Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
75
1949 - 2024
CONSEIL DE L'EUROPE

Doc. 16067
21 October 2024

Civil society and the Parliamentary Assembly: towards greater transparency and engagement

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Ms Azadeh ROJHAN, Sweden, Socialists, Democrats and Greens Group

Summary

This report examines how the Parliamentary Assembly interacts with individuals and groups working to influence policy and decision making at the Assembly.

The Assembly has already contributed to lead the calls for greater regulation of lobbying in public life. The report proposes that the Assembly enhance its own regulation of lobbying activities, by introducing a code of conduct for those engaged in lobbying at the Assembly, and by reviewing the code of conduct for members regarding how they interact with lobbyists.

In the Reykjavik Declaration of 2024, Heads of State and Government called for a review and further reinforcement of the Council of Europe's engagement with civil society. In follow-up to this, the report proposes measures which would strengthen the Assembly's outreach to, and meaningful engagement with, civil society, including measures which would make it easier for civil society to understand how the Assembly functions, engage with the Assembly's members, and access the Assembly's work.

1. Reference to committee: Doc. 15330, Reference 4599 of 27 September 2021.

Contents **Page**

A. Draft resolution 3
B. Draft recommendation 5
C. Explanatory memorandum by Ms Azadeh Rojhan, rapporteur 6
1. Introduction 6
2. Rules currently in force at the Parliamentary Assembly of the Council of Europe 7
2.1. Declarations of interest 7
2.2. Other relevant sections of the Code of conduct 8
2.3. The Code of conduct for rapporteurs 8
2.4. Access to the Council of Europe premises 8
2.5. Previous debate concerning a transparency register 9
2.6. The Secretary General's Roadmap on the Council of Europe Engagement with Civil Society 10
3. Council of Europe standards 10
3.1. Parliamentary Assembly 10
3.2. Committee of Ministers 10
3.3. Group of States Against Corruption (GRECO) 11
3.4. Venice Commission 12
4. Additional considerations regarding transparency regulations in the context of the Assembly 12
4.1. Ensuring civil society access to Council of Europe institutions 12
4.2. Ensuring the safety of civil society 13
4.3. Ensuring the proportionality of transparency regulations with the resources of the Assembly and its members 14
5. Standards and practices of other parliaments 14
5.1. Organization for Security and Co-Operation in Europe Parliamentary Assembly and North Atlantic Treaty Organization Parliamentary Assembly 14
5.2. European Parliament 14
5.3. France 15
5.4. United Kingdom 16
6. Proposals to increase the Assembly's engagement with civil society 16
6.1. Secretary General of the Council of Europe 16
6.2. Online survey of civil society organisations 17
6.3. Conference of International Non-Governmental Organisations of the Council of Europe 17
6.4. Campaign to Uphold Rights in Europe 18
7. Analysis and suggestions for reform 18
7.1. A code of conduct for interest representatives engaging with the Assembly 18
7.2. Changes to the Code of conduct for members 19
7.3. Transparency register 19
7.4. Measures to review and reinforce civil society engagement with the Assembly 19
7.5. Proposed difference between commercial and non-commercial entities 20
8. Conclusion 20

A. Draft resolution[2]

1. In the Reykjavik Declaration adopted on 16 May 2023, the Heads of State and Government of the Council of Europe reaffirmed that "civil society is a prerequisite for a functioning democracy". The Assembly welcomes this recognition. The role that civil society plays in the work of the Assembly and in the democratic life of Council of Europe member States is to be celebrated and protected.

2. Whilst the exchange of information and ideas with public decision makers is a vital part of democracy, it is also vital that this exchange is sufficiently transparent. The Assembly has led calls for greater transparency of lobbying, through Recommendation 1908 (2010) "Lobbying in a democratic society (European code of good conduct on lobbying)", Resolution 1744 (2010) "Extra-institutional actors in the democratic system" and Resolution 1943 (2013) "Corruption as a threat to the rule of law". Since the adoption of these texts, lobbying regulations have proliferated in different member States. Such regulations usually cover the activity of a wide range of actors, including lobbyists working for commercial interests (either in-house or as consultants), non-governmental organisations, think tanks, trade unions, and trade associations.

3. The Assembly recognises the need to elaborate its own regulations on the work of these actors, to ensure transparency and good practice. When doing so, it will use the term "interest representative" to refer to any individual or organisation that carries out activities with the objective of influencing the policy, guidelines, or decision making of Council of Europe bodies.

4. Meanwhile, the Assembly is also concerned by reports of the perception that it has become less accessible to civil society. In the Reykjavik Declaration, Heads of State and Government called for a review and further reinforcement of the Organisation's outreach to, and meaningful engagement with, civil society organisations and national human rights institutions. The Assembly intends to play a leading role in this context, by reviewing and further reinforcing its own outreach to, and meaningful engagement with, these groups.

5. In this context, the Assembly welcomes the "Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027" as a positive step in the follow-up to the Reykjavik Declaration. The Assembly calls on the Secretary General to proceed with the implementation of the Roadmap as soon as possible and takes note of the proposals for practical measures which the Assembly could put into action.

6. The Assembly therefore resolves to increase its exchanges with civil society, whilst simultaneously increasing the transparency of exchanges with interest representatives as a whole.

7. Noting the need to increase the transparency of the work of interest representatives, the Assembly resolves to ensure that their co-operation with the Assembly is governed by a code of conduct, taking into account the possible development of a framework code of conduct applicable to the Organisation as a whole.

8. The code of conduct applicable to interest representatives engaging with the Assembly should ensure the protection of freedom of expression and association, and comply with relevant international standards (including Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making). At a minimum, the future code should:

8.1. require interest representatives to declare their name and who they work for, the interests and objectives they promote, and the legal or natural persons that they represent, when interacting with parliamentarians, their staff, or members of the Assembly's and its political groups' secretariats;

8.2. require interest representatives to act honestly and in good faith;

8.3. prohibit interest representatives from having conflicts of interest;

8.4. prohibit interest representatives from using undue pressure, offensive language or other improper behaviour;

8.5. prohibit interest representatives from inducing parliamentarians, their staff, or members of the Assembly's and its political groups' secretariats to contravene the rules and standards applicable to them.

9. The Assembly further resolves to examine possible changes to the code of conduct for members of the Assembly which would increase the transparency of exchanges with interest representatives, also in compliance with the principles of Committee of Ministers Recommendation CM/Rec(2017)2; for example, by

2. Draft resolution adopted unanimously by the committee on 2 October 2024.

extending the prohibition on the seeking or taking of instructions to a wider range of members fulfilling important functions, such as chairpersons of committees and sub-committees, leaders of political groups, members of the Bureau of the Assembly, and the President of the Assembly.

10. Noting the need to review and further reinforce its outreach to, and meaningful engagement with, civil society, the Assembly resolves to:

10.1. make more committee meetings open to the public, by agreeing that all committee hearings will be open to the public as a general rule and considering including such a principle in the Rules of Procedure;

10.2. examine the feasibility of regular exchanges between civil society and Assembly members, for example with the Presidential Committee or the Bureau of the Assembly.

11. The Assembly resolves to examine further steps to increase the accessibility of the Assembly's work, including by:

11.1. making it easier for civil society to participate in part-sessions of the Assembly, for example by providing civil society representatives with the opportunity to register directly to have access to Council of Europe premises, simplifying the process for civil society to participate and organise side events (decreasing the time that such requests need to be made in advance and by making more rooms available), providing a dedicated office space for civil society, and allowing civil society to reserve meeting rooms;

11.2. making more information available to civil society attending the Assembly's sessions, such as through information sessions for civil society at the beginning of each Assembly session conducted by the secretariat, and producing a practical written guide on how to engage with the Assembly;

11.3. ensuring that introductory memoranda and minutes of public hearings are declassified as a general rule;

11.4. making the Assembly's work more accessible online, including through greater use of live-streaming of public hearings, making introductory memoranda and other committee documents available on the Assembly's website at an earlier stage, creating a user-friendly web page that describes reports currently under preparation and how external actors can make an input to them, and making it possible to subscribe to email updates for the work of each committee.

