



EUROPEAN PARLIAMENT

2014 - 2019

**ADVISORY COMMITTEE
ON THE CONDUCT OF MEMBERS
2017 ANNUAL REPORT**

FOREWORD

In accordance with Article 7(6) of the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest (Annex I to the Rules of Procedure of the European Parliament), the Advisory Committee on the Conduct of Members publishes an annual report on its work.

The Annual Report on the work of the Advisory Committee from 1 January to 31 December 2017 was adopted by the Committee on 22 February 2018.

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Summary

This report covers the activities of the Advisory Committee on the Conduct of Members in the period from 1 January to 31 December 2017.

This year has seen a decrease in the number of matters the Committee has had to deal with. The Committee has been asked to examine four cases of possible violations of the Code of Conduct involving a total of six Members, as compared to eight cases implicating 11 Members in 2016.

This year the Advisory Committee has received two requests from the Members concerned asking for its guidance on the interpretation and implementation of the provisions of the Code of Conduct. On both occasions the Committee provided its counsel in confidence and within the deadline foreseen by the Code of Conduct.

As in previous years, the Advisory Committee sought to provide an optimal service to Members by ensuring that the provisions of the Code are scrupulously observed, and at the same time, keeping the administrative burden as light as possible.

In addition, the competent administrative service (Members' Administration Unit within DG Presidency, which provides secretariat services for the Advisory Committee) continued to perform a general plausibility check on all declarations of financial interests submitted by the Members in the course of the year, in accordance with Article 9 of the Implementing Measures for the Code of Conduct.

A total of 31 new declarations were submitted by incoming Members during the year.

In the context of the general revision of the Rules of Procedure on 13 December 2016, Parliament decided that Members should adapt their declaration of financial interests to reflect the changes made to Article 4 of the Code of Conduct at the latest six months after the date of entry into force of these changes, i.e. by 16 July 2017. On 8 March 2017, the Bureau sent a communication to all Members informing them of the obligation to re-submit their declaration and transmitting to them the revised form. After that deadline expired, the Advisory Committee sent administrative reminders of that obligation. Following that, a letter of reminder was sent by the President on 14 September 2017 to the Members who had still not submitted a revised declaration urging them to do so by 6 October 2017 at the latest. As a result, by the end of 2017 all but 24 MEPs have complied with their duty to resubmit their declaration of financial interests in the framework of this revision exercise.

1 BACKGROUND

The Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest (hereinafter referred to as the 'Code of Conduct') entered into force on 1 January 2012.

The Code of Conduct enshrines a number of general principles of conduct which Members must observe in exercising their mandate, such as disinterest, integrity, openness, diligence, honesty, accountability and respect for Parliament's reputation. The Code of Conduct requires Members to act solely in the public interest and refrain from obtaining any financial benefit or other reward in the performance of their duties.

For the first time the Code of Conduct provided an explicit definition of a conflict of interest, and set out the steps Members need to take when they find that they have a conflict of interest, be it actual or potential (i.e. perceived as such by the public or which could lead to an actual conflict of interest).

The Code of Conduct also laid down restrictions on the circumstances under which former Members are entitled to carry out lobbying or representational activities.

Most importantly, the Code of Conduct introduced a detailed declaration of financial interests which all Members must, under their personal responsibility, submit before the end of the first part-session after elections to the European Parliament or, within 30 days of taking up office with the Parliament in the course of a parliamentary term. Members also have to notify the President in the event of any change in their personal circumstances that has an influence on their declaration.

Members' disclosure obligations have been expanded by the Implementing Measures for the Code of Conduct, which entered into force on 1 July 2013. Pursuant to its provisions, Members are required to declare promptly their attendance at events in respect of which their travel, accommodation or subsistence expenses were reimbursed or paid directly by a third party. In addition, they have to notify the Administration and hand over all gifts they receive when representing Parliament in an official capacity.

All the aforementioned disclosure obligations reflect Parliament's strong commitment to transparency. Each declaration of financial interests and declaration of attendance at events organised by third parties as well as the register of official gifts are directly accessible on Parliament's public website.

The Code of Conduct provides for a mechanism of enforcement of its provisions as well. Any Member who commits a breach of the Code of Conduct or its Implementing Measures may be liable to being subject to a penalty imposed, ultimately, by the President after having taken into account the recommendation of the Advisory Committee. Any such penalty is announced in plenary and, for the sake of transparency, published on Parliament's website.

