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# **DRAFT REPORT**

Transparency, accountability and integrity in the EU institutions  
(2015/2041(INI))

Committee on Constitutional Affairs

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on transparency, accountability and integrity in the EU institutions (2015/2041(INI))

*The European Parliament,*

- having regard to its decision of 15 April 2014 on the modification of the inter-institutional agreement on the Transparency Register<sup>1</sup> (EU lobby register);,
  - having regard to the Commission's decision of 25 November 2014 not to meet unregistered lobbyists and to publish information on lobby meetings,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on International Trade, the Committee on Budgetary Control, the Committee on the Environment, Public Health and Food Safety, the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2015),
- A. whereas the Union 'shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions' (Article 9 of the Treaty on European Union), and whereas 'every citizen shall have the right to participate in the democratic life of the Union' and 'decisions shall be taken as openly and as closely as possible to the citizen' (Article 10(3));
- B. whereas EU institutions are in most respects already ahead of national and regional political institutions in terms of their transparency, accountability and integrity;
- C. whereas, in view of the greater distance between the EU and its citizens, EU institutions must strive for the highest possible standards of transparency, accountability and integrity;
- D. whereas non-transparent, one-sided lobbying poses a significant threat to policy-making and to the public interest;

#### ***Introducing a legislative footprint, making the lobby register as mandatory as possible***

1. Believes that the Commission, Parliament and the Council should record and disclose all input received from lobbyists/interest representatives on draft policies, laws and amendments as a 'legislative footprint'; suggests that this legislative footprint should consist of a form annexed to reports, detailing all the lobbyists with whom those in charge of a particular file have met in the process of drawing up each report and a second document listing all written input received;
2. Calls on the Commission to expand and improve its existing initiative as laid out in its decision of 25 November 2014 on the publication of information on meetings held

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<sup>1</sup> Texts adopted, P7\_TA(2014)0376.

between Members of the Commission and organisations or self-employed individuals; considers that the recording of meeting data should be expanded to include everyone involved in the EU's policy-making process;

3. Calls on the Commission to make all information on lobby influence easily accessible to the public through one centralised online database;
4. Considers that, among the Members of the European Parliament, those appointed rapporteur or committee chair have a special responsibility to be transparent about their contacts with lobbyists in view of their role in EU legislation;
5. Suggests that the Code of Conduct should be amended so as to make it mandatory for rapporteurs and committee chairs to adopt the same practice of exclusively meeting registered lobbyists and publish information on such meetings online and for rapporteurs to publish a legislative footprint;
6. Believes that an amendment should introduce mandatory monthly updates on lobby expenditures;
7. Reiterates its longstanding call to back up the EU lobby register with a legal act to close all loopholes and achieve a fully mandatory register for all lobbyists; considers that the proposal for this legal act could take into account the progress achieved by changes in the inter-institutional agreement and Parliament's Code of Conduct;
8. Reiterates its call to the Council to join the lobby register as soon as possible;

#### ***Transparency, accountability and integrity in dealing with lobbyists***

9. Considers lobby transparency through monthly reporting by lobbyists about their meetings as a key element for future EU legislation;
10. Considers that, when interpreting 'inappropriate behaviour' within the meaning of point (b) of the Code of Conduct, this expression should be taken to include turning down formal invitations to hearings or committees without sufficient reason;
11. Insists that registered law firms should declare in the lobby register all clients on whose behalf they perform covered activities;
12. Asks the Bureau to restrict access to Parliament's premises for non-registered organisations or individuals by making all visitors to its premises sign a declaration that they are not lobbyists falling within the scope of the register or otherwise declare their registration;
13. Believes it to be necessary, as a matter of urgency, to introduce a proper monitoring system for submitted information in order to ensure that the information that registrants provide is meaningful, accurate, up-to-date and comprehensive;
14. Believes that at least 5 % of declarations should be checked each year;
15. Believes that representations of national, regional and local governments should not fall under the EU lobby register if they have their own mandatory lobby register and do not

offer workspace for private or corporate actors within their representations;

