

Creation of an independent EU ethics body

points of consensus (1)

European Parliament

- ✓ **Creation** of new Ethics body
- ✓ **Current individual ethics frameworks** of institutions **will continue to apply** and new body will **issue recommendations on that basis**
- ✓ **No duplication or interference** with European Anti-Fraud Office, European Public Prosecutor's Office, European Ombudsman, European Court of Auditors or the Court of Justice of the European Union.

European Commission

- ✓ COM **agrees** with creation of new Ethics body
- ✓ COM agrees with **not having unified rules** as such rules would **not reflect the differences** between roles and status of different institutions and their Members
- ✓ COM agrees: **mandate of body should be limited to clearly defined list of competences** delegated by the participating institutions

points of consensus (2)

European Parliament

- ✓ **Roles given to new body:** 'propose and advise', 'compliance role', 'monitoring capacity', 'investigation', 'interpretative power', 'conduct studies and annual reporting'
- ✓ Examination of **Declaration of Interests**
- ✓ **Post-term of office** activities of former Members of institutions

European Commission

- ✓ COM agrees with **advisory function** while **decision-making powers** for application of ethical rules remain **within respective institutions**
- ✓ COM agrees with **entrusting to body** this task **after** Members **have taken up their functions and have submitted their first declaration** as confirmed member to their respective institution **but not** when declarations are made **before Members take up their function**
- ✓ COM agrees that high-level body **could be consulted on post-term of office activities**

divergent views (1)

ECB-RESTRICTED

European Parliament

- ✓ **Shortcomings in application of current ethical frameworks** for Commissioners and EP members
- ✓ The new body would have competence to **make proposals for the development and periodic update of a common ethical framework** for EU institutions, including **common rules**.
- ✓ Possibility to **entrust body with decision-making powers at later stage**
- ✓ New body would **take decisions on ethical matters** and **have competences** such as 'on-the-spot-checks' and 'records-based investigations'

European Commission

- ✓ COM has **strong framework for Commissioners** together with an **Independent Ethics Committee** which checks post-mandate activities of former Commissioners + **publication of opinions**
- ✓ COM **disagrees** since current rules of each institution have **different legal basis** but **does not rule out discussions** on a **set of common principles applicable to different institutions**
- ✓ COM **disagrees** with **entrusting body with decision-making powers at later stage** as it goes against **Treaties**
- ✓ COM **disagrees** with giving these tasks as this goes against the **scope of limited and strictly defined executive powers**

divergent views(2)

European Parliament

- ✓ **Legal form & basis** would be an **inter-institutional agreement** based on **Article 295 TFEU**
- ✓ Body would have power to **initiate procedures and to conduct investigations** based on information **it has collected** or has **received from third parties**
- ✓ Body would issue **recommendations for sanctions** to authorities of participating institutions in relation to their Members
- ✓ **Two step mechanism for sanctions** (incl. **20-day deadline** to follow-up on recommendations)

European Commission

- ✓ COM considers this as **wrong legal basis** as it would **exclude all other institutions** (except for the Council), **agencies & bodies** from joining at later stage
- ✓ COM underlines that this would require **proper legal basis** since it would **interfere** with **privacy** of Members and third parties
- ✓ COM recalls that **there is already robust ethical framework** in effect which establishes **provisions for sanctions**
- ✓ COM considers the two-step mechanism as **complicated** and the **20-day deadline as unrealistic**

divergent views(3)

European Parliament

- ✓ Body should be **composed of 9 members**
- ✓ Body should be **competent towards all EU staff** & would deal with **all ethics-related areas**
- ✓ EU body would make **all cases public**

European Commission

- ✓ Body should be **composed of 5 members** to function in an **effective and efficient manner**
- ✓ COM has **strong doubts on this very broad scope** as it would **generate heavy workload** and it would require **significant resources** and **duplicate structures**
- ✓ COM considers this is **against the advisory character** of the body & not in line with **personal data protection rules**, aim of providing **effective ethical advice**, or **independent decision-making powers of an institution**