

Transitional allowances for former EU office holders - too few conditions?

Budgetary Affairs



DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT D: BUDGETARY AFFAIRS

Transitional allowances for former EU office holders – too few conditions?

STUDY

Abstract

This study focuses on the transitional allowances for former office holders, covering the European Parliament, European Commission, President of the European Council and Secretary General of the Council of the European Union, Court of Justice, Court of Auditors, European Investment Bank, European Central Bank, the Ombudsman and the European Data Protection Supervisor. The arrangements for these institutions are contrasted with approaches in European Union Member States, third countries and international organisations. Room for improvement is identified regarding the effectiveness of transitional allowances, e.g. in terms of preventing conflicts of interest.

IP/D/ALL/FWC/2015-001/LOT2/C4/SC5

13/12/2017

PE 603.806

EN

This document was requested by the European Parliament's Committee on Budgetary Control. It designated its Member Mr Petri Sarvamaa to follow the study.

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LINGUISTIC VERSIONS

Original: EN

Translation of the Executive Summary: DE, FR, FI, ES, IT, PL

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Manuscript completed in December 2017.

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LIST OF ABBREVIATIONS

AT	Austria
BE	Belgium
CA	Canada
CH	Switzerland
CoI	Conflict of Interest
CZ	Czech Republic
DE	Germany
EB	Executive Board of the European Central Bank
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECA	European Court of Auditors
ECB	European Central Bank
EDPS	European Data Protection Supervisor
EIB	European Investment Bank
EP	European Parliament
ERDF	European Regional Development Fund
ES	Spain
EU	European Union
EUR	EURO
FI	Finland
FR	France
IE	Ireland
IT	Italy
MS	Member State
NATO	North Atlantic Treaty Organisation
NL	The Netherlands
OSCE	Organisation for Security and Cooperation in Europe
SE	Sweden

- SK** Slovak Republic
- TA** Transitional Allowances
- PMO** European Commission's Office for the Administration and Payment of Individual Entitlements
- TFEU** Treaty on the Functioning of the European Union
- UN** United Nations
- US** United States of America

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EXECUTIVE SUMMARY

The European Parliament's (EP) Directorate for Budgetary Affairs contracted Blomeyer & Sanz on 13 July 2017 to conduct this study during the months of July to October 2017¹. The study aimed to develop a better understanding of the regulatory framework governing transitional allowances (TA) for former office holders. TA are monthly payments to former office holders made during six months to three years following the end of the mandate or office. The study covers the European Parliament (EP), European Commission (EC), President of the European Council and Secretary General of the Council of the European Union, Court of Justice, Court of Auditors (ECA), European Investment Bank (EIB), European Central Bank (ECB), the Ombudsman and the European Data Protection Supervisor (EDPS). The arrangements for these institutions are contrasted with approaches in European Union (EU) Member States, third countries and international organisations. This executive summary presents the main findings, conclusions and recommendations.

Findings – literature review and civil society positions

Today, there are more opportunities for former office holders to take up a new occupation and empirical data confirms that most former office holders do in fact take up new employment.

This study adds substantial value, since the existing academic literature has only shown scant interest in what happens to former office holders. There is no literature focusing specifically on TA. There is also no literature questioning the *raison d'être* of TA. TA aim: (1) to compensate for periods of unemployment and lack of income (2) to compensate for contribution to public good during the years of mandate or office, (3) to address the fact that office holders have no access to other benefits, most notably unemployment benefits.

The justification for TA is weak considering that office holders benefit of networking and contacts during their office that should put them in a position to secure a follow-up occupation, i.e. this group is rarely exposed to prospects of 'precarious employment'.

Today, former office holders are strongly exposed to conflicts of interest (Col) because of generally active post office occupation. TA are conceived to prevent Col, however, too high levels of TA might negatively affect public trust. There is no empirical evidence concerning the effectiveness of TA in terms of preventing Col.

Several civil society organisations (CSOs) have commented on the EU institutions' policies and legislation relevant to TA, including the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU), Transparency International EU (TI-EU), the Corporate Europe Observatory (CEO), and the Taxpayers' Association of Europe (TAE). These CSOs agree that TA are essential to prevent Col. CSOs advocate for stricter conditions regarding the type of employment that can be accepted during the TA period and argue for an alignment between the period of entitlement to TA and the length of post-office restrictions.

Findings – regulatory framework

- **What are the rules on TA?** The EU institutions' regulatory framework for TA is fragmented and rules are authored by different institutions, following different procedures (e.g. only by the Council, by the EP with Council consent). TA in the EU institutions is mainly governed by (i) [Decision 2005/684](#) for Members of the EP; (ii) [Regulation 422/67](#) for office holders in place before 4 March 2016 in the European Council (President), the EC, the Court, Ombudsman,

¹ The research team included Dr. Christoph Demmke, Roland Blomeyer (assisted by Annika Weikinnis), and Dr. Mike Beke.

European Data Protection Supervisor, the EIB; and (iii) [Regulation 2016/300](#) for office holders in place as of 4 March 2016 in the same institutions as for Regulation 422/67, and adding the ECA and the Secretary General of the Council; TA in the ECB are modelled on Regulation 422/67.

- Why are TA required?** Decision 2005/684 and Regulation 2016/300 explain TA with the need to provide for financial security; Regulation No 422/67 does not specify a rationale for TA. It is worth noting that **there is no explicit mention of any relation between TA and post-office employment restrictions**. Notwithstanding, the current regulatory framework is largely modelled on the framework in place in the early 1960s when **TA were conceived in the context of the three years of occupational restrictions** according to Art. 9 of the Treaty on the European Coal and Steel Community. The missing alignment between the duration of TA and length of post-office restrictions explains the CSOs' demands for the duration of post-office requirements to be extended to two years to ensure full alignment with the maximum duration of the TA under Regulation 2016/300 and three years for Regulation 422/67. Indeed, whilst for some institutions the duration of TA is longer than the duration of post-office restrictions (e.g. EC, Council, EIB, ECB), for others it is the other way around (under 2016/300 for the Court of Justice, ECA). Member States mostly emphasise the use of TA to ensure financial security (AT, BE, CZ, DE, FI, FR, IT, NL, SE, SK). Interestingly, limited reference is made to TA contributing to avoiding Col (ES, CA).
- Who benefits of TA?** In total, 866 office holders are entitled to TA, the large majority (some 87%) being Members of the EP. It is interesting to note that in the EU institutions, **the entitlement to TA is not related to the 'modus' of ceasing to hold office**, the regulatory framework does not differentiate between voluntary resignation and end of term. TA become due when the office holder 'ceases to hold office' (422/67 and 2016/300), and 'following the cessation of their duties' (2005/684). In BE, CH, UK and the EBRD, an office holder relinquishes the right to TA when resigning voluntarily.
- For how long does the entitlement to TA last?** Regulation 422/67 stipulates a duration of the entitlement to TA of three years. Regulation 2016/300 introduced an alignment of the duration of TA with the length of service with a minimum duration of six months and a maximum duration of two years. EC feedback confirms that the minimum duration of the entitlement is six months, i.e. in cases of a public office holder having served less than six months, the duration of the entitlement is not equal to the length of the period of service. Decision 2005/684 foresees TA for between six and 24 months. Note that the EP requires former members to have served for at least one year to qualify for TA. Examples from beyond the EU institutions show different arrangements, ranging from one-off payments (CA, CZ, IT, UK, NATO, OECD, OSCE) to TA of between three months (AT, FR, NL, SK) and up to 15 years (SE).
- What is the monetary value of TA?** Regulation 422/67 and 2016/300 entitle former office holders to a monthly allowance of 40-65% of basic salary depending on length of service; Decision 2005/684 entitles former members to a TA equivalent to the member's former salary, i.e. there is no percentage range depending on length of service. To illustrate, this report presents the example of a fictitious former office holder / member of the EP having served for five years – this office holder is entitled to TA over 24 months of between EUR 235 055,88 (Secretary-General, Council of the EU) and EUR 324 377,11 (President, European Council; President, EC; President, Court of Justice; President EIB). A former MEP is entitled to EUR 50 904,30 over six months. Examples from beyond the EU institutions show substantial variety with the volume of TA often related to length of service (BE, CZ, DE, DK, IT, NL, SE, UK, OSCE, WB). The TA arrangements in Sweden are particularly noteworthy with two parallel systems currently in place and an interesting relation between volume of TA and age / needs.

- **Information duties to justify the entitlement?** To allow the institutions to verify the continuing validity of the entitlement to TA, former office holders need to report changes in their situation (upon ending office/mandate and in case of changes in employment). However, the reporting of changes relies largely on the good faith of the former office holder, e.g. former office holders are not obliged to submit tax returns. Some of the Member State cases point to comprehensive information duties (ES, NL, SE). The Spanish case is interesting in as far as the Social Security Services have a role to alert the authority in charge of TA of relevant changes in the beneficiary's employment situation.
- **TA compatible with new employment?** When former office holders take up new activities, their entitlements can be reduced or ended. Regulations 422/67 and 2016/300 end the entitlement upon a former office holder being 'reappointed to office in one of the institutions' and reduces the entitlement in case of a former office holder taking up a 'gainful activity' during the period of the entitlement to TA. In case of the EP, the entitlement is offset against income from a new mandate in another parliament or a public office. TA is not reduced if a Member of the EP assumes a public office without becoming a 'senior official exercising public authority' or assumes an occupation in the private sector. Some of the examples from beyond the EU institutions provide for a reduction of TA (CZ, DE, FI, NL, SE, EBRD president) or simply end the TA in case of new employment (AT, CH, ES, FR, SK in case of public sector employment, UK for members of government). In some cases, there are no reductions (CA, IT, SK in case of private sector employment, UK for members of parliament, EBRD vice-presidents).

Findings – practice

- There is a clear relation between budget outturn for TA and the EP elections / EC renewal, e.g. the budget outturn for TA increased from EUR 4,3 to EUR 19,6 million between 2013 and 2014. During the entire period 2011-2016, the total budget outturn for TA (EP, EC, the Court of Justice, ECA, the Ombudsman and the EDPS) amounted to EUR 61,1 million. The corresponding figure for retirement pensions (for the same period and institutions) was EUR 156,1 million.
- Members or office holders in the EU institutions do not automatically benefit from TA, but need to apply and declare their employment situation when leaving. Moreover, there is a requirement for annual declarations to verify the continuing entitlement and notification of changes. This is in line with practice in Member States, third countries and international organisations. For Regulations 422/67 and 2016/300, the annual declaration requires the former office holder to provide 'proof of income, e.g. last tax return, payslip or employment contract'.
- Experience with the implementation of the regulatory framework suggests room for improvement with regard to monitoring, since there have been issues over the accuracy of information provided by former office holders. There is one known case of failure to inform, and one example of an oversight of a former member to declare activity (not giving rise to remuneration). Moreover, the civil society organisation CEO operates a campaign entitled 'Revolving Door Watch', listing the cases of alleged revolving door incidents, inter alia, for office holders covered by this study. The current listing includes 14 former members of the EC, 19 former members of the EP, and one former President of the Council. Whilst the information presented for these individuals does not suggest that there were any failures to comply with the regulatory framework on TA (with one exception), it could be argued that the objective and underlying rationale behind the TA is not being achieved if former office holders engage in activity that can be discussed in the revolving door context, during the time that the office holders are entitled to TA (the TA intends to prevent office holders from feeling under financial pressure to engage in new activity).

Conclusions and recommendations

This study has shown that limited research (actual data on needs of former members and office holders) has accompanied the development of the current regulatory framework on TA. Indeed, the current regulatory arrangements on TA are largely identical to those introduced for the very first European office holders back in the early 1960s. No genuine insights exist into what the EU institutions' former members and office holders actually need.

The concerned institutions are advised to consider five recommendations:

- **Harmonise rules:** The EU regulatory approach to TA is fragmented. For example, new employment in the private sector causes TA to be reduced under Regulations 422/67 and 2016/300, but not under Decision 2005/684; etc. The justification of these differences is not obvious.
- **Verify whether TA serve their stated purpose:** The current regulatory framework explains TA with the need to ensure financial security following the end of mandate and office. Existing academic research suggests this need does only exist to a very limited extent, and it is recommended to now conduct research into former members' and office holders' activities to ascertain needs ex-post. TA could be reformed, e.g. by taking inspiration from the Swedish or Swiss models where TA (can) depend on needs. Consideration could also be given to other types of support, e.g. counselling in advance to the end of the mandate or office. In the context of discussing needs, further consideration could also be given to the 'modus' of ending the mandate or office. In some countries, there is no TA in case of voluntary resignation. The review of a needs-based system should also consider the argument that these needs might have already been addressed by 'above average' salaries during the mandate or office.
- **Design TA to motivate former members or office holders to take up new employment compatible with their former mandate or office:** TA could be designed in such a way that members and office holders are incentivised to look for follow-up employment (a practice identified in The Netherlands).
- **Strengthen the relationship between TA and post-office employment restrictions:** The missing alignment between the duration of TA and the length of post-office restrictions explains the CSOs' demands for the duration of post-office requirements to be extended. Indeed, whilst for some institutions the duration of TA is longer than the duration of post-office restrictions, for others it is the other way around. Note that this recommendation is only relevant if the EU institutions agree on the relationship between TA and post-office employment restrictions. In the affirmative, questions could still be raised about the 'ethics' of a monetary compensation of the avoidance of Col (nobody is forced into unemployment – since occupations not implying a Col are not an issue).
- **Enhance monitoring of continued entitlement to TA:** Current monitoring practice under Regulations 422/67 and 2016/300 allows former office holders, at their choice, to support their annual declaration with 'proof of income, e.g. last tax return, payslip or employment contract'; it might be better to require the submission of the tax return since this document provides a comprehensive, and independently verified, account of all income.

ZUSAMMENFASSUNG

Die Direktion Haushaltsangelegenheiten des Europäischen Parlaments (EP) hat Blomeyer & Sanz am 13. Juli 2017 beauftragt, die vorliegende Studie während der Monate Juli bis Oktober 2017 durchzuführen.² Die Studie sollte zur Entwicklung eines besseren Verständnisses des Rechtsrahmens für Übergangsgelder (ÜG) für ehemalige Amtsträger beitragen. Bei ÜG handelt es sich um monatliche Zahlungen an ehemalige Amtsträger, die für einen Zeitraum zwischen sechs Monaten und drei Jahren ab Ende des Mandats oder Amtes geleistet werden. Die Studie erstreckt sich auf das Europäische Parlament (EP), die Europäische Kommission (EC), den Präsidenten des Europäischen Rates und den Generalsekretär des Rates der Europäischen Union, den Gerichtshof, den Rechnungshof (EuRH), die Europäische Investitionsbank (EIB), die Europäische Zentralbank (EZB), den Bürgerbeauftragten und den Europäischen Datenschutzbeauftragten (EDSB). Die für diese Organe geltenden Regelungen werden den Herangehensweisen in Mitgliedstaaten der Europäischen Union (EU), Drittländern und internationalen Organisationen gegenübergestellt. In dieser Zusammenfassung werden die wesentlichen Erkenntnisse, Schlussfolgerungen und Empfehlungen dargelegt.

Erkenntnisse – Literaturanalyse und Positionen der Zivilgesellschaft

Heute bestehen für ehemalige Amtsträger mehr Möglichkeiten, eine neue Beschäftigung anzunehmen. Aus empirischen Daten geht hervor, dass die meisten ehemaligen Amtsträger in der Tat eine neue Arbeitsstelle antreten.

Die vorliegende Studie bietet einen erheblichen Mehrwert, da der Zukunft ehemaliger Amtsträger von der Fachliteratur bisher nur wenig Beachtung geschenkt worden ist. Es gibt keine Literatur, die sich konkret dem Thema ÜG widmet. Es gibt auch keine Literatur, in der die Daseinsberechtigung von ÜG hinterfragt wird. Der Zweck von ÜG besteht darin, (1) Zeiten der Beschäftigungslosigkeit und des fehlenden Einkommens zu überbrücken, (2) Beiträge zum Gemeinwohl während der Jahre des Mandats oder Amtes auszugleichen, (3) der Tatsache Rechnung zu tragen, dass Amtsträger kein Anrecht auf andere Leistungen wie insbesondere Arbeitslosengelder haben.

Angesichts der Tatsache, dass diese Amtsträger während ihrer Amtszeit von Netzwerken und Kontakten profitieren, die ihnen den Antritt einer neuen Arbeitsstelle im Anschluss an ihre Amtszeit ermöglichen sollten, d. h. diese Gruppe selten der Aussicht auf ein „prekäres Beschäftigungsverhältnis“ ausgesetzt ist, steht die Daseinsberechtigung für ÜG auf schwachem Boden.

Ehemalige Amtsträger sind heute durch ihre in der Regel aktive Beschäftigung nach ihrer Amtszeit in hohem Maße Interessenkonflikten ausgesetzt. Während ÜG dazu gedacht sind, Interessenkonflikte zu vermeiden, könnte das Vertrauen der Öffentlichkeit durch zu hohe ÜG beeinträchtigt werden. Es liegen keine empirischen Nachweise über die Wirksamkeit von ÜG bei der Vermeidung von Interessenkonflikten vor.

Eine Reihe von Organisationen der Zivilgesellschaft einschließlich der Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU), Transparency International EU (TI-EU), Corporate Europe Observatory (CEO) und der Taxpayers' Association of Europe (TAE), haben sich zu den Maßnahmen und Vorschriften der Gemeinschaftsorgane in Bezug auf ÜG geäußert. Diese zivilgesellschaftlichen Organisationen sind sich darin einig, dass ÜG zur Vermeidung von Interessenkonflikten unerlässlich sind. Organisationen der Zivilgesellschaft treten für strengere Auflagen in Bezug auf die Art der Beschäftigung ein, die während des Zeitraums der Zahlung von ÜG

² Dem Forschungsteam gehörten Dr. Christoph Demmke, Roland Blomeyer (mit Unterstützung durch Annika Weikinnis) und Dr. Mike Beke an.

angenommen werden kann, und plädieren dafür, den Zeitraum des Anspruchs auf ÜG und die Dauer der Beschäftigungseinschränkung nach der Amtszeit aufeinander abzustimmen.

Erkenntnisse – Rechtsrahmen

- **Welche Vorschriften gelten für ÜG?** Der Rechtsrahmen der Gemeinschaftsorgane in Bezug auf ÜG ist zersplittert, und die Vorschriften werden von verschiedenen Organen nach verschiedenen Verfahren festgelegt (z. B. nur durch den Rat, durch das EP mit Zustimmung des Rates). Für ÜG in den Gemeinschaftsorganen sind in erster Linie die folgenden Bestimmungen maßgeblich: **(i) Beschluss 2005/684** für Mitglieder des EP; **(ii) Verordnung Nr. 422/67**, die vor dem 4. März 2016 für Amtsträger des Europäischen Rates (Präsident), der Kommission, des Gerichtshofes, den Bürgerbeauftragten, den Europäischen Datenschutzbeauftragten, Amtsträger der EIB galt; und **(iii) Verordnung Nr. 2016/300**, die ab dem 4. März 2016 für Amtsträger in denselben Organen wie Verordnung Nr. 422/67 sowie zusätzlich den EuRH und den Generalsekretär des Rates gilt; ÜG in der EZB werden gemäß Verordnung Nr. 422/67 geregelt.
- **Warum sind ÜG erforderlich?** In Beschluss Nr. 2005/684 und Verordnung Nr. 2016/300 werden ÜG mit dem Erfordernis der finanziellen Sicherheit begründet, während in Verordnung Nr. 422/67 keine Begründung für ÜG angegeben wird. Es ist darauf hinzuweisen, dass es **keine ausdrückliche Erwähnung eines Zusammenhangs zwischen ÜG und Beschäftigungseinschränkungen nach der Amtszeit gibt**. Nichtsdestoweniger entspricht der derzeitige Rechtsrahmen weitgehend dem Rechtsrahmen der frühen 1960er-Jahre, als **ÜG vor dem Hintergrund der dreijährigen Beschäftigungseinschränkung** gemäß Art. 9 des Vertrags über die Gründung der Europäischen Gemeinschaft für Kohle und Stahl konzipiert wurden. Die fehlende Ausrichtung der Dauer der Zahlung von ÜG auf die Länge der Beschäftigungseinschränkung nach der Amtszeit erklärt die Forderungen zivilgesellschaftlicher Organisationen, die Länge der Beschäftigungseinschränkung nach der Amtszeit auf zwei Jahre auszudehnen, um eine vollständige Angleichung an die maximale Dauer der Zahlung von ÜG gemäß Verordnung Nr. 2016/300 bzw. auf drei Jahre bei Verordnung Nr. 422/67 sicherzustellen. In der Tat liegt der Zeitraum für die Zahlung von ÜG bei einigen Organen über der Länge der Beschäftigungseinschränkung nach der Amtszeit (z. B. Kommission, Rat, EIB, EZB), während es bei anderen Organen genau umgekehrt ist (gemäß Verordnung Nr. 2016/300 für den Gerichtshof, den EuRH). Die Mitgliedstaaten begründen die Zahlung von ÜG in erster Linie damit, für finanzielle Sicherheit sorgen zu wollen (AT, BE, CZ, DE, FI, FR, IT, NL, SE, SK). Interessanterweise wird kaum auf ÜG zur Vermeidung von Interessenkonflikten Bezug genommen (ES, CA).
- **Wer profitiert von ÜG?** Insgesamt haben 866 Amtsträger Anspruch auf ÜG, wobei es sich bei der überwiegenden Mehrheit (ca. 87 %) um Mitglieder des EP handelt. Interessanterweise **steht der Anspruch auf ÜG in den Gemeinschaftsorganen in keinem Zusammenhang zu dem „Modus“ für die Beendigung der Amtszeit**: Der Rechtsrahmen unterscheidet nicht zwischen einem freiwilligen Rücktritt und einem Ablauf der Amtszeit. ÜG werden fällig, wenn der Amtsträger „aus dem Amt ausscheidet“ (422/67 und 2016/300), bzw. „nach Ende des Mandats“ (2005/684). In BE, CH, UK und der EBWE verliert ein Amtsinhaber bei einem freiwilligen Rücktritt sein Anrecht auf ÜG.
- **Wie lange dauert der Anspruch auf ÜG?** In Verordnung Nr. 422/67 ist die Dauer des Anspruchs auf ÜG auf drei Jahre festgelegt. Mit Verordnung Nr. 2016/300 wurde eine Ausrichtung der Dauer von ÜG an die Dauer der Amtstätigkeit mit einer Mindestdauer von sechs Monaten und einer Höchstdauer von zwei Jahren eingeführt. Aus Rückmeldungen der

Kommission geht hervor, dass die Mindestdauer des Anspruchs tatsächlich sechs Monate beträgt, d. h. wenn ein öffentlicher Amtsträger weniger als sechs Monate im Dienst war, entspricht die Dauer des Anspruchs auf ÜG nicht der Länge der Amtstätigkeit. In Beschluss Nr. 2005/684 ist eine Dauer der Zahlung von ÜG zwischen sechs und 24 Monaten vorgesehen. Wohlgermerkt sieht das EP vor, dass ehemalige Mitglieder mindestens ein Jahr im Dienst gewesen sein müssen, bevor sie einen Anspruch auf ÜG erwerben. Außerhalb der Gemeinschaftsorgane gelten unterschiedliche Regelungen, die von einmaligen Zahlungen (CA, CZ, IT, UK, NATO, OECD, OSZE) zu ÜG über einen Zeitraum zwischen drei Monaten (AT, FR, NL, SK) und bis zu 15 Jahren (SE) reichen.