### ***Defending integrity against conflicts of interest***

16. Believes that the members of the Advisory Committee chosen from among Members of the European Parliament should be complemented by a majority of externally chosen members who must be qualified experts in the field of ethics regulation and should be drawn from an open call and include members of civil society;
17. Believes that the Code of Conduct should be amended to empower the enlarged Advisory Committee to adopt final decisions instead of the President;
18. Believes that the Rules of Procedure should be amended with regard to Members' declarations of financial interests to task the Advisory Committee and the supportive administration with factual checks in samples and to empower them to ask for proof where necessary;
19. Believes that Article 3 of the Code of Conduct for Members should be rephrased to include a clear ban on Members holding side jobs or other paid work that could lead to a conflict of interest;
20. Believes that Members should have the remuneration paid to them by Parliament reduced by half of what they earn, whether as employees or self-employed persons, from any outside activity in parallel to their office as Members of the European Parliament;

### ***Cooling-off periods to insure integrity among office holders and staff***

21. Believes that the Code of Conduct should be amended to provide for a three-year 'cooling-off period' during which Members may not engage in lobbying work in the area of their parliamentary responsibilities;
22. Believes that for Members of the Commission the 'cooling-off period' should be extended to three years and that a two-year cooling-off period should also apply to all Commission staff involved in the drafting or implementation of EU legislation or treaties, including contract staff;

### ***Balanced composition of expert groups***

23. Welcomes the Commission's intention to follow up on the Ombudsman's recommendations against conflicts of interest in expert groups;
24. Supports the Ombudsman's call for entry in the lobby register to be made a requirement for appointment to expert groups provided that the Members concerned are not government officials and do not receive all or the vast majority of their other income from state institutions such as universities;

### ***Integrity through independent control of the financing of European political parties***

25. Considers control by Parliament of the financing of European political parties to be an unnecessary conflict of interest;

26. Calls for control of the financing of European political parties to be assigned to a neutral body;

***Realising the objective of full access to documents***

27. Calls for citizens to have the same right of appeal when requesting information as they enjoy when requesting specific documents;
28. Deems it exemplary that Parliament lists all available documents as part of an online register and calls on the Commission and the Council to follow this example with respect to all their documents;
29. Considers that Regulation (EC) No 1049/2001 should be updated as a matter of urgency, as required by the Treaty of Lisbon, by widening its scope to encompass all EU institutions, bodies, offices and agencies currently not covered, such as the European Council, the European Central Bank, the European Court of Justice, Europol and Eurojust;
30. Requests that the Commission make sure that non-EU actors which receive EU funds should be as accountable as EU institutions are when spending such funds;
31. Believes that Parliament's right of access to the documents of other EU institutions should never be regarded as weaker than that of individual citizens, under Regulation (EC) No 1049/2001;

***Transparency for the purposes of accountability in the legislative process***

32. Regrets that the Council's lack of transparency is preventing citizens and national parliaments from holding governments accountable owing to a lack of information on the positions of individual Member States;
33. Believes, therefore, that preparatory meetings within the Council should be as public as meetings of Parliament's committees;
34. Believes that the chairs of Parliament's committees should proactively publish minutes and all documents used in trialogues;
35. Calls on the Presidency of the Council to include all trialogue documents in the documents register to allow for access in accordance with Regulation (EC) No 1049/2001;

***Transparency of the external representation and negotiations of the EU***

36. Takes the view that Members should have access to all Commission documents, where necessary under exceptional circumstances through a reading room;
37. Deems it unacceptable that Parliament has less, or less open, access to documents in trade negotiations than some members of national parliaments;
38. Calls on the Commission to put into practice all the Ombudsman's recommendations in favour of more transparency in trade negotiations;

39. Recognises the progress made in the transparency of trade negotiations, but insists that these advances with respect to TTIP must be extended to all trade negotiations;
40. Believes that, when the Commission engages in trade negotiations, it should publish the negotiation mandates, all negotiating positions, all requests and offers and all consolidated draft negotiation texts prior to each negotiation round, so that the European Parliament and national parliaments, as well as civil society organisations and the wider public, can make recommendations thereon before the negotiations are closed for comments and the agreement goes to ratification;
41. Calls on the Commission to propose an interinstitutional agreement in order to codify those principles for all trade negotiations;

