



Brussels, 28.9.2016  
COM(2016) 627 final

Proposal for a  
**Interinstitutional Agreement**  
**on a mandatory Transparency Register**

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND  
THE EUROPEAN COMMISSION

Having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (EURATOM), in particular Article 106a thereof,

Whereas:

(1) The European Parliament, the Council of the European Union and the European Commission ('the three institutions') maintain an open, transparent and regular dialogue with representative associations and civil society in accordance with the Treaty on European Union (TEU), in particular Article 11(1) and (2) thereof.

(2) This openness allows for all stakeholders to present their views on decisions that may affect them and hence contribute effectively to the evidence base on which policy proposals are made. Engaging with stakeholders enhances the quality of decision-making by providing channels for the input of external views and expertise.

(3) The three institutions affirm that transparency and accountability are essential to maintain the trust of European citizens in the legitimacy of the political, legislative and administrative processes in the Union.

(4) Transparency of interest representation is especially important in order to allow citizens to follow the activities and potential influence of interest representatives. The three institutions consider that such transparency is best ensured by a Code of Conduct which contains the rules and principles applicable to interest representatives signing up to a Transparency Register and, thereby, to the Code.

(5) In view of the positive experience with the Transparency Register for organisations and self-employed individuals engaged in EU policy-making and policy implementation established by the agreement of the European Parliament and the European Commission of 16 April 2014<sup>1</sup>, the three institutions consider that such an agreement should be extended in an appropriate way.

(6) The three institutions recognise the necessity to establish a mandatory Transparency Register ('the register') by making certain types of interactions with them conditional upon prior registration, thereby making registration a *de facto* precondition for interest representation, and thus ensuring that such representation occurs according to the rules and principles enshrined in the Code of Conduct.

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

(7) The three institutions respond hereby to the need to adopt as swiftly as possible an interinstitutional agreement establishing a mandatory register, in accordance with the European Parliament's resolution of 28 April 2016 on public access to documents<sup>2</sup>.

(8) The operation of this register shall not impinge on the competences of any of the three institutions or affect their respective internal organisational powers, without prejudice to the agreement they shall conclude in respect of the modalities on their contributions to the administrative and financial resources of the Secretariat of the register.

(9) The three institutions shall act in mutual sincere cooperation in implementing this agreement.

(10) Any of the three institutions may pursue other good governance and transparency policies outside the framework of this agreement to the extent that such policies do not interfere with the implementation and the objectives pursued by this agreement.

(11) The agreement shall be without prejudice to the exercise of rights under Article 11(4) TEU (European citizens' initiative) and Article 227 TFEU (the right to petition the European Parliament),

AGREE AS FOLLOWS:

#### Article 1

##### **Purpose and scope of the interinstitutional agreement**

This interinstitutional agreement establishes a framework for a transparent and ethical interaction between interest representatives engaging in activities covered by this agreement and any of the three institutions.

#### Article 2

##### **Definitions**

For the purposes of this interinstitutional agreement, the following definitions shall apply:

- a) '*Interest representatives*' shall mean any natural or legal person, or formal/informal groups, associations or networks thereof, engaging in activities covered by this agreement;
- b) '*Applicant*' shall refer to any interest representative applying to join the register;
- c) '*Registrant*' shall refer to any interest representative with an existing entry in the register;
- d) '*Client*' shall mean an interest representative that has instructed an intermediary to represent the client's own interests vis-à-vis any of the three institutions;

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<sup>2</sup> Resolution of 11 March 2014 on public access to documents (Rule 104(7)) for the years 2011-2013), text adopted P8\_TA(2016)0202.

e) '*Intermediary*' shall mean an interest representative that represents the interests of a client vis-à-vis any of the three institutions;

f) '*Client – intermediary relationship*' shall mean any contractual relationship between a client and one or more service (sub)providers concerning the provision of a covered activity;

g) '*Officials*' shall refer to all categories of staff of any of the three institutions.

