Luís de Sousa e Susana Coroado, coord.

Political ethics strengthens citizens' trust in political institutions and therefore matters to the quality of democracy.

Recent studies show that perceived levels of trust in parties, parliaments and governments have been falling over the past two decades.
The perceived decline in trust in political institutions has coincided with an increase in political corruption scandals and a poor record in clarifying what integrity standards should be and how they should be enforced on politicians.

Despite the growing body of legal and formal norms regulating the conduct of those holding elective or appointed political offices and the establishment of supervisory bodies responsible for monitoring and enforcing those norms, the regulatory outcomes seem to have not matched citizens' expectations. Hence, the question unfolds: what can political parties, parliaments and governments do to set and uphold the highest integrity standards for their members and, consequently, help improve citizens' trust in political institutions?

This book tries to answer this general question by identifying the expectations of citizens and politicians regarding ethical conduct in politics and the reputational risks associated with unethical conduct in the discharge of duties; mapping self-regulation measures implemented within political parties, parliaments and governments to mitigate these integrity risks; and studying how politicians and citizens respond to a selected number of self-regulation efforts to improve ethical standards in politics.

Ethics and integrity in politics:

Perceptions, control, and impact

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Foreword

Political ethics and integrity have always been paramount to the Francisco Manuel dos Santos Foundation.

The quality of democracy and the trust of citizens in public institutions entirely depend on the irreproachable ethical behaviour of public officeholders. A deficient democratic state, weak institutions and the widespread mistrust of citizens in political power will hardly create a wealthy and developed society or a stable and buoyant economy.

This study sought to look into these realities by capturing citizens' perceptions of political ethics and integrity as well as political officeholders' perceptions of their own conduct.

A genuinely free and developed society is grounded in high levels of trust in its institutions. Such credibility is built and sustained by the exemplary behaviour of public institutions, the adoption of procedures that ensure their proper conduct, and the investigation and punishment of any deviations.

Not all people are mindful of these different layers of analysis and scrutiny, especially those who wield political power.

This study shows that citizens are increasingly concerned with the behaviour of political officeholders, and that their concerns go far beyond illegal or criminal acts — of which corruption is an example.

Corruption is seen as a pathological and legally punishable offence, which is why its control is now the competence of criminal police bodies and legal entities. However, citizens' view of political ethics goes beyond corruption. Citizens are also concerned with officeholders' behaviour, which is highly criticised for not complying with the ethical standards expected of those in positions of power.

Therefore, it is expected that political officeholders show high-levels of awareness of the required ethical standards, and that public institutions adopt self-regulation mechanisms to evaluate and control the exercise of power.

Today, the mere delegation of this control to the judicial sphere or the scrutiny of external entities seems to no longer suffice.

This was the reflection that the authors of this study have brilliantly carried out. Therefore, I would like to thank Luís de Sousa and Susana Coroado, renowned researchers in this field, for their excellent work.

It is essential, now, that the reflections and conclusions of this work generate a comprehensive debate to improve the quality of democracy in Portugal, which has proved crucial to our development as a society.

Gonçalo Saraiva Matias
President of the Board of Directors of
the Francisco Manuel dos Santos Foundation

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The organisation and writing of this report greatly benefitted from the guidance and support of the series editor Carlos Jalali, who is an expert in the field. The project also benefited from the insight and expertise of our country experts, Eric Phélippeau and Sofia Wickberg, Manuel Villoria and César N. Cruz, Staffan Andersson and Thomas Larue and Elizabeth Dávid-Barrett, who delivered a detailed analysis of regulatory efforts in their respective countries. A special thanks to all country experts who helped collect the data for the mapping of ethics self-regulation within party organisations across European democracies. João Tiago Gaspar deserves a special thanks for overseeing the project's management and implementation and for his tireless support, patience, and optimism throughout the project's life cycle. We are also grateful to Telma Vinhas for ensuring a rigorous and efficient project financial management and to Sara Nogueira for the excellent proofreading and high-quality English editing. Finally, we are thankful to the Fundação Francisco Manuel dos Santos and its founder Alexandre Soares dos Santos who was an outspoken supporter for pressing forward with the research agenda on political integrity.

Chapter 1
Introduction

1.1. Ethics and democracy

Our analysis begins with a key normative assumption on the nature of politics: any democracy "must operate under some basic shared understanding about the common good" (Etzioni, 2014). This "naturally sound condition of politics" (Philp, 1997: 445-446) entails that power in a democracy is delegated and entrusted, and that its exercise is bounded by a set of guiding principles (Warren 2004: 332) enshrined in rules and procedures and "historically embodied in the institutions through successive generations" (Beetham, 1994: 27). The idea of an overarching public interest at the heart of the notion of democratic politics is not consensual. Some believe that there is no such thing as public interest but a competition of various private interests over resources managed and distributed by the political system (Beetham, 1994: 27). Yet, the fact that politics, and government, are at the intersection of a myriad of private interests, does not necessarily preclude a notion of public interest resulting from contested hierarchies and interpretations of what those core principles underpinning the exercise of entrusted power ought to be.

The International Encyclopaedia of Ethics defines *Political Ethics* as the practice of making moral judgements about political action and the study of that practice (Thompson, 2019). It further develops the concept by dividing it into two normative branches: the ethics of process (or of office), which focuses on public officials and the methods they use; and the ethics of policy, which concentrates on judgements about policies and laws. The object of the present document is the former, the ethics of office. Internally, the enforcement of an ethics regime was intended to improve the ethical standards and performance of public officials and, externally, to regain the confidence of the public.

It is in this framework of representative democracy that the issue of ethics in public life arises. Managing ethical standards in political life has direct and indirect implications on the quality of democracy. Politicians are often called upon to make decisions between competing interests: the interest of their party; that of their voters; the local, regional, or national interest; and their personal interest (Saint-Martin, 2009). These various interests are not always harmonious and compatible, and it is not always clear for officeholders to discern what comes first, i.e., to distinguish between their primary interests (the principal goals) and secondary interests (the personal or self-serving goals). Tensions may arise that not only compromise the judgement of officeholders but also have implications for the integrity of decision-making and the reliability of outcomes.

What can be considered unethical conduct occurs in an institutional setting permeated by social interactions between officeholders and end-users with different goals and motivations. For each office with entrusted power, in a modern society, there are norms that prescribe

how officeholders are expected to perform their roles and guide their interactions with end-users. Therefore, officeholders in a democracy cannot be the sole judges of what is or is not proper conduct in the discharge of duties. These required and prohibited behaviours "are defined by norms that are socially determined" and result from "the standardised expectations of those who are aware of the particular status" (Truman, 1971: 347). There is widespread consensus among authors that political corruption cannot be defined only as law-breaking conduct/practice but should also include a series of other instances considered ethically wrong, regardless of whether they fit or not standard legal categories (Andersson, 2017: 60-61). So, when we use the term "breach of duties", we are referring to both legal and social standards governing an institutional role embedded in a society's normative system (Johnston, 1996). In other words, political corruption, defined as unethical conduct in office, not only constitutes a breach of rules but also a breach of trust and expectations governing an institutional role.

If political corruption goes beyond what is proscribed by law to include standardised expectations, the immediate question that arises is what those standards of what is or is not corrupt behaviour are and how consistent is their understanding in society. From this standpoint, political ethics is a disputed and multidimensional construct. Are officeholders' interpretations of those standards defining what is and what is not corrupt behaviour convergent with those held by citizens? Ethical standards regulating the conduct of officeholders and their interactions with citizens or legal entities are not static. The rapidly changing socio-economic environment raises new tensions, new integrity risks and new expectations as to how elective officials should exercise their mandate. Scholars and international organisations have tried to understand the boundaries of acceptable conduct in politics through survey methods. In examining conduct, the OECD makes a useful distinction between behaviours that are illegal (i.e., against the law), which covers criminal offences to misdemeanours; unethical (i.e., against ethical guidelines, principles, or values); and inappropriate (against normal convention or practice). The boundaries between these categories, particularly the latter two, may be fuzzy. In recent years, there has been a shift from *traditional* individual-oriented values associated with political offices, such as impartiality, legality and integrity, to a *new* set of system-oriented values, such as efficiency, accountability and transparency (OECD, 2000). However, more research is needed in this domain.

1.2. An explosion of political ethics regulation

Most research on political corruption focuses on unveiled illegal and unethical conduct and legislative responses to those deviant practices. An important component of designing a more robust integrity system is to identify the practices, actors, processes, and organisations that seem to be having some success in managing ethical conduct.

The conduct of political actors can be positively changed and steered by changing the context in which they exercise their duties and functions. Institutional settings have been designed to guide elective officials to always place ethical standards and expectations about those standards at the top of their priorities when making decisions and acting upon issues — to be able to discern ethical risks and know how to avoid them — and to motivate them to always act according to standing ethical standards by default. Setting ethical standards for elective officials should:

- Discourage wrongdoing (through effective disciplinary action) and encourage proper conduct (through a complex mixture of responsibilities and incentives)
- Make expected conduct easy to put into practice (unethical conduct should not be regarded as an easier or cheaper option)
- Protect elective officials from unnecessary risks and ethical dilemmas
- Be framed within the regulatory system that guides officeholders and assists them in solving ethical dilemmas
- Reward ethical conduct and punish wrongdoing.

The growing demand for efficiency, accountability and transparency, paired with a certain degree of credibility deficit, has led political actors and institutions to review and adjust their prescribed norms, oversight and enforcement to ensure that the actual conduct of officeholders corresponds to the public's expectations. Many countries have adopted more comprehensive policy frameworks to regulate political ethics since the 1970s. Countries responded through a complex mixture of internal and external regulations and supervision governing the ethical conduct of individual and collective political actors. A wide range of legislative measures have been adopted, covering, among others: political financing; financial disclosure; incompatibilities, impediments and disqualification; and lobbying. Four trends can be identified:

1. There has been a significant expansion of the legislative framework regulating political ethics in most European countries, particularly over the last 20 years, which coincided with the establishment of GRECO's[1] review mechanism and the adoption of the United Nations Convention against Corruption (Dávid-Barret, 2015).

2. This move towards ethics regulation in political life has been driven by both internal (e.g., political crisis and corruption scandals) and external factors (e.g., increased international concern with ethics and transparency in politics) and has benefitted from developments in the private sector which expanded to the public sector (De Sousa, Sanches, Coroado, 2022).

3. Regulatory frameworks have evolved considerably over the years, and "they are much more elaborate and intrusive than in the past" (Juillet and Phélippeau, 2018).

4. Setting norms for individual and collective political actors through dedicated legislation has been the easiest part of this regulatory process but establishing a sound supervision framework has proved daunting in many countries (Batory, 2012).

Reforms seem to have been triggered by the combination of domestic and international drivers. At the domestic level, media scrutiny and scandals, the emergence of new political players, increased issue politicisation and a more interventive role of the judiciary in this domain. And at the international level, the significant role played by international governmental organisations (such as the OECD, OSCE, COE, Interparliamentary Union, and the EU) and non-governmental organisations (such as Transparency International, Global Integrity, IDEA and rating agencies) in promoting, advocating and persuading national governments to adopt a series of reforms in this domain.

Setting ethical standards by hard or soft law has been the easiest part of the regulatory process; formatting, adopting and creating effective material and political conditions for oversight and enforcement bodies to perform their mandates with independence, efficiency, and efficacy has been more problematic. There is a visible lack of capacity of oversight bodies at two levels: in terms of their capacity to enforce norms in a timely, adequate, and dissuasive manner through a combination of sanctions and incentives; and in terms of their capacity to collect and treat information about the regulatory impact of those norms on the conduct of target actors. Most regulatory efforts have not been properly designed and enforced, thus projecting an image of slackness and impunity. The overall perception is that there is no willingness and commitment from the political class to improve and uphold ethical standards in political life.

Compliance with ethics regulations exists when individuals fear direct sanctions resulting from the infringement of legal and deontological norms governing their conduct in office and are concerned with the reputational implications their conduct might have. In the age of social media, individual misconduct is amplified, and personal and institutional reputations are quickly and, sometimes, irreparably damaged. For this reason, integrity management in political life cannot rely solely on external legal frameworks, oversight, and enforcement. Self-regulatory measures, such as internal codes of conduct and disciplinary bodies, are also important.

1.3. Learning from business ethics regulation

Some authors argue that political ethics regulation was influenced by or a consequence of regulatory efforts taking place in the private sector (Dávid-Barrett, 2015; Saint-Martin, 2009; Stapenhurst and Pelizzo, 2004). Compliance in the private sector sets benchmarks for public ethics, including political ethics. Therefore, it becomes relevant to explore this literature.

Studying compliance in the private sector is not easy due to the lack of comparable data on the enforcement and appropriation of rules. Compliance policies and procedures are routinely adopted, but very few companies track breaches. A PwC's study found that the number of CEOs forced from office for ethical lapses remains quite small (only 18 such cases at the world's 2,500 largest public companies in 2016). Still, dismissals for ethical lapses have been rising as a percentage of all CEO successions. Globally, dismissals for ethical lapses rose from 3.9 per cent of all successions in 2007–11 to 5.3 per cent in 2012–16, an increase of 36 per cent.[2] In practice, it is hard to decipher if compliance efforts in the private sector are moulding the conduct of employees by looking at enforcement data. Parallel evidence from perception-based studies on the importance of codes of conduct within organisations of the private (and public) sector seems to point in the direction that codes of conduct have a positive impact on employees' attitudes and behaviours (Thaler and Helmig, 2016).

1.4. Learning from corruption control approaches: internal (organisational) and external (systemic) control

Theorising on corruption control has evolved very little over the years (Ashforth and Anand, 2003), despite the growing academic and policy relevance of corruption. This is particularly the case with political corruption. Moreover, the literature on corruption control does not elaborate on the interrelationship between a variety of ethics

regulatory measures and procedures, such as those developed inside political institutions (e.g., financial officers, internal audits, risk assessments, corruption prevention plans, ethics committees, internal codes of conduct, etc.), and those adopted at the system-level (e.g., public aid to parties, financial disclosure regimes, external ethics oversight and enforcement bodies, general codes of conduct, etc.). For example, laws on political financing often require parties to submit their annual accounts to an external oversight and enforcement body.

Parties are also required, under the same law, to appoint financial officers responsible for the party's daily financial management and have their accounts audited internally prior to submission. Some parties carry out an integrity screening during the selection of their candidates to mitigate potential reputational risks.
This internal procedure does not preclude candidates from disclosing their assets and interests to an external oversight and enforcement body. Some external controls will work more effectively if there are internal controls in place. Others will work disconnectedly, and, in some cases, external controls will serve as an excuse for the lack of investment of political institutions in internal controls and the lack of accountability for upholding higher standards of integrity to its members. The attempts of political parties to manipulate extrinsic ethics regulation during the law-making process and favour external supervision reduce internal drives to improve their own ethics' rules, mechanisms and procedures, and to uphold their own high ethical standards. Moreover, "controls that rely on bureaucratic behavioral restrictions appear inconsistent with, or even contradictory to, approaches that attempt to engender a sense of mutual responsibility for value-based ethical behavior" (Lange, 2008: 711). In contexts where political actors systematically deny the existence of integrity risks and problems of a deontological nature, top-down approaches to enforcing ethics rules are likely to offer a limited and inconsistent approach to ethics regulation. By contrast, in contexts where there is a shared understanding of those problems and their reputational impact, and political actors take the initiative and the responsibility to set value-based norms and sanctions for their members and enforce them, results are likely to be more consistent.

1.5. Overview and structure of the report

In order to try to understand the impact that the perceived decline in ethical standards in politics has on levels of trust and satisfaction with democracy, four interrelated research questions will guide our inquiry into political integrity: (RQ1) "What ethical and unethical conduct in political life is expected by both citizens and politicians?"; (RQ2) "How is the reputational risk associated with unethical conduct perceived by both groups?"; (RQ3) "What measures have parties, parliaments and governments implemented to mitigate these risks?"; and (RQ4) "What is the perceived effectiveness of these measures, i.e., what is their reputational impact?".

This report is organised into six parts, three of which address the above research questions on an empirical basis. Each RQ was addressed using specific methodological approaches. We used the survey method complemented with exploratory focus groups for RQ1 and RQ2, the checklist method for RQ3 and the experimental method for RQ4. The use of different methods enabled us to approach our RQs from different angles.

In Chapter 2, we reflect on the relationship between ethics and trust in politics and how the latter has evolved over time *vis-*

à-vis different political institutions. We do so by exploring the Eurobarometer survey data on trust in institutions across EU countries. In Chapter 3, we try to answer RQ1, "What ethical and unethical conduct in political life is expected by both citizens and politicians?" and RQ2, "How is the reputational risk associated with unethical conduct perceived by both groups?" by using individual-level data from two original sources: a survey questionnaire on political ethics applied to the Portuguese MPs and Local Elected Officials (Mayors and Aldermen) developed under the auspices of this project, and a similar citizens' survey implemented in parallel as part of the FCT-funded EPOCA project.[3] The questionnaire's design took stock of previous survey studies on political ethics (Peters and Welch, 1978; de Sousa and Triães, 2008; Allen and Birch, 2015).

In Chapters 4 and 5, we address RQ3 "What measures have parties, parliaments and governments implemented to mitigate these risks?" through a comparative analysis of two dimensions of ethics self-regulatory efforts: (i) internal codes of conduct or similar regulations and (ii) the internal bodies responsible for their oversight and enforcement. In Chapter 4, we delve into the notion of political ethics regulation by exploring its three main components — norms, oversight, and enforcement — and the three types of regulatory models — command and control, self-regulation, and meta-regulation. Chapter 5 provides a comprehensive overview of ethics self-regulation measures taken in all EU27 Member States plus the UK, at the party, parliamentary and government levels to take stock of common trends and good practices. In addition to this cross-country mapping, we selected five cases (France, by Éric Phélippeau and Sofia Wickberg; Portugal, by the authors of this report; Spain, by Manuel Villoria and César Cruz; Sweden, by Staffan Andersson and Thomas Larue; and the UK, by Elizabeth David-Barret) for a contextual analysis of different regulatory approaches.

In Chapter 6, we address RQ4, "What is the perceived effectiveness of these measures, i.e., what is their reputational impact?" using an embedded survey experiment. In this conjoint experiment, respondents were primed with information on ethics self-regulatory reforms proposed by two potential candidates to test what set of measures affected their choices. Whereas by comparing MPs' and citizens' responses to a similar set of surveyed questions, we sought to assess the degree of (dis)agreement regarding expected standards of ethical conduct in political life. The conjoint experiment explored the causal effects of ethics self-regulatory efforts on citizens' choices of their representatives.

This research complements other recent works focusing on the performance of political ethics self-regulation.[4] While there is ample consensus on what should constitute the essential elements of a sound integrity system and a growing convergence of self-regulatory efforts on political ethics across European democracies, public perceptions about the effectiveness of these measures in safeguarding political integrity remain negative overall. This report contributes to this source of comparative information on political ethics self-regulation in Europe by mapping (i) internal codes of conduct or similar regulations and (ii) the internal bodies responsible for their oversight and enforcement at the party, parliamentary and governmental levels, to highlight best practice and facilitate a constructive debate on innovative strategies to strengthen ethical standards in political life and restore levels of political trust.

Chapter 2
Ethics and trust in politics

2.1. Ethics and trust in political life: why does it matter?

The elective office is about representation. Not everyone is available or willing to run for office. Power is delegated by vote to those who are willing to commit their time and effort to the public cause on the assumption that they will be responsive to voters' needs, problems and demands. Citizens expect elective officials to advance their interests, but they also expect them to serve and protect the public interest on a daily basis. Citizens want to see governments managing public resources with impartiality and efficacy, parliaments legislating for the common good, political parties being transparent about who and what interests they represent and, above all, they want to see them attracting the most capable and responsible persons for the job, and want to see politicians with competence and integrity. The observance and enhancement of these guiding principles are the basis of democracy.

"The capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate or proper ones for the society" (Lipset, 1959) depends not only on the ability to provide for the well-being of citizens but also on the capacity to safeguard that the performance of political institutions is conformant to higher ethical standards. The immediate question that pops into one's mind is: What are the ethical standards by which citizens judge a given conduct or practice as unacceptable in politics?

In order to make such a moral judgement, do citizens need to have a clearer idea of what would have been right in the first place (Hindess, 1997), what is the "naturally sound condition of politics" (Philp, 1997) and "the distinctive ends to which political activity is directed" (Heywood, 1997)? Do people distinguish actions or conducts from the individuals who make them? Do they value integrity (predisposition to act ethically), taking other personality traits into account? Do they judge the conduct of politicians in the same way when the actions for which they are judged result from the contribution of different individuals? The problem is more complex than the information we can distil by contrasting political elite and citizens' judgements of real-life integrity scenarios and deserves to be studied in depth.

The definition, understanding and observance of ethical standards governing the exercise of elective office are essential to building a relationship of trust between citizens and their representative institutions and, consequently, to secure continued support for democracy. Ethical standards have been voiced and cited countless times in democratic constitutions, codes of conduct, anti-corruption conventions, and numerous legislative packages regulating political ethics, namely:

- Transparency (the duty and expectation of making all government acts public, to keep the citizens informed and to unravel private interests that may conflict with the collective interest)
- Accountability (the duty and expectation to act in a responsible manner and to be responsible for one's actions before citizens)
- Legality (the duty and expectation to act in accordance with the law)
- Impartiality (the duty and expectation that decisions will be objective and merit-based, without bias or prejudice)
- Integrity (the duty and expectation to act honestly and in the public interest).

These and other standards have been moulded over time and constitute normative legacies that institutions have tried to put into practice with greater or lesser success. Their understanding and observance are not uniform across social groups. People might, for instance, condone a certain conduct in office if it concerns an elective official from the political party in which they vote or with which they sympathise. Norms are floating signifiers, and they may mean different things to different people, hence the need to enshrine standardised definitions in regulations, with legally enforceable requirements and voluntary codes to guide officeholders. Adopting ethical standards for elective officials is a fairly straightforward and easy task; interpreting and enforcing those standards consistently and ensuring their appropriation by officeholders is more complicated and requires a great deal of institutional investment.

Politicians, parties, parliaments, and governments can only be trusted if they are seen acting honestly, fairly and reliably. Political trust not only increases democratic legitimacy but also inspires trust in public services, which, in turn, creates a favourable environment for businesses and promotes the flourishment of civil society. In short, trust is the glue that keeps democratic societies together (Dosworth and Cheeseman, 2020).

In this contextual chapter, we intend to provide an account of how political trust has evolved over time across Europe and in Portugal and the extent to which this has coincided with a perceived decline in ethical standards in political life.

2.2. How has trust in political institutions evolved?

Political parties, parliaments and governments are core political institutions in a representative democracy. Parliaments and governments are directly and indirectly elected by the citizens in every legislative election, and they are accountable to and expected to perform on behalf of the citizens. Political parties are constitutionally recognised as centrepieces of democracy. Levels of trust in these core political institutions are sensitive to their institutional performance and the conduct of their members. Drawing on Eurobarometer data collected over the last two decades, we were able to scan a longitudinal decline in political trust in Portugal in comparison to the EU average.

2.2.1. Comparative trends in levels of satisfaction with democracy and political trust in Europe and Portugal

Across Europe, levels of satisfaction with democracy (Figure 1) tend to stand, on average, above 50 % and to be substantially higher than levels of political trust, apart from the countries worst affected by the European sovereign debt crisis, such as Portugal. Although levels of satisfaction with democracy, and the levels of trust in the government, in particular, are not solely affected by citizens' attitudes towards political institutions, the period of 2010–2013, at the financial crisis peak, was particularly damaging to both political trust and satisfaction with democracy in the EU. This was the case in Portugal from 2008 until 2013. The country's poor economic performance impacted citizens' trust in their government's ability to handle the crisis and, consequently, their satisfaction with democracy. The series of corruption-related scandals in the intersection between politics and the banking sector aggravated the decline in the levels of trust and satisfaction with democracy.

Electoral cycles and the prospects of alternation may represent *the turning of the page* on the incumbent's poor scoring in the macro-management of the economy and/or poor handling of misconduct by some of its cabinet members. Although satisfaction with democracy began to rise in 2014, which coincided with a positive response of financial markets to Portugal's handling of the bailout programme, trust in the government was still in decline. With the 2015 Portuguese general elections, the increased satisfaction with democracy coincided with a sharp increase in trust in the government. Hence this juncture could be interpreted as *the turning of the page.* The austerity measures adopted by the centre-right government have been met with street protests since 2012. The marginal victory of the centre-right coalition (*PàF – Portugal à Frente*) in the 2015 general elections was an indication of voters' discontent with the incumbent's handling of the economy. Growing popular discontent was exploited in electoral terms by the left, depicting the incumbent as radical *neoliberals* plotting against the welfare state and accusing them of using the EU/IMF Memorandum of Agreement as a blueprint for implementing austerity measures that they had desired all along. In the end, the *Pàf* coalition capitulated before a minority government led by the Socialist Party, which had been able to strike a historical parliamentary agreement with both left-wing parties, *Bloco de Esquerda* and the Portuguese Communist Party. Although general elections in critical periods may increase trust, such change in attitudes may not be sustained in the medium and long term. Indeed, alternation in 2015 sharply increased the levels of satisfaction with democracy in Portugal, but these have been declining since 2017.

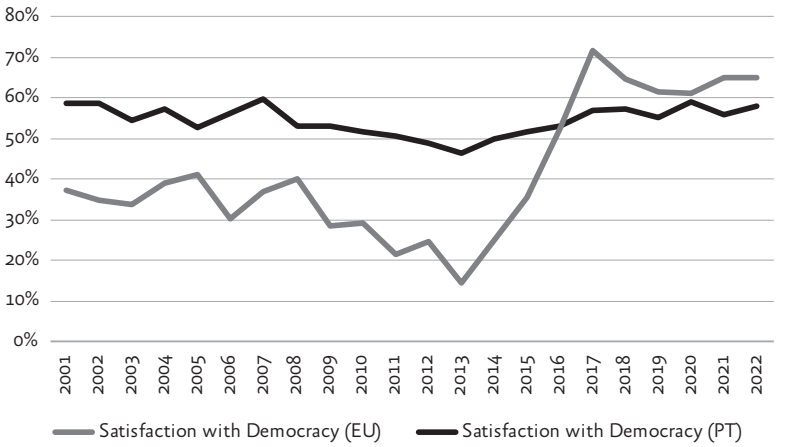
Overall, political trust has followed a similar trend as satisfaction with democracy, fluctuating downwards over the last two decades, both in the EU and in Portugal, and improving slightly after 2015. Trust in political parties (Figure 2) has remained low across the EU throughout the last two decades (on average, below 20 %), whereas trust in parliament (Figure 3) and government (Figure 4) has been declining since the turn of the millennium.

Despite the overall trend of decline, levels of trust fluctuate over time. Fluctuations can be influenced by regular political events, such as electoral cycles, disruptive political events, such as political scandals (e.g., the *familygate* scandal in 2019)[5] or political and financial crises (e.g., the fall of the socialist government in 2011 following

the rejection of an austerity package). These fluctuations seem to affect national governments and parliaments to a greater extent and, to a lesser extent, political parties, which are consistently the least trusted of all political institutions. Governments and parliaments were particularly affected by the sovereign debt crisis, registering the lowest value of trust in 2013.

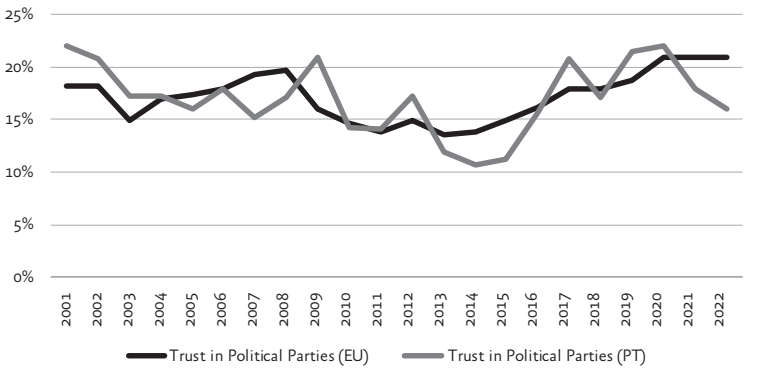
Throughout most of the past two decades, Portugal's levels of trust in parliament remained above the EU average (Figure 3). Levels of trust in political parties (Figure 2) have remained consistently low in both Europe and Portugal. Trust in government (Figure 4) has declined since 2003, during José Manuel Durão Barroso's leadership, slightly improving with the election of the new Socialist single-party majority in 2005 and its re-election in 2009, but remained below EU's average during the sovereign debt crisis, recovering again after the 2015 general elections, which led to an unprecedented historical compromise: the rise to power of a minority socialist government supported by a parliamentary agreement with the radical-left parties (the so-called *geringonça* = "contraption").

Figure 1 Satisfaction with democracy in the EU and Portugal, 2001–2022



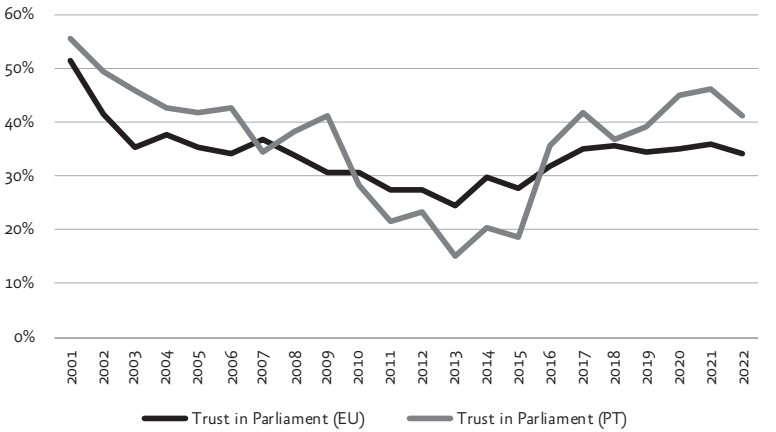
Source: Standard Eurobarometer

Figure 2 Trust in political parties in the EU and Portugal, 2001–2022



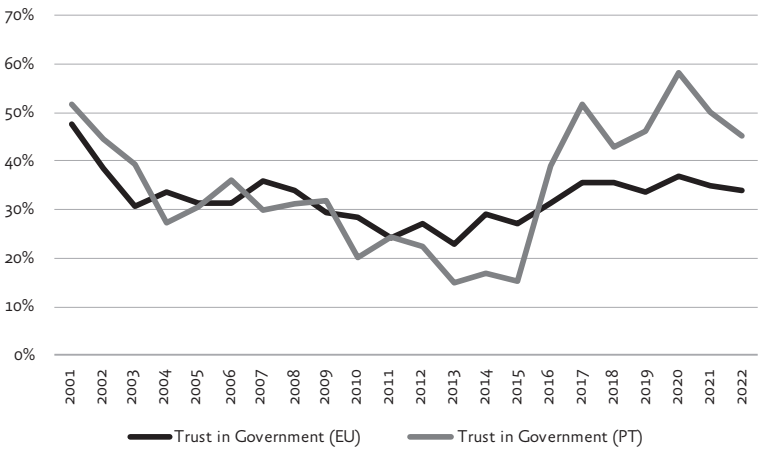
Source: Standard Eurobarometer

Figure 3 Trust in parliament in the EU and Portugal, 2001–2022



Source: Standard Eurobarometer

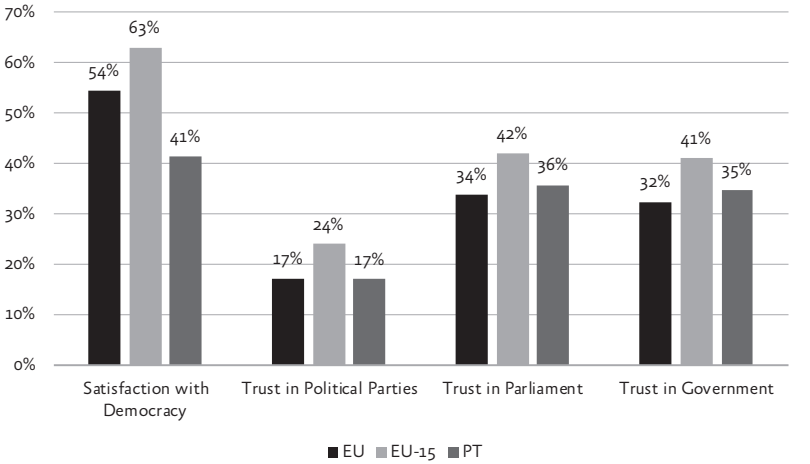
Figure 4 Trust in government in the EU and Portugal, 2001–2022



Source: Standard Eurobarometer

Average levels of satisfaction with democracy in Portugal stand below the EU average, while average levels of political trust in Portugal tend to be aligned with the EU average over the last two decades. However, this comparison can be misleading since the inclusion of post-communist democracies lowers the EU average. When we only look at EU-15 countries, Portugal does not stand well in the general picture, with average levels of satisfaction with democracy and political trust below the EU-15 average (satisfaction with democracy -23 %, trust in parliament -9 %, trust in government -6 % and trust in political parties -5 %) (Figure 5).

Figure 5 Average levels of trust in political institutions and satisfaction with democracy in the EU, EU-15 and Portugal, 2001-2022



Source: Standard Eurobarometer

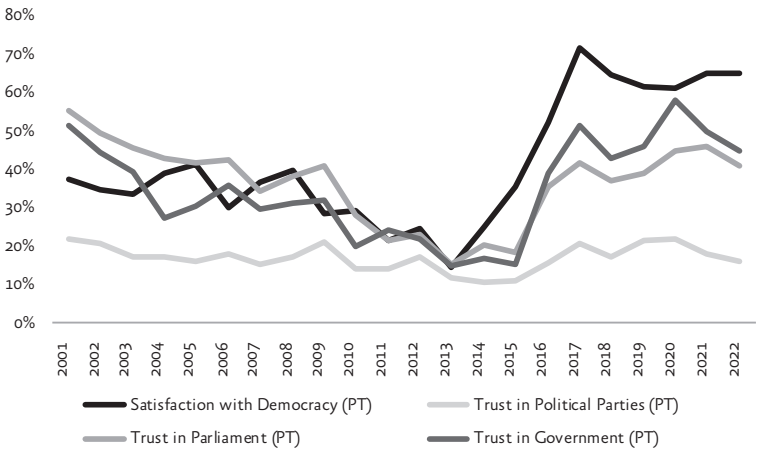
Overall, trends of trust in political institutions across Europe seem to be quite stable, though in decline over the last two decades. Electoral cycles have impacted trends positively, but the effects tend to level off after elections. Therefore, the possibility of making incumbents

accountable for their unethical conduct at the ballot box does not seem to change the trustworthiness of these institutions. Political trust also seems to improve when government outcomes are positive. If people perceive that their economic condition is improving because of government policies, they seem to be more satisfied with their democracy and, therefore, trust their national political institutions (Christmann, 2018). The opposite also seems to be true, with levels of political trust and satisfaction with democracy declining in austerity contexts. That said, political parties tend to be the least trusted political institutions across Europe, including in Portugal, a trend that has remained stable throughout the whole period.

2.2.2. Trends in political trust in Portugal

Looking more closely at the data on Portugal, the levels of trust in the major national political institutions were higher than the levels of satisfaction with democracy during the early years of the millennium, which means that other factors accounting for democratic support were at play (Figure 6). After the 2015 elections, trust in political institutions has been on the tail end of people's positive response to the incumbent's handling of the economy, at least until the breakdown of the pandemic crisis. In other words, the positive increase in levels of trust is unrelated to the investment in institutional performance and the reinforcement of ethical standards in political life. The recurrent episodes of misconduct in office at the government and parliament levels did not seem to affect the citizens' improved trust in these institutions as long as they felt satisfied with government outcomes.

Figure 6 Trends in political trust and satisfaction with democracy in Portugal, 2001–2022



Source: Standard Eurobarometer. SWD (PT) = satisfaction with democracy in Portugal; TrustPP (PT) = trust in political parties in Portugal; TrustPA (PT) = trust in political parties in parliament in Portugal; TrustG (PT) = trust in government in Portugal.

Below, we analyse the trends for each of the dimensions of political trust — i.e., trust in political parties (TrustPP), trust in parliament (TrustPA) and trust in government (TrustG) — represented in Figure 6.

2.2.2.1. Trust in government

In Portugal, the most severe yearly drops in trust in government were measured during the first decade of the millennium (2003–2004 and 2009–2010, both by 12 percentage points). Political crises, such as PM Barroso's resignation in 2004 to take up the Presidency of the European Commission, the scandal-ridden centre-right coalition government led by PM Santana Lopes, and the 2011–2015 financial crisis are associated with lower levels of citizens' trust

in the government. By mid-2012, fiscal consolidation and structural reforms carried out under the bailout started to positively affect confidence levels in the economy and brought financial stability to the eurozone. Trust in government started to improve in 2013, at home and among global financial markets, after successful auctions of sovereign debt bonds and the lowering of bank rates to aid recovery. The Constitutional Court's decisions in late August and mid-September, which reverted some austerity measures, counteracted the government's planned budget cuts (Coroado et al., 2017).
Trust in government declined again in 2014, even though Portugal was back on track and preparing to exit its bailout programme. Increased trust in government is also recorded when there is an alternation in office, indicating renewed hope for the future direction of the country. The highest yearly rise in trust in government (24 percentage points) was registered after the 2015 general elections, confirming the view that people expected a different response to the crisis. However, these levels were not maintained. Two years after the resurgence in trust in the Portuguese government, trust in government declined again, remaining consistent with a decline in satisfaction with democracy.

2.2.2.2. *Trust in parliament*

Levels of confidence in the Portuguese parliament stood higher than any other political institution in the early years of the millennium and higher than the levels of satisfaction with democracy for most of the first decade. Trust in parliament seemed to respond with delay to fluctuations in levels of satisfaction with democracy until 2009, when it began a downwards slope, reaching the lowest value in 2013 (13 %). The most severe yearly drops in trust in parliament were measured during the two Socialist majorities (2006–2007, by 8 percentage points, and 2009–2010, by 12 percentage points, respectively). Trust in parliament improved slightly in 2013, coinciding with a positive handling of the sovereign debt crisis but fell back in 2014, closely tracking trust in government during the same period. Satisfaction with democracy has improved apace since 2013, dragging trust in parliament and government with it, with the highest single-year rise registered in 2015–2016 (17 percentage points) and in 2016–2017 (20 percentage points). The highest single-year rise in trust in parliament was measured precisely during the same period (2015–2016, of 18 percentage points). Trust in parliament has improved after the 2015 general elections but was not restored to pre-crisis levels.

2.2.2.3. *Trust in political parties*

Public concern about ethical standards within party organisations and transparency over their funding has been constant throughout the past two decades. Public perceptions that the financing of political parties has been insufficiently transparent and supervised have always been higher in Portugal than in the EU: 71 % against 68 % in 2013[6] and 71 % against 58 % in 2017[7]. Moreover, the percentage of respondents who believe that too close links between business and politics lead to corruption is higher in Portugal than in the rest of Europe (85 % against 79 % in 2017). The political class has tried to respond to this overall decline in trust in political parties, associated with a perceived decline in ethical standards "by decree", i.e., by throwing laws at behavioural and organisational problems. Not surprisingly, seven changes to the 2003 political financing regime[8] have been adopted in less than two decades, which means, on average, one amendment every two years. Concerns about party ethics are not confined to

political financing issues alone. Levels of trust in political parties have been consistently low (the lowest of all political institutions) over the last two decades, with less accentuated fluctuations but tracking closely to changes in levels of trust in government and parliament. It is unclear whether levels of trust in political parties have been sensitive to the country's financial crisis since these have remained stable and consistently low throughout that period. Other political and institutional factors come into play. Trust in political parties peaked in 2009 with the renewed Socialist majority but has steadily dropped ever since. Levels of trust in political parties slightly improve during electoral years but tend to fall back immediately after. Surprisingly, people seem to suspend or downplay their concern about the lack of transparency in party life, in particular their financing, during elections, even though parties and candidates are more exposed to undue financial pressures during electoral campaigns. Despite some statutory innovations, parties have changed very little their *modus operandi* over the years. Party funding remains opaque (de Sousa, 2014), and citizens have little say in the daily running of political parties and the selection of candidates, notwithstanding some not very successful experiences of intra-party elections (Lisi, 2015; Razzuoli, 2009). These and other institutional factors are likely to have negative implications on trust. The fact that political parties operate in a highly protectionist regulatory framework and the electoral system's method for allocating seats tends to favour major party formations has created the necessary conditions for a dominant role of political parties, with positive (low electoral volatility and party system stability) and negative (poor enforcement of ethical standards, poor voice/consultation practices, poor responsiveness) implications to democratic performance.

2.3. Is the decline in political trust associated with a perceived decline in ethical standards in political life?

Levels of trust in political institutions — government, parliament, and political parties — have always differed across countries and over time (Norris, 1999; Newton, 1999; Pharr and Putnam, 2000; van der Meer, 2010). A wide variety of mid-range theories have been developed to explain observed variations. Among a series of explanatory factors tested in different models of analysis, the dedicated literature signals that, longitudinally, declines in political trust have been significantly connected with the emergence of political corruption as an issue of public concern (Theobald, 1990: 44). Some countries have been more affected by political corruption scandals than others. However, the trend has been consistent across the board.

Our basic assumption is that the perceived decline in ethical standards in political life has contributed to this growing lack of trust in political institutions, which constitutes one of the critical challenges of our democracies. To make our claim more robust, we conducted an unbalanced panel data analysis[9] covering the universe of EU Member States (N=27+UK) with a total of 393 observations, thus ensuring institutional and cultural diversity and sufficient data observations. To date, very few studies on political trust have employed data panel analysis (Levi and Stoker, 2000: 501).

We used Standard and Special Eurobarometer data since it covers more years than other cross-national surveys for the intended independent variables and is available online and freely accessible. Our dependent variables are citizens' levels of trust in the three core political institutions: government, parliament, and political

parties.[10] Our core independent variables are four sociotropic (generic) corruption measures for different governance levels.[11] In this context, a sociotropic measure is a perception-based measure of corruption «referring to people, groups, situations other than the respondent herself, and '"generic" in the sense that the questions employed do not specify any conducts, practices, or behaviours, but only capture the respondents' perception of the extent to which *corruption* prevails (or has increased or decreased) in [...] institutions (national parliament or government or local government)» (Gouvêa Maciel et al., 2022). We have also included a dummy variable related to periods of crisis. The literature suggests that periods of economic austerity are likely to hasten and intensify this connection between a perceived breakdown of ethical standards in political life and the decline of political trust. Moreover, we have controlled for three classic socio-demographic indicators at the individual level — gender, profession, and age — which are vastly discussed in the literature as important determinants of levels of political trust.

For the sake of parsimony, our statistical model has only included these two sets of variables. We are aware that the model could be more complex and comprehensive by testing other competing explanatory factors of political trust. However, we believe that the purpose of this chapter is not to engage with the current theoretical debate but to highlight how robust and consistent the relationship between longitudinally declining levels of political trust and sociotropic (generic) perceptions of corruption at different levels of government has been.

We used three different measurements of our dependent variables collected from the Standard Eurobarometer: trust in government, trust in parliament and trust in political parties. For the independent variables, we used four different measurements collected from the Special Eurobarometer: perceived corruption at the local, regional, national, and European levels. In order to capture the impact of the financial crisis on trust, we decided to create a dummy variable called "crisis period": 0 for periods before 2012 and 1 for periods after 2012.[12] The period of analysis covers 13 years, from 2006 to 2019.[13] Considering that not all indicators have the same periodicity of publication and that some have changed this periodicity over time, the period chosen allows us to harmonise different databases and maximise the available data, where the missing data are exceptions. The F-test and Breusch-Pagan Lagrangian test highlight the fixed effects models as more convincing than pooled OLS (ordinary least squares) or random effects models. Because perceived corruption is correlated across different institutional levels, we included four specifications to capture the association between perceived levels of corruption at different government levels (local, regional, national and EU) and citizens' trust in the core political institutions (political parties, parliament, and government)[14]. Table 1 summarises the estimated fixed effects models selected for the statistical analysis.

Table 1 Estimated fixed effects models — main findings

Independent Variables	*Trust in government*			
Perceived corruption in local institutions	-0.180***			
	(-1.18)			
Perceived corruption in regional institutions		-0.192***		
		(-1.29)		
Perceived corruption in national institutions			-0.256**	
			(-1.65)	
Perceived corruption within EU institutions				-0.073NS
				(-0.50)
Crisis period (*dummy*)	-60.892*	-60.285*	-60.150*	-42.170**
	(-3.13)	(-3.09)	(-3.13)	(-1.70)
F statistics	10.15	10.28	10.60	9.84

Source: Main Findings. *significant to 5 %; **significant to 10 %; ***significant to 20 %; NSnot significant.
Note: *T*-test in parentheses.

Independent Variables	*Trust in parliament*			
Perceived corruption in local institutions	-0.198NS			
	(-1.12)			
Perceived corruption in regional institutions		-0.212***		
		(-1.24)		
Perceived corruption in national institutions			-0.266**	
			(-1.60)	
Perceived corruption within EU institutions				-0.078NS
				(-0.64)
Crisis period (*dummy*)	-52.322*	-51.654*	-51.528*	-41.250**
	(-2.53)	(-2.49)	(-2.50)	(-1.44)
F statistics	8.62	8.82	9.33	6.93

Source: Main Findings. *significant to 5 %; **significant to 10 %; ***significant to 20 %; NSnot significant.
Note: *T*-test in parentheses.

Independent Variables	*Trust in political parties*			
Perceived corruption in local institutions	-0.150**			
	(-1.59)			
Perceived corruption in regional institutions		-0.162*		
		(-1.75)		
Perceived corruption in national institutions			-0.171*	
			(-1.90)	
Perceived corruption within EU institutions				-0.122*
				(-1.96)
Crisis period	-28.080*	-27.571*	-27.518*	-32.857*
	(-1.89)	(-1.87)	(-1.85)	(-2.09)
F statistics	6.51	6.46	6.68	2.35

Source: Main research findings. *significant to 5 %; **significant to 10 %; ***significant to 20 %; NSnot significant.
Note: *T*-test in parentheses.

As the main results, we find robustness estimators in all three models, given that the association between perceived corruption at different government levels and citizens' trust in the core political institutions is negative and statistically significant. This impact is more strongly felt during the aftermath of the economic crisis, in line with two key factors in the literature that are significantly connected with the lack of trust in political institutions: "the perception that high corruption has affected values, culture and institutions", and "medium-long term economic crisis; high unemployment rate; [...] recession" (Mingo and Faggiano, 2020: 819). These analytical results are exploratory but strongly support our claim that episodes of serious wrongdoing in the discharge of elective office negatively affect people's perceptions of corruption at different government levels, which, in turn, undermines their trust in the core political institutions. We would not go as far as to defend that "any form of corruption is a betrayal of trust" (Alatas, 1999: 7-9), but in so far as

corruption is also a betrayal of institutional trust other than a breach of duties, it dishonours a social contract between trustees (citizens) and fiduciaries (politicians), which is the essence of modern representative democracies.

2.4. Chapter conclusions

The descriptive and panel data analyses of trends in political trust in the EU and Portugal were not meant to advance knowledge on the determinants of attitudes towards the core political institutions of contemporary representative democracies but to provide a more evidence-based contextual background to the ethics self-regulatory efforts surveyed across Europe.

To give a full account of the determinants of political trust, we would need to consider other explanatory factors in a more complex and nested set of interactions. After all, these core political institutions do not perform in an institutional vacuum; they are part of a more complex political system. Hence, trust in these core democratic institutions is likely to run in parallel and interact with trust in other political and public institutions, such as the presidential office, the local government, judiciary and law enforcement bodies, regulators, and the public administration. That said, the overall picture is that trust in political institutions (in particular parties and parliaments) across European democracies has consistently ranked poorly, regardless of a country's level of development, constitutional arrangement, legal tradition, or electoral system.

It could be argued that such persistent distrust in power in the liberal-constitutional tradition, from Locke to Madison (Levi and Stoker, 2000), is a rational and healthy critical attitude towards political institutions and politicians in a democracy (Barber, 1983; Warren, 1999). The theory goes that citizens can always "throw the rascals out" during elections and replace them with trustworthy parties and politicians (Klingemann and Fuchs, 1995). But will citizens use elections to punish unethical and untrustworthy conduct? How important are political ethics in punishing or rewarding incumbents? Can we leave such a judgement solely in the hands of citizens, given the asymmetries of information? What role should political institutions play in elevating the ethical standards of their members? How much distrust in political actors and institutions can a democracy endure before an apparent "healthy suspicion" leads to dissatisfaction and, more worryingly, turns into disaffection? Some of these questions have been addressed more in-depth by the dedicated literature. Hence, it is not our intention to dwell on this. However, there is one aspect that seems to be missing in most analyses of political trust: the role of political institutions in disciplining the ethical conduct of their members.

The literature on regulation underlines the importance of regulators' trustworthiness as a key ingredient to ensuring high levels of compliance from the regulated (Ayres and Braithwaite, 1992). Studies in this domain seem to convey the same message: "government officials who act in a trustworthy manner are more likely to elicit compliance" by the regulated, including "in circumstances where it may or may not be rationally self-interested to do so" (Braithwaite and Makkai, 1994). Drawing from these findings, the main theoretical thrust of our research is very straightforward and fills in this literature gap: political institutions that make a credible commitment to upholding the ethical standards expected of its members, even if it contradicts their (rational) self-interest, are more likely to have a positive effect on citizens' trust.

Chapter 3
What ethical standards are expected in politics?

3.1 Introduction

Ethical standards in politics constitute a disputed and multidimensional construct. Academics have tried to understand the boundaries of what should be considered acceptable and unacceptable conduct in the discharge of political office through survey methods. Surveys are too expensive (especially with the mass public) to be repeated over time and to be replicated across countries. Surveying political elites — Members of Parliament (MPs), Local Elected Officials (LOCALs), judicial authorities, or even public employees — adds to this complexity due to access limitations to the sources.
Not surprisingly, most studies have approached political ethics through the citizens' lenses alone. Albeit relevant, those studies explored only half of the problem: *outsiders'* judgements and/or expectations of the ethical standards that govern politics. From this viewpoint, ethical standards in politics are assessed only from an *outside-in* perspective.

Less frequent are studies that follow an *inside-out* approach, i.e., those that are guided by the belief that ethical standards in politics derive from the inner capabilities of the political elite to institutionalise its own morale. Surveys conceived to specifically gauge how *insiders* perceive political ethics have been confined to countries that fall into the Anglo-Saxon tradition and have only approached MPs (Atkinson and Mancuso, 1985; Mancuso 1993, 1995; Peters and Welch, 1978, 2002). To our knowledge, Pelizzo and Ang's work (2008) is the only attempt to assess political integrity in a distinct region through the lenses of Indonesian MPs. The few examples that evaluated ethical patterns across 'different' types of *insiders* were: the descriptive analysis of the ethical standards of elective and administrative state-level bureaucrats in New South Wales (NSW), Australia, conducted by the NSW Independent Commission Against Corruption (NSW ICAC, 1994, 2001); and the studies by Jackson and colleagues (Jackson et al., 1994; Jackson and Smith, 1995) that compared second-level state MPs in NSW, Australia, with their country-level American and Canadian counterparts. These studies concluded that *insiders* seem to display significant tolerance towards corruption and other forms of misconduct in different cultural settings and political levels. What seems to differ across *insiders* is the gradation of seriousness they associate with unethical practices.

A third approach, the one this chapter adopts, avoids the previous *insider-outsider* dichotomisation by exploring these perceptions of integrity together, i.e., assuming that ethical standards in politics are a symbiotic result of two pressures: the perceived levels of integrity citizens expect from politicians, and the perceived levels of integrity politicians expect from their peers. Indeed, it is this *grey zone*, associated with discrepant interpretations of the ethical

boundaries in politics, that becomes relevant to this research tradition (Heidenheimer, 1970).

Following this comparative perspective, Atkinson and Bierling (2005) attempted to identify, in the case of Canada, if the ethical manifestations coming from *insiders* at two distinct geographical levels — national and provincial — differed, or not, from the mass public opinion. The authors of this study evidenced the existence of a contrast between the '*political elite* **vs** the *public*', i.e., an *insider* vs *outsider* divide in terms of perceived ethical standards, thus confirming previous evidence that the political elite displays more tolerance for ethically dubious behaviour than the general public (Allen and Birch, 2012, 2015; M. Jackson and Smith, 1996; McAllister, 2000). Although this may be the case in Anglo-Saxon countries, it may not hold for other political cultures. Indeed, a study by Ko et al. (2012) shows that South Korean public officials display lower tolerance towards grey corruption than citizens. Regarding the Portuguese case, we found no prior attempt to replicate this exercise.

But why is it relevant to contrast *insiders*' and *outsiders*' perceptions of ethical standards? Because democracies function through a complex system of principles and values — and expectations about them — of which standards of conduct for officeholders are just a subset. For each office of entrusted power in a modern democratic society, there are rules and guiding principles that prescribe to officeholders established, accustomed, and expected ways of behaving in the exercise of their duties and in the discharge of responsibilities. These *required* or *forbidden* behaviours are determined by culture in the sense that they are modelled (and evolve) in response to value change in society (Moreno, 2002) and are a product of the continued repetition/routine of political institutions across time (Lessig, 2013; Philp, 1997). The fact is that irrespective of the origin of the integrity patterns — whether internal, external, or both — it becomes important to assess the s*tandardised expectations* regarding political offices (Truman, 1971: 347).

The degree to which these formalised norms have created a fairly consensual ethical framework governing public life (de Sousa, 2002; Mény, 1996; NSW ICAC, 1993; Philp, 1997) is contingent on the way the political elite institutionalised positive and negative behaviours and practices, and the extent to which conflicting interpretations of those standards were an object of public scrutiny (Pelizzo and Ang, 2008: 254). When these principles underpinning entrusted power are widely shared and appropriated by both politicians and citizens at large, guiding their conduct and interactions, political institutions are likely to display "the attributes of trustworthiness, which assure potential trustors that the trusted party will not betray a trust" (Levi and Stoker, 2000: 476) and democracies are better guarded against political corruption.

Therefore, the relevance of our study for democratic theory and practice is straightforward: if expected standards of ethical conduct displayed by both *outsiders* and *insiders* are discrepant, then such conflicting interpretations may diminish the levels of trust in political actors (Bowler and Karp, 2004) and, consequently, the levels of confidence and satisfaction in the democratic system as a whole (Gouvêa Maciel and de Sousa, 2018; McAllister, 2000). Moreover, contrasting perceptions of ethics from the political elite and citizens enable us to identify what needs to be requalified or, at least, improved in terms of political ethics regulation and supervision.

This is particularly relevant in the case of Portugal, where recent political scandals took place in a normative vacuum and were met with social disapproval.

Consequently, the main aim of this chapter is to answer two simple questions: "What is perceived as ethical and unethical conduct in political life by *insiders* and *outsiders*?" (RQ1) and "How do *insiders* perceive the reputational risks associated with unethical conduct?" (RQ2).

We use the following sequence of sections to succeed in this endeavour. First, we describe major survey studies on ethics, integrity, and corruption implemented so far to help us identify evidenced-based support for the assumption that politicians are more susceptible to relativising political corruption than citizens.

Second, we present the data and methodology applied. The data came from two survey studies on corruption-related issues recently implemented in Portugal: an elite survey designed to inquire *insiders* (national MPs, the *Deputados da Assembleia da República*, and locally elected mayors, the *Presidentes de Câmara Municipal*, and Aldermen, the *Presidentes de Assembleia Municipal*[15]) about political ethics, conducted under the auspices of the ETHICS project, funded by the *Fundação Francisco Manuel dos Santos* (FFMS); and a mass survey on perceptions and attitudes towards economic austerity and corruption, conducted under the auspices of the EPOCA project, funded by the *Fundação para a Ciência e a Tecnologia* (FCT).[16] The ETHICS and EPOCA questionnaires were developed in close affinity by the respective research teams, and the fieldwork took place almost simultaneously between October 2020 and April 2021. These two elements make the current exercise unique since it represents the very first attempt to compare mass-elite perceptions of ethical standards from a Southern European perspective, using items exclusively designed to answer similar social *puzzles*, with data collection happening at the same time. We delve into the particularities of ethical standards displayed by both *insiders* and *outsiders* in Portugal, resorting to a multi-method approach, which allowed us to explore the ethical boundaries in political life and the reputational risks associated with unethical conduct from both quantitative and qualitative viewpoints.

As much as we would have liked to offer a cross-national perspective of *insider* and *outsider* perceptions of ethical standards in political life, expanding this study to the European level would be financially and materially unfeasible within the auspices of this project. We have opted to look at the Portuguese case, where the issue of corruption is particularly sensitive, and perceptions about political ethics from previous studies indicate moral trade-offs between competing process- and outcome-oriented perceptions of corruption (de Sousa and Triães, 2008; Gouvêa Maciel et al., 2022) as well as discrepancies between what individuals consider morally acceptable in the daily interactions between citizens and officeholders (Jalali, 2008).

We proceed by discussing the results obtained. Our analysis indicates that *insiders* are more tolerant of unethical conduct than *outsiders* in the Portuguese context. The major difference between MPs and LOCALs' attitudes towards political ethics concerns the reputational risks they associate with misconduct: MPs tend to be more alert to personal and institutional damages that might be inflicted by unethical conduct.

The chapter concludes by drawing practical lessons from this exploratory exercise on perceived political integrity in Portugal, which also has the potential to help understand how ethical standards are perceived in other jurisdictions.

3.2. Shedding light on what we know so far about *insider* vs *outsider* perceptions of ethical standards

Politicians are bound by a series of legally established, accustomed, and expected ways of behaving in the exercise of official duties and the discharge of official responsibilities. *Insiders*' perceptions of acceptable or unacceptable conduct tend to be framed within these legal/formal parameters and are reflected in institutional rules, norms, and cultures. *Outsiders*' understandings of political ethics tend to be more elastic and may consider unacceptable a series of practices and conducts *insiders* would probably regard as *normal politics* (Allen and Birch, 2015; Philp, 1997).[17]

Heidenheimer's (1970) typology of social definitions of corruption has been influential in survey studies on ethics and corruption in democracy since these achromatic notations are able to capture the discrepancy between elite and public understandings of what should be perceived as corrupt. Certain conducts or practices are judged more severely than others depending on "the type of community in which the observer lived and the social grouping with which he was identified" (Heidenheimer, 2004: 100). Elite and mass perceptions can converge either to tolerate certain unethical conducts (*white corruption*) or to abhor them (*black corruption*). When those judgements diverge or are marked by ambiguity, corruption becomes a disputed label (*grey corruption*), giving room for potential asymmetries, not only in terms of the interpretation of what constitutes, or not, integrity in public life but also in terms of how moral standards ought to be enforced.

Despite some criticism (Dolan et al., 1988), most studies on perceptions of ethics coming from the political elite tend to rely on evaluations of real-life integrity-based scenarios that represent various types or behaviours associated with corruption. Peters and Welch's (1978) work served as a benchmark for this tradition and has substantiated many other relevant studies (e.g., Bezes and Lascoumes, 2005; de Sousa and Triães, 2008; Jackson and Smith, 1996; NSW ICAC, 1994).

Indeed, studies dealing with *insiders*' perceptions and attitudes towards corruption found that what is described as socially illegal was pinpointed more pronouncedly as ethically unacceptable (Atkinson and Mancuso, 1985; Peters and Welch, 2002). In other words, studies have shown that politicians disagree not on what is portrayed as illegal but on the limits of what constitutes legality. Gannett and Rector (2015: 165) encountered that "those [public officials] who engage in corrupt acts attempt to excuse themselves by obfuscating the negative consequences of their decisions", which relates to the fact that "most acts involving more potentially corrupt features [are] more likely (than those with fewer such features) to be perceived as corrupt" (Jackson et al., 1994: 65). It is precisely this mechanism of moral rationalisation of the unethical conduct of political elite members that determines a more marked attempt to *obfuscate* the negative side of morally dubious behaviours in political life (those perceived as *grey corruption*) by arguing legality, denying responsibility, and diminishing the social impact generated by their actions and conducts (Gannett and Rector, 2015: 172).

However, little is known about the reputational risks resulting from the political decision to relativise ethics. Political elite perceptions of personal or institutional risks associated with political corruption have been discussed mainly in theoretical terms, with few exceptions trying to assess corruption through detailed court case narratives (de Sousa and Calca, 2020; Gannett and Rector, 2015). Studies tend to conclude that *outsiders* expect the political elite to hold higher standards of integrity and signal to society what is acceptable behaviour in the exercise of elective duties (McAllister 2000: 22). In short, politicians are expected to lead by example (Allen and Birch 2015). However, contrary to those *outside-in* "full monty" perspectives of political integrity, it is known by now that *insiders* tend to have a more nuanced and flexible interpretation of integrity-based scenarios than *outsiders*. MPs are socialised into deviant or informal practices and interpret them as *normal politics* in the absence of clear boundaries of morale. Citizens, by contrast, are not accustomed to such dealings and *modus operandi* and hold a more rigid interpretation of political ethics (Jackson and Smith, 1996).

It is worth mentioning that *outsiders* demand higher integrity standards from *insiders* but are likely to self-condone their own deviant conduct. Regarding the Portuguese case, Jalali (2008) concluded that citizens seem to hold higher moral expectations about their political representatives than they hold for themselves. This tendency to consider that politicians are vicious and ordinary citizens are virtuous was also identified by Johnston (1991) in the United Kingdom. Situations where ordinary citizens abuse or misappropriate resources from large organisations are either tolerated or regarded as a way of restoring social justice (*Robin Hood corruption*); whereas instances where ordinary citizens are asked to pay a bribe by a public official to obtain a service or a public good to which they may or may not be entitled to are severely disapproved (Johnston, 1991: 14). The Portuguese case is an illustrative example: citizens appear to consensually condemn corruption at the symbolic level while tolerating it at the operational level (de Sousa, 2008). To the best of our knowledge, no study has yet explored or tried to compare *insiders'* and *outsiders'* rationalisations towards integrity in public life in Portugal.

Similarly to what happens with *insiders*, when we compare citizens and politicians, situations involving behaviours which, under current law, are unambiguously illegal or involve direct financial gains, such as bribery, theft, or embezzlement (Dolan et al., 1988; Johnston, 1991; Peters and Welch, 1978), are likely to give rise to a more unanimous condemnation than hypothetical situations related to conflicts of interest, influence peddling, lobbying or even mismanagement (Adserà et al., 2003; Batista et al., 2020; Mancuso, 1993; Peters and Welch, 1978; Rothstein and Teorell, 2008; Teremetskyi et al., 2021). Social condemnation of practices that are deemed unethical but not illegal will be all the greater, the more difficult it is for *insiders* to justify to *outsiders* the reasons for these informal rules and practices (Chibnall and Saunders, 1977). Thus, situations describing shadowy or confidential conduct by officeholders (Johnston, 1991) or acts associated with an office of entrusted authority resulting from exceptional circumstances that fall outside the public routine (Peters and Welch, 1978) are likely to cause surprise and disappointment among *outsiders* and will be judged as corruption.

Hypothetical exchanges involving tangible, immediate and more significant payoffs are likelier to be judged as corruption (Johnston, 1986, 1991; Peters and Welch, 1978). Scenarios involving financial and material assets (money, bonds, jewellery, cars, houses, etc.) are also judged more severely than those involving intangible returns, such as an exchange of favours or future job offers. Finally, time is also a factor influencing citizens' ethical evaluations. The further away in time the payoff is from the act itself, the weaker its condemnation as corruption. In other words, people judge give-and-take situations more negatively. When the association between the act and the payoff are less clear-cut, opinions diverge (Peters and Welch, 1978). Instances where there is an unlevelled corrupt exchange, where the active agent has no alternative but to agree with the terms and conditions imposed unilaterally by the passive agent (officeholder), are also more severely condemned than those where both parties of the transaction enter a corrupt deal on an equal footing (Johnston 1991). Citizens do not judge corruption only in deontological terms, as an action that deviates from established norms and expectations regulating the discharge of public duties, but also in practical terms, in relation to its outcomes. Conducts or acts in office resulting in the personal benefit of elective officials or third parties will be judged more severely than those benefiting the community or its constituents (Peters and Welch, 1978).

3.3. Deriving hypotheses from the literature

The reasons associated with the development of the two research questions (RQ1 and RQ2) of our study are context related. As discussed in Chapter 2, over the past two decades, there has been an overall decline in public trust in representative institutions, which coincided with increased levels of perceived corruption in the political system. We cannot say conclusively that ethical standards have declined. In formal terms, Portuguese democracy is better equipped today to detect, discipline and eventually sanction improper conduct in office. Whether these norms have been appropriated and have become widely diffused in society is a different question altogether. Political actors, processes and institutions have become more scrutinised than ever before. Corruption has become a recurrent issue in public debate and a political priority, along with classic bread-and-butter issues.

