European Parliament

A comparative analysis of financial disclosure obligations on members of parliaments

Strengthening integrity, independence and accountability in the European Parliament

STUDY

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A comparative analysis of financial disclosure obligations on members of parliaments

In the context of on-going discussions to strengthen the European Parliament's integrity, independence and accountability, this is one in a set of publications in which the European Parliamentary Research Service will analyse relevant international and European standards relating to parliamentary ethics, as well as the rules and practices put in place in selected EU Member States to promote the principles of transparency, accountability and integrity within their national parliaments.

Various international organisations consider financial disclosure to be a key tool in preventing and addressing corruption and conflicts of interest among parliamentarians. This paper compares financial disclosure obligations in national parliaments around the world, including in the European Union; and then examines the various proposals that have already been put forward in the European Parliament to modify the current reporting obligations imposed on its Members.

The annex reproduces the forms used in national parliaments for members' financial declarations.

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This paper has been drawn up by the Members' Research Service within the Directorate-General for Parliamentary Research Services (EPRS) of the Secretariat of the European Parliament.

An annex to the study reproduces (in the original language and format) forms used by members of national parliaments in EU Member States to make the financial declarations required under their rules.

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Executive summary

Elected representatives enjoy a very particular position within representative democracies, as they represent their voters and are entrusted with **key legislative, budgetary and oversight functions. Scandals** involving misconduct by parliamentarians therefore have a negative impact on public trust in democratic institutions. Against this backdrop, both international organisations and national authorities have dedicated time and resources to setting up standards to combat corruption, address conflicts of interest and promote the principles of transparency, accountability and integrity within public institutions, including parliaments.

This study shows that there is a clear trend among global and European organisations to consider the **imposition of financial disclosure obligations** on certain office-holders and public officials as an **important tool** when it comes to **combating corruption and addressing conflicts of interest**. The UN Convention against Corruption (2003) requires its states parties to consider imposing such obligations on a number of public officials, including people holding legislative office. Similarly, at European level, relevant standards have been set by the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE) and the Organisation for Economic Co-operation and Development (OECD).

This trend is also reflected at national level, including among parliamentary institutions. In 2012, the Group of States against Corruption of the Council of Europe (GRECO) reported that almost all its members (43 out of 45) required the members of their national parliaments to disclose financial information, in order to be able to detect unexplained wealth and/or make public any interests and benefits that could potentially influence members' performance of their duties.

The study shows that **all EU Member States currently impose financial disclosure obligations on the members of their national parliaments**. Denmark, Germany, Ireland, Luxembourg, the Netherlands, Finland and Sweden require their members to disclose information relating to their outside activities, income and interests, in a bid to prevent and address possible conflicts of interest and abuse of office. Austria has a disclosure mechanism geared mainly towards ensuring correct application of the rules on incompatibilities. The rest of the EU Member States provide for broader financial disclosure mechanisms that also include information relating to members' assets and liabilities.

An analysis of the situation in the EU Member States reveals a number of trends as regards financial disclosure mechanisms for members of parliament. As regards the point in time at which members of parliament are required to disclose financial information, all Member States require them to disclose that information shortly after taking up their duties and to **update** it either **at regular intervals or when the situation has changed**. In **17 Member States**, members of parliament are also required to **submit a declaration once the term of office has ended** in order to help identify possible cases of illicit enrichment.

The majority of EU Member States do not require the members of their national parliaments to disclose information on close relatives: only **11 Member States require members to disclose information relating** to their **spouses**, and **9 require information on dependent children**.

In contrast, **19 out of 27 Member States ensure** the declaration(s) provided by members of parliament are made public through unrestricted access via the internet. A few have opted for a different solution, providing access to declarations only on request, or restricting access to relevant parts of the declarations to competent national authorities.

When it comes to the monitoring and enforcement mechanisms put in place by EU Member States to ensure compliance with financial disclosure obligations imposed on members of parliament, Member States are divided almost equally between those that entrust such functions to **parliamentary bodies and services (13 Member States)** and those that have decided to attribute those functions to **bodies/agencies external or independent** from parliament.

The **European Parliament requires each of its Members to submit a declaration of interest** shortly after taking up parliamentary duties. The Parliament's financial disclosure mechanism focuses on Members' outside activities, income and interests; it requires Members to update their declarations whenever there has been a change in circumstances; it does not expressly require them to disclose information on close relatives; it ensures broad publicity of Members' declarations via Parliament's website; and entrusts the monitoring and enforcement of disclosure obligations to its own internal bodies and services.

The European Parliament is currently engaged in a **reform process** aimed at **strengthening its integrity, independence and accountability**. The process was launched after several arrests and searches took place in December 2022 in the context of ongoing criminal investigations carried out by Belgian authorities into allegations of wrongdoings by former and current Members and staff of the European Parliament. In this context, several proposals have been put forward to modify the rules relating to financial disclosure obligations imposed on Members of the European Parliament. This paper analyses international and European standards relating to financial disclosure obligations imposed on elected representatives, and the rules and practices applied in the EU Member States' national parliaments, in order to feed into current discussions on possible ways to strengthen the European Parliament's financial disclosure mechanism.

Table of contents

Table of tables

1. Introduction

Healthy democracies depend not only on the establishment of well-designed democratic institutions, but also on the **nurturing of democratic values and a democratic political culture** that ensures public confidence in the efficacy, transparency and legitimacy of the system. Scandals of misconduct involving elected representatives can cause the public to become disaffected with politics and democratic institutions and breach the bridge of public trust in democratic institutions. Members of parliament (MPs) enjoy a very particular position within representative democracies, as they represent their voters and are entrusted with key legislative, budgetary and oversight functions. Their role gives MPs political power and influence. It is therefore not surprising that controversies shedding doubt on their professionalism, integrity and commitment to making decisions that are in the general interest and not their (or their family's) own private interests have a serious impact on public confidence in democratic institutions.

Scandals involving **misconduct by parliamentarians can take many forms**, ranging from minor controversies regarding gifts, travel or hospitality, to frequent absences from parliamentary sessions, misuse of parliamentary allowances or serious corruption offences involving large sums, just to cite some examples. Although the best way to address these instances of misconduct may be subject to debate, there is a general consensus that members of parliament should abide by high standards of conduct. In its resolution on a 'Code of conduct of members of the Parliamentary Assembly: good practice or a core duty?', the Parliamentary Assembly of the Council of Europe highlighted that scandals involving misconduct by parliamentarians had increased the need for politicians to behave in an exemplary manner and had led national and European parliaments to draw up rules of conduct in a bid to promote the principles of transparency, accountability and integrity and guarantee that the primacy of public interest drives their decision-making processes.[1]

Identifying and properly addressing **conflicts of interests** involving members of parliament has become a major issue in reforms seeking to enhance integrity in parliaments and ensure the primacy of the public interest in their decision-making. Conflicts of interests typically arise when a member's performance of their duties is influenced or appears to be influenced by private interests and not the public good,[2] thus undermining the legitimacy of a parliament's decisions. The OECD Guidelines for Managing Conflict of Interest in the Public Service, define conflicts of interest as: 'A conflict between the public duties and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities'.[3] Conflict-of-interest situations do not always imply corruption, abuse of office or misappropriation of public funds, but there is an increasing consensus that the inadequate management of conflicts of interest may result in an increase in corrupt conduct.[4]

Alongside the criminal framework to address serious corruption offences, parliamentary institutions have adopted a variety of measures to identify, prevent and address conflicts of interest among their

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1 Parliamentary Assembly of the Council of Europe, Resolution 1903 (2012), Code of conduct of members of the Parliamentary Assembly: good practice or a core duty?, 4 October 2012.

2 Article 3 (1) of the Code of conduct for members of the European Parliament with respect to financial interests and conflicts of interest, Annex I to the Rules of Procedure of the European Parliament defines conflicts of interest in a similar way: 'A conflict of interest exists where a Member of the European Parliament has a personal interest that could improperly influence the performance of his or her duties as a Member. A conflict of interest does not exist where a Member benefits only as a member of the general public or of a broad class of persons'.

3 OECD, OECD Guidelines for managing conflict of interest in the public service, 2003, p. 2.

4 Ibidem, p. 22.

members, including: i) imposing restrictions on accessory or outside activities or holding positions that are considered incompatible with the parliamentary mandate (**incompatibilities**); ii) **collecting** and publishing **information** on MPs' **assets, income and liabilities**; iii) adopting rules on the acceptance of **gifts and other benefits**; iv) establishing clear rules on interactions between MPs and **third parties and lobbies**; v) adopting **codes of conduct** or complementary guidelines including high ethical standards; vi) boosting **transparency and publicity** as regards decision-making in Parliament (amendments, votes, committee and plenary meetings, etc.); vii) establishing efficient **monitoring and enforcing mechanisms** to address possible cases of conflicts of interest; viii) creating efficient frameworks for **whistle blower** protection.

The **European Parliament is currently engaged in a reform process** aimed at **strengthening its integrity, independence and accountability**. In this context, this is the first of a set of publications in which EPRS will look at the measures put in place in some EU national parliaments to strengthen ethical values among their ranks. The idea is that those innovations could potentially feed into current discussions to enhance integrity within the European Parliament.

This publication will look at rules and practices relating to **financial disclosure obligations on MPs**, as various international and supranational organisations already consider the practice to be a key tool for preventing and addressing corruption and conflicts of interest among parliamentarians, and thus enhancing public trust in the sound running of democratic institutions (Section 2).

It is commonplace in national parliaments around the world, including in Europe, for MPs to be required to make a declaration of assets and/or interests.[5] In 2000, the **Inter-Parliamentary Union affirmed** that **assets and interests declarations** were a marginal phenomenon in the 1980s, but that their use had **increased since the 1990s**, together with a growing demand for robust ethical standards and further transparency in democratic institutions.[6] In 2012, the Group of States against Corruption of the Council of Europe (GRECO) reported that almost all its members (43 out of 45) collected this type of information from their MPs in order to detect unexplained wealth and/or to make public interests and benefits that could potentially influence members' performance of their duties.[7] As will later be explained (Section 4), all EU national parliaments collect such information, although there are significant differences when it comes to the content of the declarations required, the persons obliged to disclose information, the making public of the information disclosed and the way in which declarations are monitored and disclosure obligations are enforced.

The **European Parliament** already requires its Members (MEPs) to **disclose information** on their **financial interests, and on gifts and other benefits** that they may have received while in office (Section 3). However, a possible extension of the scope of the reporting obligations imposed on MEPs, and the mechanism currently used to monitor and enforce those obligations is under discussion, as part of a wider reform to strengthen integrity, independence and accountability.[8]

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5 For more on parliaments around the world, see: Conference of the States Parties to the United Nations Convention against Corruption, Implementation of Chapter II (Preventive measures) of the United Nations Convention against Corruption, thematic reports prepared by the Secretariat in the context of the second cycle of the Review Mechanism of the Convention, CAC/COSP/2021/5, 8 October 2021 and CAC/COSP/2019/9, 3 October 2019. Detailed information on the situation in the States Parties can be found on the review mechanism website.

6 Inter-Parliamentary Union, The parliamentary mandate. A global comparative study. 2000, pp. 52-53.

7 GRECO, Report on Trends and Conclusions of Fourth Evaluation Round in the field of Corruption Prevention of MPs, Judges and Prosecutors, 4th Evaluation round, 9-10 November 2017, p. 11.

8 European Parliament resolution of 15 December 2022 on suspicions of corruption from Qatar (2022/3012(RSP)); and objective 9 of the steering document for the Conference of Presidents entitled 'Strengthening integrity, independence and accountability' (PE 741.069/CPG).

2. International and European standards on MPs' financial disclosure systems

Important standards have been set at international and European level as regards the establishment of **adequate ethical values for MPs**, including the use of declarations of assets and/or interests to identify, prevent and manage conflicts of interest, strengthen the fight against corruption and foster public trust in democratic institutions.

2.1. United Nations

There are no rules on parliamentary standards of conduct adopted at United Nations (UN) level. However, since the 1970s, the UN has been concerned with the problem of **corruption and abuse of office** and has developed extensive work on the topic, first within the Congresses on the Prevention of Crime and the Treatment of Offenders and, since the 1990s, through the Crime Prevention and Criminal Justice Programme.[9] As part of these activities, the UN has identified certain principles as good practice in democratic governance and has taken significant steps to prevent and address corruption in the public and private sectors, including through the establishment of international rules to identify, prevent and address conflicts of interest. Interest and asset disclosure by public officials is therefore seen as a preventive and enforcement tool in a country's arsenal to fight corruption and conflicts of interest.

The first relevant text adopted at UN level in this direction was the **International Code of Conduct for Public Officials**. Annexed to Resolution 51/59, on Action Against Corruption, adopted by the UN General Assembly in 1996, the code is not specifically **addressed** to those holding an elected office, but to **public officials in general**. It stresses the duty of public officials to act efficiently, effectively, with integrity and in the public interest, as well as the need to ensure that public officials do not use their official authority to advance their own private interests. The code recommends the adoption of several measures to ensure that those principles are attained, among which requiring **public officials to declare, 'business, commercial and financial interest or activities** undertaken for financial gain that may raise a conflict of interest', and also '**personal assets and liabilities**, as well as, if possible, those of their spouses and/or dependants'.[10]

A few years later, in the context of the drafting of the UN Convention against Transnational Organized Crime, the UN General Assembly decided to set up an ad hoc committee for the negotiation of a twin international **Convention against Corruption**.[11] The convention, adopted by the General Assembly on 31 October 2003, is the only legally binding anti-corruption instrument adopted at the level of the UN.[12] It has been ratified by 189 countries, including all EU Member States, and imposes important obligations to prevent and combat corruption. Although the convention covers many forms of corruption in the public and private sector and imposes obligations in five major areas (namely: preventive measures, criminalisation and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange), from

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9 For a detailed account of all UN activities in this area until 2003, see: United Nations Office on Drugs and Crime, Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption, New York, 2010.

10 United National General Assembly, International Code of Conduct for Public Officials, Annex to Resolution 51/59, Action against corruption, adopted on 28 January 1997.

11 United National General Assembly, Resolution 55/61 of 4 December 2000

12 United National General Assembly, Resolution 58/4 of 31 October 2003, Convention against Corruption.

the point of view of this publication it is noteworthy that **people holding legislative office, whether appointed or elected**, are included in the definition of 'public officials' and therefore fall within its scope (Article 2). Moreover, the convention imposes a series of obligations of a preventive nature that are frequently listed among the measures needed to enhance robust parliamentary standards and conduct.

To this end, the convention for instance requires states parties to: develop and implement effective anti-corruption policies (Article 5); create independent anti-corruption bodies in charge of implementing those policies (Article 6); consider prescribing criteria concerning candidature for an election for public office consistent with the objective of fighting corruption (Article 7 (2)); and, endeavour to adopt and strengthen systems promoting transparency and preventing conflicts of interest in the public sector (Article 7(4)). Article 8 of the convention focuses specifically on **standards of conduct for public officials**, requiring states parties to promote integrity, honesty and responsibility among their officials to fight corruption. More specifically, the provision requires states parties to endeavour to apply **codes or standards of conduct** for the correct, honourable, and proper functioning of public functions; to consider **facilitating the reporting of acts of corruption** by public officials to appropriate authorities; and, to consider **requiring public officials to make declarations** to appropriate authorities 'regarding, inter alia, their **outside activities, employment, investments, assets, and substantial gifts or benefits** from which a conflict of interests may result with respect to their functions as public officials' (Article 8 (5)). As enforcement is seen as a key element of any anti-corruption strategy, Article 8(6) of the convention also requires states parties to consider imposing **disciplinary or other measures** on those violating obligations imposed by the provision.

Article 52 (5) of the convention complements this latter provision, by requiring states parties to consider establishing an '**effective financial disclosure system** for appropriate public officials and (..) provide for appropriate sanctions for non-compliance' and to consider taking the necessary measures 'to **permit its competent authorities to share that information** with the competent authorities in other States Parties' when needed to investigate, claim and recover the gains obtained through corruption offences. Article 52 (6) of the convention focuses on **foreign accounts** requiring states parties to consider whether appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country should report it to the relevant authorities.

The **UN Convention against Corruption frames the obligations** relating to declarations of assets and interests in a very **soft and qualified manner**, as state parties are asked to *consider establishing* –and not *to establish*– those disclosure mechanisms and to do it *in accordance with their domestic law* or the principles established in domestic law, where *appropriate* or *necessary*, depending on the case.[13] The wording of the UN Convention leaves so much room for states parties to decide on how to frame their anti-corruption policies, including their financial disclosure mechanisms, that academics have affirmed that many of its provisions have the same practical effect as recommendations or guidelines found in non-binding instruments.[14]

Although the obligations imposed under the convention are soft and qualified, it is worth noting that the UN Office on Drugs and Crime and the UN Interregional Crime and Justice Research Institute

[13] UNODC, Legislative guide for the implementation of the United Nations Convention against Corruption, 2006, pp. 31-33.

[14] Cecily Rosa, *International anti-corruption norms. Their creation and influence on domestic legal systems,* Oxford University Press, pp. 110-116, especially p. 113.

have drafted a **technical guide**, offering states parties detailed guidance on how to comply with it, including with its obligations on assets and interests disclosure. In this vein, the guide suggests that states parties should put in place a disclosure system that: i) **includes all income, assets and liabilities** of public officials (all or from a certain level of appointment or sector) and their relatives; ii) **allows year on year comparison**; iii) **precludes the concealment of assets held by those against whom the state has no access** (e.g. overseas or assets hold by non-residents); iv) is accompanied by a **reliable control system** in the hands of oversight agencies with enough means and expertise; v) and includes **deterrent penalties** for those who do not abide by the rules in place.[15] As regards registers for gifts and hospitality, the guide suggests that the rules should indicate when there is permission to receive a gift or hospitality and when an entry should be made in the register. Registers should record gifts both offered and received and the rules may set an amount above which declarations should be made.[16] In addition to the technical guide to the convention, several technical reports produced by the UN Office on Drugs and Crime, together with some other UN bodies and other international organisations, provide states parties to the convention with expertise on how to design and implement their assets and interests disclosure mechanisms.[17]

The UN's efforts to fight corruption were recently backed by the UN General Assembly. In its resolution entitled 'Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation', adopted on 2 June 2021, the General Assembly stressed once more the threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy. Building on progress made under the UN Convention against Corruption, the resolution reiterated a series of commitments to prevent and fight corruption. In the resolution, states parties to the UN Convention commit again to foster a culture of accountability, transparency and integrity within their public sector, including by applying anti-corruption measures, codes of conduct and other ethical standards for public officials, among which MPs are expressly cited. As regards disclosure systems, states parties to the UN Convention against Corruption commit to identifying, preventing and addressing conflicts of interest, including by establishing 'effective and transparent financial disclosure systems, with information disclosed by appropriate public officials made available as widely as possible', and using 'innovative and digital technology in this field, with due regard for data protection and privacy rights'.[18]

2.2. Council of Europe

Important standards have also been set by the Council of Europe as regards parliamentary ethics. As was the case for the UN, the Council of Europe has developed those standards mainly as part of its work to prevent and fight corruption within its member states and build a climate of integrity, accountability and transparency in public service. The twin Council of Europe conventions against

15 UNODC and UNICRI, Technical Guide to the United Nations Convention Against Corruption, New York, 2009, pp. 25-26.

16 Ibid, p. 27.

17 World Bank and UNODC, Automated Risk Analysis of Asset and Interest Declarations of Public Officials. A Technical Guide, 2021; G20 Anticorruption Working Group by the World Bank, OECD and UNODC, Preventing and Managing Conflicts of Interest in the Public Sector, Good Practices Guide, July 2020; World Bank, E-filing Asset Declarations. Benefits and Challenges, 2019; World Bank and UNODC, Getting the Full Picture on Public Officials. A How-To Guide for Effective Financial Disclosure, 2017; World Bank and UNODC, Income and asset disclosure: case study illustrations, 2013; World Bank and UNODC, Public Office, Private Interests. Accountability through Income and Asset Disclosure, 2012.