### Article 3

#### **Activities covered and not covered by the interinstitutional agreement**

1) This agreement applies to activities which promote certain interests by interacting with any of the three signatory institutions, their members or officials, with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making process within these institutions, unless an exception defined in paragraph 2 or in Article 4 applies.

2) The following activities are not considered to be activities in the sense of paragraph 1:

a) The provision of legal and other professional advice in the context of a client-intermediary relationship, where:

- it consists of representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body;
- it consists of advice given to clients to help them ensure that their activities comply with the existing legal framework; or
- it relates to representing clients and safeguarding their fundamental or procedural rights, such as the right to be heard, the fundamental right of a client to a fair trial, including the right of defence in administrative proceedings, such as activities carried out by lawyers or by any other professionals involved therein.

b) Submissions made as a party or a third party in the framework of a legal or administrative procedure established by EU law or by international law applicable to the Union and submissions based on a contractual relationship with the institution or based on a grant agreement financed by EU funds.

c) Activities of the social partners as participants in the social dialogue pursuant to Article 152 TFEU.

d) Submissions made in response to direct and specific requests from any of the three institutions, their members or officials, such as requests for factual information, data or expertise.

e) The communication of citizens, acting solely in their personal capacity, with any of the three institutions.

#### Article 4

##### **Bodies not covered by the interinstitutional agreement**

- 1) Political parties are exempt from registration. However, any organisations created or supported by them which are engaged in activities covered are not exempt from registration.
- 2) Churches and religious associations or communities as well as philosophical and non-confessional organisations foreseen in Article 17 TFEU are exempt from registration. However, the representative offices or legal entities, offices and networks created to represent churches, religious communities or philosophical and non-confessional organisations in their relations with the EU institutions, as well as their associations, are not exempt from registration.
- 3) The public authorities of the Member States (including their permanent representations and embassies), at national and subnational level, are exempt from registration, as well as any association of public authorities at the European, national or subnational level, under the condition that they act uniquely on behalf of the relevant public bodies.
- 4) The public authorities of third countries (including their diplomatic missions and embassies) are exempt from registration.
- 5) Intergovernmental organisations, including agencies and bodies emanating from them, are exempt from registration.

#### Article 5

##### **Interactions conditional upon registration**

- 1) The three institutions agree to make the following types of interaction conditional upon prior registration of interest representatives:

##### **In the European Parliament**

- Access to Parliament buildings: eligibility for applying for long-term access passes to the European Parliament premises of individuals representing, or working for, interest representatives;
- Committee public hearings: possibility for interest representatives to be invited to speak at a committee hearing as a guest, without prejudice to the provisions of Article 3(2)(b);
- Patronage: granting of patronage to events organised by interest representatives;

- Meetings: meetings between interest representatives and members of the European Parliament ('MEPs'), the Secretary-General, Directors-General and Secretaries-General of political groups;
- Events: hosting of events organised by interest representatives on the European Parliament's premises;
- Notices: sending of automatic messages about the European Parliament's activities to interest representatives.

### **In the Council of the European Union**

- Meetings: meetings between interest representatives and the Ambassador of the current or forthcoming Presidency of the Council of the EU, as well as their deputies in the Committee of the Permanent Representatives of the Governments of the Member States to the European Union, the Council's Secretary-General and Directors-General;
- Notices: sending of automatic messages about the Council's activities to interest representatives.

### **In the European Commission**

- Meetings: meetings between interest representatives and members of the Commission, their Cabinet members and Directors-General;
- Expert groups: appointment of certain types of expert group members;<sup>3</sup>
- Public consultations: sending of automatic alerts about the Commission's consultations to interest representatives; the Commission will differentiate between registered and non-registered entities by publishing their contributions separately;
- Patronage: granting of patronage to events organised by interest representatives;
- Mailing lists: sending of alerts by means of mailing lists to interest representatives about certain Commission activities.

2) Each of the three institutions shall take the necessary internal measures to give effect to the types of conditionality referred to in paragraph 1.

