EU Civil Society Contact Group

# How to make a transparent registration in the European Commission Register of Interest Representatives

*Drafted by the EU Civil Society Contact Group in co-operation with the Alliance for Lobbying Transparency and Ethics Regulation in the EU (ALTER-EU)*

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# 1. Introduction

In an attempt to ensure that the European Union is "open to public scrutiny", the European Commission in November 2005 launched the European Transparency Initiative[1]. As part of this initiative, a register for interest representatives was launched in June 2008. Companies, business associations, consultancies as well as civil society organisations that engage in "activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions" are encouraged to register in a voluntary online register. The EU Civil Society Contact Group and ALTER-EU have criticised the register as fundamentally flawed because it does not require organisations to register individual lobbyists who work for them, and because financial information on lobbying expenditure in the register is inconsistent and not comparable.

Members of the EU Civil Society Contact Group and ALTER-EU have therefore decided to adopt a higher standard of transparency than the inconsistent and insufficient requirements of the European Commission. Our guidelines set a constructive example of what the European Commission must improve in its register of interest representatives.

A meaningful register must disclose:

- the names of lobbyists
- the finances involved in any lobbying effort
- the specific lobbying issues

Our guidelines are addressed to all entities that want to register in the voluntary European Commission "Lobby Register"[2]. We wrote them primarily for organisations that will register in the NGO category of the register but the standard that we set should in our view apply to all lobbyists.

In the guidelines you can find:

- which additional information we believe you should submit in the interest of transparency
- an example on how to calculate your expenditures related to lobbying
- a short text with our critique of the register that we recommend you to publish in your registration

These guidelines cover those steps of the registration that are particularly relevant to improve EU lobbying transparency. They do not cover each step of the online registration procedure.

Our guidelines reflect in depth discussion within the EU Civil Society Contact Group and ALTER-EU as well as the advice of lobby transparency experts, and relevant aspects of US lobby disclosure legislation.

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1 http://europa.eu.int/comm/commission_barroso/kallas/doc/transp_report_en.pdf

2 The European Commission uses the words "Lobby register" and "Register of Interest Representatives" interchangeably. See http://ec.europa.eu/commission_barroso/kallas/transparency_en.htm

## 2. Background to our involvement with EU lobbying

The Civil Society Contact Group, ALTER-EU and other groups have been calling for EU lobby transparency since 2005, and monitored the work of the European Commission as it was preparing its lobby register in 2007-8. Repeatedly, our groups alerted the Commission that its draft proposal fell short of its own objectives and transparency standards[3]. We consider that the Commission's voluntary register for 'interest representatives' ('lobbyists') does not meet basic benchmarks for lobbying transparency. Among the most serious flaws are:

- Its voluntary nature, which gives it no effective sanctions to ensure completeness and accuracy of the information that the register contains
- The absence of names of lobbyists
- Inconsistent and insufficient requirements on financial disclosure

[3] Find here related letters the Civil Society Contact Group sent to the Commission in May and March 2008.

## 3. Why register?

### Arguments against registering

One could consider that registering may mean that we endorse this voluntary and weak approach of the Commission.

Also, with our registrations the numbers of registrants will increase, and this could wrongly be considered as the only criterion of the register's success.

### Arguments in favour of registering

While the current Commission register is weak, we do want to move forward towards a proper EU lobbying transparency register in the future.

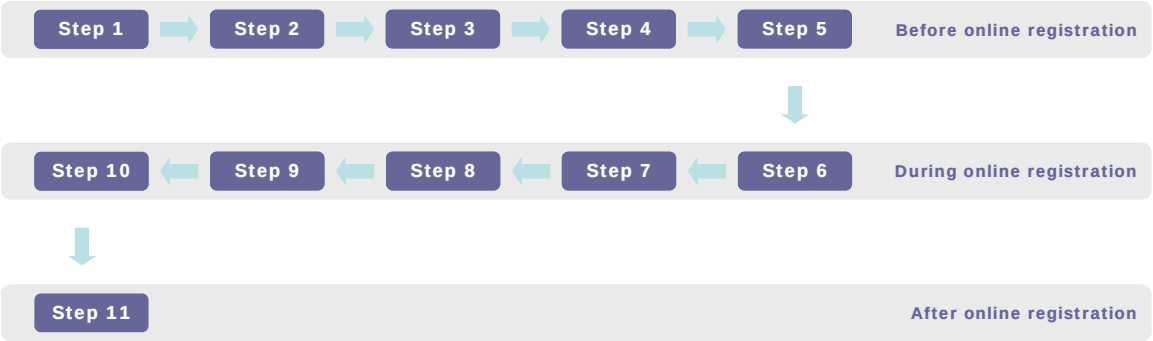
We can do this by including in our registration additional information that the Commission currently does not ask for. In this way, we show how the future EU lobby register should look like, and give the Commission practical and constructive criticism.

