

EU CITIZENS OPINION POLL ON TRANSPARENCY, ETHICS, AND LOBBYING IN THE EU

EU Citizens Opinion Poll

7 • 21 January 2013

The EU Citizens Opinion Poll, released on 31 January 2013 has revealed that a majority of people across Europe are concerned about ethics and lobbying in Brussels policy-making, and want better regulation of lobbyists, as well as increased transparency of European Union bodies.

A major finding of the EU Citizens Opinion Poll is that citizens are eager to obtain greater information about European Union decision-making and the spending of EU funds believing that a high degree of transparency is essential. In the context of the financial crisis, 84% of people polled declared that it is important or very important to have public access to full documentation about what the European Central Bank is doing. Transparency of the spending of EU funds was also deemed to be essential, with almost nine out of ten (86%) respondents agreeing that it is important to publish detailed financial reports and evaluations on how EU money is spent by the Member States – half of those polled (54%) said such transparency is “very important”.

The poll also reveals that three quarters (73%) of EU citizens are concerned that lobbyists representing the business sector have too much influence on EU policy-making. Four in five (80%) believe that there should be mandatory regulation of lobbying in the European Union.

The European public is concerned about the level of dedication of its representatives, Members of the European Parliament (MEPs), to their work: 82% of the citizens polled believe that it can be a conflict of interest if a Member of the European Parliament works for a lobby group or a private company as well as undertaking their parliamentary role, with 80% declaring that they feel less confident that a MEP represents the best interests of citizens if they also work for a lobby group or a private company.

This report presents the main findings of the poll and includes recommendations to EU policy-makers on transparency, ethics and lobbying in the European Union.



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The project partners gratefully acknowledge financial assistance from the European Commission Education, Audiovisual and Culture Executive Agency (EACEA). The contents are the sole responsibility of the project partners and cannot be regarded as reflecting the position of the European Commission. The European Commission cannot be held responsible for any use which may be made of the information provided in the materials.



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Section 1

Lobbying in the European Union



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'It is widely known that lobbyists have a strong influence on EU policy-making'

Public concerns about the influence of lobbying is high across the European Union, with seven out of ten citizens (70%) agreeing that it is widely known that lobbyists have a strong influence on EU policy-making. Although lobbying is

a legitimate form of interest representation, public trust in the decisions taken by the European Union can be negatively affected if citizens perceive that their voices are being outweighed by the targeted pressure of particular interest groups. With

one in three of all respondents (31%) totally agreeing about the strong influence of lobbyists, the EU should take action to ensure that the public has full information about the actors involved in decision-making and the development of legislation.



70% AGREE



15% DISAGREE



15% DON'T KNOW



83% AGREE



10% DISAGREE



AUSTRIA



77% AGREE



12% DISAGREE



CZECH REPUBLIC



68% AGREE



17% DISAGREE



FRANCE



60% AGREE



19% DISAGREE



NETHERLANDS



80% AGREE



13% DISAGREE



SPAIN



52% AGREE



16% DISAGREE



UNITED KINGDOM

RECOMMENDATIONS

- EU officials should commit to keeping a public record of all meetings with interest representatives including details of the issues discussed, particularly when they relate to an ongoing decision-making process.
- EU bodies should proactively publish information about the actors involved throughout the decision-making process, as well as publishing all the positions, opinions and other documents submitted to them by outside interests, whether these are part of a formal consultation or not.
- EU institutions should proactively publish information explaining the rationale behind the final decision taken, including the reasons for which some suggestions were taken on board during the decision-making process and not others.

'Lobbying by business representatives can result in policies that may not be in the public interest'

There is a generalised perception that the public interest and business interests are not always in line, with nearly four in five (77%) citizens agreeing that lobbying by business representatives can result in policies that may not be in

the public interest. Unregulated lobbying or unequal access to EU decision-makers can increase the risk of some interests predominating over others during the decision-making process and can result in policies that favour some interests over

others. If citizens perceive that lobbying by businesses is having a negative impact on the decision-making process and is resulting in EU laws or policies that do not favour the public good, they may begin to lose trust in the European Union.



77% AGREE



11% DISAGREE



11% DON'T KNOW



84% AGREE



10% DISAGREE



AUSTRIA



83% AGREE



9% DISAGREE



CZECH REPUBLIC



81% AGREE



7% DISAGREE



FRANCE



65% AGREE



18% DISAGREE



NETHERLANDS



82% AGREE



12% DISAGREE



SPAIN



69% AGREE



11% DISAGREE



UNITED KINGDOM

RECOMMENDATIONS

- EU officials should ensure that the public interest is at the forefront of their policy-making; including by actively seeking input from a wide range of citizens and other interests that are not already lobbying pro-actively or that lack the resources to make their voices heard.
- Up-to-date and relevant information about the different stages of the decision-making process should be made proactively available in advance so that engaged citizens and civil society can identify when and how to participate. Citizen input should begin at an early stage and public consultations should be held at regular intervals throughout the decision-making process.
- The EU should endeavour to create a level playing field for participation in legislative processes and other decisions by ensuring equitable engagement of interest representatives, citizens and other stakeholders.

'I am concerned that lobbyists representing the business sector have too much influence in EU policy-making'

The resignation of EU Health Commissioner John Dalli following accusations of privileged access by tobacco corporations to the decision-making process on the reform of the EU's Tobacco Products Directive has raised public concern, particularly due to the lack of transparency around this case –

the report which triggered Dalli's resignation is not public at the time of writing.

Concerns were also raised by the 2011 "cash-for-amendments" scandal that saw four Members of the European Parliament get caught in a Sunday Times sting operation. The reporters posed as lobbyists and

offered the MEPs money in return for legislative amendments to financial sector regulation, which they claim the MEPs accepted. Although one MEP has been jailed for four years for accepting bribery in this case¹, at least one other MEP involved is still voting on EU legislation².

- 1 <http://www.bbc.co.uk/news/world-europe-21017914>,
http://austrianindependent.com/news/Politics/2013-01-14/13024/Austrian_ex-MEP_Ernst_Strasser_jailed_for_bribe-taking
 2 <http://www.europeanvoice.com/article/2011/march/spanish-mep-named-in-influence-for-cash-scandal/70668.aspx>