12. Any changes to the Assembly's Rules of Procedure required to implement the present resolution will be introduced through a subsequent resolution to be adopted on the basis of a report by the Committee on Rules of Procedure, Immunities and Institutional Affairs.

13. Finally, the Assembly is concerned by the development of legislation or government bodies in several member States, ostensibly to address transparency of foreign funding of civil society organisations as well as not for profit media outlets. The Assembly notes that the positive goal of transparency has been manipulated in certain "foreign agent" laws to undermine the operation or existence of legitimate groups, by using excessive regulation to create an atmosphere of mistrust and a chilling effect on civil society. This was most notable in the Russian Federation, leading the European Court of Human Rights to find violations of the European Convention on Human Rights (STE No. 5) for 73 non-governmental organisations in the case of *Ecodefence and Others v. Russia*. The Assembly expresses its deep concern that measures to address "foreign agents" in a number of member States, including Bosnia and Herzegovina, Hungary, and Georgia, will also damage civil society's work in favour of human rights, democracy, and the rule of law and will make it more difficult, or even impossible, for civil society to engage with international organisations.

B. Draft recommendation[3]

1. Referring to its Resolution … (2024) "Civil society and the Parliamentary Assembly: towards greater transparency and engagement", the Parliamentary Assembly welcomes the strong endorsement of the role of civil society contained in the Reykjavik Declaration. The Assembly also welcomes the call by Heads of State and Government for a review and further reinforcement of the Organisation's outreach to, and meaningful engagement with, civil society organisations and national human rights institutions. The Assembly informs the Committee of Ministers of its intention to play a leading role in this context, by reviewing and further reinforcing its own outreach to, and meaningful engagement with, these groups, whilst ensuring that this engagement is transparent.

2. The Assembly also welcomes the "Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027" as a positive step in the follow-up of the Reykjavik Declaration.

3. The Assembly intends to ensure that the work of all interest representatives engaging with the Assembly is covered by a code of conduct. The Assembly further notes that the Roadmap envisages the preparation of a "single, harmonised code of conduct for the Organisation's engagement with civil society". The Assembly recognises the benefit of such a code of conduct, but also the importance that any code of conduct regulates the work of interest representatives as a whole (including lobbyists for commercial interests), rather than being limited to civil society.

4. Finally, the Assembly welcomes the proposals contained in the Roadmap for practical measures to reinforce the Organisation's outreach to, and meaningful engagement with, civil society. The Assembly further welcomes the Committee of Ministers' decision of 13 December 2023 instructing the secretariat to prepare an implementation plan for the meaningful participation of civil society and the current preparation of an implementation plan to this end, to be presented to the Committee of Ministers by the end of 2024.

3. Draft recommendation adopted unanimously by the committee on 2 October 2024.

C. Explanatory memorandum by Ms Azadeh Rojhan, rapporteur

1. Introduction

1. The 21st century has seen a significant growth in the scale and visibility of political lobbying. The exchange of information and ideas between civil society and public decision makers is a necessary and important part of democracy. However, lobbying can endanger democratic good governance if the influence and authority of lobbyists extend beyond their legitimacy and transparency. The increase of lobbying activities in societies is often matched by an increase in public demand for regulation of such activities.

2. The Parliamentary Assembly has led calls for greater transparency. In April 2010 the Assembly adopted Recommendation 1908 (2010) "Lobbying in a democratic society (European code of conduct on lobbying)", which called on the Committee of Ministers of the Council of Europe to produce a European code of good conduct on lobbying. Following subsequent Assembly recommendations on a similar theme, in 2017, the Committee of Ministers adopted Recommendation CM/Rec(2017)2 on the legal regulation of lobbying activities in the context of public decision making. This period coincided with a proliferation of lobbying regulations in different member States.[4]

3. Meanwhile, the regulatory provisions of the Assembly itself have remained more limited. For example, there is no specific code of conduct for lobbyists/NGOs nor any 'lobby register' of individuals or organisations carrying out advocacy at the Assembly. The code of conduct for members has clear prohibitions on them carrying out lobbying activities at the Assembly or obtaining personal benefit from their work at the Assembly – but beyond this it gives limited guidance on how members and the secretariat should interact with lobbyists/ NGOs.

4. The authors of the motion for a resolution called for a strengthening of the transparency regulations of the Assembly. They proposed a mandatory register for members to disclose with which NGOs and lobby groups they interact; a mandatory register for lobbyists and NGOs active within the Assembly, where they describe their mission statement, by whom they are financed and with which Assembly members they meet; and a separate code of conduct for lobbyists and NGOs.

5. When examining the case for reform of the Assembly's regulations, it is important to consider the particular context of the Assembly. A significant number of persons carrying out advocacy at the Assembly are doing so because they believe their governments are acting in a repressive fashion or are not complying with human rights and rule of law standards. There are many cases where such repressive actions have been confirmed by the European Court of Human Rights, ranging from killings carried out by State actors, to the imprisonment of politicians, activists, journalists and lawyers who are deemed to be political opponents.[5] It is important that greater transparency of lobbying at the Assembly does not facilitate this kind of repression, by creating an easily accessible list of persons whom certain government authorities may wish to target. Transparency regulations should moreover not diminish the ability of civil society representatives to engage with the Assembly. Finally, any new regulations should be proportionate to the human and financial resources of the Assembly (which are significantly less than those available to national parliaments or the European Parliament) and ensure that the administrative burden on Assembly members is proportionate.

6. The present report takes place against a wider background of reflection by the Council of Europe as a whole about how to strengthen engagement with civil society. Following their meeting in Reykjavik on 16 to 17 May 2023, Heads of State and Government of the Council of Europe member States issued the "Reykjavik Declaration – United around our values", calling, *inter alia*, for a review and further reinforcement of the Organisation's outreach to, and meaningful engagement with, civil society organisations and national human rights institutions.[6]

---

4. Recommendation 1908 (2010) "Lobbying in a democratic society (European code of good conduct on lobbying)"; Resolution 1744 (2010) "Extra-institutional actors in the democratic system"; Resolution 1943 (2013) "Corruption as a threat to the rule of law".

5. For example *Gongadze v. Ukraine* (34056/02), judgment of 08/11/2005; *Selahattin Demirtaş (No. 2) v. Turkey* (14305/17), judgment of 22/12/2020; *Aliyev v. Azerbaijan* (68762/14 and 71200/14), judgment of 20/09/2018; *Rashad Hasanov and Others v. Azerbaijan* (48653/13), judgment of 07/06/2018; *Khadija Ismayilova (no. 2) v. Azerbaijan* (30778/15) judgment of 27/02/2020.

6. "Reykjavik Declaration – United around our values", 16-17 May 2023, page 8.

7. It was my firm conviction that, in a context where Heads of State and Government have declared that the Organisation should increase outreach and engagement to civil society, the Assembly could not issue a report covering only the question of increasing the regulation of civil society (without also looking at how outreach and engagement with civil society can be increased). In the course of preparing this report, I was also worried by reports of perceptions that the Assembly had become less accessible to civil society.