#### ***Transparency and accountability of economic governance in the eurozone***

42. Believes that decisions taken or prepared in the Eurogroup, in the Economic and Financial Committee, 'informal' Ecofin Council meetings and Euro summits must become transparent and accountable, including through the publication of their minutes;

#### ***Protection of whistleblowers and the fight against corruption***

43. Regrets the Ombudsman's finding that most EU institutions have not yet properly implemented rules to protect whistleblowers; points out that to date only the Commission, the Ombudsman and the Court of Auditors have adopted such rules;
44. Believes effective whistleblower protection to be a key weapon against corruption and therefore reiterates its call to the Commission to prepare a whistleblower protection directive, including minimum Europe-wide standards of protection;
45. Believes that the ongoing review of EU election law should include a rule that persons found guilty of corruption against the EU's financial interests or within Member States may not run for office in the next two terms of the European Parliament;
46. Believes that persons or companies led or owned by such persons who are found guilty of corruption in the EU should, for at least three years, not be allowed to enter into procurement contracts with the European Union or be allowed to profit from EU funds;

#### ***Strengthening the parliamentary accountability of the Commission and its agencies***

47. Calls on the Commission to draw up a framework regulation relating to all EU agencies, under which Parliament will be granted codecision powers in the election or dismissal of directors of such agencies and a direct right to question and hear them;
48. Supports national parliaments inviting Commissioners in order to question them;
49. Instructs its President to forward this resolution to the Council and the Commission.

## **EXPLANATORY STATEMENT**

### **Distance to the citizens requires the highest standards of transparency, accountability and integrity**

EU institutions are more transparent, accountable and cleaner than most other political institutions on national or regional levels in Europe. Citizens can follow nearly all committee meetings by web streaming: a transparency, which does not exist in most member state parliaments so far. The European Commission is an open administration, much more transparent and accessible than what we know from most member states. Yet, for several reasons politics in Brussels is more distant to citizens across the EU. The overall level of citizens' confidence in EU institutions as surveyed by Eurostat stands at 42 percent as of 2014. This is a rise to the year before yet low in historical comparison; it was at 59 percent in 2002. In the majority of 20 member states citizens' confidence is now higher into national institutions. Only in a minority of 8 countries citizens have more trust in EU institutions than in national ones.

Local and national politics are less distant to citizens: Media reports more about them, citizens have more personal contacts with their representatives, issues sometimes seem less abstract, and language is usually not a barrier in national and local politics. However, besides these rather structural differences, EU politics feels more distant to many citizens, because of a perceived lack of citizens' influence. Even worse, today's European Union is sometimes rather seen as a Europe of lobbyists than a Europe of citizens. There are more active lobbyists in Brussels than in Washington D.C. Research shows a huge imbalance between the access and influence of powerful business interests and weaker societal interests on EU decision-makers. To narrow this perceived distance, this report calls for a three-fold approach: EU institutions have to enhance transparency, accountability and integrity and set the highest standards possible in these areas.

### **Integrity is fair and equal treatment of citizens' interests**

The Treaty of Lisbon guarantees that 'the Union shall respect the principle of the equality of its citizens, who shall receive equal attention from its institutions' (Article 9) and that 'every citizen shall have the right to participate in the democratic life of the Union'. However, the reality is different: The privileged access of powerful lobbies to EU decision-makers stands in sharp contrast to the equal treatment of citizens' interests. Those who already hold more money and power can easily exert comparatively larger influence. To overcome this gap, the EU institutions need to enhance their integrity. Integrity means equal access and weight to citizens in the decision-making process. Favoring special interests over the general interest is the opposite of integrity. The aim of this report is to contribute to the separation of economic and political power. This is also in the best interest of the vast majority of small and medium enterprises in Europe. Where multinationals write laws, small enterprises cannot flourish.



