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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Delegations will find attached document COM(2023) 311 final.

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Brussels, 8.6.2023  
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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN  
COURT OF JUSTICE, THE EUROPEAN CENTRAL BANK, THE EUROPEAN  
COURT OF AUDITORS, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Proposal for an interinstitutional ethics body**

## 1. Introduction

The democracy of the European Union can only thrive in a climate of trust and confidence between the people and the institutions that serve them. A democracy is as strong as the legitimacy it rests upon. This is true at all times and even more important in times of multiple crises affecting greatly people across the EU, who must be able to trust its institutions and the people who lead them. Robust ethics and transparency framework are an essential part of good governance and contribute to preventing other phenomena such as corruption and undue interference into the democratic process.

The European Union has already high governance and ethics standards. Where there are lapses or failures, it has rules and procedures to redress them. To maintain and continuously strengthen citizens' trust in the EU institutions and their leaders, high principles of integrity and transparency are essential, and they must be fully upheld. These principles are also essential to protect the independence of the institutions and the integrity of the decision-making process in each of them and the legitimacy of the Union as a whole. To remain fit for the purpose and to respond to citizen's demands, these rules and procedures need continued updating.

The present initiative is therefore coherent with the Commission's action on rule of law, with the anti-corruption package<sup>1</sup> that the Commission presented on 3 May, with the upcoming defence of democracy package and with the interinstitutional agreement on a mandatory transparency register concluded between Parliament, Council and Commission on 20 May 2021<sup>2</sup>.

Ethics is a cornerstone of the way EU institutions, and the people serving them, work. Therefore, the European Treaties have laid down a number of principles and rules for ensuring the proper conduct of the members of the institutions with regard to the latter's independence and integrity. Most institutions have chosen to implement these principles and rules in more detail, be it in their rules of procedure, or in Codes of Conduct for their members or in both.

However, the EU institutions have different ethical frameworks in place for their respective members based on the different provisions in the Treaties. While some differences can be explained by the different roles of each institution under the Treaties and by the different risks inherent in performing the duties of members, it has become clear that a common set of basic ethical standards and cooperation between institutions is needed.

The very serious revelations and allegations surfacing at the end of last year have demonstrated that, no matter where they occur and the number of persons concerned, they have the effect of impacting all EU's institutions. This has led to calls for stronger rules but also to a further alignment of the rules and mechanisms to enforce them in order to dispel concerns and to ensure that applicable rules are coherent and easy to understand by both members and citizens.

In its Special report n° 13/2019<sup>3</sup>, the Court of Auditors concluded that the European Parliament, the Council and the Commission have put in place, to a large extent, adequate ethical

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<sup>1</sup> [Anti-corruption: Stronger rules to fight corruption](#)

<sup>2</sup> Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register, OJ L 207, 11.6.2021, p. 1–17, [EUR-Lex - 32021Q0611\(01\) - EN - EUR-Lex \(europa.eu\)](#)

<sup>3</sup> [Special report no 13/2019: The ethical frameworks of the audited EU institutions: scope for improvement \(europa.eu\)](#)

frameworks (for both members and staff). It also identified certain areas where the coverage, specificity, clarity, and level of guidance could be improved and harmonised. In the report, the Court also identified room for sharing good practice among institutions on ethical matters.

However, and unlike for staff, including senior managers, who fall under detailed ethical obligations set out by the legislator in Title II of the EU Staff Regulations adopted on the basis of Article 336 of the Treaty on the Functioning of the European Union (TFEU)<sup>4</sup>, there are currently no common minimum ethical standards for members and no formal mechanisms allowing for the establishment, coordination or exchange of views between institutions on the ethical standards expected from their members. It is this gap, and the lack of common minimum ethical standards for members, that the present initiative aims at filling by proposing the creation of an Ethics Body covering members of all EU institutions.

The Commission has adopted the present proposal for an agreement between the institutions and the two advisory bodies to cover all institutions and bodies mentioned in Article 13 of the Treaty on European Union (TEU). This proposal will accordingly be transmitted to the European Parliament, the European Council, the Council, the Court of Justice of the European Union, the European Central Bank, the European Court of Auditors, the Economic and Social Committee and the Committee of the Regions. Upon its request, the European Investment Bank may also become a Party to this Agreement once it enters into force.

The proposed agreement also provides for arrangements that allow Union bodies, offices and agencies, other than the participating institutions, to voluntarily apply the entire set of current and future common standards developed by the Body to the rules applicable to the persons, other than their staff members, who hold a function similar to the ones falling under this agreement. In this case, the concerned body, office or agency will take part to an exchange of views with the Ethics Body on their respective internal rules. The exchange of views will take place when new standards are developed or where existing ones are updated.