18 United National General Assembly, Resolution 9/2 of 2 June 2021, Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation.

corruption – the **Criminal Law Convention against Corruption** (1999[19]) and the **Civil Law Convention against Corruption** (1999)[20] – do not deal directly with parliamentary ethics. The first requires states parties to criminalise a number of corrupt practices, including acts of bribery by members of national and international parliaments (Articles 4 and 10), whereas the second requires states parties to provide a number of remedies for those who have suffered damage as a result of acts of corruption (Article 1). However, the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, as well as some other specialised bodies, have focused more clearly on standards of conduct for public officials and, in particular on parliamentary ethics.

Back in 1996, the **programme of action against corruption**, adopted by the **Committee of Ministers of the Council of Europe**, included among the measures to consider in the Council of Europe's strategy to prevent and combat corruption, the drafting of an European code of conduct for elected representatives and members of government and the drafting of a **recommendation on interest and asset disclosure by members of government and elected representatives** as a way to restore public confidence in democratic institutions and prevent corruption.[21] One year later, the Committee of Ministers included among its **20 guiding principles for the fight against corruption**, the adoption of codes of conduct for elected representatives, inviting the member states of the Council of Europe to implement the principle in their domestic legislation.[22] The Committee of Ministers has also adopted several recommendations geared towards preventing and combating corruption and establishing robust standards of conduct for public officials. These include its recommendation on lobbying activities in the context of public decision-making,[23] its recommendation on the protection of whistle-blowers,[24] its recommendation on common rules against corruption in the funding of political parties and electoral campaigns,[25] and its recommendation on codes of conduct for public officials.[26] Although the latter includes the obligation for public officials to provide a declaration of interests upon appointment and at regular intervals (Article 14), the code is not applicable to elected representatives (Article 1 (4)).

The **Parliamentary Assembly of the Council of Europe** has also highlighted the major threat that corruption represents to economic progress and public trust in democratic institutions and has stressed the major role of parliaments in fighting corrupt practices, both in public life and in the economy at large. In 2000, the Assembly adopted a **resolution on the role of parliaments in fighting corruption**, in which it listed a series of measures parliaments should take to fight corruption effectively. Some of the measures affect the functioning of parliamentary institutions themselves and are geared towards establishing robust standards of conduct for parliamentarians: 'a) ensure that state institutions – including parliaments – are so transparent and accountable as to be able to withstand corruption or permit its rapid exposure; b) instil in their own ranks the notion

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19 ETS 173 – Criminal Law Convention on Corruption, 27.1.1999.

20 ETS 174 – Civil Law Convention on Corruption, 4.9.1999.

21 Committee of Ministers, Programme of action against corruption, 18-21 November 1996, 578th Session.

22 Committee of Ministers, Resolution (97) 24 on the twenty guiding principles for the fight against corruption, 6 November 1997.

23 Committee of Ministers, Recommendation No. R (2017) 2 on the legal regulation of lobbying activities in the context of public decision making.

24 Committee of Ministers, Recommendation CM/Rec(2014)7 on the Protection of Whitsleblowers, adopted by the Committee of Ministers of the Council of Europe on 30 April 2014 and explanatory memorandum.

25 Committee of Ministers, Recommendation No. R (2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns.

26 Committee of Ministers, Recommendation No. R (2000) 10 on codes of conduct for public officials, including a model code of conduct for public officials (in the appendix).

that parliamentarians have a duty not only to obey the letter of the law, but to set an example of incorruptibility to society as a whole by implementing and enforcing their own codes of conduct; c) introduce an **annual system for the establishment of a declaration of financial interests by parliamentarians and their direct family**; (....) h) take special measures to protect the position and career prospects of "whistleblowers", that is to say, officials who unmask and report cases of corruption; and establish, where this has not yet been done, a code of conduct for civil servants and public officials'.[27]

2.1.1. Group of States Against Corruption (GRECO)

Alongside the Council of Europe's Council of Ministers and General Assembly, its **Group of States Against Corruption (GRECO)**, set up to monitor compliance with anti-corruption standards, has also set relevant standards on parliamentary ethics. In its Fourth Evaluation Round, launched in 2012, GRECO focused on corruption prevention in respect of MPs, judges and prosecutors.[28] As regards **elected representatives**, GRECO's recommendations covered several areas, from the regulation/limitation of accessory activities while in office and after leaving parliament to the establishment of codes of conduct, enhancing transparency as regards parliamentary activity, regulating interaction with lobbyists and third parties, and preventing and addressing conflicts of interests, including through **interest and asset disclosure systems**.[29]

GRECO has listed three key elements to consider when framing the financial disclosure obligations to be imposed on MPs: i) the **information to be disclosed by parliamentarians should be accurate** – especially regarding elements of income and occupations in profit or non-profit organisations, and ultimate beneficial ownership interests held domestically or abroad–; ii) the information disclosed should be **updated on an on-going basis**; and iii) it should be **complemented by information on close relatives**.[30] Most of the recommendations on financial disclosure obligations addressed to Members States during GRECO's Fourth Evaluation Round focused on those three elements.

In this vein, several of GRECO's recommendations were geared towards **expanding the scope of the information required of MPs**, to include information on benefits such as gifts, travel, and unpaid directorships (i.e. non-pecuniary interests); and information on all assets, income and liabilities above a certain threshold. GRECO recommended that the member states of the Council of Europe require disclosure of information on **spouses and close family members**, to prevent the possible circumvention of the obligation by channelling relevant assets to relatives. To make transparency effective, some of GRECO's recommendations reiterated the importance of publishing information that is updated and **easily accessible to the public**, although it highlighted that **privacy concerns** should be taken into account when deciding on whether or how to publish information on close relatives. GRECO also recommended that many member states should clarify their rules on gifts and other benefits and determine when it is appropriate to accept them and when a declaration is needed, taking into account national courtesy standards. In addition, GRECO recommended that several Member States establish **ad hoc declaration systems** complementing

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27 Parliamentary Assembly of the Council of Europe, Resolution 1214 (2000), Role of parliaments in fighting corruption, 18 February 2000.

28 All the reports produced by GRECO during the 4th evaluation round can be accessed in GRECO's website.

29 GRECO, Report on Trends and Conclusions of Fourth Evaluation Round in the field of Corruption Prevention of MPs, Judges and Prosecutors, 4th Evaluation round, 9-10 November 2017, pp. 10-16.

30 GRECO, Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe, 19 June 2017, Greco(2017)5-fin, pp. 9-10.

formal declaration systems, to allow MPs to disclose information that may raise doubts as to the existence of a conflict of interests. Finally, GRECO reminded member states that the establishment of appropriate interest and asset disclosure systems needs to be accompanied by **monitoring and effective enforcement**.[31]

2.1.2. European Commission for Democracy through Law of the Council of Europe (Venice Commission)

The **European Commission for Democracy through Law of the Council of Europe** (Venice Commission) has also addressed sensitive questions concerning the imposition of financial disclosure obligations on different types of public official and office holder. The Venice Commission **rule of law checklist** firmly takes the view that corruption undermines the very foundations of the rule of law, as it leads to arbitrariness and abuse of power. It also takes the view that the prevention of conflicts of interest is an important tool to fight corruption and lists among the preventive measures aiming to address both corruption and conflicts of interest: the creation of a system of **disclosure of income, assets and interests** that would apply to certain categories of **public officials**; the imposition of an obligation to disclose conflicts of interest in advance; and the imposition of restrictions as regards the acceptance of gifts and other benefits.[32] The checklist also devotes a section to the independence and impartiality of the judiciary, citing the **declaration of assets** as a preventive measure aiming to **address corruption within the judiciary**.

Opinions adopted by the Venice Commission on draft legislation or legislation already in force in the member states of the Council of Europe have focused on more specific questions linked to financial disclosure obligations imposed on public officials, office holders, judges, and prosecutors.[33] As regards **MPs and other elected and appointed office holders**, the Venice Commission has welcomed the imposition of an obligation to disclose information relating to property and income of the office holder and **their relatives living in the same household** – as opposed to the extension of the obligation to close relatives not living with the office holder.[34] The Venice Commission has also highlighted the need to use common disclosure forms that allow the information to be presented in a coherent and comparable manner, and it has insisted that declarations should be

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31 Ibid, pp. 11-13.

32 Rule of Law Checklist, adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016), CDL-AD(2016)007-e, pp. 29-30.

33 Although not analysed in the main text, there are several relevant opinions of the Venice Commission concerning financial disclosure obligations imposed on prosecutors and members of the judiciary: joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft Law on the Supreme Court of Justice adopted by the Venice Commission at its 132nd plenary session (Venice, 21-22 October 2022), Moldova, CDL-AD(2022)024; compilation of Venice Commission opinions and reports concerning prosecutors, 16 April 2022, Cdl-Pi(2022)023; opinion on the draft Law on the Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina adopted by the Venice Commission at its 127th plenary session (Venice and online, 2-3 July 2021), CDL-AD(2021)024; opinion on the draft Law on Amendments to the Law on the High Judicial and Prosecutorial Council adopted by the Venice Commission at its 126th plenary session (online, 19-20 March 2021), CDL-AD(2021)015; opinion on the draft Law on the Judicial Council adopted by the Venice Commission at its 118th plenary session (Venice, 15-16 March 2019), CDL-AD(2019)008; joint opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Amendments to the Judicial Code and Some Other Laws, Armenia, adopted by the Venice Commission at its 120th plenary session (Venice, 11 - 12 October 2019), CDL-AD(2019)024; opinion on the draft Law Amending the Law on Courts, Former Yugoslav Republic of Macedonia, adopted by the Venice Commission at its 117th plenary session (Venice, 14-15 December 2018), CDL-AD(2018)033.

34 Opinion on the draft Law on the Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, adopted by the Venice Commission at its 127th Plenary Session (Venice and online, 2-3 July 2021), CDL-AD(2021)024, pp. 14-15; opinion on the Law on conflict of interest in Governmental Institutions of Bosnia and Herzegovina adopted by the Venice Commission at its 75th plenary session (Venice, 13-14 June 2008), CDL-AD(2008)014-e, p. 7.

completed in an **electronic and machine-readable format**.[35] As regards the recurrence of the obligation to submit financial declarations, the Venice Commission has pointed out that financial information should be updated regularly and that it would be convenient to require office holders to **submit a declaration at some point after they leave office** (for example, 6 months later).[36] As regards the publicity to be given to the declarations, the Venice Commission has taken the view that **publicity should be the norm** with a few, narrowly defined, exceptions aimed at protecting personal data and the right to privacy, especially of close relatives also obliged to disclose information.[37]

The Venice Commission has also stressed that the **specific constitutional role of parliaments** and the need to safeguard parliaments' immunity and autonomy may justify the adoption of **different solutions for MPs**, other public holders and public officials, in areas relating to public ethics and conflicts of interest. Although the Venice Commission has taken the view that differences are not justified as regards the scope of financial disclosure obligations, it has also highlighted that differences may be appropriate as regards the regime of incompatibilities, the regulation of conflicts of interest or the sanctioning mechanism applicable to MPs and other office holders and officials.[38]

As regards the regime of incompatibilities, the Venice Commission has questioned whether the same prohibitions should apply to elected public officials, and parliamentarians in particular, and public officials more generally, or whether the former should be allowed, for example, to hold second jobs, receive payments from other sources, such as their own political parties, or have connections, to non-governmental organisations (NGOs) for example, that would be considered incompatible with public officials' functions.[39]

The Venice Commission has not called for an incompatibilities regime for MPs that is more lenient that the one applicable to public officials, but for an incompatibilities regime that is adapted to the constitutional role of parliaments, that takes into consideration the local situation and relevant risks for the independent exercise of MPs' mandates, and that is entrenched either in the national constitution or in a piece of legislation that cannot be modified by a simple majority of parliament, to ensure a certain stability.[40] Similarly, as regards the obligation on public officials to withdraw from a matter in which they have a conflict of interest, the Venice Commission has raised the question of whether the obligation should not be softened in the case of MPs, replacing it by a provision encouraging MPs to recuse themselves voluntarily in cases of conflict of interest.[41]

In any case, it is in the area of **monitoring and enforcement** of public ethics rules that the Venice Commission has stressed more clearly the need to make a difference between the regime applicable to MPs and that applicable to other office holders or officials. The Venice Commission has insisted on the importance of strong implementation of public ethics rules by **independent and politically neutral bodies** that dispose of the necessary capacities and skills to develop their functions and whose decisions are subject to appeal to a court. As regards financial disclosure obligations, the Venice Commission has also taken the view that the implementing body should be allowed to

35 Ibidem.

36 Opinion on the draft Law on the Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, adopted by the Venice Commission at its 127th plenary session (Venice and online, 2-3 July 2021), CDL-AD(2021)024, p. 14.

37 Ibid, p. 15.

38 Ibid, p. 7 and 23.

39 Ibid, p. 9.

40 Ibid, p. 10.

41 Ibid, p. 12.

properly verify the declarations submitted (including by cross-checking the information with other authorities, such as tax bodies, public prosecutors, etc.) and to use those declarations proactively to advise office holders on how to avoid conflicts of interest.[42]

However, the Venice Commission has also insisted on the fact that there are different models of anti-corruption/integrity/conflict of interest bodies, with some countries having opted for the creation of a **single centralised anti-corruption agency** with broad powers, and others for **different enforcement bodies** with competences over different branches of government. No uniform approach exists and it is understood that the need to strengthen the independence and political neutrality of the monitoring body is stronger where the levels of corruption and the risk of political capture of the body are higher. In addition, as regards the implementation of the rules applicable to MPs, the Venice Commission has insisted on the need to opt for an enforcement mechanism that preserves **parliaments' constitutional role and autonomy**. In this vein, it has questioned the imposition of sanctions on MPs, such as removal from office or from the voting process, by bodies external to parliaments.[43]

As regards the sanctions imposed for non-compliance with rules on conflicts of interest, including financial disclosure obligations, the Venice Commission has insisted generally on the need to provide for **appropriate sanctions that would have a deterrent effect**. A combination of sanctions of an administrative, disciplinary and criminal nature seems to be preferred, thus ensuring that minor violations, such as introducing a minor inaccuracy in a declaration, are punishable only with a disciplinary/administrative sanction whereas more serious breaches, such as the repeated and persistent intentional failure to comply with disclosure obligations or the submission of false declarations over a certain threshold, lead to criminal sanctions, including **imprisonment**.[44]

In a similar vein, **sanctions limiting the right to stand for election** (a ban on standing for election) or that affect the **exercise of the parliamentary mandate** (limitation of voting rights, end of term of office, etc.), are considered extremely serious and to be 'reserved for the most serious breaches, such as the refusal by an official to resolve an actual conflict of interests which he/she is aware of'.[45] In any case, the Venice Commission has taken the view that the determination of what may be considered an appropriate sanction depends on many factors, including the scope of application *ratione personae* of the regime, the magnitude of the problem of corruption in the country, the average income in the country – for economic penalties – , or how effective the implementation is.[46]

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42 Opinion on the Law on conflict of interest in Governmental Institutions of Bosnia and Herzegovina adopted by the Venice Commission at its 75th plenary session (Venice, 13-14 June 2008), CDL-AD(2008)014-e, pp. 7-8.

43 Opinion on the draft Law on the Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina, adopted by the Venice Commission at its 127th plenary session (Venice and online, 2-3 July 2021), CDL-AD(2021)024, pp. 7-8, 15-21.

44 Ibid, pp. 22-23. Joint urgent opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law of the Council of Europe, on the draft Law amending provisions of the Code of Administrative offences and the Criminal Code regarding the liability of public officials for inaccurate asset declaration (No. 4651 of 27 January 2021), Ukraine, issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 6 May 2020, endorsed by the Venice Commission at its 127th plenary session (Venice and online, 2-3 July 2021), CDL-AD(2021)028-e, pp. 8-11.

45 Opinion on the Law on conflict of interest in Governmental Institutions of Bosnia and Herzegovina adopted by the Venice Commission at its 75th plenary session (Venice, 13-14 June 2008), CDL-AD(2008)014-e, p. 9.

46 Joint urgent opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law of the Council of Europe, on the draft Law amending provisions of the Code of Administrative offences and the Criminal Code regarding the liability of public officials for inaccurate asset declaration (No 4651 of 27 January 2021), Ukraine, issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 6 May 2020, endorsed by the Venice Commission at its 127th plenary session (Venice and online, 2-3 July 2021), CDL-AD(2021)028-e, pp. 8-11; Urgent joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council

2.1.3. European Court of Human Rights

The European Court of Human Rights (ECtHR), supreme arbiter on the European Convention on Human Rights, has not decided many cases relating to the imposition of financial disclosure obligations on public officials and office holders.[47] However, some relevant standards may be deduced from the few cases in which the ECtHR has touched upon the matter.

As regards **elected office holders**, the ECtHR has taken the view that the **publication of their financial declarations does not violate their right to private life**, as entrenched in Article 8 of the European Convention on Human Rights, if it **pursues a legitimate aim**, such as preventing corruption and enhancing transparency and trust in the functioning of public institutions, and if it is **proportionate** to the aim pursued. In *Wypych* v *Poland*, the ECtHR considered that the imposition of such an obligation on local councillors – local elected representatives – was proportionate.[48] Even though the declarations to be submitted were very detailed and included information on income, property and assets, including those owned as marital property – and therefore relating to spouses – the ECtHR took the view that their publication was justified by the fact that these were elected representatives. In this vein, the Court stressed that standing for elections was a voluntary decision and that, once elected, representatives exercise public functions, participate directly in the political process and decide on key issues for the whole community. Such functions entail, according to the Court, responsibilities and may justify further restrictions on elected representatives' rights. The public nature of their functions also means that the electorate has a legitimate interest in knowing how they exercise their mandate, including having access to detailed information on the evolution of their financial situation.

As regards **the obligation to submit information relating to their spouses**, the Court stressed in *Wypych* v *Poland* that such an obligation could be considered **reasonable**, as it sought to discourage elected representatives from concealing assets by acquiring them in the name of their spouse. On the **unrestricted publication** of financial declarations **on the internet**, the Court highlighted that this was a **safeguard** to ensure that declarations were subject to public scrutiny. It went on to argue that without such access 'the obligation would have no practical importance or genuine incidence on the degree to which the public is informed about the political process'. Finally, in *Wypych* v *Poland*, the ECtHR also analysed the monitoring mechanism provided by Polish legislation from the point of view of Article 8 of the convention. The national legislation allowed **tax authorities to cross-check the veracity and completeness** of the financial declarations submitted in the light of the annual income-tax declaration of the person subject to the obligation to disclose, if the president of the corresponding local council asked for tax audit proceedings to be instituted. The ECtHR concluded that such a monitoring mechanism could not be considered punitive, as every tax payer could be subject to tax audit proceedings; it was **justified** as it encouraged elected representatives to submit accurate financial declarations.

Although it does not refer directly to the obligation to submit financial declarations, the ECtHR case law referring to disputes concerning the exercise of political office and the right to stand for election under Article 3 of Protocol 1 to the European Convention (right to free elections) may also be

of Europe on the Legislative Situation regarding anti-corruption mechanisms, following Decision N° 13-R/2020 of the Constitutional Court of Ukraine, issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 9 December 2020, endorsed by the Venice Commission on 11 December 2020 at its 125th online plenary session (11-12 December 2020), CDL-AD(2020)038-e.

47 As regards the imposition of financial disclosure obligations on judges and prosecutors, see: ECtHR, *Xhoxhaj* v *Albania*, 9 February 2021; *Nikëhasani* v *Albania*, 13 December 2022; *Sevdari* v *Albania*, 13 December 2022.

48 ECtHR, Decision as to the admissibility of application no. 2428/05, *Wypych* v *Poland*, 25 October 2005.

relevant when assessing the compliance of rules on financial disclosure obligations with the European Convention on Human Rights. In this vein, it is worth noting that the ECtHR has insisted on the fact that the right to free elections encompasses not only the right to vote, but also the right to stand for election and, once elected, to sit as a member of parliament. In this vein, measures providing for **disqualification from standing for election** or imposing **restrictions on the exercise of the parliamentary mandate fall under the scope of Article 3 Protocol 1** to the European Convention on Human Rights.