- **Was ist der monetäre Wert von ÜG?** Laut den Verordnungen Nr. 422/67 und 2016/300 haben ehemalige Amtsträger je nach Länge der Amtstätigkeit Anspruch auf eine monatliche Zahlung von 40-65 % des Grundgehalts; gemäß Beschluss Nr. 2005/684 haben ehemalige Mitglieder Anspruch auf ein Übergangsgeld, das sich an der Höhe des früheren Gehalts des Mitglieds orientiert, d. h. es gibt keinen Prozentbereich in Abhängigkeit von der Länge der Diensttätigkeit. Zur Veranschaulichung wird in diesem Bericht das Beispiel eines fiktiven ehemaligen Amtsträgers/Mitglieds des EP herangezogen, dessen Amtstätigkeit fünf Jahre beträgt. Demnach hat dieser Amtsträger Anspruch auf ein Übergangsgeld über 24 Monate zwischen 235 055,88 EUR (Generalsekretär, Rat der EU) und 324 377,11 EUR (Präsident, Europäischer Rat; Präsident, Kommission; Präsident, Gerichtshof; Präsident EIB). Ein ehemaliges Mitglied des Parlaments hat Anspruch auf 50 904,30 EUR über sechs Monate. Außerhalb der Gemeinschaftsorgane gibt es erhebliche Unterschiede, wobei das Volumen von ÜG häufig in Bezug zur Länge der Amtstätigkeit (BE, CZ, DE, DK, IT, NL, SE, UK, OSZE, WB) steht. Besonders bemerkenswert sind die ÜG-Regelungen in Schweden, da hier derzeit zwei parallele Systeme und ein interessanter Zusammenhang zwischen ÜG-Volumen und Alter/Erfordernissen bestehen.
- **Informationspflichten zur Begründung des Anspruchs?** Um den Organen zu ermöglichen, die fortgesetzte Anspruchsberechtigung auf ÜG zu überprüfen, müssen ehemalige Amtsträger Änderungen ihrer Situation (bei Ende des Amts/Mandats und bei Änderungen in Bezug auf ihre Beschäftigung) melden. Die Meldung von Änderungen beruht allerdings weitgehend auf Treu und Glauben des ehemaligen Amtsträgers, d. h. ehemalige Amtsträger sind nicht verpflichtet, Steuererklärungen einzureichen. Einige Mitgliedstaaten sehen umfassende Informationspflichten vor (ES, NL, SE). Interessant ist der Fall Spanien, da die Sozialversicherungsträger dafür zuständig sind, die für ÜG verantwortliche Behörde bei maßgeblichen Änderungen der Beschäftigungslage des Empfängers in Kenntnis zu setzen.
- **ÜG mit neuer Beschäftigung vereinbar?** Wenn ehemalige Amtsträger neue Tätigkeiten aufnehmen, können ihre Ansprüche auf ÜG verringert oder beendet werden. Gemäß den Verordnungen Nr. 422/67 und 2016/300 erlischt der Anspruch, „wenn dem ehemaligen Amtsträger in den Organen der Union ein neues Amt übertragen wird“. Wenn der ehemalige Amtsträger „während des Zeitraums, in dem er Anspruch auf das monatliche Übergangsgeld hat, eine Erwerbstätigkeit“ aufnimmt, vermindert sich der Anspruch. Im Fall des EP wird der Anspruch mit den Einkünften aus einem neuen Mandat in einem anderen Parlament oder öffentlichen Amt verrechnet. Das ÜG verringert sich nicht, wenn ein MdEP ein öffentliches Amt antritt, ohne ein hoher Beamter mit öffentlicher Gewalt zu werden, oder eine Beschäftigung im Privatsektor annimmt. Einige Fälle außerhalb der Gemeinschaftsorgane sehen eine Verminderung des ÜG vor (CZ, DE, FI, NL, SE, Präsident der EBWE) oder beenden das ÜG im Fall einer neuen Beschäftigung (AT, CH, ES, FR, SK bei Beschäftigung im öffentlichen Sektor, UK für

Regierungsmitglieder). In einigen Fällen verringert sich das ÜG nicht (CA, IT, SK bei Beschäftigung im Privatsektor, UK für Parlamentsmitglieder, Vizepräsidenten der EBWE).

Erkenntnisse – Praxis

- Es besteht ein eindeutiger Zusammenhang zwischen den Haushaltsausgaben für ÜG und den EP-Wahlen/Wechseln der Kommission, d. h. die Haushaltsausgaben für ÜG stiegen zwischen 2013 und 2014 von 4,3 Mio. EUR auf 19,6 Mio. EUR. Während des gesamten Zeitraums 2011-2016 beliefen sich die Haushaltsausgaben für ÜG insgesamt (EP, EC, Gerichtshof, EuRH, Bürgerbeauftragter und EDSB) auf 61,1 Mio. EUR. Die entsprechende Zahl für Ruhegehälter (für denselben Zeitraum und die gleichen Organe) betrug 156,1 Mio. EUR.
- Mitglieder oder Amtsträger in den Gemeinschaftsorganen profitieren nicht automatisch von ÜG, sondern müssen bei ihrem Ausscheiden einen Antrag unter Erläuterung ihrer Beschäftigungslage stellen. Darüber hinaus sind jährliche Erklärungen einzureichen, um die fortgesetzte Anspruchsberechtigung zu belegen, und es besteht die Pflicht zur Mitteilung von Änderungen. Dies entspricht der Praxis in den Mitgliedstaaten, Drittländern und internationalen Organisationen. Gemäß den Verordnungen Nr. 422/67 und 2016/300 muss der ehemalige Amtsträger in seiner jährlichen Erklärung einen Einkommensnachweis wie beispielsweise die letzte Steuererklärung, Gehaltsabrechnung oder den letzten Beschäftigungsvertrag vorlegen.
- Aus den Erfahrungen bei der Umsetzung des Rechtsrahmens geht hervor, dass im Hinblick auf die Überwachung noch Verbesserungsbedarf besteht, da es Probleme mit der Genauigkeit der von ehemaligen Amtsträgern eingereichten Informationen gegeben hat. Es gibt einen bekannten Fall der Nichtinformation und ein Beispiel eines Übersehens der Angabe einer Tätigkeit (ohne Vergütung) durch ein ehemaliges Mitglied. Ferner betreibt die zivilgesellschaftliche Organisation CEO eine Kampagne mit dem Titel „Revolving Door Watch“, in deren Rahmen vermeintliche Drehtürvorfälle unter anderem für die Amtsträger, die Gegenstand dieser Studie sind, aufgeführt werden. Die aktuelle Aufstellung umfasst 14 ehemalige Mitglieder der Kommission, 19 ehemalige Mitglieder des Parlaments und einen ehemaligen Präsident des Rates. Während die dargelegten Informationen über diese Personen nicht unbedingt den Schluss zulassen, dass gegen den Rechtsrahmen für ÜG verstoßen worden ist (mit einer Ausnahme), könnte angeführt werden, dass der Zweck und zugrunde liegende Gedanke von ÜG entfällt, wenn ehemalige Amtsträger während der Zeit ihres Anspruchs auf ÜG einer Tätigkeit nachgehen, die in den Zusammenhang mit einem Drehtüreffekt gestellt werden kann (da der Zweck des ÜG darin besteht, Amtsträgern von dem finanziellen Druck zu befreien, eine neue Tätigkeit aufzunehmen).

Schlussfolgerungen und Empfehlungen

Die vorliegende Studie lässt darauf schließen, dass die Ausarbeitung des derzeitigen Rechtsrahmens zu ÜG nur in begrenztem Umfang auf Forschungsergebnissen (tatsächlichen Daten zu den Erfordernissen ehemaliger Mitglieder und Amtsträger) beruht. In der Tat entsprechen die derzeitigen Regelungen zu ÜG weitgehend jenen, die in den frühen 1960er-Jahren für die allerersten europäischen Amtsträger eingeführt wurden. Es gibt keine konkreten Erkenntnisse, was ehemalige Mitglieder und Amtsträger der Gemeinschaftsorgane tatsächlich benötigen.

Den betreffenden Organen wird angeraten, fünf Empfehlungen in Erwägung zu ziehen:

- **Harmonisierung der Vorschriften:** Der regulatorische Ansatz der EU für ÜG ist zersplittert. So verringert sich beispielsweise das ÜG gemäß den Verordnungen Nr. 422/67 und 2016/300 bei einer neuen Beschäftigung im Privatsektor, nicht jedoch gemäß Beschluss Nr. 2005/684 usw. Für diese Unterschiede gibt es keinen triftigen Grund.

- **Überprüfung der Erfüllung des angegebenen Zwecks:** Gemäß dem derzeitigen Rechtsrahmen werden ÜG mit dem Erfordernis begründet, die finanzielle Sicherheit nach Ende des Mandats oder Amts sicherzustellen. Aus der bestehenden akademischen Forschung geht hervor, dass dieses Erfordernis nur in sehr begrenztem Umfang besteht. Es empfiehlt sich daher, nun die Tätigkeiten ehemaliger Mitglieder und Amtsträger zu untersuchen, um die Bedürfnisse im Nachhinein festzustellen. ÜG könnten reformiert werden, beispielsweise in Anlehnung an das schwedische oder Schweizer Modell, wo ÜG von den Bedürfnissen abhängen (können). Auch andere Formen der Unterstützung könnten in Erwägung gezogen werden, etwa in Form einer Beratung vor Beendigung des Mandats oder Amts. Im Zusammenhang mit der Erörterung von Bedürfnissen könnte auch der „Modus“ der Beendigung des Mandats oder Amts berücksichtigt werden. So werden in einigen Ländern im Anschluss an einen freiwilligen Rücktritt keine ÜG geleistet. Bei der Überprüfung eines bedarfsorientierten Systems sollte auch das Argument berücksichtigt werden, dass diesen Bedürfnissen bereits durch die überdurchschnittlichen Gehälter während des Mandats oder Amts Rechnung getragen worden ist.
- **Gestaltung von ÜG auf eine Weise, dass ehemalige Mitglieder oder Amtsträger motiviert werden, eine mit ihrem ehemaligen Mandat oder Amt vereinbare neue Beschäftigung anzunehmen:** ÜG könnten so konzipiert werden, dass Mitgliedern und Amtsträgern ein Anreiz geboten wird, sich eine Folgebeschäftigung zu suchen (diese Praxis wurde in den Niederlanden festgestellt).
- **Stärkung des Zusammenhangs zwischen ÜG und Beschäftigungseinschränkungen nach der Amtszeit:** Die fehlende Ausrichtung der Dauer der Zahlung von ÜG auf die Länge der Beschäftigungseinschränkung nach der Amtszeit erklärt die Forderungen zivilgesellschaftlicher Organisationen, die Dauer der Beschäftigungseinschränkungen nach der Amtszeit auszudehnen. In der Tat liegt der Zeitraum für die Zahlung von ÜG bei einigen Organen über der Länge der Beschäftigungseinschränkung nach der Amtszeit, während es bei anderen Organen genau umgekehrt ist. Diese Empfehlung ist wohl gemerkt nur maßgeblich, wenn sich die Gemeinschaftsorgane auf den Zusammenhang zwischen ÜG und Beschäftigungseinschränkungen nach der Amtszeit einigen können. Bei Bejahung könnten immer noch Fragen nach der „Ethik“ einer monetären Vergütung der Vermeidung von Interessenkonflikten gestellt werden (niemand wird zur Beschäftigungslosigkeit gezwungen – da Beschäftigungen, die keinen Interessenkonflikt nach sich ziehen, kein Problem darstellen).
- **Verbesserte Überwachung der fortgesetzten Anspruchsberechtigung für ÜG:** Die derzeitige Überwachungspraxis nach Verordnung Nr. 422/67 und 2016/300 räumt ehemaligen Amtsträgern die Möglichkeit ein, ihre jährliche Erklärung freiwillig mit einem Einkommensnachweis wie der letzten Steuererklärung, Gehaltsabrechnung oder dem letzten Beschäftigungsvertrag zu stützen; möglicherweise ist es sinnvoller, die Einreichung der Steuererklärung anzufordern, da dieses Dokument eine umfassende und unabhängig geprüfte Rechenschaft über alle Einkünfte bietet.

SYNTHÈSE

Le 13 juillet 2017, la direction des affaires budgétaires du Parlement européen (PE) a donné mission au cabinet de conseil Blomeyer & Sanz de mener une étude (juillet à octobre 2017) pour mieux comprendre le cadre réglementaire régissant l'indemnité transitoire (IT) des anciens titulaires d'une charge publique³. L'IT est une indemnité mensuelle versée aux anciens titulaires d'une charge publique pendant six mois à trois ans à l'issue de leur mandat. L'étude porte sur le Parlement européen (PE), la Commission européenne (CE), le Président du Conseil européen, le Secrétaire général du Conseil de l'Union européenne, la Cour de Justice, la Cour des comptes européenne (CCE), la Banque européenne d'investissement (BEI), la Banque centrale européenne (BCE), le Médiateur européen et le Contrôleur européen de la protection des données (CEPD). Les procédures en vigueur dans ces institutions ont été comparées à celles adoptées par les États membres de l'Union européenne (UE), les pays tiers et les organisations internationales. Cette note de synthèse présente les principales constatations, conclusions et recommandations de l'étude.

Documentation existante et positions de la société civile

Aujourd'hui, les anciens titulaires d'une charge publique trouvent plus facilement un nouvel emploi et l'observation confirme que la plupart d'entre eux se remettent effectivement à travailler après la fin de leur mandat.

Les données recueillies dans le cadre de cette étude sont précieuses car jusqu'ici, les chercheurs ne se sont guère intéressés à ce qui arrive aux anciens titulaires d'une charge publique après qu'ils ont quitté leurs fonctions. Il n'existe pas de recherches spécifiquement consacrées à l'IT, ni à sa raison d'être, et rien sur une éventuelle remise en question. L'objectif de l'IT est de: 1) servir de compensation pour une période de chômage et l'absence de revenu; 2) compenser la contribution au bien public pendant la période de mandat; 3) tenir compte du fait que les personnes en question n'ont pas droit à d'autres prestations, notamment les allocations de chômage.

Cette justification est peu convaincante compte tenu des réseaux et des contacts établis par les titulaires d'une charge publique pendant la période où ils l'occupent, qui les mettent à l'abri de la précarité.

Aujourd'hui, les anciens titulaires d'une charge publique sont fortement exposés au risque de conflit d'intérêts du fait qu'ils occupent ensuite souvent des postes à responsabilités. L'IT sert à prévenir ces conflits d'intérêts, mais un montant trop élevé pourrait avoir une influence négative sur la confiance du public. Aucune constatation ne vient étayer l'affirmation selon laquelle l'IT serait un moyen de prévention efficace des conflits d'intérêts.

Certaines organisations de la société civile, dont l'Alliance pour la transparence et l'éthique du lobbying, Transparency International EU, Corporate Europe Observatory et l'Association des contribuables d'Europe, se sont exprimées sur les procédures et textes législatifs de l'Union relatifs à l'IT. Ces organisations conviennent que l'IT est un moyen de prévention essentiel des conflits d'intérêts. Elles se prononcent pour un durcissement des conditions concernant le type d'emploi susceptible d'être accepté pendant la période d'indemnisation transitoire et pour une harmonisation entre la durée de cette indemnisation et celle des restrictions professionnelles après la sortie de charge.

³ L'équipe de recherche était composée de Christoph Demmke, de Roland Blomeyer assisté d'Annika Weikinnis, et de Mike Beke.

Cadre législatif

- **Quelles sont les règles en matière d'IT?** Concernant l'IT, le cadre réglementaire des institutions européennes est fragmenté et les règles sont rédigées par différentes institutions, suivant différentes procédures (par exemple, uniquement par le Conseil ou par le PE avec l'approbation du Conseil). Dans les institutions européennes, l'IT est principalement régie par: 1) la **décision 2005/684** pour les députés européens; 2) le **règlement n° 422/67** pour les titulaires d'une charge publique entrés en fonctions avant le 4 mars 2016 (Président du Conseil européen, Commission européenne, Cour de justice, Médiateur, Contrôleur européen de la protection des données et BEI); et 3) le **règlement 2016/300** dans les mêmes institutions pour une entrée en fonctions à partir du 4 mars 2016 plus la Cour des comptes et le Secrétaire général du Conseil. À la BCE, l'IT est régie par le règlement 422/67.
- **En quoi l'IT est-elle nécessaire?** La décision 2005/684 et le règlement 2016/300 justifient l'IT par la nécessité d'assurer la sécurité financière des personnes concernées, le règlement n° 422/67 quant à lui ne précise pas la raison d'être de cette indemnité. Il est à noter qu'aucun de ces textes **ne fait explicitement mention d'une quelconque relation entre l'IT et les restrictions professionnelles d'après mandat**. Cependant, le cadre réglementaire actuel s'inspire largement du cadre en vigueur au début des années 1960. **L'IT s'inscrivait alors dans le contexte d'une période de trois ans de restrictions professionnelles** en vertu de l'article 9 du traité instituant la Communauté européenne du charbon et de l'acier (traité CECA). Aujourd'hui, la durée de perception de l'IT ne correspond plus à celle des restrictions professionnelles d'après mandat, c'est pourquoi les organisations de la société civile demandent que la période de restrictions soit étendue à deux ans pour l'aligner sur la durée maximale d'indemnisation transitoire au titre du règlement 2016/300 et à trois ans pour une IT régie par le règlement 422/67. En effet, si dans certaines institutions, la durée d'indemnisation transitoire dépasse celle des restrictions d'après mandat (Commission européenne, Conseil, BEI et BCE), pour d'autres, c'est l'inverse (règlement 2016/300 pour la Cour de justice et la Cour des comptes). La plupart des États membres insistent sur le fait que l'IT permet d'assurer une sécurité financière (Autriche, Belgique, République tchèque, Allemagne, Finlande, France, Italie, Pays-Bas, Suède, Slovaquie). On peut relever que seuls quelques pays mentionnent que l'IT peut contribuer à prévenir les conflits d'intérêt (Espagne, Canada).
- **Qui bénéficie de l'IT?** Au total 866 titulaires d'une charge publique ont droit à une IT, dont une large majorité de députés au Parlement européen (environ 87 %). Il est à noter que, pour les institutions de l'Union, **la façon dont le mandat prend fin n'a aucune incidence sur la perception de l'IT**, le cadre réglementaire ne distinguant pas la démission volontaire de la simple cessation de fonctions. L'IT est due au titulaire d'une charge publique lorsqu'il «cesse d'exercer ses fonctions» (422/67 et 2016/300), et aux députés «à l'issue de leur mandat» (2005/684). En Belgique, en Suisse, au Royaume-Uni et à la BERD, une personne qui démissionne renonce à son droit de percevoir une IT.
- **Combien de temps dure l'indemnisation transitoire?** Le règlement n° 422/67 prévoit que l'IT est accordée pendant une durée de trois ans. Le règlement n° 2016/300 fait correspondre la durée de la période d'indemnisation transitoire à celle de la période pendant laquelle la personne concernée a exercé ses fonctions, mais prévoit toutefois qu'elle ne peut être inférieure à six mois ni supérieure à deux ans. La Commission confirme que la durée minimale du droit à l'IT est de six mois, y compris pour le titulaire d'une charge publique qui aurait occupé ses fonctions pendant moins d'un semestre. La décision n° 2005/684 prévoit que l'IT peut être perçue pendant 6 à 24 mois. Il est à noter qu'un ancien député au Parlement européen doit

être resté en fonction pendant au moins 12 mois pour pouvoir prétendre à une IT. Au-delà des institutions de l'Union, des modalités très diverses s'appliquent, qui vont de la somme forfaitaire (Canada, République tchèque, Italie, Royaume-Uni, OTAN, OCDE, OSCE) à une IT allant de trois mois (Autriche, France, Pays-Bas, Slovaquie) à quinze ans (Suède).

- **Quel est le montant de l'IT?** Les règlements n° 422/67 et 2016/300 permettent aux anciens titulaires d'une charge publique de percevoir une indemnité transitoire mensuelle équivalant à 40 à 65 % de leurs émoluments de base selon la durée de leur mandat. La décision 2005/684 accorde aux anciens députés au Parlement européen une IT équivalant au montant de l'indemnité parlementaire qu'ils percevaient lorsqu'ils étaient en fonction et qui ne s'établit donc pas au prorata de la durée de leur mandat. Le rapport donne pour exemple (fictif) le cas d'un ancien titulaire d'une charge publique ou député au Parlement européen qui aurait occupé ses fonctions pendant cinq ans. Celui-ci serait fondé à percevoir sur 24 mois une IT d'un montant total de 235 055,88 euros (Secrétaire général du Conseil) à 324 377,11 euros (Président du Conseil européen, Président de la Commission, Président de la Cour internationale de justice, Président de la BEI) ou sur 6 mois une indemnité de 50 904,30 euros (député au Parlement européen). Au-delà des institutions européennes, le montant de l'IT varie considérablement selon les pays et les organisations et est souvent lié à l'ancienneté (Belgique, République tchèque, Allemagne, Danemark, Italie, Pays-Bas, Suède, Royaume-Uni, OSCE, Banque mondiale). La Suède dispose d'un modèle original avec deux systèmes parallèles et un rapport intéressant entre le montant de l'IT et l'âge et les besoins de la personne concernée.
- **Quels sont les justificatifs à présenter?** Pour permettre aux institutions de vérifier que le titulaire d'une charge publique est toujours habilité à percevoir une IT, celui-ci doit tenir le service compétent informé de la fin de son mandat et de tout changement ultérieur de sa situation professionnelle. Toutefois, cette déclaration repose en grande partie sur la confiance car les anciens titulaires d'une charge publique ne sont pas tenus de présenter leur déclaration d'impôts. Certains États membres demandent aux bénéficiaires de fournir des informations très complètes (Espagne, Pays-Bas, Suède). Le cas de l'Espagne est intéressant car les services de sécurité sociale doivent tenir l'autorité chargée de l'IT informée de tout changement de la situation professionnelle du bénéficiaire.
- **L'IT est-elle compatible avec un nouvel emploi?** Lorsqu'un ancien titulaire d'une charge publique exerce de nouvelles fonctions, ses droits peuvent être réduits ou interrompus. Conformément aux règlements n° 422/67 et 2016/300 son IT est supprimée s'il est chargé d'un nouveau mandat dans l'une des institutions et est réduite s'il exerce une activité lucrative pendant sa période d'indemnisation transitoire. Dans le cas du Parlement européen, le montant des émoluments issus d'une charge publique ou d'un nouveau mandat dans un autre parlement est déduit de l'IT. L'IT n'est pas réduite si un député au Parlement européen assume une fonction publique sans devenir un haut fonctionnaire dépositaire de l'autorité publique ou s'il exerce une activité dans le secteur privé. Au-delà des institutions européennes, un nouvel emploi se traduit par la réduction de l'IT (République tchèque, Allemagne, Finlande, Pays-Bas, Suède, Président de la BERD) ou par sa suppression pure et simple (Autriche, Suisse, Espagne, France, Slovaquie pour un emploi dans le secteur public et Royaume-Uni pour les membres du gouvernement). Dans certains cas, il n'y a pas de réduction de l'IT (Canada, Italie, Slovaquie pour un emploi dans le secteur privé, Royaume-Uni pour les membres du parlement et vice-présidents de la BERD).