## **2. An inter-institutional approach to ethics and integrity**

It is part of the institutional autonomy of each institution, a principle of EU law, to itself adopt the internal rules applicable to its members. However, it is in the interest of citizens and all institutions that each of them has a strong ethical framework in place for its members. The reputation of the EU as a whole depends on the reputation of all institutions and the ethical conduct of all their members.

The Political Guidelines of the President of the Commission expressed support for the creation of such an interinstitutional ethics body and the Commission has since then been working towards this end together with other EU institutions

In its resolution of 16 September 2021, the European Parliament underlined that *‘a single independent EU ethics body could better ensure the consistent and full implementation of ethics standards across the EU institutions to guarantee that public decisions are taken with a view to the common good and citizens’ trust in the EU institutions’*.

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<sup>4</sup> The rights and obligations of staff are set out in Article 11 to Article 26a; Article 10 establishes an interinstitutional Staff Regulations Committee, Article 110 provides an obligation to consult the interinstitutional Staff Regulations Committee when an institution adopts general implementing provisions; moreover, it provides for an obligation of institutions to regularly consult each other on the application of the Staff Regulations, and establishes a registry of the rules of all institutions implementing the EU Staff Regulations.

As explained above, one of the recommendations of the Special report<sup>5</sup> of the Court of Auditors on the ethical frameworks of the European Parliament, the Council and the Commission is precisely that the audited institutions should make further efforts to share good practice on ethical matters.

It is indeed not only important that each European institution sets and applies clear rules for ethics and transparency. It is also crucial to ensure that all institutions:

- apply clear, transparent and equally high standards of integrity and independence, with due respect to their differences when appropriate; and
- have similar efficient control and enforcement mechanisms.

The establishment of an interinstitutional Ethics Body can precisely serve to achieve this, in full consideration of the autonomy of each institution. It will allow the participating institutions to benefit from their mutual experiences, to learn from each other, and to establish a common set of minimum ethical standards.

A significant improvement would come from a common set of minimum standards, a common culture for members of all institutions, a better public understanding of the ethical framework, and more clarity on what is acceptable and what is not, for everyone inside and outside the institutions, and on how institutions ensure proper application of the rules.

This interinstitutional initiative will demonstrate the importance that all institutions attach to high ethical standards as well as their implementation, and will thereby contribute to strengthening trust in the institutions and their members.

With the establishment of the Ethics Body there will, for the first time, be a formal mechanism for coordination and exchange of views between institutions and for the establishment of the common standards for the ethical conduct of their members.

Other initiatives contributing to establish open, transparent and ethics-oriented institutions have already demonstrated the importance of an inter-institutional approach.

As regards staff of the EU institutions, existing structures and mechanisms have proved successful to achieve a common inter-institutional approach whenever the subject matter calls for it. To begin with, staff of all institutions are subject to the common and detailed obligations enshrined in Article 11 to Article 24 of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, adopted by Parliament and Council on the basis of Article 336 TFEU. This ensures the application of identical standards and rules for the entire civil service of the EU. Each institution has adopted internal rules to give effect to these Staff Regulations, including in the field of ethics. To allow for transparency and to promote a consistent application of the Staff Regulations, the rules implementing the Staff Regulations are compiled in a register held by the Court of Justice of the European Union and are the subject of a report presented every three years by the Commission to the European Parliament and the Council (Article 110 of the Staff Regulations) on the rules adopted by each institution to give effect to the Staff Regulations. The latest report<sup>6</sup> shows there was further

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<sup>5</sup> [Special report no 13/2019: The ethical frameworks of the audited EU institutions: scope for improvement \(europa.eu\)](#)

<sup>6</sup> Report of 28 May 2021 from the Commission to the European Parliament and the Council on the rules adopted by the appointing authority of each institution to give effect to the Staff Regulations ([COM\(2021\) 258 final](#))

convergence among the institutions on a significant number of subject matters of implementing rules during the reporting period, including in the fields of ethics and integrity.

To make the most of these well-established mechanisms of coordination for staff rules, the Commission invites all institutions covered by the Staff Regulations to examine, as a matter of priority, room for sharing good practices, lessons learnt and, where necessary, areas for further alignment of the rules for staff. This work can be undertaken at the level of the College of Heads of Administration. Staff members are outside the scope of this agreement, as there are already interinstitutional coordination mechanisms for ethical matters of staff members. Within the limits of the Staff Regulations and via the College of Heads of Administration, the Parties to this agreement should commit to strive for an equivalent level of standards to those adopted by the Body as regards Directors-General and equivalent. The inter-institutional dialogue should also explore possible alignment of rules and practices related to the publication of the meetings of their senior managers with organisations and self-employed individuals on issues relating to decision-making and policy implementation in the Union as part of the dialogue with stakeholders. The Commission stands ready to share its experience, building on nearly 10 years of implementation of its internal decision on the matter<sup>7</sup>.

