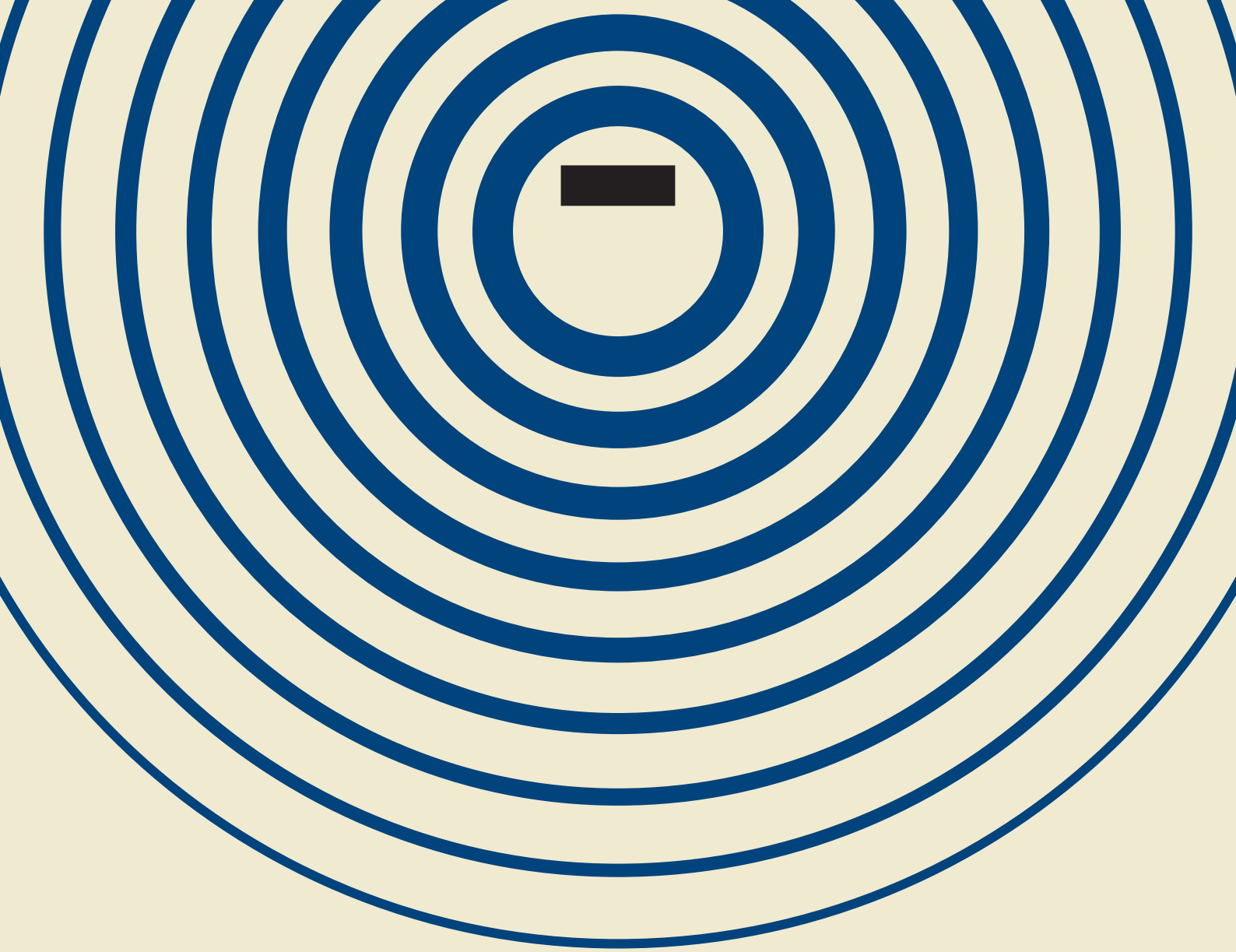

Parliamentary Integrity: A Resource for Reformers

OSCE ODIHR

Parliamentary Integrity: A Resource for Reformers

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Foreword

In the eight years since the *Background Study on Parliamentary Integrity* was published, there has been growing interest across the OSCE region in developing and reviewing professional standards for parliamentarians. This has been driven, in part, by the frequency with which cases of misconduct by high-level politicians have come to light, revealing major breaches of public trust.

The public accountability and political credibility of parliaments are cornerstone principles to which all OSCE participating States have subscribed, dating back to the Paris Document of 1990, where the states unanimously affirmed that "[d]emocracy, with its representative and pluralistic character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially". In 1999, in the Istanbul Document, they followed up with the pledge to strengthen their efforts to "promote good government practices and public integrity" in a concerted effort to fight corruption.

Regulating parliamentary behaviour and ethics is essential to securing public trust in the efficacy, transparency and equity of democratic systems, as well as to fostering a culture of public service that favours public interest over private gains. The cases of misconduct by high-level politicians in recent years have undercut that trust: Thirty-one per cent of respondents to a 2017 poll from Europe and Central Asia said they perceived most or all members of parliament as corrupt.

Public concerns emerging from surveys of public perceptions generally relate to financial matters and conflicts of interest, levels of attendance at parliamentary sessions and committee meetings, the use of privileged information and the misuse of parliamentary allowances.

These concerns have provided further impetus for the development and review of codes of conduct to set out explicit standards for parliamentary behaviour and ethics. This comparative resource has been produced to assist in that process, based on the mandate the OSCE participating States have given the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to help them "build, strengthen and protect democratic institutions."

The aim of this study is to identify the main concerns and possible obstacles that need to be considered while reforming, developing and designing parliamentary standards of conduct, including, but not limited to, codes of conduct. In the field of parliamentary integrity, marked by fast-changing ethical norms and citizens' expectations, this publication favours a snap-shot approach of currently existing codes of conduct or ethics in the OSCE region over a rigorous cross-country analysis. The cases selected are skewed towards countries where such codes ex-

ist. Thirty-four of the 57 OSCE participating States have adopted codes of conduct for their national parliaments, with 20 of these put in place since the publication of the *Background Study on Parliamentary Integrity*, in 2012.

What people regard as an acceptable – or indeed desirable – standard of conduct is constantly changing, particularly in societies that are undergoing major economic, political and social changes. The institutional and political environment in which parliaments operate also changes as elections bring different parties to power, sometimes facilitating constitutional reform or widespread changes to appointments. New technologies bring not only novel opportunities, but also new risks. Individuals may change their behavior in response to new rules designed to regulate misconduct. Sometimes, as one loophole is closed those who wish to evade the rules find new ones to exploit.

For all of these reasons, the establishment of good practices to build institutional and individual integrity is ongoing and remains a core aspect of political life. In this publication, ODIHR has updated its advice and support for parliamentarians, and especially for those among them who aspire to be ethical leaders. We hope this second edition will help to shape standards, to change norms and to build high-integrity political cultures in parliaments throughout the OSCE region.

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Acknowledgements

This comparative resource, *Parliamentary Integrity: A Resource for Reformers* expands on the *Background Study: Professional and Ethical Standards for Parliamentarians,* published in 2012. Elizabeth David-Barrett, Senior Lecturer at the University of Sussex in the United Kingdom, drafted both publications.

ODIHR also acknowledges the expert peer reviewers who provided comments and suggestions during the drafting of this publication. These include representatives of the Group of States Against Corruption (GRECO) of the Council of Europe, the General Secretariat of the National Assembly of France, the Inter-Parliamentary Union (IPU), the OSCE Presence in Albania, the National Democratic Institute Office in Georgia and the OSCE Parliamentary Assembly.

Introduction

Since the publication in 2012 of the *Background Study: Professional and Ethical Standards for Parliamentarians* the focus on the need to further develop professional standards for parliamentarians, as well as to review those already in place, has grown.

One factor underpinning this growth can be found in a significant number of high-profile cases of misconduct by senior public officials in recent years, including by members of parliament (MPs).

These scandals have not been limited to national parliaments. Perhaps the highest profile of these has been that of "caviar diplomacy", in which a number of members of the Parliamentary Assembly of the Council of Europe (PACE) were found to have accepted gifts, including money, to silence criticism about human rights abuses. Following a series of allegations and investigative reports, in January 2017 PACE established an Independent Investigation Body on the allegations of corruption. As part of this process, in October 2017 PACE adopted a revised code of conduct for its members,[1] following specific recommendations coming from the Group of States Against Corruption (GRECO) of the Council of Europe.[2] The revised code provides for tighter restrictions on lobbyists, as well as steps to ensure former members who engage in paid consultancy do not benefit from any special privileges.

Another important development since the first edition has been the release of different country findings within the framework of GRECO's Fourth Evaluation Round on Corruption Prevention among Members of Parliament, Judges and Prosecutors for the 49 Council of Europe member states. Since 2012, this round of evaluations has revealed many differences in standards and practices among members that are also OSCE participating States, as well as provided a basis for a new set of GRECO recommendations.[3]

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1 See: "Follow-Up to Resolution 1903 (2012): Promoting and Strengthening Transparency, Accountability and Integrity of Parliamentary Assembly Members", PACE, 10 October 2017, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24171&lang=en>.

2 See: "Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe", GRECO, 19 June 2017, <https://rm.coe.int/assessment-of-the-code-of-conduct-for-members-of-the-parliamentary-ass/1680728008 >.

3 In respect to each of the groups (MPs, judges and prosecutors), GRECO focused on five priority issues, namely: 1) ethical principles, rules of conduct and conflicts of interest; 2) the prohibition or restriction of certain activities; 3) declarations of assets, income, liabilities and interests; 4) enforcement of the applicable rules; and 5) awareness. In the Fourth Evaluation Round, 37 per cent (231) of all recommendations focused on MPs. Out of all recommendations issued with respect to MPs, 23 per cent focused on supervision and enforcement of rules, 18 per cent on prohibition or restriction of certain activities, and 17 per cent on ethical principles and rules of conduct.

In the wake of the #metoo movement, and in recognition of a growing body of knowledge related to gender-sensitive parliaments and violence against women politicians, this second edition also explores ways to improve standards to ensure that parliaments are welcoming and safe places for everyone, as well as ways to support the promotion of broader gender equality within democratic institutions.

In reviewing developments since the first edition, some key trends have shaped the environment in which parliamentarians now find themselves when embarking on reform. These trends, which will be covered in greater depth throughout the report, are highlighted here.

1. Low levels of public trust

Repeated corruption scandals appear to have contributed to the persistence of low levels of trust in democratic institutions. According to the 2017 Transparency International Global Corruption Barometer, parliamentarians are seen as the most corrupt professionals in Europe and Central Asia, with 31 per cent of respondents saying they perceive most or all MPs as corrupt. Government officials are not far behind, with 30 per cent of respondents saying they perceive them to be corrupt.[4] Surveys in the European Union continue to report low levels of trust in national parliaments.

Meanwhile, data from a Pew Research Center survey of Global Attitudes and Trends, conducted in 38 countries (including 14 OSCE participating States), find that public commitment to the idea of representative democracy as a whole is surprisingly weak in many countries. When asked whether a democratic system in which representatives elected by citizens decide what becomes law would be a good way of governing their country, only 26 per cent of Hungarian respondents and 20 per cent of those in Poland replied "very good", compared to 54 per cent in Sweden and 46 per cent in Germany.[5]

At the same time, public attitudes are relatively positive towards systems where experts, rather than elected officials, decide on laws. In the same Pew survey, 42 per cent of respondents thought such a system was a good idea. While there was only 14 per cent support in the countries surveyed for a system in which a "strong leader" could make decisions without "interference" from parliament or the courts, opinions on these matters vary considerably among countries. In Italy, for example, 29 per cent of the respondents thought that such a system with an unchecked executive was somewhat or very good.

These figures suggest that parliaments are failing to build strong public confidence, and that this might be feeding into dissatisfaction with representative democracy as a system. If so, this suggests a need to fundamentally reform current parliamentary practice.

4 See: "People and Corruption: Citizen's Voices from around the World", Transparency International, 14 November 2017, <https://www.transparency.org/whatwedo/publication/people_and_corruption_citizens_voices_from_around_the_world>.

5 Wike, Richard; Simmons, Katie; Stokes, Bruce & Fetterolf, Janell, "Globally, Broad Support for Representative and Direct Democracy", Pew Research Center, 16 October 2017, <http://assets.pewresearch.org/wp-content/uploads/sites/2/2017/10/17102729/Pew-Research-Center_Democracy-Report_2017.10.16.pdf>.

2. Limiting oversight functions

One disconcerting trend, including in the OSCE region, relates to the undermining of democratic institutions, such as national parliaments, that are supposed to act as checks and balances. This has had the effect of limiting their oversight functions. This covers a range of activities, including the manipulation of electoral systems to benefit incumbent parties; the abuse of immunity laws to protect parliamentarians who have committed wrongful acts from prosecution; the use of patronage powers to appoint loyal allies to institutions that are supposed to act as checks on executive power, including the judiciary; and officeholders using their power to constrain the media and civil society organizations. These types of conduct are often described as "institutional corruption"[6] or "democratic backsliding."[7]

3. Public integrity

Against a background of public distrust and weakening institutions, there has also been a greater focus on what could be called "public integrity," calling for parliaments to promote and incentivize ethical behavior. Expectations of how MPs should conduct themselves change as current events shape the agenda. Everywhere the nature of political life continues to be changed by novel forms of political activity, new means of mass communication, increased citizens' participation in politics, and innumerable other social, economic and technological developments, all of which influence the definition of and discourse about public integrity.

For example, since the publication of the first edition of the *Background Study*, norms related to the employment by MPs of family members on their parliamentary staff have changed in some countries. Twenty years ago, this practice was widespread in many established parliaments. At the time of writing the first edition, debate was emerging over whether it was appropriate for parliamentarians to employ spouses or children as secretaries or researchers. A number of concerns were being raised – for example, that the practice could be regarded as a way for MPs to boost family income with public money, that such hiring practices were non-meritocratic, and that MPs were less likely to impose discipline on staff who were family members. France and the United Kingdom have both since banned MPs from hiring family members as staff, although existing employees with close family links to MPs were not affected.

Similar trends have had an effect on the role of lobbying, with a number of national legislative frameworks adopting measures to regulate the relationships between lobbyists and MPs. This trend is often driven by enormous pressure coming from the international community, as well as from national actors and the public.

4. Gender

Recent years have also seen more public discussions on combating sexual harassment, gender-based violence and sexist language in parliaments, with allegations and incidents recorded

6 For a discussion of institutional corruption, see, for example: Thompson, D. F., "Theories of Institutional Corruption", *Annual Review of Political Science*, Vol. 21, 2018, pp. 495–513, for a discussion of institutional corruption.

7 See Bermeo, N., "On Democratic Backsliding", *Journal of Democracy*, Vol. 27, No. 1, (2016), pp 5–19, and Sedelmeier, U., "Anchoring Democracy from Above? The European Union and Democratic Backsliding in Hungary and Romania after Accession", *Journal of Common Market Studies*, Vol. 52, No. 1, (2014) pp. 105–121.

in a number of national parliaments in the OSCE region.[8] In a 2018 survey by the Inter-Parliamentary Union (IPU) and PACE on sexism, harassment and violence against women parliamentarians in Europe, a shocking 85.2 per cent of the women MPs who took part said that they had suffered psychological violence in the course of their parliamentary term of office, and 67.9 per cent said they had been confronted with sexist or sexual remarks on multiple occasions over the course of their terms. In 35.6 per cent of instances, these remarks had been made within parliament buildings. Women MPs reported that remarks had been made, variously, by men from other political parties, male colleagues from their own parties and voters or other citizens.[9]

The women MPs interviewed by the IPU felt they were much more subject to personal scrutiny based on physical appearance and gender-role stereotypes than their male colleagues. Comments about women's physical appearance included inappropriate compliments, disparaging jokes and crude and misogynistic remarks. Several of the women who took part in the survey highlighted that there was no body or mechanism in their parliament to which they could turn in the event of harassment or violence.

These findings suggest that changes in parliamentary ethical norms are urgently needed to address sexual violence against women in politics.

Professional standards for parliamentarians are not set in stone. Any guidance to promote integrity, such as a code of conduct, should be a living document that is regularly reviewed and can be updated as necessary to address new challenges. Parliamentarians need to change the rules governing their behaviour to keep pace, so as to avoid widening the damaging gulf between public expectations and parliamentary conduct.

5. New technologies and tools

Developments in technology are making new tools available to assist parliaments in holding their members to higher standards. New technologies also enable citizens to be better informed and more demanding, putting new pressure on parliaments to be more open and inclusive. In this regard, many parliaments have begun to exploit the potential of new technologies – both to facilitate citizen scrutiny of parliamentary activity and to make it less burdensome for MPs to comply with codes of conduct and ethical rules.

One key area is the creation of new platforms allowing citizens to get involved by reporting information that can then be used by MPs to help them fulfil their roles. Technology is also being used to remove some of the discretionary power that can create opportunities for MPs to abuse parliamentary procedures. E-voting systems in parliaments, for example, can help overcome problems associated with "ghost voting", thus preventing MPs from casting votes on behalf of others, and can also facilitate transparency about how MPs have voted.

In addition, new technologies cut the cost of making information transparent, both in terms of material costs and the time commitment necessary for MPs to report on their activities. This, in turn, facilitates the collection of relevant data and enriches the potential for scrutiny of par-

8 See, for example, "Threats and Abuse Prompt Female Lawmakers to Leave U.K. Parliament", *New York Times*, 1 November 2019, <https://www.nytimes.com/2019/11/01/world/europe/women-parliament-abuse.html>.

9 "Sexism, harassment and violence against women in parliaments in Europe", Inter-Parliamentary Union (IPU), 2018, <https://www.ipu.org/resources/publications/reports/2018–10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe>.

liamentary activities. For example, online declarations of assets and registers of lobbyists make it easier for MPs to comply with relevant rules, as well as making it easier for citizens to scrutinize MPs' interests and to hold them to account.

On the other hand, there are risks and challenges that accompany increased use of technologies, when it comes to integrity, dignity and privacy of MPs. Among other aspects, there is uncontrolled and anonymous abuse happening in the virtual world, especially toward women MPs, through various social media platforms.[10]

OSCE commitments and other international obligations and standards

The OSCE human dimension commitments on democratic institutions state that "the participating States recognize that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions."[11] This means that, in addition to building democratic institutions, it is critical to ensure that those who work in public life adhere to certain professional and ethical standards. This applies to both mature democracies and to those where democratic institutions are still "under construction." Across the OSCE region,[12] there is a growing consensus that professional and ethical standards for parliamentarians are critical to strengthening good governance, public integrity and the rule of law.[13]

Principles relating to the accountability and integrity of parliaments are enshrined in a number of international documents. In 1996, the UN General Assembly adopted Resolution 51/59 "On Action against Corruption", outlining "a model international code of conduct for public officials", including MPs, as a tool to guide efforts against corruption.[14] In 1997, the Council of Europe, in its Resolution 97 (4) "On the Twenty Guiding Principles for the Fight against Corruption", encouraged elected representatives to adopt codes of conduct and invited national authorities to apply this principle in their domestic legislation and practice.[15]

In 2000, PACE adopted Resolution 1214, on the "Role of Parliaments in Fighting Corruption", stressing "the notion 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

10 See, for example, "Diane Abbott speaks out on online abuse as female MPs step down", *The Guardian*, 31 October 2019, <https://www.theguardian.com/politics/2019/oct/31/diane-abbott-speaks-out-on-online-abuse-as-female-mps-step-down>.

11 "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE", OSCE, 29 June 1990, section III, para. 26, < http://www.osce.org/odihr/elections/14304>.

12 This Background Study seeks to provide examples of the range of ways in which a number of OSCE participating States address the issue of professional and ethical standards for parliamentarians. Appropriate examples have been chosen from among these countries to illustrate certain points.

13 This Background Study uses the term "parliamentary integrity" as an umbrella term for the rules and norms relevant to the conduct of parliamentary work. The term is intended to include standards that are enshrined in laws and written rules, as well as to recognize that some of the expectations that the public has of parliamentarians derive from a broader and less tangible concept of what constitutes "ethical" behavior. The definition of integrity is likely to change over time and is shaped by local norms, as well as by a society's aspirations for its political institutions.

14 "General Assembly Resolution 51/59 on Action against Corruption", United Nations, 12 December 1996, < https://undocs.org/en/A/RES/51/59>.

15 "Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption", Council of Europe, 6 November 1997, <https://rm.coe.int/16806cc17c>.

their own codes of conduct," and the importance of introducing, "an annual system for the establishment of a declaration of financial interests by parliamentarians and their direct family."[16]

In terms of legally binding documents, the anti-bribery convention[17] adopted by the Organisation for Economic Cooperation and Development (OECD) in 1997, and the Council of Europe Criminal Law Convention on Corruption,[18] adopted in 1999, both ban active and passive bribery of public officials, including parliamentarians. The UN Convention Against Corruption (UNCAC) imposes legally binding obligations on signatories, setting out comprehensive standards, measures and rules for countries to implement, with almost all OSCE participating States having ratified the Convention.[19] Article 8 of the Convention relates to codes of conduct for public officials, stating expressly that "each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honorable and proper performance of public functions."

In its 2006 Brussels Declaration, the OSCE Parliamentary Assembly, after recognizing that good governance, particularly in national representative bodies, is fundamental to the healthy functioning of democracy, encouraged all parliaments of the OSCE participating States to:

- develop and publish rigorous standards of ethics and official conduct for parliamentarians and their staff;
- establish efficient mechanisms for public disclosure of financial information and potential conflicts of interests by parliamentarians and their staff; and
- establish an office of public standards to which complaints about violations of standards by parliamentarians and their staff may be made.[20]

Indeed, the establishment and enforcement of such standards and mechanisms provides an important bridge between building the institutions of democracy and establishing a democratic political culture.

In 2018, the OSCE Ministerial Council Decision 4/18 on Preventing and Combating Violence against Women acknowledges that, "women engaged in professional activities with public exposure… are likely to be exposed to specific forms of violence or abuse, threats, and harassment, in relation to their work…and Encourage(s) all relevant actors, including those involved in the political process, to contribute to preventing and combating all forms of violence against women, including those engaged in professional activities with public exposure."[21]

Similar calls for upholding standards of conduct and integrity for MPs have also been made by the IPU, a body that has also adopted a code of conduct for its work.[22] In September 2006, the

16 "Resolution 1214: Role of Parliaments in Fighting Corruption", PACE, 5 April 2000, <http://www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=16794&lang=EN>.

17 "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", OECD, 2011, <https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf>.

18 "Criminal Law Convention on Corruption", Council of Europe, 27 January 1999, <https://rm.coe.int/168007f3f5>.

19 "United Nations Convention Against Corruption" (UNCAC), United Nations Office on Drugs and Crime, 31 October 2003, <https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf>.

20 "Brussels Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the 15th Annual Session", OSCE Parliamentary Assembly, Brussels, 7 July 2006, pp. 32–33, <https://www.osce.org/pa/19799>.

21 OSCE Ministerial Council, Decision No. 4/18, "Preventing and Combating Violence against Women", Milan, 10 December 2018, <https://www.osce.org/chairmanship/406019>.

22 Nowak, Manfred, "Human Rights: Handbook for Parliamentarians", Inter-Parliamentary Union and Office of the United Nations High Commissioner for Human Rights, No. 8, 2005, <http://www.ohchr.org/Documents/Publications/training13en.pdf>.

Global Organization of Parliamentarians against Corruption, together with the Westminster Foundation for Democracy, resolved to create a task force on parliamentary ethics and conduct, and subsequently developed a *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*.[23]

The Open Government Partnership, a multilateral initiative aimed at securing concrete commitments from governments to promote transparency, empower citizens and fight corruption, further included the adoption of ethical and integrity standards for MPs in its Open Government Declaration, which had been signed by 78 countries so far, including 37 OSCE participating States.[24]

As the body responsible for monitoring the compliance of member States with anti-corruption standards, the Council of Europe's GRECO launched its Fourth Evaluation Round in 2012, focusing on preventing corruption among MPs, judges and prosecutors. In all the countries evaluated, GRECO raised awareness of the need for parliaments to have their own set of common standards and guidelines on ethical principles and the conduct expected of their members. It recommends the adoption of an enforceable code of conduct, and that the code be made easily accessible to the public and complemented by practical measures for its implementation.[25]

Why set standards?

There are five main reasons for OSCE participating States to consider reforming professional and ethical standards for parliamentarians. These are to:

- **Create a culture of public integrity in parliaments** – Parliaments are, first and foremost, representative bodies, and it is vitally important that they promote and sustain an institutional culture of public integrity among their members and staff. Parliaments should conduct their affairs with professionalism and demonstrate respect for all individuals, allowing for a continuous dialogue on what constitutes acting with integrity;

- **Prevent and fight corruption** – Robust standards and regulation can help to prevent abuse of office and other forms of corruption, by setting out clear rules for how MPs should behave, monitoring how they actually behave and punishing transgressions. The role of an MP is complex and can raise a number of ethical dilemmas. Clear and consistently enforced standards provide greater clarity for MPs and their staff about how the public expects them to behave, as scandals can arise even when mistakes are made in good faith. Regulation should not interfere with the exercise of parliamentary duties, for example, by requiring deputies to engage in unnecessary bureaucratic procedures, but it should create a fair and stable environment in which MPs can perform their roles of representation, scrutiny and lawmaking;

- **Boost accountability and trust** – Well-defined parliamentary ethical standards improve accountability by giving the public and the media clear benchmarks against which to judge

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23 Power, G., *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, (Global Organization of Parliamentarians Against Corruption & Westminster Foundation for Democracy, 2006), <http://gopacnetwork.org/Docs/PEC_Guide_EN.pdf>.

24 "Open Government Declaration", Open Government Partnership, September 2011, <https://www.opengovpartnership.org/process/joining-ogp/open-government-declaration/>.

25 "Fourth Evaluation Round: Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors", GRECO, 7 December 2018, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16809022a7>.

parliamentary conduct. If people believe that the system for regulating ethics is fair and effective, then they can more easily trust a parliament to get on with its job, knowing that any transgressions will come to light and will be punished.[26] Standards can also boost the prestige of public office, helping to attract high-calibre individuals to the role;

- **Professionalize politics** – MPs are elected from a variety of backgrounds, genders, and occupations, and this variety is important to their ability to represent voters. Once in parliament, however, all MPs need to adhere to the same rules concerning conduct in office, guaranteeing at the same time equitable, non-discriminatory and violence/harassment-free treatment while in office. Just as lawyers and doctors have shared standards across their professions, MPs need clarity about the standards expected from them. Clear standards can also help to unite MPs, allowing them to overcome political differences and build a sense of collegiality;

- **Meet international standards** – The introduction of codes of conduct for public officials, promoting integrity, honesty and responsibility, also demonstrates a country's commitment to the implementation of and respect for shared international standards and norms. Compliance with such norms can also be important to meet the conditions for joining international associations or accessing aid.

How to reform standards

Many parliaments across the OSCE region are seeking to reform professional and ethical standards. This study focuses on how to set up systems to ensure that members behave **professionally**, i.e., that they effectively undertake a specialized set of tasks intrinsic to their role, and **with integrity**, i.e., that they act in line with values regarding proper behaviour for MPs.

It is not possible to prescribe a single, one-size-fits-all solution for improving standards of parliamentary integrity. The most effective strategies are those that take into account specific institutional and political conditions. Reformers might find it helpful to start by identifying the key risks or problems in their political systems, as well as by taking into account international standards, the constitutional context and existing laws. Such an exercise can help to assess what types of tools and practices are needed in that particular context. This study shares experiences about how systems of parliamentary standards operate across the OSCE region and is intended as a resource for reformers.

Codes of conduct

A parliamentary code of conduct[27] tends to be an overarching document that sets out guidelines for the behaviour of MPs. Such codes play various roles in different constitutional contexts. Some are detailed lists of rules embedded in legally binding documents, such as parliamenta-

26 The argument can also be made, however, that conduct regulation may damage public trust in politicians by bringing into public view scandals that otherwise would remain hidden. See: "Regulating Conflicts of Interest for Holders of Public Office in the European Union", European Institute of Public Administration, 14 November 2018, p.121, <https://op.europa.eu/en/publication-detail/-/publication/746a95fc-dbf6-48de-a76d-b4ce1fe4b4bf>.

27 The terms "code of conduct" and "code of ethics" are sometimes used interchangeably, although they may have different connotations in different languages. We use the term "code of conduct", without intending to exclude systems that prefer the other term.

ry rules of procedure. This is the case with respect, for example, to the codes in Germany and Latvia. Others are simply brief statements of shared values, such as the House of Commons Code in the United Kingdom (although it is accompanied by a lengthy guide), or policies and declarations focusing on specific issues, for instance on racism or sexual harassment.

Codes are not essential, and many countries regulate parliamentary standards effectively without adopting codes. They can, however, be useful tools for collating all of the relevant rules in one place, providing benchmarks against which to judge conduct and setting out general values and principles. Moreover, the process of drafting such a code can be beneficial in all countries, since it tends to initiate a broad discussion about the professional and integrity standards that can and should be expected of parliamentarians. Drafting a new code can, therefore, be an excellent way of initiating a process of reforming standards.

One of the key aspects of conduct that should be regulated is **conflicts of interest**, i.e., situations where MPs face conflicting pressures from the duties and demands of their professional roles and from their own private interests. Most parliaments have rules about what interests MPs can possess simultaneously while holding their office and what kinds of interests are deemed "incompatible", e.g., whether they can hold other public-sector or private-sector jobs simultaneous to holding their mandate in parliament.

In order to help guard against breaches of integrity rules, parliamentarians are often required to disclose their interests in **registers of interests** or **assets declarations**. The aim is to reveal potential sources of conflict and, hence, empower the public to hold parliamentarians to account. Moreover, if their assets increase dramatically over their time in office, this can prompt questions as to whether the increase in wealth is due to improper conduct. The data collected in registers of interests and asset declarations can be monitored by the parliament itself or be disclosed publicly. The advantage of public disclosure is that it allows the media and civil society to assess whether the work of MPs is subject to influence by their private interests. This should, however, also be balanced against concerns related to infringements on privacy and with sensitivity to local contexts.

Rules about allowances and expenses are also key elements of parliamentary integrity systems. MPs need adequate resources to carry out their duties effectively and, hence, need allowances from the state to support their local offices and to cover travel and other necessary expenses. However, MPs should exercise responsibility in the way they spend public money. Parliamentary resources should be used only for duties related to their parliamentary mandate and should in no circumstances be used for political party campaigning or personal benefit. The use of allowances and expenses needs to be regulated in order to avoid abuses and promote public confidence.

The concept of public integrity incorporates considerations related to a number of other areas, such as relations with lobbyists, public demeanor, parliamentary language, equal treatment and non-discrimination, standards of attendance, guidance on how to manage the representation of constituents and rules on post-parliamentary employment of MPs.

Monitoring and enforcement

Once the rules are in place, it is necessary to set up clear and consistent procedures for monitoring breaches, for investigating whether such misconduct has occurred and for punishing offenders. One major question to consider is whether the parliamentarians should be trusted to regulate their own conduct and define what represents misconduct, for example through a special ethics committee, or whether investigations should be entrusted to an external regulator, such as an anti-corruption agency.

The preference has traditionally been for self-regulation, largely because of the need to protect parliaments' independence from other branches of power. In recent years, however, there has been a move towards external regulation and hybrid systems, partly reflecting the loss of confidence in parliaments' ability to regulate themselves after a number of scandals. External regulation is often seen as more credible and less vulnerable to political polarization. Whichever approach is adopted, it is important that the body responsible for enforcing professional and ethical standards in parliament is regarded as legitimate, has sufficient human and financial resources to perform its duties, and has transparent procedures. Moreover, sanctions should be applied consistently against parliamentarians who are found in violation of relevant laws and regulations. Sanctions should be effective and proportionate to the severity of the misconduct.

Initiating and sustaining reform

Systems to regulate the ethical conduct of parliamentarians work well when MPs themselves feel ownership of the system and are motivated to use it responsibly. This can be achieved by having an open and consultative process for the discussion of what is not working and for designing solutions to address such concerns. Working groups established to lead reform should be selected through a fair and transparent process and should lead by example in making their work transparent and declaring their members' special interests, even beyond the general requirements of the parliament. They should be formed on a cross-party basis, in order to ensure that all voices are heard and to relieve concerns that the tools will be abused for political ends, e.g., to smear opponents. Ideally, working groups should be led by or include individuals who are widely regarded as ethical leaders and who inspire public confidence; they should also be gender-balanced.

Any form of regulation implies administrative costs, which reformers should take into account when devising new rules. However, major improvements to parliamentary standards can be achieved through transparency and accountability initiatives, which are highly cost-effective.

It is essential to keep the rules operational and flexible. For parliamentarians, this means ensuring that new members are briefed on the rules when they enter parliament and that regular opportunities to review and update the rules are built into the process. Setting up support systems whereby more experienced MPs provide advice and mentoring to junior members can help to build a culture of integrity. It is also critical to educate the public and media, and to encourage them to hold MPs to account, while also setting reasonable boundaries on the scrutiny of MPs' personal lives and rights to privacy.

