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REPORT

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Committee on Constitutional Affairs

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CONTENTS

| | Page |
|--|-------------|
| MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION | 3 |
| EXPLANATORY STATEMENT | 17 |
| ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT | 20 |
| OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE | 22 |
| OPINION OF THE COMMITTEE ON BUDGETARY CONTROL | 27 |
| OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY | 33 |
| OPINION OF THE COMMITTEE ON LEGAL AFFAIRS | 40 |
| OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS | 44 |
| INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE | 48 |
| FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE..... | 49 |

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on transparency, accountability and integrity in the EU institutions (2015/2041(INI))

The European Parliament,

- having regard to its decision of 15 April 2014 on the modification of the interinstitutional agreement on the Transparency Register¹,
 - having regard to the Treaty on the European Union (TEU), in particular Articles 9 and 10,
 - having regard to the Treaty on the Functioning of the European Union (TFEU),
 - having regard to its resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions²,
 - having regard to the Commission’s decision of 25 November 2014 not to meet unregistered lobbyists and to publish information on lobby meetings,
 - having regard to its resolution of 11 March 2014 on public access to documents (Rule 104(7)) for the years 2011-2013³,
 - having regard to the Organisation for Economic Cooperation and Development (OECD) Principles for Transparency and Integrity in Lobbying,
 - having regard to its decision of 13 December 2016 on the general revision of Parliament’s Rules of Procedure⁴,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on International Trade, the Committee on Budgetary Control, the Committee on the Environment, Public Health and Food Safety, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A8-0133/2017),
- A. whereas the Union ‘shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions’ (Article 9 of the TEU); whereas ‘every citizen shall have the right to participate in the democratic life of the Union’ and ‘decisions shall be taken as openly and as closely as possible to the citizen’ (Article 10(3) of the TEU and expressed similarly in the 13th recital in the preamble thereto and Articles 1(2) and 9 thereof); whereas ‘the Union’s institutions, bodies, offices and agencies shall conduct their work as openly as possible’ (Article 15(1) of the

¹ Texts adopted, P7_TA(2014)0376.

² Texts adopted, P6_TA(2008)0197.

³ Texts adopted, P7_TA(2014)0203.

⁴ Texts adopted, P8_TA(2016)0484.

TFEU);

- B. whereas the EU institutions have already made progress in becoming more open and are in most respects already ahead of national and regional political institutions in terms of their transparency, accountability and integrity;
- C. whereas dialogue between law-makers and society is an essential part of democracy, as is representation of interests, and whereas the adequate representation of different interests in the legislative process provides Members with information and expertise and is crucial for the proper functioning of pluralistic societies;
- D. whereas, in view of the growing distance between the EU and its citizens and the need to increase media interest in EU affairs, the EU institutions must strive for the highest possible standards of transparency, accountability and integrity; whereas these principles are key and complementary components in promoting good governance within the EU institutions and in ensuring greater openness in the functioning of the EU and its decision-making process, and whereas these should be the leading principles of the culture within the institutions;
- E. whereas citizens' trust in the EU institutions is fundamental for democracy, good governance and effective policy-making; whereas there is a need to reduce accountability gaps within the EU and to move towards more collaborative modes of scrutiny which combine democratic oversight, control and auditing activities, while also providing more transparency;
- F. whereas non-transparent, one-sided interest representation can lead to a risk of corruption and may pose a significant threat and serious challenge to the integrity of policy-makers and to public trust in the EU institutions; whereas corruption has significant financial consequences and constitutes a serious threat to democracy, the rule of law and public investment;
- G. whereas a legal act as a new basis for a mandatory Transparency Register necessitates a legal definition of the activities falling under the remit of the register, which would help clarify existing ambiguous definitions and interpretations of transparency, integrity and accountability;
- H. whereas in some Member States national transparency registers have already been established;
- I. whereas, in accordance with the requirement of transparency laid down in Article 15(3) of the TFEU in conjunction with Article 42 of the Charter of Fundamental Rights and the settled case-law of the Court of Justice of the EU (CJEU), all citizens of the Union have the right of access to documents of the Union's institutions, bodies and other agencies¹;

¹ Judgment of the Court of Justice of 21 September 2010, *Kingdom of Sweden v Association de la presse internationale ASBL (API) and European Commission* (C-514/07 P), *Association de la presse internationale ASBL (API) v European Commission* (C-528/07 P) and *European Commission v Association de la presse internationale ASBL (API)* (C-532/07 P), Joined cases C-514/07 P, C-528/07 P and C-532/07 P, ECLI:EU:C:2010:541.

Making the Transparency Register as mandatory as possible

1. Welcomes the decision of its Bureau to request that its administration develop a template for all rapporteurs and draftspersons for opinions to produce a voluntary legislative footprint, setting out what interest representatives and organisations they have consulted; the template should be also provided as an IT tool;
2. Recalls its revision of the Rules of Procedure of 13 December 2016, according to which Members should adopt the systematic practice of only meeting interest representatives that have registered in the Transparency Register, and calls for meetings between interest representatives and Secretary-Generals, Director-Generals and Secretary-Generals of political groups to be included; asks Members and their staff to check whether the interest representatives they intend to meet are registered and, if not, ask them to do so as soon as possible prior to the meeting; urges the Council to introduce a similar provision which includes permanent representations; deems it necessary to oblige registrants in the Transparency Register to produce documents to demonstrate that the information submitted is accurate;
3. Recalls the definitions of what constitutes a ‘meeting with interest representatives’ set out in the Commission’s decision of 25 November 2014 on the publication of meetings; recalls the provisions on what information may be withheld under Regulation (EC) No 1049/2001; believes that the provisions on such meetings should not be restricted to ‘bilateral’ ones, and should include those with international organisations;
4. Calls on its Bureau to create the necessary means to enable Members to publish on their Parliament online profiles their meetings with interest representatives if they wish to do so;
5. Calls on the Commission to extend to all relevant Commission staff (from Head of Unit level and above) the practice of meeting only organisations or self-employed individuals that are registered in the Transparency Register;
6. Urges the Commission to publish meetings of all relevant Commission staff involved in the EU’s policy-making process with external organisations, while taking account of necessary data protection rules; for other staff present at these meetings, reference to the unit or service should be published;
7. Supports the Commission’s call for the EU institutions and their staff, and its agencies, to refrain from inviting unregistered interest representatives as speakers, from giving their events patronage or hosting such events on EU premises and from allowing them to participate in Commission advisory bodies;
8. Calls on the Commission to make all information on interest representation towards the EU institutions, declarations of interest, confirmed conflicts of interest and expert groups easily accessible to the public through an online one-stop shop;
9. Encourages the Commission to develop measures to achieve a better balance by empowering underrepresented interests;
10. Considers that, among the Members of the European Parliament, those appointed

rapporteur for legislative reports or committee chair have a special responsibility to be transparent about their contacts with interest representatives in view of their role in EU legislation;

11. Believes that entities registered in the Transparency Register should, in a timely manner, introduce mandatory updates in the register on expenditure for activities falling within the remit of the register by its registrants when this expenditure exceeds the level set for the category in question;
12. Believes all registered entities should be obliged to publish in the Transparency Register a list of all donors and their corresponding donations exceeding EUR 3 000, indicating both the nature and the value of the individual donations annually; single donations of a value exceeding EUR 12 000 must be reported immediately;
13. Reiterates its longstanding call to back up the EU Transparency Register with a legislative act, if it is not possible to close all loopholes and achieve a fully mandatory register for all interest representatives with an interinstitutional agreement; considers that the proposal for this legal act could take into account the progress achieved by changes in the interinstitutional agreement and Parliament's Code of Conduct; reminds the Commission of its call in its resolution of 15 April 2014¹ for an appropriate legislative proposal on a mandatory transparency register to be submitted pursuant to Article 352 of the TFEU by the end of 2016;
14. Reiterates its call on the Council, including its preparatory bodies, to join the Transparency Register as soon as possible; calls on all Member States to introduce legislation advancing the transparency of interest representation; calls on the Member States to introduce rules whereby interest representatives should make transparent where their contacts with national politicians and public administration are aimed at influencing European legislation;

Transparency, accountability and integrity in dealing with interest representatives

15. Recalls its decision of 13 December 2016 to withdraw privileges from those who are unwilling to cooperate with inquiries or hearings and committee meetings which have a fact-finding mission; calls on the Commission to further amend the code of conduct for registered entities to incentivise them not to provide, in utmost good faith, insufficient or misleading information during such hearings or committees; considers that entities registered in the Transparency Register should be prohibited under the code of conduct from employing individuals or organisations disguising the interests or the parties they serve;
16. Considers that professional consultancies, law firms and self-employed consultants should indicate the exact volume of the activities covered by the register, while acknowledging that certain individuals may be hindered by national legislation in some Member States from meeting the requirements of the Transparency Register;
17. Insists that registered entities, including law firms and consultancies, should declare in the Transparency Register all clients on whose behalf they perform interest

¹ Texts adopted, P7_TA(2014)0376.

representation activities that fall within the remit of the Transparency Register; welcomes the decisions taken by various bars and law societies in recognising the differences between court-related activities of lawyers and other activities falling within the scope of the Transparency Register; moreover, invites the Council of Bars and Law Societies of Europe to encourage its members to adopt similar measures, while acknowledging that certain individuals may be hindered by national legislation in some Member States from meeting the requirements of the Transparency Register;

18. Notes that, in some Member States, statutory provisions exist on the rules governing the exercise of professions, which in particular objectively prevent law firms from registering themselves in the Transparency Register and in the process revealing the information about their clients which the register requires; also perceives, however, a substantial risk in that such statutory provisions may also be abused to avoid publishing information required for proper entry in the register; welcomes, in this connection, the perceptible readiness of lawyers' professional organisations to work in partnership to ensure that, in the interests of their profession, such withholding of information is confined exclusively to what the law objectively permits; calls on the Commission and the President of the European Parliament to secure a practical outcome from this readiness and to enshrine a result in the modified agreement as soon as possible;
19. Asks the Bureau, in accordance with Article 15 of the TFEU and Article 11 of the TEU, to require registration prior to access to Parliament's premises for non-registered organisations or individuals that undertake activities falling within the remit of the Transparency Register; considers that visitor groups should be exempted from this; emphasises that Parliament, as the chamber representing European citizens, should retain an open-door policy towards citizens and that no unnecessary obstacles should be created which could discourage citizens from visiting its premises;
20. Regrets that, according to Transparency International, more than half of the entries in the EU's lobbying disclosure register in 2015 were inaccurate, incomplete or meaningless;
21. Asks its Bureau and its Secretary-General to ease the reactivation process necessary for lobby badges by setting up a designated reactivation facility with a view to avoiding excessive waiting times to gain entry to premises; calls for the removal of the restriction of not more than four pass holders being able to access Parliament's premises at the same time;
22. Recalls Parliament's decision of 13 December 2016 as regards entourage passes, and calls on its Secretary-General to amend the rules governing passes and authorisations granting access to Parliament's premises as of 13 December 2013 to oblige anyone over the age of 18 applying for an entourage pass to sign a document guaranteeing that they will not engage in activities falling within the scope of the Transparency Register;
23. Believes it to be necessary, as a matter of urgency, to introduce a proper monitoring system for submissions in order to ensure that the information that registrants provide is meaningful, accurate, up-to-date and comprehensive; calls in this regard for a substantial increase in the resources of the Transparency Unit within the European Parliament and the Joint Transparency Register Secretariat;

