

EN

2019

NO

13

Special Report

The ethical frameworks of the audited EU institutions: scope for improvement

(pursuant to Article 287(4), second subparagraph, TFEU)



EUROPEAN
COURT
OF AUDITORS

Contents

	Paragraph
Executive summary	I-VI
Introduction	01-13
The OECD framework	03-05
The EU context	06-13
Audit scope and approach	14-23
Observations	24-85
The audited EU institutions have to large extent adequate ethical frameworks in place	24-31
Essential elements of ethical frameworks present	24-29
There is no common EU ethical framework governing the work of the representatives of Member States in the Council	30-31
There are some weaknesses in the ethical frameworks of the institutions	32-63
The Parliament and the Council had not developed overall strategies on ethics	33-38
Procedures for verifying declarations and guidance for staff not sufficiently formalised	39-45
Limited scrutiny of Members' declarations	46-50
Incomplete and unclear policies on gifts and entertainment	51-53
Whistleblowing rules not adapted for Accredited Parliamentary Assistants	54-56
Post-mandate provisions for MEPs are less extensive	57-63
There are areas for harmonisation and examples of good practice in the ethical frameworks of the audited institutions	64-76
Gifts and entertainment policies	65
Outside activity policies for staff	66
Members' declarations on the interests and activities of the family members	67-68
Specific and practical guidance available in the Commission	69-72
Ethical Committee for Members in the Commission	73-74

Specific anti-harassment policies for cases involving Members of the Parliament	75
Clear wording of the anti-harassment policies for staff	76
The survey results present a mixed picture of staff awareness and perception of ethics matters	77-85
Conclusions and recommendations	86-90

Annexes

Annex I — Main characteristics of the existing ethical frameworks

- Part A – Gifts and entertainment
- Part B – Outside activities and assignments
- Part C – Conflicts of interests (CoI) upon recruitment, ad-hoc CoI and CoI in relation to spouse's activities
- Part D – Post-EU employment and mandate
- Part E – Anti-harassment
- Part F – Whistleblowing

Annex II — Results of the survey

Acronyms and abbreviations

Glossary

Replies of the Parliament

Replies of the Council

Replies of the Commission

Audit team

Executive summary

I Ethical conduct in public affairs means that civil servants and public office holders should serve the public interest, manage public resources properly, and make fair decisions. It contributes to sounder financial management and increased public trust, which is indispensable if public policies are to succeed. Any unethical behaviour by staff and Members of the European Union (EU) institutions and bodies attracts high levels of public interest and reduces trust in the EU. This is why it is so important for the institutions to put in place adequate ethical frameworks to ensure that the risk of unethical behaviour is reduced to a minimum.

II Our audit assessed whether the ethical frameworks of the audited EU institutions were well established. It covered all the levels of staff and Members of the following institutions: the European Parliament (Parliament), the Council of the European Union and the European Council (Council) and the European Commission (Commission). We also performed a survey to assess awareness of the ethical framework among the staff of these institutions. We did not assess how the ethical frameworks had been implemented.

III We concluded that, to a large extent, the audited institutions had established adequate ethical frameworks with room for improvement. We found that in the Council there is no common ethical framework governing the work of the representatives of Member States.

IV Our audit identified some weaknesses (not all of which are applicable in each of the audited institutions) with regard to:

- overall strategies on ethics (Parliament and Council),
- formalising procedures for checks on declarations and developing clearer guidance on the assessment criteria for staff (Parliament, Council and Commission),
- enhancing the scrutiny of Members' declarations by establishing a written standard procedure (Parliament and Commission),
- gifts and entertainment policies (Parliament, Council and Commission),
- whistleblowing (Parliament), and
- post-mandate provisions (Parliament).

We also found areas where the ethical frameworks would benefit from cross-institutional harmonisation (e.g. outside activities for staff, and declarations on Members' spouses and partners' activities), as well as examples of good practices.

V We carried out a survey on a representative sample of staff in the audited institutions. Even though around half of the staff members assess their knowledge of the ethical framework as good or very good, the survey results present a mixed picture with regard to the staff awareness and perception of ethical matters. The results, however, vary between the institutions and the categories of staff.

VI We present recommendations to help the audited institutions to:

- improve their ethical frameworks,
- work together to harmonise the elements of their ethical frameworks and make further efforts to share good practice on the ethical matters, and
- improve staff awareness and perception of the ethical framework and culture.

Introduction

01 Ethical conduct in public affairs means that civil servants and public office holders should serve the public interest, manage public resources properly, and make fair decisions. It contributes to sounder financial management and increased public trust, which is indispensable for public policies to succeed.

02 The “integrity management framework” introduced by the Organisation for Economic Cooperation and Development (OECD) “brings together instruments, processes, and structures for fostering integrity and preventing corruption in public organisations”¹. According to the OECD Recommendation on Public Integrity, public integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector².

The OECD framework

03 The OECD’s principles for managing ethics in the public sector³ describe an “ethics infrastructure” that public institutions ought to have in place. This “ethics infrastructure” comprises three main elements: guidance, management and control.

04 The OECD has drawn up a model for the closely related concept of public integrity (see *Figure 1*).

¹ Integrity framework, OECD, 2009.

² Organisation for Economic Cooperation and Development (OECD) Recommendation on Public Integrity, OECD, Paris, 2017.

³ “1998 Recommendation of the OECD Council on Improving Ethical Conducting the Public Service, including Principles for Managing Ethics in the Public Service”, in OECD, Trust in Government. Ethics measures in OECD Countries, Paris, 2000.

Figure 1 – Building blocks of public integrity



© OECD Recommendation of the Council on Public Integrity, 2017.

05 The whole model rests on three main components:

- Building a coherent and comprehensive public-integrity system;
- Cultivating a culture of public integrity; and
- Enabling effective accountability.

The EU context

06 Any unethical behaviour by staff and Members of European Union (EU) institutions and bodies is unacceptable. Such behaviour – even if it is only alleged – attracts high levels of public interest and reduces trust in the EU. Unethical behaviour is also linked to the risk of corruption and fraud. An assessment of the implementation of the ethical frameworks in the EU institutions can help to manage these risks.

07 The institutions should put in place adequate ethical frameworks to ensure that the risks of unethical behaviours are reduced to a minimum level. The main risk is that without appropriate ethical frameworks, the unethical behaviour in the institutions is not prevented, identified and dealt with correctly. This may result in reputational damage to the image of the EU and its institutions. EU legislation does not contain any statutory definition of an ethical framework as such; however, many provisions of both primary and secondary law can be construed as ethical obligations.

08 While there are common provisions applicable to all of the EU institutions, there are also different specific legal ethical requirements for each EU institution, for the Directorates-General (DGs) of the European Commission (Commission), and for staff and Members of the EU institutions. The specific provisions reflect different roles, responsibilities and risks.

09 The starting point for all the obligations is represented by the founding Treaties, which contain provisions laying down the aspirational values which should guide the conduct of staff and Members of EU institutions and bodies. These provisions bear a certain degree of similarity in the terminology they use and in the spirit of the obligations they set out, but the categories of individuals concerned are of course quite different, so it is necessary to address each of these categories specifically.

10 *Table 1* gives a summary of how legal provisions apply to the staff and Members of the EU institutions.

Table 1 – Legal provisions applicable to staff and Members of the EU institutions

	STAFF			MEMBERS		
	Parliament	Council	Commission	Parliament	Council	Commission
LEGAL REQUIREMENTS	Article 298 Treaty of the Functioning of the European Union (TFEU): The European Parliament and the Council establish provisions for an open, efficient and independent European administration.			Articles 6 and 7 of the Act concerning the election of the Members of the European Parliament (MEPs) Article 339 TFEU also applicable to the Parliament	National rules Article 339 TFEU also applicable to Council (not only at ministerial, but also national civil servant level)	Article 17 of the Treaty of the European Union (TEU): Obligation of total independence for Commissioners (<i>note: the report concerns ethical behaviour of persons, not of the institutions as such</i>) Article 245 of the TFEU: independence; obligations arising from the function; obligations continuing after the end of mandate Article 339 of the TFEU on the duty not to disclose information of the kind covered by the obligation of professional secrecy
	Staff Regulations (Articles 11-22c) ⁴					

⁴ For staff members who are not officials, similar requirements are set out in the Conditions of Employment of Other Servants (CEOS). The institutions further detail these provisions by adopting more specific implementing rules.

LEGAL REQUIREMENTS	Financial Regulation (Articles 36 (3) and 61)					
	Code of Good Administrative Behaviour					
	Administrative decisions: Guide to the obligations of officials and other servants of the European Parliament Internal rules for the advisory committee on harassment and its prevention at the workplace	Administrative decisions: Decision No 61/15 on outside activities Decision No 15/15 on harassment	Administrative decisions: Decision on outside activities and assignments Decision on leave on personal grounds Decision on preventing psychological and sexual harassment Code of Good Administrative Behaviour	Rule 11 and Annex I to the Rules of Procedure (RoP); code of conduct for MEPs with respect to financial interests and conflicts of interest	Code of conduct for the President of the European Council	Commission Decision of 31 January 2018 on a Code of conduct for the Members of the European Commission (C(2018)700) ⁵
TOOLS AND PROCEDURES	Staff Regulations (Articles 22a-22c and Annex IX (Disciplinary proceedings))			Rules 165, 166 and 167 of the RoP (measures to be taken in the event of non-compliance with the standards of conduct of Members)	National rules	Article 247 of the TFEU: Misconduct of Commissioners; EC Decision establishing the ad hoc ethical committee
	Administrative decisions: Internal rules implementing Article 22c of the Staff Regulations	Administrative decisions: Decision No 3/2016 on whistleblowing Decisions Nos 73/06 and 74/06 on administrative inquiries and disciplinary proceedings	Administrative decisions: EC Guidelines on whistleblowing; EC Decision 86/2004, General implementing provisions for administrative inquiries and disciplinary proceedings	Decision on the functioning of the advisory committee dealing with harassment complaints concerning Members of the European Parliament and its procedures for dealing with complaints		Article 12 of the code of conduct: the Independent Ethical Committee Article 13 of the code of conduct: measures on the application of the Code of Conduct

Source: European Court of Auditors (ECA).

11 These legal requirements address a number of key types of ethical issues:

- o various forms of conflict of interest, including those concerning:
 - o recruitment, during employment and post-employment,
 - o gifts and entertainment, outside activities and spouse's employment,

⁵ OJ C 65, 21.2.2018, p. 7.

- lobbying and advocacy,
- transparency,
- anti-harassment,
- enforcement mechanisms.

12 As well as setting out the required conduct of both staff and Members, the legal framework provides tools and procedures for detecting and addressing any deviation from such standards, thus helping to ensure that legal ethical requirements are being adhered to. For the purposes of this audit, “ethical framework” refers firstly to ethical legal requirements, and secondly to procedures, enforcement tools, guidance and communication that help to ensure that legal requirements are adhered to.

13 There is a growing recognition of the importance of the “soft”, cultural aspects of ethics, which are seen often as a more efficient way of achieving high ethical standards. These elements are:

- promotion of ethical culture;
- integrity leadership;
- appraisal system that supports accountability and ethical behaviour;
- support of an open organisational culture.

Audit scope and approach

14 We assessed whether the ethical frameworks of audited EU institutions were well established. Our audit covered all the levels of staff and Members of the following institutions: the European Parliament (Parliament), the Council of the European Union and the European Council (Council) and the Commission.

15 This is the first time that the Court audited the ethical frameworks of the Parliament, of the Council and of the Commission. This audit is in line with the Court's 2018-2020 strategic goal to contribute to fostering trust in the EU. The Parliament, the Council and the Commission have been selected as they are the three main EU institutions involved in making EU legislation and have a significant number of staff. Analysing their ethical framework provides best opportunities for comparative analysis.

16 To assess whether the ethical frameworks of the Parliament, Council and Commission were established well, we:

- (i) examined these institutions' legal ethical requirements for staff and Members, and their procedures for enforcing them; and
- (ii) assessed awareness of the ethical framework among staff of the audited.

We did not look at how the ethical frameworks had been implemented.

17 For the Commission, the largest institution, we gained an understanding of the general requirements and procedures in place from the DG of the Human Resources and Security (DG HR). We focused on the specific rules applicable within the following DGs managing a significant share of EU budget or having an important role in proposing or monitoring the application of EU law: Agricultural and Rural Development (DG AGRI), Competition (DG COMP), Energy (DG ENER), Research and Innovation (DG RTD) and Secretariat-General (SG).

18 For the audited institutions, we assessed in particular the requirements and procedures for the issues set out below:

- gifts and entertainment (see *Annex I — Part A*),
- outside activities or assignments (see *Annex I — Part B*),
- Conflict of Interest (Col) upon recruitment, ad-hoc Col and Col in relation to spouse's activities (see *Annex I — Part C*),

- post-EU employment and mandate (see *Annex I — Part D*),
- anti-harassment (see *Annex I — Part E*), and
- whistleblowing (see *Annex I — Part F*).

19 We also examined the procedures for administrative inquiries, and the disciplinary proceedings for staff. For the audit to be feasible, we did not assess the transparency and lobbying rules, even though these are linked to the general ethical framework. The Col procedures in the framework of public procurement also fell outside the scope of our audit as public procurement procedures are subject to the Court's compliance audits.

20 To make an inventory of the ethical frameworks and of the procedures in place for enforcing them, we sent a questionnaire to the audited institutions. We also analysed internal documents received from the Parliament, the Council and the Commission (DG HR and the other selected DGs). We compared the different ethical requirements in force in the various institutions, and assessed how these requirements measured up to the relevant external standards (i.e. OECD, International Labour Organisation and European Agency for Safety and Health at Work principles, guidelines and best practices). Lastly, we reviewed other pertinent reports in the area of ethics, and interviewed staff members of the institutions whose roles involved dealing with the ethical framework.

21 The main audit criteria we used for this work were internationally recognised standards developed by the OECD, EU legislation, and the ethical requirements and procedures set out by the institutions. A comparative analysis of the audited institutions' ethical frameworks also served as an additional criteria.

22 To complement these audit sources, we organised an expert panel to discuss characteristics of a coherent and comprehensive ethical framework in public organisations. We invited four experts in the field: one representative of the OECD, one from Transparency International, one representative from a Member State's Supreme Audit Institution, and an academic. These experts helped us to evaluate specific elements of the ethical frameworks.

23 With the aim of gaining insight into staff awareness of the ethical frameworks and perception of the ethical culture, we carried out a survey of a representative sample of staff in the audited institutions (see *Annex II*).

Observations

The audited EU institutions have to large extent adequate ethical frameworks in place

Essential elements of ethical frameworks present

24 For the staff of the EU institutions, the primary sources for the ethical framework are the Treaty on the Functioning of the European Union (TFEU), the Financial Regulation and Title II, “Rights and obligations of officials”, of the Staff Regulations⁶ (see *Table 1*). The requirements are developed further in the institution-specific implementation provisions and guidelines, which provide further clarifications but which do not create any new substantive obligations. There is, overall, a high degree of similarity in the provisions of the ethical framework for the staff among the audited institutions.

25 For the Members, the situation is more diverse. The nature of the Members' position and duties is different among the institutions and from those of staff. The TFEU is the main source of the ethical requirements for the Members: it also sets out penalties and sanctions for failure to comply with these requirements. Applicable codes of conduct and Rules of Procedure (RoP) provide more detailed provisions (see *Table 1*). The rules are further specified in other documents such as guidelines (e.g. Guide for Members on workplace anti-harassment in the European Parliament⁷).

26 The ethical frameworks of the audited institutions are in line with the main requirements of the OECD guidelines and other criteria (see paragraph **21**). The audited institutions have, to large extent, adequate ethical frameworks in place for both staff and Members:

- The audited institutions have established policies on gifts and entertainment that cover definitions of the gifts, hospitality and other benefits, and the procedures for accepting and reporting them (see *Annex I — Part A*).
- The rules on outside activities for staff and Members, and the rules and systems for dealing with the post-EU-employment of staff, address the risk areas and meet the

⁶ For staff members who are not officials, similar requirements are set out in the Conditions of Employment of Other Servants (CEOS).

⁷ “Zero harassment in the workplace – A guide for Members of the European Parliament”, 2017.

criteria for acceptable activities, reporting and authorisation procedures (see [Annex I — Part B and Part D](#)).

- The policies also cover cases of Conflict of Interest (CoI), such as CoI upon recruitment, ad hoc CoI and the employment of the spouse and partner of staff, and Members in compliance with the international standards used as audit criteria (see [Annex I — Part C](#)).
- The audited institutions have established anti-harassment policies, that meet the essential requirements of relevant standards (see [Annex I — Part E](#)).
- The audited institutions have established adequate whistleblowing policies, resulting from the continuous revisions in recent years. The policies provide definitions and set out protective mechanisms for whistleblowers ([Annex I — Part F](#)).