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<sup>3</sup> This refers to individuals appointed to represent a common interest shared by stakeholders in a particular policy area, who do not represent an individual stakeholder, but a policy orientation common to different stakeholder organisations ('Type B members') and to organisations in the broad sense of the word, including companies, associations, NGOs, trade unions, universities, research institutes, law firms and consultancies ('Type C members'), as laid down in Commission Decision C(2016) 3301 of 30.5.2016.

3) Each institution may decide to make other types of interaction conditional upon registration, as long as these additional types of conditionality have the aim of further strengthening the current framework.

4) The types of conditionality referred to in paragraphs 1 and 3 shall be made public on a dedicated webpage of the register.

## Article 6

### **Eligibility and registration of applicants**

1) When applying for registration, applicants need to demonstrate their eligibility in terms of carrying out activities covered by this agreement.

2) To this effect, applicants need to provide the information detailed in Annex II, and to agree for that information to be in the public domain.

3) Applicants may be requested to present supporting documents demonstrating their eligibility and the accuracy of the information submitted.

4) Applicants are entered into the register as registrants once their eligibility has been established and the registration is considered to satisfy the provisions of Annex II regarding information to be provided.

## Article 7

### **The Code of Conduct applicable to registrants and its enforcement**

1) The rules and principles that the registrants need to comply with are laid down in the Code of Conduct annexed to this agreement (Annex III). By registering, registrants agree to abide with these rules and principles.

2) As provided in the Code of Conduct, a failure to comply with its provisions may be subject to investigations and measures laid down in the procedures set out in Annex IV to this agreement.

Investigations may be carried out following complaints received or at the Secretariat's own initiative.

The three institutions shall take the necessary internal measures to apply any measures imposed in accordance with Annex IV.

3) As provided in the Code of Conduct, registrants shall in particular:

- present, if requested, the documents and any other supporting materials demonstrating that the information submitted is accurate;

- agree to cooperate sincerely and constructively with requests for clarification and updates;
- accept that they may be subject to the investigation procedures and, where applicable, measures laid down in Annex IV.

## Article 8

### **Management Board of the register**

- 1) The Management Board of the register shall consist of the Secretaries-General of the three institutions.
- 2) The Management Board shall:
  - oversee the overall implementation of this agreement by the Secretariat and issue general instructions to that effect;
  - approve the rules of procedure of the Secretariat;
  - approve the issuance of guidelines as provided for in Article 9(4);
  - examine and decide upon reasoned requests for review, submitted by registrants, of the Secretariat's decisions as laid down in Annex IV to this agreement;
  - accept notifications for voluntary involvement under Articles 12 and 13 of the agreement.
- 3) The Management Board shall decide by consensus.
- 4) The Management Board may adopt rules of procedure governing the exercise of its responsibilities.

## Article 9

### **The Secretariat of the register**

- 1) The Secretariat is a joint operational structure made up of a Coordinator and the members of the Secretariat, which reports directly to the Management Board.
- 2) The Secretariat shall operate under the coordination of an official in the Secretariat-General of the European Commission ('the Coordinator'). The members of the Secretariat shall be staff of the European Parliament, the Council and the European Commission seconded to the Secretariat by their respective institutions.

The Coordinator shall assume the overall responsibility for the work of the Secretariat and oversee the day-to-day operations.

3) The main tasks of the Secretariat shall be:

- drafting the rules of procedure of the Secretariat, for approval by the Management Board;
- reporting to the Management Board on the overall implementation of this agreement;
- monitoring the content of the register and ensuring that only eligible applicants are registered with the aim to achieve an optimal level of data quality in the register, with the understanding, however, that registrants are ultimately responsible for the accuracy of the information they have provided;
- providing helpdesk support to registrants, the three institutions and any entities participating on a voluntary basis pursuant to Articles 12 and 13;
- carrying out investigations, removing registrations and adopting measures in accordance with Annex IV to this agreement;
- organising awareness-raising actions;
- producing an annual report for the preceding calendar year;
- ensuring the development and maintenance of the register website and online registration form, as well as other related IT resources;
- exchanging good practice and experience in transparency of interest representation with similar bodies;
- carrying out any other activities necessary for the implementation of the present agreement.

