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Ten policy recommendations for a strengthened MEP Code of Conduct

ALTER-EU briefing for Members of the European Parliament (MEPs)

This document reflects the current state of debate among transparency and ethics experts at the EU level in the area of parliamentary ethics. ALTER-EU welcomes comments and suggestions to further promote constructive debate. We will regularly update this paper, according to policy developments and suggestions for best practice.

In 2011, the “cash-for-amendments” scandal in which three Members of the European Parliament (MEPs) allegedly accepted money in exchange for tabling legislation, severely impaired the reputation of the European Parliament. As a response, Jerzy Buzek, then President of the European Parliament, initiated a process which led to the creation of the first-ever Code of Conduct for MEPs in January 2012¹.

This breakthrough was welcomed by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) which had actively provided advice and inputs during the process. We expressed high expectations, shared by numerous civil society actors and the public, about future ethics management at the European Parliament. In January 2013, an opinion poll carried out among 6,000 citizens in six European countries revealed considerable concern about EU ethics; for instance, **four out of five respondents declared feeling less confident that an MEP represents the best interests of citizens if they also work for a lobby group or a private company**².

However as it nears its third anniversary, it is highly disappointing that the code has not brought about the ethics revolution it originally raised expectations for. Numerous examples of poor implementation have been documented and brought to the attention of current Parliament President

Martin Schulz, but little action has been taken in response³. While we recognise that the code has been a significant step towards better ethics management in the European Parliament, a number of shortcomings remain and currently impede its implementation. **ALTER-EU believes that the European Parliament’s new term provides an important opportunity to address some of the shortcomings that we have flagged up in relation to the code and its implementation, through a review process.**

During the 2014 election campaign, nearly 1,400 candidates – 180 of whom are now elected MEPs - signed a pledge in favour of enhanced transparency and ethics regulation across the EU institutions⁴. Such improvements could start by MEPs initiating a review of the European Parliament Code of Conduct. Such a process could not only seek to improve the code itself, but also make implementation easier for individual MEPs. This would send a positive signal to the European citizens who have elected them and hopefully prevent new scandals that could tarnish the reputation of the new Parliament from arising.

This policy briefing sets out a number of policy recommendations to Members of the European Parliament (MEPs) in relation to the suggested overhaul of the Code of Conduct. We urge the parliamentary authorities to initiate this process at the earliest opportunity, and actively seek civil society input (through official public consultations and hearings) in order to deal with the real-life issues that are currently hindering the good application of the code.

¹ http://www.europarl.europa.eu/pdf/meps/201305_Code_of_conduct_EN.pdf

² <http://www.foeeurope.org/EUcitizenspoll>

³ <http://www.foeeurope.org/mep-ethics-rules-not-effectively-enforced-130514> ; <http://www.foeeurope.org/new-code-old-conduct-European-Parliament-180713> ; <http://www.foeeurope.org/weaknesses-MEP-ethics-rules-190712>

⁴ <http://www.alter-eu.org/politics-for-people-2014-eu-election-campaign>

According to ALTER-EU, priority issues for action are the following:

- 1. Clarify that “not solicit, accept or receive any direct or indirect financial benefit or other reward in exchange for influencing or voting on legislation, motions for a resolution” explicitly rules out advising or providing other lobby services to companies influencing the European Parliament (article 2(b) of the Code of Conduct)**
- 2. Clarify and ensure that the Code of Conduct not only serves to make any and all private interests transparent but also includes measures to tackle and prevent possible conflicts of interests when they occur (article 3)**
 - ▶ Article 3 should be rephrased to include a clear ban on MEPs holding side jobs or other paid work that could lead to a conflict of interest, as defined below.
- 3. Establish a list of clear criteria to define which activities constitute a conflict of interest, including the following activities: (articles 2 and 3)**
 - ▶ Being employed or receiving any other form of benefit or reward from an industry lobby group, a lobby consultancy or any other lobby actor;
 - ▶ Any lobbying or paid work to represent outside bodies (including law firms engaged in lobbying at the EU level);
 - ▶ Any paid or unpaid position on an advisory or supervisory board of companies operating in fields that MEPs are likely to regulate or which have an interest in influencing the European Parliament;
 - ▶ Any type of holding (including shares and stock options) or other financial interest in companies operating in fields that MEPs are likely to regulate or which have an interest in influencing the European Parliament.
- 4. Tighten disclosure requirements for outside financial interests (article 4)**
 - ▶ The current requirements for MEPs to declare outside income and financial interests are too vague. The categories for declaration of income do not allow full scrutiny and MEPs earning more than EUR 10,000 a month do not have to fully disclose their earnings. Also any monthly income by MEPs that falls below the monthly EUR 500 threshold is currently not being recorded.
 - ▶ The declaration form should be changed to allow full details about MEPs’ earnings:
 - ▶ Introduce a specific category for declaration of income below the monthly EUR 500 threshold;
 - ▶ Introduce smaller bandwidths for income information to allow for full scrutiny on outside earnings;
 - ▶ Ensure that any monthly income higher than EUR 10,000 is fully disclosed. The more MEPs earn, additional to their MEP mandate, the more scrutiny there should be from parliamentary authorities so as to prevent risks of conflicts of interest.

