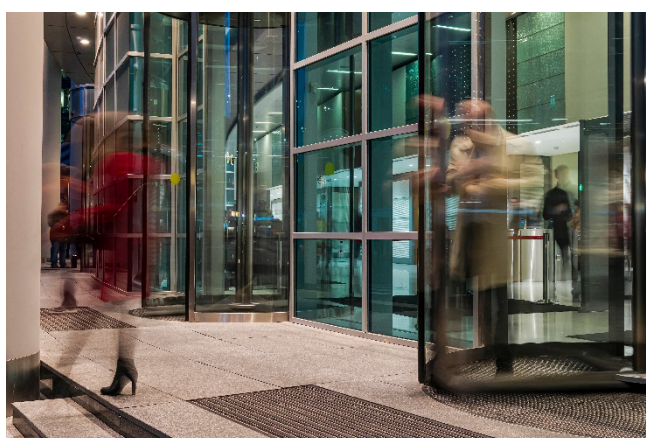




Rules on 'revolving doors' in the EU

Post-mandate
restrictions on
members of EU
institutions and
parliamentarians
in Member States



IN-DEPTH ANALYSIS



EPRS | European Parliamentary Research Service

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Members' Research Service
PE 762.290 – April 2024

EN

Examining the notion of 'revolving doors' in the EU, this publication gives an outline of the way post-term activities are regulated by the EU institutions and offers a comparative overview of rules applicable to former members of parliament in the individual Member States. It also explores the investigations and decisions of the European Ombudsman on the issue of revolving doors in various EU institutions and bodies. The comparative section has been drafted on the basis of input from national parliaments through the European Centre for Parliamentary Research and Documentation (ECPRD).

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LINGUISTIC VERSIONS

Original: EN

Translations: DE, FR

Manuscript completed in March 2024.

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PE 762.290
ISBN: 978-92-848-1822-8
DOI:10.2861/82729
CAT: QA-02-24-474-EN-N

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Executive summary

The term 'revolving doors' refers to the practice of staff who have worked in the public sector being hired by the private sector. The practice not only affects staff however, it can also apply to senior public-sector managers and those in positions of political leadership. The major advantage of this practice is that the individuals hired offer skills, resources and competences that are useful for gaining access to decision-makers, as the wealth of contacts and relations acquired upon recruitment of a person who has worked in the public sector can prove a valuable asset.

The revolving doors practice facilitates the representation of specific interests, a practice referred to as lobbying, which presents pros and cons. On the one hand, lobbying is beneficial to industry and to the public sector as it allows informed policy-making. On the other, it can pose a risk to the democratic tissue of society, as lobbying can undermine decision-makers' integrity and lead to favouritism if not appropriately regulated. Recent cases of revolving doors have stimulated some media attention and sparked reproach. A notable recent case was that of José Manuel Barroso, the former President of the European Commission, who joined Goldman Sachs in a senior advisory position.

The phenomenon of lobbying is on the rise in Europe, in particular in Brussels. Corporate Europe Observatory (CEO) reports an increase in spending on lobbying since 2015, while Transparency International reports a drastic increase in investment in lobbying by big tech companies between 2014 and 2021, of up to 360 %. In 2023, CEO also found that four of the six companies with the highest lobbying budgets were big tech companies.

The European Ombudsman (EO), whose mission is to investigate maladministration committed by the EU institutions, has examined several cases of revolving doors. In the case concerning José Manuel Barroso, the European Ombudsman, Emily O'Reilly, exchanged correspondence with Jean-Claude Juncker, the incumbent President of the Commission. The result was that the Commission President clarified that integrity and discretion are required of former commissioners, after the end of their mandates. Juncker then committed to consult the Ad Hoc Ethical Committee. The Ad Hoc Ethical Committee issued its first advice in October 2016, stating that although public opinion regarding Barroso's future employer was not positive given its role during the financial crisis, there were no breaches of EU law. In addition, it considered that Barroso was free to accept an occupation in the private sector, given his guarantee to abstain from any lobbying on behalf of Goldman Sachs.

In 2017, the EO carried out another investigation on the revolving doors phenomenon concerning staff of the European Commission, with less positive findings. In this, the EO found that while at a systemic level rules were complied with, implementation could be improved, in particular where senior staff were concerned. The EO suggested various practices such as forbidding post-employment activity, applying restrictions, providing for fast-track decisions so that the lapse of 30 days without an official administrative position does not lead to implicit approval of a future occupation, as the rules provided. It also recommended improving communication and monitoring. In a 2022 decision, the EO encouraged the Commission to adopt a bolder approach to revolving doors, by imposing restrictions or temporal bans or giving conditional approvals.

In addition to the Commission, the EO investigated cases concerning other institutions. With respect to the European Central Bank (ECB), for instance, in one specific case the EO encouraged a more robust approach to revolving doors. When making recommendations for the revision of the ECB's ethics framework, the EO suggested lengthening the cooling-off period for senior staff to one year, or making public the conditions whereby employment was authorised.

In an enquiry concerning the European Food Safety Authority, the EO contested that the agency had not raised any objections in one particular case, and further contested that it had not applied the EO's recommendations in full. With respect to a specific case concerning a vice-president of the European Investment Bank, the EO reached the conclusion that maladministration had occurred, and that the role and power of the Ethics and Compliance Committee of the Bank could be strengthened. The EO reached a very similar conclusion in the decision on an inquiry concerning the European Defence Agency, where the recruitment of the chief executive to a senior position in a well-known company in the defence sector prompted the EO to find maladministration on account of the absence of a sufficiently thorough assessment of the conflict of interest risks, and insufficient use of mitigation measures in that situation. The EO considered that such a move should have been forbidden. She recommended that the Agency forbid such moves of senior staff in the future, and inform staff regarding when senior staff moves would be denied.

In the international landscape, the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe's Group of States against Corruption (GRECO) have been addressing the issue of conflicts of interest and lobbying for many years. In 2010, the OECD issued recommendations for transparency and integrity in lobbying. The idea was to define the criteria for international standards, raise awareness and offer some guiding principles for countries generally. In 2021, an OECD report monitored the implementation of those recommendations and assessed that although countries had progressed in transparency, integrity and access, the majority needed to improve transparency concerning the targets of lobbyists and the actors involved. In addition, more attention needed to be given to the use of digital technologies and social media. In 2017, GRECO contributed to the formation of a comprehensive international framework, by stressing the need for transparency and integrity and by elaborating 20 principles to complement the OECD recommendations.

A 2019 special report by the European Court of Auditors (ECA) highlighted the existence of two different sets of ethical and integrity rules for members of the EU institutions (e.g. Commissioners or Members of the European Parliament – MEPs) and the institutions' staff. Whereas the rules applicable to staff were comparable across EU institutions, rules on members usually differed depending on the role of the institution concerned. For the Council and the European Council, national rules apply except when it comes to the president of the European Council. The landscape of ethical rules for members of the EU institutions (as opposed to staff) is therefore quite fragmented. Overall, it can be said that all the EU institutions provide a code of conduct for their members and that almost all of them also have an internal advisory body responsible for giving advice on the interpretation of ethical rules or opinions on the existence of a conflict of interests in connection with a post-mandate occupation. In addition, all the institutions examined in this study provide for the obligation for members to inform their former employer (the EU institution), for a period after the end of their term of office, of the intention to engage in an occupational activity. In addition to this, almost all the institutions analysed in this study also impose some sort of restriction on the exercise of post-mandate activities. The nature of the restrictions may differ depending on the activity performed by the former member of the institution.

The cooling-off period for former members of EU institutions varies from six months to three years: six months for Members of the European Parliament; 18 months for presidents of the European Council; two years for members of the Commission, members of the European Court of Auditors and members of the European Economic and Social Committee; three years for the president of the European Commission, and for judges or advocates general of the European Court of Justice. The cooling-off period for members of high-level ECB bodies is either one year or six months, depending on the type of activity and financial institution the former member intends to join.

An overview of the existence of cooling-off periods in Member States leads to the observation that the vast majority of Member States (20) do not provide for a cooling-off period for their former members of parliament. This is true of Bulgaria, Czechia, Denmark, Germany, Spain, Greece, Estonia, France, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovakia, Finland and Sweden. In seven Member States, however, national rules do impose some form of restrictions on post-mandate activities, appointments or even acquisition of assets. In the majority of the Member States that do provide for restrictions, the legal cooling-off provision is addressed more often than not to public officials, a notion that also includes members of parliament. This circumstance therefore requires a certain interpretative effort to apply the legal limitation or restriction to the particular case of members of parliament.

The limited cases where cooling-off provisions do apply are the following: Belgium – one year following appointment in an employed state function; Ireland – a one-year prohibition on lobbying in connection with previous employment; Croatia – 18 months for management appointments in an entity previously supervised by the former employer; Latvia – a two-year prohibition on performing commercial transactions with companies previously supervised, administered or for which a procurement decision was taken; Lithuania – a one year prohibition on employment in a company that in the year prior to the termination of office was supervised or in whose respect a decision on financing was taken; Hungary – a 24-month restriction on the purchase of assets in entities directly or indirectly controlled by the state or local territorial entities; and Slovenia – a two-year prohibition on representing an entity that had business relations with the former employer.