Table 1. Key elements of a parliamentary standards system

Public integrity instrument	Description	Objectives	Points to consider
Code of conduct	A written list of principles and/or rules to guide conduct.	To provide clarity for MPs about expectations; To facilitate accountability, equal treatment and non-discrimination.	• Is it compatible with existing laws? • Should they be in the form of principles or rules? • Should there be an accompanying guide to the code of conduct?
Register of private interests	A centralized list of the private interests of MPs that could influence or appear to influence their decisions.	To ensure that private interests do not influence MPs' actions or judgement.	• What needs to be registered? • Who will have access? • What about privacy concerns?
Assets declaration	A statement listing the total assets of an individual MP and their family members.	To deter corruption by allowing scrutiny of all assets gained while in public office.	• How are declarations submitted (electronically, in paper form, etc.)? • Should declarations be disclosed publicly? • Do family members also need to file declarations? • Will declarations be checked against tax returns?
Rules on expenses and allowances	Rules about what expenses are permissible and how these are accounted.	To ensure that public funds are linked with the MPs' parliamentary mandates and not used to supplement their incomes, or support their partisan political activities.	• Should allowances differ for MPs holding different positions inside the parliament, or based on factors such as gender, or disability? • Should MPs' reporting of expenditures be centralized?
Rules on conduct in the chamber	Rules about conduct during debates, respect for colleagues, language to be used or avoided, dress code, etc.	To ensure that parliament operates professionally and can perform its duties, ensuring an atmosphere of respect for all MPs' colleagues.	• Should demeanor be regulated? • Are informal practices in the chamber inhibiting debate? • Are principles of equality and non-discrimination upheld?
Rules about relations with lobbyists	Rules and restrictions on the kinds of relationships MPs can have with lobbyists and interest groups, within a framework that advances transparency.	To ensure that MPs do not abuse office or participate in decision-making processes as influenced by financial or other in-kind contributions (gifts) from lobbyists in exchange for political favours.	• What kind of information should be provided in a registry of lobbyists? • What is the difference between regulated and appropriate lobbying and attempts at inappropriate political influence?

Part One: Preparing to Reform Parliamentary Standards

This study focuses on how to build, reform and uphold professional and ethical standards for MPs. These standards might be embodied in formal instruments, such as the country's constitution, specific laws and written rules, but they might also comprise more informal norms and traditions.

Section 1.1 considers the main reasons to regulate parliamentary standards and the conduct of MPs, while **Section 1.2** points out the limits of regulation.

Section 1.3 evaluates the issue of immunity for parliamentarians and how this concept can be properly integrated in a code of conduct for MPs.

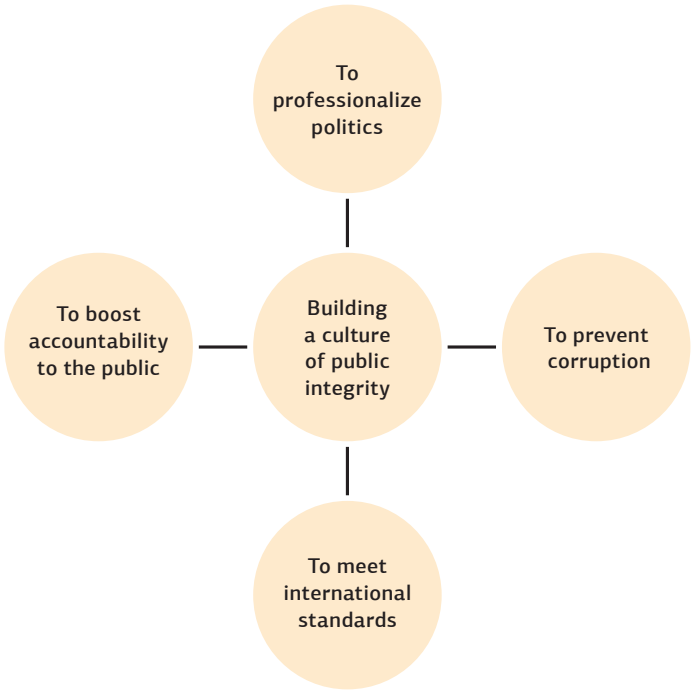
To conclude, **Section 1.4** examines the general framework that defines integrity standards, identifying four different layers of normative sources: international norms, constitutional norms and national law, parliamentary and social norms, and the role of political parties.

1.1 Why establish rules about conduct and reform the existing ones?

The primary reason it is important to establish and regulate parliamentary standards of ethics is to create a culture of integrity in parliaments. This helps to ensure that the conduct of MPs is not merely in line with a country's constitution or laws, but also meets public expectations about what constitutes integrity in public office, including how parliamentarians should behave when confronted with complex ethical dilemmas or challenging situations. After all, voters often hold MPs to account for failing to live up to expectations for integrity, even when they have not explicitly broken a law. Integrity is not only about following the rules, but also about acting in the spirit in which the rules were made and in light of the principles underpinning them.

While the overall objective of regulating the conduct of parliamentarians is to build a culture of public integrity, several intermediary or additional objectives are also important (see Figure 1).

Figure 1: Objectives of reforming parliamentary standards



1.1.1 Objective 1: To professionalize politics

MPs are elected from a variety of backgrounds, genders, and occupations, and this variety enhances their ability to represent voters. Once in parliament, however, all MPs need to adhere to the same rules regulating conduct and remain subject to the same treatment while in office. Many professions have systems of standards to guide the conduct of their members. These rules are often written down in codes of conduct that members are required to sign or take an oath to uphold upon entering the profession. Doctors, for example, have been taking the Hippocratic Oath since antiquity as a commitment to executing their medical duties in an ethical way.

Just like members of other professions, MPs should agree to behave **professionally**, i.e., to effectively carry out a specialized set of tasks with **integrity**, in line with values regarding what constitutes proper behaviour for MPs. However, the job of being an MP entails special responsibilities, and MPs need clarity on the standards expected of them. Clear standards can also help to unite MPs, allowing them to overcome obvious political differences to build a sense of collegiality and provide safe space for all MPs. When committed to inclusion as part of their integrity standards, parliaments can also attract a more diverse pool of individuals to represent different constituencies. High standards can also boost the prestige of the office, helping to attract high-calibre individuals to the role.

1.1.2 Objective 2: To prevent corruption

Members of parliament are elected to serve the public interest but, in order to do so, they need power to represent their constituencies and authority to exercise their oversight role in various forms. With such power comes the potential to abuse their position and serve private interests rather than the public interest. Robust regulation of professional conduct can help to prevent abuse of office and other forms of corruption. It does so by setting out clear rules for how MPs

should behave, monitoring how they actually behave, and punishing transgressions. This should also make the parliament more efficient and productive, providing regulation is not excessive. Regulation should not interfere with the exercise of parliamentary duties, e.g., by requiring deputies to engage in unnecessarily bureaucratic procedures, but it should create a fair and stable environment in which MPs can perform their roles of representation, scrutiny and legislation.

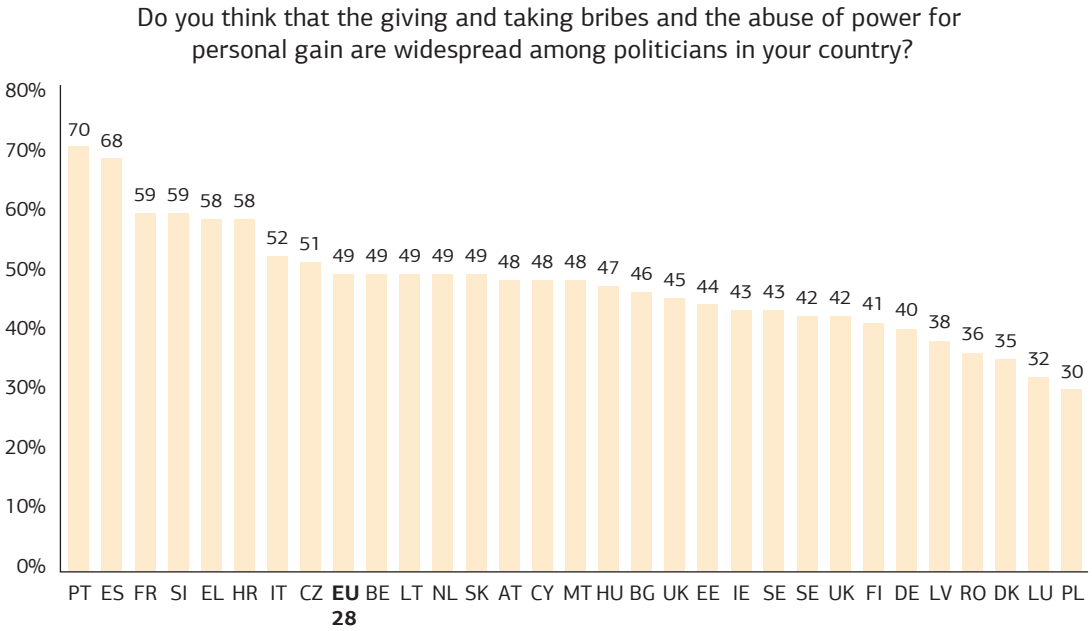
There are several types of political conduct that a parliamentary system should guard against. Conflicts of interest arise when MPs have private interests that "improperly influence the performance of their official duties and responsibilities."[28] A conflict of interest might occur, for example, if a member owns a company in the construction sector and, in his/her role as a legislator, is required to vote on a new law regulating safety in construction. There is a concern that the MP will put a desire to earn income from the company above the duties as a legislator to serve the public interest. Bribery occurs when an MP accepts a gift or payment in return for voting in a certain way on a bill or for raising an issue during a debate, or for sharing privileged information. MPs might also be accused of abuse of office or misuse of public funds if they use their powers or parliamentary resources in ways that serve private interests at the expense of the public interest. MPs who use their power or public resources specifically to give unfair advantages to their friends or family might be guilty of nepotism.

A Eurobarometer survey released in 2017 found that such forms of corruption are perceived to be widespread among national politicians in many European Union countries (see Figure 2, next page). Overall, 53 per cent of respondents across the EU thought that the giving and taking of bribes and the abuse of power for personal gain were widespread among national politicians.[29] While such surveys are based only on perceptions and may not be accurate, perceptions are important, because they reflect public confidence in the democratic system.

28 OECD, *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, (Paris: OECD Publishing, 2003) < https://www.oecd.org/gov/ethics/48994419.pdf>, and OECD, *Asset Declarations for Public Officials: a Tool to Prevent Corruption*, (Paris: OECD Publishing, 2011), p.28 <http://dx.doi.org/10.1787/9789264095281-en>. Note: Conflicts of interest are not necessarily forms of corruption but, instead, create the risk of corruption.

29 "Special Eurobarometer 470: Corruption", European Commission, December 2017, <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/81007>.

Figure 2: Perceptions of corruption among national politicians in the European Union[30]



It is essential that the public has confidence in the parliament and that any apparent breaches of trust are investigated and, if confirmed, punished. Pressure to reform parliamentary standards or introduce new rules often arise because of scandals involving an individual MP or group of MPs that breach public trust. Political scandals, in particular those with ethical concerns, can be very damaging to perceptions of legitimacy. They can, however, also open opportunities to discuss expectations for MPs' conduct and, potentially, to reform rules for parliamentary conduct.[31] The Council of Europe's GRECO likewise notes that, "well-publicized scandals have caused political crises and civil unrest, leading to an increased call for reforms."

1.1.3 Objective 3: To boost accountability

Parliamentary standards of integrity improve accountability by giving the public, the media and oversight institutions clear benchmarks against which to judge parliamentary conduct. If people believe that the system for regulating conduct is fair and effective, they are more likely to trust the parliament, in the knowledge that any transgressions will come to light. If the parliament is not trusted, this undermines its ability to fulfil its basic functions – to conduct oversight, to represent and to legislate. Transparent proceedings and application of rules related to conduct, combined with effective sanctions, are often crucial. Indeed, having clear standards may be especially beneficial for MPs in an environment where media scrutiny is intense.

This need to protect the parliament's reputation is often mentioned explicitly in codes of conduct. In the Polish Sejm's Code of Ethics, for example, "care for the good name of the Sejm" is

30 *Ibid.* The question asked was "Do you think that the giving and taking of bribes, and the abuse of positions of power for personal gain, are widespread among any of the following?" (Options: Politicians at national level; Politicians at regional level; Politicians at local level). The country acronyms are the ISO 3166 Standard Country Codes.

31 Stapenhurst, Rick and Pelizzo, Riccardo, "Legislative Ethics and Codes of Conduct", in *WBI Working Papers*, (Washington DC: World Bank Institute, 2004), p. 4.

one of the five core principles.[32] Similarly, the code adopted by Albania's parliament in 2018 states that "the Code shall be applicable for all aspects of the public life of the MP. It shall not regulate private life aspects, except for when their private life visibly affects the public trust in the MP and in the Assembly."[33]

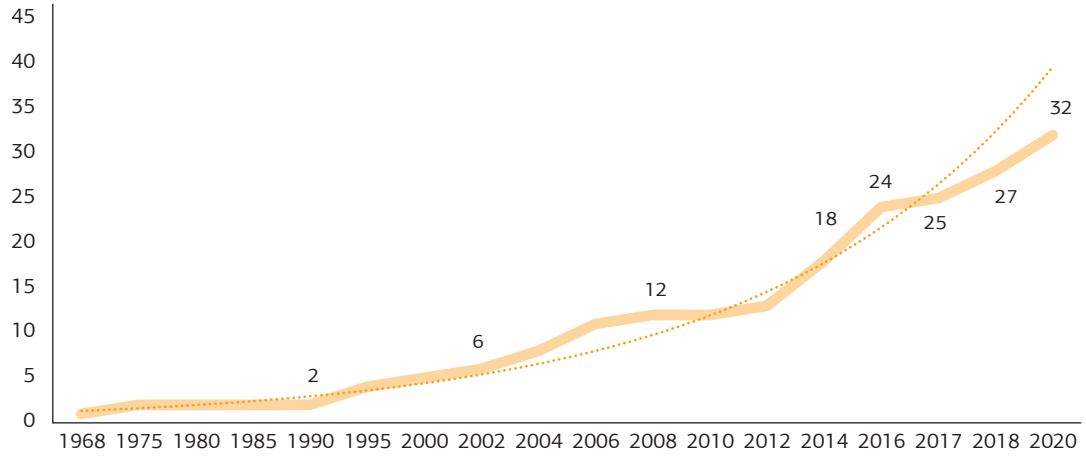
1.1.4 Objective 4: To meet international standards

The introduction of systems regulating the conduct of public officials that promote integrity, honesty, responsibility, equality and non-discrimination demonstrates a country's commitment to the implementation of and respect for shared international standards and norms. Legally binding documents such as the UN Convention against Corruption[34] and the Council of Europe Criminal Law Convention against Corruption[35] both commit their signatories to apply and actively promote codes of conduct within their own institutional and legal systems. Compliance with such norms can also be required to meet the conditions for joining international associations or accessing aid.

Many countries in the OSCE region have been motivated by such considerations as codes of conduct for parliaments have been adopted at a rapidly accelerating rate in recent years (see figure 3).

Currently, 34 national parliaments of the 57 OSCE participating States have adopted codes of conduct for MPs, with more than half being adopted (20 national parliaments) since 2012.

Figure 3: Cumulative number of Parliaments in the OSCE region that have adopted a code of conduct



32 "Resolution of the Sejm of the Republic of Poland of 17 July 1998 on Principles of Parliamentary Ethics", 17 July 1998, <http://www.sejm.gov.pl/prawo/zep.htm> (in Polish).

33 "On the Approval of the Code of Conduct for Members of the Assembly of the Republic of Albania", Decision 61, 2018, 5 April 2018, <https://www.parlament.al/Files/RaporteStatistika/vendim-nr.-61-dt.-5.4.2018-Kodi-i-Sjelljes.pdf> (in Albanian).

34 "United Nations Convention Against Corruption", United Nations Office on Drugs and Crime.

35 "Council of Europe Criminal Law Convention on Corruption", Council of Europe.

1.1.5 Objective 5: To build a culture of integrity

Reforms are not always triggered by scandals. Instead, they are often part of a broader trend towards developing clearer standards and rules about conduct in public office. At the same time, public pressure has increased – voters across the OSCE region are demanding more and more of an integrity culture and asking for reforms. This can have an important role in catalyzing a cultural change or building a broad culture of integrity at the institutional level. In younger democracies, regulating integrity standards can be an especially important part of the process of transforming political culture.[36] In many democracies, reform of parliamentary standards is often motivated by a sense among parliamentarians that this is a requirement of modern political life or a realization during a routine review that rules are no longer functioning sufficiently and need to be strengthened. Groups that interact with MPs and public officials are also increasingly subject to regulation. For example, many countries are introducing codes of conduct, including more than 30 parliaments in the OSCE region, and regulations related to lobbying practices.

A common misconception is that gender equality policy equates to quota laws or a national, government-focused gender agenda. While mainstreaming gender-equality issues can be done though an action plan or a dedicated gender policy to highlight a parliament's commitment to advancing gender equality, codes of conduct can also promote equal treatment in parliaments. This can be done by including measures to prevent violence and harassment, and ensure the use of gender-sensitive language. Guaranteeing equal and need-based distribution of resources and allowances, including access to research services, computers and office space, as well as by providing definitions of expected behavior also promotes equality.[37]

Despite all this, there may not be a widespread consensus about how MPs should behave in some complex situations. Frequently, there are competing views about what constitutes the "proper" way to act with integrity and what is deemed unethical or corrupt. What is acceptable in one country might be unacceptable in another, and behaviour that was tolerated ten or twenty years ago might be frowned upon today.

The following questions illustrate some areas of controversy:

- Is it acceptable for MPs to employ their spouses or children to work as their assistants, paid for by public funds?
- Is it acceptable for MPs to receive funding for running a constituency office from their private property?
- Is it appropriate for an MP to accept gifts or hospitality from a major business in their constituency, or from a business that requires subsidies?
- Should MPs decide their own salaries and allowances?
- Should MPs be allowed to serve as city mayors or municipal councilors in parallel to their parliamentary roles? Should they be allowed to sit on the boards of companies?
- Is it cause for concern if an MP who serves, for example, on the defence committee in parliament takes a job with a defence company when leaving office?
- Is it ethical for MPs to receive campaign funding from companies that have directly benefited from their voting records?

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36 See Dávid-Barrett, E., "Nolan's legacy: Regulating Parliamentary Conduct in Democratising Europe", *Parliamentary Affairs*, Vol. *68*, No. 3, 2014, pp. 514–532.

37 Inter-Parliamentary Union, "Guidelines for the Elimination of Sexism, Harassment and Violence Against Women in Parliament" (Geneva: Inter-Parliamentary Union, 2019), <https://www.ipu.org/resources/publications/reference/2019–11/guidelines-elimination-sexism-harassment-and-violence-against-women-in-parliament>.

- In what circumstances is it acceptable to lift an MP's immunity from prosecution? Who should decide?
- Are MPs permitted to breastfeed in the parliamentary chamber or in committee meetings?[38]
- To what extent can the parliament provide accommodations for persons with disabilities and for MPs with special care-giving responsibilities?

The answers to these questions are sometimes provided by a country's constitution or other laws. In most political systems, however, at least some of these questions pose dilemmas that do not have clear answers but can still potentially lead to scandals that damage public trust and, perhaps, cost an MP their seat. Professional standards should provide guidance to MPs on how to navigate some of these dilemmas.

Uncertainty about what does or does not constitute acting with integrity may be particularly common in younger democracies, where old norms have been rejected but new ones have yet to be consolidated. In all societies, however, standards and expectations about conduct are subject to change over time. Although systems for regulating standards draw upon international commitments and experience, they must ultimately be home-grown and tailored to each country's individual constitutional machinery and political culture.

1.2 The limits of regulation: Private life

It is not generally appropriate to regulate the private behaviour and personal lives of MPs. Media scandals concerning extra-marital affairs or outlandish pursuits should not be the subject of regulation. However, private matters can occasionally come into the purview of conduct regulation. For example, in 2011 the United Kingdom Parliamentary Commissioner for Standards recommended the introduction of a clause in the code of conduct for MPs regarding circumstances in which members' behaviour in their private lives could threaten to bring the House of Commons into disrepute, and thus might be a legitimate subject of investigation. The proposed clause reads:

"The Code does not seek to regulate the conduct of Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Commons as a whole or of its Members generally."[39]

The formulation allows the Commissioner to decide to investigate and the House to intervene in extreme cases. The Lithuanian Code of Conduct for State Politicians includes a similar clause: "The conduct or personal features of a state politician that are related to certain circumstances of their private life and that are likely to have influence over public interests shall not be considered private life."[40]

38 For example, information on rules about breastfeeding in the United Kingdom House of Commons is available here: <https://fullfact.org/news/breastfeeding-house-commons/>.

39 "Review of the Code of Conduct. 19th Report of Session 2010–12", House of Commons, Committee on Standards and Privileges, United Kingdom Parliament, 2011, paragraph 6, p. 4, <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmstnprv/1579/1579.pdf>.

40 "Law on the Approval, Entry into Force and Implementation of the Code of Conduct for State Politicians", Republic of Lithuania, Vilnius, 2006, <https://e-seimas.lrs.lt/rs/legalact/TAD/TAIS.287040/>.

1.3 Parliamentary immunity

Parliamentarians have a critical role in democracies. They not only shape legislation and represent the people, but they also scrutinize the executive branch and hold government to account. In recognition that this role can make them vulnerable to harassment or accusations from the executive branch, the courts or political opponents, parliamentarians traditionally have special rights to freedom of speech and freedom of expression when carrying out their professional duties, e.g., when they are speaking in parliament, voting or promoting legislative initiatives. Such freedoms are fundamental to maintaining the legislative branch's autonomy from other branches. In the view of the European Court of Human Rights, other communicative acts in parliament (including votes, walk-outs and other informal expressions of agreement and disagreement) are also constitutive elements of the broader social communication originating from parliament.[41]

As stated in its "Report on the Scope and Lifting of Parliamentary Immunities",[42] the European Commission for Democracy Through Law (Venice Commission) of the Council of Europe identifies two main categories of parliamentary immunity.

- **Non-liability:** This is immunity against any judicial proceedings related to votes cast, opinions expressed and/or comments made in the performance of parliamentary duties. It can be viewed as a wider scope of freedom of speech than that which applies to ordinary citizens, although the specific provisions vary according to the country. Non-liability is sometimes referred to as "material immunity", "non-accountability" or "parliamentary privilege". In some countries in the OSCE region there are limitations to non-liability, such as in instances of hate speech, racist remarks or threats of violence or crime.

- **Inviolability**: This is the special legal protection for parliamentarians accused of breaking the law, typically protecting them from arrest, detention and prosecution unless the chamber gives its consent. Inviolability is not equivalent to impunity, that is, it does not mean that parliamentarians are above the law or can commit ordinary crimes without fear of prosecution. Inviolability tends to be limited in scope, e.g., it only lasts for the MP's term in office or can be waived if certain conditions are met.

In the United Kingdom, the principle of non-liability is embodied in the 1689 Bill of Rights, and in most other countries is enshrined in the constitution.[43] The principle was upheld by the European Court of Human Rights in the case *Castells v. Spain* (1992), following the conviction of an MP for publishing an article accusing the Government of complicity in attacks and murders. The Court stated that:

"[W]hile freedom of expression is important for everybody, it is especially so for an elected representative of the people. [...] Accordingly, interferences with the freedom of expression of an opposition member of parliament [...] call for the closest scrutiny on the part of the Court [...]".[44]

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41 See at: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001–146384%22]}

42 "Report on the Scope and Lifting of Parliamentary Immunities", European Commission for Democracy Through Law (Venice Commission), Council of Europe, Venice, 21–22 March 2014, <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)011-e>.

43 In particular, Article IX states that, "the Freedom of Speech and Debates or Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament". House of Commons, *Bill of Rights,* United Kingdom, 1689, <http://www.legislation.gov.uk/ aep/WillandMarSess2/1/2/introduction>.

44 European Court of Human Rights, Castells vs. Spain, 23 April 1992. <https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001–57772%22]}>.

The Court also affirmed that:

"[T]he limits of permissible criticism are wider with regard to the Government than in relation to a private citizen, or even a politician. […] the dominant position which the Government occupies makes it necessary for it to display restraint in resorting to criminal proceedings"[45]

The fact that in modern democracies there is often a strong link between the government and MPs representing the party (or parties) in government means that, in practice, non-liability mainly serves as protection for MPs from opposition parties. The protection afforded to MPs' statements in the chamber should not, however, leave individual MPs vulnerable to slander and defamation by their own colleagues. Cases have arisen in several jurisdictions in which parliamentarians have been unable to sue to clear their names when accused of acting dishonestly in connection with parliamentary duties, because it is impossible to draw on parliamentary proceedings as evidence to refute claims.[46] This issue deserves careful consideration, particularly in societies where the media are politicized.

Excerpt from the 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[47]

"[The Parliamentary Assembly] urges the Parliaments of the OSCE participating States to legislate to:

a. Provide clear, balanced, transparent, and enforceable procedures for waiving parliamentary immunities in cases of criminal acts or ethical violations;
b. Provide that the privilege of parliamentary immunity must not apply to actions taken by an individual before they have assumed office or actions taken after they have left public office".[48]

Equally, the principle of inviolability needs to be handled with care, to avoid parliamentarians seeking to use the protection it affords to avoid being prosecuted for corruption or other crimes. Therefore, parliaments should be able to lift the immunity provided by this principle. It is usually suspended when an individual is caught *in flagrante delicto* – in the act of committing an offence. Of note, Resolution 2274 of the Parliamentary Assembly of the Council of Europe in 2019 encouraged states to "consider reviewing immunity rules which afford immunity from prosecution to members of parliament for sexual harassment and violence against women, unless this has already been done."[49]

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45 Nowak, Manfred, "Human Rights: Handbook for Parliamentarians", Inter-Parliamentary Union and Office of the United Nations High Commissioner for Human Rights.

46 In the United Kingdom, parliamentary privilege can be waived for the purpose of defamation proceedings, but critics argue that this undermines freedom of speech. See: "First Report", United Kingdom House of Commons, Joint Committee on Parliamentary Privilege, 9 April 1999, paragraphs 60–82, <http://www.publications.parliament.uk/pa/jt199899/jtselect/jtpriv/43/4302.htm>.

47 The 2006 "Brussels Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the 15th Annual Session", OSCE Parliamentary Assembly.

48 *Ibid.*

49 Council of Europe, Parliamentary Assembly of the Council of Europe Resolution 2274, "Promoting parliaments free of sexism and sexual harassment", 2019, art. 8.2.

Any decision to remove immunity should follow due process and provide adequate opportunity for the MP to plead their case and appeal.[50]

In practice, there is great variation among countries in the OSCE in how this principle is applied. GRECO, in its work on fighting corruption, has become very concerned that the inviolability principle is prone to abuse.[51] In seeking to tackle corruption, it is important that nobody is "above the law", or perceived to be so. For this reason, clear criteria with regards to the applicable procedure should be required to avoid discretionary powers and ensure that considerations of a political nature do not come into play. For example, in France, a request to lift parliamentary immunity must be "serious, fair and sincere". There are other practices in which a simple show of hands is required, like in Austria and Belgium. In some other countries, such as Moldova and Spain, a secret vote is required. In Denmark, a simple majority vote is considered enough, while a majority of two-thirds is needed in Romania.

Greece, Hungary, Latvia, Moldova, Montenegro, Romania, Turkey and Ukraine all received recommendations from GRECO on improving their respective mechanisms for lifting an MP's immunity, including by ensuring that fair and transparent criteria are used when making such a decision.[52]

The two principles are balanced differently in different systems. In the Anglo-Saxon model, non-liability is upheld very strongly, but inviolability is relatively weak, being reserved only for civil offences and often only offering protection from arrest, as opposed to other legal proceedings. In the contrasting model, sometimes referred to as the French model, the concept of inviolability is very widely interpreted, reflecting the primacy of the National Assembly over other organs of the state. Moreover, even in the French example, there is an exemption for cases of *in flagrante delicto*, in which the parliament has the ability to lift immunity.[53] Many countries in Central and Eastern Europe have adopted the French model.

In recent years, there has been a growing debate over which model is more appropriate for younger democracies. On the one hand, immunity may be seen as more necessary in places where democratic practices are less established, since there may be a greater risk of undue pressure or false charges from the executive. On the other hand, such democracies often suffer from cases of political corruption, which can result in immunity being abused to shield those who have engaged in misconduct.[54]

The European Court of Human Rights accepts parliamentary immunity as a legitimate and ubiquitous constitutional norm. However, it recognizes that immunity is a limitation of Convention rights, in particular of the right to access to court under article 6 of the European Convention on Human Rights.[55] For the Court, Parliamentary immunity in relation to Article 6, on access to justice, and Article 10, on freedom of expression, is assessed according to whether there are

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50 The European Court of Human Rights has considered one case in this respect. In Demicoli v Malta (1991) 14 EHRR 47, the Court held that Article 6(1) applied to parliamentary contempt proceedings and that there had, in the circumstances, been a violation of that Article's guarantee of a fair trial by an independent and impartial tribunal.

51 Palihovici, L., "Parliamentary Immunity: Challenges to the Scope of the Privileges and Immunities Enjoyed by Members of the Parliamentary Assembly", PACE, 6 June 2016, <https://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=22801&lang=EN>.

52 "Fourth Evaluation Round: Evaluation and Compliance Reports", Council of Europe Group of States against Corruption website, <https://www.coe.int/en/web/greco/evaluations/round-4>.

53 *Ibid.*, p. 5.

54 *Ibid.*, p. 7.

55 See the ECHR Guide on Article 6 of the European Convention on Human Rights.

legitimate aims and proportionality. Where inviolability serves to protect the free discharge of parliamentary tasks, it constitutes a justified limitation to access to justice. When it goes beyond this protection, its application violates the European Convention.

In 2017, Turkey voted to amend its Constitution to lift immunity from prosecution – inviolability – for cases pending before the National Assembly, and the move was later ratified by the president. The Council of Europe's Venice Commission subsequently produced a detailed report on the amendment, arguing that the inviolability of these parliamentarians should be restored. The report argued that: "In the current situation in Turkey, parliamentary inviolability is an essential guarantee for the functioning of parliament. The Turkish Grand National Assembly, acting as the constituent power, confirmed thus by maintaining inviolability for future cases. The current situation in the Turkish Judiciary makes this the worst possible moment to abolish inviolability."[56]

In December 2017 in North Macedonia, the parliament stripped six conservative opposition lawmakers of their immunity, after a prosecutor demanded they be held for 30 days for an alleged incursion by protesters into parliament the previous April.

While there are no international rules that explicitly regulate parliamentary immunity at the national level and the issue is primarily for national legislatures to decide, the Venice Commission provided useful guidelines in its 2014 report on the scope and lifting of parliamentary immunities.[57] The Commission also drew attention to rules and guidelines on this matter developed by the European Parliament, based on extensive practice and experience, and which reflect "a degree of consensus at the European level on how inviolability should be handled."[58]

1.4 The context for reform

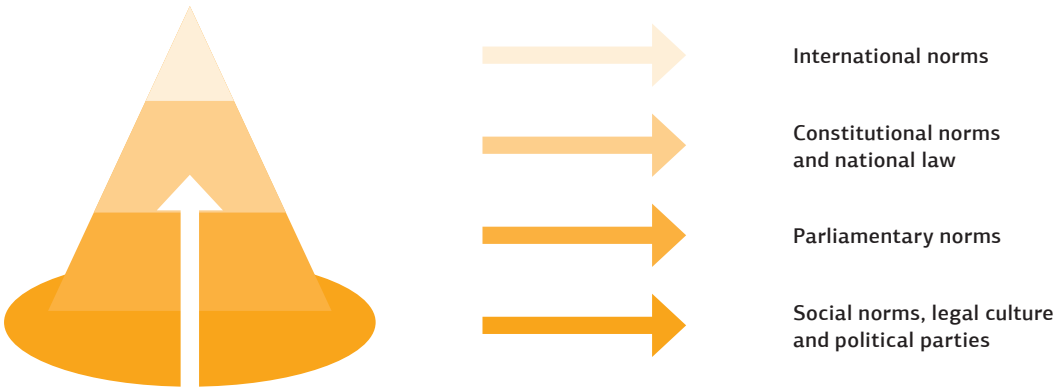
Before embarking on any reform of parliamentary standards, it is important to assess what rules already exist and what other aspects of the context are relevant for reforms. This "context" is defined by four interrelated layers of standards and norms (see Figure 4 below). As part of the international community, a country might have obligations or wish to commit itself to recognized international norms. At the national level, a country's constitutional norms and ordinary laws are of critical importance to setting integrity standards. Moreover, at the level of parliamentary norms, there may be formal norms – e.g., rules of procedure – as well as informal ones. Finally, these three layers rest on specific social norms and on a shared legal culture, in which political parties should play a substantial role in filtering political candidates and promoting integrity standards.

56 "Turkey: Law No. 6718 Constitutional Amendment as to Lifting Parliamentary Immunity", Council of Europe Venice Commission, Opinion No. 858/2016, Strasbourg, 21 September 2016.

57 "Report on the Scope and Lifting of Parliamentary Immunities" Venice Commission.

58 *Ibid*., p. 10.

Figure 4: The normative framework in which integrity standards emerge



International standards

There is no global regulation of parliamentary conduct and no "right" way of setting or enforcing rules.[59] However, there was a series of efforts made towards establishing certain principles as examples of international good practice from the 1990s through the 2010s (see Table 2). Although most of these were in the form of recommendations, both the Council of Europe Criminal Law Convention against Corruption and the UN Convention against Corruption stand out as important legally binding obligations for signatories. The latter also includes persons holding "legislative office" under its definition of "public official", calling for codes or standards of conduct in order to fight corruption and promote integrity, honesty, responsibility and professionalism in the performance of public functions.

In general terms, international norms are important guides for all countries looking to improve democratic processes and to fight against corruption. Compliance with international standards can also be important to meeting the conditions for joining international associations or accessing aid, and for signaling a commitment to future reform.