According to ECtHR case law, those rights may however be **restricted** provided that the measures adopted comply with the following requirements, namely, that they: i) do not curtail the rights in question to such an extent as to **impair their very essence** and deprive them of their effectiveness; ii) **pursue a legitimate aim** that is compatible with the rule of law and the convention; and iii) are not **disproportionate**.[49]

In applying these criteria, the Court has been especially strict about **measures that are applied retrospectively** and therefore call into question the results of elections and the wishes of the people as expressed freely and democratically. In this vein, for example, in *Lykourezos* v *Greece*, the ECtHR considered that the removal from office of a member of parliament due to the introduction of a new criteria of incompatibility violated Article 3 of Protocol 1, as neither the MP nor his electors could have imagined that the result of the elections would be called into question while he was still in office as a result of the introduction of a new disqualification criterion based on the exercise of his professional activity.[50]

Similarly, the ECtHR has been very strict in its analysis of sanctions implying **permanent and irreversible disqualification from standing for election**. Although those sanctions can be justified in very specific contexts, the Court has required them to be temporal and has indicated that the need for them must be reassessed at regular intervals.[51] When framing the sanctions to be imposed on MPs disregarding financial disclosure obligations, special care should be taken not to disproportionately restrict their rights to stand for elections or exercise their parliamentary mandate as framed by ECtHR case law.

2.3. Organization for Security and Co-operation in Europe.

The Organization for Security and Co-operation in Europe (OSCE) has developed important standards for the regulation of parliamentary behaviour and ethical standards, as part of its activities to promote good governance and combat corruption. Both the Members of the Ministerial Council of the OSCE[52] and the OSCE Parliamentary Assembly[53] have generally declared their support for **good governance and transparency**, which they consider fundamental for democracy, economic

[49] Among others, see: ECtHR, Judgment of the Grand Chamber of 27 April 2010, *Tănase* v *Moldova*.

[50] ECtHR, Judgment of 15 June 2006, *Lykourezos* v *Greece*, paras. 50-58.

[51] ECtHR, Judgment of the Grand Chamber of 6 January 2011, *Paksas* v *Lithuania*, paras. 97-112.

[52] Ministerial Council of the OSCE, OSCE Strategy Document for the Economic and Environmental Dimension, adopted in Maastricht on 2 December 2003; Ministerial Council of the OSCE, Decision No. 11/04 on combating corruption adopted in Sofia on 7 December 2004; Ministerial Council of the OSCE, Declaration on Strengthening Good Governance and Combating Corruption, Money-Laundering and the Financing of Terrorism, adopted in Dublin on 7 December 2012; Ministerial Council of the OSCE, Decision 5/14 on the Prevention of Corruption, adopted in Basel on 4 - 5 December 2014. See also the Charter For European Security, the Heads of State or Government of the OSCE participating States in Istanbul on 18 November 1999.

[53] OSCE Parliamentary Assembly, Resolution on limiting immunity for parliamentarians, in order to strengthen good governance, public integrity and the rule of law in the OSCE region, adopted in Brussels on 3-7 June 2006.

growth and security. To that end, they have proposed measures geared towards strengthening good governance both in the public and private sector and combating corruption, money laundering and the financing of terrorism.

The **resolution on limiting immunity for parliamentarians, in order to strengthen good governance, public integrity and the rule of law in the OSCE region**, adopted by the **OSCE Parliamentary Assembly** on June 2006, focuses specifically on the promotion of good governance in national representative institutions.[54] As such, it recommends that parliaments of OSCE participating states provide clear rules on the waiving of parliamentary immunities in cases of criminal acts or ethical violations. It also encourages them to develop rigorous standards of ethics for MPs and their staff and to establish efficient **mechanisms for public disclosure of financial information and conflicts of interests of MPs** and their staff. To monitor and enforce those standards, the resolution proposes that parliaments create an office of public standards to which complaints can be made, establish effective and timely procedures to investigate those claims and take disciplinary actions, and devote appropriate resources to investigate and prosecute criminal violations by MPs and their staff.

To help OSCE parliaments identify the main concerns and possible obstacles to be taken into account when reforming and designing parliamentary standards of conduct, the **Office for Democratic Institutions and Human Rights (ODIHR)**, created in 1992 by OSCE participating States, produced a background study in 2012 on ***Professional and Ethical Standards for Parliamentarians***.[55] The study highlights that robust parliamentary ethical standards and regulations help to prevent abuse of office and corruption, boost accountability and public trust and promote integrity, honesty and responsibility among parliamentarians. The study identifies a series of key instruments for regulating parliamentary conduct, for example codes of conduct, **registers of interests and asset declarations**, rules on allowances and expenses, rules on relations with lobbyists, and rules on conduct in the chamber.[56]

As regards declarations of interests and assets, the focus of this publication, the study identifies them as a tool to prevent and/or limit cases of corruption and conflicts of interest. According to the study, parliaments follow two different approaches to prevent conflicts of interest among their ranks: i) banning or severely restricting the exercise of secondary activities – incompatibilities – by MPs in the understanding that they may interfere with their parliamentary activities and blur their independent judgement; ii) authorising side activities by MPs and requiring them to disclose the details in a register of interests. The study does not clearly opt for either of the two solutions. It indicates that attitudes towards the compatibility of public and private roles with parliamentary activity vary considerably in the OSCE region, with some countries focusing their attention on conflicts of interest when a person holds more than one public office (e.g. Canada and the United Kingdom), some focusing their attention on MPs' private interests (e.g. the United States) and others imposing major restrictions on any side activity by MPs (e.g. Poland). While the study does not recommend any particular option, it highlights a growing international consensus on the need for a disclosure mechanism for MPs' interests, as a bare minimum when introducing standards of parliamentary ethics.[57]

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54 Ibidem.

55 OSCE/ODIHR, Background Study: Professional and Ethical Standards for Parliamentarians, Warsaw, 2012.

56 Ibid, p. 12.

57 Ibid, p. 43.

Along these lines, it notes the existence of two main tools used by parliaments in the OSCE region to ensure that potential conflicts of interest are revealed:[58]

> i) **declarations of interest**, including all sources of income and responsibilities held by MPs concurrently with office. The study recommends the information be collected centrally and updated frequently. It indicates that the interests to be included vary widely, but usually include 'income (from employment, share dividends, consultancies, directorships and sponsorships), gifts and hospitality and non-pecuniary interests';
>
> ii) **asset declarations**, including all MPs' assets when they join and leave office. This reveals increases in wealth from unknown sources and therefore possible cases of corruption. Asset declarations can also include liabilities, as the study indicates that MPs' independence may be at stake if they are indebted to third parties or have received credit with advantageous interest rates.

As regards the **publicity** given to these declarations, the study highlights that practices also vary widely among OSCE states, as some countries make them easily available to the public (e.g. on their parliaments' websites) whereas others have taken the stand that excessive publicity could severely restrict MPs' right to privacy. In this latter case, some countries have opted to limit access to declarations to monitoring bodies or to make them available to the public only upon request. The study takes the view that declarations should at least be made available to criminal investigators. In addition, it points out that declarations are more effective in reducing perceived corruption when they are made available to the public.[59]

2.4. Organisation for Economic Co-operation and Development

The Organisation for Economic Co-operation and Development (OECD) has defined important standards for transparency and integrity of parliamentary life as part of its strategy to combat corruption and strengthen public governance and integrity. The main binding legal instrument adopted within the OECD to address corruption, the **Convention on Combating Bribery of Foreign Public Officials in International Business Transactions** (1997)[60], focuses on the criminalisation of bribery of foreign officials, including those holding legislative office, but does not make any reference to asset and/or interest disclosure as a tool to prevent or combat corruption. Nevertheless, several OECD recommendations have focused on strengthening ethical conduct and integrity within the public sector, including by preventing and addressing corruption and conflicts of interest.[61] Asset and interest disclosure mechanisms are included among the tools recommended to identify, manage and address conflicts of interest.

In this vein, the **OECD Guidelines for Managing Conflict of Interest in the Public Service**, applicable to both public servants and **holders of public offices**, consider **interest disclosure mechanisms** to be a tool to identify and address conflicts of interest.[62] They recommend that

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58 Ibid, pp. 46-49.

59 Ibid, p. 48.

60 OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted on 21 November 1997.

61 OECD, Recommendation of the Council on Improving Ethical Conduct in the Public Service Including Principles for Managing Ethics in the Public Service, 1998; OECD, Recommendation of the Council on Public Integrity, adopted on 26 January 2017.

62 OECD, Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service, adopted by the OECD Council on 28 May 2003.

Member countries develop procedures to allow office holders and officials to disclose relevant public interests when they take up office and at regular intervals afterwards and to do it in writing. Public disclosure of the information is not seen as completely necessary, provided there is an appropriate conflict resolution or management system in place. However, the guidelines acknowledge that publicity may be appropriate for senior officials. Moreover, the guidelines recommend establishing a system of ad hoc disclosure to be used when circumstances change after their initial disclosure has been made, or when new situations arise, resulting in a possible conflict of interests. Declarations should provide sufficient detail to allow informed decisions about potential conflicts of interest and the information should be properly assessed and kept up to date.

The guidelines also stress the relevance of enforcement, indicating that non-compliance should generally be regarded, at the very least, as a disciplinary matter, while more serious breaches involving an actual conflict should result in sanctions for abuse of office, lead to prosecution for a corruption offence, and/or affect the appointment or career of the public official involved, where appropriate. Several OECD handbooks and toolkits go beyond the OECD guidelines and provide technical expertise on building adequate interest and asset disclosure mechanisms.[63]

2.5. European Union

The European Union has been developing an **anti-corruption policy** since the 1990s.[64] Although initially EU action in this area focused mainly on the protection of the EU's financial interests against corruption, the focus was later extended, with the adoption of the Council Framework Decision 2003/568/JHA on combating corruption in the private sector, the adoption of three directives in the area of public procurement,[65] the adoption of a number of EU legal instruments geared towards combating money-laundering[66] and the adoption of Directive (EU) 2019/1937 on the protection of whistle-blowers.

None of the EU's legal instruments to address corruption require EU Member States to impose financial disclosure obligations on public officials or holders of public office. However, the **Commission's annual rule of law report** has systematically focused on national legislations and practices in this area, in the section dedicated to the Member States' anti-corruption policies.[67] The latest report, issued on 13 July 2022, included **country-specific recommendations**, some of which referred specifically to the need to **strengthen the national legal framework as regards assets and interests disclosure**, including for MPs, and to provide for an effective mechanism to monitor and enforce those financial disclosure obligations.[68]

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63 See, in particular: OECD, Asset Declarations for Public Officials. A Tool to Prevent Corruption, 2011; OECD, Public Integrity Handbook, 2020.

64 For further details, see P. Bakowski, Combating corruption in the European Union, EPRS, European Parliament, December 2022.

65 Directive 2014/23/EU, of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts; Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement; and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors.

66 See, in particular, Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

67 See the European Commission's 2020, 2021 and 2022 annual rule of law reports on its webpage on the rule of law mechanism. The 2023 report is expected to be published in July 2023.

68 See the European Commission's 2022 Rule of law report, Annex, Recommendations to the Member States, COM(2022) 500 final, 13 July 2022.

In addition to those recommendations, **on 3 May 2023** the European Commission put forward a **proposal for a directive on combating corruption**,[69] as part of its anti-corruption package. The Commission's proposal seeks to modernise the EU's anti-corruption framework, in part by setting out a series of mandatory preventive measures to be adopted by Member States. Article 3 of the proposal includes the adoption of effective rules for the disclosure and management of conflicts of interests in the public sector and the adoption of effective rules for the disclosure and verification of assets of public officials among the preventive measures Member States would be required to implement, if the proposal becomes EU law. The proposal's definition of public officials includes members of EU institutions and people holding legislative office at national, regional or local level, requiring Member States to impose asset disclosure obligations on all of them.

[69] Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council, COM/2023/234 final, 3 May 2023. In the European Parliament, the procedure is in its preparatory phase.

3. The European Parliament's financial disclosure system

The European Parliament currently requires its members (MEPs) to provide a **declaration of financial interests** shortly after taking up their duties. This obligation is not mentioned in the EU Treaties or the European Electoral Act, but is set out in Parliament's Rules of Procedure (Article 4 of the Code of Conduct of Members of Parliament with respect to financial interest and conflicts of interest).[70]

The EU Treaties do not impose any specific **requirements** relating to the **independence or integrity of Members of the European Parliament** (MEPs), as opposed to what is required of members of other EU institutions, such as the Commission (Article 17 TEU and 245 TFEU), the Court of Justice (Article 19 of the Treaty on European Union – TEU and Articles 253-254 of the Treaty on the Functioning of the European Union – TFEU) or the Court of Auditors (Articles 285-286 TFEU).[71] The EU Treaties state that the members of the Commission shall be chosen 'on the ground of their general competence and European commitment from persons whose independence is beyond doubt' (Article 17 TEU). In addition, Article 245 TFEU frames the incompatibilities regime for members of the Commission, indicating that they 'shall refrain from any action incompatible with their duties' and that they 'may not, during their term of office, engage in any other occupation, whether gainful or not'.[72] These requirements, partially replicated as regards the members of other EU institutions (see the provisions applicable to the members of the Court of Justice and the Court of Auditors), do not find a parallel in the Treaty provisions relating to MEPs.

It is therefore necessary to turn to EU secondary law to find provisions that can be construed as imposing obligations on MEPs to ensure that they uphold the public interest in all their decisions and act with integrity, transparency, honesty and accountability. In a bid to guarantee MEPs' independence, the European Electoral Act and the Statute of Members of the European Parliament recognise the **representative nature of their mandate** and state that their vote must be personal and individual.[73] Article 7 of the European Electoral Act also seeks to prevent MEPs from becoming dependent on other public entities, by including a list of incompatibilities with the office of MEP. The list of **incompatibilities** defined by Article 7 of the European Electoral Act is not exhaustive and can be extended by national legislators. It includes a series of elective and non-elective public offices in the European Union and in the Member States, but does not include positions or activities in the private sector (i.e. economic incompatibilities).[74] These can however be added to the regime of incompatibilities applicable to MEPs by national legislators. Similarly, the list does not include all possible public offices in the Member States, such as for example, being member of a regional

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70 The Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest is annexed (Annex I) to the European Parliament's Rules of Procedure.

71 For an interpretation of the obligations imposed on members of the Court of Auditors in Articles 285-286 TFEU, inter alia as regards conflicts of interest, see: Judgment of the Court (Full Court), 30 September 2021, *Court of Auditors* v *Karel Pinxten*, C-130/19.

72 For an interpretation of the obligations imposed on members of the Commission in Article 245 TFEU, inter alia as regards conflicts of interest, see: Judgment of the Court (Full Court), 11 July 2006, *Commission* v *Cresson*, C-432/04.

73 See Article 6 of the European Electoral Act (Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976); Articles 2 and 3 of the Statute of the Members of the European Parliament (Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC,Euratom) and Rule 2 of Parliament's Rules of Procedure, which reiterate the free, independent and representative nature of the MEP's mandate.

74 Venice Commission, Report on democracy, limitation of mandates and incompatibility of political functions, 17 December 2012, CDL-AD(2012)027, pp. 21-23.

parliament,[75] although again holding such public offices may be incompatible with an MEP's mandate if the national legislator has extended the incompatibilities regime set out in Article 7 of the European Electoral Act.

While Article 7 of the European Electoral Act seeks to ensure MEPs' independence, **Parliament's Rules of Procedure** (RoP) offer more clear rules, designed to ensure that MEPs comply with a number of standards of conduct when exercising their parliamentary mandate. The RoP govern MEPs' obligations of mutual respect during parliamentary debates, the maintenance of order in Parliament's premises and cases of harassment (Rule 10 RoP). Together with the Interinstitutional agreement on a mandatory transparency register,[76] Rule 11 RoP establishes a number of obligations relating to meetings of MEPs with representatives of interests. In addition, Rule 11 RoP and the Code of Conduct for Members of the European Parliament with respect to financial interest and conflicts of interests (Code of Conduct), adopted by Parliament in December 2011 and annexed to Parliament's RoP (Annex I),[77] deal with MEPs' conflicts of interest, defining the concept of a conflict of interest (see Box 1) and providing for a number of mechanisms to identify and address them, including the submission of a declaration of financial interests.

Box 1: When does a conflict of interests arise?

According to Article 3(1) of the Code of Conduct for Members of the European Parliament with respect to financial interest and conflicts of interests (Code of Conduct), a conflict of interest exists 'where a Member of the European Parliament has a personal interest that could improperly influence the performance of his or her duties as a Member. A conflict of interest does not exist where a Member benefits only as a member of the general public or of a broad class of persons'.

The General Court has interpreted this definition as including not only situations in which an MEP 'has a private interest which has **actually influenced** the impartial and objective performance of his official duties', but also situations 'in which the **interest identified may, in the eyes of the public, appear to influence** the impartial and objective performance of his official duties'.

In this vein, the Court has understood that 'disclosure of potential conflicts of interest is not aimed only at revealing those cases in which the public official has performed his duties with the intention of satisfying his private interests, but also at **informing the public of the risks** of public officials being subject to conflicts of interest, so that they act impartially in the performance of their official duties, after, in view of the circumstances in which they find themselves, having declared the potential conflict of interest to which they are subject and taken or proposed measures to resolve or avoid that conflict'.

Source: Judgment of the General Court of 15 July 2015, *Gert-Jan Dennekamp* v *European Parliament*, T-115/13, para. 106.

As will be further explained below, the European Parliament has therefore set up a financial disclosure mechanism that presents a number of distinctive features. First, Parliament's system seems geared towards **identifying, preventing and addressing conflicts of interest** and can

[75] As regards the possibility to hold both elected public offices – Member of the European Parliament and member of a regional or local parliament – it should be noted that according to Article 2 of the Implementing measures for the Statute for Members of the European Parliament, adopted by Bureau decisions of 19 May and 9 July 2008, the salary received by an MEP for exercising a mandate in another parliament simultaneously with that in the European Parliament shall be offset against the salary he or she receives for exercising his or her parliamentary mandate in the European Parliament.

[76] Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register.

[77] European Parliament Rules of Procedure: code of conduct for Members in respect of financial interests and conflicts of interest (amend.), 2011/2174(REG).

therefore be distinguished from financial disclosure systems designed to detect illicit wealth. [78] The latter seek to prevent, identify and prosecute cases of corruption and therefore usually ask MPs to disclose information that would allow the identification of assets and income not attributable to salary or other legitimate sources of revenue, with an emphasis on the detection of illicit enrichment. In countries that have opted for this model, the agency in charge of implementing the system tends to be autonomous and devotes resources to verifying the completeness and accuracy of financial declarations.

On the contrary, conflicts of interest financial disclosure systems focus more on the prevention of situations in which MPs may use their official capacity for their personal gain and therefore focus more on outside activities and sources of interest that could influence MPs' performance of their duties. In this model, the authority in charge of implementing the system tends to seek to build a close relationship with officials subject to the disclosure obligation and prevent possible cases of conflict of interests through its advisory role.[79] As the European Parliament's current financial disclosure system focuses on outside activities and sources of income, it can be characterised as a conflict of interests system.

Second, the financial disclosure obligations imposed on MEPs by Parliament's Code of Conduct go hand in hand with the financial disclosure obligations that national legislators may have imposed on MEPs elected in their country. Therefore, **financial disclosure obligations imposed on MEPs are not uniform**, with some of them being required to comply with additional obligations by their own national authorities. Finally, Parliament's **verification and enforcement mechanism** for financial disclosure obligations is **internal to the chamber** and its main monitoring body is composed only of MEPs, which distinguishes the European Parliament's mechanism from others that entrust verification and enforcement competences to a single agency overseeing declarations from all branches of government.