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1. Introduction

The complexity of today's EU policy-making process, coupled with that of the underlining issues, has put lobbying under the spotlight, and there are many ways to look at it. Under a neutral, objective light, lobbying is a dialogue between decision-makers and the national electorate.¹ Lobbying is therefore an activity that benefits both decision- and policy-makers, as it allows industry and other interest representatives to provide them with valuable information. In this way, lobbying activities contribute to more knowledgeable policy design that, while conscious of the real needs in a particular sector, tries to mitigate potential negative effects. Lobbying also grants valuable currency to interest representatives, however, because it grants access to those who decide. Research shows that access is 'one of the most crucial currencies in interest group politics' and that obtaining access to decision-making processes is often a precondition for political influence.²

The notion of 'revolving doors'³ describes the private-sector practice of hiring staff, elected officials and senior managers from the public sector, i.e. former public officials, senior officials and executive or political leaders. Although a traditional way to see the revolving doors phenomenon emphasises the potential of relational capital i.e. the possibility to exploit the newly recruited staff member's political connections and ties with policy-makers, another approach highlights the human capital aspects of hiring former public sector staff, with the attention focused on the wealth of skills, resources and competencies that are acquired and that can represent valuable human assets, to be used to influence public policy. Either way, research shows that the revolving doors phenomenon affects the possibility to gain access to decision-makers and is an important part of EU interest groups' business models.⁴

2. Why rules on cooling off?

Despite its potential for constructive outcomes, lobbying is often associated with risks that can damage the democratic fabric of society. As has been pointed out, 'lobbyists can endanger democracy if they are overrepresented compared to other interest groups or if the information provided is asymmetric'.⁵ Lobbying activities can affect the integrity of the institutions, lead to favouritism or privileged positions in EU decision-making, and more generally have a negative effect on democratic processes. In addition, precisely because lobbying presupposes an exchange of specialist knowledge in return for access to policy-makers; it must be conducted by all parties in such a way that does not damage citizens' trust.

The lobbying phenomenon, well known in the United States,⁶ has acquired considerable size in Europe too. Brussels has become the capital of EU lobbying and it is estimated that over 25 000

¹ J. Grad and M. Frischhut, '[Legal and Ethical Rules in EU Decision-Making: "Soft law" for Targets and Actors of Lobbying](#)', in D. Dialer and M. Richter (eds), *Lobbying in the European Union*, Springer, 2019, pp. 305-307.

² S. Belli and J. Beyers, '[The Revolving Door and Access to the European Commission: Does the Logic of Influence Prevail?](#)', *Journal of Common Market Studies*, 2024, Vol. 62 (1), pp. 186-204.

³ 'The expression revolving doors is applied to the flow of employees between the public and private sectors of the economy. Upon leaving their jobs, high level public officials are able to translate their expertise into equally prestigious and often higher paying jobs in the private sector', L. M. Salinger, 'Revolving door', in *Encyclopedia of White-Collar & Corporate Crime*, 2005, Vol. 2, p. 689.

⁴ S. Belli and J. Beyers, *op. cit.*, p. 14.

⁵ J. Grad and M. Frischhut M, *op. cit.*, p. 305.

⁶ M. Thiel, E. Bauer and P. I. Runcan, [Revolving doors in the EU and US](#), EPRS, European Parliament, July 2018.

people work in this area in Brussels in various capacities, for instance in corporations, consulting firms, law firms or as self-employed consultants.⁷ As the latest figures on the EU Transparency Register indicate, the sums involved in lobbying EU institutions range between €5.5 and 10 million for the first 10 entries on the register.⁸ Research conducted in 2019⁹ revealed that of the 25 biggest spenders, 9 came from the energy sector, 5 from the information technology (IT) and telecommunications sector, 2 from railway and infrastructure, 3 from the financial sector, 3 from manufacturers, and 1 each from the tobacco and alcohol industries. However, while in past decades finance and pharma accounted for a major share of costs devoted to lobbying activities, the landscape has changed over the last decade.¹⁰ In 2022, Corporate Europe Observatory (CEO) reported that the biggest companies had increased their lobbying spending by a third since 2015.¹¹ Transparency International reported that between 2014 and 2021 big tech companies increased their investment in lobbying drastically, with Google having boosted its lobbying budget by 360%.¹² A CEO report updated in September 2023 describes a similar trend, with four out of the six companies with the highest lobbying budgets coming from the big tech industry.¹³ Big tech's budget is reported to have further increased by 16.5% since 2021, reaching over €113 million annually from around €97 million. Next to this, CEO reports that in 2022 around three quarters of lobbyists working in Brussels for Google and Meta (formerly Facebook) come from the public sector, either from the European Commission or the European Parliament.¹⁴ The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) also testifies to a high level (50%) of staff working in lobbying activities having worked previously in EU institutions.¹⁵

The CEO dedicated website *RevolvingDoorWatch* reports a high number of Commissioners, senior officials and MEPs having transited from a public office or mandate to a private position in companies, industry, consulting and think tanks.¹⁶ Among them, a number of cases have sparked media and public criticism. More specifically, 9 of the 26 Commissioners who ended their mandate in 2014 took up positions in private companies that could be considered 'revolving doors' cases.¹⁷ The most notorious case concerned Jose Manuel Barroso, Commission President from 2004 until 2014, who joined the US financial institution Goldman Sachs immediately after the end of his cooling-off period of 18 months.¹⁸ Other cases attracted public attention, including that of Nellie Kroes, former Commissioner for Competition and the Digital Agenda, who moved to Uber.¹⁹ Beyond commissioners, some cases involved moves to the private sector from high ranking positions within

⁷ Corporate European Observatory, [Lobby Planet Brussels](#), June 2017. For an overview of rules on transparency of lobbying activities in Member States, see R. Kergueno, Lobby transparency across the EU, [Transparency International](#), January 2024.

⁸ European Commission, [Transparency Register](#) website. See [Lobbyfacts.eu](#) showing data from the EU Transparency Register as at 6 February 2024.

⁹ D. Dialer and M. Richter, 'Lobbying in Europe: Professionals, Politicians, and Institutions Under General Suspicion?' in *Lobbying in the European Union*, 2019.

¹⁰ M. Gwyn Jones, [euronews](#), 11 September 2023.

¹¹ [Corporate European Observatory](#), 20 September 2022.

¹² L. Pearson, Transparency International EU, [press release](#), 25 February, 2021.

¹³ [Corporate European Observatory](#), Lobbying power of Amazon, Google and Co. continues to grow – Tech sector spends 113 million euros per year on lobbying in Brussels, 8 September 2023.

¹⁴ [Corporate European Observatory](#), The revolving door – from public officials to Big Tech lobbyists, 20 September 2022.

¹⁵ [Alter-EU](#), The revolving door in detail.

¹⁶ Corporate European Observatory, [RevolvingDoorWatch](#) website.

¹⁷ [The Brussels Times](#), 'Are revolving doors in the EU Bubble spinning out of control?', 15 December 2015.

¹⁸ Q. Ariès, 'José Manuel Barroso's new job at Goldman Sachs angers EU', [Politico](#), 11 July 2016.

¹⁹ [Corporate European Observatory](#), Kroes-ing through the revolving door, 11 July 2022.

the EU administration and institutions, for example Sharon Bowles,²⁰ former MEP and for some time Chair of the Committee on Economic and Monetary Affairs, took up a position as non-executive director at the London Stock Exchange.²¹ Aura Salla, former cabinet member of Jyrki Katainen – Commissioner for Jobs, Growth, Investment and Competitiveness – meanwhile took up a position as Facebook's Public Policy Director and Head of EU Affairs.²² Adam Farkas moved from Director of the European Banking Authority to chief executive of the powerful finance lobby group, the Association for Financial Markets in Europe.²³

All these and other cases were denounced by transparency watchdogs, the press and also politicians, arguing that these situations undermined the integrity of the EU institutions and that the general public's trust in institutions and their perception of institutions' independence could have been tainted, even if the cooling-off periods were duly respected.

The issue of revolving doors prompted a clear statement by the European Ombudsman Emily O'Reilly, when she declared: 'If the political or administrative leadership does not consider the 'revolving doors' issue to be a vital one, or if it cannot see the potential harms caused, then the problem will continue'.²⁴ Echoing this line of thinking, in a speech delivered in September 2022, the European Ombudsman reminded her audience that ' "Revolving doors" is becoming an increasingly significant issue in Brussels. While there are rules to prevent it happening, they are not always implemented with rigour and the potential for the corruption of the public space remains strong'.²⁵

3. European Ombudsman investigations

The European Ombudsman, a body whose mission is to investigate suspected cases of maladministration, also on its own initiative, has dealt with the issue of how the EU institutions manage the revolving doors phenomenon, concerning not only EU staff, but also senior staff and Commissioners, on multiple occasions.

