

**COMMUNICATION TO THE COMMISSION FROM THE PRESIDENT,  
MS WALLSTRÖM, MR KALLAS, MS HÜBNER AND MS FISCHER BOEL**

**PROPOSING THE LAUNCH OF A EUROPEAN TRANSPARENCY INITIATIVE**

Memorandum to the Commission

Compliance with the highest standards of transparency is an essential condition for the legitimacy of any modern administration. The College committed to this ambition in its strategic objectives for 2005-09.

On 18 May, the College held an Orientation debate on “A Possible European Transparency Initiative”, based on a communication presented by the President, Ms Wallström and Mr Kallas [SEC(2005)644]. The objective was to see -- on top of the major achievements to date<sup>1</sup> -- what further steps could be taken to increase the transparency with which the EU handles the responsibilities and funds entrusted to it by the European citizen.

Concluding the orientation debate, the Commission agreed on the need to consider the issue of transparency, closely associating the other European institutions. It was decided to set up an Interdepartmental Work Group (IWG), chaired by the Secretariat-General, with the task of presenting, by October 2005, a report analysing the points raised in the communication presented, covering their technical and legal feasibility and implications in terms of resources.

The report from the inter-service group is annexed. Based on its findings, it is proposed to

- Take note of the report produced by the Inter-departmental Working Group;
- Exchange views on the ideas set out in this Communication.
- Decide to launch a European Transparency Initiative.

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<sup>1</sup> Such as implementation of the 2001 White Paper on European governance, the code of good administrative behaviour governing relations between Commission staff and the general public, the code of conduct for Members of the Commission and the obligation on them to publish a declaration of interests, clear rules on access to documents and the provision of detailed information about committees and groups of experts.

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**1. The Commission is already a transparent institution...**

In recent years, a broad range of concrete measures increasing transparency has been put in place. This was also taken forward in 2001 as part of the overall reforms pursued by the Prodi Commission, and a White Paper on European Governance was published which launched a wide range of initiatives to improve and open up the way Europe works and interacts with stakeholders. Among the steps taken are:

- The ‘access to documents’ legislation (Regulation 1049/2001) provides the framework for access to the unpublished documents of the EU institutions and bodies. In this context, the Commission has put in place a register of documents as well as a special register of documents related to work of the committees (so-called ‘comitology’ procedures) that help the Commission in its executive role<sup>2</sup>.
- The publication earlier this year of a list of expert groups advising the Commission and the upcoming launch in the autumn of an on-line public register of such groups. Agreement with the European Parliament has also been reached on providing information on the composition and working methods of the numerous expert groups providing input in the process of policy-shaping<sup>3</sup>.
- Wide consultation of stakeholders and in-depth impact assessments prior to legislative proposals help ensure that the concerns of the citizens and all interest parties are properly taken into account.
- The Commission’s ‘Code of Good Administrative Behaviour’ was adopted as the Commission’s benchmark for quality service in its relations with the public. Professional ethics of Commission staff are regulated in the Staff Regulations and its implementing rules. As regards the political level, the EC Treaty includes clear provisions on the ethical standards to be respected by the Member of the Commission. These have been made operational through the Commission’s ‘Code of Conduct for Commissioners’.

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<sup>2</sup> The arrangements regarding comitology also reflect arrangements agreed between the Commission and the European Parliament for the implementation of the Council decision on comitology, see OJ L256 of 10 October 2000.

<sup>3</sup> This also reflects the provisions in Article 16 of the draft Framework Agreement between the European Parliament and the Commission.