Pratiques

- Il existe une corrélation évidente entre le résultat de l'exécution du budget pour l'IT et les élections européennes ou le renouvellement de la Commission. Ainsi, ce résultat est passé de 4,3 millions d'euros en 2013 à 19,6 millions d'euros en 2014. Sur l'ensemble de la période 2011-2016, le montant total de l'exécution budgétaire pour l'IT (Parlement, Commission, Cour de justice, Cour des comptes, Médiateur et Contrôleur européen de la protection des données) s'est élevé à 61,1 millions d'euros. Le montant des pensions de retraite pour la même période et les mêmes institutions est de 156,1 millions d'euros.
- Les députés au Parlement européen ou les titulaires d'une charge publique au sein des institutions de l'Union ne bénéficient pas automatiquement de l'IT, mais doivent la demander et déclarer leur situation lorsqu'ils quittent leurs fonctions. Ils sont en outre tenus de remplir une déclaration chaque année et d'informer le service concerné de tout changement de leur situation professionnelle pour vérifier qu'ils sont toujours fondés à percevoir l'IT. Ces pratiques correspondent à celles qui sont en vigueur dans les États membres, les pays tiers et les organisations internationales. En vertu des règlements n° 422/67 et 2016/300, la déclaration annuelle exige que l'ancien titulaire d'une charge publique fournisse la preuve de ses revenus, par exemple le dernier avis d'imposition, des fiches de salaire ou un contrat de travail.
- Concernant la mise en œuvre du cadre réglementaire, l'expérience montre que le contrôle peut être amélioré. Des inexactitudes ont en effet été constatées dans les informations fournies par les anciens titulaires d'une charge publique. Sur les cas étudiés, il a été constaté qu'un ancien titulaire d'une charge publique n'a pas communiqué les informations demandées et qu'un autre n'a pas déclaré une nouvelle activité (non rémunérée). Par ailleurs, l'organisation de la société civile Corporate Europe Observatory a lancé une campagne intitulée «RevolvingDoorWatch», qui énumère les cas de pantouflage, entre autres pour les anciens titulaires d'une charge publique couverts par la présente étude. Dans cette liste figurent 14 anciens membres de la Commission, 19 anciens membres du Parlement, et 1 ancien président du Conseil. Ces informations ne font certes ressortir aucune infraction au cadre réglementaire en matière d'IT (à une exception près), mais si les anciens titulaires d'une charge publique s'adonnent à ce qui pourrait être qualifié de pantouflage alors qu'ils bénéficient de cette indemnité, il serait légitime de penser que celle-ci n'a pas atteint son objectif, qui est d'éviter qu'ils ressentent une pression financière telle qu'elle les obligerait à s'engager dans de nouvelles fonctions.

Conclusions et recommandations

Il ressort de cette étude que l'élaboration de l'actuel cadre réglementaire relatif à l'IT n'a pas fait l'objet de recherches très poussées concernant les besoins réels des personnes concernées. Les dispositions réglementaires en vigueur sont en effet pratiquement les mêmes que celles qui avaient été adoptées au début des années 1960 pour les tout premiers titulaires d'une charge publique européenne. Aucune réflexion véritable n'a été lancée sur les besoins réels des anciens députés au Parlement européen et des anciens titulaires d'une charge publique au sein des institutions européennes.

Cinq recommandations sont formulées à l'intention des institutions concernées.

- **Harmoniser les règles** l'approche réglementaire adoptée par les institutions de l'Union en matière d'IT est fragmentée. Par exemple, les règlements n° 422/67 et 2016/300 prévoient une réduction de l'IT lorsque le bénéficiaire occupe un nouvel emploi dans le secteur privé, ce qui n'est pas le cas de la décision 2005/684. Ces écarts sont difficilement justifiables.
- **Vérifier si l'IT sert l'objectif poursuivi** dans le cadre réglementaire actuel, l'IT se justifie par la nécessité d'assurer la sécurité financière des titulaires d'une charge publique à la cessation de

leurs fonctions. Il ressort des études menées sur le sujet que cette nécessité est très théorique. Il est dès lors recommandé de mener à présent des recherches sur les activités des anciens députés européens et des anciens titulaires d'une charge publique afin de déterminer a posteriori si ces besoins sont réels. L'IT pourrait être remaniée pour s'inspirer par exemple du modèle suédois ou suisse, où l'IT dépend (ou peut dépendre) des besoins. Il convient également d'envisager d'autres formes de soutien, par exemple des services de conseil avant la fin du mandat. Concernant le débat sur les besoins, il convient d'accorder plus d'attention au «type» de cessation des fonctions. Dans certains pays, la personne qui démissionne n'a pas droit à l'IT. L'élaboration d'un système davantage fondé sur les besoins implique également de se demander si la question des besoins n'est pas déjà réglée par le fait que ces personnes perçoivent des indemnités «supérieures à la moyenne» lorsqu'elles sont en poste.

- **Concevoir l'IT comme un moyen d'encourager les anciens députés au PE ou les anciens titulaires d'une charge publique à occuper un nouvel emploi compatible avec leurs anciennes fonctions** l'IT pourrait être conçue de manière à inciter les députés et les titulaires d'une charge publique à rechercher un emploi qu'ils pourront occuper à l'issue de leur mandat (pratique suivie aux Pays-Bas).
- **Renforcer le lien de corrélation entre l'IT et les restrictions professionnelles d'après mandat** les organisations de la société civile contestent le fait que la durée de l'IT ne corresponde pas à celle de la période de restrictions d'après-mandat, c'est pourquoi ils exigent que cette dernière soit prolongée. La durée de l'IT est en effet plus longue que la durée des restrictions ou vice-versa selon les institutions. Il est à noter que cette recommandation n'est pertinente que si les institutions de l'Union arrivent à s'entendre sur le rapport entre l'IT et les restrictions professionnelles d'après mandat. Et même si elles y parviennent, la question persiste de savoir s'il est éthique d'apporter une réponse financière au risque de conflit d'intérêts (nul n'est contraint de rester au chômage étant donné que les conflits d'intérêts sont absents de quantité d'emplois).
- **Améliorer le suivi du droit à l'IT** les pratiques actuelles de suivi au titre des règlements n° 422/67 et 2016/300 permettent aux anciens titulaires d'une charge publique d'étayer leur déclaration annuelle par une preuve de revenus, pouvant être, au choix, le dernier avis d'imposition à dernière déclaration d'impôts, un contrat de travail, une fiche de salaire ou autre. Il serait sans doute préférable d'exiger que soit fournie la déclaration d'impôts, qui offre un aperçu complet et vérifié de manière indépendante de l'ensemble des revenus.

1 INTRODUCTION

The European Parliament's (EP) Directorate for Budgetary Affairs contracted Blomeyer & Sanz on 13 July 2017 to conduct this research assignment during the months of July to October 2017⁴. This report is based on our understanding of the EP study specifications, a kick-off discussion with the EP on 26 July 2017, a follow-up discussion with the EP on 12 September 2017 on the basis of an interim report submitted to the EP on 4 September 2017, interviews with relevant representatives at the level of the European Union (EU), case studies for selected Member States, Third Countries and international organisations, and EP comments on a draft version of this report. This introduction presents the research objectives (section 1.1), the methodology and implementation schedule (1.2), and the report structure (1.3).

1.1 Objectives

This section presents the research objectives. The specifications define a twofold objective, namely (1) **to draw a clear picture of the current legal situation with transitional allowances (TA) and the budgetary impact**; and (2) **to assess room for improvements**, drawing on good practice examples from outside the European Union (EU) institutions.

1.2 Methodology and Implementation Schedule of the Study

1.2.1 Methodology

Several research tools were deployed to answer the research questions, based on both the specifications and the feedback provided during the kick-off meeting:

- Desk research included a review of relevant academic literature related to TA, and the analysis of the regulatory framework.
- Stakeholder interviews were conducted with representatives of relevant European Union (EU) institutions. The interviews aimed to establish further insights into the rationale underlying the transitional allowances, and practice with applying the regulatory framework. Here, the authors wish to thank the institutions for the very effective provision of relevant information during July/August 2017.
- Case studies focused on the identification of best practices, looking at experiences with TA and comparable arrangements in selected EU Member States, Third Countries and international organisations.

⁴ The research team included Dr. Christoph Demmke, Roland Blomeyer (assisted by Annika Weikinnis), and Dr. Mike Beke.

Table 1: Case study work

EU MEMBER STATES	THIRD COUNTRIES	INTERNATIONAL ORGANISATIONS
Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Slovak Republic, Spain, Sweden, United Kingdom	Canada, Switzerland	World Bank, United Nations, NATO, OECD, OSCE, EBRD

1.2.2 Implementation schedule

The study commenced on 13 July 2017 and was completed on 16 October 2017. Table 2 presents the study's main milestones, consisting of reports and their deadlines, and exchanges with the EP.

Table 2: Study milestones

DATE	REPORTS	MEETINGS
13 July 2017	Order Form	
26 July 2017		Kick-off discussion with the EP
4 September 2017	Interim report	
12 September 2017		Follow-up discussion with the EP
16 October 2017	Final report	
28 November 2017		Presentation to the EP

1.3 Structure of the Study

The study takes the following structure:

- **Chapter 1** – Introduction
- **Chapter 2** – Literature
- **Chapter 3** – Regulatory framework
- **Chapter 4** – Practice
- **Chapter 5** - Conclusions and recommendations

2 LITERATURE AND CIVIL SOCIETY

KEY FINDINGS

- Today, there are more opportunities for former office holders to take up a new occupation and empirical data confirms that most former office holders do in fact take up new employment.
- This study adds substantial value, considering that the existing academic literature has only shown scant interest in what happens to politicians/holders of high public office when they leave. There is no literature focusing specifically on TA.
- There is also no literature questioning the *raison d'être* of TA. TA aim: (1) to compensate for periods of unemployment and lack of income (2) to compensate for contribution to public good during the years of mandate/office, (3) to address the fact that office holders have no access to other benefits, most notably unemployment benefits.
- The justification might not be strong if we consider that former office holders benefit of networking/contacts during their office that should put them in a position to secure a follow-up occupation, i.e. this group is rarely exposed to prospects of 'precarious employment'.
- Today, former office holders are strongly exposed to conflict of interest (Col) because of generally active post office occupation. TA are conceived to prevent Col, however, too high levels of TA might negatively affect public trust. There is no empirical evidence concerning the effectiveness of TA in terms of preventing Col.
- Several civil society organisations (CSOs) have commented on the EU institutions' policies and legislation relevant to TA, including the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU), Transparency International EU (TI-EU), the Corporate Europe Observatory (CEO), and the Taxpayers' Association of Europe (TAE). These CSOs agree that TA are essential to prevent Col. In general, CSOs tend to advocate for stricter conditions regarding the type of employment that can be accepted during the TA period and argue for an alignment between the period of entitlement to TA and the length of post-office restrictions.

This chapter presents the main findings from a literature review on TA (section 2.1). Moreover, the chapter briefly presents the views of civil society organisations (2.2).

2.1 Literature

This section reviews the existing literature on the legitimacy, rationale and effectiveness of TA. The section first introduces the discussions by looking at the activities of former office holders (section 2.1.1); then presents the current state of research in the academic literature (2.1.2); and concludes with an assessment of two key issues, namely the contribution of TA to post-office financial security (2.1.3) and the contribution of TA to preventing conflicts of interest (Col) (2.1.4)⁵.

At this stage it is worth noting an introductory caveat. This section gives some room to the discussion of office holders (e.g. US Presidents) that are not directly comparable with the EU office holders. This is explained by the fact that there is very limited literature on office holders that are more directly comparable with the EU office holders.

⁵ Dimitrakopoulos, D. (2012) 'Rewards at the top: the European Union' in Brans, M., Peters, B.G. (eds.) *Rewards for High Public Office in Europe and North America*, p. 10.

2.1.1 Introducing the discussion

Today, globalisation, media, networks, communication channels and digitalisation trends allow former office holders unprecedented opportunities to be innovative in their future roles. The relative ease of travel and communication, make representation, consultancy, conferences and academic roles, excellent fora for former (EU) office holders. Never before had former office holders so many opportunities for employment, visibility and influence⁶. Overall, opportunities for post-political lives have changed. Because they are looking at longer periods of retirement than ever before, they use different criteria in choosing how to occupy themselves than did their forbearers: ‘...retired politicians are also preoccupied with their historical repute, and thus they write memoirs, teach at universities, and search out awards and prizes’⁷.

‘Apparently when Polish President Lech Walesa’s severance pay ended three months after he left office in 1996, he appeared at the Gdansk shipyard asking for his old electrician’s job back’⁸. This case, however, seems to be an exception.

Only few politicians return to their former jobs and only few become unemployed⁹. Most of them ‘do not even want to return in the former jobs’¹⁰. Overall, politicians have no difficulties to find a new job.

The vast majority of politicians continue with political activities, even after leaving the political system¹¹. ‘MPs continue to be highly active in political and public life after leaving Parliament (...) over 80 per cent of the MPs who left Parliament in 2010 are currently involved in some kind of local or national charitable, voluntary or community endeavour. Nearly the same number were still active in their party and half of the former MPs in our survey reported that they had developed new political interests since leaving. (...) Amongst those departing MPs under the age of 65, 70 per cent took up paid work after having left Parliament. But many of these former MPs struggled in the labour market, with almost half of them taking at least three months to find a new job and one in ten taking a full year. While half said they ended up earning more than they had done as MPs, 40 per cent earned less and 10 per cent the same as their MPs’ salary. Some former MPs fared very well in the labour market, landing high-profile and well-paid directorships of large companies. However, these were a minority with certain notable shared characteristics: they were relatively young, had held a senior ministerial position in the recent past, and had often done a considerable amount of advanced planning for their post-parliamentary careers’¹².

2.1.2 The state of research in the field

Representative democracy depends on politicians exiting office. Surprisingly, ‘there is considerable interest in who stands for and gains office, but curiously little about the leaving of political office’¹³. Research so far focused on the careers of politicians¹⁴. However, ‘there has been a striking neglect (...) of the afterlives of democratic elected officials’¹⁵. ‘We seem to care, and be strangely attracted by the

⁶ Andersen, L. (2010) ‘The Ex-Presidents’ in *Journal of Democracy*, No. 21, p. 73-74.

⁷ Ibid, p. 66.

⁸ Bennister, M. (2011) ‘Is There Life After Political Death?’ in *Parliamentary Affairs*, Vol. 64, No. 4, 2011, p. 804.

⁹ Kreiner, M. (2007) ‘Amt auf Zeit. Eine explorative Studie zum beruflichen und politischen Verbleib ehemaliger Bundestagsabgeordneter’ in *Zeitschrift für Parlamentsfragen*, Heft 2/2007, p. 261-276.

¹⁰ Malessa, S. (2012) *Beruf-Politik-Transparenz*, p. 107.

¹¹ Kreiner, M. (2007), op cit, p. 273.

¹² Byrne, C. and Theakston, K. (2010) ‘Leaving the House: The Experience of Former Members of Parliament Who Left the House of Commons in 2010’ in *Parliamentary Affairs*, 69.3, p. 686-707.

¹³ Roberts, J. (2017) *Losing Political Office*.

¹⁴ Kreiner, M. (2007) op cit.

¹⁵ Andersen, L. (2010) op cit, p. 65.

fall from the highest office, but less so about what they did after'¹⁶. 'So what is known about leaving political office? In essence, not much'¹⁷.

Bearing in mind the nature of parliamentary systems and democracies, requiring politicians to accept that they will have to quit office at some point in their career, this is surprising. Existing literature focuses on members of parliament and, to a lesser degree, on Heads of State or Heads of Government. As regards the latter, the earliest attempts to study former office holders were in the United States of America (US), with a focus on presidents¹⁸. The interest in US presidents also generated some interest in the United Kingdom (UK) concerning the role of former UK politicians and prime ministers¹⁹. Comparative studies are rare. Theakston and de Vries (2012) published a study on British prime ministers, also looking at other leaders in Europe, North America, Israel and Australia²⁰; Keane (2011) took a more analytical stance²¹; Roberts (2017) deployed an interdisciplinary, psychological, sociological and political perspective²².

In Germany, research focused on the professional careers of former members of parliament and on the changing nature of the status of politicians as such, including an analysis of side-jobs and side activities²³. The latter type of research is mirrored by several case studies (FI, DE, UK and US) which examine the so-called 'returns to office' and whether politicians financially benefit from wielding political influence²⁴. Again, Theakston (2007) carried out research on the afterlives of former UK members of parliament²⁵.

There is no research on the 'average politician' who has not achieved highest functions. According to Roberts (2017): 'For those other than heads of state, we know little'²⁶. Overall, there are significant gaps in our understanding of the experience of transition from political office'²⁷. Keane (2011) described the area as: 'Under-theorized, under-researched, under-appreciated, and - in many cases - underregulated'²⁸. **There are also no comparative and empirical studies in the field of TA, covering the situation in the EU. To this should be added the fact that no evidence at all exists on the implementation and monitoring of TA policies.** Finally, no research has been carried out on the impact on office holders' family, or on any wider implications of TA policies.

¹⁶ Bennister, M. (2011) op cit, p.803.

¹⁷ Roberts, J. (2017), op cit.

¹⁸ Andersen, L. (2010) op. cit.

¹⁹ Theakston, K. (2010) *After Number 10*.

²⁰ Theakston, K. and De Vries, J. (2012) *Former Leaders in Modern Democracies: Political Sunsets*.

²¹ Keane, J. (2011) 'Life after Political Death' in J. Keane, J., Patapan, H. and t'Hart, P. (eds.), *Dispersed Political Leadership*.

²² Roberts, J. (2017) op cit.

²³ Kienbaum Management Consultants (2014) *Nach dem Bundestag*; Malessa, S. (2012) op cit; Best, H. and Jahr S. (2006) 'Politik als prekäres Beschäftigungsverhältnis: Mythos und Realität der Sozialfigur des Berufspolitikers im wiedervereinten Deutschland' in *Zeitschrift für Parlamentsfragen*, Vol. 37, pp. 63-79; Kreiner, M. (2007) op cit.

²⁴ Kotakorpi, K., Poutvaara, P. and Tervio, M. (2016) 'Returns to Office in National and Local Politics: A Bootstrap Method and Evidence from Finland' in *Institute for the Study of Labor, Working Paper*; Otto Brenner-Stiftung (2017) *Aufstocker im Bundestag II, Bilanz der Nebenverdienste der Bundestagsabgeordneten*; Eggert, A. and Hainmueller, J. (2009) 'MPs for Sale? Returns to Office in Postwar British Politics' in *American Political Science Review*, Vol. 103, No. 4; Zinnbauer (D) (2015) 'The Vexing Issue of the Revolving Door' in *Harvard University Edmund Safra Working Papers*, p. 61.

²⁵ Theakston, K., Gouge, E. and Honeyman, E. (2007) *Life after Losing or Leaving: The Experience of Former Members of Parliament*.

²⁶ Roberts, J. (2017), op cit, p. 1.

²⁷ Keane, J. (2011) op cit, p. 282-283.

²⁸ Ibid.

2.1.3 Do transitional allowances compensate for financial insecurity?

In the words of Council Regulation 2016/300 (Recital 6): ‘the purpose of the transitional allowance for public office holders is to ensure, for a limited period directly following their term of office, a certain level of financial security until their next paid employment’. Thus, in order to judge the effectiveness of TA, it is important to generate evidence about the occupation of former office holders. Moreover, it is important to generate evidence whether times of financial insecurity exist at all and whether TA compensate for these periods? Or, whether TA could also be interpreted as an additional bonus for times of relentless stress and ‘work impacting on the personal well-being’ (it could, however, be argued that this is already compensated by ‘above average’ salaries)²⁹. What do we actually know about the use of TA by former office holders?

In our research, we have not come across any study that questions the purpose of TA as such. In fact, authors share the opinion that former office holders deserve TA for many reasons. One justification of TA is simply material: former office holders face additional costs that should be compensated. Another reason is that former office holders should be compensated for years of hard work for the public. ‘Political office (...) is immensely hard work that intrudes upon family life, is unconfined to any normal hours of work, requires working in more than one locality and more than one arena and entails continual shuttling between constituency and political chamber’³⁰. The legitimacy of TA also stems from other specific aspects of political life: There is no notice period, no right of appeal, no trade union representative, no unemployment compensation³¹.

Still, as put in recent media coverage, it is an entirely different question whether former office holders have the right to be paid huge sums of money, to continue with the use of spacious government offices, have the right to use expensive furniture, fly with first class tickets, use government infrastructure (like helicopters, airplanes, government owned cars, car drivers), and rely on generous secretarial support for the years to come³².

In fact, the purpose of TA is to act as a bridge to the next employment and to compensate for financial insecurity. Do former office holders face periods of financial insecurity? Can we compare these periods with periods of unemployment of ‘ordinary employees’ (who in most cases also have the right to be compensated)?

As we will argue, the purpose of TA is manifold. One important purpose is to compensate office holders for periods of financial insecurity. The reason for this is relatively simple: Differently to the past, when politicians were often not full-time politicians, trends in recent years have been towards an increasing professionalisation of politics with politicians able to make a living of being a politician alone. This development has led to the emergence of a ‘professional politician’ who ‘have less to fall back upon should they lose their seat’³³.

At the same time, office holders are increasingly drawn from so-called ‘politics facilitating’ occupations³⁴, such as public servants, lawyers, consultants etc. and maintain contacts and professional links to their former jobs and continue to exercise professional activities on a part-time basis.

In most cases, (especially) office holders receive other forms of financial compensation during their term. This may be via the accumulation of contacts, networks, side-jobs, the opportunity to continue

²⁹ Bennister, M. (2011) op cit, 803.

³⁰ Roberts, J. (2017), op cit, p.7.

³¹ Roberts, J. (2017), op cit, p. 66.

³² Der Spiegel (2017) ‘Operation Ehrensold’, No. 34/2017, p. 42-43.

³³ Roberts, J. (2017), op cit, p. 45.

³⁴ Roberts, J. (2017), op cit, p. 44.

with their former jobs on a part-time basis, memberships during their periods of office and from which they benefit already during or after leaving office.

Salary levels, allowances and other perks of elected or unelected office are a recurring topic of interest in a wide range of social and political settings. Unfortunately, many of these discussions are subject of popular and ideological discourses and described as an abuse of tax payers money. In reality, earnings of heads of state or governments are modest if compared to the salaries of many managers in the private sector³⁵.

The discussion is different as regards income from side-activities, memberships, honorary functions and post-career earnings of individuals after leaving public life. In general, this is a grey and not very transparent area.

In theory, the existence of TA should enable politicians and office holders to be fully dedicated to exercising their functions during their term of office or as long as their appointment lasts. At the end of the term, the TA then bridges the period before finding a new employment, position or appointment. Thus, one important purpose of TA is to offer financial security in times of financial insecurity.