59 The only area where there is relevant quasi-global regulation concerns the bribery of public officials, which can include parliamentarians. The OECD Anti-Bribery Convention, signed by 43 countries to date (including 31 OSCE participating States), outlaws the bribery of foreign public officials. An even larger group of countries (including all OSCE participating States) has signed the UN Convention against Corruption. These laws are clearly relevant to any reform of the rules about how parliamentarians behave but, under these regulations, liability lies with the companies that pay bribes rather than the public officials that receive them (although the latter may be liable under their own national laws for accepting bribes).

Table 2. Towards international standards of parliamentary conduct: A chronology

1996	The United Nations General Assembly adopts a "model international code of conduct for public officials" as a tool to guide efforts against corruption.[60]
1997	The Council of Europe adopts the Guiding Principles for the Fight against Corruption, which include number 15: "to encourage the adoption, by elected representatives, of codes of conduct."[61] The OECD Anti-Bribery Convention is adopted, requiring signatories to implement national legislation that outlaws the payment of bribes to foreign public officials, including parliamentarians, in international business transactions.[62]
1999	The Council of Europe Criminal Law Convention against Corruption obliges states to ban active and passive bribery of "domestic public assemblies."[63] The Council of Europe establishes the Group of States Against Corruption (GRECO) to monitor compliance with anti-corruption standards and further the Guiding Principles for the Fight Against Corruption. Council of Europe Recommendation 60 of the Congress of Local and Regional Authorities, on the political integrity of local and regional elected representatives, includes a code of conduct, with guidance on measures to reduce the risk of corruption.[64]
2000	PACE Resolution 1214 attests to growing international consensus on the necessity of a disclosure mechanism for members' interests as a minimum in regulating parliamentary conduct.
2005	The UN Convention Against Corruption (UNCAC) establishes a legally binding obligation on signatories "to apply, within [their] own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions."[65]
2006	The OSCE Parliamentary Assembly Brussels Declaration sets out recommendations for regulating the professional standards of parliamentarians (see box, below).[66]
2010	Council of Europe Resolution 316 of the Congress of Local and Regional Authorities[67] focuses on the risks of corruption and emphasizes the importance of promoting a "culture based on ethical values."
2011	The Open Government Partnership, a multilateral initiative aimed at securing concrete commitments from governments to promote transparency, empower citizens and fight corruption, included the adoption of ethical and integrity standards for MPs in its Open Government Declaration, which so far had been signed by 78 countries, including 37 OSCE participating States, as well as 20 subnational governments. Members of the Open Government Partnership commit to, "having robust anti-corruption policies, mechanisms and practices, ensuring transparency in the management of public finances and government purchasing, and maintaining or establishing a legal framework to make public information on the income and assets of national, high-ranking public officials."[68]
2012	GRECO's Fourth Evaluation Round is launched, focusing on corruption prevention with respect to MPs, judges and prosecutors.[69]

60 "General Assembly Resolution 51/59 on Action against Corruption", United Nations, New York, 12 December 1996.

61 "Resolution (97) 24 on the Twenty Guiding Principles for the Fight against Corruption", Council of Europe, Strasbourg, 6 November 1997.

62 "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and Related Documents", OECD, 21 November 1997. The definition of "foreign public official" includes "any person holding a legislative, administrative or judicial office of a foreign country."

63 "Criminal Law Convention against Corruption", Council of Europe, Strasburg, 27 January 1999, <http://conventions.coe.int/Treaty/en/Treaties/html/173.htm>.

64 "Recommendation 60 on Political Integrity of Local and Regional Elected Representatives", Council of Europe, Strasburg, 17 June 1999, <https://rm.coe.int/168071a0f7>.

65 UNCAC, *op. cit.*, note 19.

66 "Brussels Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the 15th Annual Session", OSCE Parliamentary Assembly, Brussels, 3–7 July 2006.

67 "Resolution 316, Rights and Duties of Local and Regional Elected Representatives", Council of Europe Congress of Local and Regional Authorities, Strasburg, 19 October 2016, <https://rm.coe.int/1680718f96>.

68 "Open Government Declaration", Open Government Partnership. New York, 20 September 2011

69 "Fourth Evaluation Round: Corruption Prevention in Respect of Members of Parliament, Judges and Prosecutors", GRECO, Strasbourg, 1 January 2012.

Table 2 (cont.). Towards international standards of parliamentary conduct: A chronology

2016	Council of Europe Resolution 401 of the Congress of Local and Regional Authorities on Preventing Corruption and Promoting Public Ethics at Local and Regional Levels commits to revising and updating the 1999 European Code of Conduct for the Political Integrity of Local and Regional Representatives.[70]
2017	GRECO's Fourth Evaluation Round concludes by recommending that MPs, judges and prosecutors take more responsibility for raising and maintaining high standards of conduct and integrity.[71] GRECO also issued the Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe.[72]
2018	The 57 participating States of the OSCE adopt the Decision on "Preventing and Combating Violence Against Women", which expressed concern that widespread discrimination against women, continues to undermine their effective participation in political and public life at all levels .[73]

The constitution and national legal framework

In establishing a system to regulate parliamentary standards and deciding what character it should have, drafters should consider relevant provisions in the constitution, including the balance of power among the parliament, executive and judiciary. The constitutional and *de facto* balance of power will shape the incentives and opportunities that MPs have to behave professionally and with integrity. Hence, this can help to identify the priority areas for regulation. For example, if the parliament is weak and has little influence over policy-making and lawmaking, then it is less likely that interest groups will seek to buy influence by bribing MPs. The main risks of misconduct might, rather, relate to the use of parliamentary resources.

Moreover, any new rules, and the content of the code of conduct, must be compatible with the constitution, as well as with existing laws relating to conduct in public office, laws on political parties and party finance, laws on the status of MPs or on the status of the parliament, laws on abuse of office and conflict of interest, anti-corruption laws and anti-discrimination laws. It is extremely important that any new code of conduct does not contradict existing laws. In addition, it is a helpful starting point to gather together and examine existing laws in order to help with identifying gaps and risk areas and to remind parliamentarians of their legal obligations and rights.

In the United States, the Congressional ethics regime is rooted not only in parts of the Constitution but also in standing rules, in separate codes of conduct of the House of Representatives and the Senate, in Rules of the House of Representatives and in the House Ethics Manual. The Ethics in Government Act of 1978 and the Congressional Accountability Act of 1955 apply in some instances as well.

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70 "Resolution 401, Preventing Corruption and Promoting Public Ethics at Local and Regional Levels", Council of Europe Congress of Local and Regional Authorities, Strasburg, 28 October 2010, <https://rm.coe.int/1680767269>.

71 "Corruption Prevention: Members of Parliament, Judges and Prosecutors: Conclusions and Trends," GRECO, October 2017, <https://rm.coe.int/corruption-prevention-members-of-parliament-judges-and-prosecutors-con/16807638e7>.

72 "Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe", GRECO, Strasbourg, 19–23 June 2017.

73 Ministerial Council Decision No. 4/18 Preventing and Combating Violence Against Women, OSCE, Milan, 7 December 2018. https://www.osce.org/files/f/documents/2/a/40710.pdf

In some countries, MPs fall under the same systems of regulation as those existing for public officials and, hence, may be subject to international anti-corruption obligations, such as the UNCAC.[74] In Georgia, for example, the Constitution and the Law on Public Services contain provisions that regulate the conduct of public officials, and these also apply to MPs. In other institutional arrangements, separate regulatory systems are in place for different types of public roles. For example, distinctions are sometimes made between MPs who hold executive office and those who do not. In the United Kingdom, there is a separate code for MPs who are simultaneously ministers, which subjects them to stricter monitoring and investigative processes. In Ireland, there are different codes for "office holders" (e.g., ministers or committee chairs) and "non-office holders", in some cases covering both elected and non-elected officials.[75] For certain issues, there may also be merit in expanding regulation to cover close associates of MPs, such as key staff and aides, family members and friends.[76]

Table 3. Examples of codes of conduct for "office holders"

Country	Code	Main features
Canada	The Conflict of Interest and Post-Employment Code for Public Office Holders	Provisions regulating the conduct of public office holders (e.g., ministers, secretaries of state, parliamentary secretaries)
Georgia	Law on Public Services	Provisions regulating the conduct of public officials, including MPs
Ireland	Code of Conduct for Office Holders	Provisions regulating the conduct of office holders (e.g., prime minister, deputy prime minister, cabinet ministers, MPs that are committee chairs)
Lithuania	Code of Conduct for State Politicians	Provisions regulating the conduct of all politicians, including MPs
Malta	Code of Conduct for Ministers and Parliamentary Secretaries	Provisions regulating the conduct of ministers and parliamentary secretaries
United Kingdom	Ministerial Code	Provisions regulating the conduct of ministers
France	Code for Council of Ministers	Provisions regulating salaries, gifts and hospitality, private invitations, and use of transport for public business of members of Council of Ministers.

Drafters should also ensure that new systems for regulating parliamentary standards are compatible with electoral laws. A country's electoral system can affect the balance of power between a political party and individual MPs and, hence, influence the pattern of corruption risks. In a proportional representation system with closed party lists, individual MPs may put loyal-

74 See paragraph A.4 of the thematic report on "Implementation of Chapter III (Criminalization and Law Enforcement) of the United Nations Convention against Corruption" (CAC/COSP/2011/2), distributed at the Conference of the States Parties to the United Nations Convention against Corruption, 25 August 2011, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/7-9September2011/V1185279e.pdf>.

75 "Code of Conduct for Members of Dail Eireann other than Office Holders", Irish House of Representatives, 2002, <https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Ireland_MPs%20Code%20of%20Conduct_EN.pdf>, and "Code of Conduct for Office Holders", Irish House of Representatives, 2001 <https://www.sipo.ie/documents/english/Code-of-Conduct-for-Office-Holders-.pdf>. For the Senate, see Irish House of Representatives, "Code of Conduct for Members of Seanad Eireann other than Office Holders", 2002, <https://data.oireachtas.ie/ie/oireachtas/committee/seanad/25/committee_on_members_interests_seanad_eireann/termsOfReference/2002/2002-04-18_code-of-conduct-for-members-of-seanad-eireann_en.pdf >.

76 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.,* note 28.

ty to the party above the interests of voters. In a system with individual member constituencies, by contrast, accountability to the electorate may be stronger, and individual MPs might be more motivated to regulate themselves.

National laws for party financing are also relevant. As a study from the European Parliament's Office for the Promotion of Parliamentary Democracy says, "In countries where political parties are financed by the state, there is a different relationship between politics and the private sector than in one where parties are financed solely from private and corporate donations."[77] The implication is that lobbying carried out by private businesses may pose more of a risk to MPs' integrity in countries where parties and candidates heavily rely on the private sector for funds.

Parliamentary norms and customs

Any reform of parliamentary standards regulations also needs to take into account existing codes of conduct for legislators or parliamentary staff, rules of procedure, standing orders of the parliament, parliamentary resolutions, and guides and manuals for legislators. Informal rules and conventions related to how MPs conduct themselves and how parliamentary business is executed are often very important to the daily life of parliaments. Examples of such practices include:[78]

- MPs in the United Kingdom listen to the "maiden speech" of new members without intervening;
- MPs refer to one another with the title "the Honourable" in Italy, Malta and the United Kingdom;
- MPs remain in the plenary to listen to at least two interventions after making a speech of their own; and
- MPs are expected, as a matter of courtesy, to inform another member if they plan to make a negative reference to them in a speech in the parliament.

Any effort to set professional standards in a parliament needs to take into account these subtleties. For example, in some chambers the speaker or the president of the parliament plays an important role in enforcing rules and norms during debates, often setting a series of important precedents as to what is permissible behaviour. The legitimacy of such a convention is greater, however, when the speaker is non-partisan. In parliaments where the speaker does not set aside their political party allegiance upon assuming office, such a regulatory role may be more controversial.[79] The use of gender-sensitive language in drafting legal regulations, rules of procedure, official communication, internal acts and materials can be formalized as a means to combat gender-based discrimination.[80]

Social norms and organizational cultures of parliaments and political parties

There may also be informal norms in a society that directly affect parliamentary behaviour. In some countries, MPs are expected to favour their constituencies, by channeling state resourc-

77 European Parliament, *Parliamentary Ethics: A Question of Trust*, (Brussels: European Parliament, Office for Promotion of Parliamentary Democracy, 2011) p. 14, <https://www.parlament.cat/document/intrade/59368>.

78 Such traditions are often recorded in publications about the practice of a particular parliament, e.g., in the United Kingdom, see Jack, Malcolm, *Erskine May: Parliamentary Practice* (London: LexisNexis Butterworth, 2011).

79 In parliamentary practices associated with the Westminster, United Kingdom system, speakers distance themselves from their parties upon election to the speakership.

80 "Gender Sensitive Language in the Parliament of the Federation of Bosnia and Herzegovina", Sarajevski Otvoreni Centar, 20 April 2017, <http://soc.ba/en/gender-sensitive-language-in-the-parliament-of-the-federation-of-bih/>.

es to their constituents and local interest groups. This is seen as a legitimate part of a legislator's role in many countries, while it is regarded as inappropriate in others.

Diverse membership in parliaments and moving away from socially conditioned gender roles can represent both challenges and opportunities to debate social and organizational norms. Parliaments are increasingly developing gender action plans and instituting corresponding changes, such as avoiding night sittings or scheduling regular voting hours, to facilitate more "balanced" working hours. The #MeToo movement and the corresponding evidence of sexual harassment in parliaments have also put the conduct of MPs in the spotlight. The movement has revealed working environments within national parliaments that tolerate certain kinds of discriminatory conduct and/or fail to acknowledge that such problems exist. Parliamentary staff may be particularly vulnerable to harassment, given that the organizational culture is often very hierarchical, and it may be difficult to blow the whistle.

As noted in the IPU and PACE 2018 survey on sexism, harassment and violence against women parliamentarians, cited earlier, the imbalance of power is particularly acute between MPs and their parliamentary assistants, who are often employed directly by parliamentarians.[81] Not having the status of civil servants, assistants do not necessarily have the same protection or job security. Due to this failure to clearly define status and applicable rules, the working relationships between MPs as employers and their assistants have often been overlooked or ignored in policies aimed at combating bullying and sexual harassment in parliaments. These findings were reinforced in the United Kingdom by a report published in 2018 by a former High Court judge appointed to conduct an independent inquiry into a slew of allegations of misconduct within the Parliament.[82]

New rules that ignore or otherwise fail to address existing norms and conventions are less likely to be effective. Countries that aspire to meet international standards may find, however, that local traditions conflict with these objectives. Individual MPs may need support, both practical and moral – to comply with new norms or to counter pressures to uphold old social norms.

Political parties also have a key role to play as ethical gatekeepers of democracy, starting with the selection of political candidates.[83] Political parties can play a decisive role in setting ethical standards for future MPs and public officials. Because they are the first to screen and select political candidates, political parties should function as ethical filters. They should only support those individuals that understand and have demonstrated high ethical standards.

81 See "Sexism, harassment and violence against women in parliaments in Europe", *op. cit.*, note 9.

82 Cox, Laura, "The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report", 15 October 2018, < http://www.cpahq.org/cpahq/cpadocs/CWP%20Workshop%204%20The%20Bullying%20and%20Harassment%20of%20Parliamentary%20staff.pdf>.

83 See sections 97, 98 and 167 of *Guidelines on Political Party Regulation*, (Warsaw: OSCE/ODIHR, Council of Europe's Venice Commission, 2011) < https://www.osce.org/odihr/77812>.

Political parties can exert their role as ethical gatekeepers in various ways, including by:

- Introducing codified ethical standards into their party programmes and/or requiring political candidates to sign codes of ethics or, for example, anti-racism declarations;
- Scrutinizing ethically sensitive information regarding candidates during the candidate-selection process;
- Publicly condemning inappropriate behavior by their members; and
- Creating a mechanism (e.g., party ethics or disciplinary committees) to allow the members and electorate to engage directly in the process of filtering their political representatives in relation to ethics. In this way, political parties could also function as ethical educators, raising awareness about ethics in broader society.

In addition, some parties have codes of conduct for their members, helping to inculcate a culture of ethics among party activists, as well as officeholders. A number of parties throughout the OSCE region have introduced codes of conduct for their members, including the Christian Democrats in Finland,[84] Partito Democratico in Italy,[85] Podemos in Spain[86] and the Liberal Democrats in the United Kingdom.[87]

84 See Finish Christian Democratic Party Ethical Instructions for 2021 local elections <https://www.kd.fi/politiikka/saannot/eettiset-ohjeet/>.

85 See Code of Ethics of Democratic Party in Italy, adopted on 16 February 2008: <https://www.partitodemocratico.it/gCloud-dispatcher/7dd6c984-b2f7-4149-8469-e2b0ad3a0bc2>.

86 See the transparency website: < https://transparencia.podemos.info/>.

87 See Code of Conduct for Members of Liberal Democrats in UK, adopted in January 2017 <https://www.libdems.org.uk/doc-code-of-conduct>.

Part Two: Tools for Reforming Integrity Standards

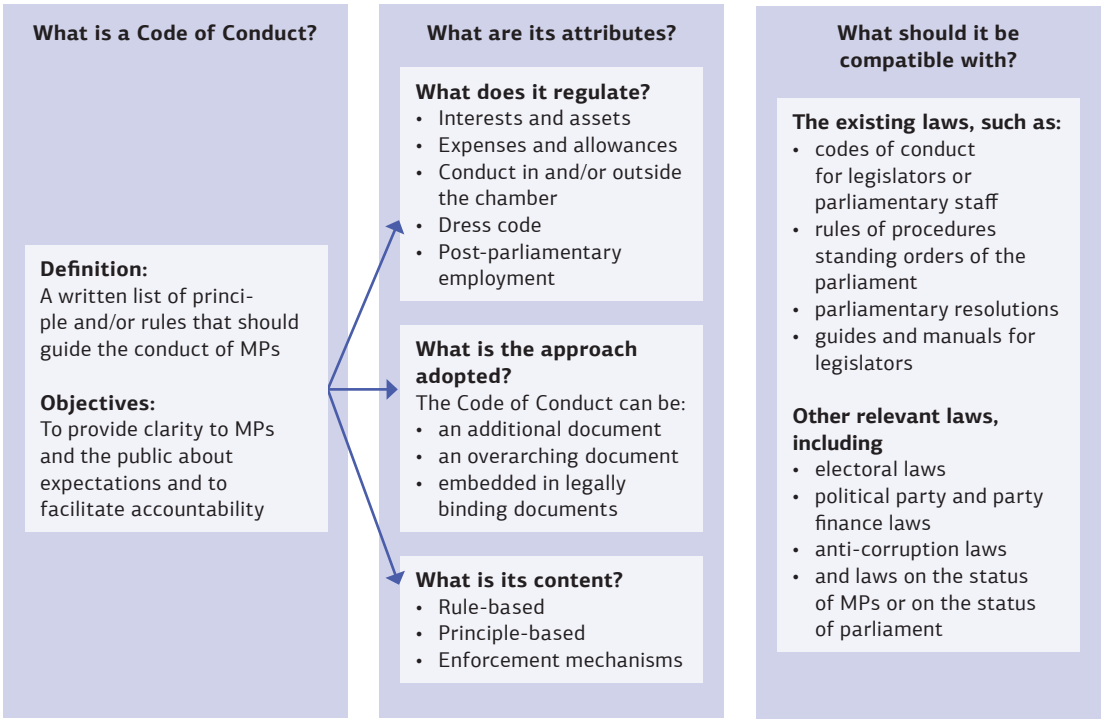
This part of the *Resource* is intended as a practical guide to be used as a reference for those involved in designing or reforming parliamentary standards.

Section 2.1 considers the question of whether a code of conduct should be seen as an integral part of parliamentary standards, assesses the potential benefits of having a code and examines the different types of codes that are in use. **Section 2.2** tackles the various ways in which codes of conduct can be drafted, offering several examples from OSCE countries.

The subsequent sections in this part of the study consider "what to regulate". In **Section 2.3**, we focus on the many elements of conduct that a code should regulate. These include behavior in the chamber; potential conflicts of interest, including gifts and hospitality; the use of public money in the form of expenses and allowances; the interaction of MPs with lobbyists; non-discrimination; and post-parliamentary employment. In each of these sections, we consider the risks that these issues may pose to the integrity of individual parliamentarians and to parliaments themselves. In **Section 2.4**, we consider the potential for new technologies to facilitate regulation.

2.1 A code of conduct

Figure 5: Drafting a code of conduct



Preparing for drafting: Codification

As noted in Section 1.4, in many countries, the conduct of parliamentarians is regulated by articles of the national constitution and elements of different laws, including those establishing rules for holders of public office, laws regarding conflicts of interest, laws on declarations of assets and laws on parliaments, as well as criminal or administrative offence codes. Before beginning to draft a code of conduct, it is important to assess this background in the constitutional and legal framework in order to ensure that the code is compatible and that it adds value.

In 2017, as part of efforts to prepare the ground for drafting a new code of conduct, the Agency for Legislative Initiatives (ALI), an NGO, conducted a comprehensive review of relevant legislation already in place in Ukraine. They produced a codification of these laws that can be used as a basis for making legislative references within the future code. In addition, the codification process helped to convince MPs of the benefit of having all of the rules set out in a single document (i.e., a code). This codification is helpful as a comprehensive source of guidance to MPs. In addition, this kind of exercise can also offer the public and the media an easy reference document with which to check the behaviour of parliamentarians against a benchmark, and thus to better hold legislatures to account.

Many reformers argue that there is merit in having an overarching document that collates the legal and regulatory obligations of MPs and their staff in one place. The Scottish Parliament, for example, has adopted a code of conduct that, along with setting out the rules, also gives detailed citations and analyses of the relevant parts of other laws.[88]

Another approach is to embed a code of conduct in a legally binding document, as with the German or Latvian codes, which are annexes to the rules of procedure of their respective parliaments. Similarly, in 2015, the House of Commons of Canada adopted a code of conduct on sexual harassment between members of the House, which is now an Appendix to the Standing Orders of the House of Commons.[89]

The approach used varies (as illustrated in the table below). Overall, 17 out of the 34 parliamentary codes in place in the OSCE region have been adopted and incorporated as part of parliamentary rules of procedures. In some cases, this is done through a process of amending the document in order to include a new set of ethical standards and provisions. In other cases, rules of procedures are supplemented with an annex, outlining the code of conduct. The other main option for adopting codes of conduct is through the passing of a parliamentary resolution, as 11 national parliaments in the region have done (Bosnia and Herzegovina, Estonia, France, Iceland, Mongolia, Montenegro, Poland, Portugal, Romania, Slovenia and United Kingdom). The three parliaments (Italy, Norway and Sweden) opted to outline their sets of ethical standards in the form of declarations.[90] In Azerbaijan and Lithuania Codes of Conduct are adopted as primary laws, while Ireland has adopted it as a parliamentary motion.

Table 4. Countries in the OSCE region where at least one chamber of their respective national parliaments have adopted a code of conduct

Country	Document	Typology	Enforcement Mechanism	Year of Adoption
1. Albania	Code of Conduct	Rules of Procedure (Annex)	Self-regulation (Bureau of the Assembly)	2018
2. Azerbaijan	Rules of Ethical Conduct of Deputies	Primary Law	Self-regulation (Disciplinary Commission)	2017
3. Belgium	Code of Deontology (Chamber and Senate)	Rules of Procedure	No enforcement mechanism	2013
4. Bosnia and Herzegovina	Code of Conduct (House of Representative and House of People)	Resolution	Self-regulation (Joint Committee on Human Rights)	2008
5. Bulgaria	Ethical rules of conduct (National Assembly)	Rules of Procedure	Self-regulation (Committee on Anti-Corruption, Conflicts of Interest and Parliamentary Ethics)	2014

88 "Code of Conduct for Members of the Scottish Parliament, 5th Edition, 8rd Revision", Scottish Parliament, 8 March 2021, <https://www.parliament.scot/about/how-parliament-works/parliament-rules-and-guidance/standing-orders/-/media/36f5424de5004435813db7139f091e50.ashx >.

89 "Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members", Canadian House of Commons, 11 December 2019, <https://www.ourcommons.ca/About/StandingOrders/Appa2-e.htm>.

90 Leone, Jacopo. "Codes of Conduct for National Parliaments and Their Role in Promoting Integrity: An Assessment". Paper prepared for the OECD Global Anti-Corruption and Integrity Forum, 2017.

Country	Document	Typology	Enforcement Mechanism	Year of Adoption
6. Canada	Conflict of Interest Code for Senators	Rules of Procedure	Self-regulation	2005
7. Estonia	Good practices of the Riigikogu	Resolution	Self-regulation (Anti-Corruption Select Committee)	2004
8. Finland	Instructions of the Speaker's Council on the Rules of Procedures	Rules of Procedure	Self-regulation (Parliamentary Office)	2015
9. France	Code of Deontology (National Assembly and Senate)	Resolution	Co-regulation (National Assembly Commissioner for Ethical Standards and Bureau of the National Assembly) Self-regulation (Ethics Committee - Senate)	2011
10. Georgia	Code of Ethics	Rules of Procedure	Self-regulation (Ethics Council)	2018
11. Germany	Code of Conduct (Bundestag)	Rules of Procedure	Self-regulation (Speaker of the Parliament and Bundestag Administration)	1972
12. Greece	Code of Conduct	Rules of Procedures (Annex)	Self-regulation (Special Permanent Committee on Parliamentary Ethics and Speaker)	2016
13. Iceland	Code of Conduct (Althingi)	Resolution	Co-regulation (Speakers' Committee and independent Advisory Committee)	2016
14. Ireland	Code of Conduct (House and Senate)	Parliamentary Motion	Self-regulation (Committee on Members' Interests)	2002
15. Italy	Code of Conduct (Camera)	Declaration (testing phase, in view of incorporation to the Rules of Procedure)	Self-regulation (Advisory Committee on the Conduct of Members)	2016
16. Kyrgyzstan	Code of Conduct	Rules of Procedure	Self-regulation	2008
17. Latvia	Code of Ethics (Saeima)	Rules of Procedure	Self-regulation (Mandate, Ethics and Submissions Committee)	2006
18. Lithuania	Code of Conduct	Primary Law	Self-regulation (Commission for Ethics and Procedure)	2006
19. Luxembourg	Code of Conduct	Rules of Procedure	Self-regulation (Advisory Committee on Members' Conduct)	2014
20. Malta	Code of Ethics	Rules of Procedure	Self-regulation (Speaker of the Parliament)	1995
21. Mongolia	Code of Conduct for members of the Mongolian Parliament	Resolution	Self-regulation (Standing Committee on Ethics and Discipline)	2009
22. Montenegro	Code of Ethics	Resolution	Self-regulation (Commission for the Prevention of Conflicts of Interest)	2014

Country	Document	Typology	Enforcement Mechanism	Year of Adoption
23. The Netherlands	Integrity Section (Senate) Integrity of Members of Parliament Regulations (House of Representatives)	Rules of Procedure	No enforcement mechanism	2015
24. North Macedonia	Code of ethical behaviour of the members of Parliament	Rules of Procedure	Self-regulation (Committee for procedural and mandate-immunity affairs)	2018
25. Norway	Ethical Guidelines	Declaration	No enforcement mechanism	2013
26. Poland	Rules of Ethics	Resolution	Self-regulation (Ethics Committee)	1998
27. Portugal	Code of Conduct	Resolution (Committee)	No enforcement mechanism	2018
28. Romania	Code of Conduct	Resolution	No enforcement mechanism	2017
29. Serbia	Code of Conduct	Rules of Procedure	Self-regulation (Committee on Administrative, Budgetary, Mandate and Immunity Issues)	2020
30. Slovenia	Code of Conduct (National Council)	Resolution	No enforcement mechanism	2015
31. Spain	Code of Conduct (Congreso and Senate)	Rules of Procedure	Co-regulation (Speaker+Committee of Members' Statute, and the Office on Conflicts of Interest)	2020
32. Sweden	Code of Conduct (Riksdag)	Declaration	Self-regulation (Speaker of the Parliament Office)	2016
33. United Kingdom	Code of Conduct (House of Lords and House of Commons)	Resolution	Co-regulation (Committee on Standards in Public Life and Commissioner on Standards)	1995 1996
34. United States of America	Code of Conduct (House and Senate)	Rules of Procedure	External regulation (Office of Congressional Ethics)	1968
European Parliament	Code of Conduct	Rules of Procedure	Self-regulation (Advisory Committee on the Conduct of Members)	2012

The added value of a code of conduct

Even if they are not legally binding documents, codes can help to regulate conduct simply by their existence:

"When everyone clearly knows the ethical standards of an organization, they are more likely to recognize wrongdoing, and do something about it. Second, wrongdoers are often hesitant to commit an unethical act if they believe that everyone else around them knows it is wrong. And, finally corrupt individuals believe that they are more likely to get caught in environments that emphasize ethical behaviour."[91]

91 *Ibid*, p. 8.

The conditions for an effective code in Ukraine

"Systems to regulate the ethical conduct of parliamentarians are successful when members of parliaments themselves feel and share ownership in the process. I urge parliamentary factions and relevant committees to engage in an inclusive dialogue to develop and enforce standards of parliamentary ethics in Ukraine's parliament".

From Ms. Oksana Syroyid, Former Deputy Speaker of the Verkhovna Rada, during an ODIHR event in Kyiv, 2016.

A code can also set goals above and beyond legal requirements, enshrining values that should guide the behaviour of MPs and standards to which they should aspire.[92] It could, for instance, aim to deter conduct that is not illegal but could, nonetheless, be considered unethical. Equally, it might encourage conduct that is beneficial to a healthy democratic process.[93]

The 2006 Code of Conduct for State Politicians in Lithuania regulates the basic principles and requirements for the conduct of state politicians in public life and sets out measures to ensure the control of the conduct of politicians, as well as steps to be taken in cases where the provisions of the Code have been violated. For example, the Code states that, "[i]n public life, a State politician shall adhere to the following principles of conduct: justice shall equally serve all people irrespective of their nationality, race, gender, language, origin, social status, education, religious beliefs, political views, age or any other differences."[94]

Debate: What are the benefits of a code of conduct?

If the behaviour of MPs is already regulated by a country's constitution and laws, is a code of conduct necessary? There are several purposes a code of conduct might serve, including:

- **Catalyzing debate on a culture of integrity** – Drafting a code can be an excellent way of initiating debate about existing standards and those to which parliamentarians would like to aspire. It can help to identify challenging issues, as well as to build consensus around acceptable standards.

- **Providing ease of reference for MPs** – By explaining all of the official rules in one place, a code of conduct serves as a valuable source of guidance for MPs. If consistently enforced, this may also help MPs to protect aspects of their personal lives that are outside the remit of the code from media scrutiny.

- **Providing advice and guidance for MPs** – The adoption of a code can allow for the establishment of advisory mechanisms MPs can use to obtain clarity about proper conduct in a given circumstance.

92 The Westminster Foundation for Democracy notes that "code" has different meanings in different legal cultures. Whereas in common law traditions a code is seen as a "non-statutory regulation developed by agreement", in civil law traditions, a code is a legally binding statute.

93 "Legislative Ethics and Codes of Conduct", *op. cit.*, note 31, p. 18.

94 "Gender Sensitive Parliaments: A Global Review of Good Practices", Inter-Parliamentary Union, 2011, < https://www.ipu.org/resources/publications/reports/2016–07/gender-sensitive-parliaments>.

- **Improving accountability** – A code sets clear standards against which the public and media can hold MPs and the broader institution of parliament to account.

- **Promoting professionalism and collegiality** – Codes of conduct have also been described as "what professionals use to make the claim that they are 'professionals.'"[95] The more the role of an MP is seen as respected and prestigious, the easier it will be to attract high-quality individuals into service. A code can also serve as a "common denominator", something that MPs share when many other things divide them.

- **Allowing flexibility** – Where a code is adopted by parliamentary resolution, it can be amended and updated relatively quickly to reflect emerging problems or changes in norms. Although, there should be a clear procedure by which to make such changes, and those norms that are part of the rules of procedure should be subject to the normal process for amending the rules.

In terms of content, codes can be either "rules-based" or "principles-based".[96] A rules-based code sets out specific behavioural prescriptions and is likely to be lengthy. A principles-based code lists only the principles and values MPs should follow and to which they should aspire. The United Kingdom Parliamentary Commissioner for Standards has noted that, "a rules-based approach can be complex and hard to follow, encouraging an overly legalistic approach to standards and running the risk of failing to cover every eventuality", whereas a principles-based code "can set a clear and simple framework, but allows room for differences in interpretation which can create uncertainty and controversy." [97]

The two types of codes are not mutually exclusive, however. Any code of conduct must be based on certain principles, even if they are implicit, and most will contain some behavioural prescriptions. Moreover, short, principles-based codes of conduct are frequently accompanied by manuals or handbooks that go into greater explanatory detail. The United Kingdom House of Commons Code, while itself only four pages long, is accompanied with a much lengthier *Guide to the Rules relating to the Conduct of Members*, while the United States House of Representatives code is complemented by the 456-page *House Ethics Manual.*[98]

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95 Gilman, Stuart, *Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons*, (Washington, DC: PREM/World Bank, 2005), p. 4.

96 "Review of the Code of Conduct for Members of Parliament: Consultation Paper", United Kingdom House of Commons, Parliamentary Commissioner for Standards, 7 March 2011, <http://www.parliament.uk/documents/pcfs/review-of-code-of-conduct-2011/Review-of-the-code-of-conduct-2011.pdf>.

97 *Ibid*., p.7.

98 "House Ethics Manual", United States House of Representatives, Committee on Standards of Official Conduct, 2008, <http://ethics.house.gov/Media/PDF/2008_House_Ethics_Manual.pdf>.

