



Council of the
European Union

003904/EU XXVI. GP
Eingelangt am 01/12/17

Brussels, 1 December 2017
(OR. en)

15336/17

LIMITE

AG 28
INST 451
POLGEN 158
JUR 578

NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	15173/17
Subject:	Proposal for an Inter-Institutional Agreement on a mandatory Transparency Register - Draft Council Decision on the regulation of interactions between officials of the General Secretariat of the Council and interest representatives

Delegations will find attached a draft Council Decision on the regulation of interactions between officials of the General Secretariat of the Council and interest representatives, as agreed by the General Affairs Group on 1 December 2017.

DRAFT

COUNCIL DECISION (EU) 2017/...

of XX.XX.2017

**on the regulation of interactions between officials of the General Secretariat of the Council
and interest representatives**

The Council of the European Union,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, in particular Article 240,

Whereas:

- (1) Article 11(1) of the Treaty on European Union (TEU) requires that Union institutions give citizens and representative associations, by appropriate means, the opportunity to make known and publicly exchange their views in all areas of Union action. Moreover, Article 11(2) requires Union institutions to maintain an open, transparent and regular dialogue with representative associations and civil society.
- (2) Article 15(1) of the Treaty on the Functioning of the European Union (TFEU) provides that in order to promote good governance and ensure the participation of civil society, Union institutions, bodies, offices and agencies are to conduct their work as openly as possible.
- (3) In accordance with Article 298 TFEU, in carrying out their missions, Union institutions, bodies, offices and agencies are to have the support of an open, efficient and independent European administration.

- (4) In order for Union institutions to work as openly as possible, stakeholders should be allowed to provide their views and expertise during the decision-making process so as to improve the quality of and the support for decisions that are being taken.
- (5) In order to maintain the trust in the Union political, legislative and administrative processes, interactions with interest representatives should be carried out in a transparent and ethical manner.
- (6) The Council of the European Union is committed to establishing a framework for the transparent and ethical interactions between interest representatives and the officials and agents of its General Secretariat, by introducing a principle of conditionality. According to this principle, certain interactions should be open to those interest representatives that commit to respecting the transparency and ethical rules contained in a code of conduct.
- (7) The Commission has made a proposal for an Interinstitutional Agreement on a Transparency Register (the 'Interinstitutional Agreement') to which the European Parliament, the Council and the Commission would be party.
- (8) The Council considers that the establishment of a Transparency Register common to the European Parliament, the Council and the Commission, and open to other Union institutions, bodies, offices and agencies, is the most effective way to implement the principle of conditionality by linking registration in the Transparency Register to adherence to the code of conduct adopted by each institution.
- (9) The organs of the Transparency Register should be empowered to adopt decisions concerning individual registrants on behalf of the Council. Such decisions should include, according to the conditions laid down in the Interinstitutional Agreement, the possibility to adopt measures in the case of breach of the transparency and ethical rules established in the code of conduct.
- (10) Nothing in this Decision should be interpreted as conferring to interest representatives registered in the Transparency Register privileged right of access to documents held by the Council.

HAS ADOPTED THIS DECISION:

Article 1

Principle of conditionality

In the cases provided for in this Decision and in line with the Interinstitutional Agreement establishing the Transparency Register, the interactions between the General Secretariat of the Council and interest representatives shall be conditional upon respect by interest representatives of the obligations laid down in the code of conduct annexed to this Decision.

Article 2

Transparency Register

1. The principle of conditionality shall be implemented by means of registration of interest representatives in a Transparency Register common to the European Parliament, the Council and the Commission.
2. The Interinstitutional Agreement establishing the Transparency Register defines the scope of the activities and the entities subject to registration as well as the conditions for the eligibility and registration of interest representatives in the Transparency Register.
3. The Council shall be represented in the Management Board of the Transparency Register by its Secretary-General. The Management Board shall decide by consensus and be assisted by a joint Secretariat under the conditions laid down in the Interinstitutional Agreement.
4. The joint organs of the Transparency Register shall be empowered to adopt on behalf of the Council individual decisions on applications for registration, carry out investigations on possible breaches of the Code of Conduct by interest representatives and adopt decisions on the measures to be applied to a registrant where a breach is established.

5. The delegation of the powers referred to in paragraph 4 shall be without prejudice to the possibility for the General Secretariat of the Council to unilaterally carry out investigations in cases of misconduct by interest representatives and to adopt individual decisions in accordance with its internal procedures. The General Secretariat shall inform the other participating parties to the Transparency Register of any unilateral decision taken.

Article 3

Meetings with officials of the General Secretariat of the Council

1. Meetings organised between interest representatives and the Secretary-General and Directors General of the General Secretariat of the Council shall be conditional upon prior registration of interest representatives in the Transparency Register.
2. When interacting with interest representatives, officials of the General Secretariat of the Council shall abide by the rules and standards of conduct set out in the Staff Regulations¹, and the other pertinent internal rules of the General Secretariat of the Council. The Secretary-General shall adopt any additional instructions to officials and agents that may be necessary to implement those rules and standards in the case of interaction with interest representatives, in line with the principles set out in this Decision.
3. The Secretary-General shall take measures to raise awareness among staff and agents on the rules applicable to interactions with interest representatives.