4) The Secretariat may propose for the approval of the Management Board guidelines for registrants to ensure the consistent application of Articles 2 to 6 (definitions, activities, bodies not covered, interactions conditional upon registration, eligibility and registration of applicants), as well as of the annexes of this agreement.

#### Article 10

##### **Decision**

The three institutions shall establish the Secretariat and the Management Board by means of a separate Decision, commonly adopted by the three institutions before the entry into force of this Agreement.

#### Article 11

##### **Resources**

- 1) The three institutions shall ensure that the Secretariat has at its disposal the human, administrative and financial resources required for the proper implementation of its tasks.
- 2) The three institutions shall provide the necessary human resources to the Secretariat, in case of the European Parliament and the Council of the European Union by means of a secondment to the Commission pursuant to Articles 37(a) and 38 of the Staff Regulations of the Officials of the European Communities.
- 3) The three institutions contribute equally to the functioning of the Secretariat and the register. They shall conclude a separate agreement detailing the arrangements regarding their contributions to the administrative and financial resources of the Secretariat.

## Article 12

### **Voluntary involvement of other EU institutions, bodies, offices and agencies**

- 1) Other EU institutions, bodies, offices and agencies are encouraged to use the framework created by this agreement themselves as a reference instrument for their own interactions with interest representatives.
- 2) Other EU institutions, bodies, offices and agencies may, on a voluntary basis, notify the Secretariat that they wish to make certain interactions conditional upon registration in the Transparency Register. The notification shall contain details of the types of interaction proposed and their conditions.
- 3) Where the Management Board considers that the types of interaction proposed are consistent with the objectives pursued by the register, the EU institutions, bodies, offices and agencies concerned may make those types of interaction conditional upon registration and shall benefit from the Secretariat's assistance and helpdesk support, in return for a proportionate contribution to the costs of functioning of the Secretariat and register.
- 4) The acceptance of the notification in the preceding paragraph will not confer the notifying EU institutions, bodies, offices and agencies the status of a party to this interinstitutional agreement.
- 5) The types of conditionality accepted under paragraph 3 shall be published on the register website.

## Article 13

### **Voluntary involvement of Member States' permanent representations to the EU**

- 1) Without prejudice to Article 4(3) of the present agreement, Member States may, on a voluntary basis, notify the Secretariat that they wish to make certain interactions of interest representatives with their permanent representations to the EU conditional upon registration in the Transparency Register. The notification shall contain details of the types of interaction proposed and their conditions.

2) Where the Management Board considers that the types of interaction proposed are consistent with the objectives pursued by the register, the relevant permanent representation may make those types of interaction conditional upon registration and shall benefit from the Secretariat's assistance and helpdesk support, in return for a proportionate contribution to the costs of functioning of the Secretariat and register.

3) The acceptance of the notification in the preceding paragraph will not confer the notifying Member State the status of a party to this interinstitutional agreement.

4) The types of conditionality accepted under paragraph 2 shall be published on the register website.

#### Article 14

##### **Final and transitional provisions**

1) This interinstitutional agreement is of a binding nature for the signatory institutions.

2) This agreement shall replace the agreement between the European Parliament and the European Commission of 16 April 2014 whose effects shall cease to apply on the date of application of this agreement.

3) This agreement shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from [xx xx xxxx].

4) Interest representatives registered at the date of application of this agreement shall amend their registration to satisfy the new requirements resulting from this agreement within a period of six months following that date.

5) Any investigations following alerts and complaints opened under the agreement between the European Parliament and the European Commission of 16 April 2014 shall be carried out under the procedure of that agreement.

6) This agreement shall be subject to a review four years after its entry into force.

Done at [place], [date].



