

Draft European Parliament & European Commission Agreement

on the establishment of a "Transparency Register"

(For: Organisations and individuals working as independent engaged in EU policy making and policy implementation)

This text reflects the consensus reached within the High Level Group of the European Parliament and the European Commission. It is made public for the purpose of transparency and information however it should be understood that, as of today, it has not been approved as by these institutions to which it will now be submitted

The European Parliament and the European Commission (hereinafter referred to as "the Parties"):

Having regard to the Treaty on European Union (TEU), in particular Article 11 (1) and (2), the Treaty on the Functioning of the European Union (TFEU), in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (hereinafter referred to as "the Treaties");

Recalling that European policy makers do not operate in isolation from civil society, but maintain an open, transparent and regular dialogue with representative associations and civil society;

HAVE DECIDED AS FOLLOWS:

I. Establishment of the Transparency Register

1. In conformity with their commitment to transparency, the European Parliament and the European Commission agree to establish and operate a common register - "**The Transparency Register**" (hereinafter "the register") - for the registration and monitoring of the organisations and individuals engaged in EU policy making and policy implementation.

II. Principles of the register

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2. The establishment and operation of the register shall build upon the existing systems set up and launched by the European Parliament in 1996 and the European Commission in June 2008, completed by the work of the European Parliament and European Commission joint working group as well as by the adaptations drawn from the experience and from the input collected from stakeholders set out in the Commission's Communication "The register of interest representatives, a year after" of 28 October 2009¹. This approach does not affect, or prejudice, the objectives of the European Parliament as expressed in its resolution² on this topic.

3. The establishment and operation of the register shall respect the general principles of EU law, including the principles of proportionality and non discrimination.

4. It shall respect the rights of Members of the European Parliament to exercise their parliamentary mandate without restriction, and shall not act as an impediment to access for Members' constituents to Parliament's premises.

5. It will not impinge on the parties' competences or prerogatives or affect their own organisational powers.

6. All operators engaged in similar activities should be treated in a similar manner, and the two parties consider that there should be a level playing field for the registration of organisations and individuals working as independent engaged in EU policy making and policy implementation.

III. Structure of the register

7. The "Transparency Register" shall include the following items:

a) A set of guidelines on the register:

- The scope of the register, eligible activities and exemptions
- Sections opened to registrants (Annex 1)

¹ COM(2009)612 final of 28 October 2009

² EP resolution of 8 May 2008 on the development of the framework for the activities of interest representatives in the European Institutions (P6_TA(2008)0197).

-Information required from the registrants, including the financial disclosure requirements. (Annex 2).

b) A code of conduct (Annex 3)

c) A complaint mechanism and measures to be applied in case of non-compliance with the code of conduct (Annex 4) including the procedure for the treatment of complaints.

IV. Scope of the register

8. The scope of the register covers all activities, other than those excluded hereunder, carried out with the objective of directly or indirectly influencing the policy formulation or implementation and decision-making processes of the European institutions, irrespective of the communication channel or medium used, which may, inter alia, include outsourcing, media, contracts with professional intermediaries, think-tanks, "platforms", fora, campaigns and grassroots initiatives. These activities may include: inter alia, contacting Members, officials or other staff of the EU institutions, preparing, circulating and communicating letters, information material or argumentation and position papers, organising events, meetings or promotional activities and social events or conferences to which invitations have been sent to individual staff or Members of European institutions. Voluntary contributions and participation in formal consultations on legislative or regulatory proposals and other open consultations are also included.

9. All organisations, irrespective of their legal status, engaged in activities falling under the scope of the register are expected to register³.

