



OFICINA
ANTIFRAU
DE CATALUNYA

**International Conference on
*Conflicts of Interest
Prevention, Tools and
Measures :***

**Functional incompatibilities and relevant
sanctions at central and regional level**

Tirana, Albania
20-21 January, 2011

Chronology of conflict of interest main Spanish regulations



	Top officials (Central Government)	Local councilors (all Spain)	Public employees (all administrations)
1982			Law on Incompatibilities: regularized thousands of double jobs
1983	Law on incompatibilities of <u>top officials</u> : declaración sobre causas de posible incompatibilidad		
1984			Law on incompatibilities of <u>public employees</u> : only one job in the public sector; private jobs: allowed if not a threaten to independence
1992	Law on administrative procedures: obliges to abstain to any official or employee with interest in the issue or relationship or close friendship with those involved		
1995	Law on incompatibilities of <u>top officials</u> : creates activities register (disclosed) and assets register (reserved)		
2000		<u>Local councilors</u> obliged to declare activities and assets	
2005	Code of Good Governance of <u>top officials</u> : derived from OECD recommendations		
2006	Law on conflicts of interest of <u>top officials</u> : creation of Office of Conflicts of Interest		
2007			Basic Statute of the <u>Public Employee</u> : contains a code of conduct
2009	Decree developing 2006 Law on conflicts of interest of <u>top officials</u>		

Incompatibilities of Members of the Government

(More responsibility/accountability to more power)

More risk from contacts between public and private sector derived from public procurement, subcontracting, privatisation processes

- ▶ Principle of exclusive dedication to the post (no representative functions other than the parliamentary mandate or any other deriving from his/her post, nor professional or business activity)
 - ◆ Exceptions :
 - MPs of a regional parliament (only **one** salary)
 - Member of a local corporation (**two salaries** but dedication to the administration full time and to the local c. part time)
 - Research or counseling for specific projects and limited period of time
 - Private activities that do not compromise the impartiality of the civil servant (explicit list of activities that they cannot perform)
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Incompatibilities (Catalonia)

- ▶ The President of the Catalan Government cannot perform any other task or public activity besides the ones stemming from his post or MP of the Catalan Parliament
 - ▶ Senior officials in the service of the Government of Catalonia
 - ▶ Full and exclusive dedication
 - ▶ One salary
 - ▶ Prohibition to work **for two years** in private activities where they have intervened directly in the fulfilling of their functions or for a company relating to the private sector (revolving door)
-

Preventive measures

Incompatibilities regulation prevent the factor of CoI and appearance of conflict of interest (*Wife's Caesar effect*)

- *Hearings* by the Parliament of the senior candidate to take up an office in the government from an Assessment Commission
 - Public Agencies: Office of Conflict of Interests/Anti-Fraud Office Of Catalonia
 - Declaration of Activities and Assets (need to be effectively checked) from the Public Official (and relatives?)
 - The declaration is published at the Official Gazette (Public Office is Public Trust)
-

Cargo: Ministro de Asuntos Exteriores y de Cooperación.

Nombre: Miguel Ángel Moratinos Cuyaubé.

I. Activo:

1. Bienes inmuebles (según valor catastral): 284.978,37 €.
2. Valor total de otros bienes: 100.000 €.
3. Total: 384.978,37 €.

II. Pasivo: (Créditos, préstamos, deudas, etc.):

Cargo: Secretario de Estado de Hacienda y Presupuestos.

Nombre: Carlos Ocaña y Pérez de Tudela.

I. Activo:

1. Bienes inmuebles (según valor catastral): 416.029 €.
2. Valor total de otros bienes: 161.871,78 €.
3. Total: 577.900,78 €.

II. Pasivo: (Créditos, préstamos, deudas, etc.): 356.198,07 €.


Register of Members' Interests - Windows Internet Explorer

http://www.congreso.es/portal/page/portal/Congreso/Congreso/Diputados/registro_intereses

Archivo Edición Ver Favoritos Herramientas Ayuda


Register of Members' Interests

Página principal Fuentes (J) Imprimir Página Herramientas


Congreso de los Diputados

- > Current affairs
- > Press room
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Members

Register of Members' Interests

- > Listing of Members in alphabetical order
- > Former Members
- > Permanent Deputation Members
- > Parliamentary Pay and Allowances
- > Congress election outcome in 2008
- > [Register of Members' Interests](#)
- > Listing of Members by electoral district
- > Listing of Members by parliamentary groups
- > Listing of Women Members in active
- > Members and Former Members: consolidated list
- > Listing of Members substituted and substitutes
- > Members personal web pages
- > Search by form
- > Chamber

Registro de Intereses - Actividades. **IX Legislatura (2008 - actualidad)**

Normativa aplicable

- > Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General (arts. 157-160)
- > Acuerdo de las Mesas del Congreso de los Diputados y del Senado, de 21 de diciembre de 2009, por el que se aprueban normas en materia de registro de intereses.

