practices depends highly on administrative traditions, structures, and culture which vary significantly. There is only little evidence which indicate progress in the anti-corruption policies of some EU member states which should be mentioned.

According to Transparency International the biggest Corruption Perceptions Index¹⁵ improvers in 2013 are Estonia, Greece and Latvia¹⁶.

According to SIGMA¹⁷, in the area of conflict of interest detection and investigation system, the Latvian example could serve as a solution for analysis; the Spanish anticorruption prosecution office could also be inspiring. Another reason to look further at these examples is they each represent a different model of enforcement institution. In GRECO's final, fourth round evaluation, the area of conflict of interest was evaluated rather positively in both Latvia and Slovenia.

Another contribution highlighting countries that can serve as good examples is the report by a European Commission from February 2014 which provides an analysis of corruption within the EU's member states and of the steps taken to prevent and fight it¹⁸. In this report there are good practices concerning 5 anti-corruption agencies mentioned - The Slovenian Commission for Prevention of Corruption (CPC), The Romanian National Anti-Corruption Directorate (DNA), The Latvian Bureau for Prevention and Combating of Corruption (KNAB), The Croatian Bureau for Combating Corruption and Organized Crime attached to the State Attorney General's Office (USKOK) and Spanish specialised anti-corruption prosecution office.

In the light of the above, two good practice representatives were selected – Latvia and Slovenia.

¹⁵ The CPI, measures the perceptions of public sector corruption. It uses data from international surveys that look at factors such as accountability of national and local governments, effective enforcement of anti-corruption laws, access to government information, and abuse of government ethics and conflict of interest rules.

¹⁶ TI Index.

¹⁷ SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the European Union and the OECD.

¹⁸ <http://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-38-EN-F1-1.Pdf>.

1. INSTITUTIONAL OVERSIGHT, MONITORING AND AUDITING

Institutional framework for compliance with the legislation is, as already mentioned, the key issue of the conflict of interest area. Such a framework should ideally provide both the implementation of the rules and their enforcement. While the EU member states have been active in recent years in implementing new rules and regulations, institutional arrangements for their enforcement has been rather neglected¹⁹.

On the European scale, institutional structures at the national level are very different. We can find highly specialized institutions that have broad supervisory and investigative powers, or rather fragmented bodies which cover only a partial agenda concerning conflict of interest.

Types of conflict of interest enforcement bodies:

Country	Type of institution	Title/s
Bulgaria	- National audit office (for all branches of authority)	- Public registry department unit in the National Audit Office
Croatia	- Specialised (semi-parliamentary) conflict of interest control body - Special arrangements for state attorneys and judges	- Commission for the prevention of conflict of interest (for public officials) - State Attorney's office and Ministry of justice for state attorneys - Ministry of Justice for judges
Czech Republic	- Administrative authority	- Administrative authority
Estonia	- Parliamentary body (for all branches of authority) and dedicated officials/ units within public institutions	- Parliamentary committee - Depositary of declarations is appointed by the head of an agency or authorised body (e. g. Local government body)
France	- Constitutional Court	- The Ethics Commission & The Conseil Constitutionnel
Germany	- President of the Bundestag and the Presidium	- President of the Bundestag and the Presidium
Italy	- The Competition Authority and the Com- munications Regulatory Authority - Civil servants and judiciary through hier- archy - Also high commissioner for employment, entrepreneurial and private interest	- The Competition Authority and the Communications Regulatory Authority - High commissioner for employment, entrepreneurial and private interest
Latvia	- Tax authorities and a specialised anti-corruption body (for all branches of authority)	- Department in the State revenue service - Corruption prevention and combating bureau
Lithuania	- Tax authorities, specialised ethics insti- tution (for all branches of authority) and dedicated officials/units within public institutions	- The state tax inspection - Chief Official Ethics Commission - Specialised public officials or units in each state body

¹⁹ Regulating conflicts of interest for holders of public office (HPO) 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 (2008).