27 The ethical frameworks are appropriately supported by investigative and sanction mechanisms. For the staff of the audited institutions, they are similar as administrative inquiries and disciplinary procedures are laid down in Article 86 of and Annex IX “Disciplinary proceedings” to the Staff Regulations. The range of sanctions is quite comprehensive, including measures that primarily affect an official’s reputation (e.g. written warnings and reprimands), measures that affect an official’s position within the organisation (e.g. relegations in step and downgrading) and measures that irreversibly alter the relation between the officials and the organisation (e.g. removal from post, possibly accompanied by a reduction in pension rights). Some of these sanctions have financial implications.

28 For Members, sanctions and penalties are set out primarily in the TFEU. They are supplemented by the provisions of the respective code of conduct and RoP. The set of enforcement tools provided for by the Treaties is rather diverse, including political and judicial procedures, and internal discipline procedures.

29 We identified certain areas where the coverage, specificity, clarity and level of guidance of the institutions’ ethical frameworks for staff and Members could be improved (see paragraphs [32](#) to [63](#)) and harmonised (see paragraphs [64](#) to [68](#)). We also found cases of best practices, mostly at the Commission (see paragraphs [69](#) to [76](#)).

There is no common EU ethical framework governing the work of the representatives of Member States in the Council

30 Members of the European Council and of the Council of the European Union (Members of the Council) are respectively Heads of State or Government and ministers. Other representatives of the Member States are national officials participating in working groups, committees and parties. Except for the President of the European Council⁸, they are not subject to any common ethical framework at EU level. The work of the representatives of the Member States in the Council is governed by national legislation.

31 There is no overview at the Council of all the national ethical frameworks applicable to its Members and to the other representatives of the Member States. No assurance exists as to whether national requirements cover all the necessary elements and relevant risks with respect to the nature of the position and work they perform.

There are some weaknesses in the ethical frameworks of the institutions

32 We compared the ethical frameworks of the institutions examined to international standards and found some weaknesses.

The Parliament and the Council had not developed overall strategies on ethics

33 The OECD model (see paragraph **04**) highlights that ethical frameworks should be guided by a strategy outlining the objectives and priorities, developed using appropriate data and indicators, and taking into account legitimate risks to ethics.

34 The overall strategy of the Commission is established in the DG HR's 2017-2020 Strategic Plan, which includes provisions governing ethical matters for the staff. DG HR's annual risk assessment exercise also deals with issues on ethics, and it is connected to the preparation of the Annual Management Plan (AMP).

35 The Strategic Plan sets out two objectives. The first objective is that managers and staff should abide by the highest professional and ethical standards at all times. The

⁸ See Article 15 of the TFEU, and the code of conduct which is a self-regulatory public instrument adopted by the President of the European Council.

second is that the Staff Regulations' implementing rules should be clearly and effectively applied. The achievement of these objectives is monitored by performance indicators.

36 The risk assessment exercise for 2018 identified one general risk that "existing measures and/or processes to reduce any reputational risks linked to outside activities or behaviour of active/former staff might need supplementary improvements to address the increased sensitivity of the public matter". The risk level is evaluated as 9 out of 25, and actions mitigating this risk are followed up through the AMP.

37 At the level of the audited Commission's DGs, an annual risk management exercise is performed to identify, assess, and manage significant and critical risks, including those related to ethics. Among the audited DGs, DG COMP included the most specific actions for its staff in the area of ethics in its strategic and management planning processes.

38 In the Parliament and the Council, there is no overall ethics strategy, outlining objectives and priorities to be monitored by performance indicators, either for staff or for Members. While the Parliament performed an evaluation of the minimum internal control standards in 2017, also covering ethical matters, the Council has not performed a complete risk assessment in the field of ethics to date.

Procedures for verifying declarations and guidance for staff not sufficiently formalised

39 According to the OECD, any organisation should establish procedures for identifying, managing and resolving Cols. These procedures should ensure that public officials know what is required of them in relation to declaring Col situations⁹.

40 The ethical framework surrounding Cols is largely based on self-declarations made by individual staff members. Such systems rely on individual integrity, as well as on staff members' knowledge of the applicable requirements. The ethical framework, however, cannot be effective without appropriate control systems. The level of control should reflect the level of risks and take into account the administrative burden created by such controls.

⁹ Managing conflict of interest in the public sector, OECD, 2005.

41 The main obligations for EU staff stem from the Staff Regulations and the Financial Regulation. The institutions' implementing provisions require staff to submit self-declarations in various circumstances (see *Box 1*):

Box 1

Examples of types of declarations for staff of the audited institutions

- gifts and hospitality (Article 11 of the Staff Regulations);
- Col upon recruitment (Article 11(3) of the Staff Regulations);
- declaring an ad-hoc Col (Article 11a of the Staff Regulations);
- requests for authorisation of an outside activities (Article 12 of the Staff Regulations);
- gainful employment of the spouse (Article 13 of the Staff Regulations); and
- post-employment activities (Article 16 of the Staff Regulations).

42 Such declarations often rely on the judgement of the staff member. Specific details of case only need to be provided when a staff member judges that a case has arisen. The audited institutions have generally established procedures and workflows for assessing and acting upon the information provided in staff members' declarations (including granting authorisations, where required).

43 Although these institutions indicated that any other available information is also examined and considered, procedures and workflows do not describe which other information coming from internal (e.g. personal files or other existing declarations) or external (e.g. websites) sources is verified and cross-checked.

44 If staff members are to comply consistently with ethical requirements, clear and extensive guidance about them needs to be made available. However, we found that the available guidance was not always clear or detailed enough (see *Box 2*):

Box 2

Examples of insufficient guidance

Declarations at recruitment

In the audited institutions, candidates must declare their financial interests at the moment of recruitment – but only if these interests could potentially influence the candidate in performing their duties.

Managers can therefore only act upon information which candidates themselves deem it necessary to declare.

Little guidance is available about what situations could create a (potential) Col.

Lack of specific guidance on relevant situations

The Commission's DG AGRI issued a guide on ethics, which provides the DG's staff with additional practical information, examples and explanations in respect of ethical requirements. But the guide does not touch on certain situations which could be relevant to the DG's work:

- if members of staff are engaged in an agricultural activity; and
- if members of staff are recipients of EU subsidies under the Common Agricultural Policy.

45 Ethics policies do not always provide clear guidance on the criteria for assessing declarations, in particular on how criteria provided in the legal basis should be applied in practice. While the assessment criteria are clear with regard to gifts and entertainment, and to concurrent outside activities, there is not enough guidance on Cols arising from staff members' financial interests, their post-employment activities, or their spouse or partner's professional activity. While it is impossible to cover every possible situation, providing clear guidance on the implementation of the legal criteria would mitigate the risk of inconsistent treatment.

Limited scrutiny of Members' declarations

46 As mentioned in paragraph 42, information pertaining to the Members of the audited institutions is also chiefly collected by means of self-declarations. The quality of the information and the assessment criteria are crucial to adequately manage the risks related to ethics. There are no written standard procedures and workflows for checking this information.

47 The Members of the Commission are required by their code of conduct to submit declarations on matters such as previous activities, current outside activities, their financial interests, and their spouse or partner's professional activity. The declarations are subject to the scrutiny under the authority of the President. There is, again, no standard written procedure for checking the accuracy, reliability or completeness of the information.

48 Members of the European Parliament (MEPs) are also required to submit a declaration of interests covering matters such as their professional activity during the three-year period before taking office in the Parliament, regular and occasional remunerated activity (outside activities), and any other financial interests which might influence them in performing their duties. MEPs' declarations are checked for general plausibility: in other words, to ensure that they contain no manifestly erroneous, illegible or incomprehensible information. The declarations are subject to the scrutiny under the authority of the President. Such scrutiny covers obvious editing errors, discrepancies between one declaration and another, and respect of the deadline. If the President receives information that the declaration is substantially incorrect or out of date, the President may consult the Advisory Committee on the Conduct of Members and, where appropriate, must request the Member to correct his or her declaration. If there is an alleged breach of the code of conduct, the President must refer the case to the Advisory Committee. No other checks on the accuracy and completeness and/or assessment of the MEP's declarations¹⁰ are set out in the Parliament's procedures. For the President of the European Council, there is no procedure for the verification or the assessment of the declaration.

49 The main safeguard on the declarations of the Members of the Parliament, the President of the European Council and Commissioners is transparency and the attention of the stakeholders, the media and the wider public and, in case of Members of the Commission, the European Parliament. For the President of the European Council, the additional scrutiny comes from the Member States.

50 The lack of written standard procedure for checks on Members' declarations creates a risk of obligations being interpreted inconsistently, and means that the institution is less likely to identify inaccuracies and other issues before they attract public attention, potentially jeopardising public trust.

¹⁰ It should be noted that, in some of the Member States (such as France and Poland), declarations of Members of the institutions are subject to the additional scrutiny by the relevant authorities based on the national legislation.

Incomplete and unclear policies on gifts and entertainment

51 As per the OECD guidelines, organisations should deal with potential Col arising from gifts and benefits. This includes establishing an administrative process for controlling gifts and benefits, for example by defining acceptable and unacceptable gifts, and for accepting specified types of gifts on behalf of the organisation¹¹.

52 The audited institutions have, overall, established good policies in respect of gifts and entertainment for staff and Members (see *Annex I — Part A*). These policies cover the requirements of Article 11 of the Staff Regulations, which sets out rules governing the acceptance of honour, decoration, favour, gift or payment of any kind, and provide additional explanations. For the Members of the Commission and the President of the European Council, the relevant codes of conduct include the provisions on gifts and other benefits. For MEPs, these policies are further detailed in the implementing measures pertaining to their code of conduct¹².

53 However, these policies have gaps, and are sometimes unclear. They could be improved in some areas (see *Box 3*).

Box 3

Gaps in gifts and entertainment policies

Parliament

- There is no definition of gifts, or of hospitality, in the implementing provisions for staff.
- The rules for staff on accepting gifts focus on the value of the gifts, ignoring circumstances where accepting gifts (irrespective of their value) could be perceived as compromising the independence.
- No rules are set out for staff on accepting hospitality.
- There are no rules for staff on accepting gifts on behalf of the institution.

Council

- The rules for staff and the President of the European Council, in general, discourage acceptance of any gifts in any circumstances. However, the

¹¹ Managing Conflict of Interest in the Public Sector, A Toolkit, OECD, 2005.

¹² European Parliament, Bureau Decision implementing measures for the code of conduct for the MEPs with respect to financial interests and Col (15 April 2013).

rules do not sufficiently explain the circumstances where accepting gifts (irrespective of their value) could be perceived as compromising independence.

Commission

- There is no definition of gifts and hospitality applicable to Members.

Whistleblowing rules not adapted for Accredited Parliamentary Assistants

54 There should be effective institutional frameworks, and clear procedures and channels in place for facilitating the reporting of wrongdoing and corruption¹³. Whistleblowers acting in good faith must be protected from retaliation. *Annex I — Part F* provides an overview of the EU's existing rules on this issue.

55 The Parliament's Internal Rules (IR), implementing Article 22c of the Staff Regulations on whistleblowing, contain provisions governing advice, assistance and protective measures for whistleblowers. These apply to all staff, including MEPs' Accredited Parliamentary Assistants (APAs).

56 The nature of the APAs' work is different from that of other staff: they are recruited differently, and are employed directly by MEPs. According to the Parliament's IR, whistleblowing members of staff can be transferred to another post as a protective measure. The whistleblowing rules, however, do not refer to any safeguards specifically designed to reflect the specific nature of the APAs' position.

Post-mandate provisions for MEPs are less extensive

57 OECD Post-Public Employment Good Practices¹⁴ state that post-employment systems should be operational in all entities for which post-employment activities pose a real or potential problem. This concerns also the situations where the person is still in the office and is negotiating anticipated post-employment activities. *Annex I — Part D* provides an overview of the main characteristics of the existing rules on post-EU employment and mandate. In the absence of an assessment on the unethical behaviours for former staff and Members, the differences below are not justified.

¹³ Whistleblower protection: encouraging reporting, CleanGovBiz guidance, OECD, 2012.

¹⁴ Post-Public Employment Good Practices for preventing Col, OECD, 2010.

58 For staff, the ethical framework sets out provisions related to post-employment activities and, in particular, certain cooling-off provisions. Officials intending to engage in occupational activity within two years of leaving the service are required to inform their institution, which may approve or reject the new activity.

59 During the 12 months after they leave the service, former senior officials are prohibited by the Appointing Authority from lobbying staff of their former institution or advocating on behalf of businesses, clients or employers for which they were responsible during their last three years in the service. In certain cases, this 12-month period may be extended up to 24 months by the institution.

60 Post-employment provisions for the Commissioners are set out in their code of conduct. Former Commissioners must inform the College of their intention to engage in a professional activity during 24 months (36 months for the President) after leaving office. The Commission assesses whether the planned activity is compatible with the duty of integrity and discretion. When the planned activity is related to the portfolio of the former Member, the Commission is required to consult the Independent Ethical Committee.

61 Former MEPs, who are engaged in lobbying and representational activities linked to the EU, are required under Article 6 of the code of conduct to inform the Parliament about such activities and are restricted from benefiting from the facilities granted to former MEPs (e.g. the lifelong access pass). There are no further restrictions on MEPs' post mandate activities, and no obligation for former Members to report any other activities to the Parliament.

62 The nature of the office and duties of MEPs are different from those of the President of the Council and of the Commissioners firstly because MEPs are elected directly by the citizens. There is, however, scope for perceived Col to occur, as MEPs work on legislation that could directly affect industries in which their background lies.

63 The code of conduct prohibits the President of the Council from lobbying staff or Members of the EU institutions in the 18 months following the end of his or her term of office. During the same period, he or she must also notify the Secretary-General of the Council at least four weeks in advance about his or her intention to perform any professional activity.

There are areas for harmonisation and examples of good practice in the ethical frameworks of the audited institutions

64 The audited institutions have different ethical frameworks. This is because their work is not the same, but also because the risks inherent in performing their duties are different in many areas. However, there are many areas where there are good reasons to have harmonised approaches to handling ethical issues among institutions. For example, the public perception of EU institutions is similar, the staff of the institutions have the same legal status, and inter-institutional movement of staff is possible.

Gifts and entertainment policies

65 Even though the main characteristics of the gifts and entertainment policies are similar among the audited institutions, we found some differences which were not justified either by the nature of their activities or by the risks involved (see *Box 4*).

Box 4

Example of heterogeneous rules governing gifts and entertainment

Definition of gifts and hospitality

Article 11 of the Staff Regulations does not define what is meant by “gifts” or “hospitality”.

The Commission and the Council define the gifts and hospitality in their implementing provisions for the staff as follows: “a sum of money or any physical object, or the possibility to participate for free in events which are open to the public or are private in nature, are only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or any other advantage with a pecuniary value such as transport costs”.

The Parliament defines gifts in the implementing provision applicable to MEPs as “any distinct material object(s) consisting of one or more parts given to a Member at one occasion by one donor”.

Values of acceptable gifts

At the Commission and the Council, staff may accept gifts with a value of less than €50 without first obtaining permission first. They may accept gifts worth between €50 and €150 if they receive permission first. Gifts worth more than €150 cannot be accepted under any circumstances.

At the Parliament, however, staff can accept gifts with a value of less than €100 without seeking prior permission. Gifts worth more than €100 require prior permission.

Outside activity policies for staff

66 Subject to authorisation, EU staff are allowed to perform activities in their private lives outside of work. In some cases, they can accept payment for doing so. But the amount they can legally receive varies between institutions (see *Annex I — Part B*). The Parliament staff may not accept any payment other than reimbursement of costs incurred directly or indirectly in performing the outside activity. At the Council, staff members may not receive more than €5 000 for outside activities in a given year. At the Commission, there is an annual ceiling for net remuneration of staff (€10 000). Exceeding this ceiling makes the outside activity prohibited.

Members' declarations on the interests and activities of the family members

67 The code of conduct for MEPs requires them to submit a declaration of their personal financial interests and activities. The financial interests of their family members have to be included in declarations only in cases where MEPs consider that such interests might influence the performance of their duties, and that they cannot resolve the conflict of interests in any other way. The same applies to declarations about the professional activity of MEPs' family members.

68 In contrast, the Members of the Commission¹⁵ and the President of the European Council are obliged to declare the financial interests, and the professional activity of their spouses and partners.

