Council of the
European Union

Brussels, 14 December 2023
(OR. en)

16889/23
ADD 3

Interinstitutional File:
2023/0463(COD)

AG 181
JAI 1687
FREMP 377
DISINFO 108
HYBRID 86
MI 1136
DATAPROTECT 378
AUDIO 129
CONSOM 489
TELECOM 396
IA 367
CODEC 2518

COVER NOTE

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.:	SWD(2023) 663 final
Subject:	COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a Directive 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 and 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 SWD(2023) 663 final.

Encl.: SWD(2023) 663 final

EUROPEAN
COMMISSION

Strasbourg, 12.12.2023
SWD(2023) 663 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a Directive 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

and

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

{COM(2023) 637 final} - {SEC(2023) 637 final} - {SWD(2023) 660 final} - {SWD(2023) 664 final}

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Glossary and acronyms

Term or acronym	Meaning
Actions on behalf of third countries	Actions that can ultimately be attributed to a central government or public authorities of a country. It would cover situations where a government is behind the decision of another entity to have interest representation activities carried out on its behalf, in particular by giving instructions or directives to that entity[1]. It would also cover entities that are controlled[2] by the government or a public authority[3].
AVMSD	Audiovisual Media Services Directive
CER Directive	Critical Entities Resilience Directive
CFSP	Common Foreign and Security Policy
Civil society organisation (CSO)	Non-governmental organisations and institutions of civil society, active in the field of fundamental rights, which are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members.[4]
DSA	Digital Services Act
ECNE	European Cooperation Network on Elections
EMFA	European Media Freedom Act
FDI	Foreign direct investment
FIMI	Foreign information manipulation and interference
Foreign influence	Intervention by third country governments to influence the democratic sphere including legislation and policies, also by shaping public opinion in a way which benefits their interests.
Foreign interference	Foreign interference is used to differentiate between influencing activities that are integral to diplomatic relations and activities that are carried out by, or on behalf of, a foreign state-level actor, which are coercive, covert, deceptive, or corrupting and are contrary to the sovereignty, values, and interests of the Union.[5]

1 This would cover instructions by the government, though directives or legal requirements.

2 A government or a public authority would control an entity carrying interest representation where through economic rights, contractual arrangements, or any other means, either separately or combination confer the possibility of exercising decisive influence on that entity.

3 Based on Article 3(3) of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market.

4 See Article 10 of Council Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights and the Council of Europe Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe.

5 There is no common definition of foreign interference in EU law. Furthermore, no common definition exists in academia. In order to ensure consistency with recent EU publications, the definition is based on the definition used in the Commission Staff Working Document on Tackling Research and Innovation foreign interference (European Commission, Directorate-General for Research and Innovation, Tackling R&I foreign interference – Staff working document, Publications Office of the European Union, 2022, https://data.europa.eu/doi/10.2777/513746). This definition uses elements from the

GDPR	General Data Protection Regulation
IMI system	Internal Market Information System
Interest representation	Interest representation means an activity conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes in the Union. It covers a broad range of activities. It would include both activities that aim to influence public decision-making both **directly** (e.g. direct engagements with public officials) and **indirectly** (e.g. the dissemination of research outputs, the organisation of and participation in conferences / events, and the provision of education, training and cultural engagement, when performed with the same objective).
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
Public Official	Member States and Union officials.
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
Third country	Countries outside of the European Economic Area (EEA).
Third country entity	The central government and public authorities at all other levels of a third country as well as a public or private entity whose actions can be attributed to such central government or public authorities.

Australian foreign interference legislation which is often used as a reference when defining foreign interference (i.e. that foreign interference is by nature coercive, covert, deceptive, or corrupting, 'Foreign Influence Transparency Scheme', Australian Government, available at: https://www.ag.gov.au/integrity/foreign-influence-transparency-scheme.). Additionally, the definition was complemented by an extract from a briefing by the European Parliament's Research Service on "Lobbying and foreign influence", which clarifies that foreign interference is different form legitimate influencing activities that are integral to diplomatic relations (European Parliamentary Research Service, Lobbying and foreign influence, 2021, https://www.europarl.europa.eu/thinktank/mt/document/EPRS_BRI(2021)698754).

1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

Together with the rule of law and fundamental rights, democracy is a founding value of the European Union. For democracy to function well, citizens must be able to express their preferences and elect their representatives freely.

One important characteristic of democratic systems is that stakeholders, citizens and civil society organisations (CSOs), are consulted and involved in the preparation of laws and policies on the basis of transparent processes, at European, national, regional and local levels. The space for public debate in Europe is and must remain open, also to ideas from across the world[6].

There is a growing concern that the openness of European societies is being exploited for covert interference[7] from foreign governments to manipulate decision-making processes and public opinion in the EU. The European Parliament[8] and the Council[9] have underlined the importance of addressing the threat to democracy posed by such covert foreign interference. Governments[10], citizens[11] and civil society organisations[12] are concerned by the impact of such external interference on European democracies and the public sphere. For example, a recent Flash Eurobarometer survey on Citizenship and Democracy found that about 8 in 10 Europeans agree that foreign interference in European democratic systems is a serious problem that should be addressed[13]. Concerns have intensified after Russia's war of aggression against Ukraine and the so-called "Qatar-gate", a corruption scandal involving Members of the European Parliament and EU staff. The Union witnessed numerous instances of some third countries seeking to covertly influence in its politics and decision-making[14]. While the full scale of this phenomenon is unknown, reports of such activities exist[15].

'A new push for European democracy' is a headline priority of the Commission and many initiatives have been adopted over recent years, including in the framework of the European Democracy Action Plan[16] presented in 2020, that put forward a comprehensive approach to '*empower citizens and build more resilient democracies across the EU*'. Existing policy

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6 Communication on a Global Approach to Research and Innovation, COM(2021) 252 final.

7 The term 'foreign interference' is defined in the glossary. For more information on this see Annex G of the supporting study.

8 Since 2019, the European Parliament established two Special Committees INGE and INGE2 on foreign interference in all democratic processes in the European Union, including disinformation, and the strengthening of integrity, transparency and accountability in the European Parliament that adopted resolutions in this area. See European Parliament resolution of 9 March 2022 on foreign interference in all democratic processes in the European Union, including disinformation (2020/2268(INI)), European Parliament resolution of 13 July 2023 on recommendations for reform of European Parliament's rules on transparency, integrity, accountability and anti-corruption (2023/2034(INI)), European Parliament resolution of 1 June 2023 on foreign interference in all democratic processes in the European Union, including disinformation (2022/2075(INI)).

9 Council Conclusions "Complementary efforts to enhance resilience and counter hybrid threats", 10 December 2019, 14972/19; Council conclusion "Global approach to Research and Innovation - Europe's strategy for international cooperation in a changing world", 28 September 2021, 12301/21; Council conclusions "on Foreign Information Manipulation and Interference (FIMI)", 18 July 2022, 11173/22.

10 See various consultations with Member States detailed in Annex 2, for example the focus group meeting with Member State authorities of 30 March 2023 and the focus group meeting with local authorities of 28 March 2023.

11 See Flash Eurobarometer 528 on Citizenship and Democracy, and Flash Eurobarometer 522 on Democracy.

12 See various consultations with CSOs detailed in Annex 2, for example the focus group meeting with CSOs of 14 February 2023 and the focus group meeting with CIV grants beneficiaries working on projects related to the 2024 European Parliament elections of 1 March 2023.

13 See Flash Eurobarometer 528 on Citizenship and Democracy.

14 See note 8.

15 See supporting study. See also "The landscape of Hybrid Threats: A Conceptual Model", Giannopoulos, G., Smith, H. and Theocharidou, M. editor(s), Publications Office of the European Union, Luxembourg, 2021.

16 Communication on the European Democracy Action Plan, COM/2020/790 final.

interventions include updating rules governing European political parties and foundations[17], regulating various aspects of online platforms[18], addressing disinformation[19], detecting, analysing and countering foreign information manipulation and interference (FIMI)[20], regulating political advertising including on social media[21], supporting free, fair and inclusive elections, supporting free and plural media[22], addressing questions of investments by third countries in electoral infrastructure[23], cybersecurity[24], anti-money laundering and corruption[25].

Instead of relying on traditional and formal diplomatic channels and processes, foreign governments increasingly rely on lobbyists and other forms of influence to promote their policy objectives[26]. Typically, states have resources that private actors might not have and pursue different aims. As noted by the Organisation for Economic Co-operation and Development (OECD), foreign governments "*can have a transformative impact on the political life of a country, not only on domestic policies but also on its foreign policy, its election system, economic interests and its ability to protect its national interests and national security*"[27] and the risks involved in lobbying and influence activities of foreign government are higher than the risks posed by purely domestic lobbying and influence activities[28].

Several democratic countries outside the Union have already adopted measures including to enhance transparency of interest representation activities carried out on behalf of third countries and support democratic accountability. These include Australia and the US, while

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17 Proposal for a Regulation on the statute and funding of European political parties and European political foundations (COM(2021)734 final).

18 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

19 The 2022 strengthened EU Code of Practice on Disinformation is available at: https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation; The Commission guidelines for teachers and educators on tackling disinformation and promoting digital literacy through education and training is available at : https://op.europa.eu/en/publication-detail/-/publication/a224c235-4843-11ed-92ed-01aa75ed71a1/language-en.

20 Information about the EU's actions on FIMI is available at: https://www.eeas.europa.eu/eeas/tackling-disinformation-foreign-information-manipulation-interference_en

21 Proposal for a Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising (COM/2021/731 final).

22 Proposal for a Regulation establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU (COM/2022/457 final); Proposal for a Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation") (COM/2022/177 final); Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation').

23 Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union (FDI Screening Regulation).

24 Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union (NIS 2 Directive); Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification (EU Cybersecurity Act); Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on Digital Operational Resilience for the Financial Sector (DORA Regulation); Proposal for a Regulation on horizontal cybersecurity requirements for products with digital elements (Cyber Resilience Act) (COM/2022/454 final).

25 Proposed package of legislative proposals on anti-money laundering and countering the financing of terrorism legislative package, including the Proposal for a Directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (COM/2021/423 final), and the Proposal for a Directive on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council (COM (2023) 234 final).

26 OECD (2021), Lobbying in the 21st Century: Transparency, Integrity and Access, OECD Publishing, Paris, available at: https://doi.org/10.1787/c6d8eff8-en, page 43.

27 See note 26, page 44.

28 See note 26, page 45.

other democracies, like the UK and Canada are considering adopting similar measures.[29] International organisations and fora such as the Organization for Security and Co-operation in Europe (OSCE), OECD and G7 have also been working on the issue.

In the internal market, a wide range of cross-border activities which seeks to influence decision-making processes is conducted on behalf of third countries. Such activities involve different types of EU-based commercial and non-commercial entities such as think tanks, lobbying firms, CSOs, or law firms. Interest representation involves direct contact with decision-makers, communication and other efforts to represent a particular interest and influence decision-makers and the wider debate. While these activities can be conducted transparently, this is not always the case, and national measures intended to ensure the transparency and accountability of such activities are not always effective in isolation at the national level.

Where they are regulated, interest representation activities carried out on behalf of third countries are regulated together with other interest representation activities. Currently, 15 Member States[30] have a transparency register on interest representation activities, albeit only at sub-national level for some[31]. In those Member States, where such a regulatory framework exists, it is highly fragmented across the EU[32]. The scope of the entities and activities covered differ widely[33]. There are different definitions of interest representation activities, thresholds on the size of entities or level of activities triggering transparency or registration requirements, as well as record-keeping[34]. Moreover, the existence, powers, structures and independence of supervisory authorities differ greatly across the EU. The same goes for the nature of sanctions, and amounts of pecuniary fines, where they exist[35]. 12 Member States do not regulate the transparency of interest representation activities[36].

The internal market, already fragmented by existing rules, risks being further fragmented. Member States have expressed increasing concerns about covert influence by third countries in democratic processes in the EU. Some Member States are thinking to adopt measures to protect their democratic sphere. Member States generally agree that EU action is needed against the background of the need to address foreign interference.

In its Work Programme for 2023, the Commission announced that it would present a "Defence of Democracy" package to increase transparency and accountability, thus promoting "*institutional trust and democratic values in the EU*" and protecting "*the EU democratic sphere from covert interference in democratic processes*".

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29 Although these legislations are not comparable to the so-called "foreign agent laws" as they are in place or have been proposed in Russia or Georgia, some of these acts have been criticized as being too broad and vague in their definitions and scope as well as envisaging criminal sanctions. The proposed measures consider these concerns and, therefore, define key terms very precisely, envisage a targeted scope and proportionate sanctions.

30 DE, IE, EL, ES, FR, IT, CY, LT, LU, NL, AT, PL, RO, SI, FI.

31 ES, IT.

32 See Section 2.1.1.

33 For example, FR has a law on the transparency of public life that requires lobbyists to register with a public register and report on their activities, such as those with foreign interests. Other Member States, such as IE or NL, also have laws or regulations governing lobbying activities, although the scope and requirements of these laws vary significantly.

34 As further examples of the potential effect of differing registration requirements, an entity carrying out interest representation in BE would need to disclose the names of the customers represented by them; meanwhile, in LU, the identity of clients do not have to be entered into the register. In a similar vein, there is a discrepancy between obligations to report financial figures on the expenditures that concern specifically interest representation activities. The federal lobby register established in DE makes it mandatory to enter data on the annual financial expenditures of the organisation for interest representation. In contrast, there is no comparable rule in the IE Regulation of Lobbying Act.

35 A complete mapping of this fragmentation is available in Annex 6 and 7.

36 BE, BG, CZ, DK, EE, HR, LV, HU, MT, PT, SK, SE.

The package builds upon and is complementary to the European Democracy Action Plan and fully aligned with its logic[37]. The initiative related to interest representation activities is a key component of the Defence of Democracy package. The package will also include non-legislative measures aiming to promote high standards for elections to the European Parliament and elections and referenda at national level and to foster an enabling civic space and promote the inclusive and effective participation of citizens and civil society organisations in the public policy-making processes.

The main aim behind this initiative is to **introduce common transparency and accountability standards in the internal market for interest representation activities carried out on behalf of third countries**. By providing common transparency requirements for such activities, the initiative will improve the functioning of the internal market for such activities, by creating a level playing field, reducing unnecessary cost for entities that seek to carry out interest representation activities on behalf of third countries across borders and prevent regulatory arbitrage.

This intervention would also enhance the integrity of, and public trust in, the EU and Member State democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries on the basis of proportionate standards, and by improving the knowledge of the magnitude, trends and actors of interest representation activities carried out on behalf of third countries. The initiative would ensure full respect of fundamental rights and democratic values; strong safeguards should mitigate the potential negative impacts on concerned entities.

This initiative will provide for common transparency standards in the context of legal and legitimate interest representation activities carried out in the interests of third countries in the internal market. While interest representation activities carried out covertly on behalf of third countries could amount to foreign interference, foreign interference encompasses a wide range of activities that are carried out by or on behalf of a foreign state or a state actor, and which are coercive, deceptive or corrupting and are contrary to the sovereignty, values and interests of the Union and its Member States. This can for example include disinformation, corruption of officials or cyber-attacks on the IT infrastructure supporting elections. This initiative does not aim to exhaustively address all foreign interference activities.

The legislative initiative complements existing measures at EU level that contribute to enhancing transparency and addressing certain activities carried out by or on behalf of third countries. As regards activities impacting the democratic sphere, this includes the proposal for a Regulation on the transparency and targeting of political advertising, the proposal for European Media Freedom Act[38] (EMFA), the Digital Services Act[39] (DSA), the Regulation on European political parties and European political foundations and the proposal to amend it[40] and non-legislative measures for combating disinformation and other forms of foreign interference, including the Foreign Information Manipulation and Interference Toolbox. It also complements and is coherent with other legislative proposals, legislation and initiatives beyond

[37] It also builds on the package reinforcing democracy and integrity of elections presented by the Commission on 25 November 2021.

[38] Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU (COM(2022) 457 final), which aims to address fragmented national regulatory approaches related to media freedom and pluralism and editorial independence to ensure the free provision of media services within the internal market, while ensuring that Member States remain able to adapt media policy to their national context, in line with their competences.

[39] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EU (OJ L 277, 27.10.2022, p. 1).

[40] Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L317, 4.11.2014, p. 1).

the European Democracy Action Plan which enhance the transparency of activities affecting democratic processes, such as the Anti-Money Laundering Directive and the Whistle-blower Directive.

The transparency achieved by these EU instruments and initiatives leaves an important part uncovered which this initiative aims to address – interest representation carried out on behalf of third countries.

2. WHAT IS THE PROBLEM AND WHY IS IT A PROBLEM?

2.1. What are the problems?

2.1.1. Obstacles to the internal market for interest representation activities carried out on behalf of third countries.

In Member States where it is regulated, interest representation activities carried out on behalf of third countries are regulated together with other interest representation activities.

At present, 15 Member States[41] regulate the transparency of interest representation activities and have a transparency register on interest representation activities, albeit only at sub-national level for some[42]. In those Member States, where such a regulatory framework exists, it is highly fragmented across the EU[43], and only 9 of those Member States impose a specific legal obligation to register before carrying out interest representation activities[44]. Conversely, 12 Member States do not regulate the transparency of interest representation activities[45].

Fragmentation of the internal market for interest representation activities.
The ***definition*** of interest representation activities[46], and the ***scope*** of the entities and activities covered differ widely leading to gaps in entities and activities covered. The actors required to register are usually formulated in general terms across Member States[47], with natural and legal persons conducting interest representation activities having an obligation to register themselves. In 5 Member States, more precise rules exist on the personal scope for registering[48].

10 Member States[49] do not have any ***thresholds*** in place ***for registration***. In 2 Member States[50], thresholds are purely financial, while in the 3 others[51], they are non-financial and based on criteria such

41 DE, IE, EL, ES, FR, IT, CY, LT, LU, NL, AT, PL, RO, SI, FI. .
42 ES, IT.
43 A complete mapping of this fragmentation is available in Annexes 6 and 7.
44 DE, IE, EL, FR, LT, LU, AT, PL, RO.
45 BE, BG, CZ, DK, EE, HR, LV, HU, MT, PT, SK, SE.
46 For example, in IE, an interest representation activity is defined as "any communication with a designated public officer that relates to a "relevant matter"; while, in LT interest representation activities are defined as actions taken by a natural or legal person, in an attempt to exert influence over defined public officials to have legal acts adopted or rejected in the interests of the client or the beneficiary of lobbying activities.
47 DE, IE, ES, IT, CY, LT, LU, RO, SI.
48 BE, IE, FR, NL, AT. In AT, a limitative list exists with 4 categories of entities: lobbying companies, companies that employ corporate lobbyists, self-governing bodies, and interest groups. In BE, the Rules of the House of Representatives specify the entities that are obliged to register. The list includes, for example, specialised law firms, NGOs and think tanks. In FR a lobbyist is defined as natural person as part of a professional activity, or legal entity in which an executive manager, an employee or a member conducts interest representation work as their main or regular activity. In IE, different groups of lobbyists are required to register (interest body, advocacy body, professional lobbyist, any person communicating about the development or zoning of land). In NL, 3 groups are defined who need to register in the public register of lobbyists: public affairs and public relations employees; agency representatives of CSOs; and representatives of municipalities and provinces.
49 BE, IE, EL, ES, CY, LT, LU, NL RO, SI.
50 FR, NL.
51 DE, AT, IE. For instance, an entity paid to carry out interest representation professionally on behalf of a client that has less than 10 employees would not need to register in IE, but it would need to register in DE for the same activity, since DE law requires the registration of interest representation of a commercial nature.

as the frequency of contacts, the number of employees, or the time dedicated to lobbying activities. ***Record-keeping*** obligations also differ across Member States[52].

With regard to ***supervision, enforcement and sanctions***, in 9 Member States[53], the registers are supervised by an independent authority. 3 other Member States[54] tasked their government with this supervision, while 3 others[55] tasked their parliament. All Member States that have a supervisory regime also have sanctions regimes. Pecuniary sanctions exist in 10 Member States[56]. In all those Member States, pecuniary sanctions are of an administrative nature, except in France where pecuniary sanctions are of a criminal nature. Criminal sanctions exist in Member States such as France and Ireland[57]. Suspension or removal from a register is present as an enforcement measure in 2 Member States[58].

This fragmentation causes several obstacles in the internal market for interest representation activities carried out on behalf of third countries that undermine the proper functioning of the internal market.

First, there is an **uneven playing field**. Geographically, the transparency of interest representation activities is regulated differently in different Member States. This regulatory fragmentation results in a landscape in which interest representation activities are costly and complex to perform in some Member States and not, or not to the same extent, in others. Among providers of interest representation activities, diverging requirements at Member State level impact different types of stakeholders in different ways, making them subject to more stringent requirements than others although they would be performing the same activities[59].

Uneven playing field between different actors

Stakeholder views:
During the focus group with representatives of the legal profession[60], a majority of participants emphasised the importance of setting up transparency requirements that apply to all entities performing interest representation activities in the internal market. Among other, certain participants expressed the view that there are loopholes in the current regimes regarding CSOs which carry out similar activities while not being subject to similar transparency requirements regarding the funding of their activities influencing decision-making processes in the EU.

During the second focus group with commercial actors involved in interest representation[61], one participant noted that in its Member State some of the exemptions are too broad and for example exclude lawyers from registration requirements although they may carry similar activities.

Illustrative case study n°1:
Commercial Company A carries out interest representation activities in Germany and in Lithuania and faces different competitors in both Member States which do not face the same regulatory requirements. In Germany, many of its competitors are organised like it, in the form of a commercial company. However, it also faces competition from law firms which also perform interest representation activities

52 For example, some Member States conflate record keeping obligations with registration obligations, for example by not distinguishing what is to be disclosed upon registration and what data has to be recorded and kept afterwards, as is the case in AT. Specific rules on record-keeping exist for example in DE, where the federal lobby register makes it mandatory to record and update data on the annual financial expenditures of the organisation for interest representation, while, in contrast, there are no comparable rules in IE.

53 IE, EL, ES, FR, IT, CY, LT, SI, FI. Note that, in ES, this supervision only happens at regional level.

54 LU, AT, RO.

55 BE, DE, NL.

56 DE, IE, EL, ES (albeit at regional level), FR, CY, AT, SI, LT, PL. These can differ widely, between EUR 300 000 in ES and EUR 4 500 in LT. A complete mapping of this fragmentation regarding sanctions is available in Annexes 6 and 7.

57 In FR up to 1 year of imprisonment, in IE up to 2 years of imprisonment.

58 DE, EL.

59 For example, in LT, CSOs are explicitly excluded from the scope of registration and transparency requirements. In DE, legal professionals are also not required to register when they perform interest representation activities.

60 See focus group with legal professionals of 15 December 2022.

61 See second focus group meeting with commercial actors involved in interest representation of 1 March 2023.

but do not always incur regulatory costs related to these activities when working in Germany at local level, as legal professionals only fall under the scope of rules on registration and transparency in some Länder (e.g. Baden-Württemberg[62]) whereas other Länder do not include them in the scope of their transparency registers (e.g. Brandenburg[63])[64]. In Lithuania, Commercial Company A faces regulatory requirements which do not apply to civil society organisations performing similar activities, because these are excluded from the scope of the registration and transparency requirements existing in Lithuania[65].

Second, there are **unnecessary costs for entities that wish to operate across borders** in the internal market. At present, the process of entering a new market in another Member State than the state of establishment is made difficult by the costs of complying with fragmented rules.

Compliance with different regulatory frameworks

Stakeholder views

Interest representation service providers expressed their desire to expand beyond their Member State's market[66]. During a focus group consultation with commercial actors involved in cross-border interest representation activities, participants explained their difficulties to comply with all the different transparency registers' requirements, in particular with the need to maintain up-to-date information in all of them, as the obligations vary across Member States.

Illustrative case study n°2

A small-sized service provider established in Sweden, specialised in interest representation activities on behalf of third country A, wants to carry out these activities in several other Member States. It therefore has to comply with different rules and requirements in each Member State which implies costs. It decides to start with Greece and Slovenia. At present, Sweden[67] does not regulate interest representation activities while Greek[68] and Slovene[69] laws require to declare information such as the institutions or bodies it intends to direct its interest representation activities to, the policy areas and types of decisions it intends to target, and the intended results of its interest representation activities. The service provider needs to ensure that its internal record-keeping allows it to easily comply with Greek and Slovene laws.

The service provider then decides to enter the German market. However, its internal record-keeping is not fit for purpose in this new context because Slovenia[70] requires financial disclosures to be based on payments received from interest regroups for each matter handled while in Germany[71] these are based on expenditures linked to interest representation activities.

62 See Gesetz über ein Transparenzregister, Landtag von Baden-Württemberg, Drucksache 16/9883.

63 See Führung eines Lobbyregisters, Gesetz- und Verordnungsblatt für das Land Brandenburg, Part 1, No. 20, Annex 10, 25 June 2020.

64 However, at the federal level in DE, legal professionals do not fall under the scope of the registration and transparency requirement (i.e. when they write legal opinions, give legal advice etc.), unless they engage in activities that aim at adopting, changing or abolishing a legal text by the Bundestag or the federal government.

65 Article 7(11) of the Law on Lobbying Activities of the Republic of Lithuania, available here: https://vtek.lt/wp-content/uploads/2021/06/EN_Law_on_Lobbying_Activities_2021.docx.

66 See focus group with commercial actors involved in cross border interest representation activities of 1 March 2023.

67 See Annex 6.

68 Article 7(1)(a) of the Law Np. 4829 on Enhancing transparency and accountability in State institutions, available here: Law 4829/2021 Government Gazette A 166/10.9.2021 (taxheaven.gr).

69 Integrity and Prevention of Corruption Act, Article 64, available here: https://www.kpk-rs.si/kpk/wp-content/uploads/2018/06/ZintPK-ENG.pdf.pdf.

70 Integrity and Prevention of Corruption Act, Article 64, available here: https://www.kpk-rs.si/kpk/wp-content/uploads/2018/06/ZintPK-ENG.pdf.pdf.

71 Lobby Register Act (Gesetz zur Einführung eines Lobbyregisters für die Interessenvertretung gegenüber dem Deutschen Bundestag und gegenüber der Bundesregierung (Lobbyregistergesetz - LobbyRG)), 2021, available at: http://www.gesetze-im-internet.de/lobbyrg/BJNR081800021.html, paragraph 6(1)6.

Later on, the interest representation service provider decides to also expand into Ireland and Lithuania. While the mandatory update timeframes to the Greek[72] and Slovene[73] registers are the same, i.e. annual, the requirements in Ireland[74] are to update registration information every 4 months, and in Lithuania[75] within 7 days following each lobbying activity. This will lead to creating an on-going mechanism throughout the year instead of performing a disclosure exercise once yearly, as well as potentially dedicating resources to maintain registrations up-to-date across the markets it operates in.

This situation also leads to one main **consequence.** The uneven playing field **directs cross-border interest representation activities away from more regulated Member States towards less regulated ones or where enforcement is limited**. In other words, there is a risk of forum shopping and regulatory arbitrage by entities seeking to evade regulation in certain Member States. This risk is especially high in those Member States that have a regulatory regime for the transparency of interest representation, but do not make registration compulsory or lack monitoring or enforcement mechanisms. Beyond the internal market-related consequences described here, this phenomenon of regulatory arbitrage could also present an opportunity for third-country actors to evade transparency requirements and covertly influence decision-making in the EU.

2.1.2. Unknown magnitude, trends and actors of interest representation activities carried out on behalf of third countries

The scale of interest representation **activities carried out on behalf of third countries in the Member states is largely unknown**.

There are indications that the broader phenomenon of foreign interference exists and is increasing. Some stakeholders have indicated that third country governments provide funding with clear objectives which aim at legal or policy changes[76]. There are also numerous media reports of foreign interference from third countries whereby interest representation activities are being carried out on behalf of third countries covertly to influence decision-making processes, sow distrust and undermine the EU's democratic processes[77].

Interest representation activities can take very different forms such as direct lobbying of decision-makers, 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, preparing 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. They can be conducted both at European, national, and sub-national level and they can have a harmful and disruptive impact on decision-making processes. However, Member States do not consistently collect or systematically share information on interest representation carried out on behalf of third countries and there is no reliable and consistent data on these

[72] Article 10(1) of the Law Np. 4829 on Enhancing transparency and accountability in State institutions, available here: Law 4829/2021 Government Gazette A 166/10.9.2021 (taxheaven.gr).

[73] Integrity and Prevention of Corruption Act, Article 63, available here: https://www.kpk-rs.si/kpk/wp-content/uploads/2018/06/ZintPK-ENG.pdf.pdf.

[74] Sections 7 and 12(1) of the Regulation of Lobbying Act.

[75] Article 10(1) of the Law on Lobbying Activities of the Republic of Lithuania, available here: https://vtek.lt/wp-content/uploads/2021/06/EN_Law_on_Lobbying_Activities_2021.docx.

[76] In the consultation, 5 CSOs explained that "*few government donors, including the EU itself, regularly provide operating grants. The EU and other governments generally provide project-based funding with clear objective – many of which aim at legal or policy changes*". Another CSO explained that many CSOs, especially those in the field of human rights, "*currently rely on funding by foreign foundations and public entities to carry out their advocacy and campaigning work*". 1 CSO clarified that "*the mere fact that a CSO benefits from funding form a foreign government or associated entity supporting legal or policy change is not sufficient to cast doubts over the legitimate nature of its activities*".

[77] See chapter 2 and Annex C of the supporting study which includes an extensive collection of covert foreign influence in decision-making processes in the EU.

activities. This results in difficulties to identify and map interest representation activities carried out on behalf of third countries and do so in a coordinated and efficient way across the EU. This makes the situation prone to foreign interference operations, as third countries may seek to exploit the information asymmetry among authorities. In turn, it has an effect on wider perceptions about the integrity of public decision-making.

The lack of transparency and inconsistency of regulation and oversight, the many different ways in which interest representation activities on behalf of third countries are carried out and the difficulty of measuring them, do not allow to monitor these activities accurately, especially with quantitative data. It also risks conflating legitimate interest representation by third countries with covert activities which may not pursue such ends.

Differences in data collection requirements

Discrepancies in data collection requirements in Member States make it difficult to shed light and identify patterns on the magnitude of the phenomenon of interest representation activities carried out on behalf of third countries, be it with regard to the entities, the activities they perform, and the amounts of money involved.

While 12 Member States[78] require identification data of interest representatives (e.g. name of the lobbyist), only 8 Member States[79] request specific information on the client represented by the entity carrying out interest representation activities (e.g. name of the client). Furthermore, only 10 Member States[80] require entities to provide information on the policy field in which they pursue interest representation for their clients, while 6 Member States[81] ask for information on the budget/expenditure from entities carrying out interest representation activities, albeit in different ways[82].

Data comparisons are further complexified by the differences in regimes with regard to the updates of that data. For example, in Ireland[83], updates have to take place 3 times a year, while in countries such as France[84] or Greece[85] updates take place once yearly. In other Member States such as Finland[86] or Germany[87], only some information has to be updated yearly while other information has to be updated twice yearly (e.g. financial information in Finland) or at the end of every quarter (e.g. basic personal data such as addresses and contact details in Germany). Another system exists for example in Lithuania[88] where updates have to take place within 7 days of an interest representation activity taking place.

Lastly, data analysis is rendered difficult by the fact that not all registers are public, and that for those that are, not all data is publicly accessible. The data of transparency registers on lobbying is made public

78 BE, DE, IE, EL, FR, IT (at subnational level), LT, LU, NL, AT, RO, SI.
79 BE, DE, EL, FR, IT (at subnational level), LU, NL, AT.
80 BE, DE, IE, EL, FR, IT (at subnational level), LT, LU, AT, SI.
81 DE, ES (at regional level), FR, IT (at subnational level), AT, SI.
82 For example, in SI, financial information on payments received from interest groups for each matter concerned, while in DE, information on financial expenditures involved in the representation of interests are required as well as on the sums of any public allowances or grants received.
83 Sections 7 and 12(1)(6) of the Regulation of Lobbying Act, available here: https://www.irishstatutebook.ie/eli/2015/act/5/enacted/en/print.html.
84 See Articles 3 et seq. Décret No. 2017-879 du 9 mai 2017 relatif au répertoire numérique des représentants d'intérêts, available at the following link : https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034633293/.
85 Article 10(1) of the Law No. 4829 on Enhancing transparency and accountability, available here: https://www.taxheaven.gr/law/4829/2021.
86 Finnish Transparency Register Act 23.3.2023/430, section 8, paragraph 1, available at: https://www.finlex.fi/fi/laki/ajantasa/2023/20230430.
87 Lobby Register Act (Gesetz zur Einführung eines Lobbyregisters für die Interessenvertretung gegenüber dem Deutschen Bundestag und gegenüber der Bundesregierung (Lobbyregistergesetz - LobbyRG)), 2021, available at: http://www.gesetze-im-internet.de/lobbyrg/BJNR081800021.html, paragraph 3(3).
88 Article 10(1) of the Law on Lobbying Activities, available here: https://vtek.lt/wp-content/uploads/2021/06/EN_Law_on_Lobbying_Activities_2021.docx.

on the websites of 10 Member State[89] authorities, while it is not the case in 2 others[90]. In the Member States where transparency registers are publicly accessible, certain restrictions exist. For example, in Austria[91], the legal regime only requires the disclosure of general information about the purposes and amounts spent on interest representation activities and does not include most of the information on clients that certain other Member States require (e.g. names and contact details of the clients or granular description of the sums received).

