Council of the European Union

Brussels, 21 December 2023
(OR. en)

17076/23

Interinstitutional File: 2023/0462(COD)

AG 188
JAI 1718
FREMP 391
DISINFO 113
HYBRID 91
MI 1163
DATAPROTECT 390
AUDIO 135
CONSOM 509
TELECOM 408
CODEC 2580

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 December 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 636 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1024/2012 and (EU) 2018/1724 as regards certain requirements laid down by Directive (EU) XXXX/XXXX

Delegations will find attached document COM(2023) 636 final.

Encl.: COM(2023) 636 final

EUROPEAN
COMMISSION

Strasbourg, 12.12.2023
COM(2023) 636 final

2023/0462 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 1024/2012 and (EU) 2018/1724 as regards certain requirements laid down by Directive (EU) XXXX/XXXX

(Text with EEA relevance)

{SWD(2023) 663-664 final} - {SEC(2023) 637 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

This proposal accompanies the Commission's proposal for a Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries[1] with a view to improving the functioning of the internal market by achieving a common level of transparency across the Union.

The proposed Directive would require Member States to set up and maintain national registers for the purpose of ensuring transparency of interest representation activities carried out by entities, as well as to designate authorities responsible for these registers. In addition, the proposed Directive would require Member States to designate supervisory authorities having the responsibility to supervise the compliance with and enforcing the obligations set out in the proposed Directive, as well as to exchange information with the supervisory authorities in other Member States and the Commission, where authorised to do so under the proposed Directive.

The administrative cooperation and the exchange of information between the competent national authorities, as well as the Commission, provided for by the proposed Directive should be implemented through the Internal Market Information System ('IMI system') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council[2]. For that reason, the necessary administrative cooperation procedures should be established in the IMI system. Regulation (EU) No 1024/2012 should therefore be amended accordingly.

In addition, in order to minimise the administrative burden on legal entities and natural persons falling within the scope of the proposed Directive, Regulation (EU) 2018/1724 of the European Parliament and of the Council[3] should be amended to provide for easy online access to information on the rights and obligations stemming from the Directive, as well as to ensure that access to and completion of the procedure for registration required by the Directive can be made fully online.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Regulation (EU) No 1024/2012 and Regulation (EU) 2018/1724 are both based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), which provides for the adoption of measures to ensure the establishment and functioning of the internal market. In accordance with the rule that the legal basis of an amending act must be the same as the legal basis of the act being amended, this proposal has the same legal basis as the two Regulations it proposes amending.

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1 COM(2023) 637 final.

2 Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1, ELI: http://data.europa.eu/eli/reg/2012/1024/oj).

3 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/1724/oj).

- **Subsidiarity (for non-exclusive competence)**

The objective of this proposal, namely to make use of existing cooperation tools and digital gateways established at Union level for the purpose of facilitating the implementation of the proposed Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries, cannot effectively be achieved by the Member States independently. Action at Union level is thus necessary.

- **Proportionality**

This proposal makes use of existing IT tools and gateways rather than establishing new ones. As a result, it does not go beyond what is necessary to achieve its objective.

- **Choice of the instrument**

Article 114 TFEU grants the legislator the power to adopt regulations and directives.

Given that this proposal would amend Regulation (EU) No 1024/2012 and Regulation (EU) 2018/1724, and in accordance with the principle that for reasons of legal certainty, an amending act should be of the same type as the original act, a regulation is the appropriate legal instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Impact assessment**

An impact assessment[4] was carried out in context of the preparation of the Commission's proposal for a Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries.

The preferred policy option identified by the impact assessment includes a) amending Regulation (EU) No 1024/2012 to implement the administrative cooperation and the exchange of information provided for by the initiative using existing IT tools and b) amending Regulation (EU) 2018/1724 to provide for easy online access to information on the rights and obligations stemming from that policy option as well as to ensure that access to and completion of the procedure for registration required by that policy option is fully online.

- **Fundamental rights**

This proposal has no impact on fundamental rights separate from any impact that may result from the proposed Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries.