2.2 Drafting a code

The process of drafting a code can be an important exercise for generating debate and discussion on what the rules should be, to help to restore rifts between parliamentarians and society, and to create a common understanding of what is appropriate conduct and what represents misconduct. Reforms that are introduced in a hurry or imposed are likely to meet resistance. By contrast, regulatory systems that command wide support among MPs can be effective even with a light touch, since they can help to create an environment in which deputies want to behave ethically, and where the public, by and large, trusts them to do so.

It is vital, with a view to acceptance and adoption, that a code is not simply imposed but, rather, agreed upon through a cross-party process. Following this step, the best way to build legitimacy is by consulting widely with diverse groups in society, listening to their concerns and suggestions, and designing a system that addresses those issues. The same groups should then be asked to comment on the proposed system, and communication channels should be established to explain why certain decisions have been made. Public consultations – online, as well as offline, through organizing public hearings – on a draft code or changes to a code may be a useful tool to incorporate the public in the drafting process.[99]

Sometimes, political parties take the lead in driving integrity reforms, by adopting tougher rules for their own members and using them to shame other parties into putting the integrity reform on the agenda, but also to remind voters that they are different from others and that they care about what people think. Reforms driven by the parliament as a whole and rooted in consensus may, however, be easier to enforce than those that are developed through a polarized or heavily politicized process. This highlights the importance of involving parliamentary authorities and a broad cross-section of parliamentarians of diverse genders, professions and backgrounds, as well as senior political party leaders, so as to obtain cross-party commitment and ownership of the code. Drafters should also think about how the legitimacy of the code can best be secured, e.g., whether it is important to have the code adopted by the plenary, or whether deputies should be asked to sign the code individually.

However, it is also important that one body takes responsibility for driving the process of reform forward. Within parliament, the code might be drafted by one of the following:

- **A specially appointed ad hoc committee** – The European Parliament's Code of Conduct, for example, was drafted by an ad hoc working group set up by the conference of political faction leaders.[100]

- **An existing parliamentary committee or the Speaker's office** – In the United Kingdom, the Committee on Standards leads the drafting and review processes for the House of Commons Code of Conduct.

- **A working group or sub-committee of a parliamentary management body** – In France, the Bureau of the National Assembly has this responsibility, while in Germany, a sub-com-

99 For example, in 2011, the United Kingdom undertook a public consultation for the review of the House of Commons Code of Conduct. See: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/pcfs/consultation-on-code-of-conduct-for-mps/>.

100 "EP Leaders Agree to Develop New Rules for Lobbyists and Stronger Code for MEPs", European Parliament, Brussels, 31 March 2011, <https://www.europarl.europa.eu/news/nl/press-room/20110331IPR16697/ep-leaders-agree-to-develop-new-rules-for-lobbyists-and-stronger-code-for-meps>.

mission of the Bundestag's Council of Elders reviews the rules of conduct for members of the Bundestag.

The drafting group should be selected by a fair and transparent process. It is also of utmost importance that all major political parties are represented and that the reputations of individual members have not been tarnished by previous scandals or personal behaviour. The group should lead by example in making the work of the committee transparent and declaring the interests of its members, even beyond the requirements for parliament. If possible, such groups should be led by or include key personalities that are widely regarded as ethical leaders and who inspire the confidence of the public. Gender balance and diversity among its members should also be ensured.

There are many sources of guidance on how to draft codes. The OECD Global Forum on Public Governance cites seven recommendations for what a good code should be:

- **Clear** – is comprehensible for all staff members;
- **Simple** – is as simple as possible, but not forgetting that integrity is a complex topic;
- **Concrete** – uses specific issues and examples, avoiding generalizations;
- **Structured** – is logically centered around a number of core values;
- **Consistent** – uses concepts in a consistent way;
- **Linked** – includes cross references to other documents and guidelines; and
- **Relevant** – moves beyond the obvious to issues where guidance is needed.[101]

In addition, the code should be written in gender-sensitive language.

There should be wide consultation on the first and successive drafts. Once a draft is finalized, it should be adopted by a plenary vote or resolution. To increase its importance and legitimize future application of the code, it would be desirable to adopt the code with a qualified majority. This helps to raise awareness of any new rules, as well as demonstrate that the parliament is committed to the new framework.

Additionally, drafting groups frequently receive assistance from NGOs or intergovernmental organizations. In 2004, for example, the Mandate Committee of the parliament of Latvia asked an NGO, the Centre for Public Policy, Providus, to draft a code. It subsequently used the NGO's draft to form the basis of its own version, which was eventually adopted by parliament.[102] Similarly, as described in the box below, the efforts in Ukraine towards drafting a code of conduct for MPs have also benefitted greatly from the commitment and work of the Agency for Legislative Initiatives (ALI). Two examples of OSCE assistance – in Bosnia and Herzegovina and in Albania, respectively, are outlined here.

101 "Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation", OECD, 23 April 2009, <http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/GF(2009)1&doclanguage=en>.

102 Telephone interview with Valts Kalnins, Centre for Public Policy-Providus, 17 February 2012.

Albania: The OSCE Presence in Albania and ODIHR supported the Assembly of Albania in the adoption of a Code of Conduct

ODIHR contributed to the efforts made since 2012 by the OSCE Presence in Albania in enabling the drafting and adoption of a Code of Conduct for the members of the Assembly of Albania. The assistance resulted in a long process of support from the OSCE, providing expertise and bringing relevant actors together, that successfully concluded with the approval and adoption of the Code by the Assembly in April 2018.

More concretely, in 2013, the OSCE began providing support by carrying out an analysis of the relevant parts of the country's legal framework, defining recurring problems, providing examples of international good practice, lobbying with actors within the Assembly on the establishment of a working group for drafting the Code, and organizing consultation meetings on possible drafts among the Assembly, civil society and media. The expertise of ODIHR was called upon during the drafting of the Code, with the final version being based on good international practices.

The newly approved Code is multi-dimensional, with clear and integrated standards facilitating the effective functioning of a democratic system. Having such standards in place helps other institutions to monitor the activity of MPs and of the Assembly itself. The Code is an important reference document for the media and civil society, which monitor and inform the public about the parliamentary and political life of the country. At the same time, the principle of transparency guaranteed by this Code protects MPs and the Assembly from any false charges against them. The approval of the Code of Conduct by Albania's MPs is an indication of their responsibility for its ultimate function and a demonstration of respect for the values of the Assembly as a whole.

The approved Code, besides addressing issues such as conduct in the chamber, conflicts of interest, asset declarations and the use of parliamentary resources, gender equality principles and post-employment provisions, also envisages the drafting of an additional "Guide to the Code", a document to explain in further details the provisions included in the Code. In this regard, the OSCE Presence in Albania and ODIHR continue to advise the Assembly of Albania on how to draft such a guide, proposing good practices from other OSCE participating States and taking into account the recommendations provided in this regard in the most recent Council of Europe GRECO Second Compliance Report on Albania.[103]

103 "On the Approval of the Code of Conduct for Members of the Assembly of the Republic of Albania", Decision 61, 2018, (in Albanian)

Ukraine: Preparatory Steps – Building awareness of parliamentary ethics issues

Supporting the process of ethical standards reform and developing a code of conduct for members of the Verkhovna Rada, the Ukrainian parliament, has been a focus of ODIHR's work in the country. Since 2013, ODIHR, together with the Agency for Legislative Initiatives (ALI) and the USAID Responsible Accountable Democratic Assembly (RADA) Program, has worked to raise awareness about ethics reform and facilitated dialogue on adopting a code of conduct by Ukraine's parliament. Support for the adoption of an early roadmap for integrity reform in parliament, and the publication of the policy paper "Code of Conduct for Parliamentarians: European Good Practices, Ukrainian Reality and Prospects" have also been a part of this reform process.

As part of the initial effort to create interest in and political momentum towards addressing the issue of parliamentary integrity, in 2015 ODIHR partnered with the Ukrainian Centre for Independent Political Research, a think tank, to conduct focus group research. The research focused on the significance and understanding of, as well as attitudes towards, the lack of ethical norms regulating the professional activities of MPs in the Rada. Recommendations from the final report, "Problems of Parliamentary Ethics in Public Opinion Polling", paid particular attention to gender aspects of parliamentary ethics.

Creating cross-party political support – Building on the previous work, in December 2015 ODIHR and its partners held discussions in the Verkhovna Rada devoted to the topic of professional and ethical standards, focusing specifically on developing a code of conduct. ODIHR also invited current and former MPs from the United Kingdom and Sweden to share their experiences in developing such a code.

Political advocacy work continued in 2016, with ODIHR and its partners concentrating efforts on building a coalition of civil society, politicians, MPs, public officials and international actors in support of parliamentary ethics reform. In March 2016, ODIHR, in partnership with the USAID RADA Program and the EU-Ukraine Parliamentary Association Committee, organized a debate in the European Parliament in Brussels on "Ethical Standards for Parliamentarians for Greater Public Trust and Accountability". In co-operation with ALI and the USAID Rada Program, in 2016 ODIHR also organized two parliamentary ethics events in the Verkhovna Rada, in July and October, respectively. The dialogue allowed Ukrainian MPs to build consensus on a variety of issues related to the code of conduct, including topics such as conflict of interest, lobbying, declaration of gifts and assets, and oversight. ODIHR, in consultation with the University of Tartu (Estonia), utilized tailor-made values games[104] to facilitate the discussion and developed a series of case studies on ethical dilemmas.

Codification and support for a working group – In 2017, ALI and ODIHR organized a series of discussions, in which MPs, civil society representatives and other participants, with support from international experts, exchanged views on various ethical issues.

As a last step in the process towards the adoption of a code, ALI produced a comprehensive codification of relevant legislation already in place, to be used as a basis for preparing legislative

104 The Values Game is an instrument of dialogue that, in the context of ODIHR's project, was used for reaching consensus among MPs on the values and norms to inform the development of a code of conduct for parliamentarians in Ukraine.

references within the future code. This review underlined the benefit of having a single code providing guidance to MPs in different situations and an easy reference document for the public in holding legislators accountable for their conduct.

Moving forward following the parliamentary elections in Ukraine in 2019, ODIHR remained ready to collaborate with ALI and the USAID RADA Program in facilitating the establishment of a working group within the parliament responsible for drafting the code, and in assisting with targeted expertise and comparative knowledge.

Implementation: Questions to consider

- *Should the code have the status of law or be merely advisory?*
- *Should the code include a broad statement of values and/or principles?*
- *Will MPs be required to publicly commit to the code when they enter parliament, e.g., by swearing an oath or signing a document?*
- *Will a "manual" be developed, with guidance notes, advisory opinions, examples and past cases? Who will draft such notes and opinions?*

2.3 The content of a code: what to regulate

2.3.1 Behaviour in chamber

Regulating participation in debates

While not explicitly an integrity issue, rules of procedure are important in setting out frameworks for how individual members behave in conducting parliamentary business. The *Handbook on Parliamentary Ethics and Conduct* published by the Global Organization of Parliamentarians against Corruption and the Westminster Foundation for Democracy, already cited above, considers such rules to be a "cornerstone" of any integrity regime, particularly in situations when it is possible that:

"There is no general acceptance or common understanding of how the rules of procedure should be interpreted. In fact, they are highly contested by MPs, so that debate is fractious and the Speaker's authority frequently questioned."[105]

Such issues can be addressed by introducing practices such as a short pre-agenda debate with a time limit, perhaps once a week, or by setting time limits for responses. The speaker generally also has powers to warn members if their comments diverge from the topic under discussion.

Changes in the rules can help to make the parliament more efficient and ensure fair access to parliamentary time, including from a gender perspective, but members may also need to be encouraged to act responsibly in adherence to the rules. Thomas Mann and Norman Ornstein detail one example in the United States Senate, where the routine limit of 15 minutes for a vote

105 *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, *op. cit.*, note 23, p. 6

was ignored. Not only did the Speaker allow the vote to stay open for two hours and 51 minutes, until the Republican Party had secured a majority, but one Republican representative subsequently accused his own party's leaders of trying to bribe and threaten him during the intervening hours in order to secure his vote.[106] Such practices can be extremely damaging to parliamentary discourse.

Increasing attention has also been paid to the balance in speaking time given to men and women MPs. In Finland, for example, an MP kept a record for one month of how many times women and men were given the floor during parliamentary debates. The Speaker's guidance on distribution of the floor does not include gender balance, and thus, after noticing the uneven gender balance and that women were often given the floor towards the end of the debate, when most of the MPs and journalists had already left, the MP submitted an inquiry to the Speaker's Council of the Parliament. This did not lead to any substantial revisions of the Speaker's guidance, but the practice of distributing speaking time seemed to have improved during the next term of the Parliament.

Rules about attendance and voting

There may also be rules about attendance at debates. The Parliament of Canada Act, for example, obliges members to provide a tally of their attendance rate at the end of each month and makes deductions from the member's allowance if they have been absent for more than 21 sittings.[107] Rules requiring attendance or establishing a high level of attendance in order to achieve a quorum can help address a type of fraud known as "ghost voting", whereby votes are cast on behalf of MPs who are not physically present in the chamber. The practice exists where voting is electronic and requires only the push of a button. Members of the same party often agree to cast ghost votes for one another, but members of opposing parties can also cast ghost votes that run counter to the beliefs of the absent MP. There have been cases of members rigging their voting buttons to allow them to be triggered remotely.

The problem of ghost voting has arisen in a number of OSCE participating States and has been the subject of videos that have been widely distributed online showing deputies pushing several voting buttons in succession. While some individuals have sought to defend the practice as improving efficiency without changing the outcome of the vote, there is clearly great potential for abuse.[108] Some countries explicitly prohibit the practice in their parliamentary rules of procedure – for example Bulgaria[109] and Georgia[110] – while Lithuania's Statute of the Seimas warns against "dishonest voting".[111] Where such a practice is prohibited, countries may wish

106 See the opening chapter of Mann, Thomas E. and Ornstein, Norman J., *The Broken Branch: How Congress is Failing America and How to get It Back on Track* (Oxford: Oxford University Press, 2006).

107 "House of Commons Procedures and Practice – Responsibilities and Conduct of Members", Parliament of Canada, 2000, <http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch04&Seq=12&Language=E>.

108 See for example, this article on ghost voting from the United States, in the Tennessee General Assembly, Kraus, Jennifer, "House Speaker Reacts to 'Ghost Voting' Story", NewsChannel5 Nashville website, 7 September 2015, <https://www.newschannel5.com/news/newschannel-5-investigates/house-speaker-reacts-to-ghost-voting-story>.

109 "Rules of Organization and Procedure of the National Assembly", National Assembly of the Republic of Bulgaria website, 20 April 2018, Article 10/2, <http://www.parliament.bg/en/rulesoftheorganisations/>.

110 "Rules of Procedure of the Parliament of Georgia", Parliament of the Republic of Georgia website, 27 December 2018, Article 95/8, <http://www.parliament.ge/en/ajax/downloadFile/131641/ROP_as_of_27_Dec_2018_ENG>.

111 "Statute of the Seimas of the Republic of Lithuania", Parliament (Seimas) of Lithuania, 19 December 2019, Article 20/2),<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/57d7b351289a11ea8fodfdc2b5879561?jfwid=-11fvkwhscf>.

to consider sanctions against MPs who cast ghost votes or ask their colleagues to cast votes on their behalf.

Rules regulating attendance should take into account the different needs and the increasing diversity of MPs. As the ODIHR publication *Gender Equality in Elected Office: A Six-Step Action Plan,* notes:

"It is insufficient to get more women candidates into office if the standard rules and procedures of democratic bodies are gendered and thus prevent women from operating effectively as elected representatives. Thus, encouraging gender-sensitive rules and procedures in elected bodies is also important, both through integrating gender issues into all parliamentary committees, debates, action plans, commissions, reports, and legislation, as well as through reviewing standard working conditions and operational cultures to make sure that there are equal opportunities for women and men members."[112]

One example of gender-sensitive rules and procedures is access to voting for MPs on parental/care leave. Another example of facilitating the participation of parents was recently adopted in the United States Senate, when, in April 2018, it unanimously agreed to allow all Senators to bring their infant children under the age of one onto the Senate floor, if necessary, during votes. The Senate had previously banned all children from entering the Senate floor, a practice that could have prevented Senators who are new parents from executing their constitutional responsibility of voting on issues of national importance. [113]

Rules regulating language in the chamber

Many codes of conduct include a commitment to treat one's colleagues with respect or use appropriate parliamentary language, and it is common practice to ban the use of offensive or discriminatory language. Apart from encouraging a higher quality of debate, such stipulations help to ensure an atmosphere that is welcoming for a diverse cross-section of society, including members of minorities or other under-represented groups, who are more likely to suffer from discriminatory or offensive language.

In Latvia, the parliamentary Code of Ethics requires that MPs avoid "using words, gestures and other actions that can be insulting" as well as "offensive or otherwise inappropriate statements that may dishonour the Saeima."[114] It also seeks to enshrine a certain kind of political culture, stating that an MP, "bases his/her decisions on facts and their fair interpretation, as well as on logical argumentation." The code also encourages tolerance and non-discrimination, stating an MP,"observes the principles of human rights and does not appeal to race, gender, skin colour, nationality, language, religious beliefs, social origin or state of health to justify his/her

112 *Gender Equality in Elected Office: A Six-Step Action Plan* (Warsaw: ODIHR, 2011), p. 54, <http://www.osce.org/odihr/78432>.

113 "Historic Rules Change Allows New Parents to Bring Their Children onto Senate Floor for First Time", website of U.S. Senator Tammy Duckworth, 18 April 2018, <https://www.duckworth.senate.gov/news/press-releases/historic-senate-rules-change-allows-new-parents-to-bring-their-children-onto-senate-floor-for-first-time.>

114 "Rules of Procedures of the Saeima – Code of Ethics for Members of the Saeima of the Republic of Latvia", Saeima of the Republic of Latvia website, 2019, Article 7, <https://www.saeima.lv/en/legislative-process/rules-of-procedure>.

argumentation."[115] The code also includes provisions on insulting gestures and on frequenting public places under the influence of alcohol.[116]

The United Kingdom House of Commons offers a definition of what constitutes unparliamentary language:

"Unparliamentary language breaks the rules of politeness in the House of Commons Chamber. Part of the Speaker's role is to ensure that MPs do not use insulting or rude language and do not accuse each other of lying, being drunk or misrepresenting each other's words. Words to which objection has been taken by the Speaker over the years include blackguard, coward, git, guttersnipe, hooligan, rat, swine, stoolpigeon and traitor. The Speaker will direct an MP who has used unparliamentary language to withdraw it. Refusal to withdraw a comment might lead to an MP being disciplined. The Speaker could 'name' the Member. MPs sometimes use considerable ingenuity to get around the rules; for example Winston Churchill famously used the phrase "terminological inexactitude" to mean 'lie'."[117]

In Canada, meanwhile, the Compendium on Rules of debate states that:

"The use of offensive, provocative or threatening language in the House is strictly forbidden. Personal attacks, insults and obscene language or words are not in order. In dealing with unparliamentary language, the Speaker takes into account the tone, manner and intention of the Member speaking; the person to whom the words were directed; the degree of provocation; and, most importantly, whether or not the remarks created disorder in the Chamber. Thus, language deemed unparliamentary one day may not necessarily be deemed unparliamentary on another day. [...] Should the Speaker determine that offensive or disorderly language has been used, the Member will be requested to withdraw the unparliamentary word or phrase. The Member must rise in his or her place to retract the words unequivocally."[118]

Introducing rules against inappropriate reactions to other MPs' statements in the chamber, such as inappropriate gestures and sounds with or without sexual connotations, whistles and "air kisses", should be considered too. For example, the Council of Europe's Parliamentary Assembly has called on national parliaments to "encourage members of parliament to adopt non-sexist language and not to resort to sexist stereotypes in the course of their parliamentary activities."[119]

The speaker of the parliament can play a crucial role in these cases. The European Parliament adopted a resolution on combating sexual harassment and abuse in the EU in 2017, and it specifically calls on the president of the Parliament and the Parliament's administration to take a number of steps in this area.[120]

115 *Ibid*., Article 8.

116 *Ibid*., 14.

117 "Unparliamentary Language", Excerpt from United Kingdom House of Commons website, <http://www.parliament.uk/site-information/glossary/unparliamentary-language/>.

118 "Rules of Order and Decorum, Third Edition – Unparliamentary Language", Canadian House of Commons website, 2017, <https://www.ourcommons.ca/About/ProcedureAndPractice3rdEdition/ch_13_3-e.html#13-3-7>.

119 "Combating Sexist Stereotypes in the Media", PACE, 2010, Article 7.4 <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=12456&lang=en >.

120 European Parliament Resolution of 26 October 2017 on Combating Sexual Harassment and Abuse in the EU (2017/2897(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0417&language=EN&ring=B8-2017-0579>.

In March 2018, then-Foreign Secretary was reprimanded by the Speaker of the United Kingdom House of Commons, for using sexist language. The Speaker intervened after the Foreign Secretary referred to the shadow foreign secretary as by her husband's title and surname, although she goes by her maiden name. The Speaker said that this was "inappropriate" and sexist, and added that MPs should be called by their names and not by the titles of their spouses. The Foreign Secretary subsequently apologized for the "inadvertent sexism".[121]

A code of conduct should consider how to treat instances of improper language being used, with sanctions ranging from requiring an apology in the chamber to suspension from office. For example, the Code of Conduct for MPs on sexual harassment of Canada's House of Commons provides a definition of sexual harassment that covers any "conduct of a sexual nature, including, a comment, gesture or contact, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation". Any power imbalance between the complainant and the respondent or any abuse of power by the respondent is a relevant factor in cases of sexual harassment, but it is not, however, a necessary element. The Canadian Code also provides educational examples under section 7:

"Sexual harassment is defined in section 2, and this section does not add to, nor detract from, that definition and is included solely for educational purposes. Without limiting the definition of sexual harassment in any manner, sexual harassment may include the following:

(a) demands for sexual favours or sexual assault;
(b) inappropriate or unwanted physical contact such as touching, patting or pinching;
(c) insulting comments, gestures or practical jokes of a sexual nature that cause discomfort or embarrassment; and
(d) inappropriate enquiries or comments about an individual's sex life.

Sexual harassment can occur, for example, while Members are travelling or at a social function."[122]

Dress code

A code may also include rules or guidelines on suitable dress, i.e., what kind of clothes MPs should wear in the chamber or when conducting parliamentary business. This is considered by many too great an encroachment on the individual freedom of MPs and is arguably irrelevant to whether they perform their role effectively. On the other hand, some might feel that a basic level of decorum needs to be maintained. Additionally, such issues can have political relevance, as when, for example, MPs of extremist or nationalist parties attend parliament wearing uniforms or symbols of an ideological cause. Such practices arguably seek to borrow the legitimacy of the institution of parliament to promote a certain cause and may be offensive to other parliamentarians or to the public.

In the United Kingdom, for example, the dress code in the House of Commons has been relaxed significantly over the years – up until 1998, any MP wishing to make a point of order was still

121 "Boris Johnson Told Off by Speaker for 'Sexism'", BBC News website, 27 March 2018, <http://www.bbc.com/news/uk-politics-43557516>.

122 "Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members", STANDING ORDERS of the House of Commons — Consolidated version as of January 1, 2021, Canadian House of Commons, <https://www.ourcommons.ca/about/standingorders/appa2-e.htm>.

required to wear a top hat. In 2017, the Speaker of the United Kingdom House of Commons deemed that men no longer needed to wear jackets and ties in the Commons. However, MPs are expected not to use their clothing to display slogans or make points.

Implementation: Questions to consider

- *Are practices occurring that disrupt parliamentary activity?*
- *Is the code an appropriate place for rules about core aspects of parliamentary procedure?*
- *Should demeanour issues be set out in the code or left to informal norms?*
- *Do rules regulating parliamentary language and conduct adequately take into account the needs of diverse cross-sections of the society, including members of minorities?*

2.3.2 Conflicts of interest

One of the key objectives of professional conduct regulation is to avoid – or limit – conflicts of interest. According to the OECD's *Managing Conflict of Interest in the Public Service – OECD Guidelines and Country Experiences*, a conflict of interest is defined 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."[123]

Given that parliamentarians are public officials, there are UNCAC derived obligations imposed upon MPs, including the need to disclose assets and income on a regular basis.[124]

Codes of conduct often require MPs to commit to putting the public interest above private interests, but often other rules and tools are used to regulate the details. This approach is evident in the reports from the GRECO's Fourth Evaluation Round, in which each evaluated member state received at least one recommendation in the field of conflicts of interests of MPs. These recommendations cover issues such as the reporting of financial and outside interests, incompatible activities and ad-hoc declarations of conflicts of interests. While regular declarations of interests were more mainstream at the time of the evaluations, the introduction of ad-hoc declarations systems features heavily among GRECO recommendations, suggesting that member states still needed to improve their mechanisms of dealing with conflicts of interest that surface during the terms of office of MPs.

There are two main approaches to regulating conflicts of interest. One method is to ban MPs from taking on certain roles, through provisions in the constitution or dedicated laws on incompatibility or conflicts of interest.[125] This implies that certain roles are inherently incompatible with holding parliamentary office and/or that MPs cannot be trusted to exercise judgment independent of their interests. The alternative is to allow MPs to hold other interests but re-

123 *Managing Conflict of Interest in the Public Service – OECD Guidelines and Country Experiences*, (Paris: OECD, 2003), p. 2, <https://www.oecd.org/gov/ethics/oecdguidelinesformanagingconflictofinterestinthepublicservice.htm>.

124 UNCAC, *op. cit.*, note 19, article 8, section 5.

125 Several OSCE participating States have separate conflict of interest laws, e.g., Latvia has a law on "Prevention of Conflict of Interest in Activities of Public Officials", 2002, which was introduced because the Corruption Prevention Act was regarded as inadequate in this area. It has undergone numerous amendments, the latest in 2015.

quire them to disclose the details in registers of interests and/or declare them before speaking in parliament on related matters. This model grants an MP some discretion to decide when there is a risk of a conflict, although research suggests that the disclosure requirement has not always been well respected.[126] The disclosure of interests is increasingly seen as a minimum requirement for parliaments. The 2000 PACE Resolution 1214 attests to growing international consensus on the necessity of a disclosure mechanism for members' interests as a minimum in regulating parliamentary conduct. The Resolution states that:

"In order to successfully fight corruption, parliaments – in their capacity as a country's supreme political authority and instance of control – should, where applicable: introduce an annual system for the establishment of a declaration of financial interests by parliamentarians and their direct family."[127]

However, the effectiveness of disclosure ultimately relies on the ability and capacity of the public, the media and civil society to scrutinize the disclosed interests and judge whether conflicts have occurred. In practice, countries frequently combine the two approaches, prohibiting the holding of some interests but allowing others, as long as the details are disclosed. Another intermediate approach, used in Sweden, is to allow MPs to have certain interests, but require them to exclude or recuse themselves from debates or votes where a conflict of interest might arise.[128] Likewise in Canada, where there is a dedicated Conflict of Interest Code, several standing orders of the House of Commons prohibit members from voting on issues in which they have "direct pecuniary interests."[129]

In the Parliament of Finland, the MPs' declaration of private interests was voluntary until 2015, when, under an amendment to Parliament's Rules of Procedure, the declaration of private interests was made mandatory. The purpose of the amendment was to increase openness and transparency regarding the private interests of MPs. More detailed instructions regarding declarations of private interests were issued in Speaker's Council instructions. A form for declaring private interests is handed out to an MP when their credentials are examined, and the completed form is returned to the Central Office within two months. The Central Office keeps a register of declared private interests, which are also published on the Parliament's website. An MP's personal page lists the interests they have declared, as well as the organs to which the Parliament has appointed the MP. Significant changes in personal interests during the electoral term must be declared within two months from when the change occurred.[130]

Incompatibility laws

Attitudes towards the compatibility of public and private roles vary considerably in the OSCE region. Canada, France, Italy and the United Kingdom have, for example, historically been far

126 In Gay, Oonagh and Leopold, Patricia, *Conduct Unbecoming: The Regulation of Parliamentary Behaviour* (London: Politico's, 2004), the authors note that, "Significant numbers of MPs appeared to regard registration as sufficient declaration of interest, ignoring the specific obligation to declare interests in debate and in committee".

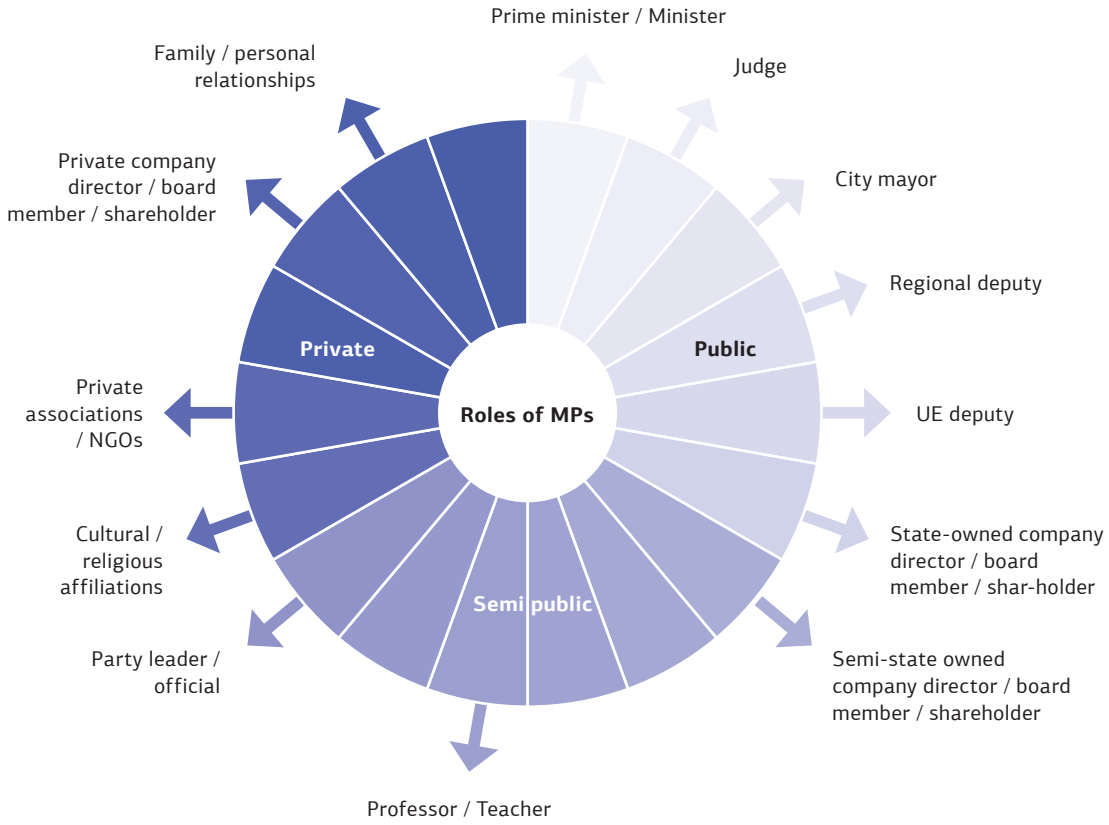
127 "Resolution 1214: Role of Parliaments in Fighting Corruption", PACE, 2000 <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16794&lang=en>.

128 Sweden's "Law on Registration of Members of Parliament's Engagements and Economic Interests", 1996, states that, "A member may not participate in the deliberations of the Chamber or be present at a meeting of a committee on a matter which concerns him [or her] personally or a close relative." As cited in National Democratic Institute, "Legislative Ethics: a Comparative Analysis", Legislative Research Series Paper #4, Washington DC, 1999, p. 8, <https://www.ndi.org/sites/default/files/026_ww_legethics.pdf>.

129 "House of Commons Procedures and Practice – Responsibilities and Conduct of Members", Parliament of Canada, 2009 <https://www.ourcommons.ca/procedure-book-livre/document.aspx?sbdid=2ae20cbe-e824-466b-b37c-8941bbc99c37&sbpid=2a73c573-7a64-4c90-b4ab-72ab7830dbbd>.

130 "Private Interests of MPs", Parliament of Finland website, <https://www.eduskunta.fi/EN/kansanedustajat/sidonnaisuudet/Pages/default.aspx>.

Figure 6: Range of possible interests of MPs



more concerned about conflicts of interest where one person holds two public roles, while the United States is more concerned about legislators' private interests.[131] Relevant public roles can include being a cabinet minister, being a city or county mayor or member of a regional assembly, or being a manager of a state-owned enterprise. The public role that is most commonly seen as incompatible with holding parliamentary office is that of judicial office, but also prosecutors, military service personnel, as well as officials in state executive structures on regional and municipal levels. It is typically regarded as especially important to uphold a separation of powers between those who make the laws and those who interpret and apply them.

Public roles can be regarded as incompatible with parliamentary office for several reasons. For example:

- In certain countries where MPs can become cabinet ministers, there is a concern that their will to scrutinize the executive might be impeded by being – or aspiring to be – part of the government;[132]
- Where the other role is an elected one, it can be argued that concerns about being re-elected in one role might influence judgments made during the exercise of the other; and
- It may be regarded as inappropriate for one individual to receive two salaries from public funds.

131 Stark, Andrew, "Canada's Upside-Down World of Public-Sector Ethics", *International Public Management Journal*, Vol. 8, No. 2, 2005, pp. 187–207.

132 Around one-fifth of MPs in the United Kingdom are on the government payroll or dependent on the executive for ministerial positions. See: "Smaller Government: What do Ministers do?", *United Kingdom* House of Commons, Public Administration Committee, 2011, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubadm/530/53002.htm>.

Turning to private interests, in many Western European countries, MPs are allowed to earn income from employment or business, but they are typically required to declare any such earnings (at least above a certain pre-determined level). For example, in the United Kingdom, MPs can be directors of companies and earn income from that role, but they are required to disclose it in the Register of Interests when debating relevant matters. In the United States, meanwhile, numerical or percentage-based limits are utilized: A member of congress can earn outside income, but this should not exceed 15 per cent of pay for Executive Schedule level II (a salary grade for senior federal public offices in the United States).

