Innovation and Conservatism in Ethics Policies in Europe: The Case of Disclosure Policies

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Abstract

Ethics policies are fluid policies: Whereas new ethical challenges constantly emerge, others decrease or even disappear at the same time. Whereas integrity policies are expanding and deepening, they also focus on individual causes for unethical conduct. However, frequently, administrations shy away from enforcing existing policies and rules against top-officials and ministers. Another problem concerns the lack of attention to the (growing) management challenges and the emergence of ever new administrative burdens. As we will claim, the relationship between any type of organization and integrity is highly conflictual (Ortman, 2010).

Today, innovation in the field of ethics policies deals with many issues such as questions of how to improve the measurement of integrity, the monitoring of organizational culture, and which policies, instruments and indicators fit best to which policy, in which cultural- and institutional design and for which type of categories of staff or Holders of Public Office. We also note growing understanding that the effectiveness of any particular institutional integrity system is determined by the degree of consistency amongst its constituent elements and the way it fits into the specific (organizational) culture. Overall, experts have become more reluctant to easily approve grand innovation strategies and best-practices because the field continues to be dominated by fashions and fashionable concepts. Pragmatic reflection is also growing about the right regulatory mix, the role of self-regulation, the effectiveness of deterrence mechanisms and sanctions, the quality of regulation and the need to overcome the classical distinction between compliance-based and value-based systems. Finally, transparency (disclosure) policies raise deep questions about the effectiveness of self-monitoring, put into question naïve requests for more soft-instrument approaches but also the limits of regulatory approaches. Innovations challenge classical integrity policies and require public organizations to constantly adapt new methods, practices and procedures in the field of integrity management. As we will see, these governance reforms innovations put pressure on public organizations to innovate.

However, often, innovative practices produce the opposite of what they are supposed to do: classical bureaucracy, formalism and administrative burdens. At present, it seems, there exists no perfect ethical organizational recipe and no readily established accepted theory of public sector innovation (Criado et al., 2023). Today, it is simply impossible to state that innovation is good, simply because it is an innovation.

In the following discussion, we will refrain from taking a too ambitious approach. Instead, we will focus on one aspect of innovation of ethics policies and on one instrument: Innovation in the field of disclosure policies. We will argue that disclosure policies produce positive and critical effects. Overall, we also claim that innovation in the field of disclosure policies is generating a new ethics bureaucracy. Like this, the policy is as innovative, as it is conservative. Innovation is generating new forms of individualized monitoring and control a new ethics bureaucracy (Demmke, 2024).

Keywords

Ethics, Ethics Management, Transparency, Disclosure, Innovation, Bureaucracy

1. Old and innovative ethics bureaucracies

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A fundamental feature of traditional bureaucratic organizations was the separation of morality and function and their impersonal character. Subjective and emotional behavior was subordinated to the objectives of the "iron cage machinery" (Max Weber). Public servants were supposed to have a specific Public Service Motivation and, consequently, act ethically because they are civil servants. With this implicit logic, nobody would request civil servants to be accountable to the public and disclose personal information about potentially conflicting interests.

For a long time, organizations and civil servants were also supposed to act rather amoral, legalistic, standardized and functional and without regard to persons (to make it short: as impersonal and machine-like systems). Moreover, public services should be delivered by public bodies and public service delivery should be carried out by the public sector. One could also describe these centralized, standardized, formalistic and regulatory features as traditional and conservative elements of organizations.

Today, opposite requirements become popular:

During the past decades, there have been tremendous changes in the delivery of public services. Contracting out, outsourcing, public-private partnership and various forms of collaborative governance like co-production describe change processes in the provision of public services. All of these changes in the delivery of public services, produce new ethical challenges. Overall, public authorities in charge face additional challenges in managing these change processes (von Maravic & Kleine, 2008). For example, just like any form of governance, outsourcing – as a form of – collaborative- or network governance produces specific challenges, side-effects, dilemmas and paradoxes (Huiting Qi & Bing Ran, 2023). Outsourcing, can be defined as the private or voluntary sector delivering services to the public sector after a process of competitive tendering. In all EU Member States, outsourcing has been expanded over the past four decades. Beginning in local government with services such as waste collection, successive governments and public organizations have extended outsourcing to areas including front-line services and major information technology (IT) projects. Evidence shows that outsourcing may deliver substantial benefits such as saving financial resources and improving services in some areas or in certain policies (such as waste collection, catering and cleaning). However, a number of high-profile failures and scandals have also put the outsourcing model under intense scrutiny (House of Commons, 2018).

The practice of outsourcing is a popular way to form synergies between various (public, semi-public and private) actors in order to deliver public services and to overcome various organizational-, scientific-, financial- and personnel challenges. Yet, it removes administrative burdens, which would otherwise be carried out by "big government". On the otherwise, outsourcing also brings additional burdens, e.g. the need to monitor ethical challenges that are generated by outsourcing policies.