10. The following activities are excluded from the scope of the register:

- a) Activities concerning the provision of legal and other professional advice, in so far as they relate to the exercise of the fundamental right to a fair trial of a client, including the right of defence in administrative proceedings, such as carried out by lawyers or by any other professionals involved therein. In particular, the following do not fall within the scope of the register (irrespective of the actual parties involved): advisory work and contacts with public bodies in order to better

³ EU Member States governments, third country governments, international intergovernmental organisations as well as their diplomatic missions are not expected to register.

inform a client about a general legal situation, his or her specific legal situation, or whether or not a particular legal or administrative step is appropriate or admissible under the law as it stands; advice given to a client to help him or her ensure that his or her activities comply with the law; representation in the context of a conciliation or mediation procedure aiming to prevent a dispute being brought before a judicial or administrative body. This approach applies to all business sectors in the European Union and is not restricted to certain specific procedures (competition). In so far as an individual company and its advisers are involved in a specific legal or administrative case or proceeding in which they are party, any activity directly related to this case, not aiming as such at changing the existing legal background, does not fall within the scope of the register.

- b) Activities of the social partners as actors in the social dialogue (trade unions, employers associations) when acting within the role assigned to them in the Treaties. This applies mutatis mutandis to any entity specifically designated in the Treaties to play an institutional role;
- c) Activities in response to a European institution's or Member of the European Parliament's direct and individualised request, such as ad hoc or regular requests for factual information, data or expertise, individualised invitations to a public hearings, or to participation in consultative committees or in any similar fora.

11. Churches are not concerned by the register. However their representation offices or legal bodies, offices and networks created to represent them towards the European institutions, as well as their associations, are expected to register.

12. Political parties are not concerned by the register. However any organisations which they create or support, engaged in activities falling under the scope of the register, are expected to register.

13. Local, regional and municipal authorities are not concerned by the register. However their representation offices or legal bodies, offices and networks created to represent them towards the European institutions, as well as their associations, are expected to register.

14. Networks, platforms or other forms of collective activity without a legal status or legal personality but which constitute de facto a source of organised influence, and engaged in activities falling within the scope of the register are expected to register. In such case its members should identify one of their number as its responsible contact person for their relations with the administration of the register.

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15. The activities to be taken into account for the financial declaration in the register are those aimed at all European institutions, agencies and bodies, and their members, officials and other staff. These activities also include activities directed at Member States' bodies operating at EU level engaged in EU decision-making processes.

16. European networks, federations, associations or platforms are encouraged to produce common, transparent guidelines for their members identifying the activities falling under this definition. They are expected to make these guidelines public.

V. Registrants

17. By registering, the organisations and individuals concerned:

- agree that the information which they provide shall be public;
- agree to act in compliance with the code of conduct; where relevant, provide the text of any professional code of conduct to which they are bound;
- guarantee that the information provided is correct;
- accept that any complaint against them will be handled based upon the rules in the code of conduct underpinning this register;
- agree to be subject to any measures to be applied in case of breach of the code of conduct and acknowledge that the measures foreseen in Annex 4 could be applied to them in case of a non-compliance with the rules of the code of conduct;
- note that the European Commission or European Parliament may, upon request and subject to the provisions of Regulation (EC) No 1049/2001 on access to documents, have to disclose correspondence and other documents concerning the activities of registered entities.

VI. Measures in case of non-compliance with the code of conduct

18. Non-compliance with the code of conduct by registered entities or by their representatives may lead to measures such as suspension or exclusion from the register and, if applicable, the withdrawal of the access badges to the European Parliament issued to the person concerned and, if appropriate, their firms, following an investigation paying due respect to proportionality and the right of defence. A decision to apply such measures may be published on the register's website.

19. Anyone can lodge a complaint with the European Commission or European Parliament, substantiated by material facts, about a suspected non-compliance with the

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code of conduct, in accordance with the procedure of Annex 4.

VII. Implementation

20. The Secretaries-General of the European Parliament and the European Commission shall be responsible for the supervision of the system and all key operational aspects, and shall by mutual accord take the measures necessary to implement this agreement.

21. To implement the system the European Parliament and the European Commission services will establish a joint operational structure: "The joint Register Secretariat". It will be constituted by a group of officials from both institutions on the basis of an arrangement to be made between the competent services. The Register Secretariat shall operate under the coordination of a Head of Unit in the Secretariat General of the Commission. Its tasks will include the implementation of measures to contribute to the quality content of the register.

