

EU Civil Society Contact Group

Civil Society Contact Group contribution to the Transparency Initiative

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The EU Civil Society Contact Group brings together seven of the largest European NGO platforms: Social Platform, Concord (European NGO confederation for relief and development), Human Rights and Democracy Network, Green 10 (environmental organisations), European Women's Lobby, EFAH (European Forum for the Arts and Heritage), EPHA (European Public Health Alliance). www.act4europe.org

1. The need for a comprehensive approach

Our members are committed to a better and more inclusive European Union and we welcome all efforts to promote transparency and accountability of the EU policy process, as key elements to maintain and strengthen the trust of citizens. To achieve this goal, enhanced transparency has to be rooted in a wider debate on EU governance, including EU institutions' consultation practices, rather than over-focus on financial aspects. The *Governance White Paper* and the *Communication on Minimum Standards for consultation of interested parties* are milestones in the development of a more open and accountable Union that should be fully taken into account in this debate.

2. Transparency over EU funding: towards better publicity and accountability

2.1. Current publicity shortfalls - Enhanced financial transparency could contribute to dissipate distorted perceptions and unfounded suspicions about the way public money is being used by the EU. This is crucial, as European citizens' confidence in European Union institutions has reached one of its lowest records ever. Yet we recall that, particularly in the case of direct recipients and direct management, the perceived transparency shortfalls are often due to a lack of publicity rather than to a lack of accountability. For this reason, it is crucial to avoid putting exaggerated administrative burdens on both institutions and the recipients of EU funds, and to better coordinate existing sources of information.

2.2. Better publication rather than new rules for programmes under direct management - Activities of direct recipients of EU funding are already to a large extent transparent and we encourage the Commission to publish more widely the information it already gets in relation to the programmes it manages directly. This could be achieved by an improvement of existing tools, rather than by adding new requirements. In the particular case of civil society organisations, the CONECCS database could be improved and more regularly updated so as to serve this purpose.

2.3. Setting up of an "eligibility database" - Enhanced coordination of financial information regarding the recipients of EU funding is an opportunity to facilitate responses to calls for tender, in particular regarding the eligibility of an organization. With this in mind, an "eligibility database" could be set up, which would not only enhance the transparency of EU funding recipients, but also considerably ease applications for EU funding, thus opening them to a wider public.

2.4. Towards full transparency - Full transparency on the beneficiaries of EU funds (be it through centralised, shared or decentralised management) should be ensured except in politically difficult contexts or conflict situations when public disclosure would jeopardise the programme or represent a risk to the lives of the beneficiaries.

3. Enhanced ethical rules for EU institutions

3.1. Commission and Council Secretariat - The European Commission has already set itself some strict rules, which we believe should be extended to better reflect the growing formalisation, number and impact of consultation practices. An extended Code of conduct should be developed, in particular as a way to ensure that the Commission's proposals are not unbalanced due to unacceptable forms of lobbying. The Council Secretariat plays an increasing role in formulating policies and implementation, particularly in Pillar II, but also relating to Pillar I (Community Policies). We believe that an extended Code of Conduct should be applicable to both Commission official and officials in the Council Secretariat. The Code should:

- relate to the employment of former Commission officials (by extending the Commissioners' Code of Conduct to senior officials) and the Council General Secretariat
- require that each policy proposal shall include, in its Explanatory Memorandum, a clear description of the type of organisations the Commission has been in contact with during the preparation of the proposal. Where the number of contacts would make it difficult to describe this in full detail in the Memorandum, a link with a more detailed report should be included.
- make it compulsory for the European Commission to undertake formal and informal consultation processes with all relevant stakeholders, not only business interests. Develop mechanisms for consultation that are also applicable to the Council Secretariat.
- state that all formal consultation processes should be publicly announced and reported on

3.2. The need for increased Council transparency - Following the changes that were made to the Council internal rules on December 21st 2005, we believe the transparency initiative should provide an impetus for further discussion regarding Council transparency, as it is key to strengthening an accurate perception of the EU among citizens. We strongly hope it will pave the way to further progress relating to other key phases of the decision-making process, such as conciliation committees, and to the preparatory phase of the Council's work, in particular within the COREPER.

4. Towards better and more transparent lobbying

We believe that the upcoming debate on lobbying in the EU should be centred around two main objectives:

- How can decision makers and the public at large be properly informed about "who is lobbying on what issues, on behalf of whom and who is financing these lobby activities"?
- How can it be ensured that different stakeholders have equal access to European decision-makers?

4.1. A flexible approach - Every person and entity in the EU should have the right to approach MEPs, the Commission, members of the Council. In order to safeguard a necessary diversity of inputs into the EU policy process, the transparency initiative should provide sufficient flexibility and avoid closing the door to those that do not define themselves as advocacy organisations or are not organised at EU level.

