



# ReSPA

Regional School  
of Public Administration

## **Detecting hidden conflicts of interest** Methodology for oversight bodies and other stakeholders



# ReSPA

Ranka Bartula-Musikic  
Programme Manager

## Author

Dr. Tilman Hoppe, LL.M., anti-corruption expert, Germany.

### ACKNOWLEDGEMENTS

The author is grateful for input from the following who commented on an earlier draft: members of ReSPA's Working Group on Ethics and Integrity; Dr. Radu Cotici, Bosnia Herzegovina; Ádám Földes, Germany; Dr. Valts Kalniņš, Latvia; Pedro Gomes Pereira, Switzerland; Paul Zoubkov, Germany.

ReSPA is a joint Initiative of European Union and the Western Balkan countries working towards fostering and strengthening the regional cooperation in the field of public administration among its Member States. It seeks to offer excellent innovative and creative training events, networking activities, capacity building and consulting services to ensure that the shared values of respect, tolerance, collaboration and integration are reaffirmed and implemented throughout the public administrations in the region.

This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of ReSPA and can under no circumstances be regarded as reflecting the position of the European Union.

### COPYRIGHT

© Regional School of Public Administration, 2017

This publication is the property of ReSPA. Any unauthorized reprint or use of this material is Prohibited

### CONTACT

Regional School of Public Administration  
Branelovica  
P.O. Box 31, 81410  
Danilovgrad, Montenegro  
Telephone: +382 (0)20 817 200  
Internet: [www.respaweb.eu](http://www.respaweb.eu)  
E-mail: [respa-info@respaweb.eu](mailto:respa-info@respaweb.eu)

## TABLE OF CONTENTS

1	<i>Why</i> this methodology? .....	4
2	<i>What</i> to look for: patterns of hiding conflicts of interest .....	6
2.1	Incompatibilities .....	6
2.2	Ad-hoc conflicts.....	7
2.3	Transnational patterns .....	8
3	<i>Where</i> to look: search strategies .....	8
3.1	Incompatibilities .....	8
3.2	Ad hoc conflicts.....	9
3.3	Transnational patterns .....	13
3.4	Electronic search tools .....	14
4	<i>When</i> to look: red flags and other triggers .....	16
5	<i>Who</i> should look: stakeholders in detecting conflicts of interest .....	17
5.1	Bodies verifying asset/interest declarations.....	18
5.2	Supervisors.....	18
5.3	Internal controlling.....	18
5.4	External auditors .....	18
5.5	Civil society .....	18
6	<i>In a nutshell</i> : 10 principles.....	19

## 1 Why this methodology?

Undisclosed conflict of interest in the public sector is one of the most frequent patterns of corruption, including in highly industrialised countries.<sup>1</sup> The international community thus has dedicated a vast amount of research at **preventing** this form of corruption, for example:

- OECD, Managing Conflict of Interest in the Public Sector, A Toolkit (2005), 113 pages;<sup>2</sup>
- ADB/OECD, Managing Conflict of Interest – Frameworks, Tools, and Instruments for Preventing, Detecting, and Managing Conflict of Interest (2008), 247 pages;<sup>3</sup>
- Regional Anti-Corruption Initiative (RAI), Rules and experiences on integrity issues (2012), 119 pages;<sup>4</sup>
- World Bank, Public Accountability Mechanisms (PAM): assessments of countries' in-law and in-practice efforts with regard to conflict of interest restrictions (2013), 10 pages;<sup>5</sup>
- Council of Europe/Tilman Hoppe, Legislative Toolkit on Conflict of Interest (2015), 140 pages.<sup>6</sup>

However, prevention is only one side of the coin. An efficient integrity system also needs to **actively detect** the many cases where prevention did not succeed because the public official did not disclose his/her conflict of interest. It is amazing that handbooks on conflict of interest hardly address the side of active detection, if at all. A 247-page publication even carries the promising title “Frameworks, Tools, and Instruments for Preventing, **Detecting**, and managing conflict of interest”.<sup>7</sup> However, the reader does not find any method in this publication for “detecting” conflict of interest.

This Methodology intends to **close** this **gap**. It tries to answer the question: “How do you detect a conflict of interest that the public official did not report?”

In reality so far, in most countries only **one stakeholder** is in charge with detecting hidden conflicts of interest, which is the ethics or anti-corruption body in any given country. In many cases, an integrity body either only **reacts** to complaints or **checks** annual declarations for their completeness only.<sup>8</sup>

---

<sup>1</sup> See e.g. for Australia and New Zealand, Deloitte [Bribery and Corruption Survey](#) 2017: “By far the most respondents named undisclosed conflict of interest as the form of corruption they observed.”

<sup>2</sup> <http://www.oecd.org/gov/ethics/49107986.pdf>.

<sup>3</sup> <https://www.oecd.org/site/adboecdanti-corruptioninitiative/40838870.pdf>.

<sup>4</sup> [http://www.rai-see.org/doc/Study-Rules\\_and\\_experiences\\_on\\_integrity\\_issues-February\\_2012.pdf](http://www.rai-see.org/doc/Study-Rules_and_experiences_on_integrity_issues-February_2012.pdf).

<sup>5</sup> [https://agidata.org/Pam/Documents/COI%20Primer\\_30Sep2013.pdf](https://agidata.org/Pam/Documents/COI%20Primer_30Sep2013.pdf).

<sup>6</sup> [www.tilman-hoppe.de/Col\\_toolkit](http://www.tilman-hoppe.de/Col_toolkit).