3.1. Scope of the financial disclosure obligations imposed on MEPs: An exercise in multiple geometry

In contrast to financial disclosure systems that focus on the detection of illicit wealth, the European Parliament's financial disclosure system focuses mainly on MEPs' outside activities and interests, in a bid to prevent and address conflicts of interest. To this end, MEPs are required to submit a **formal declaration of financial interests** to Parliament's President when they take up office. In addition, they have to submit **ad hoc declarations of conflicts of interest** when they have an actual or potential conflict of interest in relation to a matter under consideration by Parliament. They are also obliged to disclose **gifts and other benefits** they receive, including travel expenses paid by third parties. All these disclosure obligations are imposed directly by Parliament's Code of Conduct. However, it should be noted that the national legislation of some Member States requires MEPs elected in those countries to submit asset declarations, creating major differences between MEPs as regards their financial disclosure obligations.

[78] On the distinction between conflict of interests systems and illicit enrichment systems, see: World Bank and UNODC, Getting the Full Picture on Public Officials. A How-to Guide for Effective Financial Disclosure, 2017, pp. 7-12; World Bank and UNODC, Public Office, Private Interests. Accountability through Income and Asset Disclosure, 2012, pp. 9-12.

[79] Ibidem, p. 15.

3.1.1. MEPs declarations of financial interests, gifts and other benefits: European rules

The **formal declaration of financial interests** that MEPs are obliged to submit to Parliament's President when they take up their mandate includes (Article 4 of the Code of Conduct):

> i) **current or recent sources of income** (any salary the MEP receives for the exercise of a mandate in another parliament; any regular remunerated activity the MEP undertakes alongside the exercise of his or her office, whether as an employee or as a self-employed person; and any occasional remunerated outside activity, if the remuneration exceeds €5 000 per calendar year);
>
> ii) and the identification of **business or other interests** that could potentially influence MEPs' parliamentary activities (occupation(s) during the 3-year period before taking up office with the Parliament, and membership during that period of any boards or committees of companies, NGOs, associations or other bodies established in law; membership of any boards or committees of any companies, non-governmental organisations, associations or other bodies established in law, or any other relevant outside activity that the MEP undertakes, whether remunerated or unremunerated; any support, whether financial or in terms of staff or material, additional to that provided by Parliament and granted to them in connection with their political activities by third parties, whose identity shall be disclosed; any other financial interests that might influence the performance of their duties).

The Code of Conduct requires MEPs to indicate whether the activities or interests that they have to declare are **remunerated or not** and, for those that are remunerated, an indication of the amount received per month. The exact amount received by MEPs for each outside activity and interest does not have to be disclosed, except for the salaries that MEPs receive for the exercise of a mandate in another parliament (e.g. regional parliaments, if allowed by national legislation).

For the rest of MEPs' outside activities and interests, Article 4(2) of the Code of Conduct defines six **income brackets** – from non-remunerated to remunerated at more than €10 000 per month – and the information disclosed refers to whether the outside activity is remunerated or not and whether the remuneration received is included in one of the defined income categories. No information has to be disclosed on amounts received as regards additional support granted to MEPs by third parties for their political activities; and other financial interests, not expressly listed in the Code of Conduct, that may influence MEPs' performance.

In addition to the formal declaration of interests provided in Article 4 of the Code of Conduct, Article 3(2) and (3) of the Code provides for **ad hoc declarations of conflicts of interest** to be made during parliamentary proceedings when an MEP has an actual or potential conflict of interest in relation to the matter under consideration by Parliament. MEPs must submit those declarations to the chair, either in writing or orally, before speaking or voting in plenary or in one of Parliament's bodies, or if proposed as rapporteur. These ad hoc declarations complement the formal one provided for in Article 4 of the Code of Conduct and must therefore be submitted when the existence of a conflict of interests is not obvious from the information included in the formal declaration. In addition, under Article 3 (2) of the Code of Conduct members must address conflicts of interest immediately and, if they are not able to resolve them, they must report to the European Parliament's President in writing.

As **gifts and other benefits** can also be a source of actual or potential conflicts of interest, Article 5 of the Code of Conduct precludes MEPs from accepting gifts and other benefits worth over €150,

unless they are given to the MEP when representing Parliament in an official capacity. Travel, accommodation and subsistence expenses are excluded from the prohibition if the MEP attends, following an invitation and in the performance of their duties, any event organised by third parties. In order to implement this provision, the European Parliament Bureau adopted a decision on 15 April 2013, on implementing measures for the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interests (Bureau decision of 15 April 2013), which led to the creation of a **register of gifts** that are the property of Parliament. However, the register does not include the gifts given directly to MEPs that are under the €150 threshold set out in Article 5 of the Code of Conduct.

As regards **travel, accommodation and subsistence expenses**, it should be noted that they can be paid by third parties even above the €150 threshold. However, MEPs are obliged to disclose information relating to the third party paying the expenses, the type of expenses paid and the nature, venue and programme of the event, under Articles 6-8 of the Bureau decision of 15 April 2013. Disclosure is not required however if Parliament's Bureau or the Conference of Presidents has authorised attendance at the event or when the expenses are paid by the EU institutions or bodies, recognised international organisations, national authorities of the EU Member States,[80] political parties and foundations,[81] social partners,[82] or churches and religious communities.[83] Although some events are excluded from the disclosure obligation, every year MEPs declare their attendance at various events organised and paid for by third parties (see Table 1).

Table 1 – Data relating to MEPs' declarations of gifts and travel expense paid by third parties submitted in the current term (9th term)

Year	2019 (2nd half)	2020	2021	2022
Number of travel declarations made by MEPs	79	31	56	82
Number of gift declarations made by MEPs	0	3	1	52

Source: Information provided by the Secretariat of the Advisory Committee on the Conduct of Members, European Parliament.

3.1.2. MEPs' declarations of assets and liabilities: National rules

Although Parliament's Code of Conduct does not require MEPs to provide a **declaration of assets and liabilities** (only of financial interests), the **national legislation of 11 Member States** requires MEPs elected in those countries to comply with such an obligation.

[80] Central, local, regional and municipal authorities of the Member States are included in the exception, except where the authority acts as the representative of a public undertaking as defined in Article 2(b) of Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (Article 6 (2) of the Bureau decision of 15 April 2013).

[81] This exception does not include organisations created or supported by political parties or foundations, which are engaged in lobbying activities (Article 6 (2) of the Bureau decision of 15 April 2013).

[82] This exception includes social partners as participants in the social dialogue when they perform the role assigned to them in the EU Treaties (Article 6 (2) of the Bureau decision of 15 April 2013).

[83] This exception includes churches and religious communities, with the exception of those organised by representative offices or legal entities, offices and networks created to represent churches and religious communities in their dealings with the Union institutions, and of their associations (Article 6 (2) of the Bureau decision of 15 April 2013).

In **Belgium**, the Law on the obligation to file a list of mandates, offices and professions and a declaration of assets, adopted on 2 May 1995, and applicable – among others – to MEPs elected in Belgium, requires them to submit a declaration including other public offices, management and professional activities that they exercise while holding their parliamentary mandate, and a declaration of assets and liabilities (*déclaration de patrimoine*). The latter must include all assets and liabilities (such as bank accounts, shares and loans), all immovable property and also all valuable movable property, such as antiques and works of art. The declarations of *patrimoine* are to be submitted on the year in which the MEP takes office and when his or her mandate expires. The declarations of outside activities are public, whereas the declarations of assets and liabilities are confidential and taken into custody by the Belgian Court of Audit. They can only be consulted by an investigating judge in the context of a criminal investigation.

In **Bulgaria**, under the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act, MEPs elected in Bulgaria are required to submit a declaration of incompatibilities, as well as a declaration of property and interests, and update them whenever there is a change in their circumstances. The latter is submitted to the Committee on Combating Corruption, Conflict of Interest and Parliamentary Ethics, which keeps a public register of those declarations. The declaration has to include property and interests in the country and abroad, including immovable and valuable movable property, income, loans and liabilities (Article 37). Income and property of spouses and minor children must also be declared and the declaration must be submitted within 1 month of their taking up public office, annually, and 1 month and then 1 year after the expiry of their mandate (Article 38).

In **Greece**, Article 4 of the newly adopted Law 5026/2023, on submission of declarations of assets and financial interests, requires MEPs elected in the country, together with other office holders and officials to submit an assets declaration and a financial interests declaration. The declaration of assets is also compulsory for their spouses and cohabiting partners. MEPs' declarations include the assets of their underage children. Both declarations must be submitted within 90 days of the acquisition of the mandate; they are updated annually; and a final declaration must be submitted 3 years after the end of the term of office. The declaration of assets includes information on income, immovable property, vehicles, shares, bonds, deposits or any other kind of participation in companies and loans. The declarations of assets are made public on the website of the Hellenic Parliament.[84]

In **France**, Article 11 of Law 2013-907 of 11 October 2013 on public transparency requires MEPs elected in France to submit a declaration of interests and a declaration of assets and liabilities (*déclaration de situation patrimoniale*) to the High Authority for the Transparency of Public Life (*Haute Autorité pour la transparence de la vie publique*), within 2 months of taking office and when there are substantial modifications to the original declarations. The declaration of assets and liabilities must also be submitted 2 months after the end of the term of office. The declaration includes immovable and valuable movable property, financial assets and liabilities. The information is not published, but voters can consult the declaration of assets of MEPs at the premises of their prefecture, with certain personal data being blackened to preserve the right to privacy.

In **Italy**, Article 1 (5bis) of Law No 441 of 5 July 1982 requires MEPs elected in Italy to submit, within 3 months of their election, a statement of their assets (*attestazione concernente le variazioni della situazione patrimoniale*), together with their last annual income tax declaration. The statement shall include rights to immovable property and movable property registered on public registers;

[84] All asset declarations can be accessed on the website of the Hellenic Parliament.

company shares; and the exercise of specific functions in companies. The information must be updated annually and a final declaration submitted within 3 months of the termination of the mandate. All voters have the right to access the declarations, which are included in a special bulletin published by the Senate.

In **Cyprus** too, the Law of 2004 (49(I)/2004), on Declaration and Control of Property, requires MEPs elected in the country to submit a declaration of assets and liabilities to the Special Parliamentary Committee of the House of Representatives. The declaration must be submitted within 3 months of taking up the mandate, every 3 years and 3 months after the expiry of the mandate. The declaration includes immovable property, some types of valuable movable property, economic interests in undertakings, income and assets of any kind valued in securities, debt bonds, shares and dividends and debts. The information is only partially published.

In **Lithuania**, Article 2 of the Law on the Declaration of Assets of Residents requires MEPs elected in the country to submit a declaration of assets to the tax authorities within 30 days after the elections, annually and after the termination of the mandate. Assets subject to declaration include immovable property, movable property subject to registration, funds kept in banks and other credit institutions or elsewhere, works of art or jewellery and loans and credits, if their amount exceeds €1 500. Declarations are published annually on the website of the central tax authority.

In **Poland**, Article 3a of the Law of 30 July 2004, on the emoluments of Members of the European Parliament elected in the Republic of Poland, requires Polish MEPs to submit a statement of their assets that includes income from any outside activities, immovable property, movable property worth more than PLN 10 000 (approximately € 2 200), liabilities of the value exceeding PLN 10 000, including credits and loans and other financial resources such as participation in civil or commercial partnerships, shares and stocks in commercial companies. This declaration must be submitted to the Speaker of the Sejm, is public – except for the address of residence – and is due at the beginning of the mandate, every year and after the termination of the MEP's mandate.

In **Portugal**, Law No 52/2019 of 31 July 2019, governing the exercise of functions by political office holders and senior public office holders, requires MEPs elected in Portugal to provide a single declaration including income, assets, liabilities, interests, incompatibilities and disqualifications. Immovable and valuable movable assets must be declared, including shares, stocks or other financial stakes in civil or commercial companies, fixed-term savings accounts or similar financial, current accounts and credit rights. The declaration must be submitted within 60 days of taking up duties, within 30 days of any change in circumstances, within 60 days of the end of the mandate and 3 years after the termination of the mandate. The information disclosed is only partially public, excluding personal sensitive data from publicity.

In **Romania** too, MEPs elected in the country are required to submit both a declaration of financial interest and a declaration of assets under Article 1(1)(4) of Law 176/ 2010. These declarations must be submitted to the electoral authorities, together with the declaration of acceptance of the candidacy and therefore before the elections (Article 3 (5)), and must also be submitted within 30 days of the date of election to the Permanent Electoral Authority. They must be updated yearly and a final declaration must be submitted within 30 days of the date of the end of the mandate. The declaration of assets includes the rights and obligations of the declarant, the spouse, and of dependent children, and includes immovable and valuable movable assets, financial assets, investments and shares, liabilities, income and gifts. Both declarations, of assets and of interests, are published on the website of the National Integrity Agency, an autonomous administrative entity set up to identify cases of illicit enrichment and verify compliance with rules on incompatibilities and conflicts of interest.

Finally, in **Slovenia**, the Integrity and Prevention of Corruption Act requires MEPs elected in the country to provide a declaration of assets that includes immovable property, movable property, financial assets, stakes and shares of a value exceeding €10 000, and data on debts and obligations if their value exceeds €10 000 (Articles 41-42). Declarations must be submitted to the Commission for the Prevention of Corruption within a month of assuming office, and must be updated when changes occur. Declarations submitted by Slovenian MEPs are not made public.

3.3. Persons subject to the obligation

According to Parliament's Code of Conduct and the Bureau decision of 15 April 2013, the **obligation to submit** the formal declaration of financial interests, ad hoc declarations of conflict of interests and declarations relating to gifts and other benefits received **applies only to MEPs**, who are personally responsible for submitting such declarations in due time. In principle, the information they are required to disclose refers to them only; **spouses and close relatives are not covered** by the obligation to disclose information relating to their financial interests, or the gifts or other benefits they may have received and that may relate to their relative's membership of the European Parliament.

However, nothing seems to prevent MEPs from disclosing information relating to their spouses or close relatives if they think that an actual or potential conflict of interests may arise from that information. In addition, following the interpretation of the notion of conflict of interest given by the General Court (see Box 1), it could be argued that such a disclosure obligation exists, at least under Articles 3 (2) and (3) of the Code of Conduct, when either the financial interest of the spouse or close relative or the gifts or other benefits received by them could actually influence the impartial and objective performance of an MEP's mandate or appear to influence it, in the eyes of the public.

3.3. Timing of the declaration

As regards timing, the **formal declaration of financial interests** must be submitted by MEPs by the **end of the first part-session after elections** to the European Parliament or within **30 days of taking up office with the Parliament** if they take up their duties in the course of a parliamentary term and not at the beginning. Therefore, the information must be disclosed by MEPs shortly after taking up their duties and, as the data included in Table 2 shows, the majority of MEPs comply with their obligation to submit those declarations on time with few submitting their declarations belatedly.

Although complying with the obligation does not seem to be a condition for acquiring the condition of member, MEPs can be sanctioned in cases of non-compliance, as it will be explained in the following section, and they cannot hold an elected office within the Parliament, become rapporteur or participate in an official delegation or in interinstitutional negotiations if they have not submitted their formal declaration of financial interests (Article 4 (4) of the Code of Conduct).

To ensure that information relating to MEPs' financial interests is up to date, Article 4(1) of the Code of Conduct requires MEPs to give details of any changes that could have an influence on their declaration within 30 days of each change occurring. Every year a substantial number of MEPs update their formal declarations of financial interest, as shown in Table 2.

Table 2 – Data relating to formal declarations of financial interests (DFIs) submitted by MEPs since 2012

Year	MEPs not submitting their DFI on time/incoming MEPs	Number of DFIs updated
2012	90/754[85]	79
2013	0/28	285
2014 (1st half)	0/12	45
2014 (2nd half)	1/751 + 0/13[86]	89
2015	0/20	105
2016	0/16	72
2017	3/31	804[87]
2018	2/23	110
2019 (1st half)	0/4	26
2019 (2nd half)	0/751 + 0/8	47
2020	0/39	129
2021	0/9	93
2022	0/30	69

Source: Information provided by the Secretariat of the Advisory Committee on the Conduct of Members, European Parliament.

Declarations concerning the reception of a gift when representing Parliament in an official capacity shall be made by the last day of the next month following the date of receipt of the gift (Article 2 of Bureau decision of 15 April 2013), whereas **declarations concerning attendance of events** organised by third parties shall be made no later than the last day of the next month

[85] In the framework of the introduction of new declarations of financial interests as a result of the entry into force of the current Code of Conduct on 30 March 2012, all MEPs had to submit a declaration (European Parliament Rules of Procedure: code of conduct for Members in respect of financial interests and conflicts of interest (amend.), 2011/2174(REG)).

[86] As explained in Section 3.3. the formal declaration of financial interests must be submitted by MEPs by the end of the first part-session after elections to the European Parliament or within 30 days of taking up office with the Parliament if they take up their duties in the course of a parliamentary term. In the years on which European elections took place (2014 and 2019), the two sets of numbers provided refer to those two different deadlines.

[87] In the context of the general revision of the Rules of Procedure, MEPs had to update their declarations of financial interests (European Parliament Rules of Procedure, EP-PE_REGL(2017)01-16).

following the final day of the Member's attendance at the event (Article 8 of Bureau decision of 15 April 2013).

3.4. Publicity

All declarations submitted by MEPs are published on the European Parliament's website. Publicity as regards the formal declaration of financial interests to be submitted by MEPs is required under Article 4(3) of the Code of Conduct and is ensured in practice by publishing the declarations made by MEPs under their names in a dedicated part of Parliament's website.[88] Publicity of the declarations concerning the reception of gifts and attendance at events is required by Articles 4(3) and 7(4) of the Bureau decision of 15 April 2013 and is also ensured in practice through Parliament's website. Declarations concerning attendance at events are published under each MEP's name on the Parliament's website,[89] together with the formal declaration of financial interests, whereas declarations concerning the reception of gifts are published all together on Parliament's website page dedicated to the Advisory Committee on the Conduct of Members.[90]

3.5. Monitoring and enforcement of financial disclosure obligations.

Parliament's financial disclosure system does not provide for an independent monitoring body to conduct a comprehensive verification of the completeness and accuracy of the information disclosed. On the contrary, Parliament has opted to entrust the **implementation of its financial disclosure rules to internal bodies** that have limited powers to verify the completeness and accuracy of the information disclosed. As full publicity of MEPs' declarations is ensured and Parliament's internal bodies have limited powers to verify the information provided by MEPs, the correct functioning of the system relies heavily on the capacity and willingness of **stakeholders, the media and the general public** to assess the veracity of the information disclosed, as highlighted by the European Court of Auditors in its special report on the ethical frameworks of EU institutions.[91]

The formal declarations of financial interests submitted by MEPs are **addressed to the Parliament's President** and, according to Article 9 of the Bureau decision of 15 April 2013, the competent parliamentary service – the Members' Administration Unit within the Directorate General for the Presidency – performs a **general plausibility check** for clarification purposes when 'there is reason to think that a declaration contains manifestly erroneous, flippant, illegible or incomprehensible information'. Scrutiny also covers the presentation of the declaration itself and respect for the deadline. However, the current rules do not provide for more thorough scrutiny of the declarations, for instance to include the identification of potential conflicts of interests, cross-checking of the declarations with external sources or comparison of the declarations to monitor changes over time.

If any irregularity is identified during the checks performed by Parliament's services, the MEP concerned is allowed to react. If their clarifications are considered insufficient, the European Parliament's President must decide how to proceed. According to Article 4 (5) of the Code of Conduct, if the President 'receives information, which leads to a belief that the declaration of

88 The declaration of financial interests and the declarations concerning travel expenses paid by third parties are published under the name of each member on Parliament's website.

89 Ibidem.

90 The European Parliament's register of gifts can be accessed on its website, in the section dedicated to the Code of Conduct for Members of the European Parliament.

91 See European Court of Auditors, Special report 3/2019, The ethical frameworks of the audited EU institutions: scope for improvement, p. 20.

financial interests of a Member is substantially incorrect or out of date', the President must ask the MEP to **correct their declaration within 10 days**. In addition, the President may decide to **consult the Advisory Committee on the Conduct of Members** (Advisory Committee).