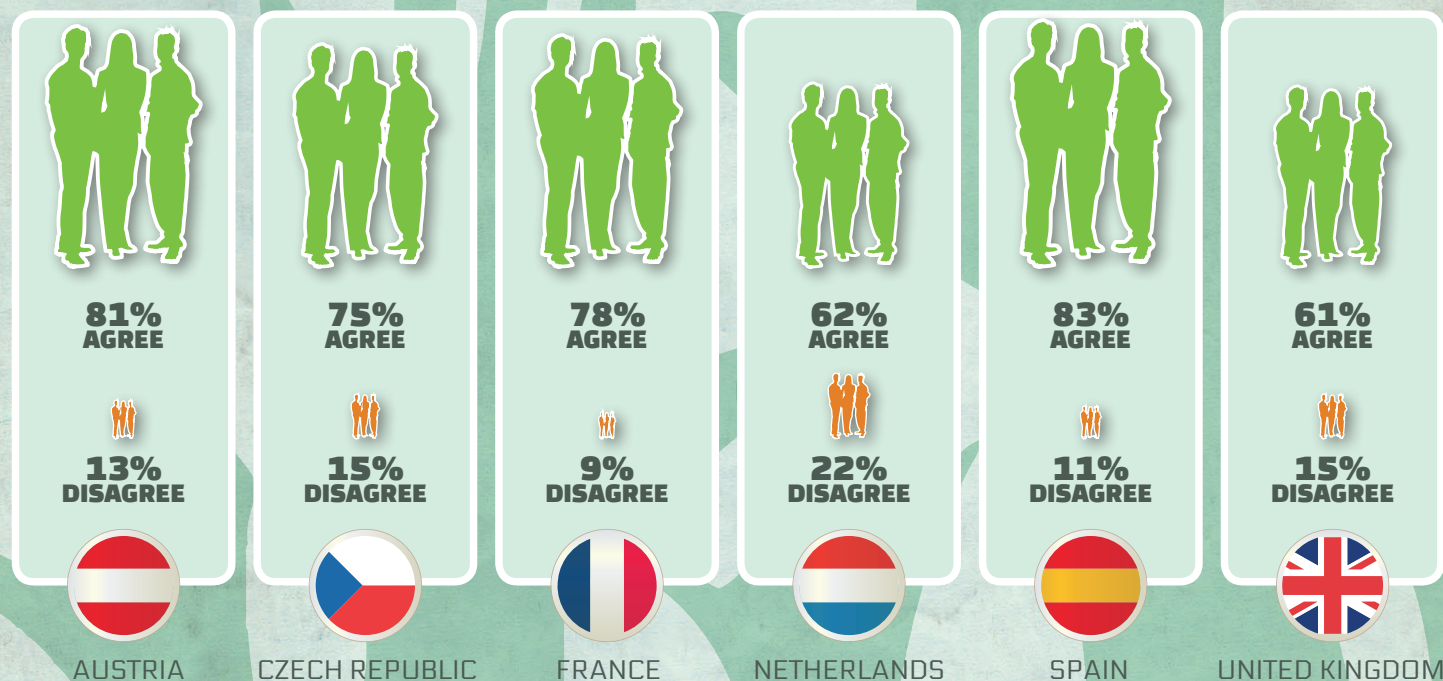
73% AGREE



14% DISAGREE



12% DON'T KNOW



RECOMMENDATIONS

- The European Union should act swiftly and decisively when lobbying scandals are uncovered. Full publicity should be given to the facts underlying scandals and to the measures taken to deal with them. Lessons learned from these scandals should be incorporated into appropriate safeguards in order to prevent similar scandals from recurring in the future.
- The EU institutions should seek to adopt a coherent and uniform response to lobbying scandals, including by strengthening the powers of the EU's Anti-Fraud Office to combat instances of wrong-doing by EU officials.
- The EU institutions should take measures to ensure that the competent national authorities take their role as prosecutors seriously, using the full force of the law. They should also consider the possibility of setting up a European Public Prosecutor's Office with disciplinary authority.

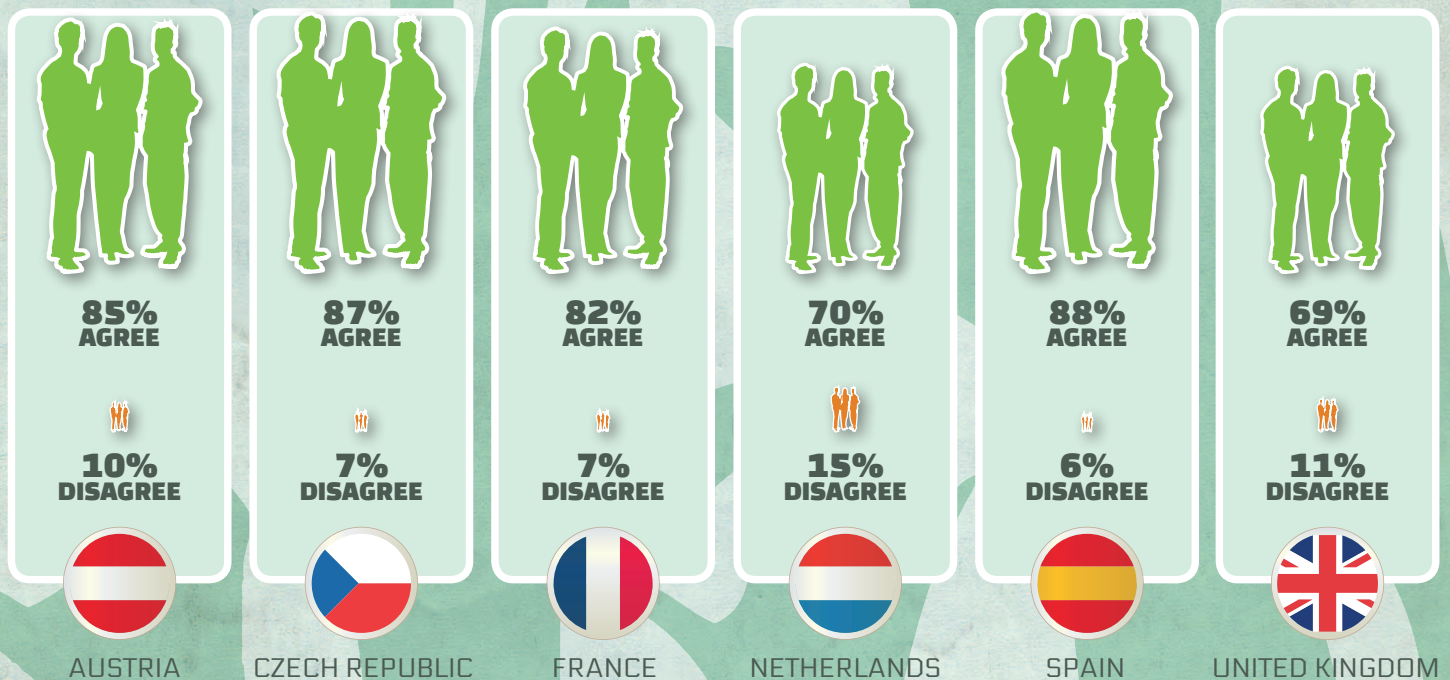
'There should be mandatory regulation of lobbying to ensure a balanced participation of different interests in decision-making'

The public is clearly in favour of legal measures aimed at ensuring that the undue influence of particular interest groups on EU policy-making is avoided.

At present, the European Commission and the European Parliament only

have a voluntary register of interest representatives (the "Transparency Register") which is associated with a code of conduct for lobbyists. This voluntary register does not include the Council of the EU nor other EU bodies and agencies. Civil society and Members of the

European Parliament have denounced the current system for failing fully to control and to make transparent the practice of lobbying in Europe; this survey shows that there would be broad public support for mandatory regulation of lobbyists.



