

Brussels, 9 December 2024  
(OR. en)

16646/24

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Interinstitutional File:  
2023/0463(COD)

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LIMITE

AG 194  
JAI 1838  
FREMP 458  
DISINFO 132  
HYBRID 150  
MI 1016  
DATAPROTECT 350  
AUDIO 115  
CONSOM 352  
TELECOM 376  
CODEC 2295

**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	16889/23 +ADD1, 10266/24
Subject:	Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries - Presidency progress report

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Delegations will find in Annex the Presidency progress report on the Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries.

## I. INTRODUCTION

1. On 12 December 2023, the Commission adopted the 'Defence of Democracy' package. It consists of:
  - i. A Commission communication on Defence of Democracy<sup>1</sup>.
  - ii. A proposal for a new Directive on Transparency of Interest Representation for third countries<sup>2</sup> (hereinafter referred to as 'the proposed Directive').
  - iii. A proposal for a Regulation amending Regulations (EU) 1024/2012 and (EU) 2018/1724<sup>3</sup> accompanying the proposed Directive.
  - iv. An impact assessment<sup>4</sup> accompanying both legislative proposals in points (ii) and (iii).
  - v. A Commission recommendation on inclusive and resilient electoral processes in the Union and enhancing the European nature and efficient conduct of the elections to the European Parliament<sup>5</sup>.
  - vi. A Commission recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes<sup>6</sup>.
2. In the European Parliament, the Committee on the Internal Market and Consumer Protection (IMCO) is the lead committee. The appointed rapporteur is Adina VALEAN (EPP, Romania). Work in the European Parliament is still ongoing and the European Parliament has not yet adopted its position.

<sup>1</sup> Doc. 16935/23 + ADD 1.

<sup>2</sup> Doc. 16889/23 + ADD 1 + ADD 2.

<sup>3</sup> Doc. 17076/23.

<sup>4</sup> Doc. 16889/23 + ADD 3 + ADD 4; 17076/23 ADD 1 + ADD 2.

<sup>5</sup> Doc. 7434/24.

<sup>6</sup> Doc. 7433/24.

3. The European Economic and Social Committee adopted its Opinion<sup>7</sup> on 24 April 2024.
4. On 8 February 2024, the Committee of Permanent Representatives (Part 2) agreed on the optional consultation<sup>8</sup> of the Committee of the Regions. The Committee of the Regions adopted its Opinion<sup>9</sup> on 17 April 2024.

## II. WORK IN COUNCIL

5. The Commission presented the main elements of the package, including the proposed Directive and the accompanying impact assessment, at the meeting of the Working Party on General Affairs (GAG) on 9 January 2024 and the two Commission recommendations at the meeting of GAG on 11 January.
6. Ministers held an orientation debate on the 'Defence of Democracy' package, including the proposed Directive, at the meeting of the General Affairs Council (GAC) on 29 January on the basis of a Presidency non-paper<sup>10</sup>.
7. On this basis, GAG completed a first examination of the proposed Directive including an exchange on the practical aspects of the proposed Directive and the EU transparency register. Some delegations also shared information on their existing and upcoming national registers / legislation.
8. The Council Legal Service issued a written opinion<sup>11</sup> on the legal basis of the proposal on 25 April 2024.

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<sup>7</sup> Doc. 9738/24.

<sup>8</sup> Doc. 6003/24.

<sup>9</sup> Doc. 10327/24.

<sup>10</sup> Doc. 5428/24.

<sup>11</sup> Doc. 9328/24.