Overall, change processes in public service delivery affect the effectiveness of independence and ethical policies. Ethical risks, such as conflicts of interest, shift as a result of these changes and innovations in the delivery of public services. Moreover, there is not only a shift in the delivery of public services, but also a shift in risks, a shift in monitoring processes, monitoring costs and the allocation of (moral) responsibilities. In academia, interest and attention about the need to manage conflicts of interest in outsourcing policies and with outside partners (such as consultants) is only about to start (Mazzucato, 2023, Murcia, 2021 et al, 1513).

Thus, successful and ethical outsourcing practices depend on collaborative and trust-based relationships. Firms with higher corporate social responsibility performance outsource less (Murcia et al, 1534).

Both, private companies and public authorities are constrained by additional challenges: First, it is important to draw the exact line what tasks can be outsourced. Second, it needs to specified how to control and monitor the exercise of these tasks. Third, before outsourcing takes place, sufficient monitoring capacities and resources must be allocated to the fulfillment of the monitoring tasks. In order to contain outsourcing risks, effective contract management remains crucial to ensuring good performance. As regards the latter, risks exist if ethical challenges and potential conflicts of interest are overlooked, and poorly managed (Clark, 2012). While government employees are subject to strict ethical standards, most of these standards do not apply to outsourced contractor personnel. If a public official decides on a matter that could affect his/her (financial) interest, he/she could be subject not only to administrative discipline but also to criminal prosecution. In most cases, an outsourced contractor employee who has that same (financial) interest and makes the same recommendation is not subject to any consequences. In fact, public authorities do not have any systematic way of even

finding out when contractor personnel have such conflicts of interest. The personal conflicts of interest of outsourced, contractor personnel are largely unregulated (Clark, 2012).

Especially, in the field of public-private outsourcing, public (contractor) organizations and (private) contracted personnel may be bound by different, or less strict (or clear) impartiality-, transparency-, confidentiality- and conflict of interest policies and rules. In light of the fact that contractor personnel may be performing the same or similar tasks that the public authority normally would perform (if the services would not be subject to outsourcing), how could contractors be made subject to the same policies and rules? Thus, what to do if outside experts exercise public tasks? How to make sure that outsourced personnel should be subject to the same policies and rules (this would be the case if outsourced personnel exercises important public tasks) (Clark, 2012)

Next, imposing strict conflicts of interest standards on contractors could make it more difficult to obtain the expertise it needs. As such, it is not unlikely that outside experts have conflicts of interests. In the field of ethics, the dilemma between un-conflictedness (impartiality, independence) and expertise is classical. The reason is that being an expert and exercising real life expertise is normally interest bound.

The dilemma between (the needed) expertise and des-interestness then means that stricter ethical rules and policies will carry with them a risk of deterring private companies and private sector personnel to take an interest in outsourcing tasks. Requiring that these experts are conflict free would mean that they undergo the same kind of conflict of interest screening as internal staff. This may reduce the pool of possible contractors available. Imposing such a regime is also work intensive and costly for monitoring staff. Does this legitimate the implementation of relaxation (so-called waiver policies), opt-out clauses, or more flexible ethical standards (Clark, 2012)? These important questions are still not resolved. They illustrate the ambivalence of introducing innovative management practices.

2. Behavioralism and ethics

Behavioral ethicists examine institutions and employees as hosts of emotions, imperfect decision-making, constantly shifting (individual) justice perceptions and places that demand personal engagement, emotional- and purpose driven management, ethical leadership and empathic treatment. Overall, Public Management and Human Resource Management are becoming ever more individualized, destandardized, flexible and in search of new instruments other than regulatory approaches. Line Managers and public employees are given more job autonomy and job responsibility and must carry out these responsibilities in an ethical and fair way. This trend towards destandardization and responsibilization is, however, generating new leadership and new ethical challenges (Demmke, 2021).

Parallelly, current innovative approaches in the field of organizational management and Human Resource management are based on the dislike of organizations that perceive organizations and employees as machines and people as instruments. Like this, new innovations in the field of ethics policies easily turn into personalized forms of purpose driven management. These innovations are well intended as a counter-development to the old bureaucratic and compliance-based approaches. However, they are also problematic, as personalized forms of management are just one step away from personalized value management practices, individualized social credit management practices, or *greedy* institutional behavior (Coser). Overall, these trends do not only raise serious questions about the relationship between organization and moral. For example, where are the limits of personal and emotional forms of management that builds on theories of "bounded rationality "? How ethical are personal modes of management as such? How far should leadership and HRM be allowed to address individual behavior? Vice versa: How "nice" and "empathic" should leadership be?

In fact, the trend towards individualization, accountability and openness also raises doubts about the nature of innovation. Is this "newness" less bureaucratic than the traditional forms of bureaucratic management? Is it causing less formalism and less administrative burdens? Or, is this trend simply causing a new form of ethics bureaucracy?