4.2. Stressing the diversity of "lobbyists", while applying equal rules - The impact of the transparency initiative will to a large extent depend upon its ability to target a wide range of actors involved in the EU policy process. This will imply greater clarity about target groups and, in the particular case of lobbying, to stress the diversity of interest groups that are active on EU matters. This is crucial as the transparency initiative represents an opportunity for the wider public to appreciate better the nature of

lobbying in the EU. Yet this does by imply that interest groups should be treated differently from each other.

4.3. Increased publication of input into the EU policy process - Increased publication of input into the EU policy process would enhance the impact of the initiative vis-à-vis the general public and allow a better assessment of the balance of views that were expressed and considered. As a priority, this should concern open consultations, where practices within the European Commission have been rather inconsistent so far. As a consequence, stakeholders and citizens would see more precisely who is trying to influence the Commission, but also would be given the opportunity to challenge other views. Publication of input should be primarily the responsibility of the Commission (in the case of open consultations, the *Your Voice in Europe* website provides a relevant framework) but interest groups should also be encouraged to do so.

4.4. Information regarding the background of lobbyists

Online provision of background information for all lobbyists- The provision of background information regarding lobbyists in an online database would increase awareness within the EU policy sphere, but also amongst the general public, and we regret that so far such initiatives have only targeted civil society organizations. Existing tools, such as the CONECCS database, could be better used in this view.

In order to increase awareness of the diversity of lobbying activities, the registration system should address the difference between profit making (including business, legal advisers, public relations and public affairs firms, as well as consultants), public authorities and non-profit making organizations (including Non Governmental Organisations, NGOs). In this purpose, NGOs are considered to be any legal entity that is non-governmental, democratically organised, not-for-profit, not representing commercial interests, and pursuing a common purpose in the public interest.

The database should provide information on the following criteria:

- objectives
- legal personality
- members
- board
- budget
- financial sources
- work programme
- mandate from the members
- main institutional targets
- main processes followed

Part of the registration form could indicate policy areas where an organisation wishes to be consulted: this could be used by all EU institutions as an information basis, but in no case be aimed at replacing formal invitations.

Registration to become a key step towards transparent lobbying - The database should be applicable for a wide range of actors, and not only those based in Brussels: this is crucial to ensure the representation of different types of organisations. The system to be put in place should be supported by incentive measures. Organisations engaged in regular contacts with EU institutions should be required to register: a failure to do so could put an end to their involvement in consultation processes where the Commission selects stakeholders to provide input. This way lobbying on a repeated basis without being registered would be made practically impossible and registration should become the norm. A reliable system will ensure that lobbyists cannot hide by not registering. Yet the situation of organizations dealing with EU issues on an occasional basis needs to be taken into account, so as not to hamper their access to EU institutions.

Representativity: another debate – General background information should not be seen as defining the representativity of an organization, nor its legitimacy to take part in a specific process: this needs to be assessed through more relevant criteria.

Taking account of statutory diversity – To better reflect the complex organization of interest groups, the databases should take account of the statutory diversity of organizations that follow the EU policy process, in particular those of umbrella networks. Some umbrella networks, whose members are solidly established EU or national organisations, do not have a legal status because they do not have any permanent secretariat and cooperate on some very specific issues of interest to all of their members. The database should reflect the relevance of their contribution and be open to them, provided they can demonstrate relevant terms of references.

4.5. Enhancing good practices among lobbyists - Ensuring the development of good lobbying practices from all actors is key to the credibility and legitimacy of EU policies and we believe that the transparency initiative could be a driving force to launch a European-wide debate around lobbying practices. Yet flexibility is required, since not all ethical provisions are suitable for all actors. To this purpose, exchanges of good practices from different types of actors could take place. A European set of ethical rules adapted to different target groups could be developed in consultation with relevant stakeholders, through a process where the Commission would take a leadership role. It should be limited in time, firstly because steps need to be taken in the very near future, but also because a long process requires an amount of resources that most lobby groups are not able to provide.

4.6. The risks of self-regulation- The Communication on the transparency initiative adopted by the European Commission on 9 November suggested to “give new momentum to the self-regulatory approach by encouraging all organisations and individuals listed in a (voluntary or compulsory) register to adhere to a common code of conduct”. We do not believe self-regulation to be the most relevant way to achieve satisfying outcomes, considering the high diversity of interest groups that are tackled by the initiative: this should be developed by the European Commission itself, in close consultation with the relevant stakeholders and EU institutions. The experience of the Multi-Stakeholder Forum on Corporate Social Responsibility could be a relevant starting point in this view: several members of the Civil Society Contact Group took part in the Forum and are looking forward to exchanging their experience to build up an improved cooperation framework.

5. Our commitment

The debate over the transparency initiative is an opportunity for a wide range of actors to review and discuss their own practices, how they relate to other EU stakeholders but also to the general public. This is key not only to the legitimacy of the European Union in general, but also to the credibility of each specific sector. Representing seven of the largest European NGO Platforms, the members of the Civil Society Contact Group are fully prepared to implement the proposals that are made under this position paper.

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