Considering what the literature prescribes, we suspect that public expectations about behaviour in the exercise of duties and in the discharge of responsibilities have grown considerably compared to the interpretation that officeholders make of the formal rules and guiding principles prescribed to them. Politicians not only have a more conservative outlook of what these standards should be and how they ought to operate, but they are also more likely to normalise certain conducts in their daily institutional routines and fail to see things from an *outsider's* perspective. Hence, the need to understand how citizens' perceptions of integrity in public life match those of the political elite by assessing their judgments of different real-life situations of potential corruption.

When contrasting *insider-outsider* perception-based definitions of corruption and considering both sides of the story, we are not only mitigating for potential subjective bias, but we are also evaluating possible margins of mass-elite disagreement regarding certain types of conduct, mapping what constitutes *the grey zone* of integrity, and enabling the development of public policies in the field of ethics that offer more than generic recommendations.

In this sense, this exercise has important implications for political representation and trust since *insiders*' understanding of the boundaries of what is proper or improper conduct in office may not conform to *outsiders*' expectations and, therefore, weaken "their ability to act according to the standards that others demand of them and to respond effectively to their own lapses" (Allen and Birch, 2015, pp. 3).

Since *insiders* and *outsiders* are likely to hold minimalist-oriented definitions of corruption, not only because legal boundaries give a firmer ground to the justification of their actions, omissions, and intentions but also because they enable them to claim that nonproscribed practices or conducts are part and parcel of *normal politics* or daily routine, respectively, (H1a) we hypothesise that, in the Portuguese context, there is a high degree of consensus between *insiders* and *outsiders* regarding *Market Corruption*, i.e., acts or conducts that are unambiguously illegal and unethical.

Nevertheless, for citizens, legal boundaries are important but not determinant in assessing whether a given action or conduct is right or wrong. The fact that most citizens are unfamiliar and insensitive to the specificities of the political *milieu* and hold a deeply ingrained negative account of politicians, they are more likely to issue a moral judgement about certain acts or conducts, regardless of their legality. Consequently, (H1b) we expect *insiders* to display more tolerance towards *legal/institutional* and *parochial corruption* vis-à-vis *outsiders*, i.e., acts or conducts that are considered unethical despite not being illegal and potentially harmful/risky to a fair and impartial social norm. Overall, our expectation is to find that the Portuguese political elite displays a higher predisposition to tolerate corruption *lato sensu* than citizens in Portugal, mainly because they tend to justify the adoption of unorthodox ethical behaviours as a way of normalising institutionalised practices of mismanagement that can be used in their defence (Gannett and Rector, 2015) when faced with direct demands of honesty, equality, and transparency to frame more objective policies, coming from *outsiders*.

In addition, we want to expand the existing knowledge on *insiders'* self-perceptions of ethical standards by assessing inherent risks they associate with misconduct in political life. It has been shown that *different* types of *insiders* potentially present similar ethical patterns regarding integrity (Jackson et al., 1994; Jackson and Smith, 1995), but we know nothing about how those different political actors react to corruption. In the end, we aim to test, in an exploratory perspective (H2), if being part of the political elite (at the national or local level) affects the predisposition to perceive reputational risks associated with unethical conduct in politics, i.e., if Portuguese MPs and LOCALs perceive reputational risks similarly, irrespective of where they perform their duties.

3.4. Data and method description

3.4.1 Elite and mass surveys assessing ethical standards in politics

The data used in this exercise comes from two recent initiatives carried out in Portugal to assess mass-elite perceptions on integrity issues. Hence, most questions were repeated in both questionnaires. The first source we used was the EPOCA dataset on corruption and crisis (Magalhães and de Sousa, 2021), which surveyed, face-to-face, a representative sample of 1,020 citizens aged between 18 and 75

years in Portugal from December 19th, 2020, to April 21st, 2021 (de Sousa, Magalhães, et al., 2021). The second source — a central part of the FFMS-funded ETHICS project, which is the object of the current report, exploring ethics and integrity in politics from the lenses of local and national political elites — was a set of responses coming from an online questionnaire that gathered answers from a convenience sample of 66 out of 230 (28.7 %) Members of the 14th Legislature of the Assembly of the Republic and 55 out of 616 (8.9 %) Mayors of Municipal Councils and Presidents of Municipal Assemblies in office during the period between October 12th, 2020 and February 8th, 2021.[18]

Regarding the data, three facts are worth mentioning:

(a) The items/questions used in the ETHICS survey constituted a replication of a set of EPOCA's items/questions with adaptations to the political context to assess the reputational risks associated with unethical conduct in public life at the national and the local levels of administration in Portugal. It is important to highlight that the decision to adopt those items/questions was not by chance or by random choice of measurements of interest. They are the result of a complex six-step survey design strategy (systematic literature review/database of survey questions/existing survey analysis/focus groups/research team and expert discussion rounds and traditional implementation pre-tests), (see de Sousa, Magalhães, et al., 2021; de Sousa, Pinto, et al., 2021; for more information see Magalhães et al., 2020a, 2020b).

(b) The development and implementation of both surveys were conducted in close communication, and the respective research teams made substantial efforts to run surveys simultaneously. Nevertheless, due to COVID-19 restrictions and the fact that different polling agencies conducted the two initiatives, the total overlap of data collection was not made possible, albeit implementation dates were not too distant in time.

(c) In order to obtain a high return or completion rate, we run multiple and successive contacts to increase the number of questionnaires fully answered by elective officials. A total of six email rounds, besides formal letters sent to parliamentary groups and personal contacts through phone and instant messaging, were made to all MPs and LOCALs. The participation of political elites in surveys is mainly contingent on unavailability (lack of time), lack of experience and/or predisposition to participate in surveys and other academic studies, lack of interest in the various issues surveyed (in particular sensitive ones, such as corruption and political integrity), and legal/formal constraints (see Table A1 of the Appendix).

3.4.2. Describing variables used to assess ethical standards in politics

To approach RQ1, we compared items/questions from both surveys (EPOCA and ETHICS) to contrast *insiders'* and *outsiders'* perceptions and attitudes towards ethical standards in politics. Next, we present the list of variables used to explore each perspective and how both groups internalised patterns of ethical standards:

- **Democratic values associated with integrity**

Both groups answered the same question: "Which of the following values is most important to you when thinking about a democratic state? And what is the second most important?" Possible answers were: compassion, efficiency, honesty, equality, impartiality, informality, legality, merit, accountability, transparency, or other spontaneously mentioned. We summed the first and the second options and used the percentage of responses for each option to compare politicians' and citizens' perceptions of democratic values.

- **Meanings of corruption**

A similar question was posed to *insiders* and *outsiders*: "The term corruption is recurrent in conversations, but it can mean different things to different people. Thinking about our country, when you hear about corruption, what words do you associate with this subject? Cite a maximum of three words." We aggregated all words and used the number of times the term appeared to graph a cloud map of qualitative expressions associated with corruption by both groups.

- **Social definition of corruption**

To distil social definitions of corruption, we resorted to the items related to the question: "On a scale of 0 to 10, where 0 means «strongly disagree» and 10 means «strongly agree»". Participants answered to what extent they agreed with the following sentences: "The behaviour has to be illegal to be called corrupt.", "If the action is done for a just cause, it is not corruption.", "We cannot call a behaviour practised by most people as corrupt.", "If a person acts with no knowledge of the law, we cannot call him/her corrupt.", and "If the result of an action is beneficial to the general population, it is not corruption." The idea here was to interpret how insiders and outsiders define corruption and to test if they hold similar or discrepant rationales of conceptualisation.

- **Tolerance towards corruption**

This is the central question of this comparative exercise, and it pertains to the level of integrity *insiders* and *outsiders* associate with distinct situations where potential unethical behaviours in public life may arise. The choice of the scenarios was not fortuitous but strategic instead. They were purposely chosen based on two criteria: (i) they had to relate to real-life situations reported in the media, and (ii) they had to dialogue with different categories of corruption discussed in the literature, which means that the hypothetical situations should not be confined to criminal offences. Our intention was not only to capture different gradients of corruption in society — by comparing the degree of severity in which *insiders* and *outsiders* judge those hypothetical situations as corruption or not — but to do so in a structured manner — by assuring that those scenarios correspond to three different main theory-driven types of corruption (*market*, *legal/institutional*, and *parochial*). And we added a situation corresponding to the perception of *mismanagement* as corruption due to the pandemic context (Table 2). In total, we used 11 situations related to the performance of public and political office to ask *insiders* and *outsiders* to what extent they consider that each of these situations corresponds to a case of corruption (on a scale of 0 to 10, where 0 means it is not corruption, and 10

means it is corruption). We used 0-1 indexes, where 0 means no tolerance and 1 means total tolerance, to aggregate information to easily describe a more generic and overarching perception of corruption, and partial perceptions of *market*, *legal/institutional*, and *parochial* corruption, based on the formula:

$$\text{Tolerance towards Corruption}_{ij} = 1 - \frac{\sum \text{Scores}_{ij}}{1on}$$

Where *i* represents the type of corruption to be measured for the participant *j*, *Scores* is the representation of the results for each scenario related to the type of corruption *i* for the participant *j,* considering the total *n* number of scenarios related to the type of corruption measured. The indexes of tolerance towards *generic/overarching*, *market*, *legal/institutional*, and *parochial* corruption correspond to the respective arithmetic mean for all participants. Additionally, differences found between *insiders'* and *outsiders*' indexes, i.e., the *grey zone* of corruption, were used to better illustrate the problems at hand. Table 1 summarises the selected scenarios and groups them by type of corruption. Generic/overarching corruption corresponds to the entire universe of scenarios and is henceforth referred to as *corruption* only.

Table 2 Real-life integrity-based scenarios of potential corruption

Corruption type	Definition	Behaviour Proxy	Scenario/Situation
Market corruption (Cartier-Bresson, 1997; Husted, 1994; Lowenstein, 1985; Noonan Jr., 1984; Scott, 1972)	An officeholder abusing entrusted power following a negotiation with mutual benefit for both parties to the exchange (*transactive corruption*).	Speed money*	A public employee speeded up some processes and received a bonus from the users they helped.
	A reciprocal benefit configured by an illegal exchange of interests based on the abuse of any established power.	Bribery	A prosecutor asked for 500 thousand euros from a businessman in return for filing a money laundering investigation in the real estate sector.
	An officeholder abusing entrusted power whilst imposing the terms of exchange unilaterally to the other party (*extortive corruption*).	Abuse of power	A city council services director informally charged 5 % of donations for each urban project approved. The money was deposited in a bank account of a charitable organisation in which this director is president.
	Self-generated conditions of profiteering by the officeholder through the abuse of entrusted power (*autogenic corruption*).	Embezzlement*	A city councillor used employees and machines of the municipality to carry out restoration works on their farm.

Corruption type	Definition	Behaviour Proxy	Scenario/Situation
Legal/institutional corruption (Gouvêa Maciel and de Sousa, 2018; Kaufmann and Vicente, 2011; Lessig, 2013; Light, 2013; Newhouse, 2014; Thompson, 2013)	Manipulation of decisional, legislative and regulatory powers resulting from the collusion of public and private interests (through political financing contributions, revolving door practices, outside paid functions related to invested powers and a myriad of conflict-of-interest situations).	Campaign* financing	A mayor attributed, through bidding, the social housing construction to a firm in the region. The owner of this firm financially supported the mayor's campaign.
		Revolving door*	A private bank was rescued under the supervision of the finance minister. Four years after he left office, the now ex-minister was invited to chair the bank's board of directors.
		Political consulting*	A deputy received a payment from a law firm in exchange for clarification on several ongoing legislative matters in which this deputy participates as a legislator.
Parochial corruption (Becquart-Leclercq, 1984; Blundo, 2003; Husted, 1994; Scott, 1972)	Unjustified appointments and favourable treatment of family, relatives, friends or party comrades (or denying access to public positions or unfavourable treatment of party foes) (*nepotism/cronyism*).	Nepotism	A minister appointed his son-in-law as press officer.
	Making use of one's personal contacts to influence someone with decisional power in order to obtain an advantage for oneself or third parties.	Pulling strings*	An individual asked his sister, a nurse in a hospital, to speak to the doctor in order to anticipate his/her appointment, which has been on a 2-month waiting list.
	Someone offering gifts and hospitality or making favours to an officeholder as a sort of social investment, which may or may not be capitalised in the future (*investive corruption*).	Hospitality*	The president of a pharmaceutical regulator and his family spent a vacation at a friend's house, who is a businessman in this sector. The company at stake obtained an authorisation to carry out tests on a new medicine.
Mismanagement (Adserà et al., 2003; Batista et al., 2020; Rothstein and Teorell, 2008; Teremetskyi et al., 2021)	Wrong, inefficient, or incompetent handling of entrusted financial assets with negative repercussions upon the financial standing of a country or organisation.	Cutting corners	The government accelerated the purchase of PPE (personal protective equipment) at prices above the market without a tender (by direct award), claiming the need for materials for public hospitals in order to combat COVID-19.

Note: * Scenarios adapted from de Sousa (2019).

In order to answer RQ2, we only used items/questions from the ETHICS survey to exclusively capture *insiders'* perceptions of the reputational risks associated with serious wrongdoings:

- **Reaction to an unethical situation**

We used two comparable versions of the same question — adapted to national and local realities — in order to describe whether members of the political elite would react, or not, in the face of a peer's misconduct: (MPs version) "Imagine that you become personally aware of a serious breach of the rules of conduct by a member of your parliamentary group. What would your reaction be?"/(LOCALs version) "Imagine that you become personally aware of a serious violation of the rules of conduct by a colleague from your party in the municipal bodies. What would your reaction be?". They were offered the possibility of answering, "Nothing, I wouldn't have any kind of reaction", or "I would react to the situation".

- **Types of reactions to an unethical situation**

When, in the previous question, participants answered that they would react, they were also asked to explain the type (or types) of reactions they would display when facing an unethical situation. The following options were available: "I would report to the media or a journalist", "I would file a complaint with the party's internal disciplinary bodies", "I would file a complaint with the parliamentary ethics committee/guardianship", "I would file a complaint with the Public Prosecution Service", and any "*other*" spontaneous reason that deserves to be mentioned. We used the cumulative number of times that each reason was mentioned to present the percentage of MPs and LOCALs that answered "I would react to the situation" and used any of the reactions described.

- **Reputational risks**

The following is the core question used to discuss the risks associated with unethical behaviour in politics. *Ipsis litteris*: "Imagine that your name was involved in a political corruption scandal, regardless of whether that association turns out to be true or false. What would be the main implications for your personal and professional life that would result from this public exposure? Using a scale from 0 to 10, where 0 means «not at all relevant» and 10 means «completely relevant», rate what implications concern you most as a politician". Participants had to rate the relevance of the following risks: (i) "Reputational damage to my image"; (ii) "Reputational damage to the image of the party I belong to"; (iii) "Loss of respect from my family and friends"; (iv) "Impossibility to be re-elected"; (v) "Contribution to the discredit of politics and politicians"; (vi) "Loss of respect from peers"; and (vii) "Damage to the image of the parliament/municipality". Similar to what happened with *Tolerance towards Corruption*, two 0-1 indexes (0=no risk and 1=total risk) were developed following the same logic but adapted and applied to measure *personal* —(i), (iii), and (iv) — or *institutional* — (ii), (v), (vi) (vii) — risks instead.

3.4.4. Describing our samples

In addition to the variables used to answer RQ1 and RQ2, we included some other variables in the analysis to characterise the respective samples, as follows:

- Sociographic variables targeting *insiders* and *outsiders*: Gender (1 - Male or 2 -Female); Age (in years); Education (1 - No formal education, 2 - Primary school, 3 - Middle school, 4 - Lower secondary school, 5 - Upper secondary school, 6 - Undergraduate education, 7 - Graduate education; Left-Right political scale (1 - Far-left, 2 - Left, 3 - Centre-left, 4 - Centre, 5 - Centre-right, 6 - Right, 7 - Far-right).

- Sociographic variables targeting *insiders* only: Religion ("Regardless of whether you belong to a particular religion, on a scale of 0 - not religious to 10 - extremely religious, you would say you are a person…") and Political Experience (consecutive years in the same political function). Table 3 (displaying means, standard deviations, minimums, maximums and medians) and Figure 7 (with full data distributions) present descriptive information regarding all the above-mentioned variables on *insiders* and *outsiders*.

Table 3 describes the sociographic information about *insiders* and *outsiders*.

Table 3 Descriptive information about insiders and outsiders

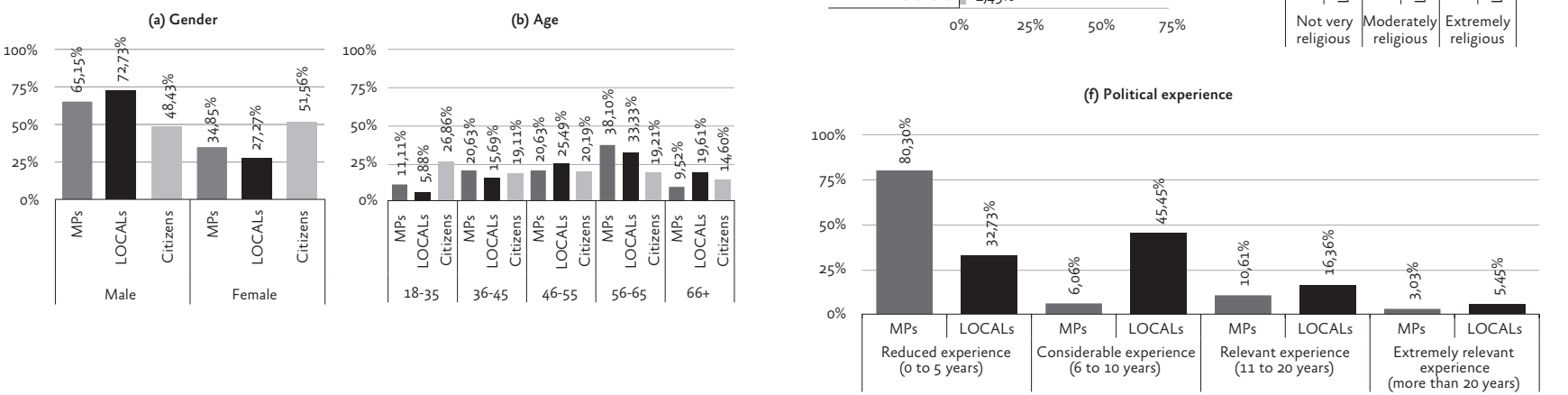
Variables of characterisation*	Mean	Std. dev.	Min.	Max.	Median	N *Valid obs.*
Citizens						
Age	46	17	18	75	46	1,020
Education	4	1	1	7	4	1,020
Left-Right political scale	3	1	1	7	3	717
MPs						
Age	51	12	26	72	53	63
Education	7	0	4	7	7	63
Left-Right political scale	3	1	1	6	3	63
Religion	4	3	0	10	4	66
Political experience	5	7	0	37	2	66
LOCALs						
Age	53	12	18	78	55	51
Education	6	0	5	7	6	51
Left-Right political scale	3	1	2	6	3	51
Religion	5	2	1	10	5	55
Political experience	8	6	0	35	7	55

In terms of gender, as expected, political elite (convenience) samples (MPs and LOCALs) were more predominantly male than the mass public (representative) samples. Regarding age, again, *insiders* were older than *outsiders* on average. When we look at education, discrepancies were even more evident: MPs have graduate studies (essentially post-graduate specialisations and masters' degrees); LOCALs have undergraduate studies, while citizens, on average, only have basic education levels (albeit with a higher variability, with data ranging from low to high education levels, as expectable). When we assess the political spectrum, we find similar patterns, with *insiders* and *outsiders* positioned in the *centre-left* slot on average.

Exclusively regarding *insiders*, we need to emphasise that we found that MPs and LOCALs displayed distinct levels of religiosity and political experience. According to our samples, local politics was associated with moderate levels of religiosity and very high levels of political experience, while national politics was less influenced by religion and more inclusive, accepting more newcomers, again, according to our samples.

It is relevant to stress that, when interpreting the results, we took into consideration all the evidenced discrepancies found when describing our samples. Since the main goal of this chapter is to perform a mass-elite assessment of ethical standards, it was vital to understand different behaviours, not only from the perspective that considers those strata intrinsically distinct — with particular non-transversal characteristics and structures — but also ensuring that any of those particularities act as potential confounders to purely assess if patterns of integrity in public life were, in fact, due to *being part of the political elite* and if the risks such elite display differ depending on the environment (local or national) where they perform their duties.

Figure 7 Data distribution (partition, %) according to sociographic variables.



3.4.5. Adopting a multi-methods approach to study ethical standards in politics

Much of the current comparative exercise is descriptive in essence since there is very limited knowledge on how *insiders* and *outsiders* internalise ethical standards in public life. Outside the Anglo-Saxon world, there is no empirical evidence on the proximity or distance of the perceptions of the integrity of politicians and citizens. By addressing the same battery of questions to both strata, we not only describe data but assess the behaviours displayed by *insiders* and *outsiders* when faced with potential situations of corruption in a quasi-experimental way. Likewise, it was also possible to assess the magnitude of the risks associated with corrupt behaviours displayed by MPs and LOCALs in Portugal.

Considering individual characteristics as intrinsic to participants, whenever possible, we ran unpaired two-sample t-tests for each pair of variables of interest to compare RQ1 between *insiders* and *outsiders*, and RQ2 between MPs and LOCALs. We used this approach to evidence latent differences that appear when those *worlds apart* (political elite vs citizens) (Atkinson and Bierling, 2005; Chibnall, 1977) are compared in the simplest form: through the analysis of significant mean variation. However, we applied a treatment-effects estimation with regression adjustment to distance our findings from explanations that assume that any potential extrinsic confounder (gender, age, education, Left-Right political scale, political experience, and/or religion) might explain observable differences in the reputational risks displayed by MPs and LOCALs and between the political elite's and citizens' judgements of corruption. This strategy was used to reinforce the value added by our findings to the literature and to the practical implications of the policies to be implemented in terms of political integrity.

3.5. What is ethical and unethical conduct for *insiders* vs *outsiders* in Portuguese political life?

3.5.1. Contrasting democratic values

From a systemic point of view, corruption entails an action or a conduct that deviates from democratic norms (Warren, 2004) "historically embodied in the institutions through successive generations" (Beetham, 1994). Such deviant behaviour undermines democracy "by diverting it from its purpose or weakening its ability to achieve its purpose" (Lessig, 2013). Understanding what values individuals associate with "a naturally sound condition of politics" (Philp, 1997) in a democracy may help us gauge a better knowledge of their readiness to accept and condone (the effects of) corruption. As Warren (2004, pp. 332) alerted us, one of the reasons we have failed to understand why corruption is so resilient in democracy is because "the damages of corruption have not been related systematically to democratic norms".

There is a strong consensus among LOCALs that *transparency* (78.18 %) is the most important value in a democracy. For MPs, *equality* ranks first (62.12 %), whereas citizens value *honesty* above all (59.90 %). *Legality* (43.94 %) comes second to MPs, followed by *transparency* (40.91 %). *Equality* comes second for both citizens (42.24 %) and LOCALs (40 %) followed by *transparency* (33.79 %) for citizens and *legality* (21.82 %) for LOCALs (Figure 8a).

Transparency, *honesty*, *legality*, and *equality* are the values that both *insiders* and *outsiders* prioritise in their normative understanding of democracy. In general, there seems to be a shared understanding that Portuguese democracy must perform well at the procedural level, regardless of how efficiently it delivers. Nevertheless, honesty is a value of reference to *insiders*, which means that, symbolically, corrupt practices should not be seen as intrinsic to democratic routines.

3.5.2. Different meanings of corruption

We asked citizens and politicians to suggest up to three words associated with the subject of corruption. We wanted to capture their spontaneity in formulating the answer, their understanding and feeling about corruption and the associations they make with the subject at hand without any kind of filter. The results are displayed in a word cloud (Figure 8b). Terms related to politics [*políticos* (politicians), *política* (politics), *partidos políticos* (political parties), etc.] are central in the popular discourse on corruption, occupying the first position in *insiders*' preferences, with 208 first mentions (20.39 % of the population) and a total of 304 mentions. In contrast, for the political elite, corruption is primarily about dishonesty [*desonestidade* (dishonesty) and *desonesto (dishonest)*], with 15 first mentions (12.39 % of the political elite) and a total of 29 mentions.

When we aggregate the words around sectors of activity, it becomes clear that citizens associate corruption with politics and its actors, processes and institutions. The results match the attention and coverage that political corruption gets in the media. Despite citizens also mentioning the private sector, in particular the banking sector, and expressing some concern regarding fraud, money laundering, and tax evasion, they seem to regard those schemes as an outcome of public-private collusion, poor state oversight and political cronyism and protectionism. When asked to define corruption in their own words, the Portuguese regarded it primarily as a crime, an illegality, in the form of theft or embezzlement, bribery and abuse of power. To a lesser degree, corruption is also understood more broadly as dishonesty, a scam or something immoral.

It is worth mentioning the interaction between what Portuguese *outsiders* voiced as the most relevant value in democracy and what MPs and LOCALs declared as representative of the meaning of corruption: *dishonesty*. Since corruption can be seen as a deterioration of levels of honesty for *insiders*, the link citizens make between corruption and politicians and the link the political elite makes between corruption and dishonesty indirectly express that corruption undermines the quality of democracy.

3.5.3. A similar conceptualisation of corruption

Notwithstanding the availability of legal definitions of corruption and related offences in penal codes, dedicated criminal legislation, and additional deontological guidelines and charters, even from a legal point of view, the prescribed norms may be interpreted differently across individuals when applied to concrete situations of potential corruption.

How individuals judge real-life integrity-based scenarios hinges primarily upon the evaluator's notion of corruption. There are more and less encompassing perception-based definitions of corruption. Some individuals consider corruption to be strictly a conduct or an

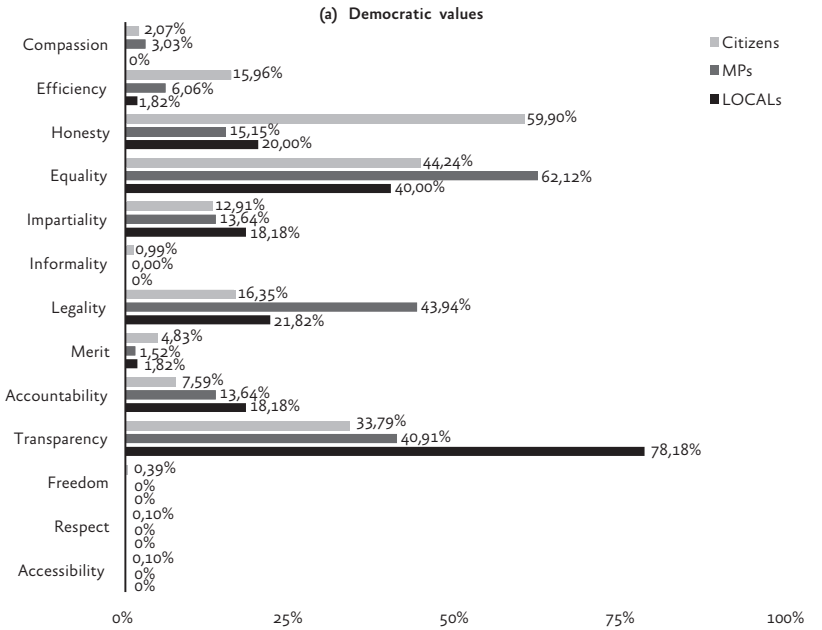
action, an omission and/or an intention to breach the established legal norms (associated with an office of entrusted authority), thus excluding a series of conducts and practices with a certain degree of legal ambiguity (*minimalist* definition). A more encompassing perception of corruption includes a multitude of conducts regarded as unethical in the discharge of duties despite not being illegal (*maximalist* definition).

When *outsiders* and *insiders* were presented with a series of attitudinal statements regarding possible *mitigating* or *normalising* circumstances of corruption, only one generated more agreement than disagreement: the illegality of an act (see Figure 8c). Citizens' average support for the statement "the behaviour must be illegal to be called corrupt" is 6.45, while for politicians, it is 5.17 — above 5, i.e., the midpoint of the scale. This means that both citizens and the political elite share a minimalist conceptualisation of corruption at a certain level. They see corruption as a legal breach rather than a deviation from expected ways of behaving in the exercise of duties and the discharge of responsibilities. Other mitigating circumstances, such as a possible *just cause*, possible positive externalities (benefits for the population), ignorance of the law or a social norm (everyone does this), do not tend to be seen as inhibiting the classification of a behaviour as corruption, particularly for the political elite.
Our results show that politicians tend to stick to legal/formal norms and are less sensitive to social norms when defining corruption (Cialdini et al., 1990; Jackson and Köbis, 2018; Köbis et al., 2015, 2018, 2020). The fact that their peers (other politicians) may behave in a similar fashion makes *insiders* believe they are not corrupt because what they do is considered normal in politics.

3.5.4. Different judgements: politics makes you more likely to condone corruption

Faced with a list of 11 integrity-based scenarios covering a wide range of hypothetical situations related to the performance of public and political offices, both citizens and the political elite in Portugal tend to regard most scenarios as some form of corruption (Figure 8).
There is a higher consensus in labelling *market* corruption than *legal/institutional* or *parochial* corruption. This is not surprising, given that *market* corruption scenarios are unambiguously illegal, hence likely to be met with disapproval from individuals, regardless of their status. That said, the type of corruption that makes the front-page news is no longer confined to bribery, influence trafficking and/or embezzlement cases involving prominent politicians, senior public officials, and businesspeople (Jiménez, 2014). It also includes collusive networks of party and business elites aimed at securing or obtaining economic, political and policy advantages (Johnston, 2005: 43-44). What is at stake in this type of corruption is not the breach of legal norms, because most of these acts or conducts are either unregulated or conformant to the law, but the perversion of the mission and goals of public institutions and the distortion of policy and regulatory processes in benefit of large economic groups (Villoria and Jiménez, 2016).

Figure 8 Insiders vs Outsiders' ethical standards surveyed: democratic values (% of population), meanings of corruption, and social definition of corruption (means)

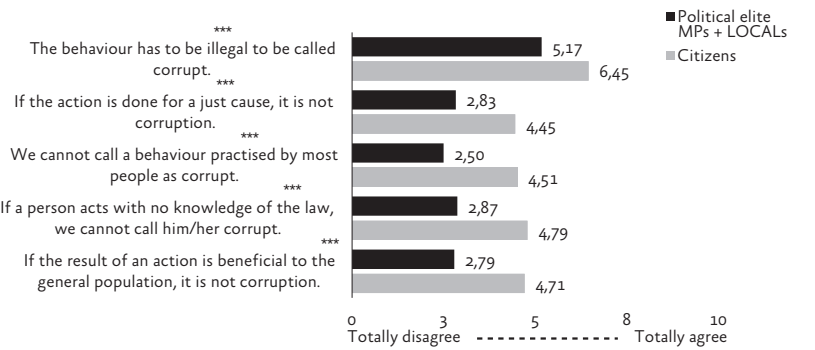


(b) Meanings of corruption

Political elite (MPs + LOCALs)

Citizens

(c) Social definition of corruption



Note: statistically significant difference between means *(10 % level); **(5 % level); ***(1 % level).

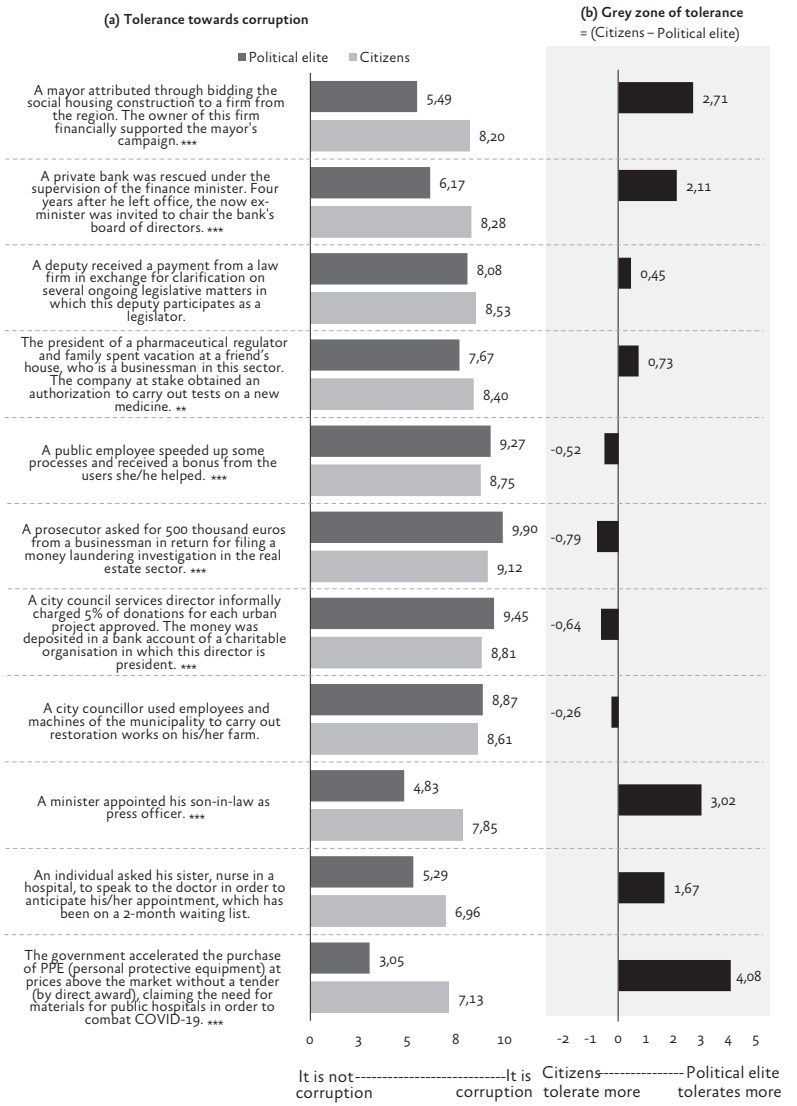
Acts or conducts in which legal/formal ethical standards are less clear or open to different interpretations — such as those involving revolving door practices, unorthodox mechanisms of party financing, conflicts of interests of all kinds, and outside paid functions related to invested powers — have not only become a major public concern but also an object of reform in recent years. For example, the decision to grant a thirty-year highway concession to a company that has

funded the party's campaign or has offered a position or a paid consultancy to the minister in charge, often falls out of the penal definition scope, hence it is not liable to be sanctioned in a court of law. Moreover, such a decision is also hard to punish in political terms. Integrity is not the only issue influencing the vote (and not always determinant); there is also information failure. By the time the details about the deal are disclosed to the public, those responsible for negotiating the contractual terms on behalf of the state are no longer in office. Citizens feel powerless to counter this capture of the policy process by legally consented means. Whereas *insiders* seem to regard these practices as "a naturally sound condition of politics" (Philp, 1997), it is clearly a source of concern for *outsiders*. Not surprisingly, two of the four scenarios in which there is disagreement between citizens and the political elite in labelling them as corruption have to do with two manifestations of legal/institutional corruption through campaign financing and revolving door practices.

Consensus about what *corruption* is becomes less apparent in acts or conducts related to *parochial* corruption. The political elite is more tolerant of practices that do not necessarily imply a legal breach but discretionary action and informality. The two integrity-based scenarios for which there is the most disagreement in this respect have to do with appointing family members to political positions (nepotism) and moving influences to benefit someone (pulling strings). Executing administrative decisions expeditiously whilst ignoring due process rules or procedures (cutting corners) is also downplayed by the political elite, thus indicating that mismanagement, irrespective of the positive aspects it may produce, is still perceived by the Portuguese as corrupt in general.

Overall, the political elite has a more tolerant attitude towards corruption, except for *market* corruption scenarios, which encompass unambiguously illegal acts or conducts that involve a direct financial/material/symbolic gain, such as bribery (for a licit and illicit act), embezzlement, and abuse of power. I*nsiders* seem to display even more rigour than *outsiders* when interpreting *black* (unanimous) corruption. At the same time, *beyond-the-law* practices tend to be underestimated as potentially harmful and corrupt by the political elite (configuring the *grey zone* of tolerance towards corruption).

Figure 9 Situations of potential tolerance towards corruption (Insiders vs Outsiders) (means) and respective grey zones associated.



Note: statistically significant difference between means *(10 % level); **(5 % level); ***(1 % level).

Figure 9 explores our previous expectations about consensus between *insiders* and *outsiders* regarding *market* corruption, and their disagreement on *legal/institutional* and *parochial* corruption. Remarkably, the means for political elites and citizens are distinct, even though they may look similar in numeric terms. *Insiders* tend to condone corruption more. *Insiders* display a higher predisposition to accept *legal/institutional* and *parochial* types of corruption, whereas *outsiders* are more prone to accept conducts associated with *market* corruption. These findings further support the claim that declining levels of satisfaction with democracy in Europe have less to do with growing levels of *market* corruption (i.e., corruption as a criminal offence) and more with poor management of *legal/institutional* corruption scandals (Gouvêa Maciel and de Sousa 2018).

Table 3 configures an answer to those simplistic explanations that may use individual preferences as motivations to explain the higher levels of corruption displayed by Portuguese *insiders* when compared to *outsiders*. From a quasi-experimental perspective, we considered possible confounders (Gender, Age, Education and Left-Right political scale) to the explanation of tolerance towards corruption, which made it possible to conclude that tolerance towards corruption can be determined by *being part of the political elite*. Thus, being an *insider* causes tolerance towards corruption to increase by an average of 0.125 on the 0 (no tolerance) to 1 (total tolerance) TtC index scale from the average of 0.175 TtC index for *outsiders*. More specifically, being an *insider* causes almost similar levels of tolerance towards *market* corruption (with *insiders* displaying less 0.097 points when compared to *outsiders*); even more

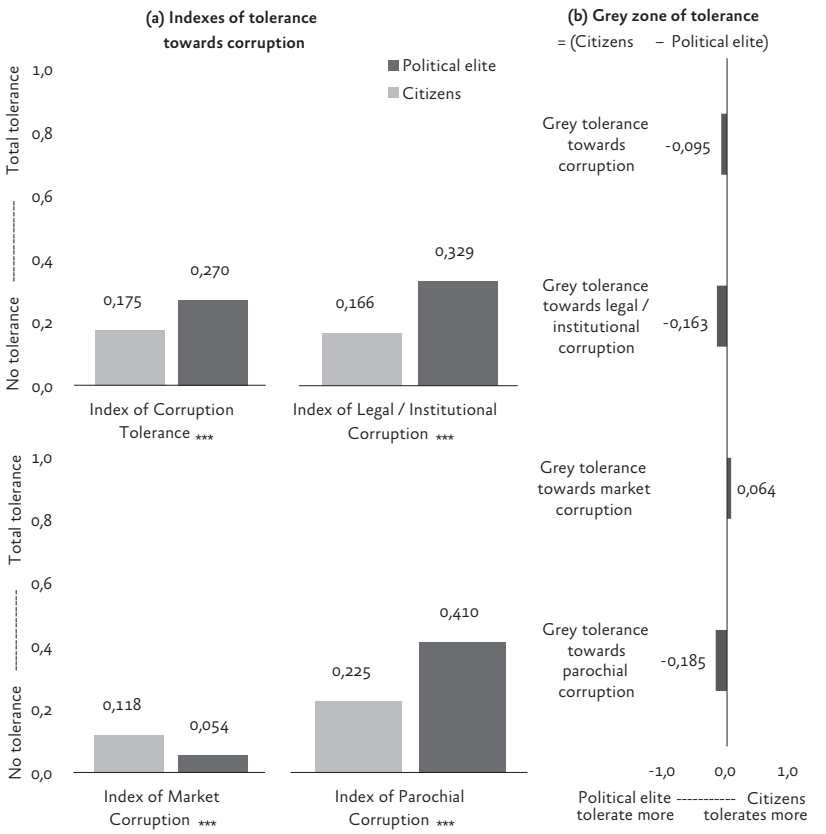
tolerance towards situations of *legal/institutional* (with an average increase of 0.240); and a 0.161-point increase in *parochial corruption*.

This result shows that the amount of tolerance towards corruption affected by being a political *insider* increases by approximately 71 % on average. Being an *insider* also decreases tolerance towards *market* corruption by about 86 %, increases *institutional/legal* corruption by approximately 145 %, and increases tolerance towards *parochial* corruption by approximately 70 % (0.376). H1a can be partially confirmed since *insiders* and *outsiders* present similar levels of *market* corruption, albeit with the political elite describing significantly lower mean in statistical terms. H1b can be confirmed, as *insiders* display a higher predisposition to condone *legal/institutional* and *parochial* types of corruption. In the end, we found that, in fact, the Portuguese political elite is more tolerant of corruption.

3.6. How do *insiders* perceive reputational risks associated with unethical conduct?

Reputation for integrity matters in politics (see Figure 10). First, individual motivation to act honestly is stronger when the individual's institution upholds the highest rectitude standards for its members. Institutional reputation is not only an aggregate of individual reputations but also the outcome of how respect for the organisation's mission and rectitude standards are enforced on individual members. The reason why politicians have the incentive to maintain a reputation of integrity is the fear of internal exclusion and external censure. Therefore, it is not only in the interest of the political institution to collectively enforce rectitude standards on its members to mitigate individual integrity risks (Rogow and Lasswell, 1977: 58–59), but it is also in the interest of politicians to avoid acting dishonestly if there are moral costs associated. Second, when rectitude standards are consistently enforced by the threat of exclusion from the political game, it will have a dissuasive effect on new members. By contrast, poor institutional performance on ethical grounds may become attractive to individuals with a poor integrity record. Third, a low reputation for integrity is hard to overcome and may generate long-lasting stereotypes, i.e., turning a blind eye to dishonest conduct causes a sticky reputation of slackness that new members will inherit despite their efforts to improve the collective reputation (Tirole, 1996: 18).

Figure 10 Indexes of tolerance towards corruption situations and respective grey zones of corruption (means).



Note: statistically significant difference between means *(10 % level); **(5 % level); ***(1 % level).

Table 4 Treatment-effects estimation of the impact of being part of the political elite (insider) on the propensity to tolerate situations of corruption

	Dependent variables [a]			
	Index of Tolerance towards:			
	Corruption	Legal/ Institutional Corruption	Market Corruption	Parochial Corruption
Average treatment effect (ATE) [b]				
Insiders (political elite) vs *Outsiders* (citizens)	0.125 (0.060)**	0.240 (0.090)***	-0.097 (0.045)**	0.161 (0.085)*
POmeans [b]				
Outsiders (citizens)	0.175 (0.006)***	0.164 (0.007)***	0.112 (0.005)***	0.230 (0.008)***
Insiders (political elite)	0.300 (0.060)***	0.404 (0.090)***	0.015 (0.045)	0.392 (0.085)***
Estimation summary				
Total of regressed observations	757	800	788	800
Estimator	Regression adjustment			
Outcome model	Linear			
Covariates (Confounders)	Gender, Age, Education, and Left-Right political scale			
% Estimated effect of being an insider on TtC [c]	0.715 (0.347)**	1.456 (0.557)***	-0.864 (0.404)**	0.702 (0.376)*

Note: [a] Statistically significant at *(10 % level), **(5 % level), and ***(1 % level). [b] ATE and POmeans robust standard errors in brackets. [c] % Estimated effect standard errors in brackets.

We asked politicians what they would do if they became personally aware of a serious breach of the rules of conduct by a member of their parliamentary group (MPs) or by a local councillor from the same party formation (LOCALs). Both MPs and LOCALs are conscious of the reputational damages of unethical conduct and would react to the situation almost unanimously (96.97 % and 96.36 %, respectively). When we asked them what they would do in practice, their opinions became more nuanced.

MPs would opt to file a complaint with the party's internal disciplinary bodies (65,6 %) and/or the parliamentary ethics committee (31.3 %). Although some would also consider the possibility of reporting the situation to the prosecution service (23.4 %), there is a clear preference for self-regulatory mechanisms. LOCALs are more divided in their approach. They would primarily report the case to the Public Prosecutor's Office (54.7 %), and, as a second option, to the party's disciplinary body (43.4 %). Some would also consider referring the case to the ministerial tutelage (26.4 %). The preference for conventional judicial authorities to address unethical conduct is not surprising since LOCALs know, by experience, that investigations are often inconclusive.

There is widespread consensus that political parties play an important role in disciplining the ethical conduct of members of the political elite, either by official or unofficial procedures and mechanisms. Both MPs and LOCALs are also univocal in keeping the media at bay since they see it more as a problem than as a solution. Mediated publicness has become both "a resource of and a threat to political power" (Williams, 2006:36). On the one hand, politicians have exposed themselves by seeking more media coverage. They want to be today's news and have increasingly occupied the public debate. On the other hand, the media has gone through a tremendous transformation with the introduction of new information and communication technologies, which changed the media's attitude towards politicians and their unethical conduct (Berti et al., 2020; Brunetti and Weder, 2003; Färdigh et al., 2011; Schauseil, 2019; Solis and Antenangeli, 2017; Stapenhurst, 2000). As conveyed by Williams (2006: 35), "[the media] has evolved from co-conspirators preventing information from reaching the public, to watchful sceptics unlikely to accept political rectitude at face value, to cynics concerned with headlines and sales and mindful of the market for revelations of wrongdoing by the political elite".

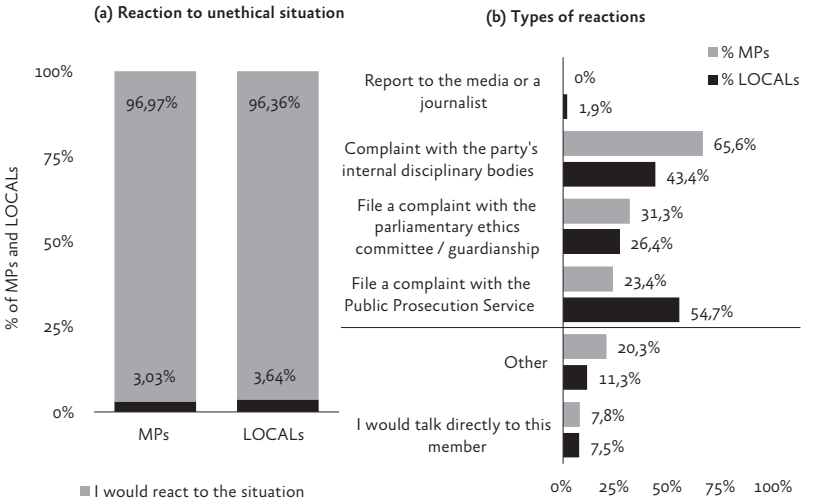
When faced with an evident unethical situation, some MPs and LOCALs are afraid of the implications that the public exposure and mediatisation of these cases would entail in both personal and institutional terms. It may well be the case that politicians live in a world of struggle for power where "morality and ethics are abstractions that do not conveniently fit into the framework in which they operate" (Rosenthal, 2006: 171). However, from a strategic point of view, insiders know that ethical standards are important in a democracy as collective legitimising devices "sustaining belief in orderly and principled governance" (Hine, 2006: 45), and as benchmarks for individual conduct, encouraging prosocial behaviour and inflicting reputational damage on wrongdoers. For that reason, some MPs and LOCALs prefer to keep things quiet and address them with prudence and discretion. Indeed, an unforeseen reaction to unethical situations that emerged from open-ended alternative answers is "I would talk directly with the politician involved in the unethical situation" — 7.8 % (MPs) and 7.5 % (LOCALs) considered

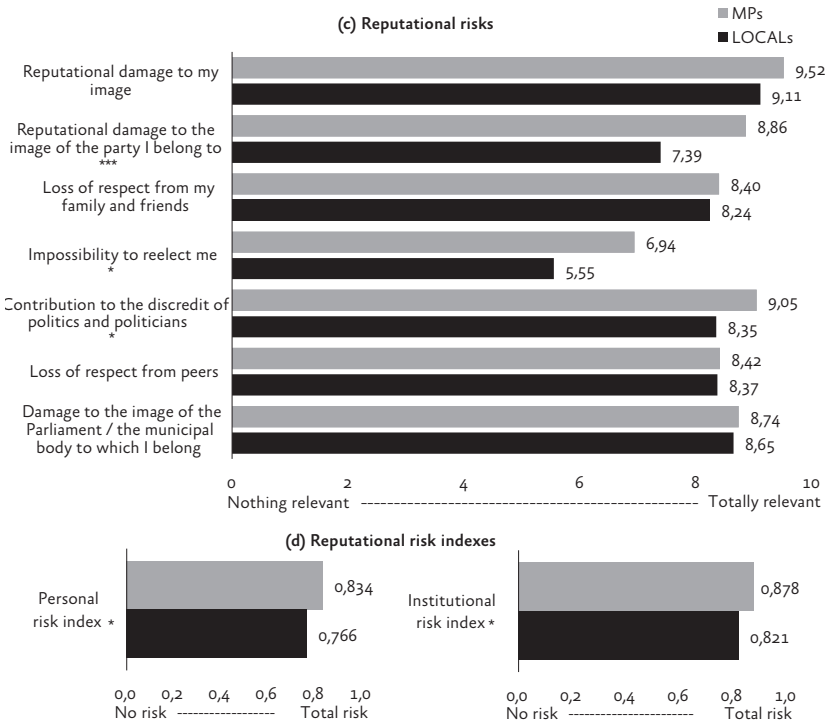
this direct and discrete channel a valid option to react and *solve problems at home*, thus avoiding the risks of having the name linked to a corruption scandal.

The main invoked risk associated with reporting serious wrongdoing is personal. MPs and LOCALs fear that their reputations may be at risk. However, both are equally conscious of the overall discredit of politics and the reputational damages to the institutions they serve, i.e., the parliament and the local council, respectively. MPs are more concerned with the reputational damages that this may inflict on their political career and permanence in office than LOCALs. In that sense, MPs are aware that the exposure of unethical conduct may damage their party's image and, therefore, compromise their nomination to the electoral lists and their chances of being re-elected. The selection of local candidates is less dependent on political parties. When national political coordination bodies push for a c*lean record* nomination policy at the local level, candidates facing corruption or similar allegations may opt to run in independent lists. This has already happened on various occasions.[19] Moreover, public disclosure of unethical conduct is less damaging to LOCALs than to MPs, not only because the latter are more exposed to media scrutiny but also because integrity seems to have less impact on electoral outcomes in local politics than in national politics.

When controlling for possible confounders (Gender, Age, Education and Left-Right political scale, Political Experience, Religion), being a LOCAL causes personal reputational risks associated with unethical conduct in politics to decrease by an average of 0.073 on the 0 (no risk) to 1 (total risk) personal risk index scale from the average of 0.850 for MPs. More specifically, being a LOCAL causes the perception of institutional risks associated with unethical conduct to decrease by an average of 0.063 on the 0-1 institutional risk index scale from the average of 0.881 for MPs (see Table 5).

Figure 11 Reputational risks associated with unethical conduct by the political elite: reaction to unethical behaviour (%), types of reactions (%), reputational risks (means), and reputational risk indexes (means).





Note: statistically significant difference between means *(10 % level); **(5 % level); ***(1 % level).

Table 5 Treatment-effects estimation of the impact of being part of the political elite at different levels (National and Local) on the predisposition to perceive reputational risks associated with unethical conduct in politics

	Dependent variables [a]	
	Personal Risk Index	Institutional Risk Index
Average treatment effect (ATE) [b]		
LOCALs vs MPs	-0.073 (0.037)**	-0.063 (0.035)*
POmeans [b]		
LOCALs	0.777 (0.032)***	0.817 (0.029)***
MPs	0.850 (0.018)***	0.881 (0.018)***
Estimation summary		
Total of regressed observations	110	112
Estimator	Regression adjustment	
Outcome model	Linear	
Covariates (Confounders)	Gender, Age, Education, Left-Right political scale, Religion, and Political Experience	
% Estimated effect of being an insider on TtC [c]	-0.086 (0.042)**	-0.072 (0.039)*

Note: [a] Statistically significant at *(10 % level), **(5 % level), and ***(1 % level). [b] ATE and POmeans robust standard errors in brackets. [c] % Estimated effect standard errors in brackets.

These results show that being part of the political elite at the local level decreases the average amount by which personal reputational risks are affected by approximately 8.6 %, on average, and institutional reputational risks by approximately 7.2 %. The results are statistically significant. Thus, H2 can be rejected, meaning that the patterns LOCALs display concerning the risks associated with unethical conduct in politics are lower than those of their counterparts at the national level in Portugal.

3.7. Chapter conclusions

In a nutshell, we found that citizens show less tolerance towards corruption than the political elite in the Portuguese context, similarly to what has already been observed in the Anglo-Saxon world. Honesty was identified as the guiding principle governing the conduct of officeholders within democratic institutions. While *outsiders* value honesty, *insiders* give more importance to equality (MPs) and transparency (LOCALs). This provides a hint for future research. It may be the case that individuals value more what they feel is particularly missing at that moment in time: citizens are clearly concerned about the honesty of politicians; MPs show concern for one of the most fundamental values of the Portuguese Constitution, i.e., equality (social justice), which has been put to the test during two recent periods of instability — the financial and pandemic crises —; and LOCALs prioritise government openness because the lack of transparency in local government affairs is a major problem, often leading to cases of corruption, and clientelism (de Sousa et al., 2015; de Sousa and Calca, 2020; Tavares and de Sousa, 2018).

For *insiders*, the sense of *applying the rules* leads to higher intolerance towards *market* corruption (for which there is no legal ambiguity). At the same time, *outsiders* demonstrate the need for norms to regulate other conducts that are not proscribed by law but are still regarded as improper and, therefore, constitute a breach of trust. Whereas *insiders* stick to the legal norm as a substitute or, at most, a yardstick by which their conduct is to be measured, *outsiders* want to see ethics prevail, specifically in situations where the scope and application of those legal norms seem to fail.

Dealing with unethical conduct seems to materialise political externalities. Both MPs and LOCALs displayed a high degree of concern regarding individual and collective reputational damages when faced with potential corruption situations. Overall, MPs find the lack of integrity in public life more relevant to determine personal and institutional reputational damages than their local counterparts.

Some policy lessons can be derived from what the data has shown us. First, a culture of regular ethical assessment of citizens and politicians is crucial to knowing how integrity has been internalised and to understanding the implementation effects of normative changes related to ethics regulation. By doing so, the debate on unethical conduct moves away from the notion of *punishing more and more those who have committed crimes* to the notion of *developing more and more a culture of honesty in decision-making*, which is a priority to citizens. Second, more than finetuning penal laws and creating new crimes to address *market* types of corruption, for which there is wider consensus in society, it is necessary to focus on improving ethics regulation and the management of *legal/institutional* and *parochial* forms of corruption in decision-making, since those are the dimensions of the phenomenon in which legal boundaries remain ambiguous and elite-mass judgements are discrepant. The idea is to go beyond a *what not to do* logic (always emphasising what is prohibited and punishable by law) and into a *what is socially valuable to do* logic (emphasising the demand for greater honesty in decision-making). Third, regular integrity assessments and channels to report unethical conduct within political institutions should be considered. This inevitably leads to another development: clarifying ethical boundaries in politics is not just an exercise of self-consciousness but an institutional regulatory

policy. Political institutions under fire — parties, parliaments, and governments — should take up the responsibility and be more proactive in setting ethical standards for their members and putting in place the necessary institutional framework to oversee and enforce those standards.

We are aware of the limitations of the study, and, albeit significant, our results need to be read with caution. The first limitation is that citizens often have a distant relationship with politics and probably have never been engaged in any of the situations depicted in our scenarios. They formulate an opinion based on their moral frames, constructed by processing and evaluating different sources of information. In some cases, information is acquired by direct experience, but in general, individuals rely on mediated information with different degrees of reliability. The information outlet each citizen values most varies from one person to another. That said, the fact that individuals have never been in situations where corruption might have occurred does not exclude them from voicing their opinion and moral judgement, regardless of its consistency. Moreover, the hypothetical situations used in scenarios are often anonymized real-life situations reported by the media, with which the citizens can relate. The second limitation is that the choice of corruption scenarios is not neutral — because participants had to relate them to concrete situations that might put together a panoply of conditions that could affect individuals' perceptions and produce unintended consequences in the analysis of the results obtained. As Allen and Birch (2012: 94) pointed out, there are a series of factors endogenous to the scenarios that are likely to affect the findings, such as: the type of individuals involved (elected, appointed or public officials); the type of payoffs involved (pecuniary or non-pecuniary, small, or large); and the nature of the outcomes (positive or negative externalities). Finally, the last limitation is that it is not easy to have a high population coverage when approaching the political elite to ask about sensitive topics. Therefore, it is necessary to keep in mind that our results represent a *picture* of the level of integrity in Portuguese politics, but like any other picture, it is never a perfect representation of reality. Further investigation is needed to explore in detail what was presented in this chapter, and a valid possibility could be to replicate this exercise in other jurisdictions and repeat this exercise with a certain regularity to see if patterns evolve or repeat over time.

Chapter 4
Political Ethics Regulation: conceptual framework

In this Chapter, we move away from insider and outsider perceptions about ethical standards and the reputational risks associated with unethical conduct in political life to focus on what efforts have been made internally — at the party, parliamentary, and governmental levels — to mitigate such risks. We provide a conceptual framework to analyse these developments by focusing on three conceptual components of political ethics regulation — norms, oversight and enforcement — and discuss three types of regulatory models — command and control, self-regulation, and meta-regulation.

4.1. Understanding Political Ethics Regulation

4.1.1. What is Regulation?

Definitions of regulation abound in the literature but, in short, it can be mainly defined as the "intentional use of authority that affects the behaviour of a different party" (Black, 2001: 19), through rules or standards of behaviour backed up by sanctions or rewards, aimed at achieving public goals (James, 2000: 327). In other words, regulation is composed of three fundamental and interdependent aspects (Hood et al., 1999; Hood et al., 2004; Parker and Braithwaite, 2003, Morgan and Yeung, 2007, Lodge and Wegrich, 2012):

- *Standard-setting*: definition of norms/rules for target agents
- *Oversight:* gathering information and evaluating whether the norms/rules in place are adequate and sufficient and if their compliance is effective
- *Enforcement*: ensuring that those norms/rules are enforced and appropriated by the target agents through either dissuasive measures and sanctions, or proactive measures and incentives, leading to behaviour-modification.

There are different modes of regulation, depending on the context in which they occur. The most common regulatory models are self-regulation, incentive-based regulation, market-based mechanisms, and command-and-control. *Self-regulation* often involves a group of stakeholders, which designs its own rules and then supervises and enforces them on its members. Regulations models based on *incentive* or the *market* are similar, as both seek to change the behaviour of stakeholders through a logic of penalties (for bad behaviour) and rewards (for good behaviour). However, the former is defined by public authorities and the latter by the *natural* rules of the market. *Command-and-control* is the imposition of standards supported by legal sanctions if the standards are not respected. The legislation defines and limits certain types of activity or enforces some actions. Standards can be set through laws or regulations issued by non-majoritarian bodies with a certain degree of independence, which are empowered to define what the rules are.

Literature on regulation has primarily focused on markets and the behaviour of private stakeholders. Governments define regulations to set policy objectives and fix market failures, to which firms respond rationally by modifying their behaviour. Public authorities have at their disposal instruments that enforce such regulations on privately owned firms, namely licence attributions, fines, and fees, which can ultimately dictate the fate of those stakeholders. Regulation within the state is more challenging, as public agencies and political bodies have fewer incentives to comply with regulations set by other public bodies, and non-compliance has fewer costs (Konisky and Teodoro, 2016). Regulators are also "likely to enforce regulations less vigorously against public agencies than against private firms because such enforcement is less effective and more costly to the regulator" (idem). Black recalls that the standards and their enforcement depend on the relational distance and explains that the more socially close those who enforce rules are to those to whom the rules apply, the more unlikely it is that draconian formal law enforcement can take place (Black, 1976).

Moreover, when addressing regulation within the state, another fundamental distinction needs to be made between the regulation of the bureaucratic apparatus and the regulation of political institutions, namely the executive and the legislative branches. Ethics rules have been placed on public services. Bureaucracies are under the control of their political principals (Wilson and Rachal, 1977; Black, 1976), namely governments, and despite the above-mentioned challenges, rules are more easily enforced. Political institutions, however, are less likely to accept external regulation, as they are elected and accountable to voters and/or their representatives. As Wilson and Rachal explain, whereas the private sector cannot refuse the authority of the state, there is the problem of a public agency accepting being regulated by another agency: "Inside government, there is very little sovereignty, only rivals and allies" (Wilson and Rachal, 1977: 13). Regulation within the state can be "various types of oversight aimed at securing probity or ethical behaviour on the part of the elected and appointed public officials, for example, over the conduct of appointments, procurement, other uses of public money or facilities, conflict of interest issues over second jobs or work after public service. Such oversight ranges from the special prosecutor appointed by Congress to check on the probity of the US president to various forms of ombudsman and ethics-committee activity" (Lodge and Hood, 2010: 592).

In the context of political ethics, how are these regulatory regimes understood and applied? Reluctance to accept the so-called *command-and-control regulation*, i.e., imposed by an external authority, has left political institutions governed by a traditional system of ethics self-regulation, in which ethics rules were minimal and administered by elected officials or political parties themselves. Contrary to other types of regulation, the adoption and implementation of ethics regulatory regimes are ultimately in the hands of those subject to regulation. And because it imposes tangible restrictions and potential losses to a specific set of key players in exchange for diffused and uncertain systemic gains, like trust or the quality and endurance of democracy, the level of success depends primarily on a credible commitment on the part of the officeholders.

Yet, the scope of what can be considered *self-regulation* can range from any rule imposed by a non-governmental actor to a rule created and enforced by the regulated body itself. Freeman, for instance, refers to

"voluntary self-regulation as the process by which standard-setting bodies [...] operate independently of, and parallel to, government regulation and with respect to which governments yields none of its own authority to set and implement standards" (Freeman, 2000: 831), while Gunningham and Rees (1997: 364) conclude that "no single definition of self-regulation is entirely satisfactory". The ultimate ethics self-regulation is the one solely reliant on the individual's conscience without external rules, monitoring or enforcement. The individual, whether an MP or a party official, is the regulator of their own behaviour and is only accountable to their voters.

A third way is a *meta-regulation* regime, where self-regulation and command and control meet halfway. As defined by Parker and Braithwaite (2003), meta-regulation can be "the interaction between government regulation and self-regulation". As Hunter explains, the state oversight of self-regulatory arrangements is when external regulators impose or incentivize the regulated to come up with self-regulatory measures (Hunter 2006: 215). This is common, for instance, in whistle-blower protection, which demands companies to create their own protection systems. Or, as it will be further explored, when political parties are forced by law to adopt internal disciplinary instruments.

4.1.2. What is Political Ethics Regulation?

Political ethics regulation is divided into the above-mentioned categories. The criminal or administrative laws that penalise corruption and other offences committed in office and the judicial enforcement of those laws fall into the category of the command-and-control model. Some of the rule-makers (members of parliament) are some of the rule-takers. However, oversight and enforcement are fully externalised, leaving no responsibility for politicians to enforce rules and sanction their peers.

The regulatory mechanisms that are set up within political institutions fall into the category of self-regulation. These are usually disciplinary measures defined by peers. There is, however, a third way that has gained importance in the past few years, which, according to the regulation literature, could be called a meta-regulation model. In this case, the rule-takers within the institution define the ethical norms, but the oversight and/or enforcement are entrusted to external bodies.

The growing demand for efficiency, accountability and transparency, and some degree of credibility deficit, has led political actors and institutions to review and adjust their prescribed norms, oversight and enforcement to ensure that the actual conduct by officeholders corresponds to what is expected from the public. From this perspective, many countries have adopted more comprehensive policy frameworks to regulate political ethics since the 1970s. Countries responded to this through a complex mixture of internal and external regulations and supervision governing the ethical conduct of individual and collective political actors. Three trends can be identified:

1. There has been a significant expansion of the legislative framework regulating political ethics in most European countries, in particular over the last 20 years, coinciding with the establishment of GRECO's review mechanism and the adoption of the UN Convention (Dávid-Barret 2015).

2. Regulatory frameworks have evolved considerably over the years, and "they are much more elaborate and intrusive than in the past" (Juillet and Phélippeau, 2018).

3. Setting norms for individual and collective political actors through dedicated legislation has been the easiest part of this regulatory process, whereas establishing a sound supervision framework to enforce those norms has proved daunting in many countries.

Reforms have been triggered by the combination of domestic and international drivers. At the domestic level, media scrutiny and scandals, the emergence of new political players, increased issue politicisation, and a more interventive role of the judiciary in this domain. And at the international level, the significant role played by international governmental organisations (such as the OECD, OSCE, COE, Interparliamentary Union, and the EU) and non-governmental organisations (such as Transparency International, Global Integrity, IDEA and rating agencies) in promoting, advocating and persuading national governments to adopt a series of reforms in this domain.

4.1.3. On the path dependence approach to political ethics regulation

Saint-Martin's path dependence (historical institutionalism) approach to ethics regulation starts with the following puzzle: if more ethics regulation were always "driven by the erosion of public confidence in politics, one would expect that countries facing a problem of decline in public trust would have all converged towards systems of ethics regulation that include at least some form of external or independent involvement" (Saint-Martin, 2006: 8).