22. The issuing and the control of long-term access cards to the European Parliament's buildings will remain a process operated by this institution. Such cards for individuals representing, or working for, organisations falling within the scope of the Transparency Register, will only be issued if those organisations or individuals have registered, though registration shall not confer an automatic entitlement to such a card.

23. Although the system shall operate jointly, both institutions remain free and independent to use the register for their own specific purposes including the attachment of incentives, such as the transmission of information to the registrant when launching public consultations or organising events.

24. Both institutions shall undertake appropriate internal communication and training to raise awareness of the common register and the complaints procedure among their Members and staff.

25. Both Institutions shall take appropriate measures externally to raise awareness of the register and promote its use.

26. Through a user-friendly search engine, the system will publish on the Europa website a number of regular basic statistics extracted from the data base. The public content of this data base will be available on request in electronic, machine readable, formats.

27. Following consultation with stakeholders, an annual report on the operation of the register shall be submitted by the Secretaries-General of the European Parliament and

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European Commission to the responsible Vice-Presidents of the European Parliament and the European Commission.

VIII. Involvement of other institutions and bodies

28. The European Council and the Council of Ministers are invited to join this register. Other EU institutions, bodies and agencies are encouraged to use this system themselves as a reference instrument for their own interaction with organisations and individuals engaged in EU policy making and policy implementation.

IX. Final provisions

29. The switchover between the existing register of the Commission and the European Parliament's list of accredited organisations towards the new common register will take place over a transition period of twelve months from the day of entry into operation of the common system. The existing registrants on either system shall be invited to renew their registration on the common system.

Once the common Transparency Register has been launched:

- registered entities will have the possibility to switch their existing registration to the new register at the date of their choice but at the latest at the day of renewal of their Commission registration, or, for those only registered in the Parliament's list of accredited organisations, at the latest at the end of a twelve month period.
- any registration of a new entity or update of existing data will only be possible through the new common register.

30. The register shall be subject to review no later than two years following its initial entry into operation.

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Annex 1

"Transparency Register"

Organisations and individuals working as independent engaging in EU policy making and policy implementation

Sections		Specificities/remarks
I - Professional consultancies/ law firms		
subsection	Professional consultancies	Firms acting under contract for lobbying, advocacy, public affairs, government relations activities
subsection	Law firms	Law firms acting under contract for lobbying, advocacy, public affairs, government relations activities.
subsection	Independent consultants	Independent consultants or lawyers acting under contract for lobbying, advocacy, public affairs, government relations activities
II - "In house lobbyists", trade /professional associations.		
subsection	Companies & groups	Individual companies or groups of companies (with or without a legal status) having in house lobbying, advocacy, public affairs, government relations activities.
subsection	Trade, business, & professional associations,	
subsection	Trade Unions	
subsection	Other similar	
III - NGO's		
subsection	Non governmental organisations, platform & networks and similar	Not for profit organisations with or without a legal status, independent from government, political parties or commercial organisations. Includes Foundations, charities,, etc.
IV – Think tanks, academic & research institutions		
subsection	Think tanks & Research institutions	Specialised research institutions dealing inter alia with the activities and policies of the European Union.
subsection	Academic institutions	Institutions whose primary purpose is education but that deal with the activities and policies of the European Union.

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V – Organisations representing churches and religious communities		NB: Churches themselves are not concerned by the register
subsection	Organisations representing churches and religious communities.	Legal entities, offices or networks set up for representation activities.
VI – local, regional & municipal authorities, other public or mixed entities etc.		NB: Public authorities themselves are not concerned by the register
subsection	Local & regional Authorities (subnational level)	Legal entities, representation offices, associations or networks set up to represent local & regional authorities (subnational level)
subsection	Other public or mixed entities etc.	Includes other organisations with a public or mix (public/private) status.