<sup>7</sup> ADB/OECD, Managing Conflict of Interest – Frameworks, Tools, and Instruments for Preventing, Detecting, and Managing Conflict of Interest, 2008, 247 pages, [www.oecd.org/site/adboecdanti-corruptioninitiative/40838870.pdf](http://www.oecd.org/site/adboecdanti-corruptioninitiative/40838870.pdf) (emphasis by author).

<sup>8</sup> European Union Anti-Corruption Report, COM(2014) 38 final, page 12: “Verifications on substance are often formalistic and mostly limited to administrative checks. The monitoring capacity and tools necessary to carry out substantial checks are often insufficient.”

It is the aim of this methodology to give the full picture on what one could do to detect conflicts of interest **proactively**. There is a variety of **patterns** how public officials try to hide their private interests – all these patterns need to be targeted by oversight. At the same time, conflicts of interest leave **traces** and a variety of stakeholders are in the position of using these traces for uncovering hidden conflicts of interest.

In view of this, this methodology will describe:

- **Patterns** of how public officials hide conflicts of interest;
- **Stakeholders** who could play a role in detecting hidden conflicts of interest;
- **Strategies** one could exhaust in tracing private interests.

As a by-product of this methodology, policymakers might see their own conflict of interest **legislation** in a new light and to which extent additional powers might be needed for an effective oversight of conflicts of interest.<sup>9</sup>

This methodology is a continuation of the ReSPA “**Comparative Study – Conflict of Interest in Practice**” (2015)<sup>10</sup> and of ReSPA’s “Western Balkan **Recommendation** on Disclosure of Finances and Interests by Public Officials” (2014).<sup>11</sup>

It is hoped that this methodology will be adapted and integrated into the oversight mechanisms of **integrity bodies**, into standard procedures for the larger **civil service**, and into the monitoring by **civil society** on conflicts of interest in the public service.

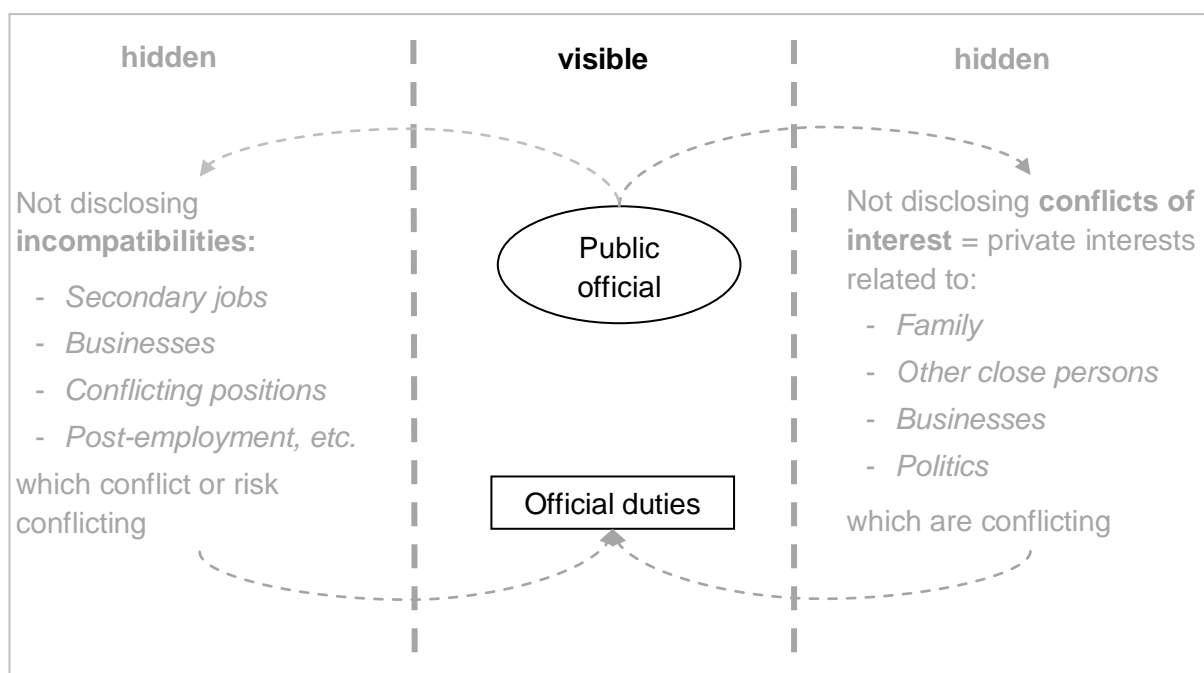
---

<sup>9</sup> As the Council of Europe “Legislative Toolkit on Conflict of Interest” states: “It is important that audit and oversight bodies have sufficient resources and **powers** for exercising their functions. This includes in particular immediate and unimpeded access to a wide range of state **databases** and to any other official records and documents. The audit and oversight bodies should also have the power to use publicly available private data (e.g. internet) or information given by private natural or legal persons on a voluntary basis. With these powers, an oversight body could, for example, review a random selection of procurement files and cross-check with the civil registry, the business registry, and information from tax authorities, whether there is any link between the winning bidder and any public official of the public authority concerned.” (ibid, Commentary on Article 17).

<sup>10</sup> <http://www.respaweb.eu/11/library#respa-publications-2015-7>.

<sup>11</sup> <http://www.respaweb.eu/11/library#income-and-asset-declarations-comparative-study-113>.