RECOMMENDATIONS

- The European Union should undertake a legal study to map out the necessary steps for creating a mandatory lobby register as part of the mid-2013 review of the current (voluntary) register.
- The EU should accelerate the incorporation of the Council of the EU into the Transparency Register. Its scope should be expanded to include all EU institutions, offices, bodies and agencies that have a role to play in public decision-making processes.
- Information collected and published should be improved in quality and detail clarifying the relative weight of interest groups, including detailed financial reporting, issues lobbied on, the names of lobbyists, and the main lobbying practices employed.
- The information currently contained in the register should be monitored for accuracy, including by executing regular spot checks of the information provided and by fully investigating and resolving external complaints of under-reporting.



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Section 2

Access to EU Documents



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'How important do you believe it is to make publicly available the legal advice given by EU lawyers to EU officials and policy makers?'

The legal advice given by European Union lawyers to the various EU institutions is an important part of the decision-making process as they analyse the viability of suggestions and proposals to legislation including compatibility with other EU laws and the European Charter of Fundamental Rights¹. Although it is usually deemed a purely technical issue, three quarters of citi-

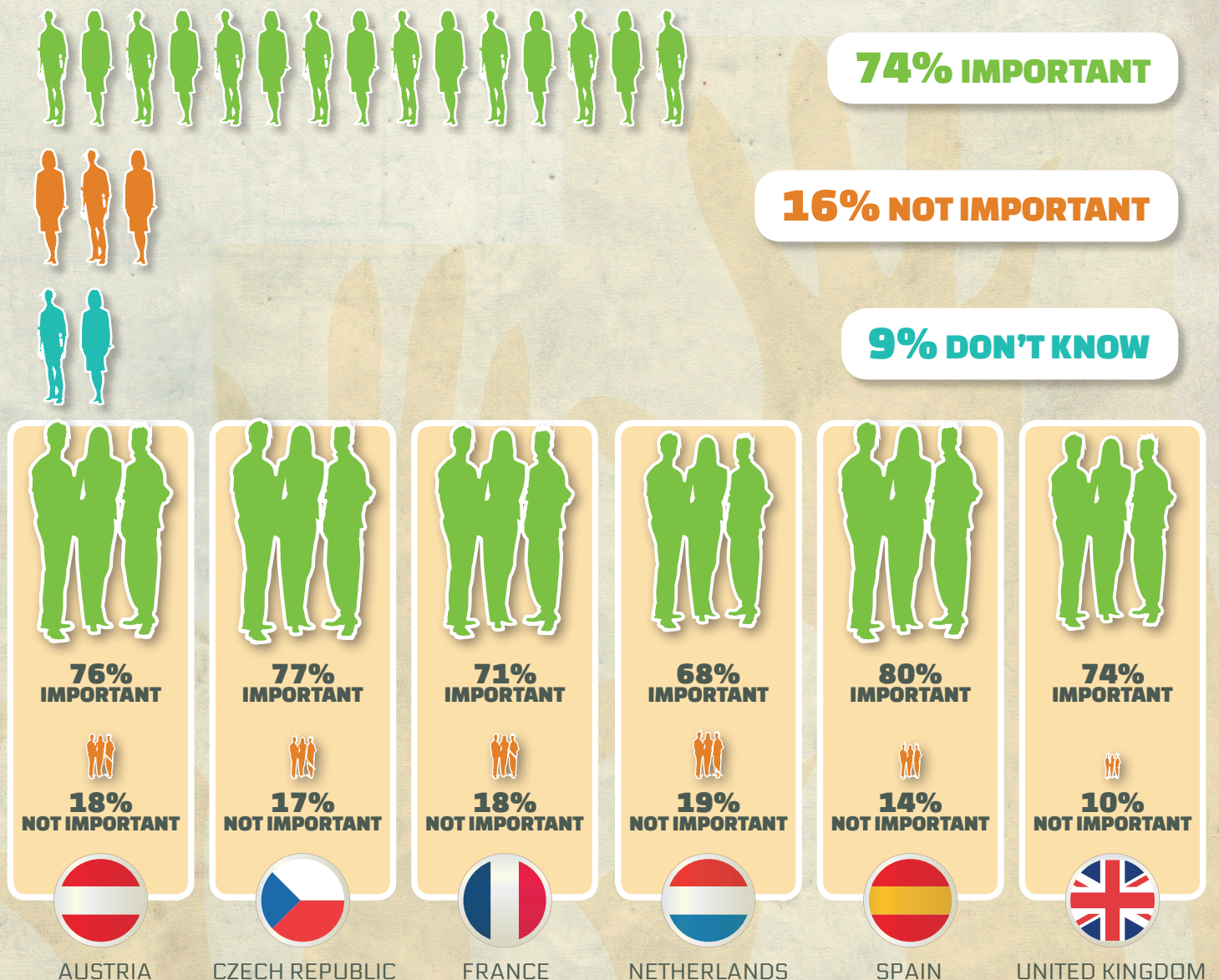
zens (74%) believe it is important for the public to have access to these types of documents.

Since 2008, as part of negotiations on the future of the EU's public access to documents Regulation (1049/2001), the Commission has been trying to remove the public interest test from the exemption that protects legal advice. The public interest test obliges disclosure of documents that are covered by

an exception if the public interest in disclosure of that document outweighs the potential harm of publication.

Since December 2011, the Council of the European Union has been divided between Member States favouring proposals to restrict the right of access to documents; and governments that support the Parliament's pro-transparency position.

1 http://ec.europa.eu/dgs/legal_service/index_en.htm



RECOMMENDATIONS

- The legal services of the European Union should open themselves up to public scrutiny, including by publishing more information about the legal services they provide to the EU institutions and about the role they play in the decision-making process.
- The legal services of the EU should proactively publish documents containing legal advice if these relate to a legislative procedure or if they form part of a decision-making process that will have an impact on the lives of citizens.
- The EU institutions that are involved in the negotiations on the reform of the EU's access to documents Regulation 1049/2001 should reject the introduction of blanket exceptions on documents such as legal advice.

‘How important do you believe it is to make publicly available detailed financial reports and evaluations on how EU money is spent by Member States?’

In the context of the financial crisis, citizens are demanding more transparency in the spending of EU funds. The European Union's budget is collected from the Member States but it is spent in large part in under-developed regions. These are called “structural

funds” and, along with the Common Agricultural and Fisheries Policies, they make up the majority of EU spending.

It is well established that taxpayers have the right to know how their money is being spent both at the national and EU level. In

order to get an accurate picture of spending, citizens and civil society rely on getting access to official documents. In fact, access to European Union documents is a fundamental human right of all EU citizens since the Treaty of Lisbon came into force in 2009.