In the context of the general revision of Parliament's Rules of Procedure in December 2016, some amendments have been made to the Code of Conduct too, which constitutes Annex I to these Rules. The resulting main changes are the following:

- In exercising their duties, Members are no longer authorised to engage in paid professional lobbying directly linked to the European Union's decision-making process.
- A number of amendments have been made to the Member's declaration of financial interests and reflected in the corresponding form for the submission of declarations, as adopted by the Bureau, in particular:
 - Members must submit a revised declaration by the end of the month following any change occurring (and not within 30 days, as before).
 - A new income category between 1 and 499 euro has been introduced.
 - When the highest income category is indicated (more than 10 000 euro a month), Members must also indicate the nearest 10 000 euro amount.
 - For holdings in companies or partnerships, there is now a possibility to indicate them as "unremunerated".

When adopting the amended Rules of Procedure, Parliament has decided that Members should adapt their declaration of financial interests at the latest six months after the date of entry into force of those changes. This meant that all Members had to re-submit their declaration, even if no changes occurred, by 16 July at the latest, by using the revised declaration form adopted by the Bureau (see Section 3.3 of this Report).

2 THE ADVISORY COMMITTEE ON THE CONDUCT OF MEMBERS

2.1 Composition

The Advisory Committee on the Conduct of Members (hereinafter ‘the Advisory Committee’) was established by Article 7(1) of the Code of Conduct.

Pursuant to Article 7(2) and (3) of the Code of Conduct, at the beginning of his or her term, the President appoints five permanent members from amongst the members of Parliament’s Committee on Constitutional Affairs and Committee on Legal Affairs, taking due account of their experience and of political balance.

The permanent members composing the Advisory Committee in the first half of the current legislative term and who were re-appointed by the President on 5 April 2017 for a subsequent term of two and half years are:

- Ms Danuta Maria HÜBNER (PPE, Poland);
- Ms Mady DELVAUX (S&D, Luxembourg);
- Mr Sajjad KARIM (ECR, United Kingdom);
- Mr Jean-Marie CAVADA (ALDE, France);
- Mr Jiří MAŠTÁLKA (GUE, Czech Republic).

At the beginning of his term of office, the President also appoints a reserve member for each political group not represented among the permanent members of the Advisory Committee.

The reserve members of the Committee who have served on the Committee since the beginning of the current legislative term and were also re-appointed by the President on 5 April 2017 are:

- Ms Heidi HAUTALA (Verts/ALE, Finland);
- Ms Laura FERRARA (EFDD, Italy);
- Mr Gerolf ANNEMANS (ENL, Belgium).

2.2 Chair

In accordance with the second subparagraph of Article 7(2) of the Code of Conduct, each permanent member of the Advisory Committee serves as Chair for six months on a rotating basis. Article 3 of the Committee’s Rules of Procedure further specifies that,

in principle, rotation follows in descending order the size of the political groups to which the members of the Committee belong.

In the course of 2017, the following members of the Advisory Committee served as Chair: Ms HÜBNER from April to September and Ms DELVAUX from October to December 2017. The latter's mandate as Chair will expire in March 2018.

2.3 Meetings in 2017

The Advisory Committee met on seven occasions in 2017.

Calendar of meetings of the Advisory Committee in 2017

Tuesday 25 April (constitutive meeting)
Tuesday 30 May¹
Tuesday 20 June
Tuesday 11 July²
Tuesday 26 September
Tuesday 10 October
Tuesday 7 November
Tuesday 21 November³ (extraordinary meeting)
Thursday 7 December⁴

2.4 Tasks

The Advisory Committee's task is twofold:

- First, in accordance with the first subparagraph of Article 7(4) of the Code of Conduct, upon request by a Member, the Advisory Committee gives him or her, in confidence, guidance on the interpretation and implementation of the provisions of the Code of Conduct within 30 calendar days. A Member who seeks guidance from the Committee is then entitled to rely on that guidance.
- Second, in accordance with the second subparagraph of Article 7(4) of the Code of Conduct, the Advisory Committee, at the request of the President, assesses alleged breaches of the Code of Conduct and advises the President on possible action to be taken.

¹ The meeting was cancelled.

² The meeting was cancelled.

³ An extraordinary meeting was held on 21 November.

⁴ For organisational reasons, the meeting originally scheduled for 5 December was postponed to 7 December.

Article 8 of the Code of Conduct sets out in more details the procedure to be followed in the event of possible breaches of the Code of Conduct. In particular, where there is reason to think that a Member may have breached the Code of Conduct, the President shall - except in manifestly vexatious cases - refer the matter to the Advisory Committee. The Advisory Committee then examines the circumstances of the alleged breach, and may hear the Member concerned. On the basis of the conclusions of its findings, the Committee shall make a recommendation to the President on a possible decision. If, taking into account that recommendation, the President concludes that the Member concerned has indeed breached the Code of Conduct, and after hearing the Member, he shall adopt a reasoned decision laying down a penalty which is then published on Parliament's website.

