

New code, old conduct?

**Transparency and conflicts of interest rules in the
European Parliament: Too loose to deliver?**



Initiative für Transparenz und Demokratie



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A report by Corporate Europe Observatory, Friends of the Earth Europe, LobbyControl, Spinwatch

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1. Introduction

A code of conduct has been in place for Members of the European Parliament (MEPs) since January 2012 placing obligations on MEPs to declare financial interests and to obtain clearance for any activities with potential to cause a conflict of interest. The code goes beyond the European Parliament's previous Rules of Procedure, which covered limited aspects of ethics rules for members in Annex I ("transparency and members' financial interests")¹. The 2011 "cash for amendments" scandal, when several MEPs allegedly accepted an offer of money in exchange for tabling legislation, triggered these improvements. Conflicts of interest had previously been exposed², but until 18 months ago the European Parliament's ethics rules had not been improved to cover conflicts of interest for Members. As such, the code was a breakthrough, intended to introduce an era of change, bring in a new culture of openness and accountability, and prevent such conflicts of interest from occurring again.

In July 2012 a report by Friends of the Earth Europe found that, despite the new code of conduct, significant loopholes remained. Not only was the accuracy of the data provided by some MEPs questionable, but some MEPs appeared not to be treating the new procedures seriously. An analysis of MEPs' declarations financial interests (DoFI) made up to July 2012 found that, almost one in four MEPs had failed to declare their occupation before entering the European Parliament. Of those that declared paid activities outside of their role as an MEP (other earnings), 118

failed to declare how much they had earned from these activities. The report showed that strong rules (or 'implementation measures') were needed to ensure abidance with the Code if it was to effectively safeguard ethics and integrity in the European Parliament. The findings suggested that there was still a risk of conflicts of interest arising among MEPs.

This new report explores whether, a year before parliamentary elections, the risk of conflicts of interest (still) exists among those MEPs currently serving as elected representatives.

Rationale and methodology

This report examines the cases of individual MEPs which Friends of the Earth Europe, Corporate Europe Observatory, LobbyControl, and Spinwatch have come across through our campaigning and advocacy work in Brussels. The outside employments and interests of those MEPs had already been made public and raised controversies before the introduction of the code of conduct. We wanted to check whether the new ethics rules brought changes in relation to MEPs holding occupations and financial interests outside of their mandates, and were making it easier to monitor that these take place in the spirit of the code. We looked at the declarations of interest provided on the European Parliament website and compared the information provided with information available elsewhere in the public domain. We then approached the MEPs involved, and asked for their responses to our main findings. Out of the four MEPs we contacted, only three (MEP Bendtsen, Karas, and Rübzig) responded to our requests for clarifications. Their responses are included in this report.

¹<http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=TOC>

²Examples include: Corporate Europe Observatory, "MEPs and second jobs – Time to regulate" (with Spinwatch and LobbyControl), 30 May 2011; Spinwatch, "Too close for comfort?" (July 2008)

This report by no means represents a complete analysis of potential risks of conflicts of interest in the European Parliament at the time of writing - to provide this would involve investigating all 754 MEPs. Rather it flags examples of potential conflicts which we believe raise doubts about the effectiveness of the code of conduct in preventing and solving potential and existing conflicts of interest.

The individual cases highlighted in this report illustrate the limitations of the European Parliament's current transparency system: while all MEPs have to submit declarations of financial interests and obtain clearance for any potential conflict of interest, our findings suggest that clear risks of potential conflicts of interest remain. Our findings also suggest a need for stronger rules to ensure full

implementation of the code of conduct. The parliamentary authorities (President Schulz and the advisory committee) need the ability to fully monitor potential conflicts and take adequate measures to safeguard the public interest in the legislative duties of the MEPs.

The research on each of the individual cases presented in this report was last updated in June 2013. Each case is fully referenced (links to source documents can be found in the footnotes and annexes). As the European Parliament website does not have an automatic "flagging system" to highlight updates made by MEPs (such as changes to their declarations of financial interests), it is possible that MEPs may have updated their declarations between the completion of this report and publication.

"Cash for Amendments" scandal: the case of Ernst Strasser

Ernst Strasser, former Minister for the Interior in Austria and a member of the Austrian People's Party, was one of the three Members of the European Parliament exposed for allegedly accepting an offer of payment in exchange for tabling amendments in the "Cash for Amendments" scandal. Following the revelations by The Sunday Times, Strasser stepped down as an MEP, while denying all the allegations, and pursuing legal action against the newspaper.

The European Anti-Fraud Agency (OLAF) launched an investigation into the case, and its findings were passed to the Austrian authorities, resulting in Strasser facing charges of corruption and money laundering in Austria. Despite facing criminal charges, he was allowed to apply for the transitional allowance entitled to departing MEPs and kept his access badge to the European Parliament³.

The former MEP has maintained that he was aware that the lobbyists were fake, and that he was trying to find out who they were and what they were trying to achieve⁴. However, In January 2013, he was sentenced to four years in prison by the Austrian Court⁵ for influencing legislation in exchange for money.

Strasser is the only one of the three MEPs exposed in the scandal to have been convicted by a national court. A police investigation is currently ongoing in Romania into the behaviour of Adrian Severin, who continues to sit in the European Parliament⁶.

³ http://www.asktheeu.org/en/request/transitional_allowance_paid_to_e?post_redirect=1

⁴ <http://derstandard.at/1342139666074/Korruptionsverdacht-gegen-Ex-Innenminister-Strasser-erhaertet>

⁵ <http://derstandard.at/1356427553749/Sunday-Times-Journalisten-sagen-aus>

⁶ <http://www.evz.ro/detalii/stiri/adrian-severin-acuzat-de-obtinere-ilegala-de-fonduri-europene-992176.html#ixzz20mqDnsOW>

2. Transparency in the European Parliament: what the new code means

The new code of conduct was introduced by the former President of the European Parliament, Jerzy Buzek, in an attempt to repair the reputational damage caused by the “cash for amendments” scandal of 2011. In a speech given at the time, he said: "Speaking on behalf of the bureau of Parliament and speaking I think on behalf of the majority of colleagues in this chamber, we are determined to practice a policy of zero tolerance of the kinds of actions which have led to the resignation of our colleagues"⁷.

Until this point, there had been very little guidance for MEPs regarding ethics standards and practices. The code marked a new era, providing specific guidance for MEPs on the need to declare other sources of earnings or other interests which might affect their official mandate, as well as the need to obtain clearance for any possible conflicts arising between their public and private interests. An advisory committee was set up to assist MEPs in complying with the code.

According to the wording of the code, Members have an obligation to:

- act with “disinterest, integrity, openness, diligence, honesty, accountability and respect for Parliament’s reputation”;
- “act solely in the public interest and refrain from obtaining or seeking to obtain any direct or indirect financial benefit or other reward”.

In performing their duties, they shall:

- “not [...] enter into any agreement to act or vote in the interest of any other legal or

natural person that would compromise their voting freedom”;

- “not solicit, accept or receive any direct or indirect financial benefit or other reward in exchange for influencing, or voting on, legislation [...] and shall consciously seek to avoid any situation which might imply bribery or corruption”.

The code defines a conflict of interest as a situation where “a Member of the European Parliament has a personal interest that could improperly influence the performance of his or her duties as a Member”. The form on which MEPs are supposed to declare their interests (category I⁸) also allows them to declare any interest or relationship that could improperly influence members, even if it does not fall within a specific category (such as spouse's or partner's employment or their financial interests...). The code places an obligation on MEPs to address any potential conflict of interest in which they might find themselves or to report it in writing to the President of the European Parliament, when this is not possible.

