

This file was downloaded from the institutional repository BI Brage -
<http://brage.bibsys.no/bi> (Open Access)

Delegation, accountability and legislator moonlighting: agency problems in Germany

Benny Geys
BI Norwegian Business School

Karsten Mause
University of Bremen

This is the authors' final, accepted and refereed manuscript to the article published in

***German Politics*, 21(2012)3: 255-273**

DOI: <http://dx.doi.org/10.1080/09644008.2012.716040>

The publisher, Taylor & Francis, allows the author to retain rights to “post your revised text version of the 'postprint' of the Article (i.e., the Article in the form accepted for publication in a Taylor & Francis journal following the process of peer review), after an embargo period commencing 12 months (STM and behavioural science) or 18 months (SSH) after first publication (either in print or online), as an electronic file on an Author's own website for personal or professional use, or on an Author's internal university, college, or corporate network or intranet, or within an Institutional or Subject Repository. This is an electronic version of an article published in [include the complete citation information for the final version of the article as published in the print edition of the journal]. The journal is available online at: www.tandfonline.com with the open URL of your article”. (Publisher's policy 2011).

Delegation, Accountability & Legislator Moonlighting: Agency Problems in Germany

Benny Geys[♣] and Karsten Mause[♦]

Members of parliament in many countries are legally permitted to execute (un)paid jobs in addition to their political mandate. It is often argued that such ‘moonlighting’ activities are unproblematic for the chain of democratic delegation and accountability as long as outside interests/earnings are disclosed to citizen-principals; the latter may then sanction (perceived) misconduct through the ballot box. Using principal-agent theory as an analytical framework and the German national parliament as a case study, this paper discusses why the accountability mechanisms of moonlighting disclosure and electoral control are often impaired in practice. We also illustrate that these concerns generalise beyond the German setting.

[Revised version, 2 February 2012]

The cohabitation of citizens and their elected representatives in a democratic society can be conceptualised as a relationship between principals and agents.¹ From the citizen-principal’s viewpoint, a major concern with delegating decision-making authority to the politician-agent then becomes how to monitor and, if necessary, sanction behaviour of the agent that is not in the citizens’ best interest. In this article, we analyse this need for monitoring with respect to a special type of behaviour that is often interpreted as a symptom of political shirking in the public debate,² but not explicitly analysed in the principal-agent literature so far: moonlighting by parliamentarians. Moonlighting is thereby defined – following the Encyclopaedia Britannica – as ‘working at a second job’.³ In the present context, it should be understood as members of parliament (MPs) carrying out legally permitted (un)paid outside activities in addition to their ‘job’ as a parliamentarian. While constituting a broad definition covering many different types of outside activities (some MPs manage a business firm, work as lawyers or management consultants, are supervisory board members or trade union officials, write journalistic articles and books, etc.), it conforms to the common usage in both academic, public and legal work.

THE PHENOMENON: MPS AS SERVANTS OF COMPETING PRINCIPALS

Politicians’ moonlighting activities are often argued to benefit citizen-principals for two reasons. First, MPs’ outside activities bring experiences and expertise from the world outside into the political arena.⁴ This real-world experience is argued to improve the quality of public policies as it prevents politicians’ decision-making to take place in an ivory tower. Second,

♣ Associate Professor, Norwegian Business School (BI), Department of Economics, N-0442 Oslo (Norway), Email: Benny.Geys@bi.no

♦ Post-Doctoral Research Fellow, University of Bremen, Research Center “Transformations of the State” (SFB 597), Linzer Strasse 9a, D-28359 Bremen (Germany), Email: mause@uni-bremen.de

outside positions/options help to make MPs economically independent.⁵ This is deemed positive as it allows elected representatives to make policy decisions to the benefit of society as a whole – rather than voting in line with (possibly narrow) partisan interests from a need to preserve ones goodwill within the party.

Yet, others perceive moonlighting politicians as a potentially serious problem for the agency relationship between citizens and MPs; likewise for two key reasons. First, the time and effort an MP invests in carrying out a sideline job are no longer available for fulfilling her job as a member of parliament. To the extent that a parliamentary mandate is designed as a full-time job, outside activities may then generate an opportunity-cost problem and lead to a neglect of the duties inside parliament (due to natural limits on ones time and effort).⁶ Second, moonlighting MPs might find themselves in significant conflicts of interest during policy decisions.⁷ Imagine, for instance, an MP who holds a sideline job at, say, a private-sector electricity company. When a decision is due in parliament that directly affects the situation of this electricity provider (or the energy sector in general), the moonlighter's self-interest, her citizens' interests, her party's interests, and the interests of the power company may well collide.

As becomes very clear in the latter example, moonlighting MPs act as double/multiple agents or 'servants of several masters'⁸ from the perspective of the principal-agent approach to politics.⁹ Put differently, and using Carey's concept of 'competing principals',¹⁰ moonlighting MPs have several principals which compete for her scarce resources in terms of time, energy, and attention. Such MPs are not only concerned with the demands of their citizen-voters and their political parties (i.e. the two principals that democratic theory sees as normatively acceptable) – but they may also have to consider the principals created by their outside careers. Although it is certainly possible that moonlighting MPs and their competing principals live together in a mutually beneficial arrangement, such competing relations may also lead to situations in which *a*) it is difficult or impossible for the MP to cater to all her principals' demands and/or *b*) one of the competing principals has the impression that her agent shirks her duties. As a result, an MP might at some point decide to exit the relationship to an outside employer and/or her political party (i.e. become an 'independent' MP), or makes her outside job to her main job (i.e. leaving parliament/ exit MP-voter relationship). Also, parties may force MPs to curtail/exit their activities for outside interests – though, as pointed out, for instance, in the literatures on 'cartel parties', '*Parteienstaat*' (party state) and 'party patronage', parties in office sometimes use their power to supply 'their' MPs with extra-parliamentary posts (e.g. in state-owned enterprises or regulatory agencies).¹¹

Following the emerging literature on moonlighting politicians,¹² we focus on the potential effects the practice of MPs serving ‘outside employers’ might have on the agency relationship between citizen-principals and their parliamentary agents.¹³ The fundamental problem here lies in the occurrence of an informational asymmetry. Since moonlighting MPs are better informed about their sideline activities and their potential implications than individual voters, they might be tempted to hide conflicts of interests and/or opportunity-cost (or shirking) issues from their citizen-principals. To overcome this, the principal should assume an active role in informing herself about, and supervising the actions of, her agent. Agency theory indeed argues that imperfect information regarding the agent’s actions can be resolved – at least in part – through stricter monitoring.¹⁴ By reducing the information asymmetries between principal and agent, monitoring limits the ‘information rent’ that can be extracted by the agent.¹⁵ Under some conditions, this even makes a first-best solution – i.e. without any rent extraction – feasible.¹⁶

One might at this point thus be tempted to conclude that moonlighting activities are probably unproblematic – and possibly even beneficial if they do bring additional real-world experience and economic independence (see above) – as long as there are transparency rules disclosing MPs’ private information about sideline jobs and the outside income generated therewith. In such setting, citizen-principals are offered the opportunity (i) to judge for themselves whether an elected representative’s outside employment is likely to impair her functioning in parliament, and (ii) to take this information into account when standing in front of the ballot box on Election Day.¹⁷ Without a well-functioning chain of disclosure, monitoring and – if necessary – sanctioning, however, moonlighting political agents may lack the necessary accountability. Using principal-agent theory as an analytical framework, in the remainder of this article we provide an in-depth analysis of the German case to illustrate that the functioning of the sketched accountability mechanisms of disclosure and ‘electoral control’¹⁸ is often impaired in practice.

