

Public Consultation on a proposal for a mandatory Transparency Register

Fields marked with * are mandatory.

Public Consultation on a proposal for a mandatory Transparency Register

The European Commission seeks the views of all interested parties on the performance of the current Transparency Register for organisations and self-employed individuals engaged in EU policy-making and policy implementation and on its future evolution towards a mandatory scheme covering the European Parliament, the Council of the EU and the European Commission.

QUESTIONNAIRE

*

Are you responding as:

- An individual in my personal capacity
- The representative of an organisation registered in the [Transparency Register](#)
- The representative of an organisation not registered in the Transparency Register

*

Please provide your Register ID no:

16311905144-06

*

Name of the organisation:

European Digital Rights (EDRi)

*

The organisation's head office is in:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Germany
- Denmark
- Estonia
- Greece
- Spain
- Finland
- France
- Hungary
- Croatia
- Ireland
- Italy
- Lithuania
- Luxembourg
- Latvia
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Sweden
- Slovenia
- Slovak Republic
- United Kingdom
- Other country

*

*Your organisation belongs to the following type:

See a description of the below categories [here](#)

- Professional consultancies
- Law-firms
- Self-employed consultants
- Companies and groups
- Trade and business associations
- Trade unions and professional associations
- Other organisations including: event-organising entities (profit or non-profit making); interest-related media or research oriented entities linked to private profit making interests; ad-hoc coalitions and temporary structures (with profit-making membership)
- Non-governmental organisations, platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations
- Think tanks and research institutions
- Academic institutions
- Organisations representing churches and religious communities
- Regional structures
- Other sub-national public authorities
- Transnational associations and networks of public regional or other sub-national authorities
- Other public or mixed entities, created by law whose purpose is to act in the public interest

Contact for this public consultation:

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A. GENERAL PART (7 questions)

1. Transparency and the EU

1.1 The EU institutions interact with a wide range of groups and organisations representing specific interests. This is a legitimate and necessary part of the decision-making process to make sure that EU policies reflect the interests of citizens, businesses and other stakeholders. The decision-making process must be transparent to allow for proper scrutiny and to ensure that the Union's institutions are accountable.

*

a) Do you agree that ethical and transparent lobbying helps policy development?

- Fully agree
- Partially agree
- Disagree
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

In order to develop a healthy democracy, the development of an ethical and transparent advocacy and lobbying environment can facilitate policy development that works for the common good, while being able to receive input from all kinds of expert group. In order to achieve this, without undermining the public interest, including the respect of fundamental rights and freedoms online, it is crucial that the institutions implement clear, predictable, strict and diligently enforced conditions to avoid undue influence in policy making. This involves not only good rules but effective implementation.

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b) It is often said that achieving appropriate lobbying regulation is not just about transparency, i.e. shedding light on the way in which lobbyists and policy-makers are operating. Which of the below other principles do you also consider important for achieving a sound framework for relations with interest representatives?

More than one answer possible

- Integrity
- Equality of access
- Other (please elaborate in the comments box below)
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Generally there should be a stricter regulation on the so-called "revolving doors" between the lobby industry and the EU institutions. It is very important for policy makers (e.g. MEPs and policy staff) not to be allowed to have parallel jobs or jobs linked with any lobbying activities until after a credible "cooling off" period following the completion of their mandate or the end of their employment.

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c) In your opinion, how transparent are the European institutions as public institutions?

- They are highly transparent
- They are relatively transparent
- They are not transparent at all
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Ever practice, from best possible to worst possible is to be seen in different parts of the different EU institutions. While we acknowledge a certain degree of improvement in certain cases (see the best practice conducted by some MEPs to publicise their meetings, e.g.

<https://juliareda.eu/2015/12/lobby-transparency/> and

<http://conservativeeurope.com/media/ResourceCategories/64/LobbyingContactReportsJan-June10.pdf> (although the latter practice appears to have been discontinued), EU institutions are not transparent enough. These are the main reasons and suggestions to solve this:

- The current voluntary register is not efficient. The register should be compulsory and legally binding. In this sense, the use of the register should be monitored. The rules should be enforced and sanctions should be strict and deterrent. This should cover lobbying in all the EU institutions, agencies and bodies.