¹ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Staff Regulations of Officials) (OJ L 56, 4.3.1968, p. 1).

Article 4

Thematic briefings

1. The General Secretariat of the Council shall organise thematic briefings for interest representatives on discussions in the Council, whenever appropriate. The Presidency of the Council shall be consulted as appropriate.
2. Participation in thematic briefings shall be conditional upon prior registration of interest representatives in the Transparency Register.

Article 5

Public events

Participation of interest representatives, in their professional capacity, as speakers in public events organised by the General Secretariat of the Council shall be conditional upon registration of interest representatives in the Transparency Register.

Article 6

Access to Council premises

1. In order to undertake the interactions referred to in Articles 3, 4 and 5, the General Secretariat of the Council shall grant interest representatives nominative badges giving temporary access to Council premises, subject to prior registration in the Transparency Register and respect for Council security rules. Interest representatives shall not attend meetings of the Council and of its preparatory bodies, unless their presence is authorised in conformity with the Council Rules of Procedure.
2. The General Secretariat of the Council shall define the security and identity requirements for the issuance of badges to interest representatives.

Article 7

Access to documents

Access to Council documents by interest representatives shall be regulated by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents².

Article 8

Implementation

The General Secretariat of the Council shall take the measures that are necessary to implement this Decision.

Article 9

Effect and applicability

1. This Decision shall come into force on [.....]
2. It shall apply from [.....].

Done at

For the Council

The President

Annex: Code of Conduct [current Annex III of Commission's proposal]

² OJ L 145, 31.05.2001, p. 43.

ANNEX III

CODE OF CONDUCT

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

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

- (a) in their relations with **MEPs, members of the Commission or any EU officials of any EU institution or other agent** ~~of the three institutions~~, always identify themselves by name, registration number, the entity or entities they work for or represent;
- (b)** declare the interests and objectives they promote as well as specify the clients or members whom they represent and, where applicable, their registration number;
- ~~(c)~~ **(b)** not obtain or try to obtain information or decisions dishonestly, by use of undue pressure, or by inappropriate behaviour;
- ~~(e)~~ **(d)** not misrepresent the effect of registration in such a way as to be likely to mislead **anyone** or ~~have a negative reputational impact on the reputation credibility of~~ **cause prejudice to the Transparency Register or the EU institutions**, or use the logos of the Union and any of the ~~three EU~~ institutions without express authorisation;
- ~~(d)~~ **(e)** 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 **Transparency Register**, is complete, up-to-date and not misleading; ~~;~~ they agree for this information to be in the public domain;
- ~~(e)~~ **(f)** not distribute documents obtained from the **EU** institutions to third parties ~~against~~ **for** payment;

(g) agree to refrain from using their registration in the Transparency Register for commercial and advertising purposes with regard to third parties;

~~(fgh)~~ 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~~**EU** institutions, as made available on the **Transparency Register's** website;

~~(ghi)~~ not induce MEPs, members of the Commission or staff **officials or other agents** of any ~~of the three~~**EU** institutions to contravene the rules and standards of behaviour applicable to them;

~~(hij)~~ if employing former MEPs, members of the Commission or staff **officials or other agents** of any ~~of the three~~**EU** institutions, respect the obligations of those individuals to abide by the confidentiality requirements and rules applicable to them after leaving the respective institution;

~~(ijk)~~ ~~insofar~~ **to the extent that they are** engaged in a client-intermediary relationship: (i) ensure that all parties in such **a** relationship are registered in the **Transparency Register**, and (ii) as clients or intermediaries, allow for the relevant publication of the information concerning the relationship ~~in the~~ **Transparency Register** pursuant to Annex II ~~to of this~~ **Interinstitutional Agreement**;

~~(jkl)~~ agree: **(i) to submit in a complete and accurate way the information required upon registration** **(ii)** to present, if requested, to the Secretariat **of the Transparency Register** the documents and any other supporting materials demonstrating their eligibility **for registration** and that the information submitted is accurate, and **(iii)** to cooperate sincerely and constructively with the Secretariat **of the Transparency Register**;

~~(klm)~~ agree that they may be subject to ~~the investigations procedures~~ and, where applicable, measures ~~laid down~~ **provided for** in Annex ~~IV~~**III** **to the Interinstitutional Agreement**;

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

(~~man~~) inform whomever they represent in the framework of activities covered by the **Interinstitutional Agreement** of their obligations **resulting from the** ~~towards the EU institutions flowing from the Code~~ **code** of ~~C~~conduct;

(~~no~~) agree to respect, and avoid any obstruction ~~to~~**of**, the ~~specific access and security~~**pertinent** rules, **notably access and security rules** and arrangements; established by the signatory **EU** institutions.
