



Position on the Proposed Common Transparency Register and connected issues February 2011

Background

The Commission is concluding a review of its Register of interest representatives and working with the Parliament to develop a common Register of Interest Representatives (or lobbyists). This paper summarises SEAP's views on the common Register. Fuller comments on the Commission's Register are available on our web-site (http://www.seap.be/linkdocs/kallas_letter_june09.pdf). For more about SEAP see footnote.

In November 2010 the Commission and Parliament published a "Draft European Parliament & European Commission Agreement on the establishment of a Transparency Register" (the draft agreement).

<https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en>

SEAP is committed to ensuring high ethical standards in public affairs; promoting transparency and openness in EU decision-making; acting as the voice of the profession to the EU institutions; providing a forum for public affairs professionals to meet; and ultimately contributing to the making of EU law and policy that is fit for purpose.

SEAP's Code sets out the ethical standards that SEAP members must observe when making representations to the EU institutions. Each SEAP member must participate in training on the Code and endorse it as part of the organisation's membership requirements.

While SEAP is committed to a self-regulatory approach in the field of public affairs, it has worked closely with the European Commission in recent years to develop the European Transparency Initiative and Register of Interest Representatives. SEAP members who register with the Commission are asked to declare in their registration that they are bound by SEAP's Code.

SEAP's position on the common Register

We support the good practice of a common Register between all the EU institutions including the Council. As a first step SEAP supports the transition to a common EC and EP Register. There are a number of issues which arise from this transition.

1. **A user friendly Register.**
 - the proposed name of the Common Register (the Transparency Register) is an improvement on the Commission's naming, and should help broaden the scope
 - guidelines should be provided for each section of the Register: SEAP accepts Commissioner Sefcovic's invitation to provide input based on our previous published guidelines to the Commission's Register and subsequent learnings.

2. **Voluntary.** A common Register should not have the effect of distancing the Commission or Parliament from the EU citizen or making the policy-making process less transparent to those who are not registered.
 - those not registered should not be prevented from making representations: it should be for MEPs and officials themselves to decide whom they meet.

3. **Reason for access.** Access has two key objectives. Access to speak with MEPs. Access to observe EP committees and other meetings. These two functions should not be compromised by the creation of a common Register. Until a reliable and fully comprehensive method of watching all debates remotely exists (such as the web-streaming of certain committees' debates today) we caution against initiatives that would prevent entry into Parliament's premises.
 - badges should be given to all those in the common Register who request a badge
 - the EP limit on four badges per organisation needs to be revised upwards.

4. **Scope.** The natures of the Parliament's and Commission's Registers differ. Until now, Parliament's Register has primarily been about access to Parliament's premises. As such it is composed of individuals, whereas the Commission's concerns organisations. In the draft agreement section IV are a list of inclusions and exclusions.
 - compared with the Commission's Register the draft agreement's note on who should register is clearer
 - there will be some confusion between the inclusions of IV.8 and the exclusions of IV.10.c

5. **The financial declaration.** The definitions in the former Commission Register to concepts such as 'direct lobbying' or 'interest representation' are unclear. An organisation's declaration of financial information will depend on it knowing what activities to count. Differing interpretations by registrants has led to discrepancies among registrants as to what they declare. In the draft agreement, Annex 1 categorises registrants into six sections (I, II, III, IV, V, VI) and Annex 2 outlines the information required by section.
 - there may be some confusion between the inclusions of IV.8 and the exclusions of IV.10.c with respect to the financial declaration

- it is unclear to which sections the declaration of EU funding applies: if all six sections are intended, then that should be explicitly stated.
 - the draft agreement's approval of double counting is unhelpful: though the Institutions may not, others will (and have) aggregated Register financial declarations. SEAP's published guideline on double counting is to be recommended.
6. **VAT recovery.** Registration may directly affect VAT status especially for Brussels-based organisations. Many non-profit organizations face delays in the fiscal recovery of VAT of up to five years and/or a challenging fiscal negotiation on the VAT recovery rate due to their registration. The financial impact can be significant and thus the financial influence of the Register cannot be ignored. SEAP has previously spoken with the Commission on the issue. The draft agreement is silent on the matter.
- SEAP requests that the EC and EP directly address the issue of VAT recovery for Brussels-based organisations.
7. **Complaints.** Suspension from the Commission Register has attracted negative publicity and reputational damage to those affected. The draft agreement outlines a procedure in Annex 4. SEAP understands complaints would be signed off at the Secretary General level with appeals to the Ombudsman's office if there were process concerns. The process of removal from the Register must be clear and transparent. Credibility would be improved with an independent complaint body.
- a independent complaint body should consider potential suspensions and not the proposed Register secretariat
 - the procedure must be confidential
 - more precision is needed on admissibility and proportionality
 - there should be the possibility to extend the 10-day response period
 - the Respondent must be able to see the complaint file in full
 - the system may need to be adapted for individuals.
8. **Supporting ethical behaviour.** SEAP would like to see this common Register actively support the development of voluntary codes of conduct that go beyond the minima in the common code of Annex 3. There are a discrete number of organisations that are ethical code holders with complaint procedures to uphold those ethics. To encourage this positive development among lobbyists, the common Register could provide a fast track registration to individuals who are members of these organisations.
- create a fast track procedure for SEAP members
 - there should be a named check box for Registrants to show compliance with more robust codes, such as SEAP's.
9. **Streamlining the procedure.** The requirement for a "certificat de bonne vie et mœurs" is based on a Belgian national system. It does not scale in the EU of today: it does not even exist in some Member States. It is discriminatory and will add nothing to the new common Register.
- the EP should take the opportunity of the common Register to remove the requirement for this certificate and consequently its cost.

SEAP's position on connected issues

10. **The existing EP express list system.** SEAP has heard of a change in this system. Specifically, the EP now requires that each person put on the express list fill out the permanent pass form and provide the EP security service with a "certificat de bonne vie et mœurs".
 - the request for such a certificate has no place in an express procedure
 - what is the purpose of this change to the express list which seems counter-intuitive to the concept of "express"?

11. **Transparency of the Institutions.** Council Decision 1999/468/EC laying down procedures for the exercise of implementing powers still exists. The decision making according to art. 290 and 291 of the Treaty of Lisbon for the delegated acts and implementing acts are nearly adopted.

Improvements are needed on:

- names and contact details of national experts in relevant committees
- access to preparatory documents
- timely publication of agenda and minutes
- timely publication of votes.

About SEAP

SEAP is the Society of European Affairs Professionals established in 1997. It is the recognised organisation of all EU public affairs professionals including those operating in trade associations, corporations, consultancies and other representative bodies. SEAP encourages the highest standards of professionalism for European affairs activity and promotes self-regulation of the profession. For more see www.seap.be