GRECO has made various recommendations on this issue in relation to Armenia, Azerbaijan, Greece, Romania, Turkey and Ukraine. The recommendations stress the need to set up systems that ensure that rules about incompatible outside activities can be effectively enforced and are not circumvented.

In some countries, MPs are explicitly prohibited from owning or running businesses while serving in parliament – e.g., in Armenia, MPs are banned from being "entrepreneurs". In Poland, MPs face numerous restrictions on economic activities involving state-owned enterprises and should not be involved in any economic activities where they could profit from state assets or contracts.

As well as guarding against the abuse of office for private gain by public officeholders, such provisions also limit the access of businesspeople to privileged public or administrative information. Moreover, they can help to prevent individuals from strategically seeking parliamentary office purely to gain immunity from prosecution and protect their business interests.

Also, if MPs are allowed to perform consultancy work during their terms as parliamentarians, this may risk them being influenced in the drafting of legislation or voting. To this end, in 2017, a dedicated decision prohibited French MPs from working as consultants for certain companies, mainly from the financial or public savings sector, and from working as lobbyists for registered lobbies.[133]

Practices differ widely throughout the OSCE region, as the examples in Table 5 illustrate.

Table 5. Compatibility of various types of interest with the role of legislator [134]

	Public-sector interests			Private interests	
Country	**Minister**	**Mayor**	**Judge**	**Company director/ employee**	**Shareholder**
Armenia	Incompatible	Incompatible	Incompatible	Incompatible	Permitted**
Austria	Permitted***	Permitted	Incompatible	Permitted	Permitted
Canada	Permitted	Incompatible	Incompatible	Permitted	Permitted
France	Incompatible	Incompatible	Incompatible	Permitted	Permitted
Germany	Permitted	Incompatible	Incompatible	Permitted	Permitted

133 https://www.france24.com/en/20170729-france-macron-public-life-bill-politics-fraud-nepotism

134 This table was compiled using the IPU database and relevant national constitutions and laws. Countries were selected to illustrate a range of policies. However, it should be noted that it is difficult to collect such information, since it is often embedded in a number of different laws, and difficult to compare these rules across countries, since the definitions of different posts may vary.

	Public-sector interests			Private interests	
Country	**Minister**	**Mayor**	**Judge**	**Company director/ employee**	**Shareholder**
Hungary	Permitted	Incompatible*	Incompatible	Permitted	Permitted
Poland	Permitted	Incompatible	Incompatible	Permitted****	Permitted****
United Kingdom	Permitted	Incompatible	Incompatible	Permitted	Permitted

* Under discussion

** Managing rights must be transferred to trust management for duration of office.[135]

*** Permitted, but not the norm in practice

**** Incompatible in case of state-owned companies

Tools for declaring and disclosing interests

Two main types of tools are used to ensure that potential conflicts are revealed: registers of interests and asset declarations.

In a **register of interests**, MPs declare all sources of income and responsibilities that they hold concurrently with the office. The information is collected centrally and should be updated frequently. Registers were first introduced in the United States and United Kingdom in the 1970s and spread to other countries soon after. The format of registers has evolved considerably, however, with online registers increasingly favored, as well as recommended by the OECD.[136]

The types of interest that need to be registered (or declared) vary, but typically include income (from employment, share dividends, consultancies, directorships and sponsorships), gifts and hospitality, and non-pecuniary interests. In the Netherlands, three separate registers exist, all of which are publicly available. One register covers non-parliamentary income and employment, the second covers foreign trips not paid for by the parliament, while the third is for gifts.[137]

It is important to remember that the mere appearance of a conflict of interest can be damaging. It might be impossible to prove that a certain interest influences an individual's decision one way or another, but the mere suspicion of such can erode legitimacy. The rules should, therefore, include a clause requiring legislators to declare any other interests that might reasonably be considered to influence their actions.[138] To this end, such declarations should not only be made when MPs take up their position or at regular intervals thereafter, but also ad-hoc, when a new potential conflict of interest situation arises.

In France, MPs have to submit electronic declarations of their interests and assets to the High Authority for Transparency in Public Life. Following these submissions, the High Authority receives the opinion of the tax administration on the declarations submitted. It then publishes the declarations once they have been verified, accompanying them with a public statement in

135 This is a solution that is commonly used. For details of model blind trusts, see: <https://oge.gov/Web/oge.nsf/Resources/Qualified+Trusts>.

136 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.*, note 28, p.15.

137 "Rules of Procedure", House of Representatives of the Netherlands, June 2018, Chapter XXIC. Registers. There is no official sanction for failing to list an item.< https://www.houseofrepresentatives.nl/sites/default/files/atoms/files/180626-reglement_van_orde_engels.pdf>.

138 *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, *op. cit.*, note 23.

case it identifies any irregularities. While the declarations of interest are made public on the website of the French Parliament, declarations of assets of MPs can be accessed only physically, in selected governmental buildings, and cannot be accessed on the Internet from outside those selected buildings.

Asset declarations are a more recent innovation but are becoming quite common. MPs may be required to provide details of their wealth or assets when they join and leave parliament and, in some cases, are required to provide annual updates. This makes it possible to assess whether an MP appears to be accumulating wealth or assets from unknown sources. Asset declarations are often introduced for public officials as well as for elected representatives. There is also a trend towards requiring MPs to declare their liabilities, in recognition of the fact that their independence might be compromised by receiving credit at below-market rates or being indebted to other parties. The UNCAC requires States to establish measures and systems 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 interest may result with respect to their functions as public officials.[139]

All of the EU member states that joined the Union between 2004 and 2007 adopted some form of register or declaration. Many other countries in Eastern and Central Europe, Central Asia and the Caucasus have followed suit. In some systems, even candidates for elected office are required to submit declarations, as in Bosnia and Herzegovina. This is also a practice that political parties can adopt as a confidence-building measure, as it has been, for example, in the United Kingdom prior to elections.

Electronic submission can significantly improve compliance with disclosure requirements, reduce the cost of administration and increase access and accountability, as evidenced by results from some countries that have introduced such procedures. In Argentina (not an OSCE participating State), compliance increased from 67 per cent to 99 per cent in less than a year after the introduction of an electronic system for financial disclosure.[140] In Ukraine, e-declarations of assets were introduced in 2016, resulting in high rates of compliance and, since they are publicly available, providing the opportunity for citizens for the first time to know the extent of the wealth of some senior politicians. In some OSCE participating States, a declaration of interests can only be submitted physically.[141]

The benefits of online asset-declaration systems

There are three key benefits to using online systems for asset declarations:

- First, these can help to reduce human error when submitting claims, which in turn reduces the potential for strategic non-compliance, since it makes it more difficult for individuals to ignore rules about what to include in claims by later claiming that they had not understood the rules;

- Second, electronic systems allow for easier verification; for example, submissions can be cross-checked against information in other databases, such as tax data. This may, however, be controversial because of the implications for privacy. Nonetheless, electronic systems may be an important deterrent against corruption in some settings; and

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139 UNCAC, *op. cit.*, note 19, article 8 section 5.

140 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.*, note 28, p.70.

141 *Ibid.*

- Third, online systems facilitate public access to the declarations, enhancing scrutiny and accountability. Again, however, this is not automatic and depends on the rules in each country; forms may be submitted online but then not published. Nevertheless, an online system is a good base on which to build.

Given the diversity of rules for declaring assets and interests, there is usually a need to develop software locally in order to meet local specifications. However, there is also great potential for learning from other countries that have experience of such systems.

Registers and declarations also need to be updated frequently, albeit without placing an undue burden upon parliamentarians. The OECD suggests that information should be collected, "as often as is reasonably needed."[142] Practices vary widely. In Hungary, financial interests need only be disclosed when MPs first take office (within 30 days) and again at the end of their mandates. In the Czech Republic, members must file financial reports annually. In Spain, interests should be submitted "whenever circumstances change", leaving it to the member's judgement to decide when this occurs.[143]

Moreover, GRECO made various recommendations in its Fourth Evaluation Round on refining systems of asset declarations for MPs, including on such issues as making information available to the public in a timely manner, enlarging the scope of declarations and/or the lists of persons required to make a declaration, and improving the system of verification and control. The comprehensiveness of the system and the fair and equal application of the rules to all subjects are also topics that feature in the recommendations.

Concerns about privacy

It is becoming the norm for registers and asset declarations to be routinely made available to the public, often on the parliament's website (as in Poland), in parliamentary visitor information centres (as in the United Kingdom) or on the websites of other state bodies (in Georgia, the asset declarations of MPs are available on the website of the Public Service Bureau).[144] In the United States, the register is not available online, but anyone may inspect or obtain a copy upon providing their identity details (although the information may not be used for commercial purposes or for soliciting money for political purposes or otherwise).

In 2005, the European Court of Human Rights rejected the complaint of a local council member in Poland who refused to submit his asset declaration claiming that the obligation to disclose details concerning his financial situation and property portfolio imposed by legislation was in breach of Article 8 of the European Convention of Human Rights. The Court found that the requirement to submit the declaration and its online publication were indeed an interference with the right to privacy, but that it was justified, and the comprehensive scope of the information to be submitted was not found to be excessively burdensome.[145]

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142 *Ibid*., p.15.

143 Spain Election Law, Article 160(1), <http://legislationline.org/topics/country/2/topic/6>.

144 Available at: <https://declaration.gov.ge/?cult=en-US> (declarations in Georgian).

145 Wypych v. Poland (October 25, 2005, application no. 2428/05) found that the Court "considers that it is precisely this comprehensive character which makes it realistic to assume that the impugned provisions will meet their objective of giving the public a reasonably exhaustive picture of councilors' financial positions ... that the additional obligation to submit information on property, including marital property, can be said to be reasonable in that it is designed to discourage attempts to conceal assets simply by acquiring them using the name of a councilor's spouse."

The Court also endorsed the publication of declarations and their accessibility on the Internet, arguing that, "the general public has a legitimate interest in ascertaining that local politics are transparent and Internet access to the declarations makes access to such information effective and easy. 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."

Some commentators warn that excessive disclosure requirements might infringe upon the right to privacy. This might deter otherwise qualified candidates from running for office[146] and could even present a risk to personal security or property. Hence, in many countries, disclosure is partial or limited. In Canada, financial interests are disclosed to the ethics commissioner on a confidential basis. The commissioner then develops a summary for disclosure on the Public Registry, which is available online. The OECD recommends that, at a minimum, "declared data should be available to investigators for detecting cases of possible criminal offences."[147]

Research shows that declarations are most effective in reducing perceived corruption when they are made available to the public, since this facilitates scrutiny by civil society.[148] Indeed, in a number of countries, NGOs have taken on the responsibility of scrutinizing declarations. In Slovakia, MPs are required by law to submit asset declarations, but these declarations lack detail. However, the Fair Play Alliance, an NGO, has established a programme of activities designed to increase public awareness of asset declarations. The programme:

- Combines data from asset declarations with other public information, to build a comprehensive open database;
- Encourages electoral candidates to submit more complete online asset declarations; and
- Analyses the asset declarations and the way that public money is spent, with a view to uncovering conflicts of interest.[149]

In some countries, NGOs have set up websites – e.g., www.meineabgeordneten.at, in Austria, or www.cumuleo.be, in Belgium – to compare individual MPs' asset declarations to other publicly available information about their interests. These shed light on how frequently MPs fail to declare income from outside jobs, whether because they have overlooked it in their declarations or deliberately sought to conceal it. In Austria, when a television programme drew attention to the fact that information on MPs' interests was difficult to find on the official website of the Parliament, the Parliament immediately responded by placing the relevant information prominently on its main webpage.

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146 National Democratic Institute, "Legislative Ethics: A Comparative Analysis, Legislative Research Series Paper", 1 January 1999, < https://www.ndi.org/node/22890>.

147 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.*, note 28.

148 Djankov, Simeon; La Porta, Rafael; Lopez-de-Silanes, Florencio & Andrei Shleifer, "Disclosure by Politicians", National Bureau of Economic Research, February 2009, Working Paper 14703, <http://www.nber.org/papers/w14703.pdf>.

149 Mandelbaum, Andrew G., *Strengthening Parliamentary Accountability, Citizen Engagement and Access to Information: A Global Survey of Parliamentary Monitoring Organizations*, (Washington: National Democratic Institute and World Bank Institute, 2011), p. 41, <http://www.ndi.org/files/governance-parliamentary-monitoring-organizations-survey-september-2011.pdf>. Also see Fair Play Alliance: <http://www.fair-play.sk/>.

Implementation: Questions to consider

- *Which types of interest or roles should be banned outright?*
- *Which types of interest should be allowed, should be subject to the disclosure of details or require recusal from relevant debates?*
- *How frequently and in what format should MPs declare and update assets or interests?*
- *Who will have access to the information? Have concerns about the MP's right to privacy been adequately addressed?*
- *Should there be penalties for failing to submit information or submitting incorrect information?*
- *Are there mechanisms in place for verifying submissions?*

Gifts and hospitality

Rules regulating the acceptance of gifts vary considerably among OSCE participating States, but three main approaches can be identified:

- **Bans –** Some countries forbid MPs from accepting gifts, e.g., United States members of Congress, officers or employees of Congress, may not accept a gift from a registered lobbyist, agent or a foreign principal, or from a private entity that retains or employs such individuals. They may only accept gifts from other sources if they are valued below 50 dollars and may not receive more than 100 dollars' worth of gifts from one source in a calendar year. Members of the Finnish Parliament must hand over to the Parliament's collections any gifts worth over 400 euros when received when acting as official representatives of the Parliament.

- **Disclosure –** Other countries allow the acceptance of gifts of any value, but require that they must be declared, as in the Czech Republic.

- **Hybrid –** A third group of countries allows any gift to be received and requires that gifts are declared only if they exceed a certain value, e.g., 150 euros in France, and 50 euros in the Netherlands (although some parties in the Netherlands impose tighter rules on their own MPs).

2.3.3 Gender equality and addressing sexism, harassment and violence against women in politics

Strengthening gender equality and addressing diversity, as well as combatting sexism, harassment and violence against women in politics, are highly relevant to rules about conduct, and increasing attention is being paid to this topic. The number of women parliamentarians has grown from about 15 per cent in the year 2000 to a current average of about 29 per cent women among all parliamentarians in national legislatures in the OSCE region.[150] However, it is important to ensure that inclusivity goes beyond numbers and translates into equitable, substantive representation of women, with an active role and influence in the decision-mak-

150 For up-to-date information, see the Inter-Parliamentary Union's Parline website and "Monthly ranking of women in national parliaments" at: <https://data.ipu.org/women-ranking?month=1&year=2021>.

ing processes. This is only achievable if parliaments provide a working environment friendly to both women and men. Encouraging gender-sensitive rules and procedures and declaring zero-tolerance for any kind of harassment or violence in elected bodies is necessary to promote a culture of inclusivity and safety for everyone. Integrating gender issues into the work of parliamentary committees, debates, action plans, commissions, reports and legislation, as well as thoroughly reviewing standard working conditions and operational cultures, is necessary to make sure there are equal opportunities for women and men MPs. The same practices should be applied to provide equal opportunities for MPs from other underrepresented groups, such as MPs with disabilities.

OSCE participating States have committed to "develop and introduce where necessary open and participatory processes that enhance participation of women and men in all phases of developing legislation, programs and policies."[151] OSCE participating States have further committed to "adhere to and fully implement the international standards and commitments they have undertaken concerning equality, non-discrimination and women's rights,"[152] and to "encourage all relevant actors, including those involved in the political process, to contribute to preventing and combating all forms of violence against women, including those engaged in professional activities with public exposure."[153] The OSCE Parliamentary Assembly is, inter alia, encouraged to "have on its agenda the issue of equal opportunities for men and women in national parliaments as well as within the OSCE and the OSCE Parliamentary Assembly, having mainstreamed the discussion of gender equality in the agenda of the Assembly's Plenary Meetings."[154]

In 2012, members of the IPU adopted a Plan of Action for Gender-sensitive Parliaments, which defines a gender-sensitive parliament as one that responds to the needs and interests of both men and women in its structures, operations, methods and in its work.[155] Such parliaments not only dismantle barriers to women's full participation, but also set a positive example for society. Based on the Plan of Action, in 2016 the IPU also published a self-assessment toolkit for parliaments to evaluate how gender-sensitive they are and identify the necessary steps to transform parliaments into gender-sensitive institutions. The method involves answering questions about the nature and work of the parliament concerned. The questions are designed to lead to open, constructive discussions. [156] A similar kind of tool has also been developed by the European Institute for Gender Equality.[157] A number of parliaments in the OSCE region, including Albania, Montenegro, North Macedonia, and Slovenia have made efforts to evaluate their procedures and practices from a gender perspective in recent years, some doing it on a regular

151 OSCE Ministerial Council, Decision No. 7/09, "Women's Participation in Political and Public Life", Athens, 4 December 2009, < https://www.osce.org/mc/40710>.

152 OSCE Ministerial Council, Ministerial Council Decision No. 14/04, "2004 OSCE Action Plan for the Promotion of Gender Equality", Sofia, 7 December 2004, <https://www.osce.org/mc/23295>.

153 OSCE Ministerial Council, Decision No. 4/18, "Preventing and Combating Violence against Women", Milan, 10 December 2018, <https://www.osce.org/chairmanship/406019>.

154 *Ibid.*

155 See: Inter-Parliamentary Union, *Plan of Action for Gender-sensitive Parliaments* (Geneva: Inter-Parliamentary Union, 2012), <https://www.ipu.org/resources/publications/reference/2016–07/plan-action-gender-sensitive-parliaments>.

156 See Inter-Parliamentary Union, *Evaluating the Gender Sensitivity of Parliaments: A Self-Assessment Toolkit* (Geneva: Inter-Parliamentary Union, 2016). <https://www.ipu.org/resources/publications/handbooks/2016–11/evaluating-gender-sensitivity-parliaments-self-assessment-toolkit>.

157 See "Gender-Sensitive Parliaments", European Institute for Gender Equality website, <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-sensitive-parliaments>.

annual basis and others developing gender action plans or roadmaps for ensuring more systemic gender equality considerations in the future.

Overall, gender-sensitive parliaments promote gender-sensitive legislation and language and non-discriminatory and professional behavior, consider the balance between private and professional life, and enhance understanding of gender issues by, for example, providing training for MPs.

Research has revealed that the use of gender-sensitive language has the potential to make significant contributions to the reduction of gender stereotyping and discrimination.[158] In everyday communication, including in parliaments, the use of gender-sensitive language is a tool to promote institutional inclusivity and diversity.

Non-discriminatory and professional behavior between MPs and towards parliamentary staff is an important aspect of a code of conduct. Over recent decades, our societies as well as parliaments have changed. The participation of women in elected office has been on the rise, and traditionally assigned gender roles are being challenged. Having an increasingly diversified membership, parliaments need to ensure that they are welcoming places for all of their members. This includes considering how a code of conduct can promote professional and non-discriminatory behavior, free of all forms of direct or indirect violence, harassment or discrimination against women or against anyone in parliament, for that matter. Parliaments should consider establishing procedures and appropriate mechanisms to address issues such as sexual harassment. Political parties should also take responsibility, publicly condemning and appropriately sanctioning unprofessional and discriminatory behavior by their MPs.

A person experiencing harassment or violence, in any environment and equally in parliament, should be able to report such cases though an effective complaint mechanism and to receive proper protection in doing so. A well-defined complaint mechanism with effective sanctions that deter future bad behavior is key to gender-sensitive parliaments, free of violence or harassment. In turn, parliaments should consider introducing effective complaint mechanisms to prevent and sanction sexual harassment, sexual violence and misconduct in parliaments. An effective complaint mechanism shall cover all parliamentary employees (MPs and parliamentary staff), guarantee safety, confidentiality and expediency of the complaint process along with a well-defined and independent investigation process and provide for effective sanctions proportional to the gravity of the case.

For example, the Code of Conduct of the Scottish parliament states that:

"Parliamentary staff will treat members with courtesy and respect. Members must show them the same consideration. Complaints from staff of bullying or harassment, including any allegation of sexual harassment, or any other inappropriate behaviour on the part of members will be taken seriously and investigated."[159]

Rules in this area are, arguably, of particular importance in parliaments, where the organizational culture can often be rather closed and hierarchical – conditions that may exclude or disadvantage members of under-represented groups.

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158 Sczesny, Sabine; Formanowicz, Magda & Moser, Franziska, "Can Gender-Fair Language Reduce Gender Stereotyping and Discrimination", Frontiers in Psychology, Vol. 7, 2016, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4735429/>.

159 "Code of Conduct for Members of the Scottish Parliament", *op. cit.*, note 87, p.49.

In February 2018, a cross-party survey of members and staff of the United Kingdom Parliament found that, of 1 377 respondents, 19 per cent reported experiencing or witnessing sexual harassment, while 39 per cent had experienced non-sexual harassment or bullying over the previous 12 months.[160] The survey was undertaken after a spate of sexual abuse allegations the previous autumn. The accompanying report recommended sanctions for harassment that could include written apologies, mandatory training, future behavior agreements, suspension, and even the recall of an MP, which could trigger an election. The report also recommended that all complaints be handled by a specialized, trained Independent Sexual Violence Adviser, who would serve as a single point of ongoing contact and advocacy for complainants. In October 2018, Laura Cox, a former high court judge appointed by the House of Commons Commission to conduct an independent inquiry after a series of misconduct allegations made by MPs, published the inquiry's final report: "The Bullying and Harassment of House of Commons Staff". The report found that bullying and harassment of staff has been allowed to thrive in the House of Commons. Moreover, the report found the United Kingdom Parliament tainted by "a culture of deference, subservience, acquiescence and silence, in which bullying, harassment and sexual harassment have been able to thrive and have long been tolerated and concealed."[161] Recently, the House of Lords Conduct Committee recommended sanctions against three MPs who refused to take Valuing Everyone training, mandatory for both members and staff of the House of Lords, designed to help ensure everyone working in Parliament is able to recognize bullying, harassment and sexual misconduct, and feel confident taking action to tackle and prevent it. The recommended sanction was restricted access to services of the House for these three MPs, to minimize their contact with staff.[162]

In November 2017, following a number of accusations by women staff members, members of the European Parliament (MEPs) were warned not to, "pinch or rub against their staff or indulge in pornography, exhibitionism or voyeurism," in a guidebook to prevent and combat sexual harassment. The official booklet was accompanied by a poster campaign in the parliament to reinforce the importance of a safe and professional working environment for everyone. The posters are positioned outside voting chambers and in canteens.[163] In addition, in October 2018 a group of European Parliament workers launched a "MeTooEP" blog to highlight cases of sexual harassment and abuse. The parliament blog provides an anonymous forum for victims of sexual abuse to come forward and share their stories.

As reported in the IPU and PACE regional study referenced above,[164] in 2017 the Swedish Parliament revised its policy and guidelines on abusive behavior in order to better combat sexism, bullying and sexual harassment perpetrated against parliamentary staff. Similarly, in the Austrian Parliament, in the event of harassment the MPs of both chambers, the staff of political groups and parliamentary assistants can call on an independent expert, who will provide information and personalized advice on a confidential basis.

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160 Leadsom, Andrea, "Working Group on an Independent Complaints and Grievance Policy: Written statement – HCWS460", Point 14, United Kingdom Parliament website, 8 February 2018, <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-02-08/HCWS460/>.

161 Cox, Laura, "The Bullying and Harassment of House of Commons Staff, Independent Inquiry Report", Commonwealth Parliamentary Association website, <http://www.cpahq.org/cpahq/cpadocs/CWP%20Workshop%204%20The%20Bullying%20and%20Harassment%20of%20Parliamentary%20staff.pdf>.

162 See https://committees.parliament.uk/committee/402/conduct-committee/news/156433/sanctions-recommended-for-refusal-to-undertake-valuing-everyone-training/

163 Crisp, James "European Parliament Warns MEPs Not to Pinch Their Staff in Sexual Harassment Guidebook", *The Daily Telegraph* website, 30 November 2017, <https://www.telegraph.co.uk/news/2017/11/30/european-parliament-warns-meps-not-pinch-staff-sexual-harassment/>.

164 "Sexism, harassment and violence against women in parliaments in Europe", *op. cit.*, note 9.

In Finland, the Guidelines of the Bureau of the Parliament for the prevention of inappropriate conduct and harassment were updated in October 2018, in response to the publication of a study on gender equality in the parliament. The document reiterates the policy of zero tolerance of harassment in relation to the existing equality, non-discrimination and labor laws, and states that inappropriate behavior and harassment are against shared norms on decent behaviour. All MPs and parliamentary staff are informed of these arrangements when they start work in the Parliament, and the procedures are explained on the intranet.[165]

Finally, enhancing understanding of gender equality and diversity through training of MPs serves to improve the parliament's work. Better understanding of gender issues helps MPs to do their job more consciously, as well as to represent the interests of all women and men. As MPs can come from different backgrounds, it is important to set up a regular induction course and provide them with information about standards and the status quo in the area of gender equality and diversity. Introducing the concept of gender mainstreaming to MPs is especially important when it comes to lawmaking. To this end, in 2017, ODIHR published *Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation*.

Implementation questions to consider:

- *Does the code of conduct promote gender equality and equal participation for everyone?*
- *Is the language of the code gender-sensitive, and does it promote the use of gender-sensitive language in the parliament?*
- *Are there adequate provisions to deter harassment, sexual harassment, gender-based violence or sexist acts and speech?*
- *Are there adequate provisions to facilitate a safe and efficient complaint mechanism, due investigation of allegations of sexual harassment and sexual violence, along with effective and deterring sanctions when misconduct is detected?*
- *Are there provisions that encourage MPs to increase their understanding of gender equality standards and diversity?*

2.3.4 Allowances, expenses and parliamentary resources

Media interest in parliamentary ethics often focuses on alleged misuse of parliamentary resources or public money. At the simplest level, parliamentarians are usually forbidden from using parliamentary resources, whether cars, staff or stationery, for personal or party-political purposes, such as campaigning. Although such a separation can prove hard to achieve in everyday political work, Scotland provides a case of good practice. The Scottish Parliament's Code of Conduct prohibits members from placing parliamentary staff in a position, "which would conflict with or call into question their political impartiality, or which could give rise to criticism that people paid from public funds are being used for party political purposes."[166]

Scandals may arise where MPs have used the official parliamentary letterhead for personal requests. This is ethically questionable because it suggests that MPs are seeking to use their

165 Risikki, Paula, "Action Taken to Prevent Inappropriate Behaviour", parliament of Finland website, 15.10.2018, <https://www.riksdagen.fi/FI/tiedotteet/Sivut/Toimet-ep%C3%A4asiallisen-k%C3%A4yt%C3%B6ksen-est%C3%A4miseksi-k%C3%A4ynnistetty.aspx> (in Finnish).

166 "Code of Conduct for Members of the Scottish Parliament", *op. cit.*, note 87, p.49.

status as parliamentarians to influence private issues. Some countries include rules forbidding this in their codes of conduct or regulatory systems; in Spain, members are barred from invoking their position for any commercial, industrial or professional activity.

Another source of controversy in this area is the question of whether MPs should have the power to set and increase their own salaries. Such a power is arguably fundamental to MPs' independence from the executive. However, the public is likely to regard it as an inherent conflict of interest and, indeed, parliaments frequently refrain from increasing their own salaries due to fears about public disdain for pay rises.[167] This could mean that, in some cases, MPs' salaries may fail to keep up with their equivalents in the private sector. That, in turn, raises the risk that it becomes more difficult to attract qualified people for the often-challenging work of being a legislator.

However, perhaps more importantly, low salaries may increase the risk that MPs will regard their other entitlements – allowances and expenses – as opportunities to extract additional income. This, for example, appears to be the case with a number of MEPs, who have been alleged to sign attendance lists only to claim expenses.[168] It was also arguably a contributing factor to major abuse of the expenses and allowances system in the United Kingdom that came to light in May 2009, when the Daily Telegraph newspaper started to publish expense claims that appeared excessive and inappropriate. Most controversially, many MPs had "switched" their second home addresses to allow them to claim expenses for different properties at different times.[169]

Under pressure to ensure that nothing similar could happen again, the United Kingdom parliament handed the responsibility for expenses claims and MPs' salaries over to a new independent body, the Independent Parliamentary Standards Authority. However, the ability of the Authority to restore public confidence was initially inhibited by widespread criticism of the agency as expensive and inefficient.[170] This underlines the importance of undertaking a wide-ranging consultation when reforming standards.

For MPs with special care needs or with disabilities, the allowances system should accommodate their additional needs. Such costs should not be regarded as, "resources for personal purpose" or a special privilege but, instead, should be seen in light of the principle of non-discrimination and the UN Convention on the Rights of Persons with Disabilities. This requires certain flexibility when regulating the use of allowances, expenses and parliamentary resources in order to ensure that no MPs are disadvantaged.

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167 This issue is resolved somewhat in the United States, where Congress votes to increase the salaries of Congress, but changes come into effect only in the subsequent term.

168 Waterfield, Bruno, "Fury Caught on Film as MEPs 'Sign in and Slope Off'", The Daily Telegraph website, 5 June 2013, <https://www.telegraph.co.uk/news/worldnews/europe/eu/10141790/Fury-caught-on-film-as-MEPs-sign-in-and-slope-off.html>.

169 Barrett, David & Bloxham, Andy, "MPs' Expenses: The Timeline", *The Daily Telegraph* website, 3 October, 2010, <http://www.telegraph.co.uk/news/newstopics/mps-expenses/5335266/MPs-expenses-the-timeline.html>.

170 According to Margaret Hodge, MP and Chair of the Committee of Public Accounts: "Although there has been a 15 per cent reduction in the amount paid out for MPs' expenses, that cannot be claimed as an efficiency saving while so many MPs report that they are put off from claiming legitimate expenses because the claims process is so bureaucratic. [...] The National Audit Office estimates that the combined cost of time spent on making claims is around £2.4 million (2.87 million euro) a year. It is also time taken away from serving constituents." See: "Calls for Further Cuts to MPs' Expenses Watchdog Rejected", BBC News website, 20 June 2013, <https://www.bbc.com/news/uk-politics-22992509>.

Rosie, the expenses-monitoring robot

In Brazil, a group of data-analysis experts has used artificial intelligence techniques to monitor the expense claims of members of the National Congress. After getting crowdfunding for the start-up costs, they created "Rosie", an artificial intelligence robot that analyses the reimbursement requests of lawmakers and calculates the probability that they are justified. Rosie has its own Twitter account, which instantly notifies its followers if a member of congress tries to charge the government for expenses that have nothing to do with their parliamentary duties.[171]

2.3.5 Parliamentary staff

Treatment of parliamentary staff

Codes can also be used to regulate the treatment of parliamentary staff, imposing duties of respect and courtesy, above and beyond legal requirements, to avoid discrimination and harassment. More on this has been discussed above, in section 2.3.3.

Employing family members

The practice of parliamentarians employing family members as secretaries, office managers and researchers has become increasingly controversial in recent years, particularly as a result of instances where employed family members appear not to have actually undertaken any parliamentary work, despite their salaries being paid from state funds. In Austria, it has for many years been forbidden for MPs in the lower house to employ close relatives as personal assistants paid from public funds.[172] Other countries have followed suit more recently.

In France, Interior Minister resigned in March 2017, after prosecutors opened a preliminary investigation into the employment of his two daughters as his parliamentary aides.[173] This followed a report by media organization Quotidien, which raised questions about whether the daughters had performed any work in return for their salaries. In the same month, presidential candidate Francois Fillon stood down from the electoral race after being placed under formal investigation for allegedly, as an MP, paying hundreds of thousands of euros of public funds to his wife and children for work they may have not done.[174] In July 2017, France passed legislation banning parliamentarians and members of Government from hiring family members.

171 Naim, Moises, "Honest Politicians Won't Fix Corruption", *The Atlantic* website, 12 December 2017, <https://www.theatlantic.com/international/archive/2017/12/corruption-russia-venezuela-china/548159/?lipi=urn%3Ali%3Apage%3Ad_flagship3_feed%3B4V8FyELYRmyXbx%2F9XA%2BUCQ%3D%3D>.

172 The Parliamentary Employees Law bans the employment of "close relatives", defining the term to include cousins and cohabitating partners in Article 2: See <http://www.ris.bka.gv.at/Dokumente/ Bundesnormen/NOR12013826/NOR12013826.html> (in German).

173 https://www.theguardian.com/world/2017/mar/21/french-interior-minister-resigns-holiday-jobs-daughters-bruno-le-roux

174 https://www.bbc.com/news/world-europe-38108758

Banning employment of family members: The United Kingdom experience

In the United Kingdom, in 2009, 32.8 percent of men MPs and 23.1 per cent of women MPs in the House of Commons employed at least one family member. In 2010, the rules were changed to prohibit MPs from employing more than one family member. However, by March 2017, some 151 of the 650 MPs in the House of Commons – almost one-quarter – still employed family members. In addition, the Independent Parliamentary Standards Authority found that the pay rates of family members, so-called "connected parties", had risen at twice the rate of other staff.[175]

Following the introduction of a ban on employment of family members, which came into effect after the June 2017 election, the 61 newly elected MPs were unable to employ family members.[176] Of the 589 returning MPs, 122 (20.7 per cent) declared that they employed a relative. More than 60 per cent of those family members are wives, 12 per cent husbands and 10 per cent life partners. Others employ siblings, parents and children in their offices.

