



February 2016

ALTER-EU response to Sven Giegold's report on transparency, accountability and integrity in the EU institutions (2015/2041(INI))

The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) welcomes this report and its emphasis on improving the transparency, accountability and integrity of the EU institutions. Below we raise a series of points where we consider the current text is either particularly welcome and should be maintained, or where we recommend to tighten the text.

Top priorities for ALTER-EU

- **Call on the Commission to extend its policy to only meet lobbyists who are registered in the EU transparency register to all levels of the Commission**

Paragraph 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 between Members of the Commission and organisations or self-employed individuals; considers that the recording of meeting data **and the rule to only meet lobbyists registered in the EU transparency register** should be expanded to include **all levels of the Commission and everyone involved in the EU's policy-making process**”*

- **Recommend changes to article 3 of the Code of Conduct for MEPs to ensure that MEPs are not allowed to hold official positions in or have remunerated arrangements with organisations that lobby the European Union**

Paragraph 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~~ **official positions in or having remunerated arrangements with organisations that lobby the EU.**”*

Paragraph 2 of the report says: *“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 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”*

ALTER-EU says: “We agree with this point and would like it to be made even more specific. In particular, we would like to see the 25/11/14 Commission policy to turn down meeting requests with unregistered lobbyists (which currently applies to commissioners, cabinet members and directors-general, who represent just a few hundred individuals), extended to all staff in the Commission. Our evidence shows that significant levels of lobbying goes on at the lower levels of Commission where officials have detailed policy knowledge and are responsible for producing key drafts. In our view, if an official is important enough to be lobbied, that meeting should not happen with unregistered lobbyists and all Commission lobby meetings should be published. Recent research shows that, in just eight months, officials in DG Fisma not covered by the current transparency rules held 445 lobby

meetings. Ninety per cent of these meetings were with the corporate sector and 20 per cent were attended by lobbyists representing companies or organisations not in the EU's lobby transparency register at the time of the meeting.”

<http://alter-eu.org/dg-fismas-lobby-meetings-corporate-bias-and-access-for-unregistered-lobbyists>

Paragraph 7 of the report says: *“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”*

ALTER-EU says: “For ALTER-EU, a lobby register which is no longer voluntary, but which is legally-binding is essential if all lobbyists are to sign-up and if it is to provide an accurate snapshot of lobbying in the EU institutions. We wish to see a commitment to start negotiating a legally-binding lobby register in place by 2017. A legally-binding lobby register would give the authorities the opportunity to levy fines or other real sanctions on those who refuse to register. Such legislation could also bestow proper enforcement mechanisms on the authorities so that they can take tough action against those who post inaccurate information or who otherwise break the rules. This would also be in tune with the Parliament's own wishes; since May 2008, the EP has repeatedly called for the establishment of a mandatory lobby register.”

Paragraph 11 of the report says: *“Insists that registered law firms should declare in the lobby register all clients on whose behalf they perform covered activities”*

ALTER-EU says: “This is an important area as law firms are increasingly important lobby actors in Brussels. While some law firms which carry out lobbying activities are registered, there is a long list of those which are not. Also, many of those which are registered do not adequately disclose their clients or the issues that they lobby on. We would like to see this report make a strong statement that all law firms which conduct lobbying or interest representation activities must be registered. Arguably, because of the recalcitrance of some law firms, only a legally-binding register will be able to adequately secure this outcome (see paragraph 7). Additionally, all law firms' entries, like those of lobby consultancies, should be properly scrutinised to ensure that clients, lobby revenue, and dossiers lobbied on are properly recorded (see paragraph 13-14).”

Paragraphs 13 and 14 of the report say: *“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; and, Believes that at least 5 % of declarations should be checked each year”*

ALTER-EU says: “These measures are essential if the lobby register is to provide a reliable picture of EU lobbying; at this time, the register is littered with inaccurate or misleading data. Submitting inaccurate and / or misleading information must be specified as a punishable offence. If such data is not remedied or justified within a month of the secretariat raising it with the registrant, it should lead to the (public) suspension of all privileges which come from being part of the register for up to one year, depending on the severity of the offence. The secretariat for the current (voluntary) EU lobby register,

with its 9000+ registrations, is staffed by only a handful of people. This is seriously inadequate considering the Canadian register with its 2650 registrations has 28 staff members to administer and police the system, including a 'commissioner of lobbying'. The human resources and software capacity devoted to the EU lobby register, as well as its investigatory and enforcement powers, need to be totally transformed so that effective monitoring checks are carried out on at least 20 per cent of all declarations each year, and all complaints are dealt with speedily.”

Paragraph 16 of the report: *“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”*

ALTER-EU says: “It is crucial that the composition of the Advisory Committee will be reformed. It is not good practice that colleagues advise or even judge their own colleagues on ethics issues and this set-up could become the victim of party loyalties or could be prone to creating potential conflicts of interests. ALTER-EU therefore recommends that the Advisory Committee is made fully independent by staffing it with external ethics experts who are able to investigate cases of potential conflict of interests and take decisions without being prejudiced in any way as they will not be colleagues of the investigated. Examples from several European countries, such as France, Ireland and Croatia show that this has been established as good practice in Europe.”