Norway	- The Quarantine Committee	- The Quarantine Committee
Poland	- None	- None
Romania	- Specialised anti-corruption body (for all branches of authority)	- The national integrity agency - The Permanent Bureau of the MPs Chamber of Parliament
Slovak Republic	- Committee of the National Council	- Committee of the National Council
Slovenia	- Specialised anti-corruption body (for all branches of authority)	- Commission for the prevention of corruption
United Kingdom	- The Committee on Standards and Privileges & the independent Advisory Committee on Business Appointment	- The Committee on Standards and Privileges & the independent Advisory Committee on Business Appointment

Source: World Bank, the Public Accountability Mechanisms Initiative (2012)

LATVIA

Corruption prevention and combating bureau:

The Latvian Corruption prevention and combating bureau/Korupcijas novēršanas un apkarošanas birojs (KNAB) is a multi-purpose anti-corruption agency with law enforcement bodies set up in 2002.

KNAB plays a leading role in controlling the implementation of what is considered to be a central piece of legislation in preventing corruption in Latvia, i.e. the Law on Prevention of Conflict of Interest in Activities of Public Officials (hereinafter Conflict of Interest Law). This law applies to all categories of public office holders, including members of Parliament (MPs), judges and prosecutors; it lays out a very comprehensive asset disclosure system which is monitored by both the KNAB and the State Revenue Service (SRS)

Besides KNAB, there are other institutions involved - the Committee of Mandate and Ethics which deals namely in supervision of misconduct, and the State Revenue Service in the veracity of declarations.

KNAB has broad powers of investigation and prosecution. The professionalism and commitment of KNAB to conflicts of interest enforcement appears to be beyond any doubt²⁰, but as described in GRECO's Third Round Evaluation Report, there are still several institutional flaws in the system: (i) KNAB sits under the direct supervision of the Prime Minister; (ii) the appointment and dismissal procedure for the Director of KNAB is made by Parliament upon the recommendation of the Cabinet of Ministers; (iii) the budget of KNAB is proposed and decided by Parliament, the same people that KNAB might potentially investigate.

Control over the activities of public office holders and the prevention of conflict of interest is one of main fields of KNAB.

The prevention branch is in charge of the control of public office holders (conflict of interest), the control of the financing of political parties, the development of analysis and countermeasures to corruption and education of public office holders and the public about corruption.

KNAB has the power to examine whether public office holders follow provisions of the law "On Prevention of Conflict of Interest in Activities of Public Officials" (the Law) and to enact administrative charges in cases when breaches of the Law are detected. The work is based on reports and complaints received by KNAB on possible breaches of the Law and the declarations of public office holders that are submitted to the State Revenues Service, but can also be requested by the KNAB.

²⁰ http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293_Latvia_EN.pdf

KNAB plays a central role in the system and in its ten years of existence has acquired broad recognition both at domestic and international levels. It is said to be one of the most trusted pillars of the State apparatus. Steps are currently being taken by KNAB to ensure that public officials better understand not just the applicable rules but, more importantly, the rationale behind those rules in order to promote greater self-governance and compliance. Notably, KNAB is working to ensure that more responsibility for the law rests with the relevant senior management structures.

The general recommendation to Latvia stated by GRECO's Fourth Evaluation Round is that measures be taken to strengthen the independence of KNAB, thus ensuring that it can exercise its functions in an independent and impartial manner.

SLOVENIA

Commission for the Prevention of Corruption:

In 2002 the Government's Office for the Prevention of Corruption was established, followed by the creation of an independent Commission for the Prevention of Corruption in 2004 (CPC). The current CPC has been established following the adoption of the Integrity and Prevention of Corruption Act of 2010 which expanded the mandate, jurisdiction, power as well as independency of the previous commission. It applies to all public office holders in Slovenia. It contains detailed rules on conflicts of interest, incompatibilities, accessory activities, gifts, lobbying and asset declarations. The IPCA confers a central role to the CPC, an independent body, in supervising the implementation of these rules, developing awareness on integrity issues and preventing corruption.

The CPC in Slovenia is a preventive anti-corruption body, and apart from the CPC there are only law enforcement bodies dealing with the suppression of corruption, and there is no institutionalized coordination between them.

In the area of conflict of interest, the CPC's Investigation and Oversight Bureau is responsible for investigating cases of conflict of interest, collecting and monitoring the declaration of assets of high ranking public office holders, and enforcing the conflict of interest rules.

The CPC's Center for Prevention and Integrity of the Public is responsible for coordinating the implementation of the National Anti-Corruption Action Plan, assisting in the development of integrity plans (methodology to identify and limit corruption risks) and monitoring their implementation, developing and implementing different anti-corruption preventive measures, anti-corruption screening of legislative drafts, and cooperating with civil society, academic and research institutions.

