



Review of the European Transparency Register

SUMMARY *The joint European Transparency Register, which came into effect in June 2011, builds on experience gained with the previous Parliament and Commission registers.*

The Register is designed as a "one-stop-shop" for interest representatives and an unofficial directory of "lobby contacts" with the EU institutions. By June 2013, around 5 700 organisations, mostly based in Brussels, had registered.

The inter-institutional agreement which established the Register included a review clause; a process which will start in June 2013. EP Vice-President Wieland and Commission Vice-President Šefčovič will take part in an inter-institutional working group. On 10 June the EP's Bureau decided how to proceed.

The review is likely to focus on key issues such as the mandatory or voluntary nature of the register, the monitoring process as well as technical improvements. The Council is expected to observe the review before deciding whether to participate in the register.

A majority of stakeholders support the register, but it is also criticised for a lack of teeth. Inter alia, both transparency campaigners and interest group representatives express concerns about the access of non-registered organisations to MEPs and Commissioners in the decision-making process.



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Background

The common European Transparency Register of the European Commission and European Parliament is a joint effort by the institutions to increase transparency of influence, and widens the scope to include actors beyond the traditional lobbyist. It is however not entirely new, and builds on previous registers held by the EP and Commission.

The EP's lobby register was launched in 1995 and consisted of a list of interest representatives with access badges to the EP buildings. These persons were required to sign a code of conduct and sign a publicly accessible register. There were over 4 000 persons listed in May 2011. In this respect the EP argued that it had a *de facto* mandatory register. Nevertheless the information requirements were very limited. Interest representatives were only required to provide their name along with the organisation represented. The Council of Europe,¹ which in 2010 [proposed](#) its own European code of conduct for regulating lobbying, described this formula, as "very soft, if not vague".

The Commission launched a voluntary register of lobbyists in June 2008 after adopting a [Code of Conduct for interest representatives](#) a month earlier. The Commission's register was widely

considered to be an important step towards greater transparency in EU policy-making, as part and parcel of a wider European Transparency Initiative (ETI). Its register grew to list over 3 900 organisations by May 2011.

Nevertheless this register was not enough to quench calls, initially by the EP², for a common, mandatory register of interest groups, which would cover the Commission, EP and Council together.

In December 2008, a joint EP-Commission high-level working group³ was set up to deliberate on a possible common register. With the signing of an Inter-institutional Agreement (IIA) on 23 June 2011, a voluntary but common system was established for the EP and the Commission. Named the [Transparency Register](#), it is hosted on the Europa website.

Figure 1: Signatories to previous and current registers compared

	Commission Register	Joint Register
Date	23/05/2011	02/06/13
Professional consultancies, law firms, etc.	145	488
In-house lobbyists / trade, professional associations, etc.	1 524	2 815
Think-tanks / research institutes	137	402
NGOs	970	1 487
Organisations representing local, regional, municipal authorities / public, mixed entities	70	278
Religious organisations	19	38
Total	3 923	5 678

Main features of the register

The register is designed as a “one stop shop” for interest representatives seeking to influence EU policy-making. It currently lists around 5 700 organisations based mainly in

Brussels. They range across a wide variety of categories, from consultancies and law firms to NGOs and academic organisations, think tanks and religious entities. It is said to have one of the widest scopes of any such similar tool.

Registration requires organisations to:

- provide general information about their lobbying efforts and costs on an annual basis, including the legislative dossiers they are following, budget for representation activities and the number of people involved. Names of individuals with EP accreditation are made public. Organisations must also declare any EU funding they receive.
- sign up to a [Code of Conduct](#), which *inter alia* includes a commitment to provide accurate and up-to-date information. Sanctions are foreseen for any breaches of this code, through a complaint procedure which can lead to suspension or deletion from the register, with a "naming and shaming" clause in worst case scenarios.

