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General Secretariat

Brussels, 06 June 2025

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NOTE

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

N° prev. doc.:	WK 5510 2025
N° Cion doc.:	ST 16889/23 + ADD 1

Subject:	Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries - Comments on the Presidency compromise text (Chapter I)
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Further to the invitation by the Presidency for contributions at the GAG meeting on 13 May, delegations will find in Annex written comments from Italy and additional comments from Spain on the Presidency compromise text (Chapter I).

Proposal for a Directive on Transparency of Interest Representation on behalf of Third Countries

Deadline: 23 May 2025

From: ES, IT

Updated: 06/06/2025 11:40

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 ondocx**

Thank you for your cooperation!

Presidency compromise text	Comments and drafting suggestions and N/A
General comments	IT (Comments and drafting suggestions): <i>Reaffirming its steady support to the objectives of the Directive, Italy reiterates the paramount need for legal clarity, foreseeable implementation, reduction of administrative burdens, subsidiarity and proportionality. In this vein, the Presidency's compromise text incorporates changes in the right direction: the adoption of a minimum harmonization regime, an approach of general flexibility granted to Member States (including for the designation of the supervisory authorities responsible for supervision and enforcement), the revision of certain provisions imposing an excessive administrative burden on the Member States. We support as well the new provisions aimed at preventing stigmatization on specific groups that may receive funding from third countries.</i>

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<p style="text-align: center;">CHAPTER I – GENERAL PROVISIONS</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 common minimum level of transparency across the Union, <u>in support of democratic accountability and public trust.</u></p> <p>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. <u>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.</u></p>	<p style="text-align: center; font-size: 48px; opacity: 0.3; transform: rotate(-15deg);">PUBLIC</p>
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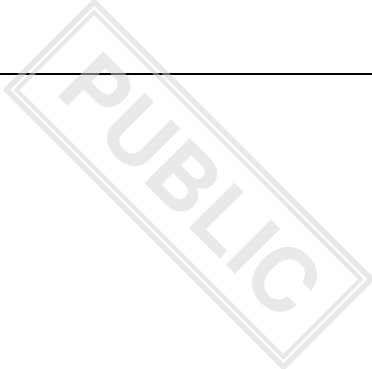
<p style="text-align: center;"><i>Article 2</i> <i>Definitions</i></p>	
<p>For the purpose of this Directive, the following definitions apply:</p> <p>(1) ‘interest representation activity’ means an activity <u>any communication with public officials, irrespective of the format or medium, and</u> conducted with the objective of influencing <u>designed to influence</u> the development, formulation or implementation of policy or legislation, or public decision-making processes, at in the Union, <u>national, regional or local level and with the exception of communications in the exercise of individual rights;</u> 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</p>	<p>ES (Comments and drafting suggestions):</p> <p>ES additional comments:</p> <ul style="list-style-type: none"> - Recital (16): ...<i>in the Union and its Member States, including at regional and local levels.</i> <p>IT (Comments and drafting suggestions):</p> <p><i>In the definition of an interest representation activity, the explicit reference to "direct" communications should be included, in order to further narrow the scope.</i></p>
<p>(2) ‘interest representation service’ 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>	
<p>(3) ‘interest representation service provider’ means a natural or legal person that provides an interest representation service;</p>	

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<p>(4) ‘third country entity’ means:</p> <ul style="list-style-type: none">(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;	
<p>(5) ‘ancillary activity’ means an activity that supports the provision of an interest representation activity but has no direct influence on its content;</p>	<p>IT (Comments and drafting suggestions): <i>Italy suggests to better clarify the content of the ancillary activities, both in art 2 and in art. 3, para 2, letter c).</i></p>
<p>(6) ‘annual amount’ means:</p> <ul style="list-style-type: none">(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(b) where no remuneration is received, the estimate of the annual costs related to the interest representation activity carried out; <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) ‘subcontractor’ means an interest representation service provider with whom a main contractor, or one of its</p>	