From our discussion so far, we have seen that the issue as such is far more complex. On the one hand, politicians have become full-time professionals who have a right to be (well) compensated, just like any other person who falls into unemployment. On the other hand, many politicians have benefitted from their political career in many ways. For many politicians, emoluments are only one type of income after leaving office. For example, most top-politicians have earned considerable amounts of income through side-jobs and invitations and develop manifold personal and professional contacts (which, in theory, should also be taken into consideration when calculating TA). According to a study by the German Otto-Brenner-Foundation, amongst the 655 members of the German Parliament, the side-jobs of 180 members generated an additional income of between EUR 26,5 and 48,7 million in the 18th legislature (2013-2017)³⁶.

Eggers and Hainmueller (2009) found that 'serving in Parliament almost doubled the wealth of candidates (...). These financial benefits of office are likely attributable to payments from private firms to sitting legislators and lucrative employment opportunities provided to politicians after retirement'³⁷. A different study concludes that 'Earlier literature has emphasized that returns to political office arise through lucrative outside opportunities (...), insufficient control of politicians (...) or outright corruption (...). We analyze the returns to getting elected in a country with a very low level of corruption, and find that returns nevertheless amount on average to a 25% increase in earnings above the outside opportunities of the marginal candidate'³⁸. Lazarus, Herbel and Mc Kay (2013) found that seniority and political importance influences the likelihood of becoming well paid lobbyists, after leaving office³⁹. Finally, Gonzalez Bailon, Jennings and Lodge (2013) show that 'Time spent in public office nevertheless remains a contributing factor in the recruitment of these former parliamentarians, ministers and civil servants to corporate boards. While just a very small fraction of former politicians and civil servants migrate to the corporate world after a career in public service, the majority built their careers in the same departments – an indication that such previous political and governmental experience and connections perform a significant role in defining their post-career trajectories in the

³⁵ Vexcash, Staats und Regierungschefs im Gehalts-Ranking, The Data used is from WageIndicator Foundation.

³⁶ Otto-Brenner-Stiftung (2017) op cit, p. 33.

³⁷ Eggers, A. and Hainmueller, J. (2009) op cit.

³⁸ Kotakorpi, K., Poutvaara, P. and Tervio, M. (2016) op cit, p.23.

³⁹ Lazarus, J., Herbel, L. and McKay, A. (2013) 'Who Walks Through the Revolving Door?', Examining the Lobbying Activity of Former Congress Members and Staffers' a paper prepared for presentation at the American Political Science Association annual meeting.

corporate world'⁴⁰. However, given 'the pressure on the earnings of both politicians and senior civil servants, observed across democratic systems, directorships of companies might have become less attractive in comparison to less transparent earning possibilities such as consulting roles, where the public disclosure of the corporate relationship is not required. The corporate governance role undertaken in non-executive directorships might, in fact, make such positions less suited to the skills and/or interests of former politicians in comparison to advisory positions more oriented toward networking and advocacy'⁴¹.

Still, all of this does not allow for the conclusion that (top-) politicians are greedy, corrupt, well off and do not deserve TA. However, it may be fair to say that the post-office life of a top-politician is not a state of 'precarious employment'. Former office holders profit twice from their mandate: First, because of their emoluments and second, because of their contacts, networks, side-activities and side-jobs. In some cases, TA may even be considered as an additional salary to an already privileged income from other income sources. Kreiner (2007) concludes that 'in reality, these purposes were achieved in only (almost) a quarter of all cases. In most cases, transitional allowances were used for other purposes: In some cases, the money was used in order to postpone employment in the public service, given to members of the family (and children), invested or used for renovations of the house etc. In the majority of cases, those interviewed did not use the allowances for the intended purposes. Overall, there is no monitoring of the use of emoluments. Politicians are free to use allowances according to their private interests'⁴².

2.1.4 The prevention of conflicts of interest through TA?

It is often claimed that, in general, the existence of the TA enables politicians and office holders to be fully dedicated to exercising their functions impartially during their term of office or mandate. At the end of this term, the TA should also compensate for certain incompatibilities to avoid Col through prohibiting former office holders from taking up activities in the same policy sector for a limited period of time. In fact, the issue here is whether (too little) money and income may have the potential to negatively impact on Col. Or, the other way round: Do Col occur because of financial insecurity? Will they decrease if high TA are paid?

In order to engage in this discussion, it may be important to start with the assumption that Col is an intriguing subject of research because it is a borderline concept at the intersection of law, politics, management and personal morality. This situation in itself immediately raises the question of the limits of the law and financial incentives, and underscores the importance of other contexts. In fact, Col are closely related to role change, mobility and the removal of boundaries (e.g. between the public and private sectors, professional life and private life, value changes etc.). As regards mobility, people historically were much less mobile in terms of role change, thus explaining the lack of attention to role exit as such. This also explains why little attention has been given to the link between TA and Col.

⁴⁰ Gonzalez Bailon, S., Jennings, W. and Lodge, M. (2013) 'Politics in the Boardroom: Corporate Pay, Networks and Recruitment of former Parliamentarians, Ministers and Civil Servants in Britain' in *Political Studies*, Volume 61, Issue 4 December 2013, p. 850–873.

⁴¹ Gonzalez Bailon, S., Jennings, W. and Lodge, M. (2013), op cit.

⁴² Kreiner, M. (2007) op cit, p. 268.

Here, it is also important to note that in almost all countries, remuneration and allowance systems for politicians are opaque and complex⁴³. As a consequence, the implementation is complex. Therefore, failures in implementation and emerging Col should not only be attributed to personal failure.

Indeed, it is necessary to state that the study of the relationship between Col and TA is constrained by the multiplicity of variables and factors. The latter is too great in order to predict precisely the impact of rules and policies on individuals, organisations and (political) systems. 'Is conflict of interest a legal question at all, or rather one of virtue?'⁴⁴. A Col arises in situations where a person has multiple roles and could be said to wear two hats. In most countries, this may be the case with legislators who can exercise professional activities next to their position as Parliamentarians⁴⁵. However, wearing 'two hats' (in the sense of having conflicting interests) can also be the case if a Judge, Member of the Court of Auditors, President of the 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. Increasingly, this type of Col applies to former office holders.

Andersen (2010) distinguishes amongst four afterlife paths of top-politicians: genuine retirement, work in the private sector, a return to former jobs (e.g. in the public office), or humanitarian action⁴⁶. All four paths are dynamic and overlap. For example, while politicians retire, they may take on important positions in the humanitarian field, in international organisations, NGOs, or – increasingly – their own foundations, or return as part-timers to the private sector. Increasingly, former office holders take on several positions at the same time without always considering potential Col amongst these positions and with political strategies of their own countries. Thus, politicians neither go on complete retirement nor do they work full-time in the public or the private sector, but rather engage in a 'hybrid world', write their memoirs, give speeches and accept honorary professorships. 'Opportunities for post-presidential service in international and regional organizations are presenting themselves in increasing numbers, as such institutions themselves proliferate (...). Just as formal positions of authority are proliferating globally, informal or short-term international roles that deal with 'critical and controversial issues' are also multiplying⁴⁷. Alternatively, 'Many world leaders lose elections only to sit in parliament, awaiting the opportunity to run again. Countless defeated executives spend their time outside of politics but plotting a return'⁴⁸.

Whether or not they anticipate a return to office, more retired political figures enjoy different informal roles and post-political activities. For example, the puzzlement over the propriety of Bill Clinton's fundraising for his foundation reflected complications brought by globalisation: Senate Republican Richard Lugar (...) said, 'I don't know how given all of our ethics standards now, anyone quite measures up to this who has such cosmic ties'⁴⁹. Yet such 'cosmic ties' are becoming ever more common - indeed, unavoidable - as global policy issues increasingly impinge on national policy makers. In doing so, they will create mixed and complex incentives for political leaders. The challenge of balancing the temptations of power in an era of cosmic ties with the dignity and probity expected of those working

⁴³ 'Die finanzielle Ausstattung der Regierungsmitglieder ist in ihrer Gesamtheit sehr unübersichtlich. Die einzelnen Bezügebestandteile lassen sich teilweise nur mit erheblichem Aufwand ermitteln. Die gebotene Transparenz ist nicht gegeben. Für Bürger ist das heutige Bezügesystem der Regierungsmitglieder nicht nachvollziehbar', Zentgraf, B. (2014) 'Der finanzielle Status von Regierungsmitgliedern und kommunalen Wahlbeamten' in: von Arnim H.H (ed), *Die Bezahlung und Versorgung von Politikern und Amtsträgern*, p. 104.

⁴⁴ Peters, A. (2012) 'Conflict of Interest as a Cross-Cutting problem' in Peters, A. and Handschin, L. (eds.), *Conflict of Interest in Global, Public and Private Governance*, p. 404.

⁴⁵ Mostly, members of Government, Judges or Directors of the Central Bank or the Members of the Court of Auditors are not allowed to engage in additional professional activities.

⁴⁶ Andersen, L. (2010) op cit.

⁴⁷ Andersen, L. (2010) op cit. p.72.

⁴⁸ Andersen, L. (2010) op cit.

⁴⁹ <http://www.nytimes.com/2008/12/19/us/politics/w19clinton.html> (last accessed on 6 November 2017).

in the public trust inevitably raises questions about personal emoluments as well as political influence. For Clinton, Carter, Fox and many others, funding for their various centres or foundations is inextricably linked with their own personal prosperity⁵⁰.

Therefore, increasingly occupations of former office holders may result in an 'abuse of public office for private advantage' and hold a potential for undue political influence. Here, it is worth noting the most widely accepted definition of the term 'conflict of interest': 'A conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities'⁵¹.

Importantly, the concept of Col is strongly related to the development of trust as such. The most important reason for the expansion of Col policies is a growing lack of trust in the 'self-serving statements of the powerful'⁵². Overall, Col policies reflect a growing lack of trust in public authorities, public officials and 'the powerful'. 'As a consequence, lawmakers tend to be faced, more and more, with the difficult task of designing typologies of green, orange and red-light situations, for the various categories of public officials and regulatory bodies'⁵³.

As already discussed in this study, the job of a politician has become a profession and the wider public increasingly considers the political class as a professional and complex system far away from the life of the ordinary citizenry. This situation generates suspicion and public requirements for ever more ethics rules, transparency and accountability requirements. In this context, 'a reputation for trustworthiness is an asset in the search for post-political employment and therefore a big incentive for honesty while in office'⁵⁴.

In fact, differently to the past, politicians can be considered as professionals and politics as a profession. Whereas in the past, most politicians continued to work in their professions, today, most (top) politicians give up their jobs and become full-time political professionals. Exceptions exist in the legal professions, for civil servants and for farmers. Often, politicians reduce working time to a minimum, or continue to work in these professions, once they leave political life.

Because of the 'professionalisation' of political office, remuneration and allowances for politicians have changed, too. Whereas decades ago, politicians were compensated for travelling (to the Parliament/Government) and accommodation, today, politicians are compensated for a full time job (often, politicians work up to 80 – 100 hours a week). Thus, today politicians are not anymore paid for an honorary activity, but for a job. Consequently, remuneration and allowances increased over time as it became (increasingly) impossible to combine jobs and political life. Moreover, politicians received compensation in order to shield them from third-party influence and Col⁵⁵.

Thus, remuneration and TA serve a legitimate expectation: Since being a politician is a full time job and most top-politicians are long term career-politicians, most holders of public office do not return into their former jobs. Since politicians take high responsibilities and careers may end abruptly, politicians deserve TA because of their 'precarious' employment relationship⁵⁶.

⁵⁰ Andersen, L. (2010) op cit. 75.

⁵¹ OECD (2003) Recommendation of the Council on guidelines for managing conflict of interest in the public service, June 2003, p. 4.

⁵² Ackerman, S. (2014) 'Corruption and conflicts of interest' in Auby, J., Breen, E. and Perroud, T. (eds.), *Corruption and Conflicts of Interest*, p.6.

⁵³ Ibid, p. XV.

⁵⁴ Andersen, L. (2010) op cit.

⁵⁵ Malessa, S. (2012) op cit.

⁵⁶ Best, H. and Jahr S. (2006) op cit, p. 63-79.

On the other hand, TA impact on public trust as long as politicians abuse this instrument, or – in the eye of the public – receive too high emoluments. Today, one may also question whether top-politicians live in a precarious employment relationship, as most of them are career-politicians for decades, profit from many side-activities and – rarely – have difficulties to find new jobs, after quitting office.

Especially, too generous TA may negatively impact on levels of public trust in the political system. Moreover, they may also lead top-politicians into Col if TA will not be used for the intended purposes, but, instead, lead to new temptations to use the money for entirely other purposes.

Increased (job) opportunities for top-politicians after leaving office produce new ethical complexities. Today, almost all international organisations, many NGOs and many private foundations are led by former top-politicians: ‘more and more democratic leaders come to find that there is a robust and useful life after public office and, quite possibly, beyond the borders of their own countries’⁵⁷.

Increasingly, not only how politicians gain and hold office, but how they exit office becomes essential to any healthy system of representative democracy. So far, there is too little debate about Col of politicians leaving office. New forms of Col are about to emerge in this field. Holders of public office need to be made aware of them.

2.2 Civil Society

Several civil society organisations (CSOs) have commented on the EU institutions’ policies and legislation relevant to TA, including the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU), Transparency International EU (TI-EU), the Corporate Europe Observatory (CEO), and the Taxpayers’ Association of Europe (TAE). These CSOs agree that TA are essential to prevent conflicts of interest. In general, CSOs tend to advocate for stricter conditions regarding the type of employment that can be accepted during the TA period. The following paragraphs highlight some of the most prominent views regarding TA.

- **ALTER-EU** recognises the EU officials’ entitlement to TA and values them as a key incentive not to accept jobs that might imply a conflict of interests. However, the organisation’s main criticism is that the ‘period of time that transitional allowances apply for should relate to the cooling-off period on lobbying jobs’⁵⁸. Therefore, ALTER-EU is in favour of extending the TA period to three years, in line with its demand for a three-year cooling-off period⁵⁹.
- Looking at the EP, **TI-EU** recommends to ‘link the length of the cooling-off rules – during which MEPs should be banned from lobbying the EU institutions or accepting employment that could constitute a conflict of interest – to the period during which MEPs already receive a tax-payer-funded transitional allowance’⁶⁰.
- According to **CEO**, ‘if former Commissioners are entitled to a generous three-year transitional allowance, it is not unreasonable to ask that they also refrain from lobbying for three years’⁶¹. Furthermore, CEO emphasises the need for reforms of the TA system by advocating stricter conditions applying to the period immediately after leaving public office, especially in regard to direct or indirect lobbying. In CEO’s view, TA aim to prevent former Commissioners from

⁵⁷ Andersen, L. (2010) op cit, p. 76.

⁵⁸ ALTER-EU (2017) ‘Revolving Doors: Frequently Asked Questions,’ alter-eu.org, available at: <https://www.alter-eu.org/revolving-doors/faq#n242>.

⁵⁹ Access Info Europe (2014) ‘Don’t go through the revolving door’, access-info.org, available at: <https://www.access-info.org/uncategorized/12502>.

⁶⁰ Freund, D. (2016) ‘An in-depth look at the European Parliament’s new ethics package’, Transparency International EU, transparency.eu, available at: <https://transparency.eu/epethics/>.

⁶¹ Access Info Europe (2014) ‘Don’t go through the revolving door’, access-info.org, available at: <https://www.access-info.org/uncategorized/12502>.

seeking immediate employment, and thus avoid the risk of possible conflicts of interests⁶². Interview feedback confirms that TA are a justified concept in the context of efforts to prevent conflicts of interest, however, this linkage is considered weak for the EP.

- Access Info Europe also relates transitional allowances to the cooling-off requirements, and recommends full transparency (accessible, in real time, comprehensive and searchable database), with supervision by an independent body with investigative powers. Access Info considers the EP rules to be weak and criticises that the EP issues its own rules, instead of the Council as is the case for all other EU institutions. Notwithstanding, other stakeholders observed that whilst the EP Decision in question requires Council consent, the Council Regulation is issued only by the Council.
- **TAE** considers that TA should end as soon as former Commissioners or Members of Parliament have entered a new position, regardless of the amount of the new salary; it furthermore criticises that the amount of TA paid is not proportionate and should be reduced to a more reasonable amount⁶³. However, TAE does not specify what would be a more appropriate amount.

3 REGULATORY FRAMEWORK

KEY FINDINGS

- **Rules on TA?** The EU institutions' regulatory framework for TA is fragmented and rules are authored by different institutions, following different procedures (e.g. only by the Council, by the EP with Council consent). TA in the EU institutions is mainly governed by (i) [Decision 2005/684](#) for Members of the EP; (ii) [Regulation 422/67](#) for office holders in place before 4 March 2016 in the Council (President), the EC, the Court, Ombudsman, EDPS and EIB; and (iii) [Regulation 2016/300](#) for office holders in place as of 4 March 2016 in the same institutions as for Regulation 422/67, and adding ECA and the Secretary General of the Council; TA in the ECB are modelled on Regulation 422/67.
- **Why TA?** Decision 2005/684 and Regulation 2016/300 explain TA with the need to provide for financial security; Regulation No 422/67 does not specify a rationale for TA. It is worth noting that there is no explicit mention of any relation between TA and post-office employment restrictions. Notwithstanding, the current regulatory framework is largely modelled on the framework in place in the early 1960s when TA were conceived in the context of the three years of occupational restrictions according to Art. 9 of the Treaty on the European Coal and Steel Community. The missing alignment between the duration of TA and length of post-office restrictions explains the CSOs' demands for the duration of post-office requirements to be extended to two years to ensure full alignment with the maximum duration of the TA under Regulation 2016/300 and three years for Regulation 422/67. Indeed, whilst for some institutions the duration of TA is longer than the duration of post-office restrictions (e.g. EC, Council, EIB, ECB), for others it is the other way round (under 2016/300 for the Court of Justice, ECA). Member States mostly emphasise the use of TA to ensure financial security (AT, BE, CZ, DE, FI, FR, IT, NL, SE, SK). Interestingly, limited reference is made to TA contributing to avoiding Col (ES, CA).
- **Who benefits?** In total, 866 office holders are entitled to TA, the large majority (some 87%) being Members of the EP. It is interesting to note that in the EU institutions, the entitlement to TA is not related to the 'modus' of ceasing to hold office, the regulatory framework does not differentiate between voluntary resignation and end of term. TA become due when the office holder 'ceases to

⁶² Corporate Europe Observer (2014) 'Revolving Door Watch: Michal Kaminski', corporateeurope.org, available at: <https://corporateeurope.org/revolvingdoorwatch/cases/micha-kami-ski>.

⁶³ <https://www.taxpayers-europe.org/>

hold office' (422/67 and 2016/300), and 'following the cessation of their duties' (2005/684). In BE, CH, UK and the EBRD, an office holder relinquishes the right to TA when resigning voluntarily.

- **For how long?** Regulation 422/67 stipulates a duration of the entitlement to TA of three years. Regulation 2016/300 introduced an alignment of the duration of TA with the length of service with a minimum duration of six months and a maximum duration of two years. EC feedback confirms that the minimum duration of the entitlement is six months, i.e. in cases of a public office holder having served less than six months, the duration of the entitlement is not equal to the length of the period of service. Decision 2005/684 foresees TA for between six and 24 months. Note that the EP requires former members to have served for at least one year to qualify for TA. Examples from beyond the EU institutions show different arrangements, ranging from one-off payments (CA, CZ, IT, UK, NATO, OECD, OSCE) to TA of between three months (AT, FR, NL, SK) and up to 15 years (SE).
- **How much?** Regulations 422/67 and 2016/300 entitle former office holders to a monthly allowance of 40-65% of basic salary depending on length of service; Decision 2005/684 entitles former members to a TA equivalent to the member's former salary, i.e. there is no percentage range depending on length of service. Table 6 presents the example of a fictitious former office holder / member of the EP having served for five years – the office holder is entitled to TA over 24 months of between EUR 235,055.88 (Secretary-General, Council of the EU) and EUR 324 377,11 (President, European Council; President, EC; President, Court of Justice; President EIB). A former MEP is entitled to EUR 50 904,30 over six months. Examples from beyond the EU institutions show substantial variety with the volume of TA often related to length of service (BE, CZ, DE, DK, IT, NL, SE, UK, OSCE, WB). The TA arrangements in Sweden are particularly noteworthy with two parallel systems currently in place and an interesting relation between volume of TA and age/needs.
- **Information duties?** To allow the institutions to verify the continuing validity of the entitlement to TA, former office holders need to report changes in their situation (upon ending office/mandate and in case of changes in employment). However, the reporting of changes relies largely on the good faith of the former office holder, e.g. former office holders are not obliged to submit tax returns. Some of the Member State cases point to comprehensive information duties (ES, NL, SE). The Spanish case is interesting in as far as the Social Security Services have a role to alert the authority in charge of TA of relevant changes in the beneficiary's employment situation.
- **TA compatible with new employment?** When former office holders take up new activities, their entitlements can be reduced or ended. Regulations 422/67 and 2016/300 end the entitlement upon a former office holder being 'reappointed to office in one of the institutions' and **reduces the entitlement in case of a former office holder taking up a 'gainful activity'** during the period of the entitlement to TA. In case of the EP, the entitlement is offset against income from a new mandate in another parliament or a public office. **TA is not reduced if a member assumes a public office without becoming a 'senior official exercising public authority' or assumes an occupation in the private sector.** Some of the examples from beyond the EU institutions provide for a reduction of TA (CZ, DE, FI, NL, SE, EBRD president) or simply end the TA in case of new employment (AT, CH, ES, FR, SK in case of public sector employment, UK for members of government). In some cases, there are no reductions (CA, IT, SK in case of private sector employment, UK for members of parliament, EBRD vice-presidents).

This section presents the regulatory framework on TA for the institutions covered by this study. This includes an overview of the applicable regulatory framework (3.1), a review of the raison d'être of TA (3.2), and a discussion of selected aspects of the regulatory framework, i.e. the beneficiaries of TA, the duration of TA, the volume of TA, former office holders' obligations to provide information, and provisions on TA in case of new occupational activity (3.3).

3.1 Overview of the regulatory framework

3.1.1 Introduction to the regulatory framework

The current regulatory framework on TA as applicable to the institutions covered by this study is set out in the following legal documents:

- Decision 2005/684 covers TA for Members of the European Parliament.
- Regulation 422/67 sets out the framework for office holders in place before 4 March 2016 in the Council (President), the EC, the Court, Ombudsman, EDPS and EIB⁶⁴.
- Regulation 2290/77 sets out the framework for office holders in place before 4 March 2016 for the ECA and the Secretary General of the Council⁶⁵.
- Regulation 2016/300 covers office holders in place as of 4 March 2016 in the same institutions as for Regulation 422/67, and adding ECA and the Secretary General of the Council.
- In February 2011, the currently valid ECB arrangements on TA were fixed by the ECB's Governing Council; these were modelled on Regulation 422/67 as applicable in 2011⁶⁶.

⁶⁴ The EIB confirmed that a 1958 Board Decision and subsequent amendments stipulated the application of Regulations 422/67 and 2016/300. The EIB website specifies: 'According to a rule established in 1958 by the Board of Governors, the President of the EIB receives the same monthly salary as the President of the European Commission, and the Vice-Presidents of the European Investment Bank receive the same monthly salary as the Vice-Presidents of the European Commission'. The same EIB webpage provides a link to a document with an overview of entitlements, and noting with regard to TA the application of the rules contained in Regulation 422/67 http://ec.europa.eu/archives/commission_2010-2014/pdf/entitlements_en.pdf (accessed on 19 September 2017). EIB emails to the authors, dated 5 and 19 September 2017.