24. Believes that declarations of registered entities should be checked by the Transparency Unit and the Joint Transparency Register Secretariat each year on the basis of random sampling in sufficient numbers so as to provide meaningful, accurate, up-to-date, comprehensive data;
25. Believes, with reference to Articles 4(2) and 5(2) of the TEU, that democratically elected and controlled state institutions at national, regional and local level and their representations towards the EU institutions, as well as their internal bodies and formal and informal associations and umbrella organisations composed exclusively thereof, should not fall under the EU Transparency Register if they act in the public interest, as they are part of the EU's multi-level system of governance;

Defending integrity against conflicts of interest

26. Calls on those EU institutions and bodies which still do not have a code of conduct to develop such a document as soon as possible; considers it regrettable that the Council and the European Council have still not adopted a code of conduct for their members; urges the Council to introduce a specific code of ethics, including sanctions, which addresses the risks specific to national delegates; insists that the Council must be just as accountable and transparent as the other institutions; calls also for a code of conduct for members and staff of the EU's two advisory bodies, the Committee of the Regions and the European Economic and Social Committee; calls on the EU agencies to adopt guidelines for a coherent policy on the prevention and management of conflicts of interest for members of the management board and directors, experts in scientific committees, and members of boards of appeal, and to adopt and implement a clear policy on conflicts of interest, in accordance with the Roadmap on the follow-up to the Common Approach on EU decentralised agencies;
27. Believes that all EU officials, including temporary agents, accredited parliamentary assistants, contract agents and national experts, must undergo training on how to deal with interest representatives and conflicts of interest, inter alia by including integrity and transparency as an obligatory item to be discussed during recruitment procedures and performance reviews;
28. Underlines the need to enhance integrity and improve the ethical framework through clear, reinforced codes of conduct and ethical principles, so as to allow the development of a common and effective culture of integrity for all EU institutions and agencies;
29. Recognises that the 'revolving door' effect can be detrimental to relations between the institutions and interest representatives; calls for the EU institutions to develop a systematic and proportional approach to this challenge; considers that all regulation regarding 'revolving doors' should also be applied to the President of the Council;
30. Calls for strengthening the restrictions on former Commissioners by extending the 'cooling-off period' to three years and making it binding for at least all activities falling within the remit of the Transparency Register;
31. Believes that decisions on senior officials' and former Commissioners' new roles must be taken by an authority appointed as independently as possible of those affected by its decisions;

32. Requests that all EU institutions should disclose, on an annual basis, in line with EU data protection rules, information about senior officials who have left the EU administration and the roles they have taken up;
33. Takes the view that consideration should be given to an 18-month cooling-off period at the end of the appointment of external and ad hoc members of the Regulatory Scrutiny Board in the context of better law-making and of members of the Board of Directors of the European Investment Bank, whereby, during this period, they must not lobby members of the EIB governing bodies and Bank staff for their business, client or employer;

Integrity and balanced composition of expert groups

34. Welcomes the Commission's intention to follow up on the Ombudsman's recommendations against conflicts of interest in expert groups, and explicitly supports the publication of a sufficiently detailed CV of each expert appointed in her or his personal capacity on the expert groups register, and of a declaration of interests of each expert appointed in his or her personal capacity on the expert groups register;
35. Supports the Ombudsman's call for entry in the Transparency Register to be made a requirement for appointment to expert groups for those Members who are not government officials and do not receive all or the vast majority of their other income from state institutions such as universities, assuming that the latter do not receive funding from interest representatives and economic and commercial stakeholders;
36. Believes that a provision containing general criteria for the delimitation of economic and non-economic interests as recommended by the Ombudsman and based on the experts' declarations of interest would help the Commission to pick experts representing interests with a better balance;
37. Urges the Commission to make all minutes of expert group meetings available to the public on its website, including the diversity of opinions represented;
38. Urges the Commission to make sure that consultations explore open questions instead of merely seeking to confirm a chosen policy direction;

Integrity of the European elections

39. Believes that, under European electoral law, nominations of candidates within parties must be carried out democratically, in secret and with a proper say for Members, and that persons convicted by a final judgment of corruption against the EU's financial interests or within Member States should forfeit the right to stand for election for a period commensurate with the seriousness of the offence; notes that this disqualification procedure is already in place in some Member States; considers that a new instrument, such as a directive, could establish common minimum standards for different practices and legal frameworks within the different Member States regarding disqualification on account of corruption;

Strengthening the legal accountability of Commissioners

40. Calls on the Commission to draw on the good practice of Member States with laws for ministers by submitting a legislative proposal laying down the transparency obligations and rights of Commissioners, in accordance with the codecision procedure;
41. Calls for the decision fixing the remuneration of Commissioners, including their salaries, which has been taken exclusively by the Council since the European Communities were founded, to be transferred to the codecision procedure;
42. Points out that some Member States do not have laws on ministers that exclude the possibility of office-holders being sole or part-owners of businesses;

Conflicts of interest in shared management and in third countries in connection with the management of EU funds

43. Sees a serious conflict of interest in the possibility that businesses owned by EU office-holders may apply for EU funds or may receive such funds as subcontractors, while the owners and office-holders themselves bear responsibility for both the proper use of funds and for controlling their use;
44. Calls on the Commission to incorporate a clause in all future EU laws on payments to the effect that businesses owned by office-holders in the EU Member States and in third countries may not apply for or receive any EU funding;

Realising the objective of full access to documents and transparency for the purposes of accountability in the legislative process

45. Recalls its calls on the Commission and the Council in its resolution of 28 April 2016 on public access to documents for the years 2014-2015¹, in which it:
 - called for the scope of Regulation (EC) No 1049/2001 to be broadened to include all the European institutions it currently does not cover, such as the European Council, the European Central Bank, the Court of Justice and all the EU bodies and agencies,
 - called for full compliance with the obligation by the institutions, agencies and other bodies to keep complete registers of documents, as provided for in Articles 11 and 12 of Regulation (EC) No 1049/2001,
 - considered that documents created in trilogues such as agendas, summaries of outcomes, minutes and general approaches in the Council are related to legislative procedures and should not, in principle, be treated differently from other legislative documents and should be made directly accessible on Parliament's website,
 - called for a common interinstitutional register, including a dedicated joint database on the state of play of legislative files for which works are under way as agreed in the Interinstitutional Agreement on Better Law-Making,
 - called on the Council to publish minutes of the meetings of Council working groups and other documents,

¹ Texts adopted, P8_TA(2016)0202.

- called on the Commission to set up a register of all second-level legislation, in particular for delegated acts, and noted that work on its creation was under way as agreed in the Interinstitutional Agreement on Better Law-Making,
- expressed its belief in the need to introduce an independent oversight authority for the classification and declassification of documents,
- called for agendas and feedback notes of the meetings of Parliament's Committee Coordinators, Bureau and Conference of Presidents to be made available, and, in principle, for all documents referred to in those agendas to be made available too, by publishing them on Parliament's website;

Transparency of the external representation and negotiations of the EU

46. Welcomes the recent case law by the European Court of Justice which reinforces Parliament's right to information on international agreements, and the commitment by the institutions to follow up on paragraph 40 of the Interinstitutional Agreement on Better Law-Making by negotiating improved cooperation and information-sharing; takes note that the negotiations started at the end of 2016 and, in this respect, calls on the Council, the Commission and the European External Action Service to genuinely commit and make all necessary efforts to reach an agreement as soon as possible with Parliament on improved cooperation and information-sharing with Parliament throughout the whole life-cycle of international agreements, as this would help to increase the legitimacy and democratic scrutiny of the EU's external action;
47. Notes that, even though an interinstitutional cooperation agreement exists between Parliament and the Commission, an equivalent arrangement does not exist between Parliament and the Council;
48. Stresses recent efforts by the Commission to increase the transparency of trade negotiations; believes, nevertheless, that the Council and the Commission should still improve their working methods to cooperate better with Parliament as regards access to documents, information and decision-making for all issues and negotiations related to common commercial policy (such as information relating to negotiations – including scoping, mandates and evolution of negotiations – the mixed or exclusive nature of trade agreements and their provisional application, activities and decisions taken by bodies created by trade and/or investment agreements, expert meetings, and delegated and implementing acts); regrets, in this regard, that the Council has not made available to the Members of the European Parliament (MEPs) and the public the negotiating mandates for all agreements currently under negotiation, but welcomes the fact that, finally, after one year of negotiations between the Commission and Parliament on access to documents related to negotiations on the Trans-Atlantic Trade and Investment Partnership (TTIP) an operational agreement has been reached to grant access to all MEPs, making the TTIP negotiations the most transparent so far; welcomes, in this respect, the ambition of the Commission's Directorate-General for Trade to use the current transparency initiative on TTIP as a model for all trade negotiations, as outlined in the trade strategy 'Trade for All' and to implement this;
49. Stresses that, as pointed out by the CJEU, imperatives for transparency derive from the democratic nature of governance within the EU, and that, where confidential

information is beyond the reach of public access, as in the case of trade negotiations, it must be available to parliamentarians who scrutinise trade policy on behalf of citizens; considers therefore that access to classified information is essential for scrutiny by Parliament, which in return should abide by its obligation to manage such information properly; considers that there should be clear criteria for labelling documents as ‘classified’ to avoid ambiguity and arbitrary decisions, and also that the document should be declassified as soon as its classification is no longer necessary; calls on the Commission to assess whether a negotiating document can be made public as soon as the document in question has been finalised internally; notes that the case-law of the CJEU makes it clear that where a document originating in an EU institution is covered by an exception to the right to public access, the institution must clearly explain why access to this document could specifically and effectively undermine the interest protected by the exception, and that this risk must be reasonably foreseeable and not purely hypothetical; calls on the Commission to implement the recommendations of the European Ombudsman of July 2014 with particular regard to access to documents for all negotiations and on publishing meeting agendas and records of meetings held with individuals and organisations falling within the remit of the Transparency Register; calls on the Commission to inform Parliament and the public of draft agendas for negotiating rounds prior to the negotiations, final agendas and reports after negotiations;