3.1. European Commission

In an affair followed closely by the media and the general public, the appointment of former **President of the Commission, José Manuel Barroso**, as non-executive chairman and advisor for the international arm of US investment bank Goldman Sachs, drew the attention of the European Ombudsman. Although the appointment of Manuel Barroso was not in breach of Commission's post mandate rules, in case SI/9/2016/PD the European Ombudsman wrote to Barroso's successor President Jean-Claude Juncker to ask what measures had been taken to ascertain the compliance of the appointment with the obligations arising from Article 245 of the Treaty on the Functioning of the European Union (TFEU). This provision enshrines the obligation of discretion and integrity of former members of the Commission. The Ombudsman also asked whether the Ad Hoc Ethical Committee had been consulted and raised the issue of whether formal respect of the post-mandate cooling-off period was enough in the circumstances or if a more substantive opportunity

²⁰ [Euractiv](#), The revolving door keeps on spinning: it's time for ex-MEPs to cool off! 2 September 2014.

²¹ Corporate European Observatory, [Sharon Bowles](#).

²² [Corporate European Observatory](#), From Facebook friends to lobby consultants, 22 October 2020.

²³ [Corporate European Observatory](#), European Banking Authority disregards conflicts of interest, 15 January 2020.

²⁴ E. O'Reilly, Brussels 'becoming like Washington' for revolving-doors, [euobserver](#), 13 September 2022.

²⁵ [E. O'Reilly](#), 'Current trends and major development in ethics, lobbying and revolving doors practices – keynote address to Georgetown University', speech delivered in Washington on 27 September 2022.

assessment might have been necessary in order to comply with the spirit of the rules and preserve the reputation of the institutions.²⁶ The President of the Commission Jean-Claude Juncker stated in his reply that Article 245 TFEU established an open-ended obligation to integrity and discretion for Members of the Commission, i.e. one that remains in force also after the end of the mandate.²⁷ On the length of the cooling-off period, President Juncker noted that it had been extended from 12 to 18 months in 2011. This is the period within which future employment must be notified to the Commission. In this specific case, Juncker also informed the Ombudsman that the Commission's Secretary-General would send Barroso a request to clarify his responsibilities; advice would then be sought from the Ad Hoc Ethical Committee. The Ad Hoc Ethical Committee's advice, issued in October 2016,²⁸ analysed whether violations had been committed from three perspectives: (i) the cooling-off rules with particular regard to the nature of Barroso's future employer; (ii) Barroso's capacity to give advice concerning the United Kingdom's withdrawal from the EU (Brexit); and (iii) the appropriateness of the revolving doors situation.

As to the nature and image of the future employer (i), the Ethical Committee remarked that the media turmoil was mainly owing to the fact that Goldman Sachs had played a role in the subprime mortgage crisis. Goldman Sachs was the advisor that had allowed Greece to misrepresent its debt position, and was seen in general by the public as a representative of capitalist greed. However, the issue at stake, as much as Barroso should have been aware of the reputational damage that such an appointment would cause, was whether there had been legal breaches of the obligations deriving from the EU Treaties specifically and EU law in general. The Ethical Committee found that this was not the case. As to being involved in advice concerning Brexit (ii) as Barroso confirmed in a letter to the Secretary-General, he would not be involved in direct advising, a commitment that the Ad Hoc Ethical Committee did not dispute, although it reiterated that Barroso remained bound by the general duty of integrity and discretion. As to the third (iii) argument, the Ad Hoc Ethical Committee recognised that the provision of a cooling-off period seeks to strike a balance between the legitimate aim of protecting the integrity of the EU's decision making, and the legitimate expectation for a former member of the Commission to pursue a career after the end of their mandate. Once the cooling-off period has ended, a former commissioner is free to accept occupation in the private sector. Given the guarantee provided by Barroso that '[he was not] engaged to lobby on behalf of Goldman Sachs and [did] not intend to do so', the Ethical Committee found that this commitment was a sufficient guarantee of respect for the duty of integrity and discretion imposed by the Treaties.

In the framework of her strategic inquiries, the European Ombudsman began an investigation in 2017 (case OI/3/2017/NF) on the application of revolving doors rules for Commission **staff**, excluding Commissioners.²⁹ She delivered her report in February 2019, highlighting that on a systemic level the practices of the Commission complied with the rules governing EU staff, but that implementation of those rules could be more effective, notwithstanding a reform enacted in September 2018. In particular, the Ombudsman suggested a more robust approach to the issue of revolving doors where senior officials are involved, by making use of the possibility to forbid a post-employment activity more often or to provide restrictions that imply not dealing with matters relating to work carried out while employed by the EU institutions. The Commission should also fast

²⁶ See Ombudsman case [SI/9/2016/PD](#), [Letter to President Juncker](#) outlining the Ombudsman's concerns regarding the recent move by former Commission President, Mr Barroso, 5 September 2016.

²⁷ [Letter](#) from Jean-Claude Juncker, 9 September 2016.

²⁸ See [opinion](#) of the Ad Hoc Ethical Committee of 26 September 2016.

²⁹ See [decision](#) of the European Ombudsman in her strategic inquiry OI/3/2017/NF on how the European Commission manages 'revolving doors' situations of its staff members.

track the procedure for approval of post-employment activity when it concerns senior officials as otherwise the lapse of 30 working days without a decision on the request equates to an implicit approval. In addition, the Ombudsman urged the Commission to put in place monitoring mechanisms to check the outgoing staff's compliance in their post-employment activity. Finally, the Ombudsman identified a number of shortcomings in the Commission's communication policy regarding outgoing senior staff members and called on the Commission to publish all cases notified within 12 months of leaving office –not just a selection – and to do this in a timely manner, so as to demonstrate publicly that ethics obligations are respected.

In a subsequent decision of May 2022 concerning senior Commission staff, the Ombudsman called³⁰ on the Commission to use the full range of possibilities when risks regarding post-employment activity cannot be mitigated with restrictions, or when those restrictions cannot be monitored effectively.³¹ These possibilities should include a temporal ban on activities of former staff members. When post-employment activity is authorised, the Ombudsman suggested making the approval of a new job conditional upon the staff member obtaining a commitment from the new employer to publish any restrictions on its website. In addition, the Ombudsman reiterated its call for faster publication of post-service decisions involving senior staff.

3.2. European Central Bank

The European Ombudsman has investigated not only the European Commission's way of handling of revolving doors but also that of other institutions, bodies and individual cases.

In 2022, the European Ombudsman initiated an investigation into how the **European Central Bank** (ECB) managed a specific case in which a member of staff sought to take up employment with a private sector bank while on unpaid leave. The Ombudsman also screened the way in which the ECB handled the issue of revolving doors for mid-level and senior staff in general. At the end of this enquiry, the Ombudsman found that the ECB needed to adopt a more robust approach to the revolving doors phenomenon but acknowledged that as the ECB's Ethics Framework was under review, no further enquires were justified at that time.³² In addition to this, the Ombudsman formulated a number of recommendations, such as asking staff members to submit a formal description of their task with perspective employers, and developing measures to ensure compliance with ethics regulations. The Ombudsman also gave recommendations in the context of the revision of the Ethics Framework, such as proposing to increase the cooling-off period for senior staff to one year, making public the conditions for authorisation of occupational activity, or at least asking former staff members to inform their new employers of the mitigation measures imposed by the ECB, and making public the conditions imposed on former senior staff members.

3.3. European Food Safety Authority

In an enquiry initiated in 2010 (case 775/2010/ANA), the European Ombudsman addressed a staff member's move from the **European Food Safety Authority** (EFSA) to a biotechnology company, following a complaint by a German non-governmental organisation (NGO). The Ombudsman found that EFSA had not applied the rules on the prevention of conflicts of interest in a 'revolving doors'

³⁰ [E. Sánchez Nicolás](#), Watchdog calls for tougher curbs on 'problematic' revolving doors, euobserver, May 2022.

³¹ See European Ombudsman [Decision](#) on how the European Commission manages 'revolving door' moves of its staff members (OI/1/2021/KR), 16 May 2022.

³² European Ombudsman [Decision](#) on how the European Central Bank (ECB) deals with 'revolving door' cases (OI/1/2022/KR), 26 October 2022.

situation properly.³³ In particular, the Ombudsman contested EFSA's decision to raise no objections to the move. That decision had been based on the fact that the former staff member, even as head of unit, did not have any decision-making capacity – her unit was providing secretarial support to the EFSA's GMO Panel. This investigation led to the Ombudsman issuing a number of recommendations, some of which were implemented by EFSA. At the end of the procedure, the European Ombudsman concluded that EFSA had not complied fully with the Ombudsman's recommendations, to the extent that EFSA did not acknowledge the failure to observe a more thorough approach in the assessment of potential conflicts of interest. The Ombudsman nevertheless recognised that the recommendations had been implemented with respect to rules requiring timely communication of prospective employment during the negotiation phase and to the quality of information obtained in order to take a decision.

3.4. European Investment Bank

Acting on a complaint alleging breaches of the **European Investment Bank's** Management Committee Code of Conduct, in June 2022 the Ombudsman started investigation into how the European Investment Bank (EIB) had handled the post-mandate position taken up by a former vice-president who became CEO of the Italian national promotional bank *Cassa depositi e prestiti*.³⁴ In the framework of this investigation, the Ombudsman formulated a number of questions to the President of the EIB³⁵ on the extent of the responsibilities of the former vice-president with respect to the Italian bank and how potential conflicts of interest had been addressed. Following the EIB's reply, the Ombudsman sought a second series of clarifications in 2023.³⁶ In a decision on 31 October 2023, the Ombudsman found that the way the EIB had dealt with the conflict of interest constituted maladministration.³⁷ The reason was that the former vice-president had participated in the approval of financial agreements with the national promotional bank despite the EIB chief compliance officer having advised against it while his recruitment was under way. The EO in finding that the EIB had committed maladministration also made proposals to avoid this happening again in the future. For example, the EO recommended strengthening the role of the Ethics and Compliance Committee for post-mandate activities, giving this committee the power to impose mitigating measures, and publishing such decisions to enable appropriate monitoring of compliance with those decisions.

