

INTERINSTITUTIONAL AGREEMENTS

Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation

THE EUROPEAN PARLIAMENT AND THE EUROPEAN COMMISSION ('the parties hereto'),

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

Whereas 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,

AGREE AS FOLLOWS:

exercise their parliamentary mandate without restriction, and shall not impede access for Members' constituents to the European Parliament's premises.

I. ESTABLISHMENT OF THE TRANSPARENCY REGISTER

1. In conformity with their commitment to transparency, the parties hereto agree to establish and operate a common 'Transparency Register' (hereinafter 'the register') for the registration and monitoring of organisations and self-employed individuals engaged in EU policy-making and policy implementation.

5. The establishment and operation of the register shall not impinge on the competences or prerogatives of the parties hereto or affect their respective organisational powers.

II. PRINCIPLES OF THE REGISTER

2. The establishment and operation of the register shall build upon the existing registration systems set up and launched by the European Parliament in 1996 and the European Commission in June 2008, supplemented by the work of the relevant European Parliament and European Commission joint working group as well as by the adaptations made in the light of the experience gained and the input collected from stakeholders as set out in the European Commission's Communication of 28 October 2009 entitled 'European Transparency Initiative: the Register of Interest Representatives, one year after' ⁽¹⁾. This approach does not affect or prejudice the objectives of the European Parliament as expressed in its resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions ⁽²⁾.

6. The parties hereto shall strive to treat all operators engaged in similar activities in a similar manner, and to allow for a level playing-field for the registration of organisations and self-employed individuals engaged in EU policy-making and policy implementation.

III. STRUCTURE OF THE REGISTER

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

7. The register shall include the following:

(a) a set of guidelines on:

— the scope of the register, eligible activities and exemptions,

— sections open to registration (Annex I),

— information required from registrants, including the financial disclosure requirements (Annex II);

4. The establishment and operation of the register shall respect the rights of Members of the European Parliament to

(b) a code of conduct (Annex III);

(c) a complaint mechanism and measures to be applied in the event of non-compliance with the code of conduct, including the procedure for the investigation and treatment of complaints (Annex IV).

⁽¹⁾ COM(2009) 612.

⁽²⁾ OJ C 271 E, 12.11.2009, p. 48.

IV. SCOPE OF THE REGISTER

Activities covered

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

9. All organisations and self-employed individuals, irrespective of their legal status, engaged in activities falling within the scope of the register are expected to register ⁽¹⁾.

Activities excluded

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 of a client to a fair trial, including the right of defence in administrative proceedings, such as carried out by lawyers or by any other professionals involved therein. 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 inform clients about a general legal situation or about their specific legal position, or to advise them whether or not a particular legal or administrative step is appropriate or admissible under the law as it stands; advice given to clients to help them ensure that their activities comply with the law; representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body. This applies to all business sectors in the European Union and is not restricted to certain specific procedures (competition). In so far as a company and its advisers are involved as a party in a specific legal or administrative case or proceeding, any activity relating directly thereto which does not seek as such to change the existing legal framework does not fall within the scope of the register;
- (b) activities of the social partners as participants in the social dialogue (trade unions, employers associations, etc.) when

performing 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 direct and individual requests from EU institutions or Members of the European Parliament, such as ad hoc or regular requests for factual information, data or expertise and/or individualised invitations to attend public hearings or to participate in the workings of consultative committees or in any similar forums.

Specific provisions

11. Churches and religious communities are not concerned by the register. However, the representative offices or legal entities, offices and networks created to represent them in their dealings with the EU institutions, as well as their associations, are expected to register.

12. Political parties are not concerned by the register. However, any organisations created or supported by them which are engaged in activities falling within the scope of the register are expected to register.

13. Local, regional and municipal authorities are not concerned by the register. However, the representative offices or legal entities, offices and networks created to represent them in their dealings with the EU institutions, as well as their associations, are expected to register.

14. Networks, platforms or other forms of collective activity which have no legal status or legal personality but which constitute *de facto* a source of organised influence and which are engaged in activities falling within the scope of the register are expected to register. In such cases their members should identify one of their number as their contact person responsible for their relations with the administration of the register.

15. The activities to be taken into account for the financial declaration in the register are those aimed at all EU 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 which are 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 within the scope of the register. They are expected to make those guidelines public.

⁽¹⁾ Member States' governments, third country governments, international intergovernmental organisations as well as their diplomatic missions are not expected to register.

