



Council of the European Union
General Secretariat

Brussels, 31 January 2025

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

WK 1316/2025 INIT

LIMITE

AG
JAI
FREMP
DISINFO
HYBRID

MI
DATAPROTECT
AUDIO
CONSUM
TELECOM
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

MEETING DOCUMENT

| | |
|---------------|---|
| From: | General Secretariat of the Council |
| To: | Working Party on General Affairs |
| N° Cion doc.: | 16889/23 + ADD 1 |
| Subject: | Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries - Presidency discussion paper |

Delegations will find, in the [Annex](#) to this note, a Presidency discussion paper on the above-mentioned proposal to be used as a basis for the meeting of the Working Party on General Affairs (GAG) on 6 February 2025, identifying key political issues and relevant questions to be addressed.

Proposal for a Directive 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

Presidency discussion paper for the meeting of the General Affairs Group on 6 February 2025.

1. Background

Following a first examination of the proposed Directive in the Working Party on General Affairs ('GAG') and informal consultations, the Presidency identified key political issues¹ which were referred to the Permanent Representative Committee ('COREPER') for guidance on further work on 29 May 2024. The Presidency identified a number of operational conclusions on this basis which were referred to ministers at the meeting of the General Affairs Council (GAC) on 25 June 2024.

At this meeting, ministers held a policy debate on the basis of a note² which included questions to guide the policy debate on key issues including legal basis, scope and objectives, level of harmonisation, registers and the possible need for further analysis. Ministers also took note of the operational conclusions reached on the basis of the COREPER meeting on 29 May, as laid down in paragraphs 12 to 15 of that note. At this debate, ministers confirmed general support for the objectives of the proposed directive and provided guidance for further work, stressing the need to address the risk of foreign interference in our democratic processes while avoiding that this legislation is perceived as a foreign agents law.

The Presidency continued work at the GAG level on the basis of the guidance provided by ministers, focusing on existing and planned national registers and rules. To this end, the Presidency shared a detailed questionnaire on national registers with delegations. The Presidency's assessment of the replies³ to this questionnaire was presented and discussed at a GAG meeting on 21 November.

¹ Doc. 10266/24.

² Doc. 10805/24.

³ Doc. 15070/24 + ADD 1.

On 6 December 2024, COREPER held an exchange of views on the basis of a note⁴ identifying key political issues following the Presidency's assessment on the replies to the questionnaire. The conclusions from this exchange of views were presented to COREPER on 13 December, as part of a note⁵ presenting the latest state of play on the file.

2. Basis for further work

Based on the discussions to date, the Presidency intends to work on the basis of the following conclusions:

- i. **Article 114** as the legal basis and consequently preserve the **internal market rationale** and cover activities of an **economic nature** only.
- ii. Work on the basis of **registers** at national level possibly based on a common architecture and linked through a portal at the EU level.
- iii. Adopt an overall **minimum harmonisation** approach to provide the necessary flexibility to respect the specificities of national systems and to allow for stricter national rules, while keeping in mind that **some provisions** may require a higher degree of harmonisation for an effective implementation of the Directive, smooth cooperation between Member States and addressing the concerns of possible misuse of certain provisions.
- iv. **Clear and operational definitions** based on objective criteria, as well as any **exclusions**.
- v. Avoid **stigmatisation** and **protect fundamental freedoms**, with the necessary safeguards.

The discussions also indicated that further work is needed to clarify the **scope** and **objectives** of the proposed Directive, before examining other outstanding issues, in particular on **definitions**, **sanctions** and **safeguards**.

⁴ Doc. 16241/24.

⁵ Doc. 16646/24.

To this end, and as announced at the GAG meeting on 16 January 2025, the Presidency intends to continue work on the key political issues of **harmonisation** and then turn to the elements related to **scope** and **objectives**, starting with the **interest representation activities to be covered**, in particular whether to cover **all interest representation activities** or only those on **behalf of third countries**.

3. Elements for discussion

At the GAG meeting of 6 February, the Presidency proposes to start with the examination of the following issues:

Level of harmonisation

Based on the discussion and on the informal consultations to date, **all delegations** have called for more flexibility to be introduced in the Directive to address national specificities to ensure compatibility with existing or upcoming national rules and to allow for stricter national rules.

However, some delegations also indicated willingness to consider **a higher degree of harmonisation** (full harmonisation) of certain aspects to ensure the efficient functioning of the Directive and compatibility across the EU for certain aspects of the Directive.

In this regard, some provisions which may require a **higher degree of harmonisation** may include: the core elements for registration and national registers, cross-border cooperation and information sharing, scope of information accessible to public, elements of reporting to the Commission, legal representative, maximum amount of financial sanction. On the other hand, more flexibility may be required for example on matters related to competent and supervisory authorities and registration procedures.

Interest representation activities to be covered

The agreed solutions concerning the level of harmonisation might have direct impact on the discussion on the scope of the proposal.

The main relevant element concerning the **scope** is the **interest representation activities to be covered**; essentially whether to cover entities carrying out **any interest representation activity** (in other words, all lobbyists), or only those carrying out interest representation activities **on behalf of third countries**, as currently proposed by the Commission.

The majority of delegations **support the Commission's proposed approach** to cover only interest representation activities carried out on behalf of third countries.

However, in the context of **a more flexible approach** (minimum harmonisation approach) as indicated above, various delegations are **open** to consider a broader approach which covers **all interest representation activities**. These delegations also argue that this approach would eliminate the **risks of stigmatisation** and avoid possible loopholes and circumvention.

Finally, and irrespective of the interest representation activities covered, a discussion on activities to be excluded will be necessary.

4. Questions for discussion

On this basis, delegations are invited to address the following questions:

1. *Which provisions do you consider require minimum harmonisation (i.e. more flexibility for Member States)?*
2. *In the interest of ensuring effectiveness of the rules and smooth cooperation across Member States, which provision do you consider should be subject to a higher level of harmonisation?*
3. *In light of the minimum harmonisation approach, do you favour working on the basis of the Commission's proposed approach (i.e. interest representation activities carried out on behalf of third countries) or are you open to cover all interest representation activities (i.e. all lobbyists), subject to the appropriate exclusions?*