As we will see in the field of disclosure policies, innovation can take on many traditional and conservative management features. As such, we claim that innovation in the field of disclosure policies produces many positive, neutral or negative (un-) intentional (side-) effects. One side-effect may be the creation of more bureaucracy and thus, traditional forms of management. Like this, innovation is as "new" as it is "conservative". They combine compliance based-approaches with value-based approaches, standardized mechanisms with highly individualized approaches, classical bureaucratic and formalized policies with soft-methods, self-regulation and self-management. As we will claim, innovations in the field of

ethics policies, and mostly, disclosure policies, produce ever more formalism and administrative burdens, thus classical administrative challenges.

3. The trend towards combining traditional ethics policies and innovation

For a long time, ethics policies could be characterized as self-reinforcing and scandal-driven policies that are highly simplistic, change resistant and continue to follow the logic of requesting ever more and ever stricter laws, after scandals took place. Simplistic and change resistant means that integrity policies focused on rule-making and regulatory instruments on the one hand, and disciplinary and compliance logics on the other hand. Thus, former ethics policies were red-tape policies, but not really causing administrative burdens, because countries had little interest to invest in the management and enforcement of ethics policies.

Today, countries experiment and innovate in the field of ethics policies, although the focus is still on regulatory approaches. During the past decades, trends have been towards an ethicalization of law. Ethicalization means that ever more laws, regulations and administrative provisions refer to ethical requirements and ethical standards. Integrity policies have also become broader and standards have become stricter (Demmke et al., 2021). Also, ethics policies and ethics management are expanding and becoming more complex. As Anecharico and Jacobs (1996) noted already decades ago: "the public standard of morality has also become much stricter […]. Previously accepted conduct… is now deemed unethical and previously unethical conduct is now deemed criminal" (Anecharico and Jacobs, 1996, p.4).

Since ethics policies are "good governance policies", it is impossible to call for a deregulation, relaxation or differentiation of integrity policies in certain areas, or – sometimes – to criticize the call for more and stricter laws. The popular narrative is the following: More and stricter rules, but also more innovation and diversification of instruments – this is the way to go. Like in many other policy fields, policy- and regulatory growth is also a widespread feature in ethics policies and a consequential political development in all countries worldwide. It is the price to pay for upholding democratic values and integer behavior in ever complex societies.

This logic is in perfect harmony with the emergence of non-regulatory instruments and value-based approaches that have become popular as a reaction to the seemingly ineffective compliance based-approaches. In reality, all countries started to combine these two approaches. As a result, integrity policies have become ever more complex, bureaucratic, but not necessarily more effective.

Still, it is not opportune to discuss the "bureaucratization" of integrity policies, or to raise concerns that some governments have gone overboard in building an elaborate ethics apparatus that reflects the prevailing negative assumptions about the motivations and capabilities of both politicians and public servants (Demmke, 2024). As a consequence, the management of integrity policies is becoming increasingly institutionalized, resource-intensive, time-consuming and complex. For example, everywhere, one can witness a proliferation of committees, laws, anticorruption bodies, integrity officers and advisors, ethics codes. etc.

Thus, ethics policies develop in a context of bureaucratization, and innovation. For example, whereas Anti-corruption agencies (ACAs) have become the institutional cornerstone of combatting corruption worldwide, research is yet about to start whether or in what conditions they are effective. Next, whereas measuring integrity (or also ethical leadership) still presents formidable challenges, experts slowly book progress in the measurement of corruption and ethical culture etc. However, the new attention to monitoring, measuring and benchmarking the effectiveness of integrity policies illustrates a huge paradox:

Whereas experts slowly book progress in the measurement of corruption and ethical culture, they also acknowledge the prevailing challenges in measuring integrity and because of the still existing shortage of data, lack of quality of data. No day goes by without debates about the need for new and clearer indicators and factors etc. On the other hand, international organizations, NGO´s and monitoring bodies eagerly present ever new benchmarking studies, rankings and ratings to the fascinated public. This developments towards the quantification of Governance and a metric society answers to the need to reduce complexity by publishing seemingly objective statistics and numbers. This trends also corresponds with the popularity of evidence-based policies and data driven decision-making. Still, complexity does not go away easily. Parallel to this, monitoring and measuring integrity produce their own monitoring and measurement bureaucracy. Thus, integrity policies remain caught between innovation and conservatism.

Another example for the bureaucratization of ethics policies through innovation is the revolving door issue. As such, managing revolving door policies belong to the most complex ethics policies. Whereas in former times, the focus was on managing post-employment risks (and potential Conflicts of Interest (in the following - CoI)), today the topic is covering CoI risks from recruiting new staff to post-employment, including the monitoring of revolving door risks during leave periods of staff. Most experts in the field are aware that managing and enforcing revolving door policies require a time-consuming and highly technical case-by-case assessment. Despite this, "there is little empirical research that analyses whether and when it involves integrity risks" (Loyens et al., 2023, p. 5). Often, administrations have too little expertise in place to rigorously monitor and enforce – especially - post-employment provisions. Next, revolving door is dealt with in a paradoxical way. While it is acknowledged that the revolving door phenomenon generates conflicts of interests, in general "the benefits of personnel mobility are emphasized over integrity risks" (Loyens et al., 2023, p. 15. Consequently, national and EU administrations rarely prohibit former staff or politicians from any new job or activity. Thus, focusing the debate about the length of cooling-off periods will not help very much if we want to enhance the effectiveness of this instrument.