The lack of transparency **undermines democratic processes and impacts EU citizens' trust in related processes and/or decision-makers and their ability to exercise their rights and responsibilities**.

Citizens are concerned about the impacts of foreign government meddling with decision-making processes in the EU. A recent Eurobarometer on Citizenship and Democracy showed that about 8 in 10 Europeans agree that foreign interference in European democratic systems is a serious problem that should be addressed[92]. According to the Online Public Consultation 84.5% of respondents considered that lobbying or public relations activities remunerated by or controlled by third countries triggered a high risk of covert foreign interference. 65% of them considered that the activities of think tanks remunerated by third countries triggered such a risk. A survey conducted by Friedrich-Ebert-Stiftung on European sovereignty in 8 EU Member States[93] found that 93% of respondents considered that it is essential or important to have common tools to combat foreign interference for Europe to be sovereign[94]. Due to the lack of information on the magnitude, trends and actors of interest representation carried out on behalf of third countries, it is difficult to assess the reality and the risks caused by this phenomenon and establish the data needed to develop evidence-based policy.

This problem is a European one. Interest representation activities carried out on behalf of third countries is a transnational issue with cross-border implications that can affect the policy decisions and political processes of other countries. This is because third countries often engage in activities aimed at influencing policy decisions and political processes in Member States, which can have an impact beyond each Member States' borders. It is not necessary to exercise influence at the European level to impact EU decision-making.

89 BE, DE, IE, ES (at regional level), FR, IT (at subnational level), LT, LU, NL, AT, RO, SI.

90 EL, CY.

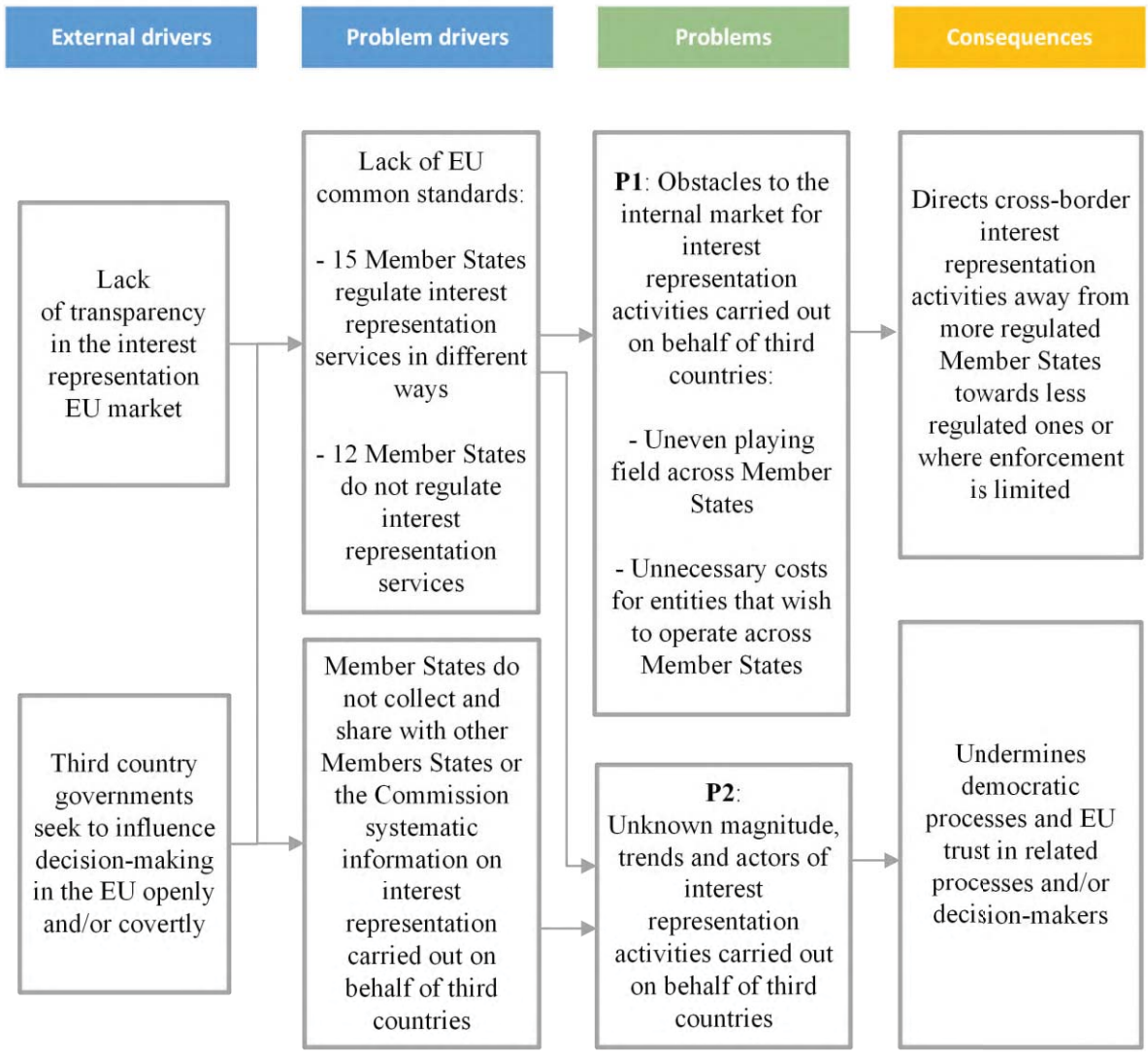
91 Federal Act on Ensuring Transparency in the Exercise of Political and Economic Interests (Lobby law)' (Bundesgesetz zur Sicherung der Transparenz bei der Wahrnehmung politischer und wirtschaftlicher Interessen (Lobbying- und Interessenvertretungs-Transparenz-Gesetz – LobbyG)), 2012, available at: https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007924 , paragraphs 9(2) and 10(2).

92 See flash Eurobarometer 528 on Citizenship and Democracy.

93 DE, ES, FR, IT, LT, PL, RO and SE were the countries participating in the study with 8000 citizens from the selected countries participating in the interviewing process.

94 58% of respondent considered such tools "essential", and 35% considered them "important but not essential", available at: https://www.fes.de/en/survey-europeeignty

Figure 1. Problem tree:



2.2. Magnitude of the problems

As presented in detail in Annexes 3 and 4, the estimates place the number of players in the internal market for interest representation activities carried out on behalf of third countries (the population of enterprises that would be subject to requirements under the proposed policy options) at **between 712-1,068 enterprises**[95]. The number of market actors does not prejudge the influence of such activities on the democratic sphere (see section 2.1.2).

Currently, there is no comprehensive data available on the size of the market for interest representation across the EU, or the specific market for interest representation activities carried out on behalf of third countries. Furthermore, even if interest representation activities carried out on behalf of third countries are a transnational issue, there is also a lack of data on the cross-border activities of these entities carrying out interest representation activities on behalf of third countries.

[95] By Member State, FR (260-390), DE (126-189) and IT (74-111) have the most service providers and contribute approximately 65% of all such service providers across the EU-27.

The current legal fragmentation described in the previous section contributes to explain this lack of information. Data collection across Member States is not unified and cannot provide a sufficient basis to highlight how much of the interest representation activities taking place in the internal market happen across borders nor to estimate the size of the market. This issue is further compounded by the lack of transparency generally characterising the market for interest representation activities.

The fragmentation of the internal market for interest representation activities carried out on behalf of third countries is presented in section 2.1.1. Annex 6 presents the regulatory situation in the Member States.

As explained in Section 2.1.2 comprehensive information on the magnitude, trends and actors of interest representation activities carried out on behalf of third countries is lacking.

2.3. How will the problems evolve?

Regarding the **first problem**, **obstacles in the internal market**, the issues related to the uneven playing field, the risk of regulatory arbitrage and the unnecessary costs for entities carrying out interest representation activities that wish to operate across Member States are bound to increase.

This problem is driven in a large part by the fragmentation of the internal market which is itself likely to increase. The consultations carried out during the preparation of the initiative, in particular in the context of focus group meetings and contributions provided by Member State authorities showed an increasing risk awareness in Member States about the issue of interest representation carried out on behalf of third countries, and an increase in national plans for regulatory interventions to address this issue. For example, in countries like Poland and the Netherlands[96], draft laws have been put forward which would impact foreign funding, which could affect entities carrying out interest representation on behalf of third countries. In both cases, stakeholders expressed concerns, which were also reflected in the 2022 Rule of Law Report[97]. Some Member States, such as France, have indicated their interest in regulating in particular interest representation carried out on behalf of third countries[98]. Furthermore, draft laws regulating interest representation in general are either under discussion or planned in 12 Member States[99]. Furthermore, the fact that Member States do not consistently collect or systematically share information on interest representation carried out on behalf of third countries leads to different levels of awareness of the issue that could result in Member States responding divergently to this phenomenon. Such fragmentation would exacerbate the obstacles faced by entities carrying out interest representation on behalf of third countries in the internal market.

The **second problem**, the **unknown magnitude, trend and actors of covert interest representation activities carried out on behalf of third countries**, will not be solved over time within the current baseline scenario. Both the issues of the lack of transparency in the market for interest representation activities carried out on behalf of third countries and the willingness of third countries to covertly influence decision-making in the EU are likely to remain or increase. While it is in the interest of many actors in this market to operate transparently to preserve the reputation of their industry and of their other clients, the market

[96] See Annex 6.

[97] See 2022 Rule of Law Report, Country Chapters on the rule of law situation in Netherlands and Poland, available at: 44_1_193999_coun_chap_netherlands_en.pdf (europa.eu) and https://commission.europa.eu/system/files/2022-07/48_1_194008_coun_chap_poland_en.pdf.

[98] Bi-lateral meeting between the Commission and the French Haute Autorité pour la Transparence de la Vie Publique of 14 September 2023.

[99] According to the supporting study this includes BE, BG, CZ, IE, ES, FR, IT, LV, MT, NL, PL, SK, see Annex 6.

for interest representation activities cannot by itself promote more transparency without regulatory interventions.

In addition, an increase in reports of interference operations carried out via interest representation activities would lead to more distrust from citizens in decision-making processes and decision-makers. The Commission's 2021 Strategic Foresight Report indicates that pressure on democratic models of governance and values is likely to persist in the coming decades due to rising geopolitical tensions, and that "*the long-term performance of democratic systems hinges on their capacities to adapt to new realities and to remain resilient to internal and external challenges"*[100]. As reported by the OECD, foreign governments increasingly rely on lobbyists and other forms of influence to promote their policy objectives[101].

3. WHY SHOULD THE EU ACT?

3.1. Legal basis

Article 114 of the Treaty on the Functioning of the European Union (TFEU) allows for the adoption of measures which have as their object the establishment or functioning of the internal market and which are considered necessary for the approximation of the provisions laid down by law, regulation or administrative action in the Member States. In accordance with Article 288 TFEU, these measures may take the form of regulations, directives, decisions, recommendations, and opinions.

The Court of Justice has confirmed that recourse to Article 114 TFEU as a legal basis is possible if the aim is to prevent the emergence of future obstacles to trade as a result of divergences in national laws, where the emergence of such obstacles is likely and the measure in question is designed to prevent them[102].

Article 114 TFEU does not presuppose the existence of a link with the free movement of services in every situation covered by the measures founded on that basis[103]. It permits additional objectives to be pursued[104]. Measures based on Article 114 TFEU may touch upon many different areas, because the economic and the non-economic aspects of national provisions pursuing an objective in the public interest are many times closely intertwined. As confirmed by the Court, the EU legislature cannot be prevented from relying on that legal basis on the ground that the protection of other policy objectives is a decisive factor in the choices

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100 Commission's 2021 Strategic Foresight Report, available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2021%3A750%3AFIN

101 See note 26, page 43.

102 Judgments of the Court of Justice of 3 December 2019, *Czech Republic v Parliament and Council*, C-482/17, EU:C:2019:1035, paragraph 35; of 4 May 2016, *Poland v Parliament and Council*, C-358/14, EU:C:2016:323, paragraph 33; of 8 June 2010, *Vodafone and others v Secretary of State for Business, Enterprise and Regulatory Reform*, C-58/08, EU:C:2010:321, paragraph 33; of 14 December 2004, *Arnold André*, C-434/02, EU:C:2004:800, paragraph 31; of 14 December 2004, *Swedish Match*, C-210/03, EU:C:2004:802 paragraph 30; of 12 July 2005, *Alliance for Natural Health and Others*, joined cases C-154/04 and C-155/04, paragraph 29; and of 5 October 2000, *Germany v Parliament and Council*, C-376/98, EU:C:2000:544, paragraph 86.

103 Judgment of the Court of Justice of 20 May 2003, *Österreichischer Rundfunk and Others*, joined cases C-465/00 and C-138/01, EU:C:2003:294, paragraphs 41 and 42. In this case, the Court ruled that the Data Protection Directive 95/46/EC (at that time based on Article 100A of the Treaty establishing the European Community) could be applied even though it applied to a wholly internal situation. See also judgment of the Court of Justice of 6 November 2003, *Lindqvist*, C-101/01, EU:C:2003:596, paragraphs 40 and 41.

104 Judgments of the Court of Justice of 28 April 1998, *Kohll v. Union des caisses de maladie*, C-158/96, EU:C:1998:171; *Decker v. Caisse de maladie des employés privés*, C-120/95, EU:C:1998:167; of 9 October 2001, *Netherlands v Parliament*, C-377/98, ECLI:EU:C:2001:523, paragraph 27; and of 11 June 1991, *Commission v Council*, C-300/89, ECLI:EU:C:1991:244, paragraph 13.

to be made[105]. What is relevant is that the measures adopted on that basis be actually intended to improve the conditions for the establishment and functioning of the internal market[106].The Court focuses on the fulfilment of the conditions for the use of Article 114 TFEU, i.e., that the measure in question effectively pursues the internal market objective.

Currently, Member States have divergent approaches to defining and regulating interest representation activities carried out on behalf of third countries in the internal market. These differences restrict the freedom to provide services[107] and therefore have a direct effect on the functioning of the internal market[108]. In the absence of EU action, some Member States are likely to implement national legislation. Draft laws regulating interest representation in general are either under discussion or planned in 12 Member States[109]. Poland, the Netherlands and France are considering legislations which would affect in particular entities carrying out interest representation on behalf of third countries.

In light of the existing fragmentation (see section 2.1.1), which is likely to increase, it is necessary to provide for harmonised transparency measures to create an even playing field, reduce existing compliance costs and regulatory arbitrage as well as the emergence of additional obstacles in the internal market for interest representation activities carried out on behalf of third countries, resulting from an inconsistent development of national laws.

The objective of this intervention is to ensure the proper functioning of the internal market for interest representation activities carried out on behalf of third countries through harmonisation of regulatory approaches regarding the transparency of such activities.

Even though Article 114(3) TFEU does not mention the resilience of EU democracies and decision-making processes (unlike, for example, a high level of health protection, environmental protection or consumer protection), it is inherent to the purpose of Article 114 TFEU that the objectives of the national rules which are to be approximated through harmonisation should be taken into account. The objective of ensuring the transparency of activities affecting public decision-making and the functioning of democratic institutions is a legitimate public goal. It therefore follows from the purpose of Article 114 TFEU that EU rules harmonising national rules adopted to regulate an activity in the pursuit of these goals may themselves pursue the same ends. In this regard, this intervention also aims to enhance the integrity of, and public trust in, the EU and Member State democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries.

Furthermore, in Article 2 of the Treaty on European Union (TEU) democracy is recognised as one of the essential values on which the Union is founded. The Court has ruled on 16 February 2022 on the rule of law conditionality regulation that "*the EU must be able to defend those values, within the limits of its powers as laid down by the Treaties*"[110]. This case law indicates that the EU legislature is empowered to ensure the protection of the values mentioned in Article

[105] Judgment of the Court of Justice of 10 December 2002, *The Queen v Secretary of State for Health, ex parte British American Tobacco (Investments) Ltd and Imperial Tobacco Ltd*., C-491/01, EU:C:2002:741, where the policy objective at hand was public health protection.

[106] See note 103, in particular judgment of the Court of Justice of 6 November 2003, *Lindqvist*, C-101/01, EU:C:2003:596, paragraphs 40 and 41.

[107] For example, during the second focus group meeting with commercial actors involved in interest representation of 1 March 2023,1 participant expressed its difficulty to maintain up-to-date registration information in all the markets in operates in across the Union (in its case, BE, DE, NL, as well as the EU TR).

[108] Judgments of the Court of Justice of 12 December 2006, *Germany v Parliament and Council* (Tobacco 2), C-380/03, EU:C:2006:772, paragraph 37; of 4 May 2016, *Poland v Parliament and Council*, C-358/14, EU:C:2016:323, para 32; and of 8 June 2010, *The Queen, on the application of Vodafone Ltd and Others v Secretary of State for Business, Enterprise and Regulatory Reform* (Vodafone), C-58/08, EU:C:2010:321, paragraph 32.

[109] According to the supporting study this includes BE, BG, CZ, ES, FR, IE, IT, LV, MT, NL, PL, SK, see Annex 6.

[110] Judgment of the Court of Justice of 16 February 2022, *Hungary v Parliament and Council*, C-156/21, EU:C:2022:97, paragraph 127.

2 TEU and of other fundamental rights (such as the right to receive information) where it has an appropriate legal basis for taking legislative action.

EU action focusing on transparency is needed to prevent obstacles to the provision of interest representation activities carried out on behalf of third country entities, ensuring the establishment and functioning of the internal market. It will also contribute to improve the knowledge on the magnitude, trends and actors of interest representation activities carried out on behalf of third countries. Importantly, the intervention does not aim to restrict the provision of interest representation activities carried out on behalf of third countries in the internal market.

3.2. Subsidiarity: Necessity and added value of the EU action

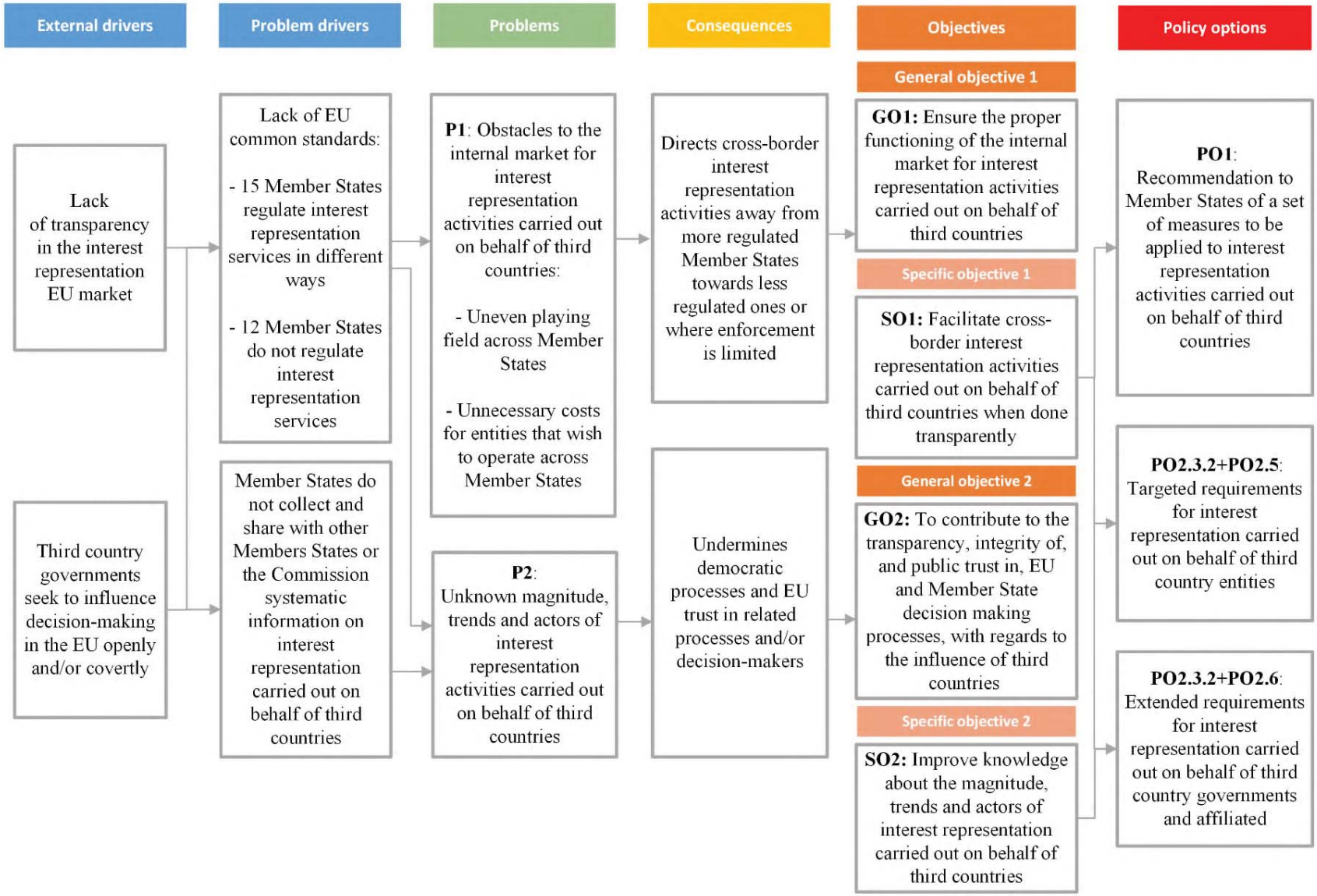
According to the principle of subsidiarity (Article 5(3) TEU), action at EU level should be taken only when the aims envisaged cannot be achieved sufficiently by Member States alone and can therefore, by reason of the scale or effects, be better achieved by the EU.

As Member States' rules affecting interest representation on behalf of third countries diverge in their scope, content and effect, a patchy framework of national rules is appearing and risks to increase, especially when it comes to interest representation activities carried out on behalf of third countries. It undermines the internal market by creating an uneven playing field and unnecessary costs for entities that seek to carry out cross-border interest representation activities on behalf of third countries. It invites regulatory arbitrage to avoid transparency measures which in turn impacts the citizens' confidence and trust in the effectiveness of regulation.

Only intervention at EU level can solve these problems, as regulation at national level already results in the creation of obstacles to cross-border interest representation activities in the internal market. In contrast, the effects of any action taken under national law would be limited to a single Member State and risks being circumvented or be difficult to oversee in relation to entities carrying out interest representation on behalf of third countries from other Member States. Furthermore, some Member States are currently considering legislative initiatives in the field of foreign influence that might not align with the proportionate and targeted approach of this initiative and that might not provide with a comprehensive system of safeguards. Only action at EU level can address this consistently across the internal market. Introducing common and proportionate standards for transparency of interest representation carried out on behalf of third countries at EU level is essential to ensure that such measures are established consistently across all Member States with respect to all fundamental rights and in particular subject to comprehensive safeguards including access to the courts.

Finally, interest representation activities carried out on behalf of third countries is a transnational issue with cross-border implications that need to be addressed at EU level. Influencing policy decisions and political processes in one Member State can have an impact beyond that Member State's borders, in another Member State or at the European level. The absence of EU-level action may result in some Member States being less knowledgeable than others about interest representation activities carried out on behalf of third countries, and it seems unlikely that Member States would converge on aligned standards on how to collect comparable data on interest representation activities carried out on behalf of third countries, or establish a systematic EU wide cooperation mechanism to exchange information with each other and the Commission.

Figure 2. Intervention logic:



4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1. General objectives

There are 2 general objectives:

- Ensure the proper functioning of the internal market for interest representation activities carried out on behalf of third countries.
- To contribute to the transparency, integrity of, and public trust in, EU and Member State decision-making processes, with regard to the influence of third countries.

4.2. Specific objectives

In line with the general objectives, the following are the specific objectives:

- Facilitate cross-border interest representation activities carried out on behalf of third countries when done transparently.
- Improve knowledge about the magnitude, trends and actors of interest representation carried out on behalf of third countries.

There may be trade-offs between facilitating cross-border interest representation activities and imposing common transparency standards on entities carrying out interest representation on behalf of third countries.

5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

5.1. What is the baseline from which policy options are assessed?

The **baseline is formed by Member States' fragmented regulatory frameworks or its absence**, which has been illustrated in the previous sections. There is currently no EU action that directly address the obstacles encountered in the internal market for interest representation activities carried out on behalf of third countries.

The EU has, however, an existing toolbox of measures that aim at addressing issues in certain areas, potentially exploited by some third countries, and that continue to evolve (dynamically). An overview of those current and planned measures is presented in Annex 9. They include updating rules governing European political parties and foundations[111], regulating various aspects of online platforms, addressing disinformation, detecting, analysing and countering foreign information manipulation and interference (FIMI)[112], regulating political advertising including on social media[113], supporting free, fair and inclusive elections, supporting free and plural media[114], addressing questions of investments by third countries in electoral infrastructure[115], cybersecurity[116], anti-money laundering and corruption[117]. These instruments are relevant for defining the broader environment in which a potential EU initiative under consideration will insert itself and evaluate its complementarity, coherence, added value.

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[111] See note 17.
[112] See note 20.
[113] The 2022 strengthened EU Code of Practice on Disinformation, see note 19; the Digital Services Act, see note 18; the proposal for a Regulation on the transparency and targeting of political advertising, see note 21.
[114] The proposal for a European Media Freedom Act, the proposal for an anti-SLAPP Directive and Recommendation, see note 22.
[115] The FDI Screening Regulation, see note 23.
[116] The NIS2 Directive, the ENISA Regulation, the DORA Regulation and the Cyber Resilience Act, see note 24.
[117] The proposal for the 6th AML Directive and the proposed anti-corruption Directive, see note 25.

5.2. Scope of the policy intervention

Specific options have been discarded on the basis of the following analysis.

The scope of the intervention could be modulated on the basis of i) the geographical location and ii) the nature of the entity on whose behalf the interest representation activity is carried out.

When it comes to the geographical location, the available possibilities would be to cover either:

- **some third countries:** this option would seek to include in the scope only activities on behalf of specific third countries identified based on objective criteria. In its resolution on foreign interference in all democratic processes, the European Parliament expressed the preference for a risk-based approach based on some criteria which includes: "*engagement in activities of foreign interference, an intellectual property theft programme directed against the EU and its Member States, legislation that forces national non-state actors to participate in intelligence activities, consistent violation of human rights, revisionist policy towards the existing international legal order, enforcement of authoritarian ideology extraterritorially*"[118]. Similarly, to the Anti-Money laundering Directive[119], a list of such countries would be established by the Commission through delegated acts. EEA Member States would not be included; or
- **all third countries (with additional requirements for some countries based on a risk-based approach):** this option would include activities on behalf of entities in all third countries, but specific requirements could be imposed when an entity carries out interest representation activities on behalf of a third country that has spent a significant amount on interest representation in a Member State or the EU as a whole[120] (risk-based approach). EEA Member States would not be included.

The scope of the legislative intervention would also change on the basis of the type of entity on whose behalf the interest representation would be carried out:

- **governments and affiliated entities (that is, governments and entities whose action can be attributed to them)**: it would cover i) the central government and public authorities at all other levels of a third country (except EEA) as well as, to avoid circumvention, ii) public or private entities, including EU citizens and legal persons established in the EU, whose actions can ultimately be attributed[121] to a central government or public authorities of a country. It would cover situations where a government is behind the decision of another entity to have interest representation activities carried out on its behalf, in particular by giving instructions or directives to that entity[122]. It would also cover entities that are controlled[123] by the government or a public authority. In terms of actors covered, all public or private entities, including EU

[118] European Parliament resolution of 1 June 2023 on foreign interference, see note 8, point 6.

[119] Article 9 of Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

[120] This approach is based on the observation that the amounts spent on interest representation translates into bigger influence. As highlighted by the OECD: "*The evidence is that policy-making is not always inclusive. At times, a monopoly of influence may be exerted by the financially and politically powerful, at the expense of those with fewer resources. Inequity in power and lobbying budgets exacerbates the disadvantages of groups lacking in the capacity and capability to engage in formulating policy.*" See note 26, page 16.

[121] The concept is inspired by Article 3(3) of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market.

[122] This would cover instructions by the government, through directives or legal requirements.

[123] A government or a public authority would control an entity carrying interest representation where through economic rights, contractual arrangements, or any other means, either separately or combination confer the possibility of exercising decisive influence on that entity.

citizens and legal persons, i.e. for example commercial entities, CSOs, cultural or research organisations, law firms etc., could fall under the scope given that their actions can ultimately be attributed to a central government or public authorities of a country.

- **all entities established in the designated countries.** This would include activities on behalf of governments and affiliated – as defined above –, but also cases where they are carried out on behalf of other entities, including private actors or other organisations such as or international organisations (e.g., lobbying on behalf of a company)

Table 1: possible approaches to scope of the measures

	Some 3rd countries	**All 3rd countries**
Governments and affiliated	Option A	Scope of the initiative
All entities	Option B	Option C

5.2.1. Option A

This policy option requires to establish a list of third countries that have attempted to conduct foreign interference. This option faces 4 types of operational difficulty.

Firstly, assessing whether a third country meets the criteria mentioned by the European Parliament (in particular: *consistent* violation of human rights, *revisionist policy* towards the existing international legal order, enforcement of *authoritarian ideology* extraterritorially) might prove challenging as the criteria are subject to interpretation. This lack of objective criteria might lead to a political decision instead of an objective technical one[124].

Secondly, the management of the list will be very difficult. In light of the subjective nature of the criteria, agreeing on common criteria could prove difficult, making it likely that only a limited number of third countries would be included, limiting the effectiveness of the instrument. Furthermore, if a third country targets only 1 or 2 Member States, it might be politically difficult to include such third country on a common list, thereby limiting the possibility of the concerned Member States to provide for transparency for such activities. Establishing a list at Member State level may lead to an even more uneven playing field within the single market. In addition, the list of third countries would need to be constantly reviewed and adapted on the basis of the evolving political situation in the concerned third countries.

Stakeholder views:
1 CSO (out of 11) stated that imposing "*transparency requirements only on entities from third countries, drawing up a list of specific third countries could be very risky, as countries could be selected on the basis of the political and economic interests of Member States. The list would therefore be incomplete and leave out third countries that were not on the European Commission's radar because of their advocacy activities.*"

2 out of 15 Member States cautioned against such an approach. 1 of them stated that "*it would be almost impossible to objectively define such countries*".

Thirdly, because the scope would only focus on third countries specifically identified, the entities that would fall into scope would be subject to significant risks of stigmatisation, a key concern of expressed by CSOs in the consultation process.

[124] Using existing lists like government or government-linked entities not subject to EU restriction measures; third country whose nationals are not exempt from the requirement to be in possession of visas when crossing the external borders pursuant to Regulation (EU) 2018/1806; countries listed as a high-risk third country pursuant to Anti Money Laundering Directive would not solve this issue as criteria for establishing these lists are not linked to the propensity of these countries to engage in foreign interference.

Similarly, the geopolitical implications concerning the identified third countries could be more severe.

This option has therefore been discarded.

5.2.2. Option B

This policy option may be discarded in light of the elements underlined in A and C

5.2.3. Option C

Policy Option C would cover interest representation activities seeking to influence decision-making in the EU carried out on behalf of any entities established in a third country. Such scope would be designed, not based on a genuine link with the risk of covert influence by third countries administrations but on an overshooting presumption made on the principle that any interest representation activity on behalf of a natural or legal person established in a third country could be source of covert influence by said third country government. Such a broad scope would not be targeted enough in view of the pursued aim of the initiative and therefore be disproportionate[125]. Option C has therefore been discarded.

5.2.4. Other possible scope

5.2.4.1. Interest representation carried out on behalf of any government or entity

It could be considered to enlarge the scope of the initiative to cover 1) interest representation carried out on behalf of any governments (including EU Member States and EEA countries) or 2) to cover interest representation carried out on behalf of any entity.

Stakeholder views:
Extending the scope to cover intra-EU activity has been suggested by 6 CSOs (out of 11), 6 Members States (out of 15) and 2 industry associations (out of 3) in their contributions. 1 Member State explicitly opposed this by indicating that "*harmonisation of all the measures governing interest representation in the Member States would go far beyond the purpose of the Commission's initiative and would be difficult to achieve at least in the short term*."

As highlighted in sections 2 and 4, the intervention covered by this initiative focuses on interest representation carried out on behalf of third countries. Taking into account the geopolitical context, an increasing number of Member States are considering specific measures related to interest representation activities carried out on behalf of foreign governments (see section 2.3). The targeted scope of the intervention logic seeks to remove obstacles in the market of interest representation activities by establishing common transparency standards for activities influencing decision-making processes in the EU carried out on behalf of third countries. Covering interest representation carried out on behalf of any entity would further harmonise requirements in the internal market, but it would require moving away from the issue of foreign interference.

