

Siemens and the public sector

The change of employees between the public
service and the private sector

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Subject matter

Subject matter

Also known as “revolving door” effect, the fast or repeated change between the public service (politics/ministries) and the private sector is criticized in particular. Here, in the context of the representation of interest in politics and economy, there is a risk of

- **Conflicts of interest,**
- partly **concerted abuse** and
- **influencing the legislation**

This is done in particular by synergy effects, such as

- **Use of acquired,** targeted or friendly **contacts,**
- Securing **insider knowledge,**
- Incentive through **prospect of attractive jobs in the economy** and
- **labor and time savings** through ready-made, legally sound legislative proposals

Check list

What to check (1)

Regardless of whether Siemens employees move to the public service or vice versa, be it on a temporary basis as part of exchange programs or for an indefinite time, the following principles apply

- Thorough **subject and environment check** (previous activity – planned position) especially of former or current **contacts** to Siemens (e.g., in the context of award procedures) in order to avoid **conflicts of interest**
- Transparent **selection process**
- Clear and transparent **documentation** of the secondment
- **Examination and maintenance of legal requirements** (e.g., Sec. 105 Federal Civil Servants Act (Bundesbeamtengesetz), laws on waiting periods, etc.); in this respect, if necessary, also obtain a confirmation that the hiring does not conflict with statutory, contractual or other legal obstacles and waiting period regulations from the previous function

Siemens colleagues should involve the Legal & Compliance department, in particular for the assessment of local legal questions.

What to check (2)

- If necessary, implementation of further internal **security measures** (e.g., circular)
- **Limitation of secondment time** (generally up to six months; in justified individual cases prolongation possible)
- **No assignment to drafting bills**, to **executive functions** or to those with final decision-making authority, to the awarding of public contracts and to functions whose exercise directly affects the specific business interests of the sending office
- For inquiries on lobbying topics, the **Siemens communication principles** must be observed
- Therefore, Siemens colleagues should always involve the Government Affairs as well as the Communications department, respectively, and please coordinate potential reactions with them

In case of doubt, Siemens colleagues should refer to their Compliance Officer or to the Compliance Legal department.

Legal provisions

Legal provisions in Germany (1)

“Karenzzeitgesetz”

Statutory regulation since 2015

- **Waiting period** for retiring members of the Federal Government as well as for parliament state secretaries to prevent **conflicts of interest** between the public service contract and employment after office
- **Obligation to notify** the Federal Government or its responsible member in the event of the intention to take up employment outside the public sector within the first 18 months after leaving office
- **Possibility of prohibiting intended employment** in case of possible interference with public interests
- Limitation of the prohibition period to 12 to a maximum of 18 months
- **In addition**, partly own waiting period regulations **at Federal State level**

Legal provisions in Germany (2)

Further regulations and BCG

- **Obligation to maintain confidentiality** on matters that have become known in office, e.g., in accordance with Sec. 6 of the Federal Ministerial Act (Bundesministergesetz “BMiG”)
- **Duty to disclose** a new lobbying activity for up to five years after leaving office for civil servants (judges, etc.), if the new activity is related to the previous activity in the last five years before leaving office. The administrative authority can then prohibit the new activity. Anyone who disregards this prohibition loses his pension rights, Sec. 105 Federal Civil Servants Act (Bundesbeamtengesetz “BBG”)
- In the extreme case possibly criminal **acceptance of benefits** (Sec. 331 German Criminal Code)
- Attention should also be paid to a breach of the internal **Siemens Business Conduct Guidelines**

Note: Even if the legally required waiting periods are adhered to, Sec. 331 et seq. of the German Criminal Code and the Siemens BCGs are to be observed. An employment may not be offered or granted “in return” for the performance of the service. Already the appearance of dishonesty is to be avoided.

Legal provisions worldwide (1)

EU

- Members of the European Commission must notify the Commission of any intended professional activity which is to commence within two years after leaving the office
- Lobbying in former departments is completely prohibited during this time
- Furthermore, the Commissioners are subject to a non-competition clause: if there could be conflicts of interest with the former area of responsibility, an ethics committee decides on compatibility
- For other employees in EU-Institutions, a similar waiting period of up to three years applies

USA

- Waiting periods for mandate holders and staff members of the executive range from one year to up to a lifelong ban on certain activities
- For the legislative, a different waiting period of one to up to two years applies

Legal provisions worldwide (2)