8. During the preparation of the report, I therefore gathered information about how the Assembly's outreach to, and engagement with, civil society could be improved, as well as how the transparency of the engagement could be increased. Extensive research has been conducted on transparency regulations in comparable institutions, including through correspondence with relevant staff. Between 29 August and 26 September 2023 an online survey was carried out among civil society organisations regarding possible improvements to transparency regulations at the Assembly, as well as possible ways to increase the Assembly's outreach and engagement. At its meeting on 4 March 2024, the Committee on Legal Affairs and Human Rights held a hearing with the participation of Mr Didier Migaud, President of the Haute Autorité pour la transparence de la vie publique, the French institution governing (among other things) the transparency of the National Assembly and Senate. The committee also heard presentations from Mr Jeremy McBride, President of the Expert Council on NGO law at the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe, and Mr Gerhard Ermischer, President of the Conference of INGOs. Finally, on 30 March 2024, I received a letter about the subject of my report from the Campaign to Uphold Rights in Europe.

9. In this report I will first set out the rules currently in force at the Assembly (in section 2). I will then examine the relevant standards set in this area by the Council of Europe, including by the Committee of Ministers, the Group of States against Corruption (GRECO), and the European Commission for Democracy through Law (Venice Commission) (section 3). Next, I will explore a series of additional considerations which are relevant in the context of the Assembly (section 4). I will then briefly outline relevant standards and practices applicable in comparable institutions and some member States (section 5). The next section of the report will address proposals about how outreach to and meaningful engagement with civil society could be increased (section 6). Finally, I will set out my analysis and proposals for reforms. These include a code of conduct for interest representatives, changes to the code of conduct for members of the Assembly, and various measures to increase the Assembly's outreach to and meaningful engagement with civil society (section 7).

10. In regard to terminology, I note that some not-for-profit entities regard their work to influence decision-making as "advocacy", reserving the term "lobbying" for the work of for-profit entities. In this report, I do not wish to make a distinction between for-profit and not-for-profit entities, as this is not consistent with the relevant international standards (notably Committee of Ministers Recommendation CM/Rec(2017)2). The word "lobbying" or "lobbyists" is used in this report when referring to the standards on this issue previously created or adopted by the Council of Europe or other entities, as these terms were used in the original texts. In order to avoid confusion on this issue, I propose that the Assembly adopts the term "interest representative" in future. Apart from when referring to existing texts and standards, I will use this term throughout the report, with a similar definition as that used by the European Union: any individual or organisation that carries out activities with the objective of influencing the policy, guidelines, or decision making of Council of Europe bodies.[7]

2. Rules currently in force at the Parliamentary Assembly of the Council of Europe

2.1. Declarations of interest

11. Following Rule 6.2.c and 13 of the Assembly's Rules of Procedure, all members undertake to abide by the Code of conduct for members of the Parliamentary Assembly ("the Code of conduct"). This requires all members to complete and submit a declaration of interests at the opening of each annual session. The rules governing the declaration are further set out in an explanatory note. There are eleven different types of interest that members are required to declare. These include remunerated professional activities, positions in

7. Under the European Union's Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register, OJ L 207, 11 June 2021, Document 32021Q0611(01), Articles 2 and 3, "interest representative" means any natural or legal person, or formal or informal group, association or network, that engages in activities with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the signatory institutions or other Union institutions, bodies, offices and agencies.

companies, management or advisory positions for institutions and non-commercial entities (including NGOs), consultancies, donations, gifts, travel abroad paid for by others, and any relevant interests of family members/ staff. The declaration of each member is published on the Assembly's website.[8]

12. However, the declaration does not require Assembly members to declare meetings that they have held with interest representatives, in the fulfilment of their duties relating to the Assembly.

2.2. Other relevant sections of the Code of conduct

13. The Code of conduct requires Assembly members to: take decisions solely in the public interest and not be bound by instructions that would jeopardise their ability to respect the Code of conduct; avoid conflicts of interest and resolve any conflict of interest in favour of the public interest – or if they are unable to do so, disclose the conflict; and avoid using their position to further the interests of themselves or others (persons or entities) in a way that is incompatible with the Code of conduct.[9]

2.3. The Code of conduct for rapporteurs

14. Rule 50.1 of the Assembly's Rules of Procedure requires members to act in accordance with the Code of conduct for rapporteurs. Paragraph 1 requires rapporteurs to act in accordance with the principles of neutrality, impartiality, and objectivity. These principles include an obligation to declare any economic, commercial, or financial interests connected with the subject of the report; an undertaking not to accept any reward or other personal benefit in connection with the exercise of their duties; an undertaking to refrain from any act which may cast doubt on their neutrality; and, of most relevance to this report, an undertaking not to seek or accept instructions from any government or governmental or non-governmental organisation, or pressure group or individual.[10]

15. Under paragraph 3 the Code of conduct for rapporteurs, a committee can ask the rapporteur, or the rapporteur may decide themselves, to publish, in an appendix to the draft report, a list of people met in the process of drafting their report. Under paragraph 4 of the code, if a rapporteur fails to honour one or more undertakings, in particular if they failed to declare any relevant interests or made an untruthful declaration, the committee shall withdraw their mandate and replace them.

2.4. Access to the Council of Europe premises

16. Appendix XVII of the Assembly's Rules of Procedure sets out the rules relating to accessing the premises of the Council of Europe during Assembly part-sessions and committee meetings. These include some regulations relevant only to Assembly sessions and committee meetings, but also incorporate subsidiary rules issued by the Secretary General of the Council of Europe and the Director General of Administration.[11] The premises of the Assembly are accessible to members of NGOs that are part of the Council of Europe Conference of INGOs; individuals with press accreditation; and also persons who have been invited by a parliamentarian, parliamentary delegation, political group, committee, or permanent representation.

17. The wearing of badges is compulsory. Areas of movement and the right to access different areas should be determined by the issuing of distinctive badges for each category of people. Parliamentarians should assume full responsibility for movements, behaviour and departures of the people they have invited. No parliamentarian may invite more than six people per day. The maximum period for which badges may be issued for interest representatives is one day, but this rule is applied more flexibly in practice. Access to the chamber is restricted to members of national delegations, government representatives, certain staff members of the Council of Europe and delegations and the heads of other Council of Europe bodies. Other individuals can only access the chamber upon invitation from the President or the Secretary General of the Assembly.[12]

---

8. Code of conduct for members of the Parliamentary Assembly (Compendium of provisions in force as of January 2022), paragraph 18; Explanatory note on declaration of interests by members of the Parliamentary Assembly, 15 May 2018 (revised in January 2024).
9. Explanatory note on declaration of interests by members of the Parliamentary Assembly, op. cit., paragraphs 5.2, 9, and 13.
10. Code of conduct for rapporteurs, paragraph 1.1.
11. Assembly Rules of Procedure, Appendix XVII – Access to the Palais de l'Europe and use of offices, paragraphs 2 and 4.
12. Ibid., paragraphs 4, 7, 9, 11, 15, and 26.

