



Joint Transparency Register Secretariat



Inter-institutional high-level Working Group on the Revision of the Transparency Register

In line with clause 30 of the Inter Institutional Agreement (IIA) on the Transparency Register, and following an EP Bureau decision of 10 June 2013, an inter-institutional high-level Working Group for the Revision of the Transparency Register (TR) was established between the European Parliament and European Commission; it includes members from both of these institutions, as well as an observer from the European Council.

Members of the Working Group:

Vice-President Rainer Wieland, EP
Vice-President Maroš Šefčovič, European Commission
Vice-President Anni Podimata, EP
Vice-President, Edward McMillan-Scott, EP
Vice-President Isabelle Durant, EP
Vice-President Oldřich Vlasák, EP
Quaestor Jiří Maštálka, EP
Carlo Casini, Chair of EP's AFCO Committee, EP
Francesco Speroni, EFD representative, EP
Martin Ehrenhauser NI representative, EP
Rafal Trzaskowski, AFCO Coordinator, EP
Roberto Gualtieri, AFCO Coordinator, EP

Summaries of meetings of the Working Group which have so far taken place:

- Constitutive Meeting of Tuesday 9 July 2013:

The Coordinator of the JTRS (Joint Transparency Register Secretariat), described to Members of the WG the general functioning of the TR and key issues to be addressed in the framework of the reform, as outlined in the JTRS 2012 annual report.

Members were invited by the Chair to hold a first exchange of views on all issues related to the TR.

The Chair introduced the working method and timetable of work for the Group, which were both approved.

The Chair suggested that one of the meetings programmed for October should be dedicated to an exchange of views with stakeholders and that a meeting in November should be dedicated to an exchange of views with relevant academics.

The WG decided to focus the next meeting on technical issues related to Annexes I and II of the IIA on the TR, which cover the categories of organisations and self-employed individuals concerned by the register and the information to be provided by registrants, respectively.

- Meeting of Wednesday 28 August 2013 was CANCELLED
- Meeting of Tuesday 3 September 2013:

The Chair welcomed a Council representative to the WG who would follow proceedings as an observer.

The Coordinator of the JTRS reported to Members of the WG on key issues that could be addressed in the framework of a reform of Annexes I and II of the TR, covering the categories of organisations and self-employed individuals concerned by the Register and the information to be provided by registrants, respectively.

The Members of the WG held an extensive exchange of views on Annexes I & II of the TR.

The WG decided to focus the next meeting on technical issues related to Annexes III and IV of the IIA on the TR, which cover "Code of conduct" for interest representatives and the "Procedure for investigation and treatment of complaints", respectively.

The WG decided to dedicate the meeting of 15 October 2013 to an exchange of views with stakeholders representing European horizontal organisations corresponding to categories I to IV of the TR and to dedicate a part of the meeting of 6 November 2013 to an exchange of views with recognized experts on transparency issues.

- Meeting of Monday 30 September 2013:

The Chair announced that (a maximum of two representatives from) 13 stakeholder organisations¹ had been invited to the Working Group meeting of 15 October, which, for obvious time constraints, would be structured as a Question & Answers session, with Members addressing their questions to the stakeholder representatives invited. The Chair also announced that four academic experts, whose work focused on lobby regulation, had been contacted with regard to a possible exchange of views at the meeting of 6 November.

The Members of the WG held an extensive exchange of views on Annexes III & IV of the TR. These annexes cover the code of conduct and the procedure for the investigation and treatment of complaints, respectively. The Coordinator of the JTRS responded to questions raised by Members in this regard.

The Chair proposed that in order to respond to outside interest in the proceedings of the Working Group, short summaries of each meeting should be published on the website of the Transparency Register².