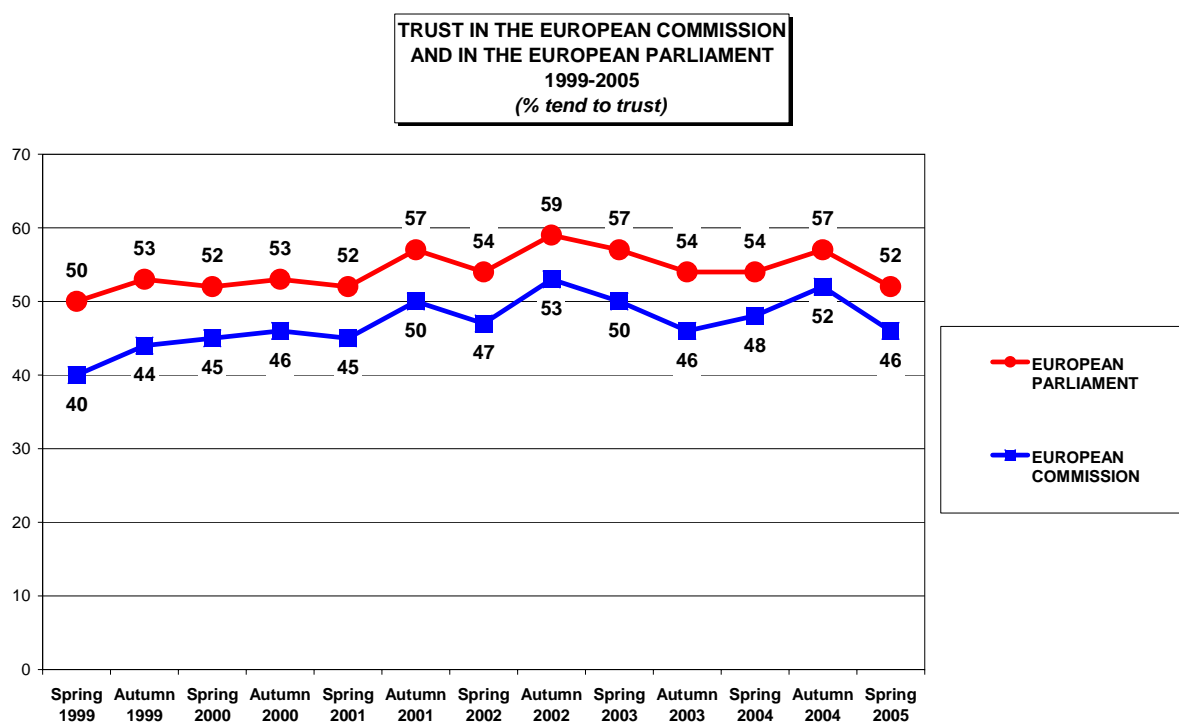
## 2. Building on the acquis, increasing the public's trust in European institutions

... by being accountable

Compliance with the highest standards of transparency is an essential condition for the legitimacy of any modern administration. In addition to the considerable existing acquis in the field of transparency, the College committed to this ambition in our Strategic Objectives for 2005-09.

The European public is entitled to expect efficient, accountable and service-minded public institutions. Whether they are elected or appointed, the citizen has a right to examine the performance of the institutions at their service. The public certainly also has legitimate expectations that the power and resources entrusted to political and public bodies is handled with care and never abused for personal gain. It is our duty to facilitate this scrutiny.

According to the latest Eurobarometer poll<sup>4</sup>, citizens' confidence in the European institutions fell significantly during the first half of 2005, to one of the lowest levels recorded since 2001. This spring, 46% of those interviewed said they tended to trust the European Commission. For the Parliament, trust was at 52%, following a 5 points' fall compared with the score obtained just after the European elections.



The confidence curves of the two institutions continue to trend in the same direction, indicating that European institutions either win or lose the public trust together. And this does not just affect the European institutions, but politics in general. Unfortunately, many people have decreasing trust in their elected or appointed political decision-makers.

<sup>4</sup> Eurobarometer 63, Public Opinion in the EU, "First results", European Commission, Published July 2005.

Transparency can “clear the fog” and quash the myths that may exist, and reduce the distance between the public and the administration at its service. A high level of transparency can be instrumental in convincing the public that it is not being subjected to selective information practices (“spin”). This allows the discussion to focus on the real issues to be resolved at European level. Transparency therefore strengthens European integration by enhancing the credibility of the European institutions. Indeed, to reach its political objectives, the Commission relies both on the strength of its proposals *and* on the authority of its reputation.

