

Advisory Board for the Finnish Transparency Register

adopted at meeting on 21 November

POSITION

In the interest of ensuring transparency in lobbying, it is important that not only the subjects, targets and methods of communication but also the resources used for lobbying are reported. Under the Act on the Finnish Transparency Register, disclosers must report the total number of persons who participated in lobbying activities during the previous calendar year and the person years used by them on lobbying, the costs of outsourced lobbying consultancy activities in euro amounts, and the marketing and representation costs associated with lobbying. Parties engaged in lobbying consultancy must report the turnover of their activities in euros.

The Advisory Board for the Finnish Transparency Register welcomes the fact that the NAOF's draft regulation on compiling financial information on lobbying activities referred to in the Transparency Register Act has been circulated for comments in autumn 2024.

The Advisory Board would like the NAOF to pay particular attention to the following issues in the regulation:

2.1. Persons who participated in lobbying activities and their total number

When listing the persons who have participated in lobbying activities and counting their total number, it would be important to reassess the proposal of the draft regulation according to which the disclosure obligation would apply to not only those maintaining the actual contacts but also all those who participated in the background work. Including an estimate of any background work carried out by the discloser's personnel in the total volume of lobbying activities is justified.

A large number of experts may be involved in the different stages of preparative work on an individual advocacy theme for up to several years. The background work of lobbying activities includes perusal of legislative proposals, analysis of proposals and assessment of impacts together with other experts. In non-governmental organisations, this work involves examining proposals and formulating positions in bodies established for this purpose. The background work additionally includes drawing up statements, which are often commented on by colleagues. In addition to giving statements, organisations prepare for parliamentary expert consultations and participate in ministries' working groups. Whereas the Act does not apply to documented participation in working groups and hearings set up by the authorities, such as committee hearings and responding to requests for a statement made by an authority, they involve background work carried out by the disclosers.

The background work also includes conducting international comparisons and consulting with foreign colleagues. Distinguishing between background work of lobbying activities referred to in the Transparency Register Act from other activities is challenging, however. The fact that many matters that must be reported to the Finnish Transparency Register are based on EU legislation makes it even more difficult to include background work in the data that must be reported accurately.

Background work related to lobbying is a complex process that requires extensive cooperation and continuous preparation. It involves both national and international work.

2.2. Person years spent on lobbying activities by persons who have participated in lobbying

The person years spent on lobbying activities could be reported as a number of working hours if the discloser has access to working time records itemised by hours spent on different tasks. The reporting of person years could also be based on the discloser's best estimate of the number of persons participating in lobbying activities and their person years. These figures can, for example, be derived directly from the persons' job descriptions and the lobbying subjects for which they are responsible.

The preliminary work on the Act states that in practice, the term 'data' used in the provision refers to an estimate provided by the actor. A study commissioned by the Ministry of Justice from the University of Jyväskylä on the state of play of lobbying (2021) showed that many actors find it difficult to distinguishing between the resources used on lobbying and those taken up by other activities.

The regulation should address the fact that disclosers usually do not have working time monitoring based on hourly records of different tasks that specify the subject matter on which the time has been spent. This results in variations in who is deemed to have participated in lobbying and how their work input is defined in hours. Keeping accurate records of working hours is challenging in teamwork and preparative and advocacy work carried out over the long term. It is also more difficult when the targets of the lobbying activities are other than Parliament and the ministries, such as the EU level or government agencies.

2.3. Marketing and representation costs associated with lobbying

When reporting marketing and representation costs challenges arise, for example, from the fact that the same materials are used in all lobbying activities and events of the discloser, to which other people are invited in addition to those who must be reported to the Register under the Act. The marketing and representation costs associated with the activities to be disclosed to the Finnish Transparency Register can only be based on an estimate. The costs incurred from premises used for representation purposes are also difficult to estimate if an event is held on premises owned by the discloser.

Other comments

According to the report of the parliamentary steering group and expert group that prepared the Finnish Transparency Register the idea is not, however, that financial information should be reported to the Register with an accuracy that would require such efforts as extensive financial monitoring or postings of the disclosers.

The report notes that, by virtue of the relevant section, the NAOF will provide more detailed instructions on how the information will be reported in a suitable order of magnitude (such as no hired personnel in lobbying activities, less than one person year and so on, or less than EUR 10,000 a year, EUR 10,000 to 50,000 a year, EUR 50,000 to 150,000 and so on) that is still commensurate. Personnel hired for lobbying activities and the amount spent would be reported separately. Financial information concerning lobbying consultancy is not reported separately to avoid double disclosures of the same resources.

The purpose of this provision is to publish comparable data on the financial significance of lobbying, and financial information would be reported in an effort to offer information on different actors' resources.

The report states that "lobbying may also involve grassroots-level civic activity, in which members are activated to contact decision-makers in person. All such activities will fall outside the scope of the Act." This is why it is important to assess if obliging disclosers to collect information on the time volunteers and elected officials spend on lobbying and background work associated with it is proportionate and appropriate. Including in the disclosures an estimate of the lobbying activities carried out by disclosers' highest level of governance (such as Board members) is possible.

The Advisory Board for the Finnish Transparency Register notes that the twice-yearly disclosures of activities have increased the disclosers' administrative burden. As the legislation on the Transparency Register was being drafted it was stressed that in the arrangements for the submission of disclosures, an effort would be made to minimise the administrative burden created. As significant annual cuts are currently being made in discretionary government grants for non-governmental organisations, any increase in the organisations' administrative burden should be a last resort.

Parliament's Legal Affairs Committee stated in its report that "in order to safeguard the availability of information to citizens, researchers and the media, it is important that the data in the Finnish Transparency Register are sufficiently comprehensive, of high quality and up to date. On the other hand, ensuring that the reporting obligations and administrative burden arising from the regulation are appropriate and proportionate is essential for the disclosers. While the data to be reported must consequently be necessary and appropriate in terms of the register's objectives, reporting must not be made excessively detailed and burdensome."

The Advisory Board would like to see sufficiently specific examples and instructions in the regulation to ensure that the disclosers understand what is expected of them.

Of the Advisory Board's members, Jonna Carlson from the NAOF, Sami Demirbas from the Ministry of Justice, and Timo Moilanen from the Ministry of Finance in their roles as authorities as well as Academy Research Fellow Juho Vesa opted out of the position.