Specific and practical guidance available in the Commission

69 While examining the ethical frameworks, we came across a number of instances where one institution had better developed and clearer rules or guidance on certain aspects of ethical requirements.

¹⁵ In the Commission, the declaration should also include financial interests of minor children where those may be considered capable of giving rise to a Col. See Article 3(4)(a) of the code of conduct for Commissioners.

70 The Commission, as the largest institution, encounters the most variety in ethical situations. In many cases, it has developed more specific and clearer guidance, especially for staff. Some DGs have developed specific codes of conduct and additional procedures which serve to better address situations and risks which recur frequently across the Commission.

71 Of the DGs we examined, DG COMP has the most detailed guidance and additional procedures. In particular, the code of conduct of this DG introduces the concept of generally applicable “case-specific declarations”, and “specific inspection declarations” for antitrust and merger inspections. DG AGRI’s ethics guide also includes guidance, examples and explanations in respect of the ethical requirements, although we have pointed to some limitations in *Box 2*.

72 In addition to the specific guidance issued by DGs, the Commission has developed extensive explanations and real-life examples which are available for consultation on its internal website. These examples cover topics such as outside activities, spouse’s employment, and gifts and hospitality.

Ethical Committee for Members in the Commission

73 The Parliament and the Commission have both established committees which can advise the Presidents of the two institutions on the application of the code of conduct for Members. At the Parliament, this committee is called the Advisory Committee on the Conduct of Members. At the Commission, it is called the Independent Ethical Committee.

74 The Advisory Committee on the Conduct of Members is composed of five MEPs co-opted from the Parliament’s Committee on Constitutional Affairs and its Committee on Legal Affairs. The Commission’s Independent Ethical Committee is made up of three persons selected for their competence, experience, independence and professional qualities. The composition of such committees may have an impact on the perceived objectivity and independence.

Specific anti-harassment policies for cases involving Members of the Parliament

75 The Parliament has set out a separate policy for cases involving harassment complaints against MEPs. It provides a clear procedure and safeguards for any potential complainant in such sensitive cases¹⁶.

Clear wording of the anti-harassment policies for staff

76 As described in *Annex I — Part E*, all the audited institutions had good anti-harassment policies in place. In *Box 5* we highlight implementing provisions of anti-harassment policies which were especially clear and broad in scope.

Box 5

Examples of clear wording in anti-harassment policies

The Parliament's anti-harassment policy provides practical illustrative examples of harassment.

The Council's anti-harassment policy mentions modern means of harassment, such as internet and email.

The Commission's anti-harassment policy explicitly states that requests for assistance are dealt with as soon as possible.

The Commission's policy includes a clear reference to the Staff Regulations in setting out possible sanctions.

The survey results present a mixed picture of staff awareness and perception of ethics matters

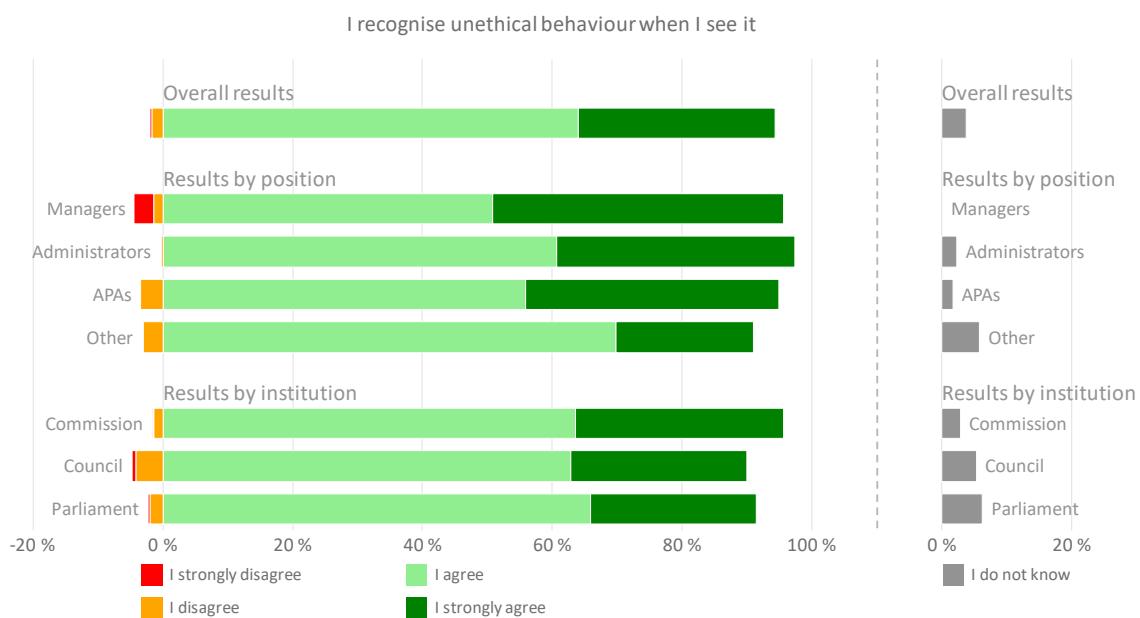
77 As mentioned in paragraph **13**, organisations striving to uphold high ethical standards cannot rely on rules and enforcement mechanisms alone. Instead, they must support their ambitions by developing an appropriate culture of integrity. Such a culture can only develop if the people working for the organisation are equipped with the necessary ethical skills and knowledge, and if they see the organisation's commitment to ethics. Organisations can achieve the former with appropriate training and guidance, and the latter, through good leadership and transparent, and consistent application of the ethical framework in practice. As explained in paragraph **16**, the main focus of this audit

¹⁶ Guide for Members on anti-harassment (see footnote **7**).

has been the EU institutions' ethical frameworks. The ways in which the Parliament, the Council and the Commission implemented their ethical frameworks, falls outside the scope of our work. Nevertheless, we carried out a survey on a representative sample of staff in the three institutions to assess their awareness and perception as regards the ethical frameworks (see paragraph 23 and *Annex II*). While the results of the survey are not direct audit evidence, they give an indication of how staff members view their own, and their colleagues' attitudes and competence, and of how their institution's ethical framework operates in practice. We analyse these results in the following paragraphs.

78 The picture suggested by the survey results is a mixed one. We found that nearly all staff contacted believe that they would recognise unethical conduct if they witnessed it (see *Figure 2*), demonstrating that they assessed their own "ethical instinct" highly. However, only 23.4 % of staff believe that their colleagues would not hesitate to report unethical behaviour to their hierarchical superiors (see replies to questions 11.1 and 11.3 of the survey, *Annex II*).

Figure 2 – Most staff recognise unethical behaviour

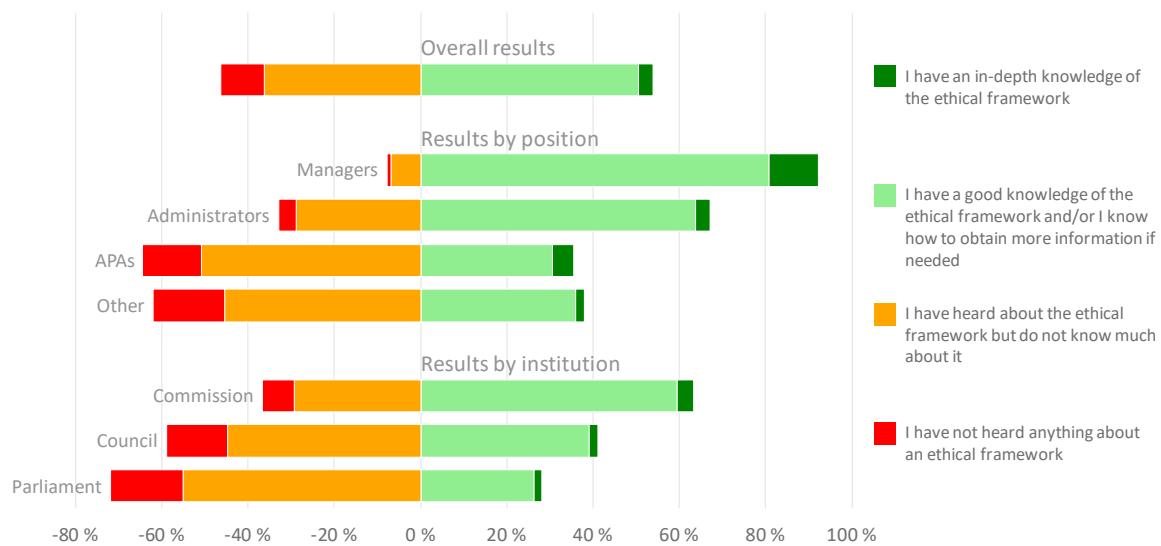


Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 11.1 (see *Annex II — Results of the survey*).

79 About half of the staff claim to have at least good knowledge of their institution's ethical framework (see *Figure 3*). This points to a potential deficit in communication: the standards, rules, procedures and practices constituting the institution's ethical framework need to be consciously conveyed. In this context, it is interesting to note the differences between the various types of posts (with managers, followed by administrators, claiming

the best knowledge) and the institutions (with the Commission staff being most confident, ahead of staff working at the Council and the Parliament).

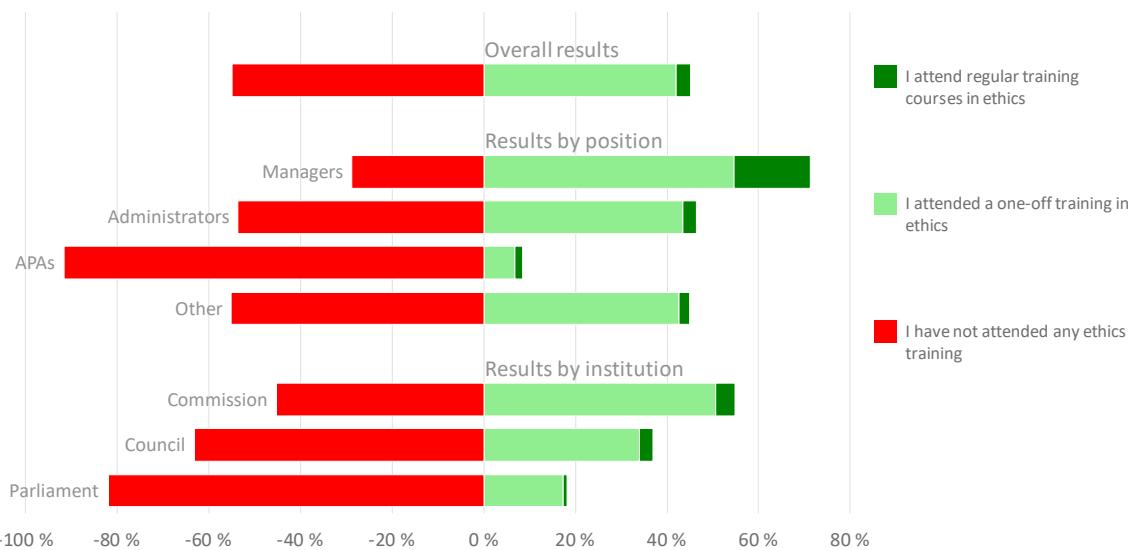
Figure 3 – Around half of the staff members assess their knowledge of the ethical framework as good or very good



Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 1 (see [Annex II – Results of the survey](#)).

80 The survey sheds some light on the possible reasons for the rather low level of awareness of the ethical framework. Firstly, less than half of staff members claim to have had any training on ethics at all in the context of their work for EU institutions (see [Figure 4](#)). The proportion of staff receiving regular training on ethics is only around 3 %.

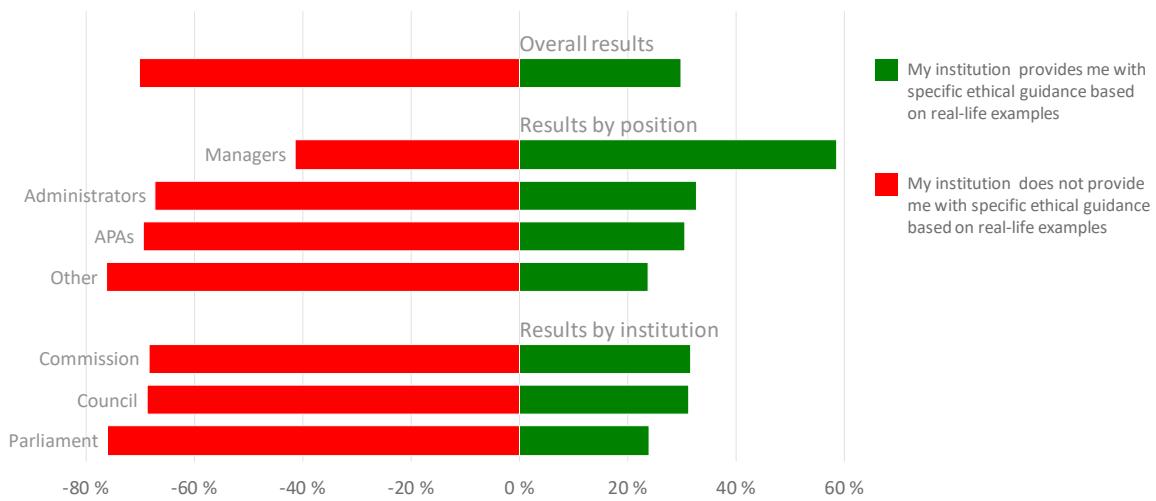
Figure 4 – Less than half of staff members have received training on ethics



Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 4 (see [Annex II — Results of the survey](#)).

81 Secondly, around 70 % of staff state that the ethics guidance that their institutions provide is not specific and is not based on real-life examples (see [Figure 5](#)). Interestingly, the differences between the three institutions (with the rate of negative answers ranging from 68.4 % for the Commission to 76.1 % for the Parliament) are much less significant than the differences between types of posts (with the rate of negative answers ranging from 41.4 % for managers to around 70 % for non-managerial staff). This suggests that the problem is perhaps not only, or even not mainly, with the quality of the guidance itself, but also with its dissemination.

Figure 5 – Less than a third of staff members stated that the ethics guidance received from their institution was specific and based on real-life examples

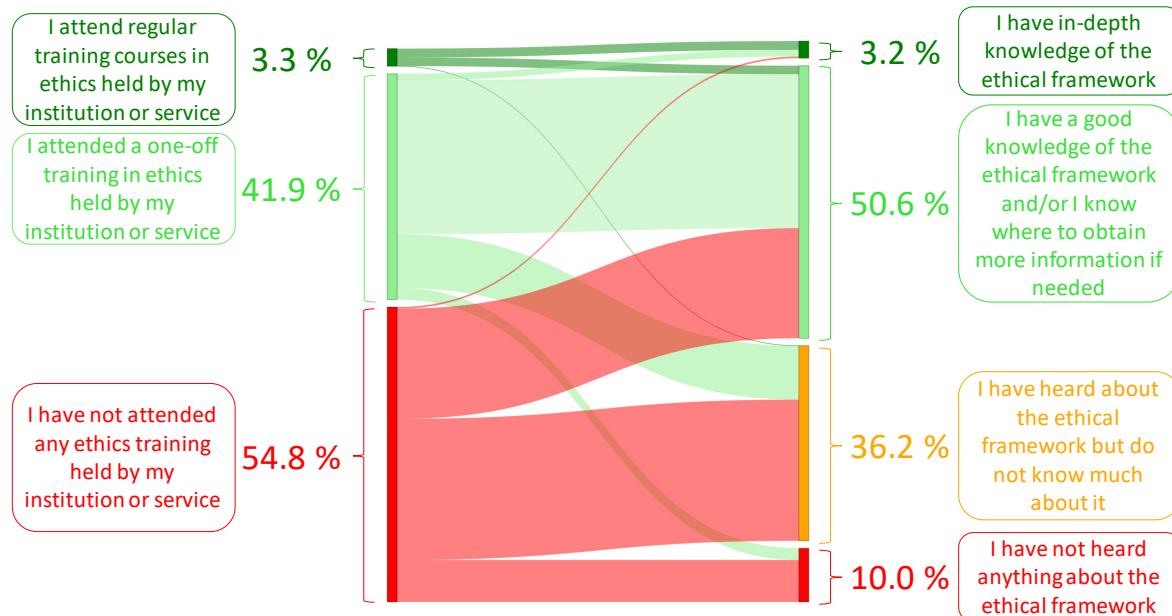


Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 9 (see [Annex II — Results of the survey](#)).