Cross-country evidence shows that this has not always been the case. Some countries have gone through the same scandals and faced the same declining levels of public trust, and yet neither have we seen a shift towards more regulation, nor have these countries followed the trend (in fact, Saint-Martin claims they have resisted the trend).

The path dependence approach has a point: regulatory options made in the past feed back into contemporary politics and constrain policy responses to emerging problems. That said, we cannot discard two facts: first, there is a general mood towards more ethics regulation (so that the judgement of what is right or wrong is not left to individual consciousness); second, there is growing external pressure for efficacy (visible results), regardless of the institutionalisation path of ethics regulation across countries.

Institutional legacies are important. An ethics regime's reputation for being effective is something constructed over time. A good record in disciplining members' ethical conduct will help consolidate written and unwritten norms and conventions and enhance public trust in the system. That said, things can go wrong at some point. Norms and acceptability of those norms may become less consensual and shared among officeholders, which may lead to an erosion of public confidence in self-regulation. Since political officials decide which regulatory regime they want, they may resist external pressures for reform for a while, but not without political consequences. Once the general mood towards ethics regulation has changed, resisting the tide may prove politically costly. That said, some finetuning may occur

without changing the mode of regulation. The system's capacity to resist external pressure and restore trust through minor incremental changes depends on how successful the ethics regime has been in the past. In other words, path dependence may help explain resistance to change, and in particular to externalisation, if it is supported by a strong record of enforcement.

Therefore, Saint-Martin is right in saying that "policies also remake politics" (2006: 8). In other words, ethics regulation impacts social actors' perceptions about the efficacy of the ethics regime. If, on the one hand, the regime conveys a message of rectitude, i.e., that the highest standards are upheld at all times, this feeds back on public trust. If, on the other hand, the regime conveys a message of slackness, *self-servitude and anachronism* (Williams 2002), then social actors will believe that the system is unable to police their own agents.

Although public perceptions towards ethics regulation are never positive, some are more negative than others. The benefits that people derive from ethics regulations are indirect: it is done for the good of democracy. Ethics regulation starts from a sceptical assumption about politics: that all power corrupts and, therefore, some rules and mechanisms are needed to police "powerful and greedy" politicians (Dobel, 1993; Schneider & Ingram, 1997).

Historical institutionalism only explains part of the process. Normative, mimetic, and coercive institutional isomorphism, is also important to explain this move towards increased ethics regulation and externalisation, or at best, towards hybrid models of oversight and enforcement. In fact, there are countries (e.g., Sweden) resisting increases in regulation, but the reputational costs of not acting in conformity with what has become a "norm" put them in a position of outliers, with specific paths of institutional development that are not replicable in other countries.

Political agents have some degree of autonomy to decide whether they want to maintain or change the system, make minor incremental adjustments or radical innovations, give the impression that things are changing through the creation of new bodies whilst maintaining control over appointments and resource allocation, or take reform seriously and lose the ground. If the standing regime has a good record in disciplining the ethics of its members, political agents have a firmer ground to resist externally imposed demands or trends. If, on the contrary, the regime is perceived as ineffective, there is a high probability that political agents will be more exposed to external pressure and want to be seen doing something about it. Depending on how much pressure is exerted and how relevant that pressure is to political support, political agents will make a more credible or a shallower commitment towards reforming ethics regulation.

To cut the argument short, history matters to the current outcome, but only to the extent that political agents are aware that the path on which they are is producing visible results or, at best, is reassuring social actors that the system is effectively policed. In other words, ethics regulation processes only become self-reinforcing over time or, at least, offer a firmer ground for political agents to resist path-shifting changes when there is a good record of enforcing conduct norms. Where ethics regulation is systematically perceived as ineffective, political agents are more exposed to external pressure for change. Unless they are truly committed to path-shifting changes, the likelihood is that reforms will remain shallow, with little visible

results, thus generating less confidence in the system and feeding into a vicious circle of policy churn (Monios, 2016).

There is also a normative fallacy in the current trends in ethics regulation. Experts, consulting industries and international review mechanisms have pushed towards more written rules (formalisation), proscribed conducts (prohibitionism) and externally enforced ethical standards (externalisation) based on the belief that these processes enhance public trust by depoliticising the process of ethics regulation. Depoliticising the process of ethics regulation by giving the appearance of being more impartial has its drawbacks: external institutions may not be as impartial as it seems on paper; they may lack the capacity or have their powers poorly framed. In short, they may be toothless. The push towards the externalisation of enforcement may make political agents less responsible for regulatory outcomes. If things do not work, it is not their fault, even if they have not provided external bodies with the necessary conditions to work efficiently.

4.1.4. Who is regulated?

Regulating ethics for parliaments, executives and political parties, although being political institutions, is not the same thing due to the nature of each institution and the variations among political systems. Parliaments, for instance, are the ultimate rule-makers, with powers to regulate other public and private institutions (Kaye, 2003), which, in the case of political ethics regulation, makes MPs simultaneously rule-makers and rule-takers (Streeck and Thelen, 2005: 13) in many areas, namely political funding, conflict of interest, financial declarations, salaries and expenses.

Parliaments are key decision-making institutions in democratic systems; thus, the governance of a country will benefit from high levels of trust in parliament (Holmberg, Lindberg, and Svensson, 2017). The regulation of parliamentary behaviour and ethics standards is essential to guarantee public trust in the transparency, effectiveness, and impartiality of parliamentary — and democratic — decision-making, as well as to promote a culture that favours public interest over private interests.

Hence, parliaments play a key role in upholding the highest standards of integrity in political life, not only because they have legislative supremacy — including in areas such as ethics regulation, in which they are both the "rule makers" and the "rule takers" — but also because they are equally responsible for providing and exercising control over the cabinet, including inquiring into the misconduct of its members, and exercising disciplinary powers.

Opportunity structures for corruption and misdemeanour in parliament have grown in the past decades due to a combination of factors that led to increased interactions with third parties, namely: the rise of the regulatory State and intense production of laws and regulations; the increase of lobbying firms and activities; the possibility of accumulating several offices, jobs or mandates; and the decline in the popularity and visibility of national representative functions. One of the major difficulties in regulating ethics in parliament is that MPs, or any elected official, are temporary officeholders whose permanence in office depends upon (re)election. Hence, it is difficult to make them accept and guide their conduct by the same ethics principles and impose credible sanctions to clear conflicts of interest in a continuum, i.e., before and after holding office.

Governments are expected to model, oversee, and enforce integrity standards for everyone in the cabinet. Ministers and junior ministers are the most visible officeholders; hence they have the potential to cause the most reputational damage. However, they are not necessarily the most exposed to integrity risks. Other less visible cabinet members, such as staff and advisors, are often more exposed to financial impropriety and influence peddling and may cause considerable damage to the government's reputation for integrity. It is crucial that cabinets set specific norms, mechanisms, and processes of ethics regulation for their members and that the Prime Minister is seen supporting and upholding compliance with those norms.

Risks of exposure are likely to increase when decision-making processes are transparent. These processes become more transparent when officeholders are required to disclose their assets, interests, gifts and hospitality, set lobbying registers and make government proceedings and agenda information available for public consultation. The risks of exposure can also increase with the creation of codes of conduct and guidelines to manage apparent, potential, and real conflicts of interest in office. Clarifying norms of (un)acceptable behaviour also has the advantage of reducing the excuses for not knowing how to act. That said, norms are always limited and selective representations of a complex and ever-changing reality; hence their dissuasive effect is always patchy. When norms are not sufficiently clear or simply non-existent, officeholders should ponder how a given conduct or practice would be perceived by their peers and from outside because the ultimate self-regulation is the capacity to understand that a certain conduct or action in office may damage the reputation of the invested office and/or cause grievance to third parties with a claim in a particular process.

Certain conducts and practices by Ministers and other cabinet members in the discharge of duties that used to be tolerated or mildly disapproved of are now considered unacceptable. This is particularly the case with a series of conflicts of interest. Ethical standards governing cabinet offices have changed because expectations about those standards have also changed. Today, not only are citizens demanding higher standards for the rule of law, but they are also less tolerant towards the unequal or biased distribution of benefits under the law (Greene, 1990: 244).

Political parties, for instance, are private law entities. They can be ruled like any other regulated entity, i.e., the rule-maker is not necessarily the rule-taker. This is particularly true for parties without parliamentary representation or with minimal representation. They cannot influence regulations defined by the parliament but are directly affected by political financing laws and indirectly affected by parliamentary rules and electoral laws. On the other hand, parties are not subject to pressures coming from outside their political group/tribe. In other words, parliament is a collection of political groups with different voting weights and political views, while political parties are more homogeneous groups.

4.1.5. What is regulated?

Ethics regulations can cover a different array of aspects of a politician's conduct. When examining the ethics regulations of parliaments, Kaye mapped three types of regulatory spheres to which MPs were subject to: partisan, institutional and personal (Kaye 2003). The first sphere relates to MPs' obligations toward their political party, namely, respecting the party's ideology, opinions and votes. The personal sphere relates to sexual, financial and other

personal conducts. The institutional sphere, which is more directly related to the concept of ethics considered in this article, refers to parliament's etiquette, the relationship with peers, the use of funds allocated by parliament to political work, conduct during service and representation and conflicts of interest.

Kaye's taxonomy can be roughly applied to the executive and political parties, particularly in the case of conflicts of interest between the office duties of public officials and their private-personal or professional interests. One of the most regulated aspects is when the private interests of an individual are not, in any way, compatible with their public office duties. These regulations act at three levels: when taking office, while in office and after leaving office. They set up a kind of barrier to private interests/activities before officeholders take office (incompatibilities); they proscribe officeholders from engaging with private interests/activities while in office (impediments); and they restrain officeholders from taking certain jobs or activities in the private sector, for a designated period, when they leave office (post-employment restrictions). There are also other regulated domains once an individual takes office, namely, interest and assets declarations; conflict between the individual's public duties and private interests that may arise while in office but do not necessarily impede the wholesome of the public functions; contacts with thirds parties, i.e., lobbying, gifts and hospitality; use of allowances and expenses; use of funds and public facilities for political and private activities; and political and electoral funding. However, while there are examples of regulations addressing each of these domains, this does not mean that all domains are regulated in cases (countries and institutions) that have set up rules of any kind nor that all domains are regulated in the same form. In other words, some domains may be ruled by hard laws, such as political funding, and others by soft law instruments, such as codes of conduct, as further explained in the following section.

4.1.6. Which instruments are used?

Norms are the standards and rules to which regulatees are subject. They may vary across political traditions and institutions and also in form, content and scope of application. Norms can simply be a set of ethical principles and standards guiding the conduct of officeholders, widely known as Codes of Ethics. The "Nolan Principles" — selflessness, integrity, objectivity, accountability, openness, honesty and leadership — are most possibly the milestone of political ethics standards, which ended up informing not only the ethics reform in the British parliament but also inspiring subsequent ethics regulations elsewhere (Dávid-Barret, 2015).

Standards and principles require more detailed rules of conduct that translate them into practice, although they always go hand in hand. Formally, these rules may be inscribed in general criminal and administrative laws (which do not fall within our concept of self-regulation nor address the daily activities of officeholders), in the rules of institutions and organisations' procedures and standing orders, in codes of conduct or in resolutions. More often than not, ethics norms are spread out in this mesh of different forms of regulation. Some are legally binding or a simple charter of principles, with more or less detail on the regulation of behaviours. Some can simply address issues such as conflicts of interest. And others are larger in scope and can regulate dress code or language use, conduct outside parliament and in social media, contacts with third parties or include clauses

to prevent other socially unacceptable behaviours, such as sexual harassment.

A third set of instruments includes interest registers and asset declarations. Certain types of interests may not be deemed incompatible with office but may, at some point, raise real or potential conflicts with the activities of an officeholder. Hence, officeholders can be asked to declare information about their assets, income, and interests.

In some contexts, ethics rules are in place without oversight and enforcement mechanisms. However, theory suggests that rules are more effective when there is a high probability of detecting and punishing violations (Becker, 1968; Klitgaard, 1988). The absence of such mechanisms would risk making the norms "lions without teeth". Some regulatory regimes do not include this dimension, they only have rules that are expected to guide the conduct of officeholders but leave it to them to comply with such rules. As previously explained, at an initial stage of response to corruption scandals and public outcry, many political bodies have responded by drafting norms and transparency instruments. They ended up being insufficient to change behaviours and avoid new controversies, as they relied solely on the officeholder's conscience, without external supervision. So, in a second attempt to deal with misdemeanours, there was an explosion of the so-called *ethics bureaucracies*.

Over time and due to scandals, an increasing number of parliaments adopted more complex rules to govern the conduct of elective officials and oversight was delegated to more or less independent bureaucratic agencies known as ethics regulators (Bolleyer et al., 2018; Saint-martin, 2009). As Saint-Martin (2009: 9) explains, this marked the beginning of the institutionalisation of a field of expertise in parliamentary ethics. A process punctuated by tensions and conflicts because, in a more independent regulatory system, bureaucrats are the ones making decisions on compliance with the rules of ethics that apply to elected officials.

4.1.7. What regulatory approaches are used?

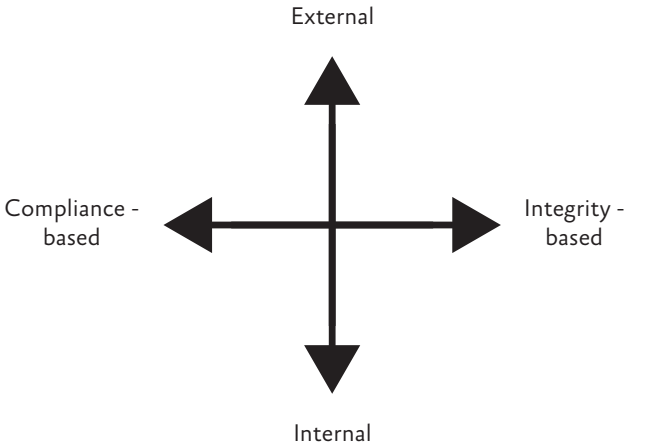
The way different components of an integrity management system, with their different levels of enforcement, are designed and put together will have a different impact on the relationship between the regulators and the regulated (Heywood, 2015). The literature distinguishes two major approaches to ethics management (OECD, 2016): a compliance-based approach and an integrity-based approach. Most countries tend to embark on compliance-based responses applicable to all players on a top-down basis by externalising oversight and enforcement functions. In addition to external legal frameworks, oversight, and enforcement, parties, parliaments, and cabinets have also adopted a series of self-regulatory measures, such as internal codes of conduct and disciplinary bodies, in recent years.

Building on Dobel's two dimensions of integrity — the legal-institutional and the personal-responsibility dimensions (Dobel, 1999), Blomeyer (2020) talks about *Parliamentary Integrity Systems* (PIS), which he considers a type of institution. The legal-institutional dimension refers to integrity as compliance, with clearly defined rules on avoiding conflicts of interest, the disclosure of private interests, and acting according to the institutional values of parliament. The personal-responsibility dimension requires MPs to deal with conflicts of interest with understanding and personal ability to judge the adequate

course of action (Blomeyer, 2020: 562-3). Others have conceptualised conflict of interest regulation by dividing it into two dimensions: legal mechanisms to prevent certain situations (namely bans and incompatibility rules) or those focused on disclosing situations (such as transparency requirements) (Matarella, 2014). Taking stock of this conceptualisation (Bolleyer et al., 2018; Bolleyer and Smirnova, 2017), three elements of conflict of interest (COI) regimes have been identified: COI strictness, COI sanctions, and COI transparency. *COI Strictness* captures aspects of the regime that increase the likelihood of formal COI violations being officially detected and notified (the strictness of rules and the nature of enforcement). COI Sanctions capture the costs imposed on parliamentarians when COI violations are detected. And *COI Transparency* captures the conditions for third-party control.

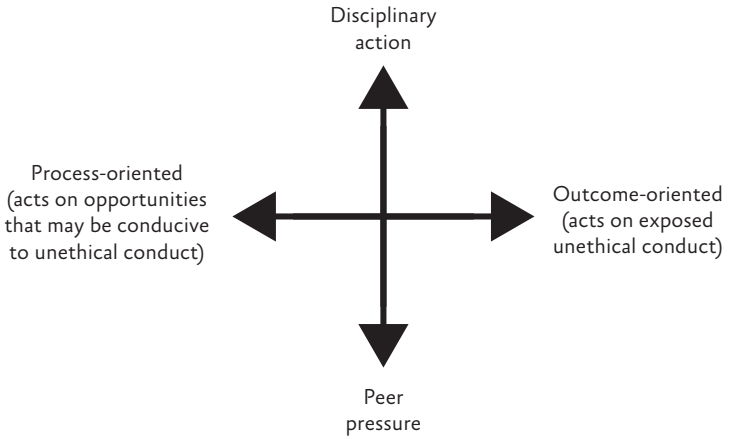
Others have proposed slightly different approaches, according to the locus of ownership — internal vs external — and the type of approach used — compliance vs integrity-based (Figure 12). The literature on academic fraud (McCabe and Treviño, 1993) shows that ethics regulatory methods that emphasise compliance mechanisms and "make salient the us-versus-them nature of the control relationship [...] could contradict and undermine the effectiveness of control methods intended to foster a sense of shared responsibility" (Lange, 2008: 711) and the internalisation of the values associated with ethical behaviour.

Figure 12 Approaches to ethics regulations in politics



Control approaches internal to the organisation can also be classified in terms of their orientation — outcome vs process-oriented (Figure 13), (Marchand Simon, 1958; Ouchiand Maguire, 1975). This approach attempts to influence the conduct of its members through the promise of future rewards or punishments or the proactive monitoring of the members' conduct prior, during and after exercising office, "with the goal of ensuring that individuals are acting in the organisation's interest" (Lange, 2008: 712), resorting to different transmission channels (Johnson and Gill, 1993; Ouchi, 1979), i.e., by transmitting the ethical standards through formal, disciplinary channels or through peer pressure.

Figure 13 Approaches to ethics regulation within political institutions



4.2. The drivers of regulation

4.2.1. Misdemeanours and scandals

Scandals involving political officials or institutions have been the main drivers of ethics regulation and have required the establishment of legal remedies, new forms of transparency requirements, compliance rules, and registers (Bolleyer et al. 2018; Dávid-Barrett 2015). Various cases illustrate this conclusion, namely, France, the United Kingdom and even Portugal. Yet, many European regimes have realised that increased transparency may not have been sufficient to eliminate political corruption. Thus, in a second regulatory wave, several parliaments have responded to new scandals — many related to abuse of power, corruption or influence-peddling — by adopting *codes of ethics* or *codes of conduct*.

In the UK, the 1994 *cash for questions* scandal, in which some MPs were accused of having accepted payments in exchange for raising particular questions in parliament, prompted the setting up of the Committee on Standards in Public Life and the subsequent drafting of a parliamentary code of conduct for MPs and Lords.[20] In 2011, the *cash for amendments* scandal involving Members of the European Parliament (MEPs) led the European Parliament to rewrite its code of conduct and the Austrian parliament to regulate lobbying (Bolleyer, 2018:131).[21] In recent years, in France, there has also been an evident increase in the number of ethical reforms that touched upon problems of various natures, among others, integrity, conflict of interest and abuse of public funds. The reforms were prompted by a series of scandals, the most notorious one being the Cahuzac affair, involving a minister accused of money laundering and fiscal fraud.

Portugal has not avoided political corruption and conflict of interest scandals either, nor did it escape the need to address them by reforming its ethics regulations. In 2016, in the aftermath of a controversy over a second job of an MP and former Minister, an ad-hoc committee for transparency in public life was set up in parliament with the task of reforming ethics regulations. While this was the case that led to the creation of the committee and its work on ethics reform, the door had been opened by a series of previous misdemeanours, including the alleged bribery of a Prime-Minister (de Sousa and Coroado, 2022).

4.2.2. Democratisation and policy diffusion

Another key driver of the spread of ethics regulation was the international democracy promotion movement, through which international organisations suggested a few instruments to recent democracies, such as codes of conduct and lobbying regulations, as part of anticorruption packages (Dávid-Barrett, 2015). A significant number of soft law instruments promoted standards of conduct for democratic institutions, as summarised in Table 6.

Table 6 International Law Instruments and Standards of Conduct

1996	The United Nations General Assembly adopts a "model international code of conduct for public officials" as a tool to guide efforts against corruption.
1997	The CoE adopts the Guiding Principles for the Fight against Corruption, which include number 15, "to encourage the adoption, by elected representatives, of codes of conduct [...]" (Council of Europe, Committee of Ministers, 1997). 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.
1999	The CoE Criminal Law Convention against Corruption obliges states to ban active and passive bribery of domestic public assemblies. The CoE establishes the Group of States Against Corruption (GRECO) to monitor compliance with anti-corruption standards and further the Guiding Principles. CoE Recommendation 60[c] of the Congress of Local and Regional Authorities on the political integrity of local and regional elected representatives includes a code of conduct as an appendix, providing guidance on how to carry out daily duties in accordance with ethical principles and take preventive measures to reduce the risk of corruption.
2000	The Parliamentary Assembly of the CoE Resolution 1214 attests to growing international consensus on the necessity of a disclosure mechanism for members' interest as a minimum in regulating parliamentary conduct.
2005	The 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".
2006	The OSCE Parliamentary Assembly Brussels Declaration sets out recommendations for regulating the professional standards of parliamentarians.
2010	CoE Resolution 316 (Council of Europe, 2010) of the Congress of Local and Regional Authorities focuses on the risks of corruption and emphasises the importance of promoting a "culture based on ethical values".
2012	GRECO's Fourth Evaluation Round is launched, focusing on Corruption Prevention concerning MPs, Judges and Prosecutors.

Source: (Dávid-Barrett, 2015)

The adoption of these regulatory instruments imposed or promoted by several international organisations — such as the OECD, the OSCE and the Council of Europe, paired with the periodic reports issued by the EU, namely, the European Semester, the Anti-corruption report and the most recent Rule of Law report — created a wave of policy diffusion across countries. In other words, governments tend to benchmark practices in other countries when dealing with similar challenges.

4.3. Dimensions and indicators of political ethics regulation: norms, oversight, and enforcement

As the literature on regulation recalls, regulatory regimes are based on three dimensions: norms, oversight, and enforcement (Table 7), which can be directly transposed to the realm of ethics regulations, whether we are talking about command and control, self-regulatory or meta-regulatory regimes.

Table 7. Political ethics regulation: dimensions and indicators

Dimensions	Indicators
Norms	- Existence of ethics rules - Form of ethics rules (codes of conduct, standing orders, criminal laws, other) - Subjects of the rules (MP, cabinet members, party officials, advisors, staff, and third parties) - Scope of the rules
Oversight	- Existence of an oversight body - Composition of the body - Powers - Scope of oversight
Enforcement	- Existence of an oversight body - Composition of the body - Powers - Scope of enforcement

4.3.1. Norms

Norms are the standards and rules to which regulatees are subject. They may vary across political traditions and institutions, as further developed in subsequent chapters, and also in their form, content, and scope of application.

Norms can simply be a set of ethical principles and standards guiding the conduct of officeholders, widely known as Codes of Ethics. The "Nolan Principles" are most possibly the milestone of political ethics standards, which ended up informing not only the ethics reform in the British parliament but also inspiring subsequent ethics regulations elsewhere (Dávid-Barret, 2015). Resulting from the *cash-for-questions* scandal and the setting up of the Committee of Standards in Public Life, in 1995, in the British parliament, the seven Nolan Principles are: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Standards and principles require more detailed rules of conduct that translate them into practice. Formally, these rules may be inscribed in general criminal and administrative laws (which do not fall within our concept of self-regulation nor address the daily activities of officeholders), in the rules of institutions and organisations' procedures and standing orders, in codes of conduct or in resolutions. Often, ethics norms are spread out in this mesh of different forms of regulation. Some are legally binding or a simple charter of principles, with more or less detail on the regulation of behaviours. Some can simply address issues such as conflicts of interest. And others are larger in scope and can regulate dress code or language use, conduct outside parliament and in social media, contacts with

third parties or include clauses to prevent other socially unacceptable behaviours, such as sexual harassment.

Norms can address a significant number of issues, such as ex-ante and ex-post incompatibilities and impediments, conflict of interests, gifts and hospitality and contacts with third parties. For instance, codes of conduct set out guidelines for the behaviour of officeholders in their daily activities and in their relationship with their peers, voters, the public administration and third parties. Other instruments to control real and potential conflicts of interest are incompatibility and impediment rules. These rules set out the situations in which the private interests of an individual cannot be, in any way, compatible with his or her public office. They set up a kind of barrier to entry before officeholders take office (incompatibilities) and what officeholders are banned from engaging with once in office (impediments).

A third set of instruments includes interest registers and asset declarations. Certain types of interests may not be deemed incompatible with office but may, at some point, raise real or potential conflicts with the activities of an officeholder. Hence, officeholders can be asked to declare information about their assets, income, and interests.

Finally, ethics norms may target different individuals. While the main targets are the actual officeholders, be they members of parliament, cabinet members, such as ministers and junior ministers, or party officials, norms may also target advisors and other staff, third parties, such as lobbyists, or party members in general.

4.3.2. Oversight

While there is a relatively extensive body of literature on the norms, less attention has been paid to the oversight and enforcement dimensions of ethics regulation in politics, despite the significant increase in the number of *ethics bureaucracies* (Allen, 2016). The problematic aspect is that the rule-makers of these soft law instruments were also the rule-takers. In other words, in the first wave of ethics regulation, lawmakers were — at least partly — regulating themselves, which raised suspicion and doubts about impartiality, fairness, and accountability.

Oversight refers to gathering information on compliance with the norms and rules in place. Some regulatory regimes do not include this dimension, they only have rules that are expected to guide the conduct of officeholders but leave it to them to comply with such rules. In fact, it is possible to have ethics rules in place without these mechanisms. However, theory suggests that rules are more effective when there is a high probability of detecting and punishing violations (Becker, 1968; Klitgaard, 1988). Thus, regardless of the nature of the ethics regime, i.e., whether it is compliance or disclosure based, it should be complemented by oversight and enforcement. The absence of such mechanisms would risk making the norms "lions without teeth".

Over time and due to scandals, an increasing number of parliaments adopted more complex rules to govern the conduct of elected officials and oversight was delegated to more or less independent bureaucratic agencies known as ethics regulators (Bolleyer, et al. 2018; Saint-Martin, 2009). As Saint-Martin (2009: 9) explains, this marked the beginning of the institutionalisation of a field of expertise in parliamentary

ethics. A process punctuated by tensions and conflicts because, in a more independent regulatory system, bureaucrats are the ones making decisions on compliance with the rules of ethics that apply to elected officials.

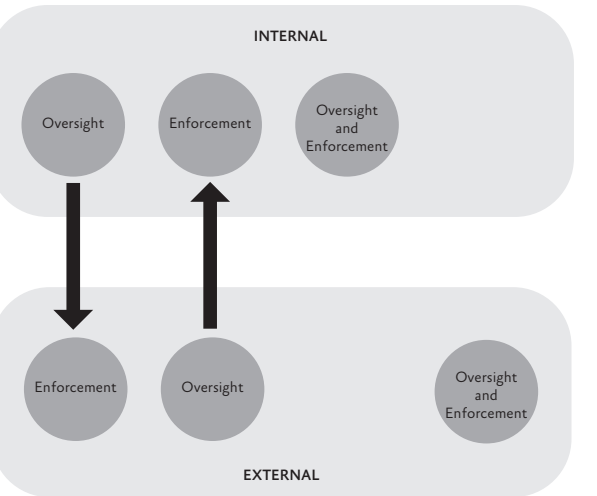
Oversight bodies are responsible for supervising compliance with the norms, but their scope of action, powers and institutional design may take many forms. As described in the norms section, ethics rules address various aspects, from interest and asset declarations to gifts and hospitality. Thus, there may be single *super oversight bodies* overseeing compliance with all the norms or a combination of bodies, each dedicated to a certain type of norm. The powers of oversight bodies may also vary: they may be proactive and initiate investigations on their own; or they may have to wait for a complaint that triggers action; they may be allowed to collect evidence from outside the institution (in the media, for instance), conduct inquiries and request the assistance of other bodies, such as tax authorities, or none of that the above. Regarding the institutional design, three models are in place:

- Internal oversight by peers, which has raised suspicions over impartiality, as explained above.
- Internal oversight managed by a bureaucrat in the institution (for instance, the highest-ranking public servant in parliament).
- External oversight, i.e., oversight by an administrative or judicial body, which is organically and formally independent from the overseen institution.

4.3.3. Enforcement

Enforcement is, first and foremost, dependent on the existence of sanctions and penalties prescribed in hard law and soft law instruments, i.e., in the norms. Penalties for infringement have not always been foreseen, especially on matters regulated by soft instruments, such as codes of ethics and codes of conduct. When prescribed, sanctions may be of disciplinary, administrative or criminal nature, which has a defining impact on the institutionalisation of the oversight. In the first wave of ethics regulations in politics, when in place, enforcement belonged to courts, who would judge the criminal or administrative offences. But, as new ethics self-regulatory instruments emerged and expanded, enforcement also entered the disciplinary realm and became no longer exclusive to the judicial pillar.

Figure 14 Oversight and Enforcement Models



Rule enforcement is also deeply linked to the oversight dimension, but it is not necessarily dependent on it. Different models exist and coexist. Figure 14 displays the different combinations between the two functions. In models 1 and 2, oversight and enforcement are autonomous. In the case of model 1, oversight belongs to a body internal to the overseen institution, while enforcement is external. This is typically the case when a disciplinary body conducts a preliminary examination but transfers the enforcement responsibilities to judicial courts. In the second model, the placement of the two functions is inverted. Oversight is external, usually belonging to an autonomous administrative body that holds investigative powers and may issue recommendations, but the final say on possible penalties relies on the institution, frequently the parliament or the PM, based on the oversight. In other cases, enforcement may coincide with oversight when the regulatory bodies are the same. Once again, the function may be internal or external to the supervised institution. The former case may be illustrated by parliamentary ethics commissions that hold both oversight and enforcement powers. In contrast, the latter case may be represented, for instance, by all-encompassing anti-corruption agencies or, in the case of incompatibility and impediment rules, the Portuguese Constitutional Court.

Chapter 5
Mapping political ethics self-regulation across Europe: political parties, parliaments and executives

In Chapter 5, we provide a comprehensive mapping of political ethics self-regulation measures adopted in all EU27 Member States plus the UK, at the party, parliamentary and governmental levels, identifying and discussing trends and good practices.

5.1. The importance of ethical standards to political institutions

Political parties, parliaments and governments are the core political institutions of representative democracy (Groop, 2013) and, for that very same reason, attract more public attention, for good or bad reasons. Political institutions can be defined as an ensemble of "rules, compliance procedures and standard operating practices" that structure the relationship between political officeholders and citizens (Hall and Taylor, 1996). They are largely responsible for socialising individuals into politics, providing their members with the necessary political skills and moral templates on how to discharge their duties, and enforcing those standards of conduct to their members.

Why is it relevant for political institutions to set and enforce ethical standards on their members? From an organisational perspective, whenever power is delegated, there is always a risk that individuals selected to run for office, speak and make public commitments on behalf of the party and hold office may jeopardise the underlying trust. If integrity risks are not systematically examined and addressed internally by political institutions, as well as by external actors, they are likely to manifest themselves through multiple financial, organisational and reputational damages to the actors involved, their peers, host institutions, and politics in general.

From an individual perspective, setting the tone at the top helps to consolidate "the *moral values* and ethical codes that sustain co-operative and public interest inspired strategies within public and private organisations" (Della Porta and Vannucci, 2005). If people begin to believe that their leaders and the political institutions to which they belong are untrustworthy and that their vision and expectations of politics are unrealistic, they feel cheated, disheartened, and indignant (Morrison, 1994), giving room to political cynicism. When the moral references in a contractual relationship have been forfeited, the individual becomes cynical and more willing to accept corruption as a norm (Abraham et al., 2020: 2). Therefore, clarifying and upholding ethical standards within political institutions is quintessential for democratic governance.

In a context where the conduct of political actors has become increasingly scrutinised, sometimes blurring the public-private divide, integrity (and the reputation for integrity) has become a prominent value to the performance of political institutions in a democracy at all levels — from the selection of candidates to the drafting of legislation, to policy making (Huberts, 2018). The media has played

a major role in this qualitative transformation of democratic politics by investigating and covering in detail allegations and breaches to the standing ethics regulations (Sabato, 1991). Whether it has done so with a genuine interest in investigating and reporting facts in a truthful, objective, impartial and responsible manner, or it was simply looking to sell headlines with the newest revelations of serious wrongdoing by political officials is something worth exploring in future studies. The reality probably lies somewhere in between. What we do know is that the media has been as concerned about reporting new cases of misconduct and covering new developments in the field of ethics regulation. Ethics regulation offers a yardstick for guiding (and distinguishing) media approaches to political integrity: covering breaches of rules, legislative omissions or the poor performance of oversight and enforcement bodies "is not the same as covering unsubstantiated rumours about political officials" (Rosenson, 2006: 149).

Although reported scandals involving political officials and/or institutions have been one of the major drivers of ethics regulation in recent years (Bolleyer et al., 2018; Dávid-Barret, 2015), the media has not been the sole responsible for this moral shift in democratic governance. Increased polarisation and the use of the accusation of unethical conduct as a political weapon; the entry into play of new *integrity warriors*, such as anticorruption NGOs with a pro-good governance agenda; the emergence of populism and the electoral appeal of the anti-elitist rhetoric; the eruption of social networks, the thirst for sensationalism and the subsequent reduction of reserved spaces in politics; and pressure from international organisations through their implementation review mechanisms and compliance reports have also contributed to this increased concern about ethical standards in politics.

Because laws and codes of conduct and their institutionalisation are supposed to reflect a democratic society's ethics, their breach is expected to be met with public disapproval. In practice, this is not always the case. The conduct, publicly exposed and judged, may purposely or inadvertently fall outside the scope of regulation. Political sympathy or proximity with the wrongdoer also blurs judgements. For that reason, political integrity is as much about the legal/formal norms clarifying what is right and wrong as the more informal norms and expectations that are relevant for judging a given conduct in the discharge of public duties (Huberts, 2014).

As discussed in Chapter 5, unethical conduct in office may take different forms and will be judged differently by political officeholders and the public in general. Some are regarded as more damaging to the personal and institutional reputation than others. A key challenge for any democratic government is to ensure that standards of conduct in office meet changing public expectations. This is by no means an easy task. There is no single approach to do it effectively. Instead, a wide range of strategies and measures have been prompted. Some are kneejerk reactions to emerging scandals and disclosed occurrences. Others are adopted as part of a damage control strategy, i.e., reducing and preventing risks of impropriety to avoid having to deal with reputational damages at a later stage.

Ethics regulations are often adopted or reviewed in reaction to scandals. As a result, rules are developed: (1) in response to specific occurrences/conduct, hence more focused on exposed unethical

conduct and with little preventive applicability;
(2) without much attempt to link them to basic constitutional norms and the enforcement capacity of oversight bodies and, therefore, easily contested or hardly complied with at all; and (3) with added complexity, not necessarily with an incremental logic, but simply in a clumsy manner with limited foresight and, therefore, missing the broader picture of what ethical regulations are intended for (Moinos, 2016).

According to Greene, two constitutional principles should be considered when adopting ethics regulations: the rule of law, which is a process-oriented principle, and impartiality, which is an outcome-oriented principle (Greene, 1990: 234). The principle of impartiality can be discerned from social equality, which means that officeholders should not allow their concerns to play any role in their deliberations. In other words, the exercise of public functions should be regarded by others as unbiased. The rule of law principle is that public officials may only exercise the authority entrusted to them by laws and "apply it even-handedly" (Greene, 1990: 234).

The principle of impartiality is expected from political officials in their policy-making, regulatory/legislative and administrative (applying the law) capacities. Three key properties/attributes of impartiality ought to be safeguarded (Greene, 1990: 234):

- *Financial gain*: political officials shall not be in a position in which they may gain financially from the discharge of their duties
- *Favouritism*: political officials shall not put themselves in a position whereby they could favour or give the impression that they could favour people who are currently or were recently closely associated with them; and
- *Bias*: political officials shall not express views which indicate that they cannot reasonably be expected to apply the law even-handedly.

Certain conducts and practices in the discharge of political office that used to be tolerated or mildly disapproved of are now considered unacceptable. This is particularly the case with a series of conflicts of interest and undue influences over political actors that skew resources and policies away from the common good, undermining democracy (Etzioni, 2014).

Ethical standards in politics have changed because expectations about those standards have also changed. Today, not only are citizens demanding higher standards for the rule of law from their political actors and institutions, they are also less tolerant towards the unequal or biased distribution of benefits under the law. By adopting and implementing ethics self-regulations, political institutions are not only reacting to growing public concern but also responding to changing social values (Greene, 1990: 244). In addition, it became obvious that unwritten and customary rules of etiquette had fallen or were being interpreted in widely divergent ways, leading to unresolvable internal disputes over what standards ought to be upheld in the discharge of duties. Clearly, there is a tendency for codification and compliance-based approaches to integrity management in politics.

5.1.1. Setting the tone at the top

The literature on corruption control and integrity management often sees *integrity in leadership* as a requirement to fight political corruption, improve ethical standards in the political sphere and restore levels of trust in political institutions.

A leader who combines integrity and competence is a highly valuable asset to a country's reputation, internally and externally, and, over time, tends to be more effective than those leaders who disregard ethics of process to achieve desirable policy outcomes. Sacrificing transparency, impartiality and even legality for the sake of results is a moral trade-off that often leaves a bitter tab for citizens to pay in the long term.

Besides personal traits, political will (or the lack thereof) is also pointed out as a crucial element in explaining the (un)success of ethics regulation. Other reasons for failure are also discussed in the literature, among others: lack of ownership in the measures implemented (in particular, if they are imposed from outside); failure to institutionalise reforms (adopting norms whilst ignoring their oversight and enforcement); little or no visible results (repeated occurrences and resilient practices); and a high dependence on the effectiveness of external bodies with limited capacity.

Political leaders are responsible for ensuring that the political institutions they lead uphold the highest standards of conduct for their members. Not only do they have the moral obligation to ensure that these institutions fulfil their mission they are also incentivised to do so since political institutions that perform in accordance with ethical standards can expect improved relationships of trust and increased support from citizens. Good institutional performance leads to tangible (reputational) benefits to the officeholders. The doing-well-by-doing-good maxim seems to pay off in politics as it does in the business sector. Maximising support at the expense of ethics is not wise because one dynamic feeds the other. Investing in the ethical performance of political institutions pays off in the medium and long run. The opposite, however, is more frequently observable: de-investing in ethics and ignoring the ringing bells may cause irreparable damage to the legitimacy of democratic institutions.

Risks of exposure are likely to increase when decision-making processes are transparent. These processes become more transparent when officeholders are required to disclose their assets, interests, gifts, and hospitality, set lobbying registers and make government proceedings and agenda information available for public consultation. The risks of exposure can also increase with the creation of codes of conduct and guidelines to manage apparent, potential, and real conflicts of interest in office. Clarifying norms of (un)acceptable behaviour also has the advantage of reducing the excuses for not knowing how to act. That said, norms are always limited and selective representations of a complex and ever-changing reality; hence their dissuasive effect is always patchy. When norms are not sufficiently clear or simply non-existent, officeholders should ponder how a given conduct or practice would be perceived by their peers and from outside because the ultimate self-regulation is the capacity to understand that a certain conduct or action in office may damage the reputation of the invested office and/or cause grievance to third parties with a claim in a particular process.

In recent years, political institutions have adopted a series of self-regulatory measures, such as codes of conduct for their members, and some have set specific bodies to oversee and enforce those standards (Hine, 2006; Dávid-Barret, 2015). The literature has also covered, in a scattered manner, the nature and quality of corruption control policies and the reasons why these have systematically failed to deliver (Johnston, 2005; Mungiu-Pippidi, 2006; Batory, 2012; Amundsen, 2006; Persson et al., 2013). However, little has been said about these developments internal to the core political institutions of representative democracy. There are a series of legal and institutional innovations within the core political institutions of representative democracy that still need to be accounted for.

In this Chapter, we will map ethics regulation developed and implemented internally by political parties, parliaments and governments and identify possible trends. We will be looking primarily at how these political institutions have set ethical standards for their members and what disciplinary mechanisms have been put in place to oversee and enforce those standards, contributing to a better understanding of integrity management in politics.

5.2. Ethics self-regulation within political parties

As described in Chapter 2, during the last decades, European political parties have consistently recorded the lowest share of trust in most cross-national surveys, regardless of a country's party and electoral systems (CSPL, 2014: 20-21). Low trust in parties has coincided with an increase in scandals associated with the financial probity of parties, party officials and designated candidates, and a poor record in clarifying what those standards should be and how they ought to be enforced.

Political parties, for instance, are private law entities. They can be ruled like any other regulated entity, i.e., the rule-maker is not necessarily the rule-taker. This is particularly true for parties without parliamentary representation or with minimal representation. They cannot influence regulations defined by the parliament but are directly affected by political financing laws and indirectly affected by parliamentary rules and electoral laws. On the other hand, parties are not subject to "pressures coming from outside their political group/tribe". In other words, parliament is a collection of political groups with different voting weights and political views, while political parties are more homogeneous groups. Regardless of the size and status of political parties, the impact of state regulations on their internal functioning means that parties are transforming into public utilities that are indispensable for democracy.[22] Given their centrality, there is growing national and international concern about the need to set guidelines for the public accountability of political parties[23].

In response to mounting public opinion pressure, in fulfilment of legal obligations or as an effort to comply with international standards, some political parties have recently engaged in a series of intra-party reforms "to restore public confidence in political forces and the whole democratic system as well as a precondition for real accountability and responsibility" (Venice Commission, 2010: 23). Codes of conduct/ethics (CCE) have been increasingly adopted by many political parties. Ethics regulation in political parties follows a trend also seen in other organisations in Sweden, with more emphasis on introducing formal ethics instruments to uphold or improve integrity in organisations over time. For example, the use of ethics codes was also uncommon in public sector organisations until recently (Svensson, Wood, and Callaghan, 2004; Svensson and Wood,

2009). Moreover, cases of unethical or unwanted behaviour on social media have raised issues of conduct in parties and led to the development or amending of existing ethics codes. The *#MeToo* movement accentuated issues of sexual harassment, and unwanted conduct in society at large and how (male) power has been used to cover up or suppress these situations from being reported and sanctioned (neglecting the interest and well-being of the victims in favour of the reputation of organisations or powerful perpetrators).[24] Politicians involved in sexual harassment cases were found to have breached their code of conduct.[25]

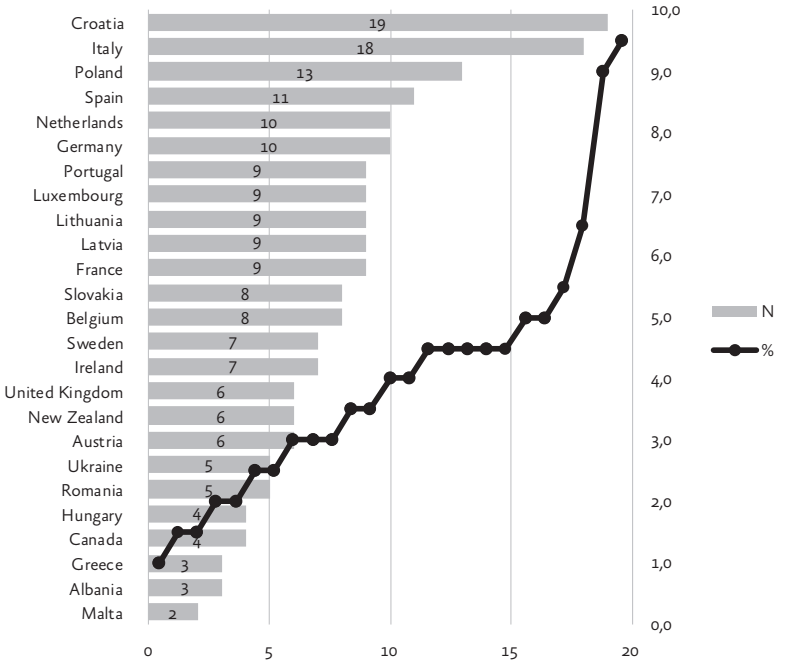
Internal conflict resolution bodies have seen the scope of their disciplinary competencies broadened to cover aspects related to the ethical conduct of their members, and new ethics committees have been created and inserted into party statutes/constitutions. As much as other intra-party reforms, CCE is important to generate public legitimacy. As institutionalists argue, the performance of institutions and the conduct of officeholders can be fair or unfair, impartial or biased, honest or corrupt. Therefore they "function as important signals to citizens about the moral standard of the society in which they live" (Rothstein and Stolle, 2008: 446).

Since most corruption scandals that broke out in the last decades have, to some extent, involved political financing and impropriety by elective officials (see, for instance, Williams, 2000; Smilov and Toplak, 2016), it is vital to examine the mechanisms and processes through which parties define and impose ethical standards on their members and officials. The extent of this ethics regulatory reform across political parties in European countries is yet to be assessed, as well as the different models, instruments, and processes and the factors that explain possible variations. This section offers an overview of regulatory efforts in political parties.

5.2.1. Measuring party ethics regulation

This section takes stock of the Party Ethics Self-Regulation (PESR) database, which gathers data from an expert survey on ethics self-regulatory instruments and processes within political parties. In turn, The PESR database builds on the widely known and most complete Political Party (PPDB) database (Poguntke et al., 2016). The PESR database offers information on 200 political parties in 25 countries (21 European countries plus Albania, Canada, New Zealand and Ukraine) available in 2020 (Table 8). These parties include most or all of those who had gained seats in the lower houses of their respective national parliaments at that time. In the case of electoral coalitions, only the largest member was considered. The number of parties per country varies considerably due to the nature of each party system. In Malta, for instance, there are only two parties in parliament, while Croatia and Italy have almost twenty parties.

Figure 15 Political Parties per Country in the Party Database (Total Number and percentage per country)

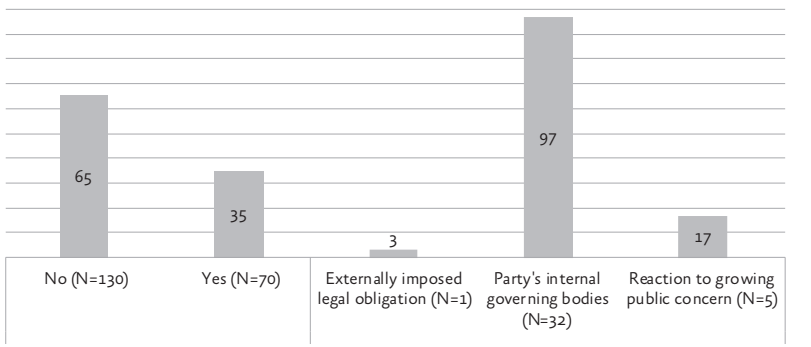


The conceptual roadmap on the indicator's choice was built on three core components of the regulation introduced in chapter 4, i.e., norms, oversight, and enforcement. Thus, the database includes sixteen indicators classified into these three core regulation components, describing some of the most important instruments and processes regarding internal party ethics. *Norm-setting* clusters four indicators: whether the party has a CCE; when it was adopted; to whom it applies; and why it was adopted [26]. *Oversight* comprises six indicators: whether the party has an internal disciplinary and/or ethics body; its status within the party's governance structure; which issues fall under its scope of action; its duties; its composition; and the selection process of its members. Finally, *enforcement* is measured along six indicators: whether the party has a dedicated enforcement body; its duties and competencies; the nature of the foreseen disciplinary measures; the procedure for opening a disciplinary proceeding; the communication of decisions regarding disciplinary measures; and the possibility of reviewing decisions. The remaining variables are contextual, such as party family or country.

5.2.2. Norms

The database reveals a strike variation in the presence of CCE within political parties. Out of the 200 parties surveyed, only 70 (35 %) have CCE separate from their statutes and bylaws (Figure 16). In most cases, the decision to adopt CCE followed an internal party decision (97 %) rather than an external or public opinion pressure. However, the lack of a separate formal CCE does not necessarily mean that parties do not care about the ethical behaviour of their members, as most parties have a body that deals with ethics and disciplinary matters.

Figure 16 Existence of a code of conduct/ethics separate from the statutes/bylaws



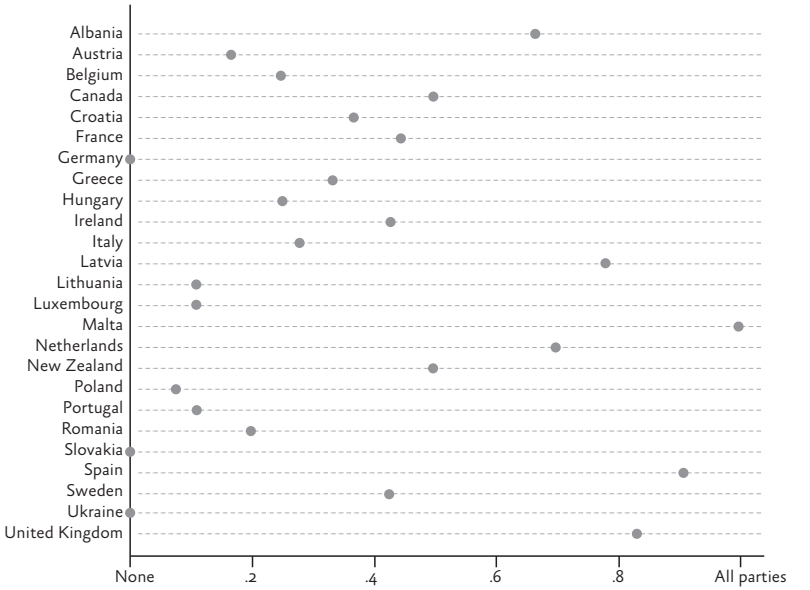
Notes: (Question 6.) Does the party have a code of conduct/ethics separate from the statutes/bylaws? (Q9.) Why was it adopted? Please select all that apply.

Regarding the scope of application of the ethical norms, 70 % of the cases concern more than one type of political actor: first and foremost, the conduct of party members (80 %) and party officials (72 %), followed by party representatives (62 %), party candidates (33 %) and third parties (22 %).

Ideology does not seem to play a role in the adoption of normative instruments. Still, some results are worth highlighting. First, right-wing populist parties and far-right parties regulate less on ethical conduct. No party in the latter category and only four out of 20 right-wing populist parties display such regulations. Second, older parties seem to adhere more to separate ethics regulations than recent ones.

Regarding country variation, New Zealand, Canada, the Netherlands, Albania, Latvia, the United Kingdom, Slovakia and Malta are the ones where more parties regulate ethical issues (Figure 16). In this cluster, more than half of the political parties included in the database have separate formal ethic regulations, which may not only contribute to institutionalising good conduct but also help foster an ethical culture at the party system level. In contrast, in countries such as Austria, Romania, Lithuania, Luxemburg, Slovenia, Ukraine and Germany, there is little, if any, regulation. This cluster is quite puzzling as it includes established but also younger (and more fragile) democracies.

Figure 17 How many parties per country have a code of conduct?



In Spain, ten out of the nine parties observed regulate ethical issues internally, including regionalist parties (e.g., the Galician Nationalist Bloc, the Basque Country Gather), new populist left-wing parties (Podemos), right-wing parties (VOX), and more mainstream parties (the Popular Party and the Spanish Socialist Workers' Party). However, the reason for the almost universality of internal ethics instruments across Spanish Parties lies in the laws that have imposed such regulations in the aftermath of serious corruption and illegal funding-related scandals. Spain is a typical case of ethics meta-regulation, in which the state imposes self-regulatory measures. Besides the legislative changes that finally recognised the criminal responsibility of political parties in 2012, the 2015 amendments to the Political

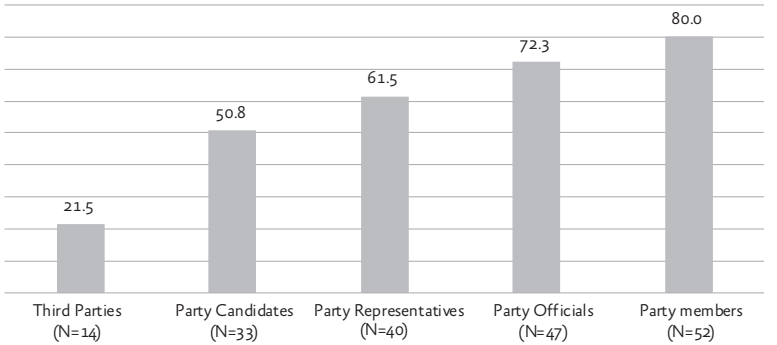
Parties Law — which introduced the legal obligation for parties to have their compliance system (Article 9 bis) — also explain the recent adoption of self-regulation frameworks by parties. Although this obligation does not currently entail any sanction for non-compliance, if parties establish a compliance system, it serves, in practice, as a legal safeguard tool so that political parties can legally avoid or mitigate criminal responsibilities against possible corruption cases among their members. With the implementation of the 2012 legal change, all political parties were found to be at risk of criminal responsibility. It is not a coincidence, especially since 2015, that all political parties (except the PSOE, which had published its ethical code a few months before) have adopted an ethical code or reformed their ethical code or updated the information on compliance mechanisms on their websites to *communicate the minimum elements* required by this provision.

If corruption and political funding scandals led to ethical regulation and self-regulation in Spain, the same cannot be said of France. Few French parties have developed such self-regulatory tools. They are not constrained to do so by the regulations (See Poirmeur and Rosenberg, 2008), despite scandals such as the *Bettencourt Affair* that involved former President Sarkozy.[27] Some party statutes and regulations often vaguely mention integrity. Article 3 of the internal rules of the centre-right *National Rassemblement* party, which deals with the loss of party membership, sets five reasons for expulsion, the fourth of which is "serious breach of probity". Similarly, the centrist *Mouvement Démocrate* party has had an ethical charter based on eleven points, the third of which stipulates that "the *Mouvement Démocrate* is independent of all economic, political or media influence. It is thrifty with public funds. It promotes transparency and balance in public accounts and fights against all forms of corruption".

More often than not, when a political party introduces the issue of ethics, transparency or deontology into their party constitutions, statutes and other internal legal frameworks, these concerns are echoed in the run-up to an election, including a primary election. The goal is not so much to promote public integrity or prevent corrupt political practices but rather to list "the rights and obligations of candidates in this campaign" (*Les Républicains*), "prevent disputes and shape behaviour" (*La République En Marche*), guarantee the "discipline and coherence" of political action or bring together the conditions for an "internal debate" proscribing any "external denigration as incompatible with the commitment" (*Le Mouvement Démocrate*).

Regarding the CCE contents, the data reveal that in 70 % of the cases, the rules concern more than one type of political actor: first and foremost, the conduct of party members (80 %) and party officials (72 %), followed by party representatives (62 %), party candidates (33 %) and third parties (22 %), as per Figure 18.

Figure 18 Officials to whom the CCE applies (as a percentage)



Note: (Q8) To whom does the code of conduct/ethics apply? Please select all that apply.

Finally, our analysis does not suggest that the presence or absence of CCE varies significantly across party family or party age. Still, some results are worth highlighting. First, right-wing populist parties and far-right parties regulate less on ethical conduct: no far-right party out of the seven included in our sample has CCE, and only four out of 20 right-wing populist parties display such regulations. Second, older parties seem to be overrepresented in the group of parties that have CCE, while recent ones are overrepresented in the group that does not have CCE. In other words, parties with CCE are, on average, 39 years old, while those without CCE are around 32 years old. This somewhat contradicts the idea that younger parties would, tendentiously, be more open to adopting CCE than older parties.

5.2.3. Oversight

As public entities, parties are equipped, to different degrees, with mechanisms and bodies responsible for tackling internal ethical issues, even if they do not have a CCE separate from their statutes and bylaws. As Figures 19 and 20 show, despite the scarcity of ethics rules, most political parties have bodies that are responsible for internal disciplinary matters or dispute resolution (87 %; N=174) and internal ethics management (54 %; N=108). The overwhelming majority of bodies with oversight responsibilities are permanent (Figure 21), with their sizes varying from less than five members (N= 42), between 6-10 members (N=29) and more than 11 members (N=21).

Figure 19 Existence of a body responsible for internal disciplinary matters or dispute resolution resulting from the application of its statutes/bylaws

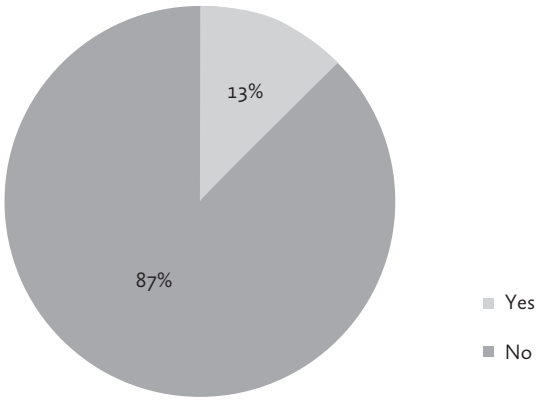


Figure 20 Political Parties Oversight Model

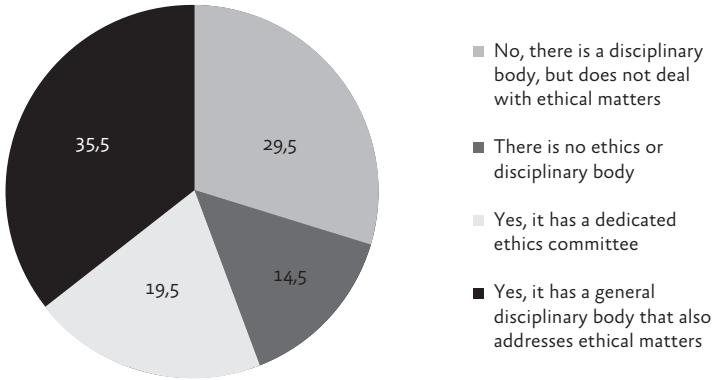


Figure 21 Statute of the oversight body

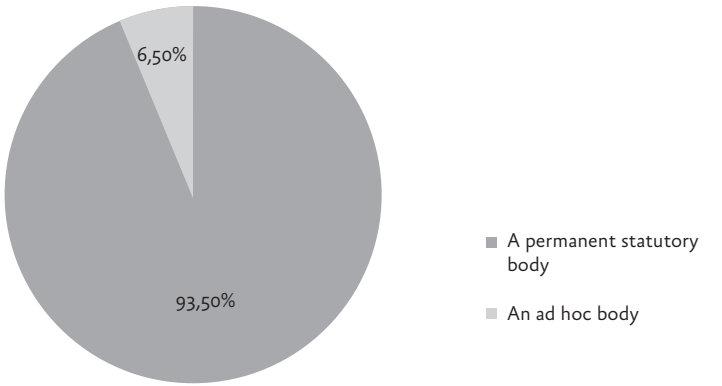
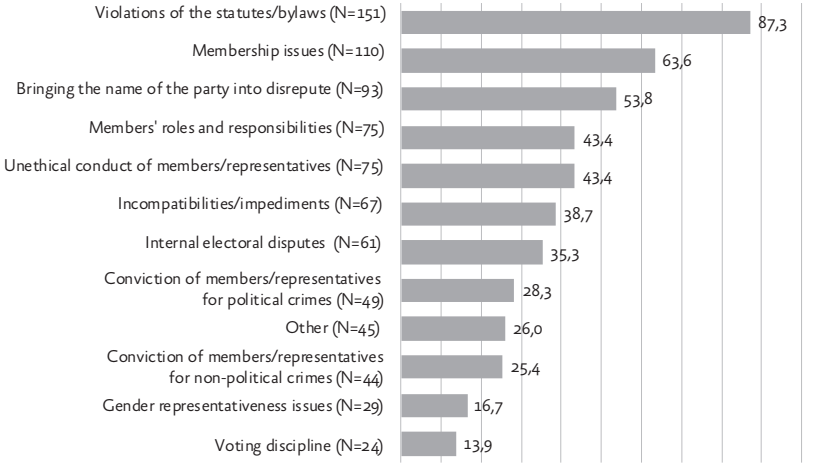


Figure 22 Issues covered by the disciplinary body



Notes: Q31 Which issues does this internal disciplinary body address? Please select all that apply.

The issues more regulated by the internal disciplinary bodies include violations of the statutes/bylaws (87.3 %), membership issues (63.4 %), bringing the name of the party into disrepute (53.8 %), members' roles and responsibilities (43.4 %) and unethical conduct of members/representatives (43.4 %). Whereas the least regulated issues relate to voting discipline, gender representation, and conviction of members for political and non-political crimes.

Results from the database analysis suggest that different party families lean towards different internal bodies. Leftist parties' stronger emphasis on discipline tends to push them towards adopting bodies responsible for tackling internal disputes/affairs. Whereas centre parties, which are generally the governing parties, and more resourceful and exposed to public critique, are more inclined to adopt ethics management bodies.

In France, given the scarcity of tools and the weakness of rules promoting ethical conduct, it is hardly surprising that political parties do not display more developments on the control side. Still, at least four parties have established ethics bodies, although the public information available in these bodies is often scant. Generally speaking, the composition of these bodies, as well as their missions and actual work, remain largely unknown and unscrutinised. Sometimes, names are specified. In most cases, these bodies appear to be held by elected officials and professionals who are sympathetic to the party. Therefore, the autonomy of these structures is hardly developed.

In Sweden, oversight relies mostly on indirect control mechanisms combined with the frameworks of the respective party, which decides the appropriate norms and what happens when they are broken. With this as a basis, it is much up to various branches of the party, members, and media to react, complain or report violations, with which the party can subsequently deal. All parties have specific bodies that receive and handle such complaints (often the party board or an affiliated body). So, in this respect, the system does not emphasise entrusting certain bodies with the task of systematic oversight. These firmly established channels have also been complemented by more recent innovations. And although we are currently processing our data on this, we can mention a few. For example, several parties have established whistleblowing mechanisms, mostly dedicated to sexual harassment cases and, to a lesser extent, to unethical behaviour.

5.2.4. Enforcement

Numerous disciplinary measures can be applied against the misconduct of party members /representatives (Figure 23). The strictest but also the most frequent form of sanction is expulsion from the party (89.2 %), followed by temporary suspension from membership or office (71.1 %), formal warning (64.7 %) and reprimand (50 %). Countries with stricter rules include Austria, Ireland, New Zealand and Hungary, to name a few examples (Figure 24). However, in some cases, the expulsion from the party is the only form of sanction, as it happens in almost all Swedish parties, except for the Greens, which also foresees the suspension of a party member.

Figure 23 Disciplinary measures that can be applied to the misconduct of a member/representative

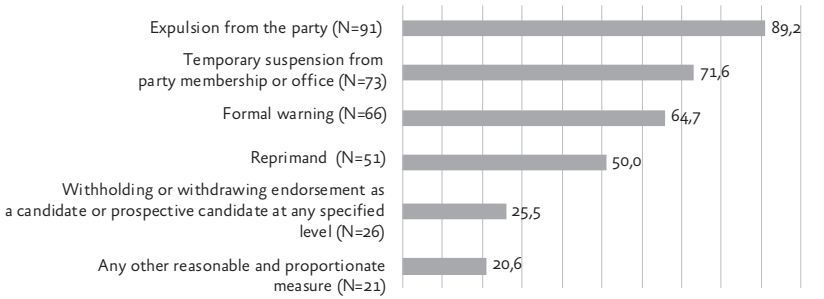
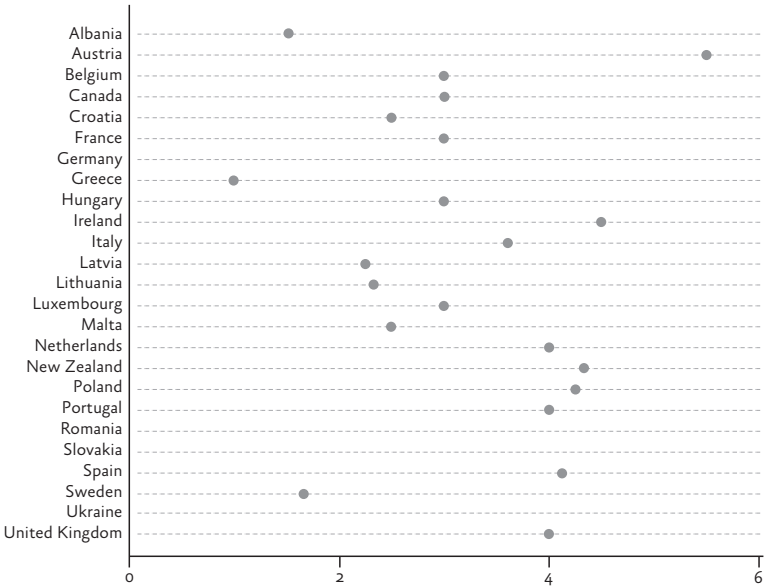


Figure 24 Disciplinary framework (average number of measures per country)



Note: (Q14) Which disciplinary measures can be applied to the misconduct of a member/representative? Please select all that apply.