## 2 What to look for: patterns of hiding conflicts of interest



### 2.1 Incompatibilities

Incompatibilities are not in and of itself a conflict of interest, but restrictions designed to prevent conflicts of interest before they could occur. In other words, incompatibilities try to minimize the risk of conflicts of interest. For example, in some countries (certain categories of) public officials are not allowed to exercise a secondary profession or to own a business, as there is a high risk of the interests in the profession or business to conflict with the official's public duties. The main permanent restrictions found internationally and the respective hiding strategies are as follows:

Restriction on	Hiding strategy
Secondary jobs	Not declaring the secondary job in the asset/interest declaration; not declaring the job in the tax declaration; not registering the job with social insurances (if applicable).
Businesses	Not declaring the business in the asset/interest declaration; registering the business under a different name or under a legal structure as an intermediary.
Contracts with public sector	Not declaring the contract in the asset/interest declaration or using legal structures as intermediaries.
Memberships	Not declaring the membership in the asset/interest declaration.
Conflicting public positions	Not declaring the position in the asset/interest declaration.

Post-employment	Not declaring the post-employment in the asset/interest declaration; not disclosing it to the former employer; not declaring it in the tax declaration; not registering it with social insurances (if applicable).
Political affiliation	Not declaring the membership in the asset/interest declaration; avoiding participation in (semi-)public events of the political party.

## 2.2 Ad-hoc conflicts

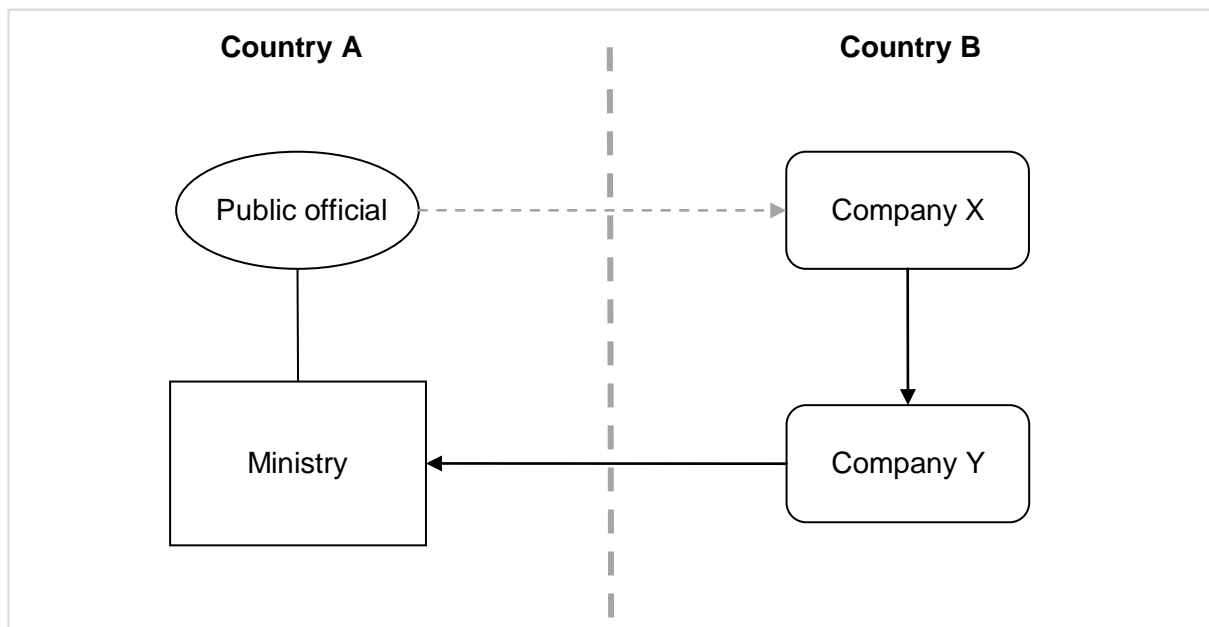
Ad-hoc conflicts of interest depend on the situation – the public official happens to be temporarily in a position where he/she can further his/her private interests. For example, a tax inspector conducts a tax audit on a family member.

Category of private interest	Hiding strategy
Family relation	Not disclosing an ad hoc family relation; not declaring family members in the asset/interest declaration as far as required; not declaring a family business in the asset/interest declaration; hiding the family relation behind a different name or a legal person.
Other close relations	Not disclosing an ad hoc personal relationship.
Business relation	Not disclosing the ad hoc business relation; not declaring a business in the asset/interest declaration; not registering the business or its actual interests; registering the business under a different name.
Political affiliation	Not declaring the political affiliation; not declaring the membership in the asset/interest declaration.
Gifts	Not declaring receipt of gifts above legal limits; framing the gift as from private sources; hiding the gift from public scrutiny (not posting a “sponsored” trip on social networks).

Another generic strategy for all above private interests is to arrange things so that the official act is carried out by **another official** but under informal instructions of the one in conflict of interest.

## 2.3 Transnational patterns

Foreign jurisdictions are not only an attractive option for public officials who seek to hide their money derived from corrupt sources; foreign countries are also interesting for hiding conflicts of interest. For example, a minister doing business with his/her own ministry will easily be detected. Hiding this business under the ownership of another (domestic) company is an option, but could also be detected by any interested stakeholder following the domestic company register. Hiding such a business under one or several layers of foreign legal structures is a more effective alternative. A domestic oversight body might not have the powers to check foreign databases and these might not be publicly accessible, if only for language reasons, or because the database is located in a non-transparent country (“off shore destination”).



There are basically two kinds of patterns involving foreign countries:

- Incompatibilities: The public official owns a foreign business or has income from a position abroad and does not disclose it.
- Ad hoc conflicts: The public official (or his/her family/other close relations) owns a domestic business, hides it behind the veil of a foreign legal structure and engages in a conflict of interest situation, such as procuring business from his/her employer.