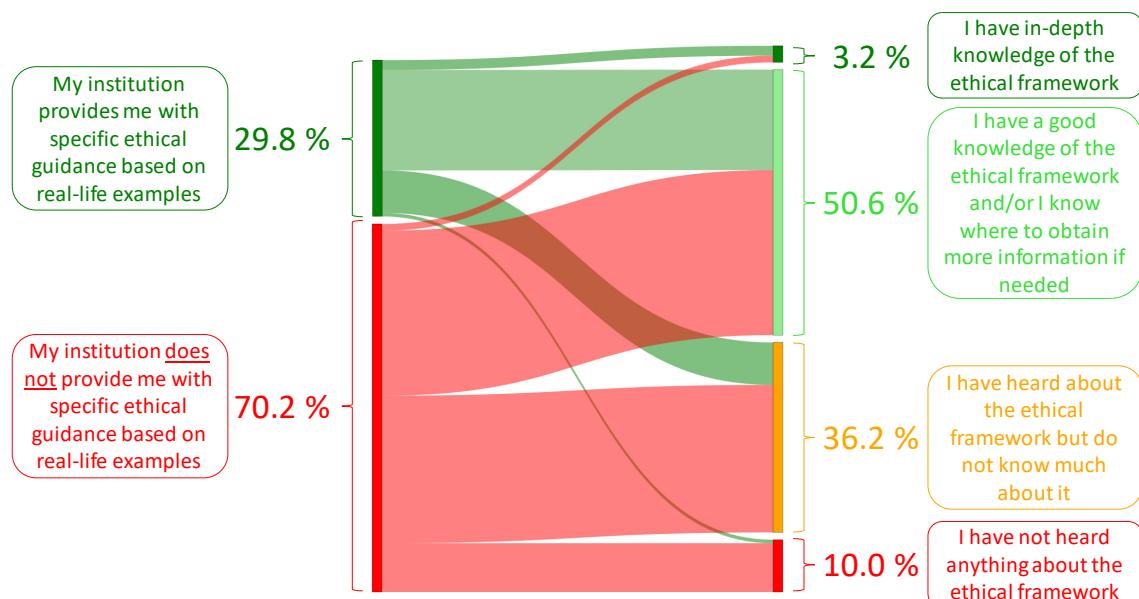
82 Our analysis of the survey results shows statistically significant dependence between the amount and quality of training, guidance received, and staff members' self-assessed level of ethics knowledge (see [Figure 6](#)). Staff members who receive more training, or more specific, real-life-based guidance on ethics, are more likely to feel confident about their ethical competences. However, as mentioned in paragraphs [80](#) and [81](#), only a minority of staff claimed to have received ethics training or good-quality ethics guidance.

Figure 6 – Staff members benefitting from training and guidance are more confident about their ethical competence

(a) Training on ethics vs. self-assessment of ethics knowledge



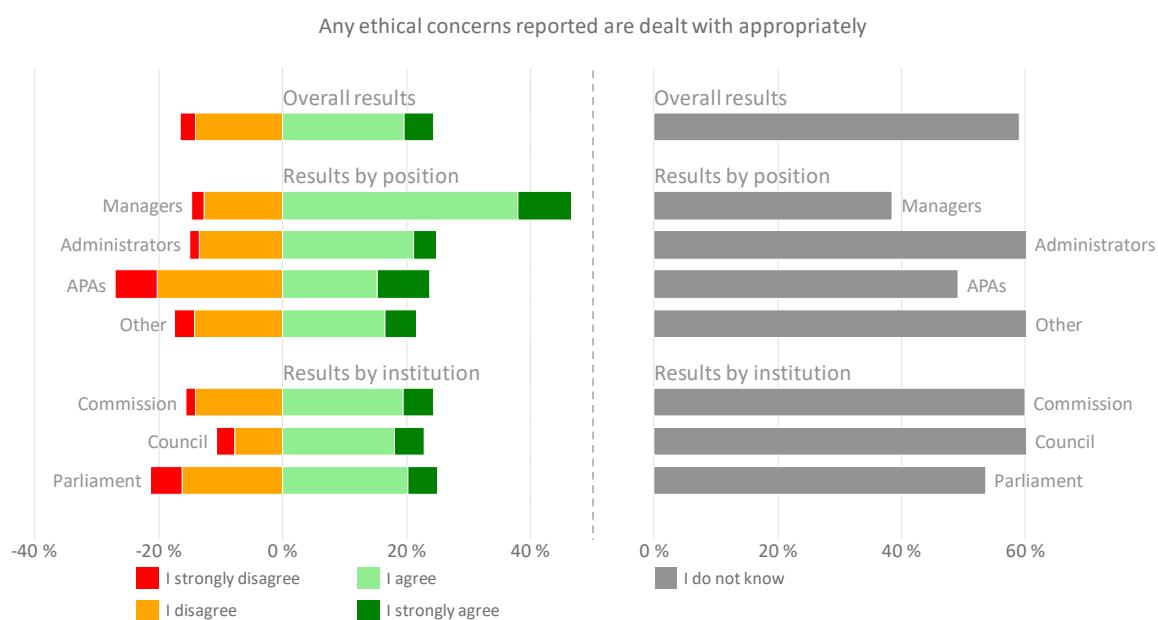
(b) Specific ethics guidance vs self-assessment of ethics knowledge



Source: ECA, extrapolated results of the survey of staff of three EU institutions: correlation between answers to questions 4 and 9, and question 1 (see [Annex II — Results of the survey](#)).

83 While 59 % of staff consider that the ethical culture of their institution is high, and 51 % of staff consider that their institutions live up to their policies on ethics and integrity¹⁷, around 59 % of staff say that they do not know whether their institution deals appropriately with the ethical concerns reported. Those who have confidence (24 % of staff) in their institutions' handling of ethical issues outnumber those who do not (17 % of staff) (see *Figure 7*).

Figure 7 – The majority of staff do not know whether their institution handles ethical issues appropriately



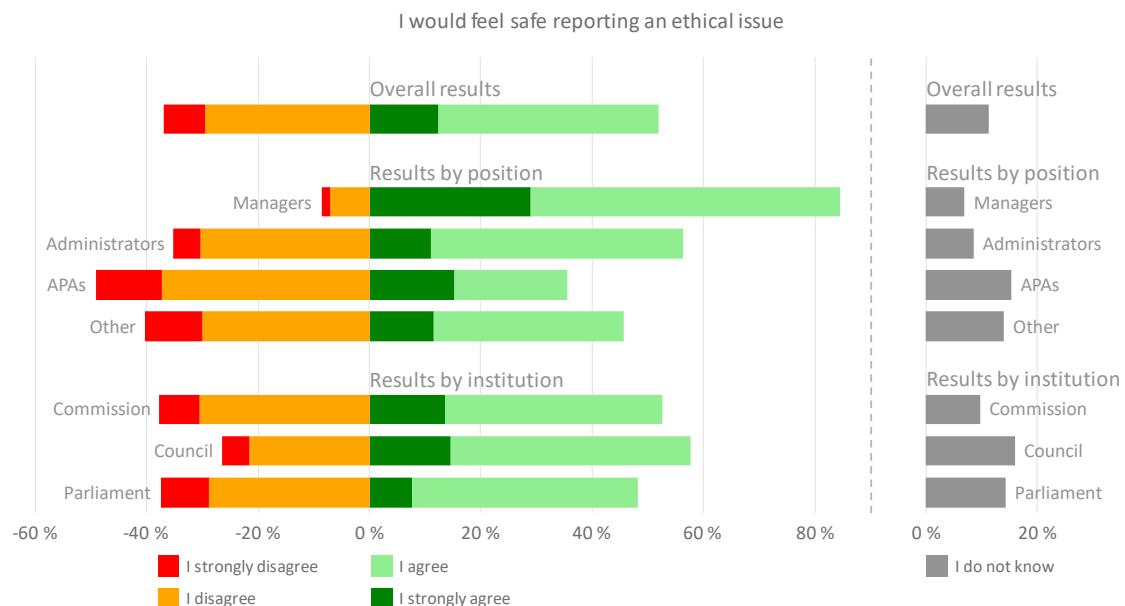
Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 11.12 (see *Annex II — Results of the survey*).

84 We found that staff are hesitant about reporting ethics issues. While around half would feel confident in reporting unethical conduct themselves, only around a third believe that those who report such issues are protected (see *Figure 8*). In both cases, one group of staff – the APAs – gave markedly more negative answers. There may be a link between their lower level of perceived security in reporting ethical problems and the temporary nature of their employment contracts, combined with their dependence, in terms of career prospects, on their MEP. This also reinforces the observations made in paragraphs **54** to **56**.

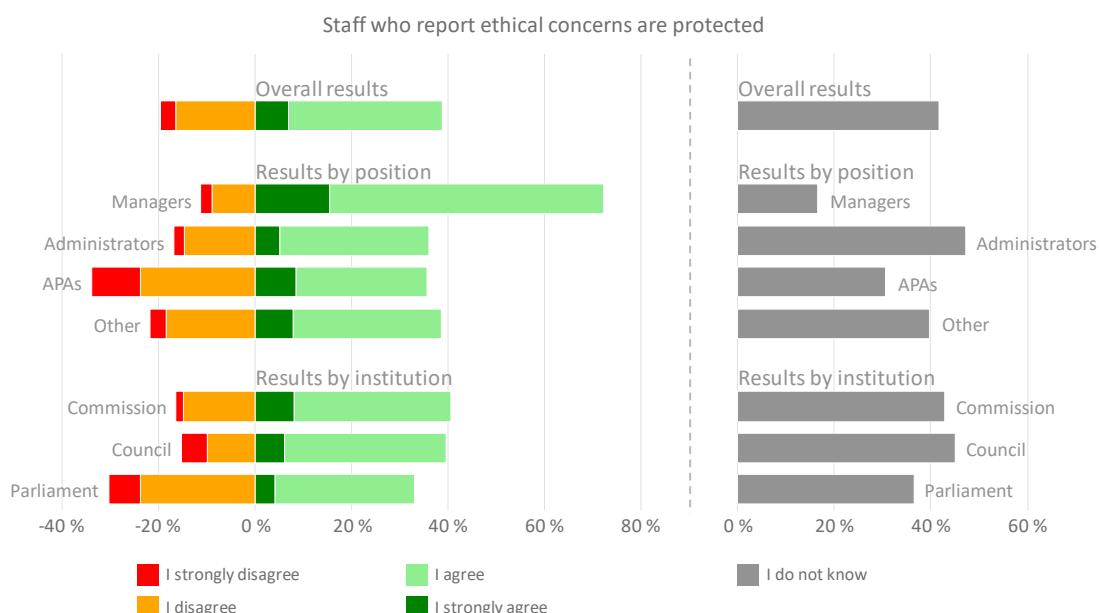
¹⁷ Answers to survey questions 11.9 and 11.10, see *Annex II — Results of the survey*.

Figure 8 – Perceived security in reporting ethics issues is low:

(a) Around half of staff would feel safe reporting ethical issues



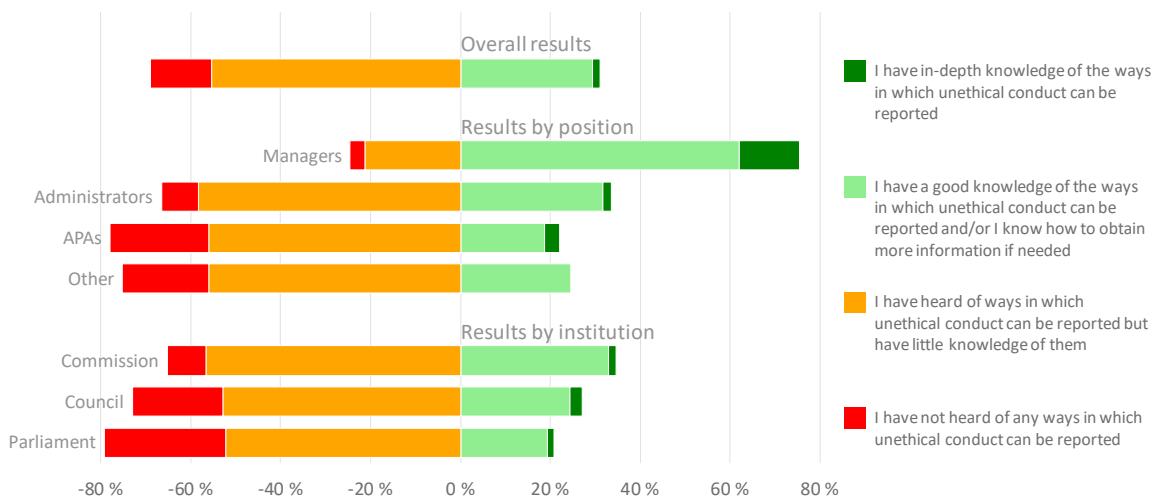
(b) Only a third of staff believe that those reporting ethics issues are protected



Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 11.2 and 11.5 (see [Annex II — Results of the survey](#)).

85 Reluctance to report ethical issues may also result from a lack of knowledge about the relevant procedures and safeguards. Around 55 % of staff members claim to have heard of ways in which unethical behaviour can be reported but to have little knowledge of those ways. A further 14 % say they have not heard of any ways in which unethical behaviour can be reported (see *Figure 9*).

Figure 9 – Almost 70 % of staff members have little or no knowledge about ways to report unethical conduct



Source: ECA, extrapolated results of the survey of staff of three EU institutions: answers to question 3 (see *Annex II — Results of the survey*).

Conclusions and recommendations

86 Any unethical behaviour by staff and Members of EU institutions and bodies attracts high public interest and reduces trust in EU institutions. Any weakness in this respect may result in reputational damage to the image of the EU and its institutions. Unethical behaviour is also linked with the risk of corruption and fraud (see paragraphs [06](#) and [07](#)).

87 We concluded that, to a large extent, the audited institutions had put in place for staff and Members adequate ethical frameworks with room for improvement, consisting of legal requirements and procedures for enforcing them (including investigative and sanction mechanisms). We found that there is no common EU ethical framework governing the work of the representatives of Member States in the Council (see paragraphs [24](#) to [31](#)).

88 We identified a number of weaknesses (not all of which are applicable to each of the audited institutions) with regard to strategies on ethics (see paragraphs [33](#) to [38](#)), verification procedures, assessment criteria and guidance on the criteria for staff (see paragraphs [39](#) to [45](#)), scrutiny of the Members' declarations (see paragraphs [46](#) to [50](#)), gifts and entertainment policies (see paragraphs [51](#) and [59](#)), whistleblowing rules for APAs (see paragraphs [54](#) to [56](#)), as well as post-employment provisions for MEPs (see paragraphs [57](#) to [63](#)).

Recommendation 1 – Improve the ethical frameworks

The audited institutions should address the above weaknesses in their ethical frameworks by:

- (1) developing overall strategies on ethics (Parliament and Council),
- (2) formalising procedures for checks on declarations and developing clearer guidance on the assessment criteria for staff (Parliament, Council and Commission),
- (3) enhancing the scrutiny of the Members' declarations by establishing written standard procedures on checks on accuracy and completeness of information (Parliament and Commission),
- (4) increasing the clarity and coverage of the gifts and entertainment policies (Parliament (for staff), Council (for staff and the President of the European Council) and Commission (for Members)),
- (5) adapting the whistleblowing rules for APAs to reflect better the specific and dependent nature of their posts (Parliament), and
- (6) strengthening the post-mandate provisions for MEPs (Parliament).

Timeframe: 2020

89 The audited institutions have different ethical frameworks because the risks inherent in performing their duties are different in many areas. However, there are areas where there are good reasons to have harmonised approaches to handling ethical issues among institutions. These areas include provisions governing gifts and entertainment policies, outside activities' policies for staff and declarations in relation to the activities of Members' spouses and partners' (see paragraphs **64** to **68**). We also identified examples of good practice (see paragraphs **69** to **76**).

Recommendation 2 – Work together to harmonise elements of the ethical framework and make further efforts to share good practice on ethical matters

The audited institutions should work together to harmonise their ethical frameworks by focusing on:

- (1) their definitions of what constitutes a gift, and the maximum acceptable value of such gifts,
- (2) their ceilings for permitted remuneration of staff for outside activities, and
- (3) the information to be declared by the Members' in respect to the interests of their family members, and activities of their spouses and partners.

The audited institutions are encouraged, notably through inter-institutional forums, to make further efforts to share good practice.

