

Germany

1. Fair	
Regulatory framework	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) Disclosure of remunerated side activities and other outside ties with respect to Members of Parliament (MPs) is governed by Sections 44a and 44b of the <u>Members of the Bundestag Act (<i>Abgeordnetengesetz - 1977, most recent amendment 2014</i>)</u> and the Code of Conduct for Members of the Bundestag in Annex 1 of the <u>Rules of Procedure of the German Bundestag (<i>Geschäftsordnung des Bundestags: Anlage 1 Verhaltensregeln für Mitglieder des Deutschen Bundestags - 1986, most recent amendment 2013</i>)</u> and Implementing Provisions (<i>Ausführungsbestimmungen</i>) to the Code of Conduct issued by the President of the Bundestag.</p> <p>b) Members of the Federal Government Relevant provisions are contained in the Act governing the legal status of the members of the Federal Government (<i>Bundesministergesetz 1953, most recent amendment: 2015</i>; http://www.gesetze-im-internet.de/bundesrecht/bming/gesamt.pdf).</p> <p>c) Civil Servants Relevant provisions are contained in the Federal Civil Service Act (2009, most recent amendment 2015) as well as in the Administrative Procedure Act (1976, most recent amendment 2003) and the Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration including the Anti-Corruption Code of Conduct annexed to the Directive (2004)¹.</p>
Outreach to public officials about disclosure requirement	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) In the beginning of an electoral term MPs receive a letter containing information on their disclosure obligations (including texts of relevant provisions, forms, and explanatory remarks) and requesting them to submit the completed form within three months. Information on disclosure obligations of MPs is provided for on the website as well as on the intranet of the German Bundestag. According to Rule 7 of the Code of Conduct MPs are entitled and obliged to ask for advice in cases of doubt regarding the scope of their obligations under the Code of Conduct. There are dedicated counsellors in Parliament's administrative services to provide such advice in a detailed manner.</p> <p>b) Civil Servants When taking the oath of office or agreeing to abide by the requirements of their position, staff members shall be informed of the risk of corruption (including conflict of interests) and the consequences of corrupt behavior. In addition, all staff members should be given an anti-corruption code of conduct², which provides inter alia for disclosure requirements in cases of</p>

¹English version:

http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile

² English version:

http://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile; p. 14 (17):

“You must observe such strict separation between your private interests and your official duties in any case – irrespective of any risk of corruption – in all your official activities. Your agency and every citizen are entitled to your fair, appropriate, impartial behavior. For this reason, check every

	possible conflict of interests. Staff members working in or transferred to areas especially vulnerable to corruption are given additional, job-specific instruction at regular intervals.
Type of information disclosed	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>)</p> <p>The focus of disclosure is primarily on the business activities and conflict of interest in regards to positions held, with less interest on properties. Received gifts and sponsored travels are also declared.</p> <ul style="list-style-type: none"> • Properties: Interests held in a company or partnership, if this results in 25 percent of the voting rights • Investments and Liabilities: not required. • Income: According to Rule 1(2) no. 1 of the Code of Conduct, MPs are required to disclose remunerated activities or agreements. The provision of expert opinions and writing or lecturing activities have to be declared only if the income thereof exceeds € 1,000 per month or € 10,000 per year. The amount of income from any activity has to be declared if it exceeds € 1,000 within one month or € 10,000 within one year (Rule 1 (3) of the Code of Conduct). • Positions: Activities as a member of a board of management, supervisory board, administrative board, advisory board or other body of a company, a corporation or institution under public law, a club, association or similar organization, or of a foundation of not exclusively local importance, must be declared regardless of whether the activity is remunerated or not (Rule 1 (2) no. 1 to 4 of the Code of Conduct). If the activity in question is remunerated, then income has to be declared too, if it exceeds € 10,000 per year (Rule 1 (3) of the Code of Conduct). • Gifts and Travel: Gifts which MPs receive as a guest in connection with their mandate have to be notified and handed to the President of the <i>Bundestag</i> if the value exceeds € 200. Members may apply to keep the gift if they pay a sum equivalent to its value. Other benefits, such as reimbursement of travel, accommodation and subsistence expenses by third parties received in connection with inter-parliamentary or international activities or participation in events to state the viewpoints of the <i>Bundestag</i> or of its parliamentary groups or as representative of the <i>Bundestag</i>, must be notified (i.e. name and address of third party sponsor) to the President if the value of the benefit individually or, in the case of several benefits from the same person, taken together, exceeds € 5000 in one year (Rule 4 (5) of the Code of Conduct). <p>b) Members of the Federal Government</p> <ul style="list-style-type: none"> • Positions and Incomes: Members of the Federal Government may not hold any paid outside positions. Exemptions can be made by the Federal Government in limited exceptional cases.