- Meeting of Thursday 10 October 2013:

Members of the WG held an extensive exchange of views on horizontal subjects related to the Interinstitutional Agreement on the establishment of the Transparency Register, such as

¹ EPACA; SEAP; IPRA; CCBE; Business Europe; UEAPME; CEEP; ETUC; CSCG; FAIB; Transparency International; ALTER EU; AER

² <http://ec.europa.eu/transparencyregister/info/consult-register/whatsNew.do?locale=en>

possible incentives linked to registration, the position of the Council, scope and monitoring of the content of the register and the responsibilities of the Joint Secretariat. The Members of the WG concluded their discussions on Annexes I- IV of the Inter Institutional Agreement.

- Meeting of Tuesday 15 October 2013 (exchange of views with stakeholders):

The Chair welcomed representatives of ten stakeholder organisations present at the meeting³, covering Sections I, II, III and VI (Annex I) of the Transparency Register, and informed them that Members of the Working Group would question them on the written statements they had submitted to the Joint TR Secretariat in June⁴.

The WG held an extensive and in-depth exchange with the representatives of the stakeholder organisations invited to the meeting on the following issues:

- Section I in general, and more specifically subsection "law firms";
- Section VI, and more specifically subsection "Local, regional and municipal authorities";
- Comparable models of regulation of interest representation at EU and international levels;
- The role and participation of other EU institutions and bodies/ agencies;
- Creating a level playing field for all stakeholders in the register;
- Quality and comparability aspects of data contained in the register;
- Increased adherence to the current system by identifying further incentives etc;
- Code of Conduct for interest representatives;
- Complaint procedures;

The discussions also covered interest representation in general with regard to the EU decision-making process, and which activities should be reflected in the register.

The Chair reminded Members that the issue of mandatory registration and the legal questions related to it would be discussed at the next meeting of the Working Group, in the presence of four academics or experts.

The Chair expressed his appreciation to the representatives of the stakeholder organisations for coming and informed them of the planned working schedule of the Working Group, aiming at completing discussions on the reform process of the Transparency Register by the end of the current legislative term.

- Meeting of Wednesday 6 November 2013 (exchange of views with academics/ experts):

The Chair welcomed four academics /experts to the meeting for an exchange of views with the Members of the Working Group on:

- a) a possible legal framework for a mandatory register and
- b) a comparison of the current system to other similar models on the EU or international level.

These academics/ experts were:

- Mr Janos BERTOK, Head of the Public Governance and Public Sector Integrity Department, OECD, Paris, France;
- Prof. Justin GREENWOOD, Robert Gordon University, Aberdeen, UK;

³ EPACA; SEAP; IPRA; CCBE; Business Europe; CSCG; FAIB; Transparency International; ALTER EU; AER

⁴ Available online: <http://ec.europa.eu/transparencyregister/info/consult-register/whatsNew.do?locale=en>

- Prof. Markus KRAJEWSKI, University of Erlangen-Nuremberg, Germany;
- Prof. Martin NETTESHEIM, University of Tübingen Law School, Germany.

The Working Group took note of the following background documents, produced by these academics/ experts:

- [*The Transparency Register: A European vanguard of strong lobby regulation?*](#) by Prof. J.Greenwood & Joanna Dreger;
- *The mandatory registration of interest representatives: EU competences and fundamental rights* by [Prof. M.Nettesheim](#);
- [*Legal framework for a mandatory EU lobby register and regulations*](#), by Prof. M.Krajewski;
- Report on the [OECD Forum](#) "*Transparency and Integrity in Lobbying: How to win back trust?*" June 2013, Paris, France.

and of the following document:

- [*The role of extra-institutional actors in the democratic system*](#) (lobbying), adopted by the Council of Europe ("Venice Commission") on March.2013.

The Chair put the following questions to the academics/ experts:

- Is there a legal basis in Community law allowing for the introduction of a mandatory registration system? If so, what procedural steps would have to be implemented?
- From a global perspective, what has proven more effective, a mandatory or a voluntary registration system? What lessons can be learnt from comparative studies on this subject?

The WG held an extensive and in-depth exchange with the academics/ experts on the above questions and the Chair expressed his appreciation to them for attending the hearing and for their valid contributions to the discussions.

