

Public consultation on the Transparency Register Towards a mandatory Transparency Register for lobbyists

Will the EU soon have a mandatory transparency register for lobbyists? After a long-standing call from the European Parliament, the European Commission launched a public consultation seeking input from stakeholders on the functioning of the current Transparency Register, which is run jointly by the Parliament and the Commission, and on a move towards a mandatory regime.

Background

The EU institutions interact with a broad variety of organisations and groups representing diverse interests. These interactions with interest representatives bring numerous benefits: they ensure the participation of social and economic actors in the policy-making process, offer specialist advice that is required to formulate policy and ensure that EU policies reflect citizens' real needs. In order to shed light on their decision-making processes, the European Parliament and the Commission not only publish documents relevant to the legislative process, but have also set up a joint Transparency Register (TR), listing the groups and organisations with which they interact.

The potential influence of lobbyists, coupled with a lack of public trust, highlights the paramount importance of transparency. A popular belief that opaque and powerful interest groups may have undue influence on EU policy-making continues to exist, while trust in public services is low in general. In [Gallup's 2015 Honesty and Ethics of professions survey](#), lobbyists ranked last, marginally behind telemarketers. The EU institutions have taken many steps to increase transparency, the latest being a [commitment](#) to introduce a mandatory transparency register.

Public consultation

It is in this light that the European Commission launched its [public consultation](#) on a proposal for a mandatory Transparency Register on 1 March 2016. This public consultation has two main objectives: (1) to gather views on the functioning of the current Transparency Register, and (2) to receive input for the design of a future mandatory regime.

The consultation has two sections. The first does not require any previous knowledge of the Transparency Register and invites respondents to submit their opinions on issues such as the transparency of the EU institutions, the efficacy of ethical and transparent lobbying in helping policy development, the principles which should underpin a sound lobby framework and the scope of activities that the register should cover.

In the second section of the consultation, feedback is sought from those who know and use the current Transparency Register on issues such as, inter alia, the type of data requested of registrants and the ease of providing it, the soundness of the current code of conduct for registrants, the functionality of the current registration process, the possible features of a future mandatory system and a comparison between the current EU register and Member State models. Respondents may provide position papers or reports to further underline their arguments. The consultation will run for three months, until 1 June 2016.

Development and functioning of the current register

It was in 1995 that the European Parliament first launched its register of lobbyists accessing Parliament. The Commission later followed suit with the introduction of its own voluntary register of lobbyists in June 2008 before a voluntary joint transparency register was set up following a 2011 [Inter-Institutional Agreement](#) (IIA)

between the two institutions. This IIA was reviewed in 2013, with a number of improvements being made. The [revised IIA](#) has been applicable since January 2015.

The register is run by the Joint Transparency Register Secretariat (JTRS), which is staffed by both the Parliament and the Commission. It covers all activities carried out with the objective of directly or indirectly influencing the formulation of policy and the decision-making processes of the EU institutions. The register features organisations and self-employed individuals, irrespective of their legal status, including in-house lobbyists, trade and professional associations, professional consultancies, law firms, self-employed consultants, think-tanks and research and academic institutes. In order to register, interest representatives are required to provide information covering 12 aspects, including contact information, the goals/remit of their organisation, the main EU initiatives, policies and legislative files they intend to follow and financial data. By registering, organisations also agree to adhere to the Code of Conduct for registrants. Registration is currently incentivised through numerous benefits, such as access to Parliament's premises, the possibility to meet with Commissioners, *cabinet* members and Directors-General of the European Commission, the ability to sit on expert groups or other ad hoc bodies and to receive alerts about consultations in areas of interest indicated.

Towards a mandatory register

The current register remains voluntary for interest representatives, despite Parliament's long standing [call for the introduction of a mandatory register](#). Numerous stakeholders – such as the [European Public Affairs Consultancies Association](#) and [Transparency International](#) – support the move to a mandatory register. The Constitutional Affairs Committee within Parliament is currently working on the issue and the recent [draft report](#) on 'Transparency, accountability and integrity in the EU institutions' (rapporteur: Sven Giegold, Greens/EFA, Germany), repeats the call for a mandatory scheme.

However, a certain number of challenges exist in the setting up of a mandatory scheme at EU level. While a number of Member States have introduced mandatory regimes to regulate lobbying, none cover as broad a spectrum of actors as the EU's register. Furthermore, there is no immediate legal basis in the EU Treaties.¹ It is, however, envisaged that an inter-institutional agreement between the institutions could introduce a mandatory register, by obliging the institutions to adhere to internal rules on lobby contacts. While this may create a *de facto* mandatory regime, it must be noted that such an agreement cannot oblige third parties – interest representatives – to sign up, other than via incentives and conditions for access to the institutions and their members. Furthermore, it should be noted that Members of the European Parliament, in their function as directly elected representatives of Europe's 500 million citizens, need to remain as open and accessible as possible.

Against this background, Commission President Jean-Claude Juncker's [political guidelines](#) contained a commitment to propose an inter-institutional agreement to Parliament and Council, in order to create a mandatory lobby register covering all three institutions. This firm commitment to propose a mandatory register was echoed in the [working methods](#) of the Juncker Commission, as well as the [Commission's 2016 work programme](#). It is [envisaged](#) that a mandatory scheme will take the form of an inter-institutional agreement covering the European Parliament, the European Commission and Council. Under this system, registration will be seen as a pre-condition in order to gain access to decision-makers, premises, committees and other similar structures. Such administrative measures will have the effect of making registration of interest representatives a pre-requisite to carry out activities which seek to directly or indirectly influence policy making.

The public consultation, which [Parliament insisted](#) should accompany any new proposal, is a step in this direction and seeks the input of all interested parties in the move towards greater transparency.

¹ A [study](#) commissioned by the European Parliament found that an obligation to register could only be established on the basis of Article 352 of the Treaty on the Functioning of the European Union. This article, which requires unanimity in the Council, allows the EU to adopt an act necessary to attain objectives laid down by the Treaties when the latter have not provided the powers of action necessary to attain them.