For this purpose, the next section explains the legal framework within which members of the German national parliament (*Deutscher Bundestag*) are allowed to execute outside activities, and discusses the official register of members’ interests. As citizen-principals’ direct monitoring activities (e.g. reading registers of members’ interests) may be impeded by the costs of information search (time, effort) and ‘rational ignorance’,¹⁹ we subsequently turn to the role of information intermediaries (journalists, watchdog organisations, researchers) in mitigating information asymmetries between citizens and moonlighting MPs. It will turn out that despite existing disclosure regulations and the availability of third-party ‘watchdog’ information, MPs accountability still suffers due to a number of significant limitations in such

arrangements. Most notably, official disclosures do not reveal whether moonlighting affects individual legislators' parliamentary duties, and German legislators need not disclose the full extent of their outside earnings; as we will see, similar shortcomings also appear in other parliaments: for instance, the Austrian Nationalrat and the European Parliament. Finally, we discuss what further changes of the rules of the moonlighting game might be desirable from an agency-theory perspective.

CITIZEN-PRINCIPALS' MONITORING OPPORTUNITIES

There are different ways to deal with moonlighting parliamentarians. A laissez-faire approach would simply be to *trust* that MPs do not engage in outside activities detrimental to their parliamentary job. MPs' worries about their reputational capital²⁰ might thereby work as a safeguard against misconduct. Also, political competition might, if intense enough, force MPs to 'police' themselves by pointing out cases of (perceived) misconduct committed by their fellow MPs.²¹ However, following the famous dictum 'trust is good, control is better' (attributed to Vladimir Ilyich Lenin), many parliaments around the world have introduced disclosure rules and registers of members' interests to make MPs' outside interests more transparent for the public.²²

In the German case, the conditions under which members of the Bundestag must disclose sideline jobs did, up to 2005, not require each single sideline activity to be declared and published. As a result, former chancellor Helmut Kohl and some of his (likewise former) cabinet ministers could – after having returned to the status of 'ordinary' MPs upon the end of the Kohl administration in 1998 – simply declare sideline activities as 'management consultant'. They were not required to disclose their clients (including e.g. KirchGroup, a big German media company at that time), nor the extra income received (e.g. up to EUR 300,000 per capita and per year). These remained hidden behind the general job declaration 'management consultant'.²³ Due to a modification of the disclosure rules in October 2005 (the start of the 16th legislative term), however, MPs are now legally obliged to disclose *all* activities pursued in addition to their political mandate that fall into the following categories:²⁴

- (1) 'paid activities in addition to the mandate' as self-employed (e.g. lawyer, business owner, farmer) or employee (e.g. manager, attorney, management consultant);
- (2) 'activities as a member of the management board, supervisory board, administrative board, advisory board or another board in a private enterprise';

- (3) corresponding activities ‘in local authorities [e.g. member of city/county council] or public corporations’ (e.g. member of administrative board of a public savings bank, or member of advisory body of a local energy supply company, a public broadcasting company, or a regulatory agency);
- (4) ‘activities as a member of the managing board or another leading or advisory board in clubs, associations and foundations which are not solely of local significance’ (e.g. presidency of an association or charitable foundation);
- (5) ‘agreements on future activities or pecuniary advantages’;
- (6) ‘investments in business companies’ (if MP has a voting share of more than 25%).

The declared sideline activities are subsequently published in the Official Handbook of the Bundestag and on its website. Furthermore, MPs must also report to the President of the Bundestag, and for each notifiable sideline job in the categories (1) to (5), any ancillary income exceeding EUR 1,000 (gross) per month or EUR 10,000 (gross) per year. The reported ancillary income is likewise published – which was not the case prior to October 2005 – although not in exact figures, but merely in the form of three income levels: ‘level 1’ (EUR 1,000–3,500), ‘level 2’ (EUR 3,500–7,000), and ‘level 3’ (above EUR 7,000). The MP is thereby also free to choose whether she wishes to report a given income stream on an annual or monthly basis. For sideline income above EUR 7000 per month, for instance, both the publication of ‘per month, level 3’ and ‘per year, level 3’ is thus permissible.

Importantly, the disclosure regulations in Germany are mandatory. This is not the case in, for example, the European Parliament or the parliaments of Norway and Denmark (where the system is on a purely voluntary basis). Moreover, violations of the disclosure rules in Germany are punishable by a fine of up to half the MPs’ annual salary. This is a fairly strict regulation compared to many other parliaments. In the UK House of Commons, for instance, the punishment for not reporting is that MPs with unregistered interests ‘shall not undertake any action, speech or proceeding of the House (except voting) to which the registration would be relevant’ until registration occurs.²⁵ By explicitly excluding MPs’ voting rights – which arguably represent a central element of MPs’ influence – such punishment appears rather trivial.

What is Disclosed?

Thanks to the disclosure requirements citizen-principals get to know, for example, that MP Friedrich Merz in the period 10/2005–09/2009 held supervisory, administrative and advisory posts in eleven private business enterprises. Nine of these yield an outside income of ‘per

year, level 3', leading to a total outside income of at least EUR 63,000 per year.²⁶ MP Anette Kramme, to give another example, is disclosed to moonlight as a lawyer, and acted for 290 clients in the period 10/2005–09/2009 (i.e. six cases per month, on average). Citizens also can identify interesting connections. For example, MP Walter Riester, the former labour minister (1998–2002) and 'inventor' of the state-subsidised private old-age pension insurance (*Riester Rente*), in his post-ministerial life as an 'ordinary' MP reports a large number of paid lectures for insurance companies and banks which, among other things, sell Riester-Rente-contracts. These companies used Riester as a testimonial in their advertisements.

For readers not familiar with Germany's political system, it should be mentioned that a mandate in the national parliament is designed as a full-time job currently compensated with a taxable salary of EUR 7,960 per month, a tax-free allowance for settling mandate-related expenses (travel expenditures, constituency office, etc.) in the amount of EUR 4,029 per month, and various other (non-)pecuniary components including, for instance, a free ticket for rail travels within Germany. In addition, each MP is provided with an allowance of EUR 14,712 per month (gross) for the employment of staff (e.g. secretaries, research assistants). This allowance can, in principle, also be used to support extra-parliamentary work. So, some citizens (especially taxpayers remunerating the Bundestag members) may have an interest to investigate how 'busy' their MPs are outside parliament. Admittedly, the three considered examples from the first cohort of MPs under stricter disclosure rules (i.e. 16th legislative term 2005–2009) were not chosen randomly, but often highlighted in the German media after the first publication of more detailed moonlighting information. However, citizens who invest time and effort to read the register can identify these cases as well.

Disclosure rules and a register of members' interests offer citizen-principals the opportunity to inform themselves about the outside activities of their political agents. Nonetheless, it immediately raises the question how many voters make use of the disclosed moonlighting information in order to monitor their representatives. To our knowledge, no empirical study has addressed this issue in the German case (or any other parliamentary system). Even so, however, it can be expected that many German citizens neither heard of the moonlighting register, nor have read through it and used this information source for their voting decision. In other words, it is to be expected that many citizens simply are not willing to bear the time and effort costs to exploit the available information, and remain rationally ignorant in the sense of Downs.²⁷ So, citizens' direct monitoring activities, which represent an important element in the chain of democratic delegation and accountability, are likely to be weak. Still, this need not undermine the value of disclosure rules and public moonlighting

registries for political accountability as long as the media, impartial observers and academic researchers are willing to act as information intermediaries.

THIRD-PARTY MONITORING: INFORMATION INTERMEDIARIES

Viewed through the lens of principal-agent theory, journalists, watchdog organisations and researchers can serve an important function as information intermediaries.²⁸ Such intermediaries may help mitigate the informational asymmetry between citizen-principals and their political agents by collecting information (officially disclosed data, own investigations, etc.), analysing this material and, eventually, publishing it in a reader-friendly way. Instead of reading the register of members' interests themselves, citizens may thus utilize the informational products provided by intermediaries to make better-informed voting decisions.