While neither complete, nor perfect, the code does provide guidance for MEPs in relation to holding and declaring other sources of earnings and outside interests. The current implementation rules cover gifts and hospitality to MEPs and trips paid for by third parties⁹. Although these are limited in scope,

⁷http://news.bbc.co.uk/democracylive/hi/europe/newsid_9428000/9428958.stm (minute 3'27)

⁸http://www.europarl.europa.eu/pdf/meps/201302-Decl-financial-interests_EN.pdf

⁹ In September 2012, a working group made up of Members of the European Parliament was set up by the Bureau of the European Parliament to look into specific implementation rules for the code of conduct. The working group proposal was agreed by the Bureau on 15th April 2013. It only covers trips and hospitality paid by third

and the parliamentary authorities have not fully defined the rules concerning implementation, MEPs cannot argue that they have not been made aware of their responsibilities under the new code. These include a duty to declare any conflict of interest while in office, and to take the necessary steps to address conflicts when these might impinge on their duty to act in the public interest.

3. What is wrong with conflicts of interest?

The potential for conflicts of interest puts the integrity of public officials, the institution they are attached to, and the public interest they represent, at risk. It is important, therefore, for situations which could result in conflicts of interest to be adequately regulated.

Beyond the European Parliament, the problem of conflicts of interest for public officials is widely acknowledged. Organisations and institutions such as the Organisation for Economic Co-Operation and Development (OECD), the European Ombudsman, and Transparency International have set out detailed definitions of what should be seen as a conflict of interest, as well as making a number of recommendations as to how ethical behaviour can be best promoted among officials and the ways in which the appearance and existence of conflicts of interest can be addressed. There is also an increasing interest in ethics issues among academics, civil society organisations and other institutions. These show that self-regulation is not an adequate response to the risks from an overlap between the public and private interests of officials acting and legislating on behalf of the public interest. Better rules and enforcement mechanisms are needed.

The OECD defines a conflict of interest as “a conflict between the public duty and private interests of a public official, in which the public official has private interests which could improperly influence the performance of their official duties and responsibilities”.

Transparency International¹⁰ identifies four types of conflicts of interest:

1. Abuse of office – where an official might use their influence while in office to shape a policy for the benefit of a third party or private interest, or decide to ingratiate themselves with companies which might later hire them.
2. Undue influence – where an ex-official working for a company influences their former colleagues to favour the company.
3. Switching sides – where an individual moves to a private sector role which requires them to oppose their previous institution on an issue about which they used to represent the institution. This can be a problem if, for example, they use privileged information gained while in office to frustrate the institution’s aims.
4. Regulatory capture – where officials are overly sympathetic to the industry they must regulate because they used to work in that industry. This relates to pre-public employment in the private sector.

In the course of various investigations, the European Ombudsman has issued a number of rulings dealing with the issue of conflicts of interest in the EU administration. He has stressed that there is a twofold responsibility on the part of the individual official who must respect a clearly defined procedure, and on the part of the institution he/she is serving which must provide the individual with the relevant documentation and guidance to ensure the procedure is respected¹¹. The Ombudsman has also made a number of

¹⁰http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/22_07_11_revolving-door-final.pdf

¹¹<http://www.ombudsman.europa.eu/cases/draftrecommendation.faces/en/11089/html.bookmark>

specific recommendations in relation to the way that declarations of interest are treated and examined by the institution concerned in order to prevent any risk of conflict of interest¹².

Members of the European Parliament are responsible for regulating all aspects of citizens' lives, from industry to food, environment, chemicals, safety, and the economy. Their responsibility to legislate on behalf of 500 million citizens in 27 European Union member states makes strong ethics rules even more essential to ensure that MEPs are not improperly influenced by private interests. At the time of the "cash for amendments" scandal, Martin Schulz, now President of the European Parliament, called on Adrian Severin MEP (one of the MEPs under investigation following allegations of accepting an offer of payment in exchange for tabling amendments) to resign, saying MEPs should not have other jobs whilst serving as a MEP¹³. He argued in favour of a strong code of conduct, with clear rules for MEPs, and called for a register for financial interests, which would make it "crystal-clear" what MEPs were earning from other jobs. He also argued that MEPs should be barred from drafting reports in cases where a potential conflict of interest was found¹⁴.

Our latest analysis has found that not every MEP appears able to identify the situations which might be considered likely to create a conflict of interest without much clearer and stricter guidance from the European Parliament on what constitutes a conflict of interest. In the next section, we present four cases, in which we believe MEPs are at risk of

potential conflicts of interest. We found that all MEPs researched in this report have a financial or other type of outside interest that could improperly influence their ability to fulfil their duties as an MEP. The code specifically states that MEPs should not "...receive any direct or indirect financial benefit or other rewards in exchange for influencing ... legislation". MEPs Rübige, Lehne, Karas and Bendtsen have accepted payments for providing services to companies or business organisations that have an interest in influencing EU legislation. Even if these MEPs have not personally lobbied on behalf of private companies, their relationships seem to us to be in breach of the spirit of the code which seeks to end such potential conflicts of interest.

These examples make the case for introducing stronger rules, including implementation measures, and illustrate the need for more thorough monitoring of MEPs' outside interests by the parliamentary authorities. Without such measures, the risk of conflicts of interest will remain and the reputation of the Parliament will be threatened.

The introduction of stronger rules could also help make clarifications in the user's guide to the code of conduct¹⁵ which is currently ambiguous about the use of the code. It states: "The Code of Conduct does not interdict conflicts of interests, but seeks to ensure that any actual or potential conflict of interest is declared promptly and transparently by a Member". If the code is to be meaningful, it should not only be used to highlight conflicts of interest, but also to address them. A conflict of interest gives rise to a potential that this conflict will influence

¹²http://www.ombudsman.europa.eu/en/cases/decision_faces/en/10719/html.bookmark

¹³ <http://euobserver.com/political/32130>

¹⁴<http://www.theparliament.com/latest-news/article/newsarticle/sd-leader-repeats-call-for-cash-for-laws-mep-to-quit/#.UMiPaORfBSp>

¹⁵ The User's guide of the code of conduct is available for download at:

http://www.europarl.europa.eu/pdf/meps/CoC%20User's%20Guide%20draft4web_EN_def.doc

behaviour of the individual, which could lead to a breach of the code. Besides, the original wording of the code insists that conflicts of interest must be resolved: “Any Member who finds that he or she has a conflict of interest

shall immediately take the necessary steps to address it, in accordance with the principles and provisions of this Code of Conduct”. Its guiding principles insist on the duty of the MEPs to act solely in the public interest.

4. Examples where MEP’s potential conflicts of interest cause concerns

The cases highlighted in this section represent some of the ways in which conflicts of interest, or potential conflicts of interest, can arise. As detailed in the parliamentary declarations of financial interests (DoFIs), conflicts of interest among MEPs can arise through holding other jobs, sitting on the boards of companies or other organisations, shareholding or holding other financial interests. While in theory the DoFIs should screen for all of these different types of risks, the case studies presented here show that transparency alone is insufficient to address these risks. Listing outside interests on individual DoFIs – albeit not always in a comprehensive way – does not automatically resolve or remove the potential conflict of interest. For transparency to be meaningful, it needs to be accompanied by strong ethics rules and these must be implemented.

Bendt Bendtsen (Denmark)

Bendt Bendtsen is a former Danish Minister of Trade and Industry and is now an MEP and member of the Committee on Industry, Research and Energy (ITRE) in the European Parliament. Bendtsen’s declaration of financial interests (DoFI) indicates a number of private sector activities, some of which raise the risk of potentially conflicting with his official duties under the new parliamentary code of conduct.

On the board

Bendtsen declares that he is a board member of several companies, including Lauritzen Fonden¹⁶ (maritime activities)¹⁷, for which he receives a monthly income of between €1,001 and 5,000, Danske Bank, Esvagt (a shipping

company)¹⁸, and Realkredit Danmarks lokalrad i Odense, a mortgage bank in Odense¹⁹, for which he declares no related income. He also has an interest in the Nordic Synergy Park²⁰, which pays less than €1,000 a month, but his role is not specified. Indeed there is confusion over the categories in which his activities should be listed with non-remunerated activities listed in the category for remunerated activities and membership of boards and committees in both. Bendtsen declares unpaid board membership of Team Online (a European software developer)²¹ and Seamall (a Danish procurement platform)²², where he is a board director.