## 3 Where to look: search strategies

### 3.1 Incompatibilities

The search strategy for detecting incompatibilities largely overlaps with the financial audit of asset declarations. The oversight body compares the data contained in the annual declaration of the public official with the data contained in public and private databases, such as those on companies, businesses, taxes, civil registry (family members). The oversight body can generally detect undeclared memberships through searching the internet either for



membership lists or for secondary information (e.g., such as a press release or a report on an event of the association mentioning a membership of the public official).

The following is a list of databases and the incompatibilities that can be detected based on their data. Obviously, existence of and access to such database depends on conditions in the respective country:

Database	Relevant incompatibility
Tax authority	Additional income, ownership of business, political party membership fees, second public position, second employments or employments after leaving office.
Civil registry	Circle of family members to identify if there are violations against restrictions on the ownership of business by family members.
Business registry	Ownership of business violating restrictions.
Company registry	Ownership of business violating restrictions.
Patents/licenses registries	Ownership of business violating restrictions.

**Political affiliations** are not easy to detect. Usually, there is no database on memberships in a political party, except for the internal and private membership lists that political parties have.

In addition, one should conduct a creative search of data released on the **internet**. There are good instructions available on how to find hidden information: for example “Exposing the Invisible” by Tactical Technology Collective,<sup>12</sup> or “Bellingcat’s Digital Forensics Tools”.<sup>13</sup>

### 3.2 Ad hoc conflicts

A conflict of interest occurs where a “private interest” of the public official “influences, or appears to influence, the impartial and objective performance of his or her official duties [the public interest]”.<sup>14</sup> Hiding a conflict of interest means: hiding the private interest and hiding that it relates to the public duties of the public official. Both the private interest and the relation to the public official’s duties are unknown. Thus, for detecting, one has to work from both ends:

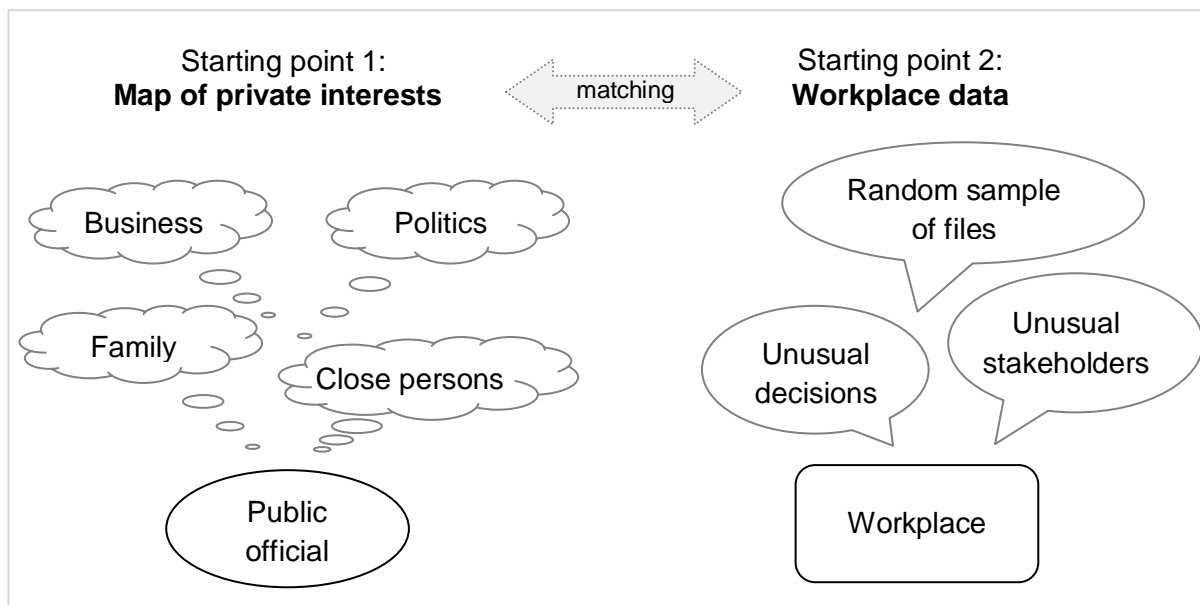
- Identifying and mapping all **private interests** of the public official. Private interests are not physical but “only in the heart” of the persons involved. Nonetheless, they leave traces – in office files, databases, social networks, etc.
- Searching the public official’s **workplace decisions** for stakeholders in whom he/she could possibly have a private interest.

<sup>12</sup> <https://exposingtheinvisible.org/>.

<sup>13</sup> <https://docs.google.com/document/d/1BfLPJpRtyq4RFtHJoNpvWQjmGnyVkfE2HYoICKOGguA/edit>.

<sup>14</sup> Art. 13 para. 1 Council of Europe [Recommendation No. R \(2000\) 10](#) of the Committee of Ministers to Member states on codes of conduct for public officials.

By working from both ends, one has to look for any relationship between the official's private interests and his/her performance in the workplace:



### 3.2.1 Starting point 1: The map of private interests

The first step is drawing a map which shows which stakeholders the public official could possibly have a private interest in. For identifying such stakeholders, do not think only of names. Names of stakeholders are important, but not the only identifiers; equally important are addresses or tax numbers, even if no name is known. An example is the public official's home address – any household member could represent a private interest of the public official: While their names might not be known, their address is. Only by using this address, one is able to identify private interests.