V. RULES APPLICABLE TO REGISTRANTS

17. By registering, the organisations and individuals concerned:

- agree that the information which they provide for inclusion in the register shall be public,
- agree to act in compliance with the code of conduct and, where relevant, to provide the text of any professional code of conduct by which they are bound,
- guarantee that the information provided for inclusion in the register is correct,
- accept that any complaint against them will be handled on the basis of the rules in the code of conduct underpinning the register,
- agree to be subject to any measures to be applied in the event of infringement of the code of conduct and acknowledge that the measures provided for in Annex IV may be applied to them in the event of non-compliance with the rules laid down in the code of conduct,
- note that the parties hereto may, upon request and subject to the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁾, have to disclose correspondence and other documents concerning the activities of registrants.

VI. MEASURES IN THE EVENT OF NON-COMPLIANCE WITH THE CODE OF CONDUCT

18. Non-compliance with the code of conduct by registrants or by their representatives may lead, following an investigation paying due respect to the principle of proportionality and the right of defence, to the application of measures laid down in Annex IV such as suspension or removal from the register and, if applicable, withdrawal of the badges affording access to the European Parliament issued to the persons concerned and, if appropriate, their organisations. A decision to apply such measures may be published on the register's website.

19. Anyone may lodge a complaint, substantiated by material facts, about suspected non-compliance with the code of conduct, in accordance with the procedure laid down in Annex IV.

VII. IMPLEMENTATION

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

21. In order to implement the system, the services of the European Parliament and the European Commission will establish a joint operational structure, to be known as 'the joint Transparency Register Secretariat'. This will be made up of a group of officials from the European Parliament and the European Commission pursuant to an arrangement to be made between the competent services. The joint Transparency Register Secretariat shall operate under the coordination of a Head of Unit in the Secretariat-General of the European Commission. Its tasks will include the implementation of measures to contribute to the quality of the content of the register.

22. The issue and control of badges affording long-term access to the European Parliament's buildings will remain a process operated by that institution. Such badges will only be issued to individuals representing, or working for, organisations falling within the scope of the register where those organisations or individuals have registered. However, registration shall not confer an automatic entitlement to such a badge.

23. Although the system will be operated jointly, the parties hereto remain free to use the register independently for their own specific purposes, including the offering of incentives such as the transmission of information to registrants when launching public consultations or organising events.

24. The parties hereto shall organise appropriate training and internal communication projects to raise awareness of the register and the complaints procedure among their Members and staff.

25. The parties hereto shall take appropriate measures externally to raise awareness of the register and promote its use.

26. A series of basic statistics, extracted from the database of the register, shall be published regularly on the Europa website and shall be accessible via a user-friendly search engine. The public content of that database 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 the 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 are invited to join the 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 self-employed individuals engaged in EU policy-making and policy implementation.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

IX. FINAL PROVISIONS

29. The switchover from the existing registers of the parties hereto to the new common register will take place over a transition period of 12 months from the day of entry into operation of the common register. Organisations and individuals currently registered in either system shall be invited to renew their registration in the common system.

Once the common register has entered into operation:

— registrants will be able to switch their existing registration to the common register at the date of their choice but no later than the day of renewal of their European Commission registration, or, for those registered only with the European Parliament, by no later than the end of a 12-month period from that entry into operation,

— any new registration or update of existing data will only be possible through the common register.

30. The common register shall be subject to review no later than 2 years following its entry into operation.

Done at Brussels, 23 June 2011.

For the European Parliament
The President
J. BUZEK

For the European Commission
The Vice-President
M. ŠEFČOVIČ

ANNEX I

'Transparency Register'

Organisations and self-employed individuals engaged in EU policy-making and policy implementation

Sections		Characteristics/remarks
I — Professional consultancies/law firms/self-employed consultants		
Subsection	Professional consultancies	Firms carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities
Subsection	Law firms	Law firms carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities
Subsection	Self-employed consultants	Self-employed consultants or lawyers carrying on, pursuant to contract, activities involving lobbying, promotion, public affairs and relations with public authorities
II — In-house lobbyists and trade/professional associations		
Subsection	Companies & groups	Companies or groups of companies (with or without legal status) carrying on in-house, for their own account, activities involving lobbying, promotion, public affairs and relations with public authorities
Subsection	Trade, business & professional associations	
Subsection	Trade unions	
Subsection	Other similar organisations	
III — Non-governmental organisations		
Subsection	Non-governmental organisations, platforms and networks and similar.	Not-for-profit organisations (with or without legal status), independent from public authorities, political parties or commercial organisations. Includes foundations, charities, etc.
IV — Think tanks, research and academic institutions		
Subsection	Think tanks and research institutions	Specialised think tanks and research institutions dealing 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
V — Organisations representing churches and religious communities		
Subsection	Organisations representing churches and religious communities	NB: Churches themselves are not concerned by the register. Legal entities, offices or networks set up for representation activities