The **Advisory Committee is composed of five MEPs**, appointed by the President at the beginning of their term of office from among the members of the Bureau and the coordinators of the Committee on Constitutional Affairs and the Committee on Legal Affairs, taking due account of the MEPs' experience and of political balance (Article 7 of the Code of Conduct). Although the Committee may seek advice from outside experts, its **composition is purely internal to Parliament**. According to Article 7(4) second subparagraph of the Code of Conduct, the President can refer to the Advisory Committee not only alleged breaches of the financial disclosure obligations imposed on MEPs by the Code, but also alleged breaches of any other obligations imposed on MEPs by the Code.

The **Committee is only an advisory body**, as it is competent to examine the circumstances of the case, hear the MEP concerned and make a recommendation to Parliament's President on how to proceed (Article 8(2) of the Code). However, it cannot impose a sanction directly on an MEP. Every year, the President refers a few cases to the Advisory Committee concerning non-compliance by MEPs with their obligations stemming from the Code of Conduct (see Table 3). During the current term, the few cases referred by the President have been cases of omission by an MEP to disclose information required under different provisions of Article 4 of the Code of Conduct and therefore concerning the formal declaration of financial interests that MEPs are obliged to submit.[92] In the only three cases referred by the President during this term, the MEPs concerned had submitted their formal declarations of financial interests in due time, but some information provided was incomplete or had not been properly updated after a change in the circumstances. The Advisory Committee always concluded that there had been a violation of the Code of Conduct, although in one of the cases it considered that no further action was required as the MEP had promptly submitted an updated declaration. However, it should be noted that in previous parliamentary terms, referrals have also concerned cases of non-compliance by MEPs with other disclosure obligations, such as those concerning gifts or attendance at events organised by third parties.[93]

In line with the principle of parliamentary autonomy, it is the **President** who **decides on the possible imposition of a sanction on an MEP** for non-compliance with the rules on the disclosure of financial interests. Sanctions may be imposed after hearing the MEP concerned and can range from a reprimand to forfeiture of entitlement to the daily subsistence allowance allocated to MEPs for between 2 and 30 days, temporary suspension from participating in Parliament's activities for between 2 and 30 days – except for the right to vote in plenary –, a prohibition on representing Parliament for up to 1 year, and suspension or removal from any office elected within the Parliament (Rule 176(4-6) RoP). In addition to these sanctions, under Parliament's RoP MEPs cannot hold an elected office within the Parliament, become rapporteur or participate in an official delegation or interinstitutional negotiations if they have not submitted the formal declaration of financial interests (Article 4(4) of the Code). The Bureau can also adopt a decision applying the same prohibition to MEPs who do not comply with a request from the President to correct their formal declaration of financial interests under Article 4 (5) of the Code of Conduct.

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92 The annual reports of the Advisory Committee on the Conduct of Members from 2019 to 2022 can be found on Parliament's website, in the section dedicated to the Advisory Committee on the Conduct of Members.

93 The annual reports of the Advisory Committee on the Conduct of Members from 2014 to 2019 can be found on Parliament's website, in the section dedicated to the Advisory Committee on the Conduct of Members.

Table 3 – Data concerning the activity of the Advisory Committee on the Conduct of Members since 2012.

Year	Cases in which an MEP has asked the Advisory Committee for formal guidance on interpretation of the Code of Conduct	Number of referrals by the EP President to the Advisory Committee
2012	32	1
2013	Not available	9
2014 (1st half)	Not available	0
2014 (2nd half)	1	0
2015	1	5
2016	0	8
2017	2	4
2018	2	2
2019 (1st half)	1	2
2019 (2nd half)	1	0
2020	3	2
2021	1	1
2022	3	1

Source: Information provided by the Secretariat of the Advisory Committee on the Conduct of Members, European Parliament.

3.6. On-going discussions on modifying the European Parliament's financial disclosure mechanism

The **European Parliament is currently engaged in a reform process** aiming to **strengthen its integrity, independence and accountability**. This may led to a modification of the current financial disclosure mechanism. The process was launched after several arrests and searches took place in December 2022 in the context of ongoing criminal investigations carried out by Belgian authorities into allegations of wrongdoings by former and current Members and staff of the European Parliament. Soon after the criminal investigations became public knowledge, the European Parliament voted by a large majority to terminate the term of office as Vice-President of

MEP Eva Kalli, one of the persons under investigation,[94] and adopted a **resolution** calling for a series of reforms to enhance integrity and fight corruption and foreign interferences within its ranks.[95]

Following Parliament's calls, the President of the European Parliament presented **a 14-point reform document** to the European Parliament's Conference of Presidents and Bureau which was discussed at a number of meetings and endorsed by the Conference of President on 8 February 2023.[96] To feed into the reform process, an administrative task force has been created, and the President is holding consultations with the relevant Parliament committees and bodies, including the Advisory Committee on the Conduct of Members.[97] In addition, the mandate of Parliament's special committee on foreign interference in all democratic processes in the European Union, including disinformation, and the strengthening of integrity, transparency and accountability in the European Parliament (ING2), was extended to also include the identification of shortcomings in Parliament's rules on transparency, integrity, accountability and anti-corruption, and consider medium and long-term measures to address them.[98]

In this context, several proposals have already been put forward to enhance the current rules on financial disclosure obligations imposed on MEPs. Some of them envisage an expansion of the scope of existing financial disclosure obligations. In this vein, in its resolution of 15 December 2022 on suspicions of corruption from Qatar and the broader need for transparency and accountability in the European institutions, the European Parliament committed to ensure **'full transparency of MEPs' side income by exact amount'** instead of making use of the current income brackets provided for under Article 4 (2) of the Code of Conduct. In addition, the Parliament committed to '**prohibiting any external financing** of MEPs' and groups' staff' and took the view that '**declaration of assets by Members at the beginning and end of each mandate** would offer additional safeguards against corruption'.[99] In the same resolution, the Parliament also took a position on the publicity of those declarations of assets by stating that they 'could be **accessible only to relevant**

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94 See minutes of the sitting on Tuesday, 13 December 2022, point 8.1. Early termination of the term of office of a Vice-President (Eva Kaili) (vote). For further details on the early termination of the office as Vice-President of MEP Eva Kalli, see: S. Kotanidis, Parliament votes on termination of the office of a Vice-President, EPRS, European Parliament, December 2022; and M. del Monte, Vacancy for a Parliament vice-president, EPRS, European Parliament, January 2023.

95 European Parliament resolution of 15 December 2022 on suspicions of corruption from Qatar and the broader need for transparency and accountability in the European institutions (2022/3012(RSP)).

96 Conference of Presidents, 'Strengthening integrity, independence and accountability. First steps', 8 February 2023. Objective 9 envisages the following reforms: 'The level of detail required in Members' Declaration of Financial Interests should be increased and made clearer. More information should be included on Members' side jobs and outside activities. Checks should be allowed to ensure proper enforcement of the rules'. See also the European Parliament's press release: Group leaders endorse first steps of parliamentary reform, 8 February 2023.

97 See the minutes of the ordinary meeting of the Conference of Presidents that took place on 12 January 2023.

98 See the European Parliament decision of 14 February 2023 amending the decision of 10 March 2022 on setting up a special committee on foreign interference in all democratic processes in the European Union, including disinformation (INGE 2), and adjusting its title and responsibilities (2023/2566(RSO)). The decision also renames the special committee that is now called the 'special committee on foreign interference in all democratic processes in the European Union, including disinformation, and the strengthening of integrity, transparency and accountability in the European Parliament'.

99 See the European Parliament resolution of 15 December 2022 on suspicions of corruption from Qatar and the broader need for transparency and accountability in the European institutions (2022/3012(RSP)), paras. 13 and 22: '13. Commits to ensuring *full transparency of MEPs' side income by exact amount* and *prohibiting any external financing* of MEPs' and groups' staff; commits to establishing a ban at EU level on donations from third countries to Members and political parties, in order to close loopholes in Member States; requests that the Commission urgently put forward a proposal on this matter; (....) 22. Believes that a *declaration of assets by Members at the beginning and end of each mandate* would offer additional safeguards against corruption, following the example of many Member States; believes that the asset declaration could be *accessible only to relevant authorities* to allow them to check whether declared assets fit with declared incomes when faced with instances of substantiated allegations, which would make spending illegal proceeds substantially more difficult; (...)'.

authorities to allow them to check whether declared assets fit with declared incomes when faced with instances of substantiated allegations, which would make spending illegal proceeds substantially more difficult (...)'.[100]

In a partially similar vein, the Conference of Presidents of the European Parliament included among the objectives of the current reform process a modification of the Code of Conduct to **increase the level of detail required in Members' declarations of financial interests**, including more information on MEPs' side jobs and activities, and introducing a **new obligation** for MEPs to make a **declaration on conflicts of interests to the relevant committee secretariat when being appointed** as rapporteur or shadow rapporteur.[101] No reference to the possible introduction of a new obligation to submit a declaration of assets was made, although the final scope of the new financial disclosure obligations imposed on MEPs will have to wait until the expected adoption of a new Code of Conduct.

The draft report on recommendations for reform of the European Parliament's rules on transparency, integrity, accountability and anti-corruption, presented in the ING2 committee on 30 March 2023, does not however make any reference to the extension of the scope of the financial disclosure obligations currently imposed on MEPs.[102] However, as already explained in Section 2.5 of this study, were it to be adopted as it stands today, the Commission's **proposal for a directive on combating corruption**[103] would impose on Member States an obligation to adopt effective rules for the disclosure and verification of assets of public officials, including members of EU institutions. A variety of proposals are still on the table and time is needed to clarify the exact scope of the financial disclosure obligations that would be imposed on MEPs.

The **strengthening of the mechanism** put in place to monitor and enforce the financial disclosure obligations imposed on MEPs has also been the object of on-going discussions. In this area, the European Parliament's resolution adopted on 15 December 2022 called for the creation of an **EU ethics body** in line with its previous resolution of 16 September 2021 on strengthening transparency and integrity in the EU institutions by setting up an independent EU ethics body.[104] In that previous resolution, the Parliament set out its vision for an independent EU ethics body for Parliament and the Commission and open to other EU institutions and bodies, which would ensure the consistent and full implementation of ethics standards across the EU institutions.

Created by an interinstitutional agreement, this EU ethics body would be entrusted with preventive, advisory, monitoring and investigative functions, among which the **possibility to check the veracity of the declaration of financial interests** submitted by individuals included in its scope of application, the handling of conflicts of interest and the verification of compliance with all provisions of codes of conduct and applicable rules on transparency, ethics and integrity. However, the ethics body would do no more than issue recommendations to participating institutions, which

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100 Ibidem.

101 See points 8 and 9 of the document adopted by the Conference of Presidents on 8 February 2023, 'Strengthening integrity, independence and accountability. First steps'.

102 ING2, Draft report on recommendations for reform of European Parliament's rules on transparency, integrity, accountability and anti-corruption, 21 March 2023, 2023/2034(INI).

103 Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council, COM/2023/234 final, 3 May 2023. In the European Parliament, the procedure is in its preparatory phase.

104 European Parliament resolution of 16 September 2021 on strengthening transparency and integrity in the EU institutions by setting up an independent EU ethics body (2020/2133(INI)).

would therefore maintain their current competences with regard to the possibility to impose sanctions on individuals disregarding ethical rules.

The creation of an ethics body and the extent of its competences has been a contentious issue among the EU institutions, with Parliament taking a more ambitious stance than the European Commission.[105] Although the Commission has committed to present a proposal for the creation of such a body in the short term,[106] most recently in its joint communication on the fight against corruption,[107] the proposal has not yet been put forward. In the meantime, it should be noted that the extent of the reform of Parliament's current financial disclosure system partially depends on the involvement of the other EU institutions. Parliament could modify its internal rules concerning the scope of disclosure obligations relating to financial interests, gifts and other benefits without the participation of other EU institutions. However, more far-reaching measures would need the involvement of other institutions. For example, EU legislation seems to be needed to establish an external monitoring body with proper investigative powers and the capacity to cross-check the information provided by MEPs with the assistance of national authorities.[108]

Conscious of these limitations, the Conference of Presidents of the European Parliament agreed on 8 February 2023 on the need to modify the Code of Conduct to **reinforce the role of the current Advisory Committee on the Conduct of Members** until the new ethics body was in place.[109] In addition, the Conference of Presidents endorsed a proposal to amend current Rule 176 RoP and **revise the current list of sanctions** that can be imposed on MEPs, one aim being to allow the possible imposition of a penalty 'on the grounds of systemic and severe non-compliance' with Parliament's standards of conduct. According to the document, 'a system of warnings and reminders will be put in place to remind Members of rules before sanctions in case of severe and systematic breaches are to be applied'.[110] The exact wording of the new list of sanctions to be imposed on MEPs and the powers to be attributed to the strengthened Advisory Committee have still to be defined however, by means of a reform of Parliament's RoP.

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105 In her Political Guidelines for the next European Commission 2019-2024, the current President of the Commission Ursula Von der Leyen committed to create an independent ethics body common to all EU institutions. However, in its Follow-up to the European Parliament non-legislative resolution on strengthening transparency and integrity in the EU institutions by setting up an independent EU ethics body, 18 February 2022, the Commission highlighted important points of disagreement with Parliament as regards the shaping of such body.

106 See opening remarks by European Commission Vice-President Věra Jourová on the establishment of an independent EU ethics body, European Parliament February part-time session, Minutes, Tuesday 14 February 2023.

107 European Commission, Joint communication to the European Parliament, the Council and the European Economic and Social Committee on the fight against corruption, JOIN(2023) 12 final, 3 May 2023.

108 A. Alemanno, *Towards an EU Ethics Body*, 20 November 2020. Available at SSRN: https://ssrn.com/abstract=4062961 or http://dx.doi.org/10.2139/ssrn.4062961, pp. 43-46.

109 See point 11 of the document adopted by the Conference of Presidents on 8 February 2023, 'Strengthening integrity, independence and accountability. First steps'. See also, INGE 2, Draft report on recommendations for reform of European Parliament's rules on transparency, integrity, accountability and anti-corruption, 21 March 2023, 2023/2034(INI), para. 42.

110 See point 14 of the document adopted by the Conference of Presidents on 8 February 2023, 'Strengthening integrity, independence and accountability. First steps'.

Box 2 – European Ombudsman position on the on-going reform process to improve the European Parliament's ethics and transparency framework

The European Ombudsman has shared with Parliament's President its observations as regards the proposals for reform aimed at strengthening the Parliament's integrity, independence and accountability (Case SI/1/2023/MIK).

As regards the proposals concerning Parliament's financial disclosure mechanism, in a first letter dated 27 January 2023, the European Ombudsman welcomed the idea of **requiring more detailed information on MEPs' financial interests** and to **strengthening the Advisory Committee on the Conduct of MEPs** by reinforcing its independence, granting it proactive powers to monitor, investigate and ensure compliance with ethics rules, ensuring further transparency as to its activities and providing it with sufficient resources.

In a second letter dated 20 March 2023, the European Ombudsman shared further observations on the reform proposals endorsed by the Conference of Presidents on 8 February 2023. On the proposal to require rapporteurs and shadow rapporteurs to submit a declaration of conflicts of interest upon their appointment, the Ombudsman raised the question of **who would monitor compliance** with the new obligation and **what would be the consequences in cases of non-compliance**. As regards the proposal to increase transparency of MEPs' formal declarations of financial interests, the Ombudsman raised the question of **who would check the proper enforcement of the rules** and whether **supporting documents** would be required to allow proper checks to be done. Finally, regarding the proposals to strengthen the **Advisory Committee**, the Ombudsman raised the question of whether the committee would have **powers to conduct own-initiative investigations or investigations after receiving complaints from individuals**; what measures would be taken to ensure its impartiality and independence; how transparency would be enhanced as regards its activities; and how its role could be strengthened as regards the outcome of its inquiries, for example, by requiring the President to justify his or her decisions when they departed from the Committee's recommendations.

4. Financial disclosure obligations in the national parliaments of the EU Member States[111]

In order to define the content of the modifications to be made to the European Parliament's financial disclosure system, it may be useful to analyse the systems already in place in the EU Member States. All EU Member States impose on the members of their national Parliament (MPs) the obligation to comply with financial disclosure obligations. Although the information to be disclosed, the persons subject to disclosure obligations, the publicity given to the information disclosed and the mechanism used to monitor and enforce obligations differ widely, there seems to be a trend towards requiring MPs to disclose information that relates not only to their financial interests, but also to their assets and liabilities, in what seems to be a bid to identify not only cases of conflict of interest, but also cases of illicit enrichment.

[111] This section has been drafted on the basis of the answers provided by the European Centre for Parliamentary Research and Documentation network to the questionnaire developed by the European Parliamentary Research Service on 'Rules and practices on financial disclosure obligations by MPs', request number 5417, deadline: 24 March 2023. The various forms used by national parliaments have been collated and can be consulted in the annex to this study.

4.1. Conflict of interest systems versus illicit enrichment systems

Following the British parliamentary tradition,[112] **some EU Member States, namely Denmark, Finland, Sweden**,[113] **Ireland**,[114] **Luxembourg, the Netherlands**[115] **and Germany**[116] have framed their financial disclosure mechanisms for MPs as a tool to identify and address possible conflicts of interest. Their financial disclosure mechanisms therefore focus on **MPs' outside activities and interests**, sometimes providing information as regards the **income** received by MPs for their outside activities and the **gifts and benefits** received (see Table 4). No information relating to the assets and liabilities of the MP or his or her relatives is normally disclosed, although information on securities in companies, such as shares or bonds, or other types of asset that may be relevant to evaluate the performance of the MP and the existence of conflicts of interest may also be subject to an obligation to disclose.

In **Denmark**, for example, MPs' offices and financial interests must be registered, including non-parliamentary income and employment, as well as gifts and foreign trips not paid for by the Folketing. Information disclosed on MPs' interests includes not only directorships in private or public

[112] On the British model, see: Erskine May, 'Chapter 5: Rules governing the conduct of Members of both Houses and the disclosure of financial interests', in *Erskine May's treatise on the law, privileges, proceedings and usage of Parliament*, 25th edition, 2019; M. Van der Hulst, The Parliamentary Mandate. A Global Comparative Study, Inter-Parliamentary Union, 2000, pp. 53-56.

[113] See Act 1996:810 on registration of the commitments and financial involvements of members of the Riksdag, of 19 June 1996, which sets out the scope of the declaration on commitments and financial interests to be submitted by Swedish MPs. This includes: interests in companies (e.g. shareholdings); ownership of commercial property; fringe benefits from former or present employers; and any permanent financial benefits and secretarial or research assistance related to the office of Member of Parliament and not paid by the state, the MP, or his or her party; remunerated activities that are not of a temporary nature; income-generating independent activities; board assignments; central or local government assignments; and debts exceeding a certain amount.

[114] See the Ethics in Public Office Acts 1995 and 2001 (Act Number 22 of 1995 and Act Number 31 of 2001), that set out the obligations on MPs of both chambers of the Irish Parliament to disclose their interests yearly. Interests to disclose by MPs who are not office holders include remunerated trade, profession, employment, vocation or other occupation; holding of shares, bonds (including government bonds), debentures or other similar investments if their value exceeds €13 000; directorship of any company; land used for commercial purposes; gifts, property supplied or lent and travel facilities, living accommodation, meals or entertainment where the value exceeds €650; any other remunerated position and contract(s) for the supply of goods or services to a public body. Ad hoc declarations are also provided for in Section 7 of the Ethics in Public Office Acts 1995 and 2001, for cases in which MPs have a material interest in the subject matter of the proceedings. For further details on how to interpret the obligations for member of the Dáil Éireann, see the Guidelines for Members of Dáil Éireann who are not office holders, concerning the steps to be taken by them to ensure compliance with the provisions of the Ethics in Public Office Acts 1995 and 2001, adopted by the Committee on Members' Interests of Dáil Éireann on 3 January 2023.