Building on the positive experience with a previous agreement concluded in 2014, the Interinstitutional Agreement on a mandatory Transparency Register concluded in 2021 between the Commission, the Parliament and, for the first time, the Council and shows the relevance of an inter-institutional approach in that regard. This agreement establishes principles and rules for a coordinated approach to both transparent and ethical interest representation, as well as for transparent and ethical interactions between the three said EU institutions and interest representatives at EU level.

The Interinstitutional Agreement of 25 May 1999 between the Parliament, the Council and the Commission concerning internal investigations by the European Anti-fraud Office (OLAF) is another example of the relevance of the interinstitutional approach for the implementation of ethics and integrity rules<sup>8</sup>. The agreement ensures that investigations be carried out under equivalent conditions in all the Union institutions.

### **3. An inter-institutional ethics body**

#### **3.1. Composition**

The task of the body is to develop common ethical minimum standards for the conduct of members of the institutions and advisory bodies listed in Article 13 TEU and, if it requests to take part, of the European Investment Bank.

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<sup>7</sup> Commission Decision of 25 November 2014 on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals, [O.J. L 343/19, 28 November 2014](#)

<sup>8</sup> The agreement recalls that (pursuant to Commission Decision 1999/352) OLAF can conduct investigations into serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials or other servants of the Union liable to result in disciplinary or, in appropriate cases, criminal proceedings or a failure to comply with the analogous obligations of the members, managers or members of staff not subject to the Staff Regulations.

The Ethics Body will be composed of one member from each participating institution, which is designed in the Agreement as a “Party”. To ensure a smooth and continuous running of the Body, each Party will designate one full member and one alternate.

The representative of a Party shall, in principle, be at the level of a Vice-President. It is however necessary to take into consideration the specificities linked to the role of each institution. This is why the proposed Agreement foresees that flexibility is given to every Party to appoint a representative other than a Vice-President, where no such function exists within the Party, or such a choice would be inappropriate.

The function of the Chair of the Body will rotate annually in line with the sequence set out in Article 13 TEU. In the event the European Investment Bank becomes a full Party, it will hold the annual chair after the sequence set out in Article 13 TEU has taken place.

The Body’s work will be informed by five independent experts who will act as observers and be appointed following a procedure to be established by the Commission and in consideration for their competence, experience in high-level functions, independence and professional qualities. They shall attend each meeting of the Body and advise on any ethical question related to the mandate of the Body. They shall also provide an opinion for an exchange of views of the Body on the alignment of the internal rules of Party with the standards.

When appointing the independent experts, the parties shall strive to ensure gender balance.

The members of the Body will be supported by a secretariat, which will be a joint operational structure formally hosted in the Commission. It shall be made up of the heads of unit, or equivalent, responsible for ethics for members in each participating institution and their respective staff designated for this purpose. The person holding that position at the Commission shall act as the Coordinator for the secretariat, unless another person is designated by the Commission in agreement with the Parties.

### **3.2.Tasks**

The Body will have three main tasks:

- To develop common minimum standards applicable to all Parties and their members, as well as to initiate their review, as necessary;
- to hold exchanges of views on the basis of the assessment made by a Party of the alignment of its own internal rules with the standards referred to above;
- to promote cooperation among the Parties on issues of common interest related to the conduct of their members as well as exchanges with any other public body or international organisation whose activities are relevant for ethics and integrity rules or standards.

The adoption of ethical rules and procedures and their application to individual cases will remain with each institution, in full respect of their autonomy and independence.

Union bodies, offices and agencies, other than the participating institutions, may voluntarily apply the complete set of current and future common minimum standards developed by the Body to the rules applicable to the persons, other than their staff members, who hold a function similar to the ones falling under this agreement. In this case, they will take part to an exchange



of views with the members of the Ethics Body on their internal rules related to areas where standards have been developed. They will designate a representative for the sake of that particular exchange of views. The same exchange of views will take place when new standards are developed or where existing ones are updated.

### 3.3. Areas for standardisation

The Body will develop common minimum standards in a defined number of areas, which duly consider the importance of these areas for the independence and integrity of the members and of the institutions they belong to. The standards should also include activities for promoting (awareness-raising) and monitoring compliance in each institution. Any party may, at any time, suggest to the Body, which will decide by consensus, to develop common minimum standards in other areas. The standards have to be common to all Parties and should therefore be designed in a way that duly respects their different institutional setting or role.

