

# ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

## COOLING-OFF PERIODS: REGULATING THE REVOLVING DOOR

### QUERY

Are there any cooling-off regulations in place in European countries for former members of government?

### PURPOSE

The government wants to adopt a new rule on post-public employment. The draft law states that cooling-off periods are supposed to be between 12 and 18 months. How to deal with violations is, however, still a big question.

### CONTENT

1. Regulating the revolving door: introduction
2. Post-public employment rules in selected European countries
3. References

////////////////////////////////////

#### Author(s)

Maira Martini, Transparency International  
tihelpdesk@transparency.org

**Reviewer (s):** Marie Chêne, Transparency International

**Date:** 05 June 2015

### SUMMARY

The movement of individuals between the public and private sectors – known as the revolving door – may lead to conflict of interest situations, increasing the risks of corruption. Given their decision-making power, access to key information and influence, former ministers and members of the government can be an important asset for private companies. Governments should thus ensure that appropriate measures are in place to avoid former public officials misusing the information and power they hold to the benefit of their private interests.

Cooling-off periods, that is, the introduction of a minimum time interval restricting former public officials from accepting employment in the private sector, is the most common measure to prevent conflicts of interest. Countries in Europe have set different cooling-off periods and requirements for former members of the government wishing to join the private sector. They usually vary from one to two years and are linked to specific types of activities in the private sector. Overall, enforcement is still very weak and scandals related to post-public employment continue to appear in the media.

## 1 REGULATING THE REVOLVING DOOR: INTRODUCTION

### What is the revolving door?

The term revolving door refers to the movement of individuals from government to the private sector and from the private sector to government (Transparency International 2010).

While this movement between public and private sectors is not necessarily bad and may be beneficial to bring innovation and different perspectives into government and business, the lack of regulation and oversight may lead to conflicts of interest and abuses (OECD 2010).

For instance, in the movement from the public to the private sector, known as post-public employment, public officials (elected or appointed) and civil servants may be attracted to private sector positions due to their government experience, inside knowledge and connections that could be used to unfairly benefit their new employer (Transparency International 2010). Conflict of interest in post-public employment may also arise when the official is still in public office, for example, if a public official makes biased decisions to benefit a prospective employer (OECD 2010).

The second situation involves the appointment of corporate executives to key public offices and posts in government, which raises the possibility of a pro-business bias in policy formulation, procurement decisions and regulatory enforcement. Conflict of interest in post-public employment may also arise when the official is still in public office, for example, if a public official makes biased decisions to benefit a prospective employer (OECD 2010).

There have been several scandals recently that highlight the risks of unregulated revolving door appointments. For example, in 2013 a former executive of Citigroup was nominated as US treasury secretary. The nomination was seen by many organisations as a conflict of interest. In fact, research conducted by the Project on Government Oversight (POGO) shows that financial groups consider it very beneficial to have former employees occupying public jobs. In the case of Citigroup, the financial institution offered a financial reward to the executive for taking a

position in the government. Other large corporations also have compensation policies to executives moving to key public positions (POGO 2013).

This answer provides an overview of revolving door regulations, focusing particularly on measures to regulate post-public employment.

### How to regulate the revolving door

Regulating the revolving door requires measures to prevent and deal with conflicts of interest that may arise in pre and post-public employment appointments.

Research conducted by the OECD (2010; 2014) and more recently by Transparency International (2015) shows that the majority of countries in Europe have basic post-public employment standards to deal with the revolving door phenomenon. Regulations on pre-employment are, however, less common.

In the case of post-public employment, the majority of countries regulate the issue through law, such as federal civil servants rules, conflict of interest laws, as is the case in the Czech Republic and Spain, or dedicated post-public employment rules, such as in Turkey. Some countries have also made use of codes of conduct or ethics, such as Canada and the UK. Codes may be particularly important and can help to complement laws by outlining a clear standard for expected action and conduct (Transparency International 2010).

Finally, in some countries, specific guidelines with regard to post-public employment have been adopted. This is the case in Norway where separate guidelines have been adopted covering public servants and politicians. These guidelines provide detailed information on prohibitions, restrictions and sanctions, among others (OECD 2010).

### Coverage

The usual focus of revolving door regulation is on decision makers, such as ministers and members of the legislature, as well as political advisors, senior public servants, chief executives and managers of state-owned enterprises.