## **Empowering citizens through access to information and documents**

To realize integrity in EU politics the treaties give further direction and demand in TFEU's article 10(3): 'Decisions shall be taken as openly and closely as possible to the citizen'. We therefore understand transparency as making all relevant information timely available to citizens to reduce possible information gaps between citizens and lobbyists, also between those who represent special business interests and those who represent more general societal interests. The treaties' text and spirit calls for special attention to the timing of access to information. Taking decisions 'as closely as possible to the citizen' means citizens should enjoy the time to digest information before decisions are made. Additionally, the question of equality between citizens is a matter of time. Since decision-making is usually a continuous process it makes a difference to have access to documents and information before deals are done. Differences between resourceful and professional actors on the one hand and citizens and even members of Parliament on the other contradict the treaties and corrupt integrity. Therefore, secret and informal documents circulating among a privileged few are not acceptable. The treaties demand a clear distinction: documents are either public or exceptionally classified. This means: Everything lobbyists know has to be public for all.

The process of drawing up EU legislation is central to enhance transparency in the European Union. The public has the right to know who had influence on drafting legislation. A major tool to achieve more transparency in EU legislation is the introduction of a legislative footprint. It records the influence of different interests on each piece of legislation and allows to estimate a possible inequality of influence. Additionally, the more relevant information about meetings and input becomes available in real time, the more the imbalance can be corrected before legislation is adopted. The policy department's study "Institutional and Constitutional aspects of Special Interest Representation" for the AFCO committee recommends considering its introduction.

## **Accountability of EU institutions through transparency**

Scandals, such as the cash for amendment scandals were drivers for new rules to safeguard integrity of EU politics. The treaties demand for all work in the institutions: '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' (article 298 (1) TFEU). Accountability can only be achieved through provisions, which ensure that institutions, officeholders and staff report transparently on their work.

Although many stages of EU legislation are more transparent than in member states, a decisive stage in co-decision procedures disappears behind closed doors. The increased use of informal talks in the trialogue format has led to the situation that 80% of EU laws are now agreed at first reading. There is a problem with transparency of these secret meetings: minutes of these meetings do not exist, participants and their positions remain unknown, secret documents sometimes fall into the hands of some lobbyists but not the general public. This selective transparency to privileged actors corrupts the integrity of the current procedure as citizens are not treated equally.

## **Defending integrity with independent oversight against conflicts of interests**

The best available standards are needed to protect the integrity of the EU institutions' own members and staff. These standards need to encompass the members' and staff's activities inside and outside EU institutions as well as during and after their office in EU institutions, for example by introducing cooling off periods if they want to pursue a career in areas closely related to their institutional work.

Neutrality is an important criterion for effective oversight of rules. The EU's anti-corruption report of 2014 concludes that independence of anti-corruption agencies is the crucial factor for their success: "In some cases, where agencies have a strong mandate, independent committed leadership turned out to be the breakthrough development allowing them to prosecute high-level corruption cases." (p. 41) Therefore, putting the oversight of rules of members and staff in external and neutral hands is a lesson learned from existing integrity systems. Such independent oversight is now practiced in member states like France and Croatia. Moreover, potential conflict of interests also needs to be addressed in the composition of expert groups and control of financing European political parties. Expert groups must not allow special interests to co-author directly legislation affecting them. The European Parliament should not supervise the financing of the parties to which the majority of its members belong.

## **Building new trust in trade negotiations through transparency**

Compared to European politics, international trade negotiations are even more distant to citizens. Trade agreements are regularly binding the European Union and can make it difficult to change these decisions when political majorities or public opinion changes. Because of these far reaching impacts of trade agreements, the negotiations need to live up even more to the highest standards of transparency and accountability. Against transparency in trade negotiations it has been argued that secrecy might render successful negotiation easier. However, examples from the World Trade Organisation (WTO), the United Nations Framework for Convention on Climate Change (UNFCCC) or the World Intellectual Property Organisation (WIPO) prove that international treaties can be successfully negotiated in the full light of public documents and even public proceedings. Given the growing Europe-wide discontent with ongoing TTIP negotiations as well as the finalizing of CETA, the European Union should adapt these best practices to improve transparency, accountability and integrity of all its trade negotiations.