50. Believes that the EU must take the lead in furthering the transparency of trade negotiations, not only for bilateral processes, but also for plurilateral and multilateral processes where possible, with no less transparency than the negotiations organised in the framework of the World Trade Organisation (WTO); stresses, however, that the Commission must also persuade its negotiating partners to increase transparency at their end, to make sure that this is a reciprocal process in which the EU’s negotiating position is not compromised and to include the aspired level of transparency in its scoping exercises with potential negotiating partners; stresses that increased transparency is in the interest of all the EU’s negotiating partners and stakeholders worldwide, and that it can strengthen global support for rules-based trade;
51. Recalls the importance for the common commercial policy legislative process to rely on Union statistics consistent with Article 338(2) of the TFEU and on impact assessments and sustainability impact assessments conforming to the highest standards of impartiality and reliability, a principle which should lead all respective revisions in the framework of the Commission’s ‘Better Regulation’ policy; considers that sector-by-sector impact assessments would provide EU trade agreements with a higher level of reliability and legitimacy;
52. Reiterates its calls on the Commission in its resolution of 12 April 2016¹ to draft a European code of conduct on transparency, integrity and accountability, designed to guide the actions of EU representatives in international organisations/bodies; calls for better policy coherence and coordination among the global institutions through the introduction of comprehensive standards of democratic legitimacy, transparency, accountability and integrity; takes the view that the EU should streamline and codify its representation in multilateral organisations/bodies with a view to increasing the transparency, integrity and accountability of the Union's involvement in these bodies, its

¹ Texts adopted, P8_TA(2016)0108.

influence and the promotion of the legislation it has adopted through a democratic process; calls for the adoption of an interinstitutional agreement with the aim of formalising dialogues between EU representatives and Parliament, to be organised with the European Parliament for the purpose of establishing guidelines regarding the adoption and coherence of European positions in the run-up to major international negotiations;

Transparency and accountability in the domain of public spending

53. Believes that the data on budget and spending within the EU should be transparent and accountable through publication, including at the level of Member States as regards shared management;

Transparency and accountability of economic governance in the euro area

54. Believes that decisions taken in the Eurogroup, in the Economic and Financial Committee, 'informal' Ecofin Council meetings and Euro summits must be institutionalised, where necessary, and become transparent and accountable, including through the publication of their agendas and minutes, finding a balance between desirable transparency and the necessary protection of the financial, monetary or economic policy of the Union or a Member State;

Transparency and accountability concerning the EU budget

55. Notes that in 2014 a total of 40 cases into EU staff and members of the institutions were concluded; underlines that this figure is low and illustrates that fraud and corruption are not endemic within the EU institutions¹;
56. Highlights that in 2014 the highest number of potential fraud cases reported to the European Anti-Fraud Office (OLAF) relate to the use of European Structural Funds (549 of 1 417 allegations); underlines that OLAF recommended the financial recovery of EUR 476.5 million in structural funds in 2014; notes that EUR 22.7 million were recovered by the relevant authorities following OLAF's recommendations in 2014; calls on the Member States to prioritise the proper allocation of EU funds and to maximise efforts to recover them when they are not properly allocated²;
57. Calls on the Commission to submit a revision of the so-called six-pack and two-pack in order to provide Parliament with greater scrutiny powers over the adoption of key documents of the European Semester, and particularly effective means to guarantee respect for the principles of subsidiarity and proportionality;
58. Calls on the Eurogroup to include Parliament in monitoring the implementation of the contractual conditions agreed with beneficiaries of financial assistance granted by the European Stability Mechanism;

Protection of whistleblowers and the fight against corruption

59. Welcomes the European Ombudsman's investigation into whether the EU institutions

¹ The OLAF report 2014, Fifteenth report of the European Anti-Fraud Office, 1 January to 31 December 2014.

² Ibid.

are living up to their obligation of introducing internal whistleblowing rules; regrets the Ombudsman's finding that some EU institutions have not yet properly implemented rules to protect whistleblowers; points out that to date only Parliament, the Commission, the Ombudsman's Office and the Court of Auditors have adopted such rules; calls for a study by Parliament into a mechanism to protect Accredited Parliamentary Assistants in the event they become 'whistleblowers';

60. Considers effective whistleblower protection to be a key weapon in the fight against corruption and therefore reiterates its call of 25 November 2015¹ on the Commission to propose, by June 2016, an EU legislative framework for the effective protection of whistleblowers and the like², taking into account the assessment of the rules at national level in order to provide for minimum rules for protecting whistleblowers;
61. Calls on the Commission to apply the measures pertaining to discretion and exclusion in respect of public procurement strictly, with proper background checks being carried out in every instance, and to apply the exclusion criteria in order to debar companies in the event of any conflict of interest, this being essential to protect the credibility of the institutions;
62. Believes that whistleblowers have too often found more prosecution than support even in the EU institutions; calls on the Commission to propose an amendment to the regulation governing the Ombudsman's Office and to add to her remit being a focal point for whistleblowers who find themselves victims of ill-treatment; calls on the Commission to propose an appropriate increase in the budget of the Ombudsman's Office to allow this new demanding task to be put into effect;
63. Calls for the EU to advance its application for membership of the Council of Europe Group of States against Corruption (GRECO) as soon as possible, and for Parliament to be kept up to date with the progress of this application; calls on the Commission to include in the report an overview of the greatest corruption problems in the Member States, policy recommendations to tackle them and follow-up measures to be taken by the Commission, taking specific account of the detrimental impact of corrupt activities on the functioning of the internal market;
64. Believes that persons convicted by a final judgment of corruption in the EU or companies led or owned by persons who committed acts of corruption or misappropriation of public funds for the benefit of their company and have been convicted by a final judgment on those grounds should, for at least three years, be effectively banned from entering into procurement contracts with the European Union and from benefiting from EU funds; calls on the Commission to revise its debarment system; stresses that companies excluded from tendering for EU funds by the Commission should be publicly listed by default to better protect EU financial interests and allow scrutiny by the wider public;
65. Notes that since becoming an approved member of the United Nations Convention against Corruption (UNCAC) on 12 November 2008, the European Union has not

¹ Texts adopted, P8_TA(2015)0408.

² Rapporteur, verbatim from its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect (Texts adopted, P8_TA(2015)0408).

participated in the review mechanism provided for under the Convention, nor has it taken the first step of completing a self-assessment of how it is implementing its obligations under the Convention; calls on the European Union to fulfil its obligations under the UNCAC by completing a self-assessment of how it is implementing its obligations under the Convention and participating in the peer-review mechanism; calls on the Commission to publish its next EU Anti-Corruption Report as soon as possible and to include a chapter on the EU institutions in its EU Anti-Corruption Reports; calls for the Commission to carry out further analysis at the level of both the EU institutions and the Member States of the environment in which policies are implemented, in order to identify inherent critical factors, vulnerable areas and risk factors conducive to corruption;

66. Recalls its decision of 25 March 2014 on the proposal for a directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law 2012/0193(COD), and calls for a rapid decision in this regard;

Integrity in EU regulation

67. Calls on the Commission to explore systemic safeguards with a view to avoiding conflicts of interest in the area of the regulation of industry products and policy enforcement; calls on the Commission to address the current structural conflict of interests in the public risk assessment of regulated products, namely the situation in which the assessment of these products is largely or entirely based on studies performed by applicants or third parties paid by them, while independent research is all too often disregarded or dismissed; insists that producers should still provide studies, with cost-sharing between large companies and SMEs based on relative market share to ensure fairness, but that all assessors should be obliged to fully take into account peer-reviewed independent science in their assessments; calls on the Commission, in particular, to review its communication of 2002 on general principles and standards for consultation of interested parties; suggests, in order to address issues arising from the selective suppression of unfavourable research findings, that the prior registration of scientific studies and trials, specifying their scope and expected date of conclusion, could be a condition for input into regulatory and policy processes; emphasises, in the interests of sound and independent scientific advice for policy-making, the importance of adequate resources for the development of in-house expertise within the EU's specialised agencies, including the opportunity to conduct publishable research and testing, thus enhancing the attractiveness of public services in regulatory advice roles without disrupting scientists' academic career prospects;

Strengthening the parliamentary accountability of the Commission and its agencies

68. Calls on the Commission to draw up a regulation relating to all EU agencies, under which Parliament will be granted codecision powers in the appointment or dismissal of directors of such agencies and a direct right to question and hear them;
69. Highlights the need for independent experts in the EU agencies and for greater importance to be placed on eliminating conflicts of interest within the panels of the agencies; notes that at present experts from a number of agencies, including the European Food Safety Authority (EFSA), are not paid; calls for experts in regulatory

agencies representing for example non-profit organisations or academics to receive adequate compensation; emphasises the importance of adequate resources for the development of in-house expertise within the EU's specialised agencies;

70. Calls on EFSA, the European Medicines Agency (EMA) and the European Chemicals Agency (ECHA) to urgently revise their independence policies so as to explicitly guarantee their strict independence from the economic sectors they are regulating and to avoid conflicts of interest among their staff and experts;
71. Supports the practice of national parliaments inviting Commissioners in order to question them;
72. Recalls that the power to set up committees of inquiry is an intrinsic feature of parliamentary systems around the world, and that the Treaty of Lisbon provides for a special legislative procedure for the adoption of a regulation on the right of inquiry in Article 226(3) of the TFEU; stresses that, in accordance with the principle of sincere cooperation, Parliament, the Council and the Commission should agree on the adoption of a new regulation;
73. Calls for a rapid decision of the Council and the Commission on Parliament's proposal of 23 May 2012 for a regulation of the European Parliament on the detailed provisions governing the exercise of Parliament's right of inquiry¹;

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74. Instructs its President to forward this resolution to the Council and the Commission.

¹ Texts adopted, P7_TA(2012)0219.

EXPLANATORY STATEMENT

Distance to the citizens requires the highest standards of transparency, accountability and integrity

EU institutions are more transparent, accountable and cleaner than most other political institutions on national or regional levels in Europe. Citizens can follow nearly all committee meetings by web streaming: a transparency, which does not exist in most member state parliaments so far. The European Commission is an open administration, much more transparent and accessible than what we know from most member states. Yet, for several reasons politics in Brussels is more distant to citizens across the EU. The overall level of citizens' confidence in EU institutions as surveyed by Eurostat stands at 42 percent as of 2014. This is a rise to the year before yet low in historical comparison; it was at 59 percent in 2002. In the majority of 20 member states citizens' confidence is now higher into national institutions. Only in a minority of 8 countries citizens have more trust in EU institutions than in national ones.

Local and national politics are less distant to citizens: Media reports more about them, citizens have more personal contacts with their representatives, issues sometimes seem less abstract, and language is usually not a barrier in national and local politics. However, besides these rather structural differences, EU politics feels more distant to many citizens, because of a perceived lack of citizens' influence. Even worse, today's European Union is sometimes rather seen as a Europe of lobbyists than a Europe of citizens. There are more active lobbyists in Brussels than in Washington D.C. Research shows a huge imbalance between the access and influence of powerful business interests and weaker societal interests on EU decision-makers. To narrow this perceived distance, this report calls for a three-fold approach: EU institutions have to enhance transparency, accountability and integrity and set the highest standards possible in these areas.

