

EU Civil Society Contact Group

Briefing

Follow-up to the Green Paper 'European Transparency Initiative'

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How to structure a register for interest representatives? Should the minimum standards for consultation be overhauled? Will corporate lobbyists and civil society organise themselves to develop a common code of conduct? How to ensure that information on who receives Community funding is accessible? These are some of the questions that the follow-up to the Green Paper 'European Transparency Initiative' addresses.

As its title suggests the paper is a follow-up to the Green Paper on the Transparency Initiative and the consultation it initiated. The Civil Society Contact Group has been following the issue since the debate was launched in autumn 2005:

- The Civil Society Contact Group contribution to the consultation on the Green Paper on the Transparency Initiative
http://www.act4europe.org/code/en/actions.asp?id_events=107
- A Civil Society Contact Group Briefing on the Transparency Initiative from May 2006
<http://act4europe.horus.be/module/FileLib/Transparency%20Initiative%20briefing.pdf>
- A first Civil Society Contact Group contribution to the Transparency initiative from January 2006
<http://act4europe.horus.be/module/FileLib/Transparency%20initiative%20CSCG%20contribution.pdf>

1. Background – launch, consultation and follow-up of the transparency initiative

Transparency and accountability of the EU policy process are key elements to maintain and strengthen the trust of citizens. In order to ensure that the Union is "open to public scrutiny", the European Commission adopted and launched on November 2005 the Transparency Initiative http://europa.eu.int/comm/commission_barroso/kallas/doc/transp_report_en.pdf, which announced the launch of a Green Paper on the same topic in March 2006.

On 3 May 2006 the Green Paper on the Transparency Initiative was finally launched: http://europa.eu.int/comm/commission_barroso/kallas/doc/com2006_0194_4_en.pdf

The consultation period lasted four months from May to August 2006. The Commission received contributions from more than 160 interested parties. The contributions are accessible online http://ec.europa.eu/transparency/eti/index_en.htm. Find a document summarizing the contributions on http://ec.europa.eu/transparency/eti/docs/DTS_360_EN.pdf.

On 21 of March 2007 the European Commission finally published a communication entitled "Follow-up to the Green Paper 'European Transparency Initiative' ", http://ec.europa.eu/commission_barroso/kallas/doc/eti_communication_20070321_en.pdf which this briefing aims at summarizing.

2. Main proposals included in the follow-up paper

Structure of the communication – After a short introduction summarizing the history and the main components of the European Transparency Initiative in chapter 1, the communication in chapter 2 “Feedback and Follow-Up” outlines the measures to be taken by the Commission. The register of interest representatives and the code of conduct are both discussed in the same section entitled “Interest Representation (Lobbying)” (2.1.), whereas the “Consultation Standards” (2.2.) and the “Publication of Beneficiaries of EU Funds” (2.3.) are dealt with in separate sections. A very short Chapter 3 (Conclusions) recapitulates the next steps the Commission will be taking in the matter of transparency.

Structure of the briefing - The briefing at hand is structured differently. In this second chapter each of the four main proposals constitute a section. In chapter 3 we present some reactions to the paper before summarizing (in chapter 4) the next steps and informing on the key contacts (in chapter 5).

2.1 Voluntary register for interest representatives

Shift in term - The Green Paper published in May 2006 mainly used the term ‘lobbyists’ to describe its target group. Lobbyists were defined as persons carrying out an activity, with the objective of influencing the policy formulation and decision-making processes of the European institutions. In the follow-up paper the Commission explains that several contributions to the consultation were critical about the term ‘lobbying’. The register will therefore be called ‘Register of Interest Representatives’.

Voluntary or compulsory register - According to the communication the consultation has shown broad support for a voluntary register of interest representatives. A considerable number of contributions particularly from NGOs asked for the register to be compulsory. Nevertheless the Commission has decided to test a voluntary register during a one-year’s time. The new register will be functional from spring 2008 and replace the existing database CONECCS. The register shall contain information about the objectives, the structures and the budget of interest representatives. The breakdown of the budget must disclose major clients and / or founding sources. NGOs will be asked to publish their overall budget and the main sources of income. A review of the new register will take place in spring 2009 after it has been operating for one year. If the measures taken did not produce the desired results, “consideration could be given to stricter measures, in the form of compulsory registration and reporting”. It remains though unclear what the desired results are and how they will be assessed.

Incentives for registration – The subscription to the register being voluntary, the Commission intends to create incentives making the registration more attractive. The communication mentions three different incentives for interest representatives to register. First and foremost interest representatives can indicate their specific areas of interest. Following these indications they will be alerted about consultations in those specific areas. As an additional incentive the communication proposes to treat contributions of organisations that do *not* provide information about their objectives and structures as individual contributions. This point remains though vague. It is not clear if the information about the organisation must be given in the register only or if it can be provided by other means. As a third incentive the paper announces that the European Commission will look into mechanisms to identify NGOs that would be entitled to request an internal review of certain administrative acts (as the Aarhus Convention¹ does for environmental law).

Sanctions in case of non-compliance – Registrants found to submit false or inaccurate information will be invited, “possibly in a public manner, to correct it”. The Commission can as a last resort exclude interest representatives from the register.

¹ <http://www.unece.org/env/pp/>

2.2 Development of a code of conduct for interest representatives

Self-regulation or Commission-lead approach - The consultation has shown that bringing the different interest representatives together to jointly develop a common code of conduct would prove difficult, especially as far as cooperation between business and civil society organizations is concerned. The Commission will therefore take the leading role in the process of developing a code of conduct. It proposes to review and update existing minimum standards adopted in 1992². Stakeholders will be invited before summer 2007 to discuss the content of this revision.

