



**Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)
Austrian Federal Chamber of Labour (AK)
Austrian Trade Union Federation (ÖGB)
European Public Services Union (EPSU)**

4 September 2012

Re: Conditions for lifting Budget reserve for expert groups

Dear Members of the Budget Committee,

On July 10th, ALTER-EU, the Austrian Federal Chamber of Labour and the Austrian Trade Union Federation presented a [new study](#) showing the extent of business domination in DG Enterprise's expert groups. Shortly before the launch of this report the Commission sent the Parliament a [report on the state of play](#) of its expert groups, which contained a series of commitments aiming to convince MEPs to lift the Budget reserve imposed in November 2011.

We believe that this document shows that the Commission intends to take significant steps to improve the way in which expertise is gathered. Specifically the document recognises that there is a need for:

- ⤴ change in the composition of a large number of expert groups,
- ⤴ stronger rules on conflicts of interest of experts that serve in a personal capacity,
- ⤴ public calls for interest before the creation of all expert groups and
- ⤴ publication of all expert groups documents.

The Parliament's Budget reserve has shown itself to be an excellent instrument to influence the Commission on this topic. However, the improvements announced by the Commission will only become effective if they are incorporated into the Commission's horizontal rules on expert groups. This is what the European Parliament requested in November 2011.¹ The Commission must now agree to incorporate all commitments in its horizontal rules on expert groups to meet the EP's requests (see annex for the concrete

1 The Parliament set four condition to lift the budget reserve: "The Commission shall modify the rules on expert groups in the following way:..." <http://register.consilium.europa.eu/pdf/en/11/st17/st17470-ad05.en11.pdf>

changes that this would involve). This includes:

1. The Commission explicitly stating that it will no longer appoint any representatives of stakeholders as experts in a personal capacity and that this will be included in the rules.
The [Commission's report](#) acknowledges that members of 18 groups are representatives of stakeholders instead of experts in a personal capacity as previously indicated, but it does not state that this misleading indication, will no longer happen.
2. The Commission explicitly stating that all documents – reports, agendas, minutes and participants’ submissions – should be published unless there is a clear reason for not providing this information and committing to include this in the rules;
The [Commission's report](#) only says that all services have been instructed to follow up on the commitments taken by the Commission concerning publication of documents.

There are still a number of other open questions and possible loopholes in the Commission’s announcement that do not fully address the Parliament's requests. If these are not clarified, many expert groups might remain unbalanced and conflicts of interest may remain:

3. Commission has given numbers, but no details

The Commission should provide the Parliament and the general public with lists of 1) "all expert groups (...) which are not exclusively composed of public authorities", 2) the "more than fifty groups" that need re-balancing according to the Commission, 3) the 31 groups "with members appointed in personal capacity, and 4) the 18 of these groups of which the members are "representatives of stakeholders" but have been misleadingly labelled as members in personal capacity. These lists will enable MEPs and civil society to verify whether these lists are complete and suggest concrete ways to address imbalances.

4. Commission has recognised the problem, but not the full scale of it

The Commission recognises that there is "Industry over-representation" in many groups and has "committed to rebalance the membership of more than fifty groups". The undersigned organisations believe however that there are many more expert groups that need significant changes in their composition. In DG Enterprise for instance, the Commission sees the need to re-balance 17 groups while ALTER-EU's last report, "[Whose driving the agenda at DG Enterprise?](#)", documents 33 expert groups with unbalanced composition.² The Commission should make a commitment to work together with the European Parliament to ensure that all expert groups are balanced and set a clear time schedule with a specific deadline for achieving this.

² http://alter-eu.org/sites/default/files/documents/DGENTR-driving_annex2.pdf

5. Commission opens up possibility of new observers, without guaranteeing balance


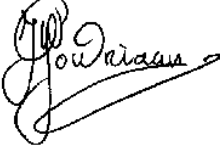


The Commission's document sent to the Parliament calls for the "opening [of] member states groups of competent authorities to an extended list and participation of observers". Commission should only open up more expert groups to non-governmental observers if it can guarantee applying the same rules on balanced representation that apply for full members of expert groups, to avoid that a specific interest would dominate expert groups with observer status.

We believe it will be easier to achieve more balanced expert groups if the Commission includes the option of providing financial indemnity for the time spent on expert group work for organisations that have limited resources but which are indispensable to ensure the plurality of the expert advice, according to clear criteria.