Brussels, 28.9.2016  
COM(2016) 627 final

ANNEXES 1 to 4

**ANNEXES**

*to the Proposal for an Interinstitutional Agreement*  
**on a mandatory Transparency Register**

## ANNEX I

### CLASSIFICATION OF REGISTRANTS

The Secretariat applies the below classification of registrants, which it may modify.

<b>Classification sections of registrants</b>		
<b>I.</b>	<b>Professional consultancies, law firms, self-employed consultants</b>	
a	Subsection	Professional consultancies
b	Subsection	Law firms
c	Subsection	Self-employed consultants
<b>II.</b>	<b>Companies, trade/business associations, trade unions, professional associations</b>	
a	Subsection	Companies
b	Subsection	Trade and business associations
c	Subsection	Trade unions and professional associations
d	Subsection	Event-organising entities
<b>III.</b>	<b>Non-governmental organisations</b>	
a	Subsection	Non-governmental organisations, platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations.
<b>IV.</b>	<b>Think tanks, research and academic institutions</b>	
a	Subsection	Think tanks and research institutions
b	Subsection	Academic institutions
<b>V.</b>	<b>Interest representatives not covered by the preceding sections</b>	
a	Subsection	Organisations representing churches and religious communities
b	Subsection	Other entities not covered by preceding sections

## **ANNEX II**

### **INFORMATION TO BE PROVIDED BY REGISTRANTS**

#### **I. GENERAL INFORMATION**

(a) name of the entity; address of head office and EU office, if different from head office; phone number; e-mail address;<sup>1</sup> website;

(b) name of the person legally responsible for the organisation and person in charge of EU relations; names of the persons with authorisation for access to the European Parliament's premises;<sup>2</sup>

(c) an estimate of the full-time equivalents (FTEs) for all persons involved in activities covered by the register according to the following percentages of a full-time activity: 10 %, 25 %, 50 %, 75 % or 100 %;

(d) goals/remit — fields of interest — activities falling within the scope of the register — level of engagement (global, European, national, regional);

(e) member organisations of the registrant including geographical coverage and registrant's membership or affiliation to relevant networks and associations falling within the scope of the register.

#### **II. SPECIFIC INFORMATION**

##### **A. Activities covered by the register**

Details about EU legislative proposals, policies or initiatives subject of the interaction(s).

##### **B. Links with EU institutions**

(a) membership of expert groups and other EU supported forums and platforms;

(b) membership of, or participation in, European Parliament intergroups and industry forums.

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<sup>1</sup> E-mail address provided will not be published.

<sup>2</sup> Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.

### **C. Financial information related to the activities covered by the register**

All amounts indicated are in euros.

#### **Costs**

All registrants promoting their own interests vis-à-vis any of the three institutions shall provide an estimate of the annual costs related to activities covered by the register according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Annual costs for activities covered by the register:

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 999 999

1 000 000 – 1 249 999

1 250 000 – 1 499 999

1 500 000 – 1 749 000

1 750 000 – 1 999 999

2 000 000 – 2 249 999

2 250 000 – 2 499 999

2 500 000 – 2 749 000

2 750 000 – 2 999 999  
3 000 000 – 3 499 999  
3 500 000 – 3 999 999  
4 000 000 – 4 499 999  
4 500 000 – 4 999 999  
5 000 000 – 5 499 999  
5 500 000 – 5 999 999  
6 000 000 – 6 499 999  
6 500 000 – 6 999 999  
7 000 000 – 7 999 999  
8 000 000 – 8 999 999  
9 000 000 – 9 999 999  
> 10 000 000

Clients shall declare all intermediaries carrying out activities covered by the register on their behalf and the cost for each individual intermediary according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Bracket size of representation costs per intermediary:

< 10 000  
10 000 – 24 999  
25 000 – 49 999  
50 000 – 99 999  
100 000 – 199 999  
200 000 – 299 999  
300 000 – 399 999  
400 000 – 499 999  
500 000 – 599 999  
600 000 – 699 999

700 000 – 799 999  
800 000 – 899 999  
900 000 – 1 000 000  
> 1 000 000

Any current intermediaries that are not covered by the most recent financial year closed shall be declared separately by name.