Some MPs have complained that the ban is unreasonable, arguing that spouses, in particular, are most willing to handle the unpredictable work patterns and long working hours associated with parliamentary work, and also that they best fulfil the need for absolute trust associated with being an MP's secretary or assistant. However, as a 2009 report from the Committee on Standards in Public Life pointed out, parliamentarians were the only profession besides doctors in the United Kingdom that were allowed to employ family members from public funds.[177]

Implementation: Questions to consider

- *Who should set the salaries of MPs, and according to what guidelines?*
- *Should allowances for expenses differ for MPs based on their place of residence e.g., for MPs residing in the capital, where cost of living is higher, in comparison with MPs residing in remote regions?*
- *Should MPs have the autonomy to make purchases, or should expenditure be centralized so that MPs are issued payment cards or vouchers?*
- *Are standards and grievance procedures in place for fair and non-discriminatory treatment of parliamentary staff?*
- *Is it acceptable for MPs to employ family members and partners as staff?*
- *Can a legal provision or a code ensure that incumbent MPs do not use parliamentary resources for their electoral campaigns?*

2.3.6 Dealing with lobbyists

In recent years, lobbying has become an important element of discussion for those concerned with parliamentary ethical standards. The OECD's recommendation on principles for "Transparency and Integrity in Lobbying" defines lobbying as "oral or written communication

175 "MPs to Be Banned from Using Public Money to Hire Relatives", The Guardian website, 15 March 2017, <https://www.theguardian.com/politics/2017/mar/15/mps-to-be-banned-from-using-public-money-to-hire-relatives-expenses>.

176 Committee on Standards in Public Life, "Committee Welcomes New IPSA Rules on Employing Connected Parties", 16 March 2017, <https://www.gov.uk/government/news/committee-welcomes-new-ipsa-rules-on-employing-connected-parties>.

177 See, "Independent report, MPs' Expenses and Allowances: Supporting Parliament, safeguarding the taxpayer", The twelfth report of the Committee on Standards in Public Life, 1 November 2009, <https://www.gov.uk/government/publications/twelfth-report-of-the-committee-on-standards-in-public-life-november-2009>.

with a public official to influence legislation, policy or administrative decisions".[178] Indeed, interaction of individuals or groups with legislators in order to advocate for specific interests and influence political decisions can present risks in any democratic system. For this reason, in 2017, the Council of Europe's Committee of Ministers adopted a recommendation calling upon member states to establish or further strengthen, as the case may be, a coherent and comprehensive framework for the legal regulation of lobbying activities in the context of public decision-making.[179]

In a democratic political system, it is legitimate for a plurality of actors to try to pursue their own interests. Problems arise if the system allows for unethical behavior, or the system is not capable of considering and prioritizing all relevant interests, given that some groups are much better organized than others. Therefore, regulation and control of certain aspects of lobbying is necessary. Although the practice of lobbying is an integral part of any democracy and lobbyists can perform a valuable role to inform legislators on matters of public interest, the inappropriate use of influence in a political system can be extremely dangerous. There are at least three broad reasons for concern:

- The risk of inappropriate interactions between lobbyists and politicians, leading to bribery or the exchange of favours;
- Concerns about inequalities in the access available to corporate and powerful groups of interests, versus less well-resourced groups, which can potentially result in an unbalanced distribution of political consideration and state resources; and
- A growing distrust within national electorates, who often perceive policy decisions as being made in a non-transparent and unfair manner, depriving them of their say over the national political agenda.

In light of these concerns, in its Fourth Evaluation Round regarding relations between MPs and lobbyists, GRECO has issued various recommendations, focusing more on the conduct of MPs in this respect. GRECO found that what constitutes appropriate interactions by MPs with third parties seeking to influence the legislative process continued to be a source of confusion across most member states and called for more transparency with regard to such interactions. GRECO has, for example, suggested approving guidelines clarifying what can be considered "interaction" with lobbyists (while at the same time bearing in mind the need not to hamper citizens' access to MPs), and has called for the introduction of rules on reporting interactions with lobbyists.[180]

Transparency Register: the case of the European Parliament

Following the "cash for laws" scandal in March 2011,[181] the European Parliament established a working group to draw up a new set of rules to govern the access and behavior of lobbyists and to formulate a code of conduct for MEPs, once again bringing the issues of transparency and ethical standards to the forefront.

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178 OECD, "Transparency and Integrity in Lobbying", 2013, OECD website, <https://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf >.

179 "Legal Regulation of Lobbying Activities in the Context of Public Decision Making, Recommendation CM/REC(2017)2 and explanatory memorandum", Council of Europe, <https://rm.coe.int/legal-regulation-of-lobbying-activities/168073ed69>.

180 See, GRECO's Fourth Evaluation Round Reports in respect of Austria, Belgium, Cyprus, Estonia, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Moldova, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Ukraine, United Kingdom and the United States, <https://www.coe.int/en/web/greco/evaluations/round-4>.

181 Peter, Laurence, "Fourth Euro MP Named in Lobbying Scandal", BBC News Website, 28 March 2011, <https://www.bbc.co.uk/news/world-europe-12880701>.

This eventually resulted in the European Parliament's Transparency Register, which provides citizens with direct access to information about those engaged in influencing EU decision-making processes. The Transparency Register offers a single code of conduct binding all organizations and self-employed individuals, who agree to "play by the rules" in full respect of ethical principles.[182] Registrants to the Transparency Register must provide:

- Personal data, including the names of people requesting access badges for European Parliament buildings;
- Legislative proposals covered by the registrant's activities; and
- An estimate of the cost of the registrant's activities or their overall budget, including funding received from EU institutions.

However, the Transparency Register does not include information about a given lobbyist's specific interest. More importantly, registration is voluntary; thus, lobbying without registration is allowed. As of March 11, 2020, 11 765 organizations were registered.[183] In September 2016, the European Commission presented its proposal for a new inter-institutional agreement on a mandatory Transparency Register for lobbyists covering not only the European Parliament, but also the Council of the European Union and the European Commission. The proposal aims to strengthen the framework for transparent and ethical interaction between interest group representatives and the three institutions participating in the new scheme. Negotiations on a mandatory EU Transparency Register started early in 2018 and are ongoing. On 31 January 2019, the European Parliament in plenary session voted in favor of the proposal. The European Parliament also decided that when MEPs act as rapporteurs, shadow rapporteurs or committee chairs, they are obliged to publish their scheduled meetings with interest representatives on the Parliament's website. Other MEPs are also encouraged to publish online information on such meetings. The decision gave new impetus to the negotiations with the Commission and the Council. On 13 February 2019, negotiators from the three EU institutions agreed to continue their discussions on moving towards a joint mandatory Transparency Register. On 27 April 2021, the European Parliament approved new rules for a common mandatory Transparency Register.[184]

If we examine existing lobbying regulations across the OSCE region, systems tend to include some of the following aspects:

- **Registration of lobbyists** – Mandatory or voluntary rules on individual registration in a dedicated registry, with a varying range of details to be provided. If registration is voluntary, it is sometimes incentivized by offering updates on developments in policy areas of interest to the registrant;

- **Disclosure of tactics** – Requirements to disclose how lobbyists seek to influence the political agenda (contacts, issues, interests, etc.);

- **Spending disclosure** – Requirements to provide information regarding income and spending related to lobbying activities;

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182 "Transparency Register", European Parliament, <http://europa.eu/transparency-register/index_en.htm>.

183 "Transparency Register: Who Is Lobbying the EU (Infographic)", European Parliament, <http://www.europarl.europa.eu/news/en/headlines/eu-affairs/20180108STO91215/transparency-register-who-is-lobbying-the-eu-infographic>.

184 See, "Parliament approves new rules for a common mandatory Transparency Register", European Parliament press release, 27 April 2021, <https://www.europarl.europa.eu/news/en/press-room/20210422IPR02617/parliament-approves-new-rules-for-a-common-mandatory-transparency-register>.

- **Public access to registration lists** – Lobbyist registries are often made available to the public. Online access to these lists enhances both the transparency and efficiency of the system; and

- **"Revolving-door" provisions** – Requirements establishing a "cooling off" period during which former legislators may not become lobbyists.

How strict these regulatory provisions are differs significantly from country to country, often featuring various types of disclosure requirements. However, the ethical peril associated with lobbying practices has been internationally recognized, with the UN Convention against Corruption calling for an obligation on State Parties to consider criminalizing the trading of influence.[185] Indeed, specific rules to formalize an otherwise highly informal process should be designed to strengthen ethical standards and procedures.

Implementation: Questions to consider

- *Are most lobbying activities carried out in a transparent manner?*
- *What kind of information should be provided in a lobbyists' registry?*
- *Should the lobbyists' spending in connection with their professional activities be made publicly available? Should it include frequency of contact or details of discussions?*
- *Should lobbying regulations be backed by sanctions?*

The French High Authority for Transparency in Public Life manages a public registry of lobbyists, shared by governmental and local authorities, as well as by the Parliament, in order to provide citizens with information on the potential impact that private interests have with public officials when public decisions are made. Through the registry, it is possible to consult a set of information regarding the identity of lobbyists (nature of the organization, contact details, identity of the executives, fields of activities, etc.). More than 2 300 lobbyists had been registered as of August 2021. At the moment of registration, the following information must be entered into the system: the identity of the private interest represented; the identity of the executives of the organization/company; the identity of individuals in charge of lobbying activities; the scope of lobbying activities; the lobbyist's potential membership in other organizations; and the identity of third parties on whose behalf lobbying activities are performed. As a rule, lobbyists should conduct their activities with probity and integrity. They have to follow certain requirements, such as refraining from offering or giving gifts, donations or any advantages of significant value to public officials, and to refrain from using fraudulent means to obtain information and/or decisions from public officials. When the High Authority for Transparency in Public Life detects, on its own initiative or following a report, a breach of the rules, it sends a formal notice to the lobbyist in question. The formal notice, which may be published, orders the lobbyist to comply with the obligations, after allowing them to present their response. After the formal notice is issued, any future breach of ethical obligations is punishable by one year's imprisonment and a 15 000 euro fine.

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185 UNCAC, *op. cit.*, note 19, Article 18.

2.3.7 Employment after leaving office

A particularly controversial area concerns the careers of MPs once they leave office, in their post-public employment. An MP's plans for their future career can influence how they act while in parliament. For example, MPs might abuse their power to favour a certain company, with a view to ingratiating themselves and gaining future employment. Alternatively, once working in the private sector, they might influence former colleagues to favour their new employer. The "revolving door", which refers to the practice of individuals moving back and forth between parliament or government jobs and business roles,[186] raises several different risks of conflict of interest, including abuse of office, undue influence, profiteering, switching sides and regulatory capture.[187]

Some sectors of industry are particularly vulnerable. Defence, energy, transport, investment and health care companies are frequent employment destinations for former ministers, civil servants and MPs. These are all areas where government is a key decision maker or buyer and, therefore, where it is common for conflicts of interest to arise. It may be necessary to impose restrictions on individuals with public responsibilities in these areas in order to protect the public interest.

Some European countries have introduced primary legislation to deal with the revolving door. While it is rare for public officials to be banned outright from taking on private-sector jobs, they may be required to seek approval before accepting employment or to wait for a certain period – a "cooling off period" – before moving into the private sector. The rationale for such "cooling off periods" is that the capacity to exercise undue influence or use information learned while in office declines over time. For example, Norway requires MPs to wait six months after leaving office before taking up a private-sector role. Conversely, while Serbia's Anti-Corruption Agency Act prohibits public officials from employment with any organization engaged in activity relating to the office formerly held for two years after leaving office, elected officials are excluded from this prohibition.[188] Similarly, European Union commissioners are banned from lobbying for 24 months after leaving office, but there is no such ban for MEPs.

Some argue that it is inappropriate to regulate the careers of former MPs in this way. The average MP is privy to less confidential information than government employees and may have little influence over policy. Risks are greater where MPs are also ministers or committee chairs, and so have access to insider information. It can also be argued that tough regulation imposes unfair constraints on an individual's capacity to pursue careers and might have the unintended consequence of deterring individuals from seeking public office. Many countries prefer the "soft-law" approach of including recommendations about post-public employment in non-binding codes of conduct, as is the case in Ireland and Slovakia.[189]

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186 This is called "pantouflage" or "cocooning" in France,

187 For definitions and a discussion of this issue, see "Cabs for Hire? Fixing the Revolving Door Between Government and Business", Transparency International UK, April 2014, <https://www.transparency.org.uk/publications/cabs-for-hire-fixing-the-revolving-door-between-government-and-business-2/>.

188 Serbia Official Gazette of the RS, *"Anti-Corruption Agency Act"*, No. 97/08, 27 October 2008, Article 38, <http://www.osce.org/serbia/35100>.

189 "Cabs for Hire? Fixing the Revolving Door Between Government and Business", *op. cit.*, note 186.

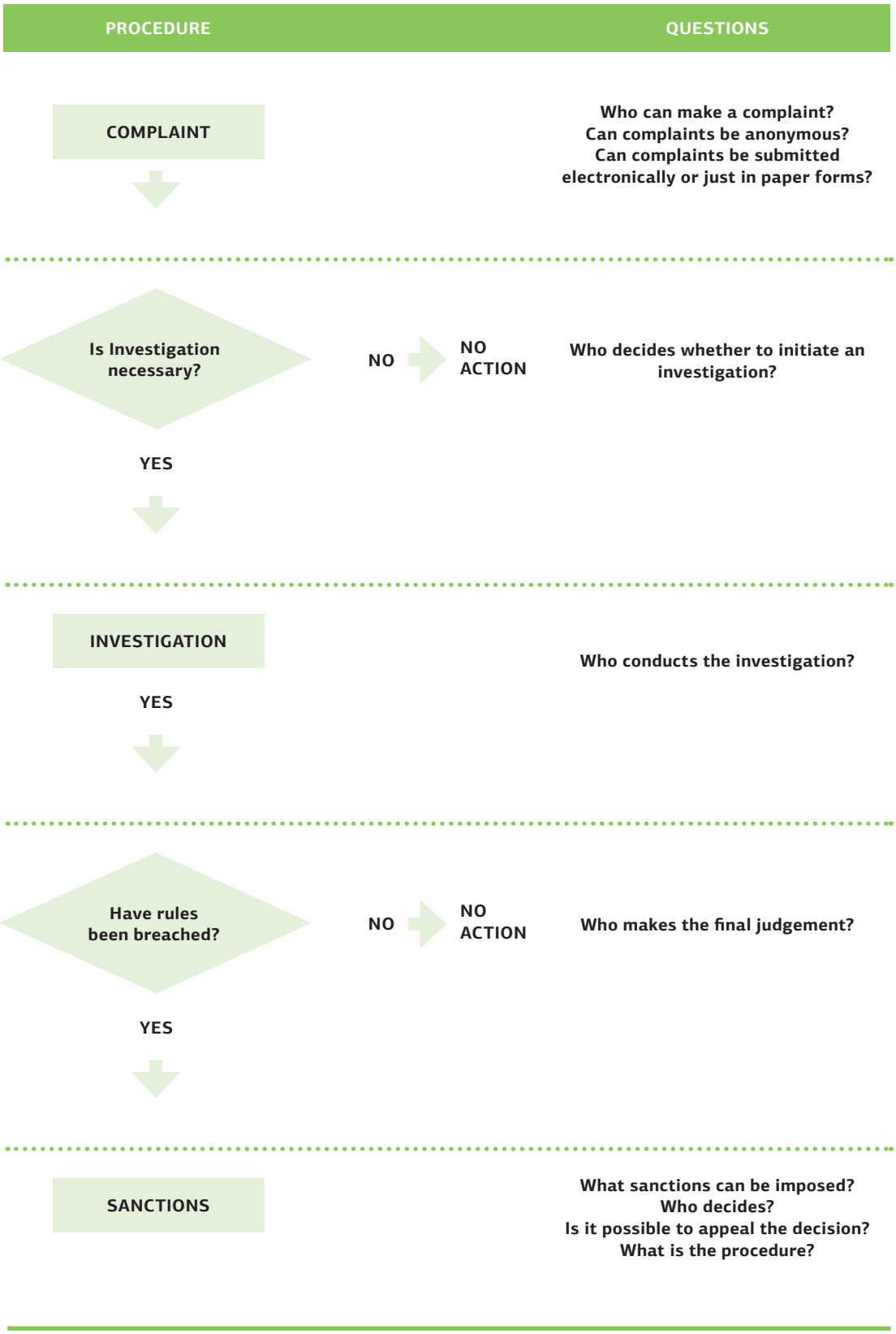
Questions to consider:

- *Is it legitimate to restrict the future employment prospects of MPs?*
- *Should restrictions be associated only with certain roles, e.g., committee chairpersons?*
- *How long is an appropriate "cooling off" period?*
- *If their future job prospects are restricted, should MPs be compensated?*

Part Three: Monitoring and Enforcement

In any system, there will occasionally be breaches of the rules, or behaviour that appears to contravene ethical principles. Hence, institutions and procedures are needed to monitor and enforce parliamentary standards. There are three essential elements to this process: an initial complaint about the conduct of one or more MPs; an investigation to establish the facts and enable a decision as to whether rules or norms have been breached; and, where misconduct is found to have occurred, the imposition of appropriate sanctions. The basic elements of the procedure are summarized in Figure 7, below.

Figure 7: Monitoring and Enforcement



These functions can be carried out by a number of different institutions. This will depend on whether self-regulation by parliaments is preferred to external regulation, or whether the aim is to achieve a mix of the two. With any of these options, there are many possible enforcement bodies. Below we consider the elements in order and discuss the issues raised at each stage.

3.1 Making a complaint and initiating an investigation

The right to file a complaint and the right to initiate an investigation or inquiry may be given to the general public, or to MPs, or both. The right to initiate an investigation *ex officio* is usually given to the specific body within the parliament. The following examples demonstrate a range of approaches:

- In the United Kingdom, the Commissioner for Standards can initiate an investigation on a matter after receiving a formal complaint (but cannot act if the complaint was made anonymously) or on their own initiative; sometimes MPs refer themselves to the Commissioner. [190]
- In the United States Congress, an investigation can be initiated if a complaint is made against a member by another member or upon the agreement of the most senior two members of the Ethics Committee. Ordinary citizens may also file complaints directly to the Ethics Committee. However, in practice, it is common for the general public to route complaints through members.
- In Poland, any MP, parliamentary body or other entity may submit a complaint to the Committee on Deputy Ethics. The Committee may also take up a matter on its own initiative. The Committee is empowered to decide whether to pursue the complaint but must inform the complainant of the decision to do so.
- In Germany, the president of the Bundestag is empowered to initiate investigations into possible breaches of the code of conduct. Similar provisions exist in Estonia and Montenegro.
- In France, it is possible to refer to the High Authority for Transparency in Public Life when there is knowledge of a situation or facts likely to constitute a breach of the various obligations set out in the law. This can include the submission to the High Authority of cases of alleged conflict of interest, non-compliance with declarative obligations or "revolving door" practices.

3.2 Investigating complaints

Once a complaint has been registered, it is usually necessary to investigate the claim and to determine whether misconduct has occurred. In setting up institutions to perform these functions, the following questions are important:

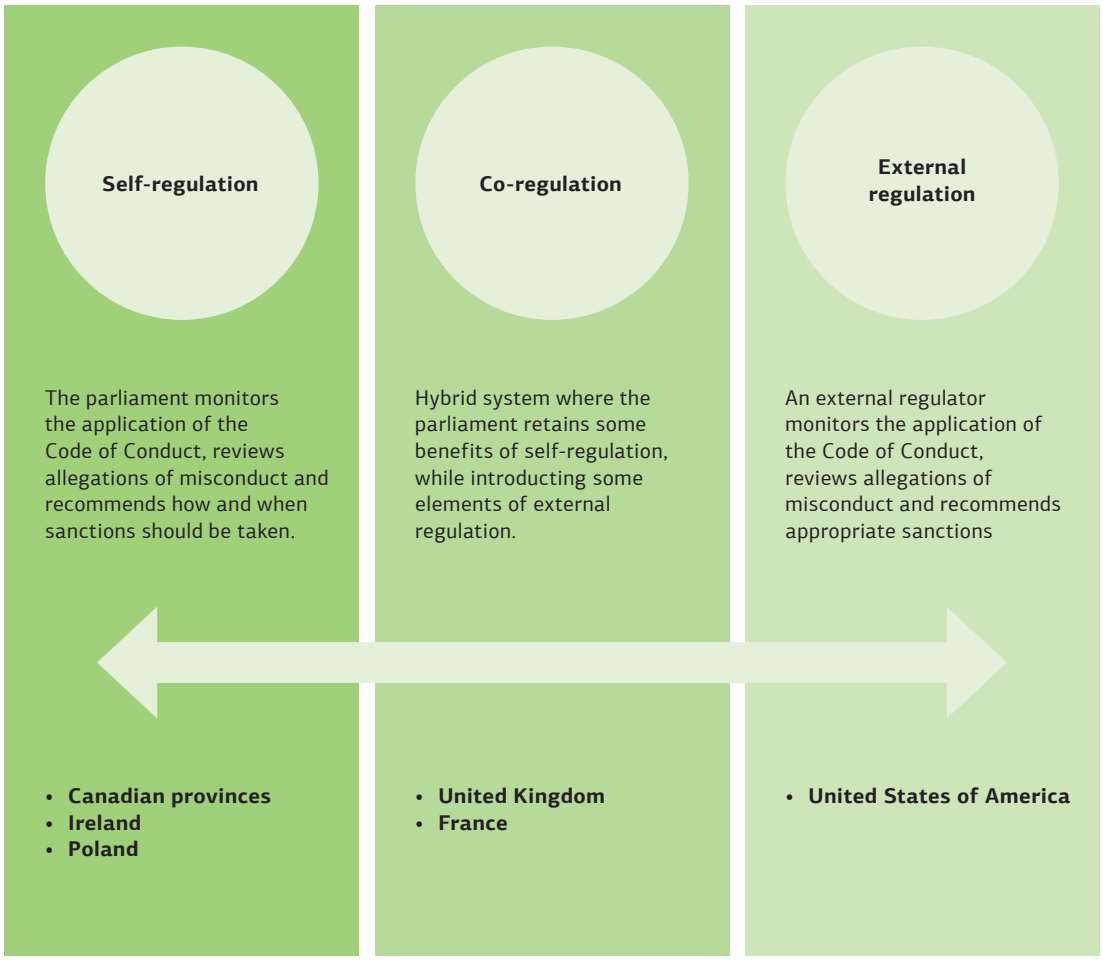
- Should the institution(s) that carry out investigation and adjudication be based within parliament itself (as in a self-regulating system) or be external to the parliament?
- If the institutions are external to the parliament, what is their relationship to the parliament, e.g., are they appointed by the parliament or accountable to the parliament, or are they truly independent?
- Does the parliament have the capacity to conduct investigations?

In a self-regulating system, the parliament maintains control over how and when it sanctions its members, with either the speaker or a dedicated internal ethics committee taking responsibility

190 "Procedural Note: Procedure for Inquiries", United Kingdom House of Commons, Commissioner for Standards, April 24 2012, <https://www.parliament.uk/documents/documents/Procedural-Note-April-2012.pdf>.

for disciplinary matters.[191] Historically, self-regulation has been preferred in many parliamentary systems because of similar concerns to those that inspired the institution of parliamentary immunity. It was thought that parliament could only be truly free to scrutinize and criticize other institutions of the state if it was regulated only by itself.

Figure 8: Who monitors compliance and enforces rules?



Many OSCE participating States, including Estonia, Greece, North Macedonia, Poland, Slovakia and Slovenia, have established standing committees within their parliaments with mandates to investigate and adjudicate issues relating to conduct. Another common solution is for the speaker to be charged with regulating minor matters, such as conduct in the chamber, the use of improper language or a failure to obey rules of procedure, while more serious ethical breaches are considered by a dedicated committee. For example, the president of the Bundestag in Germany is empowered to investigate cases of failure to declare interests. The Bundestag president then presents the investigation to the parliament for further action. MPs may be subject to an admonishment by the President of the Bundestag in less serious cases or cases of minor negligence, e.g. late filing; or administrative sanctions, including publication of their violation and imposition of coercive fines (Rule 8 (2) (4) of the Code of Conduct). The size of the fine depends on the gravity of the violation. It may not exceed 50 per cent of the annual remuneration for MPs.

191 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.*, note 28, p. 36–37.

Depending on the political circumstances, a minor matter in a highly politicized parliamentary environment can be abused by the speaker and result in disproportionate sanctions.[192]

Self-regulation may be desirable in a system where there is a risk of executive dominating the parliament. It can only work, however, if the public trusts parliament to regulate itself, despite the inherent conflict of interest, and if the political parties represented in parliament respect one another not to abuse regulation for partisan purposes. This places great responsibility on those institutions within parliament that are responsible for regulating conduct. The MPs who sit on these bodies must be willing to scrutinize the conduct of their colleagues or their colleagues' staff, [193] and must be able to do so in a non-partisan manner.[194] Such systems, therefore, rely heavily on the integrity of individuals; there is a risk that the tools of ethical regulation can be used as political instruments to unfairly criticize and sanction opponents. In addition to individual integrity, systemic integrity must be ensured through an objective, transparent and non-partisan appointment procedure to regulating bodies.

The OECD recommends that self-regulation be accompanied by "real transparency" and "long-term democratic practices of free and fair elections."[195] This strongly implies that pure self-regulation can only be effective and inspire confidence in the context of a stable, consolidated democratic tradition, with a transparent register of interests, a trusted electoral system and – arguably – free media that play a role in bringing instances of misconduct to light. Recent evidence of serious breaches in a number of OSCE countries has prompted a move away from self-regulation, towards vesting powers to investigate allegations of misconduct in an independent body – such as in Iceland.

In its Fourth Evaluation Round reports, GRECO's recommendations focus on the effectiveness of the system in place, while recognizing the right of member states to choose their particular enforcement system. GRECO has been very critical of those instances when parliaments have not taken enough responsibility for addressing MPs' misconduct. It has been equally critical of instances in which an independent supervisory arrangement was in place, but that arrangement was not provided with sufficient resources or powers to fulfill its tasks. GRECO has made efforts, however, to clarify that the role of independent authorities must be understood within a context of MPs and parliaments working together with these institutions. For an integrity framework to work in a given sector, it needs, first, to be understood and, second, regarded as legitimate and "internalized" by those who have to abide by the rules. Self-responsibility should come as a precondition.

In 2006, the OSCE Parliamentary Assembly recommended that participating States establish an "office of public standards to which complaints about violations of standards by parliamentarians and their staff may be made", and that the institution should be specially designed to receive complaints of suspected violations.[196] This institution might specialize in parliamenta-

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192 See Case of *KARÁCSONY AND OTHERS v. HUNGARY* (Application no. 42461/13): "...87. For the Court, the fines imposed on the applicants (see paragraphs 8 and 11 above), while not atypical in parliamentary law in matters of personal affront, were could be seen to have a chilling effect on opposition or minority speech and expressions in Parliament."

193 Thompson, Dennis F., *Political Ethics and Public Office* (Cambridge: Harvard University Press, 1987), cited in National Democratic Institute, "Legislative Ethics: A Comparative Analysis", p. 20.

194 *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, *op. cit.*, note 23, p. 31.

195 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.*, note 28, pp.13–14.

196 Brussels Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the 15th Annual Session", OSCE Parliamentary Assembly, p. 34.

ry conduct, such as the United States Office of Congressional Ethics, or might be a generalized anti-corruption agency upholding standards in all areas of public office.[197] The OECD, meanwhile, has argued that, on the specific issue of enforcing the rules regarding asset declarations, specialized, centralized bodies are more suitable for younger democracies, because they facilitate greater systematization and professionalization.[198]

As an example of efforts to self-regulate behavior of parliamentarians, the European Parliament adopted a resolution on combating sexual harassment and abuse in the Parliament, which specifically calls on the president of Parliament and the Parliament's administration to take a number of steps in this area. These include:

- Setting up an institutional network of confidential counsellors tailored to Parliament's structures to support, provide advice to and speak on behalf of victims, when needed;
- Resolving to adopt internal rules on whistle-blowing to safeguard the rights and interests of whistle-blowers and provide adequate remedies if they are not treated correctly and fairly in relation to their whistle-blowing;
- Calling on the Member States to examine the situation of sexual harassment and abuse in their national parliaments, to take active measures to combat it, and to implement and adequately enforce a policy of respect and dignity at work for elected members and staff; and
- Calling for the implementation of such a policy to be monitored.[199]

External regulators may be seen as more legitimate than self-regulation, but the question remains regarding to whom the external regulators should be accountable. If such a body reports to the executive branch or if it has judicial powers, this threatens to undermine the separation of powers and interfere with parliamentary authority. Vesting power in a purely external regulator might also discourage MPs from taking responsibility for their own conduct and undermine efforts to create a culture of integrity. The Handbook by the Global Organization of Parliamentarians against Corruption and Westminster Foundation for Democracy, already cited, argues that, in a system of purely external regulation, "there is little sense of ownership of the provisions of the principles or rules amongst parliamentarians."[200] Additionally, there may be downsides to a very formal and bureaucratic approach. In the United Kingdom the Independent Parliamentary Standards Authority (IPSA) has been criticized for severely complicating the expense claims process for MPs and their staff. Former Member of Parliament Paul Flynn recalled his experiences with IPSA upon its creation: "A monthly thirty-minute chore was complicated by IPSA into endless hours of tedious frustrating trawling through a bureaucratic morass of irrational rules. A simple five-part claims system was atomised into a hundred headings and sub-headings."[201]

197 In Serbia, the Agency for the Prevention of Corruption is responsible for regulating conflict of interest issues for public officials, including those pertaining to MPs, but it implements the rules rather than makes them.

198 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.,* note 28, p. 14.

199 "European Parliament Resolution of 26 October 2017 on Combating Sexual Harassment and Abuse in the EU", (2017/2897(RSP), 26 October 2017, <https://www.europarl.europa.eu/doceo/document/TA-8-2017-0417_EN.html>.

200 *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, *op. cit.,* note 23, p. 31.

201 See Flynn, P., How to be an MP, (London: Biteback, 2012) < https://www.bitebackpublishing.com/books/how-to-be-an-mp> pp. 4–11.

From co-regulation to an external system of enforcement: the case of Iceland

The Parliament of Iceland, the Althingi, adopted its current Code of Conduct in 2016, following an inclusive drafting process described in the GRECO 4th Round Second Compliance Report from 2017 as involving, "both parliamentarians themselves, as well as civil society at large since the document was made available for public consultation and comments."[202] The code takes inspiration from the one in force at the time in the Parliamentary Assembly of the Council of Europe (PACE), and provides for a hybrid system of enforcement, where the Speakers' Committee of the Althingi is the responsible authority for examining and judging potential violations of the code, with the external support of an independent Advisory Ethics Committee.

Since the adoption of the code, a number of public scandals involving members of the Althingi have arisen in recent years, resulting in calls for the parliamentary authorities to assess the conduct through the enforcement of the code. However, the hybrid enforcement mechanism provided in the code did not prove adequate to successfully address the cases and involved unclear and inconsistent procedures, ultimately generating mistrust towards the code among parliamentary fractions and disappointment among citizens.

As a result of these experiences and identified shortcomings, the Althingi in 2019 initiated an internal process to review its Code of Conduct, elaborating a draft amended version of the code. One of the main changes proposed in the amended draft of the code would be the creation of an extra-parliamentary ethics committee, which will take over the responsibility from the Speaker's Committee of the Althingi in the enforcement of the code. This set-up would substantially depart from the previous system of co-regulation, moving towards an external system in which the monitoring of compliance and enforcement of the rules rests outside the Parliament.

The solution of moving to an external body the responsibility of enforcing the code may facilitate greater systematization and professionalization, as well as reduce the risk of politicization when the body dealing with code enforcement consists of elected politicians from different sides. At the same time, shall such a change be adopted, close attention would need to be paid to the issue of accountability of the Ethics Committee as an external body, and to the source of its legitimacy. Ultimately, vesting power in a purely external regulator might also discourage the members of the Althingi from taking responsibility for their own conduct and discourage a sense of ownership of the code among MPs, something that would need to be mitigated by measures regarding awareness raising and training.[203]

One way to retain some of the benefits of self-regulation, while also introducing enough external regulation to inspire public confidence, is to opt for a hybrid system, where some elements of the process are carried out by parliamentary bodies – whether the Speaker, a dedicated standing committee, or an ad hoc committee convened to investigate a particular case – and other elements are external. For example, the United Kingdom has an internal standing committee – the Committee on Standards and Privileges – as well as an external commissioner – the Standards

202 See, "Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Second Compliance report on Iceland", adopted by GRECO at its 78th Plenary Meeting, (Strasbourg, 4–8 December 2017) <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680770758>.

203 As of May 2020, the Althingi continues its process of revising the code. Following an official visit to Iceland, ODIHR has submitted a series of recommendations to the Speaker of the Althingi to inform this review process.

Commissioner. Complaints are initially made to the Commissioner, who then conducts an investigation and reports their findings to the Committee. This separation of the functions of investigation and adjudication is also in line with the right to a fair trial.

However, although the investigation is conducted externally, the United Kingdom Parliament retains control over the process in several ways. First, Parliament appoints the Commissioner. The Commissioner thus owes their position to the House of Commons, which might arguably sway the Commissioner's decision. Second, the Commissioner reports their findings to the Committee, and it is only the Committee that can then report those to the House and recommend sanctions. Third, the Committee can disregard or simply note the Commissioner's findings and conduct its own investigation. Thus, the prerogative is still firmly held by Parliament.

France: The journey towards an independent regulator

France initially entrusted the responsibility to uphold standards in public life to an administrative commission, setting up the Commission for Financial Transparency of Public Life in 1988. The commission's main responsibility was to oversee asset declarations by public officials, identifying unexplained variations in wealth between the beginning and end of their period in office and passing this information on to prosecutors for investigation.

