

EU Civil Society Contact Group

Civil Society Contact Group answer to the Green Paper on the Transparency Initiative

Part 1: Transparency and interest representation

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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 to transparency

Members of the Civil Society Contact Group 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. We thus welcome the comprehensive approach adopted by the Green Paper and the opportunity to comment on the Commission's *Minimum Standards for consultation of interested parties*.

Yet more consultation is not necessarily better consultation: we regret that overlaps between the consultations on the Green Paper on Transparency and the White Paper on Communication might weaken the impact of both initiatives, by reducing civil society organisations' possibility to efficiently get involved in both processes.

- **Below you will find our contribution to part 1 of the consultation on the Green Paper: Transparency and interest representation.**

2. Towards better and more transparent lobbying

We believe that the debate on lobbying in the EU should be centred on two main questions:

- 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?

2.1. General principles

Applying equal rules to all “lobbyists”, while stressing their diversity - The impact of the transparency initiative will to a large extent depend upon its ability to target all actors involved in the EU policy process. This will imply greater clarity about target groups and stressing the diversity of interest groups that are active on EU matters. In particular, it should be recalled that NGOs are not engaged in the European project in the same way business lobbyists are. While business lobbying generally represents for-profit interests, often of specific companies or parts of sectors aiming to achieve commercial advantage through shaping policy and regulatory outcomes, NGOs channel public interest issues towards decision-makers and can play a key role in encouraging and empowering people, including the most marginalised, to become involved in the processes and decisions which have an impact upon their lives.

Recalling this difference is crucial as the transparency initiative represents an opportunity for the wider public to appreciate better the nature of lobbying in the EU and thereby become involved. Yet this does by no means imply that interest groups should be treated differently from each other.

Acknowledging the added value of public funding of civil society - The Green Paper identifies financial support by the EC funded programmes as a potential threat to the independence of NGOs. We would like to stress that in most cases EU funds received by NGOs are meant to support the implementation of specific projects that are part of EU programmes and policies, with a much smaller amount dedicated to support the advocacy activity of some European networks. Besides, beyond the fact that such a practice is far from being specific to the EU, the added value of operational funding is in allowing NGOs to make quality input into the policy process, by providing them with essential resources needed to develop a concerted view in full consultation with their national and local groups of citizens directly concerned by these policies, bringing wider voices into EU policy development. And finally: moving decision-making from national level to EU level makes it simply much more costly and complicated to ensure civil society involvement.

Keeping an open door to less established organisations - 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. This could be achieved through transparency requirements being graduated through the use of thresholds of activity.

A necessary reflection on the multiplication of diverging rules – Each institution has so far adopted its own approach to transparency of stakeholders. In particular, both the European Parliament and the European Commission have developed sets of ethical rules and registration systems. We believe the transparency initiative should be an opportunity to reflect upon the consequences of such multiplication of rules and upon the benefits of enhanced rationalisation, in particular for organisations with more limited resources.

Representativity: another debate – General background information and enforced ethical rules should not be seen as sufficiently 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.

The risks of self-regulation - The Green Paper on Transparency supports a self-regulatory approach for the development and monitoring of both a registration system and a Code of Conduct. We do not believe self-regulation to be the most relevant way to

achieve an effective outcome, considering the wide diversity of interest groups that need to be addressed by the initiative: the Commission should play a leadership role, in close consultation with the relevant stakeholders and EU institutions. The need for such a leadership, as well as for a focused process limited in time, was dramatically highlighted by the Multi-Stakeholder Forum on Corporate Social Responsibility set up by the European Commission in 2003, where such leadership was lacking. Several members of the Civil Society Contact Group took part in the Forum and are looking forward to exchanging their experience to contribute to developing an improved cooperation framework.

2.2. Mandatory information system regarding the background of lobbyists

Online provision of background information - The provision of information about lobbyists in a publicly available online database would increase awareness within the EU policy sphere, but also, more importantly, amongst the general public, and we regret that so far such initiatives have only targeted a limited range of interest groups. Existing tools, such as the CONECCS database, could be improved and extended to a much wider range of interest groups. The database should be applicable for a wide range of actors, and not only those based in Brussels: this is crucial to ensure the transparency of all types of organisations involved in lobbying.