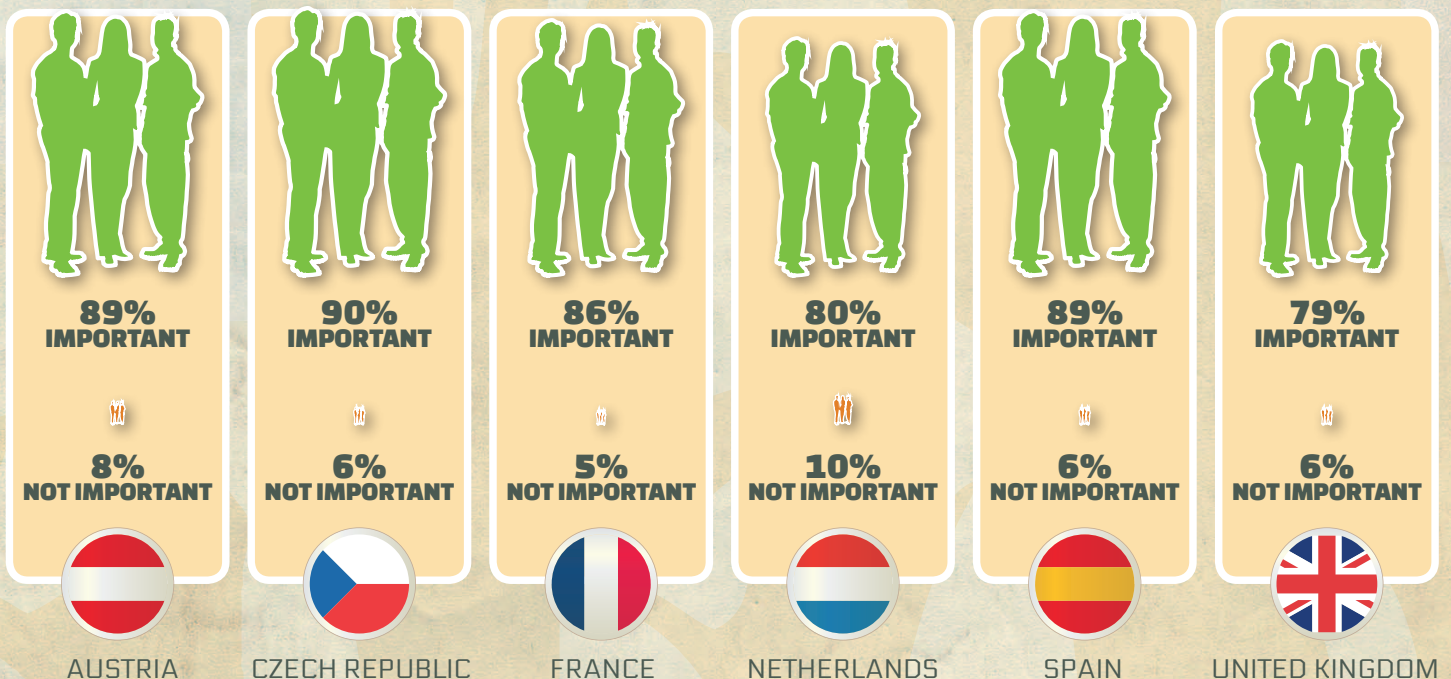
86% IMPORTANT



7% NOT IMPORTANT



8% DON'T KNOW



RECOMMENDATIONS

- Key documents related to EU spending should be proactively published, including the conditions related to each grant, details about what the grant is for and whom it is going to, and information about its implementation such as final reports and evaluations.
- Citizens should have access to enough information to permit them to track EU funding down to the local level and to make comparisons between projects and over time.
- Member States should proactively publish all documents relating to the spending of EU funds, including contracts signed with third parties receiving EU funding, detailed evaluation reports and the results of audits and other investigations.
- Information about the spending of EU funds by the Member States should be publicised as should the measures taken to prevent and correct waste or fraud in EU spending.

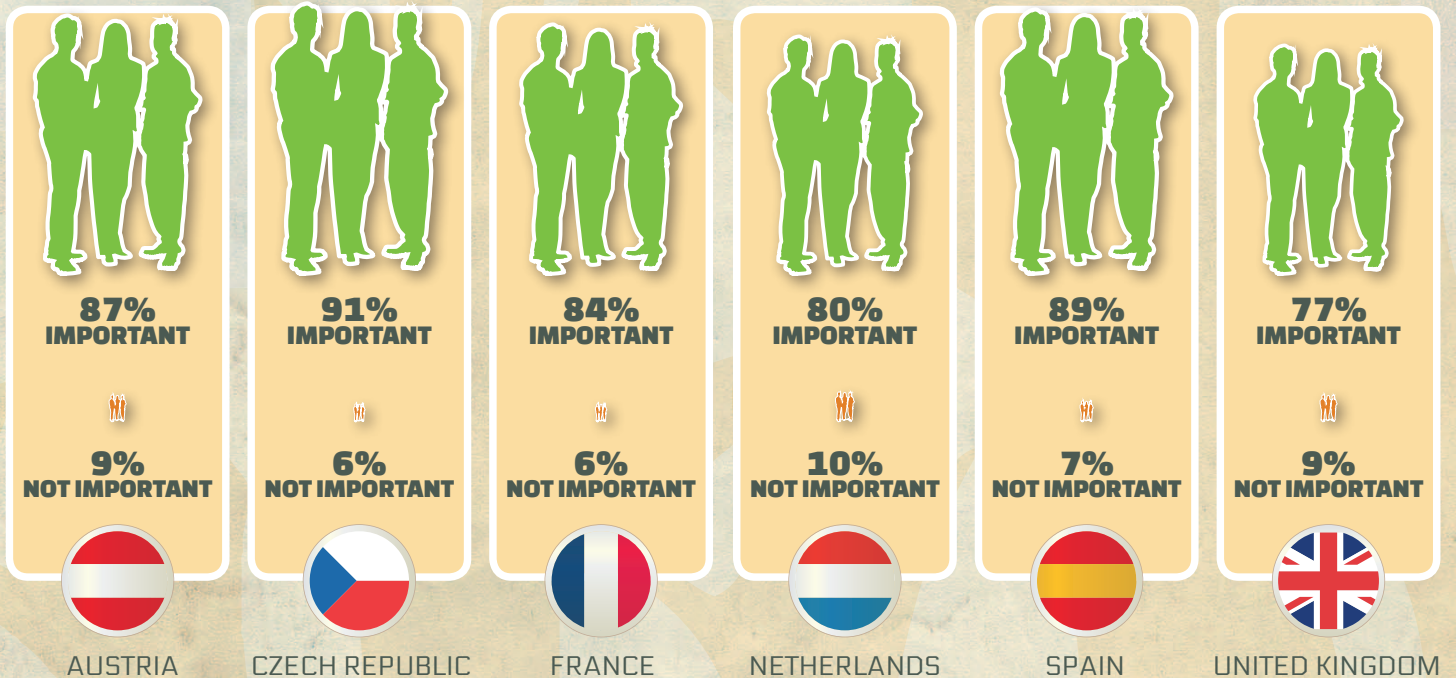
'How important do you believe it is to make publicly available full information on what Member States are doing in negotiations about future EU rules and laws?'