However, over time, and following successive scandals that suggested that the regulation was inadequate, pressure grew for an autonomous body with its own investigative powers. The Senate established its own ethics committee in 2009 and, in 2011, the National Assembly created an independent *"déontologue"* – or Commissioner for Ethical Standards – charged with ensuring respect of the principles set out in the National Assembly's Deputies' Deontology Code. The Commissioner was mandated to collect and keep MPs' declarations of interest, to confidentially advise and consult any MP on the principles in the Code, and to prepare an annual report to the National Assembly providing recommendations on how the Code could be better implemented and respected. However, the Commissioner lacked investigative power.

In 2011 and 2012, two new bodies – the Committee of Reflection for the Prevention of Conflicts of Interest in Public Life (Sauvé Committee) and the Committee for the Renovation and Ethics of Public Life (Jospin Committee) – were created and proceeded to highlight many flaws in the existing arrangements. They recommended the introduction of a specific definition of conflicts of interest and the development of mechanisms to prevent them in public life. They also proposed the creation of an independent authority entrusted with this mission.

The High Authority for Transparency in Public Life was created in 2013, following the so-called "Cahuzac affair", which involved the Budget Secretary in the first cabinet under the Presidency of François Hollande.[204] In his role as Budget Secretary, Jerome Cahuzac was ostensibly leading the fight against fiscal fraud, and yet he was found to hold hidden bank accounts abroad that he had neither declared to the tax administration nor to the commission tasked with the control of the assets of public officials.

The High Authority for Transparency in Public Life is:

- Financially independent from the Government, and not answerable to the executive branch;

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204 Schofield, Hugh, "Cahuzac Scandal Threatens Hollande's Presidency", BBC News website, 4 April 2013, <https://www.bbc.com/news/world-europe-22030839>.

- Subject to audits by the Supreme Court of Auditors and the Parliament, as well as to the control of administrative and judicial courts;
- Composed of a collegial body of nine members. The president of the Authority is appointed by the President of the French Republic following a procedure entrenched in the Constitution, and sits alongside six members of France's highest judicial bodies and two members appointed by the speakers of each house of Parliament, respectively; and
- Appointments seek to achieve gender parity, and appointees serve a non-renewable and non-revocable mandate.

The High Authority's mission was initially focused on making declarations transparent and investigating apparent breaches, but it has been expanded since its creation. It has now established an online public lobbying register and, in addition to declarations of assets, also receives declarations of interest from candidates in presidential elections. It must be informed when a member of the Government or a major local elected official hires a member of their extended family; hiring a member of the immediate family is now forbidden.

The United States has also moved away from self-regulation in recent years. Oversight of the code of conduct used to rest solely with the legislature, through a Committee of Ethics (or Committee on Standards of Official Conduct), comprised of ten legislators. The committee members acted as monitors and could recommend appropriate sanctions, although the final vote on sanctions was referred to the House of Representatives in a plenary session. In 2008, however, an independent and non-partisan watchdog agency, the Office of Congressional Ethics (OCE), was created. The OCE is governed by eight members, all of whom are private citizens; serving members of Congress are excluded from holding positions on the board. The OCE is tasked with investigating allegations of misconduct and, if it finds "substantial reason to believe the allegations", can refer the matter to the Standards Committee in the House of Representatives.[205]

In order to gain and maintain legitimacy, the composition of parliamentary ethics committees should be representative of the parliament in terms of political party, gender and ethnic balance, and members should be appointed to the committee in a transparent and fair manner. In the United Kingdom, members of the public, or "lay members", are appointed to the Committee on Standards.[206] This goes some way to addressing concerns that self-regulation is prone to an inherent conflict of interest, as well as to complaints that the Parliament is sometimes remote and out of touch with public expectations. However, it also raises questions about how to appoint such members, what skills are necessary and what the status of interventions by these members would be, particularly given sensitivity to issues of confidentiality and immunity.

The chair of an ethics committee should command the confidence of the entire parliament. Such committees are often chaired by a member of the opposition, although this can be controversial in societies with a highly adversarial political culture or divided political elite. In the Polish Sejm the need for impartiality was addressed by rotating the chairpersonship and deputy chairpersonship of the Ethics Committee every six months among the Committee's members. [207]

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205 Office of Congressional Ethics, United States Congress, "Fourth Quarter 2019 Report: October 2019 – December 2019", <https://oce.house.gov/sites/congressionalethics.house.gov/files/documents/OCE%20Fourth_Quarter_2019_Report.pdf>.

206 See: <https://committees.parliament.uk/committee/290/committee-on-standards/membership/>.

207 See amended Article 1 sec. 3 of the Committee's Regulations at http://orka.sejm.gov.pl/opinie9.nsf/nazwa/regulaminEPS/$file/regulaminEPS.pdf

Nexus with criminal investigations

Criminal procedures might run in parallel to disciplinary procedures in severe cases or may be initiated if the regular disciplinary process uncovers evidence of a possible criminal offence. The existence of a pre-trial investigation does not preclude parliament from initiating a disciplinary procedure. However, in some cases, a prior conviction in a criminal case may preclude the sanction in a disciplinary matter or *vice versa*, due to the right not to be tried twice for the same offence. Whether or not this is applicable will depend on factors such as:

- the legal classification of the offence under national law;
- the nature of the offence; and
- severity of the penalty that a person would risk if convicted/sanctioned.[208]

Parliaments may adopt rules related to when a criminal report should be made against an MP. Such rules may consider the risk that a sanction in a disciplinary case may preclude a guilty verdict in a criminal case and that certain criminal offences may be covered by parliamentary immunity.

Safeguards during an investigation

The complaints process deals with highly sensitive matters, and the entities and individuals in charge should bear in mind the potential damage that complaints can cause to the reputation or career of those involved. Allegations of misconduct might destroy the career of an MP, even if there turns out to be no foundation for the complaint. It is, therefore, important to uphold the rights of the accused. An MP should be informed within a certain period if a complaint is lodged against them and should be given time to respond before a preliminary investigation commences.

Rules regarding the disclosure of complaints also need to take into account the rights of MPs. If complaints are disclosed immediately, before an investigation has taken place to establish whether they can be substantiated, there is a risk that complaints could be used as political tools to smear a member. This can ruin the member's career, even if the allegations are unjustified. An alternative is to publish reports on complaints only once a decision has been made. A third option is to publish details of complaints only if the investigation reveals that they are substantiated (and then only if there is no higher instance for appeal), or only to publish complaints for certain less serious alleged infringements.

To the extent possible, both offences and the possible sanctions should be written down and made available to the MPs and the general public. This will allow the members to plan their behaviour to conform with ethical standards. Ideally, the offences should be described in some detail. General formulations such as "bringing the parliament into disrepute" without further explanation should be avoided.

An expert on parliamentary standards in the United Kingdom recalled that when the House of Commons first introduced a procedure for making complaints to the Commissioner for Standards, the system was initially abused with "tit-for-tat" claims by MPs from opposing parties seeking to smear one another. Partly as a result, it was decided that the Commissioner should only issue a report on an investigation if substantive evidence of misconduct had been found.[209]

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208 Engel and Others v. the Netherlands, no. 5100/71; 5101/71; 5102/71; 5354/72; 5370/72, ECHR 1976.
209 Information provided in an anonymous interview conducted for this report.

There is also the risk that the accused person could retaliate against the complainant. There might, therefore, be a need to protect complainants by granting them anonymity. That, in turn, could make the process more vulnerable to smears and politicized accusations, by reducing the cost of making unjustified complaints. Drafters of rules on parliamentary conduct should also consider that rulings on misconduct might provoke complaints from parliamentary groups, potentially leading to cases filed before domestic tribunals, and eventually even the European Court of Human Rights, if relevant.

During an investigation, MPs should be able to seek legal advice and to be represented if they wish. In order to defend themselves they should, as a general rule, be informed of the findings of the inquiry. Careful consideration should be given to how to do this. In Germany, an individual can provide arguments in their defense only in writing. If allowed a more public platform, there is a risk that an individual will use it to attract media publicity for their original comments or behaviour. An MP who has been found guilty should have the right to appeal the verdict against them.

In cases where misconduct is found to have occurred, public disclosure is often regarded as an important component of accountability – as well as a potential sanction. Disclosure allows voters to judge the facts of a case and decide whether or not to support a candidate in the future, and the threat of losing one's seat may act as a powerful deterrent to misconduct for other members.[210] Transparent procedures also help to build confidence in the system for regulating parliamentary standards.

Protecting the rights of MPs affected by complaints: The Polish example

The Polish Sejm Ethics Committee is required, according to its regulations to:[211]

- Share complaints immediately with members of the Committee, and also with the MP(s) affected by the complaint, typically those accused;
- Inform those who have submitted a complaint of whether or not the Committee will take up the matter;
- Inform the deputy who is the object of the complaint as to the time and place when the Committee shall consider the matter; and
- Inform the deputy who is the object of a complaint if it decides to dismiss a matter.

Moreover, the accused deputy has the right to present to the Committee their verbal clarifications regarding the matter. In case of doubts regarding asset declarations, the deputy may be called upon to present written or oral clarifications within 30 days.

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210 *Handbook on Parliamentary Ethics on Conduct – A Guide for Parliamentarians*, *op. cit.*, note 23.

211 The Polish Sejm Ethics Committee is regulated by Parliamentary Rules and Procedures – Chapter 13 articles 143–148 – see, <http://www.sejm.gov.pl/prawo/regulamin/kon7.htm>, as well as the regulations of the Polish Sejm Ethics Committee of 23 April 2009, <http://orka.sejm.gov.pl/opinie8.nsf/nazwa/regulaminEPS/$file/regulaminEPS.pdf>.

The United Kingdom example

In the United Kingdom, the Joint Committee on Parliamentary Privilege has issued guidance on dealing with cases where very serious allegations have been made:

"In dealing with especially serious cases, we consider it is essential that committees of both Houses should follow procedures providing safeguards at least as rigorous as those applied in the courts and professional disciplinary bodies. At this level the minimum requirements of fairness are for the member who is accused to be given:

- A prompt and clear statement of the precise allegations against the member;
- Adequate opportunity to take legal advice and have legal assistance throughout;
- The opportunity to be heard in person;
- The opportunity to call relevant witnesses at the appropriate time;
- The opportunity to examine other witnesses; and
- The opportunity to attend meetings at which evidence is given, and to receive transcripts of evidence.

In determining a member's guilt or innocence, the criterion applied at all stages should be at least that the allegation is proved on the balance of probabilities. In the case of more serious charges, a higher standard of proof may be appropriate."[212]

Enforcement of rules on interests and assets

Many argue that registers of interests and asset declarations can only play an effective role in reducing conflicts of interest if there are strong mechanisms in place to make the submission of declarations mandatory and to verify that the information provided is correct. Although many countries require the submission of asset declarations by law, this is not always enforced in practice, and the institutions checking the submissions are often weak and sometimes lack the required capacity to verify them.[213]

Some argue that asset declarations will only be taken seriously if accompanied by the legal right to verify declarations and the institutional capacity to carry out investigations. In Greece and Romania, for example, information provided in asset declarations can be verified against tax returns. In Romania, asset declarations, which are required for a very large group of public officials, including MPs and local elected representatives, can also be verified with reference to the land, motor vehicle, real estate and other property registries.[214]

212 "Parliamentary Privilege – First Report", United Kingdom House of Commons, Joint Committee on Parliamentary Privilege, para. 281, 30 March 1999, <http://www.publications.parliament.uk/pa/jt199899/jtselect/jtpriv/43/4302.htm>.

213 Fagan, Craig, *EU Anti-Corruption Requirements: Measuring Progress in Albania, Kosovo, FYR Macedonia and Turkey*, (Berlin: Transparency International, 2011), <http://www.acrc.org.ua/assets/files/zvity_ta_doslidzhennya/CIMAP_For%20Web[1].pdf>.

214 This requires, however, that property registries are reliable.

3.3 Penalties for misconduct

Sanctions are integral to meaningful regulation and to the overall legitimacy of a parliamentary regulation system, but different types of penalties are appropriate to different constitutional contexts.

In most OSCE participating States, systems of parliamentary discipline include a wide range of sanctions, from the relatively soft "naming and shaming", through fines and temporary suspensions from office, including loss of pay, and up to the ultimate political sanction of loss of a parliamentary seat. For conduct that breaks the law, there are, of course, legally enforced penalties. Many of the weaker penalties can be seen as "reputational", in that they largely affect the individual's standing and reputation with their peers and the public. Such measures have traditionally been preferred in many OSCE participating States, in the form of warnings, public announcements or "calls to order".

The severity of the punishment should be proportionate and vary according to the severity of the offence and the number of infractions. Sanctions may also take into account other factors, such as previous conduct and infractions of the person concerned and should be effective and dissuasive. Approaches vary throughout the OSCE region. For example:

- In France, the weakest disciplinary sanction is a "call to order", followed by levels of increasingly stringent sanctions, including cuts in salary, graded according to the severity of the offence, and temporary suspension for members who are censured twice or insult other dignitaries, such as the prime minister or members of the Government. The rules allow for defence in person by the MP facing the disciplinary measure.

- In the German Bundestag, a member who breaches the rules of procedure during debates may be called to order, be "named" by the president of the Bundestag or have their right to speak during a particular debate withdrawn. For more severe violations, an MP might be excluded temporarily from debates or fined up to 2 000 euros. Similarly, a scale of disciplinary measures exists for infractions of the Bundestag's rules on declaring interests – from a simple warning to a fine of up to six months' remuneration.[215]

- For the European Parliament, strict enforcement and punishment of misconduct are not possible, because legal action can only be taken in the home state and national legal conditions vary widely.

For breaches of rules relating to asset declarations, a broad range of sanctions exists within the OSCE region. In France, in the most problematic cases, the High Authority for Transparency in Public Life refers the case to the Bureau of the relevant Assembly. Deliberate omissions or false declarations are punishable with up to a three-year prison sentence and a fine of 45 000 euros. In November 2016, such a fine was imposed on a member of the French Parliament. In October 2017, a four-month suspended sentence and a fine of 30 000 euros was issued to a former member of the French Parliament.

215 "Rules of Procedure of the German Bundestag", German Bundestag, May 2014, "Rules of Procedure of the German Bundestag", <https://www.btg-bestellservice.de/pdf/80060000.pdf>. "Law on Members of the Bundestag and the European Parliament", German Bundestag <https://www.bundestag.de/resource/blob/189732/6e3095be7d1968201ca34bbca5c285d9/memlaw-data.pdf>.

In Italy, not submitting one's declaration of interests can result in criminal action and, in Georgia, submitting an incomplete asset declaration is a crime.[216] In the United Kingdom, MPs who fail to declare their interests are normally only required to apologize before the House of Commons. In Sweden, individuals are simply named in the plenary session.

Owing to the special status of MPs and the constitutional protection that they enjoy, the imposition of severe sanctions is a sensitive issue.[217] For example, temporary suspension from the chamber, while relatively common, interferes with an MP's ability to represent the electorate as a whole, or their constituency specifically.[218] There is a risk that suspension could be abused to banish MPs from the chamber in order to distort the natural majority. Thus, in some countries, such as Austria, suspended members retain their right to vote. Moreover, research suggests that more severe sanctions are no more likely to inspire public trust, and that the existence of a code of conduct is more effective in building public confidence.[219] Along the same lines, research on effective prevention and response strategies against sexual harassment in the workplace shows that the certainty of punishment is more effective than the severity of the punishment.[220]

There is a prevailing norm against removing parliamentarians from office unless very serious offences have been committed. The OSCE's Copenhagen Document on the Human Dimension (1990) recommends that, "Candidates who obtain the necessary number of votes [...] are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures."[221]

In 2015, the United Kingdom passed an act allowing for the "recall" of MPs, whereby voters in an MP's constituency can vote to withdraw the member's mandate. The Act details the conditions under which the Speaker of the House of Commons may trigger the recall process, namely a custodial prison sentence imposed on an MP, suspension from the House ordered by the Committee on Standards or providing false or misleading expense claims. A petition would need to be forwarded by the Electoral Returning Officer for the constituency to the MP's constituents for ratification, with signatures by at least one in ten voters in the constituency triggering the loss of the MP's seat and a by-election. Recall is also provided for in the United States, Canada and a number of regional and local assemblies around the world.[222] However, research suggests that such mechanisms are frequently used for party political purposes and may become normalized as a "standard tool-kit of political conflict", rather than being used only as extraordinary measures when there are clear breaches.[223]

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216 *Asset Declarations for Public Officials: A Tool to Prevent Corruption, op. cit.,* note 28, p. 81.

217 *Ibid*., p.16.

218 MPs can be temporarily suspended from the chamber, *inter alia,* in Bulgaria, Canada, Denmark, Greece, Finland, Ireland, Italy and Romania. It is often the preserve of the Speaker to decide on such temporary suspensions.

219 Bruce, Willa. "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government", *Public Integrity Annual*, CSG & ASPA (1996), cited in "Legislative Ethics and Codes of Conduct", op. cit., note 31, p. 14.

220 See: McDonald, P., Charlesworth, S. & Graham, T., "Developing a Framework of Effective Prevention and Response Strategies in Workplace Sexual Harassment", Asia Pacific Journal of Human Resources, vol. 53, no. 1, 2015.

221 OSCE, "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE".

222 Judge, David, "Recall of MPs in the UK: 'If I Were You I Wouldn't Start from Here'", *Parliamentary Affairs,* Vol. 66, No. 4, May 2012, <https://strathprints.strath.ac.uk/40371/1/Recall_of_MPs.pdf>.

223 Gilbert, C, "State Recall Movement Stands Alone in US History", *Journal Sentinel*, 11 March 2011, <http://archive.jsonline.com/newswatch/117804138.html>.; and Jackson, D.; Thompson, E. & Williams, G., "Recall Elections for New South Wales? Report of the Panel of Constitutional Experts", Sydney, NSW Department of Premier and Cabinet, 2011, p.22, <http://images.smh.com.au/file/2011/12/14/2838416/Panel%27s%2520report.pdf>.

The procedures for escalating from softer to tougher measures should be transparent, and the most severe sanctions should be reserved only for grave violations. In the case of Karaczony and others v. Hungary, the European Court of Human Rights stated that, "sanctions were imposed without consideration of less intrusive measures, such as warnings or reprimands. Moreover, the interference consisted in the application of sanctions with a chilling effect on the parliamentary opposition, in a process where the procedural guarantees and those of the appearance of non-partisanship were insufficient. Therefore, the interference cannot be considered 'necessary in a democratic society' within the meaning of Article 10 § 2 of the Convention. The Council of Europe Committee of Ministers Recommendation (2003)4 and the *Guidelines on Political Party Regulation*, published by ODIHR and the Council of Europe's Venice Commission, recommend that sanctions should be 'effective, proportionate and dissuasive.'"[224]

Moreover, the aim of regulation should be primarily constructive, to create conditions in which professional and ethical conduct emerges as a norm. With this in mind, leniency should be exercised in imposing sanctions on any new area of regulation in order to allow members to become accustomed to new procedures. In Latvia, in the first year that asset declarations were introduced, nearly 20 per cent of all forms submitted were incomplete.[225] Regulatory bodies should also be mandated with responsibilities to guide and educate, in addition to their disciplinary role.

In its reports to, among others, Austria, Belgium, Bosnia and Herzegovina, France, Moldova, Portugal, the Russian Federation and the United Kingdom, GRECO has recommended that any sanctioning regime in respect of MPs be effective, proportionate and dissuasive. In addition, it has recommended with respect to certain jurisdictions that the information on applicable sanctions in cases of breaches of the rules is clear for MPs, that criminal law sanctions be supplemented by internal disciplinary measures, that the limitation period for the imposition of sanctions be extended and/or that the public is informed about the application of sanctions.

3.4 Administrative costs

It is difficult to quantify the costs of regulating parliamentary standards, since many different agencies are likely to be involved, but the staffing and budgetary costs should be borne in mind when designing a regulatory system. Data are available on the costs of some dedicated parliamentary ethics institutions in the OSCE region. For example, for 2018–19, the total cost of the Senate Ethics Officer of Canada amounted to $1.39 million Canadian dollars (880 000 euros).[226] The office of the United Kingdom Commissioner for Standards, the quasi-independent regulator of the conduct of British MPs, cost the taxpayer 526 623 pounds (587 516 euros) for 2018–19, 99 per cent of which represented staff costs.[227]

224 Article 16 of the Common rules against corruption in the funding of political parties and electoral campaigns (Appendix to Council of Minsters Recommendation No. R (2003); ODIHR/Venice Commission, *Guidelines on Political Party Regulation* (Warsaw: ODIHR, 2020), para. 274, < https://www.legislationline.org/download/id/8962/file/GUIDELINES%20on%20Political%20Party%20Regulation,%202nd%20edition,%202020%20this%20document%20is%20subject%20to%20editorial%20changes.pdf>; see also,Principle 4 of the Guidelines on Political Party Regulation on Proportionality.

225 *Ibid.*, p. 83.

226 Office of the Senate Ethics Officer, Parliament of Canada, "Annual Report – 2018–2019", <http://sen.parl.gc.ca/seo-cSe/PDF/Annual_Report_2018-2019_E.pdf>.

227 Data compiled from The Parliamentary Commissioner for Standards Annual Report 2018–19, p. 23, <https://www.parliament.uk/documents/pcfs/PCS-Annual-Report-2018-19.pdf>.

Printing of materials can also be very costly, and careful consideration should be given to whether this is necessary or whether online publication allows adequate scrutiny. In the United Kingdom, the only non-staff costs of the Commissioner are printing costs, with the annual printing of the Register of Members' Financial Interests amounting to around 8 000 pounds (9 590 euros). The Register is permanently available online and updated continuously, meaning that the printed version quickly becomes out of date.

The resources available to an ethics committee or regulator of conduct are essential to how well it can fulfil its role and can also affect its independence. The budget of any dedicated agency should be stable and secure in order to allow maximum independence, but there should also be potential for the agency to request additional public resources in periods where an unusually high number of investigations are required, e.g., when major or systemic abuses are revealed.

3.5 Beyond compliance: Building integrity

3.5.1 Parliamentary provision of training and advice

It is important to provide training on new rules when a system is launched and to continuously refresh training in order to keep it in the minds of individuals as they encounter new problems. This training should be aimed at all groups that will be regulated by the system, as well as at stakeholders who are expected to play a role in scrutinizing conduct, such as the media, NGOs and the wider public. Parliamentary staff should also be trained upon beginning their employment, because they will need to ensure that systems are set up appropriately and will be responsible for day-to-day compliance.

All new MPs should undergo an adequate induction programme when they are elected to parliament. Parliamentarians tend to come from a wide variety of backgrounds and may have been socialized in the ethical norms of their former professions, and not necessarily those of the parliament. The first weeks in parliament are a very busy time for most new MPs, but it is important that they think about the public's expectations of how they should conduct themselves in their new roles. Ethics training should demonstrate why misconduct undermines the legitimacy of democratic regimes, as well as clarifying what counts as misconduct and identifying ways to eliminate it.[228]

Induction training on gender equality and diversity, including the content of the Parliament's gender action plan (if one exists), sexual harassment policies and use of gender-sensitive language should be considered as well. As already stated, MPs often come from a variety of professional backgrounds and may be used to different organizational cultures or expectations related to conduct. At the European Parliament, specific courses aimed at preventing inappropriate conduct and harassment, and at promoting respectful, professional relations in the workplace are organized. Training geared to preventing harassment is provided to all staff members, in order to enable them to recognize, prevent and combat psychological and sexual harassment. Tailored courses for parliamentarians on the management and staffing of their offices are also being created. These emphasize prevention by seeking to develop parliamentarians' management skills in order to avoid conflicts with their assistants.[229]

228 "Legislative Ethics and Codes of Conduct", *op. cit.*, note 31, p. 17.

229 "Sexism, harassment and violence against women in parliaments in Europe", *op. cit.*, note 9.

It can be helpful if an experienced member holds a mentoring session, in which they discuss their own experience of entering parliament and the ethical dilemmas that have arisen over the years. Such sessions work well if the individual is a respected and charismatic speaker, although care should be taken to ensure that any advice given is in line with the latest recommendations and rules.

A report by the Dutch Parliament emphasizes the benefits of mentorship:

"The written and unwritten rules of the political game cannot be learned in just a few months. However, personal support can make a huge difference to a new MP. Experienced MPs, both former and current, are often willing to coach new MPs or to share their experiences with them. Their contribution also enriches the collective memory of the House of Representatives."[230]

In addition to training sessions, information can be made available on the internal parliament intranet. This has the advantage that MPs can access the site when it is convenient to them and can find answers to frequently asked questions.

Some systems also offer an ongoing advisory service for parliamentarians. The Canadian Conflict of Interests and Ethics Commissioner is mandated with providing confidential advice to MPs on how to comply with the 2006 Conflict of Interest Act and the MP's Code of Conduct, in addition to their duties of inquiry into breaches of these rules. The commissioner is also mandated with providing confidential information to the prime minister regarding conflicts of interest and ethical issues.[231] The Irish Standards in Public Offices Commission is similarly tasked with providing guidance on compliance.[232]

In some systems, MPs are required to seek advice. German Bundestag members are obliged to seek information "in cases of doubt" regarding their duties.[233] Alternatively, MPs can simply be offered an opportunity to seek advice or be encouraged to do so. The body that provides advice might also play a role in reviewing the provisions of the code on a regular basis, as it is in a good position to assess which areas of the code are unclear to members or which areas of compliance are most problematic. Individuals may feel uncomfortable, however, about asking for advice from a body that has the power to investigate their conduct and enforce the rules. Freedom of information laws can also inhibit MPs from asking questions if they fear that their questions will later be published in the media.

Integrity adviser appointed in the Dutch House of Representative

The position of independent an integrity adviser was created by the Dutch House of Representatives in 2018, following recommendations made previously by the parliamentary working group on the "Integrity of Members of the House of Representatives."

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230 "Confidence and Self-Confidence – Parliamentary Self-Reflection: Findings and Follow-up", Dutch House of Representatives, 2009, p. 22, < http://www.houseofrepresentatives.nl/sites/www.houseofrepresentatives.nl/files/content/parliamentary-selfreflection_finalreport_117-200327.pdf >.

231 Office of the Conflict of Interest and Ethics Commissioner, Parliament of Canada, "Educating and Informing", <https://ciec-ccie.parl.gc.ca/en/About-APropos/Pages/Educating-Eduquer.aspx>.

232 Standards in Public Offices Commission, Parliament of Ireland "What We Do", <https://sipo.ie/about/what-we-do/>.

233 "Rules of Procedure of the German Bundestag", German Bundestag, < https://www.btg-bestellservice.de/pdf/80060000.pdf>.

The Integrity Adviser is responsible for providing advice to MPs in the interpretation of parliamentary rules on integrity. In accordance with the recommendations of the working group, MPs can approach the independent adviser for confidential, written advice on the interpretation and application of rules governing integrity. MPs concerned are at liberty to make the advice public. Every year, the Integrity Adviser compiles an anonymized report, which will be sent to the Presidium of the House of Representatives before being published. In this annual report, the Integrity Adviser can make recommendations for improving or clarifying the integrity rules.

General information about the regulatory framework should be made available to the public in easily understandable and accessible forms.[234] Moreover, discussions of ethical dilemmas and of any changes to the rules should be integrated into the parliament's regular educational and outreach activities with the public, civil society, students and the media. Such activities help to make the public aware of what an MP's role entails.

Questions to consider:

- *Will training on the new system be developed for MPs and their staff?*
- *Will confidential advice be available to MPs and their staff?*
- *What are the most appropriate ways of informing the media, NGOs and the wider public about the rules?*

3.5.2 The role of political parties

Political parties are increasingly recognizing that they also have a responsibility to keep their elected members accountable. Indeed, there can be significant reputational risks for political parties if they fail to uphold high standards of integrity. Scandals involving a small number of MPs can reflect badly on the party and lead to significant electoral losses. Political parties are more likely to be able to avoid being tarnished by the misbehavior of one or a group of their representatives if they can show that they have appropriate procedures in place to guard against such misconduct, and that any scandal was not indicative of a wider organizational culture.

One way to embrace an individual approach to responsibility and discipline would be for political parties to develop their own code of conduct, with standards of expected behavior and integrity of party members, as well as party leadership. These codes could also have a clear and proportional sanction mechanism. Provided that political parties are receiving public funds for their regular work, it could also imply that these parties could develop integrity plans as end users of public money. Such integrity plans, in addition to codes of conduct, could have more stringent rules for both party members and leadership when it comes to corruption, bribes, conflict of interest and lobbying, and developed sanctions for violating these rules for each category.

In Finland, the Finns Party has faced numerous scandals in relation to remarks considered racist and inappropriate made by their MPs, party activists and local councillors. For example, in

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234 For example, the United Kingdom Parliament has published a leaflet for the public on lodging complaints against an MP, "Complaining About a Member of the Parliament", United Kingdom House of Commons, March 2013, <https://www.parliament.uk/documents/pcfs/current-inquiries/Complaining%20about%20an%20MP%20Mar13.pdf>.

spring 2015, a Finns Party MP published a controversial public Facebook post, which was considered as a call to arms against "multiculturalism" and to be inciting violence. Following public outcry, including a public rally titled "We have a dream", which gathered more than 10 000 people for a concert in the centre of Helsinki, the parliamentary group of the party considered disciplinary measures, and eventually encouraged the MP to resign from the group for a specified period of time. He was re-admitted to the group a few months later.[235]

In another case, a guest of a Finns Party MP made a Nazi salute in the plenary hall of the Parliament. The MP took a picture of this and posted it on his public Facebook profile. The Speaker of the Parliament issued the MP a notice, which is the harshest possible warning in accordance with the Constitution. Ultimately, the MP was dismissed from the party.[236]

3.6 Updating and reviewing standards

Standards of integrity necessarily evolve and change over time, as norms and expectations of parliamentarians change and new risks arise. Systems for regulating standards, therefore, need to be able to adapt.[237] A code is never a finished document but, rather, remains a work in progress.

In recent years, there is an emerging trend of using ICT and new technologies to update existing, and develop new, standards. Often, the presence of technologies and frequency of their use is dictating the standard development itself, mainly as a tool to ease the daily flow of work and help MPs in fulfilling their duties. When using technologies, special attention is needed in relation to security and integrity of the data and the whole process, so that the updated or developed new standards do not get challenged because of the nature of their development. One key challenge is that technical tools do not become subject to political debate, which can put a shadow on the essence of the standard developed, simply because the level of trust and knowledge of certain technology is not sufficient among decision makers. For example, using technology to declare assets should make it easier for MPs to fulfill their legal obligations and inform the public. At the same time, technologies should not be seen as an additional burden for MPs that would require them to expend additional efforts and time.

In the 1960s and 1970s, MPs with constituencies in the north of England or Scotland used to base themselves in London most of the time. Now it is expected that MPs spend every Friday and most weekends in their constituencies, even during parliamentary sessions. This has major implications in determining what constitutes an appropriate allowance for an MP for travel or accommodation. In younger democracies, it is particularly likely that the role of the parliament may change in a short period. Such changes have implications for the question of whether it is appropriate for MPs to hold other roles or earn income from other sources simultaneously with their legislative office.

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235 See, Tharoor, I., "A politician in Finland declared war on multiculturalism. This is how his country responded.", Washington Post, 31 July 2015, <https://www.washingtonpost.com/news/worldviews/wp/2015/07/31/a-politician-in-finland-declared-war-on-multiculturalism-this-is-how-his-country-responded/>.

236 See, "Hirvisaari dismissed from Finns Party", Helsinki Times, 7 October 2013, <https://www.helsinkitimes.fi/finland/finland-news/politics/7927-hirvisaari-dismissed-from-finns-party.html

237 Even the Hippocratic Oath has been updated, with one version that is used widely today having been penned by Dr. Louis Lasagna in 1964. See Tyson, P., "The Hippocratic Oath Today", PBS Nova website, 27 March 2001, <http://www.pbs.org/wgbh/nova/body/hippocratic-oath-today.html>.

These issues highlight the importance of having procedures in place that allow for regular review and monitoring of the framework. Reviews should provide for open discussion and consultation with stakeholders and ensure that those who will be regulated feel they have ownership of the process.

A step-by-step process: The case of Georgia[238]

The Parliament of Georgia adopted a non-binding code of conduct in 2004, with limited success. Since then, the Parliament has not had an effective mechanism for reacting to MPs' violations of ethic codes and citizens have been unable to submit their complaints with regard to particular cases.

In 2015, the Permanent Council on Open and Transparent Governance of the Parliament of Georgia adopted the first action plan, for 2015–16, which included a commitment to adopt a Code of Ethics for the members of Parliament. The draft concept for the code was prepared by the National Democratic Institute (NDI), an American NGO, and circulated to the Permanent Council in February 2016. A refined version of the draft was presented at the meeting of the Permanent Council in March 2016 and, following recommendations and input from members of the Council, was furthermore presented and discussed that April.

In May 2016, NDI, together with experts from ODIHR, organized a meeting with the members of the Permanent Council and Georgian NGOs, to which staff from the Office of Congressional Ethics were also invited, to discuss the code in detail. The document was finally approved by the Permanent Council as a document of fundamental principles and expectations governing the behavior of MPs. The next convocation of the Parliament was tasked to prepare and adopt the code.

At the beginning of 2017, a new Permanent Council approved a new action plan and committed to adopt a binding Code of Ethics. In March 2017, NDI, in co-operation with ODIHR, held a roundtable on ethical codes, where the Permanent Council discussed the draft of the code and international practice.