Clearly, while intermediaries reduce citizens' information costs, reading newspaper articles and websites containing information about MPs' conduct is also costly in terms of time and effort (being no longer available for other activities). Still, the cost-reduction between locating, browsing and reading the registry entries and locating, browsing and reading a newspaper article about it (or hearing a news item on television) is probably substantial. Moreover, media attention is likely to trigger public discussions (on, say, public transport and/or at work). Downs suggests that the ensuing indirect information acquisition greatly reduces information costs.²⁹ While he argues that this might make the benefits of voting exceed its costs, it might also, in our setting, make more citizens to become informed about politicians' moonlighting (and its consequences). Hence, even though the rational ignorance issue will most likely persist to some degree, it is diminished by direct and indirect access to information from information intermediaries.

Yet, reliance on information intermediaries creates an additional principal-agent relationship since the citizen (as principal) must evaluate whether a certain intermediary (as agent) is a politically independent and reliable source of information.³⁰ Agency theory suggests three basic remedies for this *credibility* problem which, again, can be illustrated by means of the German case.

First, intermediaries may have built up a reputation for being a credible information provider. This, in our view, holds for the non-governmental 'watchdogs' who have specialized in monitoring German MPs' conduct inside and outside parliament: namely, Abgeordnetenwatch (www.abgeordnetenwatch.de), LobbyControl (www.lobbycontrol.de), Transparency International Germany (www.transparency.de), and the internet-based organisation www.nebeneinkuenfte-bundestag.de. Moreover, when the bias in information-

provision can be estimated with some degree of accuracy – as may well be the case for newspapers known to have certain political sympathies – citizens can make proper adjustment for the source of the information. And, while possibly biased, newspapers and other intermediaries still need to be concerned about cultivating their own accumulated reputational capital – intentionally incorrect information might damage the latter. Second, if there are several intermediaries (which is obviously the case in Germany), competition between them will cause one intermediary to keep a watchful eye on the informational products of the others. This helps to identify and sort out false information. Third, MPs and the Bundestag as a whole (represented by the President of the Bundestag and his staff), in their role as the actors whose behaviour is monitored, have a strong incentive to clarify incorrect reports by information intermediaries. The latter occasionally takes place in Germany, for example, in the form of press releases published by the Bundestag.

Extent and Types of Moonlighting

Though fulfilling an important ‘policing’ function in the political sphere,³¹ the main drawback of the case-by-case approach mostly employed by the media and other watchdogs is that it remains unclear whether instances of misconduct are merely individual ‘outliers’, or the tip of a greater iceberg. Disclosure rules, however, allow one to go beyond such naming & shaming, and offer a good opportunity to analyse the prevalence of moonlighting in more general terms.

Looking in more detail at the moonlighting data for the first cohort of Bundestag members subject to stricter disclosure rules ($N=613$, period 10/2005–09/2007)³² reveals that there are considerable differences across MPs with regard to the extent and type of ancillary activities as well as the amount of perquisites derived from these activities. 12.4% (76 MPs) by their own account have no sideline activities that require publication in the moonlighting register. A few parliamentarians exhibit a comparatively large number of ancillary activities (up to 33 separate posts). In counting such activities, it has to be taken into account that some MPs gave a large number of paid lectures. If all activities are just added together, then a single lecture gets the same weight as an activity performed for a longer period of time. The same holds for a series of entries entitled ‘book presentation’. To account for such ‘lecture-and-presentation bias’, we – in our role as information intermediaries – counted a series of single entries entitled ‘lectures’ or ‘book presentations’ as one activity. This seems justified because for MPs moonlighting as a lawyer or business consultant not every single client was counted as a separate sideline job.³³

After these adjustments, we get the frequency distribution displayed in Figure 1. The number of MPs is given on the vertical axis, the number of sideline jobs on the horizontal axis. The distribution for the overall number of sideline jobs is represented by the black cubes. The total number of ancillary activities for each MP is counted as the sum of activities in the above-mentioned register categories (1) through (4) and (6). Category (5) is excluded as we are interested in MPs' *current* sideline activities (though only one MP declares an activity on this category).

-- Figure 1 about here --

To address the variety in ancillary activities, we separate activities in the private sector of the economy from those in the public and political sector. The former is measured by the sum of ancillary activities in categories (2) and (6), and adding activities from category (1) when the data indicate that the activity is performed in the private sector (e.g. function in private business company; job as self-employed lawyer, management consultant, etc.). As a proxy for sideline activities in the public sector, the sum of non-political (see below) ancillary activities in categories (3) and (4) is taken. Finally, we measure jobs in the political sector by calculating the number of political sideline jobs in category (3) (e.g. city/county councillor) and category (1) where 49 MPs have to report their paid functions in a political party (e.g. party leader, secretary general) or in the federal government (e.g. parliamentary state secretary, federal minister).³⁴ In Figure 1 the distributions for sideline jobs in the private, public and political sectors are given by the dotted, striped and light-grey cubes, respectively. The figure illustrates that sideline jobs are most common in the public sector. It also shows that 49.6% (304 MPs) perform no notifiable outside jobs in the private sector of the economy; such jobs often give rise to public critique.

Also, though not shown in detail to preserve space, controlling for a large number of other MP-characteristics (age, sex, etc.), a multiple regression analysis reveals that legislators from the conservative Christian Democrats (CDU/CSU) and the liberal (in the economic sense) Free Democrats (FDP) on average show significantly more sideline activities (both overall and in the private sector) than legislators from left-wing parties: Social Democrats (SPD), Green Party (*Bündnis '90/Die Grünen*), and the socialist Left Party.³⁵ If the sheer number of private-sector activities is taken as a proxy for MPs' closeness to private-sector interests, then CDU/CSU and FDP in fact can be denoted as relatively 'economic-sector friendly', as is often alleged in the German public debate.

The published moonlighting data further reveal that 72.9% of the parliamentarians (447 MPs) receive no ancillary income that exceeds EUR 1,000 per month or EUR 10,000 per year – again by their own account. Figure 2 presents the frequency distribution for the 166 MPs with notifiable ancillary income. For graphical illustration, we calculated their average monthly gross outside income and grouped it in eleven income classes: EUR 1–1,000; EUR 1,000–2,000; and so forth. While most MPs disclose low levels of ancillary income, the amplitude at the income class EUR 6,000–7,000 is striking. This, however, mainly derives from the fact that some MPs have a paid sideline job in a political party or in the federal government. These are usually remunerated at ‘level 3’ on a monthly basis (above EUR 7,000). It is noteworthy that there are also partisan differences with respect to outside income. While in the parliamentary groups of CDU/CSU and FDP 35.3% and 32.8% of MPs report to receive outside earnings, the left-wing groups show considerably lower outside-earning rates: SPD (23.0%), Greens (9.8%), and Left Party (18.9%).

-- Figure 2 about here --

To avoid misunderstandings, below each MP’s entry in the register of interests it is stressed that the income declarations ‘do not represent the economic gain from an activity or the taxable income’. In other words, the displayed figures do not show the *net* income from moonlighting; and do not account for the fact that a certain sideline activity (e.g. management consulting, legal advice) may not only generate (non-)pecuniary benefits, but might also involve a considerable amount of cost. Moreover, the data do not provide information about the use of outside income. It cannot be ruled out, for instance, that a MP demonstratively donates her outside income for charitable purposes.

Overall, the data presented above stress the obvious, though oft-overlooked, fact that not all German politicians have outside jobs, nor earn outside income. Moreover, many outside jobs do not generate income (or, at least, not enough to require publication). So, the *published* data can be used to invalidate the popular prejudice/conjecture that the German Bundestag – metaphorically speaking – is a herd of ‘black sheep’; or, as an MP put it in the debate before the 2005 introduction of stricter disclosure rules: ‘Only a minority of MPs has lucrative supervisory board posts or doubtful outside earnings. In the interest of the majority of MPs, we need rules and sanctions, which make it possible to identify and, if necessary, punish *black sheep*’.³⁶ Yet, while the official data imply that there may be much ado about little in the German moonlighting debate, it must be taken into account that some important information,

which would allow to better assess whether the individual MP shirks his parliamentary duties and/or may be influenced by outside earnings, remains hidden from the public.