In order to increase awareness and the visibility of diverse lobbying activities, the registration system should accommodate the differences 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 or being linked to commercial interests or political parties, and pursuing a common purpose in the public interest.

The database should provide at least the following information:

- objectives
- legal personality
- members (if applicable)
- clients (for consultancies and law firms engaged in policy change on behalf of for-profit clients)
- board
- budget
- funding sources

To better reflect the complex organization of interest groups, the database should take account of the diversity of statutes 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.

The need for effective incentives and monitoring - The system to be put in place should be supported by effective incentives to ensure that all significant actors are covered, and lobbyists cannot hide by not registering.

- Part of the registration form could indicate policy areas where an organisation wishes to be consulted, so they are automatically alerted of consultations launched by the European Commission. This could be used by all EU institutions as an information basis, but in no case be aimed at replacing formal invitations.

- Yet automatic alerts are not per se a sufficient incentive. All organisations engaged in organised consultation with EU institutions should be required to register: a failure to do so could put an end to their involvement in those consultation processes where the Commission selects stakeholders to provide input. This way having a recognised role in consultations without being registered would be made practically impossible and registration should become the norm.

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.

2.3. Enhanced rules of conduct for lobbyists and EU officials

Commission and Council Secretariat - The European Commission has already set itself some rules (in particular through its staff regulation and the Code of Conduct for Commissioners), which we believe should be extended to better reflect the growing formalisation, number and impact of relationships with lobbyists. An extended Code of conduct for EU officials should thus be developed, in particular as a way to ensure that the Commission's proposals are not unbalanced due to unacceptable forms of lobbying.

Besides, as 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 the extended Code of Conduct should be applicable to both Commission and Council Secretariat officials.

The Code should:

- relate to the employment of Commission officials, including cooling off periods, (amongst others by extending relevant parts of 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/made accessible (internet).
- 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.

Development of a European set of ethical rules for 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 not all ethical provisions are relevant for all actors.

- At the very least, the Commission should encourage mutual learning and exchange of good practices between different types of actors; for example, by providing a web portal to outline and link the various codes of conduct in existence across civil society.

- The Commission should actively lead the development of a common European set of ethical rules adapted to different target groups in consultation with relevant stakeholders, through a process where the Commission would take a strong leadership role.

The process leading to the setting up of the Code of Conduct 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.

Yet, so as to avoid postponing progress in transparency, the information system could be introduced independently from the development of the Code of Conduct and as soon as possible.

3. 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.

About the Civil Society Contact Group

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).

The European Trade Union Confederation and the European Civil Society Platform on Lifelong Learning, representing NGOs promoting lifelong learning are observers to the Group.

Jointly we aim to represent the views and interests of rights and value based civil society organisations across the European Union on major issues, which affect us across our sectors of activity. Our objective is to encourage and promote a transparent and structured civil dialogue that is accessible, properly facilitated, inclusive, fair, and respectful of the autonomy of NGOs. We promote lasting access to information, access to justice in matters of concern to civil society, consultation, and integration of all levels of civil society in the European project.

The Contact Group has an informal character, and a rotating chairmanship. Since November 2005, it is chaired by Anne-Sophie Parent, Director of AGE, the European Older People's Platform and President of the Platform of European Social NGOs.

Information about CSCG members can be found on:

CONCORD www.concordeurope.org

European Forum for the Arts and Heritage (EFAH) www.efah.org

European Women's lobby www.womenlobby.org

Green 10 - www.act4europe.org/code/en/sect.asp?Page=39&menuPage=39

Human Rights and Democracy Network

www.act4europe.org/code/en/sect.asp?Page=41&menuPage=41

Social Platform www.socialplatform.org

European Public Health Alliance www.ephah.org

ETUC www.etuc.org

European Civil Society Platform on Lifelong Learning www.eucis.net/about.asp

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