18. Any persons who are in an area which they were not authorised to enter without good reason, or whose behaviour compromises the smooth conduct of Assembly business, may, at the request of the President or the Secretary General of the Assembly, be removed and permanently prohibited from entering the Council of Europe. The President or the Secretary General of the Assembly may ask the Directorate General of Administration/Directorate of General Services to deny access to any individuals in respect of whom he/she has been informed or has good reason to believe that their behaviour is liable to disrupt the activities of the Assembly.[13]

19. Committee meetings are held in private and are accessible only to members of the Assembly, as well as relevant staff members of the Council of Europe, political groups, and member State governments. The chairperson of a committee may also invite guests and experts for a hearing on a specific agenda item, as well as persons from a limited list of Council of Europe bodies.[14] Committees may decide that a certain part of a meeting may be open to the public, but this can only apply to hearings or exchanges of views, which are held with experts, government officials, representatives of international organisations, or members of civil society.[15]

20. A committee may decide to hold all or part of a meeting *in camera*, with only members of the committee and its secretariat present. The Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and the Committee on the Election of Judges to the European Court of Human Rights shall meet *in camera*, except in the case of joint meetings with other committees or hearings or exchanges of views if the committee so decides.[16]

2.5. Previous debate concerning a transparency register

21. The rules set out above were put in place by the Committee on Rules of Procedure, Immunities and Institutional Affairs following the proposals included in Assembly Resolution 2182 (2017) "Follow-up to Resolution 1903 (2012): promoting and strengthening transparency, accountability and integrity of Parliamentary Assembly members", as well as Resolution 2170 (2017) "Promoting integrity in governance to tackle political corruption". These resolutions also called for the creation of a transparency register within the Assembly.[17] At its meeting on 31 May 2018, the Bureau discussed this issue, on the basis of a memorandum on the subject of access to the Assembly prepared by the Secretary General of the Assembly. This memorandum explored the recommendations of the Group of States against Corruption (GRECO) on transparency regulations in the Assembly; the added benefits that a lobby register would bring to transparency; the issues involved in such a register; and the possibility of introducing a code of conduct for lobbyists/NGOs. The memorandum noted that a transparency register was technically feasible and would bring benefits in terms of transparency. However, a number of concerns were also raised, including: the fact that access to the Council of Europe as a whole was not regulated by the Assembly, so any requirement to register in order to have access to the Palais might have limited impact; the risk of pressure or repression being carried out against individuals/organisations publicly listed on a register; and the Assembly's resource limitations. The Bureau of the Assembly invited the Committee on Rules of Procedure, Immunities and Institutional Affairs "to give further consideration to the question of the possible creation of a transparency register of interest representatives".[18]

22. The Committee on Rules of Procedure, Immunities and Institutional Affairs discussed additional transparency regulations in meetings held on 3-4 September 2018 and 15 January 2019. Members of the committee raised a number of points in favour of a register, relating to the benefits for transparency and security. However, at the same time, large range of concerns were raised on the issue, including: a reluctance to introduce a new bureaucratic mechanism without a compelling reason; that a transparency register was not necessary given that the Assembly did not work on economic regulation and was therefore not subject to high levels of corporate lobbying; that a transparency register would only serve to restrict legitimate passing of information to Assembly members, particularly by smaller organisations; and that a transparency register would create a disproportionate burden on the Assembly's limited resources. Given the existence of these concerns, ultimately in a meeting of 15 January 2019 a majority voted not to adopt a transparency register at the Assembly. Some members also spoke briefly in favour of a new code of conduct for those carrying out lobbying, but a vote was not taken on proposals to introduce such a measure.[19]

---

13. Ibid., paragraphs 36 and 37.
14. Ibid., paragraphs 19-20.
15. Ibid., paragraph 19.
16. Ibid., paragraph 19.
17. Resolution 2182 (2017), paragraph 6; Resolution 2170 (2017), paragraph 10.4.
18. "Possible creation of a transparency register of interest representatives", AS/Pro(2018)15.

2.6. The Secretary General's Roadmap on the Council of Europe Engagement with Civil Society

23. In September 2023, the Secretary General of the Council of Europe initiated a process to implement elements of the Reykjavik Declaration, regarding the need to reinforce the Council of Europe's engagement with civil society. The "Roadmap on Civil Society Engagement" notes that there are multiple codes of conduct in place for civil society's engagement with different aspects of the Organisation (including for the Advisory Council on Youth, the Conference of INGOs, and the World Forum for Democracy). The Roadmap suggests that a single, harmonised code of conduct for the Organisation's engagement with civil society should be considered. According to information provided by the Council of Europe secretariat, the current proposal is that such a code of conduct will take the form of a framework, which may be adapted and taken up by different parts of the Organisation according to their different needs.[20]

3. Council of Europe standards

3.1. Parliamentary Assembly

24. In April 2010 the Assembly adopted Recommendation 1908 (2010) "Lobbying in a democratic society (European code of good conduct on lobbying)". The Assembly noted the constant increase in the activities of various interest groups, both at the level of member States and of European institutions. Whilst it is perfectly legitimate for members of society to organise and lobby for their interests, the Assembly noted that unregulated lobbying may undermine democratic principles of good governance. There was no single solution to the questions raised by lobbying activities and at the time very few member States had introduced lobbying regulations of any kind. The Assembly concluded that pluralism of interests was an important feature of democracy, but that lobbying for those interests must be fair and equal, transparent and governed by democratic rules.

25. Taking this into account, the Assembly recommended that the Committee of Ministers elaborate a European code of good conduct on lobbying based on the following principles:

– lobbying should be very clearly defined, differentiating between lobbying as a professionally compensated activity and the activities of civil society organisations, not forgetting self-regulating entities in different economic sectors;

– transparency in the field of lobbying should be enhanced;

– rules applicable to politicians, civil servants, members of pressure groups and businesses should be laid down, including the principle of potential conflicts of interest and the period of time after leaving office during which carrying out lobbying activities should be banned;

– entities involved in lobbying activities should be registered;

– prior consultations should be held with lobbying organisations on any draft legislation in this field;

– well-defined, transparent, honest lobbying should be encouraged so as to improve the public image of persons involved in these activities.

26. Resolution 1744 (2010) "Extra-institutional actors in the democratic system" later in the same year reiterated the Assembly's concerns and invited the Venice Commission to publish an opinion on lobbying (which is described below). The Assembly raised the issue again in Resolution 1943 (2013) "Corruption as a threat to the rule of law", adopted in 2013, once again calling on the Committee of Ministers to produce a European code of good conduct in regard to lobbying.

3.2. Committee of Ministers

27. In March 2017 the Committee of Ministers adopted Recommendation CM/Rec(2017)2 on the legal regulation of lobbying activities in the context of public decision making. Similarly to Assembly Recommendation 1908 (2010), this text recognised that lobbying can make a legitimate contribution to well-informed public decision making, but that transparency, accountability, and ultimately regulation could

---

19. I have been granted access to the relevant extracts of the minutes of the following meetings of the Committee on Rules of Procedure, Immunities and Institutional Affairs for the purpose of preparing this report: a meeting held in Paris on 3-4 September 2018, and a meeting held in Brussels on 15 January 2019.

20. "Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027", Information Document, SG/Inf(2023)28, 12 September 2023, paragraph 18.

strengthen the legitimacy and integrity of the process. The Committee of Ministers considered that there was a need to encourage the adoption of appropriate frameworks based on common principles. It therefore recommended that governments of member States, "establish or further strengthen, as the case may be, a coherent and comprehensive framework for the legal regulation of lobbying activities in the context of public decision making", in accordance with principles set out in the appendix to the recommendation and taking into account national circumstances.[21]

28. The appendix to the recommendation sets out a definition of lobbying as promoting "specific interests by communication with a public official as part of a structured and organised action aimed at influencing public decision making." The appropriate objective of legal regulation is identified as "promoting the transparency of lobbying activities". Information on lobbying activities in the context of public decision making should be disclosed, but the rules on disclosure should be proportionate to the importance of the subject matter of the public decision-making process, should reflect constitutional guarantees, and should not infringe on the rights of individuals to express opinions or campaign for political/legislative changes. The Committee of Ministers recommended that a register of lobbyists should be maintained. This should be easily accessible to the public and contain, as a minimum, information on the name and contact details of the lobbyist, the subject matter of the lobbying activities, and the identity of the client or employer (where applicable).[22]

29. The Committee of Ministers also sets out standards of ethical behaviour for lobbyists, who should be guided by principles of openness, transparency, honesty and integrity. In particular, they should be expected to:

– "provide accurate and correct information on their lobbying assignment to the public official concerned;

– act honestly and in good faith in relation to the lobbying assignment and in all contact with public officials;

– refrain from undue and improper influence over public officials and the public decision-making process; and

– avoid conflicts of interest".[23]

30. There should also be appropriate guidance to public officials on their relations with lobbyists, tailored to national circumstances, in particular concerning:

– "refusing or disclosing the receipt of gifts and hospitality offered by a lobbyist;

– how to respond to communications from lobbyists;

– reporting violations of the regulations or rules of conduct on lobbying activities;

– disclosing conflicts of interest;

– preserving the confidentiality of data".[24]

31. Legal regulations on lobbying should contain effective, proportionate and dissuasive sanctions for non-compliance. Oversight of the regulations on lobbying activities should be entrusted to designated public authorities.[25] Oversight may include the monitoring of compliance with regulations, providing guidance on the application of the regulations, and raising awareness among lobbyists, public officials and the public.[26]

3.3. Group of States Against Corruption (GRECO)

32. In June 2017 GRECO published an analysis of the Code of conduct for Assembly members. The assessment noted that the Assembly had played a key role in promoting the need to regulate and increase transparency of lobbying activities, but that it had not itself established a comprehensive set of rules and arrangements in the area. Interlocutors spoken to in the drafting of the GRECO report noted that the premises of the Assembly are accessible to a wide variety of persons, and that members or secretariat did not always have the means to properly identify whom they were meeting with. The GRECO analysis indicated that Committee of Ministers Recommendation Rec(2017)2 "could be easily adapted by PACE".[27]

---

21. Recommendation CM/Rec(2017)2, op. cit., page 2.
22. Ibid., paragraphs 1 to 11.
23. Ibid., paragraph 14.
24. Ibid., paragraph 17.
25. Recommendation CM/Rec(2017)2 on the legal regulation of lobbying activities in the context of public decision making, Appendix, paragraphs 15 and 18.
26. Ibid., paragraph 19.

33. In regard to the conduct of Assembly members, it was noted that the Code of conduct prohibited members from acting as lobbyists in the Assembly themselves, but that it did not regulate how they could engage with lobbyists and other third parties seeking to influence the Assembly. An exception to this was section 1.1.2 of the Code of conduct for rapporteurs, which prohibits rapporteurs seeking or accepting instructions. GRECO suggested that this safeguard should be broadened so that it applied to Assembly members other than rapporteurs whose responsibilities were equally relevant, such as chairpersons of committees and sub-committees, leaders of political groups, members of the Bureau, and the President of the Assembly. Overall, GRECO recommended that the Assembly "introduce a robust and consistent set of rules for PACE members on how to engage in relations with lobbyists and other third parties seeking to influence the parliamentary process."[28]

34. GRECO's Fourth Round Evaluation reports have addressed how this should be done, by assessing the need for national parliaments to provide for proper rules on how parliamentarians engage with persons seeking to influence their work.

3.4. Venice Commission

35. Following a request from the Assembly, in 2013, the Venice Commission published a report "on the role of extra-institutional actors in a democratic system (Lobbying)". This stated that lobbying regulations in national parliaments normally contained all or some of the following features: (1) a requirement for lobbyists to register with the State before contact can be made with any public official; (2) a requirement for lobbyists to clearly indicate which ministry/public actors they intend to influence; (3) a requirement for lobbyists to clearly outline individual and/or employer spending disclosures; (4) a publicly available list with lobbyists' details; (5) a lobbying supervisory authority that performs periodic audits and enforces the regulations and sanctions those who do not abide by them; and (6) a prohibition on former public officials immediately working as lobbyists once they have left public office. The report also highlights that the principal way by which States ensure that lobbying laws are respected is through the creation of a lobbying supervisory authority.[29]

36. The Venice Commission noted that additional financial cost was a disadvantage of introducing lobbying regulations. Nevertheless, the regulation of lobbying activities was a suitable response to the needs of both strengthening the positive aspects of the role of extra-institutional actors and to countering the drawbacks, if not threats to the democratic process, that lobbying might entail.[30]

4. Additional considerations regarding transparency regulations in the context of the Assembly

4.1. Ensuring civil society access to Council of Europe institutions

37. It is important that any new regulations on civil society engagement with the Assembly do not inappropriately restrict civil society's participation in the Assembly's work. This would be contrary to the stated goal of the Committee of Ministers, which has emphasised in recent years the need to strengthen civil society's involvement in the institution. Most notably, following the Summit on 16-17 May 2023, Heads of State and Government of the Council of Europe issued the "Reykjavik Declaration – United around our values", calling, *inter alia*, for "a review and further reinforcement of the Organisation's outreach to, and meaningful engagement with, civil society organisations and national human rights institutions."[31] Similarly, in the May 2021 meeting of the Committee of Ministers in Hamburg, ministers agreed on a strategic framework of the Council of Europe for the following four-year period, in which they "reiterated the importance of further strengthening the role and meaningful participation of civil society organisations as well as national human rights institutions in the Organisation".[32]

---

27. "Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe", adopted by GRECO 76 (19-23 June 2017), paragraphs 48 to 50.
28. Ibid., paragraphs 50 and 51.
29. "On the role of extra-institutional actors in a democratic system (Lobbying)", adopted by the Venice Commission at its 94th Plenary Session (Venice, 8-9 March 2013), paragraphs 59 and 70.
30. Ibid., paragraphs 68 and 96.
31. "Reykjavik Declaration – United around our values", 16-17 May 2023, page 8.
32. "The Strategic Framework of the Council of Europe and forthcoming activities", 131st session of the Committee of Ministers, Hamburg, 21 May 2021, section "On forthcoming activities of the Council of Europe", paragraph 12.

38. The Assembly has adopted a number of Resolutions urging states to strengthen civil society space.[33] For example, Resolution 2095 (2016) called on member States to "refrain from adopting laws that impose disproportionate restrictions on defenders' activities";[34] and Resolution 2362 (2021) urged member States to "refrain from enacting new legislation entailing unnecessary and disproportionate restrictions on NGO activities".

39. During consultations with civil society in the preparation of this report, participants were generally positive about the introduction of a code of conduct for interest representatives engaging with the Assembly (provided that it would not unduly restrict the activity of civil society or be open to misuse).

40. Meanwhile, feedback concerning a transparency register was more cautious. Responses to the online survey of civil society organisations indicated that most NGOs were not in principle opposed to a transparency register at the Assembly, as long as it was designed keeping in mind the need to avoid or mitigate certain issues. One of the issues mentioned was unnecessary or cumbersome bureaucratic barriers to civil society participation, which would have a particularly negative impact on smaller organisations. The problem of administrative barriers was also raised in oral evidence by the President of the Council of Europe Conference of INGOs, Gerhard Ermischer; and the President of the Expert Council on NGO Law, Jeremy McBride. Mr McBride also noted that a register might be used by some as a way to actively prevent NGO participation in the Assembly.

4.2. Ensuring the safety of civil society

41. The Assembly has a particular role in Europe's public debate. As the deliberative organ of the Council of Europe, it is a forum for discussing the protection of human rights, democracy, and the rule of law. This involves assessments about the degree to which these fundamental values are being protected in member States. Inevitably, this means that civil society engaging with the Assembly will often be doing so to highlight perceived shortcomings in the law and practices of States relating to human rights, democracy, and the rule of law. Unfortunately, there are many serious allegations of member States carrying out repressive activities against such critical voices.

