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Transparency and openness in European institutions

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A. Draft Resolution

1. The Parliamentary Assembly recalls its Resolution 1744 (2010) on extra-institutional actors in the democratic system, Recommendation 1908 (2010) "Lobbying in a democratic society (European code of good conduct)" and its Resolution 1943 (2013) and Recommendation 2019 (2013) on corruption as a threat to the rule of law.

2. The Assembly recalls that extra-institutional actors, including interest and pressure groups, trade unions and consumer organisations, are a part of a democratic society. Their lobbying activities are not illegitimate per se and can be beneficial for the functioning of a democratic political system. However, unregulated and non-transparent lobbying may undermine democratic principles and good governance. Citizens should know which actors influence the making of political decisions.

3. The Assembly recalls the Council of Europe's acquis in the area of promoting good governance and transparency of democratic institutions, in particular the Convention on Access to Official Documents (ETS No. 205), and welcomes the work of the European Commission for Democracy through Law (Venice Commission) and of the Group of States against Corruption (GRECO) in this field. Moreover, principles on good conduct on lobbying are included in paragraph 11 of Assembly Recommendation 1908 (2010) and may serve as guidelines for elaborating regulations on lobbying.

4. The Assembly notes that the European Union and its institutions – the European Parliament, the Council of the European Union and the European Commission – are particularly targeted by various lobbying groups, in view of their legislative and decision-making functions in implementing the European Union internal market. This has an impact on European Union citizens and on consumers in Europe and worldwide.

5. The Assembly notes with concern cases of secret and unbalanced lobbying, reports on conflicts of interest and the practice of limited access to official documents within some of the European Union institutions. Some of these cases have been investigated by the European Ombudsman, who has found "maladministration" and has subsequently addressed specific recommendations to those institutions.

6. The Assembly welcomes the measures recently taken by the European Union institutions to improve its transparency and avoid conflicts of interest of its officials, in particular the revamped Joint Transparency Register set up in the European Parliament and the European Commission and the adoption, in 2011, of the Code of Conduct for Commissioners. It stresses that the values of democracy and good governance, enshrined in European Union law and on which the European Union is grounded, inspire many nations, citizens and democratic movements in Europe and worldwide. It notes, however, that additional measures need to be introduced in order to ensure fair and balanced access to the European Union institutions by all interested actors, including non-

economic interest groups, as well as full and unimpeded access to their documents.

7. The Assembly also notes that very few Council of Europe member States have a regulatory framework on lobbying activities, including a transparency register. It therefore calls on national parliaments to ensure that such frameworks are set up.

Amendment 1
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft resolution, at the end of paragraph 7, insert the following words: "and to reinforce legal and institutional guarantees for civil society and the media related to the monitoring of lobbyist activities, including the possibility to verify the accuracy of data contained in a register".

8. The Assembly calls on member States to do their utmost to promote the principles of transparency, accountability, integrity and primacy of the public interest and to implement the existing international instruments in this field, including the relevant Council of Europe conventions and recommendations as well as the recommendations of GRECO.

9. The Assembly also calls on the European Union and on those member States of the Council of Europe which have not yet done so to sign and/or ratify the Convention on Access to Official Documents and to take into account Assembly Recommendation 1908 (2010).

10. The Assembly calls on the European Union to step up its co-operation with the Council of Europe in the fight against corruption, in particular by speeding up the negotiations on European Union participation in GRECO. It also calls on the European Union institutions to take their decisions as openly as possible. For this purpose, the Assembly recommends that the European Union institutions:

10.1. implement the European Ombudsman's recommendations on transparency, avoiding conflicts of interest and ensuring access to documents;

10.2. further improve the Joint Transparency Register, by expanding it to all institutions of the European Union, making registration of lobbyists obligatory and introducing sanctions for non-registration and providing inaccurate data;

10.3. publish legislative footprints in order to track any input received from third parties aimed at influencing European Union legislation and policies;

10.4. amend the European Parliament's Code of Conduct by introducing "cooling-off" periods for departing members in order to avoid conflicts of interest;

10.5. revise Regulation (EC) No. 1049/2001 regarding public access to European Parliament, Council and Commission documents in order to expand it to other European Union institutions, bodies, offices and agencies.