Integrity is fair and equal treatment of citizens' interests

The Treaty of Lisbon guarantees that 'the Union shall respect the principle of the equality of its citizens, who shall receive equal attention from its institutions' (Article 9) and that 'every citizen shall have the right to participate in the democratic life of the Union'. However, the reality is different: The privileged access of powerful lobbies to EU decision-makers stands in sharp contrast to the equal treatment of citizens' interests. Those who already hold more money and power can easily exert comparatively larger influence. To overcome this gap, the EU institutions need to enhance their integrity. Integrity means equal access and weight to citizens in the decision-making process. Favoring special interests over the general interest is the opposite of integrity. The aim of this report is to contribute to the separation of economic and political power. This is also in the best interest of the vast majority of small and medium enterprises in Europe. Where multinationals write laws, small enterprises cannot flourish.

Empowering citizens through access to information and documents

To realize integrity in EU politics the treaties give further direction and demand in TFEU's article 10(3): 'Decisions shall be taken as openly and closely as possible to the citizen'. We therefore understand transparency as making all relevant information timely available to citizens to reduce possible information gaps between citizens and lobbyists, also between those who represent special business interests and those who represent more general societal interests. The treaties' text and spirit calls for special attention to the timing of access to information. Taking decisions 'as closely as possible to the citizen' means citizens should enjoy the time to digest information before decisions are made. Additionally, the question of equality between citizens is a matter of time. Since decision-making is usually a continuous process it makes a difference to have access to documents and information before deals are done. Differences between resourceful and professional actors on the one hand and citizens and even members of Parliament on the other contradict the treaties and corrupt integrity. Therefore, secret and informal documents circulating among a privileged few are not acceptable. The treaties demand a clear distinction: documents are either public or exceptionally classified. This means: Everything lobbyists know has to be public for all.

The process of drawing up EU legislation is central to enhance transparency in the European Union. The public has the right to know who had influence on drafting legislation. A major tool to achieve more transparency in EU legislation is the introduction of a legislative footprint. It records the influence of different interests on each piece of legislation and allows to estimate a possible inequality of influence. Additionally, the more relevant information about meetings and input becomes available in real time, the more the imbalance can be corrected before legislation is adopted. The policy department's study "Institutional and Constitutional aspects of Special Interest Representation" for the AFCO committee recommends considering its introduction.

Accountability of EU institutions through transparency

Scandals, such as the cash for amendment scandals were drivers for new rules to safeguard integrity of EU politics. The treaties demand for all work in the institutions: 'in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration' (article 298 (1) TFEU). Accountability can only be achieved through provisions, which ensure that institutions, officeholders and staff report transparently on their work.

Although many stages of EU legislation are more transparent than in member states, a decisive stage in co-decision procedures disappears behind closed doors. The increased use of informal talks in the trialogue format has led to the situation that 80% of EU laws are now agreed at first reading. There is a problem with transparency of these secret meetings: minutes of these meetings do not exist, participants and their positions remain unknown, secret documents sometimes fall into the hands of some lobbyists but not the general public. This selective transparency to privileged actors corrupts the integrity of the current procedure as citizens are not treated equally.

Defending integrity with independent oversight against conflicts of interests

The best available standards are needed to protect the integrity of the EU institutions' own members and staff. These standards need to encompass the members' and staff's activities inside and outside EU institutions as well as during and after their office in EU institutions, for example by introducing cooling off periods if they want to pursue a career in areas closely related to their institutional work.

Neutrality is an important criterion for effective oversight of rules. The EU's anti-corruption report of 2014 concludes that independence of anti-corruption agencies is the crucial factor for their success: "In some cases, where agencies have a strong mandate, independent committed leadership turned out to be the breakthrough development allowing them to prosecute high-level corruption cases." (p. 41) Therefore, putting the oversight of rules of members and staff in external and neutral hands is a lesson learned from existing integrity systems. Such independent oversight is now practiced in member states like France and Croatia. Moreover, potential conflict of interests also needs to be addressed in the composition of expert groups and control of financing European political parties. Expert groups must not allow special interests to co-author directly legislation affecting them. The European Parliament should not supervise the financing of the parties to which the majority of its members belong.

Building new trust in trade negotiations through transparency

Compared to European politics, international trade negotiations are even more distant to citizens. Trade agreements are regularly binding the European Union and can make it difficult to change these decisions when political majorities or public opinion changes. Because of these far reaching impacts of trade agreements, the negotiations need to live up even more to the highest standards of transparency and accountability. Against transparency in trade negotiations it has been argued that secrecy might render successful negotiation easier. However, examples from the World Trade Organisation (WTO), the United Nations Framework for Convention on Climate Change (UNFCCC) or the World Intellectual Property Organisation (WIPO) prove that international treaties can be successfully negotiated in the full light of public documents and even public proceedings. Given the growing Europe-wide discontent with ongoing TTIP negotiations as well as the finalizing of CETA, the European Union should adapt these best practices to improve transparency, accountability and integrity of all its trade negotiations.

ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPOREUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

| Entity and/or person |
|--|
| Access Info Europe 49931835063-67 Andreas Pavlou - 02.05.2016, 21.11.2016 |
| Alliance for Lobby Transparency and Ethics Regulation (ALTER-EU) 2694372574-63 includes inter alia Access Info Europe, FoEE, CEO, LobbyControl - 27.01.2016, 10.03.2016, 06.07.2016, 23.09.2016, 05.10.2016, 28.10.2016, 29.11.2016, 07.02.2017, 02.03.2017 |
| Bundesarbeitskammer Österreich (BAK) 23869471911-54 Alice Wagner, Julia Stroj - 13.09.2016, 23.09.2016 |
| Corporate Europe Observatory (CEO) 5353162366-85 Olivier Hoedeman, Martin Pigeon, Pascoe Sabido, Margarida da Silva, Vicky Cann - 22.04.2015, 28.10.2016, 29.11.2016, 02.03.2017 |
| Council of Bars and Law Societies of Europe (CCBE) 4760969620-65 Simone Cuomo - 15.10.2015 |
| Council of European Municipalities and Regions (CEMR) Carol Thomas |
| Democracy International e.V. 180184113990-05 Sophie von Hatzfeldt - 23.09.2016, 05.10.2016 |
| European Public Affairs Consultancies Association (EPACA) 8828523562-52 Karl Isaksson, James Padgett - 16.03.2015, 27.02.2017 |
| Joint European Offices of Local Authorities of Bavaria, Baden-Württemberg and Saxony Caroline Bogenschütz, Christiane Thömmes - 16.02.2016 |
| Frank Bold Society 57221111091-19 Bartosz Kwiatkowski - 10.03.2016, 06.07.2016, 09.09.2016, 13.09.2016, 23.09.2016, 05.10.2016, 27.10.2016, 21.11.2016, 02.03.2017, 10.03.2017 |
| Friends of the Earth Europe (FoEE) 9825553393-31 Paul de Clerck, Fabian Flues, Myriam Douo - 27.01.2016, 10.03.2016, 06.07.2016, 23.09.2016, 05.10.2016, 28.10.2016, 29.11.2016, 07.02.2017, 02.03.2017 |
| LobbyControl |

6314918394-16

Nina Katzemich - 28.10.2016, 29.11.2016, 02.03.2017

Riparte il futuro

158241921709-39

Giulio Carini - 23.09.2016, 05.10.2016

Transparency International (TI)

501222919-71

Daniel Freund, Elsa Foucraut Yannik Bendel, Lola Girard, Carl Dolan - 25.02.2015, 03.09.2015, 15.12.2015, 01.03.2016, 15.03.2016, 02.05.2016, 01.07.2016, 06.07.2016, 09.09.2016, 27.10.2016, 28.10.2016, 29.11.2016, 06.02.2017, 02.03.2017, 10.03.2017

11.12.2015

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on Constitutional Affairs

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Rapporteur: Bernd Lange

SUGGESTIONS

The Committee on International Trade calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that the Treaty on European Union (TEU) marked a new stage in the process of creating an ever closer union in which decisions should be taken as openly and as closely as possible to the citizen (Article 1 TEU); takes into account the lively public debate across the Union on current trade negotiations and the concerns voiced by EU citizens regarding EU trade-policy making; believes that, in order to ensure the legitimacy of EU trade policy, more should be done to increase the level of information related to trade policy and negotiations and the way in which related data are gathered by Member States and the Commission and communicated and made publically available, while recalling that a balance must be struck between transparency and effectiveness; considers that citizens should also be empowered to better understand policy-making and the internal functioning of the EU administration (including within the Committee on International Trade (INTA)); welcomes, therefore, the Commission's transparency initiative and the new trade strategy 'Trade for All', which aims, inter alia, at creating a higher level of transparency in trade policy;
2. Recalls that, in accordance with Article 12(f) TEU on the role of national parliaments within the EU, various instruments for cooperation have been created to guarantee effective democratic scrutiny of EU legislation at all levels; stresses that more meaningful engagement with civil society and social partners – commensurate to the EU's obligation to recognise and promote the role of the social partners as expressed in Article 152 of the Treaty on the Functioning of the European Union (TFEU) – is crucial in order to achieve greater legitimacy (including with respect to the drafting of negotiating directives); stresses, in this connection, the important need for actual engagement with all stakeholders through meetings, briefings and other events and the optimisation of domestic advisory groups engaged in the implementation of existing trade agreements; calls on the Commission to improve the inclusiveness of all public consultations;

3. Recommends that the Commission's ongoing efforts to increase transparency in all current and future trade negotiations should entail the strengthening of the European Ombudsman's mandate as an independent oversight body;
4. Calls on the Council and the Commission to commit fully and seriously to the principle of sincere cooperation with Parliament by immediately providing, through the relevant channels, full and accurate information pertaining to the Union's external action, including its Common Commercial Policy (CCP), as regards decision-making and implementation of primary and secondary legislation; calls on the Commission to take into full consideration Parliament's requests concerning the interinstitutional agreement, in particular as regards a set of clear criteria for the provisional application and implementation of trade agreements; calls on the Council to accept these criteria and guarantee that the provisional application of trade agreements is contingent upon the prior consent of the European Parliament;
5. Recalls that, pursuant to the principle of sincere cooperation, the Union and the Member States must, in full mutual respect, assist each other in carrying out certain tasks (Articles 4 and 13 TEU), which is a precondition for Parliament to adequately exercise its legislative and budgetary functions, and those of political control (scrutiny) and consultation (Article 14 TEU); notes that, even though an interinstitutional cooperation agreement exists between Parliament and the Commission, an equivalent arrangement does not exist between Parliament and the Council, which creates certain hurdles for scrutiny;
6. Welcomes the fact that the INTA Committee and the Commission's Directorate-General for Trade have been collaborating pro-actively to enhance cooperation, establish best practices and improve communication channels, and that this collaboration has been especially useful for monitoring trade negotiations through INTA Standing Rapporteurs and targeted monitoring groups; stresses recent efforts by the Commission to increase the transparency of trade negotiations; believes, nevertheless, that the Council and the Commission should still improve their working methods to better cooperate with Parliament as regards access to documents, information and decision-making for all issues and negotiations related to CCP (such as information relating to negotiations – including scoping, mandates and evolution of negotiations – the mixed or exclusive nature of trade agreements and their provisional application, activities and decisions taken by bodies created by trade and/or investment agreements, expert meetings, and delegated and implementing acts); regrets, in this regard, that the Council has not made available to the Members of the European Parliament (MEPs) the negotiating mandates for all agreements currently under negotiation, but welcomes that finally after one year of negotiations between the Commission and Parliament on access to documents related to negotiations on the Trans-Atlantic Trade and Investment Partnership (TTIP) an operational agreement has been reached to grant access to all MEPs, making the TTIP negotiations the most transparent so far; welcomes, in this sense, the Commission's ambition to use the current transparency initiative on TTIP as a model for all trade negotiations, as outlined in the Trade Strategy 'Trade for All'; notes that Regulation (EC) No 1049/2001 on public access to documents grants very broad rights to ordinary citizens in terms of access to documents, which can go beyond the access that is currently given to MEPs;
7. Stresses that, as pointed out by the European Court of Justice (ECJ), imperatives for

transparency derive from the democratic nature of governance within the EU, and that, where confidential information is beyond the reach of public access, as in the case of trade negotiations, it must be available to parliamentarians who scrutinise trade policy on behalf of citizens; considers therefore that access to classified information is essential for scrutiny by Parliament, which in return should abide by its obligation to manage such information properly; considers that there should be clear criteria for labelling documents as ‘classified’ to avoid ambiguity and arbitrary decisions, and also that the document should be declassified as soon as its classification is no longer necessary; notes that the case law of the ECJ makes it clear that where a document originating in an EU institution is covered by an exception to the right to public access, the institution must clearly explain why access to this document could specifically and effectively undermine the interest protected by the exception, and that this risk must be reasonably foreseeable and not purely hypothetical; calls on the Commission to implement the recommendations of the European Ombudsman of July 2015 with particular regard to access to documents for all negotiations;