▪ Meeting of Wednesday 13 November 2013:

The exchange on the possible legal basis for a mandatory register was continued from the previous meeting, notably concerning Articles 298 (2) TFEU⁵ & Article 352 TEU⁶.

It was considered that Article 298 (2) TFEU presented difficulties in this regard, (as a legal basis for the creation of a mandatory register for interest representatives) because of the very specificity of its provisions, which concern only the EU administration and would thereby exclude any activities of Members of the Institutions, and also the legislative activities of the Union from the scope of the register.

It was considered that Article 352 TFEU could be an appropriate legal basis however, but that it presented certain procedural difficulties. The legislative procedure to follow - requiring unanimity in the Council and only the consent of Parliament, and with the new constitutional

⁵ "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."

⁶ "If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament"

barriers introduced in Germany and the UK with regard to this article – could, in practice, present numerous obstacles at present.

It was also underlined that a mandatory system would necessitate much tighter definitions and that the currently wide scope of coverage of the scheme would have to be narrowed. The existing joint transparency register has the widest embrace in the world in terms of its scope, even with its present voluntary registration basis. A mandatory system would also introduce considerable costs in terms of monitoring and investigation.

The WG agreed that all of the above considerations would have to be weighed, and reflected in their final conclusions.

Members of the WG held an extensive exchange of views in order to conclude discussions held at the two previous meetings. The Chair summarised all the points that had been raised with regard to:

- horizontal subjects related to the Interinstitutional Agreement on the establishment of the Transparency Register
- Annexes I- IV of the Inter Institutional Agreement.

The Chair suggested that an extra meeting be held on 12 December in order for the WG to be able to finalise the recommendations to be made to the two institutions party to the agreement, in the framework of the review.

The WG was informed that a petition had been addressed to the Chair of the WG with regard to ongoing discussions regarding the review of the Transparency Register.

▪ Meeting of Tuesday 3 December 2013:

The Chair informed Members of the Working Group that a meeting foreseen between the EP/EC and the Council Presidency to discuss the review process and the role of the Council (initially scheduled for beginning of December) would only take place in early 2014 due to logistical difficulties.

The WG heard a statement from the Council representative, giving Members an update on the discussion on the Transparency Register review process taking place in the [relevant Council working group](#).

The Chair informed Members that the next meeting (12 December) should conclude the discussions of the WG, after which its recommendations will be communicated to the EP President and to the Bureau of Parliament, as well as to the College of Commissioners.

In its discussions, the WG considered:

- a) the list of measures and elements to be taken into account in the review process of the Transparency Register (its recommendations);
- b) whether revisions of the text of the Inter-Institutional Agreement on the Transparency Register (IIA) would be necessary to take into account above point a);
- c) the [Annual Report 2013](#) on the operations of the Transparency Register.

The WG held an extensive debate on above point b), focusing in particular on the Agreement and on Annexes 1 and 2, and discussed at length the need to introduce additional incentives for registrants in the current context of a voluntary registration system.

- Meeting of Thursday 12 December 2013

The WG held an extensive and final exchange of views on the Inter-Institutional Agreement on the Transparency Register (IIA), and as a follow up to its previous meeting, discussed in detail the Agreement and its Annexes 3 and 4. The WG agreed on a draft provisional revision of the text of the Agreement, as a logical conclusion to its list of recommendations.

The WG adopted a) the list of 30 recommendations for revision of the Transparency Register and b) a provisional revised agreement, voting with unanimity, and one abstention. The EP Members of the WG agreed on the drafting of additional recommendations to be made to the EP Bureau, regarding the possibility of setting up a future mandatory system.

The results of the Working Group's deliberations would be transmitted to the Bureau and to the College of Commissioners for final adoption at the beginning of 2014; meanwhile the list of recommendations would be published on the [Transparency Register website](#). The Chair informed Members that deliberations had taken place on schedule; the Chair would thus be able to report back to the EP Bureau, in line with the WG mandate, at the first Bureau meeting in 2014.

The Chair thanked all Members for their fruitful and constructive participation in the Working Group and declared the work to be concluded.