### Conclusion

We believe that all organisations engaged in lobbying EU institutions should register by providing additional information as laid out in these guidelines. To encourage a serious review of the register by the Commission, we recommend that you include in the registration of your organisation a text with your critique of the register's shortcomings (see step 6 below).

## 4. Steps to register

We propose a step by step approach for registering your organisation in the European Commission lobby register. There is some preparation work you need to do, before starting to register online. Please read carefully all steps before starting to register. For each of the steps, you will find the European Commission's requirements and our recommendations.




Step 1: Does my organisation fall within the scope of the register?

Step 2: What costs should I include in the calculation of my organisation's lobbying expenses?

Step 3: How do I calculate my organisation's lobbying expenses?

Step 4: Who should I consider as an interest representative in my organisation?

Step 5: How do I indicate specific lobbying issues?

Step 6: Where and how can I voice my critique in the register?

Step 7: What financial information should my organisation disclose?

Step 8: How do I disclose the names of people who act on behalf of my organisation?

Step 9: Where do I indicate specific lobbying issues?

Step 10: Should my organisation sign up to the Commission's Code of Conduct?

Step 11: What do I need to do after I've registered?

## Before online registration

Before starting your online registration you need to prepare a certain amount of information. Follow steps 1-5 below to do so.

### Step 1 Does my organisation fall within the scope of the register?

#### What the European Commission requires

The Commission in the 'Frequently Asked Questions' document specifies that “all entities engaged in “activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions” are expected to register. These activities include: contacting members or officials of the EU institutions, preparing, circulating and communicating letters, information material or argumentation and position papers, organising events, meetings or promotional activities (in the offices or in other venues) in support of an objective of interest representation. This also includes activities that are part of formal consultations on legislative proposals and other open consultations. Certain specific activities do not fall within this scope:

- Activities of legal and other professional advice, when they relate to the exercise of the fundamental right to a fair trial of a client, including the right of the defence in administrative proceedings;
- Activities of the social partners when they are part of the Social Dialogue;
- Activities in response to the Commission’s direct request.

As the title of the Register indicates, the Commission encourages all interest representatives register, including such entities that do not consider themselves "lobbyists". Registration shows that an organisation represents interests. It does not mean that those registering can be labelled 'lobbyists'” [4]

#### Why do we recommend adding extra information?

The European Commission has excluded from its definition of ‘interest representation’ all activities carried out in response to a direct request by the Commission itself.

**Our recommendations**

If your organisation is in any way “engaged in influencing the policy formulation and decision-making processes of the European institutions”, it should register following the guidelines as outlined in this document.

We consider that one should also register and disclose activities such as participation in consultative committees or expert groups of the Commission, even if this happens in response to direct requests by the Commission.

'Promotional activities' should be understood to include advertisements and sponsored media work done for the purpose of influencing EU policy.

[4] http://ec.europa.eu/transparency/docs/reg/FAQ_en.pdf

## Step 2 What costs should I include in the calculation of my organisation's lobbying expenses?

### What the European Commission requires

The Commission does not provide clear guidelines that apply to all categories of registrants regarding the activities that should be included in the calculation of "interest representation".

### Why do we recommend adding extra information?

The European Commission requirements are insufficient for all categories of registrants. Each registrant will largely have to decide by themselves what they consider lobbying/interest representation expenses and what not. This leads to financial information that is not transparent and not comparable.

### Our recommendations

In an effort to arrive at a more objective way of calculating lobbying expenditures, we have drafted guidelines that reflect the advice of professionals working on lobby transparency as well as relevant aspects of US lobby disclosure legislation.

When calculating your expenses related to lobbying the EU institutions, we suggest including expenses for activities as listed below and related overhead costs. This list goes beyond what the Commission is asking for. It is not an exhaustive list, but for guidance only.