As reported by the OECD, instead of relying on traditional and formal diplomatic channels and processes, foreign governments increasingly rely on lobbyists and other forms of influence to promote their policy objectives[126]. Third country governments may engage in lobbying, including by contracting public relations firms to conduct lobbying on their behalf. They may also fund other entities to produce evidence supporting their goals, including by providing

[125] See by analogy judgment of the Court of Justice of 18 June 2020, *Commission v. Hungary*, C-78/18, paragraphs 86 to 93.
[126] See note 26, page 43.

benefits in kind such as material gifts. This type of influence activities by third country governments, if done covertly, is concerning as it undermines the principles of transparency and accountability when trying to influence public decision-making processes in the EU.

The impact of such influence is increasingly acknowledged in international fora. The OECD considers that foreign governments "can have a transformative impact on the political life of a country, not only on domestic policies but also on its foreign policy, its election system, economic interests and its ability to protect its national interests and national security[127]" and the risks involved in lobbying and influence activities of foreign government are higher than the risks posed by purely domestic lobbying and influence activities[128]. Covert foreign funding seeking to influence a decision making process is by definition difficult to demonstrate due to its secret nature.

Covering interest representation carried out on behalf of any entity would benefit economic actors as it would remove obstacles to the internal market for other interest representation activities. 1 CSO also argues that it could limit stigmatisation. A wider scope covering interest representation on behalf of any entities would also be disproportionate to achieve the targeted objectives of this initiative. An intervention covering all types of interest representation would affect around 3.5 million entities in the EU[129], when it can be estimated that only around 700 to 1100 entities provide interest representation on behalf of third country governments in the EU[130]. In addition, since 2020, the Commission monitors with specific recommendations, under the anti-corruption pillar of the Rule of Law Report, the regulation of all interest representation in Member States, within the framework of existing European and international standard[131].

Covering interest representation activities carried out by other Member States/EEA countries would not be aligned with the second objective aiming to contribute to the transparency, integrity of, and public trust in, EU and Member State decision-making processes, with regard to the influence of third countries. This is coherent with the principle of mutual trust, which is a general principle of Union law whose fundamental importance has been recognized by the European Court of Justice (see e.g. Case C- 34/17). There is also no specific concern being expressed regarding the conduct of influence activities by EU Member States and no corresponding anticipated national legislation to address this.

Finally, it should be underlined that a broader scope would not mean that exactly the same measures would be provided for all interest representation activities as different situations may justify different types of measures to adapt to different needs.

Stakeholder views:
1 CSO (out of 11) considered that harmonising interest representation in general "*would be a crucial first step in the right direction towards more transparency. However, they would not bring sufficient transparency of lobbying by third countries (…). Stronger and more targeted legislation is needed.*"

5.2.4.2. Exclusion of some entities from the scope

As proposed by 4 out of 11 CSOs consulted, it could be considered to exclude from the scope some non-profit organisations carrying out interest representation (for example through a

[127] See note 26, page 44.
[128] See note 26, page 45.
[129] See Annex 4, sections 2.2 for details.
[130] See Annex 4, sections 2.3 for details.
[131] See Annex 9.

threshold), in light of their specific role in a democratic society as part of the system of checks and balances. This position is not shared by all CSOs consulted.

It can be understood from existing transparency registers, that CSOs form a large portion of the entities carrying out interest representation activities (Non-governmental organisations (NGO), think tanks, trade associations etc.)[132]. Excluding CSOs carrying out interest representation activities in the internal market from the scope would in addition create an uneven playing field between the actors in the interest representation market (see section 2.1.1). It would also create a risk of circumvention with some entities in a position of covertly influencing decision-making on behalf of third countries in the EU while other entities carrying out similar activities would be subject to transparency requirements.

Stakeholder views:
Industry representatives considered that "*equal rules should apply to all organisations carrying out interest representation activities. There are many examples in national jurisdictions where creating exemptions has led to loopholes which malign interests use to circumvent transparency requirements.*"

11 out of 15 Member States would prefer not to include such exemptions[133].

As this option would not be coherent with the internal market objective of this initiative and would severely limit the effectiveness of the measure seeking to enhance transparency of interest representation activities carried out on behalf of third countries, it should be discarded.

5.3. Description of the policy options

The proposed intervention would concern **interest representation activities**. It would cover a broad range of activities conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes in the EU[134].

- It would include **activities that aim to influence public decision-making both directly** (e.g. direct engagements with public officials) and **indirectly**[135] (e.g. the dissemination of research outputs[136], the organisation of and participation in conferences/events, and the provision of education, training and cultural engagement,

[132] DE, IE, EL, FR, AT, RO and SI include CSOs in their national registers. In the EU transparency register 28% of registered entities are NGOs, platforms and networks and similar (3 506 out of 12 540 registration), in national transparency registers, Advocacy/charities represent 7.2% of all registered entities (873 out of 12 199 entities), see Annex 4, section 2.1 for details.

[133] 4 Member States (out of 15) propose to exclude some other entities from the scope. 2 of them want to exclude organisations presenting certain group-specific interests like chambers of commerce or trade unions, 2 would like to do the same for entities that carry out activities at the instigation of a functionary (e.g. responses to a public consultation), and 1 Member State wants to exempt activities related to the protection of human rights and fundamental freedoms from the transparency requirements.

[134] The definition is inspired by Article 3(1) of the interinstitutional agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register.

[135] A clear and substantial link should exist between the activity and the likelihood that it would influence a public decision-making process in the Union. Account should be taken of factors such as the content of the activity, the context in which it is conducted, its objective, the means by which it is carried out, or whether the activity is part of a systematic or sustained campaign. The activities covered should not be limited to activities with the objective to promote a change in a given policy, legislation but should also cover activities aiming to maintain the status quo.

[136] As highlighted by the OECD: "*One way in which different interests influence government policies is through financing third-party organisations, such as think tanks, research institutions or research more generally, and grassroots organisations. The aim is to contribute expert opinions, evidence and data, and public mobilisation to the policy-making process. As with any other form of lobbying, however, there is a risk of undue influence. (…) This increases the risk of providing biased or false information, with the aim of misleading or confusing public opinion or public officials*", see note 26, page 53. The OECD also notes that foreign governments "*may also fund grassroots organisations, foundations, academic institutions and think tanks to produce evidence supporting their goals*", *ibid*, page 44.

when performed with the same objective). It would cover activities carried out online and offline.

- It would cover only interest representation that seeks to influence decision-making in the EU, regardless at which level (EU, national, regional or local level). It would **not** cover activities carried out in the EU or in a third country that seeks to influence **decision-making in a third country**.
    - It would **not cover** activities that are connected with the **exercise of official authority**, including activities related to the exercise of **diplomatic relations** between States or international relations, nor would it cover the provision of **legal and other professional advice in the course of legal proceedings**[137] or **ancillary activities**, which are activities that support the provision of an interest representation activity but have no direct influence on its content (e.g. a caterer supplying a lobbying event or intermediary service provided by an online platform).

In line with the Article 114 TFEU legal basis, the legislative instrument would approximate laws regulating the market for interest representation activities carried out on behalf of third countries. The initiative does not prohibit the conduct of such activities but could deter them as it provides common transparency (disclosure) standards. Illegal activities would remain governed by other rules, for instance rules on corruption[138].

The legislative instrument would cover:

- Interest representation service provided to a third country entity. This would cover **interest representation activities normally provided for remuneration**. Where remuneration is provided, it would cover a large spectrum of different types of consideration, such as loans, capital injection, debt forgiveness, fiscal incentives or tax exemptions. Remuneration would also cover benefits in kind, such as the provision of office space.
- The essential characteristic of remuneration lies in the fact that it constitutes consideration ('contra-prestation') for the services in question[139]. **Contributions to the core funding of an organisation** or similar financial support, for example provided under a third country donor grant scheme, **would 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 the specific interest representation activity at issue. Such contributions would not be covered by this intervention. In line with the case law (and to prevent circumvention), anything received in return for an interest representation

[137] The distinction between interest representation activities of legal and other professionals and advice in the course of legal proceedings would be based on the distinction established in Article 4(1)(a) of the interinstitutional agreement on a mandatory transparency register. Legal advice and other professional advice are defined as advice in order to help ensure that entities and their activities comply with existing legal requirements or to represent an entity in judicial or extra-judicial proceedings. That means, while law firms are excluded from the scope of the legislative intervention when giving such advice, they still fall within the scope if they conduct interest representation activities on behalf of a third country like lobbying.

[138] E.g. bribery of public officials on behalf of a third country or corruption (addressed by other initiatives, see e.g. Article 7 of the Proposal for a Directive on combating corruption, COM/2023/234 final). The harmonised transparency requirements could however support the detection and prosecution of such illegal behaviours by relevant competent authorities, including the circumvention of sanctions where interest representation activities are carried out for or on behalf of an entity subject to restrictive measures.

[139] Judgement of the Court of Justice of 27 June 2017, *Congregación de Escuelas Pías Provincia Betania*, C- 74/16, EU:C:2017:496, paragraph 47 and the case-law cited.

service should be considered as remuneration for the purposes of this legislative intervention. This could cover financial contributions, such as loans, debt forgiveness etc., received in return for an interest representation activity. Remuneration could also include benefits in kind, such as the provision of office space[140].

- It will be for national authorities to monitor whether the contributions to the 'core funding' of an entity aim to circumvent the rules applicable to interest representation activities. The advisory group of competent national authorities to be established would be tasked with sharing best practices on relevant criteria and indicators to assess circumvention. The Commission could also facilitate exchanges and sharing of information and best practices. A specific provision will require Member States to prohibit and sanction the circumvention of the obligations of the initiative.

Stakeholder views:
2 out of 11 CSOs that participated in the targeted consultation via a questionnaire considered that "*There should be a clear distinction, e.g., between receiving foreign funding to carry out the mission of an organisation and the receipt of funding to represent someone as a service. Legitimate CSO funding should not be considered as income for interest representation unless it is provided specifically under such a contract.*"

- Interest representation activities provided by an entity whose conduct can be attributed to a third country government, and which is of a commercial or economic nature and comparable to an interest representation service provided to a third country entity.
- **Establishing specific safeguards:** to avoid circumvention and ensure a level playing field between actors, the following options would cover any natural or legal person carrying out interest representation on behalf of third country entities. They would cover different types of commercial entities (e.g. consulting firms, law firms, individual businesses) and non-commercial entities (e.g. think tanks, education, research, cultural and academic institutions, business, trade or professional associations, or CSOs). To limit risks of gold plating and frame Member States' action in this field, the legislative intervention would provide for a full harmonisation. Supervision would be entrusted to independent supervisory authorities with clearly established powers and national authorities would need to ensure that no adverse consequences, such as stigmatisation, arise from the mere fact that an entity falls within the scope of the legislative instrument. For example, Member States would be prevented from requiring the entities that fall within the scope of the initiative to register 'as an organisation in receipt of support from abroad' or indicate on their internet site and in their publications and other press material the information that they are organisations in receipt of support from abroad. The right to judicial redress would also be guaranteed.

Stakeholder views:
1 CSO (out of 11) indicated that "*the legal instrument should be delivered with clear and strong wording against the negative labelling of the registered entities as "foreign agents" by Member States. It should also prevent governments and policymakers from making disparaging statements in the press and/or in campaigns that clearly aim to stigmatise these entities, especially CSOs and organisations that represent minority groups. Additionally, the information provided by registered entities on the transparency registers that are publicly available should be limited to what is strictly necessary and presented in a "neutral" way to avoid stigmatisation.*"

[140] In such situations, the interest representation services provider would be responsible for estimating the value of the benefit received, for example by reporting it using the market rate.

- Furthermore, strong safeguards would be included to address potential risks for specific actors. To limit, among other, negative implications for entities active in third countries, entities would be able to request that all or part of the information gathered for the purpose of the transparency requirement is not made public based on an overriding interest.

All the options would recommend or require Member States to provide for similar requirements on transparency of interest representation carried out on behalf of third countries and address SO1 (facilitate cross-border interest representation activities carried out on behalf of third countries done transparently).

All the options would recommend or require Member States to provide for comparable and publicly available information on the entities carrying out interest representation activities, the activities conducted and the entities on whose behalf the activity is conducted[141] and would thus address SO2 (improve knowledge about the magnitude, trends and actors of interest representation carried out on behalf of third countries).

Activities that are currently illegal or even criminalised in Member States, such as corruption, would not be affected by this initiative. The harmonised transparency requirements could however support the detection and prosecution of such illegal behaviours by relevant competent authorities, including the circumvention of sanctions where interest representation activities are carried out for or on behalf of an entity subject to restrictive measures.

5.3.1. Policy Option 1: Non-legislative measures

The first option considered takes the form of a non-legislative intervention[142].

This policy option would consist of **recommending to Member States a set of measures to be applied to interest representation activities carried out on behalf of third countries**. Member States would be encouraged to provide for similar and proportionate transparency measures aimed at facilitating accountability and oversight and addressing the challenges for democratic processes associated with such activities. This could include, for example, a recommendation to Member States with lobbying registers to request interest representatives to provide, on a voluntary basis, an indication in their lobbying registry of whether the interest represented is that of a third country, and to other Member States to establish, on a voluntary basis, registers covering activities affecting decision-making processes funded by third countries. The recommendations would also include references to safeguards that Member States should establish, including to prevent stigmatisation of the registered entities.

This policy option would build upon and be complementary to the recommendations that have been issued by the Commission in the context of its annual Rule of Law Reports regularly inviting Member States to introduce or improve rules on lobbying and interest representation.

Additionally, this policy option would go beyond these recommendations as it provides for a list of specific standards related to record-keeping, registration and transparency (1), a detailed but voluntary reporting on the application of the specific standards (2) and a monitoring of the implementation of the recommendation (3). It would also include references to safeguards that Member States should establish, including to prevent stigmatisation of the registered entities.

[141] 10 Member States (out of 15) have pointed out that it is in the interest of the general public to have more transparent and accessible information about interest representation activities carried out in the EU on behalf of third countries.

[142] 3 Member States (out of 15) have expressed preference for this option. An additional 2 Member State seem to prefer a recommendation instead of a legislative intervention as well. Only 1 CSO (out of 11) prefers this option and none of the industry supports it.

Due to the non-binding nature of the initiative, Member States could rely on the EU Recommendation while not being bound by law regarding the necessary safeguards when implementing the recommended standards. Hence, there is a risk of gold-plating.

Appropriate monitoring of implementation of the Recommendations would be conducted. A report would assess the effects of the Recommendation and consider other measures including possible future legislation.

Use would be made of existing expert groups as governance structures. The Commission would be able to rely on exchanges on the implementation of the voluntary measures to support their take up in existing networks, such as the European Cooperation Network on Elections or the membership of the Rule of Law contact group and on the reporting by the Commission on the follow-up given to the Recommendation.

5.3.2. Policy Option 2: Legislative intervention

The second policy option takes the form of a **legislative intervention harmonising the requirements**[143] **in the internal market**, based on Article 114 TFEU. It would not seek to directly prevent interest representation activities carried out on behalf of third countries but would provide transparency requirements for entities carrying out such activities. With regard to the **transparency and related obligations**, two options are possible: targeted requirements (PO2.1) or extended requirements (PO2.2).

5.3.2.1. Policy Option 2.1: Targeted requirements[144]

Entities carrying out interest representation activities on behalf of third country entities would be **required to register and keep certain records**. In addition, interest representation service providers would have the possibility to **take measures to identify the recipients of the services**.

- *Record-keeping:* Entities would be required to keep, for a reasonable period, information on the **identity** of the entity on whose behalf the activity is carried out, a **description of the purpose** of the interest representation activity, **contracts and key exchanges** with the entity to the extent that they are essential to understand the nature and purpose of the interest representation carried out, as well as information or material constituting key components of the interest representation activity.
- *Registration:* Entities would be required to **register** in a national register and provide information[145] on themselves, the activities conducted, and the entities they conduct the activities on behalf of.
  - On the **entity**: information could include name, contact details, category of organisation (e.g. law firm, consultancy, think tank etc.), address of the place of establishment, etc.
  - On the **activity**: information could include the type of activity provided, the Member States in which it will be carried out (the Member State of registration

[143] 6 Member States (out of 15) have explicitly expressed preference for harmonised requirements at EU level. An additional 3 Member States have expressed support for requirements that would require a legislative intervention. 4 CSOs (out of 11) are explicitly against such legislative intervention while 2 are in favour. All three industry representatives are in favour of establishing harmonised measures at EU level.

[144] 6 Member States (out of 15) as well as 2 industry representatives (out of 3) have explicitly expressed preference for targeted requirements. 2 CSOs (out of 11) consider that transparency requirements should differ according to the level of risk that entities might pose for foreign interference. 3 CSOs consider that any potential regulation should not impose overly burdensome and additional financial or narrative reporting on CSOs.

[145] The specific information to be included in the registration could be adapted through a delegated act.

should notify the Member State where the activity is performed), the policy sought to influence, the remuneration received covering all the tasks carried out with the objective of influencing the development, formulation or implementation of the same proposal, policy or initiative, where relevant, the name of the service provider entrusted with the publication or dissemination of information to the public (such as a newspaper).

- On the **entity on whose behalf the activity is carried out**: information could include their name, contact details and the third country on whose behalf the entity is acting.

Upon registration, the entity would **receive a registration number** that could be used throughout the internal market, which would serve as a mean to facilitate the identification across the Union of entities registered pursuant to the legislative initiative. The format of such number could be specified in the legislative initiative (e.g. in an Annex), and should include a country code. Existing registration numbers that may be issued by Member States regulating interest representation would still be maintained for those activities falling outside the scope of the legislative initiative. Entities would need to include such national registration numbers as part of their registration.

Information necessary for the enforcement, such as the name and address of the entity, would need to be **updated regularly**. Other information would need to be updated at least **annually**.

The information necessary to ensure public accountability would be **made public**. Information that would not be necessary to ensure public accountability, such as certain type of personal data, would only be **accessible to supervisory authorities** to facilitate enforcement.

- *Transparency:* Entities carrying out interest representation as well as their subcontractors would have to **provide their registration number** when in direct contact with public officials.

  Member States would be required to ensure that **publicly available national registers** are in place and that they cover the information and reporting requirements included in the intervention. They would need to **designate or set up supervisory authorities** ensuring proper implementation. Member State authorities could also be required to participate in the **established governance and information sharing structures**. Where available, Member States should be able to make use of existing transparency registers. Depending on their organisation, they should be able to establish one or multiple registers.

  To facilitate coordination and access to the registers, where an entity carries out activity in a Member State other than that of registration, the **Member State of registration should notify the Member State** where the activity is performed of the name of the concerned entity, its registration number and the link to the national registers where the registration took place. That Member State should include in its own register the information laid down in that notification.

- *Reporting:* In order to increase transparency and accountability of the magnitude, trends and actors of interest representation activities carried out on behalf of third countries, Member States would need to **publish an annual report** based on the data entered in the register[146]. This annual report could include aggregated data on the annual amounts per

[146] The specific information to be included in the annual report could be adapted through a delegated act.

third country and per category of organisation for each third country in the preceding financial year.

A risk-based approach: To enable Member States to monitor interest representation activities that are particularly likely to have a significant influence on public life and public debate, **supervisory authority should be able to request the records kept** by entities carrying out interest representation activities on behalf of third countries if: (i) these entities **receive more than EUR 1 000 000 from a single third country entity** in the preceding financial year or (ii) when they carry out interest representation activities for a third country entity whose action can be **attributed to a third country that has spent a EUR 1 500 000 on interest representation in a Member State or EUR 8 500 000 in the EU as a whole** in one of the last 5 years. Entities that receive, in the preceding financial year, an aggregate remuneration of less than EUR 25 000[147] would not be covered by this risk-based approach.

The reasoning behind the establishment of the different threshold levels is detailed in Annex 7. It can be summarised as follows:

- The EUR 1 000 000 and EUR 25 000 (*de minimis*) thresholds come from an analysis of data of the EU Transparency Register. They respectively would create a possibility for additional scrutiny over the 2.5% largest relevant entities, while excluding the 36% smallest relevant entities from the scope of the information requests requirements.
- The EUR 8 500 000[148] and EUR 1 500 000[149] thresholds were obtained by extrapolating data from the closest existing benchmark available, the US FARA, adapted to account for the specificities of the internal market.

Governance, supervision and sanctions: At national level, Member States would be required to **establish or designate one or more authorities responsible for national registers and one or more independent supervisory authorities[150] responsible for the supervision and enforcement** of the Directive. They could also designate the same authority for both tasks and they could rely on existing authorities, as long as the requirements of the initiative are complied with. The policy option would also include appropriate monitoring and enforcement mechanisms, for instance where a supervisory authority has reliable information of possible non-compliance by an entity it may ask that entity to provide the records kept necessary to investigate the possible non-compliance. Reports of breaches or attempts to circumvent the obligations by whistle-blowers would be possible. The initiative would provide for **cross-border cooperation and information sharing mechanisms** among supervisory authorities from different Member States. The Internal Market Information System ('IMI system') Regulation would support the administrative cooperation and the exchange of information using existing IT tools. At the EU level, a **governance cooperation mechanism** (e.g. an advisory group chaired by the Commission) would be established to facilitate exchanges and cooperation between the Member States supervisory authorities and ensure interoperability of the data collected. Among other things, they would exchange best practices on the technical arrangements for the national registers. The advisory group would also assist the Commission

147 These thresholds could be adapted based on a delegated act. For more see Annex 7.

148 The analysis found that 11 selected third countries spent an average the equivalent EUR 11 284 730.04 in 2020 (latest year for which data was available) on core interest representation services. The EU's economy in 2020 was 25% smaller than the US', resulting in an equivalent of EUR 8 463 547.53, which was rounded up to establish the threshold of EUR 8 500 000.

149 The threshold of EUR 1 500 000 was found by dividing the EUR 8 500 000 threshold by the share of GDP of each Member State. Based on this, the resulting threshold for France was used as a benchmark, rounded up, namely of 16.72% of EU GDP in 2022 or EUR 1 421 200, to establish the threshold of EUR 1 500 000. Importantly, the Directive foresees that this threshold can later be adapted by a Delegated Act, once more data is available after its entry into force. Setting a high bar at first permits to scope in fewer entities and reduce risks of overburdening.

150 Responding to the questionnaire sent by the Commission, 1 CSO (out of 11) indicated that "*the establishment of an independent oversight body would ensure that the transparency register is regularly and properly monitored*".

on possible guidance on the implementation of the Directive. The initiative would not envisage a direct enforcement role for the Commission. The Commission would be responsible for publishing a summary of the data received from the Member States and a list of third countries in the context of the risk-based approach. However, to efficiently monitor the implementation of the legislative initiative and improve the knowledge on the size and distribution of the overall interest representation activities that are carried out on behalf of third countries in the Union; the Commission will be able to request data from Member States.

Sanctions would be fully harmonised administrative fines which would represent a maximum of 1% of the entities' annual worldwide turnover. Sanctions would take into account the nature, recurrence and duration of the infringement in view of the public interest at stake, the scope and kind of activities carried out, and the economic capacity of the entity carrying out interest representation activities.

The sanctions regime shall in each individual case be effective, proportionate and dissuasive, with due respect for fundamental rights including freedom of expression, association, academic freedom and freedom of scientific research, safeguards and access to effective remedies, including the right to be heard. This option would ensure that entities would not be exposed to the threat of criminal penalties or dissolution.

A detailed explanation on the reasoning around the maximum sanctions amount of 1% of the entities' worldwide turnover is provided in Annex 7. In essence, this was determined by analogy with the Digital Services Act's Article 52(3)[151] which similarly relates to issues with information disclosures.

Stakeholder views:
1 out of 11 CSOs indicated that "*administrative sanction is the most proportionate option to deter misconduct. The receipt of funds is not in itself a criminal office, so a criminal sanction would be disproportionate*."

On the harmonisation of sanctions, out of the 15 Member that answered the questionnaire 4 prefer not to harmonise administrative fines while 3 are in favour. The remaining 8 did not pronounce themselves on the issue.

5.3.2.2. Policy Option 2.2: Extended requirement

Entities carrying out interest representation activities on behalf of third country entities would face the same requirement as in PO2.1, they would also face some additional requirements.

- *Record-keeping:* In addition to the elements included in PO2.1, these entities would be **required to keep records of all contracts and exchanges** (written and oral) with the entity on whose behalf the activity is carried out as well as all information or material on the interest representation activity.
- *Prior authorisation / licencing:*[152] For each new interest representation activity **above a certain financial threshold**, these entities would have to **apply to the competent national authority for a licence** to conduct said activity.

[151] DSA Article 52(3): *"Member States shall ensure that the maximum amount of the fine that may be imposed for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and failure to submit to an inspection shall be 1 % of the annual income or worldwide turnover of the provider of intermediary services or person concerned in the preceding financial year".*

[152] 4 Member States (out of 15) and 1 CSO (out of 11) are in favour of a prior authorisation/licensing system, 6 Member States, 5 CSOs and 1 industry representative (out of 3) have expressed themselves against such mechanism.

- The request would require submitting the **same information** as those provided under the registration of PO2.1.
- Licences would be refused only where in light of the information provided and of the **entity(ies)** the interest representation is carried out for (taking into account, where applicable the **risk-based approach**) the activity is likely to seriously affect public security[153].
- To support the decision-making process regarding the refusal of a license and ensure consistency in the EU, the legislative instrument would **create a cooperation mechanism**[154] whereby, the competent authority in the Member State assessing the application would notify the other Member States' authorities and the Commission. Other Member States would be able to submit comments if the activity is likely to seriously affect public security in their Member States. The Commission may issue an opinion if, based on the information transmitted by the concerned Member States, the activity is likely to seriously affect public policy in a Member State.
- Where a licence is granted despite comments submitted by a Member State or an opinion from the Commission, a publicly available flag would be added in the registration of the said entity.
- Entities would receive a **licence number** that could be used throughout the internal market. In the same condition as in PO2.1, upon obtaining the licence, the information provided by the entities would be **published in national transparency registers**.
- The failure to abide by these requirements would lead to significant penalties.

- *Transparency:* As in PO2.1, these entities as well as their subcontractors would have to **provide their licence number** when in direct contact with public officials.

Risk-based approach: Entities carrying out interest representation activities on behalf of third countries would be required to **automatically share all the records** when they fulfil the conditions of the risk-based approach set out in PO2.1.

Governance, supervision and sanctions: building on PO2.1, this option would require **Member State authorities** to set up a prior authorisation/licencing system.

6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

6.1. The baseline scenario

The dynamic baseline scenario is already presented under the section dedicated to the problem definition and its evolution (see sections 2 and 3.2), while Annex 9 provides a detailed description of the measures currently in place or proposed in this area.

Even existing initiatives and legislation at EU level (from the European Democracy Action Plan and beyond) would continue to ensure transparency of certain attempts of foreign influence, such transparency would leave an important part uncovered – the role of interest

[153] The concept of public security covers both a Member State's internal and external security and threats to the functioning of the institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests (Judgment of the Court of Justice of 23 November 2010, *Tsakouridis*, C-145/09, paragraphs 43 to 44).

[154] This mechanism is inspired by the FDI regulation, see note 23.

representatives or lobbyists. Interest representation activities would not be effectively covered by the following instruments:

- the **Political Advertising Regulation** would not cover interest representation activities which do not also qualify as 'political advertising' (e.g. lobbying);
- the **European Media Freedom Act** would not ensure transparency of instances where a third country obtains interest representation activities from a media service provider;
- the **Digital Services Act** would not cover providers of interest representation activities covered by the initiative as they are not 'intermediary services';
- the **Audiovisual Media Services Directive**[155] **(AVMSD)** would not cover interest representation activities given that advertising campaigns covered by the notion of interest representationare unlikely to fall within the scope of the AVMSD, whose advertising rules are focused on the promotion of goods and services;
- The **EU transparency register** would continue to apply. However, such Register is not binding, and the standards are limited to interest representation activities directed at EU institutions and its decision-makers. Interest representation activities carried out with the objective of influencing national policy, legislation or decision-making processes would not be covered.

The EU's toolbox to tackle Foreign Information Manipulation and Interference (FIMI Toolbox) would continue to inventory the EU's approach to FIMI and disinformation. However, in the absence of an initiative on interest representation, it would not benefit from the data obtained through this initiative, which could support developing an overview of such activities when used to manipulate or interfere.

In a nutshell, other initiatives would not address the objective of reducing the fragmentation in the regulation of cross-border interest representation activities carried out on behalf of third countries in the internal market (which is expected to increase). As regards the objective of improving knowledge about the magnitude, trends and actors of interest representation carried out on behalf of third countries, the existing initiatives at EU level do not address the lack of an overall understanding of the phenomenon and the specific collection of data.

Furthermore, any interventions at Member State level would not necessarily be equipped with the robust safeguards envisaged by the initiative and may result disproportionate.

6.2. Assessment of the options

The policy options were evaluated for the following economic, social, fundamental rights and geopolitical impacts. The assessment of impacts did not identify any relevant environmental impacts. The options will therefore respect the "do no significant harm" principle and is consistent with the climate neutrality objective, its intermediate targets and the adaptation objectives as set out in the European Climate Law[156].

6.2.1. Economic impacts

6.2.1.1. Functioning of the internal market

All 3 options would have a positive effect on the functioning of the internal market.

[155] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

[156] Regulation (EU) 2021/1119 of 30 June 2021 establishing the framework for achieving climate neutrality (European Climate Law).

The 2 legislative options (PO2.1and PO2.2), and, assuming that its recommendations are followed, the non-legislative option (PO1), would result in similar transparency requirements in all Member States, thereby levelling the playing field and limiting the risks of regulatory arbitrage. However, unlike the legislative measures in Option 2.1 and Option 2.2, Option 1 would not provide entities with a registration number that could be used throughout the internal market; entities carrying out interest representation on behalf of third countries cross border would still need to comply with different rules, including registration requirements, in the different Member States in which they operate.

The legislative measures PO2.1 and PO 2.2), by providing fully harmonised transparency requirements, would reduce the costs resulting from legal fragmentation and uncertainty for economic actors, thereby facilitating the offering of interest representation activities on behalf of third country entities across borders. In addition, these harmonised requirements would add legal predictability for interest representation activities carried out on behalf of third country entities in several Member States. In particular, the possibility to obtain a registration number that could be used throughout the internal market would remove the need for multiple registrations[157]. This would imply that for each Member State (outside the Member State of main establishment where a registration is currently required) in which an entity carries out interest representation on behalf of third countries, that entity would be able to obtain some savings due to synergies permitted by similar registration and information disclosures requirements[158].

Stakeholder views:
1 CSO (out of 11) considered that "*the introduction of harmonised measures at EU level can increase coherence (…) and would reduce the compliance burden for companies that previously had to register in different Member State with different requirements and obligations.*"

By providing the same level of transparency and supporting coordination among competent authorities, both of these options contribute to improving the regulatory outcome with regard to interest representation activities carried out on behalf of third country entities.

The licensing/prior authorisation system set out in the legislative option PO2.2, could lead to a limited regulatory arbitrage as economic actors might seek to obtain said licence in more lenient jurisdiction[159].

6.2.1.2. Competitiveness

All 3 options are expected to have a positive impact on the competitiveness, innovation and investment in cross-border interest representation activities carried out on behalf of third countries. By levelling the playing field and reducing the compliance costs linked to cross

[157] To facilitate coordination and access to the registers, where an entity carries out activity in a Member State other than that of registration, the Member State of registration should notify the Member where the activity is performed of the name of the concerned entity, its registration number and the link to the national registers where the registration took place. That Member State should include in its own register, the information laid down in that notification.

[158] Cross-border companies will be subject to reduced administrative burden in these additional Member States stemming from: (i) The need to provide exactly the same information (i.e. when operating on behalf of a given third countries in multiple Member States). In this scenario, the costs of registration and information disclosure for additional Member States would be limited solely to the submission of information as there would be no need to collect additional information. (ii) The need to provide different information but for the same types of information (i.e. when operating in different Member States on behalf of different third countries). In this scenario, likely minor efficiency gains would be possible, for instance, through the use of the same information recording and retrieval systems across all Member States. However, entities would still be required to conduct the same internal liaison and information collection tasks, as well as the information submission tasks. Annex 4 provides further details on the analysis of costs and savings.

[159] Where a licence is granted despite comments submitted by a Member State or an opinion from the Commission that the activity is likely to seriously affect public security, a publicly available flag would be added in the registration of the said entity.

border activities, they will enable existing national enterprises to scale up. By increasing transparency, they would decrease popular distrust in these activities, strengthening the attractiveness of entry to this market.

In particular, the legislative measures (PO2.1 and PO2.2), by fully removing the obstacles resulting from legal uncertainty and fragmentation, as well as reducing the need for multiple registration would help create a stable market to enable SMEs to scale up their operations and stimulate the development of new services offered at EU level.

All 3 policy options would only provide for transparency requirements and would thus have no impact on the capacity to innovate of the entities falling within their scope.