On the contrary, in France, informal warnings regarding the conduct of certain party members and/or officials are frequent and might even have been applied from time to time before the adoption of codes of conduct. While party officials have been brought to court due to serious offences on matters related to the internal disciplining of party ethics, most actions have been symbolic so far. Hence, it is hard to assess if the adoption of new codes of conduct and ethics committees represents a critical juncture and will play any meaningful role in that process in the future. There is indirect evidence suggesting a generalised mistrust towards internal ethics regulation among party elites, particularly at the right of the political spectrum.

We find some statistically significant differences between party families and the average number of disciplinary measures contemplated in the regulations. While Liberals and Greens stand below the average (3,3), all other groups, particularly Left Socialists (3,9), Right-wing populists (3,6) and Far-right parties (3,7), stand above the average. These somewhat surprising results are in line with studies that explored the relationship between the main party families and intra-party democracy (Poguntke et al., 2016), particularly those showing that the Socialist family had a stronger emphasis on party discipline and stronger resilience to participatory forms of decision making.

5. 2.5. Conclusion

Perceived as public utilities and thus indispensable institutions for democracy, parties have faced higher pressures to conform to ethical standards, transparency and public accountability. This is crucial to restoring the connection with the citizens and elevating parties and the elite's public image.

The PESR dataset offers a new and first insight into how parties regulate ethical issues. We find that while a minority of parties have CCE, the great majority has internal bodies responsible for dealing with disciplinary matters/conflict resolution and ethics management. Some variations found in the data are explained by party family. Left Socialists are more likely to have both CCE and internal bodies that deal with disciplinary and ethical issues. By and large, Radical Right Parties are the family where those kinds of norms and regulations are more absent. In terms of party age, we do not find a clear division in the ethical regulation of younger versus older parties.

This section is essentially based on the analysis of statutes and raises some hopes and fears. It offers an initial mapping of existing ethical regulations, which is relevant because no single study has carried out this work and because formal institutions set the rules of the game — i.e., they make decisions and set the courses of action for political actors. However, we are aware that more research is needed to investigate how these regulations are actually implemented and, more importantly, if the implementation of these regulations helps build public trust in the political system.

5.3. Ethics self-regulation in parliament

Parliaments are key decision-making institutions in democratic systems; thus, the governance of a country will benefit from high levels of trust (Holmberg, Lindberg, and Svensson, 2017). The regulation of parliamentary behaviour and ethical standards is essential to guarantee public trust in the transparency, effectiveness, and impartiality of parliamentary — and democratic — decision-making, as well as to promote a culture that favours public interest over private interests.

Hence, parliaments play a key role in upholding the highest standards of integrity in political life, not only because they have legislative supremacy —, including in areas such as ethics regulation in which they are both the "rule makers" and the "rule takers" — (Streeck and Thelen, 2005), but also because they are equally responsible for providing and exercising control over the cabinet, including inquiring into the misconduct of its members and exercising disciplinary powers.

Opportunity structures for corruption and misdemeanour in parliament have grown in the past decades due to a combination of factors that led to increased interactions with third parties, namely: the rise of the regulatory State and intense production of laws and regulations; the increase of lobbying firms and activities; the possibility of accumulating several offices, jobs or mandates; and the decline in the popularity and visibility of national representative functions. One of the major difficulties in regulating ethics in parliament is that MPs, or any elected official, are temporary officeholders whose permanence in the office depends upon (re)election. Hence, it is difficult to make them accept and guide their conduct by the same ethical principles and impose credible sanctions to clear conflicts of interest in a continuum, i.e., before and after holding office.

It is not surprising that the growth in the number of ethics and conduct regimes in many parliaments in the last two decades has also resulted in the adoption of new mechanisms for overseeing and enforcing regulations. Studies on the nature of ethics regulatory regimes — compliance vs integrity or transparency vs sanctions — abound. However, this literature has two important gaps in the study of parliaments. The first is mapping the three types of oversight/enforcement and their degree of externality from parliament. As explained in Chapter 4, Greg Power has identified three different models of enforcement and regulation, namely: internal regulation by the parliament; external regulation by a judicial body; and the creation of an independent commissioner who reports to a parliamentary committee (Power, 2000). The questions yet to be addressed are how frequent each of the models is and which countries opt for one instead of the other. The second gap relates to the robustness of the ethics regulatory regime. Regardless of the externality of the oversight and enforcement or the nature of

the regulatory regime, it is important to analyse the extent to which the regime in place has the necessary powers and formal independence to perform its oversight and enforcement obligations adequately and whether the norms are ample enough in terms of subjects and issues covered.

Hence, we have built an *Ethics Regulation Robustness* index (Table A2) and applied it to the parliaments of the British and the EU Member States. The mere existence of regulation says little about how strong its three dimensions are. For instance, norms may exist, and they may be more focused on transparency or compliance but only cover a reduced scope of conflicts of interest or a small number of officeholders. Similarly, an ethics body may exist but have a limited mandate or no enforcement powers. The concept of regulation robustness or strictness, already applied in other areas, such as lobbying (Opheim, 1991; Newmark, 2005; Chari et al., 2010, Holman and Luneburg, 2012; Chari et al., 2018), should also be applied to ethics regulations. Hence, we propose that the *robustness of the ethics regulations be the level of norms, oversight and enforcement of the ethics rules*. Robust ethics regulation provides established and encompassing rules, functioning oversight and enforcement capacity. For instance, norms can be part of a parliament standing order or be a simple resolution. The oversight body may have the power to initiate investigations on its own or only at the parliament's request. Sanctions might range from a simple reprimand to the loss of mandate.

5.3.1. Norms

National constitutions and several laws related to conflict of interest and asset declarations for political and public officeholders are frequent in most European countries (ODIHR, 2012). In fact, many parliaments do not have codes of conduct in place. They only rely on professional standards that exist in the mesh of laws, including their own rules of procedure and standing order (ODIHR, 2012).

Parliaments have different instruments to regulate the various aspects of MPs' conduct at their disposal. These include codes of conduct or codes of ethics, which set out guidelines for the behaviour of MPs in their daily activities and in their relationship with their peers, voters and third parties. Codes can vary significantly in form and content. Some are legally binding or a simple charter of principles, with more or less detail on the regulation of behaviours. Some can simply address issues such as conflicts of interest. And others are larger in scope and can regulate dress code or language use, conduct outside parliament and in social media, contacts with third parties or include clauses to prevent other socially unacceptable behaviours, such as sexual harassment.

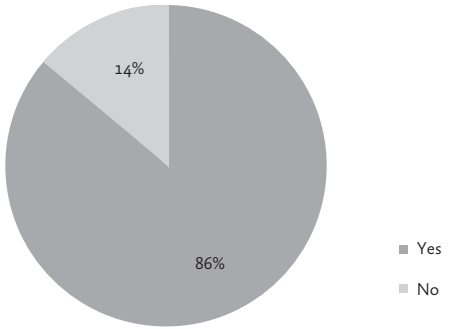
Other instruments to control actual and potential conflicts of interest are incompatibility and impediment rules. These rules set out the situations in which the private interests of an individual cannot be, in any way, compatible with their public office. They set up a kind of barrier to entry before MPs take office (incompatibilities) and what MPs are banned from engaging with once in office (impediments).

The third set of instruments includes interest registers and asset declarations. Certain types of interests may not be deemed

incompatible with the office but may, at some point, raise real or potential conflicts with the activities of an MP. Hence, MPs can be asked to declare information about their assets, income, and interests.

When mapping the regulatory landscape of European parliaments, the first query we tried to answer was *whether parliaments had a legal framework in place setting ethical standards to govern the performance of official duties or the discharge of official responsibilities of Members of Parliament.*

Figure 25 Share of EU countries with Ethics Rules in Parliament



We found that 86 % (25) of the countries analysed have ethics regulations of some kind. Only one Scandinavian country and two Central and Eastern European Countries have no ethical framework in place. In the Transparency International 2020 Corruption Perceptions Index, these countries ranked as follows: 1 — Denmark; 69 — Bulgaria and Hungary, the top scorers and the bottom scorers, respectively.[28]

Figure 26 EU countries with Parliamentary Ethics Regulations

Besides the aggravated criminal offences applicable to political officeholders, the integrity of MPs is ruled by: parliamentary codes of conduct (15 countries); the general law that governs the functioning of the parliament, which includes provisions that address the ethical conduct of MPs (15 countries); or, less frequently, a simple parliamentary resolution (4 countries). The combination of two or three of these instruments is in place in nearly half of the cases, each dedicated to different areas of regulation. For instance, gifts and hospitality are usually regulated by codes of conduct.

The selected case studies illustrate the varieties among ethics regulatory documents. In Spain, an all-inclusive new Code of Conduct for Congress and Senate, approved by consensus (except for the extreme right-wing party Vox) in October 2020, regulates several areas: assets and interest declarations, conflicts of interest, gifts and hospitality, and meetings with interest groups.[29]

In France, at first, the code of conduct for members of the National Assembly was only a list of principles. The rules regarding declarations and their enforcement were included in a decision of the Bureau concerning ethics regulation.[30] The two last articles were added in January 2016, following the adoption of Law No. 2013-906 and No. 2013-907 on transparency in public life (see Section 1.1.4), a subsequent reform of the Assembly's internal rules in 2014, and the *déontologue*'s (see Section 1.2) suggestion to revise the code in 2015 (Melin-Soucramanien, 2015). In France, the code of conduct is not accompanied by guidelines, as is the case in Britain and Sweden. Instead, article 8 of the Code allows members of the Assembly to consult the *déontologue* (ethics commissioner) with their questions and concerns. Parliamentarians need to declare gifts whose value exceeds €150, but this register is separate from that of their interests and assets. The French code of conduct also provides for the possibility of depositing gifts. Declared gifts of an unusually high value can be stored and sold by the National Assembly at the end of the legislature (Melin-Soucramanien, 2015).

In Portugal, ethical obligations are distributed among three different types of documents. Incompatibilities, assets and interest declarations are ruled by laws dedicated to political officeholders[31]. The parliament's Standing Orders govern the management of MPs' conflicts of interest. And the 2019 parliamentary Code of Conduct addresses the rules for gifts and hospitality

5.3.2. Oversight and enforcement

In recent years, many countries have established comprehensive legal and institutional frameworks to regulate the ethical conduct of MPs and, where applicable, Cabinet members, including the adoption of codes of conduct, specific guidelines to fulfil the code and a body entrusted to oversee and enforce these rules and procedures. Parliamentary ethics bodies are a public trust and, therefore, are expected to act in the public interest at all times. They must be trusted by citizens in the discharge of their duties, but they also have to be trusted by the subjects and objects of ethics regulation: the parliamentarians. Whereas independence is vital to secure citizens' trust, impartiality is key to their mandate's success in the eyes of parliamentarians.

In general, there are three main models of oversight and enforcement of ethics rules in parliaments. The first relies entirely on external regulation, such as the one used in Taiwan. The second relies solely on regulation within the legislature itself, as the one practised in the USA. The third combines an external investigative commissioner with a parliamentary committee to enforce sanctions, as the one adopted in the UK and Ireland.

The first model involves the creation of a judicial or quasi-judicial body that oversees and enforces the regulations on parliament members, i.e., *there may be an internal ethics oversight body (a collegial or a single person)*, but *the enforcement of sanctions is handled by the courts or other law enforcement bodies external to the parliament*. The difficulty in this model for many parliaments is that it makes any breaches of the regulations subject to criminal proceedings and, therefore, may

interfere with the provision of any rules relating to parliamentary immunity. In addition, since it is an externally enforced regime, parliamentarians have little sense of ownership of the provided principles and rules. If the regime is seeking the collective acceptance of its provisions, it might make sense to build them more directly into the parliamentary culture.

The second model relies on parliament's self-regulation, i.e., there is an internal ethics management body (a collegial or a single person) *dedicated exclusively to ethics oversight and enforcement*. This system requires the creation of a special ethics committee, which deals with the reporting, investigation and sanctioning of MPs who allegedly violated the rules. However, the model has come in for considerable criticism, as it turns legislators into investigators, judges and juries rather than maintaining them as a body that ratifies a judgement passed by an impartial adjudicator. In addition, if the intention is to ensure or restore public trust in politicians, a model that relies on politicians regulating themselves is unlikely to retain public credibility.

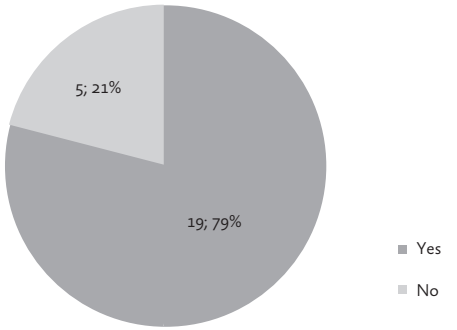
The third model combines elements of the first two. This model involves the creation of an external ethics management body (a collegial or a single person) *with established oversight functions that reports to parliament and shares enforcement responsibilities with an internal statutory body*. The regulator is then responsible for investigating cases and advising members on the application of the rules. However, the imposition of penalties is decided within parliament by a specially convened committee. This has been the model in the UK since the mid-1990s, but it has been criticised for giving too much power to MPs and being too similar to self-regulation. The concern over British parliamentary standards in 2009 led the government to propose a new and entirely independent form of regulation.

The format, mandate and composition of these bodies vary from country to country. They go by different names: ethics committees, ethics commissions, ethics commissioners, integrity office, etc. Most parliamentary ethics bodies advise and assist MPs in interpreting parliamentary rules and procedures, meeting their obligations towards ethics regulations and parliamentary codes of conduct (where applicable) and resolving daily ethical challenges and dilemmas, such as apparent, potential and real conflicts of interest. Independence is the key to the success of these bodies (Fournier, 2009). Transparency is essential to the overall performance of these bodies since they need to report on their work to ensure that they are acting impartially and without external influence, interference, or coercion.

Some bodies, such as parliamentary inquiry committees, have investigative powers. They act upon complaints concerning breaches of ethics laws and conducts that are deemed improper in the discharge of parliamentary duties.

Looking at the European landscape, we enquired *whether there was, among countries with ethics rules in parliament, a designated body or a set of bodies responsible for managing ethical standards governing the performance of official duties or the discharge of official responsibilities of its members.*

Figure 27 Ethics Bodies in Parliament



Nineteen countries, almost 80 % of the cases, have a body or a set of bodies responsible for ethics management. Besides Denmark, Bulgaria, and Hungary that no not have ethics rules in place, parliaments in Cyprus, Finland, Germany, Malta, the Netherlands, and Sweden do not have ethics bodies. It seems that, despite having rules in place, these countries rely on the individual consciousness of MPs for policing their conduct.

Figure 28 EU countries with Parliamentary Ethics Bodies

The third query explores the question: *what models of oversight and enforcement of ethical standards (codes of conduct or other prescriptive norms and guidelines) to members of parliament have been adopted?*

Among the 19 countries with ethics bodies in place, there are three different models. Eight countries have internal ethics bodies. Seven countries have an external ethics management body that shares enforcement responsibilities with an internal statutory body. And four countries have an internal ethics oversight body, but the enforcement of sanctions is external to the parliament.

Figure 29 Ethics Oversight/Enforcement Model

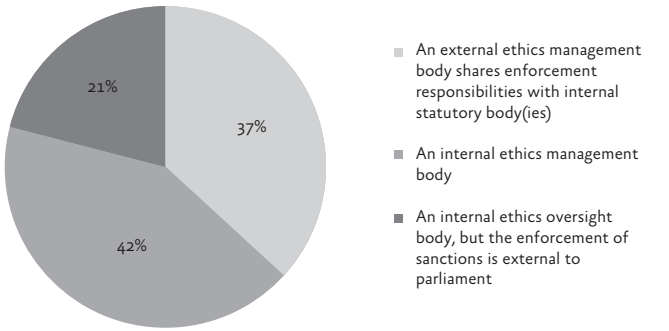


Figure 30 Ethics Institutional Model per Country

When paying attention to the year of establishment of each institutional model, the trend of externalisation described in the literature is confirmed. In other words, time does not seem to explain the choice for more external oversight and enforcement. In the 1990s, there were five internal bodies and one external body; in the 2000s, two internal and two external; and in the 2010s, two internal and four external bodies and three co-regulated models.

Table 8 Chronology of the Establishment of Ethics Bodies

Year of Establishment	*Ethics Institutional Model*	*Country*
1901	Internal Oversight/External Enforcement	Austria
1990	Internal Ethics Body	Lithuania
1993	Internal Ethics Body	Czech Republic
1995	Internal Ethics Body	Ireland
1995	Internal Ethics Body	Slovakia
1996	External Ethics Body	United Kingdom
1998	Internal Ethics Body	Poland
2004	External Ethics Body	Croatia
2006	Internal Ethics Body	Latvia
2007	External Ethics Body	Romania
2011	External Ethics Body	France
2014	Internal Oversight/External Enforcement	Belgium
2014	Internal Oversight/External Enforcement	Estonia
2014	External Ethics Body	Luxembourg
2016	Internal Ethics Body	Greece
2016	Internal Ethics Body	Italy
2019	Internal Oversight/External Enforcement	Portugal
2020	Internal Ethics Body	Spain
2020	External Ethics Body	Slovenia

Spain works as an illustrative example of an Internal Ethics Body. In Spain, the 2020 Code of Conduct for Congress and Senate created a single Office of Conflict of Interests for the Spanish parliament instead of each Chamber having its own. This office — whose task is to resolve interpretation doubts on the application of the Code and raised by parliamentarians or the Boards — was launched in February

2021, is headquartered in the Congress and is headed by a lawyer appointed by the Boards of both Chambers. It must maintain confidentiality on the cases that have raised doubts, prepare an annual report on Code compliance, and make recommendations to improve its effectiveness. This office is composed of parliament's staff, and its statute does not grant it the power to open an investigation and apply sanctions. If any parliamentarian complains of non-compliance with the Code, the Presidency of each House may open an investigation. The investigation is handled by the corresponding Disciplinary Commission of each Chamber. In case there is a violation, the Commission may request a sanction. However, the Rules of Procedure of the Chambers do not foresee any sanctions, which makes it impossible to sanction violations of the Code of Conduct.

The French parliament evolved from a system of self-regulation, with limited formal rules regarding political ethics, to a system of co-regulation. While the notion of conflicts of interest was unknown in the French legal system until the 2010s, such situations were, in practice, prevented through relatively strict restrictions on parliamentarians' outside activities. Since 2011, parliamentary ethics have been progressively formalised and, following the British or Canadian examples, the responsibility for oversight and enforcement is now shared between the MP and two independent institutions: the National Assembly's ethics commissioner (*déontologue*) and, more prominently, the High Authority for the Transparency of Public Life[32] (*Haute autorité pour la transparence de la vie publique*, HATVP). The register and deposit of gifts offered to MPs are handled by the *déontologue,* whereas asset and interest declarations and the lobby register are managed by HARVP. The HATVP receives the asset and interest declarations, verifies their content (accuracy, completeness and constituency) and is in charge of publishing them online. For parliamentarians, only the interest declaration is made available online; the assets declaration is accessible physically in the prefecture of their constituency.

Incremental changes to the system have also been initiated by ethics regulators (the *déontologue* of the National Assembly and the High Authority for the Transparency of Public Life), who regularly make recommendations to improve political ethics regulation (Wickberg, 2018, 2020). However, in the end, the enforcement of rules is the exclusive responsibility of the National Assembly in order to respect the separation of powers. The main sanction provided for in the decision of the Bureau creating the code of conduct is public exposure of the breach — "an Anglo-Saxon style *name and shame* practice". The integration of the Code in the Rules of Procedure of the Assembly provided for additional sanctions through articles 70 to 73 of the Rules of Procedure. A breach of the code could, therefore, lead to a simple warning, a warning noted on transcript or censorship with or without temporary suspension from office. The simple warning comes with a withdrawal of part of the monthly salary. This also forbids all appearances on the premises and participation in parliamentary work for fifteen session days.

Portugal illustrates the internal oversight and external enforcement model. Oversight in parliament has changed over the years, with progresses and setbacks. A Parliamentary Ethics Committee (PEC) was set up in 1995 within the statute of MPs[33] with advisory powers. In 2015, the PEC was downgraded to an Ethics Sub-committee within the Constitutional Affairs Parliamentary Committee, only to

be replaced by the Parliament Transparency and Statute Committee (PTSC) in 2019. The scope of action of the PTSC includes conducting inquiries and instructing processes related to violation of the law or the Rules of Procedure and checking and issuing opinions on: incompatibilities and impediments; the correctness of the interest declarations; immunity lifting; MPs' powers; the suspension or loss of office and conflict of interest situations; the eligibility and loss of mandate; and facts occurring within parliament that may compromise the dignity of an MP or the violation of duties.[34] Who may request the action of the PTSC, or what triggers it, may vary according to the issue at stake. For instance, conflict of interest issues may only be requested by an MP or the Speaker, while the assessment of the declarations' correctness may take place either *ex officio* or at the request of any citizen in the use of their political rights. The Transparency Committee is also obliged to cooperate with the judicial authorities.

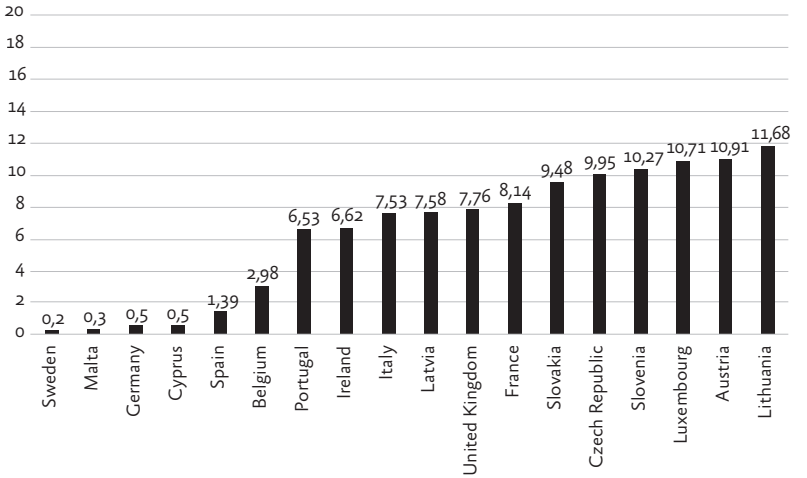
There are, in addition, criminal and administrative laws that also inform and regulate self-regulatory instruments, rendering ethics regulations somewhat dispersed. Still, the regulation of declarative obligations and incompatibilities, which, for decades, was divided into two different laws[35], was merged into a single act in 2019 — the Regime for the Exercise of Functions by Holders of Political Offices and Senior Public Offices (REFHPOSPU)[36] — complemented by the Law on the Constitutional Court (in connection with a breach of the rules on incompatibilities and disqualifications and on asset disclosure).

5.3.3. Measuring the Robustness of Parliamentary Ethics Regulations

Finally, we measured the robustness of ethics regulations of 17 parliaments in the EU. To measure that robustness, we built a checklist index with three dimensions and 21 indicators/questions.[37] In the *Norms* dimension, we analyse the existence of ethical rules, the legal value of such rules and their scope of application in terms of officeholders and staff. The *Oversight* dimension focuses mainly on the scope of the existing oversight body in terms of covered areas (from conflicts of interest to asset declarations), the disciplinary measures it can trigger or the powers it has been granted (such as investigative or advisory). In the *Enforcement* rules, we measure the scope of the sanctions and whether and the extent to which the parliament's plenary has a role. We collected data from nineteen parliaments of EU Member States and the United Kingdom, in a total of 28 countries.

In an index of 20 points, only Slovenia, Luxemburg, Austria, and Lithuania scored above the midpoint of the scale. The average score was 6,63 points. Portugal ranked 12th, with a score below the average.

Figure 31 Ethics Regulation Robustness according to National Parliaments



The data shows that there are no perfect models or models that are more robust than others, as the top three scorers correspond to the three different models. More important than the ethics' regulatory model is the scope of the rules and sanctions, the powers granted to the oversight and enforcement bodies and the degree of transparency and integrity of such rules. The results also suggest that European parliaments still have room to improve the strictness of their ethics regulations if wanted or deemed necessary.

5.4. Ethics self-regulation in government

In this section, we aim to understand the regulatory measures adopted by central governments of different European Union democracies to promote integrity in top executive functions. We focus on three key dimensions of ethics regulation within their institutional framework — norms, oversight and enforcement mechanisms — and on how the overall process unfolds.

In democracy, there is always a problem of adverse selection regarding the appointment of cabinet members. In most EU democracies, the Prime Minister plays a central role in ministerial recruitment and cabinet formation but does not always have access to relevant information about potential cabinet members before their selection. This raises an issue of moral hazard: ministerial candidates, particularly those from outside party politics, may not have been entirely transparent about their interests, assets, and liabilities. The unveiling of these integrity risks while in office may not only have political implications for them but also cause considerable reputational damage to the PM, the government, and its supporting party(ies).

There are, however, control mechanisms to mitigate these risks and hold cabinet members accountable. Conventional control mechanisms, such as electoral accountability and constitutionally bound political responsibility, are in place in all systems but tend to operate in a reactive *post-factum* mode. Electoral accountability is a necessary but imperfect mechanism to punish serious wrongdoing by cabinet members (de Sousa and Moriconi, 2013; Bågenholm, 2013) for various reasons: first, because elections bundle up a myriad of issues and integrity may not have sufficient electoral weight amidst other

policy priorities; second, because some voters will view integrity issues through political lenses, hence never as a problem in one's backyard but always a problem affecting others; and third, because "voters may not be fully informed about potential malpractice within the government or among high-level officials" (Bäck et al., 2019: 152).

Constitutional provisions and conventions for political responsibility are also important but insufficient institutional mechanisms to control the conduct of Ministers while in office. Prime Ministers often take responsibility for appointing non-partisan ministers, whereas they often share that responsibility with their political party regarding other ministerial recruitments (Pinto and Tavares de Almeida, 2018; Blondel and Thiébault, 1991; Blondel and Cotta, 1996). Prospective candidates for critical political offices are screened and selected for their (personal/party) loyalty and technical competence, but rarely for integrity reasons, at least not systematically. Junior Ministers respond to Ministers and, these, to the PM on any issue, including their ethical conduct. In turn, the PM has the power to control the conduct of individual ministers, either directly or indirectly, through a "watchdog" Assistant-Minister and the power to dismiss "badly behaved" ministers (Strøm et al., 2003). Besides individual responsibility, the government is also collectively responsible before the parliament (Bruère and Gaxie, 2018: 29).

Overall, problems of adverse selection and moral hazard are only addressed in a reactive manner through individual and collective political responsibility. *Ex ante* integrity screening mechanisms are almost non-existent in most of the parliamentary democracies reviewed. There is little evidence of integrity screening or vetting procedures at the party and cabinet levels. Parliamentary democracies also lack formal mechanisms to provide credible oversight and practical advice regarding the ethical conduct of cabinet members while in office. Often there is e*x-post* oversight, but post-employment restrictions tend to apply only to a minimal number of activities and jobs in the private sector. Legal breaches of this kind are rare, given the limited scope of applicability to real-life situations. Penalties associated with this type of infringement are often of an electoral nature, hence with little deterrent effect for outgoing Ministers who do not wish to make a political comeback. The government's image may be touched, to a limited extent, if the Minister leaves before political alternation. That said, integrity risks associated with revolving-door practices go beyond post-employment legal restrictions and tend to have an impact on public perceptions of government impartiality and the functioning of democracy.

More recently, given the shortcomings of electoral accountability and political responsibility, governments have put a series of measures in place to establish norms of conduct and good practices for officeholders, clarify proper and improper conduct in the discharge of duties, and define the scope of government integrity. In some instances, new institutional mechanisms have been developed to enforce these norms and advise ministers on ethical matters. Most ethics regulations applicable to cabinet members consist of reporting and disclosure requirements (Cowell et al., 2013; Saint-Martin, 2006:14).

Government integrity is not necessarily dependent on higher levels of policy coverage in terms of tighten laws and ethical codes or on the adoption of more rules and standards on ethics self-regulation (Demmke et al., 2021a:14-15). Northern European countries, such as

Sweden, tend to have less regulation but perform better on corruption and have better good governance indices. Still, the use of the law is the predominant form of regulation, showing a strong belief in compliance-based approaches to ethics management (Demmke et al., 2021b).

Most countries have regulatory frameworks setting ethical standards, rules, and procedures for members of the executive. However, the nature of such frameworks varies considerably. Norms have different regulatory values and come in different shapes, and oversight and enforcement, when existing, also vary significantly in terms of institutional design, powers, and procedures.

We analysed 14 countries with different legal, institutional and socio-economic characteristics: Germany, Belgium, Poland, France, Slovenia, the Netherlands, Luxembourg, the United Kingdom, Croatia, the Slovak Republic, Spain, Denmark, Sweden and Finland[38]. Our main data sources to map these regulatory efforts were GRECO's Fifth Round Compliance Reports on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

5.4.1. Mapping self-regulation instruments

Similar to other political bodies, such as national parliaments, executives across Europe are ruled by ethical norms that take different shapes and forms. The behaviour of cabinet members (and, eventually, their advisors and other staff) is governed by constitutional principles and criminal laws. Yet, in most cases, and depending on the political systems and the cabinet's political options, governments may also be governed by various and often a combination of self-regulatory instruments. The scope of application of the norms also displays significant variations in the content of the rules and the subjects of such norms. Table 9 maps the different types of legal documents adopted by the countries in our sample.

Table 9 Types of norm-setting instruments adopted by national executives

Country	Parliament's Standing Orders	Code of Conduct	Code of Ethics	Other laws and regulations
Germany	X	X		X
Belgium				
Poland				X
France		X	X	X
Slovenia		X	X	
Netherlands		X		X
Luxembourg		X		
United Kingdom	X	X		X
Croatia				X
Slovakia				X
Spain		X		
Denmark	X	X		
Sweden		X		
Finland		X	X	

From table 9, we can draw three major conclusions:

1. *Most countries tend to have, at least, one legal document regulating the conduct of cabinet members.*
   Belgium is the exception since there is no code of conduct or integrity policy that applies to top executive functions, even

though there have been a few political scandals involving Ministers in the last years (GRECO, 2019d: 4; 6;11).

2. *Codes of conduct are the most common self-regulatory instruments, despite their frequent combination with Parliament's Standing Orders/Rules of Procedure.*
   On what concerns self-regulation, more specifically, there are two main instruments setting ethical standards for cabinet members: the Code of Conduct and, in some cases, the Parliament's Standing Orders/Rules of Procedure. When Ministers are also Members of Parliament (as is the case in Denmark, Germany and the UK), there is a combination of applicable instruments, i.e., the Ministers are subject to the cabinet's dedicated self-regulatory instruments but also to the rules applied in parliament, where there is a separation of roles. Self-regulatory initiatives in parliament are not necessarily replicated at the executive level, like in France, Luxembourg, Portugal, Slovenia, Spain or Sweden.

3. *Half of the analysed countries combine standards imposed by law with more dedicated self-regulatory instruments.*
   Some governments adopt multiple legal frameworks providing ethical standards to cabinet members. Germany and France[39] combine two types of legal documents with other laws and regulations specifically dedicated to executives, containing further guidance to ensure integrity and minimise risks of corruption (GRECO, 2019m; GRECO, 2019n). The dispersion into different legal documents does not necessarily jeopardise the upholding of higher standards for cabinet members. That is the case in the Netherlands[40] and Finland[41], where there is a solid constitutional principle and a criminal code that pushes government members to a high degree of parliamentary scrutiny and accountability.

The effectiveness of regulation and ethical standards depends on many conditions, such as awareness of the rules, permanent oversight, enforcement mechanisms, when they exist, and the existence of sanctions or consequences when someone chooses to ignore the regulatory framework[42].

5.4.2. Major tendencies

Norms

Norms foreseen in the various regulatory and self-regulatory instruments also vary significantly in scope and content. Like in parliaments, government's ethics regulations may cover incompatibilities and impediments, interest and asset declarations, gifts and hospitality, and conflicts of interest in the daily activities of cabinet members. However, due to the nature of the executive's powers, norms may also address vetting rules, lobbying rules, and ex-post employment restrictions to avoid the so-called revolving doors. Different rules and procedures apply at different office stages, i.e., before taking office (ex-ante), while in office, and when leaving office (ex-post), as described in Table 11.

Table 10 Types of conflict of interest regulated at the executive level

Ex Ante	In Office	Ex Post
Vetting Impediments Register/declaration of interest Assets declaration	Conflict of interest management Incompatibilities Gifts and hospitality Lobbying Use of public resources	Employment restrictions Assets declaration upon exit

Oversight

Regarding the regulation of integrity at the Executive level, oversight and enforcement functions may be combined in the same body or treated separately. Each or both functions may be external or internal to the government. There may also be a combination of different bodies, each responsible for the implementation of a given set of norms, like in the case of France, with the *High Authority for Transparency in Public Life*[43] and the *French Anti-Corruption Agency*[44] or in the case of the United Kingdom, with the *Independent Advisor on Ministers' Interests*[45] and the *Advisory Committee on Business Appointments*[46]. At times, when sanctions are of criminal nature, enforcement is left to the judicial courts. The information available on oversight and enforcement procedures and mechanisms of integrity applicable to Ministers and other cabinet members is scant. That said, in Table 11, we will describe the oversight process, the composition of the body, and the scope and functions of the designated oversight bodies, whenever they exist, according to the information available in GRECO's Fifth Round Evaluation Reports.

Table 11 Types of oversight bodies and enforcement adopted by national executives

Country	Oversight Body		Enforcement		Sanctions
	Internal/external to the government	Single/collegial composition	Internal/external to the government	Single/collegial composition	
	External or internal to the government?	One person or a collegial body?	External or internal to the government?	One person or a collective body?	
France	External	Collegial	External	Collegial	Yes
Slovenia	External	Collegial	External	Collegial if the CPC[47] is the enforcement body	Can only impose fines.
Slovak Republic	External	Collegial	External	Collegial	Can only impose fines.
Spain	Internal	One person	Internal, by Council of Ministers, Minister or State Secretary	Single	Can propose sanctions
Poland	External	One person	No enforcement powers	Not applicable	No
United Kingdom	External	One person	Internal, by the PM	Single	Imposed by PM

As shown in Table 11, when mapping the oversight of European cabinets, four major findings stand out:

1. *There is a major divide between countries that have dedicated bodies to oversee ethical conduct at the cabinet level and those that do not.* The most common situation is the absence of such procedures and institutional frameworks, as is the case of Belgium, Denmark, Finland, Germany, the Netherlands and Sweden. Their approach seems to rely on public scrutiny. There are no permanent oversight mechanisms in place, but issues and doubts arise from the media and civil society or through complaints and whistle-blowers. In other words, oversight is dependent on public controversies and scandals.

2. *A second major divide is between countries whose parliamentary oversight mechanisms also cover the executive and countries — or should we say country? — with bodies dedicated solely to cabinet members.* In countries with dedicated oversight (France, the Slovak Republic, Slovenia, Spain, and the UK), the majority tends to rely on the same body(ies) that oversee members of parliament, regardless of whether ministers are MPs or not. In this regard, the British case is unique. Even though the oversight process is mainly governed by rules, procedures, and institutional mechanisms in the parliament — particularly regarding asset declarations, since most cabinet members are also MPs — there are other oversight bodies specifically targeting the executive.

3. *The scope of action of the existing oversight bodies varies according to the regulated area of ethics concerned*. In other words, issues such as interest declarations and ex-post employment restrictions may be overseen by a given body, and the management of conflicts of interest or gifts may be subject to another body. In France, for instance, the *High Authority for Transparency in Public Life (HATVP)* is responsible for overseeing the ethical conduct of cabinet members, parliamentarians and senior public officials. Likewise, in the British case, the Prime Minister appoints an *Independent Advisor on Ministers' Interests* to advise cabinet members on the Ministerial Code of Conduct and ministers on how to manage their private interests to avoid conflicts of interest. The *Independent Advisor on Ministers' Interests* may also investigate allegations of breaches of the Ministerial Code of Conduct by cabinet members, but only upon request of the Prime Minister.[48] Another oversight body at the service of the British cabinet is ACOBA.

4. *The solutions found by countries regarding oversight bodies also vary significantly in nature and composition*. Some countries have delegated oversight powers to anticorruption agencies, while others have set up bodies dedicated to conflict of interest or transparency in the office. Except for the *British Independent Advisor on Ministers' Interests*, all oversight bodies are collegial. For instance, Slovenia and Poland rely on their anti-corruption agencies. Conversely, Slovakia, Spain, the United Kingdom and France (as previously described) have opted for more specialised oversight bodies.

Enforcement

In the absence of oversight bodies or established sanctions, as is the case of Belgium, Denmark, Finland, Germany, the Netherlands and

Sweden, the system relies on political accountability. In countries with more established regulatory procedures and mechanisms, our mapping suggests that there might be a single solution or a combination of solutions, depending on the nature of the practised misdemeanours and sanctions in place.

As explained in the *Norms* section, when there are ethical rules in place, sanctions may apply (although this is not always the case, as sometimes regulatory instruments, such as codes of conduct, do not foresee penalties for breaches). The nature of the sanctions depends on the type of instrument that governs the specific regulatory issue, i.e., whether it is ruled by hard or soft law instruments. There are three types of sanctions:

1. *Criminal or administrative penalties.* Where the former are imposed by courts and the latter by public administration. Criminal sanctions occur in countries without non-criminal enforcement mechanisms or when an ethical breach detected by an oversight body that may constitute a criminal offence is reported to a court. Usually, the criminal offence is related to bribery, corruption, embezzlement or financial crimes. Administrative penalties can be applied by administrative courts or by administrative order in the form of reprimands or fines and can result in debarment or removal from office.

2. *Financial penalties or suspension of benefits* are the most common sanctions applied by enforcement bodies. Financial penalties are imposed as lump sum fines or fines calculated in terms of a percentage of monthly income. The suspension of benefits is imposed on the set of benefits inherent to ministerial duties, ranging from representation expenses or usage of government facilities to criminal immunity.

3. *Political responsibility* ensues whenever no other penalties or suspensions are imposed and are essentially used by countries without enforcement bodies. They are issued by the parliament or the PM to the minister in the form of dismissal from duties, public discussion with the PM, or a public apology, depending on the PM's decision or the ministerial code's requirements.

Enforcement is thus dependent on two factors. The first is the nature of the governing regulatory instrument and the nature of the respective sanction. A country may rely on different ethical regulatory systems and have different enforcement mechanisms. For instance, in the same country, assets declarations or incompatibilities may be governed by hard law — and, consequently, enforcement is carried out by courts — and the management of gifts or conflicts of interest may be ruled by soft law, such as codes of conduct — and therefore, be enforced by a dedicated agency with disciplinary, but no judicial powers. In our mapping, we identified three enforcement bodies and procedures:

1. *Enforcement relies on the political system, i.e., it is a prerogative of the Prime Minister and, in some cases, of the parliament, to act upon reports and/or recommendations of oversight bodies.* The United Kingdom is a paradigmatic case in that regard. Despite the power of the *Independent Adviser on Ministerial Interest* to investigate allegations of suspected breaches of the ministerial code, only the Prime Minister has the power to sanction and dismiss the Minister in question on the grounds of loss of confidence. Other sanctions may apply depending on the seriousness of

the case. For instance, the Prime Minister can also have a formal discussion with the Minister and may require him to make a public apology for ethical breaching as a form of punishment. There is also the case of Spain, where the *Office for Conflicts of Interest* is only responsible for opening disciplinary proceedings and recommending sanctions and has no enforcement powers. Sanctions can be recommended for minor and serious breaches and can range from formal warnings to loss of severance payments, debarment from office for up to 10 years or even dismissal from duties. The sanctions applied to the misconduct of Ministers are enforced by the Council of Ministers.[49] Slovakia has an uncommon accountability mechanism in place for ministers in parliament. Like in most countries, the Prime Minister and the government members are accountable to the parliament under a general accountability procedure and can be dismissed by a vote of no confidence. However, the parliament can hold a vote of no confidence on specific ministers and dismiss them.[50]

2. *The oversight bodies also hold enforcement powers. This model of enforcement is often associated with multi-purpose anticorruption agencies.* In Slovenia, the *Commission for the Prevention of Corruption* can impose fines and conduct administrative investigations for breaches of conflict-of-interest rules, restrictions on business activities and asset disclosure obligations. It should be noted that decisions taken by the *Commission* are subject to review by the Slovenian High Administrative Court. The *Commission* can enforce financial sanctions on the Prime Minister, ministers, state secretaries, any cabinet member and the secretary general of the government when they fail to comply with the obligations set under the 2015 Code of Ethics for Government and Ministerial Officials and the Integrity and Prevention of Corruption Act. In Slovakia, the *National Council's Committee on Incompatibility of Functions* only acts if the President, government members and state secretaries breach conflict-of-interest rules. Sanctions, such as financial penalties of up to 12 times the offender's salary, the obligation to renounce outside activities or office dismissal, may be imposed.

3. *Enforcement is externalised to courts when the breaches in conduct amount to criminal behaviour.* In Poland, where misconduct amounts to a serious offence, criminal law procedures apply. The heavy reliance on criminal law is due to the absence of an effective non-criminal enforcement mechanism that ensures compliance with integrity standards. In France, sanctions for financial misdemeanours related to asset disclosure obligations are foreseen for cabinet members and can be enforced by the Court of Audit and the Budgetary and Finance Disciplinary Court. These can range from fines to repayment orders, the publication of infractions or the sanction laid down by the Official Gazette. If there are criminal liabilities, the allegations may also be referred to judicial authorities. The *High Authority of Public Transparency* and the *French Anticorruption Agency* have investigative powers to assess integrity breaches and impose sanctions on cabinet members.[51]

Chapter 6
Case studies

France

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Introduction

The establishment of the French system of ethics self-regulation concerning political actors of the legislative and executive branches was driven both by scandals and the import of foreign *best practices* promoted by international organisations (Wickberg, 2020).

Although the adoption of legislation regulating different aspects of political ethics is not new in France, in particular regarding incompatibility rules and other anticorruption measures, these efforts have intensified over the past three decades.

The first major reforms of party financing and elections, as well as those concerning the transparency of the assets and interests of public officials, date from 1988, during the cohabitation between François Mitterrand and Jacques Chirac, and were adopted in response to a succession of scandals that ravelled party politics, such as the Urba, Luchaire and Carrefour du Développement scandals.

The design, adoption and implementation of these regulations cannot be separated from ordinary political struggles. Political actors play an active role or at least have an interest in disclosing information to harm their political adversaries on ethical grounds. When ministers or parliamentarians mobilise around such policy issues, it is often as much an attempt to *clean up* politics as a strategic positioning to distinguish themselves from their opponents. We can add to this that periods of cohabitation (when political parties may find it more difficult to differentiate themselves politically) are conducive to political mobilisations aimed at reforming morals, morality and political ethics.

Since the introduction of the codes of conduct and interest/asset declarations, reforms have been driven by new scandals, pushing decision-makers to strengthen controls and transparency obligations (most prominently the Fillon scandal), especially in the aftermath of elections, in order to show their concern and commitment towards public ethics (even if that scandal-driven agenda tends to *fade out* between scandals). This policy agenda is not really *owned* by any political leader (see below) and, therefore, requires such events and/or election periods to re-emerge. While it is not uncommon that scandals open windows of opportunity for ethical reforms in France, they have led to ethical reforms that served as political crisis management tools rather than means to initiate policy work fully adapted to local problems. Policy actors have imported policy ideas from abroad, and

promoted them as *best practices*, even when they had been developed for pluralist and/or parliamentary systems (as opposed to France's republican and semi-presidential system). Moreover, regulators acknowledge that political actors are largely unaware of ethical regulations and do not clearly understand what conflicts of interest are and what obligations must be fulfilled in this domain.[52]

Although the banner of public ethics has been recurrently waved by parties on the left and, to a lesser extent, by right-wing parties, those who have pushed for reforms in this domain are mainly small parties such as the Greens or the centrist parties. That said, ownership of the political ethics agenda is hard to claim, since both right-wing and left-wing governments have initiated these reforms in response to emerging scandals involving politicians from their party formation. Another aspect that emerges from the analysis of parliamentary debates regards the intra-group differences based on parliamentary experience. For example, in the 2000s, the newly elected Green MPs (such as François de Rugy) were more active in promoting sunshine reforms to improve transparency in political life than their longstanding senior MPs (such as Noël Mamère), who were more circumspect on ethics regulation, perhaps because they were more experienced in politics. The dividing lines are, therefore, not simply ideological (left-right, populist-conventional). They can be internal to a political party and echo the political experiences of the elected officials beyond any partisan affiliation. The degree of specialisation of elected officials can also influence the nature and quality of their contributions to the legislative process. Some elected officials (such as René Dosière) have taken advantage of their expertise on these matters by publishing works, mobilising media attention, contributing to the public debate and succeeding in putting some of these issues onto the agenda of public authorities. However, such cases remain rare.

France has, nevertheless, rapidly evolved from a system with almost no formal political ethics regulation to setting up a relatively elaborate ethics infrastructure. Both the National Assembly's ethics commissioner (*déontologue*) and, more prominently, the High Authority for the Transparency of Public Life[53] (*Haute autorité pour la transparence de la vie publique*, HATVP) have established themselves within the political and administrative landscape, extending their prerogatives and budget. However, one challenge is that the resources at their disposal remain insufficient for their prerogatives.[54] The HATVP is responsible for overseeing the lobby register and the Ethics commission of the civil service (*Commission de déontologie de la fonction publique*) without being granted adequate additional financial/human resources.[55] Despite these issues, incremental changes to the system have also been initiated by ethics regulators (the *déontologue* of the National Assembly and the High Authority for the Transparency of Public Life), who regularly make recommendations to improve political ethics regulation.

Political ethics, whether concerning revealed misconduct or ethics regulation, regularly comes back onto the media and political agenda after the break of a new scandal or before an election. However, ethics regulation attracts less public attention than the repressive aspects of the fight against corruption. The improvement of political ethics regulation is a niche topic that only draws the attention of the institutions in charge of regulation, a couple of specialised NGOs (Transparency International France, Anticor, the *Observatoire de*

l'éthique publique) and a few academics — most of whom are members of the *Observatoire de l'éthique publique*. The recent multiplication of these measures, and the tensions generated by their application, are arousing the interest of specialised scholars and the development of more numerous publications, some of which are periodically listed by the HATVP (see Javary, 2019; Wickberg, 2020; Kerléo, 2021).

Regarding *public opinion* in general, Pierre Lascoumes (2010) has demonstrated a widespread tendency among the French to tolerate wrongdoing in the public sphere and certain breaches of public or private integrity. The complexity of ethical regulations and the introduction of the *new* problem of conflicts of interest make it difficult for citizens and the target population to better seize the issue. However, complexity is also used by accused political actors as a defence strategy, as illustrated by the recent reaction of the majority to the minister Alain Griset, who was accused of not declaring one of his bank accounts — "the public did not understand what he is accused of and neither do we".[56] These analyses illustrate how the French, faced with the many faces of public integrity, constantly hesitate between tolerance and indignation. Ultimately, this situation does not conduct the political elites to take the poor esteem that their fellow citizens have about them seriously and put institutions and policies effectively dedicated to preventing and fighting political corruption in place.

These contextual elements make it possible to understand how France has progressed in the domain of political ethics regulation. New ethical rules — whether they concern the government, the parliament, or political parties — have been adopted, but they remain open to new developments and continue to require the necessary means for their implementation and public scrutiny to ensure their regular and effective enforcement.

Executive branch of government

The notion of conflicts of interest, and the idea to prevent them through written declarations, was initially transferred to France through the public health sector. Following a series of dramatic public health scandals in the 1980s and 1990s, including the contaminated blood, growth hormone and asbestos scandals,[57] several measures were taken to safeguard the independence of medical expertise.[58] Martin Hirsch, an important figure in the Ministry of Health during these crises, played a pivotal role in transferring this policy innovation from the public health sector to the political world. He used recommendations from the OECD, the Council of Europe and Transparency International and existing practices from Canada.[59]

A first window of opportunity opened in the late 2000s for a new conflict of interest regulation, due to scandals in 2009 and 2010 that raised the issue onto the public agenda. The most cited political scandal, which triggered governmental action, concerns the relationship between Éric Woerth, the then Minister of Labour, and Liliane Bettencourt, one of the principal shareholders of L'Oréal at the time (Phélippeau, 2011; Vauchez, 2019).[60] The revelation of the Minister's possible conflict of interest, linked to suspicions regarding the finances of the 2007 presidential elections, has put President Nicolas Sarkozy in a delicate situation.[61] *Mediapart* published its first article incriminating Éric Woerth in June 2010, to which President Sarkozy rapidly reacted by setting up a commission to formulate proposals to prevent conflicts

of interest in September 2010. The commission was the first official attempt to adopt conflicts of interest regulation targeting government officials and high-level civil servants. President Sarkozy explicitly requested the commission to take the "experience of great democratic countries" into consideration, and Jean-Marc Sauvé, the chairman of the commission, was eager to see France catching up with the "shift towards prevention" taken by other countries and promoted by international institutions.[62] The commission's report, presented to President Sarkozy in January 2011, suggests that its work was inspired by the OECD's approach to conflicts of interest (Wickberg, 2020). In March 2011, François Fillon decided to require ministers to declare their private interests. The government also strengthened the existing system of asset declarations, with the adoption of Law No. 2011-412 on April 14th 2011, which provided for more severe sanctions for omitting to declare one's assets and broadened the oversight powers of the *Commission pour la transparence financière de la vie politique* (CTFVP), (Phélippeau, 2018).[63]

The 2012 elections were a turning point for conflict-of-interest regulation in France. TI France managed to put corruption onto the campaign agenda through a 7-point pledge on public ethics for electoral candidates (based on the 2011 TI NIS report), (Phélippeau, 2011). This included a promise to adopt a policy to prevent conflicts of interest,[64] signed by almost all presidential candidates who discursively competed to demonstrate their commitment towards the fight against corruption.[65] Shortly after his election, François Hollande tasked former Prime Minister Lionel Jospin to set up a commission to translate his campaign pledge to give the country a "new democratic momentum and ensure the exemplarity of public institutions" within the legislative proposals, including the prevention of conflicts of interest concerning parliamentarians.[66] The new legislative proposals used the conclusions of the Sauvé Commission, the recommendations of international institutions and domestic NGOs (TI France and Anticor), and foreign examples as a basis for discussion. It came up with 35 proposals, including the publicity of parliamentarians' interest declarations and the creation of an independent ethics authority (Wickberg, 2020).[67] The event that would open the window for new regulations occurred one month after the Jospin Commission published its final recommendations. After the scandal was revealed in 2012 by *Mediapart,* Jérôme Cahuzac was found guilty of tax fraud and money laundering and sentenced to three years in jail and five years of ineligibility (prohibiting his participation in elections during that period).[68] The Cahuzac scandal tarnished the reputation of the new government and the untouched image of François Hollande conveyed during the campaign and[69] pushed the new presidency towards a state of *moralisation shock* (*choc de moralisation*). On April 3rd, 2013, after hearing Jérôme Cahuzac's admission of guilt, President Hollande announced new measures to be adopted, namely: reinforcing the judiciary's independence, fighting *mercilessly* against conflicts of interest, publishing the private assets of ministers and parliamentarians, and introducing a lifelong ineligibility sentence for anyone condemned for tax fraud or corruption.[70] The government tabled three bills on April 24th 2013: No.1011 on the fight against fiscal fraud and economic crime,[71] and No.1004[72] and No.1005[73] on the transparency of public life, all providing for an accelerated legislative procedure.[74],[75] Acting under pressure, the government prepared the bills based on existing suggestions (from the Sauvé Commission, past bills and the Jospin Commission),[76] despite the fact that none had much to say on the

specific problem exposed by the Cahuzac scandal (tax fraud). Laws No. 2013-906 and No. 2013-907 on transparency of public life adopted in October 2013 were not created out of thin air, as often suggested by the expression "panic laws".[77] They were based on ideas about how to integrate the regulation and management of conflicts of interest into the standing rules and procedures and a reflection on the limitations of the 1988 rules on asset declarations and external control (with a focus on illicit enrichment, lack of transparency and insufficient resources of the oversight agency).[78]

The current arrangements regarding the declaration of interests, activities and assets are governed by laws No. 2013-906 and No. 2013-907 on transparency in public life. French officials (including members of the legislative and executive branches of power) currently need to file two separate declarations: one concerning their assets and another one concerning their interests and activities, making France an odd case in the international landscape of disclosure obligations. All declarations of interest and wealth are submitted to the HATVP and the parliamentarian's Bureau of the Chamber. The HATVP receives the declarations, verifies their content (accuracy, completeness and constituency) and is in charge of publishing them online. The declarations of interests and assets are published online for members of the executive branch, providing the media, civil society organisations, political opponents, and citizens with the possibility of participating in the oversight of the president and ministers' conflicts of interest and potential illicit enrichment. For members of the Parliament, only the interest declaration is made available online, as their wealth declaration is accessible physically in the prefecture of the parliamentarians' constituency.

Under French public law, the HATVP is an "independent administrative authority", i.e., a permanent body in the administrative structure responsible for guaranteeing integrity amongst French public officials that cannot be instructed nor ordered by the Government to take specific actions. The HATVP is affiliated with the Government for budget matters but has financial autonomy. The institution is not answerable to the executive. It is solely subject to audit by the Supreme Court of auditors and the Parliament (e.g., auditions and parliamentary investigation committees) and control of administrative and judicial courts.[79] With regards to interest and asset declarations, the HATVP can use "naming and shaming" techniques by publishing its assessment of an official's lack of compliance or calling on the prosecution service since failing to declare assets or interests, misrepresenting the value of assets and failing to submit a declaration of assets or interests can lead to a penalty of three years' imprisonment and a fine of €45 000. As specified in GRECO's Fifth Evaluation Round report (2020), "when checks on a declaration of interests reveal a conflict of interest, the HATVP may recommend that appropriate measures be taken to prevent or end it. This may involve disclosing the interest in the question, not taking part in deliberations in which the individual concerned has an interest or, in some cases, giving up an interest, etc. Thereafter, if the problem persists, the HATVP can take binding measures in the form of orders. It may order any member of the government, except the PM, to end a conflict of interest. Such orders may be published, and non-compliance is a criminal offence with a year's imprisonment and a fine of 15 000 euros".[80] PMs are appointed by the President of the Republic and are accountable to Parliament. In constitutional terms, the exercise of their duties prevents them from being subject

to orders, recommendations or opinions of an administrative authority, even an independent one. In case PMs fail to tackle their conflicts of interest, the HATVP has the duty to inform the President of the Republic. Moreover, PMs must delegate their powers to another minister when they consider there is a conflict of interest.

The influence of the HATVP has grown exponentially as it progressively made its mark on the French political and administrative landscape. While the institution was given relatively significant powers from the start, the role of its first president, Jean-Louis Nadal, as a *moral entrepreneur* contributed to reinforcing its influence, broadening its prerogatives and providing it with additional resources.[81] The HATVP collaborates with the fiscal administration to verify the content of declarations. As specified by the evaluation carried out by the Council of Europe: "The HATVP also liaises with the department for information processing and action against illicit financial channels (TRACFIN) and the prosecution service. Monitoring software has been developed to pool and check any relevant information about public officials subject to declaration requirements (from news items, social media, and various databases). When the HATVP determines that a government member is not complying with their tax obligations, it reports the matter either to the President, in the case of the Prime Minister, or to the President and the Prime Minister, in the case of other government members."[82]

France's multiannual anti-corruption plan for 2019–2021, prepared under the guidance of the French Anticorruption Agency, requires all ministries to develop and adopt a code of conduct.[83] When the GRECO conducted its evaluation in January 2020, only one ministry had adopted such a code.[84] While most ministries have created a function of ethics advisor or an ethics committee (*référent/comité déontologie*), so far, only the Ministry of the Armies and the Ministry of Europe and Foreign Affairs have adopted a code of conduct. The circular of 23 July 2019 on the probity of members of government indicates that gifts must be handed to the public institution collecting movables (Mobilier National) or to the protocol service. It also specifies that offers of private trips must be refused.[85] Government members are responsible for ensuring proper compliance with this requirement by themselves and their private offices.[86] There is no specific body responsible for oversight and enforcement. For public officials, disciplinary proceedings for breaches of the applicable rules of conduct are initiated by the authority with the power to appoint them, with or without consultation of the disciplinary board (the latter is responsible for the least severe disciplinary measures).[87]

Ministers cannot hold a national elective mandate nor enjoy the status of a civil servant. A parliamentarian appointed as minister needs to be replaced in parliament, whereas a civil servant must suspend their status temporarily (*placer en disponibilité*). Ministers cannot hold any profession during their mandate, nor can they hold any trade union mandate. A ministerial mandate is also incompatible with a series of other political and senior public positions, such as President of the Republic, Ombudsman, MEP, Judge of the Constitutional Court, Member of the Higher Council for Broadcasting or the Economic, Social and Environmental Council. The law does not prohibit a Minister from holding a local mandate, but it has become a customary practice for Ministers to renounce any local mandate after their appointment.[88] The exercise of an activity in the private sector by public officials, including

cabinet members, after their term in office, is covered by the Criminal Code, which provides for the offence of benefiting from a conflict of interest upon termination of public office (*revolving doors*).[89] Public officials are prohibited from taking a private job or receiving any part in a private enterprise they were entrusted with supervising, with which they concluded contracts or issued opinions on contracts, or recommended the competent authority to make decisions or issued an opinion on such decisions.[90] The HATVP assesses the risks of public officials that find themselves in a conflict of interest when leaving the office for a private job.

The President of the Republic enjoys jurisdictional immunity throughout their term of office. In the event of a breach of duty, they may be held accountable, which may lead to their removal from office by the Parliament sitting as the High Court (Art. 68, Constitution). Members of the government do not enjoy any immunity. They are covered by ordinary courts if the acts concerned are not related to their official duties. For acts performed in the discharge of duties (Art. 68-1, Constitution), they are tried by the Court of Justice of the Republic (CJR), which is composed of 12 members of parliament (half from the National Assembly and half from the Senate) and three Court of Cassation judges (elected for three years by their peers). The CJR's decisions on convictions and penalties are taken by absolute majority and secret ballot.[91] There are no specific statistics on criminal prosecutions of political actors. However, the authorities indicated to the evaluators of the Council of Europe that criminal proceedings are in progress concerning several former presidential advisers.[92]

Governments are responsible for prioritising the issue and making firm commitments. Some have introduced the need to improve ethics regulation into their electoral programmes and, consequently, tabled some reforms onto the parliamentary agenda. Such commitment varies over time and across cabinet formations. The current government has been less interested than the previous one in deepening ethical reforms. Moreover, beyond the judicial process, the political survival of politicians tainted by ethical scandals depends on their political backing and the support of the president and prime minister (see, for instance, the different treatment of Jean-Paul Delevoye, who had to resign in December 2019 as soon as he was suspected of having a conflict of interest, and the current scandal involving the Justice Minister Eric Dupont-Moretti or Alain Griset, who are holding on to their office at the time this report was written).

Legislative branch of government

Ethics regulation in the French parliament evolved from a system of self-regulation with limited formal rules to a system of co-regulation. While the notion of conflicts of interest was unknown in the French legal system until the 2010s, such situations were, in practice, prevented through relatively strict restrictions on parliamentarians' outside activities. Since 2011, parliamentary ethics have been progressively formalised, and the responsibility for oversight and enforcement is now shared between the parliamentary management and an independent institution. Nevertheless, the two chambers of parliament did not follow the same path. Ethics regulation in the National Assembly can be qualified as co-regulation since an independent *déontologue* oversees MPs' compliance with ethical rules together with the Assembly's bureau. In contrast, the Senate opted to maintain a system of self-regulation whereby oversight is the responsibility of a committee of senators.

Conflicts of interest were initially prevented by making certain activities incompatible with a parliamentary mandate. There are several restrictions on the mandates and activities that parliamentarians can exercise.[93] Rooted in the principle of the separation of powers, incompatibility first prohibited the accumulation of certain public functions with a parliamentary mandate. For instance, a parliamentarian cannot be cumulatively a member of the European Parliament, President of the Republic and a member of the government (parliamentarians nominated to the government must renounce their seat in parliament, in accordance with article 23 of the Constitution). Civil servants elected to a parliamentary chamber must take a leave of absence to be allowed to sit in Parliament. It is generally prohibited to hold a position within the civil service.[94] Parliamentarians cannot manage or be members of an independent administrative authority except if they are appointed in their capacity as a parliamentarian. A law adopted in 2014 made it illegal (as of 2017) for MPs to cumulatively hold specific local executive mandates, such as mayor, deputy mayor or (vice)president of a local government.[95] In addition to the restriction regarding the accumulation of functions within the public sector, parliamentarians are also prohibited from holding managing positions in a state-owned company or a national public establishment. Later, these restrictions were extended to activities in the private sector. Parliamentarians cannot hold a managing position in any private company or enterprise that receives public subsidies or executes work for the State. Lastly, a parliamentarian cannot start a consultancy activity during their mandate, though they do not have to renounce it if they were exercising it before their election. The initial bill on transparency in public life presented by the government in 2013 included a complete ban on consultancy activities for parliamentarians.[96] However, this article was subsequently amended to ban only new ones. This does not include professions under a regulated status, such as lawyers, for instance.[97] The compatibility of outside employment with the parliamentary mandate is a recurrent theme. It regained salience during recent discussions on the prevention of conflicts of interest.[98]

Indeed, while the Sauvé Commission, set up in 2010 by President Sarkozy, was developing proposals for strengthening ethics regulation for the executive branch, the government asked the two chambers of parliament to develop their own policy to prevent conflicts of interest. The Senate took the lead and created an ethics committee (*Comité de déontologie*) in 2009 to advise senators on ethical matters, based on a proposal from senators Robert Badinter and Josselin de Rohan. The National Assembly's working group on conflicts of interest was set up later in October 2010 by the President of the National Assembly, Bernard Accoyer. The working group had two rapporteurs, Arlette Grosskost (UMP) and Jean-Pierre Balligand (SRC), and was composed of MPs who had previously promoted anti-corruption policies.[99] The group conducted nine interviews to inform its work, calling on many of the same experts as the Sauvé Commission, including Daniel Lebègue, president of TI France, Yves Mény, and individuals responsible for advising on ethical issues at the Bar Association, the civil service and the French Agency for the Safety of Health Products. All of them suggested the introduction of a public register of interests. Daniel Lebègue suggested the use of the CoE's definition of conflict of interest as well as the introduction of a recusal rule and an ethics commissioner (*déontologue*), which was also proposed by Jacques Fournier, from

Ernst and Young France (Wickberg, 2020).

While the Senate opted for a formalised system of self-regulation, the National Assembly chose a different approach, with the introduction of a code of ethics and the creation of the function of ethics commissioner (*déontologue*), thus opting for a form of co-regulation (shared oversight between MPs and an independent institution), following the British and Canadian examples. The working group on conflicts of interest introduced an interest declaration as a legal requirement for MPs, which was not meant to be public at first. In its April 6th 2011 decision, the Assembly's bureau stated that the *déontologue* is bound by professional secrecy and cannot disclose any information received from MPs at the risk of being sanctioned.[100] The parliamentary clerks assisting the working group on conflicts of interest in drafting the code of ethics used the suggestions made by the interviewees on how to structure the code, the report from the Sauvé Commission and the information collected through international *benchmarking*, with special attention to the British example, whose policy principles were adapted to the specificities of the French Parliament (Melin-Soucramanien, 2015; Wickberg, 2020).[101]

At first, the French code of conduct for members of the National Assembly was only a list of principles (see Table below). The rules regarding declarations and their enforcement were included in a decision of the Bureau concerning ethics regulation.[102] The two last articles were added in January 2016, following the adoption of Law No. 2013-906 and No. 2013-907 on transparency in public life (see Section 1.1.4), a subsequent reform of the Assembly's internal rules in 2014, and the *déontologue*'s (see Section 1.2) suggestion to revise the code in 2015 (Melin-Soucramanien, 2015). In France, the code of conduct is not accompanied by guidelines, as is the case in Britain and Sweden. Instead, article 8 of the Code allows members of the Assembly to consult the *déontologue* (ethics commissioner) with their questions and concerns.

Table 12 National Assembly Code of Conduct (Code de Déontologie 103

General Interest Members of the National Assembly must act in the sole interest of the nation and the citizens they represent and must not act to favour any private interest or to procure financial or material benefits for themselves or their families.
Independence Under no circumstances must members of the National Assembly find themselves in a situation of dependence upon a natural or legal person who could divert them from fulfilling their duties as set out in this Code.
Objectivity Members of the National Assembly may not act in regard to a personal situation except in consideration of the rights and merits of the person in question.
Accountability (*responsabilité*) Members of the National Assembly shall be accountable to the citizens they represent for their decisions and actions. To this end, they must act transparently in the discharge of their duties.
Probity Members ensure that the resources at their disposal are used per their intended purpose. They do not use parliamentary facilities to promote private interests. (The previous norm, in place until October 9th 2019, reads as follows: Members have the duty to disclose any personal interest that could interfere with their mandate and take measures to resolve such conflict of interest for the benefit of the sole public interest).
Exemplarity All members of the National Assembly shall, in the exercise of their office, promote the principles set out in this Code. Violations of the code will be sanctioned as provided for in article 80-4 of the Rules of Procedures of the National Assembly.

