



THE CREATION OF AN EU ETHICS BODY

QUESTIONS AND ANSWERS

Why do we need an EU ethics body ?

Equal rights of citizens, citizens' trust in public institutions, guarantees that public decisions are taken in the general interest, based on elections' results and political majorities and not captured by private interests, integrity of public officials are key features of any functioning democratic system. This requires irreproachable and fully enforced ethics rules applicable to public institutions and officials and to decision-making processes.

In the EU, we have ethics standards that are in many ways ahead of national and regional rules in the EU. However, because they rely solely on a self-regulatory approach where members of each institution judge themselves, **they are in reality poorly enforced**. In the European Parliament for example, despite at least 24 alleged breaches of the code of conduct, no procedure ever led to a sanction. **The ethics rules are also very fragmented**, with different rules and different procedures applicable to the different institutions, even the same staff regulations applied differently, which reduces their transparency and their understanding by citizens and by the individuals concerned.

As a result, multiple cases of unethical behaviours in the recent years and their insufficient handling by the EU institutions, like the revolving door cases of José Manuel Barroso and Neelie Kroes, conflicts of interests of MEPs like Rachida Dati, the cash for amendment scandal have harmed the trust European citizens put in the EU institutions, contributed to damaging the reputation of the European Union and shown that the EU ethics oversight system falls short of the expected impacts.

This is why we believe that we need a **single** and **independent** EU ethics body.

How would we create such a body?

To create this body, we propose the conclusion of an **inter-institutional agreement between the participating institutions, based on Article 295 TFEU**, starting at least with the Parliament and the Commission and open to all institutions, agencies and bodies willing to join at any point in time.

What would be the competences of this new EU ethics body?

The new EU ethics body would be charged with the competences to **monitor the implementation of ethics standards** applicable to the participating institutions as well as with **advisory, investigative and enforcement** powers.

It could also be given authority over the EU Transparency Register and monitor and enforce the compliance by lobbyists and lobbied individuals with lobbying rules.

Who will be covered by the oversight of this body?

Commissioners, Members of the Parliament and all the staff covered by the staff regulation working for the participating institutions would be covered, during and after their term of office or service, in line with applicable rules, notably revolving doors rules.

How would it be composed?

We propose that this body is composed of a **college of 9 members**, among which 3 shall be chosen by Commission, 3 shall be elected by Parliament, 3 shall be de jure members from former presidents of the European Court of Justice, the Court of Auditors and the Ombudsman.

The 9 members would be chosen on the basis of their competence, experience and professional qualities as well as their personal integrity. They should have an impeccable record of ethical behaviour. The composition of the College should be gender balanced;

The college would be assisted by a **secretariat with the human and financial resources commensurate to its tasks**.

How would it work in case of breach?

We suggest that the EU ethics body could apply a **two-steps approach** whereby, in case it becomes aware of a breach or possible breach of ethics rules, it first recommends, respecting confidentiality, actions to put an end to the breach. In case the individual refuses to take the appropriate actions and the breach remains, the EU ethics body would make relevant information about the case public and decide, if appropriate, on sanctions.

We also believe that intentional breach, gross negligence, dissimulation of evidence and non-compliance with cooperation obligations should be sanctioned even when the breach has ceased.

Is it legally possible to do this?

Yes. All the competences this body would have already exist and are in the hands of the institutions concerned. According to what is called the *Meroni doctrine*, developed by the Court of Justice of the European Union, it is possible for institutions to delegate their competences to external bodies, even when these competences are not exercised yet, as long as the delegation is precise and remains in the remit of current existing competences.

Why don't we rather empower an existing body to perform these tasks or improve the current different ethics bodies in each institution?

We have looked into different options to fix the EU ethics system. Neither empowering existing structures like OLAF, the EU Ombudsman or the Court of auditors nor using a different legal basis (like 298 TFUE or 352 TFUE) seem to be sufficient, being from procedural, scope or competence issues.

Therefore, **we believe that an Article 295 TFEU IIA-powered ethics body is both from a legal but also practical point of view the best way** to establish an EU ethics body capable of addressing some of today's shortcomings and ensure the EU ethics oversight system works.

For more information, please contact daniel.freund@europarl.europa.eu or nina.walch@europarl.europa.eu