[115] In the Netherlands, both chambers of the Parliament have three separate registers for outside activities and interests, gifts and trips abroad for which transport and accommodation costs have been paid in full or in part by third parties to members of the House. None of them requires full declaration of assets, although the Code of Conduct of the House of Representatives specifies that declaration of outside activities and interest should be interpreted in a broad sense and that Members should declare all interests that might reasonably be thought to influence their parliamentary activities. For further details on the rules applicable to senators see: Article 3b of the Members of the Senate Remunerations Act (Wet vergoedingen leden Eerste Kamer) and the Code of Conduct. For further details on members of the House of Representatives, see: Article 5 of the House of Representatives Compensation Act (Wet schadeloosstelling leden Tweede Kamer); Rule 15.19-15.21 and 15.23 of the Rules of Procedure of the House of Representatives (Reglement van Orde van de Tweede Kamer) and the Code of Conduct.

[116] For the German Bundestag, see: Sections 45-52a of the Act on the Legal Status of Members of the German Bundestag, as amended by the Act to improve transparency rules for the members of the German Bundestag and to increase the penalty framework of Section 108e of the Criminal Code, of 8 October 2021, which requires disclosure of gifts, donations, last professional activity carried out, activities as a member of a board of directors, advisory boards or any other body of a company or body governed by public law; remunerated outside activities; activities as a member of a board of directors or other senior or advisory position of an association, or similar organisation and shareholdings in capital or partnerships where the share exceeds 5 % of the capital.

companies, any other position, office or similar in addition to the office of MP, and self-employed income-generating activities, but also company interests with a value exceeding DKK 75 000 (approximately €10 000), as it is understood that those financial interests can have a potential influence on MPs' parliamentary activities. As regards all the interests, the name of the employer and the company should be registered to be able to identify actual or potential conflicts of interest.[117]

In **Finland** too, Section 76a of the Parliament's Rules of Procedure makes it mandatory for MPs to declare their private interests, including outside activities, commercial activities, shareholdings in companies and other significant ownership interests acquired for business operations or investment activities, as well as the income received for those activities. Significant debts taken for business operations or investment activities, as well as significant guarantees and other liabilities given for the same purposes, must also be declared. Although it is not the focus of the declaration, other assets must also be disclosed, if they are relevant to evaluate the MP's performance.[118] In addition to private interests, MPs must declare gifts, tickets and third-party funded trips that exceed €400.

Austria provides a slightly different model, as members of both chambers of the national parliament are required to provide the president of their chamber, within 1 month of taking up their duties, with information relating to their outside activities and other public positions held and the income received therefrom.[119] The incompatibilities committee of each chamber must decide on the compatibility of the activities disclosed with the parliamentary mandate and, if the decision is negative, the MP must discontinue the activity. If that is not the case despite the refusal of authorisation to continue the outside activity, the competent body of the chamber may ask the Constitutional Court to end the parliamentary mandate of the MP affected. The system is therefore mainly geared towards ensuring compliance with the incompatibilities regime applicable to MPs.

The **rest of the EU Member States** provide for **broader financial disclosure systems** that generally include MPs' outside activities and income, business and other interests, assets, securities, and liabilities, thus offering a broader picture of the MPs' financial interests and assets, with a view to **also identifying possible cases of illicit enrichment**. This is the case for **Belgium, Bulgaria, Greece, France, Italy, Cyprus, Lithuania, Portugal, Romania and Slovenia**, which – as already explained in the previous section – impose on their MPs the same regime of financial disclosure obligations that is applicable to MEPs elected in the country (see Section 3.1.2). **Czechia, Spain, Estonia, Croatia, Latvia, Hungary, Malta, Poland and Slovakia** also apply a broad financial disclosure mechanism to their national MPs, although they do not apply the same requirements to MEPs elected in their countries (see Table 4). Although generally broad, the scope of those declarations differ from country to country.

For example, the two houses of the **Italian Parliament** require MPs to present several types of declaration. Within 30 days of the first session of the chamber, MPs must declare to the President the offices or positions of any kind they held when they presented their candidature for election and those they hold both in public or private bodies, as well as entrepreneurial or professional activities they may carry out. On the basis of these declarations, the chamber assesses compliance with the

[117] Paragraph 2 of the Rules on the registration of Members of Parliament and financial interests, adopted by the Committee on the Rules of Procedure on 18 May 1994 and modified in several occasions.

[118] For further details, see the Instructions of the Speaker's Council on the declaration of private interests by members of parliament and other corresponding practices related to the position of members, dated 9 March 2015.

[119] On the information that needs to be disclosed in Austria, see paragraph 6 of the Federal Act on Transparency and Incompatibilities for Supreme Bodies and Other Public Functionaries (Incompatibilities and Transparency Act).

rules on incompatibilities and ineligibilities.[120] In addition, Article 1(1) of Law No 441 of 5 July 1982 requires MPs from both chambers to submit, within 3 months of their election, a statement of their assets, income, election expenses and financing received (*dichiarazione per la pubblicita' della situazione patrimoniale*), together with their most recent annual income tax declaration. This latter obligation is also imposed on MEPs elected in Italy, as explained in Section 3.1.2, and has the same scope. In addition, every year Italian MPs are required to present their annual income tax declaration together with a statement indicating possible changes in their assets since the last declaration. Both chambers of the Italian Parliament adopted their code of conduct following recommendations issued by GRECO in its Fourth Round Evaluation Report on Italy.[121] However, none of these codes obliges Italian MPs to declare the gifts or other benefits received during their mandate.[122]

Spain requires MPs of both Houses of the Spanish Parliament (*Congreso de los Diputados* and Senate) to submit three different types of declaration, although the scope of those declarations is broader than in the Italian case, including a broader range of assets, liabilities and also interests. Spanish MPs have to provide a first declaration of activities, including all activities that could constitute grounds for incompatibility, outside activities that can be considered compatible with their parliamentary mandate – and therefore authorised by the Chamber – and any activities that could provide them with financial income (Article 160 of the Spanish Electoral Code[123]). The declaration must be submitted both when they become members of parliament, as a condition to become a full member, and when their circumstances change, and is used by the chambers to assess compliance with the incompatibilities regime applicable to MPs. Together with the declaration of activities, members of both houses must also submit a declaration of assets, including both immovable and some types of movable property, income from outside activities and liabilities.

In addition, the Code of Conduct of the Spanish Parliament, adopted by agreement of the Bureau of both Chambers of the Spanish Parliament on 1 October 2020 and applicable to members of both houses, also imposes an obligation on members to provide a declaration of financial interests that shall include the following information: a) activities carried out by the member in the 5 years prior to obtaining the parliamentary mandate and that could influence his or her political activity or have provided him or her with financial income; b) donations, gifts and unpaid benefits of any kind that the member has obtained for himself or herself in the 5 years prior to the beginning of the parliamentary mandate; c) foundations and other associations to which the member has contributed in the 5 years prior to becoming a member of parliament, or continues to contribute to while being a member, either financially or through the provision of unpaid services; d) any other information that the member of parliament considers relevant to determine a potential conflict of interest. Under Article 5 of the Code of Conduct, MPs shall abstain from receiving gifts or other benefits valued over €150, except when received while representing the chamber in official visits, in which case the gift shall be registered and hand over to the secretary-general.

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120 For the Camera dei Diputati, see: Article 15 of Regolamento della Giunta delle elezioni; III Code of Conduct, adopted by the Standing Committee on the Rules of Procedure on 12 April 2016. For the Senate, see: Article 3 of the Code of Conduct.

121 Fourth Round Evaluation report on Italy, adopted at GRECO's 73rd Plenary Meeting (21 October 2016) and made public on 19 January 2017, following authorisation by Italy.

122 IV Code of Conduct, adopted by the Standing Committee on the Rules of Procedure on 12 April 2016. For the Senate, see: Article 5 of the Code of Conduct.

123 The content of such obligation is further detailed in Articles 18-20 of the Standing Rules of the Spanish Congress, Article 26 of the Standing Rules of the Senate and the agreement adopted by the bureaux of both houses of the Spanish Congress on 21 December 2009, as amended on 19 July 2011. The agreement provides for a template/model declaration to be used by all members of both chambers of the Spanish Congress when submitting their declarations of external activities and assets.

Similarly, the members of the two houses of the **French Parliament** are required to submit different types of declarations. The Electoral Code requires them to submit to the High Authority for the Transparency of Public Life (*Haute Autorité pour la transparence de la vie publique*) a declaration concerning their assets and liabilities (Article LO 135-1 Electoral Code) within 2 months of taking up their parliamentary mandate. Similarly, they are required to submit within the same deadline a second declaration showing the interests held on the date of their election and in the 5 years preceding that date, as well as the list of professional activities or activities of general interest, even if not remunerated, that they intend to continue while in office. This second declaration should be sent not only to the High Authority, but also to the Bureau of their Chamber in order to assess compliance with the regime of incompatibilities applicable to MPs. In addition, the rules of procedure and codes of conduct of the two houses of the French Parliament require members to declare gifts over a certain value and travel expenses paid by third parties.[124] MPs must also make an ad hoc declaration of conflicts of interest when they consider that they should not take part in parliamentary activities owing to such a conflict.[125]

[124] For the National Assembly, see: Article 80(1)(2) of the Rules of Procedure of the National Assembly; Article 7 of the Code of Conduct of the National Assembly, as adopted by its bureau on 21 February 2022. For the Senate, see: Article 91(5) of the Rules of Procedure of the Senate and XX (b) Instruction Générale Du Bureau Du Sénat.

[125] For the National Assembly, see: Article 80-1-1 of the Rules of Procedure of the National Assembly; Article 7 of the Code of Conduct, as adopted by its bureau on 21 February 2022. For the Senate, see: Article 91 ter of the Rules of Procedure of the Senate and XX bis Instruction Générale du Bureau du Sénat.

Table 4 – Material scope of financial disclosure obligations imposed by EU Member States on members of their national parliaments

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Belgium	√	√ (only valuable property)	√	√	√	√	X	√	X
Bulgaria	√	√ (any means of transport subject to registration)	√	√	√ (over BGN 10 000 – approx. €5 000)	√ (over BGN 10 000 – approx. €5 000)	√	√	√
Czechia	√	√ (valued over CZK 500 000 – approx. €21 000)	√ (over CZK 100 000 – approx. €4 000 – per calendar year)	√	√	√ (exceeding CZK 100 000 – approx. €4 000)	X	√	√ (only gifts over CZK 10 000 – approx. €4 000)
Denmark	X	X	X	√ (over DKK 75 000 - approx. €10 000)	X	X	X	√	√ (gifts and benefits over DKK 3 000 – approx. €450, travel expenses abroad)

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Germany	X	X	√ (from professional activities or contracts if they exceed €1 000 per month or €3 000 per year)	√ (if over 5 %)	X	X	√	√	√ (gifts over €200 and donations over €1 000)
Estonia	√	√ (vehicles)	√	√ (if over 0.1 %)	X	√	√	√	√ (benefits exceeding the salary of senior civil servants by a coefficient 1.0 %)
Ireland	√ (interest on land valued over €13 000, excluding private home)	X	X	√ (over €13 000)	X	X	X	√	√ (gifts, benefits and travel expenses abroad over €650)
Greece	√	√ (vehicles)	√	√	√	√	√	√	√ (donations for political activity over €3 000 per year)

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Spain	√	√ (vehicles)	√	√	√	√	√	√	√ (gifts over €150)
France	√	√ (vehicles and valuable property)	√	√	√	√	√	√	√ (gifts, tickets and benefits over €150 and travel expenses paid by third parties)
Croatia	√	√ (all listed on public registers/those valued individually over HRK 30 000 except clothes and household items)	√	√	√ (amount over annual net income)	√	√ (only if activities and interests continue during mandate)	√	√
Italy	√	√ (listed on public registers)	X	√ (only for company shares)	X	X	X	√	X
Cyprus	√	√ (vehicles)	√	√	√	√	X	X	√ (gifts valued over €50)

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Latvia	√	√ (vehicles to be registered and assets valued more than 20 minimum monthly salaries)	√	√	√ (if over 20 minimum monthly salaries)	√ (if over 20 minimum monthly salaries)		√	
Lithuania	√	√ (listed on public registers and valuable)	√	√ (over LTL 5 000 – approx. €1 500)	√ (over LTL 5 000– approx. €1 500)	√ (over LTL 5 000– approx. €1 500)	X	√	X
Luxembourg	X	X	√	√ (only if it can affect the performance of mandate)	X	X	√	√	√ (donations for political activities)
Hungary	√ (excluding habitual or long-term dwelling used by declarant or his/her family)	√ (vehicles, protected pieces of art, protected collections and assets valued over HUF5 million – approx. €13 500)	√	√	√	√	√	√	X

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Malta	√	X	X	√	√	X	X	√	√ (travel expenses paid by third parties)
Netherlands	X	X	√ (only from wages and for MPs of the House of Representatives)	X	X	X	√	√	√ (only travel expenses to foreign countries and gifts over €50)
Austria	X	X	√	X	X	X	X	√	X
Poland	√	√ (valued over PLN 10 000 – approx. €2 200)	√	√	√	√ (valued over PLN 10 000 – approx. €2 200)	X	√	√ (travel expenses, gifts and other benefits/donations over 50 % of the minimum wage)
Portugal	√	√ (vehicles)	√	√ (over 50 minimum wages)	√ (over 50 minimum wages)	√	√	√	√ (travel expenses and gifts and other benefits over €150)

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States								
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)		Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate	During the mandate	
Romania	√	√ (vehicles; jewellery or arts valued over €5 000; other property valued over €3 000)	√	√ (over €5 000)	√ (over €5 000)	√ (over €5 000)	X	√	√ (any gift, service or advantage over €500)
Slovakia	√	√ (If valued over 35 times the minimum wage)	√	√ (If valued over 35 times the minimum wage)	√ (If valued over 35 times the minimum wage)	√ (If valued over 35 times the minimum wage)	√ (only for the calendar year before taking up office)	√	√ (gifts and other benefits valued over 10 times the minimum wage)
Slovenia	√	√ (over €10 000)	√	√ (over €10 000)	√ (over €10 000)	√ (over €10 000)	X	√	√ (gifts over €50)
Finland	√ (only for investment and valued over €50 000, thus excluding private home)	√ (only for investment and valued over €50 000)	√ (exceeding €5 000 per calendar year, and excluding income from capital and rents)	√ (giving over 20 % voting rights)	X	√ (only for commercial/business purposes and over €100 000 for debts and €200 000 for guarantees)	√	√	√ (gifts, tickets and travel expenses valued over €400)

EU Member State	Material scope of the financial disclosure obligations imposed on MPs by EU Member States							
	Immovable property	Movable property	Income	Shares/bonds/securities	Bank accounts/cash/Savings	Debts/liabilities	Interests and outside activities (e.g. positions in private/public sectors/ membership of NGOs etc.)	Gifts/other benefits (hospitality, donations, etc.)
							Pre-mandate / During the mandate	
Sweden	√ ((only for commercial/business purpose)	X	√	√ (over two price base amounts, currently corresponding to SEK105 000 – approx. €9 300)	X	√ (only for commercial/business purpose)	√ / √ (including contracts with an employer or client taking effect *after* the end of mandate)	X

4.2. Persons subject to the obligation

In 15 EU Member States, MPs are not required to provide information relating to their **spouses or other close relatives** (see Table 5). All the EU Member States that have a financial disclosure mechanism for MPs framed as a tool to identify and address possible conflicts of interest, namely **Denmark, Germany, Luxembourg, the Netherlands, Finland and Sweden**, are included in this list, together with **Austria** and some of the EU Member States that impose an obligation on MPs to disclose information on assets and liabilities. However, in some of these Member States, MPs are advised to consider whether information relating to spouses or other close relatives might also reasonably be considered by third parties as relevant in assessing their parliamentary activities and, if that is the case, to disclose information relating to their relatives. That is the case, for example, in the House of Representatives and the Senate of **the Netherlands**, where MPs are advised to provide this additional information when disclosing their outside activities and interest.[126] In **Ireland** too, information on spouses or civil partners and dependent children does not in principle have to be disclosed, but MPs have to submit a statement of additional interest with information relating to those relatives, if their interests could materially influence the performance of their parliamentary mandate.[127]

In **11 Member States, MPs are required to disclose information relating to spouses or partners** and in 9 Member States they are required to disclose information on their dependent children (see Table 5). The case of Italy is slightly different, as information relating to spouses and minor children is only disclosed if they consent.

Table 5 – Member States requiring the members of their national parliament to disclose information relating to their spouses or other close relatives.

Member States not requiring information from close relatives	Member States requiring information from close relatives	
	From spouses	From minor/dependent children
Belgium, Czechia, Denmark, Germany, Estonia, Ireland, Spain, Latvia, Luxembourg, Malta,[128] the Netherlands, Austria, Slovenia,[129] Finland, Sweden	Bulgaria (also cohabiting partner), Greece (also cohabiting partner), France (also cohabiting partner), Croatia (also cohabiting partner), Hungary, Italy (if consent is given), Cyprus, Lithuania (also cohabiting partner), Poland,[130] Romania, Slovakia	Bulgaria, Croatia, Greece, Italy (if consent is given), Cyprus, Lithuania, Hungary (all cohabiting children), Romania, Slovakia

126 Rule of conduct number 3, Code of Conduct of the House of Representatives; Article 6 of Code of Conduct of the Senate.

127 Paragraph 13 of the Ethics on Public Office Act 1995, Number 22 of 1995.

128 According to Article 16 of House of Representatives (Privileges and Powers) Ordinance (Cap 113) and Article 3 of the Code of Ethics of Members of the House of Representatives, information on spouses and minor children refers only to immovable property, and in the case of the spouse only if there is no separation of property between the couple (First Schedule, Standards in Public Life Act [CAP. 570]).

129 Family members (spouses, children or any other relative cohabiting with the MP) may also be required to disclose information on assets if, after the supervision of the assets of the MP, the Commission for the Prevention of Corruption has suspicions that the MP is concealing assets by transferring them to relatives or that these persons acquire from third parties assets that originate somehow from the exercise of the parliamentary mandate of their relative (Article 44b of the Integrity and Prevention of Corruption Act).

130 According to Article 35 of the Act on Performance of Mandate of Deputy and Senator, information on property covered by the matrimonial community shall be included in the declaration. Similarly, according to Article 35a of the same Act, information on benefits refers to both the MP submitting the declaration and his/her spouse.

4.3. Timing of the declaration

All EU Member States require MPs to disclose financial information at the **beginning of their mandate**, typically leaving them a more or less short period to disclose the required information. MPs must comply with their disclosure obligations within 1 week of taking up their duties in the House of Representatives of the Netherlands; within 4 weeks in Sweden; within 30 days in Croatia, Lithuania, Luxembourg and Romania; within one month in Austria, Bulgaria, Denmark and Slovenia; within 60 days in Portugal; within 2 months in France and Finland; and within 3 months in Italy, the German Bundestag and Cyprus, just to provide some examples (see Table 6).

Similarly, most EU national parliaments require their members to **update their declarations** during their term of office, either by requiring them to submit a new declaration every year (e.g. Bulgaria Ireland, Italy, Croatia, Lithuania, Austria, Romania and Finland), or by requiring them to update their declaration when their circumstances have changed (e.g. Denmark, German Bundestag, Spain, France, Luxembourg, Portugal, Slovenia and Sweden).

Finally, it is interesting to note that financial disclosure mechanisms geared toward identifying illicit enrichment usually require MPs to submit a declaration (usually of assets and liabilities) also at **the end of their parliamentary mandate** and, in some cases, some time after the end of the mandate; this is the case in Belgium, Bulgaria, Czechia, Estonia, Greece, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia and Slovakia. Such final declarations, when compared to the initial ones, can provide an indication of illicit enrichment.