The CPC has legal power to:

- access and subpoena financial and other documents (notwithstanding the confidentiality level) from any state authority or private entity,
- question public servants and officials,
- conduct administrative investigations and proceedings;
- request different law enforcement authorities (e.g. Anti-Money Laundering Office, Tax Administration,...) to gather additional information and evidence within the limits of their authority;
- fine natural and legal persons in public and private sector for different violations under its jurisdiction.

The CPC is not subordinate to any other state institution or ministry, and does not receive direct instructions from the executive or the legislature. To strengthen its independence, the IPCA provides a special procedure for the appointment and dismissal of the leadership of the CPC. Chief Commissioner and two deputies are appointed by the President of the Republic. The Chief Commissioners' term of office is six years; the deputy's is five. They can serve up to two terms in office.

2. SANCTIONS

Different legal systems may provide varying types of legal responsibility. Sanctions provide an important tool to promote disciplined compliance with the requirements of declaration systems, especially when such systems cover a large range of public office holders.

Overview of sanctions to be applied in case of a breach following **conflict of interest restrictions**²¹:

Country	Fines	Maximum Fine	Administrative Sanctions	Penal Sanctions
Bulgaria	All	Not specified	All	None
Croatia	All	5 000 - 50 000 HRK	All	None
Czech Republic	M, MP, CS	50,000 CZK	None	None
Estonia	All	300 fine units	None	None
France	M, MP, CS	Not specified	CS	M, MP, CS
Germany	MP, CS	Not specified	None	None
Italy	CS	Not specified	All	MP, CS
Latvia	All	Not specified	All	All
Lithuania	M, MP, CS	500 to 2,000 LTL	M, MP, CS	None
Norway	M, CS	equivalent to up to six months' salary	CS	None
Poland	None	Not specified	MP, CS	None
Romania	None	Not Applicable	All	M, CS
Slovak Republic	All	six to twelve months of wages	All	None
Slovenia	All	Not specified	H, M, CS	All
United Kingdom	M, MP, CS	Not specified	MP, CS	M, MP, CS

(M: Ministers, MP: MPs, CS: civil servants, H: Head of state)

Source: World Bank, The Public Accountability Mechanisms Initiative (2012)

²¹ Accepting gifts, private firm ownership and/or stock holdings, ownership of state-owned enterprises (SOE), holding government contracts, board member, advisor, or company officer of private firm, NGO or labour union membership, outside employment, post-employment.

Overview of sanctions to be applied in case of a **breach of financial disclosure requirements**:

Country	Sanctions are applied for late filing	Sanctions are applied for non-filing	Sanctions are applied for false information	Maximum Fine	Administrative Sanctions	Maximum Length of Penal Sanction
Bulgaria	All	All	All	5000 BGN	None	3 years imprisonment
Croatia	All	All	All	HRK 40,000	Public Official doesn't receive salary	Not Specified
Czech Republic	M,MP,CS	M,MP,CS	M,MP,CS	CZK 50,000	None	None
Estonia		All	All	200 fine units	None	None
France	H,MP	H,MP		None	Presidential candidate application will be nullified	None
Germany	MP,CS	MP,CS	MP	Non payment of a half of salary	MPs may be subject to administrative sanctions, including publication of their violation and prohibition to attend sessions	None
Italy	M,MP,CS	M,MP,CS		2 million lire	Removal or disqualification from office, the suspension of the public or private employment relationship, the suspension of registration in professional rolls and registers	2 years imprisonment
Latvia	All	All	All	Not Specified	Dismissal and forfeiture of right to hold office	Not Specified
Lithuania	M,MP,CS	M,MP,CS	M,MP,CS	5000 LTL	may not be given incentives or promoted for a year following the day the violation has come to light, and in case of expiration of official duties on any grounds may not be accepted to the civil service for three years following the day the violation has come to light	Not Specified
Norway	M,CS	M,CS		Not Specified	Prohibition to work in specific field	None

Poland		MP	H,MP,CS	None	Not paid salary	5 years imprisonment
Romania			All	Not Specified	None	3 years imprisonment
Slovak Republic	All	All	All	A fine equal to 3 month's wage may be levied for filing violation	Removal from office	None
Slovenia	All	All	All	EUR 1200	None	None
United Kingdom	MP,CS	MP,CS	M,MP,CS	None	Not Specified	Life imprisonment

(M: ministři, P: poslanci, SU: státní úředníci, H: hlava státu)

Zdroj: World Bank, iniciativa Public Accountability Mechanisms (2012)

Declaration rules for public office holders are mostly perceived as a prevention tool, so offences related to the completion and submission of declarations are often not punishable under criminal law.