There is currently no uniform practice across Europe of publishing documents or information which shed light on the relationship between the national and the EU level when EU policies and laws are being drafted. The Council of the EU provides only partial access to the minutes of discus-

sions by blanking out names of the Member States so that it is not possible to see which government is proposing what. Access Info Europe has successfully challenged this practice before the Court of Justice of the European Union arguing that the public has a right to know what their

government is proposing during legislative negotiations. The Council has appealed the decision along with the Czech Republic, France, Greece, Spain and the UK.

The ruling from the Grand Chamber of the Court of Justice of the European Union is expected in late 2013.



RECOMMENDATIONS

- EU institutions should proactively publish information about how decisions are taken in Brussels, including detailed information about the actors involved in the decision-making process, the different stages of negotiations, and a timeline or calendar as well as agendas and minutes of meetings.
- The EU institutions should proactively publish all documents submitted to it by Member States or third parties during ongoing legislative processes. Documents summarising legislative negotiations should be published in full.
- The Member States should publish their negotiating positions on EU legislation at an early stage and actively engage citizens in the decision-making process.

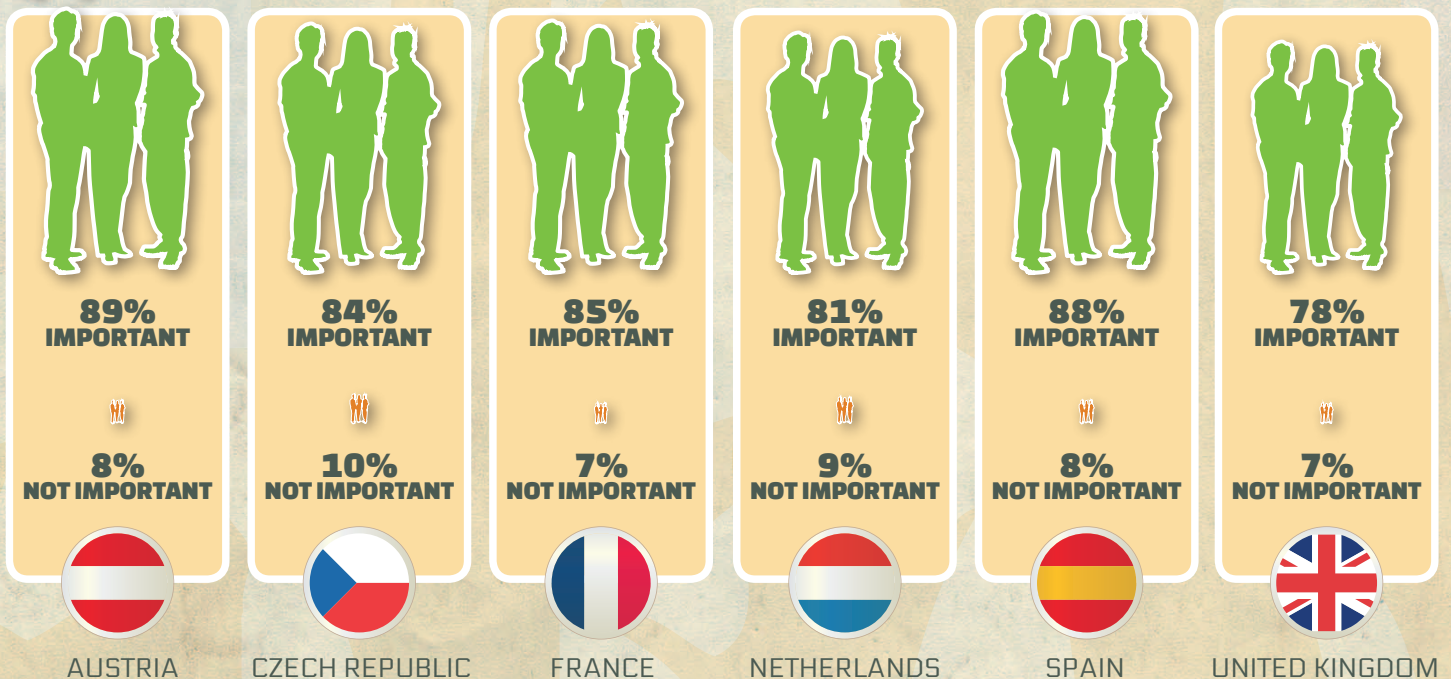
'How important do you believe it is to make publicly available full documentation from the European Central Bank about action in response to the financial crisis?'

The European Central Bank (ECB) has been a driving force in the coordinated response to the financial crisis in the EU and as such it has come under increasing public scrutiny. In December 2012, the ECB was given new powers to supervise the largest Eurozone banks

as of 2014. However the public interest in accessing documents about how it administers the EU economy will mean a need for greater transparency. Bloomberg Finance is currently fighting a legal battle against the ECB over its refusal to provide a journalist with access to docu-

ments relating to the Greek economy that contained information about what the ECB might have known (and failed to act upon) in advance of the financial crisis. The General Court of the Court of Justice of the EU ruled in favour of the ECB on 29 November 2012¹.

1 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=135121&pageIndex=0&doclang=>



RECOMMENDATIONS

- The ECB should explore the impact of new supervisory powers in its current communication policies, and enact the Treaty of Lisbon provision that states "decisions shall be taken as openly and as closely as possible to the citizen".
- Information about upcoming meetings should be proactively published by the ECB including draft agendas and expected attendees. Minutes, voting records and the names of those present should be published as soon after a meeting as possible.
- The ECB should keep a public record of its contacts with lobbyists and also join the European Commission and Parliament's Transparency Register.
- Information of public interest should never be withheld under the pretext that it is not strictly "administrative". The ECB should adopt a wide definition of "administrative tasks" in line with its weight and which reflects the important role it plays in the lives of EU citizens.



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section 3

Parliamentary Ethics – side jobs



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'I am less confident that an MEP represents the best interests of citizens if they also work for a lobby group or a private company'

Whether or not outside employment actually constitutes a conflict of interest in any particular case, the poll reveals that citizens'

confidence is still negatively affected when an MEP works in a lobby firm or private company. Eight out of ten respondents (80%) stated that this makes

them feel less confident that the MEP will represent the best interests of citizens when carrying out their duties as a Member of the European Parliament.