3.5. European Defence Agency

In 2021, the Ombudsman launched an own-initiative investigation into how the **European Defence Agency** had handled the application of a former chief executive to take up senior positions at Airbus Spain and at Airbus Defence and Space. Overall the Ombudsman found that there had been maladministration,³⁸ as the assessment of the risk of potential conflicts of interest was not performed thoroughly enough. In particular, there were two instances of maladministration, a first concerning the

³³ [Decision](#) of the European Ombudsman closing his inquiry into complaint 775/2010/ANA against the European Food Safety Authority (EFSA), 23 May 2013.

³⁴ See in case 611/2022/KR, [Letter](#) from the European Ombudsman to the European Investment Bank (EIB) on how it handled the move of a former Vice-President to become the CEO of a national promotional bank, 31 October 2023.

³⁵ See [letter](#) of the European Ombudsman, How the European Investment Bank (EIB) Group handled the move of a former Vice-President to become the CEO of a 'national promotional bank', 31 October 2023.

³⁶ [Letter](#) from the European Ombudsman to the European Investment Bank (EIB) on how it handled the move of a former Vice-President to become the CEO of a national promotional bank, 4 April 2023.

³⁷ Ombudsman [Decision](#) on How the European Investment Bank (EIB) Group handled the move of a former vice-president to become the CEO of a 'national promotional bank' (case 611/2022/KR).

³⁸ See Ombudsman [decision](#) in case OI/3/2021/KR on how the European Defence Agency (EDA) handled the application by its former Chief Executive to take on senior positions at Airbus.

mitigating measures, which the Ombudsman considered not sufficient to mitigate the perception of existence of a conflict of interest, and the second concerning the fact that the position as strategic advisor for Airbus Defence and Space should have been forbidden. The Ombudsman also made concrete recommendations to avoid future similar situations, namely, to forbid senior staff from taking up certain positions after the end of their term of office for a limited time of, for instance, two years, and to set out clear criteria to determine when such moves by senior staff would be denied. The EDA accepted the recommendations of the Ombudsman³⁹ and committed to take a number of measures, including that of providing guidelines for post-employment restrictions and improving information for staff on the requirement to obtain approval from the Agency in due time before starting a new position and the possibility that approval might be refused. The EDA also welcomed suggestions on how to monitor and enforce restrictions effectively and how to enforce a ban on lobbying addressed to staff.

4. International framework

4.1. OECD

As part of a set of initiatives triggered by the 2008 financial crisis, the OECD drew up a number of guidelines and principles to address the issue of transparency and integrity in lobbying activities. This was the first initiative undertaken at international level in this field. **The 2010 OECD recommendations** (see box below) recognise at the outset that lobbying activities are useful and represent valid interest as they bring to the attention of policy-makers data and the points of view of stakeholders, which can ultimately lead to better policies. However, the OECD also notes that disparities in economic power between interest representatives can tilt the decision-making balance towards the more powerful parties, disregarding fairness and the public interest.⁴⁰

Without proper regulations in place, public policies can be influenced by biased or even deceitful evidence and strengthen positions of monopoly. Mindful of this risk, the OECD's 10 recommendations represent the first attempt to create international standards, raise awareness and offer some guiding principle for countries. The OECD reports that the recommendations offered a good basis for framing and informing debates in countries in the process of revising their lobbying regulations.

After the adoption of the 10 recommendations, a survey was carried out in 2020 to take stock of implementation of the recommendations in practice. This led to a 2021 report⁴¹ that gives a mixed picture. According to the OECD, some countries (Austria, Chile and Ireland) – and also the EU – used the OECD recommendations as a source for their regulations. On the one hand the report recognises that countries have made some progress overall in adopting measures that enhance transparency, integrity and access, although at different speeds. On the other, it notes that in the majority of cases there is still limited transparency on the targets of lobbying, and on the actors conducting lobbying activities. In particular, it would seem that the focus is largely concentrated on registers, and lacks a holistic approach to lobbying activity risks. In addition, some of the risks connected with lobbying seem to have been intensified by the advent of digital technologies and social media.

³⁹ See Ombudsman [website](#), European Defence Agency accepts Ombudsman recommendations on revolving doors, 1 February 2022.

⁴⁰ OECD, [Recommendation](#) of the Council on Principles for Transparency and Integrity in Lobbying, adopted on 18 February 2010.

⁴¹ OECD, [Lobbying in the 21st Century](#), Transparency, Integrity and Access, 20 May 2021.

All these concerns have prompted the OECD to commit to issuing a revised version of the principles on lobbying to reflect the evolution of lobbying activities and provide a more up-to-date framework within which governments and interest representatives can interact properly.⁴²

OECD recommendations for transparency and integrity in lobbying

- 1) Countries should grant all stakeholders fair and equitable access to development and implementation of public policies.
- 2) Rules and guidelines should address government concerns on lobbying and respect the socio-political and administrative context.
- 3) Rules and guidelines on lobbying should be consistent with the wider policy and regulatory framework.
- 4) Countries should clearly define 'lobby' and 'lobbyist' when developing rules and guidelines on lobbying.
- 5) Provide an adequate degree of transparency to ensure that public officials, citizens and business are sufficiently informed on lobbying activities.
- 6) Countries should enable stakeholders, businesses, media and the general public to scrutinise lobbying activities.
- 7) Countries should foster a culture of integrity in public organisations and decision-making by providing clear rules and guidelines for public officials.
- 8) Lobbyists must comply with standards of professionalism and transparency and share responsibility for fostering a culture of transparency and integrity in lobbying.
- 9) Countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance.
- 10) Countries should review the functioning of rules and guidelines on lobbying on a periodic basis and adjust in light of experience.

Source: [Recommendation of the Council on Principles for Transparency and Integrity in Lobbying](#), OECD 2010.

4.2. GRECO

In 2017, **GRECO** – the Council of Europe's anti-corruption body – issued a recommendation establishing a comprehensive framework for the legal regulation of lobbying activities based on a set of 20 principles that should be considered as a complement to the above OECD recommendations.⁴³ The GRECO recommendation built on the notion that lobbying is a legitimate and useful activity, and part of a democratic process, but that it needs to be exercised within the boundaries of transparency and integrity. GRECO also underlined that the recommendation considered lobbying activity not only paid lobbying of a private or business nature but also the activities of civil society and persons or bodies that lobby public officials.

The **20 principles identified by GRECO** that should inform national rules and guidelines on lobbying can be summarised as follows.

- 1 The main aim of the recommendation is to promote **transparency in lobbying**. Lobbying is a legitimate activity, but it should not be exercised behind closed doors.

⁴² OECD, Online [public consultation](#) on the draft revised Recommendation on Transparency and Integrity in Lobbying.

⁴³ Council of Europe, Legal regulation of lobbying activities in the context of public decision making, [Recommendation CM/Rec\(2017\)2](#), 22 March 2017.

- It should be possible to identify the interests that influence the outcome of a policy-making process.
- 2 Regulations should address the following **actors** intervening in influencing public policies: (i) consultants including corporations, professional associations and NGOs; (ii) in-house public relations or public affairs lobbyists; (iii) organisations or bodies representing professions or sectoral interests including trade unions, NGOs, and civil society organisations.
 - 3 **Exemptions to the legal regulation** of certain lobbying activities or actors should be clearly identified (e.g. in Ireland lobbying rules do not apply to lobbying on behalf of another state, the EU or the UN).
 - 4 Regulations on lobbying should **not infringe the right of citizens**, individually or as part of a collective, to express their opinion and petition public officials, bodies or institutions.
 - 5 **Disclosure of lobbying activities** is fundamental and should be timely, easily accessible, the form of disclosure remaining at the discretion of member states (registers, legislative footprint, 'open diaries', etc.).
 - 6 Regulatory systems should specify the **standard information to be disclosed** by the public authority or lobbyist. The level of disclosure should be higher or lower depending on the importance of the subject matter.
 - 7 Public authorities should maintain a **register of lobbyists**. Within the framework of a self-regulatory scheme, a member state may entrust a private body with the duties and responsibilities relating to the register of lobbyists.
 - 8 Where registration is required, registrants should be responsible for the **accuracy and correctness of the information** provided on the register.
 - 9 The register should be easily **accessible and user-friendly**.
 - 10 **Processing of personal data** from the register should comply with legal data protection standards (see Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data – ETS No 108).
 - 11 A minimum **set of details** should be provided upon registration: name of lobbyist, contact details, corporate designation, legal form, registration number, fields of activity, subject matter of lobbying contacts, interest represented or promoted, public department contacted and indication of the relevant person, identity of the client for whom the lobbyist works.
 - 12 Consideration should be given to whether **additional information** is required, for example, number of lobbyists employed by the firm, number of former public officials working for the firm, financial information on lobbying contracts or lobbying costs in cases of in-house lobbying activities.
 - 13 For countries with well-established traditions of open government, the focus should be on making the **public decision-making 'footprint' public** rather than on identifying active lobbyists.
 - 14 **Lobbyists** should adhere to four behavioural principles when lobbying: **openness, transparency, honesty and integrity**.
 - 15 The effectiveness of lobbying regulations should be secured through **proportionate and dissuasive sanctions** of either a criminal or non-criminal nature (for instance in cases of failing to register or if information provided is false). Sanctions might include fines, removal from the register or loss of privileged access, or even imprisonment.
 - 16 **National standards on public sector integrity** should specify how to deal with lobbyists appropriately and should put in place mechanisms to which public officials can resort in complex situations that may not be straightforward. The notion of public officials for this purpose includes ministers, parliamentarians or other elected officials and their advisors.