- Reform the way citizens can get access to documents, with a principle of "open by default". There are too many cases of maladministration in dealing with access to public documents. See, for instance, how the Commission has handled our freedom of information requests on the IT Forum (<https://edri.org/commission-under-investigation-eu-internet-forum/>) and on the Telecommunications Single Market Regulation (https://edri.org/files/transparency/TriloguesConsultation_EDRiresponse.pdf). EDRi considers a reform of the Regulation 1049/2001 is needed in order to be in line with the Treaty of Lisbon. For instance, it should include every single EU institution, agency, body and office which are not covered at the moment.

- Proactive publication of meetings from all EU institutions, bodies and agencies is needed. These should be included in a centralised, searchable database per institution/agency/body and subdivisions.

- Most of the legislation of the European Union (EU) is today adopted using an informal, non-democratic, non-accountable and non-transparent process. This mechanism is known in the EU bubble as "trilogues" or "trialogues". Trilogues are a set of informal negotiations between the European Parliament, the Council of the European Union and the European Commission to fast-track legislation, with a view to reaching early agreements on legislation. Furthermore, trilogues profoundly undermine and weaken the position of the only directly democratically-elected institution in the EU, the European Parliament and the process strips the decision-making process of accountability, because secrecy hides how the agreements are reached. The problem is exacerbated by the selective, unpredictable, unaccountable leaking of documents to certain interest groups, but not others. The European Ombudsman has recently opened an investigation on transparency in trilogues. Our response is available from:

https://edri.org/files/transparency/TriloguesConsultation_EDRiresponse.pdf

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1.2 The Transparency Register provides information to politicians and public officials about those who approach them with a view to influencing the decision-making and policy formulation and implementation process. The Register also allows for public scrutiny; giving citizens and other interest groups the possibility to track the activities and potential influence of lobbyists.

Do you consider the Transparency Register a useful tool for regulating lobbying?

- Very useful
- Somewhat useful
- Not useful at all
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Although the lobby register has become a very important tool to bring transparency to EU lobbying, there are many aspects that need revision and changes should be done in order to make it the effective tool that is need for evidence-based and democratic decision-making. Thus, we advocate for a mandatory lobby register in order to be fully aware of the influences that EU institutions receive from private and public stakeholders. For this, it is necessary to know who they are, on which issues they work , on whose behalf they do their work, and with what budgets, as well as details of all meetings. A legally-binding lobby register would give the authorities the opportunity to levy fines or other real sanctions (including refusing to hold lobby meetings) on those who refuse to register or on those who post inaccurate information or who otherwise break the rules. A legally-binding lobby register should be introduced alongside a clear threshold for registration which clarifies what constitutes 'lobbying' and which contacts with decision-makers do not eg. citizens contacting their local MEP. Registers of meetings should also include policy discussions at social events, especially social events set up to discuss particular policy issues.

2. Scope of the Register

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2.1 Activities covered by the Register include lobbying, interest representation and advocacy. It covers all activities carried out to influence - directly or indirectly - policymaking, policy implementation and decision-making in the European Parliament and the European Commission, no matter where they are carried out or which channel or method of communication is used.

This definition is appropriate:

- Fully agree
- Partially agree
- Disagree
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

The EU institutions should maintain the current definition of lobbying and groups of interest. The EU institutions should not concede on any pressure to weaken the scope of the Register.

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2.2 The Register does not apply to certain entities, for example, churches and religious communities, political parties, Member States' government services, third countries' governments, international intergovernmental organisations and their diplomatic missions. Regional public authorities and their representative offices do not have to register but can register if they wish to do so. On the other hand, the Register applies to local, municipal authorities and cities as well as to associations and networks created to represent them.

The scope of the Register should be:

- Changed to exclude certain types of entities (please elaborate in the comments box below)
- Changed to include certain types of entities (please elaborate in the comments box below)
- Preserved the same as currently
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Unless there are compelling reasons to decide otherwise, all groups seeking to influence policy should be registered. Particular attention should be given to law firms, as many law firms refuse to register in a correct way. Law firms should not be allowed to conduct lobbying on behalf of their clients without disclosing who these clients are to the officials in question. The EU should find a suitable solution for law firms to address undue, unethical and non-transparency influence in EU policy making.

3. Register website

3.1 What is your impression of the Register [website](#)?

	Good	Average	Poor	No opinion
*Design and structure	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Availability of information / documents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Ease of search function	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Accessibility (e.g. features for visually impaired persons, ease of reading page)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Access via mobile devices	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Comments or suggestions (Optional)

3000 character(s) maximum

4. Additional comments

Final comments or ideas on any additional subjects that you consider important in the context of this public consultation (Optional)

3000 character(s) maximum

If you wish you may provide additional information (position papers, reports, etc) in support of your answers to this public consultation. Please upload no more than three files of up to 1Mb each. Attachments above this number will not be considered.