Sections		Characteristics/remarks
VI — Organisations representing local, regional and municipal authorities, other public or mixed entities, etc.		NB: Public authorities themselves are not concerned by the register.
Subsection	Local, regional and municipal authorities (at sub-national level)	Legal entities, representation offices, associations or networks set up to represent local, regional and municipal authorities (at sub-national level)
Subsection	Other public or mixed entities, etc.	Includes other organisations with public or mixed (public/private) status.

ANNEX II

INFORMATION TO BE PROVIDED BY REGISTRANTS

I. General and basic information

- organisation name(s), address, phone number, e-mail address, website,
- (a) identity of the person legally responsible for the organisation and (b) name of the organisation's director or managing partner or, if applicable, principal contact point in respect of activities covered by the register; names of the persons for whom badges affording access to the European Parliament's buildings are requested ⁽¹⁾,
- number of persons (Members, staff, etc) involved in activities falling within the scope of the register,
- goals/remit — fields of interest — activities — countries in which operations are carried out — affiliations to networks — general information falling within the scope of the register,
- if applicable, number of members (individuals and organisations).

II. Specific information

A. Activities

Main legislative proposals covered in the preceding year by activities of the registrant falling within 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.

Double counting is not excluded. The financial declaration made by professional consultancies/law firms/self-employed consultants concerning their clients (list and grid) does not exempt those clients from their obligation to include those contractual activities in their own declarations, so as to avoid an underestimation of their declared financial outlay.

Professional consultancies/law firms/self-employed consultants (Section I of Annex I): details must be given of the turnover attributable to the activities falling within the scope of the register, as well as the relative weight attaching to their clients according to the following grid:

(in EUR)

Turnover	Bracket size
0 – 499 999	50 000
500 000 – 1 000 000	100 000
> 1 000 000	250 000

In-house lobbyists and trade/professional associations (Section II of Annex I): an estimate must be given of the cost of activities falling within the scope of the register.

Non-governmental organisations, think tanks, research and academic institutions — organisations representing churches and religious communities — Organisations representing local, regional and municipal authorities, other public or mixed entities, etc. (Sections III to VI of Annex I): the overall budget must be specified, together with a breakdown of the main sources of funding.

Additionally, for all registrants: the amount and source of funding received from the EU institutions in the most recent financial year closed, as of the date of registration or of renewal.

⁽¹⁾ Registrants will be asked to provide this information at the end of the registration process, for submission to the European Parliament. The names of individuals to whom access badges have been allocated will then be automatically inserted by the system on the basis of the European Parliament's updates and information, once the European Parliament has decided to issue the badges. Registration does not give rise to an automatic entitlement to a badge affording access to the European Parliament.

ANNEX III

CODE OF CONDUCT

In their relations with the EU institutions and their Members, officials and other staff, registrants shall:

- (a) always identify themselves by name and by the entity or entities they work for or represent; declare the interests, objectives or aims promoted and, where applicable, specify the clients or members whom 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 the effect of registration in such a way as to mislead third parties or officials or other staff of the EU;
- (d) ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities within 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 Members of the EU institutions, officials or other staff of the EU, or assistants or trainees of those Members, to contravene the rules and standards of behaviour applicable to them;
- (g) if employing former officials or other staff of the EU or assistants or trainees of Members of the EU institutions, respect the obligation of such employees 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 or working for entities which have registered with the European Parliament with a view to being issued with a personal, non-transferable badge affording access to the European Parliament's premises shall:

- (j) comply strictly with the provisions of Rule 9 of, and Annex X and the second paragraph of Article 2 of Annex I to the European Parliament's Rules of Procedure;
 - (k) satisfy themselves that any assistance provided in the context of Article 2 of Annex I to the European Parliament's Rules of Procedure 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 register.
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ANNEX IV

PROCEDURE FOR THE INVESTIGATION AND TREATMENT OF COMPLAINTS**Stage 1: Submitting a complaint**

1. Complaints may be submitted by completing a standard form on the website of the register. That form contains information about the registrant being complained about, the name and contact details of the complainant and details about the complaint, including, in principle, documents or other materials supporting the complaint. Anonymous complaints shall not be considered.
2. The complaint shall specify 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 allegations of infringement of point (d) of the code of conduct ⁽¹⁾.
3. Complainants must in principle provide documents and/or other materials supporting their complaint.