However, accordingly, criminal liability for violations related to the officials' declarations is also implemented in a few European countries. In Italy members of government can be criminally liable for non-submission of a declaration of interests and for providing false information. In the Poland and the United Kingdom as well, criminal sanctions can be applied to some categories of public office holders.

It appears that the countries of Central and Eastern Europe usually do not criminalise specific offences related to duties to fill in and submit public office holders' declarations.

Administrative sanctions are the most common in the form of a fine. Disciplinary sanctions are typical for public office holders who serve in the civil service. Available sanctions can include a reprimand, reduction in pay, dismissal, etc. Non-submission of a declaration is the most common breach. For example in France, in the event of non-submission of the personal declaration of assets, the elected official becomes ineligible to exercise duties for one year and the appointment of the public office holder is rendered void. In Lithuania public office holders who have been found in violation of the provisions of the law "On the Adjustment of Public and Private Interests in the Public Service" cannot receive bonuses or be appointed to a higher position in a year's time from detection of the violation.

In a few countries, there are no legal sanctions and no strictly defined legal consequences for violations, but rather soft measures to achieve compliance²².

In some countries, the running of public office holders' declaration systems is accompanied by a vast application of sanctions. In 2007, 30,245 Estonian public office holders submitted declarations. In the same period, 454 persons were sanctioned for non-submission, 1,209 for late submission, and 1,022 for other violations of declaration requirements²³.

²² For example, in Sweden it is announced at the plenary meeting if a member of parliament has failed to submit information to the register. In the UK House of Commons, if the duty to declare interests has not been fulfilled, an apology to the House by means of a point of order is required. In case of a breach of the Rules of Conduct, a member of the German Bundestag can face a warning (in case of minor violation or negligence, e.g. a missed deadline for disclosure), publication of a notice about the violation, or an administrative fine.

²³ OECD (2011), Asset Declarations for Public Officials: A Tool to Prevent Corruption, OECD Publishing. <http://dx.doi.org/10.1787/9789264095281-en>

LATVIA

Corruption prevention and combating bureau:

KNAB has the power to impose administrative sanctions for violations of provisions on conflicts of interest and the funding of political parties. In a more specific context, section 39 of the State Civil Service Law provides for the suspension from the performance of duties where detention has been applied as a security measure or criminal prosecution has been initiated against the public office holder. The procedure for exercising disciplinary powers is stipulated by the Law on Disciplinary Liability of Civil Servants.

In 2012, for failure to observe restrictions of the Law, KNAB reviewed 88 cases during the first six months and 19 persons were fined, whereas 63 public office holders were verbally reproached. In most of the cases KNAB detected that public office holders have taken decisions in conflict of interest situations and failed to observe restrictions concerning additional employment and commercial activities. Officials of local governments did not observe the rule that they cannot award a public procurement contract to companies where they have shares unless the contract is awarded in open competition²⁴.

SLOVENIA

Commission for the Prevention of Corruption:

Sanctions are foreseen for failure to comply with the provisions on gifts, incompatibilities, conflicts of interest and asset declarations contained in the IPCA. In particular, a fine of between 400 and 1,200 EUR applies, inter alia, for:

- failure to submit information or submission of false data concerning assets;
- failure to submit lobbying records or failure to refuse contact with a lobbyist who is not registered or contact where a conflict of interest would arise;
- failure to furnish details on the entities in which the MP or a family member has a relationship;
- accepting a gift (other than a permissible gift) or any other benefit in connection with the discharge of duties;
- failure to enter details of the accepted gift and its value on the list of gifts kept by the National Assembly/National Council;
- within two years of the termination of the mandate, acting as representative of a private entity which enters into contract with the former employer, i.e. National Assembly/National Council.