Timeframe: 2020

90 An ethical framework can function well only if the people working for the organisation have the necessary skills and knowledge to apply it, and if they believe in the organisations' commitment to ethics. The survey results present a mixed picture with regard to the staff members' awareness and perception of ethical matters (see paragraphs [77](#) to [85](#)). The results, however, vary between the institutions and the categories of staff. We also noted the following:

- (1) most staff recognise unethical behaviour,
- (2) around half of the staff members assess their knowledge of the ethical framework as "good" or "very good",
- (3) less than half of staff members stated that they had received training on ethics,
- (4) less than a third of staff members stated that the ethics guidance received from their institution was specific and based on real-life examples,
- (5) staff members who have received training on ethics and specific ethics guidance based on real-life examples are much more confident about their ethical competences,
- (6) the majority of staff do not know whether their institution handles ethics issues appropriately,

- (7) the perceived security in reporting ethics issues is low. While around half of staff members would feel safe in reporting an ethics issue, only a third believe that those who report such issues are protected, and
- (8) almost 70 % of staff members have little or no knowledge about ways to report unethical conduct.

Recommendation 3 – Improve staff awareness and perception of the ethical framework and culture

The audited institutions should improve their staff's awareness and perception of their ethical framework and culture. The survey results suggest that this can be done by ensuring that training on ethics contains practical guidance based on real-life examples, and by improving the communication on ethics matters with staff. Particular attention should be paid to whether staff members know how to report any issues related to unethical behaviour, as well as to increasing their sense of security.

Timeframe: 2020

This Report was adopted by the Court of Auditors in Luxembourg at its meeting of 4 July 2019.

For the Court of Auditors

Klaus-Heiner Lehne
President

Annexes

Annex I — Main characteristics of the existing ethical frameworks

Part A – Gifts and entertainment¹⁸

STAFF			
	Council	Parliament	Commission
Acceptable gifts with permission presumed	Under €50	Under €100	Under €50
Acceptable gifts with prior permission required	Between €50 and €150	Above €100	Between €50 and €150
Unacceptable gifts (to be refused)	Above €150	Not Applicable	Above €150

The permission is also presumed for items such as favours and/or invitations to lunches, dinners and receptions at which staff members participate in the interest of the service with the prior permission of their line manager or another appropriate authority. At the Council and the Commission, for official travel, the approved travel order or declaration of expenses is regarded as constituting permission to accept any offers of hospitality mentioned in the travel schedule.

When staff members are prevented from refusing a gift, they may donate it (in case of the Commission, send it to their institution for donation) to a charitable organisation. The institutions keep a register including all relevant information on

¹⁸ They are sums of money or any other physical objects offered without any payment in return or the possibility of participating free of charge in events that are accessible only in return of payment. This includes offers of hospitality, including food, drink, meals and accommodation.

¹⁹ For staff members who are not officials, similar requirements are set out in the Conditions of Employment of Other Servants (CEOS). The institutions further detail these provisions by adopting more specific implementing rules.

gifts and entertainment for which permission is required, and on gifts which are sent to the institution for donation.

MEMBERS

The codes of conduct for Members of the audited institutions regulate gifts and hospitality arrangements. Gifts may be accepted if they do not exceed the threshold of €150 for the Commissioners and the Members of the European Parliament (MEPs). In case of the President of the European Council, any gifts with a value over €150 become the property of the institution.

Members may use such gifts during their mandate. Gifts may be donated to charity, or stored and exhibited at the institutions. These keep a comprehensive public register (at the level of the Administration and/or the Presidency) on gifts received whose value exceeds the threshold.

Part B – Outside activities and assignments²⁰

STAFF

The Staff Regulations state that staff members must ask for permission from the institution before engaging in any outside activity, paid or unpaid, or before carrying out any assignment outside the Union. In the Parliament and Council, this permission should be granted for a maximum of one year, and may be renewed. Members of staff must apply for such permission through their line managers. The audited institutions have provisions setting out cases where the permission should be generally granted or refused. Specific provisions apply to officials on leave on personal grounds, working part-time, elected or appointed to public office.

Activities or assignments to be granted

Permission is usually granted for activities and assignments that:

- do not give rise to an actual or potential conflict of interest (including impartiality and objectivity) with the duties of the staff member,
- are not detrimental to, or incompatible with, the interests and reputation of the institution or the activities of the EU,
- do not impair the staff member's abilities to work for the institution, and
- do not generate any revenue.

²⁰ These are activities or assignments, paid or unpaid, that officials or Members carry out outside the scope of their duties. The term refers to activities of a professional nature, or those which go beyond what can be reasonably considered as leisure activities.

Activities or assignments to be refused

Permission is usually refused for activities and assignments that:

- constitute regulated professions and are paid (such as architect, lawyer, accountant, interpreter/translator, doctor, etc.)²¹,
- are pursued on the basis of an employment relationship with a third party with the exception of educational activities²², and
- involve consultancy, advocacy or lobbying via-à-vis the EU or concern EU activities.

The Council and the Commission set a certain threshold per year. The Parliament staff may not accept any payment other than a reimbursement of costs incurred (directly or indirectly) by performing the activity in question.

MEMBERS

The Treaty on the Functioning of the European Union (TFEU) and the code of conduct for the President of the European Council and the Members of the Commission lay down a general prohibition on engaging in any professional activity or assignment, paid or unpaid, during their terms of office. The Parliament's Rules of Procedure (RoP) do not include any such prohibition, but state that the MEPs should respect general standards of conduct when exercising their duties.

Certain activities and assignments are allowed, provided that they are compatible with the interests of the EU and do not compromise the availability of the Members concerned (e.g. course, seminars, lectures, other communication activities; honorary posts in cultural, artistic and charitable foundations; management of assets or holdings or personal or family fortune in a private capacity). For these activities, there is no approval procedure, only a requirement to disclose these activities in their declaration of financial interests.

Members of the Commission have, however, to inform the President on certain of the allowed activities (such as honorary posts, publication of books and giving unpaid courses).

Part C – Conflicts of interests (Col) upon recruitment, ad-hoc Col and Col in relation to spouse's activities

STAFF

Before being recruited, potential candidates should inform the institution of any potential or actual Col they might have. Based on the information provided, the

²¹ In the case of the Commission, they are assessed on a case-by-case basis.

²² *ibidem*

Appointing Authority should examine whether the candidate has any personal interest which might impair their independence, or any other Col. In performing their duties, members of staff should not deal with matters in which they have any direct or indirect personal interest that might impair their independence. This applies particularly to family and financial interests. If such a situation arises, members of staff must inform their line managers, who will take appropriate action. Staff members must also inform the institution about the current employment of their spouse or partner, so it can assess the compatibility of the spouse's or partner's employment with that of the staff.

MEMBERS

The code of conduct for Members of the institutions requires Members to make a declaration of their interests, including those of the Members' spouse or partner and their ongoing professional activity.

Members must take the necessary steps to address the Col, and must inform the President of their institution of any such situation that arises.

Part D – Post-EU employment and mandate

STAFF

Former staff members are subject to certain obligations, some of which apply to active officials. These obligations are set out in the Staff Regulations; they include provisions pertaining to: Cols, the unauthorised disclosure of information, engaging in occupational activities, the acceptance of certain appointments and benefits, inventions, and the receipts of social benefits and allowances.

Col

When officials find themselves in a Col, they must immediately inform their institution (see *Part C* of this *Annex*). This also applies to staff still in the office but negotiating the anticipated post-employment activities.

Unauthorised disclosure of information

Officials may not disclose any information received in line of their duty, unless that information has already been made available to public. This also applies to staff leaving the employment of the EU.

Engagement in occupational activities

Former officials intending to engage in an occupational activity (whether or not for payment) within two years of leaving the service must inform their institution. If the planned activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the legitimate interests of the

institution, the Appointing Authority may either forbid them from performing it, or give its approval subject to certain conditions. Former senior officials are subject to additional specific rules with regard to lobbying staff of their former institution, or advocating on behalf of a business, client or employer on matters for which they were responsible during their last three years in the service.

Acceptance of certain appointments and benefits

Officials continue, after leaving the service, to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits (e.g. honours, decorations, favours, gifts or payments).

Inventions

Any invention relating to the work of the EU made by officials during the year following the expiration of their term of duty should be deemed to have been made in the course of or in connection with the performance of their work.

Reception of social benefits and allowances

Staff members in receipt of an invalidity allowance may not engage in paid employment without the prior authorisation of their institution. If they do so, their pension allowance can be reduced. The same applies to allowances related to “non-active status”, “leave in the interest of the service” and “retirement in the interest of the service”. Former officials carrying out activities in exchange for payment are not covered by the EU’s social security scheme.

MEMBERS

Former Members of the EU institutions are subject to certain obligations, some of which apply to them during their mandate (e.g. unauthorised disclosure of information). Most of these obligations stem from the TFEU and the codes of conduct for Members of the institutions.

There are specific provisions governing engagement in occupational activities, as well as on the receipt of social benefits and allowances.

The general requirements in respect of the Col (see *Part C* of this *Annex*) also apply to the situations arising from the anticipated post-employment activities.

Occupational activities

Parliament

Former MEPs engaged in lobbying and representational activities linked to the EU may not benefit from the facilities granted to former MEPs (e.g. the lifelong access pass).

Council

Former Presidents of the European Council continue, after ceasing to hold office, to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. During the 18 months after the end of their term of office, they may not lobby Members of EU institutions or their staff, or advocate to them on behalf of a business, client or employer.

Former Presidents intending to engage in an occupation during the 18 months after ceasing to hold office must inform the Secretary-General in good time, as far as possible with a minimum of four weeks' notice. The Secretary-General examines the nature of the planned occupation and, if it is deemed appropriate, inform the Council. This does not apply where the former President performs a role in a public office.

Commission

After ceasing to hold office, former Members continue to be bound by their duty of integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits and by the duties of collegiality and discretion.

They must inform their institution in advance about any professional activity they intend to undertake after their term of office expires (during a period lasting two years for Commissioners, and three for the President). If the planned occupation is related to the content of the portfolio of the former Member, the College may decide only after having consulted the Independent Ethical Committee, except when the former Commissioners engage in a public office. During the two years (three years for former Presidents) after they cease to hold office, they may not lobby Members of the Commission and their staff on behalf of any business, client or employer on matters for which they have been responsible within their portfolio as Commissioner during their mandate.

Receipt of social benefits and allowances

Parliament

Former MEPs are entitled to a transitional allowance after they cease to hold office. This allowance is not reduced if they assume a public office without becoming a "senior official exercising public authority" or are employed in the private sector. MEPs entitled to the transitional allowance and to an old-age or invalidity pension must opt for one of these three regimes. Payment of the old-age pension is suspended for any pension recipient who is re-elected to the Parliament. An invalidity pension which a former MEP received by virtue of a mandate which he or she exercised in another parliament simultaneously with the mandate in the European Parliament is offset against the invalidity pension paid by the EU.

Council and Commission

Any remunerated activity performed by former Presidents of the European Council and Members of the Commission reduces their transitional allowance. Entitlement to the transitional allowance ceases if the former President of the European Council or Commissioner is reappointed to office in the institutions of the EU, is elected to the Parliament, reaches the pensionable age, or dies. The non-accumulation principle of transitional allowances and pensions also applies to Members who held a public office more than once, if the combined amount exceeds the remuneration received while in office.

Part E – Anti-harassment

STAFF
All three institutions covered by this report have set up the key elements of an anti-harassment policy.
Anti-harassment policies
The audited institutions' policies have clearly condemned harassment in all its forms and stated that the harasser's position in the organisation is irrelevant. The three institutions have all set up suitable complaint procedures open to victims of harassment.
Monitoring and evaluation
The three institutions, in their strategic documents (in a resolution in the case of the Parliament), have stated their commitment to monitoring and evaluating their anti-harassment policies.

MEMBERS

The Parliament has established a specific set of rules and procedures on anti-harassment for its Members.

In the remaining two institutions (the Council and the Commission), the rules on anti-harassment applicable to Members (President of the European Council and the Commissioners) are based on more generic ethical obligations set out in the relevant codes of conduct.

Part F – Whistleblowing

STAFF

The audited institutions have established whistleblowing policies covering the definition, reporting channels and protective measures.

MEMBERS

The general provisions of the TFEU apply, as do the codes of conduct for the President of the European Council, for the MEPs and for the Commissioners. There are no protective measures and procedures applicable to Members equivalent to those of staff.

Annex II — Results of the survey

Methodological note

We selected a random sample of staff from three EU institutions, which we stratified based on two criteria:

- The employing institution:
 - the European Parliament; at the time of sampling employing 9 764 staff,
 - the European Council and the Council of the European Union, treated as one institution for the purposes of the survey; at the time of sampling employing 3 031 staff, and
 - the European Commission; at the time of sampling employing 30 372 staff.
- The type of position held:
 - manager (including Secretaries-General, Directors-General, Directors, Heads of Cabinet, Heads of Unit and Principal Advisers),
 - administrator (including staff holding “AD” posts without managerial duties – e.g. general administrators, translators and lawyers; contract agents of function group IV and seconded national experts),
 - Accredited Parliamentary Assistant (APA) – only in the European Parliament, and
 - other (including personnel holding “AST” posts – e.g. senior assistants and assistants; personnel holding “SC” posts – e.g. secretaries and clerks; and contract agents of function group I-III).

Using these criteria, we drew our sample of respondents from ten distinct subpopulations of staff (three institutions times three shared types of position, plus one additional type of position (APA) present in the European Parliament only).

The overall number of valid responses was 798. The overall response rate was 39 %. For individual subpopulations, the response rate varied between 34 % and 69 % with the exception of the APA category where the response rate was 12 %. The figures below are the extrapolated results of the survey. They represent our best estimate for the respective categories of staff within the three institutions. The overview of the main results of the survey is presented in *Table 2*.

Table 2 – Overview of the main results of the survey

	Managers	Administrators	APAs	Other	Commission	Council	Parliament	TOTAL
1. How would you assess your knowledge of the ethical framework applicable within your institution?								
I have an in-depth knowledge of the ethical framework	11.5 %	3.2 %	5.1 %	2.0 %	3.7 %	2.0 %	1.8 %	3.2 %
I have a good knowledge of the ethical framework and/or I know how to obtain more information if needed	80.7 %	63.8 %	30.5 %	36.1 %	59.6 %	39.2 %	26.4 %	50.6 %
I have heard about the ethical framework but do not know much about it	6.8 %	28.9 %	50.8 %	45.4 %	29.4 %	44.6 %	55.0 %	36.2 %
I have not heard anything about an ethical framework	1.1 %	4.1 %	13.6 %	16.6 %	7.4 %	14.2 %	16.8 %	10.0 %
2.1. Are you familiar with the requirements applicable to the following? : Members' conduct (depending on your Institution: President of the European Council, European Commissioners, MEPs)								
I have in-depth knowledge of the requirements	9.3 %	2.1 %	6.8 %	1.1 %	2.0 %	3.1 %	2.5 %	2.2 %
I have a good knowledge of the requirements	49.9 %	26.8 %	39.0 %	16.2 %	25.7 %	20.2 %	18.8 %	23.7 %
I have some knowledge of the requirements and know how to obtain more information	35.8 %	53.2 %	39.0 %	44.8 %	46.5 %	42.3 %	54.5 %	48.0 %
I do not know the requirements	5.0 %	17.9 %	15.3 %	37.8 %	25.9 %	34.5 %	24.2 %	26.1 %
2.2. Are you familiar with the requirements applicable to the following? : Avoidance of conflict of interest								
I have in-depth knowledge of the requirements	29.9 %	19.6 %	13.6 %	5.3 %	15.6 %	9.3 %	7.7 %	13.4 %
I have a good knowledge of the requirements	60.3 %	51.6 %	45.8 %	29.9 %	44.7 %	36.9 %	35.1 %	42.0 %
I have some knowledge of the requirements and know how to obtain more information	9.0 %	24.1 %	35.6 %	53.1 %	34.0 %	39.8 %	45.1 %	37.0 %
I do not know the requirements	0.8 %	4.7 %	5.1 %	11.7 %	5.7 %	13.9 %	12.1 %	7.7 %
2.3. Are you familiar with the requirements applicable to the following? : Declaration of gainful employment of a spouse								
I have in-depth knowledge of the requirements	31.2 %	16.8 %	10.2 %	4.1 %	11.0 %	22.8 %	9.4 %	11.5 %
I have a good knowledge of the requirements	52.6 %	43.0 %	32.2 %	34.0 %	41.6 %	37.3 %	31.2 %	38.9 %
I have some knowledge of the requirements and know how to obtain more information	14.9 %	31.3 %	20.3 %	44.8 %	37.4 %	27.1 %	34.9 %	36.1 %
I do not know the requirements	1.4 %	8.9 %	37.3 %	17.1 %	10.0 %	12.8 %	24.5 %	13.5 %
2.4. Are you familiar with the requirements applicable to the following? : Rules on outside activities								
I have in-depth knowledge of the requirements	36.7 %	21.7 %	15.3 %	3.4 %	15.6 %	17.9 %	7.3 %	13.9 %
I have a good knowledge of the requirements	54.0 %	47.1 %	33.9 %	32.6 %	42.2 %	40.3 %	34.2 %	40.3 %
I have some knowledge of the requirements and know how to obtain more information	8.7 %	27.0 %	45.8 %	50.9 %	35.8 %	35.6 %	44.3 %	37.7 %
I do not know the requirements	0.6 %	4.2 %	5.1 %	13.1 %	6.3 %	6.2 %	14.2 %	8.1 %
2.5. Are you familiar with the requirements applicable to the following? : Obligation of confidentiality								
I have in-depth knowledge of the requirements	52.3 %	24.4 %	18.6 %	12.4 %	18.9 %	31.6 %	20.1 %	20.1 %
I have a good knowledge of the requirements	43.3 %	57.3 %	42.4 %	37.7 %	50.5 %	43.4 %	38.0 %	47.2 %
I have some knowledge of the requirements and know how to obtain more information	4.1 %	14.7 %	33.9 %	41.7 %	24.9 %	18.8 %	37.0 %	27.2 %
I do not know the requirements	0.3 %	3.5 %	5.1 %	8.2 %	5.7 %	6.2 %	4.9 %	5.5 %
2.6. Are you familiar with the requirements applicable to the following? : Rules on gifts, payments, honours and hospitality								
I have in-depth knowledge of the requirements	34.1 %	19.6 %	16.9 %	5.7 %	15.3 %	15.2 %	9.2 %	13.9 %
I have a good knowledge of the requirements	54.1 %	53.3 %	37.3 %	32.1 %	47.1 %	42.9 %	30.6 %	43.1 %
I have some knowledge of the requirements and know how to obtain more information	11.2 %	21.7 %	42.4 %	48.4 %	31.9 %	28.8 %	42.8 %	34.2 %
I do not know the requirements	0.6 %	5.3 %	3.4 %	13.8 %	5.7 %	13.1 %	17.3 %	8.8 %
2.7. Are you familiar with the requirements applicable to the following? : Rules in case of intention to run for public office and taking up public office								
I have in-depth knowledge of the requirements	15.6 %	5.9 %	16.9 %	2.7 %	4.6 %	5.0 %	7.9 %	5.4 %
I have a good knowledge of the requirements	40.0 %	21.3 %	25.4 %	13.3 %	19.4 %	17.6 %	17.2 %	18.8 %
I have some knowledge of the requirements and know how to obtain more information	37.1 %	50.9 %	39.0 %	42.3 %	46.1 %	43.6 %	45.7 %	45.8 %
I do not know the requirements	7.3 %	21.9 %	18.6 %	41.8 %	29.8 %	33.8 %	29.2 %	30.0 %