The Senate has a different set of ethical norms for its members that are referred to as deontological guidelines (guide déontologique) instead of code of conduct. The document is longer than the National Assembly's code, but the structure is very similar. It includes a list of ethical principles (listed below), a chapter on participation in senatorial activities, a chapter on external activities, a chapter on Senators' wealth and fiscal obligations, a chapter on contacts with lobbyists, a chapter on gifts and hospitality, a chapter on parliamentary assistants and a chapter on the use of financial resources and benefits.

Table 13 Senate Deontological Guidelines (Guide de Déontologie) [104]

General Interest During their mandate, senators must always put the general interest above any private interest.
Independence This principle refers to a state of freedom *vis-à-vis* private interests or foreign power.
Secularity This principle refers to observing strict religious neutrality in the Senate and its functioning.
Attendance This principle refers to actual participation in the work of the Senate.
Integrity This principle consists of accepting no benefit whatsoever, in any form, other than ceremonial gifts of low value, in exchange for a parliamentary act.
Dignity This principle refers to conduct which shall ensure the probity, respectability and credibility of the parliamentary role.
Probity This principle refers to the obligation of senators not to find themselves in a situation of conflicting interests.

Regarding parliamentary assistants, the law on transparency stipulates that parliamentarians must indicate the names of their collaborators in their declaration of interests. However, this transparency measure was not accompanied by a broader reflection on the status of these assistants and on possible ethical rules addressing their function. Parliamentary assistants had increasingly become high-skilled professionals yet underpaid and often working in unsatisfactory conditions. In order to compensate for this mismatch, parliamentary assistants often sought to combine their position with paid outside activities for lobbying firms, sometimes without the consent of their MPs/employers. Acting on behalf of these lobbying firms, they would then introduce amendments to draft bills without the knowledge of their MPs (Nouzille, 2006; Phélippeau, 2005). These integrity threats had been voiced by some parliamentary assistants and their representative organisations, demanding the introduction of legislation changes in order to clarify their role and status in the legislative process and, therefore, improve the credibility of their daily work (Ghemires, 2021). Despite these alerts, until this moment, no changes to the regulatory framework have been introduced.

Parliamentarians need to declare gifts of a value exceeding €150, but the register is separate from that of their interests and assets (the former being handled by the *déontologue* and the latter managed by the High Authority for Transparency in Public Life — Section 1.2). The French code of conduct also provides for the possibility to deposit gifts with the *déontologue*. Declared gifts of an unusually high value can be stored by the Commissioner and sold by the National Assembly at the end of the legislature (Melin-Soucramanien, 2015). The practice of declaring gifts took a few years to be appropriated by parliamentarians. After the code was adopted, few parliamentarians knew about the obligation or cared to comply with it. Noëlle Lenoir,

a former *déontologue,* noted that she only received twelve declarations during her mandate (2012–2014), with five coming from the same MP. Ferdinand Mélin-Soucramanien, the third *déontologue* (2014–2017), also received very few declarations. Since June 2017, the new *déontologue*, Agnès Roblot-Troizier, received 110 declarations from 63 MPs,[105] suggesting that the rule has progressively been acknowledged by MPs. The extension of the *déontologue's* prerogatives to oversee the use of the parliamentary allowance probably explains the increasing visibility of the function. A parliamentary clerk indicated that MPs had resisted declaring invitations to cultural or sports events since they perceived it as "part of the [French] culture".[106] Under Ferdinand Mélin-Soucramanien's mandate, the code was modified to explicitly mention invitations to cultural or sports events.

The adoption of Law No. 2017-1339 on trust in political life allows each parliamentary chamber to introduce a recusal register in which parliamentarians finding themselves in a conflict of interest can register their decision not to take part in a specific parliamentary matter. The Resolution adopted on June 4th 2019, modifying the rules of the National Assembly, introduces a public register of recusals managed by the chamber's leadership.[107] Its contents are available in open data format.[108] The initial concerns regarding the constitutionality of the procedure remain: recusals are not an obligation but are left to the parliamentarians' discretion.[109] For the time being, only two members of the National Assembly are currently listed in this recusal register.[110]

The current arrangements regarding the declaration of interests, activities and assets are governed by laws No. 2013-906 and No. 2013-907 on transparency in public life. French officials (including members of the legislative and executive branches of power) currently need to file two separate declarations: one concerning their assets and another one concerning their interests and activities, making France an odd case in the international landscape of disclosure obligations. Between 2011 and 2013, French parliamentarians had three declarations to complete and submit until the interest declaration and the declaration of outside activities were finally merged. During GRECO's Third Evaluation round on ethics regulation in parliament, the Council of Europe qualified the disclosure system in France as "fairly complex" because of the various declarations applicable to parliamentarians and the ambiguity of their terms.[111] At first, parliamentarians were only asked to file a declaration of assets. The need to declare their outside activities and interests only became a legal requirement later. In 1988, Law No. 88-226 on financial transparency of political life made it mandatory for parliamentarians to file a declaration of assets in order to detect any illicit enrichment resulting from their parliamentary mandate. In 2011, Law No. 2011-410 made them declare their professional activities to the Bureau of their Chamber (in charge of verifying their compatibility with a parliamentary mandate and seizing the Constitutional Court in case of doubt). In April 2011, the decision of the National Assembly's Bureau to create a code of conduct introduced an interest declaration for parliamentarians,[112] which was not enforced before the adoption of the 2013 laws on transparency in public life.[113] The HATVP receives the declarations, verifies their content (accuracy, completeness and constituency) and is in charge of publishing them online. For parliamentarians, only the interest declaration is made available online; the assets declaration is accessible physically in the prefecture of their constituency.

Sanctioning MPs remains the prerogative of the National Assembly. The main sanction provided for in the decision of the Bureau creating the code of conduct is public exposure of the breach — "an Anglo-Saxon style *name and shame* practice".[114] The integration of the Code in the Rules of Procedure of the Assembly provided for additional sanctions through articles 70 to 73 of the Rules of Procedure. A breach of the code could, therefore, lead to a simple warning, a warning noted on the transcript, or censorship with or without temporary suspension from office. The simple warning comes with a withdrawal of part of the monthly salary. This also forbids all appearances on the premises and participation in parliamentary work for fifteen session days.

Regarding interest and asset declarations, the HATVP does not have any injunction power over parliamentarians (while it does for other public officials who are required to declare interests and assets) in respect of the separation of powers.[115] The HATVP, thus, monitors compliance with obligations to register interests and assets, verifies the content of declarations and makes sure they are available to the public. In case of late submission or incomplete declarations, the HATVP informs the bureaus of the parliamentarian's chambers, which can seize the Constitutional Court, which, in turn, can pronounce the parliamentarians' ineligibility and their compulsory resignation (*démission d'office*). Similarly, if the HATVP detects a potential conflict of interest, it cannot ask a parliamentarian to resolve it. Instead, it must inform the President of the parliamentary chamber, who decides whether to apply the measures decided by the chamber. Likewise, it is for the bureau of the Assembly to seize the Constitutional Court to appreciate potential incompatibilities.

Political parties

Few parties have implemented ethics norms or codes of ethics. It is not possible to precisely determine when such normative frameworks were adopted, although some codes seem to have emerged in the second half of the 2000s. Disciplinary practices, such as informal warnings regarding the conduct of certain party members and/or officials, might have been applied from time to time prior to the adoption of codes of conduct.

Before mapping self-regulatory efforts within political parties, it is important to discuss the universe and nature of the French political parties. A total of 591 political parties were required to file certified accounts for the 2019 fiscal year. While the total revenue of these parties reached €217,814,978, their average revenue was €445,429, with a median revenue of €14,948. In view of this financial information, only a handful of these party organisations actually correspond to parties with a national scope and real capacity to win important political office. This trend is not new. In fact, many of the entities now called political parties correspond to associative structures that existed before the adoption of the first laws on political financing, dating from 1988-1990. These small partisan organisations hardly have any internal rules or developed statutes and even fewer codes of conduct or bodies in charge of enforcing political ethics to their members, officials and representatives. But what about the more established ones?[116]

Few of them have developed such self-regulatory tools. They are not constrained to do so by the regulations (see Poirmeur and Rosenberg, 2008). For instance, Éric Woerth was treasurer of the Union pour

un Mouvement Populaire (UMP) since 2002 and responsible for overseeing the party's accounts, a highly sensitive position. He held this position for several years while being a minister (notably of the Budget, Public Accounts and the Civil Service) before being questioned (and finally cleared) in the Woerth-Bettencourt affair. In an interview before having left his post as party treasurer, Éric Woerth stated that "the General Inspectorate of Finance [had not] shown that there had been no conflict of interest between [his] functions as treasurer and as minister of the Budget". Nevertheless, he admitted that such a combination was controversial and hence decided to resign. A few days earlier, during his televised speech on France 2, Nicolas Sarkozy had indicated that he had told Éric Woerth he wanted "him to devote himself exclusively to this important pension reform, that his honour was now cleared, that the suspicions had been lifted, and that (his) advice was rather that he should give up this responsibility" as party treasurer. In short, what seems to force party leaders to opt for a political conduct or practice in line with the expected ethical norms is socio-political and media pressure rather than internal legal constraints [117].

Some party statutes and regulations often vaguely mention integrity. Article 3 of the internal rules of the centre-right National Rassemblement party, which deals with the loss of party membership, sets five reasons for expulsion, the fourth of which is "serious breach of probity". Similarly, since December 2007, the centrist Mouvement Démocrate party has had an ethical charter based on eleven points, the third of which stipulates that "the Mouvement Démocrate is independent of all economic, political or media influence. It is thrifty with public funds. It promotes transparency and balance in public accounts and fights against all forms of corruption". The Socialist Party also adopted an ethics charter in October 2012. More often than not, when a political party introduces the issue of ethics, transparency or deontology into their party constitutions, statutes and other internal legal frameworks, these concerns are echoed in the run-up to an election, including a primary election. The goal is not so much to promote public integrity or prevent corrupt political practices but rather to list "the rights and obligations of candidates in this campaign" (Les Républicains), "prevent disputes and shape behaviour" (La République En Marche), guarantee the "discipline and coherence" of political action or bring together the conditions for an "internal debate" proscribing any "external denigration as incompatible with the commitment" (Le Mouvement Démocrate).

As far as political parties are concerned, given the scarcity of tools and the weakness of the rules to promote ethical conduct, it is hardly surprising that things are underdeveloped on this side of their control. However, several institutions have been created, for example: in Les Républicains, a high authority responsible for organising the primary elections; in the Macronist movement, an ethics commission; in the Socialist Party, an ethics high authority; and in the Greens, a national ethics committee. The public information available in these bodies is often scant. The ethics commission of LREM is chaired by Jean-Pierre Mignard, a lawyer and friend of François Hollande, who worked until March 2016 in the ethics high authority of the Socialist Party. In the newspaper Libération, Jean-Pierre Mignard explains that the commission acts with "independent and impartial authority" and is composed of "three to six members", whose names he cannot reveal[118]. Article 6.2 of the Socialist Party statutes details the composition of the ethics high

authority (nine full members and three substitute members) chosen for "their professional competence and the moral credit attached to their commitment. They declare that they adhere to the values of the Socialist Party and to the charters", their appointment being "subject to the vote of the majority of the delegates of the National Convention". The same is true for the Greens, whose national ethics committee is composed of six members, half are from the movement's bodies, and half are qualified personalities. This committee is supposed to ensure "respect for the coherence between the values of political ecology as promoted by the movement and the actions undertaken by the movement's bodies or by their leaders" and has "the right to audit" and to give opinions "on the actions of the movement's leaders in the exercise of their mandate, all the movement's bodies and legal entities that depend directly on it". The national ethics committee of the Greens has four main tasks: (1) the careful observation of practices; (2) the evaluation of practices considered ethically problematic; (3) the collection of information, complaints, suggestions, observations, intervention and advice; (4) and the constitution and transmission of a critical and reflective collective experience. The Greens even provide remuneration for the occupation of these functions. Generally speaking, the composition of these bodies, as well as their missions and actual work, remain largely unknown and unscrutinised. Sometimes, names are specified. In most cases, these bodies appear to be held by elected officials and professionals who are sympathetic to the party. Therefore, the autonomy of these structures is hardly developed.

Political party officials are, of course, liable to prosecution and punishment for a range of offences to public probity provided for in the penal code. When these serious offences are eventually brought to justice, they are handled by the courts. In fact, it is not uncommon for these cases to be triggered by political rivalries, whether internal or external. The initiatives taken by Arnaud Montebourg in the PS, at the turn of the 2010s, are a perfect illustration. As a candidate for the socialist primary elections, he campaigned on the theme of public probity with no less personal interest in cleaning up the behaviour of certain PS federations that were not necessarily favourable to his candidacy. This was the case, for example, of the Bouches-du-Rhône federation, concerning which he published a damning report in 2010, eleven years before the justice system finally seized the case and pronounced sentences against one of its senior officials, Jean-Noël Guérini. For its part, the PS waited until January 2014, four years after the beginning of the judicial cases concerning Guérini, to launch a procedure to exclude him, a clear sign of partisan resistance concerning the disciplining of its members' misconduct.[119]

On matters related to the internal disciplining of party ethics, most actions have been symbolic so far. Hence, it is hard to assess if the adoption of new codes of conduct and ethics committees represents a critical juncture and will play any meaningful role in that process in the future. There is indirect evidence suggesting a generalised mistrust towards internal ethics regulation among party elites, particularly at the right of the political spectrum. In Hauts-de-France, for example, when the region adopted a code of ethics, the Rassemblement National party declared a desire to "corset elected officials"[120]. In the same way, when the PACA region inaugurated a commission of ethics to avoid any conflict of interest among elected officials, the National Front immediately criticised its lack of independence and voted against its creation.[121]

Portugal

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Four decades of reticent progress

Since the early 1980s, ethics regulation in Portuguese politics has been a cumulative process, with little disruption and a double-standard posture from political actors: on the one hand, pushing for more regulation and oversight and enforcement; on the other hand, resisting the adoption of any legal measures that could encroach and constrain their interests, and dismissing any responsibility on poor legislative and enforcement outcomes. Regulatory advances cannot be dissociated from social-economic crisis, growing public concern, intolerance towards corruption, an increase in scandals involving the probity of political actors and institutions, greater media attention to the topic, pressures from international actors, review mechanisms and country ratings. Despite the successive waves of reform, the overall perception is that there is no credible commitment from political parties, parliament, and government to ensure a consistent and convincing clarification and enforcement of ethical standards to their members.

A decade after the 1974 Revolution that paved the way for the democratic regime, political actors were forced to address and adopt anticorruption measures with provisions that targeted their own behaviour. The early 1980s anticorruption package was the first of three regulatory reforms aimed at tackling political corruption and unethical behaviour, namely through the introduction of public control on the wealth of elective officials (Law 4/83). The second regulatory reform went from 1993 to 1995, with the adoption of a new incompatibilities regime, party and electoral financing, the revision of the Statute of MPs and the setting up of a parliamentary ethics commission. A third major reform took place in 2019, with the legislative package on transparency. After three years of work, the parliament approved amendments to the incompatibilities' regime, extended asset declarations to other public offices and created a code of conduct for MPs. In the meantime, the executive also adopted its own code of conduct. Two other anticorruption reforms took place in 2006 and 2011, with a chirurgical impact on ethics regulations.

These reforms mainly touched the legislative and executive branches at national, regional, and local levels, senior public officials and, more recently, magistrates. The ethical context in which political parties operate has also changed. The financing of political parties and electoral campaigns has been regulated since the early 1990s and subject to some degree of supervision, with enforceable sanctions, since 2005. The law has been reviewed several times with advances and setbacks. Political financing regulation has inflicted some changes in the internal organisation and functioning of political parties, for instance, through the introduction of standard accounting procedures and electoral financial officers. However, the setting of standards of conduct inside party organisations — through the revision of party statutes and/or the adoption of dedicated codes of conduct — and the enforcement of those standards to their members — through conventional jurisdictional bodies and/or dedicated ethics committees — have remained excluded from these regulatory efforts. Any self-regulatory measures inside party

organisations have been voluntarily adopted by party leaderships and only apply to a reduced number of parties.

Reforms and innovations

Although there have always been some rules of conduct applicable to elected officials enshrined in various laws and other legal sources since the early days of the Portuguese democracy, their oversight and enforcement were primarily external to the institutions where duties were discharged. The first developments took place in the early 1980s and *coincided* with two IMF financial bailouts and the accession process to the — then — European Economic Community. This reform targeted individuals, and no mention was made of the institutions where they discharged their duties. Asset declarations were introduced in 1983[122] to a limited group of political and senior public officials and were submitted to the public prosecutor's office at the Constitutional Court. Asset declarations were only subject to an unsystematic cursory check without substantive verification of their contents' validity and truthfulness by checking them against other sources of information and overseeing possible variations of overtime or in relation to comparable subjects. A similar situation regarding the declaration of incompatibilities and impediments was introduced in 1993.[123] Political officials had to file a declaration of non-existence of incompatibilities or impediments with the Constitutional Court within 60 days of taking office. The declaration includes information on paid and unpaid positions, outside activities, and company holdings. The Constitutional Court was responsible for overseeing and enforcing the applicable sanctions to the declarants.

The mid-1990s witnessed one of the major innovations regarding ethics self-regulation in national political institutions (government and Parliament): the introduction of a Register of Interests under article 26 of the Statute of MPs (Law 7/93) and article 7-A of the regime of incompatibilities and impediments (Law 64/93). The Register of Interests for MPs and government members is kept and managed by the Parliament and is available online for public consultation. Completing the register does not preclude MPs or members of the government from disclosing any apparent, potential or actual conflict of interest that may arise when pursuing public business. Article 27 of the Statutes of MPs is clear in this regard, requiring MPs to declare their interests whenever taking part in parliamentary sessions or works. However, the extent of an oral or written declaration before engaging in parliamentary business is limited: it only concerns interests that may lead to a *direct advantage* and are obtained from the law or parliamentary resolution under consideration. Although this legal provision is intended to strike a balance between a more static compliance-based register and a more dynamic and voluntary disclosure of interests that may question the MPs' objectivity or impartiality, the way it is framed severely limits its application. Moreover, no penalties are provided for MPs and members of the government who fail to register or declare their interests while pursuing public business.

The adoption, in 1995, of a permanent parliamentary ethics committee, currently the Transparency and Statute Committee, was also a symbolic outcome in this process. The legislator did not give the committee's design sufficient thought and consideration. This is neither a novelty in this domain nor specific to the Portuguese case. Institutional responses in the anticorruption field tend to lack

feasibility studies, benchmarking of the existing models and best practices, evidenced-based proposals, and a thorough discussion of the various available options among experts and practitioners. It is not clear what is intended with this committee, what its composition should be, how it should act, what competences and resources it should have or to whom it should report; in a few words: what role it should play in the national integrity system. The committee is not yet a credible instrument for managing the ethical conduct of MPs~, and the chances that such a body may gain some institutional relevance are few, given its in-house nature, party-based composition and poor relationship with anti-corruption CSOs and the media.

In 2019, as the outcome of an Ad-Hoc Parliamentary Committee on Transparency in Public Life, the parliament approved a Transparency Package. Some modifications were introduced to the regulation of conflicts of interest, incompatibilities and asset disclosure. The most significant ones related to political officeholders were: i) the merging of the previous three separate declarations into a single declaration of income, assets, interests, incompatibilities and impediments; [124] ii) the toughening of sanctions for non-compliance with declarative obligations, which may now amount to prison sentences;[125] iii) the increase in the number of incompatibilities; [126] iv) the extension of gifts and hospitality rules to all political and senior public officeholders;[127] and the creation of a Transparency Entity[128]. The Transparency Entity is an independent body that works under the auspices of the Constitutional Court and is responsible for assessing and supervising the single declaration of income, assets and interests.[129] Its tasks are mostly administrative and do not go beyond what were previously the obligations of the Constitutional Court and the parliament. By the beginning of 2022, the Transparency Entity was not yet operational.

In addition, an anti-nepotism law was also enacted following media exposure of the profusion of family links at the cabinet level, reaching up to 50 individuals and 20 families between ministers and staff.[130] Besides husband and wife and father and daughter siting in the Council of Ministers, special advisors or public officials had family links with party and cabinet members.[131] The new rules, applicable to appoint cabinet advisors, support staff, senior officials and public managers, forbid cabinet members to appoint relatives up to the fourth degree of an officeholder's collateral line, i.e., cousins.[132] Except for one case, which led to the immediate resignation of the actors involved, the controversial appointments had not been made by a direct family member, but by colleagues, in a case of *cross-nepotism*, which the new law does not ban. In fact, the approval of such legal provisions might have had the opposite effect, i.e., legitimising a practice that, despite being condemned by public opinion, is not unlawful.

Shortcomings

The incremental nature of adjustments, the peculiar *tailor-made* nature of legislation and the importation of regulatory models *in place* abroad have raised important aspects regarding the scope and efficacy of the instruments adopted as well as the legislators' willingness to change their *status quo*. There are some general trends in conflicts-of-interest reforms that should not go overlooked (De Sousa, 2002):

- *The reactive and circumstantial nature of reforms* — More often than not, setting new impediments or restrictions to MPs' private

interests has come late in the day as a reaction to specific scandals rather than a comprehensive and proactive attitude towards the management of conflicts of interest in parliament. The drivers of political reform have been the product of successive crises-reactions to deep-seated practices. Where certain conflicts of interest have gradually become unacceptable to public opinion, political elites reacted to address public concern, but the reforms were often cosmetic, that is, deprived of clear norms and adequate instruments to ensure their effective application and enforcement.

- *Patchwork design of legal impediments* — There is a tendency to address by law the issues that individual and collective (parliamentary) ethics are unable to manage on a day-to-day basis. Therefore, the scope of application of impediments remains strictly formal and denominative. The parameters used and revised have been deliberately selective, addressing some instances of conflict while leaving others untouched. Legal impediments tend to regulate the exception, and officeholders have always been keen to explore regulatory loopholes and the ambiguity of legal norms: whatever is not proscribed by law becomes acceptable, according to their in-group ethical frame. In other words, entitlement comes before self-restraint and prudence. Accumulation with other mandates, functions, jobs, or activities is only abdicated when expressly imposed by law. This legal minimalism has often made parliaments overlook apparent and potential conflicts of interest.

- *The tailor-made nature of rules and the minimum denominator* — Similar to other forms of political ethics regulation, conflict-of-interest rules are designed, adopted and implemented by the very same political actors whose conduct they aim to regulate. Changes to the regime of incompatibilities affect all MPs and are often the outcome of intense negotiation and accommodation between all major parties in parliament.

- *The difficulty in managing conflicts of interest in a continuum* — Incompatibility rules only address situations of conflict that threaten MPs' probity *while in office*. In most cases, however, the parliamentary mandate might have ended by the time a conflict of interest was ascertained, and this poses considerable problems in creating a lasting institutional culture against conflicts of interest. Whereas rules on employment *after leaving public office* have been imposed on civil servants and, to a much lesser extent, ministers and government officials, there is no such conflict-of-interest clearance applicable to MPs.

Pressures and public debate

As a long list of examples illustrates, scandals and pressure from public opinion have triggered most ethics regulatory reforms. In 2016, a controversy over a private sector job of a then MP and former Minister — and most likely the detention of the former PM accused of corruption 18 months before — led to the creation of an Ad-Hoc Parliamentary Committee on Transparency in Public Office.[133] The proceedings of this committee resulted, three years later, in the 2019 Transparency Package, including the first Code of Conduct for MPs. That same year, another scandal involving cabinet members who accepted travel, hospitality, and football tickets for the 2016 UEFA European Football Championship, forced the government to draft and adopt its Code of Conduct.[134]

Pressure from international organisations has also played a role, especially the UN, GRECO/CoE and the European Commission. Their influence is twofold: first, the regular reviews and evaluations conducted by these organisations place pressure on Portuguese authorities to address their recommendations in the recurrent anticorruption reforms; second, recommendations work as policy diffusion channels, as policymakers look up to them for solutions when legislating.

Nevertheless, reforms always seem to fall short in terms of robustness or actual scope, as lawmakers seem to refuse to go beyond the bare minimum to respond to public opinion and international organisations. The impact of the latter is limited, as most recommendations are ignored or not fully implemented. In 2019, Portugal was one of the least compliant countries with GRECO's recommendations concerning the 4th round of evaluation, especially with respect to parliament, as none of the recommendations was fully implemented, and 80 % were only partially so.[135] In other words, lawmakers feel the pressure and apply some international best practices to the extent they can claim to have ticked the box. However, they do not fully translate those practices. For instance, the 2019 Transparency Package created an autonomous Entity for Transparency inspired by other countries' experiences, namely the French HATVP. However, the Portuguese version has no legal independence or powers, as it simply upgrades the status of the Constitutional Court's administrative department that files and monitors interest and asset declarations.

Despite the external pressure — from public opinion and international organisations — governments and political parties have made little effort to open the regulatory process on ethics regulation in political life to external inputs. For instance, the debate around the 2019 Transparency package was limited in scope and participation. No international experts or practitioners were consulted or heard during the legislative works, and auditions of national stakeholders were rather limited. The drafting of the government's Code of Conduct was an even more exclusive process, as there is no register that the cabinet has consulted any experts or civil society stakeholders. The process was also rather quick, as only two months passed between the breaking of the scandal and the approval of the Code by the cabinet. In 2020, the government approved a National Anticorruption Strategy (ENAC). Being the first document of its kind, the strategy largely ignored political corruption and focused mainly on the public and private sectors. Moreover, despite being placed under public consultation, the ENAC was never submitted nor discussed in parliament.

Moreover, the reforms always seem to fall short of ambition, scope and depth. The consequence has been a succession of reforms and the multiplication of regulations and entities without a coherent and credible clarification of what those standards should be and how they should be enforced. Scandals keep piling up, while institutions and politicians continue to be unable or unwilling to prevent or sanction misdemeanours. With poor quality regulation and even weaker enforcement, ethical conduct and regulation is still an issue up for debate.

Political parties

Neither the law on political parties nor the law on party and campaign financing require parties to adopt internal norms, oversight, and enforcement mechanisms for disciplining the ethical conduct of its members, officials, and representatives. The party law[136] states that parties must be internally democratic (Article 5), pursue their aims in a transparent manner (Article 6), and have a statutory, internal jurisdictional body (Article 25). Article 28 of the Party Law is exclusively dedicated to the internal jurisdictional body. However, it only covers its composition, not its role within the internal governance structure of political parties. The law requires these bodies to be elected and sets an incompatibility rule to its members under the principle of separation of powers — they cannot be cumulatively members of the jurisdictional body and members of the party's executive and deliberative bodies — in order to safeguard their independence and impartiality. It is up to the parties to decide the institutional design of these bodies, how they should fit into the internal governance structure, to whom they should be accountable, what competences and resources they should have, what their scope of action should be, and what role they should play.

Overall, these bodies have had a dual function under most party statutes: on the one hand, they have been responsible for settling internal disputes arising between members, governing bodies and candidates (particularly regarding internal elections or candidate selection processes), and deal with possible actions taken by external bodies against the party as a legal entity (for instance, abusive decisions taken against members challenged in the courts). On the other hand, and in most cases, they are responsible for dealing with alleged breaches of the rules set out in the party's constitutional and internal legal documents and applying disciplinary sanctions or reviewing the sanctions applicable to party members.

Whereas the law does not consider the institutional design of internal disciplinary bodies, it does set two important rule of law standards for disciplinary action under Article 23: the legality of the decision, i.e., it shall not affect the exercise of rights and the fulfilment of duties laid down by the Constitution and the general law; and its due process, i.e., sanctions should always be subject to guarantees of a fair hearing, the right of defence and the possibility of filing a complaint or appealing against the decision. As already mentioned, the Party Law also provides, under Article 31, that all disciplinary actions taken against a member can be contested before the competent internal jurisdictional body and that aggrieved party members, and any other party body to that matter, may appeal to the Constitutional Court against the internal jurisdictional body's decision.

The introduction of codes of conduct and ethics oversight and enforcement bodies into the internal governance structures of political parties is a recent development, and it is unclear whether similar legal review procedures apply. Although Portugal has one of the most regulated party systems in Europe, the general party law has been completely absent from self-regulatory efforts inside party organisations. These recent developments have resulted from the initiative of the parties and not from meta-regulation, i.e., they were not dictated by law and are not applicable to all party formations.

Parliament

The Statute of the MP was, for decades, the only document that included some ethics provisions.[137] First adopted in 1983 and still in place, the statute underwent chirurgical amendments eleven times, the last one being in 2009. Despite not having actual ethics guidance, it regulates aspects such as loss of mandate[138], incompatibilities, impediments[139] and interest declarations.[140] The major shift towards self-regulation of political ethics came in 1995, at the parliamentary level, with the introduction of Chapter IV in the Register of Interests under the Statute governing Members of the *Assembleia da República*.[141] For the first time, the parliament was involved in this regulatory process through: the creation of a register of interests and the enforcement of reporting obligations to MPs (Article 26); the first tentative definition of potential conflicts of interests in parliamentary activity (Article 27); and the creation of a new Ethics Committee (Article 28) — recently renamed as Parliamentary Committee on Transparency and the Statute of Members[142] — to oversee this process.

Then in 2019, in line with the Transparency Package, the Statute of MPs was supplemented by the MPs Code of Conduct, which, contrary to the former law, is simply a parliamentary resolution.[143] The Code of Conduct is rather limited in scope. Besides listing the ethical principles of freedom, independence, pursuit of public interest, transparency and political responsibility, and restating the MPs' duties and obligations foreseen in the statute, it only regulates gifts and hospitality. Thus, the main self-regulatory instrument in parliament remains the Statute of the MP.

There are, in addition, criminal and administrative laws that also inform and regulate self-regulatory instruments, rendering ethics regulations somewhat dispersed. Still, the regulation of declarative obligations and incompatibilities, which, for decades, was divided into two different laws[144], was merged into a single act in 2019 — the Regime for the Exercise of Functions by Holders of Political Offices and Senior Public Offices (REFHPOSPU)[145] — complemented by the Law on the Constitutional Court (in connection with a breach of the rules on incompatibilities and disqualifications and on asset disclosure).

The regime applies to all political and senior public officeholders and not just MPs.

Table 14 Regulation of assets and interests applicable to political and senior public officials, Portugal

Scope	Statute of the MP	Code of Conduct	REFHPOSPU	Other
Conflicts of interest	X			
Outside employment or remunerated activities			X	
Outside nonremunerated occupations and memberships			X	
Holdings or partnerships			X	
Gifts, hospitality and travel invitations		X		
Campaign contributions				X
Financial, staff or in-kind support provided by Parliament				X
Asset, liabilities and interest disclosure			X	
Other financial interests			X	

Oversight in parliament has changed over the years, with progresses and setbacks. A Parliamentary Ethics Committee (PEC) was set up in 1995 within the statute of MPs[146], with advisory powers. It could issue opinions on matters relating to incompatibilities, incapacities, impediments, immunities, conflicts of interest, suspension, and loss of mandate, as well as on any other issues that may, in any way, affect the Deputy's mandate. When the PEC identified the existence of impediments and incompatibilities, it issued an opinion to be approved by the Plenary of the Assembly of the Republic, which would then grant 30 days for the MP to put an end to the situation that gave rise to the impediment.

In 2015, the PEC was downgraded to an Ethics Sub-committee within the Constitutional Affairs Parliamentary Committee, only to be replaced by the Parliament Transparency and Statute Committee (PTSC) in 2019. Like its predecessors, the current PTSC is composed only of peers (23 effective MPs and 23 alternates), reflecting roughly the party representation in the plenary. The Committee is subdivided into two working groups, one for interest declarations and another, more recent, for the application of the code of conduct.

The scope of action of the PTSC includes conducting inquiries and instructing processes related to violation of the law or the Rules of Procedure and checking and issuing opinions on: incompatibilities and impediments; the correctness of the interest declarations; immunity lifting; MPs' powers; the suspension or loss of office and conflict of interest situations; the eligibility and loss of mandate; and facts occurring within parliament that may compromise the dignity of an MP or the violation of duties.[147] Who may request the action of the PTSC, or what triggers it, may vary according to the issue at stake. For instance, conflict of interest issues may only be requested by an MP or the Speaker, while the assessment of the declarations' correctness may take place either ex officio or at the request of any citizen in the use of their political rights. The Transparency Committee is also obliged to cooperate with the judicial authorities.

MPs can preventively approach the PTSC to ask for advice and clarify potential conflicts of interest. The President of the *Assembleia da República* may also request the PTSC to review a specific case or complaint. When the PTSC receives a complaint from outside, it must determine its admissibility. It may also act on its own initiative if it observes a breach of the Parliament's rules and regulations.

There are no sanctions for MPs that do not follow the rules prescribed in the self-regulatory instruments, except for faults that violate the law, such as incompatibilities and impediments. For instance, if an MP violates the REFHPOSPU by taking up an activity that might be considered incompatible with public office, he will be required by parliament to solve the situation. If the MP is unwilling to do so, he risks losing office. However, if violations are related to the Statute of MP or the Code of Conduct, such as failing to disclose an interest or not registering a gift, no sanctions are applied because the regulations do not foresee them.

Government (Executive)

Ethics within the executive are regulated by a Code of Conduct: a self-regulatory instrument with no hard law value. Approved by each cabinet at the beginning of office, the Code has had two versions (2016 and 2019), with only minor language differences between them.[148] The Code focuses mainly on gifts, travel and hospitality,

and the use of State resources. The regulation of conflict of interest is mentioned, but it is not sufficiently detailed on definition, prevention, or internal procedures.

Like MPs, cabinet members are also governed by the REFHPOSPU (the Regime for the Exercise of Functions by Holders of Political Offices and Senior Public Offices)[149] and the Law on the Constitutional Court. The Code of Conduct also applies to special advisors, personal secretaries, and other experts working for the cabinet, in addition to a dedicated law that governs their positions, i.e., the Decree-Law on the Nature, Composition, Organic and Legal Regime of Government Members' Offices.[150]

There is no dedicated body or individual in charge of overseeing compliance with the Code of Conduct by cabinet members or their staff. The Code states that individuals are to answer to their principal, i.e., staff answers to the cabinet member they work with, deputy ministers answer to their minister, and ministers answer to the PM. No other sanctions are foreseen besides *political responsibility*, a concept not defined in the code. In the end, the PM has the final word and decides, based on the political criteria of the moment, whether he dismisses an individual or not.

Cabinet members must submit an interest declaration to the parliament's services, which is published on the parliament's website.

Spain

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Introduction

The aim of this case study is to identify and critically analyse the context and the measures that have been implemented in Spain by political parties, parliaments and governments to mitigate possible reputational risks associated with unethical behaviour. This will be done based on two dimensions of work: internal codes of conduct or similar standards and the internal bodies responsible for their oversight and enforcement.

The work is divided into three parts. Each of them will be dedicated to one of the three subjects analysed: government, parliament and political parties. In each part, the process of ethical self-regulation will be analysed diachronically, answering the following questions: *what has driven the existing self-regulatory reform?;* and *how was the public debate around this topic?*

In each section, there will also be a reflection on the main challenges and achievements of the process. The most important and extensive part will be devoted to the application of the existing self-regulation framework at the party, parliament, and executive levels, answering the following questions for each of these institutions: (i) at the norms' level, *What are the contents of the rules?* and *How extensive is the scope of the standing ethics norms (codes of ethics, for instance)?*; (ii) at the oversight level, *How is oversight being conducted? How independent and proactive is it?* and *Does the body in charge have the necessary means*

and powers to do its job?; and (iii) at the enforcement level, *How is enforcement being conducted? How does it relate to oversight?* and *Does the body in charge have the necessary means and powers to do its job?*

Government (Executive)

The first regulations on incompatibilities and conflicts of interest, dating back to the mid-1980s, were linked to the modernisation and reform of the State. Law 53/1984, of December 26, on Incompatibilities of Personnel in the Service of the Public Administrations, which is still in force, included rules on incompatibilities of public servants and senior officials. Subsequently, Law 50/1997, of November 27th, was passed, but it hardly added anything except a few extra requirements to be appointed Minister or Secretary of State. Later, Order APU/516/2005, of March 3, was issued — providing for the publication of the Agreement of the Council of Ministers of February 18, 2005 — approving the Code of Good Government for members of the government and senior officials of the General State Administration. This Code is no longer in force because a new one was enacted in 2013. However, it was the first expression of an internal Code of Conduct for members of the government and senior officials. This Code granted the then Minister of Public Administration the function of controlling compliance with the Code and submitting an annual report of non-compliance to the Council of Ministers, with proposals for measures to ensure its proper implementation. A function that the ministers responsible for the report never exercised. The Code arose more in the context of attempts to improve the democratic quality of the system than in response to scandals.

However, after January 2013, the government began to suffer the pressure of the so-called Bárcenas Case[151] and gradually developed a series of largely consensual rules and measures to try to reduce the impact of the scandal. In the first semester of 2013, the Government submitted 40 measures to the parliament to strengthen Spanish democracy and fight corruption. This programme led to the adoption of a resolution by the majority in Congress, in February 2013, to address those problems.[152] This national agreement included *soft* and *hard* measures. The former concerned a programme called the "revitalisation of the democracy". The latter included the adoption of legislative proposals such as: the Organic Law on Control of the Economic and Financial Activity of Political Parties; the reform of the Organic Law on the Court of Audit; the reform of the Law on Public Sector Contracting; the Law on Execution of Public Functions; the reform of the Criminal Code; the reform of the Law on Criminal Proceedings; and the Organic Law on the Judiciary. The parliament agreed to discuss changes to the proposal of the Law on transparency, access to information and good governance and review issues such as lobby regulations, asset declarations, modernised electoral campaigns and *political floor-crossing* or turncoat.

The new Code of Good Government for members of the government and senior officials (political appointees) was incorporated into the Law on transparency, access to information and good governance. Towards the end of 2013, the Law on Transparency was approved and published in the Official State Bulletin (BOE) (Law 19/2013, enacted on December 9th). The new Law on transparency, access to public information and good government had the triple objective of increasing and strengthening the transparency of public activity by obliging all administrations and public entities to actively disclose

such information; acknowledging and guaranteeing access to information, regulated as a right with a broad subjective and objective scope; and establishing good government obligations with defined consequences in case public officials failed to comply with them. The measures related to good government establish the ethical principles and behaviours that members of the Government and high-ranking officials of the State General Administration should maintain. They also clarify and strengthen the sanctioning regime applicable to officials concerning their responsibility. The system aims to deliver public officials that behave according to principles of effectiveness, austerity, impartiality and, above all, responsibility. In order to achieve this, the Law established a sanctioning regime structured according to three types of infringements, namely those regarding conflicts of interest, budgetary and economic management, and disciplinary infringements. Additional infringements of the Organic Law 2/2012 on Budgetary Stability and Financial Sustainability were also included. In the area of budgetary and economic management, sanctions were included for violations concerning the waste of resources, ordering payments without enough credit or against the budgetary provisions, and not justifying investments of funds outside the foreseen budget. This new code is a consequence of the Great Recession of 2008 and tries to reinforce the principles of austerity in public management. However, other than that, it hardly modifies the previous code.

In any case, the monitoring of compliance with the precepts of good governance is attributed, in a very vague way, to the Council for Transparency and Good Governance, a body created by the Law on Transparency. The Chair of the committee is appointed by the Government and only needs a simple parliamentary majority for its endorsement. The body's competencies are not well defined, and its composition lacks independence, i.e., it lacks the representation of the parliamentary opposition and the involvement of the civil society in order to counter governmental influence. The Council of Transparency and Good Government has encountered multiple difficulties in performing its legal role. It had no President between September 2017 and October 2020. On 20 October 2020, José Luis Rodríguez was appointed the new President of the Council.
One of the Council's objectives is to enact regulations for the development of the Transparency Law, which has so far been impossible. Usually, the Government challenges the Council's decisions on the right of access before the Courts when such right is against its political interest. However, in these cases, the Council has to hire private attorneys to defend its decisions, as the support of the State's Attorneys is not foreseen in the Law. Until now, the Council has spent almost €300 000 on these judicial procedures. Considering that there is not enough budget for the attorneys' contracts, the situation is very unfair. While the staff had an estimated growth of 15 % between 2015 and 2020, the increase in workload, only in claims, stands at 219 %. Adding to this, citizens have also increased complaints and requests for information by 177% and 460%, respectively. In turn, the number of legal persons to be assessed on compliance with active advertising obligations is estimated at around 100,000. The resources allocated to the Council are not even sufficient for maintaining its activities. In short, between 2018 and 2021, the workload has increased, but the budget and active staff have been decreasing. The Council's budget for 2021 increased from €2 256,290 to €2 386,010. However, so far, the Council has not exercised its function of integrity oversight and has never required the government to comply with the Code of Good Government.

Regarding the system of responsibilities and sanctions (enforcement), the regulation details all possible breaches of the principles of good governance with great precision (Articles 27-29). Article 30 establishes the penalties for non-compliance, which may be minor, serious or very serious. For very serious breaches, the sanction would be dismissal and the prohibition of being appointed to a new position for five to ten years. The body in charge of opening the investigation in cases of responsibility, at the proposal of the Ministry of Finance and Public Administrations, is the Council of Ministers if the investigated is a member of the government or a Secretary of State. If the member is any other senior official, the decision is made by the aforementioned Minister. The same applies to sanctions. If the accused is a Minister or a Secretary of State, the Council of Ministers decides the sanction. If not, the sanction is decided by the Ministry of Finance and Public Administrations. Therefore, oversight and enforcement are not entrusted to any independent external body. However, this Law has been in force for eight years, and no decisions of this nature have been taken yet. No one has been dismissed for not complying with the Code of Ethics. We could, therefore, conclude that the system has not been fully tested yet.

Two new laws were enacted in 2015 to improve the transparency of the decision-making process, namely: Law 39/2015 on the common administrative procedure (*Ley 39/2015, de Procedimiento Administrativo Común)*[153] and Law 40/2015 on the Legal Regime of the Public Sector (*Ley 40/2015, de 1 octubre, de Régimen Jurídico del Sector Público*)[154].

The enactment of the two laws can be clearly considered an improvement in terms of transparency. More concretely, these laws entail the following:

- The obligation to implement e-administration to facilitate compliance with the transparency law.
- An administrative procedure to promote the principle of transparency and publicity.
- Public authorities must act in accordance with the principles of necessity, effectiveness, proportionality, legal security, transparency and efficiency when exercising legislative initiative and regulatory authority. In the application of the principle of transparency, public authorities must ensure access to the current legislation and the documents used for its elaboration. Authorities must also clearly define the objectives of the regulatory initiatives and their justification in the preamble or explanatory memorandum and enable potential recipients to actively participate in the development of standards.
- Norms that constitute laws, regulations and administrative dispositions must be published in official bulletins in order to come into force and produce legal effects.
- Annually, the public administration must publicise a plan that includes the legislative initiatives or rules that are planned to be approved in the upcoming year. Once approved, the plan is to be published on the Public Administration Transparency Portal.
- An Inventory of State, Regional and Local Public Sector Entities must be built as a public register that guarantees public information and the organisation of all integrated entities. The inventory must contain, at minimum, updated information on the legal nature, objectives and financial sources of the public entities.

- General reuse of the systems and applications owned by the administration.

These laws are also essential to improve the impartiality of the decision-making process. According to the Law on the Legal Regime of the Public Sector, any development of law must be subject to public consultation through the web portal of the responsible authority. This public consultation must capture the opinion of the individuals or organisations that represent the group most likely to be affected by the future law. The following issues must be addressed:

- The problems they intend to solve with the initiative;
- The need and opportunity for its approval;
- The objectives of the norm;
- The possible alternative solutions — both regulatory and non-regulatory.

The draft text is to be made public for the broad consultation of all those interested in providing input. In addition, it establishes the mandatory nature of the Normative Impact Analysis Report and, in particular, the inclusion of a system for subsequent evaluation of the norm's application, when mandatory.

Another important development regarding ethics regulation at the government level was the enactment of the Law regulating the work of high-ranking officials of the General State Administration. Law 3/2015, Article 12, states that:[155]

- Senior officials shall exercise their functions and competencies in a way that avoids conflicts of interest. When a decision is affected by a conflict of interest, they shall refrain from making that decision.
- Senior officials with authority status shall refrain from participating in administrative procedures when they affect their personal interests.
- Based on the information provided by senior officials in their declarations of economic activities or other information provided upon request, the Office for Conflict of Interest (OCI) shall inform senior officials of the subjects or issues from which they shall refrain from making decisions in the exercise of office.
- For senior officials without authority status, the bodies, entities or organisations they belong to shall implement adequate procedures to identify potential conflicts of interest and disqualify the senior officials from making decisions accordingly. Said procedures and the results of their implementations shall be communicated to the Office for Conflict of Interest on an annual basis.
- Senior officials must submit a written statement to their supervisor, or the body appointing them, where they abstain from intervening in administrative procedures that affect their personal interests. This statement must also be communicated to the Register of Activity within one month.
- Senior officials may resort to the Office for Conflict of Interest for advice on the suitability of abstention in specific issues as often as necessary.
- Senior officials should disclose their assets, activities and interests.

The body in charge of the oversight of Law 3/2015 is the Office of Conflicts of Interest; this body is also responsible for investigating the cases opened. The body in charge of opening the investigation in cases of responsibility is the Council of Ministers, at the proposal of the Ministry of Finance and Public Administrations, if the investigated is a member of the government or a Secretary of State. If the member is any other senior official, the decision is made by the aforementioned Minister. The same applies to sanctions. If the accused is a Minister or a Secretary of State, the Council of Ministers decides the sanction.

The OCI is not a stand-alone institution. It is part of the Ministry of Finance and Public Administration, although according to the law, it shall act with full functional autonomy in the exercise of its functions. According to the Transparency Portal, the OCI has 23 employees and runs a two-million-euro annual budget. The Director of the Conflicts of Interest Office is ranked Director General. Directors are appointed by the Council of Ministers, at the proposal of the Minister of Finance and Public Administrations, after appearing before the corresponding Congress of Deputies' Committee, which assesses whether their experience, training and capacity are suitable for the position.

The asset disclosure system aims to introduce transparency in the public sector and prevent conflicts of interest. Its objective is to rule out illicit enrichment by making the patrimonial situation of high-ranking officials public when they take up and when they leave public office. This applies to all senior positions.

However, the transparency introduced by the asset disclosure system is rather opaque, and governments have often failed to comply with the legal requirements. For example, the contents of high-ranking officials' declarations of assets should be periodically published in the official bulletin. However, in at last three years (2014–2017), the previous government did not fulfil this legal mandate.

Regarding the mobility between the public and the private sector, the regulation of *revolving doors* is included in Article 15 of the Law. High-ranking officials cannot provide services to private entities that have been affected by decisions in which these officials have been involved for a duration of two years. The rules apply to the private entities themselves, as well as affiliated entities:

- Those who are high-ranking due to being members or owners of a regulatory or supervisory body may not provide services in private entities that have been subject to their supervision or regulation for two years following their cessation.
- During the two-year period, senior officials cannot celebrate directly or through entities in which they have a direct or indirect shareholding of more than ten per cent, technical assistance, services, or similar contracts with the Public Administration in which they had rendered services, either directly or through contractors or subcontractors, provided they are directly related to the functions performed by the senior official.
- Before entering office, those who have occupied a high-level post must make a statement, during the two-year period, on the activities they will carry out before the OCI.
- When the OCI considers that a private activity violates the provisions, the interested party will be informed as well as

the entity to which they will provide services. The OCI may then formulate the allegations it considers convenient.

The breach of this obligation is considered a very serious offence and can be punished. In this regard, unless there is a complaint, it is very difficult for the OCI to know whether there has been a breach. Many reports of the Office have been very favourable to politicians who moved to the private sector. Even formal compliance with the two-year period does not prevent ethically dubious situations. For example, a high-ranking official from the Ministry of the Presidency moved after two years and a few days to a company that had been awarded contracts by the Ministry worth around 175 million euros.[156]

Arguably, the prevention of conflicts of interest, in general, is not adequately fulfilled by the system since there is no verification process except in case of complaint. In general, it seems that governments are not interested in overseeing the interest and assets of the political appointees. The Court of Audit (Tribunal de Cuentas) stated that the OCI did not use the (legal) possibility of collaborating with the Internal Revenue Service and Social Security to check the veracity of the data declared by high-ranking officials. It also failed to perform its duty of verifying systematically, periodically and randomly if the high-ranking officials have fulfilled their statutory obligations by requesting additional information once the OCI received the initial declaration.

The disclosure system established by Law 3/2015 only applies to the executive branch of the government, namely, senior officials in the General State Administration (GEA), including government members, secretaries of state, and other public sector agencies. However, this does not apply to their relatives. In view of the above, there are around 730-740 people obliged by law to disclose assets, activities and interests. That means around 0.15 % of the people working for the GEA (514,000 public officials in total[157]).

Article 22 of Law 3/2015 provides that to ensure greater transparency in the control of the regime of incompatibilities, the Office of Conflicts of Interest must issue a detailed compliance report to the Government every six months (copied to the Congress of Deputies).[158] This report includes information on the obligations to declare, the infractions that have been committed and the sanctions that have been imposed, and is published in the Official State Bulletin. The last published report is from 15 February 2021.

Concerning enforcement, according to article 25 of Law 3/2015, submitting declarations with untruthful data or fake or forged documents is a very serious offence. A serious offence includes:

- Failure to declare economic activities, property and/or property rights in the corresponding registers after being urged to do so.
- The deliberate omission of information and/or documents required by law.

The late filing of declarations of economic activities, property and/or property rights in the corresponding registers after being urged to do so is considered a minor offence. As described in Article 25.3, minor offences shall be punished with a warning.

Serious or very serious offences shall be punished with a statement of non-compliance with the law and its publication in the Official State Bulletin. The senior officials that commit serious or very serious

offences as per this law shall not be eligible for high office for the next five to ten years. In addition, very serious offences shall be punished with:

- Removal from public office, unless the sanction is applied after holding office.
- Forfeiture of the right to compensation after holding office.
- Obligation to return the unlawfully received amounts corresponding to compensation after holding office, if applicable.

Until now, only seven cases have been opened against senior officials. In three cases, no responsibility was found. In two other cases, a non-compliance declaration was approved and, therefore, published in the Official State Bulletin. In two other cases, officials were declared not eligible to run for office for the next five years.

The Fourth Open Government Action Plan[159] is based on a broad and integrated definition of the Open Government that pivots around the principles of Transparency, Accountability, Participation and Public Integrity.

Within the third objective — to "strengthen ethical values and mechanisms for consolidating the *integrity* of public institutions" — there are five important commitments for the Executive:

- Regulation of an obligatory registry of lobbies
- Amendment of the law on incompatibilities of the staff at the service of Public Administrations
- Reinforcement of Integrity in specific areas: public integrity and Artificial Intelligence
- Diagnosis and improvement of the systems of public integrity. Development of risk maps, codes of conduct, ethics climate surveys, self-evaluation guides and training for civil servants
- Protection of whistle-blowers who report corruption, fraud or violation of laws.

Finally, through the accountability exercise of the Presidency[160], a new form of accountability has been added to the integrity system. Every semester, the Government voluntarily provides information to the public on the progress in fulfilling the commitments made from the moment of the investiture and throughout the legislature. The Accountability of the President follows the experience of the United Kingdom, which, for the first time, structured accountability in the Prime Minister's Delivery Unit (now the Prime Minister's Implementation Unit), which is responsible for implementing the Government's priorities and monitoring compliance with its programme. In Spain, there is a Planning and Monitoring Department for the Governmental Activity of the Government Office's Presidency. The information made public through this new tool allows for deepening the direct relationship between the Executive and the citizenry, which connects with current forms of participatory governance.

Parliament

A new Code of Conduct for Congress and Senate was approved by consensus (except for the extreme right-wing party Vox) in October 2020[161]. The approved document reproduces the bulk of the one that governed Congress two legislatures ago. However, it added the creation of a single Office of Conflict of Interests for the Spanish

parliament instead of each Chamber having its own. This office — whose task is to resolve interpretation doubts on the application of the Code and raised by parliamentarians or the Boards — was launched in February 2021, is headquartered in the Congress and is headed by a lawyer appointed by the Boards of both Chambers. It must maintain confidentiality on the cases that have raised doubts, prepare an annual report on Code compliance, and make recommendations to improve its effectiveness. This office is composed of parliament's staff, and its statute does not grant it the power to open an investigation and apply sanctions[162].

The text also establishes that the members of the Parliament (MPs) must take measures to avoid a conflict of interest, i.e., acts that call into question their objectivity and independence as parliamentarians. In cases of doubt about a possible conflict of interest, the deputy or senator may address, on a confidential basis, the Bureau of the corresponding Chamber. If the conflict cannot be resolved, the affected party shall inform the corresponding body's presidency before the debate on the item in question begins in the Plenary or in a Committee session.

The new Code of the MPs prohibits parliamentarians from accepting gifts, favours, or services offered to them for their position or seeking to influence their parliamentary work. These rules already applied to Congress, but now they also specify that such offers may not be accepted by "their family environment". The rules also add that gifts may never exceed an amount of €150. In the Code of the Congress, no amount was fixed. Gifts, discounts, and benefits whose offer is unrelated to their political activity will be admissible. The gifts received by an MP during official trips or when acting in representation of parliament must be delivered to the General Secretariat of the Chamber to be inventoried and subsequently published on the Congress' web page of Deputies or the Senate.

Parliamentarians must report the activities they have carried out in the five years before their arrival at the Chambers, detailing their employers' names and the activity sector in the case of employed activities. The new Code obliges deputies and senators to fill in their declarations of economic interests. These declarations and declarations on patrimony and activities will be published on the website of each Chamber. They must also report donations, gifts, and unpaid benefits received during the five years before obtaining their parliamentary status, including travel and invitations to events that could cause a possible conflict of interest. They must also report NGOs and other foundations to which they currently contribute or have contributed, either financially or altruistically. Likewise, the members of the Chambers must make public their institutional agenda in the corresponding Transparency Portal, including the meetings held with the representatives of any entity with the interest group status.

If any parliamentarian complains of non-compliance with the Code, the Presidency of each House may open an investigation. The investigation is handled by the corresponding Disciplinary Commission of each Chamber. In case there is a violation, the Commission may request a sanction. However, there is no sanction foreseen for a breach of the Code of Conduct in the Rules of Procedure of the Chambers, which makes it impossible to sanction a breach of the Code. In short, the code is a step forward, but it may end up being mere window-dressing because there is no system for monitoring compliance by an independent body, nor are there any real sanctions for non-compliance.

In addition to the declarations of assets and activities, parliamentarians must now declare their economic interests. All this is filed in the Register of Interests of each Chamber. According to Transparency International[163], there is a notable difference between Senators and MPs: Spanish Senators submit their declarations at the beginning or within 30 days of the beginning of their mandate, a time limit that does not apply to MPs. In the absence of an independent oversight authority and new Rules of Procedure, there is no one to remedy the situation or issue sanctions for those unwilling to comply. While asset and income declarations for MPs were made available online, in most cases, they were provided in data formats that were neither accessible nor useful for data analysis, data searching or systematic identification of red flags. In Spain, the declarations were made available in PDF format, which required much technical expertise and, at times, manual labour to turn them into useful data tables.

Besides the format of disclosure and publication, data collection itself is problematic. There are often no standard forms or templates nor specific guidelines for MPs and Senators on how to provide their information, which generates highly heterogeneous data points. In Spain, some parliamentarians provided their source of income as the shares they hold in a company. Others provided only the company's name, and still, others provided both or none. The lack of clarity of the categories, the absence of clear guidelines for filling in the forms, and the lack of verification greatly fuelled this disparity or heterogeneity of information. In Spain, it is not always clear which income was derived from public-sector and private-sector jobs. Furthermore, critical information is lacking.

Considering all these pitfalls and the approval of the new Code of Conduct for Congress and Senate, on 29 November 2020, the Congress Bureau approved the necessary administrative procedures for the deputies to submit their new declarations of economic interests. According to some parliamentarians, this new model is better, but it still has many pitfalls[164]. The period for submitting the new declarations has ended on 16 February 2021. As of August 2021, no independent anti-corruption agency or equivalent institution was tasked with overseeing the Spanish asset and income disclosure system for MPs and Senators.

Finally, it is important to note that in April 2021, the Socialist parliamentary group submitted a proposal to reform the Rules of Procedure of Congress. This proposal, which is now being studied, although there is no guarantee that it will go ahead, establishes important new features. First, it defines interest groups, establishes the Register of Interest Groups, incorporates a Code of Conduct for Interest Groups, and creates new transparency obligations for Members of Congress. Second, it requires a legislative footprint report for each legislative initiative. Third, it establishes infractions and penalties for deputies and for non-compliance with the new rules for Interest Groups. Within this framework, sanctions for non-compliance with obligations related to declarations of assets, activities and interests are introduced for the first time and can go as far as removing MPs from office or withdrawing their salary complements.

Political parties

Regarding self-regulation measures, political parties in Spain[165] have made progress mainly regarding the design and adoption of codes

of ethics and/or conduct. These codes have been, in some cases, supplemented with other prevention mechanisms, such as whistle-blower channels. However, these efforts have been carried out without offering guarantees of effective compliance monitoring and impartial application of non-compliance sanctions. In all cases, this process of putting self-regulation mechanisms into practice has been uneven and, except for the case of the Ciudadanos Political Party (Cs) that reported annually starting in 2020, there is still a long way to go and much opacity. Generally speaking, there has been limited progress on this matter.

Despite the recent implementation of important legal changes, both historical parties (Partido Socialista Obrero Español PSOE, Partido Popular PP, Esquerra Republicana ERC), and recent parties (Podemos, Cs, Vox), have advanced in self-regulation strategies for different motivations.

For example, in order to obtain political gain, some parties have sought, thanks to self-regulation, to distance themselves from the political corruption occurring in rival parties and, therefore, achieve, through the announcement of the implementation of ethical codes, a *moral differentiation* that would provide them added value (e.g. the Popular Party case with its first ethical code of 1993 that sought to take distance from the corruption of the governing party PSOE, or the more recent cases of Ciudadanos and Podemos parties, which sought to distance themselves from the corruption cases of the Popular Party).

More recently, some political parties tried to implement self-regulation mechanisms to escape from the pervasive effects (mainly on public opinion, but also at judiciary courts) caused by their own corruption scandals. In these cases, the communicational strategy has been to *clean the house* and *draw a red line* in order to try to *break with the past* (e.g., the Popular Party case, with its current directives to reinforce its code of ethics and distance itself from the previous directive body).

In contrast, two of the three younger parties that have advocated the discourse of *democratic regeneration* (Ciudadanos and Podemos) have proactively sought to implement self-regulation strategies. These strategies could, at first sight, be classified as ambitious due to their high standards and levels of self-demand. However, in the case of Podemos, the party's progress has operated without compliance controls or guarantees, and recent ad-hoc changes by top leaders have not been free of questioning by public opinion.

In addition to the legal change that finally recognised the criminal responsibility of political parties in 2012, the most important fact that explains the recent adoption of self-regulation frameworks by parties was the change in the Political Parties Law in 2015, which included the legal obligation to have a compliance system (Article 9 bis). Although this obligation does not currently entail any sanction for non-compliance, if parties establish a compliance system, it serves, in practice, as a legal safeguard tool so that political parties can legally avoid or mitigate criminal responsibilities against possible corruption cases among their members.

With the taking in place of the legal change in 2012, all political parties were found to be at risk of criminal responsibility. It is not a coincidence, especially since 2015, that all political parties (except the PSOE, which had published its ethical code a few months before)

have adopted an ethical code or reformed their ethical code or updated the information on compliance mechanisms on their websites to *communicate the minimum elements* required by this provision.

It is important to clarify that Articles 31 bis 2 to 5 of the Spanish Criminal Code define the conditions and requirements that the organisation and management models must meet to achieve the exemption or mitigation of criminal responsibility. According to Article 31, organisations must:

- Appoint a body or person responsible for the compliance, with autonomous powers of initiative and control (Art. 31 bis 2,2ª);
- Have an adequate criminal risks mapping (Art. 31 bis 5.1a);
- Have a detailed design of crime prevention protocols or procedures (Art. 31 bis 5.2a), among which the obligation to report possible risks and breaches;
- Design the internal complaint and sanction mechanisms (Art. 31 bis 5, 4).

As already indicated, there is also a significant disparity between political formations regarding the content and scope of their ethical and conduct codes. The newcomer party (Vox) published a short declaration of principles without any monitoring mechanisms and guarantees of compliance. The document has more to do with the party's guiding values and ideological positioning than with ethical standards. Another relatively young political party (Ciudadanos) started to design an integrity management system based on the regulatory business compliance model in 2018. The model was finally adopted in 2019 and included a code of conduct, a complaints channel, a compliance officer with decision-making autonomy, and accountability instruments.

Once adopted and put in place, several of these codes of ethics have undergone changes or calibrations of an incremental nature. The important thing to note here is not the change itself but the underlying reasons for these changes since they show how, in practice, various political parties and their governing bodies instrumentalise self-regulation at their convenience.

Some of these were ad-hoc changes to *ethically enable* politicians and party leaders to act in the face of potential actions or decisions not allowed by their current self-regulation. Examples include the case of the party Podemos, with the particular use of official vehicles, or the case of the PSOE, with the discussion to change their ethical code to enable leaders to give legal pardons to the prosecuted Catalan politicians, also accused of corruption crimes. In many ways, these types of calibrations made by parties to their ethical codes are particularly pernicious since they not only lower the ethical standards and requirements initially established but also weaken the value of the code as a useful instrument to prevent or mitigate risks associated with unethical conduct (by convenience, it is the code that changes and not the conduct or behaviour of the party's leaders and members).

In addition, another negative effect is that it sends a message (both internally and to the general public) regarding the permissiveness and malleability of ethical principles and obligations and promotes the idea that codes are not essential and are highly modifiable based on convenience. An easily changeable instrument, when its narrative and content — due to the current political situation — are

bothersome and may contravene agendas, personal situations, or priorities of senior party officials, will be changed when needed. The press and the media have prioritised newsworthy events related to how leaders of political parties (especially those who are part of the current government) try to shape their ethical or conduct codes at their convenience to *ethically enable them* and, therefore, avoid being subject to internal sanctions.

It could be said that for the new parties (Cs, Podemos, Vox), the development of these mechanisms (whether ambitiously or not) could also have responded to the institutional need to contain or control unethical behaviours of new members and collaborators, many of them, politicians with experience who came from other political formations. This phenomenon has been particularly visible in the cases of Cs and Vox.

Public debate around the advancement of integrity systems in political parties has been very limited. Even though several Spanish CSOs have contributed with ideas and proposals to improve the integrity of political parties or reiterated the European proposals to advance in this regard, Spanish political parties have designed their ethical codes in response to a legal obligation, and without the implication of militants, the civil society or the academia. Decisions around instruments and their scope have always been limited to the governing bodies, and rules have been defined (with the exception of the Cs) in the absence of specific risk mapping efforts.

Table 15 summarises the key characteristics of self-regulation in ethics and integrity for the most important Spanish political parties.

