



European Transparency Register

SUMMARY Efforts to ensure proper transparency in EU policy-making are a relatively recent phenomenon. Although the European Parliament (EP) has had a register of lobbyists for more than 15 years, registrants did not need to provide detailed information on themselves and their clients.

An EP report on the Commission's proposed voluntary register in 2008 called for a more comprehensive approach: a common, mandatory register of all three institutions - Commission, Council and Parliament.

Following extended negotiations in a high-level working party, the joint Commission/EP transparency register was launched in June 2011. In less than one year nearly 5 000 organisations or self-employed persons seeking an input into EU policy-making have registered through the online interface.

Although it has been generally welcomed by stakeholders and interest groups, a number of criticisms and concerns have been expressed. Mandatory registration has remained a contentious issue. And whilst successive Council Presidencies have indicated interest in becoming more closely involved, uncertainty remains over the extent to which the Council might participate.



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Background

The EU has only recently begun targeting lobbyists' activities from the perspective of transparency. In March 2005, Commissioner Siim Kallas, observed that "lobbyists' transparency is too deficient in comparison to the impact of their activities".¹ Specific concerns over lobbying in the EU have included suggestions of privileged access and the so-called "revolving doors" phenomenon referring to the movement of personnel between roles as legislators or regulators, and with lobbies.

That same year the European Commission (EC) launched the European Transparency Initiative (ETI). It represented a review of the EC's overall policy on transparency. The establishment of a voluntary register of interest representatives was an integral part of this.

The EP has had a register of lobbyists since 1995. In order to obtain an access pass for a maximum of one year, persons were required to adhere to a code of conduct and sign a publicly accessible register, although they were required to give relatively little information. In this context, it was argued that the EP register was a *de facto* mandatory register.

The Council of Europe,² which in 2010 [proposed](#) its own European code of conduct for regulating lobbying, has described the formula, whereby only lobbyists' names and

organisations are made public (although more detailed information is now collected under the Transparency Register), as "very soft, if not vague".

The Commission launched its voluntary register in June 2008 having adopted its [Code of Conduct for interest representatives](#) a month earlier.

Only entities engaged in lobbying activities were expected to register, individual citizens were not. Registrants fell into four categories:

- professional consultancies and law firms,
- in-house lobbyists and trade associations,
- NGOs,
- think tanks.

Financial disclosure differed for each category with consultancies and law firms facing the most demanding requirements.

The Code of Conduct, based on existing professional codes as well as the EP's Code, contained seven rules. Failure to comply would result in either suspension or exclusion from the register.

Towards a joint register

The Commission register was widely considered to be an important step towards greater transparency in EU policy-making. Nevertheless there remained a strong call, led initially by the EP³ and several stakeholders in the 2007 consultation, for a common, mandatory register of interest groups, a so called 'one-stop shop', covering the Commission, EP and Council.

A joint EP-Commission high-level working party on a common transparency register working party, met for the first time in December 2008. In April 2009, a draft text on a common code of conduct was agreed, along with guidelines for the future register to be considered in the light of the Commission's review of its own register.

Regulating lobbying in the Member States

In common with the EU itself, regulating lobbying is a relatively new concept in Member States (MS). At the beginning of May 2012, in two-thirds of MS, there is neither existing nor planned regulation. Amongst those countries where regulation does exist (currently France, Germany, Lithuania and Slovenia), there is considerable variation in both requirements and scope.

In Slovenia, registration, which is open only to individuals, is not only mandatory but requires the payment of a fee. In the majority of others, registration is voluntary. In some cases this has led to very low levels of registration. In Lithuania, where regulation was introduced in 2001, only 25 lobbyists had registered by March 2011.

Codes of Conduct also vary, with MS such as France having detailed rules whilst Germany and Poland have no such guidelines.

In a [communication](#) of October 2009, the Commission assessed the effectiveness of its register after one year of operation. At the same time, the working party resumed its discussions on how to ensure that the new register provided adequate levels of transparency whilst avoiding excessive burdens on prospective registrants.

Main features

Following the [approval](#) of the European Parliament in May 2011, a Common Transparency register was established on 23 June 2011 by way of an inter-institutional agreement signed by Commissioner Šefčovič and President Buzek. The conditions for the application of the Transparency Register are set out in [Annex X](#) of the EP Rules of Procedure.

The Register is designed as a "one stop shop" for interest representatives engaged in EU policy-making and a common portal for information about official contacts with the EU institutions. It contains a number of key elements:

- Organisations must provide a certain amount of information at the time of registration. This includes which legislative dossiers they are following, their budget for activities covered by the

register, the number of people involved and whether EU support or funding is included.

- Registration binds organisations to a [Code of Conduct](#) which *inter alia* includes a commitment to provide accurate and up-to-date information. There are a range of sanctions for breaching the code including suspension or deletion from the Register.
- The Register is run by a joint European Parliament/Commission Secretariat (JTRS). The JTRS is responsible for ensuring the quality and accuracy of information on the register through random checks and awareness-raising, as well as addressing complaints.
- The common register will be subject to review no later than two years after it came into force, i.e. by 23 June 2013.