Standards should be common to all Parties and address the risks which they – and their members - face. The standards developed by the Body will not, under any circumstance, constitute grounds for lowering the standards that may already be applied by a party on the same matter.

The standards will relate to the following fields:

- **standards for interests and assets to be declared:** certain interests and assets of members can create a conflict of interest in the performance of a member's duties or be otherwise relevant for the performance of duties. Common standards would help all Parties to reflect on the categories of interests and assets that can potentially present a risk for the independence and integrity of the members. Common standards should also reflect on the appropriate rules and procedures in all institutions that should be applied to scrutinise these declarations.
- **standards for side / external activities of members:** it is essential to ensure that the performance of such activities, if it is to happen, does not compromise the availability of members for, and is not incompatible with, the performance of their institutional tasks. Such activities should not compromise the independence of members, and hence shed public doubts about the independence of the institution to which they belong. The standards should address the risks created by certain activities which may give rise to conflicts of interest or lead, in particular when they are remunerated, to a conflict between the necessary independence as member and the performance of duties in relation to these external activities.
- **standards for the acceptance of gifts, hospitality, travel offered by third parties:** members are not entrusted with public office or public mandates to draw personal gain from those functions. When they go beyond symbolic courtesy value or remain undeclared, the acceptance of gifts in any forms or hospitality from sources outside the institution creates risks of conflicts of interest and suspicions of influence, or be seen to influence, the decision-making process. Standards will help effectively addressing these risks.
- **standards for the acceptance of awards/decorations/prizes/honours during the mandate:** as for the gifts and hospitality, the acceptance of awards/decorations/prizes/honours by members from sources outside the institution may, because of the proximity created with the source, lead to risks of a conflict of interest and of



a lack of independence. Standards will help aligning the assessment of the reason for the honors or decoration and the possible consequences for the member's independence.

- **standards for conditionality and transparency measures, in particular as regards meetings with interest representatives and their publication:** a continuous dialogue with stakeholders and interest representatives is part of the EU's democratic system and can provide valuable input in order to initiate and implement legislation or policies that take full account of the specificities of the domain concerned. The transparent framing of such dialogue is however essential, to avoid risks for the institution or its members, that it might - even inadvertently - be exercised for the benefit of a specific interest group with possible detrimental effects for public trust and the general interest of the European Union. Certain common standards do exist in relation to meetings with interest representatives and the publication of information thereon following the interinstitutional agreement on the Transparency Register between Parliament, Council and Commission, even though the internal rules and practices between the three institutions vary, so common standards seem necessary too. Conditionality and transparency measures apply to other areas than meetings and publication of information thereon, such as access to institutions' premises, as deemed necessary to ensure interest representation that is transparent and ethical. Common minimum standards should also be developed in relation to these other areas.
- **standards for dealing with post-mandate activities of former members and their transparency:** post-mandate activities carry the risk of members using sensitive information for the benefit of a new employer, client or profession, of unduly using contacts or relations established under the former position to influence decisions of the institutions in the future or of casting doubts on decisions taken by public office holders while they were in office. Common standards could address the conditions for the authorisation of such activities, their transparency and certain related restrictions.
- **standards for the implementation of the common framework, including as regards the monitoring of compliance and ensuring follow-up in case of breaches:** standards on members' conduct are essential but not sufficient by themselves: they need to be complemented by concrete and efficient implementation and monitoring mechanisms as well as mechanisms for strengthening a common culture of ethics and integrity, notably via information and awareness-raising. Common standards may relate to the internal advisory functions that assist the competent authorities in their assessment of a particular matter, or members directly, notably the composition of internal ethics bodies and their tasks. They also concern the procedures to monitor compliance and ensure follow-up in case of breaches. Standards may also relate to mechanisms whereby suspicions of a breach of internal rules in an area covered by the standards by a member may be reported to OLAF and to the institution concerned, including follow-up actions on the report and the protection of the reporting persons against retaliation.
- **standards for the publicity of information gathered under the previous points.** Transparency is a core element of a democratic Union that has the trust and support of citizens. The body should develop standards for transparency in the fields mentioned here above, in full compliance with EU data protection rules<sup>9</sup>, for example with regard to the

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<sup>9</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, *OJ L 295, 21.11.2018, p. 39–98*.

disclosure of individual interests, through specific declarations in order to avoid doubts on the independence of members and of the institutions to which they belong. Transparency is also about making public all the standards which have been developed by the body, and all the applicable rules in each institution in all areas covered by the standards, in particular via the body's website.

