



Council of the European Union  
General Secretariat

Brussels, 06 October 2025

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**Interinstitutional files:  
2023/0463 (COD)**

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#### NOTE

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From:	General Secretariat of the Council
To:	Working Party on General Affairs

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N° prev. doc.:	ST 9646 2025 REV 1
N° Cion doc.:	ST 16889/23 + ADD 1

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Subject:	Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries - Comments on the revised Presidency compromise text (Chapter I, including recitals 16, 16a, 22, 26, and 27)
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Further to the invitation by the Presidency for contributions at the GAG meeting on 2 July, delegations will find in Annex the written comments from Greek delegation on the revised Presidency compromise text (Chapter I, including recitals 16, 16a, 22, 26, and 27).

Transparency directive - Consultations on Presidency revised compromise text (recitals 8a, 16, 16a, 22, 26, and 27 and Chapter I)

From: EL

Updated: 06/10/2025 11:56

Guidelines to be followed

Please kindly provide your contributions in the table below.

**Drafting suggestions:** you may use 'track changes' or formatting (for example bold-underline for additions and ~~strike through~~ for deletions, where necessary, in a different colour).

**Name of document:** please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on ... .docx**

Thank you for your cooperation!

Revised Presidency compromise text	Comments and drafting suggestions and N/A
General comments	
<p><b><u>(8a) The Member States' assessment of the risk of foreign interference they face as well as their approaches to transparency differ. It is therefore appropriate to approximate the heterogeneous regulatory situation in Member States to a common minimum standard. Accordingly, Member States should be allowed to maintain existing or introduce additional measures promoting a higher level of transparency or democratic accountability of interest representation activities falling within the scope of this Directive. Such national measures should however be consistent with the objectives of this Directive and respect Union law. In particular, they should not constitute arbitrary restrictions towards specific entities, nor create a climate of distrust or stigmatisation for the entities which are subject of these requirements.</u></b></p>	

Transparency directive - Consultations on Presidency revised compromise text (recitals 8a, 16, 16a, 22, 26, and 27 and Chapter I)

From: EL

Updated: 06/10/2025 11:56


Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p>(16) In order to harmonise transparency requirements, it is necessary to provide for a common definition of interest representation <b>activity</b>. <del>To ensure the correct application of the harmonised transparency requirements,</del> <b>The concept of interest representation activities should be understood as communication with public officials designed to influence</b> <del>have a broad meaning. It should cover activities carried out with the objective of influencing</del> the development, formulation or implementation of policy or legislation, or public decision-making processes <b>in the Union,</b> <del>including by impacting public opinion, in the Union and its Member States, including at regional and local levels. It should not cover communications in the exercise of individual rights nor in submissions made in response to direct and specific requests from public officials made on behalf of the authority or institution they represent, including responding to public consultations.</del></p>	<p></p>
<p><b>(16a) For the purposes of the definition of ‘interest representation activity’, implementation of policy or legislation should be understood as taking decisions on how such policy or legislation are to be applied or operationalised in practice, such as decisions on implementing rules and the preparation of guidelines or standards. It should not include the work of public officials who execute established public policies and are not involved in or have no influence on such decisions, for instance teachers, postal officers and medical staff, where they are considered public officials in accordance with national rules.</b></p>	<p></p>
<p>(22) For the purposes of this Directive, <b>a definition of public</b> officials should be <b>provided covering both</b> <del>understood as officials of the</del> European Union and officials of Member States. <del>holding a legislative,</del></p>	<p></p>

Transparency directive - Consultations on Presidency revised compromise text (recitals 8a, 16, 16a, 22, 26, and 27 and Chapter I)

From: EL

Updated: 06/10/2025 11:56

Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p><del>executive, administrative or judicial office in a Member State at national, regional or local level.</del></p>	
<p>(26) For the purpose of interest representation services provided to a third country entity, any consideration received in return for the interest representation service in question should be considered as remuneration for the purposes of this Directive. This could cover financial contributions, such as loans, capital injection, debt forgiveness, fiscal incentives or tax exemption, <b><u>where it is demonstrated that these are granted as a form of implicit remuneration for</u></b> <del>received in return of an</del> <b><u>interest representation activity on behalf of a third country entity.</u></b> Remuneration could also include benefits in kind, such as the provision, construction and maintenance of office space in return for an interest representation service. In such situations, the interest representation services provider would be responsible for estimating the value of the benefit received, for example by using the market rate.</p>	
<p>(27) The Court has held that the essential characteristic of remuneration lies in the fact that it constitutes consideration for the services in question. Contributions to the core funding of an <b><u>entity organisation</u></b> <del>organisation</del> or similar financial support, for example provided under a third country donor grant scheme, should not be considered as remuneration for an interest representation service where they are unrelated to an interest representation activity, that is, where the entity would receive such funding regardless of whether it carries out specific interest representation activities <b><u>or the interest representation activity is undertaken in pursuit of the established objectives of the entity and not on behalf of a third country entity.</u></b></p>	

Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p style="text-align: center;"><b>CHAPTER I – GENERAL PROVISIONS</b></p> <p style="text-align: center;"><i>Article 1</i> <i>Object and purpose</i></p> <p>This Directive 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 <del>common</del> <b>minimum</b> level of transparency across the Union, <b>in support of democratic accountability and public trust</b>.</p>	
<p><del>The purpose of this Directive is to achieve that transparency in such a manner as to avoid creating a climate of distrust apt to deter natural or legal persons from Member States or third countries from engaging with or providing financial support to entities carrying out interest representation on behalf of a third country entity.</del> <b>The harmonised transparency requirements of this Directive do not affect Union or national rules regulating aspects on interest representation activities other than those covered by this Directive.</b></p>	

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Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p style="text-align: center;"><i>Article 2</i> <i>Definitions</i></p> <p>For the purpose of this Directive, the following definitions apply:</p> <p>(1) ‘<b>interest representation activity</b>’ means <del>an activity</del> <b>communication with public officials, irrespective of the format or medium, and conducted with the objective of influencing</b> <del>designed to influence</del> the development, formulation or implementation of policy or legislation, or public decision-making processes, in the Union <del><b>national, regional, or local level</b></del> <b>and with the exception of communications in the exercise of individual rights;</b> <del>which could in particular be performed through organising or participating in meetings, conferences or events, contributing to or participating in consultations or parliamentary hearings, organising communication or advertising campaigns, organising networks and grassroots initiatives, preparation of policy and position papers, legislative amendments, opinion polls, surveys or open letters, or activities in the context of research and education, where they are specifically carried out with that objective</del></p>	<p>EL (Comments and drafting suggestions):</p> <p>The phrase “<i>and with the exception of communications in the exercise of individual rights</i>” in the definition of Article 2(1) we consider is problematic and needs to be specified because:</p> <ul style="list-style-type: none"> <li>• It is unclear what exactly is meant by “exercise of individual rights”; this could allow lobbying activities to be presented as “individual rights.”</li> <li>• It creates a loophole for circumvention, especially when third countries or related entities could conceal themselves behind the notion of “<i>exercise of rights</i>.”</li> </ul> <p>The proposed redraft is as follows:</p> <p>[...designed to influence the development, formulation or implementation of policy or legislation, or public decision-making processes, in the Union with the exception of communications in the exercise of individual rights, <i>where such communications are strictly limited to the defence or enforcement of procedural rights before judicial or administrative authorities, and are not intended to influence policy-making.</i>”</p>
<p>(2) ‘<b>interest representation service</b>’ means an interest representation activity normally provided for remuneration, as referred to in Article 57 of the Treaty on the functioning of the European Union;</p>	

**Transparency directive - Consultations on Presidency revised compromise text (recitals 8a, 16, 16a, 22, 26, and 27 and Chapter I)**

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**Updated: 06/10/2025 11:56**

<b>Revised Presidency compromise text</b>	<b>Comments and drafting suggestions and N/A</b>
(3) <b>‘interest representation service provider’</b> means a natural or legal person that provides an interest representation service;	
(4) <b>‘third country entity’</b> means: (a) the central government and public authorities at all other levels of a third country, with the exception of members of the European Economic Area;	
(b) a public or private entity whose actions can be attributed to an entity referred to in point (a), taking into account all relevant circumstances;	
(5) <b>‘ancillary activity’</b> means an activity that supports the provision of an interest representation activity but has no direct influence on its content;	
(6) <b>‘annual amount’</b> means: (a) the total annual remuneration received from a third country entity for the provision of an interest representation service, consisting, where the remuneration is non-pecuniary, of its estimated value; or	

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<p>(b) where no remuneration is received, the estimate of the annual costs related to the interest representation activity carried out;</p> <p>taking into account the interest representation activity as a whole, including, when carried out by a service provider on the basis of contractual arrangements, costs for subcontractors and ancillary activities;</p>	
<p>(7) ‘<b>subcontractor</b>’ means an interest representation service provider with whom a main contractor, or one of its subcontractors, concludes a contract under which it is agreed that the subcontractor performs some or all parts of an interest representation activity that the main contractor has committed to carry out;</p>	
<p>(8) ‘<b>registered entities</b>’ means entities registered in a national register as referred to in Article 9 pursuant to Article 10;</p>	
<p>(9) <del>‘<b>authority responsible for the national register</b>’ means the public authority or body responsible for maintaining a national register as referred to in Article 9 and processing registrations submitted pursuant to this Directive;</del></p>	
<p>(10) <del>‘<b>supervisory authority</b>’ means the independent public authority responsible for the supervision of the compliance with and enforcement of the obligations laid down in this Directive;</del></p>	
<p>(11) ‘<b>public official</b>’ means:</p> <p>(a) a Union official or <del>an official of a Member State;</del></p>	

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Updated: 06/10/2025 11:56

Revised Presidency compromise text	Comments and drafting suggestions and N/A
(b) <del>an official of a Member State any other person assigned and exercising a public service function in a Member State;</del>	
(12) 'Union official' means a person who is: (a) an official or other servant within the meaning of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>1</sup> ;	
(b) seconded to the Union by a Member State or by any public or private body, who carries out functions equivalent to those performed by Union officials or other servants;  Members of an institution, body, office or agency of the Union and the staff of such bodies shall be assimilated to Union officials, in as much as the Staff Regulations do not apply to them.	

