



Consultation survey on the draft Transparency Register Guidelines for Applicants and Registrants

Fields marked with * are mandatory.

* I reply on behalf of a(n):

Select only one category, the same in which your organisation is registered in the Transparency Register

- Professional consultancy
- Law firm
- Self-employed consultant
- Company or group of companies
- Trade and business association
- Trade union or professional association
- Non-governmental organisation
- Think tank or research institution
- Organisation representing churches and religious communities
- Other

* Name of contributor (organisation/entity):

100 character(s) maximum

BusinessEurope

* Transparency Register ID number:

15 character(s) maximum

Format: xxxxxxxxxxxx-xx

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Introduction

The Transparency Register (Register) is set up to show the interest representation activities directed at the European Parliament, the Council of the EU or the European Commission with the objective of influencing the law or policy making or the decision-making processes of the EU institutions.

The guidelines for registrants is a manual with practical information for the users of the Register. It is aimed to clarify and explain in more detail certain provisions of the new Interinstitutional Agreement on the Transparency Register (2021 Agreement) which are of practical interest to applicants and registrants.

Please read the draft guidelines before you start to fill in the questionnaire.

The survey will be available until 25 June 2021 (23:59, Brussels time).

Download the draft Guidelines

If necessary, we can define the help message here

[GUIDELINES_2021_DRAFT_VERSION_FOR_STAKEHOLDER_CONSULTATION_CLN_25_05_21.pdf](#)

*** Question 1:**

The European Parliament, the Council and the Commission have committed to make some of the activities of interest representatives conditional upon registration.

That means that some interest representation activities will trigger a necessity to register (via conditionality measures) while other activities will trigger an invitation to register (complementary transparency measures).

In your view, is this approach sufficiently explained in the guidelines?

- Yes
 No
-

*** Question 2:**

In accordance with the 2021 Agreement, the Register will not cover certain activities, including the activities carried out by certain bodies. This will define whether you are eligible or need to enrol in the Register.

In your view, are these activities clearly explained in the guidelines?

- Yes
 No

Comments:

4000 character(s) maximum

Please provide further information.

Scope of Art. 4 c) of IIA (social partners and social dialogue) is not explained. The description "acting as participants in social dialogue pursuant to Article 152 TFEU" is too vague and risks being interpreted narrowly, thereby not respecting the special role of social partners conferred by the Treaties. In order to support social partners and enhance social dialogue as laid down in Art. 152 TFEU, the exemption for the activities of social partners should be interpreted in the widest possible way (hence, not only covering negotiating agreements under Art. 154 and 155 TFEU) and be clearly explained in the guidelines. In any case, such an explanation shall also include national social partner organisations.

*** Question 3:**

The Register will now sort registrants into three categories:

- those that promote their own interests or those of their members,
- those that advance the interests of their clients and
- those not representing commercial interests.

Choosing the option that best reflects your set-up will also affect the financial information you are required to provide.

In your view, is this new approach clearly explained in the guidelines?

- Yes
- No

Comments:

4000 character(s) maximum

Please provide further information.

The guidelines introduce a new criterion for category 1 that is not laid down in IIA. Point a) of part III of Annex II clearly defines category 1 as “registrants promoting their own interests or the collective interests of their members” and does not make any connection to profit-making entities. The draft guidelines, however, state that category 1 applies to “interest representatives that are representing their own interests or the collective interests of their members - among which there are profit-making entities”. Hence, the guidelines reduce the scope of category 1 that was not legally foreseen by the IIA.

We welcome the notion that trade and business associations would typically fall under category 1. However, we highlight that the additional criterion “profit-making entities” does not take into account the complex membership structures of associations. For example, associations whose members are other associations may not fulfil the condition of representing “profit-making entities”, even if they represent the interest of associations whose members are clearly “profit-making entities”.

In order to preserve a coherent approach, the guidelines should clearly state that category 1 applies to “interest representatives that are representing ... the collective interests of their members – among which there are profit-making entities OR WHO REPRESENT PROFIT-MAKING ENTITIES”. This would not unnecessarily restrict the scope of application of point a), part III, Annex II that was foreseen in the IIA. More importantly, adding a new criterion to category 1 (“profit-making entities”) that is different from category 3 (“commercial interest”) makes it in some cases difficult to choose between the two categories. This makes the distinction between the two categories unclear in an unnecessary way.

In such a case, the guidelines state to “choose the option that best describes your principal activity and explains the motivations behind your interest representation activities”. However, information on the most decisive criterion for such registrants is unfortunately scattered in several parts of the guidelines and is somewhat contradictory. For example, for category 1 no percentage criteria for “profit-making entities” is laid down. However, also category 3 applies if “principal field of activity of the majority of percentage of your members is of non-commercial, business or profit-making nature”. It is only in the next part where the decisive criterion “your main purpose is the advancement of societal causes in the public interest” is listed. Hence, the guidelines should provide for clearer guidance on the difference between categories 1 and 3 for registrants that might fall under both categories. Otherwise some associations, who clearly should fall under category 1, might register themselves as belonging to category 3.

In any case, it should be written down clearly that employers’ associations should not belong to same category as non-commercial interest representatives such as NGOs and civil organisations, even if only their indirect members might be “profit-making”. This would not be in line with their special status as social partners under Art. 152 TFEU and with their main purpose, which is clearly different from that of NGOs.

* Question 4:

The 2021 Agreement introduces a new code of conduct.

Do you think that the guidelines could usefully provide more details about the consequences of non-observance of the code of conduct and the related procedures and remedies?

- Yes
 No

Comments:

4000 character(s) maximum

Please provide further information.

It could be wise to include more information on general consequences of non-observance. This does not have to be very detailed. If needed, the applicant / registrant can recourse to the provided link to code of conduct.

*** Question 5:**

While the guidelines cannot cover every eventuality, do they reflect your most immediate concerns?

- Yes
 No

Comments:

4000 character(s) maximum

Please provide further information.

see above

*** Question 6:**

Is there anything else you would like to see in the guidelines that is not included?

- Yes
 No

Comments:

4000 character(s) maximum

Please provide further information.

The issue of double, triple or quadruple counting of various lobby costs has not been addressed. This leads to inaccurate and bloated overall figures.

Part II, 5., Heading 10, fourth paragraph, states that the Register automatically displays the information entered concerning individuals performing covered activities as full-time equivalents (FTE).

In the current register, the categories of “full-time equivalent (FTE)” and “number of persons involved” lead to misunderstandings if users are not conversant with the guidelines for implementing the Register. The information content regarding the actual employee effort in connection with EU interest representation is markedly higher for the indication of full-time equivalents than for the indication of persons involved. The three institutions should take the opportunity of the guidelines to clarify that the category of “number of persons involved” is deleted from the register.

The issue of the 10% rules for calculating people involved in EU lobbying is unrealistic and will be impossible to count, especially for larger structures.

On page 17 a new information requirement has been introduced: "Provide details here concerning those Union structures in which you have already participated." What does this mean? Until when? All historic information. Impossible to provide for most.

Page 24 membership: for many structures who are members of many organisations this is too burdensome. We propose to list the top 5 most important memberships.

Useful links

[Technical issues - click here \(https://ec.europa.eu/eusurvey/home/helpparticipants\)](https://ec.europa.eu/eusurvey/home/helpparticipants)

Background Documents

[Interinstitutional Agreement on the mandatory Transparency Register \(signed - not published\)](#)

Contact

<https://ec.europa.eu/transparencyregister/public/contact/contact.do?contactType=OTHER&locale=en>