8. Believes that the EU must take the lead when it comes to furthering transparency of trade negotiations, regarding not only bilateral processes, but also plurilateral and multilateral ones where possible, with no less transparency than the negotiations organised in the World Trade Organisation (WTO) framework; stresses, however, that the Commission must also persuade negotiating partners to increase transparency at their end to make sure that this is a reciprocal process in which the EU’s negotiating position is not compromised and to include the aspired level of transparency in its scoping exercises with potential negotiating partners; stresses that increased transparency is in the interest of all the EU’s negotiating partners and stakeholders worldwide, and that it can strengthen global support for rules-based trade;
9. Recalls the importance for the CCP legislative process to count on Union statistics consistent with Article 338(2) TFEU and on impact assessments and sustainability impact assessments conforming to the highest standards of impartiality and reliability, a principle which should lead all respective revisions in the framework of the Commission’s ‘Better Regulation’ policy; considers that sector-by-sector impact assessments would provide EU trade agreements with a higher level of reliability and legitimacy;
10. Stresses that the Commission must promote the general interests of the Union, be led by members chosen on the grounds of their competence and independence, and refrain from any action incompatible with its duties (Article 17 TEU); welcomes initiatives aimed at greater transparency, accountability and integrity, including the decisions adopted by the Commission on 25 November 2014 and the new impetus given to the Transparency Register, which should be mandatory and binding for all EU institutions, bodies, offices and agencies; welcomes further reflection on how to improve the existing Transparency Register – the register of EU lobbyists – to make the legislative process more fact-based and transparent for citizens and stakeholders; calls for Parliament, in this respect, to coordinate action to enhance transparency within the institutions as regards the activity of lobby groups, non-governmental organisations, trade unions and special interest groups;
11. Believes firmly that transparency, integrity and ethical behaviour, accountability and good governance should inspire and be mainstreamed into all EU administrative and political initiatives, and considers that further commitment and interinstitutional coordinated work

towards higher standards of integrity should be sought, and that, for example, the Commission should not adopt guidelines implementing legislation which would run counter to the position of Parliament and the Council;

12. Believes that the credibility of the EU's ethical behaviour will be ultimately judged by citizens in relation to the consistency of the EU's political initiatives with its internal administrative standards; commends in this regard the EU internal standards on the fight against corruption and the protection of whistle-blowers;
13. Believes that Parliament should cooperate in a more targeted manner with the ECJ, the Court of Auditors, the European Ombudsman and the Commission's Anti-Fraud Office so that they can report to one another in detail on the evolution of CCP within the framework of their respective powers and responsibilities.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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| Date adopted | 10.12.2015 |
| Result of final vote | +: 33 -: 0 0: 3 |
| Members present for the final vote | Maria Arena, David Borrelli, David Campbell Bannerman, Daniel Caspary, Santiago Fisas Ayxelà, Karoline Graswander-Hainz, Ska Keller, Jude Kirton-Darling, Gabrielius Landsbergis, Bernd Lange, Emmanuel Maurel, Emma McClarkin, Artis Pabriks, Godelieve Quisthoudt-Rowohl, Viviane Reding, Inmaculada Rodríguez-Piñero Fernández, Marietje Schaake, Helmut Scholz, Adam Szejnfeld, Hannu Takkula, Iuliu Winkler |
| Substitutes present for the final vote | Klaus Buchner, Dita Charanzová, Nicola Danti, Sander Loones, Lola Sánchez Caldentey, Ramon Tremosa i Balcells, Marita Ulvskog, Wim van de Camp, Jarosław Wałęsa |
| Substitutes under Rule 200(2) present for the final vote | Edward Czesak, Eleonora Evi, Maurice Ponga, Dario Tamburrano, Derek Vaughan, Flavio Zanonato |

2.12.2015

OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

for the Committee on Constitutional Affairs

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Rapporteur: Tamás Deutsch

SUGGESTIONS

The Committee on Budgetary Control calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas transparency, accountability and integrity are key and complementary components in promoting good governance within EU institutions and ensuring greater openness in the functioning of the EU and its decision-making process;
 - B. whereas citizens' trust in the EU institutions is fundamental for democracy, good governance and effective policymaking;
 - C. whereas there is a need to reduce accountability gaps within the EU and to move towards more collaborative modes of scrutiny which combine democratic oversight, control and auditing activities while also providing more transparency;
 - D. whereas corruption has significant financial consequences and constitutes a serious threat to democracy, the rule of law and public investment;
 - E. whereas transparency, accountability and integrity should be the leading principles of the culture within the EU institutions;
1. Calls for an overall improvement in the prevention of, and the fight against, corruption in the public sector, and especially within the EU institutions, through a holistic approach, commencing with better public access to documents and more stringent rules on conflicts of interest, support for investigative journalism and for anti-corruption watchdogs, the introduction or strengthening of transparency registers and the provision of sufficient resources for law enforcement measures, and also through improved cooperation among Member States and with relevant third countries;
 2. Calls on all the EU institutions to enhance their procedures and practices aimed at

safeguarding the financial interests of the Union and to actively contribute to a results-oriented discharge process;

3. Underlines the need to enhance integrity and improve the ethical framework through better implementation of codes of conduct and ethical principles, so as to reinforce a common and effective culture of integrity for all EU institutions and agencies;
4. Advocates the creation of an independent structure to oversee the application of various codes of conduct and arrangements for the protection of whistleblowers, with reference to the highest possible professional ethical standards, in the context of strengthening the public-sector accountability framework and the performance of administration thanks to better governance principles and structures at all levels;
5. Considers it regrettable that the Council has still not adopted a code of conduct; is of the opinion that all the EU institutions should agree on a common code of conduct, which is indispensable to the transparency, accountability and integrity of those institutions; calls on those EU institutions and bodies which still do not have a code of conduct to develop such a document as soon as possible;
6. Calls for those EU institutions which have introduced codes of conduct, including Parliament, to step up their implementation measures, such as checks of declarations of financial interests;
7. Requests that all EU institutions implement Article 16 of the Staff Regulations by publishing, on an annual basis, information about senior officials who have left the EU administration, as well as a list of conflicts of interest; requests that the aforementioned independent structure assess the compatibility of post-EU employment or the situation whereby civil servants and former Members of the European Parliament move from the public to the private sector (the 'revolving door' issue) and the possibility of a conflict of interest, and define clear cooling-off periods, which should cover at least the period for which transitional allowances are granted, during which officials and MEPs are required to behave with integrity and discretion or to comply with certain conditions when taking up new duties; calls for the aforementioned structure to be made up of independent experts from outside the institution to ensure that it can carry out its missions in complete independence;
8. Recalls the general principle which states that every person is presumed innocent until proven guilty according to the law;
9. Encourages the EU institutions and bodies to better raise awareness of the conflict-of-interest policy among their officials, alongside ongoing awareness-raising activities and the inclusion of integrity and transparency as an obligatory item to be discussed during recruitment procedures and performance reviews; considers that a distinction should be made between elected representatives and public officials in the legislation on conflicts of interest; believes that there should also be such regulations in the Member States for public officials and civil servants involved in the administration and monitoring of EU subsidies; calls on the Commission to submit a draft legal basis on this matter;
10. Welcomes the Commission's decision to increase transparency by improving its system of expert groups, particularly as regards the procedure for selecting experts, through the

development of a new conflict-of-interest policy for experts appointed in a personal capacity, implying the possibility for Parliament to exercise direct control over such appointments; takes note of the requirement for experts to be registered in the transparency register where relevant; urges the Commission, however, to take into account the recommendations both of the European Ombudsman concerning the composition of the expert groups and of the study ‘Composition of the Commission’s expert groups and the status of the register of expert groups’ when drafting amendments to the current horizontal rules governing expert groups, in order to create a more systematic and transparent approach; requests that the Commission engage in a dialogue with Parliament before the rules are formally adopted, especially in relation to the upcoming report of the Committee on Budgetary Control and the Committee on Legal Affairs on this matter; encourages the European agencies to consider reforms in a similar sense;

11. Is of the opinion that further steps need to be taken both to tackle ethical issues relating to the political role of lobbies, their practices and their influence and to promote safeguards for integrity, in order to raise the level of transparency of lobbying activities; proposes that common rules governing the pursuit of lobbying activities within the EU institutions should be introduced;
12. Believes that the level of transparency should be raised through the creation of a legislative footprint for EU lobbying; calls for a proposal to be put forward that would enable publishing of all documents covering every step in the process of drafting legislation and that marks a definitive shift from a voluntary to a mandatory EU register for all lobbying activities for all of the EU institutions by 2016;
13. Calls on the Council to join the EU transparency register;
14. Considers, in this context, that a mandatory EU register must include clear provisions on the type of information to be recorded, i.e. accurate and regularly updated information on the nature of lobbying/legal activities, together with detailed records of contacts and input into EU law and policymaking; believes that a system of sanctions in the event of abuse must be envisaged under the supervision of Parliament; calls upon the Commission to submit its proposals for a mandatory register without further delay;
15. Demands that all those EU institutions that have not yet done so urgently adopt internal rules on whistleblowing and take a common approach to their obligations, focusing on the protection of whistleblowers; requests special attention for the protection of whistleblowers in the context of the Directive on the Protection of Trade Secrets; calls on the Commission to promote legislation on a minimum level of protection for whistleblowers in the EU; calls on the institutions to amend the Staff Regulations to ensure that they not only formally oblige officials to report irregularities of all kinds but also lay down adequate protection for whistleblowers; calls on the institutions to implement Article 22(c) of the Staff Regulations without delay;
16. Asks the EU institutions and bodies to apply strictly the measures pertaining to discretion and exclusion in respect of public procurement, with proper background checks being carried out in every instance, and to apply the exclusion criteria in order to debar companies in the event of any conflict of interest, this being essential to protect the EU’s financial interests;

