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P9\_TA(2021)0130

**Interinstitutional agreement on a mandatory transparency register**

**European Parliament decision of 27 April 2021 on the conclusion of an interinstitutional agreement between the European Parliament, the Council of the European Union, and the European Commission on a mandatory transparency register (2020/2272(ACI))**

(2021/C 506/22)

*The European Parliament,*

- having regard to the Conference of Presidents' decision of 9 December 2020, endorsing the draft interinstitutional agreement establishing a mandatory transparency register,
  - having regard to the draft interinstitutional agreement between the European Parliament, the Council of the European Union, and the European Commission on a mandatory transparency register ('the Agreement'),
  - having regard to Article 11(1) and (2) of the Treaty on European Union (TEU),
  - having regard to Article 295 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to the draft political statement of the European Parliament, the Council of the European Union and the European Commission on the occasion of the adoption of the interinstitutional agreement on a mandatory transparency register ('the political statement'),
  - having regard to the interinstitutional agreement of 16 April 2014 between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation ('the 2014 Agreement')<sup>(1)</sup>,
  - having regard to the Commission proposal of 28 September 2016 for an Interinstitutional Agreement on a mandatory Transparency Register (COM(2016)0627),
  - having regard to the European Parliament negotiating mandate on the Commission proposal of 28 September 2016 for an Interinstitutional Agreement on a mandatory Transparency Register, adopted by the Conference of Presidents on 15 June 2017,
  - having regard to its resolution of 14 September 2017 on transparency, accountability and integrity in the EU institutions<sup>(2)</sup>,
  - having regard to the new package of transparency tools for Members, endorsed by the Conference of Presidents on 27 July 2018,
  - having regard to its decision of 31 January 2019 on amendments to Parliament's Rules of Procedure affecting Chapters 1 and 4 of Title I; Chapter 3 of Title V; Chapters 4 and 5 of Title VII; Chapter 1 of Title VIII; Title XII; Title XIV and Annex II<sup>(3)</sup>, in particular Rules 11 and 35,
  - having regard to Rule 148(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs (A9-0123/2021),
- A. whereas Article 11(2) TEU states: 'The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society';
- B. whereas the sanitary emergency due to the COVID pandemic has led to the emergence of new forms of interaction between interest representatives and decision-makers;

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<sup>(1)</sup> OJ L 277, 19.9.2014, p. 11.

<sup>(2)</sup> OJ C 337, 20.9.2018, p. 120.

<sup>(3)</sup> Texts adopted, P8\_TA(2019)0046.

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- C. whereas the Union will disburse in various forms unprecedented volumes of financial support to the Member States in order to fight the consequences of the pandemic, and every decision related thereto has to be taken with full transparency, ensuring full accountability on the part of the Union's decision makers;
- D. whereas citizens should have the greatest possible trust in the Union's institutions: whereas that trust, in order to exist, needs to be underpinned by a perception that interest representation is bound by high ethical standards and that their elected representatives at Union level, the Commissioners and the Union's officials are independent, transparent and accountable; whereas an independent body common to the Union's institutions could in the future contribute to the establishment of a common ethical framework for Union officials governing their interactions with interest representatives; whereas adherence of applicants and registrants to the Union's values and to general ethical standards should, where appropriate, be taken into account in the context of the functioning of the transparency register;
- E. whereas the individual institutional measures implementing the Agreement are taken by Parliament at various levels and range from the adoption of implementing rules by the Bureau to the amendment of the Rules of Procedure;
- F. whereas in the Agreement each of the three signatory institutions agrees to adopt individual decisions empowering the management board of the register ('the Management Board') and the secretariat of the register ('the Secretariat') to take decisions on its behalf in line with Article 9 and Article 15(2) of the Agreement;

