



European Economic and Social Committee
Directorate A — Legislative planning, relations with institutions and civil society

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MEMO FOR THE FILE

Subject: The EU transparency Register and the EESC

1. Why is the EESC not bound by the EU Transparency Register?

The EU Transparency Register is a joint instrument set up by the European Parliament (EP) and the European Commission (EC) in 2011 through an Interinstitutional Agreement (IIA), subsequently modified in 2014. Its aim has been to add transparency to the EU policy- and decision-making processes, providing citizens and persons working in the EU institutions with information about interest groups and self-employed individuals engaged in activities carried out with the aim of influencing the law-making and policy implementation processes of the EU institutions.

The establishment and operation of the EU Transparency Register is not part of EU legislation, but they are the subject of internal decisions by the EP and the EC and the above-mentioned IIA, none of which is legally binding or directly applicable to the EESC.

As far as the IIA in force is concerned, this clearly follows on from the provisions of Article 35 thereof, which states that:

*"The European Council and the Council are invited to join the register. Other EU institutions, bodies and agencies **are encouraged** to use the framework created by this agreement themselves as a reference instrument for their own interaction with organisations and self-employed individuals engaged in EU policy-making and policy implementation."*

This is reiterated in Article 12(1) of the *draft interinstitutional agreement on a mandatory Transparency Register*, to be signed by the EP, the Council and the Commission, based on the Commission proposal of 28 September 2016. In addition, Article 12(2) and (3) of this draft provides for a mechanism of notification by other EU entities to the Secretariat of the Register, on a voluntary basis, of their wish to make certain interactions (i.e. with interest representatives) conditional upon registration in the Transparency Register. And it would be only upon acceptance by the Management Board of the Register and in return for a proportionate contribution to the functioning costs of the

Secretariat and Register, that those EU entities could make those types of interaction conditional upon registration. Finally Article 12(4) states that *"the acceptance of the notification [...] will not confer the notifying EU [...] bodies [...] the status of a party to this interinstitutional agreement"* and Article 14(1) further clarifies that *"this interinstitutional agreement is of a binding nature for the signatory institutions"*.

Incidentally, and with regard to Article 12(2) and (3) of the draft IIA, their very meaning and added value can legitimately be questioned insofar as, by the very nature of the Register, the information it contains about registered interest groups is available not only to other EU institutions and bodies, but also to the general public.

2. Why EESC members should not be bound by an obligation to register and make public their meetings with interest representatives?

Given the EESC's nature and role in the EU institutional set-up, and its advisory function enshrined in the Treaties, EESC members are themselves interest representatives acting in the Union's general interest.

Article 300(2) TFEU states that *"The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in the socio-economic, civic, professional and cultural areas."*

Article 300(4) TFEU further provides that *"The members of the Economic and Social Committee [...] shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest."*

That said, it is obvious that, in fulfilling their mandate, EESC members are expected to express the views, interests and concerns of the civil society organisations to which they belong. Therefore, they themselves act as interest representatives in an advisory capacity, based on their experience and expertise.

Moreover, it is essential that, in the performance of their duties, EESC members interact with a variety of stakeholders at both national and European level, and in particular those not represented in the Committee, to seek their expertise in order to increase the representativeness and legitimacy of the EESC's work, not least its opinions.

Furthermore, and as the institutional representative of organised civil society at EU level, the EESC has a special responsibility for the development of participatory democracy and civil dialogue. It has therefore put in place numerous initiatives to play a full part as a vector for the expectations and aspirations of civil society organisations. Interacting with civil society organisations, and therefore interest groups, is part and parcel of the EESC's mission.

Lastly, it must be emphasised that, in the EU institutional set-up, the EESC is a consultative body which, according to Article 13(4) TEU, acts "*in an advisory capacity*" to the EP, the Council and the Commission. Therefore, the EESC has no legislative competence in the EU decision-making process.

In addition, the EESC's opinions are not mandatory, which implies that EU institutions are not bound by them. The impact of the EESC on the legislative process is closely linked to its ability to take into account, in its opinions in particular, as wide a range of views as possible from the relevant parties in civil society.