Stage 2: Decision on admissibility

4. The joint Transparency Register Secretariat shall:
 - (a) verify that sufficient evidence is adduced to support the complaint, whether this takes the form of documents, other materials or personal statements; to be admissible, material evidence should in principle be sourced either from the registrant complained about or from a document issued by a third party;
 - (b) on the basis of such verification, decide on the admissibility of the complaint;
 - (c) if it deems the complaint admissible, register the complaint and fix a deadline (20 working days) for the decision on the validity of the complaint.
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 deemed admissible, it shall be investigated in accordance with the procedure set out below.

Stage 3: Investigation

6. After registering the complaint, the joint Transparency Register Secretariat shall inform the registrant in writing of the complaint made against that registrant and the content of that complaint, and shall invite the registrant to present explanations, arguments or other elements of defence within 10 working days.
7. All information collected during the investigation shall be examined by the joint Transparency Register Secretariat.
8. The joint Transparency Register Secretariat may decide to hear the registrant complained about, or the complainant.

Stage 4: Decision on the complaint

9. If the investigation shows the complaint to be unfounded, the joint Transparency Register Secretariat shall inform both parties of the decision to that effect. If the complaint is upheld, the registrant may be temporarily suspended from the register pending the taking of steps to address the problem (see paragraphs 11 to 14 below) or may be subject to measures ranging from long-term suspension from the register to removal from the register and withdrawal, where applicable, of any badge affording access to the European Parliament (see stages 6 and 7 below).

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

10. The measures which may be applied in the event of non-compliance with the code of conduct shall range from temporary suspension to removal from the register (see the table below).
11. If it is established that information entered in the register is incorrect or incomplete, the registrant shall be requested to correct that information within 8 weeks, during which period the registration of that registrant shall be suspended. The badge(s) affording access to the European Parliament, if any, shall not be withdrawn during that period.

⁽¹⁾ That point (d) requires registrants, in their relations with the EU institutions and their Members, officials and other staff, to 'ensure that, to the best of their knowledge, information which they provide upon registration and subsequently in the framework of their activities within the scope of the register is complete, up-to-date and not misleading'.

12. If the registrant rectifies the information within the period of 8 weeks specified in paragraph 11, the registration pertaining to that registrant shall be reactivated. If the registrant does not act within the period of 8 weeks specified in paragraph 11, a measure may be imposed.
13. If the registrant requests more time to rectify the information in accordance with paragraph 11, and gives sufficient reasons for that request, the period of suspension may be extended.
14. In the event 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 Parliament and the European Commission shall take the final decision on the measure or measures, if any, to be imposed.
15. Any decision to remove a registrant from the register shall include a ban on future registration for a period of 1 or 2 years.

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 competent services of the European Parliament and of the European Commission and forwarded for final decision to the Secretaries-General of those institutions. The competent Vice-Presidents of the European Parliament and of the European Commission will be informed.
17. The joint Transparency Register Secretariat shall immediately inform both parties (the complainant and the registrant against which the complaint was made) of the measure decided upon, and shall implement that measure.

Stage 7: Withdrawal (if applicable) of the badge(s) affording access to the European Parliament

18. Where a decision on removal from the register entails withdrawal of a badge or badges affording access to the European Parliament, it shall be forwarded by the Secretary-General of the European Parliament to the responsible Quaestor, who shall be invited to authorise the withdrawal of any such badge(s) held by the organisation or individual concerned.
19. The registrant shall be invited to return all or some of any EP badges held within 15 days.

Table of measures available in the event of non-compliance with the code of conduct

	Type of non-compliance	Measure	Mention of measure in the register	EP access badge withdrawn
1	Unintentional non-compliance, immediately corrected	Written notification acknowledging the facts and their correction	No	No
2	Deliberate non-compliance with the code, necessitating a change of behaviour or rectification of information in the register within the deadline laid down	Temporary suspension for up to 6 months or until such time as the corrective action requested is completed within the deadline set	Yes during the suspension period	No
3	Persistent non-compliance with the code — no change of behaviour — failure to correct information within the deadline laid down	Removal from the register for 1 year	Yes	Yes
4	Serious, deliberate non-compliance with the code	Removal from the register for 2 years	Yes	Yes