Czech Republic

- The **permission to take up** a position in the public service **must be granted by the employer**; the employment must not be terminated. However, there is no entitlement to remuneration during the exercise of the public office
- After giving up/ leaving the public office, the employee **has the right to continue working** in a position of equal rank. The only exception would be the removal of the position in the meantime. If the employee is employed at a lower position, he would have to be fully compensated
- Confidential information obtained during affiliation with the company or the public employer may not be taken into account at the other office

Examples relating to Siemens

Examples relating to Siemens (1)

Overview over the change of sides

- The change of sides for an **indefinite** amount of time is generally the rule
- In addition, the **temporary** employment of company employees in German ministries is to serve the exchange of experience between politics and business
- The exchange generally takes place either via **the staff exchange program “Seitenwechsel”** or via vehicles such as **“external staff”**, **“posting”** or **“secondment”**
- The program “Seitenwechsel”¹ exists since 2004 between the private sector and the public sector
- Since 2008 there is also an administrative regulation governing the use of "external employees" in ministries with a maximum secondment duration of six months
- Payment usually by the sending office
- However, such secondments are to be treated sensitively in view of an increasing social discussion

¹ The goal was to "break down the existing boundaries between the sectors and enable knowledge transfer" as well as to "get to know the processes and structures of the other side" through the mutual exchange of employees from public and private sector; until 2006, however, only six participants.

Examples relating to Siemens (1)

Overview over the change of sides

Supporting talent development of public administration in Bavaria: Siemens assists the Bavarian public administration in their talent development programs, following Sec. 19 of the Bavarian “Leistungslaufbahn-gesetz” (performance development act) in accordance with the decision of the Bavarian Minister’s Council of March 27, 1984. Since 1994, Siemens offers positions at its Government Affairs department for a so called “Außendienst” (field service) for the duration of two years to complement the respective talent’s training in economic- and business-related matters.

Political Engagement for employees as a mandate holder: political engagement is necessary for a functioning common good. For this reason, Siemens encourages and supports employees who want to help shape the social order and share responsibility for it by exercising a political mandate or taking on voluntary tasks outside of work. We see this as part of our social responsibility. Siemens has published an internal guideline to avoid conflicts of interest.

Prominent examples

Prominent examples (1)

1. Eckart von Klaeden:

The former Minister of State in the Federal Chancellery joined Daimler AG in November 2013 as Head of the Politics Department. There were rumors that Klaeden had received the position in return for lobbying on the EU CO2 limit value decision of the federal government. The public prosecutor's office in Berlin investigated on suspicion of acceptance of benefits. However, the investigation was closed due to a lack of sufficient suspicion.

2. Christine Lagarde:

Christine Lagarde has been Director of the IMF since 2011. Prior to that, she was a partner at the American law firm Baker&McKenzie, where she progressed to becoming the Chairwoman of the Global Strategy Committee. In 2005 she moved to politics, where she held various ministerial positions. Critical voices on her IMF appointment were limited, not least because she was able to distinguish herself as France's Minister of Economics and Finance and was regarded by many as a qualified expert and thus as the right person to fill the position.

Prominent examples (2)

3. Torsten Albig:

Torsten Albig began his political career in the early 1990s. Following several positions on state and federal level, he was elected First Mayor of Schleswig-Holstein's capital city Kiel in 2009, then became the Minister President of that German federal state in 2012. After leaving politics in 2017, he transitioned to the private sector, working as the Head of Corporate Representation for Deutsche Post DHL in Brussels from 2018 to 2021. Since September 2023, Albig has been the chief lobbyist for Philip Morris in Germany.

4. Michael Westhagemann:

After Nixdorf was acquired by Siemens, Michael Westhagemann held various senior positions in the company, for example as the CEO of the Northern Region of Germany where he was focusing on wind energy. During this time, he also serving as Chairman of the Hamburg Industrial Association and Vice President of the Hamburg Chamber of Commerce. From 2018 to 2022 he moved to politics party-neutral and served as Hamburg's Senator for Economy. In the Bundesrat, he was a member of the Committees for Agricultural Policy and Consumer Protection, Transport, and Economy.

Prominent examples (3)

“Conclusion”

The change of sides between politics and business is **a widespread phenomenon**. In the USA in particular,

it is even considered a career path to switch to politics via certain companies as illustrated, for example, by Goldman Sachs which is nicknamed “Government Sachs” because of its traditionally close ties to politics.

Nevertheless, or precisely because of its common practice, most countries have issued restrictive regulations concerning the change of sides, especially with regard to waiting periods.

However, public opinion is rarely positive, especially when changing from politics to business.

Here the suspicion **of confusion of interests** already during the term of office is aroused, which is confirmed for the public in the high salaries paid after the change by the private sector, which is seen as a way of saying “thank you”.