Failure to submit asset declarations following the reminder and within the deadline provided by the CPC is punished with a reduction of 10 % in salary each month after the expiry of the deadline. Likewise, disproportionate increases in assets, which are not adequately justified, could lead to the adoption of precautionary measures (e.g. temporary measures to freeze/seize and secure assets). In the case of public office holders, the CPC can alert the body in which the official is employed, in order for that body to initiate sanctions entailing possible termination of office. This provision is not applicable to MPs, who are elected officials.

Cases in which dissuasive sanctions were applied are few and findings of a violation of asset disclosure laws or cases of unjustified difference in wealth triggered political consequences for the holder of a public office on rare occasions.

²⁴ http://www.knab.gov.lv/uploads/eng/periodic_update_september_2012.pdf

3. GUIDANCE

Especially in the early stages of implementing declaration systems, a major difficulty is making public office holders aware of new requirements and achieving due respect for the need to meet them properly. Part of this problem can be a lack of or insufficient training and guidance.

In the field of ethics, most member states do not provide for institutionalised policies and there is no central coordination body on ethical issues in public administration. This may create a gap because of the lack of an entity responsible for following up this issue both at internal and external levels.

Guidance in area of conflict of interest restrictions:

Country	Individual or agency specified for providing guidance
Bulgaria	Not Applicable
Croatia	Not Applicable
Czech Republic	Not Applicable
Estonia	Not Applicable
France	Not Applicable
Germany	Not Applicable
Italy	Not Applicable
Latvia	Not Applicable
Lithuania	Not Applicable
Norway	Not Applicable
Poland	Not Applicable
Romania	Not Applicable
Slovak Republic	Not Applicable
Slovenia	Superior of public official or the Commission
United Kingdom	The Committee on Standards and Privileges

Source: World Bank, The Public Accountability Mechanisms Initiative (2012)

LATVIA

Corruption prevention and combating bureau:

Although according to the methodology of the World Bank Latvia is not ranked among the states with an individual or agency specified for providing guidance, we can find the related functions within the competences KNAB. Information about corruption prevention issues and descriptions of the different provisions in relation to conflicts of interest are available on KNAB's website. Information and guidelines about filing declarations are available on the website of the State Revenue Service (SRS). KNAB runs workshops and provides training to explain the provisions relating to ethics, conflicts of interest and the restrictions applicable to different public office holders. The SRS also provides consultations about completing declarations.

SLOVENIA

Commission for the Prevention of Corruption:

The Investigation and Oversight Bureau of the CPC is responsible for providing guidance on incompatibilities between the public sector and private interests. The CPC may be requested to provide guidance on specific issues by officials, specifically local officials, concerning the intersection between private and public interests.

The Secretary General of the National Assembly, who is responsible for notifying MPs about applicable rules, distributes at the start of every legislature a handbook with information concerning their conduct, work and status. It contains all relevant provisions as regards incompatibility of offices, conflicts of interest, lobbying, the handling of classified information, etc. The CPC also distributes information material, publishes its opinions and answers questions from MPs on their concrete obligations and the conduct to adopt in practical cases. In May 2012, it organised for the first time, in cooperation with the President of the Parliament, a session for MPs on their obligations under the IPCA. The CPC intends to organise such sessions on a yearly basis, and it welcomes this initiative²⁵.

Trainings arranged jointly with the Academy of Administration under the Ministry of Public Administration are conducted for public office holders. These seminars are tailored specifically to the audience members, with vignettes and case studies targeting certain fields.