The Secretariat

The register is run by the joint (EP/Commission) Transparency Register Secretariat (JTRS), which is subordinate to the Secretaries-General of both institutions. It is responsible for the technical operation of the register, and for improving the quality and accuracy of its content. This is done through establishing guidelines for registrants, random checking and automated annual updates for all registrants as well as handling complaints and alerts received. Complaints and alerts relating to registrants can be filed by any individual. While complaints require proof of misconduct equivalent to a breach of the code of conduct, alerts tend to be informal. The Secretariat is also responsible for raising awareness of the activities of the register.

Who should register?

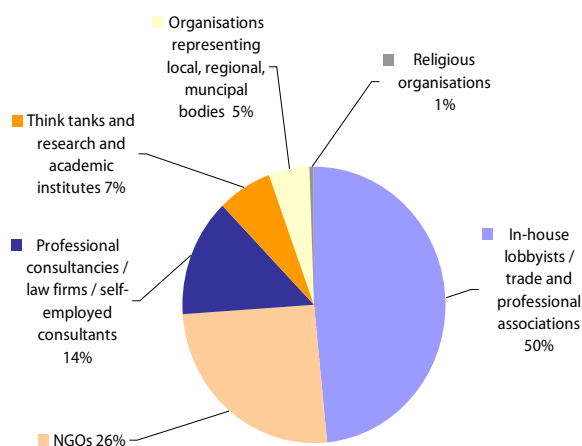
All organisations and self-employed individuals engaged in EU policy-making are expected to sign up to the register whether

based in Brussels or abroad. Certain activities are excluded, in particular, the provision of legal advice to clients. The activities of social partners in the framework of the [Social Dialogue](#) do not require registration. Political parties, churches and local, regional and municipal authorities are not expected to register, although the networks and offices set up to represent them are expected to do so.

How to register?

Registration is exclusively done online through the Register's [web interface](#). For accreditation to access EP buildings, an organisation must first be registered in the TR before requesting accreditation for its representatives. An online application is sent via the TR website for authorisation for an individual to access the EP for a renewable period of one year. Currently 3 605 individuals have such access.

Figure 2: Who has registered?



Source: [Joint Transparency Register Secretariat](#)

Monitoring process

The JTRS has run approximately 800 quality checks during the first year of its monitoring procedures, leading to about 100 organisations being disbarred. Furthermore, there were about 3 150 automatic disbarments by the system for organisations which did not provide an annual update. Up to 16 complaints were received and dealt with by the Secretariat, and in 2013, up to 75 alerts were made about "misinformation" contained in the register. Monitoring is a

new activity, which was not undertaken in the former system. Several academics⁴ have publicly stated that information provided by registrants has greatly improved since two years ago, but they also question whether the monitoring process could not be reinforced or speeded up.

The review process

The [Inter-institutional Agreement](#) (IIA) between the EP and the Commission on the TR provided for a review to start by June 2013 at the latest. This review will follow a public consultation of the Transparency Register's users in the summer of 2012, and an [annual report](#) produced by the JTRS evaluating the operations of the TR, published in November 2012.

Early in 2013, EP Vice-President Rainer Wieland, with specific responsibility for transparency issues in the EP, and Commission Vice-President Maroš Šefčovič (responsible for inter-institutional relations and transparency matters in the Commission) wrote to Presidents Schulz and Barroso calling for the review procedure to be launched by June 2013. They requested that the procedure follow the model of the inter-institutional working group set up to prepare the IIA.

The decision to set up such a working group was approved by Parliament's Bureau at its meeting of 10 June. It will compose of 6 members of the Bureau, representatives of each of the political groups,⁵ along with other members. This latter category will include a representative of the AFCO committee⁶, with a view to conclusions being considered by that committee. If the working group's conclusions do not include a change to the text of the IIA, or to the EP Rules of Procedure, then a vote in plenary will not be necessary. Those conclusions are expected by the end of 2013, or at the latest the beginning of 2014, ahead of the European elections.

Key issues

The EP [resolution](#) of 11 May 2011, adopted as a preliminary step to the signing of the IIA, indicated several issues that required further discussion or clarification, which are expected to be taken up in the review.

Parliament requested further clarification of the categories expected to register, after some confusion appeared around the role of public and regional authorities. It is likely that discussions will also touch upon the monitoring procedure, particularly with a view to increased monitoring of the content of the register. Other technical improvements or political commitments may lead to changes in the text of the IIA and the Code of Conduct of interest representatives, if necessary.