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Information to be provided by the registrants

GENERAL & BASIC INFORMATION

- Organisation name(s), address, phone number, e-mail address, website.
- Identity of the person legally responsible for the organisation and name of the organisation's director or managing partner or principal contact point in respect of activities covered by the register if applicable. Names of the persons for whom access badges to EP' buildings are issued ⁴
- Number of persons (Members, staff, etc) involved in activities falling within the scope of the register.
- Goals/remit – fields of interest – activities, countries of operations – network affiliations - general information falling under the scope of the register.
- If applicable: Number of individual members or member organisations.

SPECIFIC INFORMATION

A. ACTIVITY

Main legislative proposals covered, in the preceding year by activities falling under the scope of the transparency register

B. FINANCIAL INFORMATION

All financial figures provided should cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of renewal.

- **Professional consultancies/ law firms (section I):** The turnover attributable to the activities falling within the scope of the register, as well as the relative weight of their clients according to the following grid:

Level of turnover in €	Bracket size in €
0 – 500 000	50 000

⁴ Registrants will be asked this at the end of the registration process, for submission to the EP authorities. The names of individuals to whom access badges will have been allocated will be then automatically inserted by the system on the basis of EP's updates and information after EP decision to grant the badges. Registration does not imply an automatic entitlement to an EP access badge.

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500 000 – 1 000 000	100 000
> 1 000 000	250 000

- **"In house lobbyists", trade /professional associations (section II):** An estimate of the cost of activities falling within the scope of the register

- **All others (sections III, IV, V & VI): NGOs Think tanks, academic & research institutions - Religious organisations - local , regional & municipal authorities associations, other public or mixed entities etc:** Overall budget and breakdown of main sources of funding

+ **For all:** Amount and source of funding received from the EU institutions in financial year n-1 of registration.

Double counting: Double counting is not excluded: The financial declaration made by Professional consultancies & law firms about their clients (list and grid) does not exempt these clients from including themselves these contractual activities in their own declaration so that their declared financial effort is not underestimated.

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Common code of conduct

In the context of their relations with the EU institutions and their Members and staff, registered entities shall:

- a) always identify themselves by name and by the entity or entities they work for or represent; declare the interests, objectives or purposes and where applicable the clients or the members, which they represent;
- b) not obtain or try to obtain information, or any decision, dishonestly, or by use of undue pressure or inappropriate behaviour;
- c) not claim any formal relationship with the EU or any of its institutions in their dealings with third parties, nor misrepresent themselves as to the effect of registration to mislead third parties and/or EU staff;
- d) ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities covered under the scope of the register is complete, up-to-date and not misleading;
- e) not sell to third parties copies of documents obtained from any EU institution;
- f) not induce EU staff, Members or Members' assistants or trainees, to contravene rules and standards of behaviour applicable to them;
- g) if employing former EU staff or Members' assistants or trainees, respect their obligation to abide by the rules and confidentiality requirements which apply to them;
- h) observe any rules laid down on the rights and responsibilities of former Members of the European Parliament and the European Commission;
- i) inform whomever they represent of their obligations towards the EU institutions;

Individuals representing entities which have registered with Parliament for the purpose of being issued with a nominative badge for access to Parliament's premises shall:

- j) comply strictly with the provisions of Rule 9 (4) and Annex X, as well as the provisions of Annex I, Article 2, second paragraph, of Parliament's Rules of Procedure;

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- k) satisfy themselves that any assistance provided in accordance with the provisions of Annex I, Article 2 is declared in the appropriate register;
- l) in order to avoid possible conflicts of interest, obtain the prior consent of the Member or Members of the European Parliament concerned as regards any contractual relationship with or employment of a Member's assistant, and subsequently declare this in the common register.

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Procedure for the investigation and the treatment of complaints

Stage 1: Submitting a complaint

1. Complaints can be submitted on the common register's website, by completing a standard form, which includes information about the party being complained about, the name and contact details of the complainant and details about the complaint including documents or other materials supporting the complaint. Anonymous complaints shall not be considered.
2. The complaint shall indicate one or more clauses of the code of conduct which the complainant alleges have been breached. Complaints about information entered in the register are treated as violations of clause d)⁵
3. Complainants must in principle provide supporting documents (including material elements) to their complaint.

