

EU Civil Society Contact Group

Briefing: the Transparency Initiative

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Who gets Community funding? What influence do lobbies have? What rules of conduct do those in charge of the European institutions have to follow? These crucial questions will be again in the spotlight during the consultation period launched by the Green Paper on Transparency initiative that was published on 3 May 2006.

Yet the EU is not starting from scratch in these fields: during the last years different documents have also been trying to answer those questions in order to improve transparency and facilitate a better communication policy between European institutions and civil society through, amongst others:

- An "access to documents" legislation providing the framework for access to unpublished documents of the EU institutions and bodies http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_145/l_14520010531en00430048.pdf
- Staff regulation: http://ec.europa.eu/dgs/personnel_administration/statut/tocen100.pdf
- A Code of Conduct for Commissioners: http://ec.europa.eu/commission_barroso/code_of_conduct/code_conduct_en.pdf
- A guide for the Commission staff in their relations with the public: http://europa.eu.int/comm/secretariat_general/code/docs/code_en.pdf
- Minimum standards for consultation of interested parties: http://europa.eu/eur-lex/en/com/cnc/2002/com2002_0704en01.pdf

1. Background

1.1. Launch of the transparency initiative

Transparency and accountability of the EU policy process are key elements to maintain and strengthen the trust of citizens. In order to ensure that the Union is "open to public scrutiny and accountable for its work", the Commission adopted and launched on November 2005 the Transparency Initiative http://europa.eu.int/comm/commission_barroso/kallas/doc/transp_report_en.pdf, which announced the launch of a Green Paper on the same topic in March 2006.

On 3 May 2006 the Green paper on Transparency Initiative was finally launched: http://europa.eu.int/comm/commission_barroso/kallas/doc/com2006_0194_4_en.pdf

1.2. Different levels of debates

Not all dimensions of the initiative will be subject to the same process: while some areas are identified for immediate actions to be taken by the European Commission, other proposals are to be debated within the European institutions. The Green Paper then focuses on three components of the European Transparency Initiative that will be driven forward on the basis of the results of a public consultation:

<i>Immediate actions taken by the Commission</i>	<i>Creation of an internet site providing easy access to existing information about the beneficiaries of projects and programmes</i>
	<i>Improvement of coverage of registered documents</i>
<i>Proposals to be debated within the European institutions</i>	<i>Adoption of rules and standards on professional ethics of public holders in the European institutions</i>
	<i>Review of access to documents legislation</i>
	<i>Revision of the legal framework for the EU's Anti-Fraud Office</i>

Proposals subject to open consultations	Creation of a more structured framework for the activities of interest representatives
	Revision of the minimum standards of consultation
	Mandatory disclosure of information about the beneficiaries of EU funds under shared management

2. Three main areas for consultation

2.1. Transparency and interest representation

The existing policy on transparency in lobbying is based on two different categories of measures:

- Information provided to the general public about the relations between interest representatives and the Commission, for example CONECCS, which is the Commission's voluntary database on European civil society or the accreditation system of the European Parliament
- Rules of integrity which govern the proper conduct of those being lobbied and of the lobbyists themselves. For example the voluntary codes of conduct for lobbyists proposed by the European Commission in http://ec.europa.eu/comm/secretariat_general/sgc/lobbies/docs/v_en.pdf

However, several main questions were raised during the last years, which are stressed in the Green Paper: What is lobbying? On behalf of whom are lobbying activities developed? Who is financially supporting lobbying activities? How can equal access to European decision-makers be ensured for different lobbying organizations? The Green paper tries to answer these questions defining the terms involved in the debate, proposing several solutions and launching three questions for the public consultation.

Definitions - In order to clarify its view on this topic the Green Paper presents the European Commission definitions of "lobbying" and "lobbyists":

Lobbying: "all activities carried out with the objective of influencing the policy formulation and decision-making process of the European institutions".

Lobbyists: "persons carrying out such activities, working in a variety of organisations such as public affairs consultancies, law firms, NGOs, think-tanks, corporate lobby units ("in-house representatives") or trade associations".

The Commission proposals meant to improve transparency of interest representation are:

- A **voluntary registration system**, "run by the Commission, with clear incentives for lobbyists to register" such as "automatic alerts of consultations on issues of known interest to the lobbyists".
- A **common code of conduct for all lobbyists** "developed by the lobbying profession itself, possibly consolidating and improving the existing codes"
- A **system of monitoring and sanctions** "in case of incorrect registration and/or breach of the code of conduct".

Thus a mandatory registration of lobbyists is ruled out in the Green paper, the Commission considering that "a tighter system of self-regulation would appear more appropriate".