Thus, revolving door policies turn out to be as complex and formalistic, as ineffective.

4. Transparency and disclosure policies as innovative policies, yet highly ambivalent

Disclosure policies have become attractive because they appeal to the free market principle, self-regulation, the autonomy principle, the principle of human empowerment and their flexibility. They come in many different innovative settings: self-reporting, disclosure requirements, third-party monitoring, blaming and shaming, blacklisting in order to push towards compliance (Peters/Bianchi, 2018, p. 543).

Despite these many features of disclosure policies, the most important reason for being disclosure policies being highly popular is that they are linked to the concept of transparency. Already as early as in 2005, the European Court of Human Rights has taken the view that publishing financial declaration does not violate thw right to private life. In the case *Wypich v. Poland (No 2428/05 as of 25 October 2005,* European Parliamentary Service, 2023, p. 11*)* the court considered that the imposition on disclosure obligations on local elected politicians were considered proportionate and the monitoring of disclosure obligations, justified.

This positive attitude towards transparency (requirements) has many (other) reasons. According to Hood and Heald (2006), transparency is an instrumental value, is claimed to have the following positive effects (which are all difficult to prove in practice):

- Transparency is leading to higher governmental/organizational/individual performance and effectiveness?
- Transparency enhancing or decreasing trust?
- Transparency increasing accountability?
- Transparency supporting legitimacy and fairness?
- Transparency is facilitating control and surveillance?

According to Hood and Heald (2006), transparency promises to be" a cure-all for better governance" (Hood, in Hood & Heald, 2006, p. 20). It has gained an almost mythical status (Koivisto, 2022, p.4) because it is broad in scope, covers a large area of meaning, blurs opposites and perceived as an alternative instrument to red-tape and regulation. And, it is innovative, because it is not only less costly but also less intrusive (Peters, in Peters/Bianchi, 2018, p.544), as traditional concepts like secrecy and confidentiality. Moreover, trends towards more transparency are also a countertrend towards ever more complexity and opaqueness of decision-making in a globalized world and in multi-level and networked governance (Peters, in Peters/Bianchi 2018, p. 540).

On the other hand, transparency can also be defined as compensatory transparency (Peters, in Peters/Bianchi, 2018, p.542) because it compensates for more complexity, disinformation, more information, ever new information, opacity, networking, collaboration, difficulties to identify clear accountabilities, and intransparency than ever before (Hood, in Hood & Head, 2006, p. 20). Like this, transparency is useful, but neither new, nor disruptive. Today, it could even be

seen as an old-fashioned concept: For example, the fight against terrorism and insurgency could be invoked against demands for more transparency. Or, the call for better protection of privacy can be invoked against transparency. In the field of public performance management, transparency initiatives have resulted in more bureaucracy, control and tighter management information requirements and not in a culture of new openness, as often promoted (Hood &Heald, 2006, p. 212). There is also a grey zone between transparency and surveillance, which, can be seen as going hand in hand (Hood, in Hood & Heald 2006, p.39).

However, this is not to suggest that transparency risks and side-effects are comparable to the damages that secrecy creates (Prat in Hood &Heald, 2006. p. 101). Grimmelikhuijsen et al. (2013) and Grimmelikhuijsen (2012) conclude that disclosure and transparency have – mixed, positive and negative effects. Transparency and disclosure are to be preferred to classical modes of secrecy and closed forms of bureaucratic governance. Fine Licht et al. state that, overall, transparency has positive on public acceptance and trust. It also enhances policy decisions, which indirectly makes people more trusting. Modern transparent instruments like disclosure policies are generally perceived to be fairer than secrecy and increase the public feelings of accountability. However, we also note that transparency is perceived differently than twenty years ago.

5. Disclosure and the dark sides of transparency - conservatism and bureaucratization

Still, in the field of ethics policies, transparency policies are still gaining ground. Especially, disclosure policies have gained an enormous importance. There is a clear trend amongst global (UN, OECD), European (EU, Council of Europe) and national governments, institutions and organisations to consider the imposition ever new and stricter (financial and non-financial) obligations (European Parliamentary Service, 2023, p.1). As such, disclosure policies may be considered as one of the most important instruments in the whole field of ethics policies and ethics management. Mostly, disclosure policies are combined with transparency policies: Ministers, Director Generals and civil servants are requested to disclose personal information - openly. Either within organizations, or also to the public.

In most cases, one major objective of disclosure policies is to help to compensate for the increased complexity of conflict of interest policies and the broadening of the term conflicting interest (see the following discussion in the next chapter). Thus, seen together, disclosure and transparency are attractive because of the conceptual metaphor of "understanding is seeing" (Koivisto, 2022, p. 25). It means light, it allows us to see through, to understand, it relies on the power of vision (Koivisto, 2022, p. 21), as it allows us to see and to understand (Koivisto, 2022, p.25). It allows to grasp reality as light is associated with truth (Koivisto, 2022, p.27). Finally, it allows to detect potential conflicts of interests of holders of public office and public employees.