Table 15 Summary of codes of conduct and other self-regulation tools advancements in Spanish political parties

	Ciudadanos (Cs)	Esquerra Republicana (ERC)	Partido Socialista (PSOE)	Partido Popular (PP)	Vox	Podemos
First code of ethics and/or conduct	Feb. 1, 2019	2015 Code of Ethics. 2016 Code of Conduct	October 10, 2014	April 24, 1993	February 2019	2014
Number of ethical codes put in place	1	1	1	3 1993, 2009, 2018	1	1
Current code of ethics	Feb. 1, 2019	2015 Sep., 2016 Code of Conduct	October 10, 2014	2018	2019	July 2021 (it is a modified version of the first document of 2014)
Reinforcement and/or ad-hoc calibrations	No reinforcements No ad-hoc calibrations	No reinforcements No ad-hoc calibrations	Attempted ad-hoc calibration in 2021 due to the political issue of the prisoners of the Catalan "procés"	Two main reinforcements. No ad-hoc calibrations	No reinforcements No ad-hoc calibrations	No reinforcements Ad hoc calibrations: the obligation to resign before imputations or final convictions, personal use of official vehicles, protection against legal harassment or "lawfare"

	Ciudadanos (Cs)	Esquerra Republicana (ERC)	Partido Socialista (PSOE)	Partido Popular (PP)	Vox	Podemos
Latest code name/ title	Code of Ethics and Conduct	Code of Ethics (annex Statutes) and Code of Conduct	Code of Ethics	Code of Ethics and Conduct PP	Ethical code of public and organic positions	Ethical document
Scope	Define general obligations and specific obligations of party members and collaborators. National scope	Define general obligations and specific obligations of party members and collaborators	Define general obligations and specific obligations of party members. National scope	Define obligations for all employees and managerial and organic positions of the Party. National scope	Declaration of principles	Declaration of principles and definition of general and specific obligations of party members and public officials
Subjects	All organic and public positions, employees and contractors, supporters and advisers	Representatives and public officials, people linked to ERC, associated or related entities, third parties and organisations	Elected or appointed institutional and public positions, temporary personnel, members of the executive commissions (federal, autonomous, regional, municipal), and militants. A declaration of adhesion to the code that must be signed by the Obligatory Charges is offered	Mandatory for all employees, and managerial and organic positions of the Party. The Code excludes the actions carried out by members of the Popular Party in exercising public functions or positions. A declaration of adherence to the code is offered, which must be signed by the obliged subjects	Applicable to all public officials and organic positions	Members of Podemos (militants), elected and internal positions, and designated positions of public responsibility
Principles	Public service, participatory dialogue, team spirit, freedom, equality, progress and solidarity	Honesty, service to society, transparency, respect, dialogue, integrity and co-responsibility	Honesty, open government. With respect to diversities: austerity, honesty, exemplarity and efficiency	Rigour and demand in the performance of functions, transparency, efficiency, austerity, professionalism, and responsibility. With respect to the Law and regulatory compliance: respect for people's dignity and equality, not accepting favourable treatment and ethical behaviour in the face of conflict of interests, prohibition of receiving gifts, respect, sincerity, transparency and collaboration, and avoiding the promotion of hatred, hostility, discrimination or glorification of criminal behaviour	1st Defence of Spain. 2nd Vocation of service. 3rd Consistency. 4th Discipline. 5th Honesty. 6th Loyalty. 7th Work. 8th Sacrifice. 9th Justice. 10th Capacity.	Human rights, participatory democracy, popular sovereignty, equality vs discrimination, free dialogue and debate, open primary elections, non-participation in banking products. For positions, salary limitations, waiving of privileges derived from their condition, avoiding conflicts of interest, promoting secularism. Salary limitations and the receipt of remuneration or complements outside the position

	Ciudadanos (Cs)	Esquerra Republicana (ERC)	Partido Socialista (PSOE)	Partido Popular (PP)	Vox	Podemos
General and specific obligations and areas	Ethics and democratic exemplarity, respect for fundamental rights, equality and non-discrimination, health and safety at work, work-life balance, sustainability, Conflict of interest, incompatibilities, receipt of gifts, fight against corruption, and public contracting	Duty to report, respect for the principles of political action, environmental commitment, transparency (legal obligations) fight against corruption, conflicts of interest, influence peddling and gifts	Actions in the event of involvement in legal proceedings, use of public funds, gifts policy, political action on pardons	Obligation to report non-compliance to the Compliance Office. Regarding donations, management of economic resources and party financing. Regarding financial transparency. In labour matters: (non-discrimination and conciliation, occupational health and safety, contracts with third parties. In the matter of gifts: influence peddling, wealth management, use of ICT, intellectual property rights, duty of secrecy, taxation, and prevention of bleaching	There are no specific obligations, only a declaration of principles that is closer to a declaration of alignment and submission to the directive and the ideals of the party	The obligations are contained in an ethical document with a high level of specificity for positions and appointed officials
Defines compliance guarantee mechanisms	Yes. Non-compliance is typified in the disciplinary regime of the party. Obligation to report in the ethical channel. A Compliance Cabinet is created, a specific entity with decision-making autonomy and powers of supervision and control	Yes. It is defined as the position of Head of Compliance. It is unclear whether this position has decisional autonomy and powers of supervision and control	No. The existence of a Regulatory Compliance Department is noted, but there is no reference to its existence on the party's website. It is not known if it is already formed and if it has decision-making autonomy or powers of supervision and control.	Yes. The creation of a Regulatory Compliance Body [NCB] is indicated, but there is no reference to its existence on the party's website. The Executive Committee is the promoter of the Regulatory Compliance Programme. The development and supervision of its operation and compliance will be carried out by the Guarantee Committee. The NCB must develop, implement, evaluate, maintain and improve the Regulatory Compliance Programme, which will carry out periodic reports	No	No. However, it is indicated that failure to comply with any of the provisions will be considered a very serious infringement

	Ciudadanos (Cs)	Esquerra Republicana (ERC)	Partido Socialista (PSOE)	Partido Popular (PP)	Vox	Podemos
Defines procedures to make changes	Yes, with periodic reviews and updates. The procedure ensures a process where the compliance cabinet must issue an assessment to be approved by the General Council	No, although it is indicated that periodic reviews and updates will be made by the compliance officer	No	No, although it is indicated that periodic reviews and updates will be made by the Guarantee committee, with the observations and recommendations of the NCB	No	No
Other instruments						
Complaints and whistle-blower channels?	Yes. Web form, confidential, open. The indemnity to whistle-blowers and penalties for false accusations are defined	Yes. Email, postal and telephone address. Confidentiality is offered, indemnity for whistle-blowers and penalties for false accusations are defined	Yes. Web form, although it arises after the code. Indemnity to complainants is defined. Internal management depends on the subject matter of the complaint/claim, the submission of the information and the analysis made of the complaint/claim by the Regulatory Compliance Department, the Federal Ethics and Guarantees Commission, the Data Protection Committee or the Data Protection Delegate, respectively	No. It was announced in March 2021, but there is no evidence of its existence yet	No	No
Accountability mechanisms	Annual compliance reports (Dec 2020) available on the Cs website	No compliance reports were found on the ERC website	There is an Ethics and Guarantees Commission, but it is not clear whether they will be public or not. There are no reports or documentation on the PSOE's website	Although it is indicated that the NCB will prepare periodic reports, it is not clear whether they will be public or not. These have not been found on the PP website	There are no reports or similar documents published on the Vox's website	There are no reports or similar documents published on the Podemos' website

	Ciudadanos (Cs)	Esquerra Republicana (ERC)	Partido Socialista (PSOE)	Partido Popular (PP)	Vox	Podemos
Other instruments						
Others			It promotes the approval and implementation of ethical codes in the administrations governed by the PSOE. The obligation of socialist public officials to contribute to the party's finances and not to receive remuneration supplements from the party is indicated	Although the code was approved in 2018, and includes the need to create an NCB, it was not until 2021 that the leadership of the PP announced its forthcoming	Possibly, the obligation to have an ethical code made them reconvert these originally ten principles' document and rename it the "ethical code". In May 2019, a news item reported the hardening of the ethical code with several austerity measures, but neither this document nor similar news were found	The latest version of the ethical document includes measures to protect Podemos leadership against the lawfare scenario in which they said, several of the public officials and leaders of that formation are being subjected from the Judiciary. This step has not been a newsworthy event yet, but it also reveals the use of these ethical mechanisms to try to shield against Lawfare practices.

Sweden

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Introduction

This case study of ethics regulation in Sweden focuses on parliament, government, and political parties. In the first part, we discuss parliament and members of the parliament, then in the second part, government and ministers, and finally, political parties in the third part. In the analysis of each of these three sections, we first provide an overview of Swedish ethics regulation, where we look at the norms guiding conduct, the oversight of these norms, and how they are enforced. Secondly, we discuss the context and overall debate around self-regulation. Doing so, we focus on what has driven the self-regulatory reform of the current system and its features, the public debate, challenges and achievements of the process, and to what extent these issues are debated today. The section on political parties deviates somewhat from this structure as we have divided it into two parts. The first part looks at self-regulation in parties, and the second part provides an overview of the legal framework and how it has developed from minimal regulation to something more akin to the European mainstream.

Parliament and members of parliament

Norms

The parliament (Riksdag) is comprised of 349 members of parliament (MPs) elected directly for a term of four years under a proportional representation system in 29 constituencies. Mandates are divided between political parties, which receive at least four per cent of the national vote. During their term in office, MPs may not step down without the Riksdag's consent. If, by committing a crime for which the range of punishment includes a minimum of two years' imprisonment, an MP is deemed manifestly unfit for office, they may be dismissed by a court decision. Courts have deprived MPs of their mandates in only two cases: One concerned an MP sentenced for two cases of gross fraud in 1996, and another concerned an MP sentenced, among other things, for abuse, obstruction of justice and unlawful threats in 2001.

The Riksdag Act (Chapter 6, Art. 19) explicitly states that no MPs may be present at a meeting of the Chamber nor a committee when a matter that personally concerns themselves or close associates is being deliberated. The above-mentioned provisions disqualifying participation in meetings of the Riksdag are less stringent than the corresponding provisions of e.g., the Code of Judicial Procedure or the Administrative Procedure Act. Namely, MPs are only disqualified if the matter at hand is *directly linked to them*. Thus, for example, an MP who is a board member of a public authority can take part in a decision to allocate funds to the same authority (see Committee report, 1990:28). The term "close associate" is not explicitly defined in the preparatory works of the Riksdag Act. However, some analogous insights can be derived from a similar provision in the Local Government Act (Chapter 5, Art. 47 and Chapter 6, Art. 28), which prohibits members from dealing with a matter of personal concern to themselves, their spouses, cohabitants, parents, children, siblings, or any other person with whom they are closely connected. It is the

responsibility of each MP to discern whether they face conflicts of interest and, if so, to decide not to participate in a Chamber or committee meeting. Such cases occur in practice but are not very frequent. When an MP chooses not to take part in the consideration of a matter due to conflicts of interest, their absence from the meeting will be noted in the records, but no reasons will be stated. Examples include a member of the Committee on Finance and also a member of the Riksbank[166] General Council who choose not to participate in the preparatory work of the Committee on Finance on a possible discharge from liability for the Riksbank General Council. In another example, members of the Committee on the Constitution, who were former ministers, did not participate in the consideration of matters in which the Government they had been part of had been involved.

During a visit in 2013, an evaluation team from GRECO was informed that the introduction of a code of conduct for parliamentarians had been discussed but, ultimately, it had been felt unnecessary (see GRECO 2013:13). However, several MPs whom the team encountered spoke of internal ethical and conduct guidelines established by a number of political parties and argued that it would be logical for other parliamentary parties to follow that example. Several other interlocutors clearly supported establishing a unified code of conduct for MPs that would lay down clear common rules specific to parliament. GRECO recommended that a Code of Conduct for members of parliament be adopted and made easily accessible to the public; and that it be complemented by practical measures for its implementation, such as dedicated training or counselling. A code of conduct was adopted in 2016 by the Speaker, the three Deputy Speakers and all group leaders of the eight parties in parliament. That same year a new Act (2016: 1117) on the registration and processing of gifts received by MPs was introduced, requiring MPs to register gifts received in their official role.

In 2017, the Act (1996: 810) on the registration of MPs' commitments and financial interests was amended so that reporting obligations on financial interests would be extended to include debts exceeding a certain indexed amount (around €9 400). The Act requires (and did so also previously) that the following assets be registered: ownership of shares of stock in a company; assets in a partnership or in an economic association or equivalent above approximately €10 000; business property which is wholly or partly owned by an MP; remunerated employment which is not temporary; agreements of economic nature with a former employer (e.g. pensions or fringe benefits); an income-generating independent activity which is carried out by an MP in addition to the tasks performed in the Riksdag; membership of a board or position of auditor in a stock company; a partnership; an economic association or equivalent; assignments performed for the Government or for municipal or county councils if the assignments are not temporary; and permanent economic benefits and secretarial or research assistance which have a connection with the remit as an MP, if the support is not contributed by the State, the MP or by their party. However, the law does not include the financial interests of spouses and dependent family members in the asset declarations for reasons of individual privacy. This is at odds with the practice in a large number of Member States of the Council of Europe, and it diminishes the scope of the parliament's self-regulatory institutional resistance against conflicts of interest.

Moreover, the law lacks any real form of sanction: Should an MP fail to submit an asset declaration within the required four weeks, the only effect is that the Speaker of the Riksdag announces during a meeting of the Chamber that this MP has failed to fulfil their obligations under the law (i.e., name-and-shame).

Unlike ministers, MPs are not formally prohibited or restricted from holding functions or engaging in activities outside the Riksdag, whether in the private or public sector, remunerated or not. However, MPs are, by all standards, perceived to be working full-time as members of the Riksdag. For example, the Act (2016: 1108) on remuneration to members of the Riksdag assumes that an MP is on duty 365 days a year. In this context, state authorities have also referred GRECO to the previous statements (e.g., Committee report, 1983:3) by the Riksdag's Committee on the Constitution, which has emphasised that the work of an MP is not only carried out in connection with formal parliamentary activities but also outside — in a member's constituency, within the party organisation, etc.

Besides the above-mentioned parliament-specific regulations, all other administrative and criminal laws (e.g., on bribery) apply to MPs in the same way as to ordinary citizens. Thus, under the Penal Code, taking a bribe — (i.e., receiving, agreeing to receive or requesting an undue advantage for the performance of one's employment or function) by "anyone who is employed or performs a function", including a parliamentarian —, is punishable by a fine or up to two years' imprisonment (in aggravated cases, the penalty is six months to six years of imprisonment), (Chapter 5, Art. 5a, c). MPs are only granted a partial — and, in real terms, very restricted — immunity according to Chapter 4, Art. 12 of the Instrument of Government. First, legal proceedings (or other related decisions such as apprehension, arrest, detention or other travelling restrictions) may not be initiated against an MP on account of a statement or an act made in the *exercise of their mandate* (i.e., during Chamber and Committee meetings or within certain other bodies of the Riksdag) unless the Riksdag gives its consent (by a qualified majority — five-sixths — decision). Secondly, if an MP is suspected of having committed a criminal act, in any other case, the relevant legal provisions concerning apprehension, arrest or detention are applicable only if the MP (i) admits guilt, (ii) is caught in the act, or (iii) the minimum penalty for the offence is two years' imprisonment.

Oversight

Most oversight is done by the media and other external organisations (or interested citizens). Media in Sweden are generally considered independent. The level of pro-activity depends on the willingness of editorial staff to scrutinise the MPs' compliance with the rules. Especially media — but also citizens — are well-equipped to achieve any oversight-work they decide to perform. There are important reasons for this. First and foremost, the Swedish constitutional law grants citizens and media a unique and far-reaching level of access to official documents. Civil servants enjoy vast rights and practical possibilities to inform journalists since they are even permitted to disclose classified information verbally for publication by a media organisation (except information on e.g., defence or national security). Public authorities are constitutionally forbidden to inquire about press informants' identities. Journalists are also prohibited by the constitution from revealing informants' identities (see the Government section for more on these rules).

A certain kind of slim and mostly formal oversight resides with the Riksdag administration, as civil servants normally seek to ensure that the rules are complied with and followed by MPs. However, this oversight is restricted partly because of the comparatively restricted size of the Riksdag administration staff and partly because of the culture of the Riksdag administration, which first and foremost sees itself as a service provider to MPs and political parties and not a controller.

Enforcement

The enforcement of the different requirements of the laws and code of conduct is voluntary and resides with the MPs themselves. For example, each MP has the responsibility to discern whether they face conflicts of interest and, if so, decide not to participate in a Chamber or committee meeting. Of course, the interpretation and application of the Riksdag Act's disqualification rules is a sensitive issue since it could potentially reverse the majority structure in a vote. Therefore, one should have some tolerance with the system. GRECO (2013) recommended that a requirement of ad hoc disclosure be introduced when, in the course of parliamentary proceedings, a conflict between the private interests of individual members of parliament may emerge regarding the matter under consideration. GRECO concluded, in October 2017, that this recommendation had not been addressed. However, in light of the existing requirements put by the Act (1996: 810) on registration of MPs' commitments and financial interests, one could argue that some kind of oversight is possible, at least for media and citizens. But still, enforcement must be considered a weak spot for the parliament's self-regulatory effort in this aspect (since MPs are only required by the rules to fill in this registration once every four years, and any changes to the information registered must be made by the initiative of each MP).

This abovementioned weakness of enforcement is highlighted by the critic from GRECO (2013), which recommended that appropriate measures be taken to ensure supervision and enforcement of the existing and yet-to-be-established rules on conflicts of interest, gifts and asset declarations by members of parliament. In 2017, GRECO regretted that the code of conduct's supervision mechanism put in place (i.e., the Speaker, deputy Speakers and political party group leaders) was weaker than the one presented in the first draft. GRECO considered that the predominant partisan involvement in the system, together with the absence of clearly stated sanctions for violations of the code, makes it, taken as a whole, a weak mechanism. According to the organisation (see GRECO, 2017), it would have been preferable to entrust such parliamentary supervision, for instance, to a standing committee or the Riksdag's praesidium or administration itself, which not only would have been impartial but also perceived as such. Moreover, to be credible, the supervision system should have provided for appropriate sanctions.

Drivers of ethics regulation in parliament

While there are some nuances in the reasons for the now existing self-regulatory system (which was installed through multiple decisions throughout the last 30 years), the most important source of inspiration for today's system was, and is, the pressure from neighbouring countries and international organisations. Foremost amongst them is GRECO's fourth compliance round (on corruption prevention in respect of members of parliament, judges and prosecutors),

which started in 2012. In this round, GRECO (2013) issued five recommendations regarding MPs and the Swedish parliament. GRECO recommended the adoption of: (a) a public code of conduct for MPs and practical measures for the code's implementation, such as dedicated training; (b) a written public clarification of the meaning of the disqualification rules of the Riksdag Act and a requirement of ad hoc disclosure during parliamentary proceedings of conflict between the private interests of individual MPs and the matter at hand; (c) developed rules on gifts and other advantages — including advantages in kind — for MPs; (d) developed rules regarding the existing regime of asset declarations, in particular by including quantitative data of
the financial and economic involvements of MPs and on significant liabilities, and by considering widening the scope of the declarations to spouses and dependent family members; and (e) appropriate enforcement measures and supervision of the existing and the then yet-to-be-established rules on conflicts of interest, gifts and asset declarations by MPs. Later GRECO (2017) concluded that three of its five recommendations [a, c, d] were satisfactorily implemented, and two [b, e] were partly implemented.

Public debate around ethics regulation in parliament

The public debate varied with respect to the different facets of the standing ethical norms and self-regulating system in place in the Riksdag. Regarding the Act (1996:810) on the registration of MPs' commitments and financial interests, the reasoning in the parliament's initiative in 1994 — which eventually led to the adoption of the law — was that such registration was common in other European countries and that there was broad support behind the idea that information about MPs' finances, as well as their membership in various types of boards, should be made public. The 1994 initiative was unanimous, but it had been previously opposed by the then four centre-right parties. All the other laws (e.g., on registration and processing of gifts received by MPs) and the code of conduct were unanimously adopted, but because of demands and recommendations from international organisations (GRECO) and, to some extent, civil society and experts.

Main challenges and achievements

The main achievement is that issues of corruption and conflicts of interest have been put at the centre of MPs and the parliament's attention and that these issues have been given an institutional solution which guarantees the Riksdag a minimum level of integrity on these matters. Of course, one could argue — as e.g., GRECO — whether this minimum level of regulation and procedures put in place is sufficient or not. Especially the lack of effective sanctions is problematic in the current system. One challenge has been to instal these mechanisms and instruments in an environment where corruption risks were (erroneously) considered small or insignificant. However, this challenge faded away when the debate on these issues matured (see below). Another albeit smaller challenge was the above-mentioned adaptation of the Riksdag administration's *culture* and role from being solely a service provider to MPs and political parties to a new role where the administration had to combine these conventional tasks with tasks of control and inspection.

Ethical conduct and ethics regulation in parliament: still an issue up for debate?

Ethical conduct for MPs is still a matter up for debate now and then, especially regarding two issues: MPs' behaviour and/or statements

on social media and their (mis)use of travel allowances and accommodations. The recent changes in laws and the introduction of an ethical code of conduct for MPs indicate that the discussion around those issues is not as intense as it was previously (and that discussions are mostly restricted to individual cases). Public debate has, thus, changed — and to some extent dwindled — mostly due to the maturity of corruption issues during the last ten years. Previously, a certain *naivety* about the phenomenon of corruption, not least regarding MPs, was quite common in Sweden. Lately, people have increasingly used corruption as a concept to describe conflicts of interest. Actors in public life likewise acknowledge that corruption also exists in Sweden and may take other forms besides bribery, particularly concerning conflicts of interest. Awareness about corruption risks and other conflicts of interest has risen in public life over the years. For MPs and the parliament specifically, two issues have recently been debated and are the subject of changes in remuneration laws as of the 1st of January 2022. First, a new requirement for MPs to participate in the work of the Riksdag (i.e., to take part in at least 40 per cent of the votes in the Chamber every three months) in order to receive their salary will be introduced. Failure to participate above the threshold over two of such three-month periods will lead to a report from the Speaker to the independent Riksdag Remunerations Board (*Riksdagens arvodesnämnd*). This board will then decide if the MP's salary will be paid back during the period(s) of non-participation. Second, several laws, rules and administrative procedures regarding compensation to MPs for their travel expenses (taxi bills, train and airplane tickets, accommodations, etc.), and other allowances, will be adjusted. These changes will make these compensations somewhat less generous and reduce the risk of errors. In the past, several of these refunds took years to get settled. With the new rules and procedures, the Riksdag administration will no longer have to deal with these long delays for compensation.

Government: Ministers and the Government Offices

Our focus is on government ministers, but we have also included references to other top executives in Government Offices. An overall characteristic of public administration in Sweden is the tradition of a far-reaching government delegation to administratively independent state agencies that work at arms-length from the Government Offices (which includes ministries). The Government Offices are thus small, and most public administrators work in the agencies.[167] The administrative separation is further emphasised by ministers being prohibited from interfering in how these agencies handle individual cases or the application of the law, and collective cabinet decision-making, which does not allow for ministerial rule (Instrument of Government Ch. 12, Art. 2).[168]

Norms

A combination of mechanisms and culture is important for understanding the state of the integrity system in relation to the executive. Transparency procedures creating the conditions for media and parliamentary scrutiny are important, and so is the public service ethos tradition in Government Offices (see, for example, Bergman, 2011, cited in Andersson, Ersson and Redeback, 2012:156).

Moreover, the Swedish system has emphasised the screening and selection mechanisms of both ministers and top officials more than institutionalised control mechanisms of the *police patrol type* (see

McCubbins and Schwartz, 1984), with a commission to review and inspect regularly. Instead, as concerns control, this has largely depended on indirect control mechanisms in the form of a well-developed system for transparency and control by the media and the public. Understanding common norms also depends a lot on trust and on a sincere intention from officeholders to follow these norms and the rules that apply.

Starting with ministerial appointments, it is a longstanding practice that the Prime Minister requests information — from everyone who is thought of as a possible minister — in respect of assets, any past crimes, and the like, that can be perceived as suspicious or lead to a conflict of interest (Bergman, 2011, cited in Andersson et al., 2012:148). Disclosure is also expected concerning other assignments and former employments.

Ministers and state secretaries are obliged to declare their financial instruments regularly. This has also been codified in law since 2019 (SFS 2018:1625), replacing the previous arrangement where the government decided when this was necessary to do. The obligation of financial disclosure may also apply to state secretaries and political experts employed in Government Offices with access to insider information; if such is decided by the head of the ministry in which they serve.

Ministers' financial disclosure should be done as soon as possible when entering office and annually updated, and any change in holdings should be reported within seven days. Based on an agreement with ministers, they also report their business activities in companies, agreements with former employers about continued salary, pensions etc., agreements with current or future employers regarding various positions or similar arrangements other than for the ministers' party, and positions during the four years leading up to the cabinet appointment other than for the party of the minister (GRECO, 2019:19-20).

The Director General of the Prime Minister's Office compiles the list of ministers' holdings and interests, which is publicly available upon request and often checked by journalists. The director reviews the list of holdings and interests, which may highlight conflict-of-interest issues. However, there is no mechanism for reviewing whether statements made by ministers are accurate. This, instead, depends on scrutiny from the media and the public (GRECO, 2019:19).

As pointed out by GRECO, significant liabilities are not included in what has to be disclosed, and thus, legally, ministers only have to declare financial instruments. Other activities and liabilities are dependent on the commitment of ministers (GRECO, 2019:20).

There is no targeted training for ministers and other politically appointed top executives. However, new ministers appointed by the prime minister get information and training on ethics regulation from senior officers in their respective ministries. This also applies to State Secretaries, the most senior politically appointed officials in government (Landahl, 2011, cited in Andersson et al., 2012:154; GRECO, 2019:20).

In a document establishing how the Administrative Procedure Act is applied in Government Offices, advice is given on how to deal with conflict-of-interest situations in government meetings. In principle, ministers are expected to recuse themselves in matters they have

been previously involved in or when they have a conflict of interest for other reasons, on the grounds pointed out in the Administrative Procedure Act (Andersson et al., 2012:153).

To generate confidence in government affairs and prevent conflicts of interest, ministers are also constitutionally prohibited from having "any other employment" or engaging "in any activity which might impair public confidence in him or her" (Instrument of Government, Chapter 6, Art. 2). This constitutional requirement has recently been complemented by post-employment legislation in 2018 (amended in 2021). The law implies that "any employment, assignment or business outside the public sector that a minister or state secretary wishes to engage in after his term of office must be declared to a dedicated body". The body — the Board for the Examination of Transitionary Restrictions for Ministers and State Secretaries — is independent and designated by parliament. The board assesses whether the assignment is compatible with the law's requirement on integrity and public confidence. It can decide on a waiting period or restrictions for a maximum of a year if the board identifies a clear risk "for financial damage to the state, unfair advantage for a private party or damage to public confidence in the state". However, the body has no sanctions to enforce compliance if its advice is not followed (GRECO, 2019:18).

Moreover, gifts received by ministers that are accepted as a courtesy are to be handed over to the Government Offices, become state property, and be registered.

Looking at the executive branch on a somewhat broader sense (i.e., the government offices, including ministries), the Offices have ethical guidelines (since 2004, and regularly updated) that cover all employees (but not ministers). They cover public access and secrecy, side occupations, prohibition of insider trade and the requirement to report financial assets, conflicts of interest, gifts and other benefits, entertainment, private use of office equipment, and official journeys (Regeringskansliet, not dated). This information is available to the public upon request.[169]

Besides the ethical guidelines, there are rules applying to conflict of interest, side occupations, impartiality, benefits, and bribery laid down in the Public Employment Act, the Administrative Procedure Act, and the Penal Code.

In general, the rules in the Instrument of Government (Chapter 1, Art. 9.) requiring authorities to perform their functions observing "objectivity and impartiality" and "the equality of all before the law" also apply to Government Offices.

Oversight

Overall, oversight puts more emphasis on political than legal control; a focus on transparency and providing effective conditions for scrutiny is a key characteristic upon which many other mechanisms depend. At the centre of this are the constitutionally protected rules concerning public access to official records and the right for employees in the public sector to provide information to the media.

First, public access to official records provides the possibility and the platform for scrutiny of the government and its ministers.[170] As a general principle, official records are public, and citizens have the right to access them (The Freedom of the Press Act, Chapter 12, Art.

1). Official records cover written documents, forms, tables, protocols and letters. They are to be registered as soon as they are received or drawn up by an authority (The Public Access to Information and Secrecy Act, Chapter 5, Art. 1). The register should be accessible for public consultation and contain information about the date of the establishment or reception of the record, registration number, sender and receiver, and a description of the contents (The Public Access to Information and Secrecy Act, Chapter 5, Art. 2). The Public Access to Information and Secrecy Act sets out restrictions to these rights due to secrecy requirements, most notably on the grounds of national security and national fiscal policy (Government Offices of Sweden, 2020).

At cabinet meetings, minutes are to be taken (Instrument of Government, Chapter 7, Art. 6.). In general, decisions and protocols are public (also published on the government's official website), but disclosure may be restricted in cases where these protocols and decisions contain classified matters.

Secondly, employees in the public sector (including at government offices) have the right to provide information anonymously to the media (the Freedom of the Press Act Chapter 1. Art. 1, Chapter 3. Art. 1; the Fundamental Law on Freedom of Expression, Chapter 1, Art. 2, Chapter 2, Art. 1), and not being investigated when doing so, with a prohibition for the employer to investigate who provided the *leak of information* and for reprisals against the person who did so (the Freedom of the Press Act, Chapter 3. Art. 4, the Fundamental Law on Freedom of Expression, Chapter 1, Art. 4, Chapter 2, Art. 4).

As noted above, these constitutional rules apply to employees in the public sector when providing information to the media. It does not apply to public employees providing information to state agencies, the police or employees in the private sector. In 2017, a new whistleblowing law was introduced covering both the public and the private sectors to complement this regulation. The law focused on protecting whistle-blowers from reprisals. In 2021, the Riksdag approved a new law implementing the so-called whistleblowing directive (EU) 2019/1937, which entered into force in December 2021 (Sveriges Riksdag, 2021). The new dedicated law on whistleblowing includes a requirement for all public and private sector organisations of a certain size to have channels and procedures to report misconduct and irregularities safely. Moreover, the identity of the whistle-blower is protected by law. It also widens the category of persons legally protected (Regeringskansliet, 2021). Whistleblowing rules do not apply to ministers, and given that government acts with collective responsibility and ministers very seldom reserve themselves against a decision, incentives for sounding the alarm are low (Bergman, 2011, cited in Andersson et al., 2012:156)

Let us now turn to some of the key integrity mechanisms concerning parliamentary scrutiny.

The Committee on the Constitution oversees the government's handling of business and ministerial conduct (Instrument of Government, Chapter 13, Art. 1.). It examines the performance of the official duties of ministers and their handling of government affairs. In doing so, ministerial ethical conduct is assessed against the Government Offices' guidelines by the Committee as well as by the media and the voters. The Committee is entitled to access the records it deems necessary for examination (Instrument of Government, Chapter 13, Art. 1.).[171] Its work depends on receiving complaints from

MPs about ministers, often 20-40 per year, of which many turn out to be unfounded and used for political purposes by the opposition (GRECO, 2019:22).

The Committee, itself being a political body with MPs from the parliamentary parties, normally seeks consensus decisions. It cannot oblige ministers and former ministers to testify (though normally ministers do so), and testimonies are not given under oath (GRECO, 2019:23).

The Committee reports its findings twice a year (minimum once a year) (Instrument of Government, Chapter 13, Art. 2.). Being criticised by the Committee is something that a minister wants to avoid, even more so since criticism directed at ministers receives a lot of attention in media.

The Committee on the Constitution also reviews government appointments every second year. Government has the power to appoint many top executives in the state, county governors, and judges. This review takes as its starting point that such appointments shall be based on objective factors only, "such as merit and competence" (Instrument of Government, Chapter 12, Art. 5).

MPs can put questions (answers required within a week) and interpellations (two weeks) to government ministers (Instrument of Government, Chapter 13, Art. 5.). This instrument has been used with some variation over time and has been emphasised by parliament as important both for accountability and to trigger a vital debate. There is, however, scant knowledge about the extent to which these instruments are controlling ministerial conduct (Isberg, 2011, cited in Andersson et al., 2012:151).

Ultimately, parliament and MPs have the power to use a declaration of no confidence against a minister (Instrument of Government, Chapter 13, Art. 4.). In relation to ministerial conduct, it is a rather blunt instrument. Only once has a vote of confidence gotten the required majority (2021) since the introduction of the current Instrument of Government (1974). However, on some occasions, it has led ministers to resign beforehand, knowing they would face such parliamentary censure (Bergman, 2006:602). So, the fact that this instrument has been used rather seldom does not necessarily mean that it is not effective, given that the risk of being censored in this way is an important check in itself.

Let us now look at the executive in a broader sense. The National Disciplinary Board handles disciplinary matters regarding state secretaries and political experts in Government Offices (GRECO, 2019: 21). Moreover, the National Audit Office examines all state activities (Instrument of Government, Chapter 13, Art. 7.), including the activities of the Government Offices. It includes financial and performance audits of the government's implementation of parliamentary decisions. This provides parliament with a basis for holding the government accountable for its actions. It can do so in an independent way without government interference. Recently the role of the National Audit Office concerning the parliament has been clarified as a consequence of a review in the aftermath of the resignation of the then Auditor-Generals[172] in 2016 after they had been facing conflict-of-interest allegations revealed by media investigations (Andersson and Anechiarico, 2019: 102).

Enforcement

As described above, several of the integrity mechanisms are more focused on setting out norms and providing transparency, which in turn lays a basis for scrutiny, than on enforcement.

This feature, with a high degree of public administration transparency and enabling public and media scrutiny, was noted in GRECO's 5th round of evaluation, which included a study of the central government's top executive functions (GRECO, 2019). The system is mostly based on ministers and other senior government officials, who are expected to follow rules and guidelines, but it has little institutionalised follow-up and weak enforcement. In GRECO's view, there is, therefore, a need to add this to the current emphasis on media scrutiny and political pressure.

GRECO also underlined that, in the current integrity system, the political control of the government is more developed than the legal control. Controls provided, for example, by the Committee on the Constitution and the Parliamentary Ombudsmen are important and carried out with sufficient resources and competences. However, they are also ad hoc in character, reacting to complaints by citizens and MPs respectively and more limited in terms of regular, systematic reviews or enforcement measures. GRECO argued that both clearer norms, such as more readily unified and available codes of conduct, and more regular control and stronger enforcement of compliance with ethical rules would strengthen the system. In line with this reasoning was the suggestion of introducing a regular review mechanism with enforcement powers of compliance with rules of conduct by top executive officers. This mechanism may be even more important for non-ministerial top executive functions (e.g., state secretaries), given that they are not subject to parliamentary control (GRECO, 2019: 23).

Drivers of ethics regulation in government

Self-regulatory reform has been driven by domestic and international factors and by the government and non-governmental actors (such as Transparency International, the Swedish Anti-corruption Institute and academia). Policy diffusion also played an important part since Sweden's partaking in international organisations such as the OECD, CoE/GRECO and the UN has put internationally debated issues and policy-making higher on the Swedish government's agenda. It has contributed to reforms in Sweden, both in terms of new legislation (for example, the introduction of post-employment regulation), new perspectives on ethics management in state organisations (government initiatives around sound administrative culture in the state), and in terms of introducing new anti-corruption capacities (for example the establishment of the anti-corruption unit at the prosecutor's office in 2003). On balance, we could say that international cooperation and policy diffusion have played a bigger role in reforms than scandal, contributing to more thoughtful reforms. However, scandal and publicity have contributed to an increased debate and, sometimes, more directly to change. Ministers making high-profile transitions to the private sector to work, for example, in health care companies or as lobbyists, is one such example. Other examples include the reforms made in the aftermath of the resignations of Auditor Generals after conflict-of-interest allegations (see above).

Public debate around ethics regulation in government

Concerning integrity in the executive, the reforms were undertaken with broad consensus. Consequently, reforms have been debated long before action has been taken. It is also the case that, for certain issues, there have been different opinions on the need for reforms and how far they should go. Let us illustrate with two recent examples.

First, the absence of post-employment regulation for ministers and other top executives was a long-standing issue. Given that it was unregulated, the revolving door issue was not seen as a problem in the Government Offices (and not much appetite for reform). Sweden was already recommended in the second GRECO evaluation round to deal with the absence of regulation but had not done so when the round closed in 2009 (GRECO, 2019: 18). Similarly, this absence has been pointed out as a risk factor with negative effects on public sector confidence by government inquiry reports (Bruun and Lindström, 2012), the National Integrity System assessment (Andersson, 2012) and motions from members of the parliament. Quarantine rules and other related measures were called for. Therefore, it has been an issue where many parties have expressed opinions with influence from academia, nongovernmental organisations, the government and international governmental organisations.

Secondly, the whistleblowing law, introduced in 2017 and extended with new legislation in 2021, was a consequence of a debate involving several actors. The previous absence of a specific whistleblowing law, besides the general rules protecting whistle-blowers in the public sector when reporting to the media, had been pointed out as a weakness by Transparency International Sweden, employee organisations, and the Committee on the Constitution, which called for a review of the legal framework aiming to strengthen the protection of individuals reporting corruption and misconduct (see Committee report, 2011: 47-49). In this process, similar legislation introduced in Nordic and other countries was often referred to in the debate.

Main challenges and achievements

Many of the measures and mechanisms undertaken during the last ten years came from a background of increased awareness about corruption and integrity issues in Sweden. Although GRECO notes that there is still a relatively narrow view of corruption in Sweden, awareness about other forms of corruption has increased, and government measures aiming more broadly at integrity have been on the rise. This increased awareness and focus on integrity concern mainly the government as the executive, although it also affects the executive branch in a broader sense — for example, by having the government focus on the promotion of a sound administrative culture in state public authorities. In concrete terms, this has meant both the introduction of a national action plan against corruption and a common introductory education for all state employees (Regeringen, 2020a, 2020b; Regeringskansliet, 2020a; SOU 2020: 40), which we think has made important contributions.

Let us also point to a challenge. There have been, and still are, important things to improve in Sweden. However, it is essential that new additions to the integrity system are introduced in a balanced way. A balanced approach — where more value-based instruments are developed, such as ethics education, dilemma-solving training, exchange of experiences and broad involvement in organisations when

deciding what is ethical and how to apply these norms, combined with relevant compliance mechanisms — is a goal worthwhile striving for. Moreover, compliance mechanisms must not be just infused without properly analysing contextual factors impacting their effectiveness. With a more fragmented governance landscape, more actors involved in governance (as noted in many countries), more movement between sectors and a greater focus on effectiveness and efficiency, challenges to the integrity system increase. In this respect, we think the recent increased government focus on integrity training for public officials and other measures to promote and uphold a sound administrative culture are welcome.

Ethical conduct and ethics regulation in government: still an issue up for debate?

Ethics regulation is debated similarly to what we have described above. It is not a hot party-political issue. There are different opinions among actors taking an interest in what corruption is and when integrity is threatened. As in other established democracies where conflicts of interest are a significant institutional challenge, well-thought integrity measures that are suitable for the context and aim at real effects are required. Here, we have a rather positive outlook on the Swedish case and we believe that political actors involved in this debate share this interest.

Political parties

In the first part, we look at ethics self-regulation in Swedish parliamentary parties, following the same structure as the previous sections, and in the second part, we account for the legal framework regulating political parties and how it has developed over time.

We focus on the eight political parties represented in parliament and their national-level organisations. All eight parties have written statutes describing their internal organisation, rules for members, and voting procedures to appoint delegates or representatives to the highest decision-making body of the organisation. In some parties, the statutes also lay down other internal rules and regulations, such as recruitment and appointment rules (Larue, 2012: 374)

Norms

Overall, parties have emphasised mechanisms to ensure they select candidates that share the norms of the parties. Control of party representatives and members has mainly been accomplished by parties stressing ex-ante controls, especially screening and selection mechanisms — i.e., making sure that the best representative from a party perspective is chosen — and, to some extent, contract design, i.e., how parties instruct and train these candidates (which could also concern mechanisms to make them aware of the party's wishes and control mechanisms) (see, e.g., Kiewiet and McCubbins, 1991). Ex-post controls — i.e., various monitoring and reporting requirements and institutional checks — have been done primarily by indirect control mechanisms in the form of party culture, where party members would sound the alarm about irregularities on behalf of a candidate, but also by the control of the media and the public at large. Trust has played an important role, where common party norms are expected to be understood and upheld by those representing the party, thereby reducing the need for other types of checks.

These norms that are expected to be upheld are reflected in both the party's programme and statutes. When our interviewees (mainly

party secretaries or the like) were asked how the party defines ethical behaviour and good conduct, they all mentioned the party's programme as an important source in this respect. We think this indicates that political parties interpret ethics based on their ideology and the values they identify as foundational. In other words, acting against the party statutes (or the party's programme) could lead to expulsion from the party (see below). Nevertheless, parties have increasingly added other instruments to express and determine ethical norms.

Currently, five out of eight parties represented in parliament have adopted ethics codes or codes of conduct. Of these five codes, we view four as codes of conduct and one as an ethics code (the Green party).[173] All codes were adopted by the central party board. The codes apply throughout the party's organisation, i.e., to members, officials, candidates and representatives. As far as we have been able to ascertain, none of the codes/guidelines applies to external third parties (e.g., suppliers, sponsors, think tanks or foundations) linked to the parties.

Regarding screening and selection mechanisms of candidates, the central level organisation provides nomination committees at the local and regional levels with templates for in-depth interviews of candidates. A common ambition for these interviews across parties is to attain knowledge of potential *closet skeletons* in candidates' backgrounds and conflicts of interest that could jeopardise their service. The Sweden Democrats further complement this with a demand for an excerpt from the national police's criminal record and — since 2018 — a credit history report.

Moreover, seven parties (the Left Party being the exception as far as we could establish) have put in place specific integrity pledges, which are written oaths of loyalty and appropriate conduct that candidates are required to sign. These candidate agreements show variation but also have four aspects in common, namely that a candidate should (i) act as a model of a good representative and follow party ethical guidelines, (ii) actively participate in party activities such as election campaigns and training/courses, (iii) inform the party leadership in case of upcoming situations which may harm the party or the candidate, and (iv) leave any elected office in case of a vote of no-confidence amongst the party's political group (whether in parliament or local government assembly) or upon a conviction for a crime other than a minor offence.

In other respects, there are clear differences. For example, three parties (the Moderates, the Liberals and the Greens) explicitly comment and advise on personal vote campaigns in their agreements. For two parties (the Social Democrats and the Greens), their agreements contain separate rules of conduct for: (a) candidates; and (b) elected representatives. Finally, the Sweden Democrats label its candidate agreement a "declaration of good conduct", and it goes as far as requiring candidates to disclose not only previous forced treatments for addiction but also previous psychiatric care treatments and payment remarks.[174]

Oversight

As laid out above, oversight relies mostly on indirect control mechanisms combined with the frameworks of the respective party, which decide what the appropriate norms are and what can happen

when they are broken. With this as a basis, it is much up to various branches of the party, members, and media to react, complain or report violations, and the party can then act upon this information. All parties have specific bodies that receive and handle such complaints (often the party board or an affiliated body). So, in this respect, the system does not emphasise entrusting certain bodies with the task of systematic oversight.

These firmly established channels have also been complemented by more recent innovations. And although we are currently processing our data on this, we can mention a few. First, several parties have established whistleblowing mechanisms. One important consideration regarding this innovation is that it made it possible to report instances of sexual harassment. The way these functions are organised varies between parties regarding their scope and anonymity safeguards for whistle-blowers. Second, parties ask about ethical issues, including victimisation of sexual harassment or other unwanted workplace behaviour, in surveys carried out within their party organisations. In surveys to all members, some parties also include questions about ethics and experience of sexual harassment in order to get an overview of the situation and potential problems.

Enforcement

The statutes of all parliamentary parties give the central party board the responsibility for internal disciplinary matters or dispute resolution resulting from the application of the statutes. The party board is, in all parties, elected by the party conference (congress or equivalent).

The sanctions that are stipulated in party statutes concern expulsion, with one exception being the Green party, which has a spectrum of sanctions that depend on the type of misconduct. Concerning the Green party, the board can decide by a two-thirds majority to suspend a member from nomination to elected office for up to four years. The board can also decide (by a two-thirds majority) to exclude a member. The party's statute also explicitly states that exclusion should be the last resort and a less restrictive sanction should be selected if sufficient. The Green Party also has detailed rules for conflict resolutions within local party branches. If a local branch seriously violates the party statutes or acts disloyal to the party, the party board may, if no other measure is sufficient, expulse that branch by a two-thirds majority.

Among the other parties, there is only limited variation on how they deal with disciplinary matters and sanctions, i.e., whether to expulse a member or not. Some parties let a subordinate body, such as an exclusion committee or similar, prepare the dossier of any exclusion. This is the case of the Sweden Democrats and the Social Democrats. The decision to temporarily suspend a member, while the case is handled, is often taken by an executive committee within the party board (e.g., the Left Party and the Social Democrats) or the board itself (e.g., the Sweden Democrats). The Social Democrats also have a short list of specific accusations (e.g., disloyal behaviour in a union conflict or membership of another political party) where the statutes grant the right to a smaller executive committee within the party board to decide on exclusion (albeit unanimously and not by the three-fourths majority required in regular party board exclusion decisions).

An interesting finding that is common across parties is that decisions on exclusion cannot be reviewed by another statutory body, the Left Party being the only exception. All expulsions in the Left Party are

reported to the party congress. A congress delegate or the expelled member can appeal or call for the upheaval of the decision in case the issue is decided by congress. The Liberals' statutes allow both the party board and a local branch to exclude a member (though decisions of expelling a member taken by the latter can be appealed to the party board). The statutes also state that a warning may be issued if exclusion appears too harsh a measure.

The drivers of existing self-regulatory reform: Was it a scandal? Policy diffusion promoted by other countries or international organisations? Who took the initiative?

Self-regulatory reform has been driven mainly by domestic factors but also by the fact that parties take part in international organisations within their party families, where these issues are increasingly debated. External requirements on parties' regulating ethics have been scarce, this being up to parties. However, the system has evolved and has become increasingly regulated. Political parties have played a major role in this process. Their role, stance, and regulatory work have, in turn, been influenced by the general debate on the regulation of members, parliament and political candidates and the criticism levelled at aspects of the Swedish system over the years (see more on this in the legal framework section and the section on parliament and MPs). The introduction of ethics codes and whistleblowing mechanisms also followed a general trend in Sweden, which first took off in business organisations. Moreover, cases of unethical or unwanted behaviour on social media have raised issues of conduct in parties and led to the development or amending of existing ethics codes. The *#MeToo* movement accentuated issues of sexual harassment and unwanted conduct in society at large and how (male) power has been used to cover up or suppress this from being reported and sanctioned (neglecting the interest and well-being of victims in favour of the reputation of organisations or powerful perpetrators). Ethics regulation in political parties follows a trend also seen in other organisations in Sweden, with more emphasis on introducing formal ethics instruments to uphold or improve integrity in organisations over time. For example, the use of ethics codes was also uncommon in public sector organisations until recently (Svensson, Wood, and Callaghan, 2004) (Svensson and Wood, 2009).

Public debate around the topic

Overall, we argue that most of the changes to the regulatory system in parties have been implemented with large consensus. Having said that, it is also the case that certain groups or individuals in a party have played a significant role in putting an issue on the agenda and driving it forward. The Green party is an illustration of this. The adoption of an ethics code was the result of an engaged party member actively pushing the issue, a party chairman interested in moving the issue forward and up the party's agenda, combined with circumstances within the party's organisation, including conflicts in a local party branch that made party board members receptive to the idea of developing and adopting a code.

Main challenges and achievements

As we have pointed out earlier, many measures introduced by political parties over the past two decades came in response to more focus on integrity issues in Sweden in general. The main achievement in terms of self-regulation in parties is that integrity issues are discussed more in parties, not least when ethics codes have been adopted or updated.

Awareness about integrity risks, as a consequence, is also higher in parties than before, and active work to promote integrity within parties is more emphasised.

Ethical conduct and ethics regulation: still an issue up for debate?

Ethical conduct and ethics regulation are debated, but mostly with a broader degree of consensus across political parties. Generally speaking, political parties refrain from accusing each other of being corrupt and are likewise not often criticising other parties concerning the way they manage ethics regulation. That said, such accusations have been levelled more frequently against the Sweden Democrats, especially in its early years in parliament (from 2010, and earlier at local level), when many candidates were accused of irregularities or holding offensive views (not least at the local level), and the party decided to expel several party members for breach of statutory duties.

The legal framework for political parties and its development

Below, we describe the norms and regulations that apply to parties — and their long-term evolutions — as these constitute the institutional environment within which they develop their internal integrity systems and define ethics norms of good behaviour amongst their members.

Political parties have existed in Sweden since the late 19th century. For a long time, a political party was understood in the Instrument of Government (Chapter 3, Art. 7) as "any association or group of persons who run for election under a particular designation". Since 2015 however, this definition — and the Constitution — was altered and, nowadays, only parties which have notified their participation in an upcoming election as per the Election Act (2005: 837) are recognised and distributed seats in the parliament (if they reach at least four per cent of the votes cast throughout the country).

Compared to all other institutions in Swedish society (e.g., courts, police, church, schools, press or trade unions), political parties rank low in public trust (see Martinsson and Andersson, 2021: 5-11; Medieakademin, 2021). Over time, trust in parties has varied. Compared to 1997, public trust had risen in 2020, albeit from very low levels, but compared to 2010, trust has fallen. However, trust in parties has always remained lower than in other institutions. Compared to EU countries, however, trust in Swedish parties seems slightly better, according to the Pew Research Center (2019: 98-103). Thus, only six parties out of 59 tested in 14 EU countries are seen favourably by half or more of the population. Two of them are Swedish parties (the Social Democrats and the Moderates — the two largest parties). Membership in political parties represented in parliament has declined notably compared to the early 1990s but has stabilised since 2007 around 260 000 members.

There are no constitutional or legal requirements for political parties to be formed as a particular legal association or to hold a legal personality. However, in practice, the major parties are organised as non-profit associations. Such an association becomes a legal person as soon as the necessary statutes have been adopted and a board appointed. As of that moment, the association can, among other things, acquire rights and assume obligations. For an association to be a non-profit association, it is required to either have an idealistic purpose or that it does not pursue business activities. Nevertheless, a non-profit association, such as a political party, may carry out

business activities to promote its idealistic objectives. A non-profit association is only to be registered if it carries out business activities, in which case it must be registered in the trade registry. The Act on Economic Associations (2018: 672) is applied analogously in respect of non-profit associations.

General accounting regulations concerning any legal entity are equally applicable to political parties. The Accounting Act (1999: 1078) states, among other things, that non-profit associations are obliged to keep accounts either if they have assets above SEK 1.5 million (€135 500) or if they carry on business activities. Moreover, according to the Annual Reports Act (1995: 1554), economic associations are also obliged to prepare an annual financial report in which all assets and debts must be reported in summary. These requirements also apply to political parties should they be registered as such associations.

Public state funding has been in place in Sweden since the 1960s and is a significant source of income for parties. The public funding system aims at providing political parties with the possibility to pursue political activities on a long-term basis without being too dependent on other contributions. Public funding was (and still is) broadly considered of major importance for the functioning of the democratic system. Rules on party funding are contained, *inter alia*, in the Act on State Financial Support to Political Parties (1972: 625). Since 2010, there is also an Act (2010: 473) on State Financial Support to the Women Organisations of Riksdag Parties. In addition, the Riksdag supports the parliamentary work of its members and parliamentary party groups under the Act (2016: 1109) on Parliament's Support for Parliamentary Groups and Parliamentary Member's Work at the Riksdag.

Parties represented in the Riksdag are entitled to receive state contributions according to the three laws mentioned above. Regarding the 2020 budget year, support to parties through these three laws amounted to approximately SEK 501 million (€49 million).

Before 2014, no formal regulation existed in Sweden specifically aimed at disclosing parties' accounts to the public. However, the party secretaries of all (then) seven political parties in the Riksdag had signed a voluntary Joint Agreement in April 2000. This agreement stated, amongst other things, that the accounting of the parties' incomes should be as open as possible and that it was reasonable that voters knew how parties and candidates financed their activities and campaigns.

Political parties, at national and local (and regional) levels, receive considerable public support. Estimations of the total amount of public support to parties at the national level indicate that 60-80 per cent of the parties' income originates from public support (with the exception of The Centre Party, which became rich when it sold newspapers for almost SEK 2 billion in 2005)

Swedish traditions concerning the transparency of political financing were — before 2014 — the result of a consensus-driven policy over a long period of time. The issue had previously been subject to political debate in the 1930s and late 1940s with regard to the appropriateness of private donations to certain parties. A committee of investigation (SOU 1951: 56) was tasked to find possible accounting and disclosing obligations for parties. The committee's conclusion was that even though such obligations would be valuable for citizens, their effectiveness was doubtful, and there would be "practical difficulties",

not least in the administration of a monitoring system. Since then, a voluntary basis has been the practise.

In the 1960s, the debate on political financing focused on the introduction of state funding. One basic principle for this support was (and still is) that there should be no state *control* over the use of these funds so as to protect the independence of the parties. The debate on political financing was revived in the 1990s with the introduction of preference voting for individual candidates. A committee (SOU 1993: 21) stated that the private financing of candidates would not be undue provided contributions were made in an "open manner". The debate sparked once again with the introduction of the law on Elections to the European Parliament. Yet, none of these changes/debates led to any regulation in respect of the transparency of the financing.

In 2002, a new committee was assigned to consider an eventual increase in the transparency of political financing of both parties and candidates. In its conclusions (SOU 2004: 22), the committee suggested a modest law-based regulation for transparency in the financing of parties and candidates (i.e., with no ban on anonymous donations and no establishment of a monitoring mechanism or sanctions). The committee noted, amongst other things, that Europe and Nordic countries were generally trending towards more regulation on these issues. However, the committee's proposal was not adopted. Some actors in society deemed that the committee's proposal would be unconstitutional regarding the freedom of associations (cf. Committee report, 2008: 36).

In its first evaluation report for the third evaluation round (on transparency of party funding), published in February 2009, GRECO noted that "...despite the numerous debates on the regulation of the openness of political financing...//...this issue does not appear to be given any high priority by the public authorities nor by politicians or the public. One exception is the Swedish Chapter of Transparency International..." (GRECO, 2009: 13-14). In view of this, the conclusions from GRECO were quite severe, not least as the organisation had difficulties grasping why the level of transparency in political financing was so low in a country which otherwise boasted a high degree of transparency in most other areas of public life and where political financing comes from public means to a very large degree. GRECO thus issued no less than seven recommendations in 2009, namely: (a) to widen considerably the range of parties at central, regional and local levels required to keep proper accounts (including income, expenditure, assets and debts) and that these accounts are easily disclosed and available for the public; (b) to consider introducing reporting on income and expenditure relating to election campaigns at appropriate intervals and that this information is easily disclosed to the public; (c) to introduce a general ban on anonymous donations and reporting requirement for parties/candidates on donor identity for donations above a specific value; (d) to consider a co-ordinated approach for political financing reports' publications in order to facilitate the public's access to these documents; (e) to ensure independent auditing for parties' accounts; (f) to ensure the independent monitoring of political party funding and electoral campaigns; and (g) that existing and yet-to-be-established rules on financing of parties and electoral campaigns be accompanied by appropriate (flexible) yet effective, proportionate and dissuasive sanctions.

In 2014, the first Act on transparency of party financing was adopted by parliament, obliging parties, among other things, to make the identity of a donor public for donations above an indexed threshold (around €2,200). In the same year, the Act (1972: 625) on state financial support to political parties was amended so that parties accepting anonymous donations would lose their state funding. In 2018, a new Act on transparency of party financing (replacing the 2014 Act) was adopted and changes to the 1972 Act were made. These changes banned parties and candidates from receiving anonymous contributions above a specific indexed value (roughly €220).

In June 2017, GRECO deemed that Sweden had satisfactorily implemented or dealt with three of its 2009 recommendations, namely, (b), (d) and (g). In its final compliance report, in December 2018, GRECO deemed that the four other recommendations — (a), (c), (e), and (f) — had only been partially implemented. Given this, a general assessment could be that although some concerns still remain with the system put in place — not only because the ban on anonymous donations in the 2018 law can, in practice, be circumvented (e.g. through several small donations) but also because the law's reporting requirements are limited to income and other revenues and, thus, exclude other important factors such as expenditures, assets and debts — Sweden has made some tangible formal improvements regarding party funding transparency during the last decade.

The enforcement of the new 2018 Act on transparency of party financing is carried out by an independent state authority — the Legal, Financial and Administrative Services Agency (*Kammarkollegiet*) — which is a large authority (with over 300 employees). It is highly independent in its enforcement and has the necessary means to fulfil its job with regard to the law.

Some oversight over the new 2018 Act on transparency of party financing is implicitly carried out by the state authority responsible for its enforcement, see above. Most of the oversight is carried out by journalists and other investigators/researchers. With regards to the 1972 Act on State Financial Support to Political Parties mentioned above, this public funding is governed by the principles that contributions should (i) be only given to parties that have considerable support among the electorate; (ii) be assessed schematically and be distributed (by an independent board under the Riksdag, the Board for Financial Support to Political Parties — *Partibidragsnämnden*) as per the set rules that do not permit discretionary considerations; (iii) be related to the size of the party; and (iv) not be the object of any public supervision of how they have been used. The same is true for the two other laws (from 2010 and 2016) regarding state financial support to parties in the Riksdag and women's organisations. Thus, the Riksdag Administration (*Riksdagsförvaltningen*) does not actively contribute to overseeing these three laws for the public funding of parties.

As with many other regulatory systems put in place in Sweden for political actors (i.e., government, Riksdag, etc.), the most important source of inspiration for today's system was and still is the pressure from neighbouring countries and international organisations, notably CoE/GRECO. Scandal has not been a driving force for the changes described above. In fact, Swedes, in general, have a quite positive view of the parties regarding transparency, especially compared to other countries. Surveys of corruption and conflict of interest indicate that substantial parts of respondents in European countries believe this to be widespread among parties (irrespective of whether this is the case or not). This is not the case in Sweden: according to the

Eurobarometer data, 44 % of Swedes perceive the supervision and transparency of party financing as sufficient, and the EU28 average is 29 % (European Commission, 2017).

The public debate about the need for increased regulation on party funding transparency has been a concern mainly to political actors, experts and commentators. However, it has never been a salient issue during elections or in public debate.

The main achievement of Sweden's advancement in regulating party funding transparency was that Sweden broke away from its previous naïve view that voluntary disclosure was an adequate *minimum standard* for openness in these matters and, therefore, ceased to be an outlier in that respect when compared to other European democracies. Since the introduction of law-based regulation, there has been very little or no debate on these issues.

United Kingdom

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Introduction

This paper seeks to identify and analyse the regulation of conduct in the UK House of Commons, central government and political parties. It seeks to contextualise the regulation, explaining how changes in the framework emerged with reference to scandals involving breaches of the rules and the discourse around them, as well as public and elite responses. For each of the three areas, it then provides an overview of the key regulatory measures affecting each institution, explaining the content of rules, the framework for monitoring compliance, and the apparatus for investigating and — if necessary — punishing non-compliance.

The House of Commons

Context and overview of key developments

The system for regulating parliamentary conduct that exists today was prompted by a major scandal which emerged in 1994, when The Guardian newspaper reported allegations that two Conservative MPs, Neil Hamilton and Tim Smith, had accepted money and high-value gifts from lobbyist Ian Greer on behalf of Mohammed al Fayed, in return for asking parliamentary questions.[175] It was not until 1997 that these allegations were fully investigated and resolved. The intervening period saw a written confession from Al Fayed and attempted libel suits against The Guardian brought by Hamilton and Greer. However, the latter were withdrawn following evidence

from three of Al Fayed's employees that they had processed the payments, and further to the resignation of Smith, Hamilton losing his seat to an independent *anti-corruption* candidate, and Greer's lobbying firm collapsing as a result of the reputational damage.

The House of Commons' own apparatus for investigating the allegations at the time was one of pure self-regulation: the Standards and Privileges Committee[176] reported, in 1997, on a number of failures to declare and register interests as well as evidence that cash payments had been accepted in return for lobbying services. However, the Commons also initiated an official inquiry into the affair, led by Sir Gordon Downey. His final report, in 1997, cleared the MPs of some allegations but found "compelling evidence" that Hamilton had accepted large cash payments from Al Fayed. The Standards and Privileges Committee relied heavily on the Downey report to draw its own conclusions, but focused only on breaches of parliamentary rules, rather narrowly defined, and while these would have merited suspensions from parliament. The point was moot since, by the time it was reported, both MPs had left the Commons.

More significantly, though, the scandal prompted Prime Minister John Major to establish a new body which would advise on ethical standards in public life — in other words, a body mandated not to investigate individual cases but rather to collect evidence as to the efficacy of institutions, policies and practices in public life broadly defined. The first chair of this Committee on Standards in Public Life[177] was Lord Nolan. Hence its first report, published in 1995, is known as the Nolan Report[178] , and the seven values that he suggested should guide the conduct of all those in public life are known as the Nolan Principles. The Nolan Report made eleven recommendations to improve the regulation of standards in the House of Commons, including the introduction of a Code of Conduct and the establishment of the first office of the Parliamentary Commissioner for Standards.

These recommendations were initially resisted by many Members, with the argument focusing around the central theme of whether such measures would constitute an unacceptable encroachment on parliament's sovereignty (Oliver, 1997, Dávid-Barrett, 2015). This argument highlights parliament's function in providing scrutiny of the executive and acting as a check on its power. It was claimed that elected members should not be subject to punishment by any system that could be controlled by the executive for fear that the executive might use its power to crack down on legislators who were quite reasonably challenging the exercise of executive power in line with their scrutiny duties. Another argument against tighter regulation of MPs' conduct focuses instead on the primacy of voters, suggesting that the ballot box provides sufficient accountability and that the only proper test of confidence in an MP is whether or not they are re-elected. Ultimately, there was a high degree of consensus on the need for a more robust system, and parliament acted upon Nolan's two core recommendations quickly, appointing the first Parliamentary Commissioner for Standards[179] in 1995 and finalising the Code of Conduct[180] in 1996. The Code has been reviewed several times since, although these reviews have not quite kept pace with the aim of one review per parliamentary term set out by the Committee on Standards in Public Life, and there have been frequent amendments.

Further moves towards a *hybrid* system — part self-regulation, part independent or extra-parliamentary regulation — have largely been

made in response to political corruption scandals. The major outcry over MPs' widespread abuse of their expenses and allowances in 2009–2010 is a particularly significant episode regarding its long-term impact on both public confidence and the extent of reforms that it triggered. In 2008, a request for the details of MPs' expenses claims was made under the Freedom of Information Act and approved by the Information Tribunal. However, it was subsequently blocked by the House of Commons authorities, who argued that it was "unlawfully intrusive." The High Court ruled in favour of releasing the information. However, the House of Commons authorities continued to delay the process for many months, and when it finally announced, in April 2009, that it would release the information in July of that year, it qualified the statement saying that certain sensitive information would be omitted. In the meantime, the expense records were leaked to the press, with the Daily Telegraph publishing cases in daily instalments for several weeks.

Most of the allegations related to the abuse of allowances, particularly the rules that allow MPs to claim expenses on their "second homes". This allowance is intended to ensure that MPs, who are expected to spend time each week not only at parliament in London but also at their constituency, which may be many hundreds of miles from London, can fund this dual-location existence. Given the extent of the allegations, a panel was established, headed by former civil servant Sir Thomas Legg, to look into the claims made by each MP regarding second homes' allowances in the 2004–2008 period. The panel provided each MP with a letter stating whether they needed to repay any expenses received and, if so, how much. In addition, a list of voluntary repayments by MPs — amounting to £500,000 in total — was also published. The scandal, in some cases, led to criminal charges, with a total of six MPs (all Labour) found guilty of crimes including false accounting, expenses fraud, false claims and forgery; two members of the House of Lords were also imprisoned for false accounting.

The expenses scandal was extremely damaging to public trust in parliament and parliamentarians and prompted a range of reforms to the system for regulating conduct. First and foremost, it led to the creation of a new Independent Parliamentary Standards Authority (IPSA)[181], mandated to regulate MPs' business costs and expenses, determine their salaries and pensions, and provide financial support to MPs in carrying out their parliamentary functions. In 2010, the Parliament also agreed to reinforce the independence of the Committee on Standards and Privileges by opening its composition to non-Members of the House (*lay members*). The Procedure Committee recommended that the participation of *lay members* should extend only to standards and not to privilege issues, thus leading to a split of the Standards and Privileges Committee. The new Committee on Standards has a mixed composition, with *lay members* sitting alongside MPs. Since 2015, *lay members* have constituted 50 % of the committee's members, giving them an effective majority because the Chair does not typically vote. The move partly was intended to address public concerns that MPs could not be trusted to judge the conduct of their peers or "mark their own homework."

At around the time of the expenses scandal, when the Conservative Party was in opposition, its leader and prospective prime ministerial candidate, David Cameron, gave a speech in which he described lobbying as "the next big scandal waiting to happen". Linking lobbying

to the *revolving door* — the practice of MPs, ministers and their staff moving from public office into private-sector roles in which they leverage their former networks and access to information — he elaborated on the problem thus,

"We all know how it works. The lunches, the hospitality, the quiet word in your ear, the ex-ministers and ex-advisers for hire, helping big business find the right way to get its way".

It, therefore, surprised some that he took very little action to improve regulation around lobbying or the revolving door when he became prime minister shortly afterwards. It was not until 2013 that he turned his attention to the problem, and only as a result of a string of scandals, mainly involving *sting operations* by the media. For example, in June 2013, as a result of a joint investigation of the BBC television documentary Panorama and the Daily Telegraph, allegations emerged that four parliamentarians — three peers and one MP — had potentially breached codes of conduct in the House of Commons and House of Lords by agreeing to act as paid advocates and, particularly, to ask parliamentary questions in exchange for payment. The journalists had set up a *sting operation*, in which they posed as lobbyists for fictitious groups, and the parliamentarians agreed to perform various services, from asking questions in the chamber to establishing all-party parliamentary groups and granting access to the parliamentary estate for events, in exchange for payment. MP Patrick Mercer referred himself to the Commissioner for Standards, who concluded, after her investigation, that "in allowing payment to influence his actions in parliamentary proceedings, in failing to declare his interests on appropriate occasions, in failing to recognise that his actions were not in accordance with his expressed views on acceptable behaviour, in repeatedly denigrating fellow Members both individually and collectively, and in using racially offensive language, Mr Mercer inflicted significant reputational damage on the House and its Members".[182]

Following the Commissioner's report, the Select Committee on Standards decided to recommend suspending Mercer from parliament for six months, viewing the case as a very serious instance of misconduct, noting that "The rules recognise that lobbying by third parties can be a legitimate part of the process, but it is wholly improper for a member to be a paid lobbyist. Mr Mercer not only engaged in paid advocacy himself, but he also brought the House into disrepute". Mercer resigned his seat just before the report was due to be published. The episode reflected well on the recent reinforcements to the self-regulatory system, with the inclusion of lay members boosting the credibility and authority of the Committee. The case also suggests that the political parties were failing to uphold ethical standards among their members, inasmuch as the Conservative Party had failed to prevent such misconduct from occurring or uphold ethical standards among its parliamentarians. The set of scandals did, moreover, prompt Cameron's government to introduce a new bill to regulate lobbying activity, which was subsequently passed into law as the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014[183]; this legislation is analysed in the section on the government.