⁶⁵ The Secretary General stands out for not being a 'member' but rather a senior employee.

⁶⁶ Note that ECB was not in a position to share the actual text of its regulatory basis on TA, however the ECB Annual Reports provide detailed information on the salaries of the Executive Board members. They moreover inform about the allowances and pension benefits paid to them. The reference to the year 2011 is explainable by the fact that at that point in time new Executive Board members were starting to take office (for an eight-year term). Therefore, the then agreed terms are still valid today for these members. ECB written reply on TA in answer to a questionnaire by the authors, dated 2 October 2017.

Table 3: Regulatory framework

REGULATORY FRAMEWORK	INSTITUTION									
	Parliament	European Council (President)	Council of the EU (Sec.-Gen.)	EC ⁶⁷	Court ⁶⁸	ECA ⁶⁹	Ombudsman	EDPS	EIB	ECB
Decision 2005/684 (as of the 2009 parliamentary term)	✓									
Regulation 2016/300 (office holders in place after 4 March 2016)		✓	✓	✓	✓	✓	✓ ⁷⁰	✓ ⁷¹		
Regulation No 422/67 (office holders on / before 4 March 2016)		✓ ⁷²		✓ ⁷³	✓		✓ ⁷⁴	✓ ⁷⁵		✓ ⁷⁶
Regulation 2290/77 (office holders on / before 4 March 2016)			✓ ⁷⁷			✓				
EIB Board of Governors rule (1958) ⁷⁸									✓	

⁶⁷ Including High Representative of the Union for Foreign Affairs and Security Policy.

⁶⁸ Including Presidents, Judges, Advocates-General and Registrars.

⁶⁹ Including Presidents, Members.

⁷⁰ According to European Parliament Decision 94/262, Regulation No 422/67/Regulation 2016/300 apply.

⁷¹ According to European Parliament Decision 1247/2002, Regulation No 422/67/Regulation 2016/300 apply.

⁷² According to Council Decision 2009/909, Regulation 422/67 applies.

⁷³ According to Council Decision 2009/910, Regulation 422/67 applies also to the High Representative of the Union for Foreign Affairs and Security Policy.

⁷⁴ According to European Parliament Decision 94/262, Regulation No 422/67/Regulation 2016/300 apply.

⁷⁵ According to European Parliament Decision 1247/2002, Regulation No 422/67/Regulation 2016/300 apply.

⁷⁶ The currently valid terms and conditions of employment have been (...) modelled in essence on, and are comparable with the remuneration scheme of other European high-level officials. This refers in particular to Regulation No 422/67/EEC, No 5/67/Euratom, as applicable in 2011, i.e. in its version as amended in 2005', ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

⁷⁷ According to Council Decision 2009/912, Regulation 2290/77 applies.

⁷⁸ The EIB confirmed that a 1958 Board Decision and subsequent amendments stipulated the application of Regulations 422/67 and 2016/300 (EIB email to the authors, dated 5 September 2017).

3.1.2 Who makes the rules?

- **Regulation No 422/67; Regulation 2016/300:** According to the Treaty (Art. 243 and Art. 286(7)), the Council is entrusted with issuing the rules on emoluments of high-level public office holders. This relates to the EU institutions covered by the EU Budget, with the exception of the EP.
- **Decision 2005/684:** Turning to the EP, according to TFEU Art. 223 (former Art. 190): ‘The European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure after seeking an opinion from the Commission and with the consent of the Council, shall lay down the regulations and general conditions governing the performance of the duties of its Members’.
- **EIB Board of Governors rule:** According to the Treaty (Art. 11(5), Protocol 5 in the statute of the EIB) ‘The Board of Governors shall determine the remuneration of members of the Management Committee and shall lay down what activities are incompatible with their duties’.
- **ECB:** According to Article 11.3 of the Statute of the ECB, the terms and conditions of employment of the members of the Executive Board are fixed by the Governing Council on proposal from a Committee comprising three members appointed by the Governing Council and three members appointed by the Council⁷⁹.

3.2 Rationale as noted in the regulatory framework

This section briefly reviews the rationale behind the TA, addressing the question as to why is there a need for TA in the first place?

3.2.1 Regulation No 422/67 and Regulation 2016/300

Regulation No 422/67 does not specify a rationale.

The Council Register facilitated access to the preparatory dossier for Regulation No 422/67⁸⁰. This dossier included a three-page text introducing the regulation, however, there is no reference to the *raison d’être* behind the TA⁸¹. The note does, however, indicate that Regulation No 422/67 was modelled on the regulatory framework applicable until 1967 to the members of the Commissions of the European Economic Community and of the European Atomic Energy Community and of the High Authority: ‘Conformément au désir exprimé, le nouveau régime est identique à celui qui s’appliquait jusqu’au 5 juillet 1967...’⁸². This refers to Council Regulations 63 of 18 December 1961, 14 of the CEEA of 18 December 1961, the CECA decision of 22 May 1962 and Regulation 62/CEE and 13/CEEA of 12 June 1962. A review of the related preparatory documentation confirms that the TA was conceived in the context of the three years of occupational restrictions according to Art. 9 of the Treaty on the European Coal and Steel Community⁸³, i.e. as of the very beginning there was a link between the TA and post-office occupational restrictions.

⁷⁹ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

⁸⁰ Searches in ‘CASE’ Central Archives Search Engine, <http://www.consilium.europa.eu/app/case4/home.aspx>.

⁸¹ Note – Objet: Régime pécuniaire des membres de la Commission unique, 13 July 1967, C/55/67 (STAT 3).

⁸² Note – Objet: Régime pécuniaire des membres de la Commission unique, 13 July 1967, C/55/67 (STAT 3).

⁸³ Commission Interimmaire (1952), Rapport sur le statut des membres de la Haute Autorité et des Juges, 26 June 1952, p. 6. Art. 9 of the Treaty reads ‘Les membres de la Haute Autorité ne peuvent exercer aucune activité professionnelle, rémunérée ou non, ni acquérir ou conserver, directement ou indirectement, aucun intérêt dans les affaires relevant du charbon et de l’acier pendant l’exercice de leurs fonctions et pendant une durée de trois ans à partir de la cessation desdites fonctions’.

Box 1 – Post-office restrictions in April 1951⁸⁴

Art. 9 of the Treaty on the European Coal and Steel Community reads ‘Les membres de la Haute Autorité ne peuvent exercer aucune activité professionnelle, rémunérée ou non, ni acquérir ou conserver, directement ou indirectement, aucun intérêt dans les affaires relevant du charbon et de l’acier pendant l’exercice de leurs fonctions et pendant une durée de trois ans à partir de la cessation desdites fonctions’.

(‘The members of the High Authority may not exercise any business or professional activities, paid or unpaid, nor acquire or hold, directly or indirectly, any interest in any business related to coal and steel during their term of office or for a period of three years thereafter’.)

Moving to the new regulatory framework put in place in 2016, Recital 6 of Regulation 2016/300 notes: ‘the purpose of the transitional allowance for public office holders is to ensure, for a limited period directly following their term of office, a certain level of financial security until their next paid employment with a similar level of remuneration, or other source of income such as their pension’. However, there is no explicit reference to the relation with the post-office occupational restrictions. In this context it is worth noting that the TFEU does not establish a specific duration for the post-office requirements⁸⁵, however, the Code of Conduct for Commissioners foresees restrictions for 18 months⁸⁶. EC interview feedback confirms the implicit understanding of the linkage between the TA and post-office requirements.

The ECB notes a dual purpose, ensuring financial security and preventing conflicts of interests: ‘Standard practice for high-level EU Officials, offering a compensation for employment restrictions after leaving office but also to ensure, for a limited period even beyond the cooling-off period, a certain level of financial security and to cover for eventual pension contributions’⁸⁷.

The missing alignment between the duration of TA and length of post-office restrictions explains the CSOs’ demands for the duration of post-office requirements to be extended to two years to ensure full alignment with the maximum duration of the TA under Regulation 2016/300 and three years for Regulation 422/67. Note that the Code of Conduct for Commissioners is currently under review. Anonymous feedback suggests that the duration of post-office restrictions will be extended to two years.

Table 4 shows post-office restrictions for the different institutions. Whilst for some institutions the duration of TA is longer than the duration of post-office restrictions (e.g. EC, Council, EIB, ECB), for others it is the other way round (under 2016/300 for the Court of Justice, ECA).

⁸⁴ The English translation is taken from:

https://www.cvce.eu/obj/treaty_establishing_the_european_coal_and_steel_community_paris_18_april_1951-en-11a21305-941e-49d7-a171-ed5be548cd58.html.

⁸⁵ Art. 245, second paragraph of the TFEU reads ‘The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead’.

⁸⁶ Art. 1.2, Code of conduct for Commissioners C(2011) 2904.

⁸⁷ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

3.2.2 Decision 2005/684

Recital 13 of Decision 2005/684 notes: ‘The transitional allowance (...) is intended, in particular, to bridge the period between the end of a Member's term of office and his/her taking up a new post. When the former Member takes up another mandate or assumes a public office, this purpose ceases to be relevant’. Post-mandate restrictions are in place, however, there is no specific duration⁸⁸.

Table 4: Comparison duration of TA / post-office restrictions

INSTITUTION	DURATION OF TA	DURATION OF POST-OFFICE RESTRICTIONS
Regulation No 422/67 / Regulation 2016/300		
President, European Council	36 months (422/67) / 6-24 months (2016/300)	18 months (Code of Conduct, 2015)
President and members, EC		18 months (Code of Conduct, 2011)
High Representative		
Presidents, Judges, Advocates-General, Registrars, Court of Justice		36 months (Code of Conduct, 2016)
Ombudsman ⁸⁹		36 months (Code of Conduct)
EDPS ⁹⁰		Not specified ⁹¹
President and members, ECA	36 months (2290/77) /	36 months (Code of Conduct)
Secretary-General, Council of the EU	6-24 months (2016/300)	24 months (Rules for EU civil servants)
Board of Governors rule (1958)⁹²		
EIB	36 months (422/67) / 6-24 months (2016/300)	12 months (Art. 4, Management Committee Code of Conduct, 2011)
Statute of the ECB of 26 October 2012		
ECB	36 months	12 months (Code of Conduct for the Members of the Governing Council)
European Parliament Decision 2005/684		
EP	6-24 months	Not specified (Code of Conduct)
Member States, Third Countries, International Organisations		
AT	6 months	-
CA (members of parliament)	One-off payment	60 months
CH	24 months	-
CZ (members of parliament/government)	One-off payment	3 months
DE (members of government)	18 months	18 months
ES (members of government)	24 months	24 months

⁸⁸ Art. 6 of the Code of Conduct for Members of the EP specifies ‘Activities of former Members: Former Members of the European Parliament who engage in professional lobbying or representational activities directly linked to the European Union decision-making process should inform the European Parliament thereof and may not, throughout the period in which they engage in those activities, benefit from the facilities granted to former Members under the rules laid down by the Bureau to that effect’.

⁸⁹ According to EP Decision 94/262, Regulation No 422/67/Regulation 2016/300 apply.

⁹⁰ According to EP Decision 1247/2002, Regulation No 422/67/Regulation 2016/300 apply.

⁹¹ Interview feedback suggests that the EDPS Code of Conduct is likely to be revised for further alignment with the practices of other EU institutions. Interview with the EDPS, 24 August 2017.

⁹² The EIB confirmed that a 1958 Board Decision and subsequent amendments stipulated the application of Regulations 422/67 and 2016/300 (EIB email to the authors, dated 5 September 2017).

FI (members of parliament)	36 months	-
FR (members of parliament)	36 months	24 months
FR (members of government)	3 months	36 months
NL (members of parliament)	24-38 months	-
NL (members of government)	6-38 months	24 months
SE (members of parliament, guaranteed income)	12-180 months	-
SE (members of parliament, financial redeployment)	3-24 months	-
SK (members of parliament/government)	2-3 months	2-3 months
UK (members of parliament)	One-off payment	6 months
UK (members of government)	One-off payment	24 months
EBRD (president)	12 months	12 months
EBRD (vice-president)	3 months	12 months
WB (president)	108 months	24 months

3.2.3 Examples from beyond the EU institutions

Member States mostly emphasise the use of TA to ensure financial security (AT, BE, CZ, DE, FI, FR, IT, NL, SE, SK). Interestingly, limited reference is made to the TA contributing to avoiding conflicts of interest (ES, CA).

- **BE, CZ, DE, FR and SK** emphasise the need to compensate for career disadvantages of office holders (coming from the private sector). In FR it is noted that office holders from the private sector cannot recover, unlike office holders from the public sector, their former employment. In BE it is noted that members of parliament have no right to unemployment benefits upon the end of their mandate. Moreover, even if recovering his pre-mandate employment, during the mandate, the member was not in a position to add value to his former employment, and will therefore lose out when recovering his former employment⁹³. In **AT and DE**, similar rationales explain the existence of TA⁹⁴. In the **UK** parliament, TA are explained with the need to help members economically adjust to life outside parliament. A similar rationale is provided for members of parliament in **IT**⁹⁵. Feedback from **FI**'s parliament also relates TA with the need to help members to transit to life outside parliament⁹⁶. Feedback from **SE** also points to the need to help the member adjust: 'The purpose of the severance packages is to create economic

⁹³ 'De plus, même s'il pouvait récupérer son ancien emploi, il faut également prendre en compte la grande difficulté, voire l'impossibilité pour le parlementaire concerné de valoriser sa carrière professionnelle d'origine durant la durée de son mandat, ce qui lui cause un manque à gagner lorsqu'il reprend son emploi d'origine' Feedback from the legal services of the Belgian Parliament, 25 August 2017.

⁹⁴ For AT: art. 2, Unvereinbarkeits- und Transparenzgesetz;
For DE: <https://www.bundestag.de/en/documents/database/245848>.

⁹⁵ Law 1261/65 on the determination of the allowances for Members of Parliament.

⁹⁶ Written answer by the Office of Parliament, dated 5 October 2017.

security for the period of adjustment that arises after a member leaves the Riksdag. They are not intended as a long-term means of support⁹⁷.

- **ES** presents a rare example of TA being clearly understood to compensate for employment restrictions following the end of the office. A voluntary relinquishing of TA has no implication for the employment restrictions⁹⁸. **CA** represents a further example of TA related to the prevention of conflicts of interest. In CA very demanding post-office restrictions apply (e.g. cooling-off period of 60 months), and TA, in the form of a one-off payment, are understood in this context⁹⁹.

3.3 Specific aspects of the regulatory framework

This section discusses specific aspects of the regulatory framework, i.e. the beneficiaries of TA (3.3.1), the duration of TA (3.3.2), the volume of TA (3.3.3), former office holders' obligations to provide information (3.3.4), and provisions on TA in case of new occupational activity (3.3.5).

3.3.1 Who is covered?

3.3.1.1 The institutions covered by this study

The following table shows the coverage of the regulatory framework, i.e. how many office holders per institution benefit of TA. In total, 866 office holders are entitled to TA, the large majority (some 87%) being Members of the EP.

Table 5: Coverage

INSTITUTION	TOTAL	RENEWAL (YEARS)
Regulation No 422/67 / Regulation 2016/300		
President, European Council	1	2.5
President and members, EC	28	5
High Representative of the Union for Foreign Affairs and Security Policy	(1) ¹⁰⁰	5
Presidents, Judges, Advocates-General, Registrars, Court of Justice	28 Judges, 11 Advocates General, 1 Registrar	6
President and members, ECA	28	6
Secretary-General, Council of the EU ¹⁰¹	1	5

⁹⁷ Written answer by the Swedish Parliament, dated 5 October 2017.

⁹⁸ Interview with the Ministry of Finance, 10 October 2017. The regulatory basis is set out in Law 3/2015, 30 March, regulating the exercise of occupation of senior members of the National General Administration; Ministerial order HAP/1176/2015, 15 June adopting the related declarations and forms to be used in the context of Law 3/2015; Relevant issues (guidelines): http://www.minhafp.gob.es/AreasTematicas/OCI/ALTOS%20CARGOS/Aspectos_relevantes_Ley_3_2015.pdf; Decree-law 20/2012, 13 July, measures for budgetary stability and promotion of competitiveness (applies the rules related to the transitional allowances to all members of the public administrations, members of the National and Regional Parliaments, Municipalities, constitutional institutions included the Judiciary).

⁹⁹ Art. 70, Parliament of Canada Act.

¹⁰⁰ Also a Member of the European Commission.

¹⁰¹ Note that the Secretary General of the Council stand out for not being a 'member' but rather a senior employee.

Ombudsman ¹⁰²	1	5
EDPS ¹⁰³	1	5
Board of Governors rule (1958)		
Members of the Management Committee, EIB	9	6
ECB		
Members of the Executive Board, ECB	6	8
European Parliament Decision 2005/684		
EP (members)	751	5

3.3.1.2 Examples from beyond the EU institutions

It is interesting to note that in the EU institutions, the entitlement to TA is not related to the 'modus' of ceasing to hold office, i.e. Council Regulations 422/67 and 2016/300 and European Parliament Decision 2005/684 do not differentiate between different types of ending office such as voluntary resignation and end of term. TA become due when the office holder 'ceases to hold office' (422/67 and 2016/300), and 'following the cessation of their duties' (2005/684).

Notwithstanding, for members of the EC, Art. 245 of the TFEU provides for a deprivation of the right to a pension or other benefits in case of failure 'to behave with integrity and discretion'.

The following examples from **BE, CH, UK** and the **EBRD** show an alternative arrangement.

¹⁰² According to EP Decision 94/262, Regulation No 422/67/Regulation 2016/300 apply.

¹⁰³ According to EP Decision 1247/2002, Regulation No 422/67/Regulation 2016/300 apply.

Box 2 – Voluntary end of mandate/office in Belgium, Switzerland, the United Kingdom and the EBRD¹⁰⁴

The Belgian Parliament differentiates between a member leaving because of the end of the mandate ('indemnités de sortie'), and a 'voluntary' resignation prior to the end of the mandate ('indemnités de départ'). The objective is to limit the allocation of TA in case of a voluntary end of mandate, and in this case TA are only allocated in exceptional cases: 'La volonté de la Chambre est avant tout d'interdire l'octroi d'une indemnité de départ lorsqu'un député s'en va pour exercer un mandat ou un emploi rémunéré ailleurs'.

In Switzerland, members of parliament / government have no right to TA when leaving the office voluntarily.

In the UK, members of parliament who choose to stand down and do not stand for re-election are not entitled to any payment.

The president of the EBRD only benefits of TA if the service was terminated by the Board of Governors other than for a cause, or if the president resigns after having served for at least two years, or upon completion of the four-year term; the vice-presidents benefit of TA unless they have caused termination by the Board.

3.3.2 Duration of entitlements**3.3.2.1 Regulation No 422/67; Regulation 2016/300**

Art. 7(1) of Regulation 422/67 stipulates a duration of the entitlement to TA of three years (similarly, Regulation 2290/77 foresees three years for the Secretary General of the Council and members of ECA in place before 4 March 2016). Taking the example of the EC, all members with the exception of Commissioners Gabriel and King (appointed after 4 March 2016) would benefit of three years of TA under Regulation 422/67.

Art. 10(1) of Regulation 2016/300 introduced an alignment of the duration of TA with the length of service with a minimum duration of six months and a maximum duration of the entitlement of two years: 'The duration of the entitlement to the monthly transitional allowance shall be equal to the length of the period of service. However, this duration shall not be less than 6 months or more than 2 years'.

EC feedback confirms that the minimum duration of the entitlement is six months, i.e. in cases of a public office holder having served less than six months, the duration of the entitlement is not equal to the length of the period of service. Note that the EP requires former members to have served for at least one year to qualify for TA.

Anonymous feedback on the preparation of Regulation 2016/300 suggests that initial proposals foresaw a duration of six months to three years (as in the original regulation 422/67). Further to Member State objections, this was reduced to two years.

¹⁰⁴ Belgium: Feedback from the legal services of the Belgian Parliament, 25 August 2017; Switzerland: Art. 8a, Verordnung der Bundesversammlung zum Parlamentsressourcengesetz; UK: Chapter Eight of the Scheme of MPs' Business Costs and Expenses.

Box 3 – Replacement Commissioners¹⁰⁵

In the past, there have been examples of Commissioners having served less than six months, e.g. Ferdinando Nelli Feroci (17 July to 31 October 2014), Jacek Dominik, and Martine Reicherts (16 July to 1 November 2014) but, according to the legal provision with an entitlement to the three years of TA. These Commissioners were referred to as 'Replacement Commissioners', taking the place of Commissioners who joined the EP for a period lasting until the full renewal of the EC. The budgetary impact (TA) is estimated as around EUR 380,000 (over three years) per Commissioner. It is possible that this scenario will repeat itself in the context of the 2019 EP elections, however now with a reduced duration of TA of six months, reducing the budgetary impact per Replacement Commissioner to around EUR 70,000 (over six months) (since the Replacement Commissioners will take office after 4 March 2016, with Regulation 2016/300 applying).

Finally, a note on a former EIB Vice-President: When former EIB Vice-President Jan Vapaavuori became mayor of Helsinki, the media referred to his entitlement to TA as former EIB Vice President of 40% during three months¹⁰⁶. However, this is likely to be a mistake. Vapaavuori served between September 2015 and June 2017¹⁰⁷. Therefore, Art. 7.1 of Regulation 422/67 applies, and this does not consider a limitation to three months (as claimed by the media), but foresees, in the case of service under two years, a monthly transitional allowance of 40% during three years¹⁰⁸. The budgetary impact can be calculated as nearly EUR 210 000 (The TA of EUR 400 000, over three years¹⁰⁹, minus Vapaavuori's new salary as mayor of Helsinki of around EUR 190 000)¹¹⁰.

3.3.2.2 Decision 2005/684

Art. 13(2) reads 'This entitlement shall continue for one month per year in which their mandate has been exercised, but not for less than six months or more than 24 months'. EP feedback confirms that to qualify, the minimum length of the mandate is one year, as of which the duration of the entitlement would be of six months (this was clarified in consultation with the EP legal services).

¹⁰⁵ The budgetary impact for the 2014 Replacement Commissioners was calculated by using COM (2015) 597 final and the formula 40% of basic salary (112,5% of 3rd step of grade 16 (18,962.24)) x 36 months = EUR 383,985.36. The budgetary impact for the 2019 Replacement Commissioners was calculated by using COM (2016) 717 final and the formula 40% of basic salary (112,5% of 3rd step of grade 16 (19,587.99)) x 6 months = EUR 66,109.44.

¹⁰⁶ https://yle.fi/uutiset/osasto/news/helsinki_mayor-in-waiting_vapaavuori_to_donate_eib_transition_perk_to_charity/9580546 (accessed on 9 August 2017).

¹⁰⁷ <http://www.eib.org/infocentre/press/releases/all/2015/2015-187-jan-vapaavuori-is-new-vice-president-of-the-european-investment-bank.htm> (accessed on 9 August 2017) and <http://www.eib.org/infocentre/press/releases/all/2017/2017-219-alexander-stubb-is-new-vice-president-of-the-european-investment-bank.htm> (accessed on 9 August 2017).