17. Believes that the discharge procedure is an important instrument of democratic accountability to the citizens of the Union; recalls the difficulties repeatedly encountered in the discharge procedures to date, owing to a lack of cooperation on the part of the Council; insists that an effective budgetary control exercise and the democratic accountability of the institution requires the cooperation of Parliament and the Council;
18. Insists that the Council must be accountable and transparent, as are the other institutions;
19. States that the annual reports of the EU institutions could play an important role in compliance regarding transparency, accountability and integrity; calls for the EU institutions to include a standard chapter on these components in their annual reports;
20. Considers the Commission's first biennial anti-corruption report to be a promising attempt to better understand corruption in all its dimensions, to develop effective responses with a view to tackling it, and to pave the way for enhanced accountability of the public sphere to EU citizens; reaffirms, in this context, the importance of the EU's zero-tolerance policy on fraud, corruption and collusion; considers it regrettable, however, that this report did not include the anti-corruption policies of the EU institutions themselves;
21. Notes that the complex and multifaceted nature of corruption undermines democracy and the rule of law, and hinders and damages the EU's economy, credibility and reputation (in particular through concealment practices and pressure to deviate from initial policy objectives or to perform in a certain way);
22. Demands that in its second anti-corruption report, at the latest, the Commission carry out further analysis at the level of both the EU institutions and the Member States of the environment in which policies are implemented, in order to identify inherent critical factors, vulnerable areas and risk factors conducive to corruption;
23. Requests that the Commission pay particular attention in this regard to the prevention of conflicts of interest and corruptive practices in the case of decentralised agencies, which are particularly vulnerable considering the fact that they are relatively unknown to the public and are also located throughout the EU;
24. Reiterates its request¹ that the Commission report biannually to Parliament and the Council on the implementation by the EU institutions of their internal anti-corruption policies, and is looking forward to reading the next report in early 2016; asks the Commission to add a chapter on the performance of the EU institutions in fighting corruption and is of the opinion that the Commission's future anti-corruption reports should always cover all the EU institutions and bodies;
25. Considers the European Anti-Fraud Office (OLAF) to be a key actor in the fight against corruption and therefore believes that it is of the utmost importance that this institution work effectively and independently; recommends, in accordance with the OLAF Regulation, that the OLAF Supervisory Committee be given access to the information needed for effective execution of its mandate with regard to oversight of OLAF activities

¹ European Parliament resolution of 11 March 2015 on the Annual Report 2013 on the Protection of the EU's Financial Interests (Texts adopted, P8_TA(2015)0062).

and that it be given budgetary independence;

26. Calls for the EU to apply for membership of the Council of Europe Group of States against Corruption (GRECO) as soon as possible, and for Parliament to be kept up to date with the progress of this application;
27. Calls upon the Commission to fulfil without delay its reporting obligations under the UN Convention against Corruption;
28. Encourages enhanced cooperation among Member States with a view to exchanging know-how and good practices, reinforcing international agreements on judicial and police cooperation, and bringing together the EU, the United Nations, the Organisation for Economic Cooperation and Development and the Council of Europe to formulate a coordinated action to fight corruption;
29. Recognises the important role of Europol and Eurojust in combating organised crime, including corruption; believes that these agencies should be given further powers to act in this area, especially with regard to transnational cases; recommends that the European Public Prosecutor's Office (EPPO) be given a mandate covering organised crime, including combating of corruption; highlights that the tasks and responsibilities of the EPPO should be further clarified in order to avoid a potential overlap with the work of national authorities.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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|---|---|
| Date adopted | 1.12.2015 |
| Result of final vote | +: 21 -: 0 0: 0 |
| Members present for the final vote | Nedzhmi Ali, Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Jens Geier, Ingeborg Gräßle, Bogusław Liberadzki, Verónica Lope Fontagné, Monica Macovei, Georgi Pirinski, Claudia Schmidt, Igor Šoltes, Marco Valli, Tomáš Zdechovský |
| Substitutes present for the final vote | Benedek Jávor, Marian-Jean Marinescu, Julia Pitera, Miroslav Poche, Patricija Šulin |

8.12.2015

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

for the Committee on Constitutional Affairs

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Rapporteur: Nessa Childers

SUGGESTIONS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

General issues

1. Insists, recalling its resolution of 22 October 2014 on the Council position on the draft general budget of the European Union for the financial year 2015, on the need for a legally binding framework to replace the communication ‘Framework for Commission Expert Groups: Horizontal Rules and Public Register’¹, so as to achieve full and consistent implementation of the applicable rules across all Commission Directorates-General (DGs);
2. Highlights the fact that the general objective of the EU’s research policy relating to establishing public-private partnerships between companies and academia conflicts with the need for regulators in the EU for independent research on industry products; calls on the Commission to explore systemic safeguards with a view to avoiding conflicts of interest in the area of the regulation of industry products and policy enforcement;
3. Calls on the Commission to address the current structural conflict of interests in the public risk assessment of regulated products, namely the situation in which the assessment of these products is largely or entirely based on studies performed by applicants or third parties paid by them, while independent research is all too often disregarded or dismissed; insists that producers should still provide studies, with cost-sharing between large companies and SMEs based on relative market share to ensure fairness, but that all assessors should be obliged to fully take into account peer-reviewed independent science

¹ Communication C (2010)7649, 10.11.2010

in their assessment;

4. Welcomes private-sector investment in research and development; recalls that most experts have participated in research projects funded by the private sector; also recalls that expertise is a scarce resource which should not be made inaccessible to expert groups;

International issues

5. Calls on the Commission to issue and disseminate timely public calls for applications for the selection of all expert group membership, to be contingent on registration in the Transparency Register, and to ensure compliance with the OECD Guidelines on Managing Conflict of Interest in the Public Service and due diligence in the screening thereof on a yearly basis;
6. Encourages the Commission to emulate the example of the World Health Organisation (WHO)'s International Agency for Research on Cancer, by establishing the status of 'invited specialists' enabling it to draw on outside expertise, whilst precluding entities with actual, potential or apparent conflicts of interest from the voting and drafting prerogatives of expert group members;
7. Urges all the relevant EU institutions to implement Article 5.3 of the WHO's Framework Convention on Tobacco Control, which stipulates that the parties must act to protect tobacco control policies from commercial and other vested interests of the tobacco industry, in accordance with the recommendations contained in the guidelines thereto; urges the Commission to publish an assessment of the PMI agreement and agreements with other tobacco companies and an impact assessment on the implementation of the above framework convention; is disappointed with the recently published yet heavily redacted exchange of emails between the Commission and British American Tobacco;
8. Is convinced that the PMI agreement should not be negotiated before a public and transparent debate is held following the publication of an assessment of the PMI agreement; calls on the Commission to explore existing alternatives;
9. Considers that, in the absence of an overdue impact assessment by the Commission, a renewed Anti-Contraband and Anti-Counterfeit Agreement with the tobacco industry is an inadequate instrument for addressing illicit trade in tobacco, particularly in light of Article 15 of the Tobacco Products Directive and the WHO Protocol to Eliminate Illicit Trade in Tobacco Products, adopted by the parties to the WHO framework convention ;
10. Stresses the need for a tracking and tracing system for cigarette counterfeiting that is independent from the tobacco industry, in line with Article 8.2 of the WHO Protocol to Eliminate Illicit Trade in Tobacco Products, particularly in the absence of any referrals of seized contraband for independent laboratory assessment and given the vested industry interest in deeming seizures counterfeit under the terms of the Anti-Contraband and Anti-Counterfeit Agreement, with the attendant loss of customs revenue to the Union;

Lobbying Issues

11. Calls on the Commission to ensure public access to information on lobbying activities, in order to improve the transparency and integrity of the decision-making process in the EU

institutions; believes that public access to information on lobbying activities is an essential right of EU citizens and is necessary for due democratic practice;

12. Call on the EU institutions and their staff, as well as on the agencies, to refrain from inviting unregistered lobbyists to hearings and other official events; calls for the Commission's TTIP negotiating team to be included in any such provisions;
13. Calls on the EU institutions to create a publicly accessible internet repository for all position papers submitted by stakeholders, with all registered lobbyists being obliged to simultaneously submit to this repository a copy of all position papers they communicate to members or staff of the institutions;

EU matters

14. Considers that, at a time of rising euroscepticism, it is crucial to strengthen public trust in the EU institutions and the people who run them, and that a strong commitment to transparency, ensuring the integrity of the institutions and fighting corruption are of the utmost importance;
15. Recalls that a 2014 Eurobarometer survey revealed that 70 % of the public in the EU believe that corruption is present in the EU institutions, and therefore calls on the institutions to urgently address this lack of public trust;
16. Calls on the Commission, in particular, to review its communication of 2002 on general principles and standards for consultation of interested parties¹;
17. Calls on the President of the Commission to extend the new transparency measures for Commissioners and Directors-General to other senior EU officials who are heavily involved in the legislative process and meet regularly with relevant stakeholders, such as Heads of Unit;
18. Points out that the Charter of Fundamental Rights of the European Union gives individuals the right of access to public documents, and criticises the fact that one of the main transparency-related problems facing the European institutions is their own frequent refusal to grant access to documents and information;
19. Calls on the Commission to explore options encompassing legislative acts and institutional and administrative arrangements, and to take concrete action to create a framework to improve governance and explicitly represent the future generations, so as to better integrate their rights into decision-making and policymaking at European level;
20. Underlines that the Commission should strengthen the integrity of its use of scientific advice, in particular by not seeking political balance but, rather, by relying on the most objective and authoritative information available;
21. Calls on the Commission to streamline access to information and ensure greater transparency in the application of the rules on exceptions set out in Article 4 of Regulation (EC) No 1049/2001;

¹ COM(2002)0704, 11.12.2002

22. Strongly recommends a cooling-off period of 5 years from commercial interests as a requirement for candidate experts to participate as full members of scientific panels with drafting and decision-making duties;
23. Welcomes the Commission's decision to require its members to make public information on meetings they and the members of their private offices hold with organisations and self-employed individuals on matters relating to EU policymaking and policy implementation;
24. Calls on the Commission to ensure that access is provided to documents and information on formal notice issued to and infringement proceedings taken against Member States and on the implementation of Court of Justice judgments;
25. Acknowledges and welcomes the Commission's efforts to ensure greater transparency in the TTIP negotiations, and calls on the Commission to take those efforts further and give all MEPs easy access to the texts under negotiation;
26. Urges the Vice-President of the Commission in charge of Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights to maintain his pledge and come forward without further delay with proposals for the establishment of an Interinstitutional Agreement on a mandatory Transparency Register, including proper sanction mechanisms for organisations which do not comply with the rules; calls on the Council in its role of Union co-legislator to comply with the Transparency Register;