Unfortunately, the complex reality of monitoring disclosure and disclosure management as such is, often, overlooked. Take the huge difference between regulatory requirements to submit an interest declaration and the daily submission of interest declarations in practice. The OECD (2023) notes a huge difference between the existing regulatory requirements to submit declarations of interest and the submission of declarations, in practice. Overall, OECD-Member States have submitted very limited information and data to the OECD. In most cases, this is not due because of political reluctance. Instead, the Member States themselves suffer from a lack of monitoring data, because of the complexities involved in monitoring disclosure policies.

If monitoring is supposed to become effective, the management of conflicts of interest requires sophisticated and complex examinations into personal behavior. Take the case of requiring disclosure information from the "spouse". Whereas decades ago, only the person in question was required to disclose his/her interests, later on, these requirements were extended to the spouse. Today, the definition of the spouse is subject to many discussions and interpretations. Should the term also include close family member, close friends, (former) relationships, or emotional ties/bonds etc.?

Overall, current trends towards the individualization of monitoring requirements are increasing administrative burdens, complex, time-consuming and increasingly costly. These trends in the field of disclosure policies can easily lead to an ethics- and control bureaucracy, which, however, remains relatively ineffective. Bureaucrats must monitor financial and non-financial interests, read-, understand-, interpret data, reach the appropriate conclusions and have the courage to suggest sanctions (Rossi, 2017). The latter is difficult, because this is not only a matter of technical interpretation of data and information. As a matter of example, an empirical assessment of the independence policies of the European Food and Safety Agency (EFSA) concluded "…There is broad consensus on the fact that Declarations Interest (DoI) screenings

absorb a major share of EFSA's resources allocated to the Policy implementation. The first reason is the sheer number of screenings that EFSA needs to carry out, which includes several re-assessments – e.g. anytime experts declare new interests or take on a new involvement in an EFSA working group. The second reason is that DoI processing can be burdensome. DoI compilation and screening require processing a significant amount of information. In various instances, the assessment requires non-trivial decisions by the responsible officers, so this task is typically performed by Heads of Unit or senior staff" (Economisti Associati et al., 2023, p.71).

In fact, monitoring is (often) highly personal, sensitive and – also political. The increase in disclosure requirements must also be seen in connection with potential unintentional effects, such as the violation of privacy, or the revelation of sensitive information for political interests.

Although discussing exclusively the role of judges, the judgment by the European Court of Justice in the case C-204/21 raised important questions whether by obliging holders of public office to disclose detailed private information, for exp. regarding membership of a professional body or association, the functions he or she performed within non-profit foundations, and membership of a political party, and publishing that information countries infringe the fundamental right to respect private life´s and holders of public office right to protection of personal data, guaranteed by Article 7 and Article 8(1) of the Charter and by Article 6(1)(c) and (e), Article 6(3) and Article 9(1) of the above mentioned Regulation (EU) 2016/679 (GDPR).

In the judgment C-204/21 the ECJ claimed that the obligation to communicate and to publish information on membership of a political party prior to appointment on public and social activities in an association or foundation are incompatible with the general principle of proportionality, as they are neither appropriate nor necessary to achieve the objective of increasing impartiality and preventing conflicts of interest. The obligations in question limit rights to respect for private life and rights to the protection of personal data concerning them. According to the Court, it must be clear that permitted restrictions on those rights must, in accordance with Article 52(1) of the Charter, be provided for by law and respect the essence of the rights enshrined in Articles 7 and 8 of the Charter. Subject to the principle of proportionality, they must be necessary and genuinely meet objectives of general interest recognized by the European Union or the need to protect the rights and freedoms of others

Furthermore, it must be clear, according to Article 6(3) of the Regulation (EU) 2016/679 that EU- and national laws must meet a public interest objective and be proportionate to the legitimate aim pursued. Moreover, the processing of sensitive data revealing, for exp. the political opinions, as well as philosophical beliefs related to his or her membership of an association or foundation must be justified by one of the exceptions provided for in Article 9(2) of the Regulation (EU) 2016/679.

Obviously, disclosed information should not be used for other purposes that may result in a person becoming the object of discrimination, or of having external (political) pressure exerted upon him or her, or influence being had over his or her career.

Therefore, it must always be clear that that the legal provisions in question are not disproportionate and only limited to what is necessary to achieve the objectives pursued, even were they to apply to the internal control of possible conflicts of interest only.

In any event, the objective of ensuring that conflicts of interest should be avoided may also be achieved by less restrictive means such as, for example, the recusal of a holder of public office from decisions in cases where doubts are raised as to his or her impartiality.