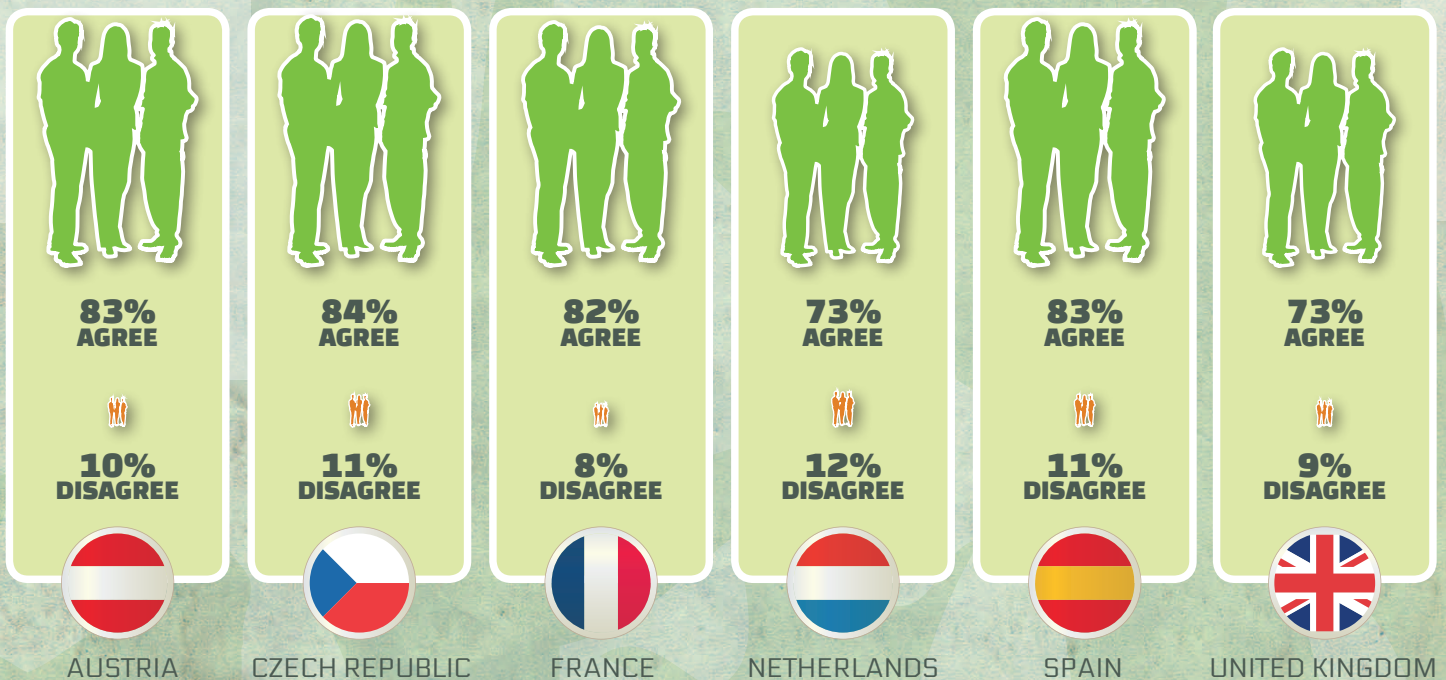
80% AGREE



10% DISAGREE



10% DON'T KNOW



RECOMMENDATIONS

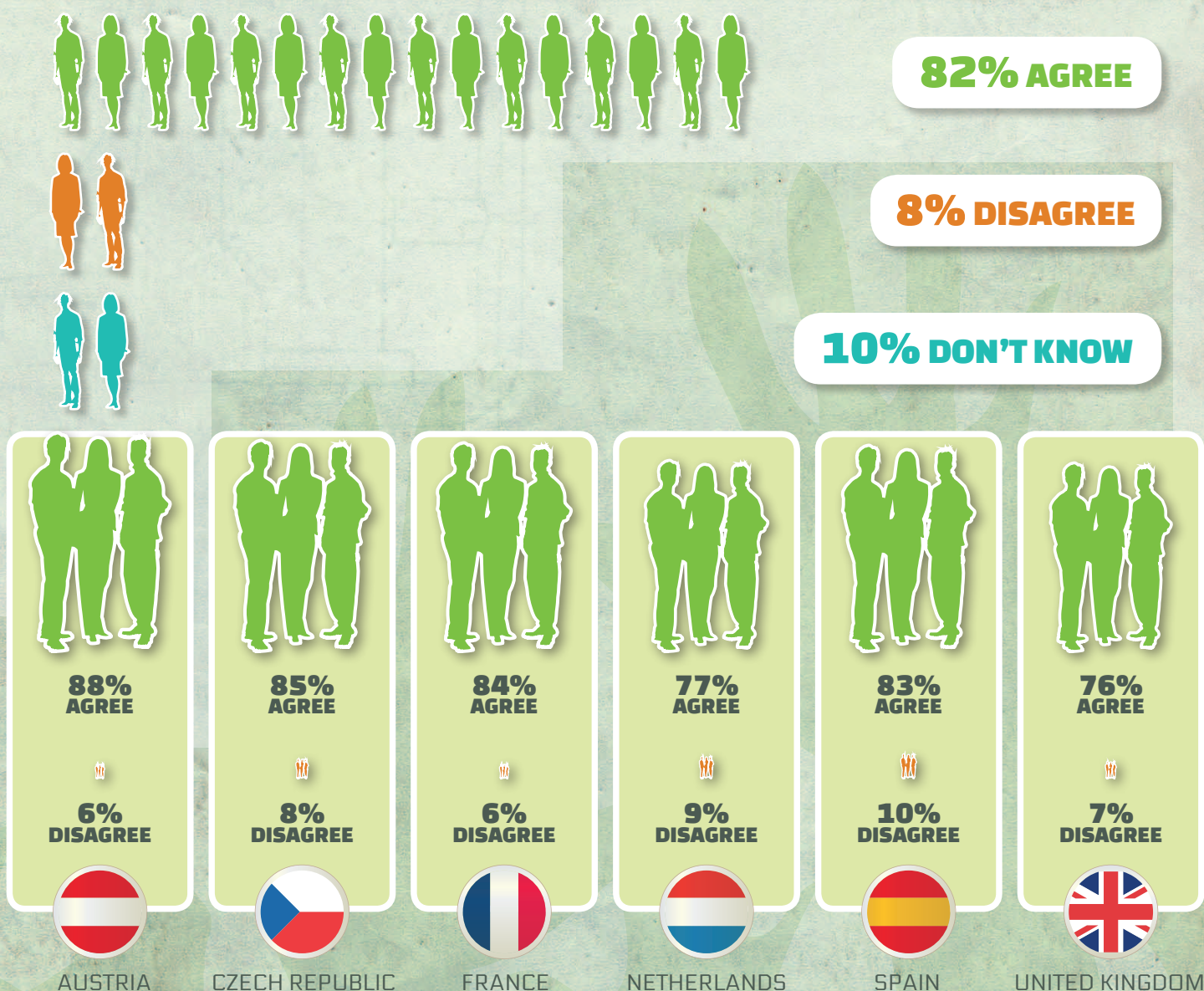
- Members of The European Parliament should publish detailed Declarations of Interest. These Declarations should be comparable over time and between MEPs; they should be made available in various EU languages and should be presented in a machine readable format in order to make way for full citizen scrutiny.
- The European Parliament's Ethics Advisory Committee should be equipped with increased capacity and authority so it can proactively monitor MEPs Declarations of Interest to ensure that the information contained is accurate and up-to-date.
- The European Parliament should initiate a review to assess potential conflicts of interest for MEPs that currently have outside financial interests or second jobs.
- The European Parliament should introduce effective sanctions for MEPs that are found to be in breach of the Code of Conduct or that find themselves in a conflict of interest. Citizens should have the right to know which MEPs have been sanctioned and for what.