### ***Purpose and scope***

1. Welcomes the Agreement as a further step enhancing the standards of ethical interest representation; recalls nevertheless that under Article 295 TFEU, the institutions can only make arrangements for their cooperation, and therefore have to rely on their powers of self-organisation in order to create de-facto obligations requiring third parties to subscribe to the register; reiterates its long-standing preference for establishing the transparency register via a legislative act, since this is the only way of legally binding third parties;
2. Insists that, in line with the political statement, the institutions commit to a coordinated approach on reinforcing the common transparency culture with a view to improving and further strengthening ethical interest representation; highlights their obligation under the Agreement, as well as under Article 13(2) TEU, to practise mutual sincere cooperation when developing the joint framework and that the institutions should therefore aim for the highest level of commitment; points out that the measures referred to in the Agreement represent a minimum and could be expanded further subject to political support and taking into consideration the existing constitutional and legal limitations of an interinstitutional agreement;
3. Reaffirms the need to continue with the interinstitutional dialogue with a view to establishing the transparency register on the basis of a legally binding act of Union secondary legislation;
4. Proposes that the Conference on the Future of Europe should discuss the possibility of establishing an autonomous legal basis that would enable the co-legislators to adopt Union legislative acts in accordance with the ordinary legislative procedure with the aim of imposing binding ethical rules on interest representatives in their interactions with the Union's institutions;
5. Welcomes the fact that the status of the Council of the European Union has changed from that of an observer to that of a formal party to the Agreement; considers nevertheless that its participation is limited to meetings with the most senior officials, and, under voluntary schemes only, meetings of the Permanent Representatives and Deputy Permanent Representatives during their presidency and six months before; insists that for the credibility of the joint framework all Permanent Representations should take an active part in it through their voluntary schemes, and continue to apply them after their presidency has ended and extend them, insofar as this is possible, to other officials;
6. Points out that in the negotiation process the Commission has not made any substantive additional commitments to the joint framework; regrets in particular that, with regard to personal scope, it covers only the most senior staff of the institutions; insists that any revision of the conditionality arrangements with regard to all three institutions should include meetings with other staff of the institutions, at Heads of Unit level and above;
7. Welcomes the commitments made by Parliament in the negotiation process on conditionality and complementary transparency measures; considers that the modification of Rules 11 and 35 of its Rules of Procedure have provided a strong commitment in that regard; welcomes the fact that the Agreement preserves the constitutional right of the Members to exercise their mandate freely;

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8. Welcomes the possibility of involvement by Union institutions, bodies, offices and agencies on a voluntary basis; believes that such involvement should be encouraged by the signatory institutions, in line with their obligation to promote the use of the register and to make use of the register to the fullest extent; insists that such participation will require the signatory institutions to provide the register with further resources;

#### ***Covered activities***

9. Highlights that the Agreement relies on an activity-based approach which includes indirect lobbying activities; insists on the importance of covering such activities, in particular in the context of the emergence, against the backdrop of the pandemic, of new forms of interaction of interest representatives with EU decision-makers;

10. Welcomes clarifications concerning the activities covered and not covered, including the exclusion of spontaneous encounters and coverage of intermediaries of third countries which do not enjoy diplomatic status;

11. Considers it to be important to define the meetings with interest representatives that should be published as meetings scheduled in advance; welcomes Commission's practice to publish also those meetings taking place in a different format than in person-meetings, such as by video-conference; insists that a scheduled telephone call should be considered a meeting as well;

#### ***Conditionality, annual report and review***

12. Is of the opinion that the implementation of the conditionality measures and other complementary transparency measures through individual decisions is a way to respect the respective internal organisational powers of the three signatory institutions; welcomes in that regard the fact that the annual report has been expanded to cover the implementation of such measures adopted by the signatory institutions;

13. Proposes that the annual report include information on registrants who have been investigated and finally removed from the register because of non-compliance with the code of conduct;

14. Welcomes the timely and regular review of the implementation measures taken pursuant to Article 5 of the Agreement, with a view to making recommendations for the improvement and reinforcement of those measures;

15. Calls on the signatory institutions to conduct an analysis of the effects that new rules of transparency have on decision-making procedures, including conditionality and complementary transparency measures adopted by the institutions within the joint framework, and the impact that these rules have on the perception of citizens towards the Union institutions ahead of the next revision of the register;

16. Highlights that the clear and timely publication of the conditionality and complementary transparency measures is essential in order to ensure that transparency for interest representatives and citizens which underpins their trust in the good functioning of the joint framework;

#### ***Role of the European Parliament***

17. Welcomes the commitments made by Parliament in the course of the negotiations, notably on the proposal 'Closing the loopholes — Parliament's proposals on conditionality' and insists on the need to fully implement and publish them in accordance with Article 5(3) of the Agreement without undue delay;