Another major trigger for change in the system for regulating parliamentary conduct was a series of allegations in 2017 about MPs bullying and sexually harassing their staff members. In February 2018, a cross-party survey of staff in the UK House of Commons found

that, of 1,377 respondents, 19 % reported experiencing or witnessing sexual harassment, while 39 % had experienced non-sexual harassment or bullying over the previous 12 months. This prompted the House of Commons to order an inquiry, and, in October 2018, Dame Laura Cox QC, a former high court judge, published her report, which found that bullying and harassment of staff had been allowed to thrive in the House of Commons. Moreover, the report found the UK 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".[184] In July 2018, the House endorsed a new Behaviour Code as well as a set of policies and procedures relating to bullying, harassment and sexual harassment under the umbrella of the Independent Complaints and Grievance Scheme (ICGS).

Key elements of the system

The main institutions of the current standards system are considered in turn below.

The Code of Conduct

The Code of Conduct itself is a concise document comprising only 21 short paragraphs and setting out the Nolan Principles. Its purpose is described as being "to assist all Members in the discharge of their obligations to the House, their constituents and the public at large by: (a) establishing the standards and principles of conduct expected of all Members in undertaking their duties; (b) setting the rules of conduct which underpin these standards and principles and to which all Members must adhere; and in so doing (c) ensuring public confidence in the standards expected of all Members and in the commitment of the House to upholding these rules." As such, the importance of a reputation for propriety is emphasised at the outset. A key function of the Code is to inspire confidence in the conduct of Members both as individuals and as a collective. The Code is accompanied by a Guide to the Rules, which elaborates particularly on how to comply with the rules regarding the registration and declaration of interests and the ban on lobbying, as well as set out the procedure for inquiries undertaken by the Commissioner for Standards. This makes the Code more operationally useful.

The Code and its accompanying rules place considerable emphasis on serving the public interest and managing conflicts of interest (Dobson Phillips, 2019). Specifically, it states in paragraph 11 that: "Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest".

However, as Dobson Phillips notes, the Code does not require the same standards of impartiality from MPs as demanded of public servants in the executive branch (Dobson Phillips, 2019). Indeed, given the political nature of their role and the centrality in politics of arguments over what constitutes the public interest, any requirement to behave impartially would be out of place (Philp and Dávid-Barrett, 2015). Specifically, the Code also highlights that Members have "a special duty to their constituents", while they are also typically members of political parties, which brings a duty to toe the party line. Members must, therefore, be able to manage a complex array of legitimate interests that are integral to the role and any conflicts with their *outside* interests. The latter are subject to

detailed rules requiring the registration of interests and the need to make additional declarations where an interest might be seen to be relevant to a Member's participation in a debate or the proceedings of a committee.

The implementation of the rules around conflicts of interest also presents a number of difficulties. MPs are supposed to declare a financial interest if it "might reasonably be thought by others to influence the speech, representation or communication in question" (paragraph 74 of the Guide to the Rules). In other words, the Guide invokes what is often referred to as "the appearance standard" as the benchmark against which potential conflicts are to be judged. This means that parliamentarians may be required to declare interests even where they think there is no conflict, laying huge weight on their individual judgement and providing considerable grounds for contention (Dávid-Barrett, 2020).

In one case, in 2014, for example, the Commissioner on Standards investigated an alleged failure by a member, Peter Lilley, to declare a conflict of interest relating to his contributions to two Westminster Hall debates in 2013 — one on the Climate Change Act and one on energy, prices, profits and poverty. His speeches concerned the rise in energy bills and the cost of renewable energy. The Commissioner contended that although Lilley had declared in the Register of Members' Financial Interests that he held a non-executive role with a gas and oil exploration company, he was in the wrong for failing to declare this when speaking in the debates. Lilley argued that there was no conflict because the company concerned had no interest in UK energy policy. The Commissioner accepted this but argued that Lilley's failure to make a declaration nonetheless breached House Rules, arguing that "the correct test is not whether a Member has a conflict of interest but whether a financial interest «might reasonably be thought by others to influence the speech, representation or communication in question»". That is, the Commissioner argued that Lilley should have based his decision on the appearance standard.

The use of the appearance standard gives discretion to the officeholder to decide whether there is the appearance of a conflict. However, they risk being subject to a sanction if someone else disagrees with their judgement. Peter Lilley famously replied to the Commissioner thus: "I was astonished that you should be minded to rule that I should nonetheless have been obliged to declare that I did NOT have a conflict of interest, still more that I should apologise for not declaring that I did NOT have a conflict of interest".

Lilley later suggested that the appearance standard is a way of overcoming the inevitable subjectivity of judgements made by officeholders about their own conflicts of interest, but given that the task of judging how something might appear is left with the MPs themselves, subjectivity is unavoidable. Indeed, given humans' commonly acknowledged propensities to implicit bias and motivational thinking, any efforts to regulate conflicts of interest are fraught with difficulties (Dávid-Barrett, 2020). This is why compliance systems tend to operate by requiring individuals to show that they have taken every step possible to mitigate the risks.

The Office of the Parliamentary Commissioner for Standards

The Commissioner's role marked the first step away from a system of pure self-regulation since the Commissioner is typically a professional with experience in regulating conduct in other

spheres of public service, appointed by parliament following an open competition. The Commissioner is responsible for overseeing the Code and compliance with the rules accompanying the Code. They play a part in detecting misconduct and have powers to investigate alleged breaches of the Code of Conduct that are reported to them and even, as a result of a more recent change, initiate their own investigations. They also have a more *preventive* role in maintaining registers of interests.

In terms of their preventive mandate, Commissioners:

- Make recommendations to the Committee on Standards about necessary revisions to the Code and the Guide, although any changes must be approved by parliament. In the past, the Commissioner has, for example, recommended including MPs' private lives within the scope of the Code to the extent their conduct could damage the integrity of the House as a whole. While this advice was heeded and the Code amended accordingly, continued debate over the issue has led to two subsequent amendments, with many Members arguing that the change encroached too much on individual privacy.
- Raise awareness of the Code through training and advising Members on their obligations with regard to compliance. MPs receive a one-on-one briefing upon entering office and can seek advice on individual matters when needed. This *tailored* support is particularly useful given that MPs vary considerably in their interests and hence what kind and extent of advice they need.
- Maintain the Register of Financial Interests, as well as the registers of Members' Secretaries and Research Assistants, Journalists' Interests, and All-Party Parliamentary Groups (APPGs). The independent CSPL has recommended reforms to require the registration of non-pecuniary interests and highlighted the need for the registers to be more digitally accessible to the public; currently, the registers are not easily comparable or searchable, reducing their potential as accountability tools.

Regarding the detection of misconduct, Commissioners:

- Consider complaints alleging that an MP has breached the Code or Rules.
- Investigate complaints, where they judge that there is sufficient evidence.
- Enquire into matters concerning the conduct of MPs, at their request.

Having conducted their investigation, Commissioners may decide not to uphold the complaint, find a less serious breach that warrants rectification, or find a serious breach raising issues of wider concern or unsuitable for rectification. Only in the latter cases does the Commissioner report to the Committee on Standards, which then reaches its own conclusion on whether the rules have been breached and can recommend sanctions to the House. In 2020–2021, 1,780 written allegations were received, but only 26 inquiries were opened, with a large number falling outside the Commissioner's remit (e.g., relating to constituency matters or alleged breaches of the Ministerial Code rather than the Code of Conduct for MPs) or lacking evidence (Parliamentary Commissioner on Standards, 2021). Of the 32 inquiries completed in 2020–2021, one complaint was not upheld, 25 were rectified, and six were referred to the Standards Committee. Inquiries

took, on average, 85 days to complete, with the shortest taking 23 days and the longest 130 days.

The Committee on Standards

The Committee on Standards, in one form or another, is the longest-standing body with any responsibility for regulating the conduct of parliamentarians. It formally split from the former Committee on Standards and Privileges in 2012. It currently comprises seven MPs and seven lay members, having first introduced lay members in 2010 — with the appointment of three such externals to complement the ten MPs — and then moved to the current 50/50 balance in 2015. This became more significant after January 2019, when lay members were given the right to vote to ensure that interim procedures for deciding on cases related to bullying, harassment and sexual harassment were not controlled solely by MPs (Dobson Phillips, 2019). Given the convention that the Chair, usually a senior Opposition MP, does not vote, this meant that members, practically speaking, had a majority. However, successive chairs have made a great effort to build a committee culture that treats every member's views equally and seeks to avoid the emergence of divisions — either on a partisan basis or between lay members and MPs.

The Committee regularly reviews the Code of Conduct, recommends modifications as necessary, and oversees the work of the Commissioner. It also examines the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the registers. Most importantly, perhaps, it considers the Commissioners' reports on their investigations into alleged breaches of the Code, where they find evidence of a serious breach, it can agree or disagree with their findings and then decide what sanctions to recommend, if necessary. Any sanctions on individual MPs — which can include requiring a written apology, an apology on the floor of the House, and suspension from the service of the House for a specified number of sitting days — must be approved by parliament.

In autumn 2021, an investigation by the Commissioner found that MP Owen Paterson had breached the Code, particularly its ban on paid advocacy, by lobbying on behalf of two companies for which he worked as a paid consultant. The Committee on Standards recommended a 30-day suspension. This might also have triggered a recall petition, whereby 10 % of a constituency's voters can force an MP to give up their seat by prompting a by-election (although Paterson would have been entitled to stand and, given his 2019 majority of more than 20,000, might have had a good chance of re-election). However, the vote to suspend Paterson never took place. Instead, the government brought forward an amendment calling for the creation of a new committee which would review the case against Paterson and, more broadly, the current standards system.

This marked the first time in history that the Commons had blocked the recommendations of a Committee on Standards report regarding the conduct of an MP. The government's amendment not only disputed the outcome of the individual case but also implied that the existing system for regulating standards was not fit for purpose and should be replaced, and it sought to introduce a new committee chaired by one of its own MPs to conduct that review. This ignored the fact that the normal procedure for reviewing the system once in each parliament — through the Committee on Standards' Inquiry into the Code of Conduct — was already underway and due to report

imminently. As such, the amendment constituted a major breach of convention or "an extraordinary proposal … deeply at odds with the best traditions of British democracy", in the words of Lord Evans, the chair of the independent Committee on Standards in Public Life (CSPL). Moreover, following extensive criticism and opposition refusal to sit on the committee, the government withdrew its proposal within 24 hours. Paterson then resigned as an MP, and Leader of the House Jacob Rees-Mogg later said that the government had made a mistake in introducing the amendment. Meanwhile, in its inquiry report published in December 2021, the Committee on Standards addressed some of the government's criticisms of the system and put forward recommendations for debate (Committee on Standards, 2021).

The Independent Parliamentary Standards Authority (IPSA)

The Independent Parliamentary Standards Authority (IPSA) is an independent body. It has a Compliance Officer, appointed for a fixed term of five years and entitled to be provided with adequate resources and staffing by law (the Parliamentary Standards Act, 2009). Compliance Officers can conduct an investigation if they have reasons to believe that a member of the House of Commons may have been paid an amount under the allowance scheme that should not have been allowed, and they can review IPSA determinations to refuse reimbursement of an expense, at the request of an MP. The Compliance Officer can receive complaints, including reasons and evidence, in writing, and request further information from any source before deciding whether to initiate an investigation. If an investigation is initiated, the Officer must enable both the MP and IPSA to make representations prior to and following the report of the provisional findings. The final Statement of Findings is, then, sent to the complainant, the MP concerned and IPSA with conclusions, recommendations and any Repayment Direction.

The Independent Complaints and Grievance Scheme

The Independent Complaints and Grievance Scheme (ICGS) is the parliament's mechanism for handling complaints of bullying, harassment or sexual misconduct, along with the Behaviour Code, which was endorsed in July 2018. The ICGS was set up at the same time, following a series of allegations and in anticipation of the recommendations of Dame Laura Cox, who conducted an inquiry into allegations of bullying and harassment of House of Commons staff, reporting in October 2018. QC Gemma White conducted a further inquiry to investigate allegations pertaining to those not covered by the Cox inquiry, including MPs themselves (White, 2019). In June 2020, the House agreed to establish an Independent Expert Panel to consider cases against MPs raised under the ICGS. This has established a further independent element of the apparatus for regulating the conduct of MPs and created a precedent which has recently been invoked, for example, in the Paterson case, to argue that an independent body with quasi-judicial status should also be established to consider appeals of non-ICGS complaints investigated by the Commissioner.

Central Government

In the UK, government ministers are usually drawn from parliament — that is, they are typically serving MPs and occasionally peers in the House of Lords and part of the executive branch. As such, they must continue to comply with the Codes of Conduct in their respective Houses as well as the rules of IPSA, but they also come

under the remit of the Ministerial Code. They are appointed by the Prime Minister, typically from among their own party — unless there is a coalition in power, in which case they are drawn from both/all coalition parties. Moreover, they are expected to vote in line with the government in parliamentary votes and risk being ejected from their ministerial role or losing the party whip if they vote against the government. These competing pressures can create ambiguities and tensions regarding the proper conduct of individuals.

The Ministerial Code originated with a 1992 paper entitled "Questions of Procedure for Ministers" but has evolved into a 36-page document setting out comprehensive standards of conduct expected of ministers. It includes the Nolan Principles, as well as a requirement to "ensure no conflict arises", to maintain the principle of collective responsibility, and to keep constituency work (for MPs) separate from work in their ministerial role. In addition, ministers are responsible for respecting the impartiality of the Civil Service and not asking civil servants to do anything that would conflict with the Civil Service Code. The Ministerial Code also requires ministers to disclose their interests, an area where differences with the rules pertaining to MPs create considerable confusion. Moreover, the Ministerial Code bans holding outside appointments, whereas these *second jobs* are permitted for MPs. There are also various rules regarding how ministers should conduct meetings with external organisations — i.e., in the presence of a private secretary or public official — and requiring transparency about such meetings through departmental reporting.

However, accountability for ministers' compliance with the code lies solely with the prime minister. That is, the system for investigating and sanctioning breaches is that the prime minister can request advice from the Independent Adviser on Ministerial Interests, an individual whom the prime minister appoints. Further, the premier may ignore that advice if they wish, providing the conduct does not break the law. Prime Minister Boris Johnson has been criticised for failing to initiate investigations into his ministers, even where there were extensive allegations of misconduct reported in the press, and for failing to act on the advice of the Independent Adviser when he found evidence of a breach of the Code.

In late 2020, Sir Alex Allan, the Independent Adviser at the time, resigned from the role because the prime minister disagreed with his finding that home secretary Priti Patel had broken the ministerial code by bullying civil servants at the Home Office. The position of his successor, Lord Geidt, was also brought into doubt in December 2021 when it emerged that — when he carried out his investigation into the funding of refurbishments to the prime minister's flat — he had not been provided with a certain set of evidence which was later provided to a separate inquiry conducted by the Electoral Commission. More specifically, evidence comprising WhatsApp messages from the prime minister to a Conservative party donor. The CSPL has recommended that the Independent Adviser should be appointed through a more transparent and rigorous process and should have the right to initiate their own investigations, but would leave the prime minister with the power to decide whether or not to issue sanctions.

Ministers are banned from lobbying the government for at least two years after leaving office and must seek advice from the Advisory Committee on Business Appointments (ACoBA) if they wish to take up any employment within two years of leaving office — i.e., move through the so-called *revolving door*. Civil servants do not face such

a blanket ban, but senior civil servants are required to seek advice from ACOBA before taking up a post. The ACoBA can recommend a *cooling-off period* before an appointment is taken up or even advise against taking on a role. However, the ACoBA is not a statutory body, and hence its advice is not binding. It is also under-resourced, and it has no capacity to engage in monitoring and no ability to sanction (Dávid-Barrett, 2011).

Lobbying was not the subject of any formal legislation in the United Kingdom until 2014. The Public Administration Select Committee (PASC) of the House of Commons had made an inquiry into lobbying in the 2008-2009 session (PASC 2009), identifying a number of problems with the self-regulation in which the industry engaged and recommending the setting up of a mandatory register of lobbying activity. The PASC recommended that such a register include the names of individuals carrying out lobbying activity, the names of their clients, information about public office roles previously held, a list of the relevant interests of decision-makers and information about contacts between lobbyists and decision-makers. However, when the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act was finally passed in 2014, although it established a mandatory register for *consultant lobbyists*, it was widely criticised for being narrow in scope and ineffectively checking on improper influence.

One major weakness is that the Act is concerned only with the lobbying of a very narrow group of possible roles within government, namely ministers, permanent secretaries and special advisers — a wholly inadequate definition. Thus, it does not apply to the lobbying of parliament members or local councillors, the staff of regulatory bodies, private companies providing public services, or any but the most senior members of the civil service, omitting to regulate a large swathe of lobbying activity targeting other stages of the policy-making process or different types of decisions. The Act also defines a *lobbyist* too narrowly. Many individuals and organisations that engage in lobbying activity do not fall under its remit, including in-house lobbyists, NGOs, industry associations, trade unions and, potentially, professional service firms such as lawyers and management consultants. The APPC has estimated that its scope covers only around 1 % of those who engage in lobbying.

The Constitutional Reform and Governance Act 2010 provides the statutory basis for a non-partisan civil service. The Civil Service's role is seen as supporting the government of the day in developing and implementing its policies and delivering public services. Civil servants are accountable to ministers, who, in turn, are accountable to Parliament. Civil servants are to be appointed on merit on the basis of fair and open competition and are expected to carry out their role with dedication and commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality. The Civil Service Code elaborates on these as follows:

- *Integrity* is putting the obligations of public service above one's own personal interests
- *Honesty* is being truthful and open
- *Objectivity* is basing one's advice and decisions on rigorous analysis of the evidence

- *Impartiality* is acting solely according to the merits of the case and serving governments of different political persuasions equally well

The same Act also provides the underpinning for the "Civil Service management code", which outlines civil servants' terms and conditions of service for government departments and agencies. The Management Code reiterates the need for impartiality and provides detailed rules on not misusing information or disclosing it without authority, not taking part in public political activity that would compromise impartiality, not misusing their position to further their private interests, declaring conflicts of interest where they arise, and not receiving gifts or benefits that could compromise their judgement and integrity. Any violations of these rules are to be dealt with by the departments and agencies in which civil servants are employed, according to the disciplinary processes for beaches set out in paragraph 4.1.6 of the Management Code.

Political parties

Some areas of the conduct of political parties are subject to formal regulation — primarily party funding, for example, which is regulated by the Political Parties, Elections and Referendums Act 2000. Among other things, this law established the Electoral Commission, an independent statutory body that oversees elections, regulates political financing and keeps the regulatory framework under review. It also has functions in publishing data about donations and loans to political parties and reporting on campaign spending after elections. Parties are required to disclose information about donations, loans and spending, but the Commission has limited capacity to monitor whether the disclosures are full or accurate. However, where it has grounds to suspect a breach of the rules, it may require the disclosure of information, apply to the High Court for a disclosure order or conduct a statutory interview.

In cases of a suspected breach of the rules, the Commission must consider whether an investigation is in the public interest and justified in terms of the use of resources. If it is, it can launch an investigation — in some cases, in cooperation with the police and prosecutors. This can lead to one of three outcomes: insufficient evidence; no longer in the public interest to continue the investigation; or the Commission is satisfied beyond reasonable doubt that an offence of contravention of the rules has taken place. In the latter case, the Commission can impose sanctions, including monetary penalties (up to £20,000) and compliance and restoration notices to either stop a breach from recurring or restore the position to where it would have been if no breach had occurred. Failure to comply with a compliance or restoration notice can result in a criminal conviction. In cases of serious breaches, the Commission can refer the case to the police for investigation.

For non-electoral matters, all main political parties also have their own Codes of Conduct. The Codes of the Labour Party, the Liberal Democrats, the Scottish National Party (SNP) and the Plaid Cymru apply to all party members. The Code of the Conservative Party applies only to elected or appointed officials who formally represent the party, while the Green Party code applies to members and non-member volunteers. According to a review of the codes carried out by the Jo Cox Foundation and the CSPL, all codes have a shared intent — to establish a minimum standard of behaviour (Jo Cox

Foundation and CSPL, 2019). They all prohibit bullying, harassment and unlawful discrimination, while some also specify that they will not tolerate victimisation, abuse and hateful language. Some codes also set expectations about positive behaviours required of members. The focus of party codes on behavioural issues relating to respect for others and the avoidance of bullying, harassment and discrimination, again, reflects how they have developed and been changed in response to a number of scandals.

The Codes do not set out their own procedures for dealing with alleged breaches but rather refer to disciplinary processes established elsewhere in key party documents, such as the Constitution of the Conservative Party, the Labour Party Rule Book, the Constitution of the Liberal Democrats, in England, and the Plaid Cymru Westminster Group Handbook. Sanctions vary but include such measures as a formal warning, reprimand, suspension from party membership, barring the subject of the disciplinary procedure from holding or standing for election to any specified party office or role either permanently or for a specified period, and revocation of party membership.

In practice, there have been several instances where political parties were heavily criticised for weaknesses in their implementation of Codes and use of disciplinary processes. For example, since 2014, the Labour Party has faced numerous allegations of antisemitism relating both to the conduct of individual members and the Party's perceived weak response to evidence of antisemitism. In response to that, party leader, Jeremy Corbyn, established the Chakrabarti Inquiry to investigate antisemitism in the party. This Inquiry concluded, in 2016, that the party was not "overrun by antisemitism or other forms of racism". However, it did find an "occasionally toxic atmosphere" and "clear evidence of ignorant attitudes." In the same year, the Home Affairs Select Committee held an inquiry into antisemitism in the UK and found "no reliable, empirical evidence to support the notion that there is a higher prevalence of antisemitic attitudes within the Labour Party than any other political party", but it also noted that the leadership's lack of action "risks lending force to allegations that elements of the Labour movement are institutionally antisemitic".

In 2017, Labour Party rules were changed to make hate speech, including antisemitism, a disciplinary matter. In 2018, Labour's National Executive Committee (NEC) adopted a definition of antisemitism for disciplinary purposes that included the International Holocaust Remembrance Alliance Working Definition and examples thereof in the party's code of conduct. In 2019, Labour published information on investigations into complaints of antisemitism against individuals, leading to around 350 members resigning, being expelled or receiving formal warnings. The same year, the Equality and Human Rights Commission (EHRC) announced an inquiry into whether Labour had "unlawfully discriminated against, harassed or victimised people because they are Jewish". Its report in 2020 found that the party was responsible for unlawful acts of harassment and discrimination and noted 23 instances where staff — including those in the leader's office — had sought to interfere with efforts to investigate allegations of antisemitism. Following this report, Corbyn was suspended from the Labour Party, and the party whip was removed on 29 October 2020 when he failed to retract his assertion that opponents had overstated the scale of antisemitism within Labour.

The Liberal Democrats have been criticised for having investigations into alleged sexual harassment handled by a peer, Lord Rennard, who had held a number of influential positions in the party over many years. The allegations were broadcast by Channel 4 News in 2013. However, some of the claims of harassment dated back several years earlier and part of the story was that they had been brought to the attention of the party leadership then, but no action had been taken. A subsequent independent report in 2013 by Helena Morrissey into "processes and culture within the Liberal Democrats" said that the leadership should have held an inquiry into the allegations at that time, when Rennard was still a member of the party's staff. The Metropolitan Police investigated one complaint, but they found insufficient evidence to bring charges.

The Liberal Democrats then resumed their inquiry led by QC Alistair Webster, who also found insufficient evidence but stated that there was "broadly credible" evidence of "behaviour which violated the personal space and autonomy of the complainants". Further controversy then arose over whether or not Lord Rennard should apologise to the women involved, and in January 2014, Lord Rennard was suspended from the Liberal Democrats, apparently on the grounds that he had attacked the party. He was reinstated seven months later, but a number of prominent Liberal Democrats continued to make public statements against him, leading to criticism that the party's behaviour was, at best, inconsistent: its disciplinary processes had found insufficient evidence of wrongdoing, and yet several senior party figures continued to treat him as *persona non grata*.

Chapter 7
Comparing voters and politicians' views on the effectiveness of ethics self-regulation in politics

7.1. Introduction

In Chapter 5, we described the growing efforts of political parties around the world to establish ethical standards internally, and in Chapter 6, we detailed different regulatory approaches by assessing five different European cases. Roughly 35 % of the 200 parties in the PESR database had codes of conduct/ethics separate from the party statutes and bylaws. However, there is ample variation in the scope of these codes, in the specific instruments designed to promote transparency and in the ethical conduct of candidates and MPs. In this chapter, we explore how (1) voters and (2) politicians assess the effectiveness of the most common instruments of ethics self-regulation in politics.

Learning how voters and legislators evaluate these measures is important for multiple reasons. First, instruments deemed inefficient by voters are unlikely to affect institutional trust and legitimacy, one of the ultimate goals of ethics self-regulation. Second, the incentives of party leaders to impose and expand their self-regulation efforts are conditional on the extent to which voters reward these initiatives. Finally, without the support and acquiescence of MPs and candidates, self-regulation efforts from parties are unlikely to produce sustainable changes in transparency and ethical behaviour.

To study how politicians and voters respond to different self-regulation efforts by political parties, we embedded a conjoint experiment in: (1) a nationally representative survey of Portuguese voters; and (2) a survey of MPs and local elected officials in Portugal and Spain. This paired design allows us to test not only the preferences of voters and politicians but also the ways in which they differ.

We asked voters and politicians to evaluate a series of pairs of hypothetical parties that varied along four features corresponding to different ethics self-regulation instruments: position on term limits; financial disclosures from candidates; lobbying registries; and formal sanctions for public officials involved in corruption scandals. The experimental design allows us to isolate the marginal causal effect of each of these instruments on different outcomes. The analyses provide four main findings. First, political elites support and voters reward the four types of ethics self-regulation. Second, while all four instruments have moderate effects, the promise to expel legislators accused in corruption cases produces the most significant effects for both voters and legislators. Third, term limits are the only domain where legislators and voters respond differently. Voters reward parties that impose term limits but do not distinguish the rules imposed by the current leadership from those embedded in party statutes. The effects among legislators are indistinguishable from zero. Finally, we do not find evidence that ideological agreement between voters and parties

mitigates the effect of ethics self-regulation on party support. On average, right-leaning voters reward right-wing and left-wing parties similarly for the adoption of self-regulation reforms.

7.2. Instruments of ethics self-regulation

Ethics self-regulation can take multiple forms: abstract norms, written codes and standards of conduct, or more concrete measures imposing information disclosure from candidates or legislators. In the context of our study, we identified four concrete instruments that are often included in party efforts to promote transparency and ethical conduct: the imposition of term limits, financial disclosures, lobbying registries, and formal sanctions on legislators involved in corruption scandals. We will now describe all four self-regulation instruments selected for this experiment.

Term limits have been shown to influence legislative behaviour in different ways. Some scholars argue that imposing term limits would end *politics as usual* by producing legislators less entrenched in office, more responsive to constituency preferences, and with fewer opportunities to develop corruption networks (Carey et al., 1998; Petracca, 1993; Smart and Sturm, 2013; Caress and Kunioka, 2012). Other scholars highlight the potential drawbacks of term limits, including more partisan legislatures, higher levels of polarisation, or more reliance on interest groups to compensate for the lack of expertise in the legislatures (Masket and Shor, 2015; Olson and Rogowski, 2020). Research in Brazil reports systematically less corruption in municipalities where mayors can be reelected (Ferraz and Finan, 2011). Tsur (2021) describes the trade-off between becoming an effective policymaker and an effective embezzler and concludes that term limits increase the frequency of corruption incidents but reduce the expected cost per incident. Despite the lack of consensus in the literature, the prevailing view in public discourse is that term limits can reduce corruption by forcing more entrenched legislators to be replaced. Therefore, we expect both voters and public officials to identify term limits as an effective instrument of ethical self-regulation.

A different strategy for parties to promote transparency during campaigns is to require all candidates on the list to provide financial statements or asset declarations. Although certain types of interests may not be deemed incompatible with office, they may raise real or potential conflicts with concrete activities of the officeholder. Recent anti-corruption reforms in countries like Spain or Romania have imposed that all elected officials provide financial statements and asset declarations after entering office. We expect that legislators support and voters reward the parties' efforts to proactively provide financial information about the candidates in their lists.

Parties can also encourage transparency in parliament. As part of the policymaking process, legislators regularly interact with lobbyists and interest groups. While organised interests play an important role in providing the expertise required for efficient policymaking, they can also create distortions in political representation and opportunities for corruption. Parliaments around the world have imposed a variety of rules to regulate these interactions, however, they remain a black box in most countries. The lack of transparency around legislator-lobbyist interactions is a common mobilisation issue raised by populist parties. Hence, we expect that both legislators and voters deem lobbying registers created by political parties an effective self-regulation strategy.

Finally, political parties can promote self-regulation by inscribing specific sanctions for legislators involved in corruption scandals in their codes of conduct. Cases of corruption involving officeholders affect public trust in political institutions. These spillover effects are often facilitated by the lack of prompt responses from other political actors, including members of the same party. We argue that political parties have some leeway to limit the extent to which corruption cases mine the legitimacy of political institutions. By formalising the type of sanctions or penalties for members of the party involved in corruption cases, parties can promote transparency and reduce their leeway in dealing with peers. Hence, we expect both voters and legislators to support penalties for officials involved in corruption incidents.

7.3. Research design

We test our predictions in two conjoint survey experiments with: (1) a representative sample of Portuguese voters; and (2) a sample of elected officials in Portugal and Spain. This paired design allows us to compare how political elites and voters respond to different ethics self-regulation efforts by political parties.

Conjoint experiments provide two important advantages in the context of our study. First, they allow us to identify the causal effects of many treatment components simultaneously. Parties' self-regulation efforts often do not happen in isolation. Instead, they are part of larger reforms. The conjoint design allows us to isolate the effect of individual measures in this multidimensional context. Second, conjoint designs reduce social desirability bias because respondents do not have to state their views directly on any particular attribute (Hainmueller et al., 2015; Horiuchi et al., 2020). The context of political ethics is prone to social desirability bias, and this feature of the design mitigates the risk of respondents omitting their true preferences.

In both experiments, we asked respondents to evaluate the ethics self-regulation efforts of two hypothetical parties with different combinations of internal rules. Political elites repeated this task four times, while voters repeated the task two times. Table 16 summarises the four attributes that varied across parties in both experiments. *Position on term limits* captures whether the party has imposed any rules on term limits for MPs. We distinguish between conjunctural rules imposed by the current leadership or rules inscribed in the party bylaws. Our expectation is that more structural reforms are perceived as more effective since they reflect a stronger commitment to changing the *status quo*. The attribute *Financial statements from candidates* captures the effort of parties to promote transparency on potential conflicts of interest among candidates in their lists. We further distinguish between the promise to disclose financial statements before and after the election. Information provided before the election signals a stronger commitment to transparency; therefore, we expect it to be evaluated more positively by voters and politicians. Finally, we vary whether parties promise to: (1) create a lobbying registry; and (2) expel legislators accused in corruption cases.

After seeing a pair of profiles, both samples were asked which of the two hypothetical parties they would be more likely to support. The sample of officeholders repeated this task four times, while the sample of voters repeated this task twice. In the mass sample, we include two additional attributes: the ideological position of the parties (Left, Centre, or Right) and the gender of the party leader. These additional

attributes are meant to create less abstract profiles and allow us to test for moderating effects by ideological agreement.

In order to test the effects of each family of ethics self-regulation instruments on party support, we estimate equations using ordinary least squares with standard errors clustered at the respondent level. The unit of analysis is a party profile, and the outcome is a binary indicator that takes the value of 1 if the party was chosen and 0 otherwise. We regress this outcome on the full set of candidate attributes, leaving one level in each attribute as a reference point. The estimates represent the marginal effects of each attribute value on the probability of supporting a party relative to the reference category in that attribute.

Table 16 Conjoint experiment: instruments of ethics (self-)regulation and text corresponding to different values in each attribute

Attributes	Values
1. Financial statements from candidates	The party does not provide financial statements from candidates
	The party publishes all candidates' financial statements online after the election
	The party publishes all candidates' financial statements online before the election
2. Log of activities with interest groups	Not foreseen
	The party promises to publish online a record of all meetings with interest groups
3. Position on term limits	The current leadership does not impose term limits
	The current leadership excludes from the list incumbents with three consecutive terms
	According to party bylaws, incumbents are not allowed to run after three consecutive terms
4. Penalties for legislators accused in corruption cases	Not foreseen
	The party promises to expel any deputy accused of corruption

7.4. Main findings

Figures 32 and 33 present the main results of the study for officeholders and voters, respectively. Each figure displays the effects of different attribute values on the probability of supporting a party relative to the reference category in that attribute (identified as dots without confidence intervals).

The results for officeholders (Figure 32) are consistent with our main predictions. Legislators are more likely to support parties that provide financial statements from their candidates, particularly before an election. The effects are moderately large. On average, officeholders are 16.0 percentage points (s.e. = .03) more likely to support parties that make financial statements available before elections compared with a similar hypothetical party that does not provide this information. The effects of financial statements provided after the election are smaller (10.3 percentage points; s.e. = 0.4) but still distinguishable from zero. We also find evidence that legislators support the creation of lobbying registries (s.e. = .03). Conversely, legislators did not perceive term limits as an effective anticorruption strategy. As predicted, term limits inscribed in party statutes are perceived more positively than no term limits or term limits imposed by the current leadership, but the effects are small and indistinguishable from zero at conventional levels of statistical significance. Finally, parties that sanction legislators accused in corruption scandals have a large effect on legislators' response (estimate = .37; s.e. = .03). Importantly, since respondents' preferences over individual attributes are not directly observed in the conjoint design, we mitigate concerns that the patterns uncovered are explained simply by social desirability bias.

Figure 33, in turn, reports the same set of results for the sample of voters. The results are broadly consistent with the patterns observed for officeholders. Voters reward parties that promote transparency through candidates' financial statements and lobbying registries. Effects sizes are similar in the two samples. For instance, the marginal effect of lobbying registries is 9.4 points for voters (s.e. = .01) and 11.8 points for legislators (s.e. = .03). The only substantive difference is in the response to the introduction of term limits in party lists. Voters do not reward reforms inscribed in the party statutes more than conjunctural solutions proposed by the current leadership. Voters reward both versions of term limits, but the point estimates are smaller for term limits inscribed in party statutes. Finally, also consistent with the elite sample, we observe that sanctions for MPs involved in corruption cases have the largest effect on party support.

Figure 32 Elected officials' response to party self-regulation efforts

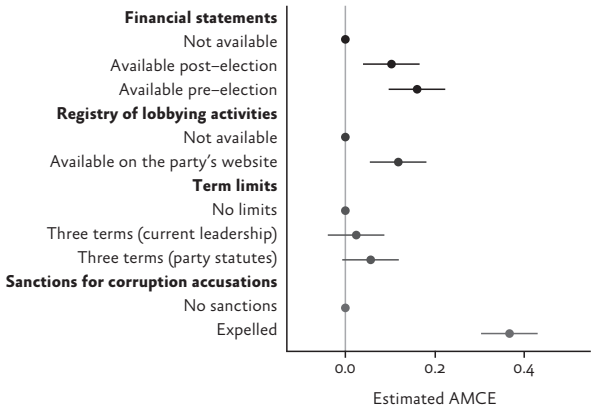
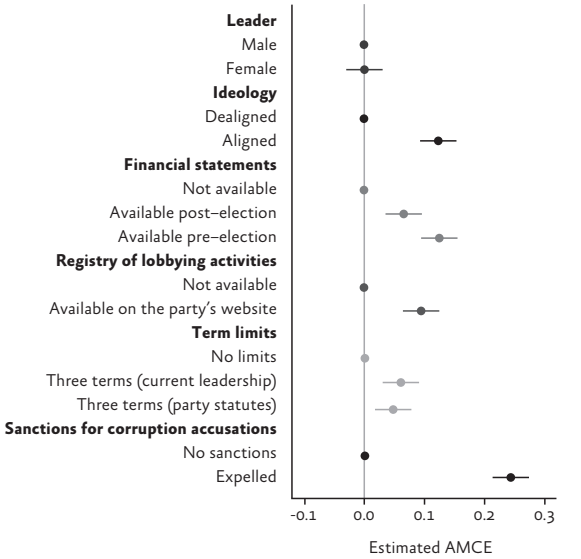


Figure 33 Voters' response to party self-regulation efforts

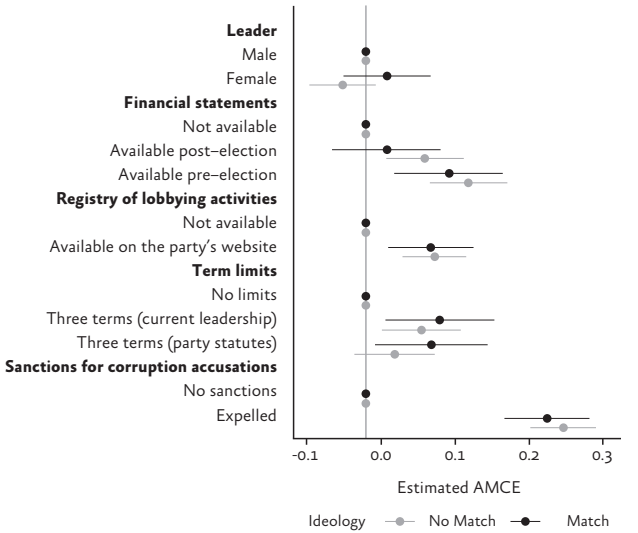


7.5. Does ideological agreement moderate the effects of ethics self-regulation efforts?

So far, the analysis has kept ideological considerations constant. However, voters do not evaluate ethics self-regulation efforts in a vacuum. Party attachments and ideological agreement between voters and a given party likely moderate how individuals respond to the efforts of parties to promote transparency and the ethical conduct of their members. For instance, motivated reasoning may lead voters to evaluate political parties ideologically aligned with them less critically (Leeper and Slothuus, 2014; Nasr, 2021). If that is the case, we should see voters less likely to reward the self-regulation

efforts of parties with which they agree ideologically. To explore this hypothesis, we reestimate the models in Figure 33, distinguishing between the parties that are ideologically aligned, or not, with the voters. Figure 34 provides partial support for the moderating effect of ideological agreement. The effects of parties (1) disclosing financial information about candidates and (2) sanctioning legislators for corruption accusations are smaller when voters are ideologically aligned with the parties, but the effects are small and unreliable. Additionally, the effects of introducing term limits in the lists are inconsistent with this prediction. Together, the findings suggest that voters may not reward ethics self-regulation efforts by different types of parties in the same way. However, the results are not conclusive and require additional investigation.

Figure 34 Voters' response to party self-regulation efforts by ideological agreement between voter and party



7.6. Chapter conclusions

We report the results of two original experiments designed to study how politicians and voters assess the efforts of political parties to promote transparency and ethical conduct. We find remarkable similarities in the way politicians and voters respond to different instruments of self-regulation, but also relevant differences in the case of term limits for party lists. The analyses suggest that, to varying degrees, officeholders' support and voters reward the efforts of political parties to self-regulate. We also find no systematic evidence that the effects of these reforms are moderated by ideological alignment. The agreement between the political actors directly affected by these reforms (politicians) and the principals in the chain of delegation (voters) suggests that ethics self-regulation can be an effective strategy to restore trust in political parties and promote transparency in public office.

Chapter 8
Conclusion

In this work, we set ourselves to the task of trying to understand the growing concern about the perceived decline in ethical standards in political life by posing and tentatively answering four interrelated research questions: (RQ1) Do citizens and politicians have the same expectations about ethical standards in political life?; (RQ2) To what extent are politicians aware of the reputational risk associated with unethical conduct?; (RQ3) What measures have politicians put in place at the party, parliamentary, and governmental levels to mitigate these risks?; and (RQ4) Do citizens and politicians perceive the effectiveness of these measures aimed at promoting transparency and ethical conduct in a similar way?

We used different data collection methods to address these various RQs and be informative and comprehensive in our analysis of the emerging challenges to ethics in political life. This multi-method approach enabled us to approach our RQs from several different angles and overcome biases often associated with single cases, thus making the various types of analyses reported particularly telling.

We conducted two elite surveys (to national and local political representatives), whose data was complemented with a mass survey implemented about the same time under the auspices of the FCT-funded EPOCA project. We used these new datasets to address RQ1 and RQ2. Both questions are important to understand the growing concern about the perceived decline in ethical standards in political life. After all, "the ethical quality of democratic politics depends in no small part on the ethics of the relationship between the people and their political representatives" (Uhr, 2006:225). From the survey data collected, it becomes evident that political corruption is as much about the infringement of legal/formal norms regulating political office as about how citizens perceive certain conducts and practices as acceptable or unacceptable in the discharge of duties. Legal norms do not specify all the things that the occupant of an office of entrusted power can or cannot do. Politicians' behaviour in office is judged conformant or deviant based on "standardised expectations" (Truman, 1971:347) about their role in political institutions. Hence, it is important to assess whether such "expectations of decency and civility" (Williams, 2006) have grown wide among the rulers and the ruled in a democracy. Using new survey data, and in line with similar studies in other European democracies, we found that citizens show less tolerance towards corruption than their elective officials, both at local and national levels. Citizens valued honesty as the guiding principle governing the conduct of officeholders within democratic institutions. And this is precisely where interpretations diverge: whereas insiders tend to stick to the legal norm as the sole criteria guiding their conduct, citizens expect a bit more for the sake of honesty, i.e., politicians should refrain from relativising or engaging in conducts that may be legal but are regarded as improper. Failing to do so may be conducive to a breach of trust. As John Uhr (2016: 223) alerted us, in a democracy, "political corruption advances under the cover of many disguises, including the disguise of politics as usual". Regarding the reputational risks associated with political corruption, we did not find many discrepancies between the way national (MPs)

and local (LOCALs) political representatives perceive the reputational consequences of political corruption. Both groups of elective officials are equally concerned, notwithstanding the varying nature of the ethical responsibilities associated with the political office under discussion.

We then mapped self-regulatory measures implemented by political parties, parliaments, and governments across Europe to address RQ3. We collected and classified institutional data along three regulatory dimensions: norm-setting (codes of conduct), oversight, and enforcement. Most data derive from dedicated legislation, statutes/bylaws, codes of conduct/ethics and multi-country assessment reports on political ethics, such as the GRECO's evaluation reports. Next, we analysed regulatory trends within parties, parliaments and government and developed a checklist index measuring the robustness of ethics regulations of 17 parliaments in the EU. Overall, we found that ethics regulations within political parties, parliaments and governments have evolved positively at the norm-setting level (through the adoption of codes of conduct/ethics) but with marginal improvements regarding the oversight and enforcement of such norms. Despite the reputational benefits that could be drawn from effective ethics regulation practices, particularly in a context of increased external pressure, improvements have been marginal.

Changing ethics regulations is not easy because they are embedded in historical legacies and "self-reinforcing processes that are making it difficult for political actors to switch to another alternative" (Saint Martin, 2006:16). Moreover, introducing new ethics regulations or modifying existing ones often requires amending laws or bylaws, depending on whether political actors embark on meta- or self-regulation. This means that different parties or factions need to reach some degree of agreement on the regulatory model to adopt. Ethics reforms always have distributional effects: some groups will be supportive of the change, while others will prefer the *status quo* or even resist change. That said, the political elite tends to hold cohesive *vis-à-vis* external pressure for more ethics regulation if such regulatory efforts undermine their interests and/or their capacity to control the enforcement of those norms. This does not mean that self-regulation is always preferred to externalising control for strategic reasons. The rule makers — party leaderships, parties represented in parliament and cabinets — may respond to external pressure by agreeing on minimal standards, oriented to short-term symbolic gains rather than long-term path-shifting intents. Moreover, external oversight and enforcement are not in themselves a guarantee of independence and impartiality. The robustness of regulatory regimes is not determined by the degree of externalisation. Today, most regimes tend to display a combination of external- and self-regulation elements, irrespective of whether they are perceived as effective or not.

We complement this cross-country mapping of ethics self-regulatory efforts with five in-depth case studies written by country experts to obtain "information about the significance of various circumstances for case process and outcome" (Flyvbjerg, 2006). Two of the cases have a long track record in self-regulation: one has started to show signs of decay and recently shifted towards externalisation (UK); and another one has resisted externalisation (Sweden) and maintained an integrity-based approach to political ethics without apparent public pressure for change. And three of the cases have regulatory insufficiencies and perceived inefficacy: one has rapidly evolved

from a system with almost no formal ethics regulation to setting up an elaborate and intrusive regulatory regime (France); another one has responded to a context of systemic party-related corruption and intense public opinion pressure for change, by adopting a meta-regulation approach — i.e., by imposing compliance obligations to all political parties through dedicated laws and criminal code provisions (Spain); and the third one tried to strike a balance between external enforceable legal standards and self-regulation, but political actors have repeatedly embarked in cosmetic ethics reforms deprived of clear norms and adequate disciplinary bodies to ensure their effective application and enforcement (Portugal). All case studies attached to this Report focus on economically developed and politically stable parliamentary democracies with different legal systems, different democratisation paths, different political cultures, and medium to low (perceived) levels of corruption. They also display different approaches and outcomes in terms of regulatory efforts to mitigate reputational risks associated with unethical conduct in politics. There is enough variance to be case-informative, and the data is sufficiently extensive to identify common attributes and trends, thus helping the generalisability of the results.

Both the comparative mapping and the in-depth case studies suggest that in countries with a good record of enforcing norms of conduct, path-shifting changes may be successfully resisted, at least to a point, until the regulatory system begins to show inefficiencies. Where ethics regulations are systematically perceived as ineffective, political agents are more exposed to external pressure for change and are most likely to engage in policy churn through the adoption of toothless norms and shallow oversight and enforcement mechanisms. We also identified three interconnected tendencies that have already been discussed in the literature: a push towards more written rules (formalisation), proscribed conducts (prohibitionism) and externally enforced ethical standards (externalisation). There seems to be a strong belief across European democracies that by moving the responsibility of setting, overseeing, and enforcing ethical standards on political officeholders to external (independent) bodies, the system of ethics regulation will become less politicised, more effective and, consequently, more trusted by citizens. This claim is not supported by evidence. Reassuring the public that *the problem* is being handled — by adopting toothless laws and shallow external oversight and enforcement bodies to counter routinised unethical practices within the core political institutions of democracy — has become the norm. Political ethics regulation is a valence issue, which means that everybody is in favour of adopting more and more laws to curb improper conduct in politics. Not only is it "the proper thing to do in a democracy", but it is also politically "cheap to adopt" since the way some of these rules are formatted has little, or no applicability and/or their "enforcement is weak" (Saint-Martin, 2006:17).

Finally, to address RQ4, we developed two original conjoint experiments embedded in mass and elite surveys. Drawing from the mapping of self-regulatory efforts across Europe, we selected four attributes/measures that varied across parties in both experiments — term limits, financial statements from candidates, lobbying registry, and dismissal of legislators accused in corruption cases — to study the ways politicians and voters assess the efforts of political parties to promote transparency and ethical conduct. The conjoint experiments enabled us to identify the causal effects of different self-regulation

efforts simultaneously and reduce the social desirability bias often associated with people's views about political ethics. We found a degree of consensus between politicians and voters regarding these different instruments of self-regulation, suggesting that officeholders support and voters reward the political parties' self-regulatory efforts. Whether this is the light at the end of the tunnel or an oncoming train, we do not know. Further investigation is needed to understand whether these ethics self-regulation efforts can meet people's expectations and become an effective strategy to restore trust in political parties and promote transparency in public office or whether politicians and voters will remain locked in a perpetual motion of symbolic reassurance and delusion.

Appendixes

Appendix 1

Table A1 Major 'Insider' and 'Insider vs Outsider' survey-based studies on ethical standards.

Social Strata	Study	Country	Target group	Implementation method	Fieldwork	Design	Sample	Response rate	Measurement of integrity/ corruption
Insider	(Atkinson and Mancuso, 1985)	Canada	MPs	Face-to-face	March-June 1983	10 scenarios	120 contacts 84 interviews	70 %	Seven-point scales for all questions (1=very corrupt and 7=not corrupt at all)
	(M. Jackson et al., 1994; M. Jackson and Smith, 1995)	Australia (NSW)	State-level MPs (upper and lower houses)	Face-to-face	1990	10 scenarios	154 contacts 105 interviews	68.2 %	Five-point scales for all questions: (concerning whether the cases were corrupt, whether they thought most other public officials would agree that the act was corrupt, and whether they thought most members of the public would concur)
	(Mancuso, 1993, 1995)	UK	MPs	Face-to-face	1986-1988	General questions on political morality plus 9(14) scenarios	250 contacts 100 responses	40 %	Seven-point scales for all questions (1=very corrupt and 7=not corrupt at all)
	(Pelizzo and Ang, 2008)	Indonesia	MPs	Face-to-face	January 2006	10 scenarios	49 contacts 27 responses	55.1 %	Seven-point scales for all questions (1=very corrupt and 7=not corrupt at all)
	(Peters and Welch, 1978, 2002)	USA	Senators from 24 US states	Postal	October 1975 - January 1976	10 scenarios	978 contacts 441 responses	45 %	Five-point scales for all questions: (believe the scenario to be corrupt; most public officials would condemn this act; and most members of the public would condemn this act)

Social Strata	Study	Country	Target group	Implementation method	Fieldwork	Design	Sample	Response rate	Measurement of integrity/ corruption
	(Gorta and Forell, 1995; NSW ICAC, 1994)	Australia (NSW)	Public sector employees	Postal	May – August 1993	12 scenarios	1,978 contacts 1,313 responses	66.4 %	Six-point scale for all questions to rate how desirable they believed the behaviour to be, and how harmful or justified they considered it to be. Plus, twelve attitude statements concerning definitions of corruption, the range of behaviours which may be considered acceptable, and reporting corruption.
	(NSW ICAC, 2001)	Australia (NSW)	Public sector employees	Postal	1999	12 scenarios	1,503 contacts 785 responses	52.2 %	Six-point scale for all questions to rate how desirable they believed the behaviour to be, and how harmful or justified they considered it to be. Plus, twelve attitude statements concerning definitions of corruption, the range of behaviours which may be considered acceptable, and reporting corruption.
Insider vs Outsider	(Allen and Birch, 2012, 2015)	UK	Candidates with incumbent MPs, and citizens	Face-to-face/online and online, respectively	2005 and 2009 respectively	9 scenarios	Candidates and MPs: 1,979 candidate contacts. 696 candidate responses, 81 of which from incumbent MPs Citizens: 1,978 contacts 1,388 responses	Candidates with incumbent MPs: 40.22 % Citizens: 70.17 %	Ethical Tolerance Scale: seven-point scale for each scenario: 1=corrupt to 7=not corrupt.
	(Atkinson and Bierling, 2005)	Canada	Federal and provincial politicians and citizens	Telephone	1996	11 general statements of extension of corruption plus 15 scenarios	Federal and provincial politicians: 208 responses Citizens: 1,419 responses	N/A	General statements coded from 1=strongly disagree to 4=strongly agree. Eleven-point scale for each scenario, ranging from 0=totally unacceptable to 10=totally acceptable.

Social Strata	Study	Country	Target group	Implementation method	Fieldwork	Design	Sample	Response rate	Measurement of integrity/ corruption
	(M. Jackson and Smith, 1996)	Australia (NSW)	State-level MPs (upper and lower houses) and voters	Face-to-face and telephone, respectively	1990 and 1993, respectively	10 scenarios	MPs: 150 contacts 105 responses Voters: 950 contacts 552 responses	70 % and 58 %, respectively	Five-point scales for each question: (believe the scenario to be corrupt; most public officials would condemn this act; and most members of the public would condemn this act).
	(Ko et al., 2012)	South Korea	Citizens and central government officials, and local government officials	2007 to 2010 and 2009 to 2011, respectively			Citizens: 4,822 responses Public officials: 3,003 responses	N/A	Examines citizens' tolerance to seven types of grey corruption (small gift, favoured promotion, wedding gift, rebate, personal use of public property, holiday present, and gift to teachers). All scenarios were measured using a five-point scale.
	(McAllister, 2000)	Australia	Elected representatives and voters	Self-completion questionnaire for both candidates and voters	March 1996	8 aspects of ethical conduct	MPs: 427 contacts 105 responses Voters: 1,788 contacts 1,692 responses	63.5 % and 61.5 %, respectively	Five-point scales for each question: from extremely important to not very important

Appendix 2

Ethics Regulation Robustness Index

Table A2 Ethics Regulation Robustness Index

Normative Assumptions	Survey Q	Indicator		Scores	"Max Score"
		NORMS			
"The extent to which the existing norms are legally binding may render the ethical regulatory system more or less robust, hence the scaled scores. However, it is common that several legal instruments coexist and that rules are dispersed, hence the cumulative scoring."	Q.2	1. In which legal documents are those principles, regulations and procedures laid down? Please select all that apply.	The Parliament's Standing Orders/Rules of Procedure	0,4	1
			The Parliament's Code of Conduct (or similar ethics and conduct regime)	0,3	
			A parliamentary resolution	0,2	
			Other applicable laws and regulations	0,1	
			Don't know	0	
The universe of application of regulations also contributes to the robustness of the system and addresses possible principal-agent problems, especially in positions closer to political officeholders.	Q.3	2. Are those principles, regulations and procedures extensive to other officeholders related to parliamentary business? Please select all that apply.	Yes, they are also extensive to...		1
			Party group supporting staff (advisers, researchers, interns and other appointees)	0,5	
			Parliamentary staff (officers and employees)	0,25	
			Other	0,25	
			No, they are only applicable to MPs	0	
			Not applicable/Don't know	0	

Normative Assumptions	Survey Q	Indicator	Scores	"Max Score"
		OVERSIGHT		
Independence of the oversight from the regulatees is a key feature of the robustness of the system. Not being appointed by the regulatees may ensure these will not appoint a too-friendly individual.	Q7.7.	3. How is the Chairperson of the oversight ethics body appointed?	By the Speaker	1
			By the plenary	
			Selected among the members of the body (if a collegial entity)	
			By the most senior official in Parliament (i.e., Secretary General/Director General/ Senior Clerk/Chief of Staff)	
			Not applicable/Don't know	
Like the previous indicator, the immovability of the Chairperson grants him more independence and hence more robustness to the ethics regulatory system.	Q7.9.	4. Can the Chairperson of the ethics oversight body be removed prior to completing their mandate?	Yes	1
			No	
			Not applicable /Don't know	
Different aspects of the lives and activities of parliament members and other stakeholders may give rise to conflict between their private and public office. Yet, the oversight bodies may not have the mandate to cover all these aspects.	Q8.	5. What is the scope of ethics oversight of the Members' conduct under the various authorising rules and statutes? Please select all that apply.	Conflicts of interest related to parliamentary business in general	1
			Outside employment or remunerated activities (boards or committees of companies, law firms or consultancies, public relations firms and media, etc.)	
			Outside nonremunerated occupations and memberships (non-governmental organisations, associations or other legal entities, etc.)	
			All matters relating to the Parliament's Code of Conduct	

Normative Assumptions	Survey Q	Indicator		Scores	"Max Score"
		OVERSIGHT			
Different aspects of the lives and activities of parliament members and other stakeholders may give rise to conflict between their private and public office. Yet, the oversight bodies may not have the mandate to cover all these aspects.	Q8.	5. What is the scope of ethics oversight of the Members' conduct under the various authorising rules and statutes? Please select all that apply.	Any holding or partnership where there are potential public policy implications or where that holding gives the Member significant influence over the affairs of the legal entity in question	0,1	1
			Gifts, hospitality and travel invitations	0,1	
			Campaign contributions	0,1	
			Any support, whether financial, material or in terms of staff, additional to that provided by the Parliament and granted to the Member by third parties in connection with their political activities	0,1	
			Asset, liabilities and interest disclosure	0,1	
			Other financial interests which might influence the performance of the Member's duties	0,1	
			Don't know	0	
The role of oversight bodies may change across different systems. Some may only have a consultative role for the guidance of MPs, while others may enjoy more and stronger powers, like investigation prerogatives. Thus, the score of this indicator is both scaled (from the weakest to the strongest power) and cumulative (as some bodies may enjoy more than one of these powers).	Q9.	6. What functions does the ethics oversight body have regarding the conduct of Members of Parliament? Please select all that apply.	Interpretative and advisory (on matters of conduct)	0,13	1

Normative Assumptions	Survey Q	Indicator		Scores	"Max Score"
		OVERSIGHT			
The role of oversight bodies may change across different systems. Some may only have a consultative role for the guidance of MPs, while others may enjoy more and stronger powers, like investigation prerogatives. Thus, the score of this indicator is both scaled (from the weakest to the strongest power) and cumulative (as some bodies may enjoy more than one of these powers).	Q9.	6. What functions does the ethics oversight body have regarding the conduct of Members of Parliament? Please select all that apply.	Oversight/monitoring (of asset declarations, incompatibilities and impediments and registers of interests)	0,2	1
			Investigative (of allegations of misconduct)	0,27	
			Disciplinary	0,33	
			Ethics induction (training on parliamentary rules and procedure, in particular, ethical standards)	0,07	
			Don't know	0	
The independence for action can contribute to the robustness of the regulation. If a body can only act on the complaints of those whom it regulates, then its autonomy to act is reduced. As the previous indicator, the scoring is both scaled and cumulative.	Q10.	7. How can the ethics oversight body summon, question or open a disciplinary proceeding against a member/ representative for unethical conduct? Please select all that apply	Acting on its own initiative	0,33	1
			Acting on Members' complaints, including the Speaker	0,07	
			Acting on external complaints	0,2	
			Acting by request of an external body (court, anticorruption specialised agency, audit body, etc.)	0,13	
			Acting on media reports	0,27	
			Don't know	0	
The obligation of a body to act on all known allegations renders it more difficult to capture or influence the body to dismiss an investigation or other initiative for the benefit of the individual(s) and/or parliamentary group(s) in question	Q11	8. Is the ethics oversight body required to act upon any known allegation?	Yes, it always has to act upon a known allegation	1	1

Normative Assumptions	Survey Q	Indicator		Scores	"Max Score"
		OVERSIGHT			
The obligation of a body to act on all known allegations renders it more difficult to capture or influence the body to dismiss an investigation or other initiative for the benefit of the individual(s) and/or parliamentary group(s) in question	Q11	8. Is the ethics oversight body required to act upon any known allegation?	No, it can decide when to act based on a case-by-case assessment	0,5	1
			Not applicable /Don't know	0	
Accessible and transparent complaint channels make oversight bodies more open to society and more likely to receive external complaints or information.	Q12	9. Is there an online complaints form and/or official e-mail for members of the public to report alleged misconduct to the ethics oversight body? Please select all that apply.	Yes	1	1
			No	0	
			Don't know	0	
Whistle-blower protection norms establish that anonymity in complaints makes people more comfortable denouncing illicit or irregular behaviour since they are protected from reprisals.	Q12.1	10. Can the ethics oversight body act upon anonymous reports/complaints?	Yes, all complaints must be considered	1	1
			Yes, if it is supported by sufficient evidence of an alleged breach of the rules and procedures	0,66	
			No, all complaints must be made in writing and signed	0,33	
At times, oversight bodies may come across information that goes beyond the violation of ethics rules but amounts to criminal behaviour. The possibility and autonomy of the body to report to authorities make the regulatory systems more robust.	Q12.2	11. Can the ethics oversight body report unfounded allegations by members of the public to judicial authorities?	Yes	1	1
			No	0	
			Not applicable /Don't know	0	

Normative Assumptions	Survey Q	Indicator	Scores	"Max Score"
		ENFORCEMENT		
Please refer to question 3. When the oversight body is the same as the enforcement body, the question was answered twice.	Q7.17	12. How is the Chairperson of the ethics enforcement body appointed?	By the Speaker	0,25	1
			By the plenary	0,5	
			By the most senior official in Parliament (i.e., Secretary General/Director General/ Senior Clerk/Chief of Staff)	0,75	
			Selected among the members of the body (if a collegial entity)	1	
			Not applicable /Don't know	0	
Please refer to question 4. When the oversight body is the same as the enforcement body, the question was answered twice.	Q7.19	13. Can the Chairperson of the ethics enforcement body be removed prior to completing their mandate?	Yes	0	1
			No	1	
			Not applicable /Don't know	0	
There is a range of sanctions that parliaments or enforcement bodies have at their disposal to punish offenders, which makes the scoring of this indicator cumulative. Sanctions on MPs are a sensitive issue, given the nature of their representative mandate. Therefore, the range of sanctions applicable to MPs varies in severity. Besides being cumulative, the scoring in this indicator is also in scale.	Q13	14. Which disciplinary powers can be brought forward against the unethical conduct of a Member of Parliament? Please select all that apply.	Formal warning/Call to order	0,035	1
			Noted/recorded reprimand	0,07	
			Member's formal apology to parliament	0, 10	
			Temporary suspension from parliamentary duties/ Naming of a Member	0,14	
			Suspension of salary and benefits	0,17	
			Expulsion/loss of mandate	0,21	
			Electoral disqualification in future elections	0,24	
			Other measures	0,035	
			Not applicable/ Don't know	0	

Normative Assumptions	Survey Q	Indicator		Scores	"Max Score"
		ENFORCEMENT			
	Q15	15. Do Members of Parliament have a right to be heard, bring evidence and contest the allegations during the instruction phase of the disciplinary proceedings?	Yes	1	1
			No	0	
			Not applicable /Don't know	0	
	Q16	16. If disciplinary measures are decided and enforced internally by the ethics body, what are the voting procedures?	There are no voting procedures	0,33	1
			Single majority	0,66	
			Qualified majority	1	
			Not applicable/Don't know	0	
Parliamentary review of disciplinary measures means that the regulated subjects have a saying in the sanctions imposed on them, thus weakening the enforcement. There is a risk that MPs may collude to protect one of their peers. The smaller the group in charge of the review, e.g., a parliamentary committee, the higher the chances of collusion.	Q17	17. Are these disciplinary measures subject to parliamentary review?	Yes, by a designated parliamentary committee	0,33	1
			Yes, by a plenary sitting	0,66	
			No	1	
			Don't know	0	
The collusion risks addressed in question 17 apply.	Q19	18. How is the plenary vote on these disciplinary decisions taken?	By single majority	0,5	1
			By qualified majority	1	
			Not applicable /Don't know	0	
Transparency and public accountability instruments increase the robustness of the ethics regulatory system.	Q20	19. Are the final disciplinary decisions made public?	Yes	1	1
			No	0	
			Not applicable /Don't know	0	

Normative Assumptions	Survey Q	Indicator	Scores	"Max Score"
		ENFORCEMENT		
Same as above. The nature of the transparency and public accountability instruments varies, as well as their reach. An annual report, for instance, has less public reach than a press release, thus being attributed less weight in the scoring. However, several instruments may co-exist, hence the cumulative nature of the scoring.	Q19.1.	20. If yes, how are the final disciplinary decisions publicised? Please select all that apply.	Internal communication (to Members only) 0,1 Annual Report 0,2 Website 0,3 Press release 0,4 Not applicable/ Don't know 0	1

Appendix 3

Self-Assessment Survey on Ethics bodies regulating the conduct of Members of the Parliament

020.04.23

Name of the country: .....

This self-assessment questionnaire has been designed as part of a two-year project on Ethics and Integrity in Public Life and is conducted by the Instituto de Ciências Sociais da Universidade de Lisboa (ICS-ULisboa), Portugal, and financed by Fundação Francisco Manuel dos Santos (FFMS). The project focus on ethics self-regulatory measures implemented by representative institutions across the EU's democracies. With this survey, we will be mapping ethics regulations, disciplinary rules and procedures and ethics management bodies at the parliamentary level (lower house) across Europe.

Due to the COVID-19 restrictions, our initial research objectives and instruments had to be readjusted. On behalf of the whole research team, we are very grateful for your collaboration and understanding.

IMPORTANT: This survey is intended for academic purposes only. The information collected will be used strictly on those terms. Any additional materials that the respondents believe could be useful to share can be sent to us via e-mail: ethics@ics.ulisboa.pt

If possible, we would appreciate if you could answer the survey by May 31.

You can access the survey online via this link:

XXXXXX

Alternatively, you can complete the attached form and send it back to us by e-mail (ethics@ics.ulisboa.pt) or by registered mail to:

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Portugal

VERY IMPORTANT: In this survey, we are only covering Lower Chambers and Unicameral Parliaments. For the sake of parsimony and consistency, we will only use the terms "Parliament" and "parliamentary" throughout the questionnaire when referring to these legislative bodies.