Table 6 – Timing of declarations required of members of EU Member States' national parliaments[131]

Member States requiring MPs to submit declarations only at the beginning of the mandate	Member States requiring MPs to update their declarations during their mandate (following a change in circumstances or at regular intervals)	Member States requiring MPs to submit a final declaration once the mandate has ended
–	Bulgaria, Czechia, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden	Belgium, Bulgaria, Czechia, Estonia, Greece, France[132], Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia, Slovakia

[131] The information provided in this table does not refer to ad hoc conflict of interest declarations, or to the obligation to declare gifts and other benefits (e.g. travel expenses), as those declarations are usually to be submitted at any time during the parliamentary mandate when the situation triggering the obligation to disclose information arises.

[132] According to Article LO135-1 of the French Electoral Code, the final declaration must be submitted no later than 6 months before the regular end of the parliamentary term or within 2 months of the end of a MP's mandate in the event of the dissolution of the National Assembly or if the mandate of the MP ends before the regular end of the parliamentary term for any other reason.

4.4. Publicity

Most EU Member States (19 out of 27) ensure ample publicity for the declaration(s) provided by MPs, either on the national parliaments' websites or by means of other public information mechanisms (see Table 7). In some cases however, **publicity is restricted**, either because the declarations can only be accessed partially (e.g. Belgium, France, Croatia, Cyprus, Portugal), or because the information can only be consulted following specific procedures (e.g. Czechia, Estonia, France and Sweden).

For example, **Belgium** requires members of their national parliament to provide various declarations and not all of them are made available to the public. Publicity is ensured for declarations concerning other public offices, management or professional activities (*déclarations des mandats, fonctions dirigeantes ou professions*), but not for declaration of assets and liabilities (*déclarations de patrimoine*). The latter are confidential and are taken into custody by the Belgian Court of Audit; these may be consulted only by an investigating judge in the context of a criminal investigation (Article 3(4) of the Law on the obligation to file a list of mandates, offices and professions and a declaration of assets).

Similarly, in **France**, broad publicity is ensured for declarations of outside activities, as well as for ad hoc declarations of conflicts of interest and declarations concerning gifts and travel expenses received by MPs. However, publicity is limited in the case of declarations of assets and liabilities, which may only be accessed by voters at the municipality (*préfecture du département*) where the representative was elected (Article 135(2) of the Electoral Code).

In **Portugal** too, although MPs and other office holders and officials are required to submit a single declaration containing income, assets, liabilities, interests, incompatibilities and disqualifications, the information on interests is easily accessible on the website of the Assembleia da República, whereas the information on income, assets and liabilities can only be accessed upon request at the entity responsible for monitoring the declarations (Articles 15-17 of Law No 52/2019 of 31 July 2019, which governs the exercise of functions by political office holders and senior public officials).

Similarly, in some of the EU Member States that make financial declarations public, there are limits concerning access to **sensitive personal information and information relating to close relatives**. That is the case, for example, in **Bulgaria**, where officials subject to financial disclosure obligations can request that the information relating to their spouses or partners is not made public.[133] In **Greece, Croatia, Latvia and Slovakia** too, personal data whose publication is not justified for reasons of public interest is not available to the public; this is to preserve the right to privacy and protect personal data. This includes, for example, data that could allow identification of the assets of the person or information concerning his or her partner and/or minor children.[134] In **Hungary**, the information disclosed relating to the spouse and minor children of the MP submitting the declaration is available only to the members of the parliamentary committee verifying the content

[133] Article 37 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.

[134] Article 13 of the Croatian Act on the Prevention of Conflict of Interest (Zakon o sprječavanju sukoba interesa 'Narodne novine' 143/21); Article 7 of the Slovakian Law No. 357/2004 on the Protection of the public interest in the performance of the functions of public officials (SK version); Article 26 of the Latvian Law on prevention of conflict of interest in activities of public officials, adopted on 13 June 2002 (Par interešu konflikta novēršanu valsts amatpersonu darbībā); Article 32 of the Greek Law 5026/2023, on submission of declarations of assets and financial interests.

of declarations, the Committee on Immunity, Incompatibility, Discipline and Verification of Credentials.[135]

Table 7 – Publicity as regards declarations required of members of EU Member States' national parliaments

Member States ensuring broad publicity (usually via the internet and not necessarily including information on close relatives)	Member States ensuring limited publicity (relevant parts of declarations are not published or publicity is not granted via the internet)	Member States not ensuring publicity
Bulgaria, Denmark, Germany,[136] Ireland, Greece, Spain, Croatia, Italy,[137] Latvia, Lithuania, Luxembourg, Hungary, the Netherlands, Austria, Poland, Romania, Slovenia, Slovakia, Finland	Belgium,[138] Czechia,[139] Estonia,[140] France,[141] Cyprus, Malta, Portugal,[142] and Sweden[143]	----

[135] Section 94(2) of Act XXXVI of 2012 on Parliament.

[136] Declarations of interest and outside activities are published on the Bundestag website, together with information relating to donations and gifts of pecuniary value received by MPs in the context of international activities or when participating in events for the purpose of imparting political information and exceeding €3 000 (Sections 47 and 48 of the Act on the Legal Status of Members of the German Bundestag as passed on 21 February 1996 (Federal Law Gazette I, p. 326). Under that threshold, donations and gifts with a value exceeding €1 000 must be reported to the president, but the information is not published. Gifts of pecuniary value which an MP receives as a guest or host in connection with his or her mandate shall be notified and handed to the president if the material value of the gift exceeds €200, but information is not published.

[137] Only as regards the declaration of assets provided for in Law No 441 of 5 July 1982.

[138] Publicity is ensured for declarations concerning other public offices, management or professional activities (*déclarations des mandats, fonctions dirigeantes ou professions*), but not for the declaration of assets and liabilities (*déclarations de patrimoine*) that MPs are required to submit (Articles 2 (1) and 3(3) of the Law on the obligation to file a list of mandates, offices and professions and a declaration of assets, adopted on 2 May 1995.

[139] According to paragraph 13 of the Conflict of interests Act (Act No. 159/2006 Coll. as amended by Act No 14/2017 Coll. and Act No. 180/2022 Coll.), there is a public register, administered by the Ministry of Justice, and compiling all the information MPs and other office holders and officials need to disclose. However, access to declarations can only be made upon request on line, making use of a username and access password that shall be made available to the interested party by the register administrator.

[140] According to paragraph 16 of the Anti-corruption Act (Korruptsioonivastane seadus, 6 June 2012, RT I, 13. 4.2021, 4), declarations of assets, income, outside activities and interests of a number of office holders, such as MPs, are public, but in order to access the data, a person must identify themself by means of a digital ID. The declarant has the right to obtain from the register information on who has consulted his or her declaration.

[141] Only declarations of outside activities and ad hoc declarations of conflicts of interest and declarations concerning gifts and travel expenses are published on the internet. Publicity is limited, however, in the case of declarations of assets and liabilities (Article LO135(-1) Electoral Code; Arrêté du 28 mai 2014 fixant les modalités de consultation par les électeurs des éléments des déclarations de situation patrimoniale des membres du Parlement définis à l'article LO 135-2 du code électoral).

[142] Only declarations of interests and those concerning gifts, travel expenses and other benefits are published on the internet. This is not the case for declarations of income, assets and liabilities, however, which can be accessed on request either in person, at the entity responsible for monitoring the declarations, or remotely, through the attribution to the applicant of temporary digital access credentials for consultation of the declaration requested (Articles 15-17 of Law No 52/2019 of 31 July 2019, which governs the exercise of functions by political office holders and senior public office holders).

[143] The declarations are submitted to the Secretariat of the Chamber. They are entered into the register of financial interests, which consists of four folders kept at the Secretariat. The register and the documents in it are public and anyone is welcome to access them at the Chamber premises or order a copy by post or by e-mail from the Secretariat. However, the data is not available on the internet.

4.5. Monitoring and enforcement

A distinction can be drawn between EU Member States that provide a mechanism for **internal monitoring and enforcement** of the financial disclosure obligations imposed on MPs and those that have opted to give responsibility for that task to an **external authority**, that often exercises similar functions for other office holders and public officials as well as MPs. In the latter case, the external authority or body may or may not have sanctioning powers as regards MPs.

13 out of 27 EU Member States have entrusted the monitoring and enforcement of financial disclosure obligations imposed on MPs to **parliamentary bodies and services** (see Table 8). In these cases, MPs' declarations are typically submitted to an organ or service of the chamber that is tasked with maintaining the register of declarations from MPs and ensures minimum monitoring tasks, such as verifying that declarations have been submitted on time and do not contain clear errors or inconsistencies (e.g. Czechia, Denmark, Germany, Spain, Italy, Austria, Portugal, Finland, Sweden). As verification tasks are minimal, the effectiveness of the financial disclosure mechanism relies heavily on publicity and the capacity of those having access to the declarations to verify their completeness and accuracy.

In some cases however, a **body or service of the house** may have been entrusted with broader verification powers as regards the information disclosed or may be competent to deal with possible complaints relating to MPs' non-compliance with their disclosure obligations. That is the case, for example, in the two houses of the **Irish Parliament**, where the Committee on Members' Interests of Dáil Éireann, and the Committee on Members' Interests of Seanad Éireann, have been tasked with investigating complaints from any citizen relating to the non-compliance by MPs of both houses with their financial disclosure obligations. For MPs that are office holders, the Standards in Public Office Commission is in charge of investigating possible complaints. However, the Committees and the Commission may only issue a report as a result of their investigations; it would be for the relevant house to impose a possible sanction on the non-compliant MP.[144]

Another interesting example is the case of the Anti-Corruption Select Committee of the **Estonian Riigikogu,** competent to verify declarations of assets, income, interests and outside activities submitted by MPs and other office holders (the president of the republic and the members of government among them) under the Anti-Corruption Act. Although composed only of MPs, the Anti-Corruption Select Committee has broad verification powers. Not only can it require the MP submitting the information and a third party to explain the content of the declaration, it can also make inquiries and obtain data to cross-check the content of the declaration from credit institutions and databases of the state or local governments.[145]

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[144] In Hungary too, the Committee on Immunity, Incompatibility, Discipline and Verification of Credentials of the Hungarian National Assembly can receive complaints from anyone concerning situations of conflicts of interest or the declaration of assets, income, outside activities and interests of MPs, but its investigative powers are limited (Sections 91 (4) and 94 of Act XXXVI of 2012 on Parliament). Proceedings in front of the Committee may also be initiated by the Integrity Authority, created by Act XXVII of 2022 on the control of the use of European Union budget funds (Section 5 (6a)).

Similarly, in the Luxembourg Chamber of Deputies, a committee responsible for MPs' conduct, in charge of implementing the code of conduct annexed to the rules of procedure of the chamber, can receive complaints from any citizen relating to breaches of the code, including as regards the obligation to submit a declaration of interests, but its investigative powers are limited (Article 8 of the Code of Conduct applicable to members as regards financial interests and conflicts of interests, Annex I to the Rules of Procedure).

[145] Paragraph 15 of the Anti-corruption Act (Korruptsioonivastane seadus, 6 June 2012, RT I, 13.4.2021, 4).

A second group of Member States have opted for a different model, entrusting to an **authority external to parliament** the verification and/or monitoring of the declarations submitted, not only by MPs, but also by other public office holders or officials subject to similar obligations (see Table 8). In some cases, the Member States have opted to entrust this power to an already existing authority, such as the Court of Audit (**Belgium**) or the Ministry of Interior (**Czechia**). In other cases, an **independent ad hoc authority with broad verification and/or monitoring competences** as regards financial disclosure obligations has been set up with competences over **office holders from different branches of government** – the executive, the legislative branch and sometimes also the judiciary (e.g. **Bulgaria, France, Croatia, Latvia, Malta, Romania, Slovenia**).

The system put in place in **Slovenia** is an example of this second model, as the **Commission for the Prevention of Corruption** is an autonomous and independent state body created to enhance transparency and integrity within the public service. It has far-reaching powers in relation not only to MPs, but also to other office holders, including from the executive branch, and officials.[146] The Commission is composed of a Chief Commissioner and two Deputy Commissioners appointed for 6 years by the president of Slovenia on the basis of a reasoned opinion made by a candidacy committee composed of members drawn from the private and public sectors. The Commission's duties include supervising compliance with rules on incompatibilities, prohibitions regarding memberships and activities, limitations and prohibitions regarding the acceptance of gifts, restrictions on operations, the duty to avoid any conflicts of interest, and the duty to declare assets. The Commission supervises the accuracy, timeliness and completeness of asset declarations and compares them in order to identify suspected disproportionate increases in assets. If that is the case, the Commission can initiate proceedings to investigate the increase in assets, including by proposing that law enforcement and supervision authorities, such as the authority responsible for the prevention of money laundering, act within their powers to establish the facts regarding assets and property in the Republic of Slovenia and abroad. The Commission can also impose administrative fines for minor offences provided under the Integrity and Prevention of Corruption Act (Articles 77-79), such as failing to provide the declaration of assets or information relating to other activities; providing false data; or failing to cease to hold an incompatible office, for instance. The Commission's sanctioning powers also apply to MPs. However, if there are indications of criminal conduct, the Commission must pass the case to the prosecutor's office.

The **French High Authority for the Transparency of Public Life** (*Haute Autorité pour la transparence de la vie publique*) is another example of a public **independent authority with far reaching verification competences** as regards disclosure obligations imposed on office holders, including MPs. It is composed of a president, two members elected by the Council of State, two members elected by the Court of Cassation, two members elected by the Cour des Comptes, two members appointed by the president of the National Assembly, two members appointed by the president of the Senate and two members appointed by the government. It receives the declarations of interests and outside activities and the declarations of assets and liabilities that MPs are required to submit according to the French Electoral Code, but also the declarations that other office holders are required to submit according to the Act on public transparency (members of the executive are included). It verifies their completeness and accuracy. This can include transmitting the declarations to the tax authorities, which must provide the High Authority with all the information that it needs to enable it to assess the completeness, accuracy and sincerity of the declarations. It should be noted, however, that the High Authority may not impose a sanction on

[146] See, in particular, Article 12 of the Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 69/11).

MPs who fail in their obligation to provide a declaration of interests and outside activities or a declarations of assets and liabilities. When the High Authority identifies a breach of those obligations or changes in the assets of MPs for which it does not have sufficient explanations, it must forward the file to the public prosecutor after hearing the MP concerned (Article LO135-5 Electoral Code). In addition, a completely different monitoring and enforcement system is provided for declarations concerning MPs' conflicts of interest, gifts and travel expenses. Compliance with those obligations has been entrusted to a deontologist, appointed by the Bureau in the case of the National Assembly, and to a Deontological Committee, appointed by the president of the Senate in the case of the upper chamber.[147] The deontologist and the Deontological Committee have a monitoring and advisory role only, however, and cannot impose a sanction on an MP who is disregarding the rules on conflicts of interest and disclosure of gifts and travel expenses. It is for the governing bodies of each chamber to sanction non-compliant MPs for breaches of those rules.[148]

The dual objective of the French model, seeking both to prevent and address conflicts of interest and to identify illicit enrichment, explains the dual monitoring regime, which also allows the parliament to address conflict of interest situations internally, preserving its autonomy and independence. A similar approach has been taken in other EU Member States, such as **Lithuania**, where the tax authorities are directly entrusted with the monitoring of declarations of assets, not only from members of the Seimas, but also from other office holders and officials.[149] On the contrary, an internal parliamentary body, the Seimas Chief Official Ethics Commission, is in charge of monitoring conflicts of interest situations affecting MPs, including the obligation to submit a declaration of interests within 30 days of the election.[150]

The monitoring and enforcement mechanism put in place in the **House of Representatives of the Netherlands** also deserves further explanation, as it cannot be easily attached to any of the two major models explained at the beginning of this section. It provides a good example of a mechanism in which the power to impose sanctions on MPs disregarding financial disclosure obligations is kept within the hands of the chamber, whereas the verification of declarations is attributed to an independent body appointed by the chamber on the recommendation of the Presidium, the **Board of Inquiry on Integrity**. The Board, created in 2021 by the House of Representatives of the Netherlands, is tasked with receiving complaints about any alleged violation of the Code of Conduct applicable to MPs, which includes financial disclosure obligations.[151] Anyone can file a complaint with the Board. After examining the complaints received, the Board makes a recommendation and the chamber decides on possible sanctions to impose on MPs that have failed to comply with the code of conduct, including financial disclosure obligations, based on the Board's recommendation. In addition to investigating complaints, the Board also has an advisory function.

As regards the **sanctions that can be imposed on MPs who do not comply with the disclosure obligations**, some EU Member States do not **impose any sanctions on non-compliant MPs**, apart from the possibility to **'shame'** them by publishing their failure to comply with their disclosure

147 Article 4(4) of Decree No 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies; Article 91(6) of the Rules of Procedure of the Senate.

148 For the National Assembly, see: Articles 70-73 Rules of Procedure of the National Assembly. For the Senate, see: Articles 92-95 of the Rules of Procedure of the Senate.

149 Article 6 and 8 of the Law on the Declaration of Assets of Residents.

150 Articles 5 and 6 of Law on the approval, entry into force and implementation of the code of conduct for state politicians, 19 September 2006 No X-816 and Law on the adjustment of public and private interests, 2 July 1997 No VIII-371.

151 Regulation on Supervision and Enforcement of the Code of Conduct Members of the House of Representatives, March 2021.

obligations (e.g. Denmark, Finland, Sweden). In the Finnish Parliament, for example, the speaker of the house announces in plenary if an MP has not complied with his or her disclosure obligations, despite a request to do so.[152]

In some other national parliaments, the **range of possible sanctions** that can be imposed on an MP who has failed to comply with disclosure obligations is broader (e.g. Belgium, Czechia, Ireland, Spain, France, Croatia, Luxembourg, the Netherlands). In the **Dutch House of Representatives**, for example, it is up to the house to impose sanctions on an MP failing to comply with the chamber's code of conduct, which includes financial disclosure obligations. The house decides on the basis of a recommendation made by the Board of Inquiry on Integrity and can impose sanctions ranging from an instruction – including a measure obliging an MP to remedy the breach of the code of conduct – to a reprimand or the exclusion of an MP from participating in parliamentary activities for up to a month, except as regards votes.

In the **German Bundestag** too, the governing bodies of the chamber are entrusted with imposing sanctions for non-compliance with financial disclosure obligations. The possible sanctions to be imposed range from an admonition, for minor negligence such as not complying with the deadline to disclose information, to more serious financial penalties that can be fixed up at up to half the annual subsistence allowance.[153]

In **Luxembourg** too, MPs disregarding the rules relating to conflicts of interest included in the code of conduct of the Chamber of Deputies may be subject to various disciplinary measures dispensed by the governing bodies of the chamber. These range from an admonition, to an admonition with inclusion in the minutes, exclusion from committee meetings for a maximum of 6 months, and from holding an elected office within the chamber, becoming rapporteur or participating in an official delegation.[154]

Finally, some Member States provide not only for administrative or disciplinary penalties, but also for **criminal penalties** for MPs who fail to comply with certain financial disclosure obligations. This is the case for example in Belgium, Greece, France, Lithuania, Portugal, Poland and Romania. In **Belgium**, an administrative fine, ranging from €100 to €1000 can be imposed on those failing to comply with the obligation to declare the mandates, offices and professions that they exercise while holding public office, and assets and liabilities. The fine can be tripled in cases of subsequent failures to comply with the obligation. Criminal penalties can be imposed on those providing false information (Article 194 of the Criminal Code and Article 6 of the Law on the obligation to file a list of mandates, offices and professions and a declaration of assets).

In **Poland** too, failure to submit the declaration of assets results in statutory liability and loss, until the declaration is made, of the right to emolument, whereas providing false information or concealing it may result in criminal liability (Article 233(1) of the Criminal Code and Article 35 of the Act on Performance of Mandate of Deputy and Senator). In **Greece**, failure to submit asset and financial interest declarations on time is subject to administrative liability, but non-submission or inaccurate submission of those declarations is subject to criminal liability and can be punished with

[152] Section 76a of Parliament's Rules of Procedure.