procedure for which you are also responsible to see whether your private interests or those of your relatives or of organizations to which you feel obliged could lead to a conflict with your professional obligations. Avoid any appearance of possible partiality. Make sure you do not give any appearance of being biased, not even through a general climate of influence exerted by an interested party.

If you recognize, given a specific official task, that your obligations and your private interests or the interests of third parties to whom you feel obliged might come into conflict, inform your supervisor so that he or she may respond appropriately (e. g. by releasing you from activities in a specific instance)."

	<p>Since 25 July 2015, new legal provisions, regulating cooling-off periods for members of the Federal Government, as well as for Parliamentary State Secretaries, are in force. The regulations are intended to prevent conflicts of interest between the official position and subsequent employment. Members of the Federal Government and Parliamentary State Secretaries are obliged to report any employed position outside the public service which they intend to assume within a period of 18 months after resignation from office. Such employment may be prohibited when the public interest would otherwise be impaired.</p> <ul style="list-style-type: none"> • Gifts: Members of the Federal Government have to declare gifts received in relation to their office to the Federal Government. The Federal Government decides on the disposal of the gifts. <p>c) Civil Servants</p> <ul style="list-style-type: none"> • Properties, Investment and Liabilities, Incomes, Gifts and Travel: If a civil servant recognizes, given a specific official task, that his/her obligations and private interests or the interests of third parties to whom he/ she feels obliged might come into conflict, the public official is under a duty to inform his/her supervisor so that he/she may respond appropriately (e. g. by releasing the public official from activities in a specific instance); such obligations and interests can include properties, investments, liabilities, incomes, gifts and travels. • Positions and Income: Civil servants may only take up outside activities with prior approval of their office. When seeking approval, civil servants have to declare the income to be received from the outside activities; in addition, civil servants have to declare any changes in their income from outside activities. The requirement for reporting and/or a permission to accept secondary employment is thoroughly regulated in sections 97 to 105 of the Act on Federal Public Servants (<i>Bundesbeamtengesetz</i>) and the Ordinance on Secondary Employment (<i>Nebentätigkeitsverordnung</i>), both applying to federal public servants, and in the Act on the Status of Public Servants (<i>Beamtenstatusgesetz</i>) and Länder legislation for public servants of the states (<i>Länder</i>). In case of a conflict of interest, staff may be prohibited from specific secondary employment. • Gifts: Civil servants are prohibited from accepting gifts or any other in-kind advantages, irrespective of their value. If they should receive a gift, civil servants have to immediately notify the head of their office and declare the receipt of the gift.
<p>Other relevant information</p>	<p>Members of the Federal Parliament (<i>Deutscher Bundestag</i>)</p> <p>In addition, MPs have to disclose to the President of the Parliament all donations, including campaign contributions, they receive if the value of donation individually or, in the case of several donations from the same donor taken together, exceeds € 5,000 per year (Rule 4 (2) of the Code of Conduct). If the aggregated value of donations exceeds € 10,000, the President of the Parliament will make this disclosure public (Rule 4 (3) of the Code of Conduct). This provision applies only to donations received for their political activity, not private gifts (Rule 4 (1) of the Code of Conduct). Private gifts for the exercise of a MP's mandate, in particular such gifts which are only granted in the expectation that the interests of the donor will be represented and asserted in the Bundestag must not be accepted (Section 44a (2) of the Members of the Bundestag Act). Likewise donations for their political activity evidently made in the expectation of, or in return for, some specific financial or political advantage must not be accepted (Rule 4 (4) of the Code of Conduct in</p>