The judgment can also be seen as the first judgment of the ECJ that warns against the – potentially – negative effects of disclosure policies in times of rising politicization and abuse of personal data for political purposes. On the other hand, simply expanding disclosure requirements and broadening concepts of "interests" will also erode the political and administrative will to identify and manage conflicts of interest, as they are portrayed as increasingly ubiquitous and unsolvable (Biro & Grundy, p. 6). Likewise, further expanding the concept of conflicts of interest to include all sources of personal bias threatens the effectiveness of conflicts of interest policies as such. Moreover, it also allows for ever more potential for dis-appropriate abuse of information.

6. Disclosing ever more information – the case of non-financial interests

For a long time, disclosure requirements in conflicts-of-interest rules focused on the need to disclose financial interests, because they were considered as more important than other secondary interests. While it is important to recognize that individuals always have an interested view which is grounded in personal experiences and beliefs, education etc. and intellectual commitments, and all of this may create conflicts of interests, this is not comparable to (financial) conflicts of interests that are generated through powerful interest groups. (Bero & Grundy, 2016, p. 4). Moreover, the focus on financial interest was an intentional choice because financial interests were supposed to be more "objective" and easier to monitor and to enforce than other non-financial interests. Of course, another problem is that non-financial interests are more difficult to define and – as a consequence - they cannot be properly monitored and enforced (Resnik, 2023). Nonfinancial interests may also be highly complex and difficult to detect, thus adding to the complexity of already monitoring financial CoI. Expanding the definition of conflict of interest to include anything that might influence judgment will heighten such challenges (Grundy et al., 2020, 5–6)
As we will argue, the issue is less whether financial, or non-financial interests are more or less important. Dismissing nonfinancial COI´s is naive, empirically unfounded, and dangerous" (Wiersma, Kerridge & Lipworth 2018, p. 1). Many experts rightly claim that non-financial interests can bias judgment and influence the primary interest unduly and just as importantly as financial interests so that non-financial interests should be treated similar to financial interests. Therefore, just as financial conflicts of interest are regulated, so should non-financial interests as a non-financial source of bias that can unduly influence primary interests (Saver 2014, 468).

Instead, the real challenge is that by extending and broadening issues that may lead to conflicts of interests this may also blur the distinction between conflicting interests and conflicts of interest. Bero and Grundy argue that the "conflation of conflicts of interest with interests in general serves to muddy the waters about how to manage conflicts of interest, generating confusion as to the nature and definition of the problem and doubt as to whether conflicts of interest can be addressed at all. Taking the laundry list approach, in which anything and everything becomes labelled a conflict of interest, will not be effective in managing the influence of interests more broadly" (Bero & Grundy, 2016, p. 2).

For example, it can easily be answered that no one is fully neutral and free of biases. Thus, anything and everything can potentially be labeled as a potential conflict of interest. Because of this, not all interests should be labelled a potential conflict of interest. In fact, disclosure of ever more conflicting interests may also raise ever more ethical and privacy concerns (Bero 2017; Bero & Grundy 2016; Bero & Grundy, 2018; Goldberg, 2020; Rodwin 2018; Wiersma, Kerridge, and Lipworth 2018a, 2018b, Grundy et al., 2020). Thus, the intention to broaden and sharpen standards with the intention to enhance the effectiveness of integrity policies could also produce the following effects: less integrity and less protection of privacy.
Savers list (Saver, 2014) of conflicting nonfinancial interests includes: an individual's interest in career advancement, tenure and promotion, enhanced reputation, professional honors and prestige, access to power, as well as "intellectual or political predispositions, intellectual passion, conflicting loyalties such as double citizenship, religious beliefs, spouses' non-financial interests, investigative zeal. This list can become breathtakingly large. Consequently, monitoring and enforcing the various issues will also – increasingly - become an administrative burden. Looking at this discussion and current trends towards the broadening of disclosure requirements, it is striking that there is almost no discussion taking place about the capacity limits of administrations and how they can build capacities and keep pace in a context of ever growing (regulatory) implementation requirements. This discussion should focus on the need to distinguish between those interests that may create conflicting interests, interests that create a bias and those interests that may create a conflict of interest. Like this, one important objective should be to avoid that, by simply requiring the disclosure of ever more non-financial interests, this would turn the management of a conflict of interest policy into a bias avoidance policy (Rodwin, 2018).

Of course, the distinction between both concepts is not an easy task. Obviously, all individuals have interests because of the simple fact that people live in contexts: They have different sexual identities, beliefs, affiliations, age, social identity, culture, political interests, desire for recognition and reputation. All of these contexts affect individual conduct and interests in many ways. These interests cannot be eliminated. They may even turn into conflicts of interest. Evidence in behavioral sciences points to the fact that conflicts and bias are "everywhere". However, conflicting interests (and biases) are not conflicts of interests. In fact, conflicting interests are legitimate (private) interests whereas conflicts of interests are conflicts between personal interests and professional interests. In most cases, individual's interests will align with the primary interest and primary ethical, legal, or other obligations. However, it also needs to be acknowledged that, in the last few decades, social scientists, philosophers, methodologists, and science policy experts have investigated the variety

of economic, psychological, cultural, and social factors that can increase the risk of bias and lead into conflicts of interest. For example, it is hard to conceive of professionals ever lacking an interest in their reputation, career advancement, promotion, job security, or receiving honor. All of this may influence the primary interest.