### **Revenue**

Intermediaries shall declare the annual revenue generated attributable to activities covered by the register according to the below grid. The annual revenue generated shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Revenue from individual clients for activities covered by the register shall be listed according to the below grid:

Bracket size of revenue generated per client:

< 10 000  
10 000 – 24 999  
25 000 – 49 999  
50 000 – 99 999  
100 000 – 199 999  
200 000 – 299 999  
300 000 – 399 999  
400 000 – 499 999  
500 000 – 599 999  
600 000 – 699 999  
700 000 – 799 999  
800 000 – 899 999  
900 000 – 999 999  
> 1 000 000

Total annual revenue generated for activities covered by the register shall be calculated automatically by the register's system based on the aggregate of the estimated revenue generated per client.

Intermediaries shall declare all clients, on behalf of whom activities covered by the register are carried out.

Any current clients that are not covered by the most recent financial year closed shall be declared separately by name.

Intermediaries acting in their own interest (i.e. not on behalf of their clients) shall declare this in their registration form and shall separately specify the costs for those activities pursuant to the Costs section above.

All registrants, including intermediaries carrying out activities falling within the scope of this agreement, shall declare the amount and source of EU grants contributing to their operating costs.

### **Specific information obligations**

Registrants that are legally registered as 'not-for-profit' entities shall provide:

- a) the total budget of the registrant for the most recent financial year closed;
- b) the main sources of funding by category (for example, public financing, members contributions, grants, donations, etc.);
- c) amount of each contribution exceeding 10 % of the total budget, if the contributions are above 10 000 euros, and the name of the contributor.

### **Implementation**

The Secretariat shall provide an online registration form and guidelines for registrants on the financial modalities to be declared pursuant to this Annex.

## ANNEX III

### CODE OF CONDUCT

The three institutions consider that the registered interest representatives interacting with them, whether on a single occasion or frequently, should behave in conformity with this Code of Conduct.

The registrants acknowledge the below set of rules and principles, and agree to comply with them. In particular, registrants shall:

- (a) in their relations with any of the three institutions, always identify themselves by name, registration number, the entity or entities they work for or represent; declare the interests and objectives they promote as well as specify the clients or members whom they represent and, where applicable, their registration number;
- (b) not obtain or try to obtain information or decisions dishonestly, by use of undue pressure, or by inappropriate behaviour;
- (c) not misrepresent the effect of registration in such a way as to be likely to mislead or have negative reputational impact on the register, or use the logos of the Union and any of the three institutions without express authorisation;
- (d) ensure that, to the best of their knowledge, information that they provide upon registration, and subsequently administer in the framework of their activities covered by the register, is complete, up-to-date and not misleading: they agree for this information to be in the public domain;
- (e) not distribute documents obtained from the institutions to third parties against payment;
- (f) respect and avoid any obstruction to the implementation and application of all rules, codes and practices pertaining to good governance and transparency established by the three institutions, as made available on the register's website;
- (g) not induce MEPs, members of the Commission or staff of any of the three institutions to contravene the rules and standards of behaviour applicable to them;
- (h) if employing former MEPs, members of the Commission or staff of any of the three institutions, respect the obligations of those individuals to abide by the confidentiality requirements and rules applicable to them after leaving the respective institution;
- (i) insofar engaged in a client-intermediary relationship: (i) ensure that all parties in such relationship are registered in the register, and (ii) as clients or intermediaries, allow

for the relevant publication of the information concerning the relationship on the register pursuant to Annex II of this interinstitutional agreement;

(j) agree: (i) to present, if requested, to the Secretariat the documents and any other supporting materials demonstrating their eligibility and that the information submitted is accurate, and (ii) to cooperate sincerely and constructively with the Secretariat;

(k) agree that they may be subject to the investigation procedures and, where applicable, measures laid down in Annex IV;

(l) take appropriate steps to ensure that their employees engaged in activities covered by the register are informed about the registrant's commitments under this Code of Conduct;

(m) inform whomever they represent in the framework of activities covered by the interinstitutional agreement of their obligations towards the EU institutions flowing from the Code of Conduct;

(n) agree to respect, and avoid any obstruction to, the specific access and security rules and arrangements established by the signatory institutions.