Expertise

27. Suggests that, in order to address issues arising from the selective suppression of unfavourable research findings, that the prior registration of scientific studies and trials, specifying their scope and expected date of conclusion, could be a condition for input into regulatory and policy processes;
28. Is concerned, given its role in protecting the integrity of public decision-making, at certain misleading registration practices of economic interests in expert groups, which distort the number of such interests represented in both absolute and relative terms, and also at the imbalance existing vis-à-vis non-economic or political interests;
29. Urges the Commission to make sure that consultations contain open questions leading to substantial policy discussion, rather than merely seeking to confirm policy directions or options that have already been chosen; calls on the Commission to ensure balanced participation in consultations by reflecting the diversity of stakeholders;
30. Considers that, in order to ensure factual balanced participation, special efforts should be made when publishing calls for applications to reach the different relevant expertise sectors, be it from the scientific field or civil society;
31. Welcomes the Commission's announcement of a review of the classification of expert group members in the Register of expert groups; considers that this exercise should bring the categorisation of members into line with that applied in the Transparency Register;

32. Calls on the Commission to enact legally binding measures and sanctions to ensure that the membership of expert groups and similar entities providing it with advice is accurately and consistently balanced, with due regard to participants' level of expertise and up-to-date experience of the issues under discussion, and categorised as to the nature of the interests represented by members, in line with the European Ombudsman's recommendations in the context of own-initiative inquiry OI/6/2014/NF;
33. Considers the overall level of disclosure of expert group proceedings and deliberations to be insufficient; calls on the Commission to ensure that more detailed information is made available in a timely and aggregated fashion, particularly as regards sub-groups; urges the Commission to make declarations of interests by experts as well as minutes of expert group meetings available to the public on its website;
34. Welcomes the Commission's commitment to introducing new provisions on conflicts of interest of individuals appointed as members of expert groups in a personal capacity; stresses the need for all experts to submit a declaration of interests for publication in the Register of expert groups;
35. Calls on the Commission to monitor the independence of experts throughout the performance of their duties, given that new economic interests could emerge during that time;
36. Recognises that expert groups need access to the best available scientific expertise;
37. Takes the view that the requirement of extremely specific technical expertise does not constitute valid grounds for obviating a call for applications;

Agencies

38. Highlights the need for independent experts in the EU agencies and for greater importance to be placed on eliminating conflicts of interests within the panels of the agencies;
39. Highlights the need for the agencies to base their decisions on the best available evidence; recalls that scientific rigour is ensured by the peer-review process and the transparency and reproducibility of the results;
40. Emphasises, in the interests of sound and independent scientific advice for policymaking, the importance of adequate resources for the development of in-house expertise within the EU's specialised agencies, including the opportunity to conduct publishable research and testing, thus enhancing the attractiveness of public service in regulatory advice roles without disruption of scientists' academic career tracks;
41. Insists that all data used by any agency to reach any given scientific conclusion must be made publicly available in a machine-readable format, so as to enable scientific scrutiny and constant progress; insists that while individual privacy must be respected, commercial confidentiality clauses and trade secrets legislation must not be allowed to impair the disclosure of data; calls on the Commission to closely monitor the proper implementation of data disclosure;
42. Calls on the EU institutions to ensure that the agencies are provided with the means

corresponding to their mission; recalls that currently experts working for a number of agencies are not paid for their work, despite the strategic importance of their contributions to public and environmental health;

43. Stresses, as far as the EU agencies are concerned, the inadequacy of reliance on self-assessment by prospective members of scientific panels and committees in order to screen for potential conflicts of interest; encourages the agencies to establish a system of proactive checks;
44. Stresses that the European Medicines Agency (EMA) should ensure maximum transparency in providing access to clinical reports, and welcomes its decision proactively to publish reports on clinical trials in support of its decisions on individual medicines;
45. Urges the EU agencies to continue their efforts to apply strict criteria and procedures to ensure the independence of their scientific panels from the economic and non-economic sectors affected by their deliberations and political influence from those having a specific agenda on the topic concerned, in order to avoid conflicts of interest in a correct fashion, with particular emphasis on the option of making use of a status of 'invited specialist' making it possible to receive input from experts who have links to regulated industries but are disqualified from drafting or decision-making roles in scientific opinions;

European Parliament issues

46. Praises its own Research Service for the high quality of its work; highlights the need to allocate more resources to this service and to further guarantee its administrative independence in the service of the public interest;
47. Intends to consider creating an open and searchable database of MEPs' declarations of interest in order to allow greater transparency and scrutiny by civil society;
48. Calls on the EU institutions to take measures to introduce or enhance the practice of minimum 'cooling-off periods' for senior EU officials and MEPs, which would operate before former officials or elected representatives became eligible to occupy lobbying positions that could create or be seen as creating conflicts of interest, thus avoiding 'revolving door' situations; calls in the meantime for the names to be made public of former senior EU officials or MEPs who have left their institutions and are working for private interests.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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|---|--|
| Date adopted | 1.12.2015 |
| Result of final vote | +: 68 -: 0 0: 0 |
| Members present for the final vote | Marco Affronte, Pilar Ayuso, Zoltán Balczó, Catherine Bearder, Ivo Belet, Simona Bonafè, Biljana Borzan, Soledad Cabezón Ruiz, Nessa Childers, Birgit Collin-Langen, Mireille D'Ornano, Miriam Dalli, Jørn Dohrmann, Ian Duncan, Stefan Eck, Bas Eickhout, Eleonora Evi, José Inácio Faria, Karl-Heinz Florenz, Francesc Gambús, Elisabetta Gardini, Gerben-Jan Gerbrandy, Jens Gieseke, Julie Girling, Sylvie Goddyn, Matthias Groote, Françoise Grossetête, Andrzej Grzyb, Jytte Guteland, György Hölvényi, Anneli Jäätteenmäki, Benedek Jávor, Karin Kadenbach, Giovanni La Via, Peter Liese, Norbert Lins, Susanne Melior, Massimo Paolucci, Gilles Pargneaux, Piernicola Pedicini, Pavel Poc, Frédérique Ries, Michèle Rivasi, Annie Schreijer-Pierik, Davor Škrlec, Renate Sommer, Tibor Szanyi, Claudiu Ciprian Tănăsescu, Nils Torvalds, Jadwiga Wiśniewska, Damiano Zoffoli |
| Substitutes present for the final vote | Guillaume Balas, Renata Briano, Nicola Caputo, Mark Demesmaeker, Christofer Fjellner, Luke Ming Flanagan, Krzysztof Hetman, Merja Kyllönen, Gesine Meissner, József Nagy, James Nicholson, Alojz Peterle, Bart Staes, Elżbieta Katarzyna Łukacijewska |
| Substitutes under Rule 200(2) present for the final vote | Marie-Christine Boutonnet, Anja Hazekamp, Jiří Maštálka |

5.2.2016

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Constitutional Affairs

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Rapporteur: Pavel Svoboda

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Emphasises that reinforcing the legitimacy, accountability and effectiveness of the EU institutions, together with the level of trust among EU citizens, is of the utmost importance, and believes that rules of good administration of the EU are key to achieving this objective through the provision of swift, clear and visible answers in response to citizens' concerns;
2. Stresses that, although a right to good administration which grants every person the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union is established in Article 41 of the Charter of Fundamental Rights of the European Union, which also includes the right of every person to be heard before any individual measure is taken, the right of access to files while respecting the legitimate interests of confidentiality and of professional and business secrecy and the duty of the administration to give reasons for its decisions, the lack of a coherent and comprehensive set of codified rules of administrative law makes it difficult for citizens to understand their administrative rights under EU law, thereby preventing them from having easy access to, and fully enjoying, those rights; believes that transparency is indispensable for increasing citizens' understanding of EU decision-making and for enhancing confidence in the EU institutions;
3. Believes that a European Law of Administrative Procedure applicable to the EU institutions, bodies, offices and agencies in their relations with the public would contribute to a high level of transparency and accountability, increase citizens' confidence in an open, efficient and independent EU administration with respect to their rights and enhance their procedural rights vis-à-vis the EU institutions;
4. Recalls, in this connection, that in its resolution of 15 January 2013, adopted by an overwhelming majority, Parliament called for the adoption of an EU regulation on a European Law of Administrative Procedure; regrets that no steps have been taken by the

Commission in this regard; calls again on the Commission to submit a proposal for a clear and binding set of rules for EU administration on the basis of Article 298 of the Treaty on the Functioning of the European Union (TFEU), which calls for openness, efficiency and independence, as well as on the basis of the general principles of EU law, as specified in the jurisprudence of the Court of Justice (CJEU); recalls that under Articles 10(3) and 11(2) TEU and Article 15 TFEU transparency is the democratic foundation of the European Union;

5. Considers that Parliament and the Council ought to accept more extensive transparency obligations, particularly in trilogues and conciliation procedures; recalls the need to improve the transparency of legislative negotiations and underlines the importance of publishing the progress of negotiations after each trilogue and to opt for a plenary mandate for Parliament's negotiating team in order to improve transparency in first reading agreements commonly conducted in trilogues;
6. Believes that a proactive culture of transparency that promotes the rule of law presupposes clear and efficient mechanisms for preventing and managing conflicts of interest within the EU institutions and advisory bodies; regrets, in this context, the absence of a common code of conduct for the European Council, which makes it difficult to assess whether integrity is safeguarded and potential misbehaviour sanctioned, and calls on the European Council to introduce comprehensive integrity rules for its President and his/her office; urges the Council to review its policy on access to documents and to align it with the relevant provision of the Charter of Fundamental Rights;
7. Recalls the importance of access to documents and therefore calls for an ambitious reform of Regulation (EC) No 1049/2001 and regrets the present deadlock in the Council on the revision; takes note of the case law of the Court of Justice of the EU, in particularly cases C-39/05 P and C-52/05 P where the Court has developed a distinction between documents of legislative and administrative proceedings when considering the conditions governing the public disclosure of documents within the context of the legislative procedure; recalls that, when granting access to documents, rules governing data protection must be observed;
8. Stresses that the work on greater transparency in the EU institutions must also include a revision of the Code of Conduct of the European Parliament; considers that its revision must at all events comprise a prohibition of those side-line activities which clearly constitute a conflict of interest for Members of the European Parliament; observes furthermore that in order to avoid conflicts of interest the payment of staff working for Members of the European Parliament by representatives of interest groups must be absolutely prohibited;
9. Regrets the lack of vetting of the integrity and/or financial interests of national representatives to, and of the Presidency of, the Council of the European Union, and urges the Council to introduce a specific code of ethics, including sanctions, which addresses the risks specific to national delegates;
10. Calls also on the Council to adopt comprehensive Codes of Conduct – covering conflicts of interest and effective tools for preventing and sanctioning inappropriate conduct – for the members and staff of the EU's two advisory bodies, the Committee of the Regions and the European Economic and Social Committee;