7. How to escape from the two worlds? Innovative and conservative bureaucracies

If then, clearer standards for assessing conflicts of interest must be identified, this should be accompanied by the setting of clearer targets. While one objective is to fight conflicts of interest, another objective is to do so in a context of proportionality and the protection of privacy. As such, these conflicting objectives should be acknowledged, first.
Disclosure should be better understood as a paradoxical policy, instead as a mechanical instrument that – simply – reduces CoI and enhances trust (Sah, 2023). Instead, effective disclosure depends not only on how people process information but also critically on how the disclosure influences the behavior of monitoring officials, underscoring the need for a holistic approach to managing COIs that goes beyond mere transparency (Sah, 2023). It is also important to better distinguish the different challenges for recipients and for providers in the process of managing disclosure systems (Sah, 2023, pp.9-10).
In a next step, disclosure management should be better understood as a vital and important management tasks. It should be acknowledged that budgets should be allocated (or even increased) for the training about disclosure policies. Monitoring officers should be better trained. Disclosure monitoring should be accepted as a resource-intensive task.
It should also be (better) rewarded - sophisticated and professional skills are needed to carry out this task. According to Ben-Shahar and Schneider (2014), monitoring experts face a quantity challenge (too much data and information), an overload challenge (disclosures are too complex, need to monitor different disclosure requirements for different categories of staff) and an accumulation challenge (too many updating requirements). Especially, the accumulation problem is little noticed. Consequently, it is hard to organize and manage the mount of complexity (Ben-Shahar & Schneider, 2014, pp. 8/9).

Another (appealing) solution may be to ask for a simplification of disclosure policies. As attractive as this suggestion sounds, this is also in contrast with the discussed developments towards defining ever more “interests” and “biases” and the need for thorough information. “At base, simplifying fails because the complexity isn´t simple and can´t easily be made so”, (Ben Shahar & Schneider, 2014, p.123 and pp.125-128). Complex requirements necessitate intensive disclosures (Ben Shahar & Schneider, 2014, p. 25). Thus, simplification is difficult.

However, consolidation is much easier to achieve. Organization should engage in deliberations how to streamline processes, avoid monitoring at different times and for different organizations and categories of staff, simplify forms and procedures, avoid too many different procedures, reduce the number of persons that need to be screened etc.

Decades ago, Dennis Thompson (1993) suggested that the first standard to be introduced should be the severity of the conflict. The severity of a conflict depends on (1) the likelihood that professional judgment will be influenced, or appear to be influenced, by the secondary interest, and (2) the seriousness of the harm or wrong that is likely to result from such influence or its appearance.
Second, in assessing likelihood of the seriousness of a conflict, one may reasonably assume that, within a certain range, the greater the value of the secondary interest (e.g., the political interest or the size of the financial gain), the more probable its influence. Below a certain value, the gain is likely to have no effect; this is why de minimis standards (which define that value) are appropriate for some gifts. Also, the value should generally be measured in relation to typical income and to the scale of the practice or research project. This approach may be effective when weighting the seriousness of financial CoI, but to a lesser degree – to non-financial CoI.
Third, also affecting likelihood is the scope of conflict, in particular the nature of the relationship that generates the conflict. Longer and closer associations increase the problem. A continuing relationship as a member of the board or a limited partner of an industrial sponsor, for example, creates a more serious problem than the acceptance of a one-time grant or gift.
Fourth, the extent of discretion -- that is, how much discretion, decision-making power, influence on outcomes etc. a civil servant, physician or researcher enjoys in exercising professional judgment -- partly determines the range of probabilities. The more routine the treatment or the more closely it follows conventional professional practice, the less room there is

for judgment and hence for improper influence. Also, the less independent authority the professional has in a particular case, the less latitude there is for improper influence. A conflict involving a laboratory technician, for example, is generally less severe than one involving a principal investigator. Outsourcing may increase discretion, as decision-making discretion and influence on decision-making.

Fifth, the greater the scope of the consequences and the greater the critical impact on the public value, the more serious the conflict.

Thus, on the one hand, it is important to strive for effective and efficient disclosure policies in the context of limited administrative and monitoring capacities. On the other hand, awareness is growing that managing conflicts of interests includes an ever-broader spectrum of potential (conflicting) interests.

8. Conclusions

This article discussed the assumptions and workways of disclosure policies in a sympathetically critical way. The sympathetic inclination resulted from a general alignment with the objectives of ethics (and disclosure policies). On the other hand, the chapter is critical in revealing contradictory and emerging challenges in ethics policies.