Attach files

End of Part A

Part B includes questions that require a certain knowledge of the Transparency Register. Proceed to Part B (optional).

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Do you want to proceed to Part B ?

- Yes
- No

B. SPECIFIC PART (13 questions)

1. Structure of the Register

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1.1 The Register invites organisations to sign up under a particular section, for example, professional consultancies, NGOs, trade associations, etc (Annex I of the [Interinstitutional Agreement](#)).

Have you encountered any difficulties with this categorisation?

- Yes
- No
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Experiences have shown that there are many organisations which have been categorised wrongly. The Register could provide more specific guidelines and examples, explaining the differences between the different categories. For example, such guidelines should provide a clear distinction between lobby consultancies and other kinds of consultancy.

2. Data disclosure and quality

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2.1 Entities joining the Register are asked to provide certain information (contact details, goals and remit of the organisation, legislative dossiers followed, fields of interest, membership, financial data, etc) in order to identify the profile, the capacity of the entity and the interest represented (Annex I of the [Interinstitutional Agreement](#)).

The right type of information is required from the registrant:

- Fully agree
- Too much is asked
- Too little is asked
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

In order to ensure an efficient financial disclosure it is indispensable to collect detailed information about the respective client, the revenue which was received as well as the precise issue which they lobby upon. It is especially important that this is applicable not just for lobby consultancies, but also for law firms which have more legal possibilities of veiling their lobby activities. To get a "full picture" it is also necessary to list all individuals and third parties that are lobbying on behalf of a registered entity/person. It is important to introduce a legal framework which enables equal transparency rules and a level-playing-field amongst lobby organisations.

*

2.2 It is easy to provide the information required:

- Fully agree
- Partially agree
- Disagree
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

*

2.3 Do you see any room for simplification as regards the data disclosure requirements?

- Yes
- No
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

The goal to achieve a fully transparent and fair environment amongst lobby organisations is still far from being reached. Simplification should not be an excuse for weakening obligations. At the moment it still important to find the loopholes in the legal framework and close them.

*

2.4 What is your impression of the overall data quality in the Register:

- Good
- Average
- Poor
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Unfortunately, the current situation can only be describes as "poor", because of the insufficient funding of the EU lobby register. The Register would require more resources in order to fulfil its investigatory tasks.

Transparency International made formal complaints about over 4000 entries, because of factual errors or implausible numbers. Transparency International estimates that over half of the entries on the lobby register contain such inaccuracies.

If the EU institutions want to win back the trust of European Citizens, it is an important part to have an efficient control over the industry's influence on the European legislation.

3. Code of Conduct and procedure for Alerts and Complaints

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3.1 The Code of Conduct sets out the rules for all those who register and establishes the underlying principles for standards of behaviour in all relations with the EU institutions (Annex III of the [Interinstitutional Agreement](#)).

The Code is based on a sound set of rules and principles:

- Fully agree
- Partially agree
- Disagree
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

- The Code of Conduct covers many important points although some important phrases such as "inappropriate behaviour" remain undefined. This should be remedied, perhaps along the lines of the European Parliament's decision of April 2014 on the modification of the inter-institutional agreement on the Transparency Register.

- Breaches of the Code of Conduct should be more readily sanctioned.

For more information, see:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2FTA%2BP7-TA-2014-0376%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=EN>

<http://www.ombudsman.europa.eu/en/press/release.faces/en/63655/html.bookmark>

3.2 Anyone may trigger an alert or make a complaint about possible breaches of the Code of Conduct. Alerts concern factual errors and complaints relate to more serious breaches of behavioural nature (Annex IV of the Interinstitutional Agreement).

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a) The present procedure for dealing with alerts and complaints is adequate:

- Fully agree
- Partially agree
- Disagree
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

We refer to the comments made by Alter-EU, i.e.: "The present system for dealing with alerts and complaints and the general maintenance of the register is far from adequate. The secretariat for the current (voluntary) EU lobby register, with its 9000+ registrations, is staffed by only a handful of people (ratio: 1 staff member per 3653 registrants). This is seriously inadequate considering that, according to ALTER-EU, the Canadian register with its 2650 registrations has 28 staff members to administer and police the system, including a 'commissioner of lobbying' (ratio: 1 staff member per 95 registrants). The Commission should significantly boost the resources devoted to the register.

