



COMMISSION EUROPÉENNE
SECÉTARIAT GÉNÉRAL
Secrétariat du GRI

Bruxelles, le 11 juillet 2018

SI(2018) 410

GRI du 12 juillet 2018
point 1.2.

NOTE A L'ATTENTION DE MMES ET MM. LES MEMBRES DU GRI

Objet: Proposition d'Accord interinstitutionnel sur un registre de transparence obligatoire – COM(2016) 627 (28.09.16)

Mmes et MM. les membres du GRI trouveront en annexe une fiche préparée par le SG sous l'autorité du cabinet de M. TIMMERMANS.

Annexes: 1

GRI MEETING OF 12 JULY 2018

INFORMATION NOTE TO THE MEMBERS OF THE GRI

Subject: **Negotiations on the Commission Proposal for an Interinstitutional Agreement on a mandatory Transparency Register: Recommendation on a way forward**

Ref.: **COM(2016) 627 final**

Former GRI fiche: **SI(2018) 319/2**

PURPOSE OF THIS NOTE

This Note follows-up on the fiche of 8 June 2018. It informs the College of the state of play in the negotiations on the Commission proposal for an Interinstitutional Agreement on a mandatory Transparency Register¹ following a second meeting at political level that took place on 12 June 2018 in Strasbourg.

This meeting focused on the contentious issue of the reluctance of the European Parliament and the Council to adopt the binding rule ‘not on the Register, no meeting’ for their top decision-makers as is already the case for the Commission. The other institutions presented compromise proposals which however fall short of the objectives the Commission set out with this Proposal, i.e. setting up a Transparency Register of a mandatory nature covering the three institutions.



1. BACKGROUND - OBJECTIVES OF THE NEGOTIATION

Strengthening transparency of lobbying activities vis-à-vis EU institutions is essential to maintain citizens' trust in EU law-making. A **reformed, mandatory Transparency Register covering the Parliament, the Commission and, for the first time, the Council** is a key commitment of President Juncker's Political Guidelines under Priority 10 ‘A Union of Democratic Change.’

¹ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52016PC0627>

The Commission's ambition from the very start has been to achieve a strong, mandatory, tripartite Transparency Register based on the **principle of conditionality of interactions with the three institutions, in particular of meetings with decision-makers** (i.e. the requirement of prior registration in the Transparency Register in order for interest representatives to meet the decision-makers of the three institutions). The Commission is already applying this 'no registration, no meeting' rule for meetings with Commissioners, their Cabinets Members and Directors-General.

A level-playing field between the three institutions is now sought when it comes to interactions with lobbyists. Ensuring that being in the Register is necessary in order to obtain a meeting with decision-makers in the three institutions (in particular Commissioners, MEPs, and in the Council the Ambassador of the current and forthcoming Presidency) would make registration a *de facto* precondition for interest representation before the three institutions. This would allow moving from the current voluntary Register to a new regime of a mandatory nature. Meeting this target before the next elections to the European Parliament would constitute a major step towards greater lobbying transparency at EU level.

The Commission therefore aims to achieve a *de facto* mandatory regime for those who wish to lobby the three institutions. Interest representatives should not be able to have access to the main decision-makers in the EU institutions without prior registration. **Article 5 of the Proposal on 'Interactions conditional upon registration' is therefore the central piece and also most sensitive provision.**

2. STATE OF PLAY OF NEGOTIATIONS

In September 2016, the Commission presented its Proposal for an Interinstitutional Agreement on a mandatory Transparency Register covering the Parliament, the Commission and, for the first time, the Council of the EU. Following the adoption of the Parliament's and Council's mandates in 2017 and first orientation meetings, negotiations commenced in January 2018 under the Bulgarian Presidency of the Council of the EU.

The Commission has aimed to achieve a *de facto* mandatory regime and obtain a formal commitment of the two other institutions to adhere to the rule '**not on the Register, no meeting**' for top decision-makers in the three institutions enshrined in Article 5 of the Proposal.