Overall, we conclude that change and innovation in the field of disclosure policies have resulted in management practices that "demand reassurance from officeholders that their official judgment is unencumbered in ways that require increasingly sophisticated excursions into their (…) moral psychologies. (Stark, 2000, p. 3). This is a fundamental change to decades ago when conflicts of interests were (almost) exclusively defined as financial interest and did not include other forms of biases, affiliations, beliefs, emotions and spouse´s interests. Today, trends are interpreting "interest" ever broader and including also more emotional, psychological or ideological impairments to judgment (see Stark, 2000). Moreover, new reforms also try to prevent conflicts of interests before they actually happen. Because we cannot know and measure whether and how different issues/situations/emotions/interests have on different minds (and whether or not they are impaired), we are going to prohibit these cases situations altogether Stark, 2000, p. 6). Thus, innovation in the field means that conflict of interest laws is largely, prophylactic in nature and cover ever more situations, circumstances and potential forms of – bias (Stark, 2000. p. 23). Here, the discussed revolving door policies are an illustrative example.

Both, the objectives of revolving door and disclosure policies are well intended, but also produce many side-effects, unintentional effects, paradoxical effects, or simply – negative outcomes.

However, elsewhere in the field of ethics policies, almost no country is equipped with the necessary capacities and resources to effectively manage, monitor and enforce ethics policies. Overall, ethics policies are underfinanced and suffer from shortcomings in implementation and an enforcement deficit.

Thus, the boundaries between red-tape, bureaucratization, growing expectations and daily, grandiose ethical failure are thin.

As it seems, what is needed is an open and non-ideological approach towards innovation in the field of ethics policies. Such an approach accepts that innovation is needed but not necessarily generates the anticipated positive outcomes. In the field of disclosure policies, the existing systems combine a growing concern for ever more individualized impairments to judgment. This logic has limitations and produces many side-effects. "The increase in disclosure requirements, accountability and transparency must be seen in connection with potential possibilities of violation of privacy, the direct (bureaucratic) costs of disclosure, or the revelation of sensitive information. It is also not easy to state that more transparency and disclosure enhance trust and reduce conflicts of interest" (Hood & Heald, p.91).

In fact, the focus on individualized monitoring should not put aside a discussion about – more important – organizational and political causes of integrity violations. Not long ago, the OECD (OECD, 2017) re-confirmed the classical concept of "state capture" as a useful (grand) concept to analyses undue influence. The concept of state capture is more helpful in conceptualizing and understanding issues like corruption and conflicts of interest. "State capture is a type of systematic corruption whereby narrow interest groups take control of the institutions and processes through which public policy is made, directing public policy away from the public interest and instead shaping it to serve their own interests" (David-Barrett, 2023, p.224)

Thus, while debating the parallel development between innovation and bureaucratization in current integrity policies, broader debates about the importance of Good Governance illustrate that integrity policies have less integrative power if the subsystems of society, meaning: Business, Politics, Law, Science, Organization and Culture move into opposite directions! Thus, no matter whether integrity policies become ever more innovative, or more conservative, they should not be a "plug-in policy" that fills the gaps that other (unethical) policies and other governance logics produce. But let´s be realistic! As such, creating and maintaining conditions favorable to this alignment is a difficult and a never-ending task. The best to be expected is a temporary and imperfect equilibrium (Paine, 2000).

Proponents of ethics management rightly claim that institutions can enhance individual- and organizational performance, promote honor, respect, compassion, mindfulness, tolerance and anti-discrimination. However, as could be seen in the case of disclosure policies, institutions can also act exactly into the opposite direction: Overall, it is naive to think that disclosure policies also pay off in a context of democratic backsliding, at any time and, in any political context. In reality, they are an easy pray for political abuse and exploitation.

But, there is also enough reason to be optimistic!

In the field of oversight, countries accept that they should introduce some kind of (powerful) external body as the main tool in monitoring and sanctioning conduct. Often, countries also add to external monitoring bodies so-called lobby-registers. Overall, despite the discussed challenges, arguments in favor of transparent and independent structures clearly outweigh the critical points. Thus, this discussion is in no way a plea for more secrecy and confidentiality.

However, as we have seen, monitoring is not only a technical task. Instead, it is a borderline concept in the intersection of law, politics, economy, sociology, organizational behavior and morality. This situatedness immediately also raises the deep question of the limits of the law and traditional compliance-based approaches. However, also, a too strong focus on non-legally binding instruments, behavioral instruments (like Nudging) or self-regulation and self-management for holders of public office should also be avoided.

It seems, we start to learn that integrity instruments and integrity strategies are rarely either black or white. Differently to classical administrative doctrines, work (in the public sector) is indeed not always predictable, clear, objective and rational. Instead, it is also paradoxical, individual, value-laden, emotional, pluralistic, political and unpredictable. However, this understanding also leads us to the conclusion that pursuing absolute and individual integrity in every sense of the word is an allusive undertaking. This objective would only lead to powerful new monitoring bureaucracies. In this perspective, innovation meets conservatism. Or, like the famous phrase from Tomasi di Lampedusa in the The Leopard "*Everything must change for everything remains the same*".

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