42. This repression has been well documented in judgments of the European Court of Human Rights. Examples include the abduction and killing of independent journalists;[35] the arbitrary imprisonment of the leaders of rival political parties;[36] disbarment of lawyers representing such political opponents[37] or who have been critical of government policy;[38] the termination of mandates of judges who raise concerns about the protection of judicial independence[39] or act in defence of the rule of law;[40] and the arrest and imprisonment of youth activists to punish them for political engagement.[41]

43. Human rights violations have also become increasingly transnational, as highlighted in a resolution and recommendation adopted in 2023 by the Assembly addressing transnational repression by State actors.[42] The Assembly urged governments to ensure the protection within their own borders of individuals who are at risk of human rights violations perpetrated by foreign State actors. This also applied to human rights defenders and activists who engage with international organisations including the Council of Europe. In 2024, the Assembly adopted a resolution highlighting the particularly high risks faced by members of the Russian and Belarusian democratic forces, many of whom are in exile abroad and continue their engagement with the Assembly.[43]

---

33. Resolution 2095 (2016) "Strengthening the protection and role of human rights defenders in Council of Europe member States"; Resolution 2225 (2018) "Protecting human rights defenders in Council of Europe member States"; Resolution 2362 (2021) "Restrictions on NGO activities in Council of Europe member States".
34. Resolution 2095 (2016) "Strengthening the protection and role of human rights defenders in Council of Europe member States", paragraph 6.3.
35. For example, *Gongadze v. Ukraine* (34056/02), judgment of 08/11/2005.
36. For example, *Selahattin Demirtaş (No. 2) v. Turkey* (14305/17), judgment of 22/12/2020.
37. For example, *Bagirov v. Azerbaijan* (81024/12 and 28198/15), judgment of 25/06/2020.
38. For example, *Hajibeyli and Aliyev v. Azerbaijan* (6477/08 and 10414/08), judgment of 19/04/2018.
39. For example, *Baka v. Hungary* (20261/12), judgment of 23/06/2016.
40. For example, *Juszczyszyn v. Poland* (35599/20), judgment of 06/10/2022.
41. For example, *Rashad Hasanov and Others v. Azerbaijan* (48653/13), judgment of 07/06/2018.
42. Resolution 2509 (2023) and Recommendation 2257 (2023) "Transnational repression as a growing threat to the rule of law and human rights".
43. Resolution 2541 (2024) "The arbitrary detention of Vladimir Kara-Murza and the systematic persecution of anti-war protesters in the Russian Federation and Belarus".

44. It is essential that the Assembly protects those who are brave enough to highlight perceived threats to human rights, democracy, and the rule of law in their own countries to members of the Assembly. Responses to the online survey of civil society organisations indicated that a transparency register must protect the identity and privacy of individuals. The oral evidence by Gerhard Ermischer and Jeremy McBride urged the committee very strongly to take into account the context of possible repression of advocacy towards the Assembly, and avoid creating a transparency register for the Assembly which might expose individuals to danger.

4.3. Ensuring the proportionality of transparency regulations with the resources of the Assembly and its members

45. The Assembly is a "part-time" assembly, in the sense that it is composed of parliamentarians from member States' legislatures, who meet for limited periods each year. As a result, the Assembly does not have the same resources as a national legislature or the European Parliament; or the capacity to ensure the raising of additional funds for new areas of activity. It would therefore not be advisable to establish transparency regulations requiring significant administrative resources, unless it is clear that additional funds could be found to support this.

46. This consideration should affect the evaluation of the proportionality of enacting certain types of transparency regulations. For example, France's Haute Autorité pour la transparence de la vie publique is an independent body responsible for declarations of assets and interests by public officials, as well as a register of individuals and organisations engaged in lobbying. It is engaged in facilitating the declarations of a very large number of people, as well as monitoring and complaints. Nevertheless, it is worth noting that the High Authority has 65 permanent staff and a budget of around €8 million.[44] The total budget for the whole of the Assembly's activities is just under €20 million.[45] Even taking into account the large number of people monitored by France's High Authority, the figures give some indication of the additional resources that would be required to ensure the functioning of certain regulatory requirements at the Assembly.

47. It is also important to assess the administrative burden on Assembly members. In particular, the motion for a resolution on this topic calls for a requirement that every member submit a declaration about meetings they have with certain third parties on the subject of Assembly business. It is not clear whether this is a proportionate measure, particularly given the part-time nature of parliamentarians' work at the Assembly and the fact that these requirements would come on top of the requirements under the existing Assembly rules and those imposed by their national parliaments.

5. Standards and practices of other parliaments

5.1. Organization for Security and Co-Operation in Europe Parliamentary Assembly and North Atlantic Treaty Organization Parliamentary Assembly

48. The OSCE and NATO Parliamentary Assemblies are composed of parliamentarians from the legislatures of their member States, who meet on a "part time" basis throughout the year in various committees and plenary sessions. In this sense, they are a good comparison for the Parliamentary Assembly of the Council of Europe.

49. The OSCE and NATO Parliamentary Assemblies do not have transparency registers of interest representatives carrying out activities with their members, or a code of conduct for interest representatives. They do not regulate the relationship between their members and interest representatives, either through a code of conduct or their rules of procedure.[46]

5.2. European Parliament

50. The European Parliament, the Council of the European Union and the European Commission have a joint Transparency Register, in the form of an online database listing the individuals and organisations that try to influence EU policy and legislation. The register is voluntary, but each of the three EU institutions above requires registration as a precondition for carrying out certain activities. In regard to the European Parliament,

---

44. "Executive Summary of the 2021 Activity Report", High Authority for Transparency in Public Life, page 9 (in French).
45. "Council of Europe Programme and Budget 2024-2027", 19 December 2023.
46. Website and Rules of Procedure of the OSCE Parliamentary Assembly; website and Rules of Procedure of the NATO Parliamentary Assembly; correspondence with their secretariats.

individuals/organisations need to be registered if they wish to have a badge to enter EP buildings; or participate as a speaker in committee hearings, events taking place in the premises, or activities of MEP groupings. According to the Code of conduct for members of the European Parliament, all members should only meet interest representatives that are registered on the transparency register. All registrants on the Transparency Register must respect a code of conduct.[47]

51. The secretariat of the Transparency Register carries out investigations into alleged cases of registrants' non-observance of the Code of Conduct, either on its own initiative or after a complaint. In serious cases, or where the interest representative refuses to alter their declaration on the register, the Secretariat may issue an ineligibility decision with a removal from the register.[48]

52. The secretariat has the equivalent of ten full-time employees. The total cost for the IT development, maintenance, and hosting of the register for 2024 was estimated to be €489 000 (which included changes to the IT infrastructure).[49]

53. Members of the European Parliament are required to publish online all scheduled meetings related to parliamentary business conducted by themselves or their parliamentary assistants with interest representatives and representatives of third countries (whether they are registered or not). Members must not publish a meeting the disclosure of which would endanger the life, physical integrity or liberty of an individual or may decide not to publish a meeting where there are other compelling reasons for maintaining confidentiality. Such meetings shall instead be declared to the President, who shall keep this declaration confidential or shall decide on an anonymised or delayed publication, under conditions set down by the Bureau.[50]

5.3. France

54. France's Haute Autorité pour la transparence de la vie publique was created in 2014. It is an independent body responsible for declarations of assets and interests by public officials, as well as a register of individuals and organisations engaged in interest representation.[51] The register operates as follows: persons or organisations engaged in interest representation are obliged to register within two months of commencing activities that fall under the definition of lobbying; they need to disclose their identification, the identification of senior executives and individuals engaged in interest representation, the scope of activities, their membership in organisations, and – if the interest representative carries out activities on behalf of third parties - the identity of these third parties. The obligation to declare this information is one element of a list of ethical rules that interest representatives are obliged to abide by. When the High Authority detects a breach of the rules (including a failure to properly register information), it sends a formal notice to the interest representative in question. The formal notice, which may be published, orders the interest representative to comply with its obligations, after allowing him or her to present his or her observations. During the three-year period after a formal notice has been issued, any failure to abide by the ethical obligations is punishable by one year's imprisonment and a €15 000 fine.[52]

55. There is no obligation for interest representatives to declare particular meetings they have with parliamentarians; or for parliamentarians to declare meetings that they have with interest representatives.