## **ANNEX IV**

### **INVESTIGATIONS AND MEASURES**

#### **1. General**

- 1.1. Where the Secretariat learns about a possible failure to comply with the provisions of the Code of Conduct, it may open an investigation.
- 1.2. The investigation may be opened either on the basis of a received complaint or at the Secretariat's own initiative.
- 1.3. The investigation is an administrative procedure involving the Secretariat and the registrant.
- 1.4. The provisions concerning investigations shall apply both to investigations opened following complaints received as well as to own-initiative investigations.

#### **2. Complaints and opening of investigations**

- 2.1. Any natural or legal person may submit a complaint to the Secretariat. Complaints shall be submitted in writing. In order to be admissible, the complaint shall:
  - a) identify the registrant concerned and clearly set out the content of the complaint;
  - b) provide the name and contact details of the complainant;
  - c) be lodged within one year as of the alleged violation;
  - d) be adequately supported by evidence demonstrating a reasonable probability of a failure to comply with the provisions of the Code of Conduct.
- 2.2. The Secretariat shall inform the complainant whether the complaint is admissible. For inadmissible complaints, the Secretariat shall, where possible, inform the complainant how to submit an admissible complaint.
- 2.3. Without prejudice to the preceding paragraphs, where the Secretariat considers that an inadmissible complaint indicates the possibility of a sufficiently serious failure to comply with the provisions of the Code of Conduct, it may open an investigation at its own initiative.

### **3. Requests for clarification**

- 3.1. If the Secretariat learns of a possible failure to comply with the provisions of the Code of Conduct that could lead to an investigation, it may, where it deems appropriate and effective, contact the registrant concerned with a request to clarify and remedy the possible failure.
- 3.2. The Secretariat shall set the registrant a reasonable deadline to comply with the request in view of the factual circumstances of the possible failure.
- 3.3. If the registrant's reaction is satisfactory and the Secretariat considers the matter settled, it may close the request and, if applicable, inform the complainant accordingly.
- 3.4. Where the registrant's reply is not satisfactory the Secretariat opens an investigation, as outlined in section 5 of this Annex.

### **4. Investigative powers**

- 4.1. The registrant shall fully cooperate with any request for information and documents in the investigation.
- 4.2. The registrant shall, upon request, make available to the Secretariat documents of relevance to the investigation. The Secretariat may decide to inspect and/or take copies of such documents in the registrant's possession.
- 4.3. Where the Secretariat inspects documents, it shall draft a report containing the information on facts relevant to the investigation. A copy of the report shall be provided to the registrant.
- 4.4. The Secretariat may decide to hear the registrant concerned and/or the complainant.
- 4.5. The registrant and complainant may indicate which document (or parts of it) and/or information provided by them on the basis of sections 4.2 – 4.4 above should be considered confidential by reference to the exceptions in Article 4 of Regulation 1049/2001.

### **5. Investigations**

- 5.1. When opening an investigation, the Secretariat informs the registrant of the suspected failure to comply with specific provisions of the Code of Conduct, the reasoning underpinning it and any relevant supporting evidence.

In exceptional and duly justified cases, the Secretariat may, awaiting the decision foreseen in section 9, remove a registration from the public website of the register to prevent reputational damage to the European Union institutions, the register or third

parties. In these cases, the Secretariat informs the registrant at the same time of the reasons for this removal and any relevant supporting evidence.