18. Stresses the need to ensure that, within Parliament, there is a high degree of political ownership of the implementation and review process; suggests that the review process provided for in Article 14 of the Agreement should be informed by, and shaped in, close cooperation with Parliament's Vice-President responsible for the transparency register;

19. Calls specifically for the following measures to be swiftly implemented by the Bureau and other relevant bodies:

- (a) establishing a direct link between the publication of the meetings under Rule 11(3) and the transparency register and introducing substantive improvements in order to render this publication tool fully user-friendly and searchable;

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- (b) establishing a direct link between the legislative footprint provided for in Article 4(6) of the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest, contained in Annex I to its Rules of Procedure, and the transparency register;
- (c) introducing a rule for Parliament's officials from Head of Unit level to Secretary General, to meet only with registered interest representatives;
- (d) issuing a recommendation for Parliament's staff to meet with individuals or organisations in the scope of the transparency register only if those are registered and to systematically verify that fact prior to their meetings;
- (e) developing a comprehensive approach in order to make participation as a speaker at all events organised by committees or by intergroups, such as workshops and seminars as well as delegation meetings, conditional upon registration for anyone falling under the scope of the transparency register;
- (f) developing a comprehensive and coherent approach with regard to co-hosting of events on Parliament's premises and making it, where appropriate, conditional upon registration for anyone falling under the scope of the transparency register;

20. Calls specifically on the Conference of the Committee Chairs

- (a) to adopt guidelines in order to support rapporteurs, shadow rapporteurs and committee Chairs to fulfil their obligations under Rule 11(3);
- (b) to adopt guidelines for committee secretariats to support Members by systematically reminding them of the possibility to publish, in line with Article 4(6) of the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest, contained in Annex I to its Rules of Procedure, the list of interests representatives who have been consulted on matters pertaining to the subject of the report;

21. Calls on the Committee on Constitutional Affairs to consider, in the process of revision of the Parliament's Rules of Procedure, further transparency measures which should be introduced in order to enhance Parliament's commitment to the joint framework; underlines the importance of the formal requirements that apply to any revision of the Rules of Procedure;

#### ***Eligibility, code of conduct, information to be provided by the registrants***

22. Notes that observance of the code of conduct, set out in Annex I to the Agreement, is part of the eligibility criteria and that registrants are to take into account confidentiality requirements and rules applicable to former Members and staff of the institutions which apply to those Members and staff after leaving office;

23. Welcomes clarification that registrants are not released from the obligation to ensure the observance of the same ethical standards when they outsource part of their activities to others;

24. Welcomes the fact that registrants are obliged to publish financial information of both clients and intermediaries and that financial information is also required from registrants who do not represent commercial interests; welcomes the fact that registrants are obliged not only to publish financial information once a year but also to keep that information up-to-date, in particular where a significant change occurs to details subject to implementing decisions;

25. Highlights that registrants are now obliged to provide information about the legislative proposals, policies or initiatives that they target; considers that this will contribute to increasing the transparency of the interests that they represent;

#### ***Secretariat and Management Board***

26. Welcomes the undertaking to increase resources for maintenance, development and promotion of the register, as well as the Council's formal contribution to the Secretariat; believes that such commitments to the joint framework should enhance the capacity of the Secretariat to provide timely guidance to the registrants and support them in the registration and update of the requested data; points out, in particular, that human resources are very limited in proportion to the number of registrants in comparison with similar national schemes and that that limitation hampers the efficiency of the operation of the register; calls on the institutions to ensure the provision of the resources and staff necessary in order to guarantee the proper functioning of the Secretariat and the Management Board;

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27. Considers that the equal footing of all three institutions in the operation of the Secretariat and of the Management Board should ensure consensus, develop the joint ownership of the framework and foster a common culture of transparency;

28. Welcomes the creation of the Management Board and its task to oversee the overall administrative implementation of the Agreement and act as review body for the measures taken by the Secretariat; welcomes the fact that the Agreement includes a robust administrative procedure ensuring the procedural rights of the registrants;