6.2.1.3. Costs and administrative burdens for economic actors (+SMEs)

All 3 options would add compliance costs for economic actors providing activities which are in scope. These are expected to be compensated by the efficiencies realised from the removal of legal fragmentation that facilitate the cross-border provision of interest representation activities on behalf of third countries, in particular with regard to the legislative policy options (see section 6.2.1.1).

In light of the removal for the need for multiple registrations, the net expected result is a cost reduction against the baseline for the legislative policy options.

The extended requirements of PO2.2 introduce a prior authorisation/licencing system over the other options and the baseline. By having the possibility to refuse to authorise an interest representation activity that is likely to seriously affect public security, this option would create a positive reputational impact for economic actors that have been granted a licence, which could be leveraged for commercial gains.[160]

Annex 4 details the methodology used to determine the costs for economic actors.

Table 3: Estimates of costs for obligations addressed to economic actors.

Type of cost	**Option 1**[(*)]: non-legislative measures	**Option 2.1**: targeted legislative requirements	**Option 2.2**: extended legislative requirements
Familiarisation costs	Basic familiarisation costs: Entities that carry out interest representation activities will conduct some basic familiarisation with the new regulatory framework to assess whether their operations would fall into scope. Such cost would be around EUR 20 to 60 per organisation[161]. Extended familiarisation costs: Entities concerned by the new regulatory framework would need to assess the practical implication, develop compliance strategies and allocated responsibilities for compliance related tasks. These costs would be around EUR 80 to 240 per organisations[162]		
Record keeping	N/A	Establishing and implementing record keeping processes: Concerned entities would need to identify and assess the risks related to each new engagements and then implement a record keeping process. While there would be a need to formalise these	

[160] 5 CSOs underlined that any requirements to obtain a licence would place an important burden on smaller actors involved in interest representation, including not-for-profit organisations.

[161] See Annex 4, section 2.2 for details.

[162] See Annex 4, section 2.3 for details.

		processes, stakeholders confirmed that these costs could be considered as business as usual[163].	
Registration	Registration costs: In the 15 Member States that currently maintain a transparency register, entities would need to update their registration. In the 12 other Member State, they would need to register. In all 27 Member States, concerned entities would need to regularly update their registration. Furthermore, the larger the firm, the more complex and costly the reporting process. The total registration would thus cost around EUR 828 per organisation per year for small entities[164], EUR 1 686 for medium entities[165] and EUR 3 314 for large entities[166]. 97.3% of entities falling under the scope of the initiative would be small entities[167].		
Prior authorisation /licencing	N/A	N/A	Within the application for a licence, concerned entities would be required to submit the same information as under the registration obligations. Thus, the core activities, and direct costs, stemming from the prior authorisation/licencing system would be covered by the "Registration" cell above.[168]

(*) For the purpose of this table, it is assumed that Member States enact legislation to adopt the transparency measures recommended in Option 1. Further analysis is provided in Annex 4.

SME test

It is not possible to fully exempt SMEs from the transparency requirements as they are important actors in the market for interest representation activities carried out on behalf of third countries[169]. Legal fragmentation in the internal market for entities carrying out interest representation activities on behalf of a third country is a significant barrier for SMEs, amounting to prohibitive legal and financial obstacles to such enterprises. SMEs are also more affected by policies established by some Member States which require entities carrying out interest representation to registered in that Member State.

The obligation to maintain updated registration included in all 3 options involve an ongoing compliance cost. While the ongoing costs depend on the number of interest representation activities carried out on behalf of third countries, the described cost affect SMEs proportionately more than other actors.

163 See Annex 4, section 4.2 for details.

164 Defined as having less than 10 full-time equivalent personnel (FTEs) working on interest representation activities.

165 Defined as having between 10 and 20 full-time equivalent personnel (FTEs) working on interest representation activities.

166 Defined as having more than 20 full-time equivalent personnel (FTEs) working on interest representation activities.

167 See Annex 4, section 2 for details.

168 Within the application for a licence, entities within scope would be required to submit the same information as under the registration obligations of policy option 2.1. While this could lead to hassle costs (e.g. from delaying the provision of services), the core activities, and direct costs, stemming from the prior authorisation / licencing system would be covered by the registration and information update costs detailed above. Annex 4 provides further details on this analysis.

169 In its answer to the Commission's questionnaire, 1 CSO underscored that "*all entities involved in interest representation and receiving funding from governments should be equally accountable, which means that transparency requirements should apply to all bodies involved in the EU legislative process. However, small and large actors should not be in unequal situations in terms, amongst others, of the administrative burden of registering. According to the principle of proportionality and equality, SMEs and other small actors should benefit from the removal of unnecessary burdens."* Additionally, no Member State argued that SMEs should benefit from a derogation and only 1 Member State (out of 15) emphasized that "*additional excessive administrative burdens on CSOs, social partners, and SMEs*" should be avoided. All 3 industry representatives are not in favour of any specific exemptions for certain entities or of any *de minimis* threshold.

The legislative options (PO2.1 and PO2.2) offer more opportunities for such costs to be offset by savings resulting from simplification of the rules and the elimination of the need for multiple registration when offering activities across borders. This would increase cross-border activity in particular for SMEs, which could offer their activities to clients outside their Member State of establishment and would have the opportunity to scale up to operate at EU level. Support to compliance to transparency requirements would be offered by competent national authority, notably on the notion of third country entity or on the scope.

To limit administrative burden, in particular for SMEs, an obligation would be introduced to make information on the registration obligations and formalities established by the legislative options available via the Single Digital Gateway[170] which, through the Your Europe web portal, sets up a one-stop-shop that provides businesses and citizens with information about rules and procedures in the Single Market, at all levels of government and direct, centralised, and guided access to assistance and problem-solving services as well as to a wide range of fully digitised administrative procedures. In addition, the procedure for registration is fully online and organised in accordance with the 'once only' principle to facilitate the reuse of data.

Finally, the risk-based approach and, in PO2.2, the prior authorisation/licencing would be subject to a *de minims*, to avoid imposing excessive burden on SMEs.

6.2.1.4. Costs for public authorities of measures addressed to economic actors.

The 2 legislative options (PO2.1 and PO2.2) would aim to streamline oversight, providing better access to needed information, more opportunities for coordinated action and resource-sharing and clarity about the responsible authority. This would result in more effective regulatory outcomes. It also provides support to Member State authorities to request information and facilitate cross-border oversight via the Internal Market Information System[171], while focusing on entities whose main establishment lie in their jurisdiction.

As detailed in Annex 4, it could result in some costs for national authorities: one-off familiarisation costs, 15 Members States that have a publicly accessible transparency register[172] would have a one-off cost to amend their regime, while the 12 other Member States[173] would need to establish such register. All Member States would need to maintain the registers and maintain appropriate management, monitoring and enforcement mechanisms[174]. These costs are expected to be partialy offset against the efficiency savings expected from the harmonised obligations and streamlined and strengthened oversight process.

If fully implemented, PO1 would lead to the same costs as the targeted requirements in Option 2.1without the benefits stemming from the streamlined oversight and cooperation systems.

Should the recommendation under PO1 not be implemented fully, the costs under a scenario of 50% take up by Member States has also been assessed, which would lead to lower costs for Member States authorities[175].

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[170] 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) 1024/2012.

[171] Regulation (EU) 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').

[172] IE, EL, ES, FR, IT, CY, LT, LU, NL, AT, FI, DE, PL, RO, SI.

[173] BE, BG, CZ, DK, EE, HR, LV, HU, MT, PT, SK, SE.

[174] See Annex 3, section 3.1 for details.

[175] Details on the costs analysis in that 50% take up scenario are provided in Annex 4.

In addition to the costs and benefit of the PO2.1, the extended requirements of PO2.2 introduce some additional specific obligations over the other options and the baseline which would imply additional costs.

6.2.2. Social impacts

6.2.2.1. Transparency of interest representation activities carried out on behalf of third countries

The 2 legislative options (PO2.1 and PO2.1), and assuming that its recommendations are followed, the non-legislative option (PO1) enhance the transparency of interest representation activities carried out on behalf of third countries. As voters, citizens are important decision-makers in their own right, and as such, they can be the target for certain interest representation activities. By revealing the information on the interest representation activity conducted and the entity on whose behalf the activity is carried out, all 3 options would enable citizens and public officials to easily recognise influence campaigns by third countries thereby contributing to the integrity of, and public trust in, EU and Member State decision-making processes. It would support oversight by competent authorities as well as scrutiny from interested actors (including CSOs, political actors, researchers, elections observes or journalist) to monitor interest representation activities carried out on behalf of third countries. The strengthening of the quality of information available would help enrich the political debate.

Stakeholder views:
10 Member States (out of 15) pointed out that it is in the general interest of the society to know about interest representation activities on behalf of third countries seeking to influence the formulation or implementation of policy or legislation or public decision-making processes in the EU. For example, 1 of them emphasized that *"it is not sufficient that only decision-makers have access to such information. Such access should be made available to every person interested to be informed about lobbying activities, while, at the same time respecting any limitations with regard to confidentiality or GDPR."*

The 2 legislative options (PO2.1 and PO2.2) could have limited impacts on the confidentiality of the registered entity. However, no derogation to confidentiality requirements will be sought. If such requirements apply, entities will be able to refer to them in order to not have their data published in the register or to have only a limited set of data published. Furthermore, financial amounts would be published in ranges, since publicity on the granularity of the specific amounts paid is not strictly needed for the objective of public accountability.

The 2 legislative options (PO2.1 and PO2.2) would require entities carrying out interest representation on behalf of third country entities to provide their registration number when in direct contact with public officials.

Stakeholder views:
5 out of 11 CSOs considered that a requirement for all registered entities to provide their registration number when in direct contact with public officials would unduly restrict CSOs access to policy-making. 5 out of 15 Member States expressed similar concerns. 6 Member States actively support such requirements. According to 1 of them *"this would help ensure transparency and accountability in lobbying activities."*

Neither of these two policy options would regulate the transparency or ethical requirements that Member States may imposed on public officials. Except when carrying out interest representation activities on behalf of third country entities, concerned entities would be free to interact with public official without additional requirements under EU law. The requirement would be limited to providing the registration number and would ensure that decision-makers can easily access the information on the interest represented, and thus critically analyse the

content to which they are exposed and make informed choices. It would not unduly restrict access to public officials.

By providing for similar transparency requirements in each Member States, and thus limiting forum shopping, the 3 options would ensure that entities do not carry out interest representation on behalf of third countries covertly.

6.2.2.2. Improve knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries

The 2 legislative options (PO2.1 and PO2.2), and assuming that its recommendations are followed PO1, would improve knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries, by providing for publicly available data on such activities. In particular, Members States would be able to establish aggregate data on the interest representation activities being carried out, the decision-making processes targeted, the amounts spent by each third country. They will enable journalists, CSOs, researchers as well and national or European authorities to map the entities carrying out interest representation on behalf of each third country as well as the means, such as a newspaper or online platform disseminating ads, by which the content of an interest representation is being disseminated to the public. They will be able to assess the evolution of that market over the years. The publication of some of these aggregate amounts and the establishment of machine-readable[176] register would strengthen of the quality of information available on this subject, help enrich the political debate and inform future policy-making. This information could also serve to build capacity and help citizens and policy-makers understand and, where relevant, react to influence campaign of third countries.

The 2 legislative options (PO2.1 and PO2.2), would greatly facilitate comparison between Member States and establishing trends at EU level, by providing identical information to be provided upon registration, and promoting harmonized publication standards of aggregated data through their respective governance cooperation mechanism. These legislative options also provide for a flexible and evolutive approach to this data collection by enabling to adapt the information requested upon registration as well as the aggregate data to be made public through for delegated act.

By providing for an early assessment of the information provided, the prior authorisation system in PO2.2 would ensure that the information provided in the register is correct and complete and would further the knowledge on the magnitude, trends and actors of interest representation activities carried out on behalf of third countries.

6.2.2.3. Enforcement and supervision by authorities

By limiting the risk of forum shopping (see section 6.2.1.1 above), PO1 would be a limited improvement compared to the baseline, as interest representatives are less likely to direct their operations towards less regulated Member States, enabling Member States to better monitor interest representation activities carried out on behalf of third countries in their jurisdiction.

The 2 legislative options (PO2.1 and PO2.2), entail further improvement by strengthening regulatory coordination among competent authorities especially via the establishment of a governance cooperation mechanism such as an advisory group, and information sharing

[176] Information should be considered machine readable if it is provided in a format that software applications can automatically process, without human intervention, in particular for the purpose of identifying, recognising and extracting specific data from it.

structures. This would ensure that oversight on a common set of transparency requirements is better coordinated among national authorities[177].

In addition, both legislative options provide for gradual enforcement mechanism thanks to a *risk-based approach.* In PO2.1, supervisory authorities would be able to *request, without any justification, the records kept* by entities fulfilling the risk-based approach criteria. In PO2.2, entities in the scope of the instrument would also be required to keep records of all contracts and exchanges with the third country entity, if they fall within the scope of the risk-based approach, and these entities would be *required to automatically share all of these records*. These provisions will facilitate the enforcement of the transparency requirements with regard to entities that carry out interest representation activities that are particularly likely to have a significant influence on public life and public debate. It will also enable authorities to have access to contracts and key exchanges enabling them to better understand and supervise interest representation activities carried out on behalf of third countries. The risk-based approach would be flexible and evolutive, as the threshold could be modified via a delegated act using the data collected over time.

Stakeholder view:
7 out of 11 CSOs and all of the industry representatives who answered the questionnaire (3) highlighted the risk of circumvention. 2 of them stated that in the absence of transparency standards applicable to all forms of interest representation "*external entities will invariably discover avenues to wield their influence, notably through private entities registered within EU Member States*".

By conditioning interest representation to the respect of transparency requirements, all 3 policy options (assuming that the recommendations in PO1 are implemented through legislation) would ensure that interest representatives do not carry out interest representation activities on behalf of third countries covertly. In the 2 legislative options (PO2.1 and PO2.2), the **risk of circumvention would be limited** thanks to the broad notion of third country entity. This notion would include public or private entities, including EU citizens and legal persons established in the EU, whose actions can ultimately be attributed to a central government or public authorities of a third country[178]. Guidance could be offered by competent national authorities, to help concerned entities apply this concept. Where a supervisory authority has reliable information of possible non-compliance, e.g. a private entity registered in the EU trying to cover up its work on behalf of third countries, it may ask that entity to provide the records kept necessary to investigate the possible non-compliance. These 2 policy options would also enable reports of breaches or attempts to circumvent the obligations by whistle-blowers[179].

By having the possibility to refuse to authorise an interest representation activity that is likely to seriously affect public security, the legislative option PO2.2 would enable supervisory authorities to prevent activities that could pose a threat to the functioning of the institutions and essential public services, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations.

[177] 1 Member State (out of 15) considered that a network for national supervisory authorities "*should serve as a platform for regular exchange of information and structured cooperation between supervisory authorities*".

[178] The concept is inspired by Article 3(3) of Regulation on foreign subsidies distorting the internal market, see note 3.

[179] 2 CSOs (out of 11) support such compliance mechanism, 1 of them stating: "*CSOs and human rights defenders, in their quality as trusted actors that contribute to the promotion and protection of democratic standards, should be put in a position to report to supervisory authorities any elements coming to their knowledge which points to a risk of malicious covert foreign interference*".

6.2.3. Fundamental rights impacts

6.2.3.1. Right to private life and to the protection of personal data[180]

All 3 policy options **impose limited restrictions** on the **right to private life** (Article 7 of the Charter of Fundamental Rights, hereinafter 'the Charter'[181]) and the **right to the protection of personal data** (Article 8 of the Charter), insofar as they require that entities keep and provide certain information to the national authorities and provide access for the public to a part of that information which might include personal data. The legislative policy options (PO2.1and PO2.2) provide in addition for the exchange of such information among competent national authorities.

As voters, citizens are important decision-makers in their own right, and as such, they can be the target for certain interest representation activities. All 3 policy options enhance the integrity of, and public trust in, the EU's and Member States' democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries, and by improving the knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries (see sections 6.2.2.1 and 6.2.2.2)[182]. The CJEU has recognised that the objective consisting in increasing transparency is an overriding reason in the public interest[183]. The aim pursued by the 3 policy options therefore constitutes **an objective of general interest that is capable of justifying interferences with the fundamental rights enshrined in Articles 7 and 8 of the Charter in line with Article 52 thereof**.

All 3 policy options provide for public access to a **proportionate**, clearly defined and limited set of information, which excludes information that is not absolutely needed to reach the purposes pursued. The limitations on the right to private life and the right to the protection of personal data **respect the essence of those rights, genuinely meet a general interest recognised by the EU, and are proportionate and limited to the minimum necessary**.

In particular, in the legislative policy options (PO2.1 and PO2.2), the set of data to be made available to the public is limited to what is necessary to improve knowledge about the magnitude, trends, and actors of interest representation carried out on behalf of third countries[184]. It is clearly and exhaustively defined and fully harmonised throughout the EU. Most of the information contained in the register would not consist of personal data. The data minimisation principle contained in the GDPR would be uphold in this context by limiting personal data made publicly available to the minimum required for citizens to be informed about the entity carrying out interest representation and the activity carried out on behalf of third country entities. Information of relevance only to the competent national authorities, supervising and monitoring compliance with those options, would not be made publicly available, to safeguard against the risks of abuse of the information provided.

In addition, the legislative policy options (PO2.1 and PO2.2), beyond fully harmonising the set of data to be made public, provide for additional and specific safeguards by enabling entities to request that all or part of the information gathered for the purpose of the transparency

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180 For a full analysis, see Annex 8.

181 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407 (BG, ES, CS, DA, DE, ET, EL, EN, FR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV).

182 As stated by the Venice Commission, "*lobbying activities fall (...) in between the political party activities and ordinary NGO activities. (...) The public has a clear interest in knowing the lobbying actors who have access to government decision-making process for the purpose of influence, including their financial sources whether domestic or foreign*". Venice Commission Report on Funding of Associations CDL-AD(2019)002, paragraph 105.

183 See note 125, paragraph 79.

184 See section 5.3.2.1 for details on the information to be made public.

requirement is not made public based on an overriding interest. The requirement in PO2.2 that entities falling within the scope of the risk-based approach are required to automatically share all of their records with the supervisory authorities could go beyond what is necessary to ensure the transparency of interest representation activities carried out on behalf of third countries.

6.2.3.2. Freedom of association[185]

The right to freedom of association is guaranteed under Article 12 of the Charter, it applies to associations, including CSOs, interest groups, trade unions and political parties.

Careful consideration is being given to the potential spill over effect of the measures and unintended negative consequences for the operation of CSOs, which are operating in a shrinking civic space[186].

Stakeholder views:
7 out of 11 CSOs voiced concerns about the risk of "*creating a negative presumption and stigmatising CSOs who received foreign funding*" and about the risk that they might be "*misused by Member States in expansive transposition*". 4 CSOs argued that the proposed measures do not *"remove potential obstacles to the functioning of the internal market, [but] that they introduce additional obstacles […] by limiting the ability of organisations to seek and receive funds."*

Freedom of association constitutes one of the essential pillars of a democratic and pluralistic society, in as much as it allows citizens to act collectively in fields of mutual interest and to contribute to the proper functioning of public life[187]. Associations must be able to pursue their activities, operate without unjustified interference, and obtain resources to support their operations. The Court considers that legislation which renders significantly more difficult the action or operations of associations, whether by strengthening the requirements in relation to their registration, by limiting their capacity to receive financial resources, by imposing obligations of declaration and publications such as to create a negative image of them or by exposing them to the threat of penalties, in particular of dissolution, is to be classified as a limitation to the freedom of association[188].

The examined policy options are limited to ensuring transparency regarding interest representation activities carried out on behalf of third country entities and seeking to influence decision-making processes in the EU. They do not affect as such the possibility for entities to carry out these activities (with the exception of PO2.2). However, transparency requirements could have a spill over effect on other activities of CSOs for instance their advocacy work.

All 3 policy options enhance the integrity of, and public trust in, the EU's and Member States' democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries, and by improving the knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries (see sections 6.2.2.1 and 6.2.2.2)[189]. The CJEU has recognised that the objective consisting in increasing transparency is an overriding reason in the public interest[190]. As such, it is possible to justify the limited and proportionate impact on freedom of association resulting from the initiative – in as much as the requested organisations would have to comply with the registration and reporting obligations and pay the related costs.

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185 For a full analysis, see Annex 8.
186 The 2022 FRA's report highlights that in 2020, 15% CSOs faced legislations on transparency and lobby laws negatively affecting their freedom, available at: https://fra.europa.eu/en/publication/2022/fundamental-rights-report-2022-fra-opinions.
187 See note 125, paragraph 112.
188 See note 125, paragraph 114; Judgment of the ECtHR of 14 June 2022, *Ecodefense v. Russia*, n°9988/13, paragraph 81.
189 See note 182.
190 See note 125, paragraph 79.

The limited transparency obligations would, furthermore, not affect the essence of the right to freedom of association. In particular, while imposing transparency obligations, the proposed measures do not restrict the right to seek for funding and resources as none of the policy options ban foreign funding.

All 3 policy options thus meet the objective of general interest, in light of the principles of openness and transparency, which must guide the democratic life of the EU in accordance with the second paragraph of Article 1 and Article 10(3) TEU and in conformity with the democratic values shared by the EU and its Member States pursuant to Article 2 TEU.

With regard to the proportionality of the limitation, **all 3 options apply indiscriminately to any entity receiving financial support from abroad by reason of the type of activity they carry out**. In particular, the legislative policy options (PO2.1 and PO2.2) would not cover any funding given by a third country entity[191], but only the funding which is related to an interest representation activity (structural grants, donations, etc. are therefore excluded). These legislative options only focus on the activities that are genuinely likely to have a significant influence on public life and public debate. Secondly, **none of the policy options target specifically CSOs or other associations**, significantly reducing the risk of stigmatisation. They regulate a specific type of activity – interest representation activities carried out on behalf of third country governments – regardless of the natural or legal person carrying it out.

The legislative policy options (PO2.1 and PO2.2) contain specific **safeguards to avoid stigmatisation**. Firstly, the national public registers would have to be presented in a neutral manner and in such a way that it does not lead to stigmatisation of the entities included in the register (e.g. Member States would be prevented from requiring the entities that fall within the scope of the initiative to register 'as an organisation in receipt of support from abroad' or indicate on their internet site and in their publications and other press material the information that they are organisations in receipt of support from abroad). In particular, the publication should not be presented with or be accompanied by statements or provisions that could create a climate of distrust with regard to the registered entities, apt to deter natural or legal persons from Member States or third countries from engaging with them or providing them with financial support.

Secondly, Member States should ensure that when carrying out their tasks, the national authorities ensure that no adverse consequences arise from the mere fact that an entity is registered.

Thirdly, the registered entities would be able to request that all or part of the information is not made publicly available where there are overriding legitimate interests preventing publication. By imposing a **full harmonisation of the transparency requirements**, these 2 options ensure that registered entities may not be required to present themselves to the general public in a manner liable to stigmatise them[192].

Additionally, the full harmonisation responds to the concerns of CSOs that the legislative instrument could be "misused by Member States in expansive transposition". This would not be possible as Member States would be prohibited from exceeding the limits imposed by the legislation and could not lay down more stringent protective measures on the grounds of transparency.

Furthermore, the reporting obligations would be fully harmonised. The reports available to the public would present the amounts in an aggregated data and per type of entity registered (i.e.,

[191] Third country governments and entities whose action can be attributed to them, see section 5.2.

[192] Upon registration, these entities would only be required to provide their registration number in their contacts with public officials, not the wider public.

no amounts spent by specific entities would be provided). When it comes to the information available in the registers, the ranges in which the amounts should be public would be fully harmonised.

The legislative policy options (PO2.1 and PO2.2) also include proportionate sanctions and a comprehensive system of **safeguards**, including effective judicial review[193]. These options would ensure that CSOs and other associations would not be exposed to the threat of criminal penalties or dissolution.

Stakeholder views:
1 (out of 11) CSOs highlights that "*registration procedures must be manageable by volunteers and amateurs, since unlike business corporations, CSOs are often staffed by volunteers."*

The targeted requirements included in PO2.1 are **proportionate** and will not overburden concerned entities, also not those run by smaller teams or by volunteers. (i) In terms of *record-keeping*, the concerned entities would be required to keep, for a limited period, a clearly defined set of information[194]. (ii) In terms of *registration*, the concerned entities would only be required to provide limited information on themselves, the activities conducted, and the third country entities they conduct the activities for. The registration would include an approximation[195] of the remuneration received. Only the information necessary for the application and oversight of the legislative initiative would need to be updated regularly. Other information would only need to be updated annually. (iii) Apart from where it is necessary to examine non-compliance with the registration requirements, registered entities can only be *requested to share their records* with the supervisory authority as part of a risk-based approach where, based on objective factors, they are particularly likely to have a significant influence on public life and public debate. (iv) As illustrated in section 6.2.1.3 and Annexes 3 and 4, the costs for private entities are not likely to render significantly more difficult the action or operations of associations and are limited to what is necessary to ensure transparency.

The extended requirements included in PO2.2 **impose additional burdens on the concerned entities** as compared to the targeted requirements included in PO2.1[196]. These additional provisions **enhance the restrictions on the right to freedom of association**. Member States would be able to refuse granting a licence on the ground that the activity is likely to seriously affect public security. While such measure would be suitable to address threats to internal and external security, it would still place *de facto* prior authorisation obligations on the mechanisms by which associations use certain remunerations from third countries. Such measures could

[193] Supervision would be entrusted to independent supervisory authorities with clearly established powers, whose requests for further information would need to be motivated and subject to effective judicial remedy. Sanctions would be designed in a way that would avoid a chilling effect on the concerned entities and sanction related powers subject to appropriate safeguards, including the right to effective judicial review. They would be fully harmonised and limited to administrative fines under a specific ceiling based on the entity's economic capacity. Sanctions would only be imposed following a prior early warning except for breaches of the anti-circumvention clause.

[194] These records would include information on the identity of the third country entity on whose behalf the activity is carried out, a description of the purpose of the interest representation activity, contracts and key exchanges with the third country entity to the extent that they are essential to understand the nature and purpose of the interest representation carried out as well as information or material constituting key components of the interest representation activity.

[195] During the registration the precise amount would not be requested. Concerned entities would have to indicate in which bracket (e.g.: EUR 25,000 < 50,000; or EUR 50,000 < 100,000) the remuneration would fall, this remuneration would cover all the tasks carried out with the objective of influencing the development, formulation or implementation of the same proposal. Information on the annual amounts declared would be made public within wider brackets corresponding the level of detail necessary for the purpose of informing citizens their representatives and other interested parties.

[196] These additional requirements include: (i) a requirement to apply to national-level authorities for an EU-wide licence to conduct interest representation activities on behalf of a third country entity; and (ii) a requirement to keep records of all contracts and exchanges with the entity on whose behalf the activity is carried out as well as all information or material on the interest representation activity.

have a disproportionate impact in the light of the objective that it seeks to achieve[197]. Furthermore, this system of prior authorisation would give Member States a certain leeway which could create a risk of arbitrariness in the decisions to grant said licence. Finally, the fact that a publicly available flag would be added in the registration of the entity who received a licence despite comments submitted by a Member State or the Commission, could lead to stigmatisation of the said entity.

The non-legislative option (PO1) would not provide for the extended requirements of the PO2.2. However, it would only provide for recommendations, **leaving Member States a large room of manoeuvre** to implement transparency requirements and would not ensure the implementation of the safeguards provided by the legislative options. In the questionnaire that was sent to Member States, CSOs, and industry representatives, 6 out of 11 CSOs have expressed concerns that such recommendations could be misused.

6.2.3.3. Freedom of the arts and sciences

The freedom of the arts and sciences is guaranteed under Article 13 of the Charter. Among other[198], Article 13 of the Charter protects the freedom of researchers to express their opinion without being disadvantaged by the institution or system in which they work or by governmental or institutional censorship.

In the recent decades, research, innovation and higher education have increasingly expanded beyond national borders to become fully internationalised. While generally a welcome development, this also creates challenges as some third countries may seek to influence scientific research or shape educational activities to further their own goals and influence decision-making in the EU.[199] By ensuring the transparency of interest representation activities carried out on behalf of third countries via education, research and academic institutions, all 3 policy options would shed light on potential cases of foreign interference in this field.

Stakeholder views:
1 member of Academia indicated in a follow-up paper after a focus group meeting[200] that "*to limit global dialogue, there must be a concrete and identifiable risk; blanket bans will undermine the long-term benefits of openness to the world. Here, the people-to-people aspect of academic exchanges remains an essential instrument for mutual understanding. This must not be hampered by general bans*

[197] "*As to the necessity and proportionality of measures taken to secure the above-mentioned aims, interference with the right of associations to seek and obtain financial and material resources should be the least intrusive of all possible means that could have been adopted. The authorities should be able to prove that the legitimate aim pursued by the measure cannot be reached by any less intrusive measures. In particular, an outright ban on foreign funding, or requiring prior authorisation from the authorities to receive or use such funds, is not justified.*" Venice Commission Report on Funding of Associations, CDL-AD(2019)002, paragraph 147; see also Report by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/50/23) paragraphs 20 to 22.

[198] The freedom of the arts and sciences ensures the freedom of academic staff and students to engage in research, teaching, learning and communication in and with society without interference nor fear of reprisal. Freedom of scientific research encompasses the right to freely define research questions, choose and develop theories, gather empirical material and employ academic research methods, to question accepted wisdom and bring forward new ideas. It entails the right to share, disseminate and publish the results thereof, including through training and teaching. It is also the freedom to associate in professional or representative academic bodies. In addition, within the European Higher Education Area, Ministers stated that they commit to upholding institutional autonomy, academic freedom and integrity, participation of students and staff, and public responsibility for and of higher education. They adopted the definition of academic freedom as freedom of academic staff and students to engage in research, teaching, learning and communication in and with society without interference nor fear of reprisal (Rome Communiqué 2020 adopted on 19 November 2020 at the Ministerial conference of the European Higher Education Area (EHEA)).

[199] 'Commission publishes a toolkit to help mitigate foreign interference in research and innovation', Directorate-General for Research and Innovation, European Commission, 18 January 2022, available at: https://research-and-innovation.ec.europa.eu/news/all-research-and-innovation-news/commission-publishes-toolkit-help-mitigate-foreign-interference-research-and-innovation-2022-01-18_en.

[200] Focus group meeting of 17 November 2022 with 7 representatives from Academia and research organisations.

and obstacles unless there is a clear risk for foreign interference against the interest and values of Europe's democracies".

None of the policy options regulate the freedom to define research questions, nor the right to disseminate and publish the results. None of the policy options would include a general ban on international collaboration (only the extended requirements included in the PO2.2 would limit an interest representation on an individual basis, in the specific situation where the activity is likely to seriously affect public security). The policy options would only introduce common transparency standards in the internal market for interest representation activities carried out on behalf of third countries. They would not affect the institutional autonomy of EU Higher Education Institutions to set their own organisations, recruit independently, set the structure of content or degrees or to borrow money or set tuition fees.

With regard to the risks of stigmatisation or obstacles to academic freedom, the analysis provided with regard to the freedom of association is applicable *mutatis mutandis* (see section 6.2.3.2).

6.2.3.4. Freedom of expression and information

With regard to the freedom of expression and information (Article 11 of the Charter), both policy options would positively contribute to the right of individuals to receive and impart information and ideas without interference by public authority.

Citizens would gain better access to information on interest representation activities carried out on behalf of third countries affecting public decision-making. This would strengthen their understanding of such activities, reinforce their confidence in the integrity of public decision-making processes and deter manipulative foreign interference. At the same time, safeguards ensure that the right to the protection of personal data of natural persons providing information to national registries is guaranteed. In addition, in specific situations where organisations registered justify an overriding interest, the publication of information may exceptionally be withheld.

In this regard, the legislative measures in the proposal would improve the transparency and accountability of entities that carry out interest representation activities on behalf of third countries and enhance the knowledge about the magnitude, trends and actors of such activities. The fundamental right to receive information would be reinforced as citizens would gain useful information to exercise their democratic rights and hold their public officials accountable.

None of the policy options regulate the content of the interest representation activities.

None of the policy options require transparency in terms of funding of operating expenditure, which are unrelated to an interest representation activity like structural grants or donations. This implies that the freedom of CSOs and other concerned entities, to express an opinion on their own behalf, would *a priori* not be affected by the different policy options.

The provision of transparency measures could have a chilling effect on the decision to carry out interest representation activities and could restrict the freedom of expression of entities whose action can be attributed to a third country government (such as a private entity controlled by a third country)[201]. These measures pursue an objective in the general interest capable of justifying interference with this freedom (see section 6.2.3.2). Furthermore, the specific

[201] This restriction would also exist to PO1 to the extent that the Recommendation is implemented in a way that applies to entities beyond third country governments (such as third country entities as defined in section 5.2.).

requirements imposed by PO1 and the targeted requirements in PO2.1 are not more far-reaching than would be required to achieve this objective (see section 6.2.3.2).

The system of prior authorisation in the extended requirements included in the PO2.2 imposes additional restrictions on the freedom of expression of entities whose actions can be attributed to a third country government. Member States would be able to refuse granting a licence on the ground that the activity is likely to seriously affect public security. Such measure could have a disproportionate impact at the light of the objective that it seeks to achieve (see section 6.2.3.2).