- 5.2. The registrant shall submit a response within 20 working days.
- 5.3. The Secretariat may decide to grant a longer period of time to submit the response if justified by the objective characteristics of the specific investigation.
- 5.4. If a registrant fails to observe the deadline for submitting a response, the Secretariat may, if not yet done so, remove the relevant registration from the public website of the register. The Secretariat may decide to reintroduce the registration once the registrant provides its response.
- 5.5. If the Secretariat requires further information or clarifications, it may request them from the registrant in accordance with sections 5.1 – 5.3 above.
- 5.6. The complainant shall be informed of the opening of the investigation.

## **6. Seeking solutions**

- 6.1. If, upon having examined all relevant elements in the investigation, the Secretariat forms the view that the registrant failed to comply with the Code of Conduct, it may seek any solution it deems appropriate to remedy that failure and/or mitigate its future effects.
- 6.2. Where the registrant concerned cooperates to give effect to that solution, the investigation shall be closed. The Secretariat may decide to apply to cooperative registrants a more lenient measure or to close the investigation without applying any measure.
- 6.3. Where the registrant does not give satisfactory effect to the solution, the Secretariat may close the investigation and issue a decision on the basis of the information at its disposal.

## **7. Failure to cooperate with the Secretariat sincerely and constructively**

If the Secretariat considers that the registrant concerned does not cooperate sincerely and constructively in the investigation stages laid down in section 5 above, the Secretariat may, after having given the registrant the possibility to make known its own views in writing, close the investigation by including a finding of violation of point (j) of the Code of Conduct and applying measures in section 10 below based on the information at its disposal.

## **8. Right to be heard**

The registrant shall have the possibility to make known its own views in writing before any decision concluding in a failure to comply with the Code of Conduct is taken.

## **9. Decision**

- 9.1. The Secretariat closes an investigation with a reasoned decision. The decision shall specify whether a failure to comply with the Code of Conduct was established and, if applicable, what measure was applied.
- 9.2. Registrants shall be informed of their right to lodge a request for review or of the remedies open to them.
- 9.3. The complainant shall be informed on the outcome of the complaint.

## **10. Measures**

- 10.1. Where the Secretariat establishes a violation of the Code of Conduct, it may impose the following measures:
  - a) formal warning to the registrant, with an indication of the infringed provision of the Code of Conduct;
  - b) suspension of individual or multiple types of interaction available to the registrant listed under Article 5 of this interinstitutional agreement for a period between 15 days and 1 year;
  - c) removal of the registration from the register for a period between 15 days and 2 years.
- 10.2. When deciding on the severity of the measure, the Secretariat shall duly take into account all relevant circumstances of an individual case with the objectives pursued by the interinstitutional agreement.
- 10.3. Registrants with individual or multiple types of interaction suspended may not enjoy said types of interaction until their period of suspension has expired and they have satisfactorily remedied the grounds that led to the suspension, whichever period of the two is longer.
- 10.4. Registrations removed from the register may not be re-entered until the period of removal has expired and the registrant has satisfactorily remedied the grounds that led to the removal.
- 10.5. The complainant shall be informed on the final outcome of the complaint and, where applicable, which of the measures under section 10.1 was applied to the registrant.

## **11. Review**

- 11.1. Registrants that were subject to measures in section 10.1 may lodge a reasoned request for review of the decision by the Secretariat. The exhaustion of the review procedure shall entitle the registrants to use the remedies foreseen in section 12 of this Annex.
- 11.2. The request for review shall be sent to the Management Board within 15 working days as of receipt of the notification of the measure.
- 11.3. The requests for review shall be re-examined by the Management Board.
- 11.4. A request for review shall not suspend the measure, unless the Management Board decides otherwise on the basis of the reasoned request for review.
- 11.5. The Management Board shall inform the registrant on the outcome of the review procedure within 20 working days. A failure to reply within that period shall be understood as being an implicit rejection of the request for review.
- 11.6. Registrants that are not satisfied with the outcome of the review procedure may make use of the remedies in section 12.

## **12. Remedies**

Registrants that are not satisfied with the decision by the Management Board may submit an application to the Court of Justice or a complaint to the European Ombudsman in accordance with Articles 263 and 228 TFEU.