- 17 There should be a **cooling-off period** and guidelines for officials to prevent the use of privileged knowledge of the public administration for the benefit of the client or employer. This cooling-off period may differ for different public officials in states with a federal structure, depending on the level at which the public official worked. Officials should be offered **guidance** on how to deal with lobbyists, respond to communications, report violations and preserve confidentiality of data.
- 18 Designated public authorities should **oversee the application of regulations on lobbying activities**. These overseeing authorities need not be created anew but may be existing ones.
- 19 Overseeing authorities should be able to **verify information** provided upon registration, **provide guidance** on lobbying, and raise awareness. The French High Authority for Transparency in Public Life, for instance, is an authority with several powers ranging from dealing with requests for information within its field of competence. Where there is a breach of obligations relating to lobbying regulations, the authority may issue a notice that can be made public, calling on those responsible to honour the obligations to which they are bound.
- 20 **Regulations on lobbying** activities should be reviewed periodically, with modalities and frequency to be decided by member states.

As the GRECO 2021 activity report indicates, although in most Council of Europe member states there has been progress in implementing the GRECO recommendations, European governments need to make further efforts to increase the transparency and accountability of lobbying activities in order to avoid the risk of corrupt practices.⁴⁴

5. Cooling-off period in EU institutions and bodies: A fragmented system

As the ECA's 2019 special report highlighted,⁴⁵ the three EU institutions do not share a common ethical framework, while a distinction must also be drawn between ethical rules applicable to staff and those applicable to members. The former are applicable to the staff at large, hence share similarities among EU institutions, while the latter are applicable to members of the EU institutions and bodies but differ on account of the differing roles of the institutions and their members. As a result, the rules applying to the staff of the Commission and of the European Parliament, for instance, resemble each other to a high degree, while those applicable to Members of the European Parliament (MEPs) or members of the Commission (i.e. Commissioners) differ to a greater extent. The Council of the EU and European Council belong to a category apart; there are no EU ethical rules applicable to them as they are composed respectively of Member States' ministers (or government representatives participating in working parties), and the Heads of State or Government. With the exception of the President of the European Council, national rules apply to members of the Council and the European Council. The ECA however highlighted that there is no guarantee that national requirements will cover all the necessary elements and risks with respect to the latter two institutions.

⁴⁴ [Press release](#), GRECO urges European governments to increase transparency and accountability of lobbying, 2 June 2022.

⁴⁵ [Special report](#): The ethical frameworks of the audited EU institutions: scope for improvement, European Court of Auditors, 13 November 2019.

The fragmentation of the EU ethics system means that very often each institution has its own code of conduct (CoC) and in many cases their own internal advisory body.

5.1. European Commission

Members of the European Commission are bound by the obligation of independence (Article 17(3)(2) TEU), which means that they may not take instruction from their respective governments or any other institution or body or entity, and that they must refrain from any action incompatible with their duties or the performance of their tasks. In addition, members of the Commission may not engage in any paid or unpaid activity during their office. In addition, during and after their term of office, members of the Commission are bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits after they have ceased to hold office (Article 245 TFEU). Members of the Commission are also bound – even after they have ceased their functions – by the obligation of professional secrecy (Article 339 TFEU). In addition to the various obligations binding on Commissioners before and after their period in office, Article 11 of the Commission's CoC⁴⁶ establishes the rules for post-term activities. As already established by Article 245 TFEU, the duty of integrity and discretion continues to apply after the end of the term of office.

For the **first two years** after the end of their term of office, Members of the Commission are **obliged to inform** the Commission of their **intention to engage in any professional activity gainful or not**. Some exceptions apply: the taking up of unpaid activity with no link with activities of the EU and of an activity that does not give rise to lobbying or advocacy towards the Commission; charitable or humanitarian activities; activities of a political, trade unionist, religious or cultural nature; and the management of assets in a private capacity. The Commission decides on the compatibility with the Treaties of the intended activity and if the activity relates to the former member's portfolio, after consulting the Independent Ethical Committee (Article 11(3) Commission CoC).⁴⁷ In a number of cases, however, there is no obligation to seek the Committee's opinion, although in cases of doubt its opinion can always be asked. The Independent Ethical Committee need not be consulted for example where the ex-member intends to be employed within the institutions or bodies of the EU, national administration, international organisations, or an academic institution, or if the engagement is a on a one-off or honorary basis.

In any case, former members of the Commission **may not lobby members of staff** for their own business, or that of their employer or client, for a period of **two years** in matters that fell under their portfolio (Article 11(4) Commission CoC). For the **President of the Commission**, the period during which there is an obligation to inform the Commission and the prohibition on lobbying is extended to **three years**.

The Independent Ethical Committee (Article 12 Commission CoC) was introduced in 2003 to assist the Commission by providing independent advice on any ethical question relating to the application of the Commission CoC (i.e. in relation to members) and recommendations. The Committee acts upon a request of the president and within the time limit set by him or her. It is composed of three members selected for their competence, experience, independence, professional qualities, impeccable record of professional behaviour and experience in high-level functions in European, national or international institutions. The composition of the Committee

⁴⁶ Commission [Decision](#) of 31 January 2018 on a Code of Conduct for the Members of the European Commission, OJ C 65, 21.2.2018, pp. 7–20.

⁴⁷ See Independent Ethical Committee [website](#).

reflects experiences in different institutions or functions. Information on the approved intended occupation of former Commission members is public.⁴⁸ According to the 2022 annual report on the application of the Commission CoC,⁴⁹ read in conjunction with the 2021 annual report,⁵⁰ the Commission had approved 94 post-office activities overall by the end of 2022.

5.2. European Parliament

The rules governing ethics and integrity in relation to a Member's mandate are laid down in several sources:⁵¹ Parliament's Rules of Procedure (RoP, Rule 11), Parliament's CoC, i.e. Annex I of the RoP; specific decisions of the Bureau (e.g. in 2023 one concerning former members⁵² and one concerning the participation of interest representatives in Parliament events).⁵³ Although it deals mainly with Members' rights and entitlements, the 2005 Members' Statute also establishes the principle of the free, independent, individual and personal nature of the mandate.⁵⁴

A reform that entered into force on 1 May 2023⁵⁵ introduced a **cooling-off period of 6 months**. It reformulates Article 9 of Parliament's CoC to establish that Members may not engage with former members whose mandate ended less than 6 months earlier and who are performing lobby or representation activities for which they are registered in the Transparency Register.⁵⁶ The precise new wording of Article 9 of the CoC is as follows: 'Members shall not engage with former Members whose mandate ended less than six months earlier and who fall under the categories of persons mentioned in Article 7(2) in any activity which could allow the former Members to influence the formulation or implementation of policy or legislation, or the decision-making processes of Parliament'.

The introduction of a cooling-off period was part of a broader set of reforms announced in January 2023⁵⁷ in the aftermath of corruption allegations involving a Member and a former Member.⁵⁸ These reforms were set out in 14 points.⁵⁹

In addition to the cooling-off period, former members have the duty to inform the European Parliament of whether they engage in professional lobbying or representational activities directly linked to EU decision making and may not therefore benefit from the facilities granted to former members under rules established by the Bureau. Indeed, a decision of Parliament's Bureau of

⁴⁸ See [website](#) of Commission Decisions on post-mandate occupations.

⁴⁹ Annual [Report](#) on the application of the Code of Conduct for the members of the European Commission in 2022, 16 April 2023, SEC(2023) 163.

⁵⁰ Annual [Report](#) on the application of the Code of Conduct for the Members of the European Commission in 2021, 29 May 2022, SEC(2022) 226.

⁵¹ See also dedicated [website](#) of the European Parliament.

⁵² [Decision](#) of the Bureau of 17 April 2023 on Former Members of the European Parliament.

⁵³ [Decision](#) of the Bureau of 12 June 2023 on Rules governing the participation of interest representatives in events held on Parliament's premises.

⁵⁴ [Decision](#) of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom).

⁵⁵ Parliament strengthens rules on integrity, transparency and accountability, European Parliament [press release](#), 13 September 2023.

⁵⁶ [Decision](#) of the Bureau of 17 April 2023 on Former Members of the European Parliament. See also Parliament's [press release](#) 'Bureau adopts further decision on strengthening transparency and accountability' of 12 June 2023.

⁵⁷ Group leaders endorse first steps of parliamentary reform, European Parliament [press release](#), 8 February 2023.

⁵⁸ Corruption allegations: MEPs call for full internal investigation, European Parliament [press release](#), 13 December 2022.