	Managers	Administrators	APAs	Other	Commission	Council	Parliament	TOTAL
2.8. Are you familiar with the requirements applicable to the following? : Rules on post-EU employment restrictions								
I have in-depth knowledge of the requirements	17.7 %	5.3 %	8.5 %	3.9 %	5.6 %	5.2 %	4.9 %	5.4 %
I have a good knowledge of the requirements	41.5 %	20.9 %	13.6 %	10.9 %	18.9 %	15.5 %	11.7 %	17.1 %
I have some knowledge of the requirements and know how to obtain more information	36.1 %	56.2 %	40.7 %	46.1 %	52.7 %	44.9 %	43.2 %	50.0 %
I do not know the requirements	4.7 %	17.6 %	37.3 %	39.2 %	22.8 %	34.5 %	40.3 %	27.6 %
2.9. Are you familiar with the requirements applicable to the following? : Rules and guidance on communication with the public and media								
I have in-depth knowledge of the requirements	27.4 %	14.0 %	13.6 %	7.1 %	11.7 %	9.6 %	11.5 %	11.5 %
I have a good knowledge of the requirements	53.1 %	44.6 %	25.4 %	19.4 %	37.1 %	26.4 %	21.6 %	32.8 %
I have some knowledge of the requirements and know how to obtain more information	18.5 %	36.3 %	40.7 %	46.0 %	38.7 %	48.5 %	41.4 %	40.0 %
I do not know the requirements	1.1 %	5.1 %	20.3 %	27.4 %	12.5 %	15.4 %	25.5 %	15.7 %
2.10. Are you familiar with the requirements applicable to the following? : Rules and guidance on the use of social media								
I have in-depth knowledge of the requirements	15.6 %	6.3 %	8.5 %	5.0 %	5.3 %	10.2 %	8.0 %	6.3 %
I have a good knowledge of the requirements	49.8 %	41.5 %	32.2 %	16.4 %	32.3 %	29.1 %	24.0 %	30.2 %
I have some knowledge of the requirements and know how to obtain more information	31.4 %	41.4 %	27.1 %	48.6 %	44.9 %	43.2 %	39.4 %	43.5 %
I do not know the requirements	3.2 %	10.7 %	32.2 %	29.9 %	17.5 %	17.4 %	28.7 %	20.0 %
2.11. Are you familiar with the requirements applicable to the following? : Rules and guidance on the use of information and communications technology								
I have in-depth knowledge of the requirements	18.7 %	8.2 %	11.9 %	5.0 %	7.9 %	10.0 %	5.2 %	7.5 %
I have a good knowledge of the requirements	53.4 %	45.1 %	20.3 %	21.6 %	36.9 %	34.9 %	23.9 %	33.8 %
I have some knowledge of the requirements and know how to obtain more information	24.2 %	36.0 %	40.7 %	49.1 %	40.8 %	41.5 %	43.7 %	41.5 %
I do not know the requirements	3.7 %	10.7 %	27.1 %	24.2 %	14.3 %	13.6 %	27.2 %	17.2 %
2.12. Are you familiar with the requirements applicable to the following? : Rules with regards to psychological and sexual harassment								
I have in-depth knowledge of the requirements	36.6 %	6.8 %	16.9 %	7.5 %	8.2 %	14.6 %	9.6 %	9.0 %
I have a good knowledge of the requirements	56.0 %	52.6 %	35.6 %	26.1 %	44.1 %	37.8 %	28.3 %	40.1 %
I have some knowledge of the requirements and know how to obtain more information	7.3 %	34.5 %	44.1 %	49.1 %	36.6 %	40.7 %	51.4 %	40.2 %
I do not know the requirements	0.2 %	6.1 %	3.4 %	17.2 %	11.1 %	6.9 %	10.7 %	10.7 %
2.13. Are you familiar with the requirements applicable to the following? : Rules on whistle-blowing								
I have in-depth knowledge of the requirements	16.6 %	5.5 %	6.8 %	3.2 %	5.5 %	6.2 %	3.3 %	5.1 %
I have a good knowledge of the requirements	52.0 %	32.2 %	16.9 %	19.7 %	32.5 %	16.1 %	12.4 %	26.8 %
I have some knowledge of the requirements and know how to obtain more information	27.8 %	39.6 %	50.8 %	34.5 %	34.5 %	40.3 %	45.1 %	37.3 %
I do not know the requirements	3.6 %	22.7 %	25.4 %	42.5 %	27.5 %	37.5 %	39.1 %	30.8 %
2.14. Are you familiar with the requirements applicable to the following? : Contacts with interest representatives (lobbying)								
I have in-depth knowledge of the requirements	24.3 %	9.5 %	13.6 %	2.3 %	8.0 %	5.3 %	5.0 %	7.1 %
I have a good knowledge of the requirements	45.0 %	31.7 %	39.0 %	14.8 %	26.6 %	19.3 %	22.1 %	25.0 %
I have some knowledge of the requirements and know how to obtain more information	23.9 %	40.1 %	40.7 %	40.6 %	37.5 %	43.0 %	44.9 %	39.5 %
I do not know the requirements	6.7 %	18.8 %	6.8 %	42.4 %	28.0 %	32.3 %	28.0 %	28.3 %
3. How would you assess your awareness of the ways in which unethical conduct (a conduct which does not appear to be in compliance with the Institution's ethical framework) can be reported?								
I have in-depth knowledge of the ways in which unethical conduct can be reported	13.4 %	1.8 %	3.4 %	0.2 %	1.7 %	2.7 %	1.5 %	1.7 %
I have a good knowledge of the ways in which unethical conduct can be reported and/or I know how to obtain more information if needed	61.9 %	31.6 %	18.6 %	24.6 %	33.0 %	24.4 %	19.4 %	29.3 %
I have heard of ways in which unethical conduct can be reported but have little knowledge of them	21.2 %	58.3 %	55.9 %	56.1 %	56.7 %	53.0 %	52.2 %	55.4 %
I have not heard of any ways in which unethical conduct can be reported	3.5 %	8.2 %	22.0 %	19.2 %	8.6 %	20.0 %	27.0 %	13.5 %

	Managers	Administrators	APAs	Other	Commission	Council	Parliament	TOTAL
4. Have you attended any ethics training (e.g. courses, seminars, sessions) held by your institution or your service?								
Yes, I attend regular training courses in ethics	16.6 %	3.0 %	1.7 %	2.3 %	4.1 %	2.9 %	0.8 %	3.3 %
Yes, I attended a one-off training in ethics	54.7 %	43.4 %	6.8 %	42.7 %	50.6 %	34.1 %	17.3 %	41.9 %
No	28.7 %	53.6 %	91.5 %	55.0 %	45.2 %	63.1 %	81.9 %	54.8 %
5. Did the training provide you with an adequate understanding of the ethics framework?								
Yes, I believe the training provided me with an adequate understanding	65.5 %	42.7 %	5.1 %	34.6 %	47.5 %	27.4 %	13.7 %	38.4 %
No, I feel my understanding of the ethics framework is inadequate	5.8 %	3.7 %	3.4 %	10.4 %	7.3 %	9.5 %	4.4 %	6.8 %
NO RESPONSE	28.7 %	53.6 %	91.5 %	55.0 %	45.2 %	63.1 %	81.9 %	54.8 %
6. Why have you not attended any training in ethics?								
Because I am not interested in ethical issues	0.0 %	1.7 %	3.4 %	3.2 %	2.8 %	1.8 %	1.2 %	2.4 %
Because I was not aware of any training in ethics	12.1 %	22.4 %	27.1 %	37.3 %	20.7 %	48.2 %	48.0 %	28.8 %
Because I was too busy to attend	12.9 %	24.5 %	57.6 %	10.4 %	18.5 %	8.0 %	24.6 %	19.2 %
My application to attend a training in ethics was not approved by the management	0.0 %	0.0 %	0.0 %	0.5 %	0.0 %	0.0 %	0.9 %	0.2 %
Other, please specify	3.3 %	3.0 %	3.4 %	2.4 %	1.6 %	2.9 %	6.3 %	2.8 %
NO RESPONSE	71.7 %	48.3 %	8.5 %	46.2 %	56.3 %	39.1 %	19.0 %	46.7 %
7. Are you required to declare (once or on a regular basis) that you are aware of the ethical rules to which you are subject?								
Yes	40.4 %	28.0 %	25.4 %	18.4 %	26.7 %	22.1 %	16.8 %	24.1 %
No	44.8 %	41.6 %	37.3 %	49.1 %	43.0 %	47.7 %	50.0 %	44.9 %
I do not know	14.8 %	30.4 %	37.3 %	32.5 %	30.3 %	30.2 %	33.2 %	30.9 %
8. Are you required to confirm (explicitly or tacitly) on a regular basis whether you have complied with the ethical rules in force?								
Yes	19.1 %	11.9 %	5.1 %	6.2 %	11.4 %	7.4 %	3.6 %	9.4 %
Yes, but only regarding specific aspects of my duties	25.5 %	14.3 %	8.5 %	12.5 %	14.6 %	13.2 %	11.4 %	13.7 %
No	43.6 %	54.2 %	55.9 %	55.9 %	51.7 %	59.7 %	61.8 %	54.5 %
I do not know	11.8 %	19.6 %	30.5 %	25.5 %	22.3 %	19.7 %	23.3 %	22.4 %
9. Does your institution or service provide you with guidance on ethical behaviour on the basis of real-world examples and by discussing how specific situations have been handled in the past and/or are expected to be handled in the future?								
Yes	58.6 %	32.7 %	30.5 %	23.7 %	31.6 %	31.2 %	23.9 %	29.8 %
No	41.4 %	67.3 %	69.5 %	76.3 %	68.4 %	68.8 %	76.1 %	70.2 %
10. Are you aware of the consequences of and sanctions against unethical behaviour?								
I have a good knowledge of the applicable sanctions	57.6 %	26.9 %	18.6 %	15.6 %	26.7 %	23.4 %	10.9 %	22.9 %
I have heard about the possibility of sanctions being imposed for unethical behaviour, but do not know what they are	39.2 %	64.7 %	64.4 %	65.6 %	60.9 %	66.5 %	72.2 %	63.9 %
I am not aware of any penalties for unethical behaviour	3.3 %	8.5 %	16.9 %	18.8 %	12.4 %	10.1 %	16.9 %	13.2 %
11.1. What is your perception on the following statement: I recognise unethical conduct when I see it								
I strongly agree	44.7 %	36.6 %	39.0 %	21.3 %	32.1 %	27.1 %	25.5 %	30.2 %
I agree	50.9 %	60.7 %	55.9 %	69.8 %	63.6 %	62.8 %	65.9 %	64.1 %
I disagree	1.4 %	0.2 %	3.4 %	3.0 %	1.4 %	4.1 %	1.9 %	1.7 %
I strongly disagree	3.0 %	0.1 %	0.0 %	0.1 %	0.2 %	0.6 %	0.4 %	0.2 %
I do not know	0.0 %	2.3 %	1.7 %	5.8 %	2.8 %	5.3 %	6.2 %	3.8 %

	Managers	Administrators	APAs	Other	Commission	Council	Parliament	TOTAL
11.2 What is your perception on the following statement: I would feel safe reporting an ethical issue								
I strongly agree	28.9 %	11.1 %	15.3 %	11.7 %	13.7 %	14.5 %	7.7 %	12.4 %
I agree	55.6 %	45.2 %	20.3 %	34.1 %	38.9 %	43.1 %	40.5 %	39.6 %
I disagree	6.9 %	30.4 %	37.3 %	30.1 %	30.4 %	21.5 %	28.8 %	29.4 %
I strongly disagree	1.7 %	4.8 %	11.9 %	10.2 %	7.3 %	4.9 %	8.7 %	7.4 %
I do not know	6.9 %	8.5 %	15.3 %	13.9 %	9.7 %	15.9 %	14.3 %	11.2 %
11.3 What is your perception on the following statement: Staff do not hesitate to report unethical behaviour to their hierarchical superiors								
I strongly agree	5.7 %	4.3 %	6.8 %	4.1 %	4.9 %	2.5 %	3.3 %	4.4 %
I agree	42.2 %	20.8 %	10.2 %	15.6 %	20.1 %	16.5 %	16.2 %	19.0 %
I disagree	31.1 %	43.9 %	47.5 %	31.1 %	38.4 %	27.0 %	38.9 %	37.7 %
I strongly disagree	3.8 %	8.2 %	18.6 %	18.2 %	13.0 %	11.1 %	13.5 %	13.0 %
I do not know	17.1 %	22.8 %	16.9 %	31.0 %	23.5 %	42.9 %	28.0 %	25.9 %
11.4 What is your perception on the following statement: Staff in my unit/department are able to recognise ethical concerns								
I strongly agree	20.1 %	15.6 %	13.6 %	10.5 %	13.6 %	12.5 %	13.3 %	13.5 %
I agree	69.0 %	53.9 %	57.6 %	49.5 %	52.3 %	50.1 %	55.2 %	52.8 %
I disagree	4.7 %	9.1 %	11.9 %	12.9 %	11.4 %	10.4 %	8.8 %	10.8 %
I strongly disagree	1.4 %	3.0 %	0.0 %	2.1 %	2.5 %	1.8 %	2.1 %	2.4 %
I do not know	4.7 %	18.3 %	16.9 %	24.9 %	20.1 %	25.2 %	20.5 %	20.6 %
11.5 What is your perception on the following statement: Staff who report ethical concerns are protected								
I strongly agree	15.4 %	5.2 %	8.5 %	7.8 %	8.0 %	6.2 %	4.1 %	7.0 %
I agree	56.8 %	30.9 %	27.1 %	30.7 %	32.6 %	33.3 %	29.0 %	31.8 %
I disagree	9.0 %	14.7 %	23.7 %	18.5 %	14.9 %	9.9 %	23.7 %	16.5 %
I strongly disagree	2.3 %	2.1 %	10.2 %	3.4 %	1.6 %	5.4 %	6.7 %	3.0 %
I do not know	16.6 %	47.2 %	30.5 %	39.7 %	42.9 %	45.1 %	36.5 %	41.6 %
11.6 What is your perception on the following statement: My hierarchical superiors lead by example in matters of ethics								
I strongly agree	31.5 %	27.5 %	22.0 %	15.5 %	23.3 %	20.0 %	18.7 %	22.0 %
I agree	49.1 %	34.6 %	39.0 %	39.3 %	36.2 %	45.0 %	39.5 %	37.6 %
I disagree	9.5 %	16.3 %	15.3 %	17.9 %	17.7 %	9.4 %	15.8 %	16.7 %
I strongly disagree	3.7 %	3.4 %	13.6 %	6.7 %	3.9 %	4.5 %	10.1 %	5.3 %
I do not know	6.2 %	18.2 %	10.2 %	20.6 %	18.8 %	21.1 %	15.9 %	18.3 %
11.7 What is your perception on the following statement: My unit/department always takes the matter of unethical behaviour seriously								
I strongly agree	39.7 %	30.9 %	16.9 %	20.0 %	28.9 %	16.9 %	18.7 %	25.8 %
I agree	50.3 %	34.1 %	37.3 %	40.9 %	37.6 %	37.7 %	39.8 %	38.1 %
I disagree	3.0 %	7.4 %	11.9 %	13.3 %	8.2 %	9.7 %	16.0 %	10.1 %
I strongly disagree	3.0 %	1.7 %	10.2 %	3.8 %	2.3 %	3.6 %	5.4 %	3.1 %
I do not know	4.0 %	25.9 %	23.7 %	21.9 %	23.0 %	32.1 %	20.0 %	23.0 %

