



The European Parliament Through the Looking Glass



Executive Summary

This policy brief looks at the **revolving door phenomenon** in the **European Parliament** (EP). Looking at the EP's current Code of Conduct it becomes clear that there is a huge gap regarding MEPs' post-employment activities. This topic is particularly relevant given the democratic and transparency standards that the EP as a directly elected institution should uphold. This policy brief is a comparative study of the cooling-off periods, the watchdog committees, and the enforcement measures in place in the US, Canada, Germany and the UK. Based on their best practices the aim is to provide a set of clear recommendations to bring conflict of interest rules for MEPs up to the best national standards.

Rules in Place in the EU: What is Missing?

The EU institutions **lack comprehensive and consistent rules** to regulate the so-called 'revolving doors phenomenon'. This phenomenon refers to the potential conflicts of interest which can arise when individuals take up new employment activities **after** having worked for an EU institution. This problem is particularly acute in the European Parliament (EP).

In its 2014 'European Union Integrity System' report, Transparency International EU Office (TI-EU) confirmed that "*The generally good controls on the conduct of staff contrast starkly with the weak checks on the behaviour of Members of the European Parliament (MEPs)*". For example, Commissioners are obliged to follow an 18 month 'cooling-off period' and this is increased to 3 years for judges at the European Court of Justice. No such period is in place for MEPs.

A Code of Conduct has been in place for MEPs since 2012 which sets out rules on conflict of interest and on the disclosure of an MEPs financial interests while they are in office. **Sanctions against MEPs** if they breach the Code of Conduct mainly rely on the 'naming and shaming' approach. Taking all of this into account we agree with TI-EU's statement that, "*The rules to prevent and to punish unethical behaviour by MEPs (...) are often inconsistent or contain gaps*".

The aim of this policy brief is to use the examples of good practice in 4 individual countries in order to improve upon the existing framework and include rules at EU level on potential conflicts of interest that arise after a MEP's mandate.

Approaches and Results

This brief relies on a comparative analysis of 4 different countries: the **United States** (US), **Canada**, **Germany** and the **United Kingdom** (UK). These countries were chosen in order to gain a complete picture on the conflict of interest rules that are in place both within and outside the EU. The focus of this brief will be on **3** aspects which will address the revolving doors phenomenon: 1) **cooling-off periods**, 2) **supervision of rules** and 3) **sanctions**.

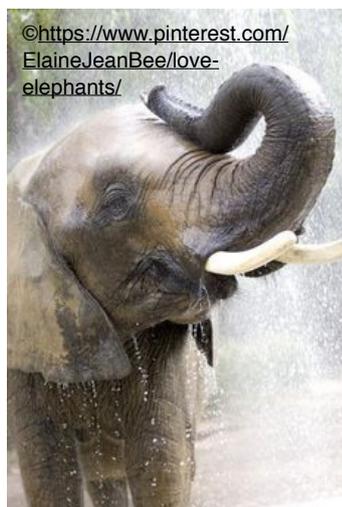


It's Cooling-Off Time!

In this first section we will recommend that MEPs respect a 'cooling off period'. This is a period of time in which ex-MEPs must not 1) undertake employment related to their parliamentary activities, and 2) must not approach Ministers, other members or public officials for reasons of lobbying.

The parliamentary Committee on Economic and Monetary affairs (ECON) decided to adopt a 2-year cooling-off period to prevent its members from immediately moving into the banking sector after leaving office. This has, however, not been enforced in practice.

The UK provides a good example. Following the 'cash for access scandal' the UK imposed in 2015 a **mandatory** 'cooling-off' period of **6 months** for MPs.



The UK's approach achieves a balance between ensuring the independence of Parliament and remaining fair to MEPs.

After all, MEPs are unlikely to have a long tenure and must find employment once their mandate is over. This is a more realistic 'cooling-off' period than that already proposed by ECON.

The Advisory Committee: a Watchdog with no Bark and Bite?

As the EU Ombudsman Emily O'Reilly stated in March 2014 there is a **lack of independent monitoring and enforcement** of the Code of Conduct in the EP. There is an **Advisory Committee** responsible for ensuring compliance with the Code of Conduct but its independence is questionable because it is composed of five current MEPs from the main political groups.

The US and Canada provide the best practice. Canada has an **Ethics Commissioner** independent from government and accountable only to parliament. The US has a non-partisan **Office of Congressional Ethics (OCE)** composed of private citizens in charge of monitoring the conduct of members and staff of the US House of Representatives. When appropriate the OCE refers allegations of misconduct to the United States House Committee on Standards of Official Conduct, also known as the '**Ethics Committee**'.



All in all, having an independent Ethics Commissioner or Committee will not by itself solve all the revolving door problems the EP has. The monitoring and supervision should only be viewed as a part of a bigger effort directed at solving the problem.

Let's talk about... Enforcement

So the question that arises now is: what is the point of having a cooling-off period and a watchdog committee if failure to comply with the rules has virtually no consequences? Currently the only reference to post-employment in the EP Code of Conduct is to forbid former MEPs from using its buildings for the purposes of lobbying.

Germany provides a first step in the right direction. Germany requires for the first 18 months cabinet members to **inform** the government about their post public office position in the private sector. The government then decides whether it is necessary to enforce a ban to prevent the taking up of this new position.

Again we found better examples of best practices on the other side of the Atlantic

where sanctions are clearly stated in the Law or the parliamentary Code of Conduct.

In case of misconduct of the Canadian parliamentary staff the sanctions can amount to a **fine, damages** or even termination or **reduction of a government pension**. In the US, the punishment can amount to a **\$50 000 fine or even prison** if Members of the House of Representatives

break the rule of refraining from lobbying any employee of Congress during their cooling-off period.

Although prison or reduction in government pensions are measures that could not be contemplated in any way by the EP, we can look to the German, American and Canadian examples for good practices.



Recommendations

to bring conflict of interest rules for MEPs up to the best national standards

- Reform the EP's Code of Conduct to make it more visible and comprehensive.
- Set a 6 months cooling-off period and demand MEPs to disclose their subsequent employments for up to 1 year after leaving office.
- Establish an Independent Ethics Body in the EP to monitor and enforce the above recommended rules on post-employment.
- Enforce the rules by 1) requesting authorisation for post public office employment and 2) imposing fines in case of non-compliance.

Implications

- These recommendations would require good will from the MEPs to engage in a significant reform of the EP's Code of Conduct.
- To ensure that our recommendations are implemented in a transparent and effective way the Independent Ethics Body should release updated reports on post-employment activities.

Useful Links

Transparency International, EU Integrity Watch, available at: <http://www.integritywatch.eu/>

Transparency International, EU Integrity Study, available at: http://www.transparencyinternational.eu/focus_areas/eu-integrity-study/

European Parliament Code of Conduct (2012), www.europarl.europa.eu/pdf/meps/201305_Code_of_conduct_EN.pdf

Corporate Europe, Revolving Door Watch, available at: <http://corporateeurope.org/>

Contact Persons

Marine Borchardt, marine.borchardt@coleurope.eu

Elisa Gallego, elisa.gallegosilva@coleurope.eu

Marikki Riepolla, marikki.riepolla@coleurope.eu

Melissa Thomas, melissa.thomas@coleurope.eu