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*Committee on Legal Affairs*

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**2015/2041(INI)**

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 process<sup>1</sup>, 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.

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<sup>1</sup> Texts adopted, P8\_TA(2015)0287.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	28.1.2016
<b>Result of final vote</b>	+: 22 -: 2 0: 1
<b>Members present for the final vote</b>	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
<b>Substitutes present for the final vote</b>	Sergio Gaetano Cofferati, Pascal Durand, Angel Dzhambazki, Evelyne Gebhardt, Jytte Guteland, Heidi Hautala, Constance Le Grip, Angelika Niebler, Virginie Rozière