¹⁰⁸ Note, that this study does not provide as comprehensive an assessment of the EIB as for other EU institutions because the EIB only shared the regulatory basis on TA, namely a Board of Governors decision of 25 January 1958 after the end of the data collection for this study (EIB email to the authors, dated 31 October 2017). A quick review of the Board of Governors decision indicates the intention to apply the arrangements applicable to the EC (President and Vice Presidents) on a provisional basis. However, the EIB confirmed that the 1958 Board Decision and subsequent amendments maintained the application of Regulations 422/67 and 2016/300 (EIB email to the authors, dated 5 September 2017 and 31 October 2017).

¹⁰⁹ The budgetary impact was calculated by using COM (2016) 717 final and the formula 40% of basic salary (112,5% of 3rd step of grade 16 (19,587.99)) x 36 months = EUR 396,656.64.

¹¹⁰ https://en.wikipedia.org/wiki/List_of_highest_paid_mayors (accessed on 19 September 2017).

3.3.2.3 Examples from beyond the EU institutions

Examples from beyond the EU institutions show different arrangements, ranging from one-off payments (CA, CZ, IT, UK, NATO, OECD, OSCE) to TA of between three months (AT, FR, SK) and 15 years (SE).

- **AT:** Mandate/office holders who are not allowed to take on other occupations during the term of their mandate/office are entitled to up to six months of TA¹¹¹; other office holders are entitled to three months of TA.
- **BE:** The Belgian parliament allows for TA for four to 24 months. No matter how short the mandate, a TA of four months is the minimum¹¹²; members of government benefit up to 24 months.
- **CA:** In CA, TA takes the form of a one-off payment¹¹³.
- **CH:** Members of parliament can benefit of TA of up to 24 months¹¹⁴.
- **CZ:** In CZ, TA for former members of parliament / government takes the form of a one-off payment¹¹⁵.
- **DE:** Members of parliament can benefit of TA of up to 18 months¹¹⁶.
- **DK:** Members of parliament can benefit of TA of between 12 and 24 months¹¹⁷.
- **ES:** Office holders are entitled to TA for a period of up to 24 months¹¹⁸.
- **FI:** Members of parliament can benefit of TA of up to 36 months¹¹⁹.
- **FR:** Members of government benefit from TA during three months¹²⁰; members of parliament benefit up to 36 months.
- **IE:** Members of government do not benefit of any TA¹²¹.
- **IT:** Members of parliament, of the senate and members of government benefit of a one-off payment¹²².
- **NL:** Members of parliament benefit of TA of between 24 and 38 months; members of government of between six and 38 months¹²³.

¹¹¹ Art. 6 para 3(1), Bundesgesetz über die Bezüge der obersten Organe des Bundes, der Mitglieder des Nationalrates und des Bundesrates.

¹¹² Feedback from the legal services of the Belgian Parliament, 25 August 2017.

¹¹³ Art. 70 para 5, Parliament of Canada Act.

¹¹⁴ Art. 8b, Verordnung der Bundesversammlung zum Parlamentsressourcengesetz.

¹¹⁵ Zákon č. 236/1995 Sb. o platu a dalších náležitostech spojených s výkonem funkce představitelů státní moci a některých státních orgánů a soudců a poslanců Evropského parlamentu. (Law n. 236/1995 about the emoluments and other requirements related to the performance of the duties of state representatives and some other state organs, judges and deputies of the European parliament.

¹¹⁶ Art. 35a para. 2, Abgeordnetengesetz.

¹¹⁷ Folketing (Parliamentary) Elections Act - Consolidated Act No. 369 of 10 April 2014: chapter II - Remunerations and pension, etc. part 14.

¹¹⁸ Law 3/2015, 30 March, regulating the exercise of occupation of senior members of the National General Administration.

¹¹⁹ TA are regulated by a law 'Laki kansanedustajien eläkkeestä ja sopeutumisrahasta' (329/1967, latest major amendment 150/2011) – which translates as 'A law of parliament members' pensions and transitional allowances'.

¹²⁰ Article 5 de l'Ordonnance n° 58-1099 du 17 novembre 1958 portant loi organique pour l'application de l'article 23 de la Constitution.

¹²¹ Oireachtas Ministerial and Parliamentary Offices Amendment Act 2014.

¹²² Law 1261/65 on the determination of the allowances for Members of Parliament.

¹²³ General Pension Law for Political Officials (Algemene Pensioenwet Politieke Ambtsdragers), <http://wetten.overheid.nl/BWBR0002691/2017-07-01>.

- **SE:** Sweden's parliament operates two parallel systems, the system of 'guaranteed income' and the system of 'financial redeployment support'¹²⁴. The system of 'guaranteed income' allows for TA for one to 15 years, with extensions possible; the system of financial redeployment allows for TA for three months to two years, again with extensions possible.
- **SK:** Members of parliament having served at least five months and less than five years benefit of two months of TA; members of parliament having served more than five years benefit of three months of TA; members of government benefit of three months of TA¹²⁵.
- **UK:** Members of parliament and of government benefit of a one-off payment¹²⁶.
- **EBRD:** The president of the EBRD benefits of 12 months of TA; the vice-presidents of three months of TA¹²⁷.
- **NATO, OECD, OSCE:** The Secretary Generals of the three organisations benefit of a one-off payment (this is called 'leaving allowance' in the case of NATO and the OECD and 'separation benefit' for the OSCE)¹²⁸.
- **WB:** The president of the WB benefits of an 'expiration payment' up to a maximum of nine years¹²⁹.

3.3.3 Volume of entitlements

This section presents the volume of entitlements, i.e. 'how much' do former office holders receive in terms of TA. For illustration purposes, Table 6 presents the example of a fictitious former office holder/member of the EP having served for five years.

3.3.3.1 Regulation No 422/67; Regulation 2016/300

Art. 7(1) entitles former office holders to a monthly allowance of 40-65% of basic salary depending on length of service (stretching from less than two years to over 15 years). In addition, there is an entitlement to family allowances. Regulation 2016/300 maintains the percentage range and entitlement to family allowances. Note that the original version of Regulation No 422/67 foresaw an allowance of 40-50% (taking over the stipulations from the first regulations on emoluments of office holders, e.g. for the EC, Council Regulation 63, dated 18 December 1962)¹³⁰, and no entitlement to family allowances. The 40-65% range and additional entitlement to family allowances were introduced in 1973¹³¹.

¹²⁴ Written answer by the Swedish Parliament, dated 5 October 2017. This system of guaranteed income applies to members who were elected to the Riksdag or entered the Riksdag as alternate members before the election of 2014. It also applies to members who were elected to the Riksdag in the election of 2014 or enter the Riksdag later, if they were members of the Riksdag previously and have received a favourable decision as regards guaranteed income, provided, however, that the guarantee period has not expired. Financial redeployment support applies to members who were elected to the Riksdag for the first time in the election of 2014 or later and who are not subject to the rules concerning guaranteed income.

¹²⁵ Zákon NR SR č.120/1993: Zákon o platových pomeroch niektorých ústavných činiteľov SR. (Law n.120/1993 about the emoluments of some of the state representatives).

¹²⁶ For members of parliament ('Loss of Office Payment'): Chapter Eight of the Scheme of MPs' Business Costs and Expenses; for members of government: Section 4 of the Ministerial and other Pensions and Salaries Act 1991.

¹²⁷ EBRD email to the authors, dated 30 August 2017.

¹²⁸ NATO Rules of the Coordinated Pension Scheme; OECD Pension Scheme Rules; OSCE Staff regulations and staff rules.

¹²⁹ See World Bank Staff Manual (<https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b08234ba1d.pdf>) and Terms of Employment (<http://documents.worldbank.org/curated/en/248751468147543868/Terms-of-appointment-of-Dr-Jim-Yong-Kim-as-President-of-the-International-Bank-for-Reconstruction-and-Development>).

¹³⁰ Regulation No 63 of the Council determining the emoluments of members of the Commission, OJ 62, 19.7.1962, p. 1724-1727.

¹³¹ Regulation (ECSC, EEC, Euratom) No 1546/73 of the Council of 4 June 1973 amending Regulation No 422/67/EEC, No 5/67/Euratom determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice.

Regulation 2290/77 for the Secretary General of the Council and members of ECA in place before 4 March 2016 also foresees a 40-65% range (originally, this regulation foresaw a 35-60% range)¹³².

3.3.3.2 [Decision 2005/684](#)

Art. 13(1) entitles former members to a TA equivalent to the member's former salary, i.e. there is no percentage range depending on length of service.

3.3.3.3 ECB

ECB feedback notes: *'Entitlement for transitional allowance is for three years; 'volume' follows a staggered approach depending on length of service - from 40% to effectively 60% of salary. If a full eight-year term is served, the entitlement is 80% in the first, 60% in the second and 40% in the third year'*¹³³.

3.3.3.4 Examples from beyond the EU institutions

Examples from beyond the EU institutions show substantial variety with the volume of TA often related to length of service (BE, CZ, DE, DK, IT, NL, SE, UK, OSCE, WB). The TA arrangements in Sweden are particularly noteworthy with two parallel systems currently in place and an interesting relation between volume of TA and age/needs.

- **AT:** The TA amounts to 75% of the former salary¹³⁴.
- **BE:** A former member of parliament generates two months of TA per year of mandate (100% of the former salary)¹³⁵; members of government generate one month of TA per year of office (100% of the former salary).
- **CA:** In CA, the one-off payment amounts to 50% of annual salary for members of parliament, and members of government¹³⁶.
- **CH:** TA amounts to 100% of the highest amount of annual retirement allowance¹³⁷.
- **CZ:** In CZ, the one-off payment for former members of parliament/government amounts to the salary of the last month of his term in office multiplied by the number of terminated years in office (up to four years)¹³⁸.
- **DE:** Members of parliament generate one month of TA (100% of former salary) per year of service¹³⁹.
- **DK:** The post-service remuneration for former members of parliament is equivalent to the basic salary for a number of months corresponding to half the number of full months in which the member has most recently been a Member of the Danish Parliament or EP for a continuous period¹⁴⁰.

¹³² Council Regulation (EC, Euratom, ECSC) No 840/95 of 10 April 1995 amending Regulation (EEC, Euratom, ECSC) No 2290/77 determining the emoluments of the members of the Court of Auditors.

¹³³ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

¹³⁴ Art. 6 para 2, Bundesgesetz über die Bezüge der obersten Organe des Bundes, der Mitglieder des Nationalrates und des Bundesrates.

¹³⁵ Feedback from the legal services of the Belgian Parliament, 25 August 2017.

¹³⁶ Art. 70 para 4, Parliament of Canada Act.

¹³⁷ Art. 8b, Verordnung der Bundesversammlung zum Parlamentsressourcengesetz.

¹³⁸ Zákon č. 236/1995 Sb. o platu a dalších náležitostech spojených s výkonem funkce představitelů státní moci a některých státních orgánů a soudců a poslanců Evropského parlamentu. (Law n. 236/1995 about the emoluments and other requirements related to the performance of the duties of state representatives and some other state organs, judges and deputies of the European parliament.

¹³⁹ Art. 35a para. 2, Abgeordnetengesetz.

¹⁴⁰ Folketing (Parliamentary) Elections Act - Consolidated Act No. 369 of 10 April 2014: chapter II - Remunerations and pension, etc. part 14.

- **ES:** TA amounts to 80% of the former office holder's annual salary, paid in monthly rates¹⁴¹.
- **FR:** The TA of a member of government amounts to 100% of the former salary; the TA of a member of parliament decreases from 100 to 20% of the former salary over the maximum three years of entitlement.
- **IE:** Members of government do not benefit of any TA¹⁴².
- **IT:** The one-off payment for former members of parliament, the senate and government amounts to 80 per cent of the gross monthly salary multiplied by the number of years of mandate (or fraction not less than six months)¹⁴³.
- **NL:** Members of parliament and members of government benefit of TA at 80% of their salary in the first year of TA and 70% in the second year¹⁴⁴.
- **SK:** The TA is equivalent to the monthly salary received in office¹⁴⁵.
- **UK:** The one-off payment for former members of parliament is equivalent to double the prevailing statutory redundancy entitlement, and depends upon age and length of service. The maximum amount a former member is entitled to is £29,340¹⁴⁶; the one-off payment for former members of government is equal to 25% of the former annual salary¹⁴⁷.
- **EBRD:** The president of the EBRD benefits of a termination allowance equivalent to one year's gross salary, payable in monthly amounts; the vice-presidents benefit of the equivalent of three months' gross base salary¹⁴⁸.
- **OSCE:** The Secretary General's 'separation benefit' amounts to one month's salary per year of completed service¹⁴⁹.
- **WB:** The president of the WB's 'expiration payment' amounts to one month's net pay per year of service¹⁵⁰.

¹⁴¹ Law 3/2015, 30 March, regulating the exercise of occupation of senior members of the National General Administration.

¹⁴² Oireachtas Ministerial and Parliamentary Offices Amendment Act 2014.

¹⁴³ Law 1261/65 on the determination of the allowances for Members of Parliament.

¹⁴⁴ General Pension Law for Political Officials (Algemene Pensioenwet Politieke Ambtsdragers), <http://wetten.overheid.nl/BWBR0002691/2017-07-01>.

¹⁴⁵ Zákon NR SR č.120/1993: Zákon o platových pomeroch niektorých ústavných činiteľov SR. (Law n.120/1993 about the emoluments of some of the state representatives).

¹⁴⁶ Chapter Eight of the Scheme of MPs' Business Costs and Expenses.

¹⁴⁷ Section 4 of the Ministerial and other Pensions and Salaries Act 1991.

¹⁴⁸ EBRD email to the authors, dated 30 August 2017.

¹⁴⁹ Staff regulations and staff rules.

¹⁵⁰ See World Bank Staff Manual (<https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b08234ba1d.pdf>) and Terms of Employment (<http://documents.worldbank.org/curated/en/248751468147543868/Terms-of-appointment-of-Dr-Jim-Yong-Kim-as-President-of-the-International-Bank-for-Reconstruction-and-Development>).

Box 4 – Sweden’s dual system for members of parliament¹⁵¹

Under the system of **‘guaranteed income’**, members who leave the Riksdag and have served for a consecutive period of three but not six full years, receive a guaranteed income for one year, amounting to 80% of regular members’ pay including any possible increments and monthly pay (basis for the guaranteed income) at the time of leaving. Members who leave after a total period of service of at least six full years receive a guaranteed income for two years if they have not yet reached 40 years of age, for five years if they have reached 40 but not 50 years of age, until the beginning of the month of turning 65 if they have reached the age of 50. During the first year of guaranteed income, the member receives 80% of his or her pensionable income at the time of leaving. As from the sixth guarantee year, the basis for the guaranteed income consists only of the member’s pay at the time of leaving.

Under the system of **‘financial redeployment’**, a member must have served in the Riksdag for a continuous period of at least one year; for a one-year consecutive period the member is entitled to three months of TA, for a two-year consecutive period to six months of TA, for a four-year consecutive period to one year of TA and for an eight-year consecutive period to two years of TA. The sum payable amounts to 85% of members’ pay at the time of leaving and is pensionable for national pension. In certain circumstances, financial redeployment support can be extended. A basic requirement for this is that a member has served for at least eight years and had reached 55 years of age at the time of leaving. In addition to this, special reasons are required. This extension can be made for at most one year at a time. Extended redeployment support can amount to a maximum of 45% of the members' pay.

¹⁵¹ Written answer by the Swedish Parliament, dated 5 October 2017. This system of guaranteed income applies to members who were elected to the Riksdag or entered the Riksdag as alternate members before the election of 2014. It also applies to members who were elected to the Riksdag in the election of 2014 or enter the Riksdag later, if they were members of the Riksdag previously and have received a favourable decision as regards guaranteed income, provided, however, that the guarantee period has not expired. Financial redeployment support applies to members who were elected to the Riksdag for the first time in the election of 2014 or later and who are not subject to the rules concerning guaranteed income.

Table 6: Example - TA of a former office holder/member of the EP (5 years of service) - Brutto-Netto

INSTITUTION	FORMULA FOR CALCULATION	TA PER MONTH (EUR)	TOTAL TA (EUR/DURATION)
Regulation 2016/300 ^{152 153}			
President, European Council; President, EC; President, Court of Justice; President EIB	50% of basic salary (138% of 3 rd step of grade 16 (19 587,99)) x 24 months	13 515,71	324 377,11 / 24 months
High Representative of the Union for Foreign Affairs and Security Policy	50% of basic salary (130% of 3 rd step of grade 16 (19 587,99)) x 24 months	12 732,19	305 572,64 / 24 months
Vice-Presidents, EC; Vice-Presidents, Court of Justice; Vice-Presidents, EIB	50% of basic salary (125% of 3 rd step of grade 16 (19 587,99)) x 24 months	12 242,49	293 819,85 / 24 months
President, ECA	50% of basic salary (115% of 3 rd step of grade 16 (19 587,99)) x 24 months	11 263,09	270 314,26 / 24 months
Member, EC; Ombudsman; EDPS, Member, Court of Justice	50% of basic salary (112,5% of 3 rd step of grade 16 (19 587,99)) x 24 months	11 018,24	264 437,87 / 24 months
Member, ECA	50% of basic salary (108% of 3 rd step of grade 16 (19 587,99)) x 24 months	10 577,51	253 860,35 / 24 months
Registrar, Court of Justice	50% of basic salary (101,5% of 3 rd step of grade 16 (19 587,99)) x 24 months	9 940,90	238 581,72 / 24 months
Secretary-General, Council of the EU	50% of basic salary (100% of 3 rd step of grade 16 (19 587,99)) x 24 months	9 794,00	235 055,88 / 24 months
European Parliament Decision 2005/684			
EP	8 484,05 ¹⁵⁴ x (1 month per year of service)	8 484,05	50 904,30 / 6 months

¹⁵² The salary calculations are based on COM(2016) 717 final.

¹⁵³ The EIB confirmed that a 1958 Board Decision and subsequent amendments stipulated the application of Regulations 422/67 and 2016/300 (EIB email to the authors, dated 5 September 2017).

¹⁵⁴ The monthly pre-tax salary of MEPs under the single statute is EUR 8,484.05 as of 1.7.2016' <http://www.europarl.europa.eu/meps/en/about-meps.html>.

3.3.4 Information duties of former office holders

3.3.4.1 Regulation No 422/67; Regulation 2016/300

To allow the institutions to verify the continuing validity of the entitlement to TA, former office holders need to report changes in their situation.

Art. 7(4) of Regulation 422/67 states: 'On the date when he ceases to hold office, on 1 January of each year thereafter and in the event of any changes in his financial situation, a member of the Commission or of the Court shall declare to the President of the institution in which he was previously employed all forms of remuneration received for his services, except those representing reimbursement of expenses. (...) This declaration must be made in good faith and shall be treated as confidential. The information contained therein shall not be used otherwise than for the purposes of this Regulation and shall not be communicated to third persons'. Art 8(4) of Regulation 2290/77 for the Secretary General of the Council and members of ECA is identical.

The EC confirms that there are two forms to support the process, namely a **form to be submitted upon leaving the office** (for the calculation of the TA), and a **form for the annual declaration** (for the assessment of the continuing validity of the calculation)¹⁵⁵.

Art. 10(4) of Regulation 2016/300 largely maintains the same text (with some minor adjustments relating to language and the institutions covered).

3.3.4.2 Decision 2005/684

Decision 2005/684 does not provide for any information duties, however, the Implementing Measures (Art. 48(3)) require: 'Any change in the conditions which gave rise to the award of the transitional allowance which may necessitate a change in this entitlement shall be notified to the Secretary-General without delay. Where there is any doubt, the Secretary-General may ask the person concerned to submit his or her observations'.

3.3.4.3 ECB

ECB feedback confirms information duties: 'on the date ceasing to hold office and thereafter on an annual basis and in the event of any changes to the financial situation. Such declarations must be made in good faith'¹⁵⁶.

3.3.4.4 Examples from beyond the EU institutions

Some of the Member State cases point to comprehensive information duties (ES, NL, SE). The Spanish case is interesting in as far as the Social Security Services have a role to alert the authority in charge of TA of relevant changes in the beneficiary's employment situation.

- **ES:** The former office holder must immediately communicate the new occupation to the Ministry of Finance and requires the Ministry's prior authorisation to take up the new employment. The Social Security Services also immediately inform the Ministry of Finance in case of new employment¹⁵⁷.

¹⁵⁵ European Commission, email of 9 August 2017.

¹⁵⁶ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

¹⁵⁷ See the declaration formats: Transitional allowances form:

http://www.minhafp.gob.es/AreasTematicas/OCI/ALTOS%20CARGOS/ANEXO_III_EJERCICIO_DE_OPCION.pdf; Declaration of not receiving any other remuneration:

http://www.minhafp.gob.es/AreasTematicas/OCI/ALTOS%20CARGOS/Declaracion_responsable.pdf.

- **NL:** The executive branch (Algemene Pensioens Groep, APG) of the National Civil Pension Fund (Stichting Pensioensfonds ABP) has a dedicated team dealing with the General Pension Law for Political Officials, the so-called Appa-team. The online platform www.mijnappa.nl provides public office holders with all the information on the law. It helps public office holders to understand their rights and obligation during and after their term. In addition, the site also informs public employers on what to do when appointing a public office holder. Under the tab 'You resign or are not elected', visitors find information on the steps to take upon ending their term in office. The relevant public authority automatically informs the APG about the resignation. APG processes the dossier and determines whether a person is eligible for TA. APG is also responsible for the re-integration of former public office holders.
- **SE:** Those who apply for disbursement of guaranteed income should provide the National Government Employee Pensions Board with such data as required by the authority to enable it to assess eligibility for the disbursement. If this is not done, the Board may postpone payment. If the income circumstances of a person who has been granted disbursement of guaranteed income or redeployment support change substantially, and these changed circumstances can be expected to affect his or her entitlement to disbursement, he or she should notify the National Government Employee Pensions Board of this without having received any specific request to do so. A former member who receives or applies for guaranteed income should if required notify the Riksdag Remunerations Board of such data, as the data is needed by the Board to examine the matter. If the amount disbursed in guaranteed income is too high a sum, the former member is obliged to pay back the difference. If there are special reasons, the repayment may be waived. The equivalent also applies for financial redeployment support¹⁵⁸.
- **SK:** There are no specific information duties. The Parliament's Organisation Unit is in charge of overseeing the TA payments of the transitional allowances and monitors members' entitlement to TA¹⁵⁹.

3.3.5 Former office holders taking up new activities

When former office holders take up new activities, this can have implications for their entitlement to TA, i.e. entitlements can be reduced or ended.

3.3.5.1 [Regulation No 422/67](#); [Regulation 2016/300](#)

Art. 7(2) of Regulation 422/67 **ends** the entitlement upon a former office holder being 'reappointed to office in one of the institutions'. Art. 7(3) **reduces** the entitlement in case of a former office holder taking up a 'gainful activity' during the period of the entitlement to TA.

The reduction works as shown in the table below, using the example of a member of the EC; with a former salary of EUR 20 000; having served less than five years, i.e. with a TA of EUR 10 000; and taking up a new employment with a salary of EUR 12 000.

In practice the formula ensures that the sum of new income and TA does not exceed the office holder's former income when still a member of the institution.

¹⁵⁸ Written answer by the Swedish Parliament, dated 5 October 2017.