⁵⁹ European Parliament Implementation of the 14 point Reform plan 'Strengthening Integrity, Independence and Accountability', [European Parliament](#), 25 September 2023.

17 April 2023 establishes that former members engaging in lobbying or representational activities beyond the six-month cooling-off period will be granted a special badge issued on the basis of their prior registration in the Transparency Register, without the 'facilitated' access entitlement normally granted to former members of Parliament (Article 2 of the Bureau Decision).

Article 10 Parliament's CoC also establishes an Advisory Committee to assist members with the interpretation and implementation of the Parliament's CoC, with particular regard to conflicts of interest. The Advisory Committee can also proactively monitor compliance with Parliament's CoC and can signal breaches to Parliament's president. Upon a request from this latter, the Advisory Committee may also assess breaches of the CoC and advise the president on possible actions to be taken. The Advisory Committee is composed of eight members appointed by the president at the beginning of his or her term of office; account is taken of each member's experience, and of the Committee's political and gender balance.⁶⁰ The Advisory Committee publishes an annual activity report.⁶¹

5.3. European Council

As mentioned above, for members of the Council of the EU and the European Council (EUCO) the integrity rules applicable derive mainly from national law. However, an exception is made for the president of the European Council, for whom there is an ad hoc code of conduct setting out rules on integrity.⁶² According to Article VI of this CoC, the duty of integrity and discretion applies not only during but also after the end of the term of office of the EUCO president, as is the case for members of the European Commission. A cooling-off period of **18 months** applies, during which lobbying or advocacy involving members of the EU institutions or their staff, conducted on behalf of the former EUCO president's business, client or employer, is banned. During this same period, the former president must inform the incumbent president – giving a minimum 4 weeks of notice – whether he or she intends to engage in an occupational activity. The incumbent EUCO president examines the nature of the intended activity and informs the EUCO whether or not he or she deems it appropriate. The obligation to inform does not apply however where the nature of the intended activity is not related to the activities of the EU, does not involve lobby or advocacy or in cases of occupational activity of a cultural, humanitarian, trade unionist, philosophical, or religious nature. This exclusion also extends to management of assets in a private capacity.

5.4. European Court of Auditors

In addition to the principle of independence enshrined in the TFEU (Article 286), the description of the ethical values to which Members of the Court of Auditors (ECA) must adhere is particularly detailed.⁶³ Article 2 of the ECA's Code of Conduct, meanwhile, mentions integrity, independence, objectivity, competence, professional behaviour, confidentiality, transparency, dignity, commitment, loyalty, discretion and collegiality.⁶⁴ In particular, special provisions of the ECA's CoC (Articles 4 and 5) prescribe the observance of behaviour that excludes even the *appearance* of violation of an ethical principle. In other words, members must refrain from circumstances that may

⁶⁰ See [website](#) of the Advisory Committee.

⁶¹ See by way of example, [2022 Annual Report](#), Advisory Committee on the conduct of members.

⁶² See [Code of Conduct](#) of the President of the European Council.

⁶³ See Ethical [Guidelines](#) for the European Court of Auditors.

⁶⁴ [Code of Conduct](#) for the Members and former Members of the Court, 2 May 2022.

be seen as compromising their independence. The duty of integrity, discretion and professional secrecy continue to apply after the end of the term of the office (Article 13 ECA CoC).

If former ECA members intend to engage in an occupation – gainful or not – in the two years after the end of their terms of office, they must declare it to the president of the ECA, giving 2 months' notice (Article 17 ECA CoC). Some activities need not be communicated – such as honorary, unremunerated offices in organisations without any link with the EU, organisations of a political, legal, scientific, charitable or educational character, or the management of assets in a private capacity. According to Article 17 of the ECA CoC, the communication of employment must be forwarded to the ECA's Ethics Committee, which is the ECA's internal body, to assess the compatibility of the new occupation with the obligations deriving from the Treaty and the ECA CoC, in particular with respect to conflicts of interest and impartiality. More specifically, the Ethics Committee examines whether a risk arises from reports for which the member acted as reporting member in the two years prior to the end of their mandate. If the Ethics Committee considers that there is incompatibility with the principles enshrined in the Treaty and the CoC, the president informs the former member, who must refrain from taking up the intended employment. In principle, public office is not deemed to raise a conflict of interest.

The Ethics Committee is also an internal advisory body on any matter of an ethical nature. It comprises three permanent members,⁶⁵ two from the ECA and one external, as required by Article 33 of the Implementing Rules of the ECA's Rules of Procedure.⁶⁶

5.5. European Central Bank

A recent reform brought together within a single act the various ethical frameworks applicable to the different bodies engaged in EU monetary policy and banking supervision.⁶⁷ As of 1 January 2023, a Code of Conduct for high-level European Central Bank officials (ECB CoC) applies to members of the Governing Council and of the Supervisory Board when acting as members of a high-level European Central Bank (ECB) body, as well as to the members of the Executive Board.⁶⁸ The notion of 'high-level ECB bodies' comprises the Governing Council, the Executive Board and the Supervisory Board of the ECB.

Article 17 of the ECB CoC sets out post-employment rules, according to which Members must inform the president or the chair of the high-level body of any potential gainful occupation for the duration of the two years after the end of their term of office or cessation of functions. Only after a cooling-off period of **one year** may former members of a **high-level ECB body** engage in a gainful occupation in a **significant or less significant credit institution**, and after a period of **six months in any other financial institution**. A cooling-off period of **six months** applies for members of a high-level ECB body before entering gainful occupation in any entity engaged in **lobbying** in relation to the ECB, or consultancy or advocacy for a **significant or less significant credit institution or any other financial institution**. Moreover, members of the **Executive Board and Governing Council** may engage in occupational activity with i) a counterparty to the Eurosystem in monetary policy or foreign exchange operations, only after a **cooling-off period of one year**; and ii) a payment or settlement operator, a central counterparty or a provider of payment instruments subject to ECB oversight, only after a **cooling-off period of six months** (Article 17 ECB CoC). Shorter

⁶⁵ See ethics [website](#) of the European Court of Auditors.

⁶⁶ See [Decision](#) no 21-2021 laying down the rules for implementing the Rules of Procedure of the Court of Auditors.

⁶⁷ See ethics [website](#) of the European Central Bank.

⁶⁸ [Code of Conduct](#) for high-level ECB officials 2022/C 478/03.

cooling-off periods apply for alternates in high-level ECB bodies. Prior to taking up a gainful occupational activity, members must request⁶⁹ an opinion⁷⁰ from the Ethics Committee, which may recommend either waiving the cooling-off period or extending it to a maximum of two years.⁷¹ Opinions of the Ethics Committee must be addressed to the Governing Council, which must make recommendations to the national authorities or respective central bank, which must in turn inform the Governing Council of any impediment to the implementation of the Ethics Committee's recommendation.

5.6. European Court of Justice

Members of the Court of Justice of the EU (the Court) – namely judges and advocates general of the Court of Justice, and judges of the General Court – are bound by the ethical values set out in Article 2 of the Court's code of conduct (ECJ CoC): independence, integrity, dignity, impartiality, loyalty and discretion.⁷²

According to Article 9 of the ECJ CoC, the principles of integrity, dignity, loyalty and discretion must continue to apply after the end of the mandate too. The cooling-off rules applying to members (judges and advocates general) after they leave office are specific to the nature of activities carried out in a court function. Article 9(2) of the ECJ CoC states that after leaving office members must **not be involved** either in **cases pending** before the Court or General Court **in which they were a member** when they ceased to hold office or in cases connected with cases for which they were **judge or advocate general**. For **three years** after the end of their term of office, they may **not represent parties in written or oral pleading** in cases before any of the courts that constitute the Court of Justice. Provided they comply with post-office obligations to act with integrity, dignity, loyalty and discretion, they may be involved as agent, counsel, adviser or expert or provide a legal opinion or act as an arbitrator. Where a doubt arises about the application of cooling-off rules, a former member may contact the president of the Court, who must obtain the opinion of the Consultative Committee. The latter is established by Article 10 of the ECJ CoC and assists the President of the Court of Justice who is responsible for the proper application of the CoC. It is composed of the Court's three longest-standing members and its vice-president (if not one of the former). Where the question concerns a member or former member of the General Court, the Consultative Committee is composed of the president, vice-president and another member of the General Court.

5.7. European Economic Social Committee and European Committee of the Regions

Article 2(6) of the Code of Conduct of the European Economic and Social Committee (EESC CoC) states⁷³ that after ceasing to hold office, former members are bound by ethical standards of integrity and discretion, and that they must **not lobby members or staff** on behalf of their own business, or that of their employer or client, on matters for which they have held important positions or written

⁶⁹ See [Overview](#) of ECB high-level Officials' notifications of envisaged private activities in line with Article 7 of the Single Code of Conduct.

⁷⁰ See opinions of the Ethics Committee on post-employment activity on ECB's [website](#).

⁷¹ [Decision](#) (EU) 2015/433 of the European Central Bank of 17 December 2014 concerning the establishment of an Ethics Committee and its Rules of Procedure (ECB/2014/59).

⁷² [Code of Conduct](#) for Members and former Members of the Court of Justice of the European Union, OJ C 397, 30.9.2021, pp. 1–8.