By reinforcing accountability at all levels, transparency also carries a potential for facilitating citizen’s scrutiny, imposing discipline on those distributing and receiving EU funds. Transparency therefore contributes positively to the fight against fraud.

*... by investing in public knowledge of the EU*

Information-sharing is a well-proven confidence-building measure. Regrettably, European citizens feel they have relatively limited knowledge about the European Union<sup>5</sup>. Almost one third (31%) of European citizen believe that “administrative costs” represent by far the main budget heading of the European Union. Only 17% of the people interviewed know that “agriculture” represents the main budget heading. In general terms, only 27% felt they knew quite a lot about the EU’s policies and institutions, whereas 70% felt they only knew “a bit” or “nothing at all” about our work. This figure is not improving over the years, nor is the situation better in “old” member states.

*... and by using the IT available to suit citizen preferences*

Seven out of ten Europeans use television when they want to obtain information about the European Union. Thus, while the internet is not currently the main source of general information on the EU, it is a particularly dynamic, interactive one, with a high share of users in the younger generations<sup>6</sup>. It is also the best channel for communicating complex and complete information on our area of work.

Mass communication is changing. Citizens have increased expectations. Receiving information “on offer” on TV will not be sufficient in the long term. Citizens have been given unprecedented access to information in most corporate and private spheres of life. They quite naturally also have increasing expectations for greater transparency in public institutions. The public will expect to be able to access desired information “on demand” in a user-friendly form.

Using modern information and communication tools, public institutions can offer an unprecedented access to information, and the Commission – as a driver of change and modernity – should be seen as being at the forefront of this development (e-Commission). The official EU site (“EUROPA”) contains 6 million pages and receives 50 million consultations per month. Feed-back from users of the site is mixed (lack of overview; not user-friendly; overlaps and incoherencies). The *Action Plan to Communicating Europe by the Commission*, adopted on 20 July 2005, includes a number of concrete actions to be taken in

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<sup>5</sup> Idem

<sup>6</sup> Main five sources of information on the EU are, by order of importance, “television”, “daily newspapers”, “radio”, “discussions with relatives, friends and colleagues”, “internet”. Eurobarometer 63

this area, the main focus being on ensuring a well-structured website with a multilayered coherent portal using a thematic approach while at the same time investing in a better multilingual presentation and a customer-friendly technical service. The European Transparency Initiative is also complementary to the Plan D adopted by the Commission on 12 October 2005.

### **3. Why the timing is right for a broader discussion on transparency in the EU**

A year into our mandate it is now the right time to start the discussion. The main challenges are to enlarge the debate beyond the European Commission and engage the other EU institutions. In the eyes of the public, there is one, single “European ethical space” and while *rules* may vary, different ethical *standards* across the institutions are neither desirable, nor explainable. By launching the debate, the Commission openly signals that it considers itself part of the challenge and part of the solution.

Greater transparency would also be effective in eradicating some of the myths sustaining the popular support for the radical Euro-sceptics parties. “Rebuttal” means constant fire-fighting, using enormous resources to kill that one myth. Transparency is prevention that ensures that the myth never lives. A passive approach now will only lead to having to be more defensive in the future.

In taking a transparency initiative forward, we should draw attention to progress made in many areas so far. By launching a general debate, as opposed to discussing isolated cases, we will also avoid an unfair, one-sided debate about what may be wrong in the Commission. Looking at some current practices (Code of Conduct, lobbying, Declarations of Interest) in the other institutions, the Commission has no reason to shy away from such an open debate.

The European Transparency Initiative is addressed to all the European institutions, as well as other stake-holders active in the decision-making processes at European level.