The Parliament is in the position to ensure that expert groups are balanced and made transparent. **We call on the Parliament to lift the Budget reserve only when the Commission agrees to codify all its commitments into its horizontal rules for expert groups (see annex for more detail) and only once it has adequately addressed the above mentioned 5 issues.**

Please do not hesitate to contact us if you have further questions.

Yours sincerely,

<p>Erich Foglar,</p>  <p>President of the Austrian Trade Union Federation (ÖGB)</p>	<p>Jan Willem Goudriaan,</p>  <p>Deputy General Secretary of the European Public Services Union (EPSU)</p>	<p>Herbert Tumpel,</p>  <p>President of the Austrian Federal Chamber of Labour (AK Europa)</p>	<p>Yiorgos Vassalos,</p>  <p>on behalf of ALTER-EU's Steering Committee</p>
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ANNEX - Specific Recommendations for Incorporating Provisions in Horizontal Rules on Expert Groups

In the light of the Commission's new views on expert groups, ALTER-EU thinks that the following modifications should be made to the rules on expert groups [SEC(2010)1360] (new text in bold):

1. A "balanced representation of relevant stakeholders" should be ensured in all expert groups without exception and not only "as far as possible". Rule 9 (2) should be revised as follows:

"Where individual experts are appointed to represent an interest or where organisations are appointed as members of expert groups, Commission services shall, ~~as far as possible,~~ ensure a balanced representation of relevant stakeholders, ~~taking into account the specific tasks of the expert group and the type of expertise required.~~ **Different types of interests such as business interests, NGOs including consumer organisations, trade unions, small and medium enterprises, professional associations, farmers, cooperatives and academia should be well-represented and no single type of interest should be allowed to dominate the membership of any expert group.**"

2. In its document sent to the Parliament, the Commission "confirmed (...) its determination to ensure that (...) more stringent provisions on conflicts of interests are fully implemented for future expert groups". A new paragraph should be added after Rule 9 (1), paragraph 1 (after "In addition, the selection of experts shall be carried out in such a way as to avoid any conflict of interests."):

"An individual working or being a board member, shareholder or hired consultant for an organisation or company which is a stakeholder in the relevant field should not be appointed as an expert in an individual capacity. Experts appointed in a personal capacity should submit before their appointment a declaration of financial interests which should be published in the Register of Expert Groups for as long as they are members of expert groups and be updated when the expert acquires a new interest. In case there are actual, potential or apparent conflicts of interests according to the OECD's guidelines³, experts should not be appointed by the relevant Directorate-General of the Commission."

Rule 9 (1), paragraph 4 should be modified as following:

"Commission services shall also inform those experts that they may be excluded from the group ~~or a specific meeting thereof,~~ should a conflict of interest arise."

3. The Commission said: "all relevant members will in future be selected via public calls for application (...) ensuring that the civil society organisations are informed

3 <http://www.oecd.org/governance/fightingcorruptioninthepublicsector/49107986.pdf>

of opportunities". In order to meet the Parliament's condition to "establish an obligatory open selection process with a public call and a published mandate of each expert group" the Commission should delete Rule 9 (1) paragraph 3:

~~"Where a call for applications is not reasonably practicable (for example where very specific expertise is required), the choice of experts shall be made on the basis of objectively verifiable criteria."~~

and replace the following sentence in Rule 9 (1) paragraph 2:

~~"Without prejudice to specific selection procedures provided for by Commission decisions establishing expert groups, public calls for applications shall be used as far as reasonably practicable."~~

with:

"Public calls for applications shall be used to select members of all expert groups."

4. The Commission claims it "has increased transparency by publishing, as of April 2012, all relevant documents flowing from expert groups." Visiting the Register does not confirm this claim. Agendas and minutes for most groups are not available through the register and most of the time not available at all.

The Parliament has asked for agendas, minutes and participants' submissions to be available on-line. Rule 19 should be revised as follows:

"Full Transparency of Activities carried out

Commission services shall ensure that **all documents** ~~information~~ concerning the activities carried out by expert groups and other similar entities as defined in Rule 2 are ~~is~~ made public in due time directly in the Register or via a link from the Register to a dedicated website. **This includes preliminary and final reports (including minority opinions), agendas, minutes and participants' submissions unless there is a clear and published reason for not providing this info."**