	Managers	Administrators	APAs	Other	Commission	Council	Parliament	TOTAL
11.8 What is your perception on the following statement: Practices in my unit/department are consistent with the principles of the ethical framework								
I strongly agree	44.4 %	33.6 %	23.7 %	22.5 %	30.7 %	20.0 %	25.3 %	28.7 %
I agree	47.6 %	47.1 %	35.6 %	42.0 %	45.8 %	52.6 %	37.0 %	44.3 %
I disagree	0.8 %	5.7 %	18.6 %	14.9 %	7.8 %	9.8 %	17.6 %	10.2 %
I strongly disagree	2.7 %	0.0 %	6.8 %	1.6 %	0.8 %	0.6 %	2.3 %	1.1 %
I do not know	4.5 %	13.6 %	15.3 %	19.0 %	14.9 %	17.0 %	17.9 %	15.7 %
11.9 What is your perception on the following statement: The ethical culture in my institution is strong								
I strongly agree	24.5 %	21.3 %	18.6 %	11.5 %	19.7 %	12.2 %	9.7 %	16.9 %
I agree	55.6 %	48.6 %	42.4 %	34.1 %	43.1 %	46.3 %	38.0 %	42.1 %
I disagree	5.7 %	10.0 %	22.0 %	19.6 %	12.0 %	7.9 %	24.9 %	14.7 %
I strongly disagree	5.2 %	2.8 %	8.5 %	3.8 %	3.3 %	3.6 %	4.7 %	3.7 %
I do not know	9.0 %	17.2 %	8.5 %	31.1 %	21.9 %	30.0 %	22.7 %	22.7 %
11.10 What is your perception on the following statement: My institution lives up to its stated policy on ethics and integrity								
I strongly agree	21.7 %	13.9 %	13.6 %	9.0 %	13.1 %	10.9 %	9.0 %	12.0 %
I agree	52.4 %	41.3 %	37.3 %	35.2 %	40.0 %	45.9 %	33.4 %	38.9 %
I disagree	10.9 %	19.1 %	23.7 %	14.0 %	15.9 %	5.0 %	22.3 %	16.6 %
I strongly disagree	5.1 %	6.9 %	8.5 %	3.1 %	5.3 %	2.4 %	5.6 %	5.2 %
I do not know	9.8 %	18.8 %	16.9 %	38.8 %	25.6 %	35.8 %	29.7 %	27.3 %
11.11 What is your perception on the following statement: The rules and procedures for reporting violations and concerns are clear								
I strongly agree	11.6 %	8.2 %	11.9 %	4.0 %	7.0 %	8.7 %	4.9 %	6.7 %
I agree	61.1 %	37.2 %	27.1 %	34.9 %	39.7 %	34.8 %	28.5 %	36.8 %
I disagree	19.7 %	35.2 %	32.2 %	24.9 %	29.9 %	26.9 %	30.0 %	29.7 %
I strongly disagree	3.3 %	0.7 %	10.2 %	8.7 %	2.7 %	5.4 %	11.4 %	4.8 %
I do not know	4.3 %	18.7 %	18.6 %	27.5 %	20.7 %	24.1 %	25.2 %	22.0 %
11.12 What is your perception on the following statement: Any ethical concerns reported are dealt with appropriately								
I strongly agree	8.7 %	3.7 %	8.5 %	5.2 %	4.9 %	4.9 %	4.7 %	4.8 %
I agree	38.0 %	21.1 %	15.3 %	16.5 %	19.5 %	18.0 %	20.2 %	19.6 %
I disagree	12.8 %	13.5 %	20.3 %	14.3 %	14.1 %	7.7 %	16.3 %	14.1 %
I strongly disagree	2.0 %	1.5 %	6.8 %	3.2 %	1.6 %	3.0 %	5.1 %	2.5 %
I do not know	38.5 %	60.2 %	49.2 %	60.9 %	59.9 %	66.4 %	53.6 %	59.0 %
12. Are the requirements of the ethical framework sufficiently communicated (e.g. during meetings, training courses, events, on the intranet) to staff?								
Yes	68.0 %	48.3 %	42.4 %	55.5 %	56.1 %	49.9 %	41.1 %	52.2 %
No	32.0 %	51.7 %	57.6 %	44.5 %	43.9 %	50.1 %	58.9 %	47.8 %
13. In your opinion, does the ethical framework sufficiently address all potential issues?								
Yes, I believe so	65.0 %	38.7 %	23.7 %	25.1 %	36.6 %	32.6 %	22.7 %	33.2 %
No, I do not think so	13.8 %	20.7 %	28.8 %	16.3 %	19.2 %	16.8 %	18.2 %	18.8 %
I do not know	21.2 %	40.5 %	47.5 %	58.6 %	44.2 %	50.6 %	59.1 %	48.0 %
14. What is your perception of the sanctions your organisation adopted in the past against unethical conduct?								
They are dissuasive, but disproportionately severe	2.7 %	0.0 %	5.1 %	0.5 %	0.2 %	0.1 %	2.0 %	0.6 %
They are sufficiently dissuasive	33.2 %	14.4 %	15.3 %	10.7 %	13.8 %	14.2 %	13.2 %	13.7 %
They are not sufficiently dissuasive	28.4 %	19.3 %	32.2 %	21.1 %	20.4 %	14.4 %	25.6 %	21.1 %
I have no opinion	35.7 %	66.3 %	47.5 %	67.7 %	65.7 %	71.3 %	59.2 %	64.6 %

Source: ECA.

Acronyms and abbreviations

APA(s): Accredited Parliamentary Assistant(s),

AMP: Annual Management Plan,

CEOS: Conditions of Employment of Other Servants,

Council: Council of the European Union and the European Council,

CoI: Conflict of Interest,

DG: Directorate-General of the European Commission, **AGRI:** Agricultural and Rural Development, **COMP:** Competition, **ENER:** Energy, **HR:** Human Resources and Security, **RTD:** Research and Innovation and **SG:** Secretariat-General,

EU: European Union,

Commission: European Commission,

Parliament: European Parliament,

IR: Internal Rules,

MEP(s): Member(s) of the European Parliament,

OECD: Organisation for Economic Cooperation and Development,

RoP: Rules of Procedures,

TEU: Treaty of the European Union,

TFEU: Treaty on the Functioning of the European Union.

Glossary

Anti-harassment: This is combatting harassment. Workplace harassment is more and more a sensitive area of effective human resources' management. It is also known as "mobbing", and includes different types of discrimination and acts of violation that are not confined to one specific group of staff. These can be categorised into emotional and physical abuse.

Administrative inquiries: These mean all actions taken by the authorised officials to establish the facts and, where necessary, determine whether there has been a failure to comply with the obligations incumbent on EU institutions' officials. In the Commission, administrative inquiries are carried out by the Investigation and Disciplinary Office of the Commission.

Appointing Authority: It is the individual and/or the body in the EU institutions that has the power to appoint staff members and to terminate their employment. Such function is exercised by the College of Members, which delegates most of it to the Secretary-General. This latter generally sub-delegate this function to officials with management positions.

Accredited Parliamentary Assistant: This is a staff member chosen by one or more Members of the European Parliament (MEPs) and engaged by way of direct contract by the Parliament to provide direct assistance to the MEPs in the exercise of their functions, under their direction and authority, and in the relationship of mutual trust.

Conflict of Interest (Col): It is a situation in which a person or organisation is involved in multiple interests, financial or otherwise, and serving one interest could involve working against another. In the EU institutions, there are various forms of Col, including those arising on recruitment, during employment and post-employment; related to gifts and entertainment, outside activities and spouse's gainful employment; and linked to lobbying and advocacy.

Cooling-off period: In the EU institutions, this is the interval of time during which a former staff or Member should inform the Appointing Authority or the College about his or her new activity and should not lobby the former institution.

Counselling: In the context of the anti-harassment rules, this is a process according to which the victims decide to follow informal procedures to resolve the case. Counsellors are people trained to give guidance on personal or psychological problems (see also Mediation).

Disciplinary procedures: These are a set way for an employer to deal with perceived employee misconduct. They include a disciplinary hearing where the staff member is given the chance to explain the facts.

Ethical Committee (in the EU institutions): This is a body advising the Presidents on the application of the code of conduct concerning Members.

Ethical framework: For the purposes of this audit we refer, firstly, to ethical legal requirements, and secondly, to procedures, enforcement tools, guidance and communication that help to ensure that legal requirements are being adhered to

Gifts and entertainment: They are sums of money or any other physical objects offered without any payment in return or the possibility of participating free of charge in events that are accessible only in return of payment. These are also offers of food, drink, meals and accommodation.

Hospitality: This includes providing food, drink, meals and accommodation. It can also involve entertainment and leisure activities.

Members of the EU institutions: Members of the institutions are the persons who were either appointed or elected to form the decision-making body of the institution.

Mediation: In the context of the anti-harassment rules, this is a process according to which the victims decide to follow informal procedures to resolve the case. Mediators are the persons who attempt to make people involved in a conflict come to an agreement (see also counselling).

Outside activities and assignments: They are activities or assignments, paid or unpaid, that are engaged outside the scope of the performance of the officials' or Members' duties. These are of occupational character and/or go beyond what can be reasonably considered as leisure activities.

Post-EU employment and mandate: Former staff or Members of the EU institutions are subject to certain obligations, some of which are applicable to active officials or to the duration of their mandate. These obligations are provided for in the Staff Regulations or in the Treaty of the Functioning of the European Union (TFEU) as well as in the codes of conduct for Members of the EU institutions, and include notably: the prohibition of unauthorised disclosure of information, the obligation to notify any occupational activities within two years after leaving the service, duty to behave with integrity and discretion as regards the acceptance of certain appointments and benefits, provisions related to inventions and the reception of social benefits and allowances.

Public integrity: It refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector (as defined by the Organisation for Economic Cooperation and Development (OECD)).

Register of gifts: It is a register, which includes all relevant information on gifts and entertainment accepted by staff and Members of the EU institutions. For staff, it is an internal register managed by the Administration, and only includes gifts for which a permission is required. For the Members, the register is publicly available; it is managed by the President and includes all gifts accepted.

Self-declaration: This is a tool, which is in place in the EU institutions, allowing staff and Members to fulfil their obligations on ethics. The self-declarations of staff are addressed to the Appointing Authority. For Members, they are public.

Staff of the EU institutions: These are all members of the staff employed directly by the EU under different employment schemes: officials, temporary agents, contract agents, local agents, special advisers and accredited parliamentary assistants. Other persons working as seconded national experts and trainees are assimilated to staff of the EU institutions.

Staff Regulations: Staff Regulations of Officials, and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68²³.

Whistleblowing: This is a process according to which a person (e.g. a staff member) reports facts discovered in the course of or in connection with his or her duties which point to the existence of serious irregularities. The reporting should be done in writing and without delay. Rules on whistleblowing provide advice, assistance and protective measures for whistleblowers.

²³ OJ L 56, 4.3.1968, p. 1.



**REPLIES OF THE EUROPEAN PARLIAMENT ADOPTED BY THE BUREAU
TO THE OBSERVATIONS BY THE EUROPEAN COURT OF AUDITORS,
ON THE SPECIAL REPORT “THE ETHICAL FRAMEWORKS OF THE AUDITED EU
INSTITUTIONS: SCOPE FOR IMPROVEMENT”**

Reply to Observation 38:

Parliament believes that its Rules of Procedures (including the codes of conduct and of appropriate behaviour), as well as the anti-harassment roadmap, constitute strategic objectives and priorities for Members' ethics. The code of conduct and staff anti-harassment policy express its strategic objectives and priorities for staff. As the evaluation of 2017 demonstrates, performance is measurable.

Reply to Observation 43:

All declarations on the absence of CoI at recruitment are sent to the ethics sector of the Career Development and Ethics Unit (CDEU) for verification. Cross-checks are performed in practice, wherever possible, between relevant units of the European Parliament. Consistency is ensured by the review of all files by the Head of Unit. Moreover, when changes to the spouse's employment are registered at the Individual Entitlements Unit, the CDEU colleagues follow this and send the form for the declaration of spouse's gainful employment to the colleague concerned. Existing documentation will be completed with the checks to be performed.

Reply to Observation 48:

MEPs may seek advice in confidence from the Advisory Committee on the Conduct of Members. In case of an alleged breach of these disclosure obligations, a procedure is set out in Art. 8 of the Code of Conduct. Parliament submits that setting out a further-reaching “written standard procedure” on how to conduct the checks that are foreseen is problematic because of the infinite possible variety of incoming information. Therefore, by necessity, each incoming piece of information has to be assessed on its own merits. A full requirement of ex officio checks on accuracy or completeness could require significant additional human resources, up to approximately 60 AD posts. Also, it should be noted that Parliament has no powers of investigation over MEPs, who are accountable to the voters, and must respect the free mandate.

Reply to Observation 50:

Guidance based on a consistent and well-established practice is available for MEPs.

Reply to Observation 53:

For staff, Parliament has a code of conduct in place (Guide to the obligations of officials and other servants of the European Parliament, Bureau Decision of 7 July 2008). To improve accessibility and understanding, Parliament has prepared and is currently in the process of launching an additional

explanatory guide for staff that includes extensive and detailed clarifications, examples and procedural guidance on the code of conduct, including all issues raised by the Court of Auditors regarding gifts.

Reply to Observation 56:

The Parliament would like to point out that APAs are employed directly by the European Parliament while they work under the direction of the Member they assist who acts as hierarchical superior (Article 5a of the CEOS and Article 1 of the implementing measures of Title VII of the CEOS). Given that they are “chosen by one or more Members”, it is not possible for them to be transferred to another post in the EP by decision of the administration alone. Parliament may not unilaterally change this, as it is a legislative requirement. However, other, tailor-made forms of assistance are available for APAs, in accordance with Article 24 of the Staff Regulations, as applicable by analogy to APAs.

Reply to Observation 61:

The Parliament has no jurisdiction to define further reaching restrictions over former MEPs other than regarding their access to premises, use of facilities and financial entitlements. It should also be taken into account that it has been a major step in the development of parliamentary democracy to allow and encourage persons who are not able to sustain themselves by existing wealth to run for public office. Further restrictions on immediate post-mandate employment therefore either means accepting a disincentive to run for office in the first place, since there is no “employment guarantee” for Members beyond one legislative term, or compensatory mechanisms might have to be found in the transitional allowances schemes.

Reply to Observation 67:

The Parliament prioritises resolving any conflict of interest, and requires to publish information about it only where the MEP does not resolve it.

Reply to Observation 74:

The President is obliged to take due account of the Members’ experience and of political balance when appointing them (see Art. 7(2) of the Code of Conduct).

Reply to Observation 80:

Since October 2018, a revamped training course “Let’s talk about Ethics” is regularly on offer.

Since 2018, newly recruited APAs have to attend an induction training about their rights and obligations.

Reply to Observation 81:

As explained under point 53, Parliament is currently in the process of launching a guide for staff that includes real-life examples and clarifications on ethics issue, which will complement the existing staff code of conduct.