¹⁶ <http://www.lauritzenfonden.com/>

¹⁷ <http://www.j-lauritzen.com/JLauritzen/Ownership.aspx>

¹⁸ <http://www.esvagt.dk/>

¹⁹ <http://www.rd.dk/da-dk/privat/Pages/Privat.aspx>

²⁰ <http://www.nordicsynergypark.com/bestyrelsen.html>

²¹ <http://www.bosted.com/board-of-directors.html>

²² <http://www.seamall.eu/54-home.html>

Bendtsen also declares membership of the Advisory Board of Danske Bank, which is “the largest bank in Denmark and one of the leading financial enterprises in northern Europe, with five million customers, 578 branches in 15 countries”²³. The Advisory Board is the “consultative body that advises Danske Bank’s Board of Directors,” specifically “to support and promote Danske Bank’s development, growth and reputation both in Denmark and abroad”²⁴. Members of the Advisory Board receive a fixed annual fee of DKK 25,000 (€3,341). Bendtsen does not have to declare this as it is below the threshold of €500 a month. This remuneration falls between the requirement to declare non-remunerated positions and paid positions where payment is over €500 a month²⁵, and it illustrates one of the current weaknesses of the system. Among the other members of the Advisory Board are several chief executives of multinational companies including Moller-Maersk Group, DFDS, and Carlsberg.

The Danske Bank Group also owns Realkredit Danmark, the mortgage bank where Bendtsen is member of the board at the local level in Odense. The Danske Bank has signed up to the European Union’s Transparency Register and says it is undertaking lobbying activities through “in-house lobbyists and trade/professional associations” and the Bank also declares membership of several professional organisations lobbying in Brussels, including the Association for Financial Markets in Europe (AFME) and the European Private Equity and Venture Capital Association (EVCA)²⁶. Danske Bank clearly has

²³<http://www.danskebank.com/en-uk/About-us/Facts-about-us/Pages/Facts-about-us.aspx>

²⁴<http://www.danskebank.com/EN-UK/ABOUT-US/OUR-MANAGEMENT/BOARD-OF-DIRECTORS/Pages/Advisory-Board.aspx>

²⁵http://www.europarl.europa.eu/pdf/meps/20130604-Decl-financial-interests_EN.pdf

²⁶<http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=6486663811-42>

an interest in regulations prepared in Brussels, including by the European Parliament, where Bendtsen serves.

On January 26th 2012, Bendtsen hosted a roundtable lunch on banking regulation and “its potential negative impact on trade, growth and SME activity”, which was sponsored by the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME) and Barclays bank. The specific topic was the Capital Requirement Directive IV, a package of legislation aimed at regulating the banking sector, including access to deposit-taking activities and the prudential requirements for financial organisations²⁷. The event was organised by the public relations firm Fleishman-Hillard, which according to the Transparency Register has an annual lobbying budget of €9 million and lists Danske bank, EVCA and AFME as clients²⁸. By hosting the event, Bendtsen illustrated his interest in the CRD IV proposal, which is also of interest to Danske Bank – of which advisory board he is sitting on outside of his role as an MEP. This creates a problem of a potential conflict of interests.

Shipping interests

Bentsen’s other links with the private sector could also influence his work as an elected MEP. Esvagt is a Danish ship operator that runs rescue ships and offers services in “oil spill preparedness” in “both sea and coastline” and Seamall²⁹ is a Danish procurement platform for shipping companies, providing global supply to leading shipping companies so as to decrease costs and enhance their competitiveness. Seamall’s

²⁷http://ec.europa.eu/internal_market/bank/regcapital/new_proposals_en.htm

²⁸<http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=56047191389-84>

²⁹<http://www.seamall.eu/54-home.html>

clients represent a fleet of several hundred vessels operating worldwide, including in the North Sea and Greenland.

Bendtsen's participation in the boards of these companies could represent a potential problem because his work as an MEP could directly impact on their commercial activities, which are affected by European regulations. This risk was raised by Corporate Europe Observatory, in a report³⁰ highlighting Bendtsen's role as one of the leading advocates of priority access for EU companies to Greenland's natural resources during the vote on the EU's Raw Materials Initiative. Such prioritisation would certainly be in the interests of Seamall and Esvagt as it would expand shipping activities in the North Sea and Greenland region.

There are also links between Danske Banke and the A.P.Moller Maersk Group relating to Bendtsen's work in the European Parliament. The A.P. Moller Maersk Group, a "worldwide conglomerate operating in 130 countries, owning the world's largest shipping companies and involved in activities in the energy, logistics, retail and manufacturing industries" owns a 22% share in Danske Bank together with the A.P Moller and Chastine Mc-Kinney Moller Foundation. The A.P. Moller Maersk Group also includes Maersk Oil which has operations in Denmark, Norway, the UK (North Sea), as well as Kazakhstan, Algeria and Greenland in Baffin Bay, and Esvagt, the ship operator in which Bendtsen is also involved.

As an MEP, Bendtsen has been involved in legislative work likely to affect the interests of A.P. Moller-Maersk. For instance, the company would benefit from the diversification of sources and routes of EU

³⁰http://corporateeurope.org/sites/default/files/publications/europes_resource_grab.pdf

energy supplies, discussed in the parliamentary report on "Engaging in energy policy cooperation with partners beyond our borders: A strategic approach to secure, sustainable and competitive energy supply"³¹. Bendtsen filed several amendments on this report,³² including advocating diversification of the EU's energy supply sources and routes and for better security of supply (Amendment 6). He also highlighted the importance of the Baltic energy market interconnection plan (Amendment 97), and the importance of the 'Euro-Atlantic supply routes' for the EU to best take advantage of new energy partnerships and diversification of supplies in relation to development of unconventional fuels (Amendment 111). These amendments could all be of benefit to shipping companies active in maritime shipping, offshore drilling or oil and gas transport, such as Moller-Maersk, Esvagt, and Seamall. These companies are indeed particularly likely to have an interest in the work of the European Parliament's ITRE committee. But, it is impossible to check from publicly available sources whether Bendtsen disclosed his interest in relation to the activities being discussed, because the European Parliament does not hold any central record of MEPs disclosing potential conflicts of interest in such discussions. Mr Bendtsen did not refer to any such disclosure in his response to our general question about measures that he takes to ensure that his independence is not compromised.

³¹

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-20120168+0+DOC+XML+V0//EN>

³²

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-483.535%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

Conflicts of interest?

Our analysis of Bendtsen's outside activities suggests close relationships with several industry sectors that have a commercial interest in the MEP's regulatory activities. This raises potential risks of undue influence over his work in Parliament, which do not seem compatible with the spirit and/or the provisions of the code of conduct for MEPs. This highlights shortcomings in the way the code has been drafted. Bendtsen's role on Danske Bank's Advisory Board also raises the question as to whether he is providing lobby advice on issues which are being regulated by the European Parliament, which – if this the

case - would be a breach of the code of conduct (articles 1 and 2).

Despite these concerns having been previously raised in 2011 and despite the introduction of the code of conduct intended to prevent such risks of conflicts of interest, Bendtsen is still active on the boards of these companies at the time of writing.

We asked Mr Bendtsen what measures he had taken to ensure there was no conflict and that his independence could be guaranteed in the circumstances. In his response, Bendtsen said that he fulfilled the requirements set out in the code of conduct (see below).



Medlem af Europa-Parlamentet

Paul de Clerck
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Belgium

Brussels 15. May 2013

Dear Mr de Clerck,

Thank you for your letter, dated 30 April 2013, by which you request further information in relation to my declaration of interests, dated 18 September 2012, as Member of the European Parliament.