### **4. Assessment of the findings of the Inter-departmental Working Group.**

Based on the questions raised by the College in the Orientation debate on 18 May 2005<sup>7</sup>, the Inter-departmental Working Group report (IWG report) gives a factual assessment of where we are and formulates a number of options for further steps to be explored in the context of a European Transparency Initiative:

#### *Enhanced information about projects and end beneficiaries of EU funds*

Based on the analysis in the report, there seems to be scope for improving the access to information relating to projects and end beneficiaries of funds. For funds under *centralised* management this could be done by establishing a central web portal, which would provide links to information available at the level of the Commission’s Directorates-General. For funds in *decentralised* management (external policies), the Commission does not possess accounting information on the final beneficiaries. According to the degree of decentralisation, however, the Commission carries out an *ex ante* control on award decisions as well as *ex post* controls on payments to end beneficiaries. The Commission will also continue to work with

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<sup>7</sup> SEC(2005)644

its recipient partners to document and report results, and to communicate these in a comprehensive manner. For funds in *shared* management, the Commission could propose as a first step to establish links between the Commission's central portal on the web and the information provided by the Member States. As a second step, the Commission could discuss with Member States the introduction of a legal obligation to publish information about projects and end beneficiaries of funds under shared management. Taking these steps is deemed a more realistic way to eventually construct a coherent overview of all end beneficiaries of EU funds, than giving access to the Commission's accounting system, which does not contain the desired information in a form that would be useful to the general public.

### *Fighting fraud through awareness*

New options in this area appear rather limited. Nevertheless, within the current legal framework it might be possible for OLAF to give enhanced visibility to accurate information about fraud cases, following the conclusion of its investigations while fully respecting the presumption of innocence and other fundamental rights of the individuals concerned as well as national provisions on the confidentiality of investigations. It could also be envisaged to ask Member States to notify OLAF of the final results of such cases, as part of the revision of the legal framework governing OLAF's activities.

To increase transparency not only about use, but also about misuse of EU funds, and for the purpose of prevention and deterrence, the report also assesses the option of creating and publishing a list of entities definitively convicted of fraud. This option needs further analysis in terms of fundamental rights and compatibility with the financial regulation.

### *Transparent lobbying vis-à-vis EU institutions*

It is of course positive that interest groups are actively submitting contributions in the context of open public consultations run by the Commission. The benefit could be further enhanced if such groups would make their contributions accessible to the general public. While they must already make available information about their structure and functioning, the IWG report concludes that reinforced monitoring in this respect could ensure that these requirements are actually fulfilled. The analysis of the current practice also shows that it is possible to improve the transparency vis-à-vis the general public on the input given to the EU decision-making process. This issue should be dealt with in a broader debate on the Commission's consultation practices, addressing the implementation of the Commission's consultation standards<sup>8</sup>, including, for instance, the rules on how to publish policy submissions received from external stakeholders.

A number of options are listed in the report, such as better reporting by the Commission about lobbying; compulsory registration of interest groups represented in consultative bodies and/or compulsory registration for all lobbyists. In taking this forward, it is important to avoid unnecessary administrative burdens on both the interest groups and the Commission. One option would be to transform the existing "CONECCS database" into a compulsory registration system for all interest groups and lobbyists, including public affairs practitioners, trade unions etc.

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<sup>8</sup> "General principles and minimum standards for consultation of interested parties by the Commission", COM(2002)704.

Another option is for the Commission to give new momentum to the self-regulatory approach by encouraging all organisations and individuals listed in a (voluntary or compulsory) register to adhere to a common code of conduct. While the Commission could of course propose this Code of Conduct, it would clearly be preferable for its “users” to take the lead. It must be noted, however, that the credibility of such a system would depend on its proper monitoring, systems for enforcement and the percentage of lobbyists active in Brussels that are effectively adhering to such a code.

#### *The EU’s framework on professional ethics*

The IWG report suggests an evaluation and possible revision of the Code of Conduct for Commissioners in the light of experience gained up to now. The Commission considers that this would only be useful if it is part of an inter-institutional debate on comparable ethical standards. The European Transparency Initiative should be used as an occasion to re-launch the debate on an inter-institutional Advisory Group as proposed by the Commission in November 2000. This proposal would benefit from being addressed in a broader discussion on the common European “ethical space”.

