



Council of the European Union
General Secretariat

Brussels, 14 February 2025

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

WK 1841/2025 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.

NOTE

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

N° Cion doc.: IM 14784 2023 INIT

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 19 February 2025, identifying key political issues and relevant questions to be addressed.

WK 1841/2025 INIT

LIMITE

EN

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 19 February 2025.

1. Background

As announced at the meeting of the Working Party on General Affairs ('GAG') on 16 January, the Presidency intends to continue work on the proposed Directive on the basis of the discussions held to date.

In particular, and as indicated in the progress report¹ presented to the Committee of Permanent Representatives ('COREPER') on 13 December, further work is needed to clarify the **scope** and **objectives** of the proposed Directive, before examining other outstanding issues.

GAG continued its work on the **scope and objectives** at its meeting on 6 February on the basis of a Presidency discussion paper². At that meeting, GAG took note of a number of conclusions which the Presidency drew on the basis of discussions to date and which will form the basis for further work. At the same meeting, GAG also examined the key issue of **harmonisation** and started the examination of one of the key elements linked to the **scope and objectives** of the proposal – whether the proposed Directive should cover **all interest representation activities** or interest representation activities carried out on **behalf of third countries**.

As a next step, the Presidency proposes to continue the discussion on the scope and objectives of the proposal and to examine, in more detail, what **type of activities** should be considered as 'interest representation activities' for the purposes of the proposed Directive and any possible **exclusions**.

¹ Doc. 16646/24.

² Doc. WK 1316/25

2. Elements for discussion

At the GAG meeting of 19 February, the Presidency proposes to examine the following key elements:

Type of interest representation activities

After examining the question on whether the proposed Directive should cover all interest representation activities or only those carried out on behalf of third countries, the next element which the Presidency puts forward for discussion is the **types of interest representation activities** to be considered for the purposes of the proposed Directive. This element is directly linked to the **definition** of ‘interest representation activity’ (Article 2(1)).

As discussions have already shown, and as highlighted in the previous discussion paper³, in view of the **Article 114** TFEU legal basis, interest representation activities and services need to be linked to **economic activities**.

However, questions surrounding the approach to apply are still pending. More precisely, the definition proposed by the Commission takes a broad approach and covers activities carried out with the objective of influencing any public decision making processes. The aim is to capture various ‘**indirect**’ **forms of interest representation activities**, in addition to the more evident ‘direct’ forms such as meetings or other type of oral or written communication with public officials or policy-makers. According to the Commission’s proposal, **indirect interest representation activities** could “*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.*”

³ Doc. WK 1316/25

While all delegations call for a clear and objective definition, various delegations support the **broader approach** proposed by the Commission to minimise loopholes. Nevertheless, these delegations still call for more clarity and for more objectivity by clarifying the meaning of various elements of the definition, such as ‘objective of influencing’ and ‘public decision-making processes’.

On the other hand, other delegations argue that a broader approach may be criticised on account of undermining the freedom of expression and could bring about legal uncertainty, making implementation and enforcement more difficult, as well as possibly leading to different interpretations across Member States. These delegations argue therefore for a **narrower approach** to the definition of ‘interest representation activity’.

In this regard, one possible approach suggested by delegations would be to limit the interest representation activities only to **direct forms** of lobbying (oral and written forms). Other suggested options also include, amongst others, limiting the definition to certain **processes** (such as ‘drafting of legislation’) or circumscribing the **target audience/level** (such as high level officials / ministers only).

In some delegations’ view a narrower definition using objective criteria, such as the above amongst others (or a combination thereof), would make rules more clear and greatly facilitate implementation and enforcement.

Exclusions

The Commission proposal **excludes a number of interest representation activities** from the scope of the proposed Directive, such as diplomatic activities, the provision of legal and other professional advice under defined circumstances, such as for the purpose of representation in legal, conciliation or mediation proceedings and other targeted activities providing professional advice, as well as ancillary activities.

Delegations raised various comments in this regard. While some delegations asked for more interest representation activities to be excluded from the scope of the directive, other delegations expressed a preference to minimise excluded activities, questioning even some of the exclusions proposed by the Commission.

3. Questions for discussion

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

- 1. As regards the types of interest representation activities to be covered, do you consider the Commission's proposed approach as a good basis for further work or do you prefer a narrower approach as indicated above?*
- 2. Irrespective of the preferred approach, what additional criteria/clarifications do you consider necessary to ensure legal clarity and facilitate the implementation of the proposed Directive?*
- 3. What specific interest representation activities do you think should be excluded from, or explicitly included in, the scope of the proposed Directive?*