6.2.3.5. Freedom to conduct a business

Article 16 of the Charter recognises the freedom to conduct a business in accordance with EU law and national laws and practices. The harmonised requirements would facilitate and reduce the obstacles for the cross-border provision of services by entities carrying out interest representation activities on behalf of third countries, which would support such entities in the exercise of their freedom to conduct a business.

The freedom to conduct a business differs from the wording of the other fundamental freedoms laid down in Title II of the Charter, such as the freedom of association, the freedom of expression and information and the freedom of the arts and sciences (see sections 6.2.3.2, 6.2.3.3 and 6.2.3.4), and may be subject to a broad range of interventions on the part of public authorities which may limit the exercise of economic activity in the public interest[202].

All 3 options impose limited restrictions on economic activities, insofar as they impose on the entities the obligation to comply with certain requirements when carrying out interest representation on behalf of third countries.

The transparency measures for interest representation activities carried out on behalf of third countries are measures which pursue an objective in the general interest capable of justifying interference with this freedom. Furthermore, the specific requirements imposed by PO1 and the targeted requirements in PO2.1 are not more far-reaching than would be required to achieve this objective.

The system of prior authorisation in the extended requirements included in PO2.2 imposes additional restrictions on economic activities. Member States would be able to refuse granting a licence on the ground that the activity is likely to seriously affect public security. Such measure would seek to address threats to internal and external security which pursue an objective in the general interest capable of justifying interference with this freedom. Such measure would apply in limited individual cases and would need to be justified and would not impede concerned entities to carry out other interest representation activities for which a licence has been granted. This additional requirement would thus not be more far-reaching than would be required to achieve this objective.

6.2.4. Geopolitical implications

The Union is committed to supporting democracy and human rights in its external relations, in accordance with its founding principles of freedom, respect to human dignity, democracy and respect for human rights, fundamental freedoms and the rule of law[203]. The Union has a large

[202] Judgment of the Court of Justice of 22 January 2013, *Sky Österreich GmbH v Österreichischer Rundfunk*, C-283/11, ECLI:EU:C:2013:28, paragraph 46.
[203] Article 2, 3(5) and 21(1) TEU.

set of tools to support and protect democracy and human rights worldwide[204]. With its Member States, it is the world's largest provider of democracy support and human rights assistance, financing programmes with both state and non-state actors in the vast majority of third countries. All operations are guided by the Human Rights Based Approach, encompassing principles of respect for human rights, participation, inclusion, transparency and accountability.

The Union consistently condemns any undue limitation on fundamental freedoms and restrictions on civic and political space in violation of international human rights law, including so-called "foreign agent laws"[205]. These laws often include measures that unduly limit the civic space and restrict human rights that are key pillars of a democratic society. For example, the Russian Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent, adopted in 2012 and amended in 2022 has been used to "stigmatise […] and seriously hamper"[206] the activities of individuals from different groups of society, including CSOs, unregistered public associations, media outlets, journalists, activists and human rights defenders. Other attempts to enact laws aiming to scrutinize the work of CSOs receiving support from abroad include the Georgian draft law on transparency of foreign influence and the Republika Srpska's draft law on the Special Register and Transparency of the Work of the non-profit organisations[207].

In contrast to so-called 'foreign agent laws', which take a restrictive starting point, none of the policy options seek to regulate CSOs in particular nor negatively label their activities, nor restrict fundamental freedoms and civic space. Instead, the policy options are designed to provide transparency requirements and more democratic accountability to citizens on interest representation activities carried out on behalf of third country entities. **None of the policy options ban foreign funding or require transparency in terms of funding of operating expenditure of CSOs** (such as structural grants or donations)[208].

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[204] See for example the EU Action Plan on Human Rights and Democracy 2020-2024. The EU regularly discusses issues related to the respect for democracy and human rights in political dialogues as well as in dedicated human rights dialogues with third countries and regional or multilateral organisations. In addition to the dialogues, bilateral trade agreements and the various association and cooperation agreements between the EU and third countries or regional organisations include human rights clause defining respect for human rights as an 'essential element' of the said agreements. There are also specific mechanisms that have been established for enlargement countries that adheres to EU's commitment to democracy and human rights. Before joining the EU, these countries have to develop stable institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities, a process actively supported by the EU.

[205] See inter alia: 'Russia: Declaration by the High Representative on behalf of the EU on the 10th anniversary of the introduction of the Law on Foreign Agents', Council of the European Union, 20 July 2022, available at: https://www.consilium.europa.eu/en/press/press-releases/2022/07/20/russia-declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-10th-anniversary-of-the-introduction-of-the-law-on-foreign-agents/; 'Georgia: Statement by the High Representative on the adoption of the Georgian "foreign influence" law', European Union External Action, 7 March 2023, available at: https://www.eeas.europa.eu/eeas/georgia-statement-high-representative-adoption-%E2%80%9Cforeign-influence%E2%80%9D-law_en; 'EU in BiH on recent developments in the RS', Delegation of the European Union to Bosnia and Herzegovina & European Union Special Representative in Bosnia and Herzegovina, 27 March 2023, available at: https://www.eeas.europa.eu/delegations/bosnia-and-herzegovina/eu-bih-recent-developments-rs_en?s=219.

[206] Venice Commission, Opinion on Federal Law N. 121-FZ on Non-Commercial Organisations ("Law on Foreign Agents"), CDL-AD(2014)025, paragraph 132.

[207] According to Republika Srpska's draft law, foundations as well as foreign and international non-governmental organisations receiving any form of foreign funding or other assistance of foreign origin would be designated as "Non-profit organisations" (hereinafter "NPOs"). This draft law would prohibit NPOs from carrying out political activities, requiring them to register in a special registry and all their published materials to include the mark "NPO", and to submit additional reports compared to those already required by the existing legal framework. NPOs would also be subject to an additional legal regime of oversight and inspections, and a range of sanctions for violations of the provisions of the draft law that may result in the ban of the NPOs' activities and thereby of the NPO itself. The joint opinion of the Venice Commission and OSCE/ODIHR on Republika Srpska's draft law indicates several areas of concern due to non-compliance with international human rights standards, available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)016-e. For instance, the Draft Law is not based on any risk assessment or consultation with associations and others potentially affected.

[208] For more details see Section 6.2.3.2 and Annex 8.

Risk of retaliatory measures by third countries

Stakeholder views:
8 out of 11 CSOs and 5 out of 15 Member States considered there are associated geopolitical risks. 1 CSO explained that the legislative policy options "*bring a risk of reciprocity, in which organisations in third countries receiving EU funds would be specifically targeted by third country governments*".

Following the targeted questionnaire, a few Member States expressed views that measures addressing interest representation could have an impact on diplomatic relations with third countries unless exceptions are provided for diplomatic work and international organisations. A number of foreign influence laws have been introduced worldwide. There does not seem to be a clear causal relationship or direct temporal link between the introduction of, on the one hand, foreign influence laws, such as the US Foreign Agents Registration Act ('FARA', in force since 1938) or the Australian Foreign Influence Transparency Scheme Act ('FITSA', in force since 2018), and, on the other hand any of the foreign agent laws as they exist in Russia (in force since 2012), Nicaragua (in force since 2020), El Salvador (proposed in 2021), Georgia (proposed in 2023), or Bosnia and Herzegovina's Republika Srpska (adopted in 2023). The increasing number of proposed and/or adopted foreign agent laws in recent times shows that these laws come into force independently of EU action, and rather illustrates the broader trend of direct and indirect restrictions on civic and political space.

However, given the prominent role and stance of the Union regarding the defence and promotion of democracy and human rights, EU legislative initiatives, due to their visibility, present a significant risk of manipulation and misuse. This can happen in two ways. First, regardless of factual differences, third country governments might attempt to justify their foreign agent laws with reference to the EU's legislation. This has been the case for the US FARA since both the governments of Russia and Georgia have explicitly referred to the act when introducing their legislation.[209] Second, accusations of hypocrisy or 'double standards' could be expected, especially from those actors who will try to spin it for their own justification but also more widely if the differences between legislations are not clearly communicated and understood, regardless of factual differences. The geopolitical impacts of the policy options will vary from third country to third country and may be difficult to assess in advance.

For all 3 policy options, such consequences could be mitigated by diplomatic exchanges and information activities that will be conducted to present and explain in details the targeted aims and the proportionality of the measures as well as the strong safeguards. This will imply to explain in details the important and manifest differences between the selected policy option and the so-called "foreign agents laws"[210], managing false narratives and potential unfounded assimilations through adapted explanations of the content of the EU initiative.

Clarity on the differences will be crucial. These include: the focus of the EU proposal on interest representation activities impacting decision-making processes in the European Union rather than individual organisations, the exclusion of operating grants for CSOs or private donors from the scope, the absence of any regulations that might be used to hinder the work of

[209] The International Center for Not-for-Profit Law (2017), 'FARA's Double Life Abroad', Washington D.C., available at: https://www.icnl.org/wp-content/uploads/FARA-briefing_Final_c.pdf, page 1; Judgment of the European Court of Human Rights of 14 June 2022, *Ecodefence and others vs. Russia*, ECLI:CE:ECHR:2022:0614JUD000998813, paragraph 41, 44; .'Shalva Papuashvili to Dunja Mijatovic concerning the so-called draft laws on agents', Parliament of Georgia, 03 March 2023, available at: https://parliament.ge/en/media/news/shalva-papuashvili-dunia-miatovichs-minda-dagartsmunot-saparlamento-diskusiebi-ikneba-inkluziuri-rom-moidzebnos-sauketeso-versia-romelits-gaitvalistsinebs-rogorts-sakartvelos.

[210] Most recently the new foreign agent law in BiH's Republika Srpska, see 'Bosnia and Herzegovina: Statement by the Spokesperson on the "foreign agent" law in Republika Srpska', European Union External Action, 28 September 2023, available at: https://www.eeas.europa.eu/eeas/bosnia-and-herzegovina-statement-spokesperson-%E2%80%9Cforeign-agent%E2%80%9D-law-republika-srpska_en.

CSOs and the absence of criminal sanctions and other restrictive measures. Furthermore, the proposed measures include important safeguards like the possibility of judicial redress as well as the possibility to request that some of the information gathered will not be made public based on an overriding interest which differentiate them from other measures.

The proposed measures also do not cover any activities related to the exercise of diplomatic relations between states or international relations.

Additionally, all 3 policy options take into account the feedback related to US FARA and the Australian FITSA. These two legislations are fundamentally different from foreign agent laws in place or proposed in other third countries. Some CSOs and academics consider that the US FARA is too broad and vague in its definitions and scope, and expressed concerns regarding criminal sanctions.[211]

Taking into account this feedback, all policy options define interest representation on behalf of third countries in very clear terms and none of the proposed measures uses wordings such as "foreign agent"[212] or "foreign principal"[213].

Providing for criminal penalties would be disproportionate, creating an atmosphere of distress for concerned entities. PO2.1 and PO2.2 envisage exclusively administrative fines for non-compliance with the proposed measures.

All policy options would provide for coherent transparency measures for all third countries. As raised by 3 Member States (out of 15) in the targeted consultation, a targeted approach towards only some third countries would be more likely to lead to retaliatory measures or create diplomatic tensions[214]. The *risk-based approach* as proposed in the legislative policy options (PO2.1 and PO2.2) is based on an objective set of indicators and would not be arbitrarily singling out one or several countries. The risk of retaliatory measures would thus be limited.

Due to the non-binding nature of the policy recommendations set out in PO1, their geopolitical impacts would depend on their implementation by Member States. Such a recommendation could potentially have a beneficial geopolitical impact as it would clarify the EU standard in this area, and it would prevent it from being used as a *carte blanche* by certain third countries to introduce legislation not in line with international human rights law and standards. In comparison, the current fragmented approach by Member States is more likely to be damaging to the EU's reputation as it lacks consistency and coherence.

The geopolitical impact of the targeted requirements in PO2.1 is likely to be more important compared to PO1, as a coordinated legislative proposal would have greater geopolitical visibility. Compared to the non-legislative option, this PO further limits the risk of gold-plating by introducing fully harmonised measures and allows the Commission to monitor its implementation in Member States and react to any breaches, including of fundamental rights. Furthermore, an EU coherent and proportionate approach focusing on transparency and democratic accountability to address the challenges posed by interest representation on behalf of third country entities, could serve to set standards.

The geopolitical impact of the extended requirements of PO2.2 is likely to be more negative than that of PO2.1 since it includes the requirement for organisations to obtain a license before

[211] The International Center for Not-for-Profit Law (2022), Recommendations to the Justice Department on FARA Concerning Its Impact on Civil Society, Washington D.C., available at: https://www.icnl.org/post/analysis/u-s-program-comments-faras-impact-on-civil-society.

[212] 'Foreign Agents Registration Act', U.S. Department of Justice, available at: https://www.justice.gov/nsd-fara.

[213] 'Foreign Influence Transparency Scheme', Australian Government, available at: https://www.ag.gov.au/integrity/foreign-influence-transparency-scheme.

[214] See Section 5.2.1.

they are allowed to engage in any interest representation activities. There is a possibility for pushback from third countries currently engaging in influence activities in the Union if their activities would not be approved. Similarly, to the extent this option may include disproportionate restrictions to the right to freedom of association, the EU's reputation could also be negatively impacted, and the EU might be perceived as setting a precedent for far-reaching legislation on covert foreign influence.

Risk to entities covered by the policy options

Concerning the work of covered entities in third countries, there is a risk that certain third countries might use EU legislation as a pretext to apply foreign agent legislation against them,[215] or otherwise restrict their activities.

Stakeholder views:
1 CSO (out of 11) explained that it receives funding from non-EU governments and related public institutions in third countries and that part of this funding is used to support work in high-risk countries. It explained that "*publicly accessible information about our funding sources is therefore currently very limited because it puts people and organisations [they] work with at physical and legal risks, it can also jeopardise our ability to work in those countries by alerting local authorities*".

To address this point, the legislative policy options (PO2.1 and PO2.2) provide for additional and specific safeguards by enabling entities to request that all or part of the information gathered for the purpose of the transparency requirement is not made public based on an overriding interest. Due to its non-binding nature, PO1 would not ensure the implementation of the safeguards provided by the legislative options.

Even if consultations with stakeholders did not suggest that similar legislation like the US FARA or the Australian FITSA have led to a relevant decrease of foreign donations for American or Australian CSOs, 6 CSOs (out of 11) voiced concerns that the proposed measures may impact funding from international donors. The impacts of the policy options on the freedom of association are analysed in section 6.2.3.2.

Lastly, because the policy options cover any entity (established within or outside the EU) that carries out interest representation activity on behalf of third counties to influence decision-making processes in the EU, none of them will impact the competitive position of EU firms with regard to non-EU competitors.

6.2.5. Digital by default principle

Under PO1, Member States would be invited to use digital tools. To the extent that these recommendations are followed, PO1 would be in line with the Digital by default principle. Under the legislative policy options (PO2.1 and PO2.2), the transparency registers would have to be supported by publicly accessible IT tools in line with the 2030 Digital Compass Communication[216] and the need to promote "digital by default" policy-making in EU legislation[217]. Exchanges between authorities would also be supported by existing IT tools.

Table 5: Summary of the impacts for each of option considered (compared to the baseline)

Impact assessed	Baseline	Option 1	Option 2.1	Option 2.2

[215] See for example the listing of the Voice of America and Radio Free Europe as 'foreign agents' by Russia after the United States had asked RT TV America and Sputnik to register under FARA: Robinson, N., ''Foreign Agents' in an interconnected world: FARA and the Weaponization of Transparency', *Duke Law Journal*, Vol. 69, No 5, 2020, p. 1087.

[216] Commission Communication, 2030 Digital Compass: the European way for the Digital Decade, (COM(2021) 118 final).

[217] Berlin declaration on digital society and value-based digital government, signed at the ministerial meeting of 8 December 2020: Call on the Commission to ensure through the 'better regulation' framework that policies and legislative acts proposed by the European Commission are digital-ready and interoperable by default.

		Non legislative	Legislative targeted requirements	Legislative Extended requirements
Economic impacts	***0***	***+***	***++***	***+***
Functioning of the internal market	0	+	+++	++
Competitiveness	0	+	++	++
Costs and administrative burdens on economic operators (+SMEs)	0	-	+	+
Costs for public authorities	0	-	-	- -
Social impacts	***0***	***+***	***++***	***++***
Transparency of interest representation activities carried out on behalf of third countries	0	++	++	++
Improved knowledge about the magnitude, trends and actors	0	+	++	+++
Enforcement and supervision	0	+	+++	+++
Fundamental rights impacts	**0**	**-**	**-**	**- -**
Right to private life and right to the protection of personal data	0	- -	-	- -
Freedom of association	0	- -	-	- - -
Freedom of the arts and sciences	0	- -	-	- - -
Freedom of expression and information	0	+	+	-
Freedom to conduct a business	0	-	-	- -
Geopolitical implications	**0**	**+**	**-**	**- -**
Digital by default principle	**0**	***0***	**+**	**+**
Overall	***0***	**+**	**++**	**-**

The table should be read in vertical: **'+++' means positive impact of very high magnitude compared to the baseline, '++' means positive impact of high magnitude compared to the baseline, '+' means positive impact of moderate magnitude compared to the baseline, '0' means neutral impact compared to the baseline, '-' means negative impact of moderate magnitude compared to the baseline, '- -' means negative impact of high magnitude compared to the baseline, '- - -' means negative impact of very high magnitude compared to the baseline, 'n.a' means not applicable.**

7. HOW DO THE OPTIONS COMPARE?

The options were compared on the basis of the criteria of **Effectiveness**[218], **Efficiency**[219], **Coherence** with existing and planned EU initiatives and **Proportionality**[220]. Methodology is explained in Annex 4.

7.1. Effectiveness

1. *Facilitate cross-border interest representation activities carried out on behalf of third countries when done transparently.*

All 3 options would provide for similar transparency requirements in all Member States, thereby levelling the playing field compliance cost and limiting the risks of regulatory arbitrage. However, the non-binding nature of the proposed non-legislative measures, PO1 makes it difficult to determine if and how Member States would implement the proposed transparency standards and further fragmentation will a priori not be preventable.

[218] How the measures achieve the two objectives: Facilitate cross-border interest representation services carried out on behalf of third countries done transparently; Improved knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries.

[219] How the measure relates to the anticipated costs of the measures against the expected benefits of the increased effectiveness.

[220] How the measures relate effectiveness against efficiency and any negative impacts.

The legislative options (PO2.1 and PO2.2) would increase legal certainty and reduce the scope for divergent legislation, they would also provide for the recognition, throughout the internal market, of the registration in 1 Member State thereby facilitating cross-border interest representation activities on behalf of third countries entities.

Divergence in implementation of the prior authorisation/licensing system in the PO2.2 could reintroduce limited regulatory arbitrage.

2. *Improve knowledge about the magnitude and trends of interest representation activities carried out on behalf of third countries.*

All 3 options would improve knowledge about the magnitude and trends of interest representation activities carried out on behalf of third countries. The 2 legislative options (PO2.1 and PO2.2), would be more effective, as by providing a fully harmonized set of data to be collected and definition, they would greatly facilitate comparison between Member States and the establishment of trends at EU level. Transparency of interest representation carried out on behalf of third countries would be decisively enhanced as citizens could access a public register on all interest representation activities carried out on behalf of third countries in the EU. Researchers, CSOs and journalists could also use the information in order to better understand how foreign influence unfolds, who is targeted, and what impacts it has on decision-making processes. Given that this knowledge is communicated to a broader public and to decision-makers, the harmonisation of transparency requirements would present an important added value for democratic decision-making.

Furthermore, the flexible and evolutive approach to this data collection would enable to easily adapt the data collection to the trends observed. Finally, the gradual and coordinated approach to supervision, as well as the measures included to limit circumvention (see section 6.2.2.3) would help ensure that the data collected is correct.

Due to its non-binding nature, PO1is unable to ensure a comparable collection of data and the supervision of activities would remain inconsistent.

7.2. Efficiency

The efficiency of the options weighs the qualitative cost-benefit analysis described in Annexes 3 and 4, as well as in the description of the impacts in section 6 above.

In all 3 options, entities carrying out interest representation on behalf of third countries would face some compliance costs to comply with the transparency requirements.

The non-legislative measures in PO1 and the targeted requirements in PO2.1 would impose similar cost, however PO1 would not give the same benefits in terms of faciliating cross-border interest representation activities on behalf of third countries, nor, for public authorities, efficency gains in terms of cooperation between authorites with regard to enforcement and supervision.

The extended requirements in PO2.2 would imply additional compliance costs for national administration.

7.3. Coherence with other EU initiatives

Issues with coherence were not detected for any of the three policy options.

PO1 would build upon and be complementary to the recommendations issued by the Commission in the context of the Rule of law reports[221], in terms of scope and content. Additionally, this policy option would go beyond these recommendations as it provides for a list of specific standards related to record-keeping, registration and transparency (1), a detailed but voluntary reporting on the application of the specific standards (2) and a monitoring of the implementation of the recommendation (3). It would also include references to safeguards that Member States should establish, including to prevent stigmatisation of the registered entities.

As the scope of legislative measures in PO2.1 and PO2.2 are the same they will be assessed together in relation to other EU initiatives.

The two legislative policy options will complement the proposal for a **Regulation on the transparency and targeting of political advertising**[222]. The proposal on political advertising seeks to provide a high level of transparency for political advertising services in the Union regardless of the medium used, and to provide additional safeguards applicable to the targeting of political advertising based on the processing of personal data. This initiative has a different scope from the proposal on political advertising: it covers interest representation activities carried out on behalf of a third country entity. This includes interest representation activities consisting of the organisation of communication or advertising campaigns, which could also be considered as political advertising. However, interest representation mainly covers activities which are not also 'political advertising' (e.g. lobbying individuals directly). Also, the political advertising regulation covers activities within its scope regardless whether they are provided on behalf of a third country entity.

Under the proposal on political advertising, transparency is ensured in particular by making available to individuals certain information with each political advertisement. In addition, political advertising publishers that are very large online platforms within the meaning of Regulation (EU) 2022/2065 ('the Digital Service Act') would have to make the information contained in the transparency notice available through the repositories of advertisements published, pursuant to Article 39 of that Regulation. The current initiative complements this by providing public access to complementary information in the national registers of the Member States related to the providers of the interest representation activities, in particular a clear indication as to the third country on behalf of which the interest representation activity is carried out, the Member States where the interest representation will be carried out, and the legislative proposals, policies or initiatives targeted by the interest representation activity.

These policy options would complement the **Digital Services Act (DSA)**[223]**,** which requires providers of online platforms to make available certain information about advertisements they present on their online interfaces. In addition, the Digital Services Act requires providers of very large online platforms or of very large online search engines that present advertisements on their online interfaces to compile and make publicly available in a specific section of their online interface, through a searchable and reliable tool, a repository containing information on

[221] For instance, in the 2022 Rule of law report, Denmark, Slovakia was recommended to introduce rules on lobbying, and Romania was invited to introduce rules on lobbying for Members of Parliament. Belgium was called to complete the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government. In the same report, Spain was recommended to continue efforts to table legislation on lobbying, including the establishment of a mandatory public register of lobbyists. No more detailed recommendations were issued.

[222] Proposal for a Regulation on the transparency and targeting of political advertising, see note 21. This proposal seeks to provide for a high level of transparency in the field of political advertising online and offline and to provide additional safeguards applicable to targeting of political advertising based on the processing of personal data.

[223] The Digital Services Act (see note 18) requires providers of online platforms to provide certain information about advertisements they present on their online interfaces.

the advertisements. It also obliges such providers to assess and mitigate risks related to the functioning, design or use of their service that have actual or foreseeable negative effects on a series of societal risks including as regards civic discourse, electoral processes and public security.

The policy options have a different scope to the Digital Services Act, as they cover interest representation activities on behalf of third countries. Such activities can involve (e.g. as part of the organisation of and advertising or communication campaign) placing advertisements on the online interfaces of online platforms within the scope of the Digital Service Act. When this is the case, the current initiative provides that these online platform services should be named by the provider of interest representation activities in the registration of the entity, and the relevant costs attributed to their services should be included in the amount of remuneration declared by the entity carrying out the interest representation activity. However, this initiative does not regulate responsibilities of online intermediaries and would not impose requirements directly on the providers of online platform services themselves in that situation.

Similarly, the provision of media services as defined in Article 2 of the **proposal for a European Media Freedom Act (EMFA)**[224] and the provision of audiovisual media services as defined in Article 1 of the **Audiovisual Media Services Directive**[225] would not fall within the scope of application of these policy options. However, interest representation activities carried out on behalf of third country entities by media service providers would. Where media service providers or video-sharing platform providers disseminate advertisements as a service for entities carrying out interest representation activities on behalf of third countries, these policy options would provide that such media service providers should be named in the registration of the entity, and the relevant costs should be included in the amount of remuneration declared. Just like for providers of online platforms, these policy options would *a priori* not impose requirements on media service providers or video-sharing platform providers.

In the rare cases where a media service provider itself carries out interest representation activities on behalf of a third country entity, it would be subject to the requirements of the policy options. The information to be provided would be complementary. While the EMFA would provide information on the beneficial owner of a media service provider providing news and current affairs, these two policy options would provide information on the entity on whose behalf the interest representation is carried out.

The proposed **Directive on combating corruption**[226] seeks to protect democracy as well as society from the impact of corruption and proposes updating the Union criminal legal framework to include beyond the offences of bribery and misappropriation, also trading in influence, abuse of functions, obstruction of justice, and enrichment from corruption. When the offender committed these offences for the benefit of a third country, the proposed Directive wants Member States to consider this an aggravating circumstance. The policy options would complement this proposal as the transparency of interest representation activities on behalf of third country entities is likewise expected to make a positive contribution to the prevention and detection of corruption.

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[224] European Media Freedom Act, see note 22.

[225] Directive (EU) 2010/13 of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

[226] Proposal for a Directive on combating corruption, see note 25.

These policy options are coherent with the annual **Rule of Law Reports**[227] of the Commission which, since 2020, monitor, under their anti-corruption pillar, the regulation of interest representation and lobbying in all Member States, within the framework of existing European and international standards. It is recommended to Member States to have in place a footprint of rules for lobbying, and to secure a thorough and consistent application of similar rules to different types of lobbyists and lobbying activities[228].

These policy options are coherent with the proposal for a **revision of the Regulation on the funding of European political parties and European political foundations (EUPP/F)**[229] which are in ongoing negotiations. Depending on the outcome of the negotiations, the Regulation could ban all contributions from third countries to European political parties except limited contributions from certain third countries with a high level of transparency concerning the financing of political parties[230].

These two policy options would slightly amend the **Internal Market Information System ('IMI system') Regulation**[231] to implement the administrative cooperation and the exchange of information provided for by this initiative using existing IT tools. These policy options would slightly amend the **Single Digital Gateway Regulation**[232] to provide for easy online access to information on the rights and obligations stemming from this option, as well as to ensure that access to and completion of the procedure for registration required by this option is fully online. The **Whistle-blower Directive**[233] would also be slightly amended to ensure that whistle-blowers are able to alert the supervisory authorities of actual or potential infringements of the policy options' requirements.

These policy options would not affect the prohibition to make available, directly or indirectly, funds or economic resources to or for the benefit of natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them which are listed in EU restrictive measures adopted pursuant to Article 29 TEU and Article 215 TFEU.

These policy options will have a link to the proposal for a Directive on **cross-border activities of associations (ECBAs)**[234]. While the ECBA proposal envisages measures to coordinate the conditions for establishing and operating European cross-border associations (ECBAs) and thereby simplifying the cross-border activities of associations, including soliciting and receiving funding, the policy options create transparency standards for their interest representation activities carried out on behalf of third countries. They do not cover funding given by a third country entity (such as a structural grant, donations, etc.) that is unrelated to an interest representation activity. In practice, ECBAs will have to comply with the targeted

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227 'Rule of law mechanism', European Commission, available at: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en.

228 See Annex 9 for details.

229 See note 17.

230 These could include EFTA Member States, former EU Member States, candidate countries, countries entitled to use the euro as official currency on the basis of a monetary agreement with the EU, partner countries having a stabilisation and association agreement with the EU as well as European countries with whom the EU has concluded Association Agreements comprising a Deep and Comprehensive Free Trade Area. During the focus group with representatives of European political parties and foundations, participants underscored the high level of transparency which applies to EUPP/F and raised the question of providing a level playing field in terms of transparency requirements between entities influencing decision-making processes. (Focus group with European political parties and foundations of 21 March 2023).

231 See note 171.

232 See note 170.

233 Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

234 Proposal for a Directive of the European Parliament and of the Council on European cross-border associations (COM/2023/516 final) which address the fragmentation of national rules for associations and non-profit organisations across the EU and facilitate their activities across borders in the internal market.

transparency requirements under these two policy options only if they carry out interest representation activities on behalf of third country entities.

These policy options would not affect the prerogatives of the Commission to initiate and conduct investigations into distortive foreign subsidies under the **Foreign Subsidies Regulation**[235] or to issue opinions under the **EU Regulation on Foreign Direct Investment (FDI) Screening**[236].

Finally, the policy options affect the target of reducing burdens associated with reporting requirements, set in the Commission's long-term competitiveness Communication[237]. Reducing administrative burdens is crucial to maintaining the competitiveness of European businesses. In some cases, entities carrying out interest representation on behalf of third countries could fall under the scope of the **Directive on corporate sustainability reporting (CSRD)**[238]. These cases would be limited and restricted to the situation were the actions of a large company would be attributed to a third country[239]. In that case, the large company will have to register according to the requirement of the policy options and apply the CSRD requirements. The CSRD, reporting obligations are to be done annually and include reporting obligations on political influence and lobbying activities.
The transparency registered established under these two policy options would be separate instruments than the **EU transparency register**[240].

This initiative would contribute to the available legal and policy instruments presented in the Foreign Information Manipulation and Interference (FIMI) Toolbox, which frames and inventories the EU's comprehensive approach to tackle FIMI and disinformation. In instances where interest representation activities can be linked to FIMI incidents, this will help efforts initiated through the toolbox to develop a common analytical framework and methodology to collect systematic evidence of FIMI incidents, improve the understanding of tactics, techniques and procedures used to manipulate, and contribute to an interoperable methodology aimed at supporting a whole-of-society approach to tackling FIMI. In this sense, it could also support different measures of the Common Foreign and Security Policy where interest representation activities can be linked to FIMI activities.

7.4. Proportionality

PO1 and the targeted requirements in PO2.1 are proportionate to the objectives set (see sections 6.2.1, 6.2.3 and 6.2.4). PO2.1 proposes safeguards that prevent in particular the stigmatisation of legitimate interest representation. They notably include equal transparency requirements for all entities, the obligation for Member States' authorities to ensure that no adverse consequences arise from the mere fact of registration, the non-publishment of data based on an

[235] Regulation on foreign subsidies distorting the internal market (see note 3) aims to establish a harmonised framework to address distortions of competition on the internal market caused, directly or indirectly, by foreign subsidies.

[236] The FDI Screening Regulation (see note 23) provides an EU framework for the screening of direct investments from third countries on the grounds of security or public order.

[237] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Long-term competitiveness of the EU: looking beyond 2030 (COM(2023) 168).

[238] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting. It applies to applies to all Limited Liability Companies (LLC) which are not SMEs as defined by the accounting Directive, and all LLC companies listed on a regulated market (including listed SMEs) but excluding micro-enterprises.

[239] Where a company is listed on the stock exchange, they are unlikely to be controlled by a third country government. The assessment would need to be made on whether they are acting based on instruction from a third country government.

[240] See note 142.

overriding legitimate interest, and thresholds limiting the powers of supervisory authorities to ask for information.

However the extended requirements in PO2.2 would impose more costs and further restrict the freedom to conduct a bussiness and could have disportionate effects on the freedom of association and the freedom of the arts and sciences and have greater geopolitical implications.

7.5. Comparison of options

The options are compared against the criteria of effectiveness, efficiency, coherence and proportionality.

In the context of this initiative, effectiveness describes to what extent each option would achieve the specific objectives defined in chapter 4.2, i.e. to facilitate cross-border interest representation activities carried out on behalf of third countries when done transparently (1) and to improve knowledge about the magnitude, trends and actors of interest representation carried out on behalf of third countries (2). PO2.1 proves to be most effective with regard to objective 1, PO2.1 and PO2.2 are equally effective with regard to objective 2.

Efficiency assesses the anticipated costs of the measures against the expected benefits of increased effectiveness. PO2.1 performs best in terms of efficiency, notably because of the higher costs that PO2.2 would generate without being more effective.

Coherence describes how the proposed measures would complement existing and planned initiatives. Both PO2.1 and PO2.2 would be most coherent with other initiatives.

Proportionality relates effectiveness against efficiency and any negative impacts. PO1 and PO2.1 would be proportionate to the objectives set while PO2.2 would impose more costs, further restrict the freedom to conduct a business and could have disproportionate effects on other freedoms and diplomatic relations.