Mandatory or voluntary?

There is still considerable debate on whether to move to a mandatory system (such as the registers for lobbyists in the USA and Canada) or remain with the current voluntary one. In its May 2011 decision on the conclusion of the IIA, the EP had repeated its call for a mandatory system, and called for the necessary steps to be taken during the review process for this to be introduced.

A mandatory system is widely considered to be more effective because of the sanctions involved in cases of breaches of the code by lobbyists. However the Commission, *inter alia*, has expressed doubts on whether a sufficient legal base exists for an EU regulation on lobbying. Legal analysis by the institutions currently suggests that Article 352 TFEU is the only possible basis, which would require a unanimous vote in the Council⁷, but a new analysis suggest that Article 298 (2) TFEU might also be a possible.

Will the Council participate?

The Council informally maintains that it has little contact with lobbyists and NGOs and that MS are lobbied in national capitals rather than in Brussels. There are also difficulties

with including Permanent Representations because they are an extension of national governments. Indeed, it is not easy to pinpoint which part of the Council could be covered by the register's scope. It could be limited to the Council's General Secretariat but might also include the rotating Presidency, or even the permanent European Council presidency.

Leading up to the inter-institutional agreement, it proved difficult to convince the Council to join the negotiations. At the signing of the IIA however, the Hungarian Presidency declared that the Council was willing to observe the process. Currently, the Council is an observer of the joint Secretariat (it has participated in meetings since September 2012), reporting back to the Council on these activities. The Council is expected to request to observe the review process, before coming to a final decision on its participation in the scheme.

Stakeholders' views

Stakeholders are likely to be involved in some form (either by providing written positions or through hearings) during the review process.

[EPACA](#), which represents public affairs consultancies, has called for more regulation and a more level playing field for organisations involved. EPACA also wants to see the institutions enforce the system better. In particular, it questions whether Commissioners and MEPs should be speaking at events organised by non-registered entities. More generally, they would like to see clear value for those professionals who sign up to the register, giving transparent actors a more privileged role in the policy-making process.

[ALTER-EU](#), a coalition of NGOs, which campaigns for greater transparency in EU policy-making, has [identified](#) several flaws in the current register. In particular it points to the absence of many leading lobbyists from the list, incomplete and inaccurate information, inadequate auditing and monitoring as

well as an insufficient code of conduct. It called for the JTRS to “name and shame” lobbyists that have not signed up to the register and for a review of the Code of Conduct. [Transparency International](#), ALTER EU and EPACA all call for a mandatory system to be set up.

The [Society of European Affairs Professionals](#) (SEAP) has expressed its support for a voluntary register. Nevertheless it has called for clearer guidelines on what is expected of registrants to avoid complaints being made for unintentional mistakes and misunderstandings.

Main references

EP Library Briefing [Lobbying the EU Institutions](#) / F Zibold, 18 June 2013

[EP Library Navigator: Lobbying in the EU](#)

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Endnotes

- ¹ 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.
- ² 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.
- ³ Members of the EP/Commission joint working group 2009-2011: Vice-Presidents Diana Wallis and Isabelle Durant, MEPs Carlo Casini and Jo Leinen, and Commission Vice-President Maroš Šefčovič.
- ⁴ J Greenwood & J Dreger, [The Transparency Register: A European vanguard of strong lobby regulation](#), *Interest Groups & Advocacy* (2013) 2, 139–162.
- ⁵ Rainer Wieland (EPP, Germany); Anni Podimata (S&D, Greece) Edward McMillan-Scott (ALDE, United Kingdom), Isabelle Durant (Greens/EFA, Belgium), Oldřich Vlasák (ECR, Czech Republic), Jiří Maštálka, (GUE/NGL, Czech Republic).
- ⁶ Carlo Casini (EPP, Italy), Chair of AFCO Committee.
- ⁷ A significant limitation of alternatives to legislation, such as an inter-institutional agreement, is the lack of a right to impose a financial sanction.