Countries with an effective conflict of interest policy tend to have different systems to regulate different categories of public office holders (members of the government, government institutions, parliaments, central banks and audit agencies). The same distinctions may also apply to revolving door regulations to ensure that they are proportionate to the risks posed by each category of office holder (Transparency International 2010).

## Common regulatory measures

General rules aimed at reducing the opportunities for conflicts of interest, including measures that mandate the disclosure of interests and assets, are important for preventing abuses related to the revolving door.<sup>1</sup>

Nevertheless, in order to effectively regulate the revolving door, specific measures need to be taken to prevent conflicts of interest related to the movement of individuals between the public and private sectors. These measures usually include the adoption of cooling-off periods, the establishment of advice bodies, as well as the adoption of proportionate and dissuasive sanctions for both public individuals and companies not complying with the law.

### *Cooling-off periods*

The most common response for dealing with post-public employment conflicts is using rules that mandate cooling-off periods. These are time-limited restrictions on former public officials to accept employment in the private sector (Transparency International UK 2011). This means that, for a certain period of time, former members of the government or public office holders are prohibited from undertaking tasks in the private sector that relate to their previous duties in the public sector.

Such restrictions are based on the idea that the time interval between the two jobs is relevant to the intensity of the conflict of interest (Hertie School of Governance 2013). It is expected that, after a certain period of time after leaving office, the ability of a former public official to influence the decision-making

process to the benefit of the new employer (through previous connections, knowledge and access to confidential information) will decrease significantly.

The type of restriction and the time period varies between countries. For instance, in Norway, politicians are not allowed to accept private employment for a period of six months, and for a period of two years in Cyprus (Transparency International Cyprus 2015).

Some countries have time periods of different lengths for officials at different levels of seniority (for example, ministers versus public officials) or occupying specific functions (for example, procurement officers, heads of agencies, specific sectors). For instance, Canada has a one-year cooling-off period for public officials, two for ministers and it has increased the period for cabinet ministers from two to five years (OECD 2010). In the Netherlands a specific cooling-off period applies to officials in the defence sector (Transparency International Netherlands 2015), and in Italy there are specific provisions for the telecom and energy sectors (OECD 2010).

Moreover, cooling-off periods can also be related to specific jobs or activities that can be performed in post-public employment. For instance, some countries have recently adopted specific legislation dealing with revolving door and lobbying. In the UK, for example, members of the government are prohibited from engaging in lobbying activities for a period of two years after leaving public office (Transparency International UK 2011).

Good practice in cooling-off periods stresses that the type of restriction and the length of time limits imposed on the activities should be proportionate to the threat imposed from their role as a public official. Transparency International has recommended a cooling-off period of at least two years to mitigate the risk of potential conflicts of interests, but restrictions should always take into account the specificities of the position and the country context.

### *Advice bodies*

An effective system to prevent conflicts of interest

<sup>1</sup> For more information on conflict of interest and asset declaration please refer to a previous Anti-Corruption Helpdesk Answer available [here](#) and to the Topic Guide on Public Sector Ethics.

resulting from post-public employment also requires mechanisms that help to apply existing rules. This usually includes the establishment of a single public body or the designation of authorities responsible for providing advice and overseeing revolving door regulations.

In some cases, these bodies may also be responsible for approving public officials' future employment plans. Within this framework, public officials are required to disclose future employment offers and seek the approval of the public body. This is the case in Portugal and Spain, for example (OECD 2010). In other countries, public officials wishing to take a position in the private sector must consult such an advisory body (for example, in the UK), but their advice is not binding and therefore sanctions for non-compliance do not apply (Transparency International UK).

According to the OECD, the decision regarding which bodies and authorities should be responsible for implementing post-public employment rules is to be made based on the country context. Such a role may be undertaken by an ethics office, a specialised conflict of interest office, an anti-corruption body or the head of the public body or institution where the potential conflict took place, among others.

Countries should also decide whether to have a single agency for all public officials covered by the law or a separate one for senior officials and members of the government. In any case, it is essential that clear provisions designating the responsible body/authorities are in place and are known by all public officials affected. In addition, authorities should clearly communicate the procedures to be followed by officials considering leaving office. Procedures and criteria for making approval decisions in individual cases as well as for appeals against these decisions should also be transparent and applied consistently (OECD 2010).