Table 6: Comparison of options against the baseline

Options	Effectiveness		Efficiency	Coherence	Proportionality	Result
	1	2				
Baseline	0	0	0	0	0	
Option 1	+	+	+	+	+	
Option 2.1	+++	++	++	++	++	Preferred option
Option 2.2	++	++	+	++	-	

The table should be read in horizontally: the symbols have the same meaning as in table 5. Methodology is explained in Annex 4.

8. PREFERRED OPTION

8.1. Description of the preferred option

Against this assessment, the preferred option consists in a legislative intervention with targeted requirements.

This option would best meet the general objectives as well as the specific objectives of this intervention. The harmonised requirements should provide the legal certainty and level playing field necessary to remove the obstacles identified in the internal market. It would also prevent further fragmentation. The transparency requirements should provide sufficient information to improve knowledge about the magnitude and trends of interest representation carried out on behalf of third countries. This option is less intrusive as it would limit the costs on national administration while facilitating carrying out interest representation activities on behalf of third country entities across borders and facilitate cross-border cooperation between national

authorities. Finally, this option is less intrusive in terms of impacts on fundamental rights, in particular with regard to the freedom of association and the freedom of the arts and sciences and has limited geopolitical implications.

8.2. The choice of instrument

With regard to the choice of instrument, under the legal basis of Article 114 TFEU, both a **Regulation**, or a **Directive** providing for full harmonisation, would support the attainment of the general and specific objectives. In the stakeholder consultation, 4 CSOs out of 11 and 1 Member State out of 15 have expressed a preference for a Regulation. 5 Member States do not want to harmonise transparency requirements for interest representation carried out on behalf of third countries and prefer policy option 1. The other 9 Member States do not position themselves on the choice of instrument under the legal basis of Article 114 TFEU.

Having recourse to a **Regulation**[241] has the advantage of being of direct application without having to wait that Member States have transposed the Directive in national law, which could be a benefit due to the urgency to take action against the problems identified by the initiative.

A **Directive** providing for full harmonisation of the transparency requirements applicable to entities carrying out interest representation on behalf of third countries conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes in the internal market, is the most suitable option. It would set legally binding standards to be met in all Member States while leaving some flexibility in particular regarding the articulation with existing transparency registers.

By providing for full harmonisation, the Directive will provide a uniform regulatory framework, removing internal market barriers and increasing legal certainty for interest representatives in the internal market on the basis of a proportionate standard. Member States would, within the framework of the harmonised rules, be prohibited from diverging from the rules including by laying down more extensive transparency requirements (so-called "gold plating"). The Directive would provide for a harmonised comprehensive system of safeguards, including effective judicial review, harmonised sanctions limited to administrative fines, independent supervisory authorities, obligations to prevent stigmatisation, in particular to ensure that no adverse consequences arise from the inclusion of an entity in the register.

The competence of Member States to establish rules, in full respect of EU law, for the aspects not covered by the harmonised rules will not be affected, for example, to establish rules for their public officials contacting entities carrying out interest representation activities on behalf of third countries or regulating the legality of the availability of interest representation activities carried out on behalf of third countries.

8.3. Application of the "one in, one out" approach

An overview of estimated costs is provided in Annex 3 with methodology in Annex 4.

Table 7: Costs related to the 'one in, one out' approach

	Citizens		**Businesses**	
	One-off	Recurrent	**One-off**	**Recurrent**

[241] A Regulation must be complied with fully by those to whom it applies and is directly applicable in Member States. This means that it applies directly after its entry into force in Member States, without needing to be transposed into national law, that can create rights and obligations for individuals, who can therefore invoke it directly before national courts, and that it can be used as a reference by individuals in their relationship with other individuals, Member States and EU authorities.

Direct and indirect adjustment costs	n/a	n/a	EUR 71.2 million to EUR 213.8 million total familiarisation costs	n/a
Administrative costs per year	n/a	n/a	n/a	EUR 615,000 to EUR 921,000 registration and information disclosure costs (average EUR 768,000)

9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

A report on the implementation of the legislative measures contained in the preferred option would take place at the latest by 12 months after the deadline for Member States to transpose the Directive. The Commission would also carry out an evaluation[242] of those legislative measures at the latest by 4 years after the transposition deadline. This evaluation will also assess potential changes to the scope of the Directive, as well as the effectiveness of the safeguards provided therein.

Data on the following objectives and indicators will be collected through Eurobarometer and other surveys directed to citizens and stakeholders (entities carrying out interest representation activities on behalf of third countries, interest parties (journalist, researchers), public officials and enforcement authorities), as well as through cooperation with Member States authorities in charge of the implementation of the measures contained in the preferred policy option. Data from external agencies and stakeholders (CSOs, researchers, etc.), could also be used. This data collection effort will also be addressed specifically in the work programme for the European Cooperation Network on Elections (ECNE)[243].

[242] The Commission will present these reports to the European Parliament, the Council and the European Economic and Social Committee.

[243] The European Cooperation Network on Elections (ECNE) brings together representatives of Member States' authorities with competence in electoral matters and allows for concrete and practical exchanges on a range of topics relevant to ensuring free and fair elections. Meetings are organised by the Commission.

Table 6: monitoring and evaluation of the impacts

Specific objectives	Operational Objectives	Proposed indicators	Data sources
SO1: Facilitate cross-border interest representation activities carried out on behalf of third countries when done transparently	Establish common transparency standards for intrest representation activites carried out on behalf of third country entities which provide **economic actors** with: • Clear common framing for intrest representation activites carried out on behalf of third country entities; • Clear and proportionate specific obligations for entities carrying out intrest represenation on behalf of third country entites, on the basis of clearly defined key terms; • Reduced costs and risk for providing intrest representation activites carried out on behalf of third country entities; • A level playing field for all relevant economic operators.	• Access to the cross-border market for interest representation activities carried out on behalf of third countries (*baseline unknown*). • Increase in the completeness of information provided on interest representation activities carried out on behalf of third countries (e.g. name of entities whose action can be attributed to third country goverments, description of the interest representation, information on the remuneration provided);	Data collected in the national registers (on trends in terms of cross border intrest representation, completeness of the data provided, etc.) (*baseline unknown*) Stakeholders' reports (*the baseline is the respondents' response to the consultations)* Number of legal dispute relating to the enforcement of the prefered policy option[244] (*some of the data of Member States with registers may be used as a baseline*)
SO2: Improve knowledge about the magnitude and trends of interest representation carried out on behalf of third countries	Ensure that the common standards established at EU level provide **individuals** with sufficient transparency to enable them to: • Know the magnitude of intrest representation carried out on behalf of third countries in their Member States and the EU. • Know the identity of the actors and interests represented on behalf of thrid country entities.	• Estimates of intrest repesentation carried out on behalf of third countries;	Data collected in the national registers (aggreagate numbers of entires in the national registers) (*some of the data currently in national registers may be used as a baseline*) Surveys of citizens (*the baseline is the respondents' response to the OPC and the Eurobarometers*[245]).
	Ensure that the common standards established at EU level provide **stakeholders including researchers, journalists interested** in the political process of interest representation activites carried out on behalf of third countries with sufficient transparency about	• Compliance with the transparency standards as reported by interested	Eurobarometers (*baseline unknown*)

[244] It could cover, for examples dispute liked to the obligation to register, to correct or delete data, or to contest acts taken by Member States supervisory authorities.
[245] Flash Eurobarometer 528 on Citizenship and Democracy.

Specific objectives	Operational Objectives	Proposed indicators	Data sources
	• The network of actors involved; • The amounts of money spent on interest representation activites carried out on behalf of third countries per activity and per third country; • Meaningful details about the interest representation activities being carried out, the decision-making processes targeted, and link this to any wider associated campaign.	stakeholders (mainly qualitative).	Survey and reports of stakeholders' (researchers, journalists, etc). (*baseline unknown*) Comparaison with stakeholder data where available. (*baseline unknown*)
	Ensure that the common standards established at EU level provide **public officials** with sufficient transparency to enable them to determine: • Whether they are in contact with an entity carring out intrest representation activity on behalf of a third country entity; • Meaningful details about the entity whose intrest is being represented, the interest representation activities being carried out and the decision-making processes targeted.	• Compliance with the transparency standards as reported by interested stakeholders (mainly qualitative).	Survey and reports of stakeholders (public officials) (*baseline unknown*)
	Ensure that the common standards established at EU level provide supervisory authorities of Member States with sufficient transparency to enable **oversight and enforcement** of the transparency measures provided by the preferred option by enabling them to obtain • Effective access to records kept by entity carrying out intrest representation on behalf of third countries identified as spending significant amounts on intrest representation in the EU or a Member State (risk-based approach) • Effective cross-border sharing of information; • A mapping of the actors involved in interest represtnation activites; • The amounts of money spent on interest representation activites carried out on behalf of third countries per activity and per third country; • Meaningful details about the decision-making processes targeted, and link this to any wider associated campaign.	• Compliance with the EU level standards by entities carriyng out interest representation on behalf of thrid country entities. • Number of cross-border information requests.	Data shared by Member States (*some of the data currently in national registers may be used as a baseline*) Comparaison of the data collected in the national registers to identify outliers (*some of the data currently in national registers may be used as a baseline*) Stakeholders' reports (including report by the advisory groups composed of representatives of national supervisory authorities) (*baseline unkown*)

Annex 1: Procedural information

1. Lead DG, Decide Planning, CWP references

The Staff Working Document was prepared by the Directorate-General for Justice and Consumers.

The Decide reference of this initiative is PLAN/2023/68.

This initiative was announced in the September 2022 State of the Union speech by President of the Commission von der Leyen and follows the Commission Work Programme for 2023.

2. Organisation and timing

The Impact Assessment was prepared by DG JUST as the lead Directorate General.

The Inter-Service Steering Group (ISSG) was set up in October 2022 under the coordination of the Secretariat-General and gathered representatives of the Legal Service, DG JRC (Joint Research Center), DG NEAR (Neighbourhood & Enlargement Negotiations), DG HOME (Migration & Home Affairs), DG GROW (Internal Market, Industry, Entrepreneurship & SMEs), DG INTPA (International Partnerships), DG RTD (Research & Innovation), DG CNECT (Communications Network, Content & Technology), DG COMP (Competition), DG EAC (Education, Youth, Sport and Culture) and the European External Action Service.

The ISSG was consulted on the concept note, the consultation strategy, main legislative and non-legislative options and the interim and final reports of the supporting study. On a number of other deliverables, such as the questionnaire for the Open Public Consultation, services were consulted separately in writing.

ISSG meetings, chaired by the Secretariat-General, were held on 10 October and 30 November 2022, 31 March, 26 September 2023.

The last meeting of the ISSG, chaired by the Secretariat-General of the European Commission was held on 5 October 2023.

3. Consultation of the RSB

An upstream meeting took place on 18 September 2023 and the recommendations of the Regulatory Scrutiny Board were duly taken into account.

The Regulatory Scrutiny Board discussed the draft impact assessment in the hearing that took place on 15 November 2023.

The Board issued a positive opinion with reservations on the draft impact assessment. The Board's recommendations have been taken into account in the Impact Assessment, as the table below displays.

Opinion of the Board	Implementation
The report should provide a coherent and unambiguous narrative for this initiative focusing on legal interest representation services on behalf of third countries in the	The introduction and the description of options sections have been updated to provide a clearer narrative for this initiative focusing on legal interest representation

internal market of EU. The assessment should more precisely identify the gaps this initiative intends to fill and how it articulates with the wider set of initiatives on the defence of democracy. The report should provide a clear scope for the EU action, especially in terms of activities and organisations to be regulated. It should make it clear that the initiative covers legal activities.	services on behalf of third countries in the internal market of EU. The impact assessment clarifies in the baseline how the initiative relates to other legislation and initiatives proposed in the context of the Commission's ambition to strengthen and defend democracy. The added value of the initiative was further highlighted. The section on the policy options and the scope was modified in order to clarify that the initiative only covers legal activities, i.e. interest representation activities carried out on behalf of third countries, and that there are limited, but clearly defined exceptions with regard to the organisations and activities that are covered.
The analysis should bring out more clearly the key policy choices of the policy options. The report should better explain how the various measures would work in practice. The assessment should better articulate the mitigation measures regarding potential issues of 'stigmatisation' of legitimate representation activities. It should elaborate in more detail on measures to avoid potential circumvention of the transparency rules for third country interest representation taking into account that "core funding" of relevant actors is not per se in scope of this initiative.	The description of policy option has been updated and drafting has been improved to evidence the key policy choices (targeted intervention or extended intervention). A chapter on discarded policy options has been added to highlight options considered but not pursued further. The mitigation measures to reduce the risk of stigmatisation were further detailed in the chapter on the impacts of the initiative on the freedom of association. The description of the policy options (section 5.3) explains better why core funding is not per se in the scope of the initiative and how national supervisory authorities shall prevent that contributions to the core funding of entities are used to circumvent the transparency rules.
The impacts of the different policy options should be adequately differentiated, in particular as regards a realistic evaluation of the degree of take up of the various policy measures in case of a recommendation. The report should better explain how the potential sanctions would work and how effective they could be.	The impact assessment was refined by providing two different costs scenarios according to different levels of take-up of the legislative measures by Member States (full take-up and 50% take-up), with a detailed analysis in Annex 4. In section 5.3.2.1, the impact assessment describes in more detail how the sanctions regime would work, notably which factors would be taken into account in order to determine the exact amount of a potential sanction.

The report should describe in greater detail the considered governance structure, and how it would work to ensure appropriate implementation and enforcement. It should explain what new elements and structures would be developed and who would be responsible for, e.g., IT tools (including registers), governance structure, supervisory bodies, annual reports, etc. It should further clarify how the national supervisory authorities would operate, and how cooperation among Member States would be structured. Finally, it should better explain the role of the Commission in this governance structure.	The impact assessment was refined regarding the governance structure foreseen by the two legislative options. The obligations for Member States to establish or designate one or more authorities were further detailed. It was added that the Internal Market Information System ('IMI system') Regulation would support the administrative cooperation and the exchange of information using existing IT tools. The impact assessment describes in greater detail how the cooperation among Member States would be structured via a governance cooperation mechanism at EU level. The Commission's role is better explained (no direct enforcement role, but right to request data from Member States).

4. Evidence, sources and quality

The evidence base is drawn from internal and external research, literature review, extensive consultation activities, bilateral meetings with stakeholders, and was supported by an external study available here: https://commission.europa.eu/document/455c1bda-8c39-48f0-971c-86758f8b7c90_en . In particular, evidence was based on the following:

- The preparatory studies and open consultation for the European Democracy Action Plan, transparency of political advertising initiative and the 2020 EU Citizenship Report;
- The implementation of the Commission's September 2018 electoral package, as described in the Commission's report on the 2019 elections;
- The Commission toolkit on Tackling R&I foreign interference;
- European Parliament resolution of 10 October 2019 on foreign electoral interference and disinformation in national and European democratic processes (2019/2810(RSP));
- European Parliament resolution of 9 March 2022 on foreign interference in all democratic processes in the European Union, including disinformation (2020/2268(INI));
- European Parliament resolution of 17 February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations (2020/2026(INI));
- European Parliament studies, including those prepared for the INGE committee;
- International organisations and bodies documents, research and recommendations, such as the OECD, the OSCE, the Council of Europe or International IDEA;

- An Open Publication Consultation;
- A series of Focus Group meetings with relevant stakeholders;
- A Flash Eurobarometer on Citizenship and Democracy;
- A Flash Eurobarometer on Democracy;
- The work of the European Cooperation Network on Elections
- A targeted consultation with relevant stakeholders

Annex 2: Stakeholder consultations

1. The consultation strategy

The Commission conducted a first wave of wide consultations of stakeholders on issues relevant to transparency of interest representation activities carried out on behalf of third countries, free, fair and resilient elections, and civic engagement, between October 2022 and May 2023.

Following on the first wave of consultations, the Commission sent out additional questionnaires on potential policy options to Member States authorities, commercial entities and CSOs on 4 August 2023 with a (extended) deadline for contribution on 25 September 2023.

A Public Consultation, accompanied by feedback on the Call for Evidence document was published on 16 February 2023 and ran until 14 April (8 weeks). Feedbacks and contributions from stakeholders helped further developing problem definitions and policy options.

The Commission also ran a Flash Eurobarometer on Citizenship and Democracy and a second on Democracy. The 2 Eurobarometers are still unpublished.

The Commission organised in this period a series of focus groups meetings with relevant stakeholders, to gather additional evidence and data on the issues addressed by the package, the potential policy options, and their impacts. It also conducted bilateral consultations and met with stakeholders, at their own initiative. The Commission received additional feedbacks.

Finally, the Commission contracted an external study to support its work on this package. As part of this study, the contractor also conducted a series of individual consultations with key stakeholders.

Relevant work in the European Parliament (including the Special Committee for foreign interference in all democratic processes in the EU, including disinformation) provided further input to the Commission analytical process. The Council of the European Union's work (including in the relevant working parties) has also provided valuable input.

The original consultation strategy had identified the following stakeholders with the aim of gathering their input:

1. Commercial actors**,** covering entities engaged in interest representation activities, including public relations and lobbying firms;

2. Legal professionals involved in interest representation;

3. International organisations and standards setting bodies;

4. Research bodies, education entities and Academia;

5. Non-commercial actors, including CSOs, human rights defenders and think-tanks;

6. Political actors – including candidates, parties, foundations, campaign and activist organisations in the Member States, at national and European level. Local and regional political actors should be considered, as well as their representative bodies at a European level.

7. Public authorities – national authorities with competence to monitor and enforce relevant rules, transparency obligations and electoral commissions, including via the European Cooperation Network on Elections;
8. General public, including EU and non-EU citizens, through the Public Consultation.

The methodology, consultation tools, overview and analysis of the results are further described below.

2. Public consultation

The Public Consultation was launched on 16 February and ran until 14 April (8 weeks). It was opened to everyone, from EU citizens to private companies. A communication campaign on the Public Consultation was organised by the Commission, including social media posts to reach out to specific entities and individuals, and communication on the Commission's website. This campaign reached out to 6,501,095 people.

In total, 852 responses were received in the context of the Public Consultation. The majority of respondents were from the EU, with only 12 from outside the EU. Their main countries of origin were France, Slovakia, Belgium and Spain. The vast majority of feedback was received from EU citizens (92%). Non-Governmental Organisations amounted for 3.5% of the respondents. However, only 3 company/businesses replied to the consultation.

2.1. Results

The public consultation was divided into 4 main sections, with some answers available only to those ticking dedicated boxes corresponding to specific requirements.

a. On interest representation and foreign interference

This specific section of the public consultation examined perceptions on entities that can significantly influence public decision-making processes and, more specifically, posed the question of which entities are more likely to create a risk of covert interference of third countries in the European democratic space.

- **Lobbying** is perceived as having the highest potential to significantly influence legislation in the EU. A total of 802 respondents (96.4%) labelled lobbying as either very (83.2%) or somewhat (13.2%) influential.

- The activities of '**Public relations, advertising, media campaigns, including social media**', and of political parties are also considered as having the potential to significantly influence legislation or other public decision-making processes. More specifically, public relations activities were considered as very or somewhat influential by a combined 91.2% of respondents, while the same figure for activities of political parties was 91.5%.

- Whilst the extent of influence for the remaining activities listed ('Education and training', 'Research' and the 'Organisation of conferences') was not perceived to be as influential, respondents still considered them to be able to influence the legislation making process to some degree.

The public consultation then focused on examining the EU perception of risks of interference with the European democratic space and public debate related to the control or remuneration of influential activities by third countries.

- Lobbying and public relations activities remunerated by or controlled by third countries are perceived by stakeholders to pose the greatest risk to the European democratic space, with 86.6% considering this factor to trigger a high risk.
- A total of 79.8% considered political parties funded by third countries or funded/supported by entities based in third countries to be a factor that can trigger high risk.
- Cyberattacks on digital election tools and electoral infrastructures are also perceived to be likely to create particular risks, as 74.5% labelled these activities as a factor triggering a high risk and 16.9% a moderate risk.
- Finally, the activities of think tanks remunerated by or controlled by third countries were perceived by 66.9% to constitute a high-risk factor and by 25.8% to pose a moderate one.

Therefore, the public consultation illustrates that, while all noted activities are perceived to carry the potential to influence and a risk of interference, lobbying entities and political parties are both perceived to retain a particularly high level of influence towards legislation and at the same time can trigger the highest risk of third country covert interference.

b. On transparency and other requirements

Overall, the public consultation responses highlighted just how much **transparency requirements are valued** and perceived to be imperative across the EU-27. Almost the entirety of respondents (95.6%) believes that there is a need to provide more transparency in the EU regarding lobbying, public relations activities or any other activity conducted for third countries that significantly impacts the democratic sphere.

In addition, the respondents largely agreed that every single type of information listed in the public consultation should be provided by entities conducting such activities (more than 92.5%). This includes information about the origin and amount of funding, the position of third countries and other entities vis-à-vis financing, and the purpose of financing. This continues to highlight a trend found across the public consultation responses of a need for more information to be made available and for transparency across the EU.

Considering other means to combat the influence risks highlighted in the first section, respondents were asked about the role of civil society and citizens more generally in the context of policy-making. **Effective and inclusive engagement with both independent civil society and citizens in the context of policy-making processes** is perceived to be important or very important by a large majority of respondents.

On this basis, respondents were then asked about **possible measures to improve the** engagement, inclusiveness and effectiveness of participatory processes for citizens and CSOs. The measure considered most necessary – selected by 64.2% of respondents – was the implementation of dedicated structures to support civil participation in policy-making processes (such as open online consultation, platforms to provide feedback). Following this, the most popular response options were the dissemination of clear, adequate and timely information about participation opportunities, modalities and objectives (51.3%) and capacity

building for citizens, including at local levels, on how to better engage in the policy-making process (41.9%).

Finally, the vast majority of respondents agreed or strongly agreed that there is a need **to increase the engagement of CSOs and citizens** through purposefully organised processes in policy-making at all local, national and European levels (more than 60% strongly agreed and more than 20% agreed in all cases).

c. On codes of conducts, self-regulation and standards

The questionnaire then focused on the topic of codes of conduct, self-regulation and standards, and showed that even though the stakeholders agree that the prioritisation of transparency and accountability is crucial, there seems to be a lack of knowledge or availability of best practices on the topic across the EU.

d. On free, fair and resilient elections

The final section of the public consultation related to the topic of free, fair and resilient elections, where questions focused on measures that could be taken to promote resilient electoral processes and protect election-related infrastructure.

When questioned about the importance of certain measures that could be taken by Member States to promote resilient electoral processes and protect the infrastructure that is critical for the organisation of elections, it is notable that respondents perceived each of the measures listed to be important. The most heavily supported measure was the need to focus on cyber security of electoral processes and related infrastructure, such as introducing incident notification rules.

Two additional sections ('Other' and 'Concluding remarks') were available to respondents to add any further information and/or upload any concise document. In total, 24 documents were received from respondents, mostly from CSOs and more specifically Non-Governmental Organisations, which were carefully analysed.

2.2. Position of stakeholders in the public consultation

a. Position of EU Citizens

Overall, EU Citizens indicated that EU action is needed to tackle foreign interference in democratic processes and to increase transparency of lobbying, public relations activities and any other activities that, when carried out on behalf of third countries, could significantly impact the democratic sphere. EU Citizens have expressed support for proposing transparency on this matter, while stricter transparency requirements and ethical obligations for public officials, candidates to elections and their staff were also mentioned.

In addition, the majority of respondents called for more involvement of CSOs and citizens in the policy-making process, and for more education about the EU.

b. Position of CSOs

CSOs expressed their support to a package aiming at defending democracy and to EU-wide measures increasing transparency of lobbying and public relations activities. However, some expressed strong concerns over the Directive potentially being seen as a "Foreign Agent Act", based on international precedents. Many of them stressed the need to fight against all democratic challenges, including those coming from within the EU, and not focus only on foreign risks. Most of them stressed the need to respect fundamental rights and the principle of proportionality and to avoid any potential stigmatisation of CSOs.

Additionally, CSOs called for more long-term funding opportunities and reminded of the important role they plan in defending and protection democratic values. They asked to be more involved in decision-making processes and called for more regular and inclusive consultations of CSOs and citizens.

3. Feedback on the call for evidence document

Feedback on the Call for Evidence document ran from 16 February to 14 April 2023, on the Have Your Say portal. In total, 1,198 responses were provided, the vast majority being EU Citizens (91%), with further inputs by 63 non-governmental organisations (5.2%). Most of the feedback was submitted by stakeholders based in Slovakia (70.3%), most of whom were responding as EU citizens. Other notable countries of origin of respondents were DE, FR, BE and AT.

A significant number of responses with similar (or identical) sentiments were submitted, spanning multiple languages and countries of origin. Indeed, the Have your say website identified a campaign of similar feedback, based on 11 matching submissions submitted by anonymous respondents from DE.

In addition, some submissions appeared to be copy-pasted with guide words, potentially used as part of a coordinated campaign. For example, "support the opinion:" (or "Podporujem názor:" in Slovak) was included at the beginning of the submissions.

4. Dedicated stakeholders' meetings

4.1. Focus Groups

The Commission organised a series of focus group meetings from November 2022 to April 2023, with relevant stakeholders as identified in the consultation strategy. The aim of these focus groups was to gather additional evidence and data on the issues addressed by the package from actors on the ground, to build on their experience.

Focus groups lasted 1.5 hours and the discussions were organised around 4 main strands: foreign interference, transparency measures, safeguards and free, fair and resilient elections. A list of guiding questions was sent to all participants ahead of the meetings, containing general questions posed to all stakeholders, as well as more specific questions targeted at the particularities of the different groups.

While organising the focus groups, the Commission ensured representativeness and inclusiveness in the selection of all participants.

Overall, participants to the Focus Groups expressed their support for an initiative covering foreign interference and common transparency rules for interest representation activities.

a. Focus group with international standard setting bodies

This focus group gathered representatives of the Council of Europe, including the Venice Commission, ODIHR, International IDEA, the OECD and UNESCO. Colleagues from the EEAS also attended the focus group.

Participants expressed concerns about the influence of third countries in democratic processes and stated that some of their organisations were currently working on this issue. They highlighted that key stakeholders need to be equipped with adequate tools to tackle it, and that

additional evidence is needed to understand the best policy-making solutions, notably to close legislative loopholes.

Participants agreed that transparency is the best solution to tackle the problem of foreign interference. Some of them additionally highlighted the need to tackle disinformation and to discuss foreign funding of political activities. Finally, they discussed safeguards to be considered (e.g. elections observations, oversight bodies to enforce transparency measures related to candidates or politicians, etc) and potential risk-assessments.

b. Focus group with academia and research organisations

This focus group gathered members of academia and research organisations talking in their personal capacities.

Most researchers agreed that there is some urgency when it comes to interference by third countries in the research sector, with a few experts disagreeing based on lack of evidence. Participants emphasized the role of individual researchers in responding to the issues of interference and agreed that any measures taken would have to be taken cautiously in order to respect the principles of independent review.

Participants underlined the importance of international cooperation in research and indicated that only authoritarian states should be considered to be a threat (and not all third countries). It was also agreed on by the participants that transparency could contribute to the awareness and ethics of researchers but not necessarily bring more incidents into light.

c. Focus group with legal experts

This focus group gathered legal professionals and experts, such as lawyers, representatives of law associations and of administrative judges' associations.

The majority of participants agreed that the issue of interference by third countries in the democratic sphere of the EU should be tackled urgently, as there is evidence of it having an impact on legal professions. In particular, most of them emphasised the importance of setting up transparency requirements on the funding of CSOs and foundations aiming at influencing EU policies.

Finally, participants finally discussed the differences between legal representations of clients and interest representation activities. Many of them consider the distinction achieved in the Transparency Register appropriate.

d. Focus group with commercial entities involved in interest representation

This focus group gathered professionals working for commercial entities involved in interest representation, notably lobbying firms, consultancy companies and representatives of lobbying associations.

Participants all indicated to be registered in the EU Transparency Register, and most of them declared to also incentivise their clients to register, which they all believe is a useful tool. They highlighted the fact that the issue of foreign interference might lie with the entities not registered.

Moreover, participants confirmed that consultancies conduct due diligence before taking on new clients. Participants also agreed that policy-makers should only be allowed to meet with entities registered in the EU TR.

Several participants declared to be in favour of a harmonisation of all Transparency Registers with a single EU-wide number for registrants. They emphasised that the different systems across the EU related to registration and transparency requirements, which are highly distinctive between each market, pose a major challenge to interest representation as an industry.

e. Focus group with members of the European Lobby Registrars Network

This focus group gathered EU members of the European Lobby Registrars Network.

Participants presented the specificities of their national lobby registers, their rules, the actors covered, accompanying codes of conducts, as well as oversight and compliance mechanisms. Participants identified foreign interference as an important topic and expressed the need to tackle it. Finally, they discussed the safeguards and legislative loopholes to be addressed.

f. Focus group with CSOs and non-commercial actors involved in the defence of democracy

The focus group with CSOs and non-commercial actors involved in the defence of democracy was introduced by a member of the cabinet of Commission Reynders, who emphasised the key role of CSOs for the well-functioning of our democracies and introduced the package.

Some participants expressed their concerns that CSOs seem to be considered as a problem, and not a solution to tackle foreign interference and protect the EU democratic sphere. They condemned the presumption of culpability when it comes to relations between institutions and CSOs. The majority of participants declared never to have been confronted with issues of foreign influence. They asked for more support to CSOs, included more funding from the EU.

Participants added that additional transparency measures could be burdensome and difficult to comply with for most CSOs, agreeing that they already must comply with many reporting and transparency requirements. They stated that public officials should follow integrity standards.

g. Focus group with commercial entities involved in cross-border interest representation services

Following a first meeting with professionals involved in interest representation (see point d. above), this second focus group gathered commercial entities involved in interest representation, with the aim to focus on cross-border activities and having to comply with different registration and transparency requirements.

Participants expressed their support for an initiative covering foreign interference, and stated they would welcome common transparency rules, as this would not only facilitate their registrations but also prevent market and reputational issues for companies and clients. They emphasised the challenges of having to comply with different systems and rules across Member States.

h. Focus group with grants beneficiaries of CERV programme working on projects related to the 2024 elections to the European Parliament

This meeting was a second focus group gathering CSOs, with the aim to focus on those receiving funds under the CERV programme and working on projects related to the upcoming elections to the European Parliament.

During this focus group, participants largely considered that the main barriers to turnout in elections to the European Parliament were the lack of information about the EU among the

general population, and the lack of participative and deliberative democracy between elections. They argued that actions at the local level and more engagement and support to CSOs would help increasing turnout, inclusiveness and understanding of elections. They highlighted the importance of increasing trust and transparency of decision-making processes at the EU level.

i. Focus group with European Political Parties and Foundations

A focus group was organised with European Political Parties and European Foundations. Most participants said never to have been directly affected by foreign interference, but agreed it was a pressing issue. Some of them, however, declared that any additional measures on political parties would be burdensome, or even counter-productive, as some of their members are parties based in third countries. The question of providing a level playing field in terms of transparency requirements between entities impacting democracy was raised.

On the part related to free, fair and resilient elections, participants agreed there is a general lack of knowledge about citizen's rights, the elections to the European Parliament and the general functioning of the EU. References were made to the proposed new electoral law, as a means to increase turnout and citizen's representativeness in elections.

j. Focus group with Local Authorities

This focus group gathered representatives of local authorities.

While some participants agreed foreign interference is a growing problem for local democracies, others said not to have experienced it at the local level. A participant mentioned that a priority for Baltic cities was to ensure resilience of cities and local authorities. Most of participants also expressed concerns on cyberattacks and disinformation.

Participants additionally shared best practices and examples of local democratic processes, such as innovative participatory mechanisms and co-governing processes.

k. Focus groups with Member States

Two Focus groups were organised with Member States, which welcomed the upcoming package, agreeing that foreign interference in democratic processes is a growing issue which needs to be tackled. They recalled the need to respect the principles of subsidiarity, proportionality, fundamental rights and to keep a whole-of-society approach. All Member States consider transparency as a key measure to tackle foreign interference.

On free, fair and resilient elections, Member States discussed the fight against disinformation, asked for more inclusiveness in elections and called for more awareness-raising among citizens.

Discussion with Member States also took place in Council Working Groups and in the framework of the European Cooperation Network on Elections.

4.2. Meetings with stakeholders

The Commission conducted bilateral meetings with a diverse range of stakeholders, including Member States and CSOs, at their own initiative.

The Commission held regular meetings of the European Cooperation Network on Elections (ECNE) as follows: 15th ECNE meeting November 2022, 16th ECNE Meeting January 2023 and 17th ECNE meeting 29th March 2023. At the last meeting, Member States exchanged their views on the package.

On several occasions, the Commission also met with Members of the European Parliament, notably from the INGE committee.

5. Ad hoc contributions

The Commission received 25 written contributions via email outside of the official consultation process. Some of these contributions were made following the different focus groups, while others were sent due to having missed the deadline of the Open Public Consultation.