Questions raised for consultation in the Green Paper:

- Do you agree that efforts should be made to bring greater transparency to lobbying?
- Do you agree that lobbyists who wish to be automatically alerted to consultations by the EU institutions should register and provide information, including on their objectives, financial situation and on the interest they represent? Do you agree that this information should be available to the general public? Who do you think should manage the register?
- Do you agree to consolidating the existing codes of conduct with a set of common minimum requirements? Who do you think should write the code?

2.2. Feedback on application of the minimum standards for consultation

Minimum standards of consultation were defined in the 2002 Communication "Towards a reinforced culture of consultation and dialogue", http://europa.eu.int/eur-lex/fr/com/cnc/2002/com2002_0704fr01.pdf, which represent series of key principles to be

respected by the European commission in order to ensure a better participation of civil society in the decision making policy.

The Minimum standards have been applied only since 2003 and their scope covers in particular proposals listed in the Commission's annual programme and Green Papers. Yet, they do not apply when decisions are taken by a process involving formal consultation of Member States, social dialogue or international agreements.

The Green Paper identifies several weak aspects that were noticed since the minimum standards started to be applied:

- Contributions to open public consultations were not always published on the internet
- Cases of insufficient feedback on how comments received via consultations were or were not taken into account in the final policy proposal from the Commission were mentioned

Question raised for consultation in the Green Paper: *In your view, has the Commission applied the general principles and minimum standards for consultation in a satisfactory manner? You may refer to the individual standards (provided, for ease of reference, in Annex 2). Please give reasons for your reply and, where appropriate give examples.*

2.3. Disclosure of beneficiaries of community funds

More than two thirds of the EU budget are not spent directly and centrally by the European Commission, but in partnership with the Member States. This concerns in particular funds linked to the Common Agricultural Policy. The Green Paper **identifies several weak aspects** concerning the availability of the information on the beneficiaries of community funds:

- Information on community funds is at the Member States level
- At the EU level the existent legal framework explicitly bans the Commission from publishing information on beneficiaries of funds used under shared management rules.

The EU commitment to raising awareness lead to its search for tools able to explain better what the Europe Union does and why it matters. Thus the Green Paper **proposes a new EU legal framework**, directly applicable in all Member States, to ensure a consistent approach to all beneficiaries of EU funds.

Questions raised for consultation in the Green Paper:

- *Do you agree that it is desirable to introduce at the Community level, an obligation for Member States to make available information on beneficiaries of EU funds under shared management?*
- *If so, what information should be required at national level? What would be the best means to make this information available (degree of information required, period covered and preferred medium)?*

3. Reactions so far

Several lobbying organizations reacted and generally welcomed the Transparency Initiative. Yet no consensus has emerged on some of the most controversial issues linked to interest representation, in particular: is voluntary registration sufficient? can self-regulation really lead to a major change? Amongst others:

- The Civil Society Contact Group published a first contribution in January 2006: <http://act4europe.horus.be/module/FileLib/Transparency%20initiative%20CSCG%20contribution.pdf>
- The **Alliance for Lobbying Transparency and Ethics Regulation** (ALTER- EU) - a coalition of 140 civil society groups, launched a campaign to support transparency initiative, pushing for the introduction of mandatory disclosure rules on lobbyists as a way to "end corporate privileges and secrecy around lobbying in the European Union". ALTER-EU also promotes an improved code of conduct for EU commissioners that would include "an extended 'cooling off' period before commissioners and senior officials can start working for lobby groups or lobbying advisory firms".

- The **Society of European Affairs Practitioners** (SEAP), which represents individual lobbyists based in Brussels, suggests a detailed public register of clients and sources of income would be an unnecessary step. It points to its recently revamped self-regulatory ethics code as being sufficient to ensure satisfactory ethical standards.
- The **European Public Affairs Consultancies' Association** (EPACA), who represents 31 Public Affairs companies with offices in Brussels, proposes that all EU lobbying groups be brought together in a European Public Affairs Council, facilitated by the Commission. Thus, the objective would be to define a common core code of conduct "for all those who engage in lobbying" as an alternative to mandatory registration.

All statements can be found on:

http://ec.europa.eu/commission_barroso/kallas/transparency_en.htm.

4. How to take part in the debate?

A **specific website** has been launched for the consultation on the Green Paper, which will last until the end of August 2006:

- http://ec.europa.eu/comm/eti/index_en.htm

Contributions to the three different chapters of the consultation (Interest Representation, Minimum Standards, Disclosure of beneficiaries of EU funds) **will be treated separately**: it is thus necessary to send one contribution by chapter. Besides, civil society organizations need to be registered in the CONECCS database to answer or will be asked to provide some basic information about their organisation in each contribution.

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