Relación alfabética de diputados en activo
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- > Ábalos Meco, José Luis (GS)
- > Aburto Baselga, M^a Rosario Fátima (GS)
- > Acebes Paniagua, Ángel Jesús (GP)
- > Achutegui Basagoiti, María del Carmen Juana (GS)
- > Agirretxea Urresti, Joseba (GV (EAJ-PNV))
- > Aguirre Rodríguez, Ramón (GP)
- > Albendea Pabón, Juan Manuel (GP)
- > Alegria Continente, María Pilar (GS)
- > Alique López, Jesús (GS)
- > Almagro Castro, Higinio (GS)
- > Alonso Aranegui, Alfonso (GP)
- > Alonso Núñez, Alejandro (GS)
- > Alonso Suárez, José Antonio (GS)
- > Álvarez Álvarez, Amador (GP)
- > Álvarez de Toledo Peralta Ramos, Cayetana (GP)
- > Álvarez Oteo, Eloísa (GS)
- > Álvarez Villazán, Emilio (GS)
- > Álvarez-Arenas Cisneros, María del Carmen (GP)
- > Amuedo Moral, Emilio (GS)
- > Aparicio Pérez, Juan Carlos (GP)
- > Aragonés Mendiguchía, Carlos (GP)
- > Aranda Álvarez, Elviro (GS)

Ayuda para la validación del sellado de documentos

- > Comprobación sellado de documentos
- > Acceso a la guía de configuración

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Website publication of conflict of interests-MP's

Registro de Intereses - Actividades

IX LEGISLATURA



Congreso de los Diputados
Comisión del Estatuto de los Diputados

Nº Act

375



Ábalos Meco, José Luis

Diputado por Valencia. IX Legislatura

G.P. Socialista (GS)

Fecha de alta: 21 de abril de 2009

Activities 15

A) Public Posts

B) Posts to which he has renounced

Concejal del Ayuntamiento de Valencia.	Fecha de la renuncia: 30.11.2009
Miembro del Consejo de la Empresa Municipal de Transportes (EMT).	Fecha de la renuncia: 30.11.2009
Miembro del Consejo de Administración de la Entidad Metropolitana de Transportes.	Fecha de la renuncia: 30.11.2009

C) Benefits/Aids

(2) Benefits considered compatible

D) Teaching activities considered compatible

Sanctions

	Why?	Sanctions applied
Declaration of Assets and Interests (From very serious to minor irregularity)	<ul style="list-style-type: none"> ▪ For non complying with the incompatibility rules ▪ Presentation of false data or documents ▪ Non declaration of activities or goods, after warning ▪ Omission of data ▪ Late declaration 	<ul style="list-style-type: none"> ▪ Declaration of non compliance with the law and publication in the Official Gazette ▪ Removal from Office ▪ Non perception of a compensative pension ▪ If there is grounds for other responsibilities the file is passed to the Legal Department of the Government or the Public Prosecutor Office ▪ Cannot take up Public Office between 5-10 years for very serious offences
Other irregularities	<ul style="list-style-type: none"> ▪ Working after two years leaving Office in the Public Sector in an area directly related to his previous Public Post 	<ul style="list-style-type: none"> ▪ If the company still is employing the former senior Official, this non compliance is published at the Official Gazette and the company is banned for contracting with the Public Sector for 2 years ▪ Minor Offences are fined with a warning
Recent Sanctions	None. One disciplinary proceeding opened and shelved. One lawsuit from an Internet Users Association against the Ministry of Culture (admitted by the Courts)	

Sanctions at a local level

- ▶ Dissolution of town Councils by Royal Decree of the Council of Ministers for non compliance with their constitutional obligations
- ▶ Has been applied once: by Royal Decree 421/2006, 7th of April the Town Council of Marbella was dissolved for very serious illegalities/corruption perpetrated by their local elected representatives.



Final questions

- Is Conflict of interests corruption or “petty corruption”?
 - Criminal law is the most adequate instrument for regulating conflict of interest?
 - Should we regulate outsourced services of the administration?
 - Could there be a conflict between public interests?
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Thank you for your attention

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