The Commission received 3 follow-up emails to the focus groups from CSOs, expressing their concern on the way the discussion on the package was framed and asking to avoid any potential stigmatisation of CSOs.

The EU Foundation Sallux provided further input on the status and challenges of European political parties and Foundations.

The Fundamental Rights Agency sent a letter to the Commission to stress the need that the Defence of Democracy package should aim to protect the fundamental rights enshrined in the Charter and called for proportionate measures.

The European Institute for Gender Equality (EIGE) welcomed the Commission's call for evidence and provided further data on gender equality in the EU in relation to the Defence of Democracy package, notably on gender inequality in elections.

The Public Relations company First PR (based in Poland) sent additional information they gathered on the future of disinformation and the importance to tackle the issue to protect our democracies.

The company The Logically Ltd. shared their written contribution, focusing notably on the impact that online disinformation can have on voter turnout. They called Member States and political parties to step up efforts to promote voter turnout and inclusive participation in elections.

The Society of European Affairs Professionals, recalled its commitment to the highest standards of ethical conduct in public affairs. They reminded the Commission of the benefits of lobbying within the EU decision-making process and that it is a legitimate act of political participation, when done transparently and with integrity. SEAP stated that the impact on public affairs professionals of additional transparency requirements regarding activities conducted for third countries would vary according to the measures envisaged but could be burdensome for smaller actors involved in interest representation, including not-for-profit organisations.

An individual EU citizen sent a note to the Commission asking to take into consideration the outcome of the Conference on the Future of Europe in the drafting of the package.

The European University Association welcomed the package but emphasized the need to carefully balance the instruments, to fully empower civil society as democratic actors, and ensure dialogue. They called the Commission to respect academic freedom and protect it.

The Erfurt University of Applied Sciences also welcomed the initiative and the recognition of civil society as a cornerstone of democracy, but argued there is an urgent need to focus on ensuring long-term funding of CSOs.

Finally, the Commission received position papers from several CSOs[246], expressing common concern about the potential impacts of the Directive on civic space, fundamental rights and pointed the risk of misuse by malicious actors. They regretted the lack of an impact assessment accompanying the Defence of Democracy package and recalled the need to respect the principles of proportionality and necessity. These position papers generally welcome the inclusion of a recommendation on civic engagement, called for more structured dialogue and collaboration with Civil Society Organisations and for better long-term funding opportunities.

Following the focus groups, 10 Member States (France, Poland, Spain, Finland, Belgium, Lithuania, Slovenia, Romania, Germany, and Ireland) also sent their contributions via email. Member States welcomed the initiative and agreed that tackling foreign interference is a growing issue and that transparency is a key priority at national level. They, however, stressed the importance of respecting fundamental rights, the principles of proportionality, subsidiarity and taking a whole-of-society approach.

Ad hoc bi-laterals between the Commission and interested Member States and their authorities also took place.

6. Specific consultations conducted by contractor

The contractor conducted a specific and extensive consultation, by the means of interviews, targeted at different stakeholder groups. The interview programme originally aimed to consult 35-40 stakeholders across key groups.

This table presents a breakdown of the individual stakeholders contacted (16), as well as the 62 interviews performed across key stakeholder groups.

Stakeholder types	Interviews Performed	Total Contacted
CSOs	14	22
International, EU and national authorities	16	40
Law firms	5	10
Professional consultancies	9	34
Think tanks & academic/research institutions	7	25
Trade & business associations	10	14
Trade unions & professional associations	1	1
Total	**62**	**146**

[246] These letters and position papers were for instance received from the European Broadcasting Union (EBU), Transparency International EU, European Civic Forum (ECF; along with 230 civil society organisations), Civil Society Europe (CSE, along with 12 civil society organisations), European Partnership for Democracy (EPD, along with 47 civil society organisations), and Philea.

1. The think tanks / research institutes / CSOs interviewed cover both: i) organisations that conduct advocacy activities and are experts in lobbying transparency / foreign interference; and ii) organisations that are purely included as they conduct advocacy activities.
2. The stakeholders interviewed from trade / business / professional associations, in many cases, also represented specific public affairs / public relations consultancies.

7. Flash Eurobarometer on Citizenship and Democracy (Flash EB 528)

Flash Eurobarometer 528 on Citizenship and Democracy, indicates considerable popular support for several initiatives of the Defence of democracy package. In the following, a brief overview is provided with respect to the findings relevant for the contents of the package.

7.1. On more transparency in interest representation services

About 8 in 10 respondents (81%) agree that foreign interference in our democratic system is a serious problem that should be addressed, and over 7 in 10 (74%) agree that such interference can affect citizens' voting behaviour. Views are somewhat more divided on the question of whether foreign countries are justified in aiming to influence EU election outcomes to defend their interests: 42% agree that they are justified, while 55% disagree.

Still, there is strong majority support for tackling such covert interference in our democratic systems. About 8 in 10 respondents (81%) agree that entities representing foreign governments should be registered to prevent the problem.

The proportion agreeing that foreign interference in our democratic system is a serious problem holds at over 8 in 10 in all Member States with the exception of the Scandinavian countries, and Hungary and Romania, where it ranges from 69% (in Finland) to 75% (in Sweden). The proportion agreeing that foreign interference can affect citizens' voting behaviour similarly holds at a majority level in all countries and, indeed, is notably higher than average in Slovakia (80%), Croatia (82%), Slovenia (83%), Sweden (83%) Cyprus (84%) and Czechia (85%).

8. Flash Eurobarometer on Democracy, 2023 (Flash EB 522)

Flash Eurobarometer 522 on Democracy, indicates considerable popular support for several initiatives of the Defence of Democracy package. In the following section, a brief overview is provided with respect to the relevant findings for the contents of the package.

8.1. Overall findings

When asked about their degree of satisfaction with the way democracy works in their country, close to half of respondents reply being 'very satisfied' (10%) or 'somewhat satisfied' (37%), in contrast to about1 in 2 respondents who reply they are 'not very satisfied' (31%) or 'not at all satisfied' (20%). A handful of respondents (2%) answer that they 'don't know'.

Respondents were asked which institutions or actors they have confidence to defending democracy in their country. The largest share reply that they have confidence in citizens to defend democracy in their country (9% 'very confident' and 45% 'somewhat confident'). More than half of respondents show confidence in EU institutions, including the European Court of Justice (15% 'very confident' and 39% 'somewhat confident'), followed by about half of respondents who trust CSOs to defend democracy (9% 'very confident' and 44% 'somewhat confident').

Smaller shares of respondents have confidence in national courts (49%), electoral authorities (48%), public administration (46%), in their national (and local) government (44%), in their

national (and local) parliament (42%) or in the media (38%). Finally, about 3 in 10 respondents (29%) put confidence in political parties and politicians to defend democracy in their country.

8.2. On more transparency in interest representation services

Respondents were presented with a list of 10 items that may constitute a serious threat to democracy in their country. They were asked to select up to 3 threats. The threat to democracy listed most frequently by respondents is 'false and/or misleading information in general circulating online and offline' (38%); this is followed by 'growing distrust and scepticism towards democratic institutions' (32%).

Another 4 of the threats are selected by more than1 in 5 respondents: 'lack of engagement and interest in politics and elections among regular citizens' (26%), 'lack of opportunities for citizens to voice their opinions' (23%), 'propaganda and false/misleading information from a non-democratic foreign source' (22%), 'covert foreign interference in the politics and economy of your country, including through financing of domestic actors' (21%).

In 22 countries, respondents are most likely to reply that one of the most serious threats to democracy in their country is 'false and/or misleading information in general circulating online and offline'. The proportion selecting this threat varies between 24% in Bulgaria and 48% in Hungary and Malta.

8.3. On electoral resilience

Respondents were presented with a list of 6 elements associated with free, fair and resilient elections, and they were asked which elements they consider the most important to define free, fair and resilient elections (they could select up to 3 elements).

About 1 in 2 respondents (51%) select 'voters having access to accurate information to make an informed choice' as one of the most important elements of free, fair and resilient elections, followed by 47% selecting 'the electoral administration being independent and impartial'.

Respondents were also presented with a list of 6 elements associated with free, fair and resilient election campaigns, and they were asked which elements they consider the most important to define such campaigns (up to 3 elements could be selected).

The largest shares of respondents select 'debates and campaigns avoiding hate speech, manipulation and lies' (46%) and 'candidates and political parties having equal opportunity to access the media' (41%). Each time about a third of respondents refer to 'voters know who finances candidates and political parties' (35%), 'voters can engage with candidates and political parties in debate' (33%) and 'voters know who finances political advertising and sponsored content and can distinguish between sponsored content and non-paid for political information' (32%) as important elements of free, fair and resilient electoral campaigns.

9. Additional meetings with stakeholders

On 6 July 2023 a meeting took place at political level with Civil Society Organisations representatives to discuss the 'Defence of Democracy' Package in the context of the preparation of an impact assessment and broader consultations.

CSOs highlighted the importance of the continued engagement with civil society and the importance on conducting a thorough IAs in preparation of the proposal. They welcomed the

inclusion of strong safeguards, further enquired about the scope and the organisations possibly captured by the instrument.

CSOs flagged the possible risks and issues: the risk to fail to capture the issue as a whole and fall short foreign funded interest representations happening internally to the EU; the risk that other undemocratic regimes would use EU action as a pretext for acting with wrong intentions; possible misuse of the data captured by the envisaged registries; the issue for organisations advocating in repressive regimes for which globally it was difficult to get support and resources.

10. Additional questionnaires

Lastly, the Commission sent out additional questionnaires on potential policy options to Member States authorities, commercial entities and CSOs on 4 August 2023 with a deadline for contribution on 25 September 2023.

The Commission has received 29 replies: 11 replies from CSOs, 15 replies from Member States, and 3 replies from organisations representing the interest representation industry.

10.1. Replies from CSOs

Scope of the transparency measures

Some respondent CSOs took a stance on the issue of the nature of the instrument to be considered in the intervention with 4 out of 11 CSOs considering that the intervention should take the form of a Regulation, 1 of which expressing that a Directive could be misused by Member State. 5 CSOs noted that a Recommendation could encourage Member States to adopt transparency rules, but that it would not be sufficient to solve the issues at hand.

9 CSOs expressed a view that the legislative intervention should cover all types of interest representation activities and not be limited to those carried out on behalf of third countries.

2 CSOs highlighted that focusing on third countries is not sufficient and interferences from EU Member States into CSOs activities should also be covered.

3 CSOs raised the issue of the risk of circumvention through private entities.

3 respondents expressed the need to provide a clear definition of the notion of interest representation.

Registration and transparency requirements

The majority of CSOs expressed that all entities should provide information on the Member States of registration, the Member States where the interest representation takes place, clear information on the actors involved, and clear information on the legislation, policy or initiative of interest.

3 respondent CSOs emphasized the need of balancing the right of access to information with the right to privacy data and personal data.

Most CSOs highlighted the need to assess coherence with other measures, with 3 responses emphasising the EU Transparency Register as a reference point. Some of them expressed that,

when it comes to CSOs, registration and disclosure requirements existing at EU and, overall, at national level already provide an adequate framework to increase transparency, with 4 respondents indicating that undertaking a comprehensive comparative analysis of existing requirements is necessary.1 respondent in particular underlined the need for registration requirements not to hinder the freedom of association.

All but 3 respondent CSOs put an emphasis on the issue of avoiding stigmatisation, explaining that registration should not lead to stigmatisation but to normalisation of interest representation, as legitimacy of interest representation does not depend on whose interest is being represented, but on the ethical standards that are applied when carrying out interest representation activities.

The majority of CSOs indicated that a prior authorisation/licence system would risk amounting, in particular if applied to CSOs, to a disproportionate interference on the right to public participation. – 5 of which indicating that such a system would run afoul of international and EU human rights law. However, 1 respondent indicated that it would be useful to create such a requirement, while 3 others did not answer or address the questions related to prior authorisation/licensing.

4 CSOs expressed that it would be disproportionate to create a general requirement to disclose a registration number before meeting EU or Member States officials.

On the information which should be made publicly available in national registers to ensure accountability, 1 contribution suggested to make publicly available an annual budget (income and expenditure) and an annual activity report.

1 CSO proposed that the registration mechanism be user-friendly and easily accessible to anyone, including people with disabilities.

Derogations and safeguards

Most CSOs were of the opinion that entities involved in interest representation activities aiming to influence policy-making should not be exempt from requirement to register. CSOs highlighted that the Commission should put in place safeguards including on the language, enforcement and democratic impact.

4 CSOs highlighted the need to create a minimum threshold for certain types of entities in order to avoid that all CSOs would fall under the obligation to register.

2 respondent CSOs expressed that there should be no exemption for CSOs from the scope of the initiative, while 2 other respondents expressed on the contrary that they should benefit from an exemption (the first exemption proposed was to exclude youth organisations, while the other concerned entities known to *bona fide* pursue public interest).

1 respondent underlined the need to avoid creating a system of double registration: in one register for interest representation activities in general and in another one for when they are carried out on behalf of third countries.

4 respondents expressed that requirements should rely on a strict risk-based approach in order to avoid discriminatory practices.

2 respondents expressed that there should be no white list or black list of third countries,1 of which stressing that it should especially not be left to Member States to draw up such lists as

countries would risk being excluded or included based on political or economic ties with that Member State, thereby creating circumvention risks. However, 1 respondent expressed that as part of a risk-based approach there should still be a distinction between democratic and non-democratic countries.

1 respondent highlighted that principles of transparency and accountability inherent to the right to good administration should be taken into account, and 3 respondents specifically referred to the need to ensure safeguards required by the right to an effective remedy and to a fair trial.

Monitoring and sanctions

7 CSOs welcomed the establishment of an independent oversight body to ensure that the transparency register is regularly and properly monitored. 1 of them suggested that there should be cooperation with the Transparency Register Secretariat managed by the Commission.

2 respondents also suggested that the Commission could facilitate an exchange at EU level among existing supervisory authorities, and provide recommendations as to their independence, fairness, and effectiveness. Only 1 respondent expressed that an EU-level governance mechanism would not be useful.

2 respondents expressed that proportionate administrative sanctions are the most appropriate option to deter misconduct and that a fully harmonised sanction regime should be created at EU level, 1 of which highlighting that a full harmonisation of the enforcement and sanctions is essential to avoid adverse consequences and misuse by Member States. On the contrary, 1 respondent expressed that the Commission should not propose any sanctions regime before having conducted a comprehensive comparative analysis of existing sanctions regimes in Member States.

10.2. Replies from Member States

5 out of 15 Member States expressed the view that it is necessary to put in place harmonised measures enhancing the transparency of interest representation activities seeking to influence decision-making processes. 1 Member State however expressed concern that a regulation that has the effect of a "foreign agent law" or can be understood as such, could cause negative consequences.

5 Member States expressed some reservations as to whether harmonisation at EU level would be the best option.

3 Member States suggested to opt for the first proposed policy option – a non-legislative solution promoting common standards. Transparency recommendations resulting in a combination of various non-legislative solutions promoting common standards would allow Member States to evaluate their current sets of measures and to introduce where necessary additional tailored improvements.

On a potential obligation to obtain prior authorisation/license at EU level to carry out interest representation activities on behalf of third countries, 1 Member State expressed that a prior authorisation scheme does not appear to be the most proportionate solution for achieving the objective pursued, and suggested that a transparency regime based on a reporting regime, coupled with the application of ethical obligations, would appear more appropriate.

Scope of the transparency measures

1 Member State highlighted that complicating the exchange between lobbyists and policy-makers, could discourage interest representations from participating in the political decision-making process. It added that it could therefore negatively impact the participation of civil society.

Member States broadly agreed that society has a fundamental interest to be informed about interest representation activities carried out on behalf of third countries.

1 Member State expressed concerns about specifying at EU level whether and which contacts at the national level are permissible, or whether and to what extent contacts of national parliamentarians or government representatives have to be published.

1 Member State expressed concerns about the measures to introduce binding rules for national transparency registers. It stated that deciding on the degree of transparency for national processes falls within the competence of the Member States.

6 Member States argued that it would be desirable to transparently handle all types of interest representation activities that attempt to influence the formulation or implementation of policies, legislation or public decision-making processes in the EU, and not to focus only on the cases where such activities are carried out on behalf of third countries.

1 Member State expressed that in addition to further national initiatives to promote transparency, measures developed on an EU wide basis would play a crucial role in fostering accountability and trust.

1 Member State expressed that harmonisation of all the measures governing interest representation in the Member States would go far beyond the purpose of the Commission's initiative and would be difficult to achieve at least in the short term. This Member State added that the establishment of a general regime covering interest representation activities for the benefit of strictly private actors and activities for the benefit of third countries might not be sufficient to effectively regulate the latter type of activity.

1 Member State emphasized that the influence measures which deserve particular attention, and which must therefore be covered as a matter of priority are those involving elected representatives, former elected representatives and certain public officials; with a view to influencing public life. 1 other Member State expressed it was in favour of an obligation for public officials to also provide information on their meetings with entities carrying out interest representation activities.

1 Member State warned that too extensive regulation has its risks from the point of view of democratic values and the rule of law.

1 Member State suggested that new forms of lobbying, such as digital lobbying and lobbying using artificial intelligence should also be covered.

Registration and transparency requirements

7 Member States stated that information on the names and owners of entities should be disclosed, 6 of which stating that the name of the countries from which fundings are received. 1 Member State specified that publication could cover data relating to the identity of the natural person or, in the case of a legal person, its directors, the nature of influence actions carried out, as well as, where applicable, the amount of expenditure incurred in respect of those actions,

specifying the foreign power of foreign political organisation for the benefit of which they are carried out.

1 Member State expressed that publication should cover, when talking about natural persons, their nationality, all citizenships they have or have had in the past, business relations with third-country entities, natural and legal persons. When it comes to legal entities, information about the country of registration, its history of changes, implemented projects, partners linked by cooperation ties.

5 Member States expressed that the interlocutors of the meetings with public officials and the numbers of meetings be disclosed. 3 Member States expressed that the topics of discussions and purpose of the activities be disclosed as well. 2 Member States stated that the time and place of the activities should be registered as well.

Member States largely agreed on the need to follow the GDPR principles when publishing personal data.

1 Member State expressed that registration requirements could be analogous to those for lobbyists registration, where such laws exist. In addition, information on connections, affiliated entities, etc, would be required. The information submitted should be crossed checked using specialized tools and databases developed and maintained by Member States.

4 Member States expressed that they were in favour of a prior authorisation/licensing system, while 6 explained that they were against such a system.

1 Member State wrote that it was in favour of an obligation for entities carrying out interest representation activities to provide their registration number before meeting decision-makers.

Derogations and safeguards

1 Member State highlighted that its legislation contains exemptions of the obligation to register.

1 Member State expressed that certain exemptions could be necessary; however, overly generous exemptions could dilute the purpose of the registration requirements. That Member State emphasized that measures addressing interest representation could have an impact on diplomatic relations with third countries. It would be therefore important to provide for some exceptions also at EU level, as otherwise international exchange would be restricted, and could lead to a chilling effect.

1 Member State considered that the exclusion of civil society organisations and SMEs as a matter of principle does not seem desirable, since these entities could serve as any other conduit for influence activities carried out on behalf of foreign powers.

2 Member States highlighted that the legislative proposal must be designed with due regard for fundamental rights. Moreover, the principles of legality, necessity and proportionality must therefore be fully respected.

1 Member State expressed that there should not be any specific exemptions.

4 Member States stated that SMEs should not benefit from specific derogations. 1 of those Member States however distinguished for CSOs, stating that for them a general derogations

could apply with regard to protection of fundamental rights, exercise of constitutional rights and sensitive personal data protection.

2 Member State wrote that activities directed at safeguarding or representing the interests of a party or participant in connection with an administrative or judicial procedure should be exempt.

3 Member States explained that diplomatic actors and activities should not be covered.

1 Member State raised the issue that the adoption of a legislative instrument might lead to risks of stigmatisation for certain entities.

2 Member States proposed a system whereby one part of the register can only be accessed by authorities.

Monitoring and sanctions

1 Member State warned that setting up a sanctions regime that restricts activities of actors from third countries in the EU may lead some of these countries to establish reciprocal rules, and this could restrict the work of local civil society organisations in third countries which have so far been supported through European development cooperation and whose active role is very important.

1 Member State expressed that supervisory authorities entrusted with monitoring would not necessarily have to be "completely independent", but they may also be located in a ministry, and be removed from an undue influence by decision-makers by other measures.

On the obligation to obtain prior authorisation/license at EU level to carry out lobbying activities on behalf of third countries, 1 Member State expressed that a prior authorization scheme does not appear to be the most proportionate solution for achieving the objective pursued, and suggested that a transparency regime based on a reporting regime, coupled with the application of ethical obligations, would appear more appropriate.

1 Member State emphasized that Member States should have autonomy in designating the competent authority for their national register.

2 Member States highlighted that sanction regimes must leave the Member States a wide margin of discretion.

4 Member States advocated for a sanctions regime defined at Member State level, 2 of which mentioning the possibility to establish guidelines to ensure enforcement consistency.

7 Member States expressed that supervisory authorities should be permitted to ask specific information from registered entities, subject to safeguards.

1 Member State expressed that the implementation of monitoring should be entrusted to the institutions responsible for the regulation of lobbying activities and compliance with national security interests.

1 Member State suggested that a network of authorities could serve as a platform for regular exchanges of information and structured cooperation.

3 Member States expressed that non-penal/administrative sanctions should also be considered, varying in accordance with the gravity of the misconduct.

10.3. Replies from organisations representing interest industry

Scope of the transparency requirements

1 out of 3 industry representatives explained that establishing harmonized measures to enhance transparency in interest representation activities conducted on behalf of third countries at EU level is necessary. According to that respondent to define which specific third countries should fall under such measures, it suggests employing a set of criteria: the geopolitical significance of a country, and security and strategic interests.

1 respondent expressed that, at present, commercial interest representation activities carried out on behalf of third countries and seeking to influence the formulation or implementation of policy or legislation or public decision-making processes in the EU are transparent. Another respondent expressed a similar opinion, that its member organisations are also complying with applicable regulatory frameworks.

2 respondents recommended the Commission to take into consideration all forms of interest representation activities and not to harmonise only those performed on behalf of third countries.

1 industry representative highlighted the importance to discern between the public and private sector of the public authorities, the transparency in the exercise of the activity, whether they are elected or named, there must be some limits that allow the necessary confidentiality derived from the protection of privacy.

All 3 industry representatives considered that no specific entity should benefit from exemptions for the scope of transparency requirements, in order to avoid risks of circumvention.

2 respondents expressed that transparency requirements should not lead to stigmatisation such as ‘organisations supported from abroad’ or lead to the creation of ‘special foreign influence register’.

1 respondent expressed that it is in favour of a harmonised transparency register at EU level, and cautions against the risks associated with the creation of a parallel registration system for interest representation activities carried out on behalf of third countries.

1 respondent underlined the challenge of balancing transparency with the need for confidentiality in certain diplomatic matters.

Registration and transparency requirements

All 3 industry representatives favour registration and transparency requirements to be harmonised at EU level but are not in favour of a licensing/prior authorisation mechanism, although 1 expressed it would be in favour of a mandatory registration system.

All 3 industries are in favour of an obligation to provide a registration number before being able to meet public officials. 1 respondent underlined that it would be essential to implement this requirement in a practical and user-friendly manner.

1 industry representative stated that any new harmonised system should base itself on the EU Transparency Register as a model.

1 respondent considered that potential registration requirements could include mandatory registration.

Derogations and safeguards

All 3 industry representatives are not in favour of any specific exemptions for certain entities or of any *de minimis* threshold.

1 respondent considered that safeguards should encompass a range of measures, including rigorous monitoring and auditing of interest representation activities to verify compliance with transparency requirements, and that regular compliance reviews should be conducted.

Monitoring and sanctions

1 industry representative considered that the Register must be independently considered from a functional and administrative point of view and must depend on an independent body.

All 3 industry representatives expressed that they are in favour of providing supervisory authorities with powers to request additional information from registered entities about the nature of their activities or the veracity of the information in the register (although 1 was not in favour of allowing information requests about contracts above certain thresholds).

1 respondent expressed that it is in favour of administrative sanctions and suggested that sanctions to deter misconduct could include the possibility to be banned from registers and to have their names published. Repetitive misconduct should be taken into account as a criteria in assessing the type and level of sanctions to be applied. Another respondent similarly expressed that a registration ban is an appropriate sanction mechanism. 1 other respondent stated that restricting sanctions to limited administrative measures may be a reasonable approach.

Another respondent underlined that the obligations imposed in the register cannot be enforced without an adequate framework for defining violations and the corresponding penalties for non-compliance.

1 industry representative emphasized the need to appropriately enforce currently existing transparency regimes before considering the creation of new or enhanced transparency and registration requirements.

1 industry representative highlighted the important of the right to due process and the rights of defendants against accusations of bad behaviour, with the possibility of having access to an independent judicial authority to provide redress.

Annex 3: Who is affected and how?

This annex provides in-depth information and estimated cost figures on the stakeholders affected by the initiative. All figures were gathered through the supporting study.

1. Practical implications of the initiative

The following table presents a description of the categories of stakeholders considered by the initiative, with a summary analysis of how they will be affected by the proposed measures.

Categories of stakeholders	Description of the stakeholders	Measures affecting the stakeholders
Commercial entities	For example, public relations firms and consultancies, public affairs firms and consultancies, legal services firms, private companies, and any kinds of interest representation services providers, so long as they carry out interest representation services activities on behalf of third countries.	Due to the Article 114 TFEU legal basis of the intervention, the proposed measures would not differentiate commercial and non-commercial entities in their application. Record-keeping: Entities would be required to keep, for a reasonable period, information such as the identity of the entity on whose behalf the activity is carried out, a description of the purpose of the interest representation activity. Registration: Entities would be required to register in a national public register and provide information on themselves, the activities conducted, and the entities they conduct the activities on behalf of (e.g. regarding the entity, the activity and the entity on whose behalf the activity is carried out). This information would need to be updated regularly. Transparency: • Entities carrying out interest representation as well as their subcontractors would have to provide their registration number when in direct contact with public officials. • Member State would be required to ensure that publicly available national registers are in place and that they cover the information and reporting requirements included in the intervention. They would need to designate or set up supervisory authorities ensuring proper implementation. They would need to
Non-commercial entities	For example, civil society organisations, trade and business associations, trade unions and professional associations, think tanks and research institutions, academic institutions, advocacy groups, charities, so long as they carry out interest representation activities on behalf of third countries.	

		publish an annual report based on the data entered in the register. • Interest representation service providers would have the possibility to take measures to identify the recipients of the services.
Member States	Member State authorities in charge of administering, managing, supervising, enforcing or sanctioning the application of the proposed transparency and registration requirements set forth in the initiative.	Member States would have to establish new authorities or task existing authorities to administer, manage, supervise, enforce or sanction the application of the proposed transparency and registration requirements set forth in the initiative. Member State authorities would have to establish new or adapt existing registers on the transparency of interest representation activities. They would have to administer and monitor the use of these register. They would have to participate in a governance mechanism at EU level, and exchange information with other Member States authorities in the context of the administrative cooperation needed to supervise and enforce the requirements set forth in the initiative. They would have to enforce and adopt sanctions against entities which would not respect the requirements set forth in the initiative.

2. Who is affected?

This section presents an estimated size of the internal market for interest representation activities carried out on behalf of third countries and entities affected by the preferred policy option. Information on the methodology used for this estimation is provided in Annex 4.

Estimates of the number of entities carrying out interest representation activities on behalf of third countries by scenario, EU-27

Country	Total entities carrying out interest representation activities on	Entities carrying out interest representation activities on behalf of third countries – estimates by scenario		
		Low scenario (0.02%)	Middle scenario (0.025%)	High scenario (0.03%)

	behalf of third countries			
Austria	118,286	24	30	35
Belgium	117,446	23	29	35
Bulgaria	14,187	3	4	4
Croatia	28,294	6	7	8
Cyprus	6,548	1	2	2
Czechia	96,049	19	24	29
Denmark	101,445	20	25	30
Estonia	23,781	5	6	7
Finland	109,465	22	27	33
France	1,298,857	260	325	390
Germany	628,972	126	157	189
Greece	6,794	1	2	2
Hungary	63,907	13	16	19
Ireland	33,823	7	8	10
Italy	369,791	74	92	111
Latvia	11,905	2	3	4
Lithuania	14,813	3	4	4
Luxembourg	8,695	2	2	3
Malta	2,928	1	1	1
Netherlands	48,454	10	12	15
Poland	74,177	15	19	22
Portugal	68,765	14	17	21
Romania	61,698	12	15	19
Slovakia	20,198	4	5	6
Slovenia	26,731	5	7	8
Spain	101,562	20	25	30
Sweden	103,267	21	26	31
EU-27	**3,560,838**	**712**	**890**	**1,068**

3. Costs and benefits

3.1. Costs to Member State authorities

Costs to Member State authorities over a 10-year time horizon can be summarised as follows. Information on the methodology used for this estimation is provided in Annex 4.

Summary of total costs to Member State authorities (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Familiarisation costs	1,533.06	3,066.11	4,599.17
Ensuring an appropriate register is in place	*Not possible to ascertain EU-wide costs based on the available data.*		
IT tool maintenance (15 Member States **with** existing IT tools)	*Costs are considered to be business as usual (BaU) costs.*		

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
IT tool maintenance (12 Member States **without** existing IT tools)	540,000.00	2,160,000.00	4,860,000.00
Implementing appropriate management, monitoring and enforcement mechanisms	5,654,945.59	7,068,681.99	8,482,418.39
Total:	**6,196,478.65**	**9,231,748.10**	**13,347,017.56**

3.2. Costs for entities carrying out interest representation activities on behalf of third countries

In total, under the preferred policy option, the estimated costs to entities carrying out interest representation activities on behalf of third countries yearly and over a 10-year horizon can be summarised as follows. Information on the methodology used for this estimation is provided in Annex 4.

Estimated average costs per entity, per size class

	Micro / Small (97.3%)	Medium (2%)	Large (0.7%)	General average costs across all entities
Average total costs per entity	828.49	1,656.97	3,313.94	**862.45**

Estimated total costs to interest representation entities within scope (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Basic familiarisation costs	71,165,916.06	142,338,950.84	213,519,104.36
Extended familiarisation costs	56,949.82	142,374.54	256,274.18
Registration and information disclosure costs	6,142,119.10	7,677,648.90	9,213,178.70
Record-keeping costs	*Business as usual (BaU) – No incremental costs*		
Other costs (incl. admin sanctions, registration fees)	*No total cost estimates possible due to lack of evidence on possible frequency and actual scale of fines.*		
Total:	**77,364,984.98**	**150,158,974.28**	**222,988,557.24**

4. Summary of costs and benefits

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	**Amount**	**Comments**
Direct benefits		
Benefits for Member State authorities.	Economic benefits:	Benefits are provided in a qualitative way, not in a quantitative way.

	• Increased knowledge and understanding of the market for interest representation activities carried out on behalf of third countries due to increased transparency. Social benefits: • Increased knowledge of the magnitude, trends and actors of interest representation activities carried out on behalf of third countries. • The establishment of a governance structure at EU level facilitates cooperation between Member States and improve coordination in addressing certain problems related to interest representation.	
Benefits for private entities.	Economic benefits: • Create a level playing field and enhance legal certainty for interest representation activities carried out on behalf of third countries; • Facilitate service provision across multiple Member States as only 1 registration would be necessary; • Help normalising, legitimising and destigmatising interest representation via an enhanced level of transparency and trust in the sector.	Benefits are provided in a qualitative way, not in a quantitative way.
Benefits for society at large.	Social benefits: • enable citizens and public officials to easily recognise influence campaigns by third countries thereby contributing to the integrity of, and public trust in, EU and Member State decision-making processes • support scrutiny from interested actors (including CSOs, political actors, researchers, elections observes or journalist) to monitor interest representation activities carried out on behalf of third countries. • The strengthening of the quality of information available would help enrich the political debate	Benefits are provided in a qualitative way, not in a quantitative way.
Indirect benefits		
n/a	n/a	n/a

Administrative cost savings related to the 'one in, one out' approach*		
Recurrent (direct/indirect)	n/a	n/a
One-off	n/a	n/a

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Preferred policy option	Direct adjustment costs	n/a	n/a	EUR 71.2 million to EUR 213.8 basic familiarisation costs EUR 57,000 to EUR 256,000 extended familiarisation costs	n/a	EUR 1,500 – 4,600 familiarisation costs for national authorities	EUR 60,000 to EUR 540,000 maintenance costs (12 MS authorities without existing IT tools) Business-as-usual costs (15 MS with existing IT tools)
	Direct administrative costs	n/a	n/a	n/a	EUR 615,000 to EUR 921,000 registration and information disclosure costs per year	n/a	n/a
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs	n/a	n/a	n/a	n/a	n/a	EUR 565,000 to EUR 848,000

	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Costs related to the 'one in, one out' approach							
Total	Direct and indirect adjustment costs	n/a	n/a	EUR 71.2 million to EUR 213.8 million total familiarisation costs	n/a		
	Administrative costs (for offsetting)	n/a	n/a	n/a	EUR 615,000 to EUR 921,000 registration and information disclosure costs (average EUR 768,000)		

III. Overview of relevant Sustainable Development Goals – Preferred option		
Relevant SDG	**Expected progress towards the Goal**	**Comments**
SDG no. 16 – Promote peaceful and inclusive societies for sustainable development, access to justice for all and build effective, accountable and inclusive institutions at all levels	The initiative aims to enhance the integrity of, and public trust in, EU and Member State democratic institutions, including through increased transparency in interest representation activities carried out on behalf of third countries and through measures promoting inclusiveness, accessibility, transparency and security of electoral and decision-making processes.	In particular, this initiative will contribute to the following SDG 16 sub-goals: • 16.6: Develop effective, accountable and transparent institutions; • 16.7: Ensure responsive, inclusive and representative decision-making; and • 16.10: Ensure public access to information and protect fundamental freedoms.

