

## **POLICY POSITION ON AN INDEPENDENT EU ETHICS BODY**

### **Background**

The existing ethics bodies in the Commission and Parliament have proven to be unable to either prevent or effectively manage cases of revolving doors, conflicts of interest or breaches of the codes of conduct. This has been demonstrated by scandals often being uncovered by [civil society](#) and [investigative journalists](#). The Parliament's sanctioning mechanisms also remain weak and have not been properly used by the President, who has the sole discretion in issuing punishments for ethical violations. It was also recently revealed that the [procedure to vet Commissioner Candidates](#) on potential conflict of interest lacks independence from political interests. The deficiencies in the rules and frameworks that govern ethics undermine citizen confidence in the EU and its institutions and clearly indicate the need for an independent ethics body common to all EU institutions.

### **Process**

TI EU has advocated for an independent EU ethics body common to all EU institutions for many years, being one of the key policy asks in [our 2019 EU elections pledge](#). In her [political guidelines for 2019-2024](#), European Commission's President Ursula von der Leyen committed to the creation of such a body.

More recently, the European Parliament has adopted in plenary an own-initiative report calling for an EU ethics body and outlining its views on it. The Parliament's position has positive signs but lacks ambition in key areas. We highlight both below.

### **Parliament's own initiative report – positive points**

#### **Legal basis**

The European Parliament "proposes the conclusion of an interinstitutional agreement (IIA) based on Article 295 TFEU to set up an independent EU ethics body" (Para. 1). TI EU agrees with the legal basis proposed.

#### **End existing fragmentation**

In line with both TI EU's recommendations and the Commission's political guidelines, the Parliament defends the creation of a single independent EU ethics body common to all EU institutions, so as to "ensure the consistent and full implementation of the ethics

standards across the EU institutions” (Para. 1). TI EU also agrees that for this to become a reality, the new independent EU ethics body should:

- Replace all other existing bodies for ethics in the EU (Para. 19) and include both elected officials and EU staff in its scope and mandate (Para. 5). Such an approach would be consistent with ethics bodies at national level that are currently seen as golden standards – [France](#) and [Canada](#).
- Work in a complementary fashion with other oversight bodies, such as the European Ombudsman, the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO), the European Court of Auditors, and the Court of Justice of the European Union (CJEU) (Para. 2), as they each have distinct mandates.
- Harmonise ethical standards in all EU institutions, agencies and bodies (Para. 40). As an example, [whistleblower protection rules](#) differ significantly between the institutions, despite that protection deriving from the same staff regulation.
- Be given authority on all issues related to ethics and integrity of public institutions and policy-makers. This entails checks on transparency obligations including in the legislative procedure, compliance with revolving door rules, potential and real conflicts of interests (Para. 10), lobbying rules and whistleblower protection (Para. 14), among others. Such an approach would be in line with other similar bodies at [national level](#) and is also supported by our research on the [EU’s existing integrity systems](#).

## **Transparency**

TI EU supports the ‘transparency by default’ position in the Parliament’s text. This includes:

- Transparency in the publication of all recommendations, annual reports, decisions and spending in a machine-readable format (Para. 45). TI EU believes that all recommendations and decisions should be accompanied by all know facts on the matter, as well as the analysis undertaken by the EU ethics body. This approach is [already employed by the existing Commission’s Independent Ethics Committee](#).
- Full transparency in the [procedures and criteria for selecting senior officials](#) in the EU institutions (Para. 56).
- Transparency of all meetings organised by and involving the ethics body with private actors and their representatives (Para. 42). TI EU considers that due to the role of the ethics body in ensuring greater transparency and accountability, such best practices of transparency of meetings should also be extended to EU officials, whether elected or unelected.

## Right of initiative

According to the Parliament's position, the independent EU ethics body should "have the **right to start an investigation on its own initiative and to conduct on-the-spot and records-based investigations** based on the information it has collected or that it has received from third parties, such as journalists, the media, NGOs, whistleblowers, civil society or the European Ombudsman" (Para. 16). This position is in line with TI EU's recommendations and with practices of other existing ethics bodies at national level, such as in [France](#) and [Canada](#).

## Parliament's own initiative report – negative points

### Sanctioning

The Parliament's text fails to address the most significant shortcoming of the existing ethical framework at EU level – unbiased sanctioning.

The Parliament's view is that the "Parliament's President, the Commission's College or the respective authority of a participating institution will remain in charge of the final decision-making power" (Para. 3). Our research on side jobs and conflicts of interest during the last parliamentary term clearly showed that [the current approach of peer-sanctioning by a single individual does not work](#), as none of the 24 MEPs that breached the Code of Conduct received a penalty by the Parliament's President at the time. Such an approach has a high risk of political bias.

TI EU's position is that the independent EU ethics body should have the **power to take binding decisions in the case of staff members**. In the case of **Commissioners and Members of Parliament**, the **body should make a reasoned recommendation for sanction**, being the **final decision taken by the entirety of the College or the Plenary, through simple majority**. The vote of each individual member should be made public. There is precedent in similar voting mechanisms, such as those to strip Members of Parliament of parliamentary immunity.

### Requests for additional information

The Parliament considers that the independent EU ethics body "should rely on the existing powers of institutions to ask their members for information" (Para. 3). This position, however, leads to unnecessary bureaucratic burden and introduces the potential for political bias in a simple monitoring procedure.

According to [Art. 4\(5\) of the Parliament's Code of Conduct for Members of the Parliament](#), a request for updated or more detailed information regarding a Member's declaration of financial interest can only be done by a single individual - the President of the Parliament.

So as to eliminate this potential for political bias and to streamline monitoring, **the ethics body should have the power to request information directly from the individual concerned** – independently of whether this individual occupies an elected or an unelected position. This independence in monitoring is already followed by [national ethics](#) authorities.

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