'It can be a conflict of interest if an MEP works for a lobby group or a private company'

Four out of five citizens polled (82%) believe that it can be a conflict of interest if an MEP works for a lobby group or a private company. This finding is a reflection of existing international anti-corruption standards such as the United Nations Convention Against Corruption, which lists several instan-

ces in which a conflict of interest may arise when a person is in public office. The UNCAC states that public officials should declare any outside activities or employment as well as their investments, assets and other substantial gifts or benefits. The EU is party to the UNCAC Convention since 2008. However, the

current Code of Conduct for Members of the European Parliament states that "a conflict of interest exists where a Member of the European Parliament has a personal interest that could improperly influence the performance of his or her duties as a Member" but it does not specify further.



RECOMMENDATIONS

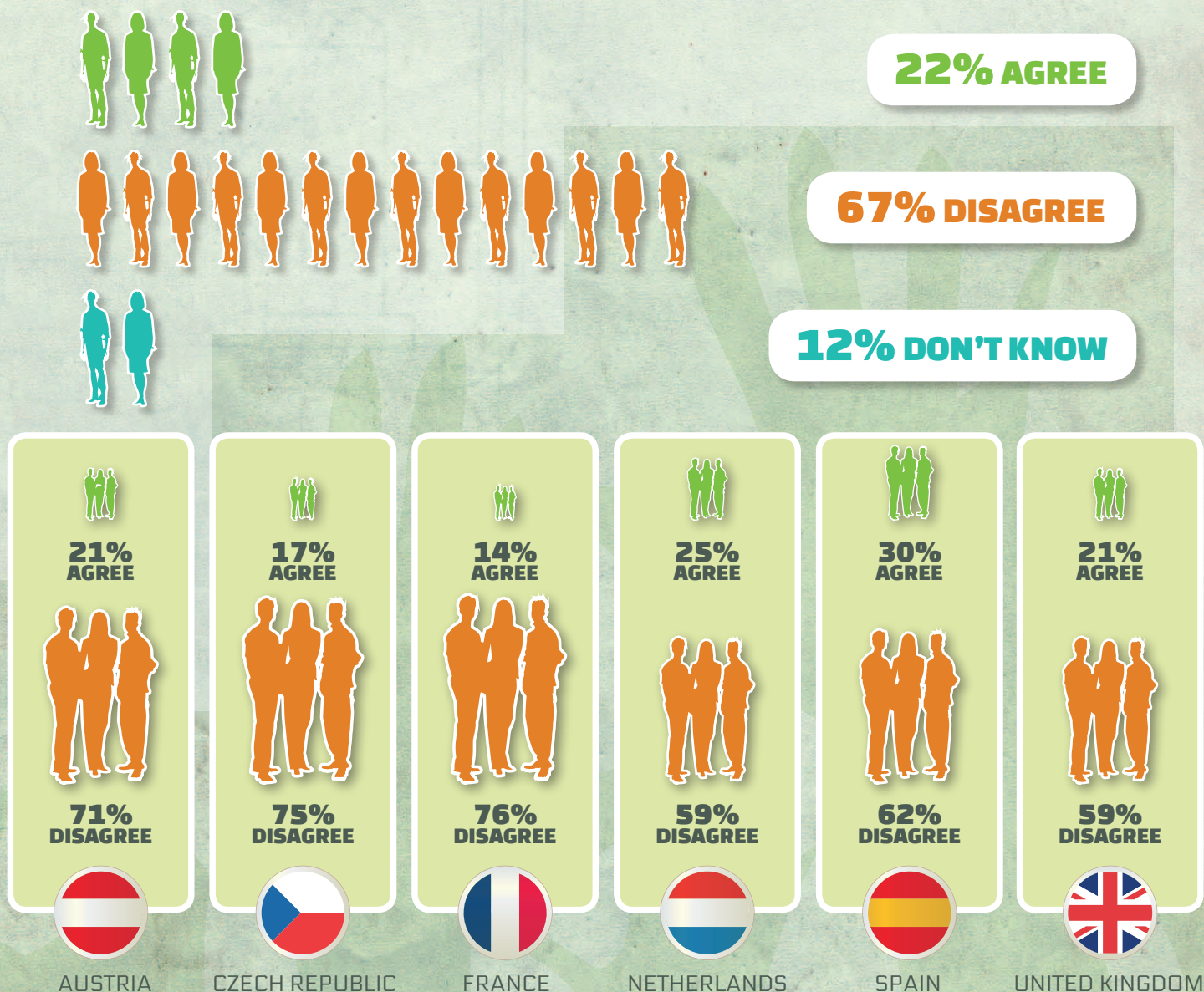
- The European Parliament should introduce clarifications in the Code of Conduct for Members of the European Parliament about what constitutes a conflict of interest by establishing a list of clear criteria. Activities that can constitute a conflict of interest should include the following:
 - Any paid or unpaid activity carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions;
 - Any paid or unpaid position in the advisory or supervisory board of companies or organisations operating in fields that MEPs are likely to regulate or that have an interest in influencing the European Parliament;
 - Any type of holding (including shares and stock options) or other financial interest in companies operating in fields that MEPs are likely to regulate or that have an interest in influencing the European Parliament.
- Members of the European Parliament should reject jobs or other offers that might lead to a conflict of interest arising. As soon as an MEP realises that they are at risk of being found in a conflict of interest situation, they should report this as soon as possible and immediately take remedial measures.

'MEPs should be allowed to work for a lobby group or a private company while they are serving as elected representatives'

Two thirds of those polled (67%) stated that Members of the European Parliament (MEPs) should not be allowed to work for a lobby group or a private company whilst they are in office; only one in five (22%) found the idea of a second job for MEPs acceptable. This poll finding is particularly interesting given that the current rules permit MEPs to

have a second job, although the Code of Conduct which entered into force in January 2012, requires MEPs to declare "Any remunerated activity undertaken...if it earns more than €5,000 a year." The public's concerns relate to the idea that some second jobs could entail a direct conflict of interest. Although some second jobs may be compatible with the duties of a

MEP, others have a higher risk of a conflict of interest arising, particularly if an MEP takes on a job that requires him or her to represent the interests of a third party. If an MEP has to litigate on behalf of a client, or lobby on behalf of a private company or any other interest group, their second job could conflict with their duty to represent the interests of society at large.