¹⁵⁹ Zákon NR SR č.120/1993: Zákon o platových pomeroch niektorých ústavných činiteľov SR. (Law n.120/1993 about the emoluments of some of the state representatives).

Table 7: Example – reduction of TA for a former member of the EC

CONCEPT	EUR
(a) Former Commissioner salary	20 000
(b) TA (50% of salary, having served more than three and less than 5 years)	10 000
(c) Gross salary under new employment	12 000
(d) New TA = b – ((b+c)-a)	8 000

Art. 10(2) of Regulation 2016/300 largely maintains the former provisions but adds election to the EP as a cause for ending the TA. This might explain the discussion over former EC member Tajani renouncing the TA when elected to the EP – according to Regulation 422/67, Tajani would have been entitled to TA.

3.3.5.2 [Decision 2005/684](#)

Art. 13 of Decision 2005/684 specifies 'In the event of a Member's assuming a mandate in another parliament or taking public office, the transitional allowance shall be paid until the mandate starts or the public office is taken up'.

A textual interpretation of this legal provision suggests two things: first, the entitlement to TA **ends** upon assuming the new mandate / public office, and second, that **any** new mandate / public office causes ends the entitlement. Notwithstanding, Art. 46 of the Implementing Measures provides for a different reading of the Decision. First, according to Art. 46(1) the entitlement is **not ended but offset**: 'Where they hold a mandate in another parliament or a public office, the salary to which they are entitled shall be offset against the transitional allowance'. The Implementing Measures do not provide for a formula for calculating the offsetting, however, it is understood that the TA is reduced by the amount of the new income. Second, the TA remains compatible with some types of public office, most notably if the former member assumes public office without becoming a 'senior official exercising public authority' (Art. 46(4c)). In case of doubt about the nature of the 'public office' the EP consults with its legal service; the latter draws on Court of Justice case law. Examples of public officials not exercising public authority include professor at a public university, a municipal councillor in France or a member of a chamber of commerce. Indeed, the purpose of article 46(4) is to distinguish posts where the salary has to be deducted from the TA from posts where no such deduction is intended¹⁶⁰. The purpose of Article 46(4)(c) is to establish an additional type of position which requires a reduction in the TA. As for the different criteria governing national and EU posts, the legislator has not indicated the purpose for this.

3.3.5.3 **ECB**

ECB Feedback confirms 'The transitional allowance is **reduced** by the amount of remuneration received for the new (gainful) activity. 'Occupation' is any new gainful activity. The transitional allowance ends with the expiry of the period of entitlement, pension payments from the ECB, appointment to office in another EU institution or death'¹⁶¹.

¹⁶⁰ European Parliament feedback on a draft version of this report, email of 4 September 2017.

¹⁶¹ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

3.3.5.4 Examples from beyond the EU institutions

Some of the examples from beyond the EU institutions provide for a reduction of TA in case of former office holders taking up new employment (CZ, DE, FI, NL, SE, EBRD president) or simply end the TA in case of new employment (AT, CH, ES, FR, SK in case of public sector employment, UK for members of government). In some cases, there are no reductions (CA, IT, SK in case of private sector employment, UK for members of parliament, EBRD vice-presidents).

- **AT:** The entitlement to TA ends with the former office holder taking on new employment¹⁶².
- **CA:** There are no reductions in case of new employment/income¹⁶³.
- **CH:** TA ends in case of new employment/income; former members need to demonstrate a financial need for TA¹⁶⁴.
- **CZ:** In CZ, the one-off payment for former members of parliament/government is paid three months after the end of the mandate/office. However, the TA is reduced if during this three-month period they receive a salary for exercising any of the following functions: deputies and senators of the parliament, president, members of the government, judges of the Constitutional court, member, vice-president and president of the Supreme Audit Office, member, vice-chairman and chairman of the Broadcasting council, member, vice-chairman and chairman of the Council for totalitarian regimes studies, member and chairman of the Czech Telecommunications Office, judges of district courts, regional courts, High Court, Supreme Court, and the Supreme Administrative Court, deputies of the European Parliament elected on the territory of the Czech Republic¹⁶⁵.
- **DE:** For members of government, from the second month onwards, TA are offset against any type of income¹⁶⁶. For members of parliament, to qualify for TA at least one year of service is required¹⁶⁷.
- **ES:** The entitlement to TA is not compatible with any new employment¹⁶⁸.
- **FI:** The volume of TA is reduced in case of new employment¹⁶⁹.
- **FR:** Members of government do not benefit from TA if they take up new employment¹⁷⁰; idem for members of parliament.
- **IT:** There are no reductions to the one-off payment; and the entitlement also benefits members of parliament/the senate who maintained their profession during the mandate¹⁷¹.

¹⁶² Art. 6 para 2, Bundesgesetz über die Bezüge der obersten Organe des Bundes, der Mitglieder des Nationalrates und des Bundesrates.

¹⁶³ Parliament of Canada Act.

¹⁶⁴ Art. 8a, Verordnung der Bundesversammlung zum Parlamentsressourcengesetz.

¹⁶⁵ Zákon č. 236/1995 Sb. o platu a dalších náležitostech spojených s výkonem funkce představitelů státní moci a některých státních orgánů a soudců a poslanců Evropského parlamentu. (Law n. 236/1995 about the emoluments and other requirements related to the performance of the duties of state representatives and some other state organs, judges and deputies of the European parliament.

¹⁶⁶ Art. 14 para 6, Bundesministengesetz.

¹⁶⁷ Art. 18a para 1, Abgeordnetengesetz.

¹⁶⁸ Law 3/2015, 30 March, regulating the exercise of occupation of senior members of the National General Administration.

¹⁶⁹ A law of parliament members' pensions and transitional allowances (329/1967, latest major amendment 150/2011).

¹⁷⁰ Article 5 de l'Ordonnance n° 58-1099 du 17 novembre 1958 portant loi organique pour l'application de l'article 23 de la Constitution.

¹⁷¹ Law 1261/65 on the determination of the allowances for Members of Parliament.

- **NL:** TA is reduced to account for income from new employment¹⁷².
- **SE:** The guaranteed income must be reduced by the amount received by the guarantee recipient in the form of sickness benefit. It should also be reduced by the amount the member receives in the form of pay under Article 10 of the Statute for Members of the European Parliament. The guaranteed income should also be reduced if the member receives pensionable income, other cash benefits as a result of employment and various kinds of pensions. This should also be coordinated with what the former member receives in the form of severance benefits resulting from service as a minister, the holder of a managerial public office or an elected office at municipal level. The equivalent also applies for financial redeployment support. Both guaranteed income and financial redeployment support terminate when a former member reaches 65 years of age and is thus subject to the public pension system. In certain cases, survivor's protection is paid out to children and spouse on the death of a recipient of guaranteed income. Guaranteed income and financial redeployment support can be adjusted, that is terminated or reduced. Decisions regarding adjustment are taken by the Riksdag Remunerations Board, which supervises the use of severance packages. Adjustments may be made for example if the former member works to a significant extent for another employer without taking a reasonable salary for the work, declares income from business activities and the income has been reduced by means of transfers to funds or if the former member has been sentenced for serious crime and would probably have been dismissed from his or her position if he or she had still been a member¹⁷³.
- **SK:** There are no reductions if the member of parliament or government takes up new employment in the private sector; however, there is no right to TA if the office holder takes up any of the following occupations: president, member of parliament, judges, judges of the Constitutional Court, prosecutors, ombudsman, chairman and deputy-chairmen of the Supreme Audit Office, deputy of municipal councils, deputy of a higher territorial unit, chairman of a higher territorial unit, or mayor of a municipality¹⁷⁴.
- **UK:** To qualify for TA, members of parliament must have been a member on the day before the dissolution of parliament, and a candidate for re-election for the same seat, but not elected. There are no reductions should the former member find employment in the immediate period after losing their seat¹⁷⁵. Members of government do not benefit from TA if they take up new employment within three weeks of the end of office¹⁷⁶.
- **EBRD:** The TA for the president of the EBRD is reduced by the amount of any professional income received during the year following the end of service; no reduction is noted for the vice-presidents¹⁷⁷.

¹⁷² General Pension Law for Political Officials (Algemene Pensioenwet Politieke Ambtsdragers), <http://wetten.overheid.nl/BWBR0002691/2017-07-01>.

¹⁷³ Written answer by the Swedish Parliament, dated 5 October 2017.

¹⁷⁴ Zákon NR SR č.120/1993: Zákon o platových pomeroch niektorých ústavných činiteľov SR. (Law n.120/1993 about the emoluments of some of the state representatives).

¹⁷⁵ Chapter Eight of the Scheme of MPs' Business Costs and Expenses.

¹⁷⁶ Section 4 of the Ministerial and other Pensions and Salaries Act 1991.

¹⁷⁷ EBRD email to the authors, dated 30 August 2017.

Box 5 – Searching for employment in the Netherlands¹⁷⁸

At the latest three months after resignation, the person needs to try to find a suitable job unless this person is making more than 70% of the old income which would mean TA is 30% or less. Whether a new job is suitable, depends on the income. In other words, a person does not have to accept a job with a low income, but it also means that in case of low income, one has to continue looking for a suitable job in order to be entitled to the TA.

The National Civil Pension Fund is responsible for the re-integration of former public office holders. Two external offices are used to support on re-integration. In case the office holder would like to select a different service provider, the National Civil Pension Fund needs to sign off on this. The organisation checks whether the services provided are of good quality and whether the person is working hard to find a suitable job.

Each re-integration programme is tailor-made to a person's specific situation and ambition. Former office-holders are requested to draft an Action Plan and subsequently meet on a weekly basis with their appointed advisor. During these meetings the advisor focuses on increasing job capacity.

4 PRACTICE**KEY FINDINGS**

- There is a clear relation between budget outturn for TA and the EP elections/EC renewal, e.g. the budget outturn for TA increased from EUR 4,3 to EUR 19,6 million between 2013 and 2014. During the entire period 2011-2016, the total budget outturn for TA (EP, EC, the Court of Justice, ECA, the Ombudsman and the EDPS) amounted to EUR 61,1 million. The corresponding figure for retirement pensions (for the same period and institutions) was EUR 156,1 million.
- Members/office holders in the EU institutions need to apply/declare their employment situation when leaving. Moreover, there is a requirement for annual declarations to verify the continuing entitlement/notification of changes. This is in line with practice in Member States, third countries and international organisations. For Regulations 422/67 and 2016/300, the annual declaration requires the former office holder to provide 'proof of income, e.g. last tax return, payslip or employment contract'.

Experience with the implementation of the regulatory framework suggests room for improvement with regard to monitoring, since there have been issues over the accuracy of information provided by former office holders. There is one known case of failure to inform, and one example of an oversight of a former member to declare activity (not giving rise to remuneration). Moreover, the civil society organisation CEO operates a campaign entitled 'Revolving Door Watch', listing the cases of alleged revolving door incidents, inter alia, for office holders covered by this study. The current listing includes 14 former members of the EC, 19 former members of the EP, and 1 former President of the European Council. Whilst the information presented for these individuals does not suggest that there were any failures to comply with the regulatory framework on TA (with one exception), it could be argued that the objective / underlying rationale behind the TA is not being achieved if former office holders engage in activity that can be discussed in the revolving door context, during the time that the office holders are entitled to TA (the TA intends to prevent office holders from feeling under financial pressure to engage in new activity).

¹⁷⁸ <https://www.vanede.nl/>; <https://www.posg.nl/>.

This chapter briefly reviews the experience with the implementation of the regulatory framework on TA in the institutions covered by this study. The chapter is introduced with an overview of the actual budget spent on TA (4.1). This is followed by a discussion of specific aspects of implementation, most notably the application for the entitlement (4.2), and the monitoring of the continuing entitlement to TA (4.3).

4.1 Costs

Figure 1 presents a first overview of budget outturn for TA for the years 2011-2016 for a selection of EU institutions, namely the EP, EC, the Court of Justice, ECA, the Ombudsman and the EDPS¹⁷⁹.

Looking at the total budget outturn for TA (the sum of budget outturn of all six institutions), a clear relation between the outturn and the EP elections/EC renewal can be established, with a strong increase from **EUR 4,3 million in 2013 to EUR 19,6 million in 2014**. The strongest variations can be observed for the EP and EC, whilst other institutions such as the Court of Justice and ECA show more stable levels of budget outturn, explained by these institutions' more continuous modus of renewal.

Figure 2, looking only at the EP and EC for the years 1998-2016 confirms the relation of budget outturn for TA with the EP elections/EC renewal, with figures peaking in or after the year of elections / renewal, namely in 1999, 2004, 2009 and 2014. Looking specifically at the EP, the important increase in budget outturn for TA in relation to the 2014 elections is explained by the new single statute for members of the EP having taken effect as of the 2009 term.

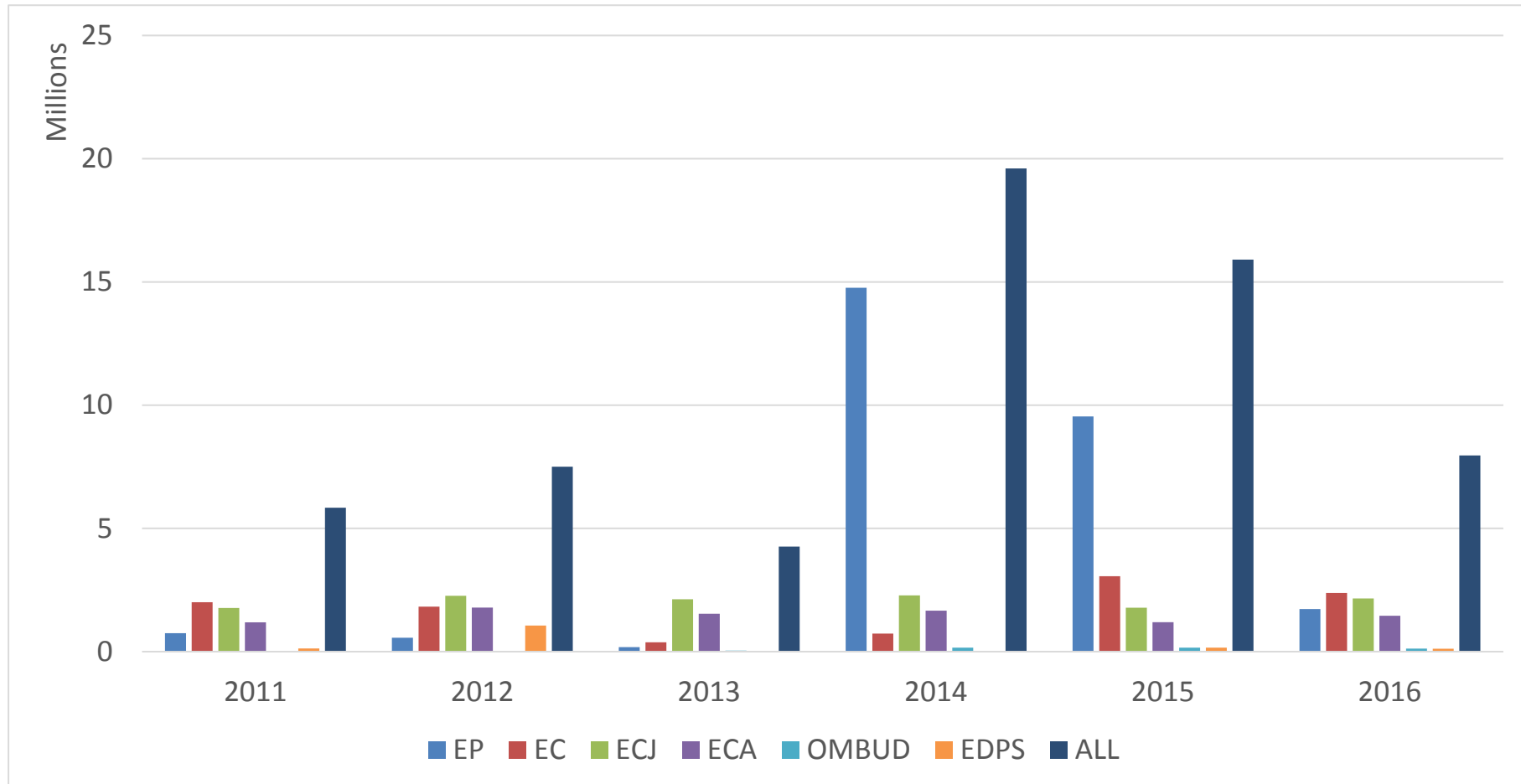
Figure 3 puts the figures for TA into context by showing the figures for retirement pensions. During the entire period 2011-2016 and for the six EU institutions, the total budget outturn for TA amounted to EUR 61,1 million. The corresponding figure for retirement pensions (for the same period and institutions) was EUR 156,1 million.

Finally, anonymous feedback on the preparation of Regulation 2016/300 suggests that the new regulation would introduce **savings of EUR 3,1 million per year, representing savings of 4,5%**.

¹⁷⁹ EP: Budget Art. 1003, EC: Item 30011302, Court of Justice: Art. 103, ECA: Art. 103, Ombudsman: Art. 102, and EDPS: Art. 1002.

Figure 1 presents the budget outturn for TA (in EUR million) for a selection of EU institutions.

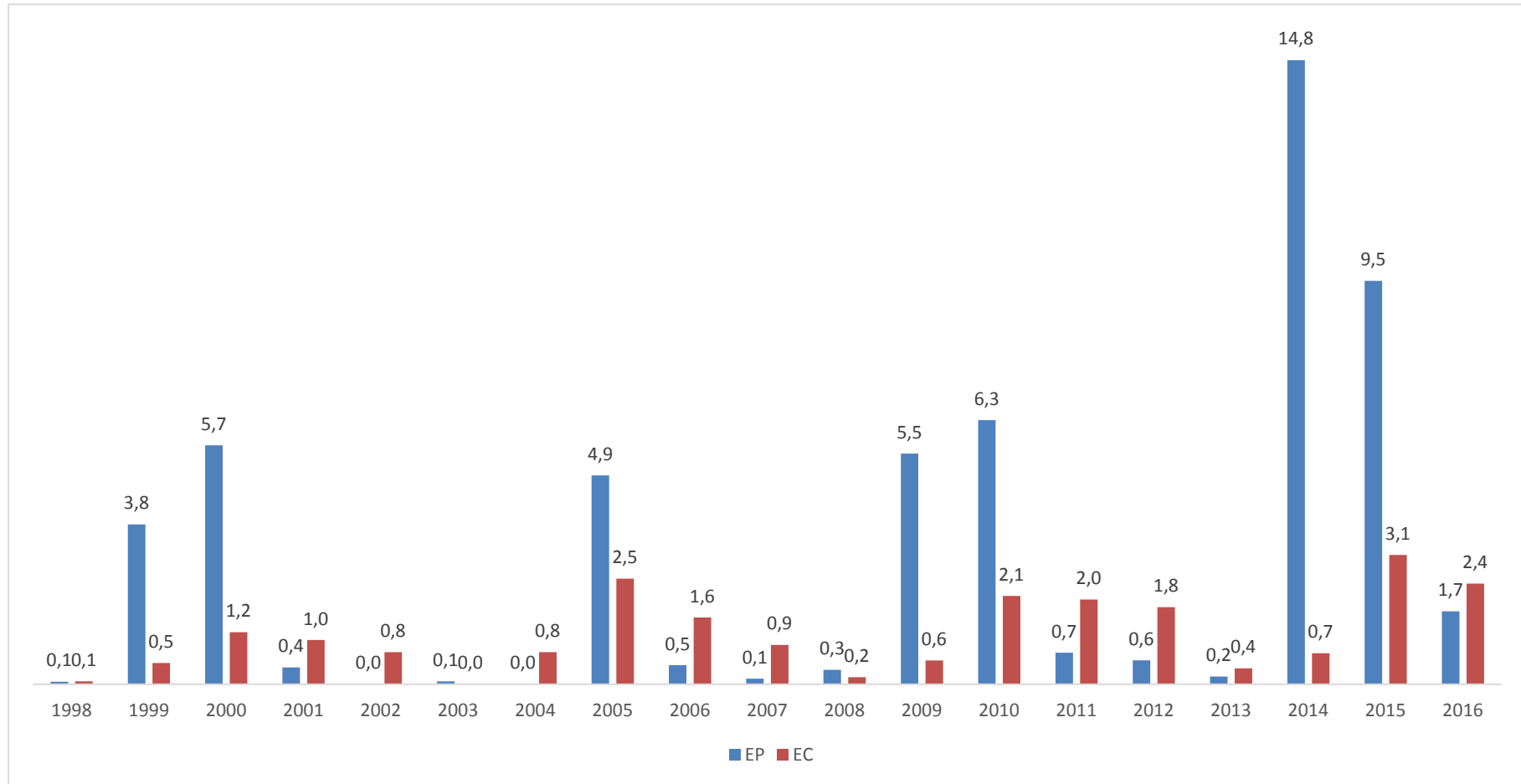
Figure 1 - Outturn – TA (EUR million) – selected EU institutions¹⁸⁰



¹⁸⁰ Source: <http://eur-lex.europa.eu/budget/www/index-en.htm>.

Figure 2 presents the budget outturn for TA (in EUR million) for the EP and EC.

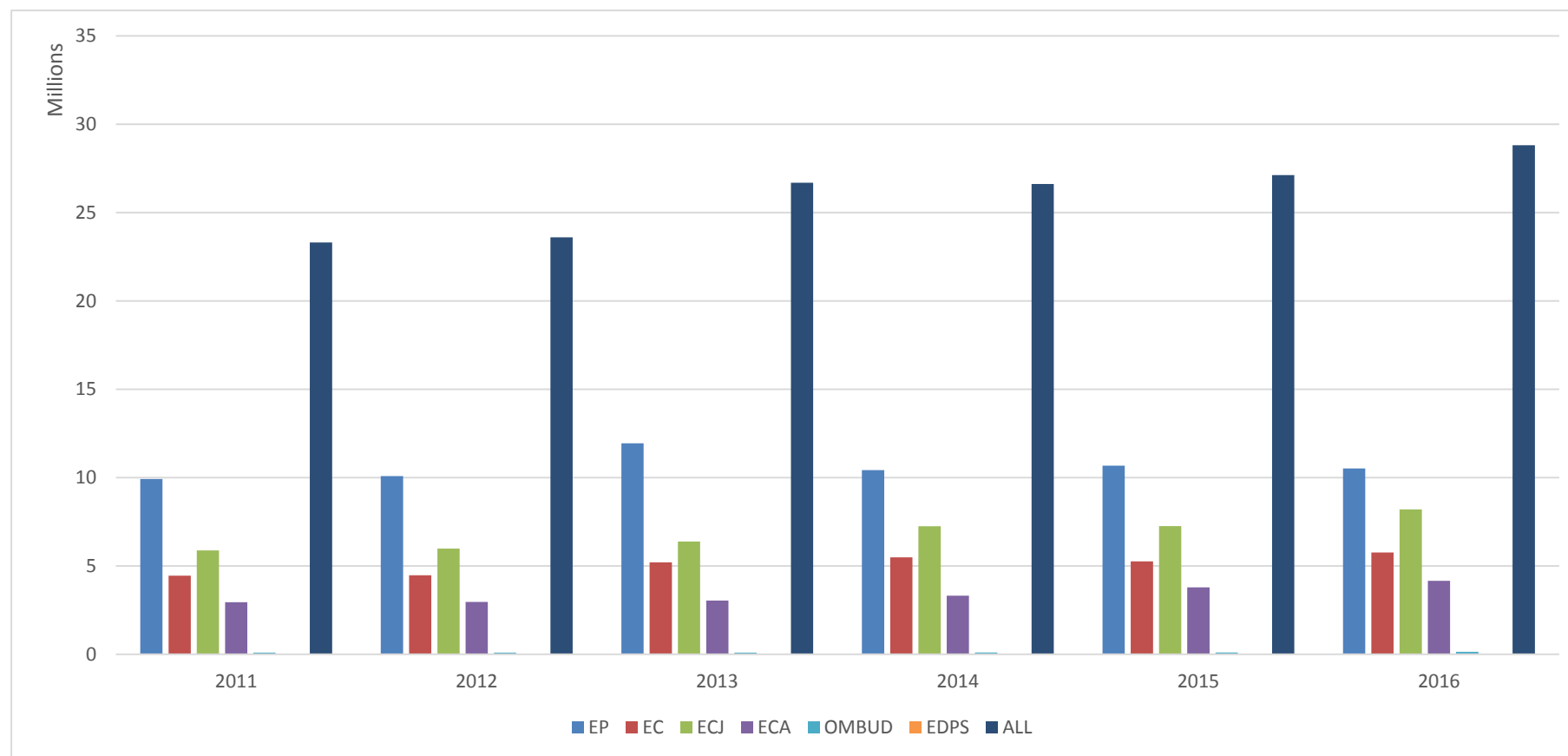
Figure 2 - Outturn – TA (EUR million) – EP and EC¹⁸¹



¹⁸¹ Source: <http://eur-lex.europa.eu/budget/www/index-en.htm>.