Paragraph 17 of the report: *“Believes that the Code of Conduct should be amended to empower the enlarged Advisory Committee to adopt final decisions instead of the President”*

ALTER-EU says: “ALTER-EU fully supports transferring the competence to adopt final decisions to a reformed Advisory Committee. The transfer of competence would provide safeguards that the investigations and recommendations by the Committee are independently concluded and followed through. In several European countries, such as France and Croatia, this structure has been introduced successfully, strengthening the independence of the process.

ALTER-EU also recommends broadening possible sanctions that can be applied if Members do not fulfil their obligations under the Code of Conduct to include:

- Extending the period during which MEPs are excluded from taking part in all or some of the activities of the European Parliament until the Member has resolved his/her conflict of interest;
- Explicitly including (shadow) rapporteurship in the list of activities eligible for suspension – this is not clear at the moment;
- Consider suspending the right to vote in committee and/or in plenary until the MEP has resolved his/her conflict of interest.
- Make public any remedy or sanction applied to an MEP.”

Paragraph 18 of the report: *“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”*

ALTER-EU says: “This is strongly supported by ALTER-EU. We recommend that the remit of a reformed Advisory Committee includes checks on all declarations of financial interest submitted by MEPs for accuracy, plausibility and inconsistencies as well as thoroughly screening them for potential conflicts of interest. In case of missing or unclear data, as well as indications of a potential conflict of interest, the committee should be empowered to proactively investigate and demand data from MEPs. Investigations should be initiated regardless of whether a potential issue has been detected by the committee itself or a complaint has been submitted by a stakeholder or member of the general public. In order for the committee to fulfil this role, it needs an adequately staffed and well resourced secretariat that is able to provide the necessary support for effective monitoring and investigations.”

Paragraph 19 of the report: *“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”*

ALTER-EU says: “ALTER-EU is advocating strongly for tightening the rules on second jobs. In our view, MEPs must not be allowed to hold official positions in or have remunerated arrangements with organisations that lobby the European Union. We recommend changing the Code of Conduct so that it includes among activities that would constitute a conflict of interests:

- Being employed or receiving any other form of benefit or reward from an industry lobby group, a lobby consultancy or any other lobby actor;
- Any lobbying or paid work to represent outside bodies (including law firms engaged in lobbying at the EU level);
- Any paid or unpaid position on an advisory or supervisory board of companies operating in fields that MEPs are likely to regulate or which have an interest in influencing the European Parliament;
- Any type of holding (including shares and stock options) or other financial interest in companies operating in fields that MEPs are likely to regulate or which have an interest in influencing the European Parliament.

It should be noted that in some EU member states, side jobs have been generally prohibited (Spain), or severely restricted (Lithuania, Croatia).

Furthermore article 2b of the Code of Conduct should be amended to clarify that “not solicit, accept or receive any direct or indirect financial benefit or other reward in exchange for influencing or voting on legislation, motions for a resolution” explicitly rules out advising or providing other lobby services to companies influencing the European Parliament.”

Paragraph 22 of the report: *“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”*

ALTER-EU says: “We strongly support this. All former commissioners should be explicitly forbidden from accepting any new role which risks creating a conflict of interest with their former role as a European commissioner, including all lobbying roles, for three years after their departure. This would

at least match the period of the generous transitional allowance to which all ex-commissioners are entitled and reflects the seniority and importance of commissioners who, individually and collectively, are responsible for initiating and negotiating laws and regulations affecting 500 million citizens. For EU institution staff, we consider that a mandatory cooling-off period of at least two years for all staff (including temporary or contract agents) and three years for the most senior officials entering new posts which involve lobbying (or other jobs which provoke the risk of a conflict of interest) should apply. Too many senior EU staff depart through the revolving door into lobby jobs, taking with them their insider know-how and contact books. Such restrictions would nonetheless leave them free to pursue many other career options. ALTER-EU further considers that the decision on (especially) senior officials' and commissioners' new moves should be undertaken by a fully independent and adequately-resourced body.”

Paragraphs 23-24 of the report say: *“Welcomes the Commission's intention to follow up on the Ombudsman's recommendations against conflicts of interest in expert groups; and, 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”*

ALTER-EU says: “These paragraphs should be strengthened. The Parliament needs to demand that the Commission acts immediately to tackle conflicts of interest and corporate bias in the composition of expert groups. This has been a long-standing problem that must be resolved now. As repeatedly recognised by the European Parliament when voting to freeze the Expert Groups budget in 2011 and 2014, the domination of these groups by corporate interests is detrimental to public interest policy-making and can lead to industry-friendly legislation, as we have seen in relation to the car industry and many other areas. Almost 70 per cent of all 'interest group' members (ie. not member states) represent business interests, while trade unions only make up nine per cent. This is particularly worrying as some groups have even written the first drafts of legislation. Additionally, the Commission needs to implement urgently all of the Ombudsman's recommendations. The Ombudsman has given a clear signal to the Commission that while dealing with conflicts of interest is important, it is not acceptable to ignore the issue of balance. Therefore the Parliament needs to support the Ombudsman, continuing with its historically-important role of pressuring the Commission to ensure new horizontal rules avoid giving privileged access to corporations.”

<http://corporateeurope.org/expert-groups/2014/10/parliament-freezes-problematic-expert-groups-budget-second-time-four-years>

If you have questions or would like further information on any of these issues, please contact: Fabian Flues, fabian.flues@foeeurope.org Phone: +32 (0)2893 1024

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