LIMITATIONS OF EXISTING ACCOUNTABILITY MECHANISMS

The data published in a register of members' interests (of the German Bundestag as well as other parliaments around the world) allow insight into – and monitoring of – MPs' activities outside parliament. While useful to identify potential and actual conflicts of interests, it is clear that *informal* contacts between MPs and outside interests (e.g. businesses, interest groups) are not disclosed by this device. Apart from this natural limitation, there are various potential other shortcomings in the existing accountability mechanisms.

Number of Outside Jobs

One regular drawback of outside interest registers in Germany (and elsewhere) is that citizens and other interested parties can most often only observe the number of outside positions. Without additional information about (i) the extent of time and effort spent for a single outside job and (ii) MPs' attendance/effort inside parliament, however, it is very difficult to assess whether moonlighting affects individual MPs' parliamentary duties. To our knowledge, the UK House of Commons is one of the first parliaments to require more detailed information to be provided. Indeed, since July 2009, the Code of Conduct for Members of the House of Commons requires publication of the 'precise amount of each individual payment made, the nature of the work carried [out] in return for that payment [*and*] the number of hours worked during the period to which the payment relates'.³⁷ While this makes the UK Code of Conduct among the most demanding in its reporting standards, the additional information demands clearly remain open to potential self-reporting bias: Will an MP caring for her reputation report spending most of her time on outside jobs? As the provided information is often very hard to verify, a significant potential for under-reporting ones time-investment remains.

Another data limitation in our German setting is that the official attendance list, in which MPs have to register each sitting day of the Bundestag, is not made public (we return to this below). Yet, the official parliamentary meeting minutes allow identifying MPs not participating in a roll-call vote; in addition, since February 2007 individual MPs' voting behaviour is published on the Bundestag website. Although roll-call votes are fairly rare as they have to be requested by either a parliamentary fraction or a group of at least 5% of all MPs,³⁸ they are sometimes used by journalists and watchdog organisations as a proxy for

parliamentary effort. For example, it has recently been revealed that former finance minister Steinbrück missed a number of important roll-call votes as an ‘ordinary’ MP (since 09/2009) because he was giving remunerated speeches outside parliament.³⁹

To provide a more general view on this issue, we collected the results of the 64 available votes for the period 11/2005–09/2007 (the period for which we have data on extra-parliamentary activities) and counted the number of votes missed by a given MP. We thereby obviously corrected for excused absences due to official journeys (e.g. participation at meetings of NATO or Council of Europe) and pregnancy (i.e. maternity leave). We then matched this absenteeism rate to the MPs extra-parliamentary activities. This shows that having a high number of outside activities is significantly negatively correlated with MPs’ participation in recorded votes. More specifically, the pairwise correlation between the number of outside jobs and the share of missed votes is 0.0987 ($p < 0.05$). Interestingly, this effect appears driven predominantly by outside activities in the private sector (pairwise correlation 0.1096; $p < 0.01$), but remains largely absent for political and public-sector sideline activities (pairwise correlation 0.0547; $p > 0.10$). This provides suggestive evidence in favour of the opportunity-cost argument often made in the moonlighting debate. Unfortunately, since the roll-call votes do not address very specific issues, but rather concern general topics, it was impossible to identify whether outside employment influences MPs’ actual voting behaviour.⁴⁰ While the latter could be addressed using MPs’ voting behaviour in parliamentary committees, it is highly questionable whether such information will be published by the Bundestag in the near future (see also below).

Limits of Electoral Control

Even when citizens take the (limited) information provided by official registers and third-party watchdogs into account for their voting decision, peculiarities of the voting system may limit the mechanism of electoral control. Mitchell, for example, generally notes with respect to the voter-MP relationship that ‘agency losses are most likely when the MPs’ careers do not directly depend on voters’.⁴¹ In the German case, this is probably true for half of the members of the national parliament: the so-called party-list MPs (299 in our sample) which – assuming that their party re-selects them for a party-list candidature (we return to this crucial point below) – cannot directly be voted out of the House by dissatisfied principals. This obviously strongly reduces the power of the only weapon voters have to ‘punish’ MPs – i.e. their vote – in the chain of democratic delegation and accountability. This problem might become very prevalent in completely party-list based systems of proportional representation – such as in the Netherlands, Norway, or Belgium.

In Germany's mixed member electoral system, only half of the Bundestag consists of directly elected, constituency-based MPs which can be held to account for (perceived) misconduct by their voter-principals at the ballot box – assuming their party selects them for running as constituency candidate also in the next election (see below). In principle, elections are an enforcement tool to hold moonlighting *constituency* MPs accountable to their voter-principals. While this especially holds true in fully constituency-based first-past-the-post electoral systems such as in the US and UK, it is an empirical (and thus far unexplored) question whether this theoretical accountability mechanism is used in practice. Moonlighting is, to the best of our knowledge, not even on the list of factors identified in the vast literature exploring the determinants of voters' electoral choices. Is it plausible, for instance, to think that right-of-centre voters in Germany would switch to a constituency candidate from the 'left camp' in order to punish moonlighting by an incumbent MP from the CDU/CSU and FDP (where it is most common) or vice versa?

While the assumption that citizens would use their precious votes first and foremost to hold their *constituency* MPs accountable for moonlighting is a very demanding one, there is another (competing) principal with an incentive to take a critical look at constituency-based *and* party-list MPs' moonlighting activities: i.e. the MP's political party may fear that its reputation may become damaged by the MP's misconduct. In this case, some retribution for misconduct does occur, although it is not meted out by voters directly. Such partisan retribution may happen internally and covertly during a legislative term and/or by refusing a particular MP a place on the respective party's ticket (i.e. either a party-list and/or a constituency candidature). Mitchell argues that 'in this situation, the party polices its members and offers its brand identity to voters'.⁴² Still, for this to work effectively as an additional safeguard against moral-hazard problems, much depends on the value the party attaches to its 'brand name', and how the party expects individual MPs' misconduct to affect the party's reputation.

While it has long been argued by both economists and political scientists that political parties develop a reputation for particular *policy* positions⁴³ and that this provides low-cost information to voters about the politicians associated with these parties,⁴⁴ less is known about whether membership of a given party can also be 'one of the signals that voters use when estimating the "quality" of political representatives'.⁴⁵ Yet, for electoral considerations, the wish to have an untainted partisan reputation might create the necessary strategic incentives for instilling constraints on party members (especially those pursuing a political career within the party).⁴⁶ In this respect, it is interesting to observe that party-list MPs in Germany (who do not have to 'fight' to please/win a constituency) do *not* exhibit significantly more outside

activities than directly elected MPs.⁴⁷ One explanation for this might be that MPs with a list-mandate in practice are often committed by their respective parties to care for a constituency or a region in Germany.⁴⁸ Hence, some form of accountability is apparently retained. Alternatively, it could signal that party discipline in Germany – even though less institutionalised than, for instance, in the UK – is sufficient to constrain rank-and-file party members that are not subject to direct electoral retribution by voters.