Relation of code of conduct and register – Subscription to the code of conduct will most probably become a requirement to be included in the register.

2.3 Reinforced application of the minimum standards for consultation

Consultation shows weaknesses –Three weaknesses in applying the minimum standards were identified in the consultation.

- The *feedback* on how and to what extent comments made during a consultation have or have not been taken into account is considered being poor.
- The *respect of the minimum time limit* of eight weeks for public consultations needs to be improved.
- The *representation* of relevant stakeholders in consultations was felt to be *imbalanced*.

Reinforced application – The communication makes clear that the European Commission does not intend to review the content of the consultation standards at the moment. It does though commit to reinforce their application in order to raise the quality of the consultations. The communication announces a set of measures to do so:

- Training for and awareness raising among Commission employees
- Sharing information and good practices between Directorates-General
- Reviewing the practical guidelines for stakeholder consultation
- Creating a standard consultation template

The Commission intends to submit the consultation policy to an external evaluation once these measures have been put in place and tested.

2.4 Improved publication of the beneficiaries of EU funds

Legislative basis – The Green Paper identified the explicit ban of the European Commission to publish information on beneficiaries of EU funds under shared management as important obstacle to transparency. The follow-up communication makes clear that the media coverage concerning this issue allowed the Commission to lead constructive discussions with the Member States, the European Parliament and interest representatives and lead to the emergence of “a consensus on the desirability of publishing the relevant data”. The principle of transparency on beneficiaries was in December 2006 included in the revised Financial Regulation. This created the necessary legal basis for the Commission to act on the issue.

Implementation – The main responsibility for publishing data on who receives EU fund under shared management remains mainly the responsibility of the member states. The Commission will nevertheless play a role as facilitator. In the communication it therefore proposes two steps in order to achieve the goal of publishing the data as of 2008. The first step consists in the publication of data in its current format by the member states. The Commission will host a central web portal linking to the relevant national websites. As a second step the Commission

² http://ec.europa.eu/civil_society/interest_groups/index_en.htm

will propose standards for the publication of the data in order to allow the comparability of the data (in autumn 2007).

As regards the 20% EU funding managed directly by the European Commission, information on beneficiaries has been made available in late 2006 on two websites:

- Beneficiaries of grants: http://ec.europa.eu/grants/beneficiaries_en.htm
- Beneficiaries of public contracts:
http://ec.europa.eu/public_contracts/beneficiaries_en.htm

Information on the beneficiaries of payments from the Common Agriculture Policy (CAP) under shared management can be found on http://ec.europa.eu/agriculture/funding/index_en.htm

3. Reactions so far

The Civil Society Contact Group is preparing a short statement reacting especially on the proposed register for interest representatives. The Civil Society Contact Group wants to stress the need to recognize in the register the difference between business lobbyists and the democratic representation of public interests. Please keep checking our website for our statement on that point (www.act4europe.org).

Up to now not many organisations reacted on the follow-up communication. Three organisations, which also participated in the consultation, have though published press releases.

The *Alliance for Lobbying Transparency and Ethics Regulation* (ALTER-EU), a coalition of 140 civil society groups, criticizes the Commission approach as being too weak and lacking to address necessary internal improvements (<http://www.alter-eu.org/pr20070321>). It particularly criticizes the following points:

- The registration being voluntary the system depends on an appeal to the lobbyists' conscience. This approach is judged far too weak to seriously increase transparency.
- Credible sanctions in the case of non-respect of the code of conduct are lacking. ALTER-EU asks for an independent monitoring body to be set up.
- The communication does not address the problem of "undue corporate influence".
- The paper fails to address the imbalanced composition of expert groups.

The *European Public Affairs Consultancies' Association* (EPACA), who represents 31 public affairs companies with offices in Brussels, is afraid that "the Commission rules on commercially sensitive financial information ... would not contribute to the identification of objectives and interests engaged in lobbying"

<http://www.epaca.org/policy/documents/ETI%20Communication%20Press%20Release%20210307.pdf>

The *Society of European Affairs Practitioners* (SEAP), which represents individual lobbyists based in Brussels, expressed concerns that "overly arduous or impractical disclosure requirements ... will only discourage stakeholder participation and ultimately lead to less transparency, as opposed to more". SEAP underlines the importance of making clear what the benefits of registration are in order to make the voluntary register work.

<http://www.seap.eu.org/linkdocs/pr-070321.doc>

SEAP, EPACA and the International Public Relations Associations (IPRA) have recently agreed on a set of core principles, which they hope will provide a basis for the code of conduct.

4. Next steps

The communication announces different measures to be taken during the next year and beyond. Find a list of the announced next steps below:

Before summer 2007	Commission will invite stakeholders to discuss the code of conduct
Autumn 2007	Commission will propose a standard format for the publication of the data on beneficiaries of EU funds by member states
Spring 2008	Commission opens new register for interest representatives
Spring 2009	Review of the register and code of conduct
Without indicated timeframe	Training for Commission employees on Minimum Standards for Consultation
	Information sharing on stakeholder consultation between Directorates-General
	Review of practical guidelines for stakeholder
	Creating a standard consultation template

5. Key contacts in the European Commission

The European Transparency Initiative falls in the domain of Siim Kallas, commissioner for Administrative Affairs, Audit and Anti-Fraud. In his cabinet Mr Kristian Schmidt, Deputy Head of Cabinet, is following the issue.

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The Secretariat General of the European Commission is supporting the cabinet of Sim Kallas on the issue of Transparency. Transparency falls in the domain of Directorate E Better Regulation and institutional issues. Head of Unit working on transparency, relations with stakeholders and external organisations, Gérard Legris, is following the issue.

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