11. Calls on the EU agencies to adopt guidelines for a coherent policy on the prevention and management of conflicts of interest for members of the management board and directors, experts in scientific committees, and members of boards of appeal and to adopt and implement a clear policy on conflicts of interest, in accordance with the Roadmap on the follow-up to the Common Approach on EU decentralised agencies;
12. Proposes not only a formal examination of the declarations of financial interests of Commissioners-designate by the Committee on Legal Affairs of the European Parliament, but also a substantive one, so that any conflicts of interest can be avoided; welcomes the European Ombudsman's call on the Commission to make its review processes on 'revolving doors' cases more robust in order to avoid conflicts of interest; calls more specifically for the full implementation of Article 16 of the Staff Regulations; recalls that, in its resolution of 8 September 2015 on procedures and practices regarding Commissioner hearings, lessons to be taken from the 2014 process¹, Parliament considered that 'confirmation by the Committee on Legal Affairs of the absence of any conflict of interests, based on a substantive analysis of the declarations of financial interests, constitutes an essential precondition for the holding of the hearing by the committee responsible' (paragraph 4). Consequently, the Committee on Legal Affairs should 'issue guidelines in the form of a recommendation or initiative report, with a view to facilitating reform of the procedures relating to Commissioners' declarations of interests' (paragraph 13);
13. Is convinced that, in the context of relations with representatives of interest groups, it is essential to introduce a mandatory transparency register with the participation of the Commission, the Council and Parliament in order to achieve a minimum degree of transparency in legislation;
14. Finally, considers that effective protection of whistle-blowers would help to increase both public interest and democratic accountability in the European institutions; calls on the Commission to draw up a regulatory framework for whistle-blowers, with the aim of keeping their identity secret and protecting them against any form of reprisal; recalls Parliament's request to the Commission to examine the possibility of establishing a European whistle-blower protection programme and welcomes the European Ombudsman's investigation into whether the EU institutions are living up to their obligation of introducing internal whistleblowing rules; notes the Ombudsman's finding that most EU institutions have not yet properly implemented rules to protect whistle-blowers as requested following the reform of the Staff Regulations in 2014; requests that all EU institutions that have not yet done so to urgently adopt internal rules on whistleblowing and to take a common approach to their obligations.

¹ Texts adopted, P8_TA(2015)0287.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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|---|---|
| Date adopted | 28.1.2016 |
| Result of final vote | +: 22 -: 2 0: 1 |
| Members present for the final vote | Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Laura Ferrara, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Dietmar Köster, Gilles Lebreton, António Marinho e Pinto, Jiří Maštálka, Emil Radev, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka |
| Substitutes present for the final vote | Sergio Gaetano Cofferati, Pascal Durand, Angel Dzhambazki, Evelyne Gebhardt, Jytte Guteland, Heidi Hautala, Constance Le Grip, Angelika Niebler, Virginie Rozière |

18.2.2016

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Constitutional Affairs

on transparency, accountability and integrity in the EU institutions
(2015/2041(INI))

Rapporteur: Sylvie Guillaume

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes the Commission's announcement of its intention to present, in 2016, a proposal for an inter-institutional agreement revising the Transparency Register for representatives of interest groups; insists that the consultations preceding the proposal take account, in a balanced way, of the different points of view expressed; believes that the level of transparency must be raised by establishing a mandatory EU register;
2. Calls for the use of a legislative footprint for EU lobbying on a voluntary basis; points in this regard to the possibility of introducing annexes to Commission proposals and Parliament reports, clearly indicating which lobbyists had a substantial effect on the text of these proposals and reports; encourages MEPs and Council representatives to voluntarily publish information about their meetings with stakeholders, as is the practice of the Commission;
3. Calls upon those European institutions that have introduced codes of conduct, including Parliament, to step up their monitoring and implementation measures, such as checks on declarations of financial interests; notes that monitoring and sanctioning bodies must be politically independent;
4. Welcomes the Commission's intention of publishing a report every two years on the state of play with regard to corruption in the EU; calls on the Commission to submit without any further delay an addendum to its first anti-corruption report describing in detail the situation within the EU institutions from this point of view;
5. Calls on the Commission, in order to ensure that the institutions uphold the anti-corruption standards of the Council of Europe, to continue with discussions on the EU's accession to the Group of States against Corruption (GRECO) with a view to establishing a provisional timeline for this accession;

6. Regrets the limited progress made in ensuring the protection of whistleblowers and journalists, who can play a significant role in the fight against corruption; also regrets, therefore, that the Commission has not responded to Parliament's request to examine the possibility of establishing a European whistleblower protection programme; calls on the Commission to present a communication on this subject by the end of 2016 based on an assessment of the situation regarding whistleblower rules at national level, and to consider a possible plan for setting up minimum rules on whistleblowers;
7. Regrets also the lack of progress in addressing abuse of defamation laws in order to intimidate journalists and others investigating corruption; calls in particular on the Commission to initiate a discussion on legislation supporting the repeal of criminal penalties for defamation in the Member States;
8. Feels that a strong and independent European Public Prosecutor's Office, with clearly defined competences and responsibilities, will help to combat offences against the Union's financial interests and to investigate, prosecute and bring to justice the perpetrators of offences against the Union's financial interests; considers that any weaker solution would be detrimental to the Union budget; encourages the Council to give a new impetus to the negotiations on the PIF Directive in order to strengthen the existing legal framework and to enhance the efficiency of the protection of EU financial interests;
9. Deplores the deadlock in the Council on the revision of Regulation (EC) 1049/2001 on public access to documents; urges the Council to adopt a constructive position, taking into account the Position of the European Parliament adopted at first reading on 15 December 2011 and the requirements of the Treaty of Lisbon; notes that few of Parliament's recommendations regarding transparency and access to documents have been implemented; recalls that transparency enhances public trust in the EU institutions by allowing citizens to be informed about the EU decision-making process; citizens should be informed accurately and in good time; reiterates, therefore, that transparency of the EU's administration and law-making process is essential to the legitimacy of EU legislation and policies; emphasises that transparency is a cornerstone of 'better regulation';
10. Reiterates its recommendation that each EU institution or body appoint from within its existing management structures a Transparency Officer to be responsible for compliance with the rules;
11. Recalls the need to improve the transparency of legislative negotiations, including trialogues; notes, therefore, that their transparency should be increased by reporting in the competent parliamentary committee on the state of play of the trilogue negotiations; notes in particular that, under Rule 73(4) of Parliament's Rules of Procedure, after each trilogue the negotiating team must report to the committee responsible and make available to it documents reflecting the outcome of the trilogue; calls, therefore, for both the oral report and the documents to contain detailed information on the state of the trilogue negotiations; calls furthermore for a list of the dates of trilogue meetings and the names of the direct participants to be made publicly accessible;
12. Stresses the importance of allowing adequate time between the achievement of a final agreement in any given trilogue and the vote of confirmation in the competent committee, so that members of the competent committee are able to read the text and discuss it in

their political groups before the final vote in committee;

13. Calls for increased transparency on the EU Agencies and their relations with other EU bodies; stresses the importance of transparent processes of nomination, election and appointment of Agency representatives, especially in cases where Parliament is included;
14. Considers that the Commission's first biennial anti-corruption report was a promising attempt to oversee corruption in the Member States; calls on the Commission to include an analysis of corruption risks in the EU institutions in the forthcoming 2016 report, along with an overview of the greatest corruption problems in the Member States, policy recommendations to tackle them and follow-up measures to be taken by the Commission, taking specific account of the detrimental impact of corrupt activities on the functioning of the Internal Market.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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|---|--|----|----|----|---|----|---|
| Date adopted | 16.2.2016 | | | | | | |
| Result of final vote | <table style="width: 100%; border: none;"> <tr> <td style="width: 100px;">+:</td> <td style="text-align: right;">49</td> </tr> <tr> <td>-:</td> <td style="text-align: right;">1</td> </tr> <tr> <td>0:</td> <td style="text-align: right;">6</td> </tr> </table> | +: | 49 | -: | 1 | 0: | 6 |
| +: | 49 | | | | | | |
| -: | 1 | | | | | | |
| 0: | 6 | | | | | | |
| Members present for the final vote | <p>Jan Philipp Albrecht, Michał Boni, Caterina Chinnici, Ignazio Corrao, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Monika Flašíková Beňová, Lorenzo Fontana, Kinga Gál, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Brice Hortefeux, Sophia in 't Veld, Eva Joly, Sylvia-Yvonne Kaufmann, Timothy Kirkhope, Barbara Kudrycka, Kashetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Monica Macovei, Roberta Metsola, Claude Moraes, József Nagy, Péter Niedermüller, Soraya Post, Judith Sargentini, Birgit Sippel, Branislav Škripek, Helga Stevens, Traian Ungureanu, Bodil Valero, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský</p> | | | | | | |
| Substitutes present for the final vote | <p>Marina Albiol Guzmán, Carlos Coelho, Anna Maria Corazza Bildt, Pál Csáky, Daniel Dalton, Dennis de Jong, Gérard Deprez, Anna Hedh, Petr Ježek, Emil Radev, Christine Revault D'Allonnes Bonnefoy, Barbara Spinelli, Elissavet Vozemberg-Vrionidi</p> | | | | | | |

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

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|---|---|
| Date adopted | 21.3.2017 |
| Result of final vote | +: 20 -: 2 0: 2 |
| Members present for the final vote | Michał Boni, Elmar Brok, Richard Corbett, Pascal Durand, Esteban González Pons, Danuta Maria Hübner, Diane James, Ramón Jáuregui Atondo, Jo Leinen, Maite Pagazaurtundúa Ruiz, Markus Pieper, Paulo Rangel, Helmut Scholz, Pedro Silva Pereira, Barbara Spinelli, Claudia Tapardel, Kazimierz Michał Ujazdowski |
| Substitutes present for the final vote | Gerolf Annemans, Ashley Fox, Sven Giegold, Sylvia-Yvonne Kaufmann, Jérôme Lavrilleux, Rainer Wieland |
| Substitutes under Rule 200(2) present for the final vote | Laura Agea |

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

| 20 | + |
|-----------|--|
| ALDE | Maite Pagazaurtundúa Ruiz |
| ECR | Ashley Fox, Kazimierz Michał Ujazdowski |
| EFDD | Laura Agea |
| GUE/NGL | Helmut Scholz, Barbara Spinelli |
| NI | Diane James |
| PPE | Michał Boni, Esteban González Pons, Danuta Maria Hübner, Jérôme Lavrilleux, Paulo Rangel |
| S&D | Richard Corbett, Ramón Jáuregui Atondo, Sylvia-Yvonne Kaufmann, Jo Leinen, Pedro Silva Pereira, Claudia Tapardel |
| VERTS/ALE | Pascal Durand, Sven Giegold |

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|-----|----------------------------|
| PPE | Elmar Brok, Rainer Wieland |

| 2 | 0 |
|-----|-----------------|
| ENF | Gerolf Annemans |
| PPE | Markus Pieper |

| Corrections to final vote and voting intentions | |
|---|-----------------|
| + | Gerolf Annemans |
| - | |
| 0 | |

Key to symbols:

+ : in favour

- : against

0 : abstention