Currently, the only real sanction available to the lobby register authorities is removal from the register and this can only occur in cases where there has been "non-cooperation" with the secretariat, "inappropriate behaviour" or "serious non-compliance" with the code of conduct for lobbyists. A future legally-binding lobby register should implement a system of fines and criminal prosecutions for serious breaches of the rules."

*

b) Do you think that the names of organisations that are suspended under the alerts and complaints procedure should be made public?

- Yes
- No
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

4. Register website – registration and updating

4.1 How user-friendly is in your opinion the Register [website](#) in relation to registration and updating?

	Straightforward	Satisfactory but can be improved	Cumbersome	No opinion
*Registration process	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Updating process (annual & partial)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Comments or suggestions (Optional)

3000 character(s) maximum

5. Current advantages linked to registration

5.1 The European Parliament and the European Commission currently offer certain practical advantages (incentives) linked to being on the Register. The Commission has also announced its intention to soon amend its rules on Expert groups to link membership to registration. Which of these advantages are important to you?

In the European Parliament (EP)

	Very important	Somewhat important	Not important	No opinion
<p>*Access to Parliament buildings : long-term access passes to the EP's premises are only issued to individuals representing, or working for registered organisations</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Committee public hearings: guests invited to speak at a hearing need to be registered</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Patronage: Parliament does not grant its patronage to relevant organisations that are not registered</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In the European Commission

	Very important	Somewhat important	Not important	No opinion
<p>*Meetings: organisations or self-employed individuals engaged in relevant activities must be registered in order to hold meetings with Commissioners, Cabinet members and Directors-General</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Public consultations: the Commission sends automatic alerts to registered entities about consultations in areas of interest indicated by them; it differentiates between registered and non-registered entities when publishing the results</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Patronage: Commissioners do not grant their patronage to relevant organisations that are not registered</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>*Mailing lists: organisations featuring on any mailing lists set up to alert them about certain Commission activities are asked to register</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
<p>*Expert groups: registration in the Transparency Register is required in order for members to be appointed (refers to organisations and individuals appointed to represent a common interest shared by stakeholders in a particular policy area)</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Comments or suggestions (Optional)

3000 character(s) maximum

6. Features of a future mandatory system

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6.1 Do you believe that there are further interactions between the EU institutions and interest groups that could be made conditional upon prior registration (e. g. access to MEPs and EU officials, events, premises, or featuring on specific mailing lists)?

- Yes
- No
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

Interactions with lobbying organisations that should be made conditional upon prior registration, should include:

- Any meeting with any Commission official
- Attendance by Commission officials and their staff in any "expert group", "think tank", "market access group" or any other comparable event
- All meetings with Members of Parliament or their staff
- Events in the Parliament organised by lobbyists
- Attendance by Members of Parliament and their staff in any "expert group", "think tank", "market access group" or any other comparable event
- All social events set up for the purpose of discussing policy issues
- Events held by the President of the Council, members of his Cabinet and their staff
- Events held by the general secretariat of the Council
- Events held by the permanent representations on EU matters
- Events held by the European External Action Services, Federica Mogherini and her Cabinet

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6.2 Do you agree with the Commission's view that the Council of the EU should participate in the new Interinstitutional Agreement on a mandatory Register?

- Yes
- No
- No opinion

Comments or suggestions (Optional)

3000 character(s) maximum

The Council of the EU, as a co-legislator in the ordinary legislative procedure, should definitely participate in the new Inter-institutional Agreement on a mandatory Register. It is essential that the new rules for lobbying also include the Council and the permanent representations of the Member States. This reasoning also applies to the work of the European Council, which also requires transparency in lobbying activities.

7. Looking beyond Brussels

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7.1 How does the Transparency Register compare overall to 'lobby registers' at the EU Member State level?

- It is better
- It is worse
- It is neither better, nor worse
- No opinion

Good practices or lessons learned at the EU Member State level to be considered, or pitfalls to be avoided. (Optional)

4000 character(s) maximum

8. Additional comments

Final comments or ideas on any additional subjects that you consider important in the context of this public consultation (Optional)

3000 character(s) maximum

*Publication of your consultation

- I agree to my contribution being published.
- I do not agree to my contribution being published.

[Specific privacy statement](#)

Useful links

Read more on the [public consultation homepage](#)

(http://ec.europa.eu/transparency/civil_society/public_consultation_en.htm)

Contact

SG-TRANSPARENCY-REGISTER-PUBLIC-CONSULTATION@ec.europa.eu