4. TRANSPARENCY AND PUBLIC INVOLVEMENT

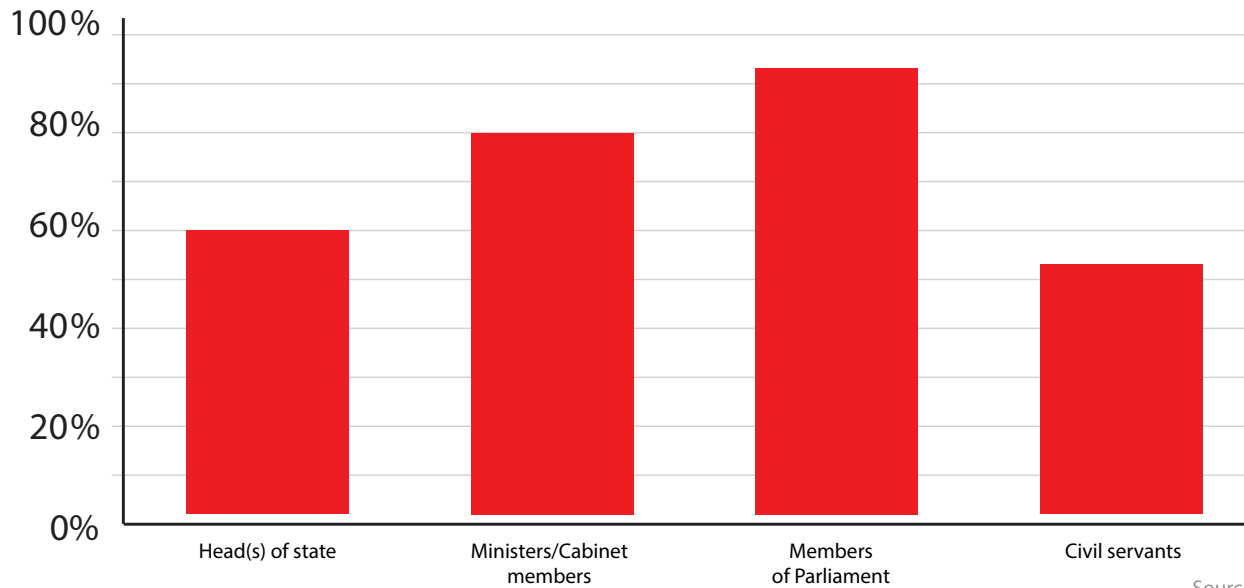
Transparency and public involvement can work as an added deterrent to the abuse of office, given the additional scrutiny it can afford. Credible threat of detection should be established through close review, targeted verification, public access to declarations, or a combination of these. Putting information in the public domain allows citizens to make informed decisions at the ballot box and to pressure their elected representatives to address any concerns raised by that information.

On the other hand the public oversight/control of declarations cannot free the enforcement bodies from their duty to carry out a thorough scrutiny of those declarations. It's important to avoid the "outsourcing" of this important controlling function to civil society and the media, as it is somewhat unrealistic to think that the media can always be a non-partisan watchdog. The issue of transparency and disclosure is closely connected with debate about balancing privacy and the public's right to know, but regarding the scope of this paper, there will be no further attention paid to this issue.

²⁵ Greco, Fourth Evaluation Round.

Public access to financial declaration:

Public availability:

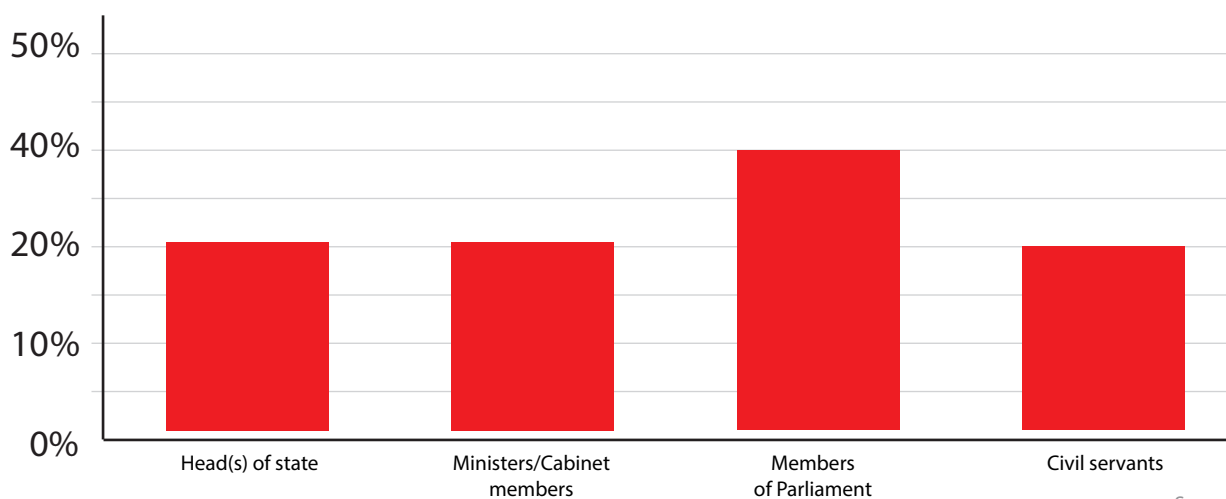


Source: World Bank

Year: 2012; Countries: Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Italy, Latvia, Lithuania, Norway, Poland, Romania, Slovak Republic, Slovenia, United Kingdom