[153] Section 51 of the Act on the Legal Status of Members of the German Bundestag as promulgated on 21 February 1996 (Federal Law Gazette I, p. 326).

[154] Article 8 of the Code of Conduct applicable to members as regards financial interests and conflicts of interests, Annex I to the Rules of Procedure of the Chamber of Deputies of Luxembourg.

imprisonment of 1 to 10 years depending on the seriousness of the offence (Articles 22 and 39 of Law 5026/2023 on the submission of declarations of assets and financial interests).

In the **French National Assembly** too, non-compliance with disclosure obligations relating to conflicts of interest, gifts and travel expenses are subject to disciplinary measures imposed by the governing bodies of the house. They range from an admonition, to an admonition with inclusion in the minutes, the loss of half of the MP's parliamentary allowance for 1 month and the loss of 2 months' allowance with temporary exclusion from parliamentary activities. However, non-compliance with obligations relating to declarations of interest and activities and assets and liabilities is subject to criminal liability, with the most serious breaches being punishable by imprisonment (Articles LO135-1 and LO 135-4 of the Electoral Code). In addition, the High Authority for the Transparency of Public Life must refer to the Bureau of the National Assembly the case of any MP who has not submitted one of those two declarations and the Constitutional Council may declare the MP concerned ineligible and terminate his or her mandate on a referral from the Bureau of the National Assembly (Articles LO136-2 of the Electoral Code).

Table 8 – Monitoring and enforcement authorities responsible for financial disclosure obligations imposed on members of EU Member States' national parliaments

EU Member State	Entity competent to monitor compliance with financial disclosure obligations		Entity competent to sanction MPs for non-compliance with financial disclosure obligations	
	Parliament body or service	Non-parliamentary body	Parliament body	Non-parliamentary body
Belgium		√ (Court of Audit)		√ (Court of Audit, except for criminal penalties)
Bulgaria		√ (Commission for Countering Corruption and for Confiscation of Illegally Acquired Property[155])		√ (Commission for Counteracting Corruption and Forfeiture of Illegally Acquired Property[156])
Czechia		√ (Ministry of Justice)		√ (Ministry of Justice)
Denmark	√		√	
Germany	√		√	
Estonia	√		√	
Ireland	√		√	
Greece		√ (Committee for the Audit of Asset Declarations)		√ (Committee for the Audit of Asset Declarations, except for criminal sanctions)

[155] Except for declarations on incompatibilities that are submitted to a Standing Committee of the National Assembly, which may also initiate the procedure to terminate the mandate of an MP if they fail to abide by the incompatibilities regime (Article 36 of Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act).

[156] Ibidem.

EU Member State	Entity competent to monitor compliance with financial disclosure obligations		Entity competent to sanction MPs for non-compliance with financial disclosure obligations	
	Parliament body or service	Non-parliamentary body	Parliament body	Non-parliamentary body
Spain	√		√	
France		√ (High Authority for the Transparency of Public Life, except for declarations on gifts, travel and conflicts of interest)		√ (competent criminal court/Constitutional Court, except for declarations on gifts, travel and conflicts of interest)
Croatia		√ (Commission for the Resolution of Conflicts of Interest)		√ (Commission for Deciding on Conflicts of Interest)
Italy	√		√	
Cyprus	√[157]		√	
Latvia		√ (State Revenue Service)		√ (State Revenue Service and Bureau for preventing and combating corruption, for administrative fines)
Lithuania		√ (State Tax Inspectorate , except for declarations on interest)		√ (State Tax Inspectorate or competent criminal court, except for declarations on interest)
Luxembourg	√		√	
Hungary	√		√	
Malta		√ (Commissioner for Standards in Public Life)	√	
Netherlands		√ (only for the House of Representatives – Board of Inquiry on Integrity)	√	
Austria	√		√[158]	
Poland		√ (Central Anti-Corruption Bureau)	√	

[157] The special parliamentary committee created to verify compliance with financial disclosure obligations may however have recourse to accounting or financial experts to verify the content of declarations, once an investigation has been launched (Article 7 of the Law of 2004 (49(I)/2004), on Declaration and Control of Property).

[158] Although the monitoring of the submission of declarations of outside activities is pursued in each chamber by a parliamentary committee (Incompatibilities Committee), only the Constitutional Court can end the mandate of an MP who is not complying with the incompatibilities regime (Paragraph 10, Incompatibility and Transparency Act (Unv-Transparenz-G))StF: Federal Law Gazette No. 330/1983 (WV)).

EU Member State	Entity competent to monitor compliance with financial disclosure obligations		Entity competent to sanction MPs for non-compliance with financial disclosure obligations	
	Parliament body or service	Non-parliamentary body	Parliament body	Non-parliamentary body
Portugal		√ (Constitutional Court[159])		√ (Constitutional Court)
Romania		√ (National Integrity Agency)	√ (except for criminal sanctions)	
Slovenia		√ (Commission for the Prevention of Corruption)		√ (Commission for the Prevention of Corruption, for minor administrative offences)
Slovakia	√		√	
Finland	√		√	
Sweden	√		√	

[159] According to Article 20 of the Law No. 52/2019, of 31 July 2019, the monitoring of the declarations submitted is the responsibility of a body to be set up in another. The Entity for Transparency was set up by Organic Law No 4/2019, of 13 September 2019. However, pending the entry into operation of the electronic platform for submitting the declarations, holders of political, senior public and equivalent offices shall submit them to the Constitutional Court in paper format (Article 25 (1) Law No. 52/2019, of 31 July 2019).

5. Conclusions

The imposition of financial disclosure obligations on elected and appointed office holders as well as public officials is considered by universal and European organisations to be an important tool when it comes to preventing and addressing corruption and conflicts of interest within the public sector. At United Nations level, the **UN Convention against Corruption** (2003), which also applies to people holding legislative office, lists a number of the preventive measures to address corruption. It recommends that states parties establish an effective financial disclosure system for appropriate officials and office holders, to include information 'regarding, inter alia, their **outside activities, employment, investments, assets, and substantial gifts or benefits** from which a conflict of interests may result' (Article 8 (5)). States parties are also invited to consider imposing **appropriate sanctions** for non-compliance (Article 8(6) and Article 52 (5)).

At European level, similar standards have been set by the various institutions and bodies of the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE) and the Organisation for Economic Co-operation and Development (OECD). Within the Council of Europe, the **Group of States Against Corruption (GRECO)** and the **Venice Commission** have been particularly active in this area, building on each other's expertise to frame their standards on financial disclosure obligations by office holders, including MPs and public officials. Although neither of the Council of Europe's Conventions against Corruption – the **Criminal Law Convention against Corruption** (1999) and the **Civil Law Convention against Corruption** (1999) – deals directly with parliamentary ethics or imposes any financial disclosure obligation, both bodies have recommended that Member States establish **interest and asset disclosure systems**, to apply, among others, to MPs, to prevent and address corruption and conflicts of interest, and to enhance transparency and trust in public institutions.

The **European Parliament** already requires its MEPs to submit a declaration of interests shortly after taking up their parliamentary duties. The declaration provides information as to the outside **activities, business and other interests** that may influence an MEP's performance and the **income** received, although the information provided on the latter is not given in precise amounts but using six income brackets, ranging from non-remunerated to remunerated at over €10 000 per month (Article 4 of the Code of Conduct, Annexed to the RoP). Disclosure is also required as regards **travel expenses paid by third parties and gifts** valued over €150 when they are received by an MEP representing Parliament in an official capacity. Receipt of gifts valued over €150 is banned, except when the MEP is representing Parliament in an official capacity, and gifts valued under €150 can be accepted by MEPs and do not have to be declared.

The **on-going debate** on how to strengthen the **European Parliament's integrity, independence and accountability** has included a discussion on the possible modification of its financial disclosure mechanism. The Conference of Presidents of the European Parliament has already endorsed a document produced by Parliament's President and including 14 points that would be the first steps in Parliament's reform process. The objectives endorsed by the political group leaders include the modification of the Code of Conduct to **increase the level of detail required in Members' declarations of financial interests** and to introduce a **new obligation** for MEPs to make a **declaration on conflicts of interest to the relevant committee secretariat when being appointed** as rapporteur or shadow rapporteur on a particular file. Parliament's resolution of 15 December 2022 on suspicions of corruption from Qatar and the broader need for transparency and accountability in the European institutions, goes further, raising the question of whether a '**declaration of assets by Members at the beginning and end of each mandate** would offer

additional safeguards against corruption'. In addition, the Commission has just put forward a **proposal for a directive on combating corruption** that would require Member States to adopt effective rules for the disclosure and verification of assets of public officials, including members of EU institutions.

When deciding on the extent of possible modifications to the financial disclosure obligations currently imposed on MEPs, it may be useful to take into account that international organisations and bodies usually distinguish between **financial disclosure mechanisms** geared towards addressing **conflicts of interest** and those aiming to **detect illicit enrichment**.

The first aim to prevent misuse of public office whereas the second seek to prevent, identify and prosecute corruption. The decision on whether to opt for one of these models or a combination of both depends on a variety of political, institutional and contextual factors. In this vein, considerations relating to the risks the system aims to address, the prevalence of corruption in the country or the existence of a strong culture of public service and well-institutionalised codes of ethics are relevant when opting for one system or the other. Countries with a long tradition of professionalism and strong ethical standards in public service and low levels of corruption may decide, for example, to set up a financial disclosure mechanism geared towards addressing conflicts of interest. Similarly, practical questions relating to the effectiveness of pre-existing legal frameworks and institutional arrangements making it possible to identify and sanction possible cases of corruption may also be relevant. Countries that do not have an effective tax administration or prosecution and law enforcement mechanisms that allow illicit enrichment to be identified and cases of corruption to be prosecuted may decide to opt for a disclosure mechanism system focused on identifying illicit wealth.

The **European Parliament** has currently a **financial disclosure system focused on preventing and addressing conflicts of interest**. A number of EU Member States (Denmark, Germany, Ireland, Luxembourg, the Netherlands, Finland and Sweden) have shaped their financial disclosure mechanisms following a similar logic, requiring MPs to disclose information that focuses mainly on their outside activities and interests, often requiring information on the income received by MPs for those activities and the gifts and benefits received. Austria's disclosure system is mainly geared towards ensuring correct application of MPs' regime of incompatibilities. The rest of the EU Member States have broader financial disclosure obligations imposed on MPs, requiring them to disclose information relating not only to their outside activities and interests, but also to their income and assets.

The choice of one model or the other has an impact on major elements of the system, from the information that must be disclosed to the framing of the competences of the authority set up to monitor and enforce the financial disclosure obligations. Any decision relating to the modification of the European Parliament's current financial disclosure system should therefore be preceded by a decision defining the final objectives and focus of the system.

The information requested from MPs depends largely on the objectives of the system. **Financial disclosure systems with a focus on conflicts of interest** tend to require **information** on **outside activities, interests and income**. As the main goal is to identify situations that may cast doubt on MPs' independent performance of their duties, the information required usually includes both remunerated and non-remunerated activities and pecuniary and non-financial interest, and should allow the entity for which the activities are done or in which interests are held to be identified. Interests may include high positions in private entities, other positions in the private or public sector,

pre-mandate and even post-mandate activities or positions, whether remunerated or not. (This is the case for example in Finland, Germany, the Netherlands and Sweden).

Information relating to interests can include details of bonds and securities, especially when the quantity of the securities owned is significant (e.g. Denmark, Finland, Germany, Ireland, Sweden), but also of liabilities, especially when the information required focuses on credit obtained for commercial or professional purposes and identifies the creditor (e.g. Finland, Sweden). It can even include information on immovable and movable property, when the information required does not refer to the family house or personal items, but to property owned for commercial or professional purposes (e.g. Finland, Ireland). Conflicts of interest can also derive from donations, gifts or other benefits, which may also be included in disclosure obligations.

As the European Parliament's current disclosure mechanism focuses mainly on pre-mandate (up to 3 years before taking office) and current outside activities, whether remunerated or not, the income perceived for those activities, holdings in companies where there are potential public policy implications or where the MEP has significant influence over the affairs of the body, donations for political purposes, and gifts, benefits and travel expenses, there is still room to extend the list of potential interests to be disclosed by MEPs, if it was considered appropriate.

Similarly, if it was considered appropriate to set up a **financial disclosure system focused on illicit enrichment**, MEPs should be required to disclose information allowing **all their income and assets** to be identified. Financial disclosure mechanisms with a focus on illicit enrichment require MPs to disclose information relating to all their immovable property (including their own home) and to valuable movable property (such as vehicles, jewellery and other assets over a certain value) (e.g. Belgium, Bulgaria, Czechia, Estonia, Greece, Spain, France, Croatia, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, Slovakia). Information on cash and/or bank accounts may also be required, together with information on securities and liabilities. In the latter case, the focus may be more on the value and not so much on the creditor or the entity in which securities are held, as the purpose is not to identify conflicts of interest but to have an accurate description of the assets of the person submitting the declaration. Similarly, all income and not only income from relevant outside activities should be declared, with a focus on the total amount received.

Decisions as to the **timing of the declarations** and whether the obligation to disclose information should include information relating to spouses and other close relatives also depend on the focus of the financial disclosure mechanism chosen. GRECO has recommended that Member States of the Council of Europe set up financial disclosure obligations that provide an accurate picture of the financial situation of those required to submit a declaration, are updated on on-going basis and include information on close relatives. The vast majority of EU Member States (26 out of 27) require their MPs to **update** their declarations either **at regular intervals or when the situation has changed**. Most of them also require MPs to **submit a declaration once the term of office has ended**; this is the case for Belgium, Bulgaria, Czechia, Estonia, Greece, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia and Slovakia. This obligation may help to track cases of illicit enrichment, but may not be so helpful in the cases of financial disclosure mechanisms with a focus on conflicts of interest, unless it is connected to rules possibly restricting post-mandate activities. As Parliament's current financial disclosure mechanism provides for the submission of an initial formal declaration of interests and its update whenever the situation has changed, discussions might focus on whether to require the update of the declaration at regular intervals and whether to require MEPs to provide a final declaration at some point after the end of their term.

When it comes to the **extension of disclosure obligations to spouses and close relatives**, GRECO and the Venice Commission take the view that it may be reasonable to require information as regards close relatives living in the same household as the person obliged to submit information, to **prevent** that person from **concealing relevant assets**. Although the reasoning seems to apply mainly to financial disclosure systems geared towards identifying illicit enrichment, the disclosure of information as regards close relatives may also be reasonably required in systems focusing on conflicts of interest, if the **relative's activities or interests could influence** or be seen to influence the **MP's performance** of his or her duties. Only 11 Member States require MPs to disclose information relating to their spouses, and 9 relating to their dependent children. However, in some other Member States, such as Ireland and the Netherlands, which have set up financial disclosure mechanisms focused on addressing conflicts of interest, the disclosure of information relating to close relatives may be required if it becomes relevant to assessing an MP's performance.

Currently, the European Parliament's financial disclosure system does not expressly require MEPs to submit information about close relatives. The possible extension of disclosure obligations to MEPs' close relatives should only be decided after a careful analysis of how the measure would help to attain the ultimate goals of the system.

The **publicity** to be given to the information disclosed by MPs is also a key element of a financial disclosure mechanism. GRECO and the Venice Commission have advocated for broad accessibility of financial declarations, with a few narrowly defined exceptions aimed at protecting the personal data of those disclosing information and that of their close relatives. The European Court of Human Rights case law seems to have backed this position, as it has considered that **unrestricted publication** of financial declarations **on the internet** does not violate the right to a private life entrenched in the European Convention on Human Rights, at least when the declarations published are submitted by elected representatives. Publication allows declarations to be subject to public scrutiny and has an impact on the degree to which the public is informed about the political process. **Of the 27 Member States, 19 ensure ample publicity** of the declaration(s) provided by MPs, usually by means of unrestricted access via the internet. This is also the case of the European Parliament. Parliament could however take a different approach, to preserve the right to privacy of MEPs and their relatives, if it decided to expand the scope of the disclosure obligations imposed on MEPs.

The type of mechanism used to **monitor and enforce** financial disclosure obligations is also a key element of any such system. GRECO and the Venice Commission have taken the view that monitoring mechanisms should be **independent and politically neutral**, should dispose of the necessary competences and capacities to develop their functions and that all their decisions should be reviewable by a court. However, the Venice Commission has also insisted on the fact that the choice of model should also take into account the special constitutional role of parliaments and the need to preserve their autonomy and independence.

In this respect, it should be noted that **13 EU Member States** entrust the monitoring of the financial disclosure obligations imposed on MPs to **parliamentary bodies and services**. The rest entrust the monitoring of such obligations to **external or independent bodies or authorities**, in some cases to pre-existing bodies (e.g. Belgium and Czechia) and in others to bodies specifically created to ensure the correct application of anti-corruption or conflict of interest rules. In these cases, the monitoring body is sometimes a **single centralised anti-corruption or conflict of interest agency** assuming powers over different branches of government (e.g. Bulgaria, France, Croatia, Latvia, Malta, Romania, Slovenia). However, even when an external body or authority has been granted the power to monitor compliance with financial disclosure obligations, the parliament's bodies may

have retained the power to impose sanctions on non-compliant MPs, in a bid to preserve their autonomy and independence (e.g. Netherlands, Malta, Poland, also partially France).

The current monitoring and enforcement mechanism put in place to ensure correct implementation of the European Parliament's financial disclosure mechanism is purely internal, with Parliament's President and the Advisory Committee on the Conduct of Members assuming major functions. Parliament has called on the European Commission to put forward a proposal to establish a single independent EU ethics body, as EU legislation may be required to establish such an institution, especially if EU institutions wished to create an independent authority with broad investigative powers, including the power to obtain data to cross-check the content of the declarations submitted from credit institutions and national databases. While awaiting such a proposal, Parliament could strengthen the current Advisory Committee by building on the experiences of other national parliaments. For example, in **the Netherlands**, the House of Representatives has created a Board of Inquiry on Integrity. It is composed of **three independent experts**, can **receive complaints from any citizen** about any alleged violation of the code of conduct applicable to MPs, and is tasked with examining those complaints and making recommendations to the chamber on possible sanctions to impose on MPs.

A final key element to consider when shaping a financial disclosure system applicable to MPs relates to the sanctions to be imposed in cases of non-compliance. Here, the UN Convention against Corruption requires **sanctions to be appropriate**. GRECO and the Venice Commission take the view that sanctions are appropriate when they **have a deterrent effect**. They advocate a combination of sanctions of an administrative, disciplinary and criminal nature that uphold the principle of proportionality and ensure that minor violations are punishable by disciplinary or administrative sanctions whereas more serious breaches lead to criminal sanctions, including **imprisonment**. Sanctions **limiting the right to stand for election** or that affect the **exercise of the parliamentary mandate** are considered particularly serious, as they may infringe the right to free elections, entrenched in Article 3 Protocol 1 of the European Convention on Human Rights.

The European Parliament's current financial disclosure mechanism provides only for disciplinary sanctions, the most serious being temporary suspension from parliamentary activities for between 2 and 30 days, a prohibition on representing Parliament for up to 1 year, and suspension or removal from any office elected within the Parliament (Rule 176(4-6) RoP). Within the context of on-going discussions, Parliament may wish to reflect on the deterrent effect of these sanctions.

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Act on the registration of commitments and financial interests of Members of Parliament (Lag (1996:810) om registrering av riksdagsledamöters åtaganden och ekonomiska intressen).

In the context of on-going discussions to strengthen the European Parliament's integrity, independence and accountability, this is one in a set of publications in which the European Parliamentary Research Service will analyse relevant international and European standards relating to parliamentary ethics, as well as the rules and practices put in place in selected EU Member States to promote the principles of transparency, accountability and integrity within their national parliaments.

Various international organisations consider financial disclosure to be a key tool in preventing and addressing corruption and conflicts of interest among parliamentarians. This paper compares financial disclosure obligations in national parliaments around the world, including in the European Union; and then examines the various proposals that have already been put forward in the European Parliament to modify the current reporting obligations imposed on its Members.

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