Stage 2: Decision on admissibility

4. The Register secretariat shall
 - (a) Verify that sufficient elements are provided to support the complaint in the form of documents, other written material or personal statements⁶;
 - (b) On that basis, decide upon the admissibility of the complaint;
 - (c) Register the complaint and fix a deadline (20 working days) for the decision on whether or not the complaint shall be considered well-founded.

⁵ "ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities covered under the scope of the register is complete, up-to-date and not misleading.

⁶ To be admissible those material elements should in principle be sourced either from the incriminated organisation itself or from third parties' document.

5. If the complaint is deemed inadmissible, the complainant shall be informed by letter, which shall state the reasons for the decision. If the complaint is admissible, it shall be investigated as outlined below.

Stage 3: Investigation

6. After registering the complaint, the Register secretariat shall inform in writing the registrant against which a complaint is submitted about the complaint and its contents and invite it to present its explanations, arguments or other elements of defence within 10 working days.

7. All information collected during the investigation shall be examined by the Registry Secretariat.

8. The Registry secretariat may decide to hear the registrant against which a complaint is submitted, or the complainant.

Stage 4: Decision on complaint

9. If upon investigation the complaint is deemed ill-founded, the Register secretariat shall inform both parties to the complaint of this decision. If the complaint is upheld, the registrant concerned may be temporarily suspended from the register in order to address the problem (see stage 5 below) or may be subject to measures ranging from long-term suspension from the register to exclusion from the register and withdrawal, where applicable, of any access badge to the European Parliament (see stages 6 and 7 below).

Stage 5: Measures in case of non-compliance with the code of conduct

10. The measures which may be applied in cases of non-compliance with the code of conduct range from temporary suspension up to deletion from the register (see below grid).

11. If it is established that there is wrong or incomplete entry of information in the register, the registrant concerned shall be invited to correct the information within eight weeks, during which period its registration shall be suspended. The EP badge(s), if any, are not withdrawn during this period of suspension.

12. If the registrant corrects the data, its registration shall be reactivated. If the organisation does not act within this period, a measure may be imposed.

13. If the registrant requests more time to act, and presents justifications, the period of suspension may be prolonged.

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14. In case of non-compliance with the code of conduct on other grounds, the registration of the registrant in question shall be suspended for a period of 8 weeks, during which time the European Commission and European Parliament shall take the final decision on application of a possible measure.

15. Any decision to delete an entity from the register shall also include a ban for future registration for a one or two year period.

Stage 6: Decision on the measure to be applied

16. A draft decision on the measure to be applied shall be prepared jointly by the European Parliament and Commission's competent services and forwarded for final decision to the Secretaries-General of the institutions. The responsible European Commission and European Parliament Vice-Presidents will be informed.

17. The Register secretariat shall immediately inform both parties (the complainant and the organisation against which the complaint was made) of the measure decided and implement it.

Stage 7: removal (if applicable) of European Parliament access badge

18. Decisions on deletion from the register which entails a removal of access badge(s) to the European Parliament shall be communicated by the Secretary-General of the European Parliament to the responsible Quaestor, who shall be invited to authorise the withdrawal of any EP badge(s) held by the individual/company.

19. The organisation shall be notified of its deletion from the register and shall be invited to return all or some of its EP badges within 15 days.

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Grid of measures available in case of non-compliance with the code of conduct

	Type of non-compliance	Measure	Mention of measure in register	EP Access card withdrawn
1	Unintentional non-compliance immediately corrected	Written notification acknowledging the facts and their correction	No	No
2	Intentional non-compliance with the code needing behaviour change or data correction in register	Provisory suspension for a period of up to six months or until the corrective action requested is executed within the set deadline	Yes during the suspension period	No
3	Persistent non-compliance with the code - Absence of change of behaviour - Failure to correct data within the deadline set by measure 2	Deletion for one year	Yes	Yes
4	Serious, intentional non-compliance with the code	Deletion from the register. Cannot be reintroduced within 2 years	Yes	Yes

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