---

47. "Lobby groups and transparency", web page of the European Parliament; Rules of Procedure of the European Parliament, Articles 35, 35a and 123, November 2023; Rules of Procedure of the European Parliament, Annex I: Code of conduct for members of the European Parliament regarding integrity and transparency, Article 7, November 2023; Decision of the Bureau of 12 June 2023 on events held on Parliament's premises; European Union, Interinstitutional Agreement of 20 May 2021, op. cit., Annex I.
48. European Union, Interinstitutional Agreement of 20 May 2021, op. cit., Annex III.
49. Transparency Register Management Board, "Annual report on the functioning of the Transparency Register 2022", 8 June 2023; Secretariat of the Transparency Register, "Budget estimate for 2024: IT development, maintenance and hosting costs", 20 June 2023.
50. Rules of Procedure of the European Parliament, Annex I: Code of conduct for members of the European Parliament regarding integrity and transparency, Article 7, November 2023.
51. Executive Summary of the 2021 Activity Report, High Authority for Transparency in Public Life, op. cit.
52. Web page of the High Authority for Transparency in Public Life. Further information was provided by Mr Migaud, President of the High Authority for Transparency in Public Life, at the meeting of the Committee on Legal Affairs and Human Rights on 4 March 2024.

5.4. United Kingdom

56. In the UK there is a mandatory register for specific types of lobbying, and a voluntary register for wider instances of lobbying.

57. The Office of the Registrar of Consultant Lobbyists is an independent statutory office, under the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014. The registrar manages the UK Register of Consultant Lobbyists. This is a statutory register of lobbyists, but only consultant lobbyists need to register – and only if they are lobbying ministers or senior civil servants. Lobbyists acting on behalf of themselves or of their employer do not have an obligation to register, but there are voluntary registration schemes. Furthermore, there is no obligation to register in order to conduct lobbying with parliamentarians (unless the parliamentarian is also a minister).[53] Consultant lobbyists are also obliged to submit details of clients they have lobbied for or have been paid to lobby for each quarter. There is no obligation to declare every meeting. The registry does not require lobbyists to abide by a code of conduct, although relevant voluntary codes of conduct can be declared in the registry.[54]

58. In addition to the mandatory Register of Consultant Lobbyists, there is also the voluntary UK Lobbying Register, which is run by an industry body. This register exists to promote transparency and professional standards in lobbying, applicable to lobbying that falls outside the limited scenarios requiring mandatory registration on the Register of Consultant Lobbyists, including the lobbying of parliamentarians, and any lobbying carried out by individuals representing an organisation (or themselves), rather than consultants working for a third party. Registration includes signing up to a code of conduct.[55]

6. Proposals to increase the Assembly's engagement with civil society

6.1. Secretary General of the Council of Europe

59. As set out in the introduction, in the Reykjavik Declaration Heads of State and Government of the Council of Europe agreed to review and further reinforce the Organisation's outreach to, and meaningful engagement with, civil society organisations and national human rights institutions.

60. In September 2023, the Secretary General of the Council of Europe initiated a process to make this happen in practice, through the "Roadmap on Civil Society engagement". The Roadmap proposes that the Council of Europe carry out more awareness-raising with civil society about the Organisation's work, as well as promote better technical understanding of the Council of Europe's activities and a greater recognition of civil society's input into them. The Roadmap proposes that civil society's access to the Council of Europe's work should be enhanced, including through a co-ordinated institutional approach. Suggestions made in the Roadmap which are of particular note include the following:

– information sessions for civil society on the Council of Europe's work (including during sessions of the Parliamentary Assembly);

– capacity building efforts targeting NGOs, to enhance their ability to engage with the Organisation;

– inclusion of public contributions from civil society in the Organisation's reporting processes;

– enhanced modalities to facilitate civil society participation, including new modalities such as online meetings and regular consultations;

– practical guides for civil society on the Council of Europe;

– guidelines, exchanges, and training for Council of Europe Secretariat members on civil society participation, to ensure a streamlined and homogeneous approach to facilitating civil society engagement and synergies within the Organisation;

– a programme to enable civil society secondments to the Organisation.[56]

61. The Committee of Ministers welcomed the Roadmap as a significant step in the follow-up of the relevant parts of the Reykjavik Declaration.[57]

---

53. Web page of the registrar of consultant lobbyists.
54. Ibid. The Registrar may issue a statutory information notice, requiring the provision of relevant information for the register. Where a person or organisation has not complied with the requirements of the register, the Registrar can issue a civil penalty of up to £7500 or refer the matter to the Director of Public Prosecutions for potential criminal prosecution.
55. Web page of the UK lobbying register.
56. SG/Inf(2023)28, op. cit.

6.2. Online survey of civil society organisations[58]

62. The following proposals were made most often by respondents:

– making Assembly documents available on the website at an earlier stage and in a more accessible way;

– enabling civil society to reserve meeting rooms and hold events;

– ensuring civil society can have access to Council of Europe premises, through long-term badges; and,

– regular exchanges between civil society and Assembly members, for example with the Presidential Committee or the Bureau of the Assembly, particular committees, or the Assembly as a whole.

63. Other proposals included the following:

– a dedicated Assembly online portal for civil society with links to all relevant practical and substantial information;

– the possibility to subscribe to email updates of relevant committees or other working structures;

– making one person in each committee responsible for liaising with civil society, or some other form of providing for dedicated personal engagement;

– taking into account the high cost of travelling to Strasbourg for smaller organisations:

  - increasing the use of live-stream for hearings;

  - ways for civil society to “e-meet” members attending Assembly part-sessions;

  - covering travel and accommodation costs for smaller organisations to attend annual exchanges between Assembly members and civil society;

– opportunities for NGO representatives to substantially participate in debates and propose reports;

– collaboration initiatives between civil society and the Assembly, through communication and awareness-raising at national level.

6.3. Conference of International Non-Governmental Organisations of the Council of Europe

64. In his presentation to the Committee on Legal Affairs and Human Rights, the President of the Conference of INGOs of the Council of Europe, Gerhard Ermischer, stated that the wide variety of rules for different parts of the Organisation create confusion and are a barrier to participation. Mr Ermischer also expressed his view that the Parliamentary Assembly had become less open to civil society. He proposed the following measures to assist engagement:

– consistent, clear and transparent rules that apply across the different parts of the Council of Europe as a whole;

– ùore committee meetings being held in public;

– an easier process for civil society to participate and organise side events during part-sessions, decreasing the time that such requests need to be made in advance;

– an email to be sent out by Assembly staff to all members of the Conference of INGOs, to invite registrations to participate in upcoming part-sessions (as is carried out by the Congress of Local and Regional Authorities).

57. Council of Europe news item, “Secretary General's Roadmap on Civil Society engagement with the Council of Europe”, 15 December 2023.

58. Between 29 August and 26 September 2023, an online survey was carried out among civil society organisations regarding possible improvements to transparency regulations at the Assembly, as well as possible ways to increase the Assembly’s outreach and engagement. This was advertised on the Assembly’s social media channels and disseminated by email to members of the Council of Europe Conference on INGOs.

6.4. Campaign to Uphold Rights in Europe

65. In the course of the preparation of this report, I received a letter from the Campaign to Uphold Rights in Europe. CURE is a project run by leading European civil society organisations that work with the Council of Europe, including the Norwegian Helsinki Committee, the Centre for Civil Liberties (Kyiv), and the Helsinki Foundation for Human Rights. The website of CURE describes its mission as making the Council of Europe stronger and making the voice of civil society prominently heard.

66. The letter from CURE stated that the Assembly (and the Council of Europe in general) had introduced a number of restrictive measures over recent years, in response to the "caviar diplomacy" corruption scandal, terrorist attacks on the territory of France, and the Covid-19 pandemic. According to CURE, these measures have significantly restricted NGOs' access to the Assembly, and their opportunities to meaningfully engage with it.