Fees for access to financial declaration:

Fees for access:



Source: World Bank

Year: 2012; Countries: Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Italy, Latvia, Lithuania, Norway, Poland, Romania, Slovak Republic, Slovenia, United Kingdom

Overall:

Country	Public Availability	Location from which to access declaration data				Cost of accessing declaration data			
		Head of State	Ministers	MPs	Civil servants	Head of State	Ministers	MPs	Civil servants
Bulgaria	H, M, MP, CS, spouses and children	Fixed location, Online	Fixed location, Online	Fixed location, Online	Online	Not specified, Online	Not specified, Online	Not specified, Online	Online
Croatia	H, M, MP, CS, spouses and children	Online	Online	Online	Online	Online	Online	Online	Online
Czech Republic	M, MP, CS, spouses and children	Not applicable	Fixed location, Online	Fixed location, Online	Fixed location, Online	Not applicable	Online Free hard copies	Online Free hard copies	Online Free hard copies
Estonia	H, M, MP	Fixed location	Fixed location	Fixed location	Not applicable	Not specified	Not specified	Not specified	Not applicable
France	H	Official gazette	Not publicly available	Not publicly available	Not publicly available	Online Free hard copies	Not publicly available	Not publicly available	Not publicly available
Germany	MP	Not applicable	Not specified	Online	Not specified	Not applicable	Not specified	Online	Not specified
Italy	M, MPs, spouses and children	Not applicable	Parliamentary committee/office	Parliamentary committee/office	Not specified	Not applicable	Free hard copies	Free hard copies	Not specified
Latvia	H, M, MP, CS	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Lithuania	H, M, MP, CS, spouses and children	Official gazette, Online	Official gazette, Online	Official gazette, Online	Official gazette, Online	Online Free hard copies	Online Free hard copies	Online Free hard copies	Online Free hard copies
Norway	MP	Not applicable	Not specified	Not specified	Not specified	Not applicable	Not specified	Not specified	Not specified
Poland	M, MP, spouses and children	Not publicly available	Not specified	Not specified	Not specified	Not publicly available	Not specified	Not specified	6-10 years
Romania	H, M, MP, CS	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Slovak Republic	H, M, MP, CS, spouses and children	Agency website	Agency website	Agency website	Agency website	Not specified	Not specified	Not specified	Not specified
Slovenia	H, M, MP, CS,	Agency website	Agency website	Agency website	Agency website	Online	Online	Online	Online
United Kingdom	M, PM, spouses and children	Not applicable	Not specified	Internet	Not specified	Not applicable	Not specified	free hard copies and onlines	Not specified

Source: World Bank

We can find a full public disclosure system in the case of registration of employment and economic interests of members of parliament and ministers in Denmark. Also in the UK parliament, the Register of Members' Financial Interests (as well as the Interests of Members' Secretaries and Research Assistants) and the Register of Lords'

Interests (as well as the Interests of Lords Members' Staff) are available to the public. In many cases declared information which is **proactively** disclosed to the public, it is increasingly published on the Internet. In some countries such information is available on demand only.

For example in France, declarations of assets, after verification by the Supreme authority for transparency in public life within a 3-month deadline, remain semi-confidential and can be consulted in situations with specified authorities, exclusively by voters from the elected representative's constituency, whereby disclosure of the relevant information is subject to a €45,000 fine. Declarations of interests and professional activities are consultable by the public immediately after their submission, on the website of the parliamentary chambers²⁶.

LATVIA

Corruption Prevention and Combating Bureau:

Declarations are publicly accessible but with some restrictions. The non-public part of the declaration includes the residence and personal data details of the public office holder, his or her relatives and any other persons mentioned in the declaration, as well as information on counterparties (parties with whom there is contract), including debtors and creditors.

Regular declarations are stored and maintained by the SRS and the non-confidential part of the declaration is publicly available on the SRS website which is searchable by name. Family members of MPs are not obliged to submit declarations unless they are public office holders. From March 2012, however, all natural persons (in addition to public office holders) have to declare their assets according to established criteria and thresholds. Similar information (as set out above) has to be submitted to the Central Election Commission (CEC) by parliamentary candidates once a political party (organisation) has registered its list of candidates at the CEC. This information is available on the CEC website.