PART I. LEGAL FRAMEWORK

Q1. Is there a legal framework setting ethical standards governing the performance of official duties or the discharge of official responsibilities of Members of Parliament?

a) Yes (1)

b) No (2)

Q2. In which legal documents are those principles, regulations and procedures laid down? Please select all that apply.

a) The Parliament's Standing Orders/Rules of Procedure (1)

b) The Parliament's Code of Conduct (or similar ethics and conduct regime) (2)

c) A parliamentary resolution (3)

d) Other applicable laws and regulations (please specify): _____ (4)

Don't know (99)

Q2.1. If the answer to Q2 is b), when was the Code of Conduct adopted?

Year: _____ (1)

Don't know (99)

Q2.2. How many revisions/amendments have been made to the Code of Conduct since its adoption?

Number: _____ (1)

Don't know (99)

Q2.3. Please provide a link to the document (preferably an English version, if available):

URL:

Q3. Are those principles, regulations and procedures extensive to other officeholders related to parliamentary business? Please select all that apply.

Yes, they are also extensive to...

a) Party group supporting staff (advisers, researchers, interns and other appointees) (1)

b) Parliamentary staff (officers and employees) (2)

c) Other (please specify):_____(3)

No, they are only applicable to MPs. (4)

Q4. Is there a designated body or set of bodies responsible for managing ethical standards governing the performance of official duties or the discharge of official responsibilities of its members?

a) Yes (1)

b) No (2)

[If the answer to Q4 is b), then go to Q19; if the answer to Q4 is a), please continue to Q5]

Q5. What reasons led to the adoption of a body or set of bodies responsible for the oversight and enforcement of ethical standards to Members of Parliament? Please select all that apply.

a) To enforce the existing rules of procedure and relevant parliamentary regulations (1)

b) To address ethical misdemeanours by certain Members (2)

c) To respond to growing public concern about parliamentary standards (3)

d) To be in line with international best practice (4)

e) Other reasons (please specify): _____ (6)

Don't know (99)

****

We would now like to understand how the institutional framework for managing ethical standards for members of the parliament is structured in your country.

These ethics bodies can take many forms and designations: standards (sub)committee, ethics commission, conflict of interest office, transparency unit, commissioner for ethical standards, etc.

In order to capture different formats across countries, we distinguish between oversight (i.e., monitoring and advising members on matters of ethical conduct) and enforcement (i.e., compelling the observance of rules and standards and applying sanctions to Members' misconduct).

Some countries have adopted a single ethics body responsible for both oversight and enforcement, whereas other countries have separated these two functions. Please answer the following question having this distinction in mind.

Q6. What model of oversight and enforcement of ethical standards (codes of conduct or other prescriptive norms and guidelines) to members of parliament has been adopted?

a) An internal ethics management body (collegial or single-person) dedicated exclusively to ethics oversight and enforcement has been established (1)

b) An internal ethics oversight body (collegial or single-person), but the enforcement of sanctions is handled by the courts or other law enforcement bodies external to parliament (2)

c) An external ethics management body (collegial or single-person) with oversight functions has been established, but this body reports to parliament and/or shares enforcement responsibilities with internal statutory body(ies) (3)

d) Other (please specify): _____ (4)

Don't know (99)

[If the answer to Q6 is a), please fill in Section A, starting on page 4]

[If the answer to Q6 is b) or c), please fill in Section B, starting on page 5]

****

SECTION A

Q7.1. Please state the official name of the collegial or single-person internal ethics body responsible for both the oversight and enforcement of ethical standards on Members of the Parliament:

a) _____ (original language) (1)

b) _____ (in English) (2)

Q7.2. When was the internal ethics body established by law?

a) It was established in [year] _____. (1)

b) It has not been established yet. (2)

Q7.3. Is the internal ethics body functioning already?

a) Yes. It started functioning in [year] _____. (1)

b) No. It is not in place yet. (2)

Q7.4. Please provide a link to its webpage (if available):

URL:

Q7.5 How would you classify the internal ethics body according to its composition?

a) Single-person entity (1)

b) Collegial entity (2)

Q7.6. What is the composition of the internal ethics body?

a) All MPs (1)

b) A combination of MPs and individuals from outside parliament (2)

c) Parliamentary staff (officers and employees) (3)

d) Only members from outside parliament (4)

Don't know (99)

Q7.7. How is the Chairperson of the internal ethics body appointed?

a) By the Speaker (1)

b) By the plenary (2)

c) Selected among the members of the body (if a collegial entity) (3)

d) By the most senior official in Parliament (i.e., Secretary General/ Director General/Senior Clerk/Chief of Staff) (4)

Not applicable (97)

Don't know (99)

Q7.8. How would you describe the current Chairperson of the internal ethics body?

a) Male ___ or Female ___ (1)

b) Member of Parliament ___or Individual from outside Parliament ___ or Senior Public Official ___ (2)

c) Member from the majority (party or coalition) ___ or Member from the major opposition party ___(3)

Q7.9. Can the Chairperson of the internal ethics body be removed prior to completing their mandate?

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

Q7.10. What is the duration of their mandate?

Number of years: _____ (1)

SECTION B

Q7.1. Please state the official name of the collegial or single-person body responsible for the oversight of Members' ethical conduct:

a) _____ (original language) (1)

b) _____ (in English) (2)

Q7.2. When was the ethics oversight body established by law?

a) It was established in [year] _____. (1)

b) It has not been established yet. _____ (2)

Q7.3. Is the ethics oversight body functioning already?

a) Yes. It started functioning in [year] _____. (1)

b) No. It is not in place yet. (2)

Q7.4. Please provide a link to its webpage (if available):

URL:

Q7.5. How would you classify the ethics oversight body according to its composition?

a) Single-person entity (1)

b) Collegial entity (2)

Q7.6. What is the composition of the ethics oversight body?

a) All MPs (1)

b) A combination of MPs and individuals from outside parliament (2)

c) Parliamentary staff (officers and employees) (3)

d) Only members from outside parliament (4)

Don't know (99)

Q7.7. How is the Chairperson of the ethics oversight body appointed?

a) By the Speaker (1)

b) By the plenary (2)

c) Selected among the members of the body (if a collegial entity) (3)

d) By the most senior official in Parliament (i.e., Secretary General/ Director General/Senior Clerk/Chief of Staff) (4)

Not applicable (97)

Don't know (99)

Q7.8. How would you describe the current Chairperson of the ethics oversight body?

a) Male ___ or Female ___ (1)

b) Member of Parliament ___ or Individual from outside Parliament ___ or Senior Public Official ___ (2)

c) Member from the majority (party or coalition) ___ or Member from the major opposition party ___ (3)

Q7.9. Can the Chairperson of the ethics oversight body be removed prior to completing their mandate?

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

Q7.10. What is the duration of his/her mandate?

Number of years: _____ (1)

Q7.11. Please state the official name of the collegial or single-person body responsible for enforcing rules and standards to Members and sanctioning their misconduct:

a) _____ (original language) (1)

b) _____ (in English) (2)

Q7.12. When was the ethics enforcement body established by law?

a) It was established in [year] _____. (1)

b) It has not been established yet. (2)

Q7.13. Is the ethics enforcement body functioning already?

a) Yes. It started functioning in [year] _____. (1)

b) No. It is not in place yet. (2)

Q7.14. Please provide a link to its webpage (if available):

URL:

Q7.15. How would you classify the ethics enforcement body according to its composition?

a) Single-person entity (1)

b) Collegial entity (2)

Q7.16. What is the composition of the ethics enforcement body?

a) All MPs (1)

b) A combination of MPs and individuals from outside parliament (2)

c) Parliamentary staff (officers and employees) (3)

d) Only members from outside parliament (4)

Don't know (99)

Q7.17. How is the Chairperson of the ethics enforcement body appointed?

a) By the Speaker (1)

b) By the plenary (2)

c) Selected among the members of the body (if a collegial entity) (3)

d) By the most senior official in Parliament (i.e., Secretary General/ Director General/Senior Clerk/Chief of Staff) (4)

Not applicable (97)

Don't know (99)

Q7.18. How would you describe the current Chairperson of the ethics enforcement body?

a) Male ___ or Female ___ (1)

b) Member of Parliament ___ or Individual from outside Parliament ___ or Senior Public Official ___ (2)

c) Member from the majority (party or coalition) ___ or Member from the major opposition party ___ (3)

Q7.19. Can the Chairperson of the ethics enforcement body be removed prior to completing their mandate?

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

Q7.20. What is the duration of his/her mandate?

Number of years: _____ (1)

N.B.: After completing SECTION A or SECTION B, you will be asked a specific set of questions on ethics oversight (PART III) and on ethics enforcement (PART IV).

PART III. SCOPE AND FUNCTIONS OF ETHICS OVERSIGHT

We are now going to ask you a few questions, specifically about the scope and functions of the ethics oversight body in your country.

Q8. What is the scope of ethics oversight of the Members' conduct under the various authorising rules and statutes? Please select all that apply.

a) Conflicts of interest related to parliamentary business in general (1)

b) Outside employment or remunerated activities (boards or committees of companies, law firms or consultancies, public relations firms and media, etc.) (2)

c) Outside nonremunerated occupations and memberships (non-governmental organisations, associations or other legal entities, etc.) (3)

d) All matters relating to the Parliament's Code of Conduct (4)

e) Any holding or partnership where there are potential public policy implications or where that holding gives the Member significant influence over the affairs of the legal entity in question (5)

f) Gifts, hospitality and travel invitations (6)

g) Campaign contributions (7)

h) Any support, whether financial, material or in terms of staff, additional to that provided by Parliament, granted by third parties to the Member in connection with their political activities (8)

i) Asset, liabilities and interest disclosure (9)

j) Other financial interests which might influence the performance of the Member's duties (10)

Don't know (99)

Q9. What functions does the ethics oversight body have regarding the conduct of Members of Parliament? Please select all that apply.

a) Interpretative and advisory (on matters of conduct) (1)

b) Oversight/monitoring (of asset declarations, incompatibilities and impediments and registers of interests) (2)

c) Investigative (of allegations of misconduct) (3)

d) Disciplinary (4)

e) Ethics induction (training on parliamentary rules and procedure, in particular, ethical standards) (5)

Don't know (99)

Q10. How can the ethics oversight body summon, question or open a disciplinary proceeding against a member/representative for unethical conduct? Please select all that apply.

a) Acting on its own initiative (1)

b) Acting on Members' complaints, including the Speaker (2)

c) Acting on external complaints (3)

d) Acting by request of an external body (court, anticorruption specialised agency, audit body, etc.) (4)

e) Acting on media reports (5)

Not applicable (97)

Don't know (99)

Q11. Is the ethics oversight body required to act upon any known allegation?

a) Yes, it always has to act upon a known allegation (1)

b) No, it can decide when to act based on a case-by-case assessment (2)

Not applicable (97)

Don't know (99)

Q12. Is there an online complaints-form and/or official e-mail for members of the public to report alleged misconduct to the ethics oversight body? Please select all that apply.

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

Q12.1. Can the ethics oversight body act upon anonymous reports/ complaints?

a) Yes, all complaints must be considered (1)

b) Yes, if it is supported by sufficient evidence of an alleged breach of the rules and procedures (2)

c) No, all complaints must be made in writing and signed (2)

Not applicable (97)

Don't know (99)

Q12.2. Can the ethics oversight body report unfounded allegations by members of the public to judicial authorities?

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

PART IV. SCOPE AND FUNCTIONS OF ETHICS ENFORCEMENT

We are now going to ask you a few questions, specifically about the scope and functions of ethics enforcement in your country.

Q13. Which disciplinary powers can be brought forward against the unethical conduct of a Member of Parliament? Please select all that apply.

a) Formal warning/Call to order (1)

b) Noted/recorded reprimand (2)

c) Member's formal apology to parliament (3)

d) Temporary suspension from parliamentary duties/Naming of a Member (4)

e) Suspension of salary and benefits (5)

f) Expulsion/loss of mandate (5)

g) Electoral disqualification in future elections (6)

h) Other measures (please specify): _____(7)

Not applicable (97)

Don't know (99)

Q14. In general, how are these disciplinary measures enforced?

a) In general, they are decided and enforced internally by the ethics management body (1)

b) In general, the external ethics oversight body recommends what disciplinary measures to apply, but the Parliament or an internal statutory body on its behalf takes the final decision and enforces sanctions (2)

c) In general, the internal ethics oversight body can initiate disciplinary procedures, but the enforcement of sanctions is handled by the Speaker/Board of Parliament or the plenary (3)

d) In general, the ethics oversight body can initiate disciplinary procedures, but the enforcement of sanctions is handled by the courts or other law enforcement bodies external to Parliament (4)

Not applicable (97)

Don't know (99)

Q15. Do Members of Parliament have the right to be heard, bring evidence and contest the allegations during the instruction phase of the disciplinary proceedings?

a) Yes (1)

b) No (2)

Don't know (99)

Q16. If disciplinary measures are decided and enforced internally by the ethics body, what are the voting procedures?

a) Single majority (1)

b) Qualified majority (2)

c) There are no voting procedures (3)

Don't know (4)

Not applicable (5)

Q17. Are these disciplinary measures subject to parliamentary review?

a) Yes, by a plenary sitting (1)

b) Yes, by a designated parliamentary committee (please specify) (2)

c) No (3)

Don't know (99)

Q18. What disciplinary measures require a final decision/assent by plenary vote to come into force? Please select all that apply.

a) Formal warning/Call to order (1)

b) Noted/recorded reprimand (2)

c) Member's formal apology to parliament (3)

d) Temporary suspension from parliamentary duties/Naming of a Member (4)

e) Suspension of salary and benefits (5)

f) Expulsion/loss of mandate (5)

g) Electoral disqualification in future elections (6)

Not applicable (97)

Don't know (99)

Q19. How is the plenary vote on these disciplinary decisions taken?

a) By single majority (1)

b) By qualified majority (please specify): _____ (2)

Not applicable (97)

Don't know (99)

Q20. Are the final disciplinary decisions made public?

a) Yes (1)

b) No (2)

Not applicable (97)

Don't know (99)

Q19.1. If yes, how are the final disciplinary decisions publicised? Please select all that apply.

a) Internal communication (to Members only) (1)

b) Website (2)

c) Press release (3)

d) Annual report (4)

Don't know (99)

PART V. ADDITIONAL INFORMATION

The survey is about to finish. We would like to make three general information requests.

Q19. Are there other initiatives that the parliament is putting in place to improve its image among members of the public? (Maximum of three).

1. _____

2. _____

3. _____

Q20. We would appreciate if you could provide us with a link to any relevant documents cited and supporting information:

URL:

Q21. Do you have any further comments or suggestions you wish to make?

_____

_____

_____

Many thanks for taking part in this survey.

Appendix 4

Survey on Ethics and Integrity in Politics for Local Government Elected Officials

Ética e Integridade na Política, 2020
Questionário n.º: _____

Bom dia/boa tarde/boa noite! Chamo-me (NOME DO ENTREVISTADOR/A) sou entrevistador/a da (NOME DA EMPRESA), uma empresa de estudos de mercado que está a realizar um inquérito para o Instituto de Ciências Sociais da Universidade de Lisboa sobre assuntos sociais e políticos em Portugal no âmbito de um projeto de investigação financiado pela Fundação Francisco Manuel dos Santos.

Antes de começar, queremos assegurar já que as suas respostas são confidenciais e serão tratadas em conjunto com as respostas dos outros inquiridos e nunca individualmente. Comprometemo-nos a garantir o total anonimato das suas respostas. Se ainda assim quiser, poderá retirar as suas respostas posteriormente para isso bastando contactar (E-MAIL DE CONTACTO), em conformidade com o Regulamento Geral de Proteção de Dados.
Desde já agradecemos a sua colaboração para responder ao inquérito que demora cerca de 30 minutos. A sua participação é voluntária e poderá ser interrompida a qualquer momento. Aceita participar no inquérito?

ETICA_P1. Qual dos seguintes valores é para si o mais importante quando pensa num estado democrático? (MOSTRAR CARTÃO) E qual é o segundo mais importante? (REGISTAR UMA RESPOSTA POR COLUNA)

	1º Lugar	2º Lugar
a) Compaixão	01	01
b) Eficiência	02	02
c) Honestidade	03	03
d) Igualdade	04	04
e) Imparcialidade	05	05
f) Informalidade	06	06
g) Legalidade	07	07
h) Mérito	08	08
i) Prestação de contas	09	09
J) Transparência	10	10
Outra: Qual? _____	98	
Outra: Qual? _____	98	
Recusa (SE ESPONTÂNEO)	97	97
Não sabe (SE ESPONTÂNEO)	99	99

ETICA_P2. O termo corrupção é recorrente nas conversas, mas pode significar coisas distintas para várias pessoas. Pensando no nosso país, quando ouve falar de corrupção, que palavras associa a esse assunto? Cite até ao máximo de três palavras. (NÃO SUGERIR NADA E ESCREVER ATÉ TRÊS PALAVRAS SUGERIDAS PELO INQUIRIDO)

ETICA_P2.1. _____	
Recusa (SE ESPONTÂNEO)	97
Não sabe (SE ESPONTÂNEO)	99

ETICA_P2.2. _____	
Recusa (SE ESPONTÂNEO)	97
Não sabe (SE ESPONTÂNEO)	99

ETICA_P2.3. _____	
Recusa (SE ESPONTÂNEO)	97
Não sabe (SE ESPONTÂNEO)	99

ETICA_P3. Vou ler-lhe um conjunto de situações relacionadas com o desempenho de cargos públicos e políticos. Gostaria de saber até que ponto considera que cada uma destas situações corresponde ou não a um caso de corrupção, usando uma escala de 0 a 10, em que 0 significa que não é corrupção e 10 significa que é corrupção. (MOSTRAR CARTÃO COM ESCALA; REGISTAR APENAS UMA RESPOSTA POR VARIÁVEL/ITEM)

Não é corrupção										É corrupção	Recusa (SE ESPONTÂNEO)	Não sabe (SE ESPONTÂNEO)
0	1	2	3	4	5	6	7	8	9	10	97	99

ETICA_P3.1. Um presidente de câmara atribuiu por concurso a construção de habitações sociais a uma construtora da região. O dono desta empresa apoiou financeiramente a campanha do autarca.

ETICA_P3.2. Um banco privado foi resgatado sob a tutela do ministro das finanças. Quatro anos após ter cessado funções, o agora ex-ministro foi convidado para presidente do conselho de administração desse banco.

ETICA_P3.3. Um deputado recebeu uma avença de um escritório de advogados em troca de esclarecimentos sobre várias matérias legislativas em curso nas quais participa como legislador.

ETICA_P3.4. O presidente de uma entidade reguladora de produtos farmacêuticos e a sua família passaram férias na casa de um amigo, empresário no sector. A empresa em questão obteve uma autorização para a realização de testes a um novo medicamento.

ETICA_P3.5. Um funcionário público acelerou alguns processos tendo recebido uma gratificação da parte dos utentes interessados.

ETICA_P3.6. Um Procurador solicitou a um empresário 500 mil euros como contrapartida pelo arquivamento de uma investigação de branqueamento de capitais no sector imobiliário.

ETICA_P3.7. Um diretor de serviços de urbanismo de uma câmara cobrava informalmente 5 % de donativos por cada projeto urbanístico aprovado. O dinheiro era depositado numa conta de um centro social (IPSS) do qual é presidente.

ETICA_P3.8. Um vereador utilizou funcionários e máquinas da autarquia para realizar obras de restauro na sua quinta.

ETICA_P3.9. Um ministro nomeou o seu genro como assessor de imprensa.

ETICA_P3.10. Um indivíduo pediu à sua irmã, enfermeira num hospital, para falar com o médico a fim de antecipar a sua consulta que estava em lista de espera de 2 meses.

ETICA_P3.11. O governo acelerou a compra de EPI (equipamentos de proteção individual) a preços acima do mercado sem concurso (por adjudicação direta), justificando necessidade dos materiais para os hospitais públicos com a finalidade de combater a COVID-19.

ETICA_P4. Vou ler-lhe um conjunto de frases sobre o que pode ser ou não, em princípio, um ato corrupto. Utilizando uma escala de 0 a 10, em que 0 significa que discorda totalmente e 10 significa que concorda totalmente, diga-me, por favor, em que medida concorda com cada uma das seguintes frases. (MOSTRAR CARTÃO; REGISTAR APENAS UMA RESPOSTA POR VARIÁVEL/ITEM)

Não é corrupção										É corrupção	Recusa (SE ESPONTÂNEO)	Não sabe (SE ESPONTÂNEO)
0	1	2	3	4	5	6	7	8	9	10	97	99

ETICA_P4.1. O comportamento tem de ser ilegal para ser denominado de corrupto.

ETICA_P4.2. Se a ação for feita por uma causa justa, não se trata de corrupção.

ETICA_P4.3. Não podemos chamar de corrupto um comportamento praticado pela generalidade das pessoas.

ETICA_P4.4. Se uma pessoa atuar com desconhecimento da lei, não a podemos chamar de corrupta.

ETICA_P4.5. Se o resultado de uma ação for benéfico para a população em geral, não se trata de corrupção.

ETICA_P5. Utilizando uma escala de 0 a 10, em que 0 significa que discorda totalmente e 10 significa que concorda totalmente, diga-me, por favor, em que medida concorda com cada uma das seguintes frases. (MOSTRAR CARTÃO; REGISTAR APENAS UMA RESPOSTA POR VARIÁVEL/ITEM)

Não é corrupção										É corrupção	Recusa (SE ESPONTÂNEO)	Não sabe (SE ESPONTÂNEO)
0	1	2	3	4	5	6	7	8	9	10	97	99

ETICA_P5.1. Os políticos espelham os mesmos padrões de honestidade e integridade que a generalidade dos cidadãos.

ETICA_P5.2. Os políticos devem reger-se por padrões de honestidade e integridade superiores aos da generalidade dos cidadãos.

ETICA_P6. Imagine que toma conhecimento pessoal de uma grave violação das regras de conduta por parte de um colega do seu partido nos órgãos da autarquia. Qual seria a sua reação? (MÚLTIPLAS RESPOSTAS POSSÍVEIS, EXCETO SE OPTAR POR "A)", "NÃO SABE" ou "RECUSA")

A) Não teria qualquer tipo de reação	01
B) Daria nota à comunicação social ou a um jornalista	02
C) Apresentaria uma denúncia aos órgãos de disciplina interna do partido	03
D) Apresentaria uma denúncia à tutela	04
E) Faria uma denúncia ao Ministério Público	05
Recusa (SE ESPONTÂNEO)	97
Não sabe (SE ESPONTÂNEO)	99

ETICA_P7. (No caso de o entrevistado NÃO responder "B", "C)", "D)" e "E)") à ETICA_P6: Qual ou quais das seguintes razões fariam com que não denunciasse essa situação? Pode escolher mais do que uma razão (MOSTRAR LISTA; REGISTAR VÁRIAS RESPOSTAS)

A) Porque tenho receio de sofrer represálias pessoais ou políticas	01
B) Porque tenho receio de que a minha família possa sofrer represálias	02
C) Porque tenho receio dos danos reputacionais à minha imagem	03
D) Porque as denúncias nunca resultam em nada	04
E) Porque isso iria prejudicar a imagem dos meus pares	05
F) Porque isso iria prejudicar a imagem do partido	06
G) Porque isso iria prejudicar a imagem do município	07
H) Porque isso iria prejudicar a imagem que a opinião pública tem sobre a política e os políticos	08
I) Porque não compensa o tempo e os custos que isso teria para mim	09
J) Porque, na política, às vezes, somos forçados a atos incorretos	10
Outra: Qual? _____	98
Eu denunciaria sempre um caso de corrupção	96
Recusa (SE ESPONTÂNEO)	97
Não sabe (SE ESPONTÂNEO)	99

ETICA_P8. Imagine que o seu nome aparecia associado a um escândalo de corrupção política. Quais acha que seriam as principais implicações para a sua vida pessoal e profissional que resultariam dessa exposição pública? Utilizando uma escala de 0 a 10, onde 0 significa "nada relevante" e 10 significa "totalmente relevante", avalie quais as implicações que mais a/o preocupam enquanto político (MOSTRAR CARTÃO COM ESCALA; REGISTAR APENAS UMA RESPOSTA POR VARIÁVEL/ITEM)

Não é corrupção										É corrupção	Recusa (SE ESPONTÂNEO)	Não sabe (SE ESPONTÂNEO)
0	1	2	3	4	5	6	7	8	9	10	97	99

ETICA_P8.1. Danos reputacionais à minha imagem

ETICA_P8.2. Danos reputacionais à imagem do partido a que pertenço

ETICA_P8.3. Perda do respeito da minha família e amigos

ETICA_P8.4. Impossibilidade de me reeleger

ETICA_P8.5. Contribuição para o descrédito da política e dos políticos

ETICA_P8.6. Perda de respeito por parte dos pares

ETICA_P8.7. Danos na imagem do órgão autárquico a que pertenço

P9. EXPERIÊNCIA CONJOINT

Nas próximas perguntas, procuramos compreender as suas preferências sobre diferentes medidas de autorregulação que os partidos em Portugal podem adotar. Para tal, vamos apresentar-lhe dois partidos possíveis e alguma informação sobre eles. Com base nessa informação, pedimos-lhe que avalie os esforços dos partidos.

Vamos repetir esta questão quatro vezes com diferentes pares de partidos.

A informação apresentada descreve um cenário hipotético e não representa qualquer partido português.

Lista de atributos

Atributos	Valores possíveis
1. Posição sobre a limitação de mandatos	A liderança do partido não impõe limitação de mandatos
	A liderança do partido excluiu de qualquer lista os candidatos com três mandatos autárquicos consecutivos
	De acordo com o estatuto do partido, os candidatos com três mandatos autárquicos consecutivos são excluídos de qualquer lista
2. Declaração de rendimentos dos candidatos	O partido não disponibiliza as declarações de rendimentos dos candidatos
	O partido vai colocar as declarações de rendimentos de todos os candidatos no site do partido depois das eleições
	O partido publica as declarações de rendimentos de todos os candidatos no site do partido antes das eleições
3. Registo de reuniões com grupos de interesse	Não está previsto
	O partido promete disponibilizar no seu site um registo das reuniões com grupos de interesse
4. Punições a autarcas acusados em caso de corrupção	Não estão previstas
	O partido promete expulsar os autarcas acusados em casos de corrupção

Com base nessa informação, se tivesse que escolher entre um desses partidos, em qual votaria?

DADOS DE CARACTERIZAÇÃO

Para terminar, serão solicitados alguns dados de caracterização. Salientamos, uma vez mais, que os dados recolhidos são anónimos e confidenciais. A presente informação é recolhida para efeitos meramente estatísticos.

D1. Registar o Género do inquirido:

Masculino 1
Feminino 2

D2. Importa-se de me dizer a sua idade? '___ '___'___' Anos

Recusa (SE ESPONTÂNEO)
Não Sabe (SE ESPONTÂNEO)

D3. Importa-se de me dizer qual o nível de instrução mais elevado que concluiu? (Registrar apenas uma resposta).

Ensino básico nível 1 (primária/4ª classe)	01
Ensino básico nível 2 (atual 6°ano/ antigo 2° ano do liceu)	02
Ensino básico nível 3 (atual 9°ano/ antigo 5° ano do liceu)	03
Secundário (atual 12° ano – antigo 7° ano do liceu) / Cursos médios	04
Licenciatura / curso superior	05
Pós-graduação	06
Mestrado	07
Doutoramento	08
Recusa (Se espontâneo)	97
Não sabe (Se espontâneo)	99

D4. Situação profissional:

(Escolha apenas uma opção.)

Patrão	(1)
Trabalhador por conta própria	(2)
Trabalhador por conta de outrem (sector público)	(3)
Trabalhador por conta de outrem (sector privado)	(4)
Outra: Qual?_____	(5)

D5. Pensando nas suas opiniões políticas, como é que se posicionaria nesta escala? (Registar apenas uma resposta)

Extrema esquerda=» **ir para D6**
Esquerda =» **ir para D6**
Centro-esquerda =» **ir para D6**
Centro =» **ir para D5.1**
Centro-direita =» **ir para D6**
Direita =» **ir para D6**
Extrema Direita =» **ir para D6**
Recusa (SE ESPONTÂNEO)
Não Sabe (SE ESPONTÂNEO)

D5.1. Se tivesse mesmo de escolher entre centro-esquerda e centro-direita, qual delas escolheria?

Centro-esquerda
Centro-direita
Recusa (SE ESPONTÂNEO)
Não Sabe (SE ESPONTÂNEO)

D6. Independentemente de pertencer a uma religião em particular, numa escala de 0 a 10, diria que é uma pessoa...:

Nada religiosa 0 1 2 3 4 5 6 7 8 9 10 Muito religiosa

D7. Há quanto tempo exerce um cargo eletivo (em anos consecutivos)?

_____ Anos

A equipa envolvida neste projeto gostaria de agradecer, uma vez mais, a sua colaboração.

ENTREVISTADOR:

NOME: _____ NÚMERO: '___'___'___'___'___'

REVISOR: '___'___' CODIFICADOR:'___'___'

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Notes

<1 Group of States Against Corruption of the Council of Europe

<2 See: https://www.strategyand.pwc.com/gx/en/insights/ceo-success.html

<3 For more information, see: https://www.ics.ulisboa.pt/en/projeto/corruption-and-economic-crisis-poisonous-combination-understanding-process-outcome

<4 See, for example: Blomeyer 2020; Bollyer and Smirnova 2017, Bollyer et al. 2018.

<5 The so-called familygate scandal in Portugal broke out when it became publicly known that there were a significant number of family connections within the executive and between cabinet members and individuals appointed to offices in the public administration. For more information, see, for instance: Jornal Económico (12 April 2019), "Familygate: Ligações familiares fazem PS descer nas intenções de voto. PSD está a subir", Jornal Económico. Available at: https://jornaleconomico.pt/noticias/familygate-ligacoes-familiares-fazem-ps-descer-nas-intencoes-de-voto-psd-esta-a-subir-432927

<6 Special Eurobarometer 374 (EB76.1, Fieldwork: 09/2011, Report: 02/2012). Available online: http://ec.europa.eu/public_opinion/archives/eb_special_379_360_en.htm (accessed 12 April 2021).

<7 Special Eurobarometer 470 (EB88.2, Fieldwork: 10/2017, Report: 11/2017). Available online: https://data.europa.eu/euodp/en/data/dataset/S2176_88_2_470_ENG (accessed 12 April 2021).

<8 Law 19/2003, of June 20, Financing of Political Parties and Electoral Campaigns. Available online: https://www.parlamento.pt/Legislacao/Documents/Legislacao_Anotada/FinanciamentoPartidosPoliticosCampanhasEleitorais_Anotado.pdf (Accessed on 8 March 2021).

<9 By definition, panel data regression is a combination of cross-section data and time-series data, where the same unit cross section is measured at different times. In a panel data set, the same group of individuals are observed over time (Wooldridge, 2012). In this study, the panel data set is unbalanced, because the sum "unit time" is different for each individual.

<10 Standard Eurobarometer Interactive — 2006–2019 — "Q89. I would like to ask you a question about how much trust you have in certain media and institutions. For each of the following media and institutions, please tell me if you tend to trust it or tend not to trust it: a) The (NATIONAL) Parliament, b) Political parties, c) The (NATIONAL) government".

<11 The Special Eurobarometers used in our estimated models were as follows: SEB245 (2006) with 24.682 respondents; SEB291 (2008) with 26.730 respondents; SEB325 (2009) with 26.663 respondents; SEB374 (2011) with 26.856 respondents; SEB397 (2013) with 26.786 respondents; SEB448 (2017) with 28.080 respondents; and SEB470 (2019) with 27.498 respondents.

<12 Despite the fact that the EU/IMF Memorandum of Agreement was formally adopted on 17 May, 2011, at the Eurogroup/ECOFIN meeting, in Brussels, and began to produce effects in the second semester of 2011, we opted for 2012 as the breaking point, when spontaneous social movements against austerity policies (Que se lixe a troika! Queremos as nossas vidas!) started to hit the streets.

<13 Although there is a new Special Eurobarometer on corruption for 2022 (SEB523, 2022), we decided to run the panel regression without using this survey because our independent variables are formulated differently from previous rounds: the local and regional levels have been aggregated in a single item; and the European level has been excluded in this round.

<14 Preliminary regressions included a dummy for Portugal in order to capture possible differences between Portugal and other EU Member States but because we found no significance, the dummy was excluded.

<15 Deputados da Assembleia da República (Members of the Assembly of the Republic, i.e., the Portuguese Parliament), Presidentes de Câmara Municipal (Mayors of Municipal Councils), and Presidentes de Assembleia Municipal (Presidents of Municipal Assemblies)

<16 ETHICS and EPOCA (PTDC/CPO-CPO/28316/2017) are acronyms for 'Ethics and integrity in politics: perceptions, control, and impact' and 'Corruption and economic crisis, a poisonous combination: understanding process-outcome interactions in the explanation of public support for democracy', respectively.

<17 Table A1 of the Appendix details the existing major Insider and Insider vs Outsider survey-based studies on ethical standards.

<18 Both survey questionnaires were reviewed and approved by the Ethics Committee of the Institute of Social Science of the University of Lisbon.

<19 Lusa - Agência de Notícias de Portugal (1/9/2017) "Autárquicas: Polémicas nos nomes escolhidos levaram a ruturas de norte a sul". TSF Rádio Notícias.

<20 For more information, see: https://www.britpolitics.co.uk/uk-parliament-cash-for-questions-1994/

<21 Three MEPs were caught on camera offering to amend laws in return for cash, one of them reportedly admitting that he had received hundreds of thousands of Euros from lobbyists for such practice. One of the MEPs was Austrian, which justified the internal debate in Austria.

<22 van Biezen 2004.

<23 Ibid.

<24 #MeToo is a movement initiated in 2006 by Tarana Burke aimed

at helping sexual harassment survivors. For more information on the movement see, for example, Bhattacharyya, Rituparna, #Metoo Movement: An Awareness Campaign (March 8, 2018). International Journal of Innovation, Creativity and Change, Volume 3, Issue 4, March 2018, Available at SSRN: https://ssrn.com/abstract=3175260

<25 See, for instance, some cases in the UK: Marsh, Sarah (2020), "Ministerial code: five who did resign over breach accusations", The Guardian. Available at: https://www.theguardian.com/politics/2020/nov/20/ministerial-code-five-who-did-resign-breach-accusations

<26 Our understanding of norm-setting instruments is integrity-centred (Huberts, 2014). CCE can guide officeholders on a series of other conducts unrelated to integrity. Here, we are primarily focusing on norms designed to prevent, expose and resolve any risk of financial impropriety by officeholders and/or any conflicting interest that may inappropriately influence their judgement and decisions (CSPL, 1995).

<27 Please refer to the Appendix 6: Case Study — France

<28 Transparency International, 2020 Corruption Perception Index: https://www.transparency.org/en/cpi/2020/index/nzl

<29 See the Parliamentary Code of Conduct at: https://www.senado.es/web/composicionorganizacion/senadores/codigodeConducta/index.html (Accessed on 26 July 2021).

<30 Assemblée nationale. Décision du Bureau relative au respect du code de déontologie des députés. Paris: Assemblée nationale, April 6th 2011; Assemblée nationale. Code de déontologie (version en vigueur du 6 avril 2011 au 26 janvier 2016). Paris: Assemblée nationale, 2011.

<31 Regime for the exercise of functions by holders of political offices and high public positions, Law 52/2019, of 31st July

<32 Which itself succeeded the Commission pour la transparence financière de la vie politique (created in 1988).

<33 Law No. 24/95 of August 18th.

<34 Statute of MPs, Article 27-A.

<35 Law No. 4/83 of April 2nd on the Public Control of the Wealth of Political Office Holders; Law No. 64/93, of August 26th on the Incompatibilities and Impediments of Holders of Political Offices and High Public Offices.

<36 Law No. 52/2019 of July 31st , with the amendments introduced by Law No. 69/2020 of November 9th.

<37 Please refer to Appendix 6

<38 By the time this chapter was written, GRECO's evaluation round was still undergoing. For that reason, some EU members were not contemplated in this analysis.

<39 In the French case, depending on the legal instruments, soft law sanctions or criminal sanctions may be applied.

<40 GRECO, 2019c, pp. 3; 10.

<41 GRECO, 2019f, pp. 12;14.

<42 KXhl, 2020, pp. 83-4.

<43 Responsible for overseeing the ethical conduct of cabinet members, parliamentarians, and senior public officials.

<44 Assesses the quality and effectiveness of the procedures established to prevent and detect breaches of integrity.

<45 Advises cabinet members on the Ministerial Code of Conduct and advises ministers on how to manage their private interests, in order to avoid conflicts of interest.

<46 Regulates executives' post-employment restrictions.

<47 The Commission for the Prevention of Corruption (CPC) has a central role in devising and implementing anti-corruption policies. The CPC can conduct administrative investigations and impose fines (GRECO, 2019a, pp. 36).

<48 GRECO, 2019k, pp. 18-9

<49 GRECO, 2019i, pp. 30-1.

<50 GRECO, 2019, pp. 13; 30.

<51 GRECO, 2019n, pp. 15; 34-5.

<52 Former ethical commissioner of the National Assembly. Interview with author. Paris, December 6th 2017; Professor of Public law. Interview with author. Paris, February 28th 2018.

<53 Which succeeded the Commission pour la transparence financière de la vie politique (created in 1988)

<54 Parliamentary clerk, National Assembly. Interview with author. April 5th 2019; Former ethical commissioner of the National Assembly. Interview with author. Paris, December 6th 2017; Professor of Public law. Interview with the author. Paris, February 28th 2018.

<55 HATVP, «De nouvelles missions confiées à la Haute Autorité le 1er février», 2020. January 27th 2020. https://www.hatvp.fr/presse/de-nouvelles-missions-sont-confiees-a-la-haute-autorite-a-partir-du-01-02-2020/ (Accessed on 13 January 2021).

<56 Quote taken from France Inter. Journal de 8h du 20 septembre 2021. Online, https://www.franceinter.fr/emissions/le-7-9/le-7-9-du-lundi-20-septembre-2021 (accessed on 20 September 2021). Translation by the authors.

<57 These public health scandals all revealed a lack of control and raised suspicions regarding the independence of the health experts involved. (i) The contaminated blood scandal was exposed by Anne-Marie Casteret in L'événement du jeudi, in an article where she demonstrates that the Centre for Blood Transfusion had knowingly transfused HIV-infected blood to thousands of haemophiliacs, causing many of them to be infected by the disease. (ii) The growth hormone scandal concerns the treatment of children suffering from growth issues with a growth hormone taken from human cadavers,

despite the therapeutic use of the product having been banned, in order not to waste the existing stock. Over a hundred people died from the consequences of the treatment, notably from the Creutzfeldt-Jakob disease. (iii) The asbestos scandal touches upon the delay between the first studies about the consequences of inhaling asbestos, in the 1940s – its link to cancer being affirmed by the International Agency for Research on Cancer in 1973, and the government's decision to ban the product in 1997.

<58 In 1993, Law 93-5 created the Medicine Agency (Agence du medicament) and the French Blood Agency (Agence française du sang), and the EU Directive 92/28/CEE was transposed into the French law by the Anti-gift Law 93-121.

<59 Ibid. pp. 115. Authors' translation.

<60 JAXEL-TRUER, Pierre and ROGER, Patrick, «Où commencent les conflits d'intérêts?» Le Monde, September 4th 2010; ROGER, Patrick, «Pour prévenir les conflits d'intérêts, les députés auront un "déontologue"», Le Monde, April 7th 2011.

<61 SAMUEL, Laurent, «Les liens troubles des époux Woerth avec Liliane Bettencourt», Le Monde, June 17th 2010; «Système Sarkozy corrompu: Aubry soutient Royal», L'Express, July 1st 2010; WAKIM, Nabil, «L'Elysée dépassé par l'affaire Bettencourt», Le Monde, July 6th 2010; «Les réactions à l'aveu d'Éric Woerth sur son intervention dans le dossier Maistre», Challenges, September 3rd 2010.

<62 Ibid.

<63 Loi n° 2011-412 du 14 avril 2011 portant simplification de dispositions du code électoral et relative à la transparence financière de la vie politique, JORF n°0092, April 19th 2011, pp. 6831.

<64 Transparency International. Présidentielles 2012: Transparence International France appelle les candidats à s'engager pour une véritable éthique de l'action publique, Berlin, September 14th 2011.

<65 François Bayrou, the candidate of the centre party Modem, added that, if elected, he would ensure that the definition of conflicts of interest of the Council of Europewould be translated into French Law. Incumbent candidate Nicolas Sarkozy added, in his public statement, that he was the first president to make his government publicly declare its private interests. (Transparency International France, «Présidentielles 2012: Engagements des candidats», Éthique de la vie publique Le blog de Transparency France, n.d., online, available at: http://www.transparency-france.org/observatoire-ethique/francois-hollande-ps/les-candidats-a-la-presidentielle/). Some candidates used their personal life trajectory and past engagements to demonstrate their trustworthiness. Eva Joly built her public image on her years-long investigation of the Elf Aquitaine scandal and François Bayrou emphasised his continuous commitment to the "moralisation of public life" ("François Bayrou dévoile le texte de son référendum sur la moralisation de la vie publique", Mouvement Démocrate, April 4th 2012). François Hollande presented himself as the normal president, to differentiate himself from Dominique Strauss-Kahn (who had been expected to become the presidential candidate of the socialist party before being accused of attempted rape in the People of the State of New York v. Strauss-Kahn), and from Nicolas Sarkozy's image of a flashy lifestyle and political scandals.

<66 The mission letter asks the commission to consider the following reform areas: (i) revision the organisation of presidential and legislative elections and the voting procedure, (ii) rethink the penal status of the president, (iii) suppression of the Law Court of the Republic (Cour de justice de la République), (iv) ending the possibility to cumulate mandates and, lastly, (v) the prevention of conflicts of interest including concerning Parliamentarians (The mission letter is annexed to Commission de rénovation et de déontologie de la vie publique. Pour un renouveau démocratique. 2012, pp. 125-127).

<67 Ibid. pp. 116-117.

<68 He appealed this judgement and, in May 2018, the Appeal Court of Paris symbolically prolonged his sentence to four years, while reducing the actual jail time with a two-years suspended jail sentence («Jérôme Cahuzac condamné à trois ans de prison ferme pour "fraude fiscale" et "blanchiment de fraude fiscale"». Franceinfo, December 8th 2016, online, available at: https://www.francetvinfo.fr/politique/affaire/cahuzac/l-ancien-ministre-du-budget-jerome-cahuzac-condamne-a-trois-ans-de-prison-ferme-pour-fraude-fiscale-et-blanchiment-de-fraude-fiscale_1959187.html; «Jérôme Cahuzac condamné en appel à deux ans de prison ferme pour "fraude fiscale"» Franceinfo, May 15th 2018, online, available at: https://www.francetvinfo.fr/politique/affaire/cahuzac/l-ancien-ministre-du-budget-jerome-cahuzac-est-condamne-en-appel-a-quatre-ans-de-prison-dont-deux-avec-sursis-pour-fraude-fiscale-et-blanchiment-de-fraude-fiscale_2753503.html (accessed on December 6th 2019).

<69 See, for instance: CHANUT, Jean-Christophe, «Affaire Cahuzac: un dégât collatéral pour François Hollande», La Tribune, April 2nd 2013; CHEMIN, Ariane., «Affaire Cahuzac: ce que Hollande savait», Le Monde, April 3rd 2013.

<70 «Aveux de Cahuzac: la déclaration de François Hollande», Le Nouvel Obs. VERBATIM, April 3rd 2013, online, available at: https://www.nouvelobs.com/politique/20130403.OBS6522/verbatim-aveux-de-cahuzac-la-declaration-de-francois-hollande.html (accessed on December 6th 2019).

<71 Projet de loi relatif à la lutte contre la fraude fiscale et la grande délinquance économique et financière n°1011, Assemblée Nationale, Paris, 24 April 2013.

<72 Projet de loi organique relatif à la transparence de la vie publique n°1004, Assemblée Nationale, Paris, 24 April 2013.

<73 Projet de loi relatif à la transparence de la vie publique n°1005, Assemblée Nationale, Paris, 24 April 2013.

<74 The accelerated legislative procedure (procédure accélérée) can be decided by the government, according to Article 45 of the Constitution, to (i) circumvent the mandatory six weeks between the moment a bill is tabled and the moment it is discussed in a parliamentary chamber and to (ii) limit the number of times each chamber can revise a text by giving the Prime Minister the right to create a commission composed of members of the two chambers to come up with a compromise after only one reading in each chamber. The procédure accélérée was called procédure d'urgence until the constitutional revision of 2008.

<75 Harris interactive poll for LCP, cited in BOURMAUD, François-Xavier, «Le scandale Cahuzac contraint Hollande à une initiative politique», Le Figaro, April 4th 2013.

<76 Projet de loi organique relatif à la transparence de la vie publique n°1004, Assemblée Nationale, Paris, 24 April 2013; Projet de loi relatif à la transparence de la vie publique n°1005, Assemblée Nationale, Paris, 24 April 2013.

<77 LASCOUMES, Pierre, «Contre l'argent illicite, non aux lois de panique», Mediapart, April 17th 2013, online, available at: https://blogs.mediapart.fr/edition/les-invites-de-mediapart/article/170413/contre-largent-illicite-non-aux-lois-de-panique (accessed on November 25th 2019).

<78 Law No. 2013-907 creates, inter alia, the High Authority for Transparency of Public Life, which replaces the Commission for the Financial Transparency of Political Life created in 1988, an idea which was already proposed in 2010.

<79 This section is taken from the website of the HATVP: https://www.hatvp.fr/en/high-authority/institution/list/#an-independent-administrative-authority (Accessed on August 6th 2021).

<80 Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, pp. 31, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<81 Vauchez Antoine (ed.) Rapport final de recherche Un champ de la régulation publique indépendante? Acteurs, registres de justification et formes d'autorité politique des agences de régulation en France, Paris, 2020, available at: https://halshs.archives-ouvertes.fr/halshs-02307137/document (Accessed on August 6th 2021).

<82 Fifth Evaluation Round Evaluation Report France, Council of Europe., January 2020, pp. 30-31, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<83 Lancement du Plan national pluriannuel de lutte contre la corruption. Agence française anticorruption, 2020, available here: https://www.agence-francaise-anticorruption.gouv.fr/fr/lancement-plan-pluriannuel-national-lutte-contre-corruption (Accessed on August 4th 2021).

<84 Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<85 Circulaire sur l'exemplarité des membres du Gouvernement, Premier Ministre, July 23rd 2019, online, available at: https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2019/07/circulaire_ndeg_6100-sg_du_23_juillet_2019_relative_a_lexemplarite_des_membres_du_gouvernement.pdf (Accessed on August 4th 2021).

<86 Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<87 Fifth Evaluation Round Evaluation Report France. Council of Europe, January 2020, pp. 34, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<88 Transparence et déontologie : quelles sont les obligations des ministres? Vie Publique, 2019, online, available at: https://www.vie-publique.fr/eclairage/20159-transparence-et-deontologie-quelles-sont-les-obligations-des-ministres (Accessed on August 5th 2021).

<89 This paragraph was taken from the Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<90 Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, pp. 26, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<91 Fifth Evaluation Round Evaluation Report France, Council of Europe, January 2020, pp. 32–33, available here: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16809969fc (Accessed on August 4th 2021).

<92 Ibid.

<93 Éric Phélippeau is currently conducting a research project on the genesis of the incompatibility policy on the French Parliament.

<94 Fiche de synthèse n°16: Le statut du député, Assemblée Nationale, n.d, online, available at: http://www2.assemblee-nationale.fr/decouvrir-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/le-statut-du-depute (Accessed on December 12th 2019).

<95 LOI organique n° 2014-125 du 14 février 2014 interdisant le cumul de fonctions exécutives locales avec le mandat de député ou de sénateur, Paris: JORF, n°0040, 16 février 2014, pp. 2703.

<96 Projet de loi organique relatif à la transparence de la vie publique n°1004. Assemblée Nationale, Paris, April 24th 2013.

<97 Fiche de synthèse n°16 : Le statut du député, Assemblée Nationale, n.d., online, available at: http://www2.assemblee-nationale.fr/decouvrir-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/le-statut-du-depute (Accessed on December 12th 2019).

<98 Compte rendu n°1 Groupe de travail sur la prévention des conflits d'intérêts. Assemblée Nationale, Paris, December 9th 2010; Compte rendu n°2 Groupe de travail sur la prévention des conflits d'intérêts, Assemblée Nationale, Paris, January 13th 2011; Compte rendu n°3 Groupe de travail sur la prévention des conflits d'intérêts, Assemblée Nationale, Paris, January 20th 2011; Pour une nouvelle déontologie de la vie publique, Commission de rénovation et de déontologie de la vie publique, Paris, 2011; Pour un renouveau démocratique, Commission de rénovation et de déontologie de la vie publique, Paris, 2012.

<99 Such as François de Rugy, Charles de Courson (member of TI France), Jean-Luc Warsmann (who tabled a bill on the freezing of stolen assets - Loi n° 2010-768 du 9 juillet 2010 visant à faciliter la saisie et la confiscation en matière pénale. Paris: Journal Officiel. July 10th 2010) or Elisabeth Guigou (who put French law in conformity with the OECD anti-bribery convention when she was Minister of Justice - Loi n° 2000-595 du 30 juin 2000 modifiant le code pénal et le code de procédure pénale relative à la lutte contre la corruption. Paris: Journal Officiel. July 1st 2000).

<100 Décision du Bureau relative au respect du code de déontologie des députés. Assemblée Nationale. Paris, April 6th 2011.

<101 MELIN-SOUCRAMANIEN, Félix. Les progrès de la déontologie à l'Assemblée nationale. Paris: Assemblée nationale, June 17th 2015, pp.15; Parliamentary clerk 2, National Assembly (FRPC2). Interview with author. April 5th 2019; WICKBERG, Sofia, «Global instruments, local practices. Understanding the "divergent convergence" of anti-corruption policy in Europe», Science Po Paris, 2020.

<102 Décision du Bureau relative au respect du code de déontologie des députés, Assemblée Nationale, Paris, April 6th 2011; Code de déontologie (version en vigueur du 6 avril 2011 au 26 janvier 2016), Paris: Assemblée Nationale, 2011.

<103 Code de déontologie des députés. Nouvelle rédaction issue de la réunion du Bureau du 9 octobre 2019, Assemblée Nationale.

<104 Guide de déontologie du sénateur, Sénat, Paris, octobre 2020. Available at: https://www.senat.fr/fileadmin/Fichiers/Images/sgp/Comite_de_deontologie/GUIDE_DEONTOLOGIE_SENATEUR_v7__PAGE_.pdf (Accessed on August 4th 2020).

<105 Un nouvel élan pour la déontologie parlementaire. Rapport annuel de la déontologue. Assemblée Nationale, Paris, January 2019.

<106 Parliamentary clerk, National Assembly (FRPC1). Interview with author. May 7th 2018.

<107 Résolution modifiant le Règlement de l'Assemblée nationale n°281, Assemblée Nationale, Paris, June 4th 2019.

<108 Liste des déports, Assemblée Nationale, n.d., online, available at: http://www.assemblee-nationale.fr/dyn/deports (Accessed on December 13th 2019).

<109 Décision n° 2017-752 DC, Conseil constitutionnel, Paris, September 8th 2017; Un nouvel élan pour la déontologie parlementaire, Rapport annuel de la déontologue, Assemblée nationale, Paris, January 2019.

<110 Liste des déports, Assemblée Nationale, n.d., online, available at: http://www.assemblee-nationale.fr/dyn/deports (Accessed on April 20th 2020).

<111 «Evaluation Report France Greco Eval IV Rep (2013) 3E», Council of Europe GRECO, Strasbourg, 2013, pp. 23.

<112 Décision du Bureau relative au respect du code de déontologie des députés, Assemblée Nationale, April 6th 2011. The declaration included current and past paid activities, consultancy activities, direct investments in corporate capital above €15,000 as well as the professional activities of their partner, ascendants and descendants.

<113 Parliamentary clerk, National Assembly (FRPC1). Interview with author. May 7th 2018.

<114 Assemblée nationale. Groupe de travail sur la clarification des rapports entre la politique et l'argent, Président, présidé par Philippe Séguin. Paris, 1994, pp. 26.

<115 Décision n° 2013-675 DC du 9 octobre 2013, Conseil constitutionnel.

<116 I.e., Lutte ouvrière, La France insoumise, le Parti communiste, le Parti socialiste, Europe écologie les Verts, La République en marche, le Mouvement démocrate, l'Union des démocrates radicaux et libéraux, Les Républicains, Le Rassemblement national.

<117 See: https://www.france24.com/fr/20100713-france-eric-woerth-quitte-fonctions-tresorier-ump-parti-politique-affaire-bettencourt-conflit-interet (Accessed on 18/08/2021).

<118 See: https://www.liberation.fr/politiques/2017/05/31/qui-se-cache-derriere-la-commission-d-ethique-d-en-marche_1573711/ (Accessed on 18/08/2021).

<119 See: https://www.lepoint.fr/politique/le-rapport-montebourg-qui-denonce-les-derives-du-ps-marseillais-02-03-2011-1301496_20.php (Accessed on 17/08/2021).

<120 See: https://www.lavoixdunord.fr/309812/article/2018-02-02/la-region-se-dote-d-un-code-de-deontologie-le-fn-denonce-une-volonte-de-corseter (Accessed on 16/08/2021).

<121 See: https://www.lemonde.fr/politique/article/2016/06/10/la-region-paca-inaugure-une-commission-de-deontologie_4947818_823448.html (Accessed on16/08/2021).

<122 Law 4/83, of 2 April 1983, Public Control of the Wealth of Political Officials.

<123 Law 64/93, of 26 August 1993, Juridical Regime of Incompatibilities and Impediments to Political and Public Officeholders

<124 Law No. 52/2019, of July 31st, Article 13.

<125 Idem, Article 18.

<126 Idem, Articles 9 and 10.

<127 Idem, Article 16.

<128 Organic Law 4/2019 of September 13 approves the Statute of the new Transparency Entity to function under the auspices of the Constitutional Court.

<129 Organic Law no 4/2019, of 13th September.

<130 Inês Pinto Miguel and Joana Almeida, "Relações familiares no Governo de António Costa envolvem 50 pessoas e 20 famílias", Jornal Económico, Lisboa, 29 March 2019, Available at: https://jornaleconomico.sapo.pt/noticias/relacoes-familiares-no-governo-de-antonio-costa-envolvem-50-pessoas-e-20-familias-427229 (Accessed on 25 September 2019)

<131 Filipa Almeida Mendes, «"Endogamia", "nepotismo" e as comparações a Trump: como a polémica dos familiares no Governo é vista lá fora», Público, Lisboa, 4 April 2019, available at: https://www.publico.pt/2019/04/04/politica/noticia/endogamia-nepotismo-polemica-lacos-familiares-vista-1868119 (Accessed on 7 October 2019); Ivo Oliveira, "Family affair rocks Portuguese government", Politico, Brussels, 28 March 2019, available at: https://www.politico.eu/article/nepotism-family-relatives-portugal-government-members-prime-minister-antonio-costa-socialist-party/ (Accessed on 7 October 2019).

<132 Law No. 78/2019, of September 2nd.

<133 Caetano, Edgar (01 Apr 2016), Maria Luís Albuquerque "nunca tinha ouvido falar" da Arrow Global, Observador. Available at: https://observador.pt/2016/04/01/maria-luis-albuquerque-nunca-ouvido-falar-da-arrow-global/ .

<134 Carrapatoso, Miguel S. (13 Jul 2017), Secretários de Estado fizeram pedidos à Galp para membros do staff, Observador. Available at: https://observador.pt/2017/07/13/secretarios-de-estado-fizeram-pedidos-a-galp-para-membros-do-staff/ .

<135 GRECO (2020), "Anti-corruption trends, challenges and good practices in Europe & the United States of America", Council of Europe. Strasbourg.

<136 Law 2/2003 of August 22nd, Law governing Political Parties.

<137 Law No. 7/93, of March 1, with the amendments introduced by Law No. 24/95, of August 18th, Law No. 55/98, of August 18th , Law No. 8/99, of February 10th , Law No. 45/99, of June 16th , Law No. 3/2001, of February 23rd (rectified by the Rectification Declaration No. 9/2001, of March 13th), Law No. 24/2003, of July 4th , Law No. 52-A/2005, of October 10th , Law No. 44/2006, of August 25th , Law No. 45/2006, of August 25th , Law No. 43/2007, of August 24th , Law No. 16/2009, of April 1st, Law No. 44/2019, of June 21st and Law No. 60/2019, of August 13th.

<138 Ibidem, Article 8.

<139 Ibidem, Articles 20 to 22.

<140 Ibidem, Articles 23 and 24.

<141 Law No. 7/93 of 1 March 1993, Statute governing Members of the Assembleia da República.

<142 Article 27-A, Parliamentary Committee on Transparency and the Statute of Members of the latest version of the Statute governing Members of the Assembleia da República.

<143 Resolution of the Assembly of the Republic No. 210/2019, of 20 September.

<144 Law No. 4/83, of April 2nd on the Public Control of the Wealth of Political Office Holders; Law No. 64/93, of August 26th on the Incompatibilities and Impediments of Holders of Political Offices and High Public Offices.

<145 Law No. 52/2019, of July 31st, with the amendments introduced by Law No. 69/2020, of November 9th.

<146 Law No. 24/95, of August 18th.

<147 Statute of the MP, Article 27-A.

<148 Resolution of the Council of Ministers No. 53/2016 and Resolution of the Council of Ministers No. 184/2019.

<149 Law No. 52/2019, of July 31st, with the amendments introduced by Law No. 69/2020, of November 9th.

<150 Decree-Law No. 11/2012.

<151 In January 2013, the newspaper El Mundo published an article implicating the Treasurer of the Popular Party, then in Government, in a widespread corruption scandal. According to the article, the former party treasurer made illegal payments to the top members of the Popular Party from 1989 to 2009. Payments varied from €5,000 to €15,000 on a periodical basis. Members would receive these B payments besides their normal salaries. By the end of January 2013, the newspaper El País published the handwritten account books that allegedly included the contabilidad B (hidden accounting) of the party. The books also show that the party received exclusive and opaque donations from known companies and businessmen, mainly from the construction sector.

<152 El Congreso (2013) Enmienda transaccional a la enmienda n° 72 del grupo Catalán (CiU) y a las propuestas de resolución n° 92 del grupo Popular, n°73 del grupo UPyD y n° 85 del grupo Mixto [Compromise amendment No. 72 of the Catalan Group (CIU) and the resolution proposals No. 92 of the Popular Party,

No. 73 of the UPyD group and No. 85 of the Mixed group]. Available at: http://www.congreso.es/backoffice_doc/prensa/notas_prensa/18520_1361968355833.pdf [Accessed on 02/03/2013].

<153 BOE (2015). Ley 39/2015, de procedimiento administrativo común, available at: https://www.boe.es/buscar/act.php?id=BOE-A-2015-10565 [Accessed on 06/12/2017].

<154 BOE (2015). Ley 40/2015, de 1 octubre, de Régimen Jurídico del Sector Público, available at: https://www.boe.es/buscar/act.php?id=BOE-A-2015-10566 [Accessed on 04/12/2017].

<155 BOE (2015). Ley 3/2015, available at: https://www.boe.es/buscar/doc.php?id=BOE-A-2015-3444 [Accessed on 06/12/2017].

<156 «La empresa que fichó al exnúmero 3 de Sáenz de Santamaría recibió contratos del Gobierno por 175 Millones», EL DIARIO. 2017, available at: http://www.eldiario.es/sociedad/Saenz-Santamaria-empresa-contratos-millones_0_707629757.html [Accessed on 04/12/2017].

<157 See: http://www.mptfp.es/dam/es/portal/funcionpublica/funcion-publica/rcp/boletin/Boletines/200701_Boletin_julio_2021.pdf.pdf

<158 BOE (2015). Ley 3/2015, available at: https://www.boe.es/buscar/doc.php?id=BOE-A-2015-3444 [Accessed on 06/12/2017].

<159 See:https://transparencia.gob.es/transparencia/dam/jcr:eaa4dcf1-c1e6-48be-a43e-965d16a19983/4thPlan_OpenGov_Spain_EN.pdf

<160 See: https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2021/290721-sanchez_balance.aspx

<161 Parliamentary Code of Conduct, available at: https://www.senado.es/web/composicionorganizacion/senadores/codigodeConducta/index.html (Accessed on 26 July 2021).

<162 Congress Organigram, available at: https://www.congreso.es/docu/transp/Organigrama_Internet_tr.pdf (Accessed on 26 July 2021).

<163 Integrity Watch platform, available at: https://www.integritywatch.es/; and «Debugging Democracy Open data for political integrity in Europe», Transparency International, 2021, available at: https://www.transparency.org/en/publications/debugging-democracy-open-data-for-political-integrity-in-europe. (Accessed on 26 July 2021).

<164 Press release, Presentation of Integrity Watch Spain, 15 February 2021 https://transparencia.org.es/save-the-date-jornada-sobre-avances-y-retos-en-transparencia-e-integridad-en-el-congreso-de-los-diputados-y-el-senado-de-espana/ (Accessed 26 July 2021).

<165 In this effort we consider only the six most important political parties with representation into Parliament

<166 The name of the central bank of Sweden

<167 Around 4 600 employees of which 200 are political appointees. About 263 000 state employees work in the 341 state's agencies that sort under the government (Regeringskansliet, 2020b, 2020c; Statskontoret, 2020, pp. 11, 33).

<168 The Instrument of Government (Chapter 12, Art. 2) states that "No public authority, including the Riksdag and the decision-making bodies of local authorities, may determine how an administrative authority shall decide in a particular case relating to the exercise of public authority vis-à-vis a private subject or a local authority, or relating to the application of law".

<169 There is not one document constituting a code of conduct or a signing of an oath. However, there is a state-wide general code of ethics based on six ethical foundations principles that apply: democracy, legality, objectivity, freedom of expression, respect, and effectiveness, efficiency and service (Statskontoret, 2018; Värdegrundsdelegationen, 2013).

<170 According to the World Justice Project (2020), Sweden had the third highest score on the indicator Open government, and was first and second on the sub indicators right to information and complaints mechanisms. Similarly, Sweden was ranked third on Access to government information in the Sustainable Governance Indicators 2020 (Bertelsmann Stiftung, 2021).

<171 As a consequence of the Committee having difficulties in getting the government to release recordings, most notable in the Committee's reviews of government handling of the Tsunami catastrophe, regulations were reformed to strengthen the power of the Committee's access to all records it needs for its examinations of government business (Andersson et al., 2012, pp. 149)

<172 The Audit Office is led by one Auditor General since 2020. It was previously headed by three Auditor Generals (Riksdagen, 2020).

<173 We view ethics codes (or codes of ethics) as setting out central values for individuals, organisations or societies to strive for, such as integrity, accountability, and public interest, while being brief on rules. In comparison, codes of conduct are extended ethics codes that translate these values into practical expectations for how to behave. Their purpose is to handle situations that individuals might face, and anticipate and stop harmful actions, such as bribery and other ethics violations. The emphasis is, thus, often on what not to do and to specify such behaviours (Demmke and Moilanen, 2011: 89-90; Gilman, 2005: 3, 14-16).

<174 Prior to the 2006 election, the use of candidate agreements was mostly found in the Social Democratic Party and the Moderate Party. According to Nielsen (2007: 104), these candidate agreements could be invoked (and in some cases actually were) in order to either reprimand or exclude a candidate. Often, this concerned instances where candidates had made campaign statements which deviated significantly from party policies and values. Earlier use of candidate agreements had most been observed at regional levels (Möller, 1999) and predominantly established that a candidate abided by the party lines, whereas ethical or similar aspects were not emphasised.

<175 'Parliamentary questions' are an opportunity for MPs to ask questions of government ministers, which they are obliged to answer. They may be asked orally or in writing. Such questions are useful for lobbyists because they can force the government to reveal information, which may raise awareness of an issue or highlight an inconsistency in approach.

<176 For more information: https://erskinemay.parliament.uk/section/5963/committees-on-standards-and-of-privileges/ (accessed on 5 January 2022)

<177 For more information see: https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life, Accessed on 5 January 2022.

<178 Available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336919/1stInquiryReport.pdf, Accessed on 5 January 2022.

<179 For more information see: https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/, Accessed on 5 January 2022.

<180 For more information see: https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/code-of-conduct-and-rules-of-the-house/, Accessed on 5 January 2022.

<181 For more information see: https://www.theipsa.org.uk, Accessed on 5 January 2022.

<182 See Appendix 1 of the Committee on Standards meeting formal minutes, 8 April 2014, available at:http://www.publications.parliament.uk/pa/cm201314/cmselect/cmstandards/1225/122507.htm#note195, Accessed on 19 December 2021.

<183 Available online at: https://www.legislation.gov.uk/ukpga/2014/4/contents/enacted, Accessed on 5 January 2022.

<184 See: https://www.cloisters.com/images/Bullying-Harassment-HOC-Staff-Oct-2018.pdf

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