Moreover, several communications have been sent to staff as of January 2019, mainly concerning declarations of candidacy and participation in the electoral campaign for the European elections, which Parliament considers and deals with as an outside activity.

Reply to Observation 82:

See points 80 and 81 above.

Reply to Observation 84:

APAs receive continuous guidance on ethics issues which is, among others, proven by their numerous requests and declarations on outside activities, candidacy in elections, publications etc.

On recommendation 1:

(1) Parliament partially accepts recommendation 1(1): The competent services will continue to update and develop their approach towards ethics. Parliament, however, does not consider that it is necessary to consolidate this into a single strategy document. Parliament is developing metrical indicators to further improve performance assessment of its administration. [Rec 3]Ethics will be considered as a focus in awareness raising both for staff and Members.

(2) Parliament partially accepts recommendation 1(2). Existing documentation will be completed with the checks to be performed. However, the Parliament considers that consistent procedures for checks are relevant but submits that it does, in practice, appropriately ensure consistent checks on declarations in the career development and ethics unit. Additional detailed staff guidance that provides even clearer guidance than the Code of conduct is about to be made available.

(3) Parliament does not accept recommendation 1(3). Parliament considers that the declaration serves the purpose of transparency as set out in Article 4 of the Members' Code of Conduct and allows adequate public scrutiny. Any further-reaching requirements to check accuracy and completeness *ex officio* would entail the need for significant staff increases and/or investigative powers, none of which are available.

(4) Parliament accepts recommendation 1(4), and points out that the new guide on ethics, to be published in June 2019, explains and specifies in an extensive way the relevant provisions on gifts and hospitality.

(5) Parliament does not accept recommendation 1(5). It agrees that APAs are a specific population for which not all measures that can be applied to staff are available. However, Parliament is already able, by application of Article 24 of the Staff Regulations to APAs, to achieve appropriate solutions. This is covered by the reference to Article 24 in the existing whistleblowing rules.

(6) Parliament partially accepts recommendation 1(6), and will assess whether and what it can do within the existing legal framework. While Parliament appreciates the interest in post-mandate rules, it has

limited jurisdiction over former Members other than regarding access to use of its facilities and already exercises it. In this respect, it already has taken measures. See also paragraph 61.

On recommendation 2:

(1) Parliament accepts recommendation 2(1) in that it will be available to work with other institutions to share good practices.

(2) Parliament accepts recommendation 2(2). The Parliament accepts that working together with other institutions is in principle useful, but points out that it currently has the most demanding of outside activity remuneration ceilings, which is 0.

(3) Parliament partially accepts recommendation 2(3). It is open to an exchange of best practice with other institutions while underlining that the status of Members of the European Parliament is specific to this institution. (see also point 67), and there are legal limitations based on the privacy rights of family members.

On recommendation 3:

Parliament accepts this recommendation.

More targeted central guidance was prepared and is about to be made available. The competent services will continue to disseminate training, knowledge and experience (based on existing modules developed and on training / awareness raising exercises held based on surveys held at DG level) to the sectoral DG's by using all internal channels.

**REPLIES OF THE COUNCIL AND OF THE GENERAL SECRETARIAT OF THE COUNCIL TO
THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS
“THE ETHICAL FRAMEWORKS OF THE AUDITED EU INSTITUTIONS: SCOPE FOR
IMPROVEMENT”**

The numbers refer to the paragraph numbering of the Court’s Report.

Observations

- 25 The status of Members of the Council is very specific and not comparable to that of members of other institutions. The Council has no members who are appointed or elected to it or remunerated from the EU budget.

Indeed, it follows from Article 16(2) TEU that 'the Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote'.

According to Annex I of the Council's Rules of Procedure, 'it is for each Member State to determine the way in which it is represented in the Council'. Pursuant to Article 16(7) TEU, 'a committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council'. To help prepare the Council's work, Coreper may set up committees and working parties and define their mandate (see Article 19(3) of the Council's Rules of Procedure). These working parties are composed of delegates from each Member State. By definition, those representatives and delegates act on behalf of their national administrations and represent their Member States' interests.

The President of the European Council alone is appointed to that institution and remunerated from the EU budget.

- 38 Important elements of strategy on ethics are included in the Council General Secretariat's Guide on Ethics and Conduct and in a set of other documents on the conduct and obligations of staff.

The General Secretariat of the Council (GSC) adopted a revised internal control framework on 29.10.2018 with effect as of 1.11.2018 (Decision 42/18 of the Secretary-General of the Council). The first principle of the 'Control Environment' is that 'the GSC demonstrates commitment to integrity and ethical values'. This principle is set out as follows:

- a) Tone at the top: management respects integrity and ethical values in their instructions, actions and behaviour.
- b) A code of conduct sets out the expectations regarding integrity and ethical values that are understood at all levels of the organisation and communicated.

With regard to risk assessment, in 2015 the Internal Audit Unit performed an audit on the GSC's ethics policy. The Audit Report described ethics-related risks identified by auditors and recommended appropriate actions.

In addition, several departments of the GSC conduct annual risk assessments. The identification of risks with regard to non-ethical behaviour forms part of these exercises. The GSC chose to carry out regular risk assessments by departments (or on projects) that would cover all risk areas including ethical matters rather than create a specific ethics risk register. The GSC will study the merit of carrying out an overall ethics risk assessment.

- 48 Concerning the President of the European Council, declarations of interests are submitted on the basis of the Code of Conduct for the President of the European Council. According to Article 15(5) TEU, in the event of serious misconduct, the European Council can end the President's term of office by a qualified majority. To this effect, any non-compliance with or breach of the Code of Conduct may be taken into account by the European Council.
- 49 See the reply to paragraph 48 above.

Conclusions and recommendations

Recommendation 1 — Improve the ethical frameworks

The GSC accepts Recommendation 1, points (1), (2) and (4).

With respect to Recommendation 1, point (1), important elements of strategy on ethics are already included in the GSC Guide on Ethics and Conduct and a set of documents on the conduct and obligations of staff. Point (1) will be implemented through the already ongoing “Ethics in Focus” project.

Recommendation 2 — Work together to harmonise elements of the ethical framework and make further efforts to share good practice on ethical matters

The GSC accepts Recommendation 2. However point (3) is not applicable to the Council.

Recommendation 3 — Improve staff awareness and perception of the ethical framework and culture

The GSC accepts Recommendation 3. There is already a flagship project for 2019 ‘Ethics in Focus’ lead by the HR Directorate of the GSC, raising awareness of staff and promoting ethical behaviour are among its main objectives.

REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

“THE ETHICAL FRAMEWORKS OF THE AUDITED EU INSTITUTIONS: SCOPE FOR IMPROVEMENT”

EXECUTIVE SUMMARY

IV. The Commission considers that the scrutiny of the Members' declarations is fit for purpose. It will document its written standard procedure in line with the European Court of Auditors' recommendation.

V. The Commission considers that the results of the survey are positive for its staff, as 59.6% of staff assess their knowledge as good or very good.

INTRODUCTION

07. With regard to the Members of the Commission, Article 17(3) TEU and Article 245 TFEU constitute the ethical framework laid down in the treaties.

With regard to staff of the European institutions, Articles 11 to 26(a) of the Staff Regulations constitute the ethical framework set by the legislator. This level of legislation corresponds to what can be found in many national civil service laws and is sufficient. On that basis, the institutions adopt more detailed rules for their staff and adapt them when necessary.

OBSERVATIONS

34. The ethical issues for Members are addressed in other documents, such as the mission letters of the President to the individual Members, the Secretariat-General's Strategic Plan 2016-2020 or the Management Plan of the Secretariat-General for 2018.

37. The risk management exercise in the Commission embraces all domains and management aspects, including ethics. Only the significant risks as regards ethics should be put in the management plan. Even when audited DGs did not identify any specific significant risks in relation to ethics, it did not prevent those audited DGs from including specific actions (notably the organisation of appropriate events related to ethics) and organisational values in their annual management plan and/or foreseeing other actions in line with the Internal Control Framework.

43. The Commission crosschecks the information provided in the ethics requests with available internal and external information. As requests are always assessed on a case-by-case basis, the magnitude of the crosschecks depends on the potential risk associated, and complies with the principle of proportionality.

The existing documentation of the main procedures for outside activities during service and leave on personal grounds, as well as post-service activities has been reinforced in the second half of 2018 following the adoption of a revised decision on outside activities and explicitly describes which checks should be carried out. The reinforcement of the other procedures is ongoing.

Box 2: Examples of insufficient guidance

Lack of specific guidance on relevant situations

There is guidance in the brochure on ethics and staff conduct about what constitutes a conflict of interest. However, more detailed guidance could be provided in the future on conflict of interest at recruitment, in a similar way as it has been done for outside activities and post-employment activities.

DG AGRI's ethics guide reflects the most frequent issues that colleagues from the DG raised with colleagues responsible for ethics in the DG.

Possible conflicts of interest linked to being engaged in a professional activity or being a recipient of EU subsidies are duly covered by the general rules on conflict of interest and on outside activities. These situations are not necessarily more likely to occur in DG AGRI than in any other Commission service.

47. The Commission will document its standard procedure. It recalls in this regard that a first important scrutiny takes place in the context of the designation and hearing of designated Members before the appointment of the Commission. Designated Members notably have to submit their declarations of interests to the European Parliament in due time to allow the Parliament to examine them, and are responsible for their declarations.

After the appointment and upon each update, the declarations are subject to the scrutiny under the authority of the President of the Commission as it results from Articles 2(6), 3(1), 4(2) and (4) of the Code of Conduct for the Members of the Commission. The scrutiny covers the existence of any situation which may give rise to a conflict of interest or which may reasonably be perceived as such. If such a situation is detected and confirmed by the President, the President can take measures such as the reallocation of a file or the request to sell financial interests. A general plausibility check of the completeness of the declaration also takes place based on available information.

Members are individually responsible for their declarations.

50. The Commission recalls that the scrutiny, even if not yet laid down in a written standard procedure, is comprehensive, involves a general check of completeness based on available information and has clear criteria.

Moreover, the declarations of the Members of the Commission and their updates are published and subject to permanent public scrutiny.

Box 3: Gaps in gift and entertainment policies *Commission*

The notions of “gift” and “hospitality” in the Code of Conduct are used in their common everyday meaning to cover all situations a Member of the Commission might face in line with the overall principles set out in the provision on gifts and conflict of interests (Articles 6(4) and 2(6) of the Code of Conduct for the Members of the Commission). Further guidance will be provided.

80. The Commission has put in place a very comprehensive training policy on ethics that reaches staff at different moments of their career. This policy has been further reinforced in 2018 (notably through mandatory training on entry into service for all staff and for all newly appointed Heads of Unit). The European Court of Auditors' survey shows that for the Commission 50.6% of staff members declared that they attended an ethics training course. Given the measures put in place, this figure should

increase soon, and the Commission expects that the training policy will translate in the coming years in an even better level of awareness of the ethical framework.

83. Awareness raising campaigns on the Annual Activity Report of the Commission's Investigation and Disciplinary Office (IDOC) are of paramount importance. Although these Reports are published on MyIntracomm and presentations are made for many Directorates-General (DGs) and services, it seems that there is a need for more.

84. The Commission carries out a robust awareness campaign on ethics and integrity in DGs, and for newcomers. Additional courses are offered to staff in the Commission's training catalogue.

As regards the protection of staff who report unethical behaviour, IDOC ensures the highest level of confidentiality and data protection, and this point has been taken into account in the context of the ongoing revision of the IDOC's General Implementing Provisions, and in the new Decision on data protection (Commission Decision (EU) 2019/165 of 1 February 2019).

85. The Commission is taking action to tackle this issue, including awareness campaigns on ethics and integrity, additional presentation on IDOC's procedures, and publicity of the IDOC Annual Activity Report.

CONCLUSIONS AND RECOMMENDATIONS

Recommendation 1 (2)

The Commission accepts the recommendation.

As regards formalising procedures for checks on declarations, the Commission considers that the recommendation is already implemented for requests for outside activities during service and leave on personal grounds as well as for post-service activities. The reinforcement of the other procedures is ongoing.

Recommendation 1 (3)

The Commission accepts the recommendation.

It considers that the scrutiny of the declarations of interests is comprehensive, involves a general check of completeness based on available information and has clear criteria.

The Commission will document its internal standard procedure for the scrutiny under Article 4(2) of the Code of Conduct to ensure the quality and consistency of the process.

Recommendation 1 (4) – gifts and entertainment

The Commission accepts the recommendation and will provide further guidance, information, and examples based on Article 6 of the Code of Conduct.

Recommendation 2 – Work together to harmonise elements of the ethical framework and make further efforts to share good practice on ethical matters

The Commission partially accepts the recommendation.

The Commission accepts to continue to discuss with the other institutions ethical matters of common interest in the framework of existing interinstitutional forums, notably the CPQS (Comité pour les Questions statutaires) or at service level and to share good practices.

As regards the three points where the ECA would like to see harmonisation, the Commission has recent, detailed, and fit for purpose legal bases and texts.

As regards outside activities, the applicable Decision has recently been revised and the Commission does not intend to amend it in the future. In addition, the Commission does not intend to take any initiative as regards its guidelines on gift and hospitalities, as these are considered fit for purpose.

As regards Members, the declaration of spouses' and partners' ongoing professional activities is already mandatory for the Members of the Commission. The same applies under certain conditions to financial interests of spouses, partners and minor children of Members. The Commission does not intend to take any initiative in this regard.

The Commission would like to underline that the implementation of such a recommendation does not depend on the Commission alone.

90. (2) The European Court of Auditors' survey shows that 59.6% of Commission staff assessed their knowledge of the ethical framework as "good" or "very good".

(3) The European Court of Auditors' survey shows that 54.7% of Commission staff members stated that they received training on ethics.

Recommendation 3 – Improve staff awareness and perception of the ethical framework and culture

The Commission accepts the recommendation and considers that it is already being implemented.

The Commission has already taken extensive measures to increase staff awareness in relation to ethics and will continue to roll out these measures. The Commission has put in place a very comprehensive training policy on ethics that reaches the staff at different moments of their career, as explained in the reply to paragraph 80. This policy has been further reinforced in 2018. The Commission will continue building on these efforts and expects this policy to improve staff awareness levels on a short-term basis.

Audit team

This ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber V Financing and administration of the EU, headed by ECA Member Lazaros S. Lazarou. The audit was led by ECA Member Mihails Kozlovs supported by Edite Dzalbe, Head of Private Office and Laura Graudina, Private Office Attaché; Alberto Gasperoni, Principal Manager; Gediminas Macys, Head of Task; Michal Machowski, Deputy Head of Task; Aino Nyholm, Elisa Paladini²⁴, Christian Geoffroy and Angela Onno²⁵, Auditors. Richard Moore provided linguistic support. Emanuele Fossati provided IT support.



From left to right: Alberto Gasperoni, Michal Machowski, Laura Graudina, Gediminas Mačys, Mihails Kozlovs, Edite Dzalbe, Aino Nyholm, Christian Geoffrroy.

²⁴ until April 2018

²⁵ until August 2018

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	19.1.2018
Official sending of draft report to Commission (or other auditee)	27.3.2019
Adoption of the final report after the adversarial procedure	4.7.2019
Parliament's official replies received in all languages	28.6.2019
Council's official replies received in all languages	18.6.2019
Commission's official replies received in all languages	4.7.2019

PDF ISBN 978-92-847-2298-3 doi:10.2865/336573 QJ-AB-19-010-EN-N

HTML ISBN 978-92-847-2284-6 doi:10.2865/322903 QJ-AB-19-010-EN-Q

In this special report, we assessed whether the ethical frameworks of the European Parliament, the Council of the European Union and the European Council, and the European Commission were well established. We examined all the levels of staff and Members, and analysed the awareness of the ethical framework of the staff of institutions by means of a survey. The implementation of the ethical frameworks in the audited institutions did not form part of the audit.

We concluded that, to a large extent, the audited institutions established adequate ethical frameworks with room for improvement. We found that there is no common EU ethical framework governing the work of the representatives of Member States in the Council.

Our audit also identified some weaknesses and areas for harmonisation of the ethical frameworks, as well as examples of good practices. The audited institutions should improve their ethical frameworks, work together to harmonise and make further efforts to share good practices on ethical matters, and improve staff awareness and perception of the ethical framework and culture.



EUROPEAN COURT OF AUDITORS
12, rue Alcide De Gasperi
1615 Luxembourg
LUXEMBOURG

Tel. +352 4398-1

Enquiries: eca.europa.eu/en/Pages/ContactForm.aspx
Website: eca.europa.eu
Twitter: @EUAuditors