	<p>connection with Section 25 (2) of the Political Parties Act).</p> <p>Additional requirement to declare income according to tax laws, and disclosure of facts to prosecution by taxation authorities</p> <p>All inhabitants of Germany who have earnings above a certain threshold are obliged to file an annual tax return. For persons who receive a salary from which income tax is already deducted (which applies to all persons working in the public administration), that threshold amounts to 410 Euro per year. In the tax return, all taxable income has to be reported. This also applies to members of parliaments, whose remuneration is taxed, members of the government, and civil servants. Illegal earnings are taxable and, thus, also have to be declared. If the illegal earnings are not reported in the tax return, and thus, they are not taxed, this constitutes the crime of tax evasion. In severe cases of corruption or misappropriation of public funds, the facts may be disclosed to prosecution authorities by the taxation authorities if “there is a compelling public interest in such disclosure; such compelling public interest shall be deemed to exist in particular where [...] crimes and wilful serious offences against [...] the State and its institutions are being or are to be prosecuted, [...] economic crimes are being or are to be prosecuted, and which in view of the method of their perpetration or the extent of the damage caused by them are likely to substantially disrupt the economic order or to substantially undermine general confidence in the integrity of business dealings or the orderly functioning of authorities and public institutions [...].”</p>
<p>2. Transparent</p>	
<p>Public accessibility of disclosed information</p>	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>)</p> <p>According to Section 44a(4) of the Members of the Bundestag Act and Rule 3 of Code of Conduct, the information contained in declarations is publicly available. Information relating to income from side activities will be published in categories. Information on benefits, such as reimbursement of travel, accommodation and subsistence expenses by third parties received in connection with inter-parliamentary or international activities or participation in events to state the viewpoints of the Bundestag or of its parliamentary groups or as representative of the Bundestag, will be published if the value of the benefit individually or, in the case of several benefits from the same person, taken together, exceeds € 10000 in one year (rule 4 (5) of the Code of Conduct). The information contained in declarations is published in the Official Handbook and on the website of the German <i>Bundestag</i> http://www.bundestag.de/htdocs_e/index.html.</p> <p>b) Civil Servants</p> <p>Disclosed information is not publicly accessible.</p>
<p>Public access to information concerning disclosure system functioning</p>	<p>Members of the Federal Parliament (<i>Deutscher Bundestag</i>)</p> <p>Only cases of non-compliance are required to be reported and given some kind of publicity. Admonishments, which are issued by the President of the Bundestag in less serious cases, or cases of minor negligence (e.g. failure to declare information before the relevant deadline), are not published. Admonishments have been issued several times but there are no statistics on this issue. In more severe cases of non-compliance a statement by the Presidium of the Bundestag that the</p>

	MP concerned has failed to meet their obligations will be published, and, the Presidium may decide to impose a coercive fine (Rule 8 of the Code of Conduct). This has happened twice so far.
Other relevant information	
3. Targeted at senior leaders and those in at-risk positions	
Legislative	Members of the Federal Parliament (MPs)
Executive	In cases where Ministers are also MPs, they are subject to the same provisions as MPs.
Judiciary	The disclosure requirements for civil servants apply <i>mutatis mutandis</i> to members of the judiciary.
Other	Civil Servants fall under the disclosure requirements described above under section (1) Fair/Regulatory Framework, (c) on Civil Service.
Risk-based approach to the disclosure requirement	No risk-based approach taken.
Other relevant information	Spouses and children are not required to declare their assets, income, or liabilities.
4. Supported with adequate resources	
Main agency/ agencies involved in disclosure	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) <i>Bundestagsverwaltung</i> (Parliament's Administrative Services) on behalf of the President of the Parliament.</p> <p>b) Civil Servants The head of each office is responsible for the compliance with the disclosure requirements described under section (1) Fair/Regulatory Framework,(c) on Civil Servants.</p>
Other entities	None.
Other relevant information	