Self-Reported Moonlighting Data

The chain of democratic delegation and accountability may furthermore be impaired when there remain serious doubts about whether the disclosure rules reveal the ‘true’ amount of outside interests/earnings. Similar to most other countries with disclosure rules, the information published in the German register of members’ interests is self-reported. MPs periodically have to report the requested information via a standardised questionnaire to the President of the Bundestag. Similarly, in the UK, MPs’ interests must be reported within four weeks of the start of the activity or within a month from a politician’s election into the House.⁴⁹ While we implicitly assumed above that the information provided is correct, this is not self-evident – as shown by various cases where journalists’ and watchdog organisations’ investigations revealed that MPs did not report notifiable outside jobs/income.⁵⁰

More specific to the German setting, MPs are free to indicate whether they reach a particular outside income level on a monthly or yearly basis. This can easily be exploited to ‘game’ the income-level system. One striking example – reported by the internet-based watchdog organisation www.nebeneinkuenfte-bundestag.de (accessed 1 February 2012) – is that of MP Bodewig. On 6 July 2007, he reported ancillary revenues from KPMG and Abellio GmbH amounting to ‘level 2, per month’ for each firm. On 2 August 2007, this report was changed into ‘level 3, per year’ in both cases. While both income declarations meet the disclosure requirements, the July declaration suggests extra income of at least EUR 84,000 per year (i.e. 2 x EUR 3,500 x 12), while the August declaration reveals only EUR 14,000 per year (i.e. 2 x EUR 7,000). Interestingly, the outside-income data were published on the Bundestag’s website on 5 July 2007 for the first time (after the 2005 legislative change). The public debate ensuing this publication might have led to the remarkable change in MP Bodewig’s income declarations.

Clearly, however, similar problems will arise wherever self-reporting is adhered to, and politicians have some chance to ‘hide’ income. While in the UK very detailed data on income from outside interests are required to be reported since July 2009 (see above), many states in the US report outside income in much the same way as Germany.⁵¹ As a result, discrepancies

between the self-declared and the true amount of outside income are reported for other parliaments as well. Djankov *et al.*, for instance, report recent newspaper accounts on MPs failing to accurately disclose the required information in over 20 countries; impressive examples are presented from Argentina, Puerto Rico, South Africa, the United Kingdom, and the United States.⁵²

Non-Transparent Outside Income

Since the income-level system applied by the German Bundestag (similar to various US states) does not reveal the exact amount of MPs' discretionary earnings to the public, it leaves wide room for speculation: Are the lower limits of the income bands (i.e. EUR 1,000–3,500; EUR 3,500–7,000; over EUR 7000) exceeded? If so, by how far? Moreover, the German system veils additional income from outside jobs notified in MPs' register entries falling below the limit of EUR 1,000 per month or EUR 10,000 per year – as no income publication is required in these cases. Paid lectures, expert opinions or journalistic activities do not have to be notified at all if the income from such an activity does not exceed the just-mentioned thresholds. Particularly problematic is the open-ended 'level 3' (= over EUR 7,000). For example, according to the moonlighting register MP Merz (see above) receives an additional income of *at least* EUR 63,000 per year for supervisory, administrative and advisory posts in nine private business enterprises. Each of these activities is labelled as 'per year, level 3' (9 x EUR 7,000). Yet, a journalist requesting the underlying information from the employers declared by Merz revealed that the nine sideline jobs in 2006 generated an additional income of approximately EUR 250,000.⁵³ Clearly, therefore, this declaration-system puts a considerable veil of non-transparency over ancillary income.

This is likewise not a peculiarity of the German Bundestag, but can be observed in other parliaments as well.⁵⁴ Against this background, it is easy to engage in normative arguments to fully disclose outside income – in line with the recently instituted UK system.⁵⁵ Whether policy proposals in this direction – which have been made by von Arnim,⁵⁶ the German Green Party, Transparency International, and other scholars and non-governmental organisations – have any chance of success is another question. We will return to the difficulties of changing the rules of the moonlighting game in the next and final section. Interestingly, some Bundestag members started to voluntarily disclose their exact revenues (including outside earnings) and expenditures on their websites. Through this trust-building measure they, in the language of agency theory, intend to *signal* to voters and other observers that they are honest politicians. Although it is by no means clear that such signal always is a credible one,

individual MPs' and parties' worries about their reputational capital⁵⁷ may work as an additional safeguard against moral-hazard problems.

CONCLUSION: ENDURING AGENCY PROBLEMS – WHAT COULD BE DONE?

Our case study of the German national parliament has demonstrated that theoretically promising accountability mechanisms of disclosure (of moonlighting activities) and electoral control are often impaired in real-world settings. This likewise holds in many other advanced democracies, as the recent developments in the Austrian and European Parliament illustrate.⁵⁸ From an agency-theory perspective, a number of simple measures may mitigate the informational deficits that endure. For instance, in each MP's entry on the Bundestag website, one should find (at least) the following additional information: full extent of outside earnings, attendance in parliament and parliamentary committees, participation/voting in roll-call votes. Although, to the best of our knowledge, full earnings data are only to be provided by British MPs (since July 2009),⁵⁹ attendance and vote data are usually, at best, collected and made public through non-profit websites such as *www.publicwhip.org.uk*. Nonetheless, the information in a MP's 'scorecard' could be used by citizen-principals, journalists, party officials, researchers, and other interested parties to scrutinise whether moonlighting de facto affects individual legislators' parliamentary duties and votes.

Though, in principle, easy enough to accomplish, the implementation of this proposal may be wishful thinking. As MPs themselves have the power to introduce and/or modify disclosure rules, the rules of the game are effectively made/modified by those playing under these rules. Consequently, loopholes and 'grey zones'⁶⁰ are likely to continue to abound – leading to enduring secrecy and non-transparency. Nevertheless, as recent experiences in Austria, Germany, the United Kingdom, and the European Parliament indicate, the accumulation of more or less 'scandalous' individual cases exerts pressure on politicians and might trigger stricter rules.⁶¹ Problem pressure in this context often becomes visible via polls: following scandals with moonlighting politicians and politicians' retirement/redundancy payments in Germany, for example, an Infratest Poll in February 2005 (i.e. some months before the implementation of stricter disclosure requirements) indicated an all-time low share of citizens (i.e. 17%) trusting their MPs.⁶²

It should be clear, however, that we have to live with some 'quasi-natural' limitations of disclosure rules. Political agents acting 'opportunistically' in the sense of Williamson ('self-interest seeking with guile [including e.g.] lying, stealing and cheating')⁶³ will most likely find ways to 'game' any disclosure system.⁶⁴ Moreover, as noted earlier, an official obligation

to disclose outside jobs fails to reveal MPs' informal contacts with businesses or interest groups. MPs in Germany and other Western societies must, however, consider that such contacts might be uncovered by journalists, political opponents, or other critical observers. Apart from the stressed limitations of monitoring by citizen-principals and third-parties, it is clear that the mechanism of electoral punishment may be impeded by peculiarities of the voting system. For example, (perceived) misconduct by party-list Bundestag members cannot be directly punished by voters in the next election. Constituency MPs can be punished – but it may well be doubted that dissatisfaction with a particular MP is stronger than the respective voter's partisan orientation.

Finally, an apparently simple – and regularly voiced – solution to prevent any potential moral-hazard problems due to legislators' moonlighting is to prohibit this practice. This would make citizens' and third parties' monitoring activities unnecessary. Similarly, legislation might be implemented which (i) declares only certain sideline jobs as incompatible with the political mandate; (ii) limits the time allowed for moonlighting activities; and/or (iii) limits the outside income received from such activities. Yet, apart from raising additional issues (which outside jobs should be prohibited? how much moonlighting/outside income is too much?) and the difficulty to change existing rules of the game (see above), the implementation of such rules may have important side-effects. First, such rules may restrict, or prevent, real-world experience to find its way into parliament, and thereby negatively affect the democratic decision-making process.⁶⁵ Second, such bans may have important repercussions in terms of individuals' (self-)selection into politics.⁶⁶ For example, a political mandate may be unattractive for highly-qualified people whose pre-MP income exceeds their current MP-salary (and would desire outside income to balance this wage gap). Whether the limitation or prohibition of moonlighting in fact engenders the conjectured incentive and selection effects, of course, would have to be tested empirically.