With regards to your questions on potential conflicts of interests, common sense and a continuous awareness prevails, as it should for all politicians and elected representatives.

I am a strong believer in stringent transparency rules regarding the activities of officials and therefore both my paid and unpaid activities are listed in the declaration on the European Parliament's website.

My declaration of financial interests fulfils the requirements laid down in the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest. I fully comply with the rules of the European Parliament and will continue to do so in the future.

Yours sincerely,

Bendt Bendtsen

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Othmar Karas (Austria)

Othmar Karas MEP was first elected as a Member of the European Parliament (MEP) in 1999 and has been reelected twice since. He currently sits on the Committee on Economic and Monetary Affairs (ECON) and the Subcommittee on Security and Defense (SEDE). He is also acting as substitute on the committee on Foreign Affairs (AFET) and Internal Market and Consumer Protection (IMCO). In January 2012, he became Vice-President of the European Parliament, which makes him a member of the Bureau of the European Parliament, the body responsible for setting out the rules for the Parliament.

The MEP's declaration of financial interests (DoFI)³³ mentions several unpaid seats on boards and committees, including the vice-presidency of the Robert Schuman Foundation, the chairmanship of the "Bürgerforum Europa 2020" (Citizen's Forum on Europe 2020), and a seat on the executive board of the "Österreichische Volkspartei" (Austrian People's Party).

Staff support

He also declares that he receives staff support (as previously revealed by the Austrian media³⁴) from the "Wirtschaftskammer Österreich" (WKÖ) - the Austrian Chamber of Economics - and the "Institut für Bildung und Innovation", a body created by the Austrian Association of Industrialists³⁵, a member of BusinessEurope, the self-declared most

influential lobby group in Brussels³⁶ (see section G of the DoFI³⁷). These two groups also provide staff support for Paul Rübiger MEP³⁸. The declaration does not state which of the MEP's assistants are provided by WKÖ and the Institut für Bildung und Innovation. It also does not reveal the exact nature of the arrangement: does WKÖ pay the assistant's salary? Or does WKÖ make its own staff available to the MEP?

Asked to clarify the arrangement, Karas' office replied that he "offers young people who participate in a rotating trainee program of these organisations to work for a limited period of time in his office to gain professional experience. In the framework of these programs the trainees switch between different working places in the EU institutions and in private companies. A large part of the salary is paid out of Mr Karas' budget and the trainees act under the full responsibility and exclusive authority of Mr Karas. Mr Karas considers this an important contribution to the formation and career of young professionals."³⁹

This suggests that the MEP does not see any problem in receiving financial support or in having staff who move between private companies and the European Parliament. The guiding principles of the code of conduct and article 2 however contain strict language on the obligation of MEPs to act solely in the public interest, to refrain from obtaining or seeking to obtain any direct or indirect

³³ http://www.europarl.europa.eu/ep-dif/4246_12-01-2012.pdf

³⁴ <http://derstandard.at/1301873809528/OeVP-Delegation-IV-Praktikanten-im-Doppelspiel>

³⁵ The declaration mentions "one employee as part of the training and continuing education programmes of the Wirtschaftskammer Österreich (WKÖ) and one employee by the Institut für Bildung und Innovation"

³⁶ <http://www.businesseurope.eu/content/default.asp?PageID=600>

³⁷ Section G refers to "any support whether financial or in terms of staff or material, additional to that provided by parliament and granted to me in connection with my political activities by third parties, whose identity shall be disclosed: 1. Financial [...] 2. In terms of staff [...] 3. In terms of material"

³⁸ See case study on Paul Rübiger

³⁹ Letter to Friends of the Earth Europe, 7th May 2013

financial benefit or reward, as well as not to “solicit, accept or receive any direct or indirect financial benefit or other reward in exchange for influencing, or voting on, legislations, motions for a resolution”. MEPs who accept financial support from lobby groups may find themselves in a position where they could breach the code, or appear to breach the code and in our view, such relationships should not be permitted.

Contravening the code?

This arrangement also risks a breach of the code of conduct for lobbyists⁴⁰, which say that anyone registered in the Transparency Register shall “not induce Members of the EU institutions, officials or other staff of the EU, or assistants or trainees of those Members, to contravene the rules and standards of behaviour applicable to them”. Where lobby groups are financing assistants or trainees for MEPs, this could lead to a situation where the MEPs might be induced to breach their ethics obligations with regard to the code, and this could result in a breach of the lobbyists’ code of conduct. Information available online at the time of our research suggested that one of Karas’ accredited assistants⁴¹ was at that time also employed by WKÖ in the EU-Coordination department⁴². This particular member of staff was listed as an EU-Kadett at the WKÖ, with an Austrian contact telephone number⁴³, working in the Stabsabteilung EU-Koordination, which describes its activities

⁴⁰ http://europa.eu/transparency-register/about-register/code-of-conduct/index_en.htm

⁴¹

http://www.europarl.europa.eu/meps/en/4246/Othmar_KA_RAS.html ; screenshot (as of the date of 29 April 2013) available on demand

⁴²http://portal.wko.at/wk/kontakt_person.wk?jobid=44637&dstid=558&name=MMag.%20%20Andrea%C2%A0Steinmetz ; screenshot (as of the date of 29 April 2013) available on demand

⁴³http://portal.wko.at/wk/kontakt_person.wk?jobid=44637&dstid=558&name=MMag.%20%20Andrea%C2%A0Steinmetz ; screenshot (as of the date of 29 April 2013) available on demand

explicitly as lobbying (the department’s mission is to provide lobby advice and publish reports serving the Economic Chamber’s interests)⁴⁴. This would suggest that the trainee had a dual function, working for an MEP, while also a member of WKÖ’s EU-Trainee program⁴⁵. It is not clear which other assistant is being supported by the “Institut für Bildung und Innovation”, nor is it clear what exact arrangements are in place.

In its reply, Karas' office said that: “listing [the trainee mentioned above] as an "EU-Kadett" on the WKÖ website with an email address at the European Parliament is and has always been clearly against the traineeship agreement between Mr Karas and the WKÖ. [The trainee] does neither work for the WKÖ in practical terms nor is bound to it by instructions during her time at the European Parliament. This mistake, which has unfortunately been made by the WKÖ, has been immediately resolved.” While helpful, this statement does not clarify which measures have been taken to mitigate potential risks of conflicts of interest. WKÖ has a commercial interest in issues the European Parliament regulates on; therefore placing trainees in parliamentary offices, even under the sole instruction of the MEP, raises the risk of potential conflicts of interest.

Representing Austrian business

WKÖ states that it represents “more than 400,000 member companies. As the voice of Austrian business, we are committed to forward-looking policies which benefit the economy e.g. tax relief, cutting red tape, subsidies”⁴⁶. Members include powerful companies such as OMV (Oil and Gas),

⁴⁴http://portal.wko.at/wk/kontakt_dst.wk?dstid=558

⁴⁵ <http://www.afa.at/v20130217.pdf>

⁴⁶ http://portal.wko.at/wk/startseite_dst.wk?dstid=9495

Raiffeisen (Bank), Telekom Austria, and Austrian Airlines, and the Chamber represents a broad range of business interests, including “crafts and trades, industry, mining, finance, banking and insurance, transport, information and communication, broadcasting, tourism and leisure”⁴⁷. It has signed up to the EU Transparency Register⁴⁸ with interests in banking, insurance, financial, fiscal and trade policy⁴⁹.

Karas is a member of the ECON Committee, which has debated a range of issues that are of interest to WKÖ lobbyists. For example, the committee has recently voted on different financial market regulations, including the Financial Transaction Tax, regulations on derivatives trading, the prudential supervision of credit institutions, and on tax issues including VAT and VAT fraud, the fight against tax fraud, tax evasion, and tax havens. Karas’ work for the ECON committee is relevant to WKÖ. In June 2012, he was appointed rapporteur on the proposal on “prudential requirements for credit institutions and investment firms” and in May 2012 he worked on the proposal on “the access to the activity of credit institutions and investment firms”. It is likely that WKÖ or its members have directly lobbied members of the Committee, including Karas, (through their Brussels office) or indirectly (through the European Banking Federation or other representative bodies).