**Example:**

*The public official works as a professor in law school. For a conflict of interest audit, one could search the list of students taking the final exam using the professor's home address. Any match could lead to a family member of the professor or a partner, and entail a conflict of interest of the professor in the respective student's exam.*

The following sources can provide identifiers for private interests:

Category	Data source
Family members	Civil registry, social networks, registered address of public official or domicile (for household members)
Other close relations	Websites linking the public official and a person as having a close relationship (random search of the public official's name, social networks); registered address of public official or domicile (for household members); land register; register of power of attorney

Businesses	Tax database, company register, business register, intellectual property register, internet, social networks, register of power of attorney
Political affiliation	Tax database (political membership fee – if tax deductible), database of political donations, internet, social networks

As mentioned already above, one should conduct a creative search of data released on the **internet**. There are good instructions available on how to find hidden information: for example “Exposing the Invisible” by Tactical Technology Collective,<sup>15</sup> or “Bellingcat’s Digital Forensics Tools”.<sup>16</sup>

The **map** results in a list of names and possibly other identifiers, such as addresses or tax numbers. These provide the search terms for step two: In this second step, one has to search the public official’s work data for each of these search terms. Any positive hit should entail an in-depth review of how the public official’s work duties and the private interest possibly relate to each other.

The following is a non-exhaustive list of databases in which one can search for a match with an identifier of private interests:

Database	Possible private interest
Human resource database (staff list)	Hiring of family members or close persons
Tender awards (procurement)	Procurement by family members, close persons or businesses linked to the official
Tax database	Decisions or audits by tax inspectors concerning close persons or businesses
Licenses (drivers’ permission, business licenses, building permit, etc.)	Granting of licences to close persons or businesses
Education registers (admissions, exams, etc.)	Favouring close persons in admissions or examinations
Customs (database of inspections)	Favouring close persons or businesses
Database on zoning decisions (e.g. in municipalities)	Upgrading the value of the land of the public official, of close persons, or of their businesses
Patient database (hospitals, insurances)	Favourable treatment of close persons

<sup>15</sup> <https://exposingtheinvisible.org/>.

<sup>16</sup> <https://docs.google.com/document/d/1BfLPJpRtyq4RFtHJoNpvWQjmGnyVkfE2HYoICKOGguA/edit>.

Judicial case database	Cases decided by a prosecutor or judge related to close persons or their business
Any archive of paper files	Any private interest

**Gifts** are a special case: Many gifts are tangible but still do not leave traces in any database, such as “small” presents (wine, fountain pens, watches, etc.). If gifts are large enough to belong into an asset declaration, such as cars or real estate, they can be detected during a financial audit of the declaration if they had not been declared or their source has been obfuscated. Some gifts are intangible, such as a dinner invitation or an invitation to a weekend leisure trip. Such gifts can usually only be actively detected by checking for traces on social networks. In sum: The detection of undeclared gifts received depends largely on the notification by an informant (colleague, citizen). If large enough, the gift can be actively detected by using regular methods of financial audits.

### 3.2.2 Starting point 2: The public official’s workplace data

This search strategy does not start with a map of private interests, but with a map of the public official’s decisions taken in office. First, one has to look for any decision that is **outstanding**, because of its financial value (e.g. procurement award, rezoning of land, etc.), the scope of rights it grants to a private stakeholder (e.g. duration of a license, membership in a public body, etc.). One should review at least a sample of these outstanding decisions: Is any of the stakeholders benefiting from the public decision related to the public official through a private interest? To this end, one has to take the stakeholders identifiers (name, address, tax number) and try to relate it to the public official.

*Example:*

*Company Z. has won a large tender from the Ministry of Education. A background check on Company Z. reveals, that Mr. G. is one of the owners. A check in the company register reveals that Mr. G. owns another business, Company U. According to the political finance database, Company U. gave a significant contribution to the election campaign of the Deputy Minister of Education.*

Obviously, many if not most hidden conflicts of interest concern normal everyday decisions: a judgment in court, the decision to drop charges, a building permit, a minor procurement, or the hiring of a person to a ministry. For this reason, one has to always check a **random sample** of decisions and conduct a background check on the stakeholders involved.<sup>17</sup>

As is the case with tax declarations,<sup>18</sup> there are targeted and random verifications of asset/interest declarations. For example, where GRECO found verification mechanisms to

<sup>17</sup> For random audits under international standards see for example: OECD, [Use of Random Audit Programs](#) (2004), 51 pages; GRECO Evaluation Report Bosnia and Herzegovina ([Eval IV Rep \(2015\) 2E](#)), recommendation v: It is recommended “coupling the disclosure system with an effective control mechanism (including random verifications)”.

<sup>18</sup> See for example: OECD, [Use of Random Audit Programs](#) (2004), 51 pages.

be missing, it recommended “coupling the disclosure system with an effective control mechanism (including random verifications)”.<sup>19</sup>

As for the databases and sources of decisions by public officials, the same are relevant as above under “Starting point 1”.

It is also important to review, whether the public official acted within his/her **tasks** as assigned by internal rules. If not, this might be an indication that the public official acted on a colleague’s behalf (and instruction) in order to disguise the colleague’s conflict of interest.

### 3.3 Transnational patterns

#### 3.3.1 Incompatibilities

For incompatibilities, the search strategy is the same as with domestic incompatibilities, except that one has to check **foreign** databases. This poses two challenges:

- First, one needs to have access to the databases abroad.
- Second, one does not know in which of the about 195 countries the public official is conducting a business or exercising a profession (e.g. a consultancy), assumed he/she is forbidden to do so.