⁷³ [Rules of Procedure and Code of Conduct](#) for members of the European Economic and Social Committee, May 2022.

reports for a period of **two years** after ceasing to hold office. An Ethical Committee (Article 9 EESC CoC) advises the EESC president and Bureau on matters concerning application of the CoC. The Ethical Committee is composed of six members elected by the EESC assembly (Article 33 EESC RoP).

No cooling-off rules are set for members of the European Committee of the Regions, either in its Code of Conduct, or in any other relevant regulatory framework.⁷⁴

5.8. European Ombudsman

In addition to Article 228(3) TFEU, which establishes the principle of the independence of the European Ombudsman's office, Article 14(2) of the Ombudsman's Statute goes into further detail, requiring a solemn undertaking before the ECJ that during his or her office the Ombudsman will uphold the principles of independence and impartiality and that after the end of their mandate, they will show integrity and discretion as regards the acceptance of certain appointments or benefits.⁷⁵ The Ombudsman's Code of Conduct reiterates that former ombudsmen are bound by the principles of integrity and discretion after the end of their mandate, and that 'The former Ombudsman shall also continue to avoid any actual, apparent or potential conflict of interests that could arise from any professional activity or occupation. [...] If the former Ombudsman intends to engage in either an advisory, non-remunerated post or a remunerated occupational activity during the three-year period after leaving office, she shall inform the incumbent Ombudsman'.⁷⁶ Engagement in a public office is however not deemed to give rise to conflict of interest situations.

Table 1 – Overview of cooling-off regimes in the EU institutions

Office	Cooling-off period	Legal basis	Internal ethics body
Member of the European Commission	For two years after end of office: <ul style="list-style-type: none"> ➤ obligation to inform of intention to engage in a professional activity; ➤ prohibition on lobbying staff on matters relating to portfolio held during office 	Article 11(2) and (4) Commission Code of Conduct	Independent Ethical Committee
President of the Commission	For three years after end of office: <ul style="list-style-type: none"> ➤ obligation to inform and ➤ prohibition on lobbying as for members of Commission 	Article 11(5) Commission's Code of Conduct	Independent Ethical Committee
Member of the European Parliament	Prohibition on engaging with Members of Parliament for six months after end of mandate Obligation to inform Parliament of engagement in lobbying or representation activities	Article 9 Code of Conduct for Members of the European Parliament regarding integrity and transparency (Annex I of Parliament's Rules of Procedure)	Advisory Committee

⁷⁴ [Code of Conduct](#) for members of the European Committee of the Regions adopted by the plenary assembly on 5 December 2019.

⁷⁵ [Regulation](#) (EU, Euratom) 2021/1163 of the European Parliament of 24 June 2021 laying down the regulations and general conditions governing the performance of the Ombudsman's duties (Statute of the European Ombudsman) and repealing Decision 94/262/ECSC, EC, Euratom.

⁷⁶ [Code of Conduct](#) for the European Ombudsman.

Office	Cooling-off period	Legal basis	Internal ethics body
President of the European Council	18 months prohibition on lobbying members of the EU institutions and their staff	Article VI Code of Conduct for the President of the European Council	_77
Member of the European Court of Auditors	For two years after end of office, obligation to declare intention to engage in occupation. Ethics Committee to assess compatibility with ethics rules	Article 17 of Code of Conduct for the Members and Former Members of the Court	Ethics Committee
Member of high-level ECB bodies (members of the Governing Council, Supervisory Board and Executive Board of the ECB)	<p>For members of high-level ECB bodies:</p> <ul style="list-style-type: none"> ➤ obligation to inform president of body of gainful occupation for two years following end of office ➤ cooling-off period of: <ul style="list-style-type: none"> - one year for occupation in a significant or less significant credit institution; - six months for lobbying the ECB, consulting or advocacy in a significant or less significant creditor financial institution <p>For Members of Executive Board and Governing Council cooling-off period of:</p> <ul style="list-style-type: none"> ➤ one year for occupation in counterparty to Eurosystem ➤ six months for occupation in payment/settlement operator counterparty or provider of payment instrument supervised by the ECB 	Article 17 Code of Conduct for high-level ECB officials	Ethics Committee
Judge or advocate general of the European Court of Justice	<p>Prohibition on involvement in pending cases in which they were involved or in (also closed) cases connected with cases in which they were judge or advocate general</p> <p>Prohibition for three years on either written or oral representation of parties pleading before any court of the Court of Justice</p>	Article 9 of the Code of Conduct for Members and former Members of the Court of Justice of the European Union	Consultative Committee

⁷⁷ The President of the European Council is not considered to be a member of the staff, therefore for that position the Legal Advisors to the Administration, a service dealing with ethical matters of staff within the General Secretariat of the Council, is not competent.

Office	Cooling-off period	Legal basis	Internal ethics body
Member of European Economic and Social Committee	For two years from end of office, prohibition on lobbying members or staff on matters for which EESC members held important positions or wrote reports	Article 2(6) Code of Conduct for Members of the European Economic and Social Committee	Ethical Committee
European Ombudsman	For three years from end of office, obligation to inform incumbent ombudsman of intention to engage in advisory, non-remunerated or remunerated occupation	Code of Conduct of the European Ombudsman	_78

6. Cooling-off periods for former national parliamentarians

The **majority** of Member States (20) **do not** legislate for a cooling-off period for members of parliament, i.e. a period during which they must refrain from activities in either the private or public sector after the end of their mandate. The Member States not providing for such a mechanism are: Bulgaria, Cyprus, Czechia, Denmark, Germany, Greece, Spain, Estonia, France, Italy, Luxembourg, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovakia, Finland and Sweden.

In seven (7) Member States, however, national legislation stipulates that former members of parliament must refrain from taking up employment or engaging in a paid relationship for a certain period after the end of the mandate. Often the rules consists of a general clause applicable to public officials, a notion that includes members of parliament. However, the formulation of these restrictions is quite broad and covers activities and transactions normally performed by officials in the administration. In Member States where a cooling-off period applies, therefore, a certain degree of interpretation is needed to determine which limitation is likely to apply to former members of parliament. In the case of Hungary, the prohibition does not concern the exercise of an activity, but the holding of financial assets.

More details of the cooling-off periods or other restrictions applied to post-mandate activities in these seven Member States are given below.⁷⁹

In **Belgium**, according to Article 6 of the Law of 6 August 1931 on incompatibilities and prohibitions applying to ministers and ministers of state, and to members and former members of the legislative chambers,⁸⁰ members of the Chamber may not be appointed to a state-employed function within a year of the end of the mandate. Some exceptions apply, for example they may be appointed before the year ends to the office of minister or member of the Constitutional Court or as a diplomat.

In **Ireland**, the 2015 Regulation of Lobbying Act (s22),⁸¹ which is primary legislation, prohibits former designated public officials from engaging in lobbying activities connected with their previous

⁷⁸ For ethical issues arising during the mandate of the European Ombudsman such as accepting honorary posts in foundations or decorations, prizes or honours, the Secretary-General of the European Ombudsman is responsible for giving advice.

⁷⁹ The following data were provided by the European Centre for Parliamentary Research and Documentation (ECPRD) and verified by EPRS staff.

⁸⁰ [Loi établissant des incompatibilités et interdictions concernant les Ministres et Ministres d'État, ainsi que les membres et anciens membres des Chambres législatives](#), as amended.

⁸¹ [Regulation of Lobbying Act 2015 \(s22\)](#).

employment or from being employed by, or offering services to, a person conducting lobbying activities for one year after their departure (Part 5, s22, 3a). Within the notion of public officials are included members of both houses of parliament (*Dáil Éireann* and *Seanad Éireann*). Sanctions may include a monetary penalty of up to €25 000 and/or prohibition from lobbying for up to two years. Where a major sanction is imposed, this must be confirmed by the Circuit Court.

In **Croatia**, the Act on the Prevention of Conflicts of Interest⁸² includes a general provision applicable to a list of public office holders, including members of parliament. They are prohibited from accepting appointments to management functions in an entity with which the public authority in which they were employed or exercised supervisory functions had business relations. The limitation applies for 18 months after termination of the duties.

In **Hungary**, according to Section 85 of Act XXXVI of 2012 on the National Assembly,⁸³ from the day of their election until two years after the termination of their mandate, members of parliament may not conclude a purchase agreement acquiring shares in a business organisation over which the Hungarian state or a foreign state, a local government, association of local governments, foreign municipality, political party, or a domestic or foreign religious community has direct or indirect exclusive or majority control.

In **Latvia**, Section 10, Article 7, of the Law on the prevention of conflicts of interest in activities of public officials,⁸⁴ imposes the following restrictions on commercial activities for public officials, a notion that includes members of parliament:

A public official, for two years after he or she has taken a decision or participated in taking of a decision to grant a public procurement, a partnership procurement, a procurement of public service providers or a concession, to grant financial resources to a public person, or has performed monitoring, control, investigatory, or punitive functions, or has administered insolvency proceedings, is prohibited from obtaining the property of such a merchant and also from becoming a shareholder, stockholder, partner of such commercial company or from holding offices in such commercial company, in relation to which in the performance of his or her duties this public official has taken a decision or participated in the taking of a decision to grant a public procurement, a partnership procurement, a procurement of public service providers or a concession, to grant financial resources to a public person, or has performed monitoring, control, investigatory, or punitive functions, or has administered insolvency proceedings.