5. Reform and extend the mandate of the advisory committee (articles 2 and 3)

- ▶ Reform the composition of the advisory committee, by making it a team of external independent ethics experts for investigation of any potential conflict of interest as required. This is because it is not good practice for colleagues to ‘judge’ or even advise other colleagues.
- ▶ Extend the mandate of the committee to:
 - ▶ not only provide advice on how to complete the declaration of financial interests (DoFI) but also to investigate complaints made by stakeholders or the general public.
 - ▶ Proactively conduct spot checks on the DoFIs submitted by MEPs for plausibility, and investigate any inconsistencies or lack of accuracy in the data.
- ▶ Provide the committee with a well-resourced secretariat to carry out effective monitoring and investigations.

6. Augment the existing remedies and/or sanctions and ensure these are being applied when conflicts of interest occur (article 8)

Current possibilities include: a reprimand, a suspension of the daily subsistence allowance or from participation in some or all parliamentary activities for two to ten days, proposal for suspension or removal from one or more of the elected MEP offices (article 7)⁵. To date, ALTER-EU is not aware that the parliamentary authorities have applied any sanction. When conflicts of interest do occur, they should be handled seriously and swiftly. ALTER-EU suggests:

- ▶ Extending the period during which MEPs are excluded from taking part in all or some of the

activities of the European Parliament until the member has resolved his/her conflict of interest;

- ▶ Explicitly including (shadow) rapporteurship in the list of activities eligible for suspension – this is not clear at the moment;
- ▶ Consider suspending the right to vote in committee and/or in plenary until the MEP has resolved his/her conflict of interest.
- ▶ Make public any remedy or sanction applied to an MEP.

7. Prevent attempts of policy capture of individual members in their duties (article 2)

- ▶ Ensure that during their mandate, MEPs are not allowed to accept any kind of support, be it staff or other support, from any third party (exception: political party).

8. Acknowledge that the risks of MEPs going through the revolving door⁶ when leaving office are real (article 6)

- ▶ As part of the review of the code, initiate a discussion on how to prevent the risk of conflicts of interest arising from MEPs going through the revolving door;
- ▶ Practical steps could include the following:
 - ▶ The transitional allowance received by MEPs when they leave office should be reduced when new paid work is accepted (as is the case with departing commissioners);
 - ▶ Parliamentary authorities should closely monitor how former MEPs use their official European Parliament badges, including to prevent any risk of conflicts of interest arising.

⁵ Sanctions are detailed in the EP rules of procedures, article 166: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+RULES-EP+20140701+RULE-166+DOC+XML+V0//EN&language=EN&navigationBar=YES>

⁶ <http://www.euractiv.com/sections/public-affairs/penny-your-thoughts-meps-and-revolving-door-312859>

9. Implementing rules of the code: tighten guidelines in relation to gifts and hospitality funded by third parties to reduce risks of outside influence on MEP work (article 5)

- ▶ Article 5.1: Reduce the acceptable gift value from Eur 150 to EUR 50;
- ▶ Implementing rules on travels and hospitality⁷: The implementing rules currently request MEPs to declare the hospitality that they receive, but not the cost of it. This should be changed to include a specific obligation to declare the cost of the travels paid for and the hospitality received;
- ▶ The parliamentary authorities should create guidelines on conditions for accepting travel and hospitality from third parties (what kind, under which conditions), allowing full public scrutiny.

10. Address the lack of transparency rules for European Parliament cross-party groups

- ▶ **Include an obligation for transparency for all cross-party groups**, requiring these groups to register their members and funding sources (currently only official European Parliament inter-groups are regulated⁸);
- ▶ **Subject the failure to comply with this obligation to the sanctions** foreseen by the code for MEPs in their capacity as an officeholder of a cross-party group.

⁷ http://www.europarl.europa.eu/pdf/meps/926701_1_EN_IM_DEF.pdf

⁸ <http://corporateeurope.org/news/lobbying-under-radar>

Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)

Mundo B, Rue d'Edimbourg 26, B-1050 Brussels
Tel: +32-2-8931062 E-mail: info@alter-eu.org
ALTER-EU is registered in the EU Transparency Register under number: 2694372574-63.

Written by Natacha Cingotti
Edited by Natacha Cingotti and Paul de Clerck
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