2.5 Work carried out during the year

2.5.1 Possible breaches of the Code of Conduct

In the course of 2017, the President referred four matters concerning possible breaches of the Code of Conduct to the Advisory Committee (compared to eight in the previous year). They involved a total of six Members.

One of these referrals concerned three Members who had travelled to a third country and failed to submit upon their return a declaration of attendance pursuant to an invitation at events organised by third parties within the deadline foreseen by the Code of Conduct. This declaration was required under Article 6 of the Implementing Measures for the Code of Conduct, since their travel, accommodation or subsistence expenses had been reimbursed by the authorities of non-EU countries. However, in response to the letter of the Chair-in-Office asking for clarifications with regard to their travel, all three of them submitted a declaration of attendance, duly completed pursuant to Chapter 2 of the Implementing Measures. The Advisory Committee therefore recommended to the President to conclude that the failure of the Members concerned to submit a declaration of attendance in due time constituted a breach of the Code of Conduct, but that, due to the prompt submission of the adequate declarations, no further action was required in this respect.

Another referral concerned a Member who had travelled to a conference held in a territory outside the EU whose takeover by a foreign power is not recognised by the international community, and who failed to submit a declaration of attendance at events organized by third parties. In response to a letter from the Chair-in-Office, the Member explained that he had attended the conference in a private capacity and paid for all the expenses relating to his travel. Since in such circumstances he was not obliged to submit a declaration of travel under Chapter 2 of the Implementing Measures for the Code of Conduct, the Advisory Committee recommended to the President to conclude that the Member concerned did not breach the Code of Conduct.

In a further matter referred to the Advisory Committee, the Member concerned, notwithstanding his election as Member to the regional parliament of an EU Member State during his term of office as MEP, failed to revise, in accordance with Article 4(2)(b) of the Code of Conduct, his declaration of financial interests within the applicable deadline by disclosing the salary he was receiving for the exercise of this

other parliamentary mandate under Section (B) of his DFI. In response to a letter from the Chair-in-Office of the Committee inviting him to make up for his omission, the Member concerned submitted his revised declaration of financial interests duly updated with the indication, under section (B), of his mandate in the regional parliament, including the amount of salary received on a monthly basis. In light of that, the Advisory Committee recommended to the President to conclude that although the Member's failure to submit, in due time, a revised declaration of financial interests did constitute a breach of the Code of Conduct, following the late submission of his updated declaration, no further action was required.

Finally, the President referred to the Advisory Committee a case involving the omission by a Member to comply with the disclosure obligation concerning certain unremunerated activities. The President asked the Committee to provide him with its conclusions upon a comprehensive examination of the circumstances as well as its recommendations on an appropriate follow up. After hearing the Member concerned, the Advisory Committee concluded, in its recommendation to the President, that the initial violation of the Code of Conduct by the Member was corrected by a subsequent submission of a revised declaration of financial interests and that, despite his ill-advised conduct, the situation in which he was involved did not constitute a breach of Article 1 of the Code of Conduct.

2.5.2 Guidance on the interpretation and implementation of the Code of Conduct

In 2017, the Advisory Committee received, under the first subparagraph of Article 7(4), two formal requests for guidance on the interpretation and implementation of the Code of Conduct.

In the first case, the Member concerned requested guidance on possible exemption from the disclosure obligation under the Code of Conduct due to private contractual obligation of confidentiality concerning certain occupations he held in the past. Shortly after the Advisory Committee had started to examine the matter and asked for further clarifications from the Member, it was notified the withdrawal of the request by the Member and concluded that the matter did not require any further follow-up. The withdrawal was due to the fact that the occupations in question dated to a time before the three year-period prior to the beginning of his mandate in the current parliamentary term, and therefore they were not subject to any disclosure obligation pursuant to the Code of Conduct.

Nevertheless, the Advisory Committee considered the specific matter of an existing contractual obligation of confidentiality regarding the payment received by a Member from a third party with whom he/she is in contractual relationship vis-à-vis the disclosure obligations as required by Article 4(2) of the Code of Conduct and was of the opinion that this matter deserved the attention of the President and possibly that of the Bureau. The Chair-in-Office therefore addressed a letter to the President presenting him the matter with a view to a possible reflection and exchange of views on whether the Code of Conduct should, by an appropriate amendment or by means of interpretation, address the issue of how to handle contractual confidentiality clauses which might form an obstacle to full compliance with the disclosure obligations foreseen by the Code of Conduct with regard to the declaration of financial interests.