**Access abroad:** The easiest way is accessing **open data**. Many databases abroad are available to anybody online, some of them even in an internationally or regionally well-understood language, such as English. In addition, entering key terms into an internet search engine can often provide surprisingly good results. One can cross language barriers using automated translation tools (e.g. *google translate*).

Where databases are not available online, oversight bodies usually need a formal or informal **agreement** with the other country. To this end, a multilateral agreement has been drafted<sup>20</sup> and the European Commission has recommended its adoption.

**Selection of country:** For **internet** searches, usually any information related to the key terms will show up from any country as long as the respective website contains the key terms in the same alphabet. For example, a Russian website might reference English names in Latin alphabet or transliterate them.

For accessing restricted state **databases**, it is not feasible to request 195 countries to check for only one official, if there are matches in any of the databases (195 multiplied by 10 or more). However, one could do a random check in a small number of countries where there is an increased likelihood of cross-border transactions. For example, Moldova and Romania share the same language and have many cross-border connections in business, families, and in state cooperation.

---

<sup>19</sup> See for example GRECO Evaluation Report Bosnia and Herzegovina ([Eval IV Rep \(2015\) 2E](#)), recommendation v.

<sup>20</sup> See RAI [webpage](#) in cooperation with and dovetailing similar efforts by ReSPA ([Feasibility Study](#) 2014); [Press release](#) (12 July 2017) by Italian Ministry of Foreign Affairs on the results of the Trieste Summit.

Some foreign databases might require the payment of a **user's fee**. To this end, oversight bodies should have a legal basis<sup>21</sup> and a small budget for paying such fees. Often such fees are only payable by credit card and/or services such as PayPal. The oversight body would need access to such a payment service.

Whenever the conflict of interest involves a suspicion of **money laundering**, the international network of Financial Intelligence Units (FIU) can be used for cross-border exchange of data. It should be noted that in some countries verification of declarations is done by the FIU, such as for a large part of asset declarations in Greece.

### 3.3.2 Ad hoc conflicts

An involvement of an unknown, non-transparent foreign company should be a red flag for triggering an in-depth background check: Who owns the foreign company? Which other companies does the foreign company own, and does a domestic public official (partially) own them?

*Example:*

*The Ministry of Transportation has tendered a large contract of delivering 12 trams for the capital city. It awards the contract to Company Q. from a neighbouring country. A background check on Company Q. looks into the foreign company register. The data shows that Company Q. is owned by a domestic company. The owner of the domestic company is Ms. W. residing in the neighbouring country. Data from the foreign civil registry shows Ms. W. is married to the head of department at the Ministry of Transportation.*

The example shows that there can also be cross-border relations entailing a private interest, such as family or other close relations. Data from the internet (company website, foreign company registers) and social network can be additionally helpful in identifying such relations.

### 3.4 Electronic search tools

Obviously, any search for private interests connected to a public official is done most efficiently where data is searchable in electronic form and where software is available in supporting any search. The private sector has long been benefiting from such electronic

---

<sup>21</sup> See for example the Ukrainian Bylaw No. 201/30069 of 2017 (Ministry of Justice), Chapter III, section 11, part 2: "To verify information about the declaring entities referred to in the declaration, the National Agency has the right to receive information from public databases, registers of foreign states, including upon paying a fee for a particular information under the Law, if such fee is required to get an access to information."

search tools.<sup>22</sup> In particular the large auditing firms use special software to mine existing databases for any matches, for example between employees and vendors:<sup>23</sup>

Employee Name	Employee Address	Home Phone	Vendor Name	Vendor Address	Phone	YTD Paid
Bristol, Jim J	30 Dean Wells Ct	6394565886	STONE GRASS COMPANY LLC	30 DEAN WELLS COURT	6394565886	\$980
Bunton, Susie F	600 N Church	6557833693	COLD CREEK MACHINE & TOOL	600 NORTH CHURCH ST	6557833693	\$2,507
Smith, Debra A	2180 Millhaven Court	3146539490	HAZELWOOD EAST GRADUATION	ATTN DEBRA SMITH 11300 DUNN	3146539490	\$9,765
Fehrenbacher, Jimmy	2115 N 600TH ST	6187522791	FEHRENBACHER CARPENTRY	2705 NORTH 600TH ST	6187522791	\$5,674
Slider, Kim E	2 Meppen Drive	3338429601	LAW OFFICE OF KIM E SLIDER LL	4 MEPPEN DRIVE	3338429601	\$15,350
Lopinotis, Douglas S	1702 N. 17th	6182772146	LOPINOTIS COMMUNICATIONS IN	26 LISA LANE	6182772146	\$700,000
Woodsmith, Michael G	1388 Jones Place	5735927709	MICHAEL GENE WOODSMITH	P O BOX 1233	5735927709	\$56,780
Wright, Kipper D	2222 W. 9th	6362392289	CUB SCOUT Pack 444	ATTN KIPPER WRIGHT 2222 W 9TH	6362392289	\$500

The applicability of such tools depends on the quality of public databases. Some of the issues in this regard are:

- Is the data **machine readable**? A “database” with only a collection of image files of scanned paper forms will not be of much use, unless at least the image files can be sorted by the name of persons. In such cases, the images should receive adequate treatment, which allows them to be searchable (e.g. optical character recognition – OCR).
- By what **identifiers** can the database be searched? Sometimes, databases do not allow search by name, but only by technical features (for example by location of plot of property, but not by name). A possible solution in this context could be to extract the raw data into a searchable format and then apply the search software.
- Are identifiers non-**ambiguous**? The name and surname are often not enough to identify an individual person. One often has to add another identifier, either electronically, or manually after several matches with the same names are found.
- Have identifiers changed over **time**? Sometimes the system of numbering such as for passports or companies changes over time. As a result, one and the same natural or legal person may be registered under two different numbers in different databases, depending on the time the data was entered.
- How **reliable** is the data? One has to keep in mind that data might have been entered with mistakes or that large amounts of information may be missing. There may also be false-positives within the data sample searched. This aspect is important as one cannot rely on a negative search result: One will have to complement the