ACKNOWLEDGMENTS

The authors would like to thank Andreas Etling, Wade Jacoby, Linda Janzing, Gero Link, William Paterson, Sarah Sinram, Ed Turner, and two anonymous reviewers for their helpful comments on an earlier draft of this article. Benny Geys gratefully acknowledges financial support from FWO Vlaanderen (research grant G.0022.12).

NOTES

1. See e.g. R.J. Barro, 'The Control of Politicians: An Economic Model', *Public Choice* 14/1 (1973), pp.19–42; J. Ferejohn, 'Incumbent Performance and Electoral Control', *Public Choice* 50/1-3 (1986), pp.5–25;

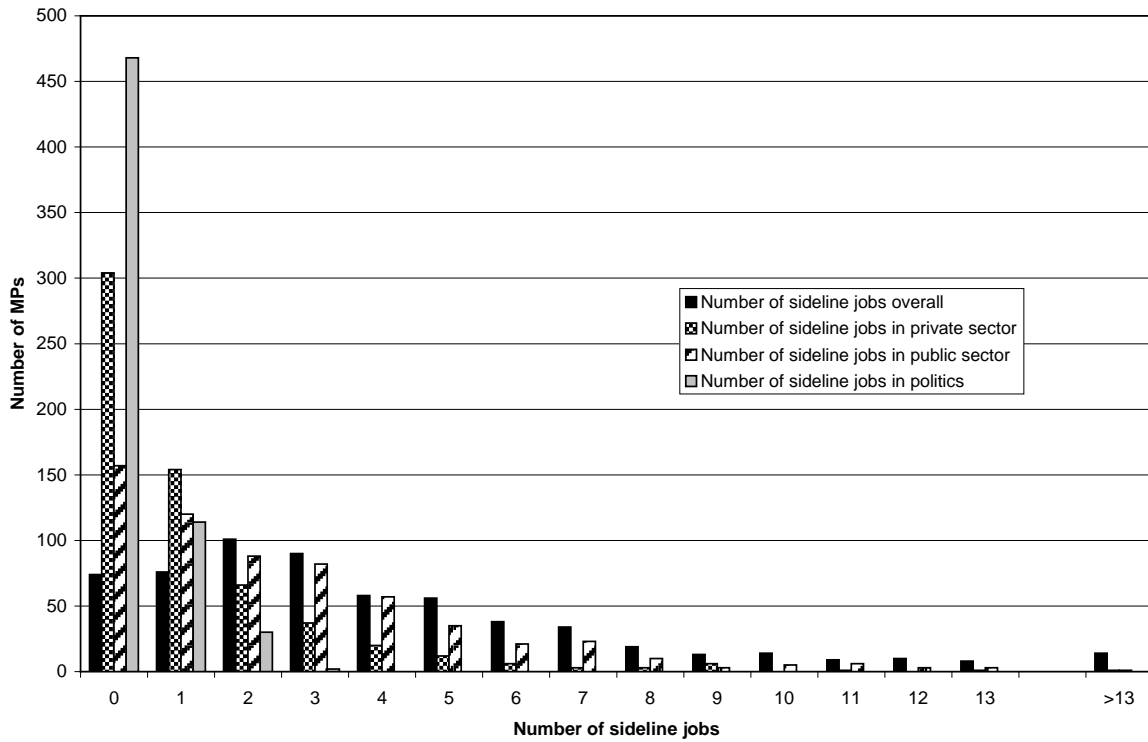
- J.H. Kalt and M.A. Zupan, 'The Apparent Ideological Behavior of Legislators: Testing for Principal-Agent Slack in Political Institutions', *Journal of Law & Economics* 33/1 (1990), pp.103–131; J.D. Fearon, 'Electoral Accountability and the Control of Politicians: Selecting Good Types versus Sanctioning Poor Performance', in A. Przeworski, S.C. Stokes and B. Manin (Eds.), *Democracy, Accountability, and Representation* (New York: Cambridge University Press, 1999), pp.55–97; P. Mitchell, 'Voters and their Representatives: Electoral Institutions and Delegation in Parliamentary Democracies', *European Journal of Political Research* 37/3 (2000), pp.335–351; T. Saalfeld, 'Parliament and Citizens in Germany: Reconciling Conflicting Pressures', in P. Norton (Ed.), *Parliaments and Citizens in Western Europe* (London: Cass, 2002), pp.43–65; K. Strøm, W.C. Müller and T. Bergman (Eds.), *Delegation and Accountability in Parliamentary Democracies* (Oxford: Oxford University Press, 2003); T. Besley, *Principled Agents? The Political Economy of Good Government* (Oxford: Oxford University Press, 2006).
2. See e.g. P. Noel-Baker, 'The Grey Zone: The Problems of Business Affiliations of Members of Parliament', *Parliamentary Affairs* 15 (1961), pp.87–93; M. Hollingsworth, *MPs for Hire: The Secret World of Political Lobbying* (London: Bloomsbury, 1991); A. Barnett, 'Moonlighting MPs easily double Commons' salaries', *The Observer*, 1 December 2002; J. Merrick, 'No 10 urged to tackle moonlighting MPs', *The Independent*, 23 March 2008.
 3. Similarly, Merriam-Webster's Collegiate Dictionary (11th edition, p.806) defines 'moonlighting' as 'to hold a second job in addition to a regular one'.
 4. E.g. M. Rush, 'Damming the Sleaze: The New Code of Conduct and the Outside Interests of MPs in the British House of Commons', *Journal of Legislative Studies* 3/2 (1997), pp.10–28; H.H. von Arnim, 'Der gekaufte Abgeordnete – Nebeneinkünfte und Korruptionsproblematik', *Neue Zeitschrift für Verwaltungsrecht* 25/3 (2006), pp.249–254.
 5. E.g. P. Norris, 'The Nolan Committee: Financial Interests and Constituency Service', *Government and Opposition* 31/4 (1996), pp.441–448; Arnim, 'Der gekaufte Abgeordnete'.
 6. Norris, 'The Nolan Committee'; H.W.J. Maddox, 'Opportunity Costs and Outside Careers in U.S. State Legislatures', *Legislative Studies Quarterly* 29/4 (2004), pp.517–544; Arnim, 'Der gekaufte Abgeordnete'; J. Becker, A. Peichl, and J. Rincke, 'Politicians' Outside Earnings and Electoral Competition', *Public Choice* 140/3-4 (2009), pp.379–394; S. Gagliarducci, T. Nannicini and P. Naticchioni, 'Moonlighting Politicians', *Journal of Public Economics* 94/9-10 (2010), pp.688–699.
 7. G.J. Stigler, 'The Economics of Conflict of Interest', *Journal of Political Economy* 75/1 (1967), pp.100–101; H.W. Chappell, 'Conflict of Interest and Congressional Voting: A Note', *Public Choice* 37/2 (1981), pp.331–336; M.M. Atkinson and M. Mancuso, 'Conflict of Interest in Britain and the United States: An Institutional Argument', *Legislative Studies Quarterly* 16/4 (1991), pp.471–493; Arnim, 'Der gekaufte Abgeordnete'; M. Young, 'Conflict of Interest Codes for Parliamentarians: A Long Road'. The Parliament of Canada (Ottawa), *Current Issue Review*, PRB 05-76E (2006).
 8. H.H. von Arnim, *Diener vieler Herren. Die Doppel- und Dreifachversorgung von Politikern* (München: Knauer, 1998).
 9. For overviews, see Strøm et al., *Delegation and Accountability in Parliamentary Democracies*; T. Besley, *Principled Agents?*; D. Braun and F. Gilardi (Eds.), *Delegation in Contemporary Democracies* (London: Routledge, 2006).
 10. J.M. Carey, 'Competing Principals, Political Institutions, and Party Unity in Legislative Voting', *American Journal of Political Science* 51/1 (2007), pp.92–107; J.M. Carey, *Legislative Voting and Accountability* (Cambridge: Cambridge University Press, 2009). Note that Carey conceptualises MPs as agents being accountable simultaneously to their party and the voters; suppliers of moonlighting jobs are not considered.
 11. E.g. H.H. von Arnim, 'Der Staat – Beute der Parteien?', in S. Unseld (Ed.), *Politik ohne Projekt? Nachdenken über Deutschland* (Frankfurt/Main: Suhrkamp, 1993), pp.11–22; R.S. Katz and P. Mair, 'The Cartel Party Thesis: A Restatement', *Perspectives on Politics* 7/4 (2009), pp.753–766; P. Kopecky, P. Mair and M. Spirova (Eds.), *Party Patronage and Party Government in European Democracies* (Oxford: Oxford University Press, 2012).
 12. For an overview, see B. Geys and K. Mause, 'Moonlighting Politicians: A Survey and Research Agenda', *Journal of Legislative Studies*, forthcoming.
 13. In so doing, we deliberately neglect other ways via which outside interests might influence MPs as citizens' and parties' agents (which are investigated in the vast lobbying literature). Many parliaments, for example, are 'permeable' to interested third parties (e.g. interest groups) through official hearings; this further complicates the agency relationships considered above. For a detailed analysis of the phenomenon of 'agent permeability', see D. Hawkins and W. Jacoby, 'Agent Permeability, Principal Delegation, and the European Court of Human Rights', *Review of International Organizations* 3/1 (2008), pp.1–28.
 14. A.A. Alchian and H. Demsetz, 'Production, Information Costs and Economic Organisation', *American Economic Review* 62/5 (1972), pp.777–795; M.C. Jensen and W.H. Meckling, 'The Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure', *Journal of Financial Economics* 3/4