The second case concerned a request for guidance regarding the types of non-remunerated activities which have to be declared in the declaration of financial interests. Pending the Committee's provision of guidance, the Member concerned proceeded to the revision of his declaration of financial interests by declaring several unremunerated activities.

In addition, throughout the year the Secretariat continued, following its well established practice, to respond to inquiries put forward by Members or their parliamentary assistants in order to help them correctly apply the provisions of the Code and its Implementing Measures.

3 ACTIVITIES LINKED TO THE CODE OF CONDUCT

3.1 Monitoring procedure for Members' declarations of financial interests

Article 9 of the Implementing Measures for the Code of Conduct lays down the rules of a monitoring procedure to be conducted by the competent service with regard to Members' declarations of financial interests.

In accordance with Article 4 of the Code of Conduct, Members are personally responsible for submitting to the President a declaration containing information provided in a precise manner. However, where there is reason to think that a declaration contains manifestly erroneous, flippant, illegible or incomprehensible information, a general plausibility check is carried out, on behalf of the President, by the Members' Administration Unit in DG Presidency, for clarification purposes. The Member concerned is allowed a reasonable time to react by confirming or correcting the information contained in the declaration. Where the clarifications provided are deemed insufficient and thus the check does not resolve the matter, the President decides how to proceed.

Throughout the year, the monitoring procedure equally applies to new declarations submitted by incoming Members taking up office with the Parliament during the course of the parliamentary term as well as to amended versions of existing declarations. In addition, during the revision exercise, whereby all Members had to re-submit their declaration of financial interests on the revised form adopted by the Bureau in the wake of the amendment of the Code of Conduct, all revised declarations were submitted to a general plausibility check.

3.2 Submission and updating of Members' declarations of financial interests

In accordance with Article 4(1) of the Code of Conduct, a new Member starting his/her mandate in Parliament in the course of the legislative term is personally responsible for submitting a detailed declaration of his/her financial interests within 30 days of taking up office. In 2017, all but 3 of the 31 incoming Members submitted their declarations of financial interests within that time-limit.

In addition, Article 4(1) requires a Member to declare any change that has an influence on his/her declaration by the end of the month following the change occurring. As a

result of this obligation and that of the revision exercise arising from the amendments made to the Code of Conduct and the form of the Declaration of Financial Interests in the context of the general revision of Parliament's Rules of Procedure, 804 updated declarations were submitted to the President in the course of the year.

3.3 Re-submission and updating of Members' declarations of financial interests following the revision of Parliament's Rules of Procedure

As mentioned under Section 1 of this Report, due to the amendment of certain provisions of the Code of Conduct which took place in the framework of the latest revision of Parliament's Rules of Procedure in December 2016, Members were obliged to re-submit their declaration of financial interests, even if no changes occurred, at the latest six months after the date of entry into force of these amendments, i.e. by 16 July 2017, using a revised declaration form adopted by the Bureau.

On 8 March 2017, the Bureau sent a communication to all Members informing them of this obligation and transmitting to them the revised form. After that deadline expired, the Advisory Committee sent administrative reminders of that obligation. Following that, on 14 September 2017, the President sent a letter of reminder to those Members who had still not submitted a revised declaration, urging them to do so by 6 October 2017 at the latest.

It has to be reminded that pursuant to paragraph 9 of Parliament's decision of 13 December 2016 on the general revision of Parliament's Rules of Procedure, the declarations of financial interests of Members who have not submitted their revised version have ceased to be valid as of 16 July 2017. Yet, Members not being in possession of a valid declaration of financial interests may not be elected as office-holders of Parliament or of one of its bodies, be appointed as a rapporteur or participate in an official delegation or interinstitutional negotiations in accordance with Article 4(4) of the Code of Conduct.

The Advisory Committee is of the view that standards decided by Parliament for the transparency of financial interests must be maintained and, consequently, Members who did not comply with the obligation to update their declaration shall be urged to do so without undue delay. In view of the importance of the matter, the Advisory Committee brought this matter to the attention of the President while also recommending to him to consider certain measures that could be taken vis-à-vis the Members concerned.

4 ADMINISTRATION

The Members' Administration Unit in DG Presidency provides secretariat services to the Advisory Committee and has been designated by the Secretary-General as the competent service under Articles 2, 3, 4 and 9 of the Implementing Measures for the Code of Conduct. Its contact details are the following:

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