Figure 3 presents the budget outturn for pensions (in EUR million) for a selection of EU institutions.

Figure 3 - Outturn - pensions (EUR million) – selected EU institutions¹⁸²



¹⁸² Source: <http://eur-lex.europa.eu/budget/www/index-en.htm>.

4.2 Applying for TA

This section briefly reviews the modalities for applying for TA.

- **Regulation No 422/67; Regulation 2016/300:** Article 7(4) of Regulation 422/67 requires a former office holder to declare his income situation 'on the date when he ceases to hold office'. EC feedback confirms the existence of a corresponding format¹⁸³. Art. 10(4) of Regulation 2016/300 provides for the same requirement.
- **Decision 2005/684:** Article 48(1) of the Implementing measures for Decision 2005/684 requires the member to apply for TA 'not later than three months after the end of his or her mandate'.
- **ECB:** ECB feedback confirms that 'The transitional allowance is routinely paid monthly. No need for application, but EB [Executive Board] members have to opt for it'¹⁸⁴.
- Examples from beyond the EU institutions: AT: The former office holder needs to present a formal request for TA¹⁸⁵. BE: The former member of parliament forfeits his right to TA in case of failure to apply within three months of the end of the mandate¹⁸⁶. FI: The former member of parliament needs to formally apply for TA¹⁸⁷. SE: The former member of parliament needs to formally apply for TA¹⁸⁸.

4.3 Monitoring

This section discusses the EU institutions' monitoring of the continuing validity of a former office holder's entitlement to TA.

4.3.1 Introductory comments

Before discussing the arrangements for the monitoring, it is worth commenting on the wider implementation arrangements.

- **Regulation No 422/67; Regulation 2016/300:** EC feedback suggests that Regulations 422/67 and 2016/300 are not supported by any additional text, detailing the implementation arrangements, e.g. in the form of guidelines. However, there are two forms to support the process, namely a form to be submitted upon leaving the office (for the calculation of the transitional allowance)¹⁸⁹, and a form for the annual declaration (for the assessment of the continuing validity of the calculation)¹⁹⁰. Note that the annual declaration requires the former office holder to provide 'proof of income, e.g. last tax return, payslip or employment contract'¹⁹¹. This provision suggests that the former office holder can choose between the different types of evidence; it might be better to require the submission of the tax return since this document provides a comprehensive account of all income.

¹⁸³ Declaration with regard to Article 7 (transitional allowance) of Regulation n 422/67/EEC, 5/67/Euratom of 25 July 1967 with subsequent amendments.

¹⁸⁴ ECB written reply on transitional allowances in answer to a questionnaire by the authors, dated 2 October 2017.

¹⁸⁵ Art. 6 para 1, Bundesgesetz über die Bezüge der obersten Organe des Bundes, der Mitglieder des Nationalrates und des Bundesrates.

¹⁸⁶ Feedback from the legal services of the Belgian Parliament, 25 August 2017.

¹⁸⁷ A law of parliament members' pensions and transitional allowances (329/1967, latest major amendment 150/2011).

¹⁸⁸ Act on Compensation to Members of the Riksdag (2016:1108) as supported by Riksdag Board's regulations and general advice on application of the Act.

¹⁸⁹ Declaration with regard to Article 7 (transitional allowance) of Regulation n 422/67/EEC, 5/67/Euratom of 25 July 1967 with subsequent amendments.

¹⁹⁰ Annual Declaration to be returned by 28/02/2017.

¹⁹¹ Annual Declaration to be returned by 28/02/2017.

- **Decision 2005/684:** Decision 2005/684 is supported by ‘Implementing Measures for the Statute for Members of the European Parliament’ (introduced by Decision of the Bureau of 19 May and 19 July 2008 ‘concerning implementing measures for the Statute for Members of the European Parliament’ (2009/C159/01))¹⁹². The fact that Decision 2005/684 is supported by Implementing Measures can be explained with the fact that Decision 2005/684 is different in nature from the two regulations (422/67 and 2016/300). The Decision determines all the different conditions governing the performance of the duties of the MEPs, including the right to table proposals for Community acts, the right to form political groups, the linguistic regime applicable to Parliament’s documents, the independence of the mandate, the right to a salary and a pension, etc. The two regulations determine solely the emoluments linked to certain functions.

4.3.2 Monitoring arrangements

4.3.2.1 Status quo of monitoring

- **Regulation No 422/67; Regulation 2016/300:** Article 7(4) of Regulation 422/67 requires a former office holder to declare his situation ‘on 1 January of each year (...) and in the event of any changes in his financial situation’. EC feedback confirms the existence of a corresponding format¹⁹³. Art. 10(4) of Regulation 2016/300 provides for the same requirement. For Regulation 422/67 and Regulation 2016/300, the EC’s Office for the Administration and Payment of Individual Entitlements (PMO) is in charge of handling TA for the EC, and on the basis of agreements with the concerned institutions, also for the ECA, Ombudsman and EDPS. **PMO, Court of Justice and ECA** feedback indicates that former office holders are reminded annually to submit the required annual declaration. Similarly, the EP reminds former members on an annual basis. Feedback from the Ombudsman suggests that there is a systematic follow-up mechanism with former staff members (exchanges every six months), and that something similar could be considered for the former Ombudsman. The EDPS is only involved at the stage of establishing the entitlement (the PMO collects relevant information from the former office holder and the EDPS is put in copy of this communication); there is no EDPS involvement in the annual updating; the PMO provides the necessary input to allow the EDPS to calculate the required budget that is then transferred to the PMO for the payment of the TA.
- **Decision 2005/684:** Article 48(3) of the Implementing measures for Decision 2005/684 requires the former member to notify: ‘Any change in the conditions which gave rise to the award of the transitional allowance which may necessitate a change in this entitlement shall be notified to the Secretary-General without delay. Where there is any doubt, the Secretary-General may ask the person concerned to submit his or her observations’.

4.3.2.2 Effectiveness of monitoring

Experience with the implementation of the regulatory framework suggests room for improvement with regard to monitoring. This consideration is supported by the fact that there have been issues over the accuracy of information provided by former office holders.

There is one known case of failure to inform (Kroes), and one example of an oversight of a former member to declare activity (not giving rise to remuneration) (Füle). Whilst EC feedback suggests that

¹⁹² As last amended by Bureau Decision of 12 December 2016. Implementing measures in relation to transitional allowances were last amended by Bureau Decision of 26 October 2015.

¹⁹³ Declaration with regard to Article 7 (transitional allowance) of Regulation n 422/67/EEC, 5/67/Euratom of 25 July 1967 with subsequent amendments.

sanctions are in place in terms of the recovery procedure under the Financial Regulation, this experience suggests that the EU institutions should not only rely on good faith, e.g. former members can oversee activities, and one possibility could be to require beneficiaries to attach their annual income tax declaration to the annual declaration.

CEO operates a campaign entitled ‘Revolving Door Watch’, listing the cases of alleged revolving door incidents, inter alia, for office holders covered by this study. The current listing includes 14 former members of the EC, 19 former members of the EP, and 1 former President of the European Council¹⁹⁴. Whilst the information presented for these individuals does not suggest that there were any failures to comply with the regulatory framework on TA (except for Neelie Kroes), it could be argued that the objective/underlying rationale behind the TA is not being achieved if former office holders engage in activity that can be discussed in the revolving door context, during the time that the office holders are entitled to a TA (note that the TA intends to prevent office holders from feeling under financial pressure to engage in new activity).

CSO interview feedback suggested that the Council does not have a Code requiring notification of activity as for the EC, but in the case of van Rompuy the Council still asked for notification.

Further to a request for information from Alter-EU (under rights of access to documents, Regulation 1049/2001), the EC shared the list of former members of the EC ‘to which a transitional allowance has been paid in April 2017’¹⁹⁵. This includes former Commissioners Almunia (April 2004 – November 2014), Andor (February 2010 – November 2014), Borg (November 2012 – November 2014), Damanaki (2010 - 2014), Dominik (July – November 2014), Füle (February 2010 – November 2014), Hill (November 2014 – June 2016), Kallas (May 2004 – November 2014), Lewandowski (February 2010 – July 2014), Nelli Feroci (June - November 2014), Piebalgs (November 2004 – November 2014), Potocnik (May 2004 – November 2014), Semeta (July 2009 – November 2014), Vassiliou (March 2008 – November 2014), Ciolos (February 2010 – November 2014).

Box 6 – Sanctions in Spain¹⁹⁶

A former member of government taking up new employment during the period of entitlement to TA (the entitlement to TA is not compatible with any new employment) carries a series of sanctions including removal from public office, obligation of reimbursement of the undue allowances, end of the payment of the allowances, and declaration of unsuitability for public office for between five and ten years.

¹⁹⁴ <https://corporateeurope.org/revolvingdoorwatch> (accessed on 9 August 2017).

¹⁹⁵ Ref. Ares(2017)2251100 - 02/05/2017, <https://www.asktheeu.org/en/request/4155/response/13226/attach/html/4/Da%20Silva%20Annex%20List%20former%20membres%20Trans%20Allow.pdf.html> (accessed on 9 August 2017).

¹⁹⁶ Law 3/2015, 30 March, regulating the exercise of occupation of senior members of the National General Administration.

5 CONCLUSIONS AND RECOMMENDATIONS

MAIN CONCLUSIONS AND RECOMMENDATIONS

This study has shown that limited research (actual data on needs of former members/office holders) has accompanied the development of the current regulatory framework on TA. Indeed, the current regulatory arrangements on TA are largely identical to those introduced for the very first European office holders back in the early 1960s. No genuine insights exist into what the EU institutions' former members / office holders actually need.

We recommend that the concerned institutions consider the following five recommendations:

- **Harmonise rules:** The EU regulatory approach to TA is fragmented. For example, new employment in the private sector causes TA to be reduced under Regulations 422/67 and 2016/300, but not under Decision 2005/684; etc. The justification of these differences is not obvious.
- **Verify whether TA serve their stated purpose:** The current regulatory framework explains the *raison d'être* of TA with the need to ensure financial security following the end of mandate/office. Existing academic research suggests this need does only exist to a very limited extent, and it is recommended to now conduct research into former members'/office holders' activities to ascertain needs ex-post. TA could be reformed, e.g. by taking inspiration from the Swiss or Swedish models where TA (can) depend on needs. Consideration could also be given to other types of support, e.g. counselling in advance to the end of the mandate/office. In the context of discussing needs, further consideration could also be given to the 'modus' of ending the mandate/office. In some countries, there is no TA in case of voluntary resignation. The review of a needs-based system should also consider the argument that these needs might have already been addressed by 'above average' salaries during the mandate/office.
- **Design TA to motivate former members/office holders to take up new employment compatible with their former mandate/office:** TA should be designed in such a way that members / office holders are incentivised to look for follow-up employment.
- **Strengthen the relationship between TA and post-office employment restrictions:** The missing alignment between the duration of TA and the length of post-office restrictions explains the CSOs' demands for the duration of post-office requirements to be extended. Indeed, whilst for some institutions the duration of TA is longer than the duration of post-office restrictions, for others it is the other way around. Note that this recommendation is only relevant if the EU institutions agree on the relationship between TA and post-office employment restrictions. In the affirmative, questions could still be raised about the 'ethics' of a monetary compensation of the avoidance of Col (nobody is forced into unemployment – since occupations not implying a Col are not an issue).
- **Enhance monitoring of continued entitlement to TA:** Current monitoring practice allows former office holders, at their choice, to support their annual declaration with 'proof of income, e.g. last tax return, payslip or employment contract'; it might be better to require the submission of the tax return since this document provides a comprehensive, and independently verified, account of all income.

5.1 Conclusions

'While the immediate lack of income was a consideration, it was much more: the sudden emptiness; the cessation of the ability to influence; no longer making decisions that had influence; the absence of relentless challenge; and often the disappearance of meaningful relationships' (Roberts, Losing Political Office, p. 129).

TA are an important financial instrument for persons leaving office. They cover legitimate material concerns. However, the issue of TA should not only be treated as an economical concept. In fact, the concept of TA has also other political, legal, social, psychological and cultural implications. Since the field of TA is dominated by economical approaches, there is still insecurity about the adequate

regulatory design, the role of self-regulation, incentives, monitoring, and the relationship to other political, psychological and behavioural approaches etc. Could the reform of TA be a suitable field for regulatory and managerial innovation at all, for example for nudging, new digital approaches, innovative leadership styles?

As already discussed in this study, (most) office holders do not experience financial difficulties after leaving office. Instead, many face a number of other, mostly psychological challenges. Thus, leaving office has many non-material aspects. Overall, politicians themselves give too little thought to when and how they might leave political office. Members of parliament, by and large, are reluctant to think about it¹⁹⁷. In fact, the importance of leaving office is (at least) equal to leaving a job. Office holders must be better prepared for this situation. However, this is not only a matter of awareness raising. In fact, it is first of all, a matter of self-responsibility, coaching, consulting and training¹⁹⁸.

According to Andersen, 'many of them lack the skills needed for ordinary life'¹⁹⁹. In addition, in public discussions on politicians leaving office, the impact on partners and family is completely neglected²⁰⁰. 'Planning for a very different life – a different status, different social networks, a different identity, no longer mattering to others in the same way, and a different purpose in life, as well as the practicalities of income and structuring time – is a challenge. But it is important. (...) Planning was, of course, much more difficult for those who were defeated, perhaps unexpectedly. There was little, if any, time to prepare for the loss of office'²⁰¹.

Of course, all of these considerations are not directly related to the rationale and effectiveness of TA. However, as we could see, the issue of TA has wider implications. What is still completely missing in public discussion is the need to reflect on the use of non-material instruments and support for top-office holders and their partners and family when leaving the office. Why not compensating allowances for cars, offices, expensive secretarial support and replace this with coaching, advice, counselling and measures to support the spouse and children? In her study on Losing Political Office, Roberts suggests a number of practical steps, ranging from helping office holders to plan the 'exit' before it actually takes place, offering support for partners, coaching office holders in order to be prepared for normal life, invest in tracking what happens to former leaders.

5.2 Recommendations

We recommend that the concerned institutions consider the following five recommendations:

- **Harmonise rules:** The EU regulatory approach to TA is fragmented. For example, new employment in the private sector causes TA to be reduced under Regulations 422/67 and 2016/300, but not under Decision 2005/684; to qualify for TA under Regulations 422/67 and

¹⁹⁷ Roberts, J. (2017), op cit, p. 2.

¹⁹⁸ Roberts concludes: "When the time in office comes to an end, involuntarily or not, the cliff edge is often very steep: loss of office may be sudden and unexpected, and can be entirely unrelated to individual poor performance in some situations (one's party is out of favour, for example). Council leaders experience ice-cold turkey: they are out immediately after a defeat with no redundancy pay, not even the statutory minimum. Unlike senior managers who can move to another organisation or another part of the country without loss of status, politicians mostly have to build up support in a locality to be elected, and therefore cannot move on so quickly, even if they wish to. In common with others made redundant, politicians may lose office at any age, and often well under retirement age. But, unlike many facing redundancy or retirement, there is little in the way of anticipation of a significant transition, let alone a package of support (such as coaching or career management) on exit for politicians.", Roberts, J. (2017), op cit, p. 4.

¹⁹⁹ Andersen, L. (2010) op cit, p. 66.

²⁰⁰ 'All the partners I spoke to had been very much drawn into the effects of the loss of office both because the relationship between the couple had been affected, but also, to varying degrees, because their lives themselves had been directly affected by the change', Roberts, J. (2017), op cit, p. 160.

²⁰¹ Roberts, J. (2017), op cit, p. 15.

2016/300, six months of service are sufficient, whereas Decision 2005/684 requires a minimum length of mandate of one year etc. Regulation 2016/300 has reduced the duration of the entitlement to TA to a maximum of two years, however, the ECB operates a system with three years of TA. The justification of these differences is not obvious.

- **Verify whether TA serve their stated purpose:** The current regulatory framework explains the *raison d'être* of TA with the need to ensure financial security following the end of mandate/office. Existing academic research suggests this need does only exist to a very limited extent. The recent reforms leading to Regulation 2016/300 were not supported by ex-ante regulatory impact assessment looking at actual needs, and it is recommended to now conduct research into former members'/office holders' activities to ascertain needs ex-post. Should research indicate limited needs, TA could be reformed, e.g. by taking inspiration from the Swiss or Swedish models where TA (can) depend on actual needs. Moreover, consideration could be given to other types of support, e.g. counselling in advance to the end of the mandate/office. In the context of discussing needs, further consideration could also be given to the 'modus' of ending the mandate/office. The regulatory framework does not differentiate between voluntary resignation and end of term. In BE, CH, UK and the EBRD, voluntary resignation implies no TA. The review of a needs-based system should also consider the argument that these needs might have already been addressed by 'above average' salaries during the mandate/office.
- **Design TA to motivate former members/office holders to take up new employment compatible with their former mandate/office:** TA could be designed in such a way that members/office holders are incentivised to look for follow-up employment. This could be achieved by reducing the amount of TA towards the end of the entitlement period (current practice in NL and the ECB) or by making TA conditional upon the former office holder demonstrating active search for employment (current practice in NL).
- **Strengthen the relationship between TA and post-office employment restrictions:** The missing alignment between the duration of TA and the length of post-office restrictions explains the CSOs' demands for the duration of post-office requirements to be extended to two years to ensure full alignment with the maximum duration of the TA under Regulation 2016/300 and three years for Regulation 422/67. Indeed, whilst for some institutions the duration of TA is longer than the duration of post-office restrictions (e.g. EC, Council, EIB, ECB), for others it is the other way around (under 2016/300 for the Court of Justice, ECA). Note that this recommendation is only relevant if the EU institutions agree on the relationship between TA and post-office employment restrictions. In the affirmative, questions could still be raised about the 'ethics' of a monetary compensation of the avoidance of Col (nobody is forced into unemployment – since occupations not implying a Col are not an issue).
- **Enhance monitoring of continued entitlement to TA:** Current monitoring practice under Regulations 422/67 and 2016/300 allows former office holders to support their annual declaration with 'proof of income, e.g. last tax return, payslip or employment contract'. This provision suggests that the former office holder can choose between the different types of evidence; it might be better to require the submission of the tax return since this document provides a comprehensive, and independently verified, account of all income.

ANNEX 1 STAKEHOLDER CONSULTATIONS

The following stakeholders were consulted (in chronological order):

- Directorate of Human Resources, Finance and General Services, Secretariat General, European Court of Auditors, 28 July 2017
- Directorate Human Resources and Personnel Administration, Directorate General Personnel and Finance, Court of Justice of the European Union, 31 July 2017
- Directorate 1 - Human Resources and Personnel Administration, Directorate General A - Administration, General Secretariat of the Council of the European Union, 31 July 2017
- Unit Statutory Rights Service, Members' Salaries and Social Entitlements, Directorate for Members' Financial and Social Entitlements, Directorate-General for Finance, Secretariat, European Parliament, 2 August and 12 September 2017
- Compliance and Governance Office, Directorate General Secretariat and Directorate General Human Resources, European Central Bank, 2 August, 5 and 12 October 2017
- Division Benefits Administration, Directorate Employee Relations and Administration, Directorate General Personnel, Corporate Services Directorate, European Investment Bank, 3 August, 31 October 2017
- Office of the Administration and Payment of Individual Entitlements, European Commission, 3 and 7 August 2017
- Administration and Personnel Unit, Personnel, Administration, and Budget Unit, General Secretariat, European Ombudsman, 9 August 2017
- Corporate Europe Observatory, 9 August 2017
- Access Info Europe, 10 August 2017
- International relations of the Swiss Parliament, Parliamentary Services, 17 August 2017
- Service Affaires juridiques et Documentation parlementaire - Chambre des représentants belge, 18 August 2017
- Members Services, Houses of the Oireachtas Services, 18 August 2017
- Independent Parliamentary Standards Authority, Ireland, 21 August 2017
- Independent Parliamentary Standards Authority, United Kingdom, 22 and 31 August 2017
- Communication Assemblée Nationale, France, 23 August 2017
- Unit for Human Resources, Budget and Administration, European Data Protection Supervisor, 24 August 2017
- Abteilungsleitung der parlamentswissenschaftlichen Grundsatzarbeit, Österreichisches Parlament, 24 August 2017
- Talent Management Section, Organisation for Security and Cooperation in Europe, 22 August 2017
- Office of the Secretary General, European Bank for Reconstruction and Development, 30 August 2017
- Transparency International Europe, 5 September 2017
- Press secretariat of the Senate of the Parliament of the Czech Republic, 19 September 2017
- Public relations and services directorate of the Parliament of the Czech Republic, 2 October 2017
- Slovak National Council's unit for the communication with public and the media, 2 October 2017
- Administration and Services Department, The Office of Parliament, Finland, 4 October 2017
- Enheten ledamotsadministration, Riksdagsförvaltningen, Parliament of Sweden, 4 October 2017
- Ministry of Finance of Spain, 10 and 19 October

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This study focuses on the transitional allowances for former office holders, covering the European Parliament, European Commission, President of the European Council and Secretary General of the Council of the European Union, Court of Justice, Court of Auditors, European Investment Bank, European Central Bank, the Ombudsman and the European Data Protection Supervisor. The arrangements for these institutions are contrasted with approaches in European Union Member States, third countries and international organisations. Room for improvement is identified regarding the effectiveness of transitional allowances, e.g. in terms of preventing conflicts of interest.

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Print ISBN 978-92-846-2195-8 | doi:10.2861/40532 | QA-06-17-220-EN-C
PDF ISBN 978-92-846-2196-5 | doi:10.2861/42472 | QA-06-17-220-EN-N