For an assessment of the fundamental rights impact of that proposal, see COM(2023) 637 final.

4. BUDGETARY IMPLICATIONS

The costs required for the extension of the IMI system to enable the administrative cooperation and the exchange of information provided for by the proposed Directive

[4] SWD(2023) 663.

establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries are outlined in COM(2023) 637 final.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The proposed regulation is of technical nature and accompanies the proposed Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries.

Article 1 amends Regulation (EU) No 1024/2012 as regards the use of the IMI system established by that Regulation for the purpose of the proposed Directive. This would allow for the administrative cooperation and exchanges of information between the competent national authorities, as well as the Commission, provided for by Article 11(4), Article 16(5) and (6), Article 17(2), (4) and (5) and Article 18 of the proposed Directive to be implemented through the IMI system.

Article 2 amends Regulation (EU) 2018/1724 as regards the use of the Single Digital Gateway for the purpose of the proposed Directive. For this purpose, a point is added to Annex I to that Regulation to ensure that the Single Digital Gateway gives access to information on rights, obligations and rules laid down in the proposed Directive. In addition, fields are added to the table in Annex II to that Regulation to provide that Member States are to ensure that users can access and complete the registration provided for by the proposed Directive fully online.

2023/0462 (COD)

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amending Regulations (EU) No 1024/2012 and (EU) 2018/1724 as regards certain requirements laid down by Directive (EU) XXXX/XXXX

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Directive (EU) [XXXX/XXXX] of the European Parliament and of the Council[3] lays down harmonised requirements in relation to economic activities of interest representation carried out on behalf of a third country entity, with a view to improving the functioning of the internal market by achieving a common level of transparency across the Union.

(2) The administrative cooperation and the exchange of information between the designated national authorities, or the supervisory authorities, and the Commission, provided for by Directive (EU) XXXX/XXXX is to be implemented through the Internal Market Information System ('IMI system') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council[4]. For that reason, the necessary administrative cooperation procedures should be established in the IMI system. Regulation (EU) No 1024/2012 should therefore be amended accordingly.

(3) In addition, in order to minimise the administrative burden on legal entities and natural persons falling within the scope of Directive (EU) XXXX/XXXX, Regulation (EU)

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1 OJ C […], […], p. […].

2 OJ C […], […], p. […].

3 Directive (EU) XXXX/XXXX of the European Parliament and of the Council European Parliament and of the Council of XXXX establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries and amending Directive (EU) 2019/1937 (OJ L […], […], p. […], ELI: …).

4 Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1, ELI: http://data.europa.eu/eli/reg/2012/1024/oj).

2018/1724 of the European Parliament and of the Council[5] should be amended to provide for easy online access to information on the rights and obligations stemming from Directive (EU) XXXX/XXXX, as well as to ensure that access to and completion of the procedure for registration required by that Directive can be made fully online,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012, the following new point (17) is added:

'17. Directive (EU) [XXXX/XXXX] of the European Parliament and of the Council establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries and amending Directive (EU) 2019/1937*: Article 11(4), Article 16(5) and (6), Article 17(2), (4) and (5) and Article 18.

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* OJ L […], […], p. […], ELI: ….'.

Article 2
Amendments to Regulation (EU) 2018/1724

Regulation (EU) 2018/1724 is amended as follows:

(1) in Annex I, in point 'J. Starting, running and closing a business', the following point (12) is added:

'12. transparency of interest representation';

(2) in Annex II, the table is amended as follows:

(a) the following field is added to the second column 'Procedures':

'Registration of interest representation in accordance with Directive (EU) XXXX/XXXX*

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* Directive (EU) XXXX/XXXX of the European Parliament and of the Council of XXXX establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries and amending Directive (EU) 2019/1937 (OJ L […], […], p. […], ELI: …).';

(b) the following field is added to the third column 'Expected output subject to an assessment of the application by the competent authority in accordance with national law, where relevant':

'Confirmation of registration and issuance of the European Interest Representation Number'.

[5] Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/1724/oj).

Article 3
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*