Meetings, conferences and demonstrations:

1. Meetings and discussions with members or officials of the EU institutions with the objective of influencing EU policy formulation and decision-making

2. Participating in hearings, conferences and meetings organised by the EU institutions

3. Organising or sponsoring events (such as conferences and round tables) that bring together representatives of the EU institutions and representatives who act on behalf of an interest group/organisation/company but are not lobbyists themselves (e.g. scientists, experts), with the purpose of influencing EU policy formulation and decision-making

4. Organising or coordinating travel of people to meet members or officials of the EU institutions (primarily but not limited to Brussels or Strasbourg) with the specific objective of influencing EU policy formulation and decision-making

5. Participating in expert groups, comitology and EU delegations

6. Demonstrations and other forms of actions directly targeting EU institutions

7. Travel, accommodations, in kind contributions, sponsored activities for members or officials of the EU institutions

## Our recommendations (continued)

Written contributions:

1. Activities that are part of formal consultations on legislative proposals and other open consultations

2. Preparing and sending letters and position papers to members or officials of the EU institutions with the objective of influencing EU policy formulation and decision-making

3. Coordination of email and letter writing actions to members or officials of the EU institutions

Publications, media work:

4. Publications produced specifically to influence EU policy formulation and decision-making

5. Advertisements and media work done with the specific purpose of influencing EU policy formulation and decision-making

For example this does not include activities such as capacity-building and coordination of a network if they are not carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions.

Only if you consider that your organisation is entirely set up with the objective of influencing the policy formulation and decision-making processes of the European institutions and that all of your activities contribute to that objective, you can put your total budget as an estimate of your lobbying expenditure.

## Step 3 How do I calculate my organisation's lobbying expenses?

### What the European Commission requires

The Commission provides only limited guidance (and only to 'in-house' lobbyists and trade associations) on how to calculate lobbying expenses:

> "Registrants of the second category ("in-house" lobbyists and trade associations) are expected to provide an estimate of the cost associated with the direct lobbying of all the EU institutions. This estimate does not have to satisfy conventional financial reporting and accountancy requirements and therefore has no legally binding characteristics or effects.
> For registrants with an office in Brussels, this estimate could start from the overall budget spent for this office (personnel costs and expenditure on materials, office lease, membership of associations etc.), from which all costs for non-lobbying activities would be deduced.
> Organisations without an office in Brussels could roughly estimate the percentage of time their employees are spending on lobbying EU institutions and estimate, on this basis, the costs dedicated to these activities incl. travel to Brussels or Strasbourg etc."[5]

### Why do we recommend adding extra information?

This guidance is problematic because it only addresses expenses for 'direct' lobbying, which is likely to be only a small part of lobbying expenses for most registrants.

**Our recommendations**

You can generally follow the Commission guidance as given to 'in-house' lobbyists and trade associations (see above), but you should include any expenses for lobby activities as listed in step 2. Your calculation should include expenses related to lobby activities done on your behalf or under your control, for example by national offices of your organisation, partner organisations, volunteers as well as public relations firms, event organisers, advertising agencies etc., unless these organisations register themselves.

When calculating the lobby expenses of your office you first need to determine how many people within your organisation do lobby work. To determine whether a person is doing lobby work please use the list of activities above (step 2). Once you have determined who does lobby work you can start calculating the lobbying expenses.

[5] Point 11 of FAQ, http://ec.europa.eu/transparency/docs/reg/FAQ_en.pdf

## Our recommendations (continued)

*Part 1:*

a) Calculating lobbying costs related to salaries/fees:

Ask each employee to estimate (in %) how much time s/he spent on lobbying activities as listed above during the last 12 months.

Multiply this figure (% of working time spent on lobbying) with the (individual) staff cost (employee's gross salary+employer's costs; in the case of consultants: all fees+expenses).

*Example*
Person X spends 30% of his/her time on lobby activities. His/her gross salary and the cost to the employer amounts to 50 000 €/year. Following the calculation above the result would be: 0.30 X 50.000 = 15.000 €

b) Calculating lobbying costs related to support/organisational overhead cost:

Calculate in percentage how many persons of your total staff do lobbying activities (for example 5 out of 10 people = 50%).

Calculate the average working time (in %) that these employees together spend on lobbying. For the purpose of this example we say that this average is 30%.

The total work time that your office spends on lobbying would then be 15%.

Use this figure and multiply it with the total organisational overhead costs, for example 100.000€.

Result: Following the calculation above the result would be: 0.15 X 100.000 = 15.000€.

c) Add up the results of staff cost figures and the organisational overhead costs related to lobbying.

*Part 2:* Calculate other costs related to any of the activities listed above, such as the production of lobbying material, advertisements, organising events, travel costs, per diems, paying external consultants which have been hired to help lobby or develop material for lobbying purposes, etc.