- (1976), pp.305–360; B. Holmström, ‘Moral Hazard and Observability’, *Bell Journal of Economics* 10/1 (1979), pp.74–91; J.-J. Laffont and J. Tirole, ‘Using Cost Observation to Regulate Firms’, *Journal of Political Economy* 94/3 (1986), pp.614–641.
15. K.O. Moene, ‘Types of Bureaucratic Interaction’, *Journal of Public Economics* 29/3 (1986), pp.333–345; K.S. Chan and S. Mestelman, ‘Institutions, Efficiency and the Strategic Behaviour of Sponsors and Bureaucracy’, *Journal of Public Economics* 37/1 (1988), pp.91–102. Recent experimental evidence is generally supportive of such *disciplining* effect of monitoring. See e.g. D.S. Nagin, J.B. Rebitzer, S. Sanders and L.J. Taylor, ‘Monitoring, Motivation and Management: The Determinants of Opportunistic Behavior in a Field Experiment’, *American Economic Review* 92/4 (2002), pp.850–873; D. Dickinson and M.-C. Villevall, ‘Does Monitoring Decrease Work Effort? The Complementarity between Agency and Crowding-Out Theories’, *Games and Economic Behavior* 63/1 (2008): pp.56–76.
 16. Holmström, ‘Moral Hazard and Observability’.
 17. Arnim, ‘Der gekaufte Abgeordnete’, p.252; S. Djankov, R. La Porta, F. Lopez-de-Silanes and A. Shleifer, ‘Disclosure by Politicians’, *American Economic Journal: Applied Economics* 2/2 (2010), pp.179–209; A. van Aaken and S. Voigt, ‘Do Individual Disclosure Rules for Parliamentarians Improve Government Effectiveness?’, *Economics of Governance* 12/4 (2011), pp.301–324.
 18. Barro, ‘The Control of Politicians’; Ferejohn, ‘Incumbent Performance and Electoral Control’.
 19. A. Downs, *An Economic Theory of Democracy* (New York: Harper & Row, 1957).
 20. D.A. Wittman, *The Myth of Democratic Failure: Why Political Institutions are Efficient* (Chicago: University of Chicago Press, 1995), chap.3; G.R. Parker, *Self-Policing in Politics: The Political Economy of Reputational Controls on Politicians* (Princeton: Princeton University Press, 2004).
 21. Cf. Wittman, *The Myth of Democratic Failure*, chap.3. And Mitchell, ‘Voters and their Representatives’, notes that ‘of course rivals also have an incentive to add an “unfair” (or at least less than objective) spin on such information given their own electoral needs. Nevertheless, since rivals need to be concerned about their own reputations, the information should not be mere invention’ (p.346).
 22. See Djankov *et al.*, ‘Disclosure by Politicians’, for a cross-country comparison of relevant legislation.
 23. In line with many media commentators, H.H. von Arnim, ‘Nebeneinkünfte von Bundestagsabgeordneten. Die Rechtslage nach dem Urteil des Bundesverfassungsgerichts vom 4. Juli 2007’, *Die Öffentliche Verwaltung* 60/21 (2007), pp.897–907 (at p.898) conjectured that the received payments were a ‘*Dankeschön*’ (a thank you) for the KirchGroup-friendly media politics of the Kohl administration.
 24. The disclosure rules are dispersed among different legal texts that can be downloaded from the parliament’s website www.bundestag.de: see §§ 44a and 44b of the ‘Act on the Legal Status of Members of the German Bundestag’ (*Abgeordnetengesetz*), the ‘Rules of Conduct for Members of the German Bundestag’ (*Verhaltensregeln*; Annex 1 to the ‘Rules of Procedure of the German Bundestag’, *Geschäftsordnung*), as well as the ‘Execution Rules for the Rules of Conduct for Members of the German Bundestag’ (*Ausführungsbestimmungen*).
 25. House of Commons, *The Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members* (London: UK House of Commons, 2009), at p.12.
 26. More precisely, someone only reading Merz’ register entry sees an annual outside income of at least EUR 63,000 (9 x EUR 7,000 ‘level 3, per year’). Someone also reading the disclosure rules, however, learns that the annual outside income must be at least EUR 90,000 (9 x EUR 10,000) since income below EUR 10,000 per year has not to be published at all.
 27. Downs, *An Economic Theory of Democracy*.
 28. For a general overview, see F. Rose, *The Economics, Concept, and Design of Information Intermediaries. A Theoretic Approach* (Heidelberg: Physica-Verlag, 1999).
 29. Downs, *An Economic Theory of Democracy*.
 30. Rose, *The Economics, Concept, and Design of Information Intermediaries*, at pp.158–159; Mitchell, ‘Voters and their Representatives’, at p.349, note 6.
 31. Parker, *Self-Policing in Politics*; B.A. Rosenson, *The Shadowlands of Conduct: Ethics and State Politics* (Washington, D.C.: Georgetown University Press, 2005).
 32. Data source: German Bundestag, ‘Veröffentlichungspflichtige Angaben der Abgeordneten’, in *Amtliches Handbuch des Deutschen Bundestages*. 16. Wahlperiode, 3. Ergänzungslieferung, September 2007.
 33. For the lawyer-MPs Kramme and Otto, for example, counting every single client would have meant that they have pursued 107 and 92 activities, respectively.
 34. The latter practice might be criticized from a democratic theory perspective since the division of powers between the legislative (being a MP) and the executive (being a member of government) becomes blurred. See Arnim, *Diener vieler Herren* (means in English ‘Servants of Several Masters’), for a detailed discussion of this issue.
 35. The detailed results of this multiple regression analysis are reported in B. Geys and K. Mause, ‘Sex and the Parliament: An Analysis of the Role of Politicians’ Sex for Moonlighting Activities’ (WZB Berlin, *mimeo*