9. The Permanent Representatives Committee (COREPER) discussed the key political issues identified from the discussions at GAG level, at its meeting on 29 May 2024 on the basis of a note<sup>12</sup> identifying the key areas requiring guidance for further work. The Belgian Presidency drew a number of operational conclusions from this COREPER meeting<sup>13</sup>.
10. Ministers held a policy debate at the meeting of the General Affairs Council (GAC) on 25 June on the basis of a note<sup>13</sup>, which included questions to guide the debate. The debate covered the key issues including legal basis, scope and objectives, level of harmonisation, registers and the need for further analysis.
11. During their discussion, ministers confirmed their general support for the objectives of the directive and agreed on the need to address the issue of third country interference. Ministers also agree on the need to have clear definitions based on objective criteria, and avoid stigmatization. Additionally, full harmonisation was broadly rejected.
12. At the same time, some ministers called for:
- i. additional impact assessment, taking into account experience from third countries,
  - ii. safeguards against stigmatisation and for protecting fundamental freedoms,
  - iii. covering all lobbying activities to avoid stigmatisation, and minimising administrative burdens.
13. The Presidency continued work on the legislative proposal at the GAG level on the basis of the debate in the GAC on 25 June, focusing on existing and planned national registers and rules.

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<sup>12</sup> Doc. 10266/24.

<sup>13</sup> Doc. 10805/24.

14. To this end, the Presidency shared a detailed questionnaire on national registers to gain a better understanding of Member States' current and planned national rules and practices regarding the registration of lobbying activities and identifying potential similarities and differences amongst them. The Presidency's assessment of the replies<sup>14</sup> to this questionnaire was presented and discussed at a GAG meeting on 21 November.
15. The responses to the questionnaire reflected a nuanced approach to lobbying transparency across Member States. Responses reflect distinct national frameworks, as well as different positions in relation to the Commission proposal.
16. Member States fall broadly into three categories: (1) those with established lobbying frameworks; (2) those actively developing transparency measures, and; (3) those with minimal or indirect approaches to lobbying. There are also different approaches to definitions and scopes for regulating lobbying, reflecting different national concerns. While some Member States adopt broad definitions, others also adopt narrower ones, applying transparency measures more selectively.
17. The questionnaire responses also revealed concerns from all Member States about the level of harmonisation at the EU level as proposed by the Commission (full harmonisation). The vast majority of Member States that responded to the questionnaire further warned of risks of excessive administrative burdens and cautioned against harmonisation that could undermine effective national systems.
18. Also in the context of the GAG, the Presidency included in the agenda a number of information items on topics relevant to the discussion on the Commission proposal. Those information items were notably on existing tools in the field of tackling foreign influence and hybrid threats (presentations by the chair of the Horizontal Working Party on Enhancing Resilience and Countering Hybrid Threats (HWP ERC-HT) and the European External Action Service (EEAS) and on Technical Support Instrument (TSI) and the Internal Market Information (IMI) system in the context of the proposed Directive (presentation by the Commission).

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<sup>14</sup> Doc. 15070/24.

### III. STATE OF PLAY

19. The COREPER held an exchange of views on key political issues surrounding the Commission proposal on 6 December 2024, on the basis of a Presidency discussion paper<sup>15</sup>.
20. Based on this deliberation, the Presidency drew the following conclusions to guide further work on the file:
- i. further work is necessary to clarify the scope and objectives of the proposal;
  - ii. a minimum harmonisation approach should be followed to ensure the necessary flexibility to cater for national specificities or to allow for stricter rules;
  - iii. work on the proposal should aim at minimising the administrative and financial burden;
  - iv. ensuring safeguards against stigmatisation and protecting fundamental freedoms should be a key concern of the Directive.
21. Many delegations also called for a new impact assessment considering other options – such as the substantive reflection on its content – to achieve the objectives of this proposal. The Commission, while being open to support discussions in the Council, was reluctant to embark on a new full impact assessment. In this context, they called upon delegations to specify those areas in which evidence is considered lacking in the current impact assessment. Delegations emphasised the need for further clarification in the impact assessment concerning the scope and objective of the proposal, the level of harmonisation as well as the compatibility of national registers with the proposal.

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<sup>15</sup> Doc. 16241/24.

#### IV. CONCLUSIONS

22. The Presidency invites the Committee to take note of the progress made.

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