*Part 3:* Calculate the sum of results for part 1 and 2 and round it to the nearest 10.000€.

If your lobbying efforts also rely on other agents than your own staff (public relations/affairs firms, members, volunteers, head- and branch offices etc.) then you either add their lobbying expenses to your calculation or they register this information themselves and state clearly in their registration that the expense was done on behalf of your organisation. In that case, you should name the other registrant and indicate where the relevant information can be found in the register.

The result should equal a ‘good faith estimate’ of your total lobby expenses.

## Step 4 Who should I consider as an interest representative in my organisation?

### What the European Commission requires

There is no requirement to name the persons involved in the lobbying activities of a registrant.

### Why do we recommend adding extra information?

Some of the biggest problems related to lobbying are conflicts of interests and revolving doors (former decision-makers taking on lobbying jobs and thereby providing clients who can afford to pay them with insider knowledge and contacts). Such problems cannot be identified unless lobbyists are named.

### Our recommendations

We suggest that you prepare a list of the names of:

- Anyone who is either employed or retained by your organisation for financial or other compensation for services that include four or more contacts (including letters) with members or officials of the EU institutions with the objective of influencing the policy formulation and decision-making processes of the European institutions during the reporting period; or whose lobbying activities (see non-exhaustive list under step 4) constitute 20 percent or more of his or her working time on behalf of your organisation.

- The same criteria should be applied to persons who are employed or retained by an associated organisation (e.g. national office, member, head office, affiliate group), and who engage in EU interest representation on behalf of your organisation. You should either list these individuals in your registration, or name the other associated organisation and indicate where the relevant information can be found in the register.

- Indicate on which policy issue(s) each person listed has lobbied during the reporting period.

- Always indicate if any person you list has worked for the EU institutions within 5 years of first acting for you. In that case, state the position in which the person served within the EU institutions.

- If some of the persons listed are volunteers you can indicate this if you wish.

## Step 5 How do I indicate specific lobbying issues?

### What the European Commission requires

The European Commission does not require any specific information about the issues a registrant is lobbying on.

### Why do we recommend adding extra information?

Information about specific issues is essential to lobbying transparency.

**Our recommendations**

Prepare a list of all dossiers (EU laws, policies etc) that you have tried to influence during the reporting period (i.e. last 12 months).

## During online registration

Follow the online registration form at https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en#en and make sure to introduce the extra information as proposed below.

### Step 6 Where and how can I voice my critique in the register?

#### What the European Commission requires

The European Commission announced that this register will run for a one-year test period and will be evaluated after that.

#### Why do we recommend adding extra information?

The Commission has not committed to any criteria for evaluating the register. The Commission has been reluctant to advance lobby transparency until now, and may be tempted to declare its failed register a 'success' based on the quantity of registrants, only. Without clear criticism, it may not address the register's real shortcomings.

#### Our recommendations

The online registration has a text box "Describe your organisation's goals / remit" where you can give a short description of your organisation.

We recommend that you use this textbox also to clearly state your concerns about the current register. You can do this by adding the following lines in this textbox ("Describe your organisation's goals / remit"):

> "[ORGANISATION NAME] is committed to transparency about EU interest representation. [ORGANISATION NAME] believes that this register fails basic transparency standards and that it does not provide EU lobbying transparency. When registering, we have therefore chosen to give all relevant information that we consider necessary for lobbying transparency. A credible EU lobbying transparency register should include names of individual lobbyists and the issues that they try to influence, provide precise and comparable financial information on lobbying, and have effective sanctions to ensure the accuracy and completeness of the information disclosed. In an effort to arrive at a more objective way of calculating lobbying expenditures, we follow guidelines that result from consultations with public interest organisations, professionals working on lobby transparency as well as experts of US lobby disclosure legislation. Our registration is therefore providing a more comprehensive calculation of our expenses for activities that aim to influence the policy formulation and decision-making processes of the European institutions, and a list of those who, on behalf of [ORGANISATION NAME], carry out such activities.
>
> Our registration is based on the guidelines for transparent registration developed by the Civil Society Contact Group and ALTER-EU. Find the guidelines on http://www.act4europe.org/register or http://www.alter-eu.org"

## Step 7 What financial information should my organisation disclose?

### What the European Commission requires

In the register, commercial lobbyists ('in house' lobbyists and trade associations) are asked to give a 'good faith estimate' of their lobbying expenditure, while entities that register as NGOs must disclose their total budget. Registrant of other categories (including lobby firms and trade associations) do not have to disclose their total budget figures.