### Enforcement mechanisms

Appropriate enforcement mechanisms and sanctions are instrumental to ensure the effective implementation of post-public employment systems.

A recent study conducted by Transparency International on lobbying across Europe shows that the majority of countries have failed to effectively regulate and/or enforce rules on the revolving door (Transparency International 2015).

There are several challenges in effectively enforcing post-public employment rules. Firstly, in many cases, governments lack a mechanism to monitor former public officials when they leave office, and compliance with post-public employment remains generally the responsibility of the former official. Moreover, in countries where an advisory or ethics body is responsible for approving the future employment, measures to track and ensure the implementation of the approval decision are rarely used (OECD 2010). Secondly, the fact that individuals regulated by post-public employment rules are no longer in public office restricts the disciplinary measures that can be taken.

In addressing the first challenge, there are several measures that could be taken by public authorities to help monitor compliance with post-public employment rules, including:

- requiring former members of the government to report on their current employment situation on a regular basis during the cooling-off period
- requiring former officials to report on the application of decisions put forward by advice bodies
- recording the approval decisions in individual cases for future tracking
- informing prospective employers of imposed decisions and restrictions
- publishing decisions on post-public employment cases by former politicians on the internet for public scrutiny. In Norway, for instance, the fact that decisions on post-public employment are available on the internet has facilitated public scrutiny, particularly by the media, which in turn has helped to encourage compliance (OECD 2010).

With regard to the second challenge, countries should seek to address it by establishing a variety of sanctions that can be applied in case of non-compliance with post-public employment. In addition

to fines and terms of imprisonment that are usually part of the sanctions applied to public officials breaching conflict of interest rules, countries may include also rules establishing:

- cancellation or refusal of contracts with the private sector employer of the offending former official
- fines to the prospective private employer who hired a former public official irrespective of existing restrictions
- reduction of the former official's retirement pension
- prohibition to occupy public office for a certain period of time (5 to 10 years)
- suspension of registration in professional association or registries

In all cases, enforcement sanctions should be proportionate, timely and applied in a consistent and equitable manner (Transparency International 2010).

## 2 POST-PUBLIC EMPLOYMENT RULES IN SELECTED EUROPEAN COUNTRIES

Several recent scandals have highlighted the risks of undue influence due to the revolving door in European countries and European institutions. The majority of countries in Europe still have inadequate rules to effectively deal with post-public employment, particularly with regard to lobbying (Transparency International 2015; OECD 2014; OECD 2010).

While the majority of European countries analysed (see list below) have some sort of rule aimed at preventing conflicts of interest related to post-public employment, these rules are often not in accordance to good practice and are not effectively implemented and enforced.

Overall, cooling-off periods for former members of the government in assessed countries vary between one to three years. They usually apply to roles in companies that were previously regulated or overseen by the official in question (in France, for example), or in the specific case of lobbying (in Ireland, for example). In some countries, members of the government are only allowed to accept a job in

the private sector following the approval of the responsible public authority (as in Portugal).

There is very limited information regarding the implementation and enforcement of revolving door rules, but existing assessments point to very weak enforcement with an increasing number of officials successfully managing to move to private sector positions related to their previous experience in the private sector (Transparency International 2015; Zinnbauer 2015).

In the absence of good practice examples in this area, this section provides an overview of two different approaches that can be undertaken to regulate post-public employment, using the examples of Spain and the United Kingdom. An overview of post-public employment regulations in 15 selected European countries is also provided.

### Spain

Spain established a cooling-off period of two years for members of the government. According to the law, government members (of the executive branch) are prohibited from working for or providing services to associations or businesses that are directly related to the responsibilities and powers of the public position previously held, during the two years after public employment. The prohibition is included in the country's conflict of interest law (Transparency International Spain 2014).

Members of the government and high-ranking officials are also required to seek the approval from the Conflict of Interest Office prior to accepting any position in the private sector. Officials should inform the Conflict of Interest Office of the activities they intend to undertake, and the office will analyse the situations and consider whether or not this activity violates the law.

The office communicates the decision to the interested parties, and the former official has the opportunity to appeal. The final approval decision made by the office is communicated to the former officials and should be published.