We believe that the practice of lobby groups providing MEPs with staff should be clearly prohibited by the code of conduct. Such cases present a strong risk of a conflict of interest.

We recommend that the code of conduct should be amended to prohibit lobby groups from providing financial or staff support to MEPs.

⁴⁷http://portal.wko.at/wk/format_detail.wk?angid=1&stid=651630&dstid=9495&opennavid=0

⁴⁸<http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do:TRPUBLICID=XD0pQhJQXnh12z7WnT41fhNTJwxPnlbxS7yQ6gntRpFBq|VBtrLJ!1395149453?id=10405322962-08&isListLobbyistView=true>

⁴⁹http://portal.wko.at/wk/format_detail.wk?angid=1&stid=502618&dstid=1328

Klaus-Heiner Lehne (Germany)

Klaus-Heiner Lehne was first elected as an MEP in 1994. He currently chairs the Committee on Legal Affairs (JURI) and the Conference of Committee Chairs, and is a substitute member on the Committee on Civil Liberties, Justice and Home Affairs (LIBE).

Lehne's declaration of financial interest (DoFI) mentions unpaid membership of several boards, as well as payment for his work as a lawyer at the international law firm Taylor Wessing, where he is a partner, with a declared monthly income of more than €10,000.

Legal lobbying practice

Taylor Wessing is a German law firm with a number of offices outside Germany, including one in Brussels which has nine lawyers⁵⁰. Globally, the firm employs 900 lawyers, working across 22 offices. Its broad range of practice areas includes banking and finance, commercial agreements, EU and trade competition, planning and environment, and litigation and dispute resolution⁵¹. It takes pride in its expertise in patent law and patent litigation for large companies⁵², and claims their patents group is "one of the largest and best known in Europe. Highly experienced in both contentious and non-contentious patent matters, we help our clients, based in Europe and internationally, exploit, protect, manage and defend their IP rights (...)"⁵³.

Lehne joined Taylor Wessing as a partner in the Düsseldorf office in 2003, during his

second term as an MEP (while a member of the Parliamentary Committee on Legal Affairs and the Internal Market)⁵⁴. He became the head of the "Regulatory Affairs" department, advising corporate clients about future EU legislation⁵⁵. He was described as a "high profile scalp for the Anglo-German firm given the MEP's longstanding experience of Brussels politics and his role in shaping a number of key EU directives"⁵⁶. Lehne's overlapping interests as an MEP and as a lawyer at Taylor Wessing have already been questioned on several occasions^{57 58 59}.

In the interests of finance?

Three areas of his work have raised particular concerns about possible conflicts: finance, patents and lobbying transparency. Taylor Wessing is a member of the European Private Equity and Venture Capital Association (EVCA)⁶⁰, a Brussels-based lobbying

⁵⁴http://powerbase.info/index.php/Klaus-Heiner_Lehne#Former_Declaration_of_Financial_Interest

⁵⁵<http://www.europolitics.info/dossiers/parliament-committees-2009/presidents-and-vice-presidentslist-of-members-art244752-119.html> ;

<http://wiki.ffii.org/KlausHeinerLehneEn>

⁵⁶<http://www.legalweek.com/legal-week/news/1161425/taylor-wessing-hires-profile-mep> ; <http://83.223.104.6/~spinw/images/too%20close%20for%20comfort.pdf>

⁵⁷Spinwatch, "Too close for comfort? A report on MEPs, corporate links and potential conflicts of interest", July 2008, <http://www.spinwatch.org/images/too%20close%20for%20comfort.pdf>

⁵⁸<http://wiki.ffii.org/KlausHeinerLehneEn>

⁵⁹<http://online.wsj.com/article/SB112051964696476902.html>

⁶⁰<http://www.evca.eu/toolbox/membersearch.aspx?id=624>.

The European Private Equity and Venture Capital Association was established in 1983 in Brussels to "represent and promote the European private equity and venture capital industry". Members of the board of directors include some of the biggest global investment firms such as TPG Capital LLP, the Riverside Company, GIMV or Hg Capital. More information can be found on <http://evca.eu/>

⁵⁰As stated on the law firm's website

<http://www.taylorwessing.com/lawyers/search/office-brussels.html>

⁵¹ <http://www.taylorwessing.com/home.html>

⁵² <http://wiki.ffii.org/KlausHeinerLehneEn>

⁵³ <http://www.taylorwessing.com/services/our-practice-areas/patents.html>

organisation⁶¹ that aims “to make the voice of the European private equity industry heard, and play a central role in the development of the EU legislation that will shape our business in the years to come”⁶². EVCA says that Taylor Wessing provides advice on financial issues, including equity-based and venture capital transactions⁶³. Taylor Wessing sees these as key areas of its practice⁶⁴. EVCA has lobbied against stronger EU financial regulation,⁶⁵ including a number of proposals which Lehne has been involved with, such as the 2011 Directive on Alternative Investment Fund Managers (AIFM)⁶⁶, which was initiated by Lehne and Poul Nyrup Rasmussen MEP⁶⁷. This means Taylor Wessing offered clients advice about a regulatory framework one of its partners was involved in developing⁶⁸. Lehne has also served as a rapporteur on other regulations likely to be relevant to the clients of an international corporate law firm such as Taylor Wessing, including the European Commission proposal on transparency of institutional investors⁶⁹, the European Parliament reports on a European approach

⁶¹EVCA is signed up to the Transparency Register : <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=60975211600-74&locale=en>

⁶²<http://www.evca.eu/about/default.aspx?id=402>

⁶³

<http://www.evca.eu/toolbox/membersearch.aspx?id=624>

⁶⁴ <http://www.taylorwessing.com/news-insights/details/taylor-wessing-is-the-sole-legal-sponsor-of-the-evca-venture-capital-forum-on-11-13-october-2006-in-barcelona-2006-10-09.html>

⁶⁵ <http://www.worstlobby.eu/2010/nominee/aima-evca>

⁶⁶<http://www.evca.eu/publicandregulatoryaffairs/default.aspx?id=5574>

⁶⁷http://www.evca.eu/BTF/FULL_SUBMISSION_to_the_European_Parliament_and_the_European_Commission_february_2009.pdf

⁶⁸ <http://www.taylorwessing.com/news-insights/details/the-alternative-investment-fund-managers-directive-aifmd-2012-09-13.html> ;

<http://www.taylorwessing.com/fileadmin/files/docs/The-Alternative-Investment-Fund-Managers-Directive.pdf>

⁶⁹<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2008-0296+0+DOC+XML+V0//EN> or

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0296+0+DOC+PDF+V0//EN&language=EN>

to collective redress⁷⁰ and the Accounting Directives⁷¹.

Promoting patents?

