



EUROPEAN COMMISSION

Maroš Šefčovič

Vice-President of the Commission

"Transparency Register – Two years on"

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

"General Assembly - European Public Affairs Consultancies' Association (EPACA)"

Brussels, 15 March 2013

SPEECH/13/2

Ladies and gentlemen,

Thank you very much for your invitation today and the opportunity to speak in the course of your annual meeting on the issue of the Transparency register.

It's been almost five years now since the Commission launched a first register, called "register of interest representatives" or even more common "register for lobbyists", and it will be soon two years since, together with the European Parliament, we have transformed it into the "Transparency register".

This was a name change, but also a change of scope. The reality is that we have many players in Brussels and Strasbourg who try to influence MEPs, commissioners, officials and even journalists. Many of them are not lobbyists as the man in the street imagines them. You have public affairs professionals, NGOs, semi-public organisations, churches, think tanks and foundations and so on. They are all active, they are all relevant - and if the public wants to be informed about what is happening, then they all should be in such a register.

Our agreement with the Parliament foresees a review of the register this year, so I am grateful to you for providing me with an opportunity to look at the state of play of this exercise and to sketch the next steps.

But before I do so, let me stress that the Transparency register is only one of a series of initiatives developed for the benefit of our citizens by the European Commission to enhance transparency of the EU decision making process. The Transparency portal, launched in the course of last year has brought under one roof the various instruments available to citizens for access to a wide range of information. Citizens have a right to know: How the European institutions are preparing their decisions? Who participates in preparing them? Who receives funding from the EU budget? and what documents are held or produced to prepare and adopt the legal acts? They have a right to access those documents, and make their views known, either directly, or indirectly, through intermediaries that represent them. If they use all these instruments at their disposal, citizens can be much better informed than ever before.

Transparency facilitates scrutiny and hence accountability. Despite recurrent criticism and even active campaigns fuelled by a number of organisations with their own political agenda, I believe that our efforts in the area of transparency are at the leading edge of most public bodies in the world.

A democratic society is a society with transparent and accountable institutions but it is not a society led by "Big brother". I need thus to emphasize that the European Commission must constantly act in a responsible way. This means in practical terms to ensure, and to constantly strike, the right balance between the various interests at stake, including the protection of personal data, efficiency of the decision processes, protection against undue pressure, the need to avoid disproportionate costs for the taxpayers or administrative hurdle for the operators, the need to avoid the creation of barriers limiting the right of citizens access to decision makers etc. Our responsibility lies at the crossroads of all these interests. This indeed makes our institutions sometimes a quick and easy target for criticism; often the criticism for a lack of transparency is nothing else but another way of criticising the political substance of a decision. I trust that many of you are quite conscious of these various interests and constraints.

When it comes to transparency, one also has to bear in mind that Institutions are not taking decisions in a vacuum. They are subject to a wide range of institutional control mechanisms and checks and balances. It is the institutional set-up which offers the best guarantee against undue influence. Commission, Council and Parliament deciding in an organised procedure; 27 Commissioners, 27 Member States and 754 MEPs. And in addition, we have the Court of Justice, the Court of Auditors, the Ombudsman and not to forget the media. This is the essential protection and guarantee for the citizens' democratic and fundamental rights. It is in this framework which we have to bear in mind that we must find the appropriate means for transparency.

Let me now address directly our topic of today: The review process of the transparency register.

Vice President Wieland of the European Parliament and I are both responsible for the transparency issues in our institutions. We met a few days ago to set our course and I can assure you that we both take the review process very seriously. This is why we have decided to take the necessary time to develop our analysis and our reflections in a time span that allows for a wide range of consultations to take place both internally and externally.

The process has actually already started as you know at technical level. We held a public consultation in the course of last year and the joint secretariat has produced a report on the first year of operation of the Register. The report establishes a state of play of the Register (over 5500 organisations registered) and sets the objectives for the months to come: a double effort toward a qualitative and further quantitative reach of the registrations. But it goes much beyond a mere factual description of events and points out a number of issues of substance which can be examined in the context of the review.

Two meetings with European wide umbrella organisations have taken place since January, paving the way for the discussions which Vice President Wieland and I intend to have with stakeholders before the summer. EPACA is part of this exercise and the contributions of your representatives to our talks are highly appreciated.

We want to complement this preliminary phase with a number of complementary inputs including some consultations with the "lobbies" in our institutions (MEPs, their assistants and officials) and a comparative analysis of the various lobbying control processes in effect in other OECD countries. This is especially interesting at this juncture because a number of our own member states (Ireland, UK, Austria, France) have just, or are about to take initiative in this field at national level. It will also be important to analyse the actual impact of other systems in place in comparison with our own. For example, it seems that while many people describe the US federal lobbyist registration system as more efficient because it is mandatory and equipped with penal sanctions, the reality of its operation seems to be more nuanced. According to a report produced by a task force of the US bar association in 2011 "To date there have been no formal enforcement actions filed and only three formal settlements entered". So I want to check the reality of things in terms of actual compliance enforcement, beyond the theoretical framework established.

According to the same report "Enforcement of the LDA remains modest". There are also a number of weaknesses in the US system generated by the fact that the eligibility to registration is triggered by the notion of "*contacts*" leaving thus outside of its scope large and sophisticated lobbying campaigns divided among multiple firms with a division of tasks. The report goes on to say that "The absence of meaningful consequences for failure to comply with Act not only prevents the regulatory scheme from fulfilling its declared objectives; it also breeds further noncompliance."

So you can imagine that in the light of such observations, if they are still valid today, - something we will investigate -, I am not convinced we should copy paste a model that does not actually provide as much information and coverage as the one we have designed ourselves.

I obviously cannot prejudge the outcome of our review. Only when we will have examined all the issues, will we be able to determine what improvements or adjustments should be made and under what form. We will engage this exercise together with the European Parliament most likely as of June with a view to have discussions in the course of autumn. The formula of an inter institutional working group which was used when we negotiated the agreement worked quite well as it favoured the emergence of a consensus between both institutions as well as within the various instances of the Parliament. This is why this formula is under consideration by our respective institutions.

I also consider that this review creates a new opportunity for the Council to revisit its own participation in the scheme. The working instances of the Council are now analysing both our first annual report together with the report produced by their observers in the joint secretariat. It may thus be possible that a new Council position will emerge. It would only be appropriate therefore to ensure that our timetable allows for the Council to be able to join us in our discussions, if it so wishes.

I believe that we have set up a reasonable and proportionate system. I am sure that there is room for improvement through stricter compliance requirements which the joint secretariat will apply now that the first year has passed. I am also glad that the number of registrations has passed a critical mass. This numbers actually keep rising, as we are about to reach 5600 registered organisations.

I am aware of EPACA's own remarks on the system, regarding in particular issues such as the definition of eligible activities, or the level playing field you expect to have with lawyers engaged in lobbying, etc. We will have opportunities to discuss these specific issues in substance in our review meetings. But I also know that EPACA has been active right from the beginning to accompany this exercise in a constructive way, being well aware that this instrument is now a component of the Brussels lobbying arena which is key to the reputation of its members and of their profession.

I hope that I can count on your continued critical support and your active involvement in promoting and improving the register.

Thank you.