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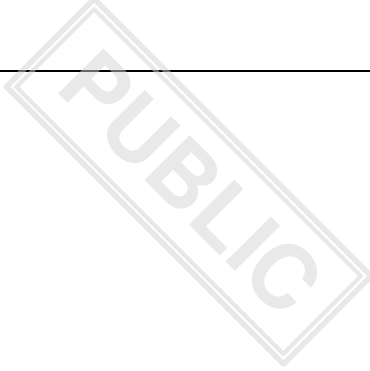
<p>subcontractors, concludes a contract under which it is agreed that the subcontractor performs some or all parts of an interest representation activity that the main contractor has committed to carry out;</p>	<p align="center">PUBLIC</p>
<p>(8) ‘registered entities’ means entities registered in a national register as referred to in Article 9 pursuant to Article 10;</p>	
<p>(9) ‘authority responsible for the national register’ 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;</p>	<p>IT (Comments and drafting suggestions): <i>Italy suggests foreseeing a definition of authority in line with what is now established in the new art. 15 "Supervisory authorities" which entrust to one or more authorities the control of compliance with and enforcement of the obligations laid down in the Directive.</i></p>
<p>(10) ‘supervisory authority’ means the independent public authority responsible for the supervision of the compliance with and enforcement of the obligations laid down in this Directive;</p>	
<p>(11) ‘public official’ means: (a) a Union official or an official of a Member State; (b) an official of a Member State any other person assigned and exercising a public service function in a Member State;</p>	

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<p>(12) ‘Union official’ means a person who is:</p> <p>(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 259/68¹;</p> <p>(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;</p> <p>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.</p>	
<p>(13) ‘official of a Member State’ means any person <u>exercising a public service function in a Member State in accordance with national law that is directly involved in the development, formulation or implementation of policy or legislation, or public decision-making processes</u> holding an executive, administrative, or judicial office 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;</p>	<p>ES (Comments and drafting suggestions):</p> <p>ES additional comments:</p> <ul style="list-style-type: none">- Recital (22): <i>For the purposes of this Directive, public officials should be understood as officials of the European Union and officials of Member States holding a legislative, executive, administrative or judicial office at national, regional or local level.</i>

¹ 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)).

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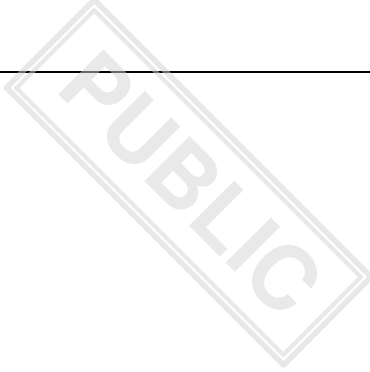
<p style="text-align: center;"><i>Article 3</i> <i>Scope</i></p> <p>1. This Directive applies to entities, irrespective of their place of establishment, carrying out the following activities:</p> <ul style="list-style-type: none">(a) an interest representation service provided to a third country entity either directly or through subcontracting;(b) an interest representation activity carried out by a third country entity referred to in Article 2(4), point (4)(b), that is linked to or 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 style="text-align: center; font-size: 48px; opacity: 0.3; transform: rotate(-30deg); border: 1px solid black; padding: 10px;">PUBLIC</p>
<p>2. Notwithstanding paragraph 1 of this Article, this Directive shall not apply to the following activities:</p> <ul style="list-style-type: none">(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;(b) the provision of legal and other professional advice in the following cases:<ul style="list-style-type: none">(i) advice to a third country entity to help it ensure that its activities comply with existing legal requirements;(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;(iii) representation of third country entities in legal proceedings;	<p>IT (Comments and drafting suggestions):</p> <p><i>With reference to art. 3, para. 2, a) we suggest setting out an explicit reference to the entities referred to in Article 2, point 4), namely the central government and public authorities at all other levels of a third country, with the exception of members of the European Economic Area. We also suggest better clarifying the definition of the provision of legal advice under para 2 b) (i) .</i></p>

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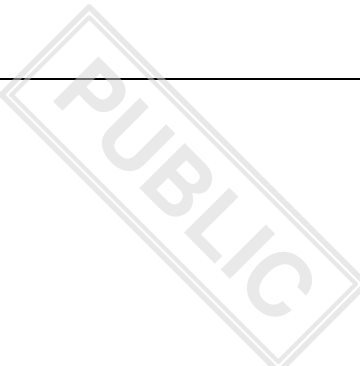
<p>(c) ancillary activities.</p>	
<p><u>2a. Contributions to the core funding of an organisation or similar financial support shall not be considered as remuneration for an interest representation service where they are unrelated to an interest representation activity.</u></p>	

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<p style="text-align: center;"><i>Article 4</i> <i>Level of harmonisation</i></p> <p><u>1.</u> Member States shall not <u>may</u> maintain <u>existing</u> or introduce <u>additional measures to promote a higher level of transparency or democratic accountability of interest representation activities</u> for interest representation activities falling within the scope of this Directive <u>provided that such measures are consistent with the objectives</u> provisions diverging from those laid down in this Directive <u>and respect Union law,</u> including more, or less, stringent provisions to ensure a different level of transparency of those activities. <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></p>	
<p><u>2.</u> <u>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.</u></p>	