### **3.4. The Body in the inter-institutional architecture**

The Political Guidelines of the Commission support the creation of an 'independent ethics body common to all institutions' as all institutions play an important role in fostering trust in the EU. The Commission therefore considers that an agreement between all institutions, based on their institutional autonomy, is the appropriate administrative approach as it allows to have all EU institutions participating.

The set-up of the Body will respect the autonomy and independence of each institution, as well as the institutional balance, and the different provisions in the Treaties for the members of the different institutions. The Treaties, and in particular Article 13(2) TEU, establish a system of checks and balances at EU level: such a balance cannot be overturned or amended by an agreement between the EU institutions.

The competences of the body will not impinge upon the prerogative of each institution to adopt internal rules and take decisions with respect to its members. The application of the internal rules is the primary responsibility of each institution which is exercised within the system of institutional balance with its checks and balances established by the Treaties.

The standards developed by the Body will however form a minimum common standard for a further alignment of the ethical frameworks applicable to the members of all participating institutions, without however imposing the adoption of a single set of ethical rules common to all.

The Body will neither interfere with, or limit in any way, the investigative functions (and therefore not overlap) with the powers of the:

- European Anti-Fraud Office (OLAF) which has significant powers and expertise in investigating serious breaches of professional duties of members. All institutions, bodies, offices and agencies should recognise and support OLAF's mandate in full;
- European Public Prosecutor's Office, which can investigate criminal offences affecting the Union's financial interests, including when committed by members of the institutions, and which can rely on the powers and measures provided for by Council Regulation (EU)2017/1939;
- national police and prosecutorial authorities which can investigate any criminal offence by a member and which can rely on the powers and measures provided by national criminal procedures; this includes the prosecution of criminal offences, like fraud and corruption, for which the Commission presented an Anti-Corruption Package on 3 May, as announced by President von der Leyen in her 2022 State of the Union address. This package includes a proposal to update and harmonise EU rules on definitions and sanctions on corruption offences, to ensure high standards in the fight against corruption, and applies in full to the members of all EU institutions as well as to EU staff;

- European Ombudsman, which can open inquiries into suspicions of maladministration by the institutions and can require access to information and documents held by the institutions.

In accordance with the Treaties, for the implementation of this agreement, the participating institutions will practice mutual sincere cooperation.

#### **4. Conclusion**

The European institutions, in their respective missions, must rely on the irreproachable conduct of their members. While discussions around the set-up of an inter-institutional ethics body are not new, there is a new momentum and a strong determination to make it happen, while preserving the particularities and independence of all the different EU institutions. The establishment of the body will be an addition to the existing ethical framework and help consolidate and strengthen trust in the EU institutions and in the people serving them. The setting up of this Body will represent a significant step towards ensuring that the institutions of the European Union meet and apply the highest standards of independence and integrity.

The Commission is therefore proposing an agreement between all EU institutions and advisory bodies mentioned in Article 13 TEU attached to this Communication. In the spirit of sincere cooperation, the institutions concerned should strive to ensure that an agreement on the attached draft text is reached as soon as possible, and in such time so as to allow the interinstitutional ethics body to be set up before the next European elections. Upon its request, the European Investment Bank may also become a full Party to this Agreement after it enters into force. Union bodies, offices and agencies other than the Parties may decide to voluntarily apply the entire set of current or future common standards developed by the Ethics Body to the rules applicable to the persons, other than their staff members, who hold a function similar to the ones falling under this agreement. In this case, they will take part to an exchange of views with the members of the Ethics Body on their respective internal rules related to areas where standards have been developed. The same exchange of views will take place when new standards are developed or where existing ones are updated.

This proposal is part of the Commission's broader set of actions to foster integrity and defend the Union's democratic system.

As announced in the 2022 State of the Union Address, the Commission presented an anti-corruption package on 3 May. The package includes a proposed directive with new and strengthened rules criminalising corruption offences and harmonising penalties across the EU, as well as a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, supported by the Commission, to establish a dedicated Common Foreign and Security Policy (CFSP) sanctions regime to target serious acts of corruption worldwide. These new measures place a strong focus on prevention and creating a culture of integrity, in which corruption is not tolerated and at the same time, strengthen and work in synergy with existing enforcement tools such as the 2019 Whistleblower Protection Directive.

Another related initiative announced in the 2022 State of the Union Address is the Defence of Democracy package.

These initiatives, together with the present proposal, will further strengthen the institutional setting of the Union, ensuring an even higher degree of transparency and integrity, and therefore reinforcing the trust of EU citizens in their democratic system.