### Why do we recommend adding extra information?

The lack of common data disclosure rules means that the financial information published cannot be compared or aggregated. If you register in the NGO category, the entire annual budget of your organisations might be compared to the lobbying expenses of a commercial firm. This could easily lead to false and misleading conclusions.

### Our recommendations

If you are registering in the NGO category we recommend you take the following steps:

- As required by the European Commission, provide your annual budget figure.
- The Commission also requires a breakdown of your annual budget, into public and private funding sources. Instead of using the general subcategories 'from European sources', 'from national sources' 'from local/regional sources', we recommend that you click on 'Add another source' and name the government agencies, grant-making foundations and others that may contribute to your budget.
- Do not fill in the optional box "3 - Below you can give an estimate of the costs related to the direct representation of interests to EU institutions by your organisation in the current year." This box only allows you to state your lobby expenses in ranges of 50.000€ and this range is too large for transparency purposes.
- Instead, you should use the textbox "4 - Other (financial) information you might like to give in the interest of transparency" to provide the good faith estimate of your lobbying expenses rounded to the nearest 10.000€ per year as calculated following step 3. Please write "Following the guidelines of the EU Civil Society Contact Group and the Alliance for Lobbying Transparency and Ethics Regulation in the EU, [Organisation name] has calculated that it spent an estimated [amount of your good faith estimate] in [period for which you are reporting] on activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions."

## Step 8 How do I disclose the names of people who act on behalf of my organisation?

### What the European Commission requires

There is no requirement to name the persons involved in the lobbying activities of a registrant.

### Why do we recommend adding extra information?

Some of the biggest problems related to lobbying are conflicts of interests and revolving doors (former decision-makers taking on lobbying jobs and thereby providing clients who can afford to pay them with insider knowledge and contacts). Such problems cannot be identified unless lobbyists are named.

### Our recommendations

We suggest that, in the textbox "interest representation activities" of the register, you insert the list of names as prepared in step 4

- To list the relevant individuals, you can use the following sentence: "On behalf of [NAME OF YOUR ORGANISATION] the persons listed below have had, during the reporting period, four or more contacts with members or officials of the EU institutions with the objective of influencing the policy formulation and decision-making processes of the European institutions; or they have spent 20 percent or more of their working time on behalf of [NAME OF YOUR ORGANISATION] carrying out such activities:".
- Always indicate on which policy issue(s) each person listed has worked.
- Always indicate if any person you list has worked for the EU institutions within 5 years of first acting for you. In that case, state the position in which the person served within the EU institutions.
- If some of the persons listed are volunteers you can indicate this if you wish.

## Step 9 Where do I indicate specific lobbying issues?

### What the European Commission requires

The European Commission does not require any specific information about the issues a registrant is lobbying on.

### Why do we recommend adding extra information?

Information about specific issues is essential to lobbying transparency.

**Our recommendations**

In the register's open textbox “interest representation activities”, you should list all dossiers (EU laws, policies etc) that you have tried to influence during the reporting period (i.e. last 12 months) as prepared following step 5.

## Step 10 Should my organisation sign up to the Commission’s Code of Conduct?

### What the European Commission requires

The European Commission requires that you either agree to their Code of Conduct or confirm that you apply an equivalent Code.

**Our recommendations**

While the Commission’s Code is insufficient, it is okay to agree to it nevertheless in order to complete your registration.

## After online registration

### Step 11 What do I need to do after I've registered?

Once you have registered, please send an email to the Civil Society Contact Group co-ordinator (coordinator@act4europe.org) so we can send you future updates of these guidelines and keep you informed about the progress of our lobby transparency campaign. We also welcome comments to further improve these guidelines.

Please keep a record of your registration and all updates, as long as the Commission register does not have its own public archive.

## 5. Contact

Should you have further questions don't hesitate to contact:

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## 6. For more information

- Find the register at https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en#en
- Find the FAQ from the Commission on http://ec.europa.eu/transparency/docs/reg/FAQ_en.pdf
- Find the Civil Society Contact Group press release on the launch of the register here.
- Find here related letters the Civil Society Contact Group sent to the Commission in May and March 2008.
- Find earlier briefings on tranparency by the Civil Society Contact Group dating from May 2007 and May 2006.
- Find letters, press releases and general information about the ALTER-EU here: www.alter-eu.org