<sup>22</sup> FSS (2017), [Best Practices for Employers: Conflicts of Interest](#): “It’s often said that relationships are hard to discover, but in reality, conflicts almost always leave a footprint that can be detected with electronic data mining techniques. Rather than detecting, it’s more about identifying relationships”; Compliance Week (2014), [Isn’t That a Conflict? The Internal Auditor’s Role in Scrutinizing Related Parties](#): “More frequently, I see the use of analytic technology emerging as a tool to detect potential conflicts of interests. A data match can be performed between employee and vendor data files to identify relationships that suggest possible conflicts and control weaknesses. The matching would look for employees and vendors with the same address, tax ID number, or bank account.”

<sup>23</sup> Screenshot “Vendor/employee matching records – Anti-Fraud Analytics and Electronic Discovery by Deloitte”, taken from: Jean Villedieu (28 April 2014), Fraud detection: identifying conflicts of interest with graphs, <https://linkurio.us/blog/fraud-detection-identifying-conflicts-of-interest-with-graphs/>.

electronic search regarding the missing data or missing matches (e.g. by checking a random sample of the data that is not contained in the database but only on paper).

As far as can be seen, software used for detecting conflicts of interest in the private sector has been rarely applied in the public sector (outside state owned companies). Trying out, developing, or buying such software is a field on which international donors could focus their assistance.

#### 4 *When to look: red flags and other triggers*

One cannot conduct an in-depth “conflicts of interest audit” on all public officials, or only a substantial part of them. Taking it up from Starting Point 1 and 2 of above mentioned search strategy (see Chapter 3) requires human resources even if one has the support of electronic search tools. Thus, one has to prioritise the audits and start them in particular on the following grounds:

- A **random** selection (“lottery”) of a percentage of public officials each year (e.g. 4%);
- **Media** reports on suspicions;
- Substantiated **complaints** on conflicts of interest violations (open and anonymous);
- The verification of an annual declaration reveals:
  - o **Incomplete declaration**: The public official did not declare an item that could constitute or relate to a private interest (a family member, a business or real estate owned by the official or his/her family, etc.);
  - o **Illicit or unexplained wealth**: The lifestyle (outgoing financial flows) is not supported by the income (incoming financial flows);
  - o The lifestyle is supported by the income, but there is **unusual** “legal” income such as from
    - land deals,
    - land development,
    - business income,
    - foreign investments or income, or
    - from financial transactions with family members or other close persons.

All of these incidents could be an indication that the wealth was acquired in conflict of interest at the state’s detriment (favourable rezoning of land, favourable procurements, etc.).

- **Family** members owning businesses;
- Public official formerly owning **businesses** or having worked in private sector in managerial function;



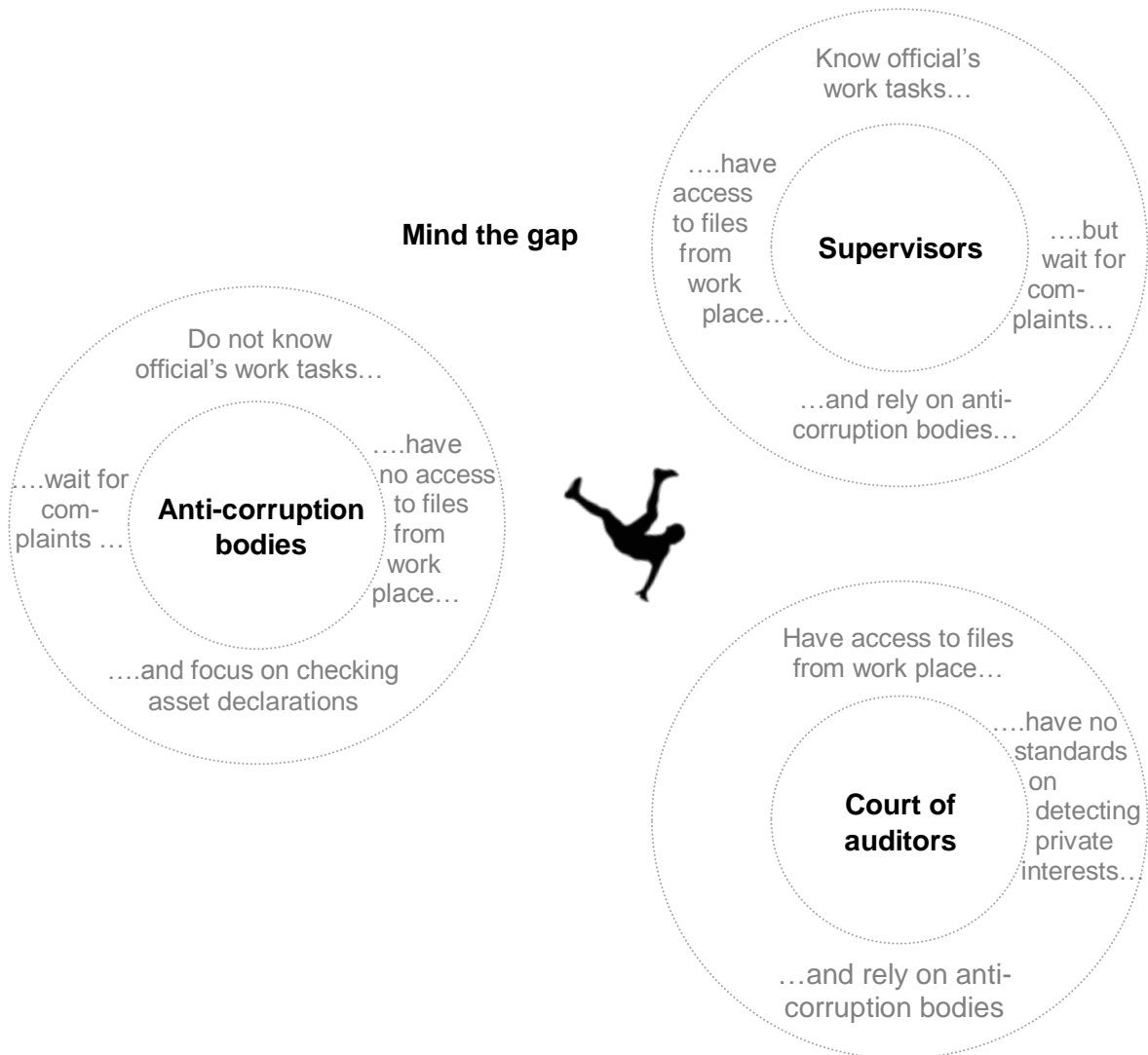
- **High risk** positions (procurement, human resources, licensing, subsidies, basically everywhere, where the state distributes limited resources/where citizens compete to be selected);
- The employing public agency concluded contracts with **foreign** companies.

