

## Address to Transparency International/EPACA conference

Speech - **City** Brussels - **Country** Belgium - **Date** 13/11/2019

Good afternoon and thank you for the invitation.

I would like to begin by congratulating the organisers for assembling such high-level and respected speakers from the three main EU institutions. I am particularly pleased to see Minister Tuppurainen here as the Council has not always been a frequent attendee of such discussions.

We all, I am sure, welcome the Council's decision to enter into negotiations on the revised Transparency Register and I personally welcome the commitment of the Finnish Presidency on these issues.

The Parliament and Commission have driven the development and progress of the EU's Transparency Register since 2011, but the current register is clearly missing a limb, without the participation of the Council.

The rationale behind the Transparency Register is plainly written on its website, a nice example of citizen friendly clear writing. It states that:

*"Citizens can, and indeed should, expect the EU decision-making process to be as transparent and open as possible. The more open the process is, the easier it is to ensure balanced representation and avoid undue pressure and illegitimate or privileged access to information or to decision-makers. Transparency is also a key part of encouraging European citizens to participate more actively in the democratic life of the EU. The transparency register has been set up to answer core questions such as what interests are being pursued, by whom and with what budgets."*

That's very straightforward and the aims obviously worthy of widespread institutional support. We all know what we wish to achieve but the challenge of how to achieve it is firstly the job of the three main EU institutions represented here today, and we wish them well in their negotiations.

And as they negotiate, it is obvious that they should seek the views of interest representatives, or lobbyists for those who prefer that term. Their work is a legitimate and important part of legislating and policy making in a democracy.



MEPs, Commissioners, or EU civil servants cannot possibly hope to know every possible outcome of a proposed law or how a proposal might be improved, and so responsible, transparent lobbying can fulfil a public interest role.

And despite what many people might believe, the EU administration is in fact under-resourced for the major legislative and regulatory role it plays not only in Europe, but in the world.

External input is therefore vital in informing policy makers of the real world impacts of EU policies. MEPs who focus on legislative work, may also be under-resourced. Members of the US Congress for example normally have up to 18 staff, and they legislate for a population much smaller than the EU.

But the public interest is served only if lobbying activity is transparent in order to assess the level and outcome of the influence it exerts over EU policy making. That is especially true in the EU context where the institutions are geographically and even mentally distant from the vast majority of citizens and need structured and effective transparency to fill that awareness gap.

Without that, the practical consequences can be significant: one business sector gains an unfair advantage over another, innovation may be stifled unfairly, environmental standards are set a little lower, consumer rights are weakened, or, in the case of the tobacco directive or the regulation of diesel-powered cars, the health of millions of European citizens affected.

This is not an abstract issue and it is important for all of us involved, constantly to make the links between what happens in the offices and cafes of Brussels when legislation is being formally and informally influenced and the impacts on the lives of real people across Europe and even beyond.

The EU Transparency Register is already a very good model of lobbying regulation, which compares well to many such registers around the world, but there are still several aspects that could be improved and must be improved.

In 2016, I set out my views on the revision of the register to the Commission. I stated that the new register should:

1. Contain full funding transparency of all interest groups;
2. Should have improved data accuracy, improved monitoring and improved sanctioning;
3. Should include law firms who lobby;
4. And the right to complain to the Ombudsman should be included in the inter-institutional agreement.

These are some of the issues the three EU institutions are tackling as part of the now stalled



negotiations and I was happy to see the Parliament's negotiation mandate prioritise the retention of the wide scope of the register to include not just direct lobbying but, critically, indirect lobbying.

Global experience suggests that lobbying registers fail or are weak because the definition of lobbying activity is too narrow.

Lobbying has many forms, and new ones continue to emerge. Direct one on one lobbying meetings is an obvious and traditional form but the business of influencing has naturally become more sophisticated and more complex over time.

Major lobbying campaigns frequently will involve public affairs consultancies to do the direct lobbying but also law firms to provide the legal input and that work of the law firm is obviously part of the lobbying campaign.

Another company might never have a meeting with the Commission or with an MEP but instead takes out a full-page ad in Politico supporting or criticising an EU legislative proposal. That is legitimate but it is also the influencing of EU law-making.

This type of indirect lobbying is harder at times to quantify and regulate, but it is a vital part of lobbying and should be included within the scope of the definition - to the greatest extent possible.

My role as European Ombudsman – when it comes to transparency – essentially deals with this issue of influence – the degree to which EU institutions ensure independent quality decision-making.

With good co-cooperation from all the EU institutions and agencies, we deal with about 2000 complaints a year and conduct about 500 inquiries, with many focused on the area of influence.

It has a particular high relevance in the EU context given, as I said earlier, the inability of most citizens to follow what goes on 'in Brussels'.

We have inquired into the system of over 800 Expert Groups that advise the Commission for example, and the Juncker Commission did make several positive reforms in that area. We also looked into how the Commission deals with the so-called 'revolving doors' challenge, a difficult challenge facing many public administrations - when high-ranking officials leave to take up a private sector post that could see them lobbying their former colleagues.

We have also worked to sensitise EU officials as to what exactly is lobbying and we have produced a simple 'dos' and 'don'ts' guide for EU officials in their daily work to help them navigate this often tricky area. The Commission and Parliament now use this guide in their training for staff.

We have of course also looked into the lack of transparency of the legislative process in the



Council. Although it is a co-legislator, many national governments in the Council still tend to think and act within a traditional international diplomacy framework. Evolving negotiations remain largely behind closed doors with government positions off limits to public scrutiny, despite recommendations from my Office, reports by the European Parliament, national parliaments or even judgements of the European Courts in Luxembourg.

However, I thank the Finnish Presidency for its efforts in this area, and I welcome the fact that so far ten national governments have formed a coalition of like-minded Member States pushing for more transparency within the Council. It's important precisely because it reinforces the democratic legitimacy of the EU as a whole and in these troubled time, that must be seen as positive and necessary.

As regards the Transparency Register, we do not get involved in the detail, as this is primarily a matter for the three institutions and because we can receive complaints from citizens or organisations registered about the administration of the register.

However, to date we have received hardly any complaints about the operation of the register, which must mean that the two institutions currently running the register are doing a very good job.

Today, we are at the beginning of a new political cycle in the EU with a new Commission soon to take office and a new Parliament. It was encouraging to see that Commission President designate Von der Leyen has made transparency an explicit part of the portfolio of a commissioner for the first time, and a Vice President portfolio at that.

So I am very hopeful for the future of these topics in the EU, and for the future of the EU Transparency Register, not only given the real progress in recent years, but also in light of the commitment of the new Commission, the new Parliament and the Finnish Presidency.

I wish you well.

Thank you.