Spain has also adopted a range of innovative sanctions that can be applied to both former

members of the government and employers in case of non-compliance with post-public employment restrictions. For instance, former members of the government found to violate post-public employment rules may be prohibited from occupying public positions for a period of 5 to 10 years. The decision is published on the country's official gazette. Employers that fail to respect the approval decision of the Conflict of Interest Office may be debarred from contracting with the public administration. The decision is also published through the official gazette (OECD 2010).

In spite of a good cooling-off period and the adoption of innovative sanctions, the application of the law is considered problematic (Transparency International Spain 2014). There have been several cases where former high-level officials moved to the private sector without consequences. For instance, among the boards of companies listed in the top tier of Spain's stock exchange, approximately 40 board members have a notable political past. Other known individual cases of former members of the government moving to the private sector include former economic secretary of state, José Manuel Campa, hired by Banco Santander (Transparency International Spain 2014).

## United Kingdom

In the UK, a mandatory two-year cooling-off period has been in place for ministers since 2010 for roles that involve lobbying the government. For other roles, the decision on whether or not former ministers and other senior public officials are allowed to accept a job in the private sector is taken on a case-by-case basis by an independent non-statutory body, the Advisory Committee on Business Appointments (ACOBA) (Transparency International UK 2015).

The rules on post-public employment are covered in professional codes of conduct for civil servants and ministers.

Within this framework, former ministers and senior public servants are required to consult ACOBA before taking up new employment. Depending on the past and expected future responsibilities of the individual, the committee may advise a cooling-off period or impose other conditions on the nature of employment. ACOBA makes recommendations to

the prime minister, who is responsible for deciding whether the appointment would violate the code of conduct (Transparency International UK 2011).

ACOBA is a committee of seven members appointed by the prime minister. Committee members include representatives of all three main political parties, one senior civil servant, one diplomat, one military officer and a senior representative of the business community (Transparency International UK 2011). There is no civil society representation.

The main problem with the post-employment system in the UK is related to the fact that ACOBA's advice is not binding and it does not have any capacity to monitor compliance (Transparency International UK 2015).

Moreover, there are no criminal sanctions attached to a breach of the code of conduct, and there is no body responsible for enforcing it.

## Other countries

See table below.

| Country               | Cooling-off for ministers and members of the government   | Other post-public employment regulations   | Oversight and sanctions   |
|-----------------------|---|--|---|
| <b>Austria</b>        | No  | No   | n/a   |
| <b>Bulgaria</b>       | 1 year, for roles in companies which the former official performed any actions involving disposition, regulation or control or has concluded any contracts therewith during the last year of execution of the official powers or duties thereof | No   | Former officials who are convicted are not entitled to hold public office for one year                        |
| <b>Cyprus</b>         | 2 years   | Members of the government must seek and be granted a permit by an independent specialised committee, within the Office of the Attorney General. The committee decides whether to authorise or prohibit the appointment for up to two years. Failure to seek clearance or comply with this prohibition constitutes a criminal offence | The failure to comply with the cooling-off period leads to a maximum fine of €17,086 or incarceration or both |
| <b>Czech Republic</b> | 1 year, for roles in companies that in the previous three years had a contract with the government  | No, there is no body that judges and grants permission for former politicians or regulates the revolving door between the public and private sectors   | The failure to comply with the cooling-off period leads to a fine   |
| <b>Estonia</b>        | 1 year, for roles in companies in which they have exercised direct control (monitoring, audit)  | No   | Regulated in separate laws  |

|                |   |   |   |
|----------------|---|---|---|
| <b>France</b>  | 3 years, for roles in companies where the person was previously responsible for monitoring or controlling activities  | The Public Service Ethics Commission and the High Authority for Transparency in Public Life are responsible for monitoring its implementation   | --  |
| <b>Hungary</b> | No  | No  | n/a   |
| <b>Italy</b>   | 1 year, holders of government office may not hold offices or positions or perform managerial tasks, or engage in professional activities with public-law entities (including economic entities) and with profit companies operating in sectors connected with the office held | --  | --  |
| <b>Ireland</b> | 1 year, but only for lobbying positions. There is no general cooling-off period for ministers moving to the private sector  | During this period they must obtain approval from the Standards in Public Office Commission (SIPO) before lobbying the public body where they worked, including lobbying their former colleagues, even if these individuals have moved to a different public body | Fine and imprisonment                       |
| <b>Latvia</b>  | 2 years, for roles in companies where the official has made decisions on procurement, allocation of resources, privatisation or has performed supervision, control or punitive functions  | No  | Fines and prohibition to hold public office |