Experience also shows that by focusing on ethics and integrity, organisations can balance internal rules and trust in a manner that favours administrative simplification and increases effectiveness in policy delivery. By setting the right tone at the top, management can strengthen “soft controls” and introduce greater proportionality in internal controls.

#### *The Public Registers of the Commission*

The IWG report looks at whether to extend the scope of the existing Commission registers. All Commission mail including the mail addressed to the individual Commissioners is today covered by the ‘access to documents’ legislation, which entered into force after the nomination of the Prodi Commission and the Regulation concerning Personal Data Protection. The Commission is therefore not proposing to develop new registers for specific categories of mail but rather to increase the coverage of the public register.

In this respect, better use should be made of the ‘SG Vista’ database with a view to make available where possible the text of documents in full or in part in accordance with the access to documents legislation

## **5. Further steps**

The report from Inter-departmental Working Group shows that a lot has already been done by the Commission to increase transparency. But the report also shows that more could be done, and that concerted steps taken with the other EU institutions would be particularly worthwhile.

On this basis, it is proposed to launch a debate on greater transparency on the results of EU co-operation and on issues of values and integrity. In order to ensure that these principles are translated into specific actions, it is proposed to take forward the options mentioned above, also by involving the relevant stakeholders. Clearly, this list is only indicative, and more items can be added.

In doing so, it is important to keep the overall focus on the larger issue of transparency and to continue to place discussions on the various components of the package within the overall framework.

Press line:

- Compliance with the highest standards of transparency is an essential condition for the legitimacy of any modern administration
- The College committed to this ambition in its strategic objectives for 2005-09
- It is a permanent challenge to earn the trust of the general European public
- The Commission cannot address problems of distrust without the other institutions. “Trust in the EU” is a common good.
- Trust is earned through accountability and information-sharing. Transparency helps to increase both.
- The Commission has already made great and successful efforts to increase transparency,, but a constant effort is required from all institutions.
- The Commission has a number of suggestions for concrete actions to increase transparency: Some of these suggestions can be implemented by the Commission. Other suggestions will require common discussions with the other European institutions. Finally, some issues will be presented in early 2006 in a Green Book for wider stakeholder consultations.

**6. The Commission is invited to:**

- Take note of the report produced by the Inter-departmental Working Group;
- Exchange views on the ideas set out in this Communication;
- Decide to launch a European Transparency Initiative, composed by the following elements:

*Actions to be implemented by the Commission*

- create a central web portal, acting as a single entry point, which will establish links to information on end beneficiaries of funds under centralised management available at the level of the Directorates-General
- establish links between the Commission’s central portal on the web and the websites of the Member States, where data on end beneficiaries under shared management can be found. Propose a common methodology for making this information available.
- improve the coverage of the existing Commission register of documents, in particular by creating synergies with SG Vista, with a view to making available the text of documents in full or in part in accordance with ‘access to documents’ legislation’
- invite OLAF to give enhanced visibility to accurate information about fraud cases, following the conclusion of its investigations while fully respecting the presumption of innocence and other fundamental rights of the individuals concerned as well as national provisions on the confidentiality of investigations.



*Actions to be proposed for inter-institutional discussions*

- launch, through a communication addressed to the Council and European Parliament, a debate on rules and standards on professional ethics of public office holders in the European Institutions.
- launch, in 2006, a debate on the ‘access to documents legislation’ based on the Commission’s report on the implementation of the principles of Regulation 1049/2001. Following this debate, the Commission could launch a public consultation on a possible review of the Regulation towards the end of 2006 or early 2007.
- ask Member States to notify OLAF of the final results of fraud cases, as part of the revision of the legal framework governing OLAF’s activities.

*Actions to be proposed in a Green Book to be published in early 2006*

- launch a debate on the introduction of legal obligations for Member States to publish the information about the end beneficiaries of funds under shared management.
- launch a debate on lobbying
- launch a debate on the Commission’s consultation practices