## 5 Who should look: stakeholders in detecting conflicts of interest

From the strategic perspective of setting up a functioning national system on detecting hidden conflicts of interest, two things are important:

- A (centralised) body can and should not be the only one being in charge of detecting conflicts of interest;
- All other stakeholders need to have a clear instruction on their role in detecting conflicts of interest.

Often, the gap of detecting conflicts of interest looks in practice as follows:



## 5.1 Bodies verifying asset/interest declarations

Ethics commissions or anti-corruption agencies are usually the ones in charge with verifying annual asset/interest declarations of public officials. These bodies have the following roles in detecting hidden conflicts of interest:

- Check annual declarations for **completeness** of data; in case of incomplete data, inform the employer in order to start an in-depth conflict of interest audit (unless the ethics commission or anti-corruption agency has the power to conduct such an audit itself reviewing files in the workplace);
- Conduct a review based on Starting Point 1 and 2 of the search strategy on a selection of public officials (see Chapter 4) using all available data the oversight body has access to (**open data** as well as all public and private databases).

## 5.2 Supervisors

All supervisors need to **actively** supervise their staff.<sup>24</sup> This means they need

- to have a reasonable understanding of each staff member's **asset/interest declaration** and the private interests disclosed therein as well as of each staff member's official duties;
- to regularly review a **sample** of decisions by staff members for any transaction showing indications of private interests being involved.

## 5.3 Internal controlling

Internal inspection/control units should have access to asset/interest declarations and should conduct the above mentioned search strategy (Chapter 3) on a selection of public officials (see Chapter 4) using all available data the audit unit has access to (**work files**, open data as well as all public and private databases).<sup>25</sup>

## 5.4 External auditors

Court of auditors need to include a **standard procedure** on detecting conflicts of interest into their auditing rules. They should always review a sample of decisions and apply Step 1 and 2 of the search strategy (Chapter 3).

## 5.5 Civil society

Journalists, NGOs, and/or interested citizens can apply Step 1 and 2 of the search strategy at any given time using any data they have access to: open data as well as all public and

---

<sup>24</sup> Independent Commission Against Corruption (ICAC), New South Wales (Australia), website on: Preventing corruption > Detecting corrupt conduct > Supervision and checking, <https://www.icac.nsw.gov.au/preventing-corruption/detecting-corrupt-conduct/supervision-and-checking/4883>.

<sup>25</sup> See ICAC, The role of internal audit and work review in detecting corruption: "Agencies should have audit and work review processes in place which are capable of detecting the types of corrupt behaviour identified by the agency in its risk identification process.", <https://www.icac.nsw.gov.au/preventing-corruption/detecting-corrupt-conduct/internal-audit-and-work-review/1534>.

private databases, plus any files they might have come into possession (copies of work files by an informant).

## 6 *In a nutshell*: 10 principles

### 10 Principles for Effective Conflicts of Interest Audits

1. State bodies in charge of oversight should not just **wait for complaints** but have mechanisms in place for **active detection** of conflicts of interest.
2. Verifying **annual declarations** for completeness is in and of itself is not a conflicts of interest audit and is not enough.
3. An audit needs to **map** all **private interests** of the respective public official that are known and that one can research.
4. Private interests can hide between natural and legal front persons; thus, one has to look for all private interests in particular behind **legal persons** involved (“never stop exploring”).
5. An audit should use also **open data** and all available databases for researching private interests.
6. State bodies in charge of oversight should ensure access to data from **abroad** in order to map private interests hidden behind foreign stakeholders.
7. All public bodies should regularly audit a **random sample** of public officials and/or public files for indications of conflicts of interest.
8. As is done already in the private sector, audits should make use of **electronic search** tools for data mining (for identifying matches between work files and private interests).
9. Audits can never be the task of only one (central) state body; one needs to define a clear role for **each stakeholder** leaving no gap, involving in particular supervisors, internal audit units as well as (external) court of auditors.
10. Audits should be based on a written **search strategy** and all stakeholders need to be trained on it.