3. POSITIONS OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

At the last political meeting on 12 June 2018, the Parliament and the Council presented the following possible compromise offers:

- **Parliament** insists that the independence of its Members' mandate cannot be subject to any limitations (principle of "freedom of mandate"). Instead, it proposes to achieve the effect of meeting only registered lobbyists by means of various (mostly **voluntary**) measures, notably: (i) possibility for Members to sign an opt-in Declaration to meet only registered interest representatives and/or publish details of such meetings; (ii) publishing meetings linked to specific legislative proposals ('legislative footprint'); (iii) further limiting access of non-registered interest representatives to meetings and activities of Parliament's committees and bodies, (iv) signature, by Members' visitors, of a declaration that they will not engage in interest representation, etc.

Parliament would only accept binding application of the ‘no register, no meeting rule’ at administrative level. It proposes that all three institutions have one rule in common: making meetings between all staff (from the level of Head of Unit to Secretaries-General) and interest representatives conditional upon registration. This would also imply that the Commission goes further than its current practice (conditionality of meetings only at the level of Commissioners, their cabinets and Directors-General).

- The Bulgarian Presidency of the **Council** has been exploring possibilities of breaking the deadlock by means of a draft political Declaration committing **willing** Member States to apply the conditionality principle at Ambassador level when acting as holder and incoming Presidency. It is not yet clear which Member States would be willing to sign-up to such a Declaration, although the Council Presidency has mentioned that according to preliminary consultations some 20 Member States would be ready to sign up.

It is worth recalling that Council has refused in its mandate to make any commitments binding on the Presidency, invoking 'national competence'. The Council is ready to apply the ‘no register, no meeting’ rule only to its top administrative staff (i.e. the Secretary-General and Directors-General of the General Secretariat of the Council). The Council considers furthermore that this rule must be set out in a self-standing Council decision, not in the Interinstitutional Agreement itself.

4. ASSESSMENT OF THE POSITIONS OF THE OTHER INSTITUTIONS

The proposed approach by the Parliament and the Council would be of a **voluntary** nature implemented via Declarations to be signed by MEPs and Member States respectively, without any guarantee that the principle of conditionality of meetings with high-level decision-makers would be consistently applied by the three institutions. This means that unless the MEPs and Council Presidency Ambassadors make a voluntary commitment to apply this principle, interest representatives will continue to be able to meet them without having registered first in the Transparency Register.

The objective of the Commission's Proposal was to move to a **mandatory** Transparency Register, through an Inter-Institutional Agreement whereby each institution would commit to applying the conditionality principle. Application across the board of the conditionality principle would ensure that registering becomes a *de facto* precondition for interest representation before the three institutions, thus ensuring that such representation occurs according to the rules and principles enshrined in the Code of Conduct annexed to the Interinstitutional Agreement.

Contacts with stakeholders and civil society are an integral part of the work of the EU institutions. At the same time, 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. Transparency of interest representation is especially important in order to allow citizens to follow the activities and potential influence of interest representatives. This is why the Commission considers that the current Transparency Register (regulated by the 2014 Interinstitutional Agreement between the European Parliament and Commission), of voluntary nature, should be replaced by a new Interinstitutional Agreement covering also the Council and of mandatory nature. A mandatory Register would allow citizens to know, in particular,

who are the interest representatives trying to influence EU law-making, which interests they represent and how much they spend on interest representation activities.

The Commission has led by example in this area by unilaterally applying the conditionality principle to meetings of interest representatives with Commissioners, their cabinets and Directors General since 2014. This decision has considerably reinforced the current Transparency Register, as shown by the over 7,000 new entries in the Register since the Commission has implemented this policy. In addition, the Commission publishes information on these meetings on its website. However, this principle needs to be extended to the Parliament and Council in order to ensure a level-playing field between the three institutions and achieve a system of *de facto* mandatory nature for interest representatives. This is the main objective of the Commission proposal for a new Interinstitutional Agreement.

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5. RECOMMENDATION TO THE COMMISSION

In this context, it is suggested that the GRI recommends to the Commission to endorse the line set out in the present note.

6. OFFICIALS RESPONSIBLE

[Redacted]