Later in 2017, the parliamentary working group prepared a new draft and, after consultations with the Permanent Council, parliamentary leadership, members of the parliamentary majority and the opposition, it was sent to be heard at the plenary session. The Parliament reviewed the code twice, and MPs voted the document down the first time, in April 2018. The document was re-submitted that May, and ultimately approved by the Parliament in November, as part of a newly adopted Rules and Procedures document.

In early 2019, the Parliament appointed the Council of Ethics as the body responsible for the implementation and enforcement of the Code. In August 2019, ODIHR and NDI organized a meeting for the members of the Council of Ethics to discuss and initiate the drafting of a manual, aimed at supporting the Code and offering further clarification on the rules of procedure for the Council of Ethics. The manual was ultimately adopted by the Parliament in late 2019.

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238 This box is based on the account provided in: Gogidze, Lasha, "Case Study: the Georgian Parliament's Code of Ethics – Implementation and Recommendations for Reform", Transparency International Georgia 23 April 2012, <http://transparency.ge/en/post/report/georgias-parliamentary-code-ethics-need-reformation>.

Questions to consider

- *What funding is available to support the updating and review of standards?*
- *Will training on the new system of standards be developed for MPs and their staff?*
- *What are the most appropriate ways of informing the media, NGOs and the wider public about the new rules?*
- *How does the system allow for innovation and reform?*

3.7 Civil society monitoring

Civil society organizations play a key role in ensuring that parliamentarians comply with the rules set out in a code of conduct or, more broadly, in the country's constitution and legal framework. They can also expose examples of misconduct and put pressure on other bodies to conduct investigations or take action. Civil society scrutiny of parliaments has become much more extensive in the first decades of the 2000s, with NGOs often acting as intermediaries, collecting data published by parliaments and helping the public to interpret them. For example, websites such as "They Work for You" in the United Kingdom allow users to search the voting records of parliamentarians, while other websites provide access to asset declarations or registers of interests. [239]

In Greece, "Vouliwatch" is an NGO that uses innovative digital technology applications to facilitate the monitoring of parliamentarians' activities (including their financial interests) and the legislative process. Vouliwatch provides a moderated platform through which citizens can publicly ask questions and receive public replies from their MPs and MEPs. All citizens' questions and politicians' answers are crosschecked according to a code of conduct that is aligned with the principles of open government ethics. In Bosnia and Herzegovina, the NGO *Zasto ne?* (Why not?) plays a similar role, providing information to the public about the activities of government and public institutions. Their PravoDaZnam.ba (RightToKnow.ba) web portal assists the public with utilizing the freedom of information act in the country. This portal is fully automated, which allows the public to send requests to access government information via email.

Parliamentary monitoring organizations can themselves receive support and interact with their peers in other countries through an international forum called OpeningParliament.org.

Questions to consider:

- *Is there a role for civil society organizations in shaping and updating the code?*
- *How does the system allow for diverse civil society organizations to participate in holding parliamentarians to account, e.g., by providing for transparency and open data?*

239 See the They Work for You website at: <https://www.theyworkforyou.com/>.

Conclusions

All parliaments in the OSCE region can benefit from reviewing and reforming the way they regulate professional and integrity standards. As elected representatives, parliamentarians are the cornerstone of our democracies. Yet, throughout the OSCE region, parliaments often lose credibility as a result of scandals, damaging public confidence in democratic institutions. That, in turn, hinders the work of the vast majority of MPs, who behave professionally and with integrity, as well as makes it more difficult to attract a diverse group of people into politics.

Reviewing and reforming standards is important not only to help to restore trust in parliaments and raise the profile of the important work carried out by MPs, but also to help prevent corruption and harassment and discrimination against members of under-represented groups, including women. The reform of parliamentary standards provides an excellent opportunity for a public debate on what can and should be expected of the individuals that voters elect to represent them.

MPs have a demanding job and are frequently faced with competing claims on their time and influence. They sometimes sacrifice a great deal in their personal lives in order to serve the public interest, and they operate in a highly politicized environment. Rules and regulations should empower MPs to carry out their work and to uphold the independence of the parliament. While rules should not intrude unnecessarily into MPs' private lives, they are instrumental in guarding against the abuse of power for private and political ends. To keep a code current from one election to another, frequent review of integrity standards is necessary.

There can be six steps proposed in the course of reforming the regulation of parliamentary ethical standards:

1. **Assessing the existing rules and risks.** Reformers should first make themselves aware of the rules and norms that currently exist, drawing on the country's constitution and national laws, as well as recognizing the informal norms and customs – helpful and unhelpful – that operate in the parliament. They should identify which challenges are the most severe and which risks are the greatest, in order to be able to design reforms that reduce those risks. Reformers should also study the experiences of other countries in similar situations. Any working groups established to lead the reform should be selected through a fair and transparent process, should be diverse in membership and should lead by example in making their work transparent and in declaring their members' special interests, even beyond the requirements of the parliament.

2. **Initiating a consultation, with the aim of producing a document.** The reform of parliamentary standards should be founded on a wide consultation process, involving parliamentarians, parliamentary staff, political parties, the media and civil society. Broad consultation can help to establish what expectations people have about the conduct of MPs and can spark a discussion of what is reasonable to expect. Online debates and forums, for example, can help enhance transparency and participation. The consultation should be directed towards producing a document that sets out common values, in order to help frame any subsequent changes to the rules or the institutions that enforce the rules.

3. **Reforming rules and integrity standards.** Whenever steps 1 and 2 reveal weaknesses in the parliamentary standards in force, a proper reform process should start within the parliament. The reform could touch on a number of different areas, which include but are not limited to:

   - Declarations of interests and assets;
   - Allowances and expenses;
   - Relations with lobbyists;
   - Conduct in and outside the chamber, including parliamentary language;
   - Gender equality and supporting diversity;
   - Sexism, harassment and violence against women in politics;
   - Attendance and voting rules;
   - Use (and misuse) of parliamentary time, assets and human resources; and
   - Post-parliamentary employment.

4. **Reforming institutional mechanisms for monitoring and enforcement.** Institutional mechanisms are needed to monitor adherence and to investigate alleged misconduct. Depending on the weaknesses identified in steps 1 and 2, these mechanisms should be reformed accordingly. Important decisions concern whether the monitoring and enforcement roles should be concentrated in the parliament or in an external body, and whether the existing institutions have enough power and independence to carry out their roles effectively.

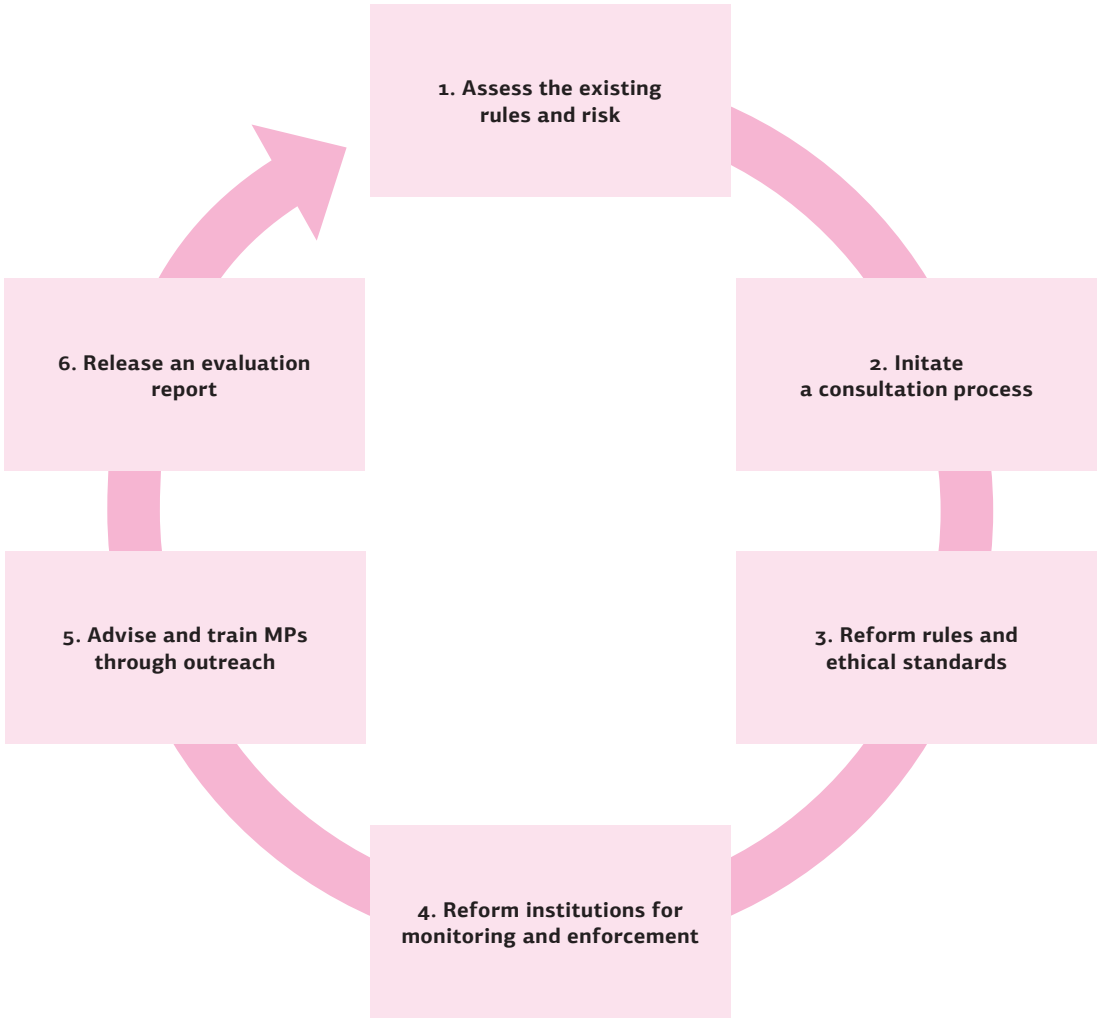
5. **Providing advice, training and support to MPs through outreach.** MPs need constant advice on new or reformed parliamentary rules and standards throughout their time in office and must receive periodic training on sensitive ethical issues. At the same time, the public, media and civil society need to be informed about parliamentary standards or the reforms of previous rules. This should promote close scrutiny of parliamentary and MPs' activities by the public regulatory community, ultimately fighting unethical conduct through prevention.

5. **Produce evaluation reports.** At the end of each parliamentary term, a thorough assessment of the integrity standards in place and their impact on MPs' political work is needed. The outcome should be collated into an Annual Report, to be presented to the Parliament. This should be a reflective exercise that seeks to assess more broadly whether the rules and their enforcement are contributing to the overall task of building a culture of integrity. If relevant, annual reports should highlight the fact that underpinning assumptions are flawed and recommend a re-think.

This review and reform process should be repeated on a regular basis. Since expectations about how MPs should behave change over time and new challenges arise, there should be frequent

and systematic reviews of the rules and their enforcement. At the minimum, it should become part of a parliament's responsibility to review standards at the beginning of each parliamentary term and to implement them throughout the legislative period. In this way, the review of ethical standards will become institutionalized as an automatic task. This is necessary to keep a parliament functioning effectively and important for building public confidence.

Figure 9: Six steps to reforming parliamentary standards



Glossary[240]

Abuse of office – when a public official uses powers associated with their privileged position to maintain a hold on power or to achieve private or partisan gains.

Asset declaration – a statement detailing the assets (and, sometimes, liabilities) of an individual MP or other public official, usually submitted at the beginning and end of a parliamentary term.

Bribery – the provision of a private benefit to an individual in order to influence them in the conduct of their duties in such a way as to benefit the party paying the bribe (often at the expense of the public interest).

Code of conduct – a statement of values, principles or rules to which members of a certain profession or group are expected to adhere or aspire.

Conflict of interest – a conflict between the public duties and private interests of a public official in which the public official has private interests that could improperly influence the performance of their official duties and responsibilities.

Cooling-off period – the time during which a former deputy is banned from taking on certain types of employment or engaging in activities, such as lobbying, to help ensure that they do not exploit their former contacts or insider information for private gain.

Corruption – the abuse of entrusted power for private gain.

Gender discrimination – any distinction, exclusion or restriction made on the basis of socially constructed gender roles and norms that prevents a person from enjoying full human rights.

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240 This glossary was compiled with reference to definitions contained "Anti-Corruption Plain Language Guide", Transparency International, July 2009, <https://www.transparency.org/whatwedo/publication/the_anti_corruption_plain_language_guide>, the OECD (2011) publication; *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, *op. cit*., note 28.; "Aide-Memoire on Gender-Mainstreaming in Projects", OSCE, 1 January 2007, <https://www.osce.org/gender/26402>, Glossary on Gender Related Terms, OSCE, 31 May 2006, <https://www.osce.org/gender/26397>, and "Glossary", the United Kingdom House of Commons website, <http://www.parliament.uk/site-information/glossary/>.

Gender equality – equal rights, opportunities and outcomes for women and men in laws and policies, and equal access to resources and services within families, communities and society.

Gender mainstreaming – the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension in the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and social spheres, such that inequality between men and women is not perpetuated.

Gender sensitivity/awareness – the ability to perceive, acknowledge and highlight existing gender differences, issues and inequalities, and to incorporate a gender perspective into strategies and actions.

Ghost voting – the practice whereby an MP votes on behalf of an absent colleague, either with or without that colleague's consent.

Good governance – governance that is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is responsive to the present and future needs of society.

Incompatibility laws – laws prohibiting an MP from holding a certain position simultaneous with being a deputy.

Induction – a training programme for new MPs or new members of staff to familiarize them with the institutions and rules.

Inviolability – known as parliamentary immunity, legislative inviolability is an absolute immunity from liability and is granted to legislators or parliamentarians during the course of their legislative mandate.

Lobbyists – interest groups and individuals that seek to influence the formation of legislation.

Misuse of public funds – the use of public funds to achieve private or political party goals, rather than to serve the public interest.

Nepotism – when an individual inappropriately distributes jobs in public office or public contracts to relatives or friends.

Public integrity – the consistent alignment of and adherence to shared ethical values, principles and norms for upholding and prioritizing the public interest over private interests in the public sector.

Revolving door – in this context, the movement of public officials and politicians between their public roles and employment in the private sector, in quick succession, creating a number of risks of conflict of interest.

Rule of law – the existence of legal systems and structures that condition the actions of a government, and the principle of equality before the law.

Rules of procedure – rules about procedures for parliamentary debates, e.g., how to submit an amendment, how to ask a question.

Standing orders – written rules under which a parliament conducts business. They regulate the way members behave, bills are processed and debates are organized; some standing orders are temporary and only last until the end of a session or parliament.

Select Bibliography

Organization for Security and Co-operation in Europe

OSCE, *Guidelines on Political Party Regulation* (Warsaw: ODIHR, 2010), <http://www.osce.org/odihr/77812>.

OSCE, "Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE", Copenhagen, 1990, <http://www.osce.org/odihr/elections/14304>.

OSCE Parliamentary Assembly, "Brussels Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the 15th Annual Session", Brussels, 2006, <https://www.osce.org/pa/19799>.

OSCE Ministerial Council, Decision No. 14/04, "2004 OSCE Action Plan for the Promotion of Gender Equality", Sofia, 7 December 2004, <http://www.osce.org/mc/23295>.

OSCE Ministerial Council, Decision No. 7/94, "Women Participation in Political and Public Life", Athens, 2 December 2009, <http://www.osce.org/mc/40710>.

OSCE, *OSCE Human Dimension Commitments – Third Edition*, (Warsaw: ODIHR, 2011), <http://www.osce.org/odihr/76894?download=true>.

OSCE Ministerial Council, Decision No. 4/18, "Preventing and Combating Violence against Women", Milan, 10 December 2018, <https://www.osce.org/chairmanship/406019 >.

Intergovernmental Organizations

Council of Europe, Committee of Ministers Resolution 97 *(4)*, "On the Twenty Guiding Principles for the Fight Against Corruption", 1997, <https://rm.coe.int/16806cc17c>.

Council of Europe, "Convention on Preventing and Combating Violence Against Women and Domestic Violence", 2011, <http://www.coe.int/t/dghl/standardsetting/convention-violence/default_EN.asp>.

Council of Europe, "Criminal Law Convention against Corruption", Strasburg,1999, <http://conventions.coe.int/Treaty/en/Treaties/html/173.htm>.

Council of Europe, Parliamentary Assembly of the Council of Europe Resolution 1214, "Role of Parliaments in fighting corruption", 2000, <http://www.assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=16794>.

Council of Europe, Parliamentary Assembly of the Council of Europe, "Combating Sexist Stereotypes in the Media", 2010, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17893&lang=en>.

Council of Europe, Parliamentary Assembly of the Council of Europe Resolution 2274, "Promoting parliaments free of sexism and sexual harassment", 2019, <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=27614&lang=en>.

Council of Europe, Recommendation 60, "On political integrity of local and regional elected representatives", Strasburg, 1999, <https://rm.coe.int/political-integrity-of-local-and-regional-elected-representatives-rapp/168071a0f7>.

Council of Europe, "Report on the Regime of Parliamentary Immunity", Strasbourg, 1996, <https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(1996)007-e>.

Council of Europe, "Rights and duties of local and regional elected representatives", Strasburg, 2010, <https://wcd.coe.int/ViewDoc.jsp?id=1697717&Site=CM>.

Council of Europe Venice Commission, "Report on the Regime of Parliamentary Immunity", 1996, <https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(1996)007-e>.

European Commission, "Attitudes of Europeans towards Corruption", 2009, Special Eurobarometer 325, <http://ec.europa.eu/public_opinion/archives/ebs/ebs_325_en.pdf>.

European Commission, "Commission Staff Working Paper, Albania 2011 Progress Report", Brussels, 2011, <http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/al_rapport_2011_en.pdf>.

European Commission, European Institute of Public Administration, "Regulating Conflicts of Interest for Holders of Public Office in the European Union", October 2007, <https://op.europa.eu/en/publication-detail/-/publication/746a95fc-dbf6-48de-a76d-b4ce1fe4b4bf>.

European Commission, "Public Opinion in the European Union – First Results", Standard Eurobarometer 77, Spring 2012, <http://ec.europa.eu/public_opinion/archives/eb/eb77/eb77_first_en.pdf>.

European Parliament, "EP leaders agree to develop new rules for lobbyists and stronger code for MEPs", Brussels, 2011, <http://www.europarl.europa.eu/former_ep_presidents/president-buzek/en/press/press_release/2011/2011-March/press_release-2011-March-43.html>.

European Parliament, "European Transparency Register", <http://europa.eu/transparency-register/index_en.htm>.

European Parliament, Office for Promotion of Parliamentary Democracy, "Parliamentary Ethics: A Question of Trust", Brussels, 2011, <https://agora-parl.org/node/8871>.

European Parliament, "Rules of Procedure of the European Parliament", Brussels 2012, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+RULES-EP+20120110+ANN-01+DOC+XML+V0//EN&language=EN&navigationBar=YES>.

Inter-Parliamentary Union, and Office of the United Nations High Commissioner for Human Rights, "Human Rights: Handbook for Parliamentarians", No. 8, 2005, <http://www.ohchr.org/Documents/Publications/training13en.pdf>.

Inter- Parliamentary Union, Gender Sensitive Parliaments: A Global Review of Good Practices, 2011, < https://www.ipu.org/resources/publications/reports/2016–07/gender-sensitive-parliaments>.

Inter- Parliamentary Union, Brief on sexism, harassment and violence against women parliamentarians in Europe, 2018, < https://www.ipu.org/resources/publications/reports/2018–10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe

OECD, "Asset Declarations for Public Officials: A Tool to Prevent Corruption", 2011, <http://dx.doi.org/10.1787/9789264095281-en>.

OECD, "Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences", 2003, <www.oecd.org/gov/ethics/conflictofinterest>.

OECD, "OECD Guidelines for managing conflict of interest in the public service", 2007, < http://www.oecd.org/corruption/fightingcorruptioninthepublicsector/48994419.pdf>.

OECD, OECD Public Governance Committee, "Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation", 2009, < http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/GF(2009)1&doclanguage=en>.

United Nations, Conference of the States Parties to the United Nations Convention against Corruption, "Report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 25 and 26 August 2011", 25 August 2011, <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup2/2011-August-25-26/V1185447e.pdf>.

United Nations, "UN Convention against Corruption", New York, 2004, Art. 8.2., <http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf>.

United Nations, UN General Assembly, "Resolution 51/59: Action against corruption", 12 December 1996, <http://www.un.org/documents/ga/res/51/a51r059.htm>.

National Resources

Canadian House of Commons, "Conflict of Interest Code for Members of the House of Commons", <http://www.parl.gc.ca/About/House/StandingOrders/appa1-e.htm>.

Canadian House of Commons, "Compendium – Rules of Debate", 2006, <http://www.parl.gc.ca/About/House/compendium/web-content/c_d_rulesdebate-e.htm>.

Canadian Parliament, "The Conflict of Interest and Ethics Commissioner", 2007, <https://ciec-ccie.parl.gc.ca/en/Pages/default.aspx>.

Canadian Senate, "*Annual Report of the Senate Ethics Officer 2006–2007*", 2007, <http://sen.parl.gc.ca/seo-cse/PDF/AnnualRepo607-e.pdf>.

Dutch House of Representatives, "Confidence and Self-Confidence – Parliamentary Self-Reflection: Findings and Follow-up", The Hague, 2009, <http://www.houseofrepresentatives.nl/sites/www.

houseofrepresentatives.nl/files/content/parliamentary-selfreflection_finalreport_117-200327.pdf>.

French National Assembly, Code of Ethics, Paris, last redacted on 9 October 2019, https://www2.assemblee-nationale.fr/qui/deontologie-a-l-assemblee-nationale/textes-de-reference/code-de-deontologie-en-vigueur

French High Authority for Transparency of Public Life, Act no. 2013–907 on transparency in public life, Paris, 11 October 2013 https://www.hatvp.fr/wordpress/wp-content/uploads/2018/01/Act-no.-2013-907-dated-11-October-2013-on-transparency-in-public-life.pdf

Georgian Parliament, "Code of Ethics of the Members of the Georgian Parliament", <http://www.parliament.ge/files/1107_17620_548540_CodeofEthics-Eng.pdf>.

German Bundestag, "Law on Members of the Bundestag and the European Parliament", <http://www.bundestag.de/htdocs_e/documents/legal/memlaw.pdf>.

German Bundestag, "Rules of Procedure Code of the German Bundestag", 2 July 1980, original: <http://www.bundestag.de/dokumente/rechtsgrundlagen/go_btg/go06.html>, in English: <https://www.btg-bestellservice.de/pdf/80060000.pdf>.

Irish House of Representatives, "Code of Conduct for Members of Dail Eireann other than Office Holders", 2002, <http://www.sipo.gov.ie/en/CodesofConduct/TDs/>.

Irish House of Representatives, "Code of Conduct for Members of Seanad Eireann other than Office Holders", 2002, <http://www.sipo.gov.ie/en/CodesofConduct/Senators/>.

Irish House of Representatives, "Code of Conduct for office-holders", 2001, <http://www.sipo.gov.ie/en/CodesofConduct/OfficeHolders/>.

Irish Parliament, Standards in Public Offices Commission, "Function of the Standards in Public Office Commission", <http://www.sipo.gov.ie/en/AboutUs/Functions/>.

Latvian Parliament, "Rules of Procedures of the Saeima", 2006, <http://www.saeima.lv/en/legislation/rules-of-procedure/>.

Lithuanian Parliament, "Statute of the Seimas of the Republic of Lithuania", 2010, <http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_e?p_id=389585>.

Malta House of Representatives, "Code of Ethics of Members of the House of Representatives", 1995, <http://www.parlament.mt/codeofethics-mp?l=1>.

National Assembly of the Republic of Bulgaria, "Rules of Organization and Procedure of the National Assembly", 2012, <http://www.parliament.bg/en/rulesoftheorganisations/>.

Parliament of Canada, "House of Commons Procedures and Practice – Responsibilities and Conduct of Members", 2000, <http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch04&Seq=12&Language=E>.

Polish Sejm, "Zasady Etyki Poselskiej" [Polish Code of Ethics], 17 July 1998, <http://www.sejm.gov.pl/prawo/zep.htm>.

Republic of Lithuania, "Law on the Approval, Entry into Force and Implementation of the Code of Conduct for State Politicians", Vilnius, 2006, <http://www.vtek.lt/vtek/images/vtek/Dokumentai/EN/Legislation/politiku_elgesio_kodeksas.doc>.

Scottish Parliament, "Code of Conduct for Members of the Scottish Parliament, 5th Edition", Edinburgh, 2011, < http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/code_final.pdf>.

United Kingdom House of Commons, "Bill of Rights", 1689, <http://www.legislation.gov.uk/aep/WillandMarSess2/1/2/introduction>.

United Kingdom House of Commons, Committee on Standards and Privileges, "Review of the Code of Conduct, 19th Report of Session 2010–12", 2011, <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmstnprv/1579/1579.pdf>.

United Kingdom House of Commons, Commissioner for Standards, "Procedural Note: Procedure for Inquiries", 2012, <http://www.parliament.uk/documents/documents/Procedural_Note-April_2012.pdf>.

United Kingdom House of Commons, "Complaining about a member of the Parliament", 2011, <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/pcfs/publications/inquiries/complaints-process/>.

United Kingdom House of Commons, "Glossary", <http://www.parliament.uk/site-information/glossary/unparliamentary-language/>.

United Kingdom House of Commons, "Joint Committee on Parliamentary Privilege, First Report", 1999, <http://www.publications.parliament.uk/pa/jt199899/jtselect/jtpriv/43/4302.htm>.

United Kingdom House of Commons, "Power of the Parliamentary Commissioner for Standards to initiate investigations", 2010, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmstnprv/578/57803.htm>.

United Kingdom House of Commons, Public Administration Committee of the House of Commons, "Smaller Government: What do Ministers do?", 2011, <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubadm/530/53002.htm>.

United Kingdom House of Commons, "Thirty-Third Report of the Commission, and annual report of the Administration Estimate Audit Committee, Financial Year 2010/11", 2011, < http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcomm/1439/1439.pdf >.

United Kingdom House of Lords, "Annual Report 2010–11, Commissioner for Standards", 2011, <http://www.parliament.uk/documents/lords-commissioner-for-standards/Annual-Report-2010-11.pdf>.

House of Representatives of the Netherlands, "Rules of Procedure", 2012, < http://www.houseofrepresentatives.nl/sites/www.houseofrepresentatives.nl/files/content/rules_of_procedure_1.pdf>.

United Kingdom House of Commons, Parliamentary Commissioner for Standards, "Review of the Code of Conduct for Members of Parliament: Consultation Paper", 2011, <http://www.parliament.uk/documents/pcfs/review-of-code-of-conduct-2011/Review-of-the-code-of-conduct-2011.pdf>.

United States House of Representatives, Committee on Standards of Official Conduct, "House Ethics Manual", 2008, <http://ethics.house.gov/Media/PDF/2008_House_Ethics_Manual.pdf>.

United States Senate Select Committee, "Ethics Resolution 266", 22 March 1968, <http://ethics.senate.gov/public/index.cfm/jurisdiction>

Non-governmental Organizations and Individuals

Bermeo, N., "On democratic backsliding", *Journal of Democracy*, (2016). *27*(1), 5–19, <https://www.journalofdemocracy.org/articles/on-democratic-backsliding/>.

Beta, Tanjug, "20 Officials to step down due to conflict of interest", *b92.net*, 8 September 2011, <http://www.b92.net/eng/news/politics-article.php?yyyy=2011&mm=09&dd=08&nav_id=76301>.

Bruce, Willa. "Codes of Ethics and Codes of Conduct: Perceived Contribution to the Practice of Ethics in Local Government", *Public Integrity Annual*, CSG & ASPA (1996), cited in Stapenhurst, Frederick and Pelizzo, Riccardo, "Legislative Ethics and Codes of Conduct", *WBI Working Papers,* (Washington DC: World Bank Institute, 2004).

Centre for Public Policy PROVIDUS and Open Society Institute, "Shrinking citizenship: Analytical Report on the Monitoring of Printed Media, Parliamentary Debates and Legislative Initiative concerning Civic Participation in Latvia", 2007, <http://www.providus.lv/upload_file/Eng_versija/Shrinking_Citizenship_Interim_Report.doc>.

Dávid-Barrett, E. (2014). Nolan's legacy: regulating parliamentary conduct in democratising Europe. *Parliamentary Affairs*, *68*(3), 514–532

Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Shleifer, "Disclosure by Politicians" Working Paper 14703, *National Bureau of Economic Research,* February 2009, <http://www.nber.org/papers/w14703.pdf>.

"EU Lobbyist Register Gives Incomplete Picture", *EU Observer,* June 2012, <http://euobserver.com/institutional/116742>.

Gay, Oonagh and Leopold, Patricia, *Conduct Unbecoming: The Regulation of Parliamentary Behaviour* (London: Politico's, 2004).

Gilbert, C, "State Recall Movement Stands Alone in US History", *Journal Sentinel*, 12 March 2011.

Gilman, Stuart, *Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons*, (Washington, DC: PREM/World Bank, 2005).

Jackson, D., E. Thompson and G. Williams, *Recall Elections for New South Wales? Report of the Panel of Constitutional Experts*, (Sydney: NSW Department of Premier and Cabinet, 2011).

Judge, David, "Recall of MPs in the UK: 'If I Were You I Wouldn't Start from Here'", *Parliamentary Affairs,* May 2012, <http://strathprints.strath.ac.uk/40371/>.

Maesschalck, J., & Schram, F., **"**Meer dan een brochure of affiche: de deontologische code als kernelement van een effectief ambtelijk integriteitsbeleid", ["More than a brochure or poster: the code of ethics as a core element of an effective administrative integrity policy"], *Burger, Bestuur En Beleid*, 2006.

Mann, Thomas E. and Norman J. Ornstein, *The Broken Branch: How Congress is Failing America and How to get It Back on Track* (Oxford: Oxford University Press, 2006).

McGee, Simon, *Rules on Parliamentary Immunity in the European Parliament and the Member States of the European Union* (Brussels: ECPRD Publication, 2001).

"MPs' expenses: the timeline", *The Daily Telegraph*, 3 October 2010, <http://www.telegraph.co.uk/news/newstopics/mps-expenses/5335266/MPs-expenses-the-timeline.html>.

National Democratic Institute and World Bank, "Strengthening Parliamentary Accountability, Citizen Engagement and Access to Information: A Global Survey of Parliamentary Monitoring Organizations", 2011, <http://www.ndi.org/files/governance-parliamentary-monitoring-organizations-survey-september-2011.pdf>.

National Democratic Institute, "Legislative Ethics: a Comparative Analysis", Legislative Research Series Paper #4, Washington DC, 1999, <http://www.accessdemocracy.org/files/026_ww_legethics.pdf>.

"NGO Calls for Parliamentary Code of Ethics", *ERR News*, 2 December 2012, <http://news.err.ee/politics/19ec6211-dfb0-4a27-a5e6-74fcd820e53a>.

Norris, Pippa and Lena Krook, *Gender Equality in Elected Office: A Six-Step Action Plan* (Warsaw: ODIHR, 2011),<http://www.osce.org/odihr/78432>.

NOVA, "The Hippocratic Oath Today", *pbs.org*, 27 March 2001, <http://www.pbs.org/wgbh/nova/body/hippocratic-oath-today.html>.

Sedelmeier, U. (2014). Anchoring democracy from above? The European Union and democratic backsliding in Hungary and Romania after accession. *JCMS: Journal of Common Market Studies*, *52*(1), 105–121

Stapenhurst, Frederick and Pelizzo, Riccardo, "Legislative Ethics and Codes of Conduct", *WBI Working Papers (*Washington DC: World Bank Institute, *2004*).

Stark, Andrew, "Canada's Upside-Down World of Public-Sector Ethics", *International Public Management Journal,* 2005, Vol. 8, No. 2.

Thompson, Dennis F., *Political Ethics and Public Office* (Cambridge: Harvard University Press, 1987), cited in National Democratic Institute, *Legislative Ethics: a Comparative Analysis*, Legislative Research Series Paper #4, Washington DC, 1999, < http://www.accessdemocracy.org/files/026_ww_legethics.pdf>.

Thompson, D. F., "Theories of institutional corruption", *Annual Review of Political Science*, (2018) *21*, 495–513, < https://www.annualreviews.org/doi/abs/10.1146/annurev-polisci-120117-110316>.

Transparency International Georgia, "Ghost Voting in the Georgian Parliament", 2011, <http://transparency.ge/en/node/1302>.

Transparency International United Kingdom, "Cabs for Hire? Fixing the Revolving Door Between Government and Business", May 2011, <http://www.transparency.org.uk/our-work/publications/10-publications/132-cabs-for-hire-fixing-the-revolving-door-between-government-and-business>.

Transparency International, "EU Anti-Corruption Requirements: Measuring Progress in Albania, Kosovo, FYR Macedonia and Turkey", 2011, <http://www.acrc.org.ua/assets/files/zvity_ta_doslidzhennya/CIMAP_For%20Web[1].pdf>.

Transparency International, "Georgia National Integrity System Assessment", Tbilisi, 2011, p. 33, <http://transparency.ge/en/post/report/national-integrity-system-assessment>.

Transparency International Georgia, "Case Study: the Georgian Parliament's Code of Ethics – Implementation and Recommendations for Reform", 23 April 2012, <http://transparency.ge/en/post/report/georgias-parliamentary-code-ethics-need-reformation>.

Westminster Foundation for Democracy (WFD) and Global Organization of Parliamentarians against Corruption (GOPAC), "*Handbook on Parliamentary Ethics and Conduct, a Guide for Parliamentarians*", London, 2009, <http://www.wfd.org/upload/docs/political_guidebook_20100630.pdf>.


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