<sup>1</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1, ELI: [http://data.europa.eu/eli/reg/1968/259\(1\)/oj](http://data.europa.eu/eli/reg/1968/259(1)/oj)).

Transparency directive - Consultations on Presidency revised compromise text (recitals 8a, 16, 16a, 22, 26, and 27 and Chapter I)

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Updated: 06/10/2025 11:56

Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p>(13) <b>‘official of a Member State’</b> means any person <b>that is directly involved in the development, formulation or implementation of policy or legislation, or public decision-making processes and either:</b></p> <p>a) <b>holds <del>holding an executive, legislative, administrative, or judicial office in a Member State, or</del> at national, regional or local level, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority and any person holding a legislative office at national, regional or local level</b></p>	<p>EL  <b>(Comments and drafting suggestions):</b>                      We consider that the word “<i>judicial</i>” [13(α)] should be removed as members of the judiciary shall at all times preserve their independence and impartiality.                      Any attempt of influencing members of the judiciary, constitutes a threat to judicial independence and undermines the fundamental principle of the separation of powers</p>
<p><b>b) _____ exercises a public service function in a Member State in accordance with national law.</b></p>	
<p style="text-align: center;"><i>Article 3</i> <i>Scope</i></p> <p>1. This Directive applies to entities, irrespective of their place of establishment, carrying out the following activities:</p> <p>(a) an interest representation service provided to a third country entity <b>either directly or through subcontracting;</b></p>	
<p>(b) an interest representation activity carried out by a third country entity referred to in Article 2(4), point (4)(b), that <del>is linked to or</del> substitutes activities of an economic nature and is thus comparable to an interest representation service as referred to in point (a) of this paragraph.</p>	

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<p>2. Notwithstanding paragraph 1 <b>of this Article</b>, this Directive shall not apply to the following activities:</p> <p>(a) activities carried out directly by a third country entity referred to in Article 2(4), point (4)(a), that are connected with the exercise of official authority, including activities related to the exercise of diplomatic or consular relations between States or international organisations;</p>	<p>Public</p>
<p>(b) the provision of legal and other professional advice in the following cases:</p> <p>(i) advice to a third country entity to help it ensure that its activities comply with existing legal requirements;</p>	
<p>(ii) representation of third country entities in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before, or adjudicated on by, a judicial or administrative body;</p>	
<p>(iii) representation of third country entities in legal proceedings;</p>	<p>EL  <b>(Comments and drafting suggestions):</b>                      We consider that the following note should be added under point (b): <i><b>The exclusions under point (b) shall not extend to advisory or consultancy services which, though presented as legal or professional advice, are de facto intended to influence policy or decision-making and consist in preparing or transmitting communications, position papers, or</b></i></p>

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	<i>advocacy strategies to public officials, with the purpose of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes .”</i>
(c) ancillary activities.	
<b>2a. Contributions to the core funding of an <u>entity-organisation</u> or similar financial support <u>including grants</u>, shall not be considered as remuneration for an interest representation service where they are unrelated to an interest representation activity <u>carried out on behalf of a third country entity, that is where the entity would have received such funding regardless of whether it carries out specific interest representation activities or not.</u></b>	

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Revised Presidency compromise text	Comments and drafting suggestions and N/A
<p style="text-align: center;"><i>Article 4</i> <i>Level of harmonisation</i></p> <p>1. Member States shall not <del>may</del> maintain <b>existing</b> or introduce <b>additional measures to promote a higher level of transparency or democratic accountability of interest representation activities</b> for <del>interest representation activities</del> falling within the scope of this Directive <b>provided that such measures are consistent with the objectives</b> <del>provisions diverging from those laid down in this Directive</del> <b>and respect Union law</b>, including more, or less, stringent provisions to ensure a different level of transparency of those activities. <b><u>In particular, such measures shall not constitute arbitrary restrictions towards specific entities and shall not create a climate of distrust or stigmatisation for the entities subject to the transparency requirements.</u></b></p>	<p style="text-align: center;">PUBLIC</p>
<p>2. By derogation from paragraph 1 of this Article, Member States shall not maintain existing or introduce additional measures in respect of Article 10(1)-(3), Article 11(3), Article 22(2) and Annex II.</p>	