Lehne is also recognised as one of the leading experts on patents and intellectual property in the European Parliament. On several occasions, he has been rapporteur for the JURI committee, including draft reports on the Jurisdictional system for patent disputes (January 2012), and on the proposal for a Council decision authorizing enhanced cooperation in the area of the creation of unitary patent protection (February 2011)⁷². The MEP has always supported patentability and strict enforcement of intellectual property, including voting in favour of the controversial ACTA regulation in June 2012⁷³ (against the position of his party group⁷⁴). At a conference organised by Taylor Wessing and the Institute of Brand and Innovation Law of University College London (IBIL) in November 2012, Lehne spoke as a member of the JURI committee on patent unification⁷⁵. Given Taylor Wessing’s claim to be “one of the leading patent litigation firms in Europe”, who are “best placed to see the trends and attitudes of the court, in order to provide forward thinking, innovative advice”⁷⁶, Lehne’s parliamentary activities are extremely useful. Taylor Wessing’s Brussels office also lists “Intellectual Property law (patents,

⁷⁰<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2012-0012+0+DOC+XML+V0//EN>

⁷¹<http://www.europarl.europa.eu/document/activities/cont/201204/20120424ATT43837/20120424ATT43837EN.pdf>

⁷² <http://www.votewatch.eu/en/klaus-heiner-lehne.html>

⁷³ <http://www.votewatch.eu/en/anti-counterfeiting-trade-agreement-between-the-eu-and-its-member-states-australia-canada-japan-the--2.html>

⁷⁴The EPP group’s official position was to abstain from the vote. See

<http://www.theinquirer.net/inquirer/news/2188746/epp-abstain-acta-vote>

⁷⁵<http://www.ucl.ac.uk/laws/ibil/docs/standards-2012.pdf>

⁷⁶<http://www.taylorwessing.com/services/our-practice-areas/patents/patent-litigation.html>

trademarks, copyrights and information technology)⁷⁷ as an area of its expertise. Lehne, in his role as MEP, is making decisions on issues that are highly relevant to Taylor Wessing's business interests, while he simultaneously is a partner in the law firm.

Double standards for transparency?

The MEP's position on lobbying transparency and ethics regulation have also raised questions about how his professional work as a lawyer may interfere with his public responsibilities as an MEP. In May 2008, a group of MEPs including Lehne⁷⁸ tabled an amendment proposing to exclude "legal advice" provided by lawyers from lobbying transparency⁷⁹. The amendment was rejected and law firms lobbying in Brussels are now part of the scope of the Transparency Register. Taylor Wessing's Brussels office is directly affected by this. The firm has still not signed up to the register at the time of writing⁸⁰.

While the MEP is required to act in the public interest in his official functions, his involvement in an organisation that has a commercial interest in influencing the European Parliament is likely to create the risk of potential conflicts of interest. According to Lehne: "All MEPs have a professional

background. Being a lawyer and being a MEP in the Legal Affairs Committee of the Parliament is normal. Sometimes knowledge and competence helps to make the right political decisions"⁸¹. With regard to his work on patents, Taylor Wessing and the MEP have both declared that this should not be a problem as Lehne "does not work directly on patents for the law firm and that they are careful to avoid conflicts of interests"⁸². While there may be a formal recognition of the need to avoid conflicts, it is not clear how Lehne could be prevented from making use of his parliamentary knowledge of changing rules when advising clients, or even when advising other colleagues who may be directly involved in providing lobbying advice. As Lehne is a partner in the law firm, he also has a personal interest in the well-being of Taylor Wessing, which creates a perception of conflict with his duties as an MEP.

The case of Klaus-Heiner Lehne shows that despite the clear overlap between the law firm's interests and the public functions of the MEP, the parliamentary authorities seem to have overlooked the potential for a conflict of interest. While the wording of the code makes it clear that all individual potential conflicts of interest should be addressed, the interpretation by the parliamentary authorities seems to allow some to persist.

Asked for clarifications in relation to the findings of this research, MEP Lehne has not replied.

⁷⁷<http://www.rhtlawtaylorwessing.com/offices/brussels>

⁷⁸[http://www.europarl.europa.eu/RegData/commissions/juri/amendments/2007/398469/JURI_AM\(2007\)398469_EN.pdf](http://www.europarl.europa.eu/RegData/commissions/juri/amendments/2007/398469/JURI_AM(2007)398469_EN.pdf)

⁷⁹<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDMQFjAA&url=http%3A%2F%2Fwww.aalep.eu%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2FEuropean%2520Parliament-%2520Report%2520on%2520Lobbying-%252002.04.08.doc&ei=cIDbUN-aFpG20QWqgYGYBQ&usq=AFQjCNGGT1nXDMIL8XDpMt2E9h7sooqfxw&sig2=L0oIlkRbBsBj0zK2VFTj5A>

⁸⁰Taylor Wessing is not the only law firm that has not signed up to the register. Most of the law firms working as lobbyists or consultants in Brussels have still not signed up to the voluntary Transparency Register.

⁸¹<http://online.wsj.com/article/0,,SB112051964696476902,00.html>

⁸²<http://wiki.fiii.org/WsjLehne050705En>

Paul Rübzig (Austria)

Paul Rübzig has been an MEP since 1999. He currently is a member of the committees on Budgetary Control (CONT), Industry, Research and Energy (ITRE), and is a substitute for the Committee on Budgets (BUDG).

Working for WKÖ

According to his declaration of financial interests (DoFI)⁸³ he earns between €1,001 and €5,000 a month for work for WKÖ. It also shows unpaid seats on various company and organisation boards including the European Energy Forum (EEF), Knowledge for Information (K4I), IV-Vorarlberg (IV), SME Global, the Raw Material Group or Pro Wels West. He has also received “support in staff” from the Institut für Bildung und Innovation, Österreichs Energie⁸⁴, and the EU Trainee-Programm, WKÖ. He declares shares in a number of companies including in UNIHA Wasser Technologie CmbH (11.8%), Rübzig GmbH (23%), PRO GmbH, Stifter PRO (24%).

Wirtschaftskammern Österreichs (WKÖ), (the Austrian Federal Economic Chamber representing more than 400,000 member companies⁸⁵) lists Rübzig as a member of the presidency of the industrial division⁸⁶, which represents around 4,000 companies from the Austrian industrial sector⁸⁷. The Chamber also has a Brussels office⁸⁸, responsible for building alliances, and securing influence and insider

⁸³ http://www.europarl.europa.eu/ep-dif/2278_11-06-2012.pdf

⁸⁴ Österreich Energie was mentioned in section G of MEP Rübzig's declaration of interest dating back June 2012. It was removed in the declaration that was put online on 11 April 2013.

⁸⁵ http://portal.wko.at/wk/startseite_dst.wk?dstid=9495

⁸⁶ http://portal.wko.at/Utils/Funktionaere/Fkt_Liste.aspx?an_gid=0&dstid=234&opennavid=868

⁸⁷ Corporate Europe Observatory, “Europe's resource grab. Vested interests at work in the European Parliament,” June 27th 2011, Brussels.

⁸⁸ http://portal.wko.at/wk/startseite_dst.wk?DstID=272

information⁸⁹. According to the director of the industrial division, Rübzig's role is to “report on current developments in Brussels” and “receive important information from industry”, including “no gos”⁹⁰.

In response to questions about his activities with WKÖ⁹¹, Rübzig's office said: “The Austrian Federal Economic Chamber (WKÖ) is a self-governing body under public law, anchored in the Austrian Social Partnership. The Social Partnership is enshrined in the Austrian Constitution. The WKÖ is set up by federal law (Wirtschaftskammergesetz, BGBl. I Nr. 103/1998 and BGBl. I Nr.3/2012). Every entrepreneur in Austria is by law member of the WKÖ, which is democratically legitimised by public elections every five years. As a blacksmith and hence entrepreneur, Mr Rübzig was repeatedly democratically elected as representative in his branch of business. That is why WKÖ does not fit into your described scheme of lobby groups, but serves specific public purposes which are laid out in Austrian law. Compliance is supervised by the Austrian Federal Ministry of Economy. This is also reflected by the fact that WKÖ has a nomination right for the European Economic and Social Committee”.

While WKÖ may have a specific role set out in Austrian law, it is nevertheless involved in lobbying at the EU level. The organisation has signed up to the EU Transparency Register in the category “In-house lobbyists and trade/professional associations” and “Trade,

⁸⁹ http://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&ved=0CCKQFjAB&url=http%3A%2F%2Fwww.smefit.eu%2FIMG%2Fppt%2FWKO_s_Presentation_140109-2.ppt&ei=5XpAUKuhOo6lhQeXwIG4BQ&usq=AFQjCNHm67q3tG75pV7Iz2fheVrdUDVLMQ

⁹⁰ Corporate Europe Observatory telephone conversation with Manfred Engelmann, director of the industrial section of WKÖ, 16 June 2011.

http://corporateeurope.org/sites/default/files/publications/europes_resource_grab.pdf

⁹¹ Letter to Friends of the Earth Europe, 15th May 2013

business and professional associations”⁹². In 2010, it declared that 13 members of staff were engaged in activities falling under the scope of the Transparency Register with an estimated lobby budget of €900,000-1,000,000.