- 2011), focussing on the role of MPs' sex and other potential determinants of legislator moonlighting. We chose to refer to, rather than replicate, this work here.
36. F. Pronold, 'Alle Einkünfte der Abgeordneten offen legen!', *Transparency International Deutschland Rundbrief* 31/1 (2005), p.5, our translation.
 37. House of Commons, *The Code of Conduct*, at p.15, our italics.
 38. U. Sieberer, 'Behavioral Consequences of Mixed Electoral Systems: Deviating Voting Behavior of District and List MPs in the German Bundestag', *Electoral Studies*, 29/3 (2010), pp.484–496.
 39. F.W. Sonntag, 'Bundestagsabgeordneter mit Spitzen-Nebenverdiensten', speech manuscript of contribution to ARD television magazine FAKT, 6 December 2011 (www.mdr.de/fakt/steinbrueck112-download.pdf, accessed 1 February 2012).
 40. One interesting issue is whether MPs' principals from outside interests can explain the legislative party defections observed – and left unexplained by district concerns – in U. Sieberer, 'Behavioral Consequences of Mixed Electoral Systems'.
 41. Mitchell, 'Voters and their Representatives', at p.335. See also Carey, 'Competing Principals', at p.94.
 42. Mitchell, 'Voters and their Representatives', at p.348. See also Wittman, *The Myth of Democratic Failure*, chap.3.
 43. E.g. J.H. Aldrich, *Why Parties? The Origin and Transformation of Political Parties in America* (Chicago University Press: Chicago, 1995); A. Lupia and M.D. McCubbins, *The Democratic Dilemma: Can Citizens learn what they need to know?* (Cambridge University Press, Cambridge, 1998); W.C. Müller, 'Political Parties in Parliamentary Democracies: Making Delegation and Accountability Work', *European Journal of Political Research* 37/3 (2000), pp.309–333.
 44. J.M. Snyder and M.M. Ting, 'An Informational Rationale for Political Parties', *American Journal of Political Science* 46/1 (2002), pp.90–110.
 45. P. Jones and J. Hudson, 'The Role of Parties: An Analysis based on Transaction Costs', *Public Choice* 94/1-2 (1998), pp.175–189 (at p.187).
 46. E.g. B. Caillaud and J. Tirole, 'Parties as Political Intermediaries', *Quarterly Journal of Economics* 117/4 (2002), pp.1453–1489; B. Geys and J. Vermeir, 'Party Cues and Yardstick Voting', *European Journal of Political Economy* 24/2 (2008), pp.470–477.
 47. See the regression results in Geys and Mause, 'Sex and the Parliament'.
 48. Cf. German Bundestag, *The Bundestag at a Glance: Facts* (Berlin: Bundestag Public Relations Division, 2006): 'Members of Parliament normally have two places of work: the Bundestag and their constituency. Regardless of whether they were elected to the Bundestag as constituency Members or from a regional list, they look after their constituents' (p.16).
 49. House of Commons, *The Code of Conduct*.
 50. P. Carstens, 'Schweigen ist Geld: Bundestag belegt Schily mit einer Ordnungsstrafe', *Frankfurter Allgemeine Zeitung*, 24 April 2008; N. Katzemich and U. Müller, *Nebentätigkeiten der Bundestagsabgeordneten: Transparenz ungenügend* (Köln: LobbyControl, 2009).
 51. See B.A. Rosenson, 'Explaining Legislators' Positions on Outside Income Limits: Voting on Honoraria Ceilings in the U.S. Senate, 1981–1983', *Public Choice* 133/1-2 (2007), pp.111–128.
 52. Djankov *et al.*, 'Disclosure by Politicians'.
 53. C. Buchholz, 'Von AXA bis Stadler – Die Nebeneinkünfte des Friedrich Merz', online journal www.manager-magazin.de, 11 July 2007.
 54. E.g. the Austrian Nationalrat. See R. Pöll, 'Parlament: Prammer für neues Modell gegen Korruption', *Die Presse*, 30 March 2011.
 55. In the UK, no income limit exists to register remunerated directorships and employments. Still, the UK registration requirements only refer to remunerated employments (see House of Commons, *The Code of Conduct*) – leaving room for speculation concerning the exact amount of (unremunerated) sideline activities MPs might be engaging in aside their remunerated ones.
 56. Arnim, 'Der gekaufte Abgeordnete'.
 57. Wittman, *The Myth of Democratic Failure*, chap.3; Parker, *Self-Policing in Politics*.
 58. Pöll, 'Parlament: Prammer für neues Modell gegen Korruption'; C. Brand, 'Lobbying Scandal Triggers Rule Changes for MEPs', *EuropeanVoice.com*, 31 March 2011.
 59. See B. Geys, 'Election Cycles in MPs' Outside Interests? The UK House of Commons, 2005-2010', *Political Studies*, forthcoming.
 60. Noel-Baker, 'The Grey Zone'.
 61. See also Atkinson and Mancuso, 'Conflict of Interest in Britain and the United States', at p.472; D. Oliver, 'Regulating the Conduct of MPs: The British Experience of Combating Corruption', *Political Studies* 45/3 (1997), pp.539–558 (at p.557); Parker, *Self-Policing in Politics*, at p.143; Rosenson, *The Shadowlands of Conduct*.
 62. D. Schröder, 'Editorial', *Transparency International Deutschland Rundbrief* 31 (2005), p.2.

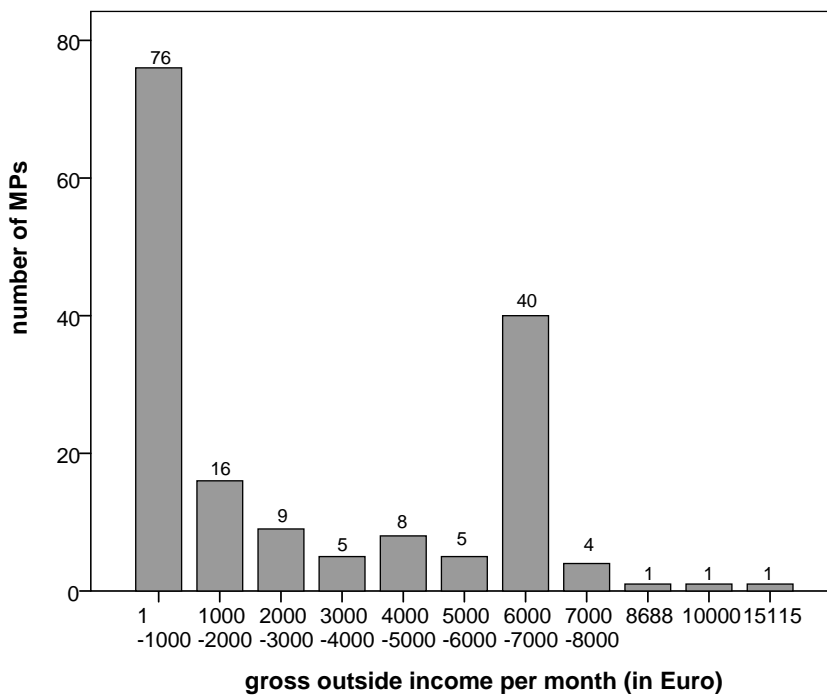
63. O.E. Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York/London: Free Press, 1985), at p.47.
64. See D.G. Hawkins and Wade Jacoby, 'How Agents Matter', in D. Hawkins *et al.* (Eds.), *Delegation and Agency in International Organizations* (Cambridge: Cambridge University Press, 2006), pp.199–228, for a detailed analysis of political agents' strategies to circumvent monitoring/sanctioning mechanisms.
65. Rush, 'Damming the Sleaze'; Arnim, 'Der gekaufte Abgeordnete'.
66. Gagliarducci *et al.*, 'Moonlighting Politicians'.

FIGURE 1: Frequency Distribution of Sideline Jobs, 10/2005–09/2007 (N=613)



Note: Own illustration based on official data from German Bundestag.

FIGURE 2: Frequency Distribution of Outside Income, 10/2005–09/2007 (N=166)



Notes: Own illustration based on official data from German Bundestag. 447 MPs do not declare any outside income, and are not taken up in Figure 2.