Who should register?

All organisations and self-employed individuals engaged in EU policy-making are expected to sign up to the register. In general terms, this also includes law firms, trade unions and employers/trade organisations, however certain activities are excluded. In particular, providing legal or professional advice to clients in individual cases before the Court of Justice of the EU is excluded. Similarly the activities of social partners in the framework of Social Dialogue would not require registration.

And how do they register?

Registration is exclusively carried out online through the [web interface](#).

In March 2012, a new application went online allowing applications for EP accreditation to be handled via the Transparency Register. This makes it simpler to apply for accreditation and faster for the EP to process requests. It does, however, necessarily require that applicants' organisations be registered on the Transparency Register. Requests are currently averaging 20 per day and are

generally processed within two days, in comparison to a period of six to eight weeks in late 2011.

The figures so far

As of 29 May 2012, [4 937](#) organisations were listed on the new joint register. In addition, a further 159 are still in the process of transferring information from the old Commission register. A transition period of one year was given for this to be carried out and it is expected that by 23 June all will have done so.

In 2010, there were around 5 000 lobbyists accredited to the EP (brown-badge holders). Currently 2 646 individual persons are accredited for entry into the EP building, as listed on the Transparency Register. Although this number will rise it is not expected to reach the previous level, due to the new system being better at filtering out inactive or inappropriate badge-holders.

Early reaction

Most stakeholders and interest groups have reacted positively to the new register suggesting that it would bring better incentives for registration and an improved complaints procedure. Nevertheless concerns have been expressed over certain aspects of the new system.

In April 2012, in a joint [publication](#), the EU Civil Society Contact Group (CSCG) and ALTER-EU not only cited fundamental flaws with the Transparency Register but indicated that their members would be adopting a higher standard of protection by way of recommendation.

In particular the two organisations deemed the Transparency Register to be fundamentally flawed in that it did not require organisations to register all lobbyists that work for them and because the required financial reporting on lobbying activities was both inconsistent and insufficient.

Voluntary or mandatory registration?

A third criticism from the two parties is that registration is not mandatory. A [survey](#) undertaken in March 2010 by ALTER-EU, found that only 112 of 286 consultancies providing lobbying services (39.2%) were listed on the Commission's register. According to ALTER-EU this was clear evidence that "genuine transparency can only be secured when registration becomes *de facto* mandatory, by linking physical access to disclosure requirements".

In its May 2011 decision on the conclusion of the inter-institutional agreement, the EP repeated its call for mandatory registration and for the necessary steps to be taken in the forthcoming review process for this to occur. In the past however the Commission has questioned whether the EU treaties provide sufficient legal basis for a mandatory list.⁴

Will the Council participate?

Leading up to the inter-institutional agreement it proved difficult to convince the Council to join the negotiations. As far back as 2003, in an informal statement, it had indicated that contact with lobbyists and NGOs was handled by the Commission. More recently it has maintained that MS are lobbied in national capitals rather than Brussels. Furthermore MS have expressed concerns as to how their Permanent Representations would be affected.

However, in September 2010 EP Vice-President Diana Wallis and EC Vice-President Šefčovič, co-chairs of the working party, sent a [joint letter](#) to the Presidency emphasising the role of both the European Council and

Council of Ministers in improving transparency in EU governance. They expressed a desire for both institutions to join the common system.

On the day the Transparency Register was launched, the Hungarian Presidency [declared](#) its readiness to "consider having a role in the Register and ... to discussing the possible modalities with the two other institutions".

Following on from this, on 14 February 2012 a joint letter was sent from Commissioner Šefčovič and Rainer Wieland, EP Vice-President with responsibility for transparency, to the Council requesting that it nominate an observer from within its General Secretariat to take part in the weekly meetings of the JTRS. The Council is currently in the process of designating an observer from the Council Secretariat.

Main references

[EP Library Key Source: Interinstitutional Transparency Register](#)

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Endnotes

¹ ["The need for a European Transparency Initiative"](#), SPEECH/05/130, 3 March 2005.

² Surveys performed by the Parliamentary Assembly indicate that only 14 Council of Europe member states have regulated lobbying activity and only four have adopted a law on the subject.

³ The EP, in its 2008 [report](#) on the ETI, called for an inter-institutional agreement on a mandatory register of the three institutions including full disclosure, a common mechanism for expulsion and a common code of conduct.

⁴ This doubt was expressed originally with regard to the Nice Treaty but no new basis is provided by the Lisbon Treaty. The possibility of using the general clause of Article 352 TFEU has, however, also been proposed. One limitation of alternatives to legislation, such as an inter-institutional agreement as proposed in 2008 EP report, is the lack of a right to impose a financial sanction.