Working for industry?

WKÖ represents small and medium-sized-enterprises as well as powerful companies such as OMV, Raiffeisen bank, and Austrian Airlines which have a direct commercial interest in the European Parliament’s regulatory activities. Rübigs professional involvement with WKÖ should therefore be considered as “a personal interest that could improperly influence the performance of his duties as a Member” as defined in the code of conduct for MEPs⁹³. According to the director of WKÖ’s industrial division Rübigs provides WKÖ with information that is used to lobby on legislation at the EU level. As Rübigs is remunerated for this activity, this would suggest a clear breach of the code of conduct.

Staff support

Rübigs also declares support in terms of staff from WKÖ’s EU Trainee Programme. In 2011, Corporate Europe Observatory found that one of Rübigs former accredited assistants was simultaneously listed as a staff member of WKÖ’s Brussels office, with contact details at the Parliament⁹⁴. The staffing arrangement between WKÖ and the MEP seems to have been renewed. In December 2012, the MEP’s

most recently accredited assistant⁹⁵ also appeared on the staff list for WKÖ’s Brussels office⁹⁶, with a European Parliament email address.

According to Section G of his declaration⁹⁷ Rübigs also receives staff support from Österreich Energie, an “independent advocacy group for the Austrian electricity industry”⁹⁸, which has a declared annual lobby budget of €100,000-150,000 according to its entry in the EU Transparency Register⁹⁹.

Rübigs also receives staff support from the “Institut für Bildung und Innovation” (IBI). IBI is listed as a partner organisation by “Industriellenvereinigung” (IV) - the Federation of Austrian Industries (IV), which is a member of BusinessEurope. The main contact person for IBI has an email address at IV¹⁰⁰, and appears on the IV organigramme as responsible for IV’s programme on “Bildung, Innovation, Forshung” (Education, Innovation, Research)¹⁰¹. Rübigs is a board member of IV, a “voluntary body representing the interests of the Austrian industry” with the aim of “boosting national and European competitiveness”, “making working hours and remuneration more flexible” and promoting “State and administrative reform” and the

⁹² <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=10405322962-08&isListLobbyistView=true&locale=en#en>

⁹³ Code of Conduct for MEPs http://www.europarl.europa.eu/pdf/meps/201206_Code_of_conduct_EN.pdf

⁹⁴ Corporate Europe Observatory, “Europe’s resource grab. Vested interests at work in the European Parliament”, June 27th 2011, Brussels

⁹⁵ http://www.europarl.europa.eu/meps/en/2278/PAUL_RUBIG.html

⁹⁶ http://portal.wko.at/wk/kontakt_person.wk?jobid=46507&dstid=6959&name=Mag.%28FH%29%20%20Katja%20%20A0Senger.%20MA ; screenshot (as of the date of 29 April 2013) available on demand

⁹⁷ In section G, MEPs are required to declare support either “financial or in terms of staff or material, additional to that provided by Parliament and granted to me [the MEP] in connection with my [his/her] political activities by third parties, whose identity shall be disclosed”.

⁹⁸ <http://oesterreichsenergie.at/englisch.html>

⁹⁹ <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=80966174852-38&isListLobbyistView=true>

¹⁰⁰ <http://www.iv-net.at/b1344> (lastly accessed on 27th May 2013)

¹⁰¹ http://www.ivnet.at/files/organigramm/iv_organigramm_de_hi.pdf (lastly accessed on 27th May 2013)

modernization of the tax system¹⁰². According to the Transparency Register, IV spends between €250,000-300,000 on lobbying annually. Its lobbying interests include competition, economic and financial affairs, energy, environment, research and technology, taxation, or trade¹⁰³. This suggests that Rübzig is involved in an organisation that is lobbying on topics that are related to his parliamentary activities, while it is also providing him with support in terms of staff.

In response to our queries, Rübzig replied that: “the Institut für Bildung und Innovation is a registered association (Industriellenvereinigung was not a founder and is not a member of the association) with the aim to promote the qualification of all economic actors, e.g. in international projects. Examples are the project “Labour and Disability” in cooperation with the Austrian Federal Social Security Office and the European Social Fund, or the project “Initiative Innovation Summit” in cooperation with the Austrian Federal Ministry for Economy, Family and Youth.”

At the time of writing this report however, the Institute für Bildung und Innovation is still on the webpage of the IV¹⁰⁴ ¹⁰⁵. The copyright of IBI’s logo is owned by IV, and can be downloaded directly from the IV website¹⁰⁶. Othmar Karas MEP, who similarly receives staff support from IBI, has acknowledged the

relationship between IBI and IV on his declaration of financial interests¹⁰⁷.

Staffing conflicts

Asked about the WKÖ and IBI scheme, Rübzig’s office said that, he “offers young people who participate in rotating trainee programs of WKÖ and “Institut für Bildung und Innovation” to work for a limited period of time in his office to gain professional experience. In the framework of these programs the trainees switch between different working places in the EU institutions and in private companies. A large part of the salary is paid out of Mr Rübzig’s budget and the trainees act under the full responsibility and exclusive authority of Mr Rübzig. Mr Rübzig considers this an important contribution to the formation and career of young professionals. This traineeship agreement was transmitted to the Secretary General of the European Parliament, who examined and confirmed the legality of this arrangement”.

Rübzig’s response suggests the salaries of the trainees who benefit from this scheme are partly financed from the MEP’s budget and partly financed by WKÖ and the IBI. All MEPs receive a maximum monthly allowance of €21,209 for their staffing arrangements¹⁰⁸, including the staff costs of their parliamentary assistants and other related costs. This additional income is supposed to guarantee the independence of the MEPs and their staff. Rübzig’s acceptance of extra staff support from business groups that have a commercial interest in influencing European regulations that he has a responsibility for drafting, raises questions about the possible undue influence of those groups. The code of conduct for

¹⁰² <http://www.voei.at/bm50>

¹⁰³ <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do:TRPUBLICID=Sk5gQq1JhBSln1JHG5bsHKpTQbtnVvNyHy721vSLIqYsLBLD0dv!854581953?id=89093924456-06&isListLobbyistView=true>

¹⁰⁴ <http://www.iv-net.at/b1344> (lastly accessed on 27th May 2013)

¹⁰⁵ http://www.ivet.at/files/organigramm/iv_organigramm_d_e_hi.pdf (lastly accessed on 27th May 2013)

¹⁰⁶ http://www.industriellenvereinigung.at/show_pic_db_detail.php?id=3553&lg=iv-all&suche=va

¹⁰⁷ http://www.europarl.europa.eu/ep-dif/4246_18-03-2013.pdf

¹⁰⁸ <http://www.europarl.europa.eu/aboutparliament/en/0081dfaa4/MEPs.html>

MEPs sets out precise obligations when it comes to additional payments which could influence members in their official duties: article 1 states that MEPs should “act solely in the public interest and refrain from obtaining or seeking to obtain any direct or indirect financial benefit or other reward”, and article 2 adds that MEPs shall “not solicit, accept or receive any direct or indirect financial benefit or other reward in exchange for influencing, or voting on, legislation, motions for a resolution, written declarations or questions tabled in Parliament or any of its committees”. MEPs accepting money from lobby groups to employ staff or employing staff who are linked to lobby groups are likely to increase the risk of a potential conflict of interests. It also, as previously mentioned, ignores the provisions of the lobbyists own code of conduct¹⁰⁹, which places an obligation on lobby groups such as Österreich Energie and IV in their interactions with MEPs. Such practices should not be accepted by the parliamentary authorities and any payments already made should be disclosed.