**Procedural provisions**

29. Approves the conclusion of the Agreement contained in Annex A to this Decision;

30. Approves the political statement of the European Parliament, the Council of the European Union and the European Commission contained in Annex B to this Decision, which will be published in the L series of the *Official Journal of the European Union* together with the Agreement;

31. Decides that, in accordance with Article 9 and Article 15(2) of the Agreement, as from the entry into force of the Agreement, the Management Board and the Secretariat shall be empowered to adopt on behalf of the European Parliament individual decisions concerning applicants and registrants, in accordance with the Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register <sup>(4)</sup>;

32. Instructs its President to sign the Agreement with the President of the Council and the President of the Commission and arrange for its publication in the *Official Journal of the European Union*;

33. Instructs its President to forward this decision, including its Annexes, to the Council, the Commission and the parliaments of the Member States for information.

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<sup>(4)</sup> OJ L 207, 11.6.2021, p. 1.

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ANNEX A

INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION, AND THE EUROPEAN COMMISSION ON A MANDATORY TRANSPARENCY REGISTER

*(The text of this annex is not reproduced here since it corresponds to the interinstitutional agreement as published in OJ L 207, 11.6.2021, p. 1.)*

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## ANNEX B

**POLITICAL STATEMENT OF THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION ON THE OCCASION OF THE ADOPTION OF THE INTERINSTITUTIONAL AGREEMENT ON A MANDATORY TRANSPARENCY REGISTER**

The European Parliament, the Council of the European Union and the European Commission recognise the importance of the principle of conditionality as a cornerstone of the coordinated approach the three institutions have taken with the aim of reinforcing a common transparency culture while setting high standards of transparent and ethical interest representation at Union level.

The European Parliament, the Council of the European Union and the European Commission acknowledge that the conditionality and complementary transparency measures in place regarding the following matters are consistent with the Interinstitutional Agreement on a Mandatory Transparency Register, reinforce the objective of their coordinated approach and constitute a firm basis on which to continue to build and to improve that approach and further strengthen ethical interest representation at Union level:

- meetings of decision-makers with registered interest representatives, where applicable <sup>(1)</sup>;
- publication of meetings with interest representatives, where applicable <sup>(2)</sup>;
- meetings of staff, particularly at senior level, with registered interest representatives <sup>(3)</sup>;
- speaking at public hearings in the European Parliament <sup>(4)</sup>;
- membership of Commission's expert groups and participation in certain events, forums or briefing sessions <sup>(5)</sup>;
- access to the institutions' premises <sup>(6)</sup>;
- patronage for events for registered interest representatives, where relevant;
- the political declaration of Member States to voluntarily apply, in accordance with national law and competences, the conditionality principle to meetings of their Permanent Representative and their Deputy Permanent Representative with interest representatives during their Presidency of the Council and in the preceding six months, and any further voluntary measure of individual Member States in accordance with national law and competences beyond this, both of which are equally noted.

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<sup>(1)</sup> Rule 11(2) of the Rules of Procedure of the European Parliament; Article 7 of Commission Decision of 31 January 2018 on a Code of Conduct for the Members of the European Commission (C(2018)0700) (OJ C 65, 21.2.2018, p. 7); point V of the Working Methods of the European Commission.

<sup>(2)</sup> Rule 11(3) of the Rules of Procedure of the European Parliament; Commission Decision 2014/838/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals (OJ L 343, 28.11.2014, p. 19); Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals (OJ L 343, 28.11.2014, p. 22).

<sup>(3)</sup> Article 3 of the Council Decision on the regulation of contacts between the General Secretariat of the Council and interest representatives; point V of the Working Methods of the European Commission.

<sup>(4)</sup> Article 7 of the Decision of the Bureau of the European Parliament of 18 June 2003 on rules on public hearings.

<sup>(5)</sup> Rule 35 of the Rules of Procedure of the European Parliament; Article 8 of Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups (C(2016)3301); Articles 4 and 5 of the Council Decision on the regulation of contacts between the General Secretariat of the Council and interest representatives.

<sup>(6)</sup> Rule 123 of the Rules of Procedure of the European Parliament read in conjunction with the Decision of the Secretary-General of 13 December 2013 on rules governing passes and authorisations granting access to Parliament's premises; Article 6 of the Council Decision on the regulation of contacts between the General Secretariat of the Council and interest representatives.