

## An EU Transparency Register in Progress

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The competences of the European Union to legislate and thus to affect almost every aspect of its citizens' daily lives have continuously grown over the past 50 years and so has been the interest of various lobbyists and interest representation groups to influence the European legislative process. Due to the intrinsic complexity of European policymaking, unregulated lobbying activity could threaten the transparency and accountability of the decision-making process and put at risk citizens' trust in the European institutions. That is why, already in 1995 the Parliament tried to accommodate these concerns by setting up its own transparency register, followed by the Commission 13 years later. These two initiatives were merged into the currently applicable EU Transparency Register, which has been in place since 2011. The topic recently gained additional exposure by making it onto the list of political priorities of the Juncker Commission, where the Commission acknowledged the right of citizens "to know with whom Commissioners and Commission staff, Members of the European Parliament or representatives of the Council meet in the context of the legislative process"<sup>1</sup> and committed to introducing a proposal to make the system mandatory by 2016.

### **What has the Transparency Register achieved so far?**

For the 4 years of its existence, the register has gained momentum and has become an important point of reference for information regarding the various interest representations operating in Brussels. Currently it contains more than 7 000

registrations (an estimate of approximately 60-75% of the lobbying organisations working in the area of EU affairs) of NGOs, business associations, companies, think tanks, consultancies, public authorities, trade unions, law firms and religious organisations, and the number is growing by the day also thanks to the new incentives for registration introduced with the 2014 reform of the Interinstitutional Agreement (IIA) governing the Transparency Register.

The latest reform that entered into force on 1 January 2015 brought about improvement to the functioning of the Transparency Register and introduced further incentives for lobbyists to subscribe to it. Since 1 December 2014, the Commission publishes all information on the meetings of Commissioners, members of their cabinets or Director Generals with lobbyists and such meetings can only take place if the latter are enlisted in the register. The Parliament is granting facilitated accreditation to registered lobbyists and also now inviting to its public hearings only speakers from registered organisations, when their activities would require a recording in the Transparency Register. Furthermore, the new system demands more detailed information about the interest representatives, including information on human resources, involvement in EU committees, forums and similar structures, the legislative files they are interested in, as well as budgets for lobbying activities, thus providing a more complete and transparent picture of those trying to influence the European decision-making process and answering the questions: what interests, by whom and with what budget?

What are the Register's current shortcomings?

The Transparency Register in its current form is most often criticised for its voluntary character and for leaving the Council out of its scope of application, even though it is, together with the Parliament and Commission, an indispensable part of the institutional triangle legislating on the EU level. Due to its voluntary nature, the register cannot guarantee full coverage of all interest representation occurring in the EU arena, and is not always as a reliable source of information for citizens as it could be if it was mandatory.

### The way ahead

The Parliament and numerous NGOs active in the field of transparency, have continuously called for a mandatory register covering the Commission, Parliament and Council and this is also what Commission Vice President Timmermans is expected to propose in 2015, in line with the Commission's political priorities. However, while waiting for the proposal for a reformed transparency register, it is worthwhile examining the advantages that such a new system could bring about in terms of making EU decision-making more transparent and accountable to citizens.

A mandatory register would ensure nearly 100% coverage of interest representation but might at the same time require a narrowing down of the currently applicable very broad definition of lobbying enshrined in the IIA ("all organisations and self-employed individuals, irrespective of their legal status, engaged in activities falling within the scope of the register are in principle expected to register"<sup>2</sup>). A mandatory register could also require the inclusion of a "legislative footprint" to all legislative files, listing the contacts and the impact they produced on the legislative process, as an additional step towards greater transparency. While registrants would be inclined to pay more attention to the quality of data they provide in the register if it was obligatory, thus

improving the reliability of information, the fact that there is no explicit legal basis in the Treaties for making it mandatory limits the possibilities for making this happen through the flexibility clause contained in Article 352 TEU, where unanimity is required in the Council.

While working on ways to make interest representation registration mandatory, the European Institutions can create further incentives for lobbyists to enrol in the currently applicable Transparency Register. The Parliament, for example, could duplicate the requirement that the Commission has introduced as of 1 December 2014 and require its members and staff to meet only with lobbyists, whose names are present in the Register. Additionally, both the Parliament and Council could grant facilitated transmission of information to registered interest representatives and could restrict participation of the Commissioners and Members of European Parliament in events organised by non-registered organisations.

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#### Reference:

1. A New Start for Europe: My Agenda for Jobs, Growth, Fairness, and Democratic Change: Political Guidelines for the next European Commission; Jean-Claude Juncker, 15 July 2014, Strasbourg.
2. Transparency Register website: [http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHOS\\_IS\\_EXPECTED\\_TO\\_REGISTER](http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHOS_IS_EXPECTED_TO_REGISTER)

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