In **Lithuania**, under Article 15 of the Law on the adjustment of public and private interests in the civil service,⁸⁵ for a period of one year after leaving office, members of parliament have no right to take up employment for any legal person if in the year prior to the termination of the mandate they exercised supervision or control over the said legal persons or if the member participated in decisions concerning the award to these legal persons of state or municipal financing, or other funds or decisions relating to the capital of these companies.

⁸² [Law](#) on prevention of conflicts of interest, 21 December 2021 (Zakon o sprječavanju sukoba interesa 'Narodne novine' 143/21).

⁸³ [Act XXXVI](#) of 2012 on the National Assembly.

⁸⁴ [Law](#) on Prevention of Conflict of Interest in Activities of Public Officials.

⁸⁵ [Law](#) on the adjustment of public and private interests Register of Legal Acts (TAR) on 5 July 2019.

In **Slovenia**, Article 36 of the Integrity and Prevention of Corruption Act⁸⁶ imposes a temporary prohibition on public office holders, including deputies of the National Assembly, from performing certain activities after leaving office. The main limitation is that for two years, the former public officer may not represent an entity entertaining or about to entertain a business relationship with a public sector body that previously employed the former public officer.

As is the case for members of parliament, the rules on cooling-off periods for members of government vary between Member States. In **Ireland**, **Croatia** and **Lithuania**, for example the same rules on cooling-off provided for members of parliament apply also to members of government while some Member States that do not provide a cooling-off period for members of parliament appear to provide a cooling-off period for members of government: **Italy**,⁸⁷ **Hungary**,⁸⁸ **Sweden**.⁸⁹ In **Portugal** a cooling-off period of three years applies to political officeholders who have exercised executive functions.⁹⁰

Table 2 – Cooling-off periods for members of national parliaments

Member State	Cooling-off period	Legal basis	Provision
Belgium	1 year	Article 6 of Law of 6 August 1931 on incompatibilities and prohibitions concerning ministers and ministers of state, and members and former members of the legislative chambers	Prohibition on members of the Chamber of Representatives from being appointed to a state-employed function
Croatia	18 months	Act on the Prevention of Conflicts of Interest	Prohibition of management functions in an entity with which the public authority, in which the public officer was employed or exercised supervisory functions, had business relations

⁸⁶ Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia, No. 69/11 official consolidated version and 158/20).

⁸⁷ According to Article 6 of [Law 60/1953](#), anyone who has held government office may not hold office in certain bodies – in particular cultural, welfare or religious bodies, universities or institutes of higher education - nor may they exercise or perform functions of director, president liquidator, auditor, general manager or legal adviser in associations or bodies that manage services on behalf of the State or public administration or to which the State contributes directly or indirectly, nor may they hold offices in banking institutions or joint-stock companies operating in the financial sector, for at least a year.

⁸⁸ According to [Act CXXV of 2018](#) on Government Administration employment restriction for Members of Government and Government officials whereby government officials working in certain sectors to be determined by the Government, after the end of the mandate or office may not enter in an employment relationship with a company that carries out the same sectoral activity as its principal activity, within maximum two years from the termination of employment or office.

⁸⁹ According to the Act on restrictions in the event of ministers and state secretaries transitioning to non-state activities (2018:676) ([Lag \(2018:676\) om restriktioner vid statsråds och statssekreterares övergång till annan än statlig verksamhet](#)), a special examination board may decide whether a cooling-off period and/or restrictions of **up to 12 months** should apply to ministers and state secretaries, for example before commencement of work in the private sector.

⁹⁰ Article 10 of [Law](#) No 52/2019 of 31 July 2019, as amended, on the regime governing the exercise of functions by political officeholders and senior public officeholders.

Member State	Cooling-off period	Legal basis	Provision
Hungary	24 months	Section 85 of Act XXXVI of 2012 on the National Assembly	Prohibition on purchasing shares in an entity directly or indirectly controlled by the Hungarian or a foreign state, a local government, association of local governments, foreign municipality, political party, or a domestic or foreign religious community
Ireland	1 year	Regulation of Lobbying Act 2015 (s22)	Prohibition on former public officials including members of parliament from lobbying in connection with previous employment or being employed or carrying out services for a person exercising lobbying activities
Latvia	2 years	Section 10, Article 7, of the Law on prevention of conflicts of interest in activities of public officials	Prohibition on public officials including members of the Latvian parliament from engaging in commercial transactions, acquiring shares, or holding any office in companies or entities with respect to which the official took procurement decisions, granted financing, exercised supervision or administered insolvency procedures. Prohibition applies for the two years following the decision in question
Lithuania	1 year	Article 15 of Law on the Adjustment of Public and Private Interests in the Civil Service	Prohibition on taking up employment in a legal entity if in the year prior to termination of office the member exercised supervision or control over or awarded financing to that company
Slovenia	2 years	Article 36 of the Integrity and Prevention of Corruption Act	Prohibition on public office holders, including members of the National Assembly, from representing an entity that has a business relationship with the body for which the public office holder worked previously

7. Conclusions

Interactions between the private and public sectors are generally a positive component of legislative decision-making, as they ensure that laws and regulations are not produced in a silo-like environment, but take into account the needs and sometimes wishes of the industry they intend to regulate. Lobbying therefore displays benefits on both sides: public policy-makers can benefit from private sector skills, knowledge and competence in the area in which they intend to regulate, and the private sector can better understand how decisions are made and how best to address public interlocutors. When the delicate balance in this relationship is lost, however, there is a need for public actors to intervene and regulate the phenomenon. Regulations should not, however, disregard the legitimate wish of those who have been employed in EU institutions, including in positions of membership or leadership, i.e. not as general staff, to pursue a career outside the EU institutions, and still in the framework of EU policies.

For this reason, cooling-off periods have been written into the internal rules and codes of conduct of almost all the institutions analysed in this study. Whereas almost all the institutions have cross-cutting ethical guidelines for staff and members alike, for members the obligation to observe discretion and integrity outlives their term of office. The length of the cooling-off period varies widely between the EU institutions, spanning from the six months for former MEPs and former members of high-level ECB bodies with respect to activities in certain financial or non-financial entities, to three years for the president of the Commission – currently the longest cooling-off period provided for a member of an EU institution.

When it comes to the detail of the ethical duties of members of the EU institutions, while these normally include the duty of integrity, loyalty, independence, impartiality, or a mix thereof, the codes of conduct of the members of high-level ECB bodies and of the European Court of Auditors add a further nuance, whereby even the *appearance* of infringing one of those duties must be avoided. For example, in terms of independence, the ethical rules of the European Court of Auditors require former members to behave in a way that potential influence or the appearance of external influence is excluded (Rule 8). Likewise, the general definition of conflict of interest in the code of conduct of members of high-level ECB bodies includes not only the existence of a personal interest that may influence impartiality of the member, but also a personal interest that may be perceived as such (Article 11). These are important clarifications and provisions regarding conflicts of interest that help to strengthen public trust.

Parliament's cooling-off period for former MEPs is the shortest such period of all EU institutions, but a survey of practice across the EU shows that currently not all Member States impose cooling-off periods on their members of parliament. At present, only around a quarter of Member States (seven) apply some form of limitation on the post-term activities of former members of parliament. In the majority of cases – with the exception of Belgium – these limitations are designed for public officials, a notion that includes members of parliament, with some potential to be sparingly applied given the content of the prohibition and the nature of the activity of parliamentarians.

In conclusion, it can also be observed that the current ethical framework is underpinned by the work of the European Ombudsman, who is engaged in ascertaining whether maladministration has been committed by EU institutions. The European Ombudsman has not shied away from the challenge of inquiring into this delicate topic and in some cases has taken a clear position. In these cases, the issue was not the lack of appropriate ethical rules, but the lack of proper implementation of those rules. In particular, the European Ombudsman has drawn attention to the need to customise decisions on approval of post-term activities, recommending conditional approvals or restrictions

attached to post-term occupational approvals. In addition, the European Ombudsman affirmed that it might be worthwhile making such decisions public so that potential restrictions are made known to future employers. Be that as it may, the European Ombudsman remains a valuable source of constructive approaches to this complex and delicate issue, and certainly plays a crucial role in maintaining and improving public trust in the European Union institutions.

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The 'revolving doors' phenomenon has frequently caught media and public attention in recent years. This publication offers an overview of how the post-term activities of members of the EU institutions – Commissioners and Members of the European Parliament, as opposed to staff members – are regulated by the EU institutions. The European Ombudsman has looked into the issue of revolving doors in the context of several individual cases; on a few occasions this has ended in an unsatisfactory outcome for the institution or body under investigation and prompted the European Ombudsman to make specific recommendations to avoid a repeat of maladministration in future cases. At EU level, almost all institutions place some restrictions on post-term activities, while a comparative overview of EU Member States shows that just a small number of them legislate for this aspect of the post-term activity of parliamentarians.

This is a publication of the Members' Research Service
EPRS | European Parliamentary Research Service

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PE 762.290
ISBN 978-92-848-1822-8
doi:10.2861/82729
QA-02-24-474-EN-N