|                    |   |   |   |
|--------------------|---|---|---|
| <b>Netherlands</b> | No, there is only a cooling-off period of two years for senior public officials in the defence ministry   | n/a   | n/a   |
| <b>Portugal</b>    | 3 years, for roles in private companies that have been privatised or have received fiscal benefits while the officials was in office <sup>2</sup> . | No  | Prohibition to occupy political positions or high-level positions for a period of three years |
| <b>Slovenia</b>    | 2 years, for lobbying roles   | There are certain forms of oversight to supervise post and pre-employment restrictions, such as inspections and oversight by the Commission for the Prevention of Corruption (CPC), but the legislation does not provide sufficient legal power to effectively supervise and investigate breaches and anomalies | Not clear   |
| <b>Spain</b>       | 2 years, for roles directly related to the position they previously held  | High-level officials are required to report on activities they intend to conduct to the Conflict of Interest Office. Favourable decisions must be published   | Officials and companies are subject to sanctions  |
| <b>UK</b>          | 2 years for roles that involve lobbying the government  | Ministers and senior officials required to consult the ACOBA prior to taking up new employment  | No sanctions  |

Source: Author's own compilation based on the findings of Transparency International Lifting the Lid on Lobbying project (2015), OECD 2010 and 2014, and World Bank 2012

<sup>2</sup> This restriction is not applicable when the official is returning to its pre-government job.

### 3 REFERENCES

- Hertie School of Governance. 2013. *Governance Challenges and Innovations*. Financial and Fiscal Governance
- OECD. 2010. *Post-public Employment. Good Practice for Preventing Conflict of Interest*
- OECD. 2014. *Lobbyists, Governments and Public Trust, Volume 3 Implementing the OECD Principles for Transparency and Integrity in Lobbying*
- POGO. 2013. *Big Businesses Offer Revolving Door Rewards*  
<http://www.pogo.org/our-work/reports/2013/big-businesses-offer-revolving-door-rewards.html>
- Transparency International. 2010. *Regulating the Revolving Door*. Working Paper #6/2010  
[http://www.transparency.org/whatwedo/publication/working\\_paper\\_06\\_2010\\_regulating\\_the\\_revolving\\_door](http://www.transparency.org/whatwedo/publication/working_paper_06_2010_regulating_the_revolving_door)
- Transparency International. 2015. *Lobbying in Europe: Hidden Influence, Privileged Access*  
<http://golden-section-graphics.com/transparency/>
- Transparency International Cyprus. 2015. *Mapping the Lobbying Landscape in Cyprus*  
<http://www.transparencycyprus.org/lobbying/>
- Transparency International Netherlands. 2015. *Lobbying in the Netherlands*  
<http://www.transparency.nl/2015/04/lobbyen-in-nederland/>
- Transparency International Spain. 2014. *An Evaluation of Lobbying in Spain: Evaluation and Proposals*  
<http://transparencia.org.es/presentacion-de-los-resultados-del-estudio-sobre-lobbies-en-espana/>
- Transparency International UK. 2011. *Cabs for Hire: Fixing the Revolving Door between Government and Business*
- Transparency International UK. 2015. *Lifting the Lid on Lobbying: The Hidden Exercise of Power and Influence in the UK*  
<http://www.transparency.org.uk/publications/15-publications/1208-lifftthelid>
- World Bank. 2012. *Public Accountability Mechanism*  
<https://www.agidata.org/pam/ProfileIndicator.aspx?c=64&i=10611>
- Zinnbauer, D. 2015. *The Vexing Issue of the Revolving Door*. Edmond J. Safra Research Lab. Harvard University  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=26006](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=26006)

*“Anti-Corruption Helpdesk Answers provide practitioners around the world with rapid on-demand briefings on corruption. Drawing on publicly available information, the briefings present an overview of a particular issue and do not necessarily reflect Transparency International’s official position.”*