SLOVENIA

Commission for the Prevention of Corruption:

Data on the income and assets of MPs, obtained during the period of holding office and within one year of termination of the mandate, is made publicly available on the website of the CPC. All information referred to above is publicly available, with the exception of information on taxable income. In order to protect the privacy of the person concerned, address and location details are not published, and information on assets and liabilities only includes the total value of each kind of asset/liability referred to above. Changes in assets were to be published yearly as from 2013.

A new online system of asset declarations has recently²⁷ been introduced and seems to offer guarantees for improved compliance in the future.

The 2010 law also incorporated the role of non-governmental organizations (NGOs) into the anti-corruption efforts, allowing the CPC to finance NGO work in this area. The Integrity division assists public and private sector entities in preparing risk assessments of corruption through trainings, monitoring and evaluation.

In terms of public awareness, the CPC hired a Communications Officer in 2009 to assist with public relations and the dissemination of information. Brochures, pamphlets, and posters have been designed to instruct the public of the functions of the CPC and the means by which corruption can be identified. There are also weekly media reports on cases involving corruption, a radio show on integrity, and public debates by members of the CPC on matters of corruption.

²⁶ Regarding this procedure in France, GRECO recommends that declarations of assets by Members of the National Assembly and Senators be made easily accessible to the public at large.

²⁷ An online declaration system was introduced and all officials were required to re-submit their declarations in the new system, a process which was finalised in February 2012. (GRECO, the 4th evaluation)

CONCLUSION

The adoption of more rules and standards require that more concentration should be given to implementation and enforcement issues. The more rules exist, the more management capacity is required to enforce these rules and standards. Whereas individual requirements in fulfilling new obligations (mainly in the field of disclosure policies) are increasing, in many cases control and monitoring bodies are still weak and lack capacities.

Overall, the whole field of enforcement of conflict of interest policies is hugely fragmented; there are almost no commonalities, except in the difficulties in establishing a real independent body. Moreover, differences exist as to centralized or decentralized bodies, finances, composition and powers of the different institutions. This does not mean that the member states are not willing to establish any form of control. Despite current practice, the development seems to be towards the establishment of more independent external bodies.

There are main differences between types of enforcement bodies. One of them is whether they are independent or the control is made in self regulation form.

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	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 Col 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

Source: Regulating conflicts of interest for holders of public office (HPO) 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. (2008)

A study on public office holders in the EU concludes that stronger emphasis should be placed on the credibility and accountability of monitoring bodies, no matter if the oversight instruments work internally (through self-regulation) or externally (through independent bodies). Very little is known as to their operation – relatively non-transparent ethics committees, commissions, etc. Also little evidence exists as to their internal operations, budgets, rules of procedure and working styles.

Regarding the requirement of high standards for monitoring bodies, it is observed that the prevailing system of internal self-control in most member states is not necessarily sufficient. An independent body, with an independent budget, may provide more objective opinions on the state of conflict of interest enforcement. Such independent and outside control of public office holders is rare. It is more common that public bodies control themselves via internal reporting obligations and monitoring mechanisms.

Still, there are more questions than answers, in part thanks to the fact that member states do not evaluate whether the existing institutional structures are efficient and effective.

The data presented above show that an effective enforcement system in the area of conflict of interest depends not only on one single instrument such as an effective disciplinary legislation, setting-up of efficient control and monitoring bodies, but more widely on the existence of an overall national integrity system (Transparency International), or multipronged anti-corruption strategy (World Bank, GRECO), or a multidimensional ethics infrastructure (OECD)²⁸.

Prevention and enforcement are equally important aspects of promoting good governance and reducing vulnerability to corruption. Asset and interest disclosure regimes, and public education and awareness campaigns should be accompanied by sanctions and effective enforcement mechanisms. Beyond establishing appropriate legislative and administrative frameworks, managing conflict of interest requires targeted implementation and enforcement tools.

²⁸ Effectiveness of good governance and ethics in central administration: evaluating reform outcomes in the context of the financial crisis, http://www.dgaep.gov.pt/upload/RI_estudos%20Presid%C3%A2ncias/ETHICS_REPORT_FINAL.pdf

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