RECOMMENDATIONS

- Members of the European Parliament should take seriously their obligation to be transparent about their outside activities and should be accountable to citizens including by providing detailed, up-to-date information in their Declarations of Financial Interest.
- The European Parliament should ban MEPs from holding second jobs that require them to lobby or to represent the interests of a particular sector of society.
- The European Parliament should check whether the second jobs of MEPs constitute a risk of a conflict of interest. If the second job is found to be incompatible with the MEPs role as an elected representative, immediate measures should be taken and safeguards should be put in place to prevent any conflicts of interest from arising in the future.
- The European Parliament should review its Code of Conduct in consultation with civil society and should initiate a serious debate about whether or not MEPs should be allowed to have side-jobs.

‘Being an MEP is a full-time job, which does not leave time for any other employment’

Over two-thirds (69%) of EU citizens believe that being a Member of the European Parliament (MEP) is a full time job which does not leave time for any other employment. This shows a good public understanding of the reality of the commitment that MEPs make; they

are often responsible for a large number of policy areas and have to be present in Brussels during the week and to travel to and from Strasbourg once a month, as well as returning to their constituencies. Civil society organisations have voiced concern about the second jobs of Members of the

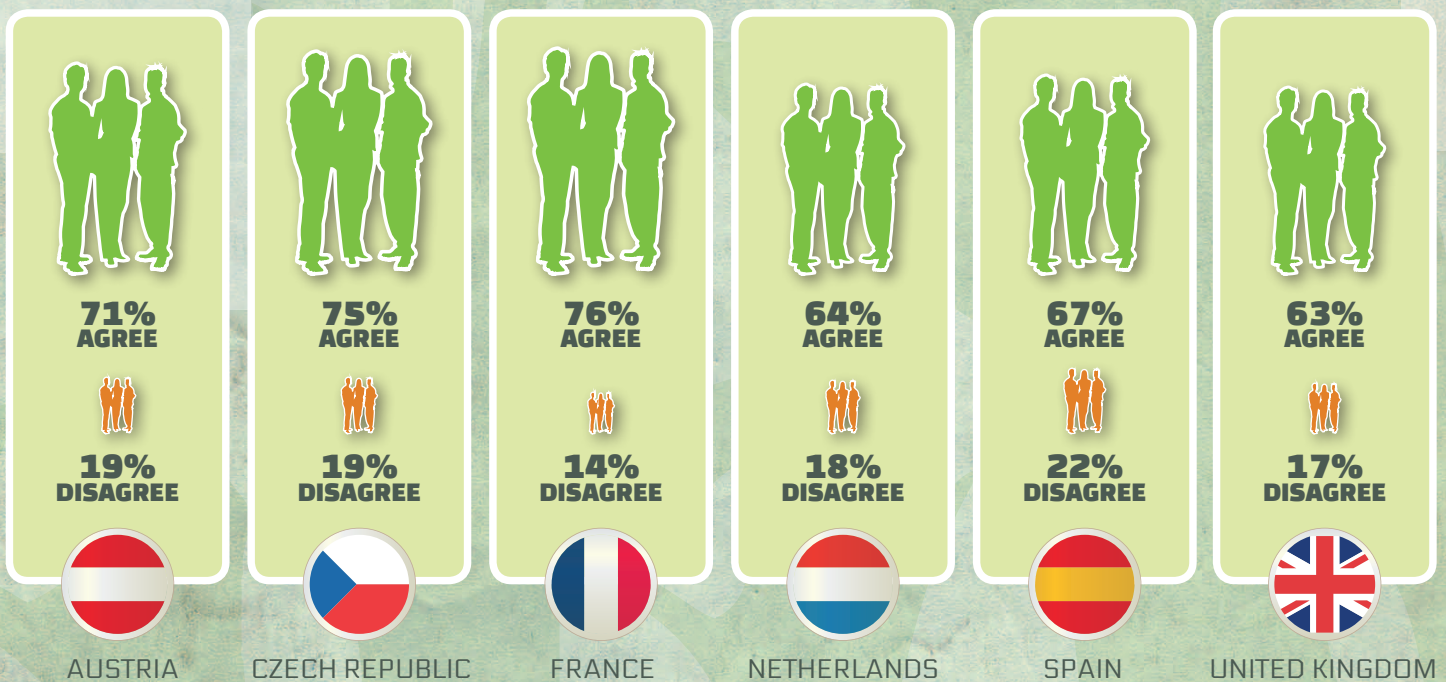
European Parliament and other EU staff, highlighting cases of second employments that create a risk of conflict of interests for particular MEPs and arguing that a second employment could be too time-consuming and prevent the MEP from carrying out his or her duties effectively.



69% AGREE

18% DISAGREE

12% DON'T KNOW



RECOMMENDATIONS

- Members of the European Parliament should publicly declare all their additional earnings and provide information about the source of the income, and the nature of the activity generating it.
- The European Parliament should proactively publish information which allows citizens to monitor the commitment and full-time dedication of MEPs, including levels of attendance, records of participation and records of votes.
- Members of the European Parliament should initiate a public consultation on second jobs and on the possible limits that might be placed on the outside activities of Members of the European Parliament, in order to incorporate these into the Code of Conduct for Members of the European Parliament.

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1028
citizens



AUSTRIA

1022
citizens



CZECH
REPUBLIC

1054
citizens



FRANCE

1050
citizens



NETHERLANDS

1052
citizens



SPAIN

1016
citizens



UNITED
KINGDOM



About the EU Citizens Opinion Poll

The EU Citizens Opinion Poll was conducted by TNS opinion in Austria, Czech Republic, France, the Netherlands, Spain and the United Kingdom. Over 6,000 people were asked what they felt about three cross-cutting issues: lobbying transparency, access to documents and parliamentary ethics in the European Union. Citizens were asked a total of twelve questions, designed to test the degree to which those polled agreed or disagreed with each statement. This report presents the main findings of the poll.

The opinion poll, supported by the Austrian Arbeitskammer (AK Europa), is part of the twelve-month ALTER Citizens Project run by Access Info Europe, AITEC, Environmental Law Service, Friends of the Earth Europe, Health Action International and Spinwatch. Approximately 1,000 questionnaires were completed online in each country from 17–23 January.

To see the country-specific results, please visit:
<http://www.eu-citizens.org>

About the ALTER Citizens Project

There are six organisations involved in the ALTER Citizens Project, which ran from 5 February 2012 to 4 February 2013. These are Access Info Europe - based in Spain, AITEC - based in France, Environmental Law Service - based in the Czech Republic, Friends of the Earth Europe - based in Belgium, Health Action International - based in the Netherlands, and SpinWatch - based in the UK. This analysis of the opinion poll results was produced by Access Info Europe and Spinwatch as part of the ALTER Citizens Project.

The ALTER Citizens Project is a partnership between various organisations specialising in health, environment and the regulation of lobbying, with the central aim behind the project being to increase the transparency of the EU and to allow for greater and more meaningful public participation in EU decision-making.

For more information, please visit:
www.eu-citizens.org



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