The overlap between Rübigs external private interests and his public responsibilities has already been highlighted¹¹⁰. As a member of ITRE, the MEP works on EU regulations that are likely to affect the companies he has links with externally. Records of his past legislative activity show that he has submitted a number of amendments to reports in relation to energy infrastructure¹¹¹, energy efficiency¹¹²,

¹⁰⁹ http://europa.eu/transparency-register/about-register/code-of-conduct/index_en.htm

¹¹⁰ Corporate Europe Observatory, (in cooperation with LobbyControl and Spinwatch), “MEPs and second jobs. Time to regulate”, May 2011, Brussels; Corporate Europe Observatory, “Europe’s resource grab. Vested interests at work in the European Parliament”, June 27th 2011, Brussels

¹¹¹ Draft report on the proposal for a regulation of the EP and of the Council Trans-European energy infrastructure

¹¹² Draft report on the proposal for a directive of the EP and of the Council on energy efficiency

access to raw materials¹¹³ and industrial policy¹¹⁴, all of which proposed changes to strict environmental regulation¹¹⁵. He was rapporteur on draft ITRE reports on issues of particular interest to the organisations he is linked to in the business world. Examples include an ITRE opinion report on enforcement of intellectual property rights and a budget committee opinion report on competitiveness and opportunities for small and medium size enterprises. His appointment as rapporteur for the Budgets committee was publicly welcomed by WKÖ, who referred to him as “the Austrian economy’s man in the European Parliament”¹¹⁶.

In response to our questions, Rübigs office replied that:

“Mr. Rübigs declaration of financial interests is in line with the provisions of the Code of Conduct for MEPs with regard to financial interests, as well as conflict of interests. The President of the European Parliament as the competent body verified the declaration without any further question[s].

[...] Mr. Rübigs feels accountable to his constituents in Austria, the people who elected him in 2009. He has always openly campaigned for securing the competitiveness of small and medium sized enterprises (SME) and for strengthening Europe and Austria as

¹¹³ Draft report on an effective raw materials strategy for Europe

¹¹⁴ Draft report on an industrial policy for the globalised era

¹¹⁵ As illustrated by MEP Rübigs amendments on the ‘proposal for a directive of the EP and of the Council on energy efficiency’: n° 1103 and 1221 ‘ Member States shall, where appropriate and cost-effective’; n° 1257 “when such a project is assessed as economically, commercially and technically feasible”; n° 1509 “While setting their national energy efficiency plans, the Member States shall take into account cost-effective energy efficiency measures and the risk of carbon leakage”

¹¹⁶

http://www.ots.at/presseaussendung/OTS_20120208_OT_S0168/leit-mit-ruebig-ist-mann-der-oesterreichischen-wirtschaft-chefverhandler-fuer-das-neue-kmu-foerderprogramm-der-eu

business locations. These political goals are a pivotal part of his work as an MEP.

[...] Mr Rübzig thinks that for a democracy it is important to have in elected positions both, career politicians and politicians with specific professional experience and knowledge.”

However Rübzig’s declaration of financial interests further illustrates how transparency does not automatically go hand in hand with accountability and shows that the European Parliament transparency system can only work provided declarations of interest are reviewed by the parliamentary authorities and steps are taken to prevent any risk of potential conflicts of interests when overlapping interests are detected. Strict and consistent enforcement of the code of conduct is absolutely essential when MEPs have links with organisations that have a commercial interest in the issues the Parliament is legislating on. In such cases, MEPs should not be allowed to report on, or vote on, the related pieces of legislation, unless they sever ties with their private interests.

5. Conclusions and Recommendations

The code of conduct for MEPs was introduced at the beginning of 2012 in an attempt to repair the reputational damage created by the “cash for amendments” scandal. However the capacity of the parliamentary authorities to monitor MEPs’ outside interests and prevent any risk of (potential) conflict of interests is questionable. Addressing a conference in Strasbourg shortly after the cash for amendments scandal broke, Martin Schulz said that *“being an MEP is a time-consuming job and a well-paid one. Parliament has to make sure that members cannot use their position as an MEP to make money on the side.”*¹¹⁷ Since making these comments, Martin Schulz has become President of the European Parliament, de facto taking over responsibility for the enforcement of the code of conduct together with the Bureau of the European Parliament.

Our analysis and the examples in this report show that current enforcement of the code of conduct is insufficient. We believe that all four MEPs mentioned in this report have a potential conflict of interest between their public responsibilities and their private interests as they have personal (paid or unpaid) relationships with industry groups with a clear interest in EU legislation or which are likely to attempt to influence EU legislation. MEPs Rübige, Lehne, Karas and Bendtsen have accepted payments for providing services to companies or business organisations that have an interest in influencing EU legislation.

That seems to us to be in breach of the spirit and intention of the code, which seeks to end such conflicts of interest.

We therefore call on President Schulz and the Bureau of the European Parliament to investigate the cases presented in this report and to clarify if there is a potential conflict of interest and/or breach of the code of conduct for MEPs. In case of a conflict or a breach, we urge the President and the Bureau to take appropriate measures to ensure these issues are resolved.

We further call on them to consider the following general recommendations.

In order to ensure the enforcement of the code of conduct, and as part of the recently published implementing rules, we urge them to:

- Establish a list of clear criteria to define which activities constitute a conflict of interest. Activities that constitute a conflict of interest should include:
 - o Being employed or receiving any other form of benefit or reward from an industry lobby group, a lobby consultancy or any other lobby actor.
 - o Any lobbying or paid positions to represent outside bodies (*including law firms engaged in lobbying at the EU level*);
 - o Any paid or unpaid position on an advisory or supervisory board of companies operating in fields that MEPs are likely to regulate or which have an interest in influencing the European Parliament;
 - o Any type of holding (including shares and stock options) or other financial interest in companies operating in fields that MEPs are likely to regulate or

¹¹⁷ <http://www.theparliament.com/latest-news/article/newsarticle/sd-leader-repeats-call-for-cash-for-laws-mep-to-quit/#.UMnolORfBSp>

which have a commercial interest in influencing the European Parliament.

In order to effectively limit the risk of conflicts of interest among MEPs, we urge the parliamentary authorities to:

- Clarify and ensure that the code of conduct not only serves to make potential conflicts of interest transparent but also to prevent and address them when they occur;
- Extend the mandate of the advisory committee to not only provide advice on how to complete a DoFI but also to undertake random checks of the submitted declarations and to investigate complaints made by stakeholders or the general public. The advisory committee should be able to proactively pass information on to a team of external independent ethics experts for investigation of any potential conflict of interest if required.
- Proactively check the declarations of financial interests submitted by MEPs for plausibility, and investigate any inconsistencies or lack of accuracy in the data.
- Require DoFIs to be filled in online in a searchable database that allows the aggregation of data for the nine questions, making public scrutiny easier.
- Take appropriate measures against conflicts of interest by augmenting the existing remedies and/or sanctions¹¹⁸ and applying these when conflicts of interest occur. This could include:
 - o extending the period during which members are excluded from taking part in all or some of

the activities of the European Parliament until the member has resolved his/her conflict of interest;

- o explicitly including (shadow) rapporteurship in the list of activities eligible for suspension;
 - o consider suspending the right to vote in committee and/or in plenary until the Member has resolved his/her conflict of interest.
- Clarify that the major issue with MEPs having holdings in companies and partnerships is that the interests of the companies or partnerships could have significant influence over the MEPs and their activities, proposals or votes in the European Parliament (not those MEPs having significant influence over the companies);
 - Clarify that all entities involved in lobbying (such as companies, consultancies etc.) should not be allowed to give support in terms of staff or other support to MEPs during their mandate of elected representative.

¹¹⁸ Current possible sanctions can be found in Article 153(3) of the European Parliament Rules of Procedures: <http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=TOC>



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