67. CURE recommended a series of measures that would remove barriers and create additional opportunities for NGO engagements. These can be summarised as follows:

– improving NGO access to the Council of Europe's premises, including by allowing NGOs to request access to the Assembly during part-sessions;

– granting NGOs attending part-sessions access to an office in the Palais;

– improving NGO access to the Assembly's documents and information, including introductory memoranda for reports under preparation, minutes of hearings, and contact details of Assembly members;

– improving opportunities for NGOs to organise side-events, by making more rooms available, shortening the one-month deadline for requesting side-events, making it easier to advertise side-events, and allowing NGOs to organise side events on their own (without being sponsored by an Assembly member);

– increasing other opportunities for NGOs to present their views and disseminate information at the Assembly, such as by allowing them to ask questions and make comments during committee hearings and exchanges of views; intervening at the end of current affairs and urgent procedure debates; and facilitating dissemination of their materials to Assembly members electronically (such as through use of the Assembly intranet) and physically (on information stands and bulletin boards).

7. Analysis and suggestions for reform

68. The Assembly's approach to this complex issue should be to enhance both transparency and civil society engagement, whilst considering the relevant international standards, the specific context of the Assembly, and the ongoing reforms in the rest of the Council of Europe. I have sought to apply this balanced approach to the key issues, leading to the proposals set out below.

7.1. A code of conduct for interest representatives engaging with the Assembly

69. There is a clear case for establishing a code of conduct for interest representatives engaging with the Assembly. This should promote transparency and good conduct. At the same time it should not be open to abuse for purposes of silencing particular groups or individuals. It should be in line with the relevant international standards, including Recommendation CM/Rec(2017)2 on the legal regulation of lobbying activities in the context of public decision making.

70. In my view, the code should contain the relevant provisions of the code of conduct for interest representatives at the European Union (excluding, for example, the obligation to upload details to a transparency register – see below). This requires interest representatives, when interacting with parliamentarians, to declare their name and who they work for, the interests and objectives they promote, and the natural or legal persons that they represent. It also prohibits interest representatives to use undue pressure, improper behaviour, offensive language, or for them to induce members of parliament to contravene the rules and standards applicable to them.[59]

59. European Union, Interinstitutional Agreement of 20 May 2021, op. cit., Annex I.

71. Meanwhile, it is also important to note that the Council of Europe is considering the introduction of a framework civil society code of conduct, which may be adapted and implemented by different parts of the Organisation according to their needs.

72. In my view, the Committee on Rules of Procedure, Immunities, and Institutional Affairs should draft a code of conduct for interest representatives (either in the context of a report under preparation or a new one). The drafting of any code should be done in close consultation with civil society and other relevant stakeholders, whose needs should be carefully considered. It should also take into account any framework code of conduct which is developed for the Organisation as a whole, following the Secretary General's Roadmap on the Council of europe's Engagement with Civil Society 2024-2027".

7.2. Changes to the Code of conduct for members

73. The Assembly should also review its Code of conduct for members, to assess how to strenghten the provisions governing how members engage with interest representatives. This review should draw on the principles set out in Committee of Ministers' Recommendation CM/Rec(2017)2, as well as the proposal in GRECO's 2017 report to extend the prohibition on the taking of instructions. Of particular note is the recommendation of GRECO that the prohibition on the seeking or taking of instructions – currently only applicable to rapporteurs – could be extended to a wider range of Assembly members fulfilling important functions, such as chairpersons of committees and sub-committees, leaders of political groups, members of the Bureau, and the President of the Assembly. The Committee on Rules of Procedure, Immunities and Institutional Affairs should therefore also include this issue in its agenda.

7.3. Transparency register

74. In my view, a transparency register would not be appropriate in the context of the Assembly. This is for two reasons.

75. First, any regulations introduced to enhance transparency of interest representation should not expose people to danger. It is difficult to see how a register of groups carrying out interest representation could be an effective tool to promote transparency, without it listing the names of the individuals involved. At the same time, it is also hard to see how a public register of named individuals who work to expose repression by their governments could not also expose such individuals to a greater risk of repression themselves. It would be inconsistent with the protection offered by other bodies of the Council of Europe – such as monitoring bodies and the Commissioner for Human Rights – who operate in a confidential manner aimed at protecting civil society representatives from intimidation and reprisals. In the course of my preparation of this report, civil society representatives have maintained that a transparency register would be dangerous and I think that they are right.

76. Second, it is not clear that a transparency register would be proportionate, as a financial and administrative burden on the Assembly and its members. The European Parliament has an annual budget of over €2 billion with a total secretariat of 7 225.[60] As a result, it can devote ten full-time staff to a transparency register. Meanwhile, the Assembly only has a budget of €20 million and a staff of around 90. Even if a transparency register for the Assembly would be smaller than the one for the European Parliament, it is difficult to see how such a significant administrative burden can be placed on the Assembly in view of its modest budget and human resources. It should be noted that the other "part-time" international parliamentary bodies based in Europe, the OSCE Parliamentary Assembly and the NATO Parliamentary Assembly, do not have a transparency register. The proposal was already rejected by the Committee on Rules of Procedure, Immunities and Institutional Affairs in 2019 and I do not propose that the committee considers it again.

7.4. Measures to review and reinforce civil society engagement with the Assembly

77. A wide range of suggestions have been put forward on this issue, by the Secretary General of the Council of Europe, the Conference of INGOs, respondents to an online survey, and the NGO network CURE (as set out in section 6). In the draft resolution I have included those which are likely to be most effective, whilst also being proportionate in view of the Assembly's resources. The Committee on Rules of Procedure, Immunities and Institutional Affairs would need to first examine any development that would require a change to the Assembly's Rules of Procedure.

---

60. European Parliamentary Research Service, "European Parliament: Facts and Figures", May 2023; European Commission, "The Union's annual budget for the 2024 financial year, Section 1, European Parliament", 5 July 2023.

7.5. Proposed difference between commercial and non-commercial entities

78. During discussions in the Committee on Legal Affairs and Human Rights, there were exchanges regarding whether transparency regulations should be different for commercial and non-commercial entities. There is no such distinction in the Council of Europe's standards on interest representation, including Recommendation CM/Rec(2017)2 on the legal regulation of lobbying activities in the context of public decision making. Such a distinction would be difficult to make effective in practice and I do not propose it.

8. Conclusion

79. The present report takes place against a wider background of review by the Assembly of the standards governing how members engage with third parties. In particular, Mr Frank Schwabe (Germany, SOC) is in the process of preparing a report entitled "Respect for the rule of law and fight against corruption within the Council of Europe", which is due for adoption by the Committee on Rules of Procedure, Immunities and Institutional Affairs before the end of this year.[61]

80. The Assembly has also initiated a project entitled "Strengthening Ethics and Integrity in Parliaments", which aims to enhance the fight against corruption by reinforcing ethics and integrity within parliamentary systems. Project activities will include capacity building workshops for parliamentarians and staff on anti-corruption measures, the drafting of a unified code of conduct for parliamentarians, the development of whistleblower protection mechanisms, opportunities for exchange between parliamentarians, and public awareness measures relating to the fight against corruption.

81. There is an ongoing reflection by the Assembly and the Council of Europe as a whole about how to ensure strong ethical practices when dealing with external actors – and also about how to promote greater engagement with civil society. My view is that these issues must be examined together. The Assembly can promote greater engagement with external interlocutors, whilst simultaneously increasing the transparency of that engagement. Reforms to address these issues should be carried out concurrently, as they are interlinked. This would help promote pluralism, whilst also ensuring the protection of integrity and accountability. I hope that this report will make a useful contribution to future discussions in this area.

61. See Assembly Doc.15195.