Amendment 2
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft resolution, after paragraph 10, insert the following paragraph: "The Assembly joins the call by Transparency International to grant equal input by citizens, interest groups and corporate

bodies to legislative items under consideration by means of establishing a more balanced composition of expert groups. This means clear targets for balanced composition of the European Commission's expert groups, a legal requirement on public bodies to publish the results of consultation processes, including the views of participants, and open calls for applications to sit on advisory/expert groups."

Amendment 3
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft resolution, after paragraph 10, insert the following paragraph: "The Assembly values the relevant contributions by (I)NGOs to its own work, as well as to the work of standard-setting and monitoring bodies. (I)NGOs bring expertise, identify new issues to be addressed, share information and advocate for Council of Europe standards, at European and national level. The Assembly welcomes the decision of the Secretary General of the Council of Europe to revise, in consultation with the INGO conference, the guidelines on the participatory status for INGOs within the Council of Europe. In the framework of the forthcoming revision, the Assembly invites the Secretary General to ensure that (I)NGOs involved in the Council of Europe's work are the most varied, representative and relevant possible and ensure a fair geographical representation. Special steps should also be taken to ensure that the relevant secretariats have enough time and resources to reach out to new relevant (I)NGOs, including youth organisations, and to create new partnerships."

Amendment 4
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft resolution, after paragraph 10, insert the following paragraph: "The Assembly welcomes the gradual consolidation of the Council of Europe integrity system for staff and the one set up by the Parliamentary Assembly for its members. The Assembly undertakes to take further steps to improve the Assembly's efficiency and effectiveness in dealing with conflict of interest situations through, notably, organising information seminars for both Council of Europe staff and members of the Assembly in order to deal effectively with situations relating to allegations of conflicts of interests, and reflecting on the need to widen the definition of conflict of interests. The Assembly invites its Bureau to continue reflecting on the best possible ways of ensuring transparency of the interactions

between interest group representatives and Assembly members."

Sub-amendment 1 to amendment 4
Tabled by the Committee on Legal Affairs and Human Rights

In amendment 4, in the second sentence, replace the words "Council of Europe staff and members of the Assembly" with the following words: "members of the Assembly and Council of Europe staff".

B. Draft Recommendation

1. Referring to its Resolution … (2016) on transparency and openness in European institutions, the Parliamentary Assembly recommends that the Committee of Ministers:

1.1. finalise without delay its work on a legal instrument on the regulation of lobbying activities;

1.2. reflect on the role of extra-institutional actors in the Council of Europe and on the need to take measures to regulate their activities, where necessary;

1.3. draft a comparative study on the regulation of lobbying activities in Council of Europe member States;

Amendment 5
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft recommendation, replace paragraph 1.3 with the following paragraph:

"draft a regulatory impact analysis in relation to the regulation of lobbying in Council of Europe member States;"

Sub-amendment 1 to amendment 5
Tabled by the Committee on Legal Affairs and Human Rights

In amendment 5, replace the words: "In the draft recommendation, replace paragraph 1.3 with the following paragraph: "draft a regulatory impact analysis in relation to the regulation of lobbying in Council of Europe member States;" " with the following words: "In the draft recommendation, in paragraph 1.3, after the word "study" insert the following words: "and a regulatory impact analysis" ".

1.4. urge States that have not yet done so, to sign and/or ratify the Convention on Access to Official Documents (CETS No. 205);

1.5. consolidate co-operation with the European Union for the purpose of its accession to the Convention on Access to Official Documents and its participation in the Group of States against Corruption (GRECO).

Amendment 6
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft recommendation, paragraph 1.5, replace the words "consolidate co-operation" with the following words: "intensify co-operation".

Amendment 7
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft recommendation, paragraph 1.5, after the words "the Convention on Access to Official Documents", insert the following words:

"and the Criminal Law Convention on Corruption (ETS No. 173),".

Amendment 8
Tabled by the (Former) Committee on Rules of Procedure, Immunities and Institutional Affairs

In the draft recommendation, at the end of paragraph 1.5, insert the following words: "in light of the European Commission's commitment to a more transparent and balanced representation of interests, increased transparency of decision making, and reducing conflicts of interests".