5. Useful	
Frequency of filing requirement	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) MPs have to submit their declarations within three months upon taking office and when there are any changes (Rule 1 (6) of the Code of Conduct).</p> <p>b) Civil Servants Civil servants have to make a declaration whenever a possible conflict of interests appears.</p>
Validation & verification	<p>Members of the Federal Parliament (<i>Deutscher Bundestag</i>)</p> <p>Officials of Parliament’s Administrative Services will check if the submitted form is complete before they publish the disclosed information. If the information given is incomplete or ambiguous they will notify the MP concerned and ask for clarification.</p> <p>If there are indications that a MP has failed to meet his or her obligation to provide correct and complete information within the relevant deadline, the President of the Bundestag, according to Rule 8 of the Code of Conduct for Members of the Bundestag, will gain a statement from the MP concerned and then set in motion an investigation of the case.</p>
Uses of disclosed information	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) As far as information is published on the website and in the Official Handbook of the German <i>Bundestag</i> (cf. section 2) it can be “used” by the voter when deciding on re-electing a candidate. Disclosed information can also be used by the <i>Bundestag</i>’s President and presidium when investigating violations of the Code of Conduct and deciding on sanctions according to Section 8 of the Code of Conduct. The question as to whether the disclosed information could be used for criminal proceedings has not yet been decided and no precedent exists. In any case, its use in criminal proceedings must not infringe on the concerned person’s right not to incriminate him or herself.</p> <p>b) Civil Servants Disclosed information is used to avoid and resolve possible conflict of interests. It can also be used as evidence in disciplinary as well as in criminal proceedings provided that this does not infringe on the concerned person’s right not to incriminate him or herself.</p>
Other relevant information	
6. Enforceable	
Types of applicable sanctions	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) MPs may be subject to: an admonishment by the President of the Bundestag in less serious cases or cases of minor negligence, e.g. late filing; administrative sanctions, including publication of their violation and imposition of coercive fines (Rule 8 (2) (4) of the Code of Conduct)</p> <p>The size of the fine depends on the gravity of the violation. It may not exceed 50 percent of the annual remuneration for MPs.</p> <p>b) Civil Servants Non-disclosure of information relevant to a possible conflict of interests can lead to disciplinary</p>

	<p>sanctions against the civil servants (Members of the Federal Government shall not be subject to disciplinary proceedings -section 8 of the Act governing the legal status of members of the Federal Government). Public Servants of the states (<i>Länder</i>) could be subject to disciplinary sanctions according to the Act on the Status of Public Servants (<i>Beamtenstatusgesetz</i>) and <i>Länder</i> legislation.</p> <p>In addition, for a civil servant accepting a gift or any other advantage (irrespective of its value) for the discharge of an official duty is a criminal offence carrying a punishment of up to three years imprisonment.</p>
<p>Mechanism and entities responsible for enforcing measures</p>	<p>a) Members of the Federal Parliament (<i>Deutscher Bundestag</i>) The President of the Parliament initiates an investigation if there are indications of breach of the duty to disclose (Rule 8 (1) of the Code of Conduct).</p> <p>b) Civil Servants Disciplinary and penal procedures apply. Disciplinary procedures are initiated by the head of the office. The same applies to criminal procedures; they can also be initiated ex officio or following a complaint by a third party</p>
<p>Other relevant information</p>	