Annex 4: Analytical methods

1. Analytical framework

The impact assessment is prepared on the basis of a supporting study, a Public Consultation, a Call for Evidence, 2 Flash Eurobarometers, a series of stakeholders focus group meetings, targeted questionnaires circulated to civil society organisations, Member States and sector of the industry concerned, intensive direct stakeholder consultations as well as relevant literature and recent EU publications (reports, studies and policy documents). It includes a full analysis of the baseline, include:

- The relevant legal frameworks and anticipated evolutions, at both EU and national level, including a qualitative description of gaps, overlaps, commonalities and conflicts.
- A summary of the scope and context for the impact assessment is provided in the annexes, including a market analysis drawn from the supporting study and case studies to illustrate the various processes involved and to highlight where difficulties lie.

The objectives, options and assessment of their various impacts were prepared on this basis. Quantitative data on the specific market for interest representation activities carried out on behalf of third countries was investigated although the inherent nature of such activities rendered that effort challenging.

2. Main definitions and actors concerned

For the purposes of the overall impact assessment, the following definition was used for the term "interest representation": "*Interest representation means an activity conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes in the Union."*. The term "third country" refers to countries outside of the European Economic Area (EEA). The term "foreign influence" was defined as follows: *"Intervention by third country governments to influence the democratic sphere including legislation and policies, also by shaping public opinion in a way which benefits their interests"*. On the other hand, *"Foreign interference is used to differentiate between influencing activities that are integral to diplomatic relations and activities that are carried out by, or on behalf of, a foreign state-level actor, which are coercive, covert, deceptive, or corrupting and are contrary to the sovereignty, values, and interests of the Union."*

This approach to these definitions reflects a broad understanding of the issue of interest representation activities carried out on behalf of third countries. This approach was adopted in order to ensure that the issues at hand be tackled in the most comprehensive way possible. As such, the establishment of these definitions drew on definitions of existing or related notions at both EU and Member State levels, mapped through extensive consultations as well as a dedicated supporting study. These definitions ensure an objective and proportionate approach to the issues and actors and activities concerned by the intervention.

The activities covered by the intervention are any interest representation activities conducted with the objective of influencing the development, formulation or implementation of policy or legislation, or public decision-making processes on behalf of a third country in the EU, regardless of the entity which performs them. In line with the Article 114 TFEU legal basis, such activities would be covered by the intervention only when they are normally provided for remuneration. The analyses, mappings and consultations found that the main actors concerned

by this intervention will be both commercial entities (e.g. consulting firms, law firms, individual businesses) and non-commercial entities (e.g. think tanks, education, research and academic institutions, business, trade or professional associations, or CSOs).

The section below presents key stakeholder groups that fall under current regulatory obligations, as well as an estimated size of the internal market for interest representation activities, an estimation of the market for interest representation activities carried out on behalf of third countries specifically, and key stakeholder groups that will be affected by the Policy Options.

2.1. Key stakeholder groups that fall under the main existing regulatory obligations

Where possible, stakeholders are distinguished between for-profit organisations and non-profit organisations. Indeed, evidence shows that 1) commercial entities, mainly consulting companies and law firms providing remunerated public / regulatory affairs / relations or communication services, and 2) non-profit organisations (CSOs), e.g. NGOs, think tanks, stand-alone research centres and those tied to higher education establishments, have been used to carryout interest representation activities on behalf of third countries.

The review of type of registrants to the EU Transparency register and to and a selection of national registers has allowed us to complement the identification of key stakeholders.

- The (self) categorisation of registrants in the EU Transparency Register (5 February 2023 data) presented below shows that 28% are non-governmental organisations, platforms and networks and similar (3,506), 25% are companies & groups (3,083) and 21% are trade and business associations (2,655). Interestingly, 2 entities, respectively from Norway and the Channel Islands, are categorised as "Entities, offices or networks established by third countries".

- Based on publicly available data outlined below, across the 10 Member States for which data is available, a total of 12,199 organisations and individuals are registered in national lobbying or transparency registers to conduct lobbying activities, with Germany, France and Ireland comprising a significant proportion (88%) of the total registrants across these 9 countries[247]. It is noted that this geographical concentration mirrors the stringency of regulatory requirements, which are high in those countries. With regard to the types of entities represented, and based on an incomplete dataset across 4 of the 9 Member States, the table shows that business associations (4,692 registrants) followed by advocacy organisations / charities (873 registrants) and research firms / consultancies (465 registrants) represent the highest number of entries in national lobbyists / transparency registers in the EU.

Categorisation of registrants in the EU Transparency Register (5 February 2023 data)

Category of registration	Total
Non-governmental organisations, platforms and networks and similar	3,506
Companies & groups	3,083
Trade and business associations	2,655
Trade unions and professional associations	982

[247] DE (5,676 registrants), FR (2,604 registrants) and IE (2,454 registrants) are the countries with the most registrants; they also comprise a significant proportion (88%) of the total registrants across these 9 countries.

Think tanks and research institutions	568
Professional consultancies	549
Other organisations, public or mixed entities	455
Academic institutions	309
Associations and networks of public authorities	154
Self-employed individuals	144
Law firms	85
Organisations representing churches and religious communities	48
Entities, offices or networks established by third countries	2
Total	**12,540**

National transparency registers: Available data on number of entities registered, by entity type

MS	Media firms	Production of culture companies	Financial institutions / Services	Legal services	Public relations	Advocacy / Charity	Research, education and academia	Religious orgs	Business associations	Representative body	Research firms and consultants	Other / n/a	Total
AT												385	**385**
BE												175	**175**
DE				41		32[(1)]	104	10	3,027		295	2,167	**5,676**
FR				26		525[(2)]	7		1,341[(3)]		155	550	**2,604**
IE	24	21	158	34	107	303	73	15	278[(4)]	228		1,213	**2,454**
IT						13[(5)]	6	1	46[(6)]		15	3	**84**
LT												303	**303**
LU												183	**183**
RO												253	**253**
SI												82	**82**
Total	**24**	**21**	**158**	**101**	**107**	**873**	**190**	**26**	**4,692**	**228**	**465**	**5,314**	**12,199**

(1) Includes organisation under public law (e.g. corporations, institutions and foundations under public law).
(2) Encompasses associations and foundations – associations could be representing any kind of interest.
(3) Encompasses companies and professional organisations.
(4) Includes Agribusiness, Aerospace, Construction, Defence, Retail Telecommunications, Transport.
(5) Includes NGOs.
(6) Includes Companies and groups, Trade and trade association, Trade unions and professional associations.

2.2. The internal market for the provision of interest representation activities

Based on available data, the sub-sections below provide a selection of affected entities in EU27: 1) enterprises that deliver public relations and communication activities, 2) think tanks and 3) CSOs. Data notably shows that most of those entities are found in France, Belgium, Germany, Italy and Sweden, i.e. suggesting that those countries would most likely be most affected by the preferred policy option.

Data and method limitations

The first caveat is that within each category of stakeholders that delivers interest representation and/or political services or activities, the sub-category that does so for governments and state-linked entities / individuals specifically is unknown. Moreover:

(1) NACE code M70.21 of the Eurostat's Structural Business Statistics (SBS) provides data on the number of enterprises conducting 'Public relations and communication activities'. However, enterprises that deliver public relations and communication activities also provide such services for corporate clients (not only to the public sector and individuals) for business purposes, that are unrelated to influencing the democratic sphere. It has not been possible to distinguish them by size class either, to assess the proportion of SMEs in the market.

(2) Data on the number of think tanks per Member State have been extracted from the 2020 Global Go To Think Tank Report. The dataset does not allow distinguishing the proportion of think tanks listed that are 1) corporate (i.e. for-profit affiliated with a corporation or operating on a for-profit basis), 2) those that are government-affiliated, 3) those that are university-affiliated, and those that are 4) political party-affiliated.

(3) Data on the size of the CSO sector in the internal market presented here is based on a compilation of data provided in factsheets developed within the context of a study to support the Citizens, Equality, Rights and Values (CERV) programme on the environment for CSOs in each country. Given important data variations, e.g. source years, types of entities covered, definition of civil society, the data is to be considered as indicative. In particular, it is not clear in many cases if think tanks and educational institutions are included.

By combining the data on: i) public relations and communications enterprises; ii) non-profit organisations; and iii) think tanks, the following table presents a proxy for the total number of possible interest representation service providers per Member State. However, this should be viewed with the abovementioned caveats and limitations in mind.

Estimates of the number of interest representation service providers, EU-27

Country	PR and communications (M70.21) – 2020[4]	CSOs – mixed source years[5]	Think Tanks – 2020	Total
Austria	1,200	117,000	86	**118,286**
Belgium	7,431	109,930	85	**117,446**
Bulgaria	404	13,736	47	**14,187**
Croatia	171	28,103	20	**28,294**
Cyprus	40	6,500	8	**6,548**
Czechia[1]	3,444	92,566	39	**96,049**
Denmark	1,393	100,000	52	**101,445**
Estonia	159	23,598	24	**23,781**
Finland	830	108,594	41	**109,465**
France	28,582	1,270,000	275	**1,298,857**

Germany	2,546	626,160	266	**628,972**
Greece	520	6,217	57	**6,794**
Hungary	2,819	61,034	54	**63,907**
Ireland	469	33,331	23	**33,823**
Italy	7,004	362,634	153	**369,791**
Latvia	365	11,526	14	**11,905**
Lithuania	789	14,000	24	**14,813**
Luxembourg	184	8,500	11	**8,695**
Malta	36	2,887	5	**2,928**
Netherlands	4,369	44,000	85	**48,454**
Poland	4,105	70,000	72	**74,177**
Portugal	682	68,000	83	**68,765**
Romania	983	60,657	58	**61,698**
Slovakia	65	20,100	33	**20,198**
Slovenia	258	26,466	7	**26,731**
Spain(2)	1,467	100,000	95	**101,562**
Sweden	4,145	99,021	101	**103,267**
EU-27(3)	**74,460**	**3,484,560**	**1,818**	**3,560,838**

(1) Data on number of CZ enterprises missing from M70.21. Estimated by calculating M70.21 as an average proportion of the total NACE category [M] (the lowest level at which CZ data was available) across the Member States and applying that proportion to the CZ data for [M].

(2) Rough estimate based on unofficial sources has been used for the number of Spanish CSOs.

(3) EU-27 total for M70.21 is different to the total on Eurostat. Following the inclusion of the CZ estimate, the EU-27 now presents the sum of the Member State-specific data.

(4) Eurostat data: Annual detailed enterprise statistics for services (NACE Rev. 2 H-N and S95).

(5) Source year of the data on CSOs varies across the Member States: 2023 (1MS – FI); 2022 (1 MS – RO); 2021 (13 MS – BG, HR, CY, CZ, DK, EE, HU, IE, LV, LT, LU, PL, SI); 2020 (3 MS – NL, PT, SK); 2019 (4 MS – DE, IT, MT, SE); 2018 (2 MS – FR, EL); 2017 (1 MS – BE); 2010 (1 MS – AT); ES).

The geographical distribution is presented in the table above. France accounted for 40% of all EU27 enterprises that delivered public relations and communication, and Belgium and Italy for 10% each. Similarly, France accounted for 28% of EU27 annual turnover of said-enterprises, Belgium for 16% and Germany for 14% (Based on the 2020 Global Go To Think Tank Index Report, edited by the University of Pennsylvania[248], 1,818 think tanks are listed in EU27, noting that, amongst the categories of Think Tank Affiliations[249], some are corporate (ie. for-profit affiliated with a corporation or operating on a for-profit basis), others are government-affiliated or university-affiliated or political party-affiliated. France ranks sixth in their top 20 world ranking of countries with the largest number of think tanks, with 275 think tanks. It is followed by Germany with 266 think tanks. Italy ranks 11th with 153; Sweden is 16th with 101 and Spain follows ranking 17th with 95 think tanks. The full EU27 breakdown is presented

248 McGann, J. G., '2020 Global Go To Think Tank Index Report', *Global Go To Think Tank Index*, University of Pennsylvania, Scholarly Commons TTCSP, , Reports Think Tanks and Civil Societies Program (TTCSP), 2021, available at 2020 Global Go To Think Tank Index Report (delegfrance.org) and https://repository.upenn.edu/think_tanks.

249 AUTONOMOUS AND INDEPENDENT: Significant independence from any one interest group or donor, and autonomous in its operation and funding from government. QUASI-INDEPENDENT: Autonomous from government but controlled by an interest group, donor or contracting agency that provides most of the funding and has significant influence over operations of the think tank. GOVERNMENT-AFFILIATED: A part of the formal structure of government. QUASI-GOVERNMENTAL: Funded exclusively by government grants and contracts but not a part of the formal structure of government. UNIVERSITY-AFFILIATED: A policy research center at a university. POLITICAL-PARTY AFFILIATED: Formally affiliated with a political party. CORPORATE (FOR-PROFIT): A for-profit public policy research organization, affiliated with a corporation or merely operating on a for-profit basis.

below. France and Germany representing each 15% of EU27 think tanks listed in 2020 Global Go To Think Tank Index Report.

2.3. The internal market for interest representation activities carried out on behalf of third countries

Due to the lack of reliable data on interest representation activities carried out on behalf of third countries (see section 2.1.2) the method to estimate the internal market for interest representation activities carried out on behalf of third countries draws on the Australian Foreign Influence Transparency Scheme (FITS) and the US Foreign Agents Registration Act (FARA). As explained in details in the supporting study, the proportion of the interest representation markets for foreign principals/agents in Australia and the US was used to estimate the proportion of the total interest EU representation market that provide services to third countries. It was found that 0.02% of possible interest representation service providers are directed / remunerated by foreign countries in Australia, while this figure is 0.03% in the US. Both proportions, as well as the average of the proportions for the 2 countries (i.e. 0.025%), were applied to estimate the EU interest representation market.

The below table presents estimates for the number of entities carrying out interest representation activities on behalf of third countries in each Member State.

Estimates of the number of entities carrying out interest representation activities on behalf of third countries by scenario, EU-27

Country	Total entities carrying out interest representation activities on behalf of third countries	Entities carrying out interest representation activities on behalf of third countries – estimates by scenario		
		Low scenario (0.02%)	Middle scenario (0.025%)	High scenario (0.03%)
Austria	118,286	24	30	35
Belgium	117,446	23	29	35
Bulgaria	14,187	3	4	4
Croatia	28,294	6	7	8
Cyprus	6,548	1	2	2
Czechia	96,049	19	24	29
Denmark	101,445	20	25	30
Estonia	23,781	5	6	7
Finland	109,465	22	27	33
France	1,298,857	260	325	390
Germany	628,972	126	157	189
Greece	6,794	1	2	2
Hungary	63,907	13	16	19
Ireland	33,823	7	8	10
Italy	369,791	74	92	111
Latvia	11,905	2	3	4
Lithuania	14,813	3	4	4
Luxembourg	8,695	2	2	3
Malta	2,928	1	1	1

Netherlands	48,454	10	12	15
Poland	74,177	15	19	22
Portugal	68,765	14	17	21
Romania	61,698	12	15	19
Slovakia	20,198	4	5	6
Slovenia	26,731	5	7	8
Spain	101,562	20	25	30
Sweden	103,267	21	26	31
EU-27	**3,560,838**	**712**	**890**	**1,068**

In light of the prominent caveats and limitations, the estimates place the size of the internal market for interest representation activities carried out on behalf of third countries (and thus the population of enterprises that would be subject to requirements under the proposed policy options) at between 712-1,068 enterprises. By Member State, France (260-390), Germany (126-189) and Italy (74-111) have the most entities carrying out interest representation activities on behalf of third countries and contribute approximately 65% of all such entities across the EU-27.

2.4. Interest representation activities carried out on behalf of third countries across borders in the Union

Out of the number of entities identified in the previous section, a further estimate of the population of entities carrying out interest representation activities on behalf of third countries across border in the Union is detailed below.

In this context, operating cross-border is understood to mean an entity is either: i) operating in its EU Member State of establishment and at the EU-level; or ii) operating in its EU Member State of establishment and in at least one other EU Member State.

The identification of this sub-population of entities implies several methodological caveats.

First, there is limited publicly available data on the extent to which this population of entities operates cross-border. Many Member States do not have registers or lists of entities conducting these types of activities. Furthermore, exploratory comparisons were conducted for a selection of national transparency registers. These led to the identification of only a very small number of entities that are registered in more than one of the Member States mentioned; entities that were almost exclusively individual companies.

Feedback from commercial stakeholders conducting interest representation activities also suggested that cross-border activity was limited by the nature of the national-level interest representation markets, which are characterised by national decision-making and cultural specificities (e.g. language, political systems, contacts). In this context, the qualitative evidence further indicates that businesses tend to operate cross-border either by acquiring local interest representation entities or by working alongside independent local firms.

Second, the estimates already calculated for the total number of entities carrying out interest representation in general, as well as the total number of entities carrying out interest representation on behalf of third countries are based on a set of assumptions that limit the level of certainty on the accuracy and precision of the estimates. Additional assumptions, which bring their own caveats, would further decrease that level of certainty.

With these challenges clearly established, it is possible to generate a rough estimate of the population of entities carrying out interest representation on behalf of third countries and operating cross-border using assumptions based on data from the EU Transparency Register (EU TR). Specifically, this estimate assumes that all EU-based entities from relevant entity categories registered in the EU TR with a 'Head office country' that is not Belgium are operating at both the EU-level and in the Member State in which they are established. Conversely, this assumes that entities established in Belgium and registered in the EU TR mostly operate at the EU level.

This aims to generate a rough estimate of the proportion of entities registered in the EU TR that conduct interest representation activities at the EU level and at the national level. This proportion can then be applied to the previously generated estimates on the population of entities carrying out interest representation on behalf of third countries to determine the number of entities operating at the EU-level and in at least one Member State.

A total of 7,460 entities within the categories included in this analysis are registered in the EU TR. The proportion of these entities that have their head office in Belgium is 26.8%, ranging from 7.4% for academic institutions to 38.8% for self-employed individuals. The figure 73.2% was therefore applied for each Member State across the three scenarios developed to estimate the total number of entities carrying out interest representation activities on behalf of third countries. As illustrated in the detailed table below, an estimated 521-782 of the 712-1,068 entities operate cross-border.

However, a range of further caveats need to be highlighted. Given the data deficiencies discussed above, it is not possible to calculate the number of entities that do not operate at the EU-level, but operate cross-border. Beyond the assumptions based on 'head office country', these estimates also assume that all entities are active at both the EU-level and in their Member State of establishment, while it also assumes that the proportion of entities operating at both the EU and national level holds true for their activities with third countries (rather than in general). There is limited evidence to support these activity-based assumptions.

In addition, the entities excluded (i.e. those established in Belgium) may operate at the EU-level, but also at the national-level in Belgium. Given the time available to conduct the analysis and the number of entities, it has not been possible to ascertain to what extent these excluded entities are operating solely at the EU-level.

Total – Estimate of entities carrying out interest representation activities on behalf of third countries across border in the EU			
Country	Low scenario (0.02%)	Middle scenario (0.025%)	High scenario (0.03%)
Austria	17	22	26
Belgium	17	21	26
Bulgaria	2	3	3
Croatia	4	5	6
Cyprus	1	1	1
Czechia	14	18	21
Denmark	15	19	22
Estonia	3	4	5
Finland	16	20	24
France	190	238	285
Germany	92	115	138

Greece	1	1	1
Hungary	9	12	14
Ireland	5	6	7
Italy	54	68	81
Latvia	2	2	3
Lithuania	2	3	3
Luxembourg	1	2	2
Malta	0	1	1
Netherlands	7	9	11
Poland	11	14	16
Portugal	10	13	15
Romania	9	11	14
Slovakia	3	4	4
Slovenia	4	5	6
Spain	15	19	22
Sweden	15	19	23
EU-27	521	652	782

3. Assessment of fragmentation

On the basis of extensive consultation with Member States as well as research conducted for the supporting study, including the preparation of a mapping of relevant rules and policies, the national frameworks applicable to interest representation activities were described and an analysis of the fragmentation in the internal market of rules applicable to the various categories of commercial and non-commercial actors identified was prepared and is explained in details in Annex 6.

4. Estimation for costs for entities and Member States authorities

This section provides detailed information on the cost analysis for the calculation of the impacts of the policy options. All the figures provided in this annex come from the supporting study.

4.1. Costs to Member State authorities

In line with the assessment of the practical implications of the proposed policy options presented in chapter 6, Member State authorities will be required to bear a range of costs.

All Member States will be required to **familiarise** themselves with the legislative provisions.

Under policy option 1, the nature and scale of the costs will depend significantly on the decisions taken by Member State authorities in response to the recommendations provided by the Commission.

For policy options 2.1 and 2.2, Member State authorities will need to ensure the **implementation of a transparency regime and register that is in line with the proposed interventions**. In this regard, policy option 2.2 goes beyond option 2.1 by requiring Member State authorities to establish a system to conduct prior authorisation checks on entities carrying out interest representation activities and grant licences to operate on that basis.

Across all 3 options, as for entities conducting interest representation activities, the nature of the practical implications and related costs for a specific Member State authority will also

depend on: i) whether a transparency register for interest representation already exists, as well as the characteristics of the existing register; and ii) whether monitoring and enforcement activities are already implemented.

In this context, Member States with an existing register and/or monitoring and enforcement regime will be required to amend the existing systems, while Member States without a register / regime will need to create and develop new systems. Costs in this category will include both one-off costs associated with the initial development / amendment of a transparency register / regime, as well as recurrent costs related to the maintenance and management (including monitoring, enforcement, reporting and participation in an EU-level advisory group) of the regime.

Beyond these core costs, Member State authorities will also be called on to **support the establishment of an interconnection between national registers or appropriate information sharing mechanisms**. However, while it is assumed that costs in this category will mostly be borne by the European Commission, Member State authorities interviewed for the supporting study were also not able to provide feedback on: i) the nature of the changes stemming from this activity; or ii) the scale of associated costs. As such, it has not been possible to quantify the costs for Member State authorities related to this cost item.

The following sections present the available evidence, calculations, assumptions and limitations / caveats for the main costs borne by Member State authorities, by policy option.

4.1.1. Policy option 1: Non-legislative measures

4.1.1.1. Scenario 1: Full take-up of the non-legislative measures

The costs for Member State authorities stemming from policy option 1 would depend significantly on the extent to which each authority implements the recommended measures, as well as the consistency and coherence between those measures. However, if implemented to the extent where the provisions across the Member States would be similar enough to contribute to the stated aims, the costs would be largely similar to those borne by Member State authorities under policy option 2.1.

Should a given Member State decide to act – in line with the currently regulatory environment across the Union – they could implement this recommendation by either: i) **establishing a new transparency regime and register** for entities carrying out interest representation activities on behalf of third countries; or ii) **amending an existing general transparency regime** for interest representation or lobbying to explicitly capture any additional elements covered by the recommendations.

Beyond ensuring the existence of a transparency regime / register for interest representation, Member State authorities would need to make decisions on the alignment with any recommendations on the composition of such a regime, including issues related to the scope of the transparency regime / register (e.g. the definition and coverage of interest representation activities), the types of requirements implemented (e.g. information disclosure and reporting regimes, the types of information to be covered, record-keeping obligations etc.), and the governance, supervision mechanisms and sanctions.

The following table indicates the different national-level responses required within this context based on existing provisions:

Table 1: Summary of existing transparency provisions for interest representation across the Member States and actions required to implement policy option 1 under Scenario 1 (Full take-up of the non-legislative measures)

Existing provisions	Countries	Actions to implement policy option 1
No existing law or register	9 (BG, CZ, DK, EE, HR, LV, PT, SK, SE)	Establish new legal regime Establish new register
No existing law, but a register	2 (IT, NL)	Establish new legal regime Adapt existing register
Existing law, but no register	3 (BE[250], HU, MT)	Adapt existing legal regime Establish new register
Existing law and register	13 (AT, CY, DE, EL, ES, FI, FR, IE, LT, LU, PL, RO, SI)	Adapt existing legal regime Adapt existing register

In addition, a total of 11 Member States spanning all 4 categories are in the process of developing or amending their transparency regimes for interest representation or lobbying (BE, BG, CZ, ES, IE, IT, LV, MT, NL, PL, SK). Any updates in this regard would impact the changes required to implement policy option1 in those Member States.

While the costs are detailed more comprehensively in relation to policy option 2 (see below), the maximum costs for Member State authorities over a 10-year time horizon under policy option 1 are summarised in the following table. Key points to note in this regard are:

- The low/middle/high scenarios in this context refer to the scenarios elaborated within the baseline on the estimated population of entities impacted by the policy options – i.e. entities carrying out interest representation activities on behalf of third countries.
- The familiarisation costs are based on the type and scale of human resource required (seniority of staff and time). It is assumed in this context that the activity is conducted by professionals at ISCO 2 level and requires 2-6 hours of their time.
- While some evidence was provided by stakeholders on the costs related to ensuring an appropriate register is in place (i.e. costs of developing a new register or amending an existing register), it was not possible to develop EU-wide cost estimates. This is because the examples provided are too disparate and too few to establish a solid basis on which to approximate costs.
- The Member States with an existing register/IT tool already incur certain maintenance costs. Due to the limited number of entities estimated to be within scope, it was assumed that a notable increase in maintenance costs would not be experienced by these countries. As such, these costs are considered to be business-as-usual (BaU) costs.
- For Member States without an existing register / IT tool, data on the annual maintenance costs in various Member States with registers (e.g. LT, IT, AT) were used to estimate the maintenance costs for those Member States without registers – 3 cost scenarios were developed (EUR 5,000 – low; EUR 20,000 – middle; EUR 45,000 – high). However, as for the costs on register development, these cost estimates face a range of challenges related to the representativeness and comparability of the available data.

[250] While a register exists in BE, there is currently no IT tool; instead, the register is published as a PDF document. As such, it is assumed that the BE authorities would need to develop a new IT tool.

- As for the familiarisation costs, the costs associated with managing, monitoring and enforcement have been calculated as a product of the type and scale of human resource required to conduct these activities. 3 scenarios were developed using data provided by representatives of Member State authorities on the incremental increase in FTEs anticipated as a result of the introduction of the policy measures described. More specifically, low (2 FTEs), middle (2.5 FTEs) and high (3 FTEs) scenarios were used. Evidence on the seniority of staff involved in these activities and the division of labour between staff was then used to calculate Member State specific costs, which were extrapolated to the EU level. It was assumed in this context that each FTE was split between an ISCO 2 professional (0.3 FTEs) and an ISCO 4 level clerk (0.7 FTEs).

Table 2: Policy option 1 – Summary of maximum total costs to Member State authorities (over 10-years) under Scenario 1 (Full take-up of the non-legislative measures)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Familiarisation costs	1,533.06	3,066.11	4,599.17
Ensuring an appropriate register is in place	*Not possible to ascertain EU-wide costs based on the available data.*		
IT tool maintenance (15 Member States **with** existing IT tools)	*Costs are considered to be business as usual (BaU) costs.*		
IT tool maintenance (12 Member States **without** existing IT tools)	540,000.00	2,160,000.00	4,860,000.00
Implementing appropriate management, monitoring and enforcement mechanisms	5,654,945.59	7,068,681.99	8,482,418.39
Total:	**6,196,478.65**	**9,231,748.10**	**13,347,017.56**

4.1.1.2. Scenario 2: 50% take-up of the non-legislative measures

To further accommodate the lack of certainty on the nature and scale of the PO1 costs, this section assesses an additional scenario reflecting medium uptake of the soft-law measures contained within the option. Given the range of parameters that could differ in national level implementations (e.g. whether or not a register is developed/adapted in a given country, whether registration is mandatory, what exact registration and information disclosure obligations will be implemented, which Member States have developed a register etc.), it is complex to establish such a medium uptake scenario.

As such, a simple assumption is proposed, considering that 50% of Member States implement the measures fully (i.e. such that they are similar enough to contribute to the stated aims of the intervention). However, this assumption limits the level of certainty on the accuracy and precision of the estimates.

Under this assumption, the costs for Member State authorities over the 10-year time horizon are summarised in the below table. While it is considered more likely that Member States with existing registers would take steps to implement PO1, as less effort would be required, there is no concrete evidence for this. On this basis, these estimates further assume that approximately half of the Member States with an existing register (8 of 15) and half of the Member States without an existing register (6 of 12) will implement the measures under PO1. The amended

familiarisation costs and costs associated with implementing management, monitoring and enforcement mechanisms are a product of the above figures (i.e. under the full implementation scenario) multiplied by the proportion of Member States covered (14 of 27, 51.9%).

Table 3: Policy option 1 – Summary of maximum total costs to Member State authorities (over 10-years) under Scenario 2 (50% take-up of the non-legislative measures)

Cost item	Low scenario – # of entities (EUR)	Middle scenario – # of entities (EUR)	High scenario – # of entities (EUR)
Familiarisation costs	794.92	1,589.83	2,384.75
Ensuring an appropriate register is in place	*Not possible to ascertain EU-wide costs based on the available data.*		
IT tool maintenance (15 Member States **with** existing IT tools)	*Costs are considered to be business as usual (BaU) costs.*		
IT tool maintenance (12 Member States **without** existing IT tools)	270,000.00	1,080,000.00	2,430,000.00
Implementing appropriate management, monitoring and enforcement mechanisms	2,932,194.01	3,665,242.51	4,398,291.02
Total:	**3,202,988.93**	**4,746,832.35**	**6,830,675.77**

4.1.2. Policy option 2.1: Targeted legislative intervention

In line with the above categorisation of costs, the below table summarises the nature of the different costs to Member State authorities that are relevant within policy option 2.1.

Table 4: Policy option 2.1 – Summary of costs to Member State authorities

Cost items – Member State authorities	One-off vs. recurrent	Type	Frequency	Number of Member States
Familiarisation costs *Adjustment cost*	One-off	Implementation	Year 1	**EU-27**
Establish new register / regime *Adjustment cost*	One-off	Equipment	Year 1	**12 MS** (BE[251], BG, HR, CZ, DK, EE, HU, LV, MT, PT, SK, SE)
Amend existing register / regime *Adjustment cost*	One-off	Equipment	Year 1	**15 MS** (AT, CY, FI, FR, DE, EL, IE, IT, LT, LU, NL, PL, RO, SI, ES)
IT maintenance *Adjustment cost*	Recurrent	Implementation	Years 2-10, annual	**EU-27**

[251] While a register exists in BE, there is currently no IT tool; instead, the register is published as a PDF document. As such, it is assumed that the BE authorities would need to develop a new IT tool.

Cost items – Member State authorities	One-off vs. recurrent	Type	Frequency	Number of Member States
Amend and operate management, monitoring & enforcement systems *Enforcement cost*	Recurrent	Direct labour costs + overheads	Years 1-10, annual	**EU-27**

4.1.2.1. Familiarisation costs

Familiarisation costs will be borne by all Member State authorities, as they will need to understand the implications of the legislative text and plan for the implementation of the provisions. The following assumptions are made in this context:

- This cost is borne by all Member State authorities equally, regardless of the presence of an existing register / transparency regime.
- As for interest representation service providers, this activity is conducted by professionals at ISCO 2 level.
- The time required is on par with the extended familiarisation costs borne by interest representation service providers within scope, due to the need to develop implementation and compliance strategies. As such, 3 scenarios are presented for the time commitments for these activities (low, 2 hours; middle, 4 hours; high, 6 hours).

The below table presents the Member State-specific and total costs for the 3 scenarios. As can be seen, the **estimated familiarisation costs to Member State authorities** would range from **EUR 1,500 to EUR 4,600**.

Table 5: Estimated familiarisation costs: Member State authorities

Country	ISCO 2 income: EUR per hour[(1)]	Cost scenarios in EUR *(time spent * ISCO 2 income)*		
		Low scenario (2 hr)	Middle scenario (4 hrs)	High scenario (6 hrs)
Austria	42.18	84.35	168.71	253.06
Belgium	50.42	100.85	201.70	302.55
Bulgaria	7.25	14.50	29.00	43.50
Croatia	13.62	27.24	54.49	81.73
Cyprus	25.76	51.52	103.03	154.55
Czechia	17.07	34.13	68.26	102.39
Denmark	50.23	100.47	200.93	301.40
Estonia	16.91	33.82	67.64	101.45
Finland	41.02	82.04	164.08	246.12
France	44.06	88.11	176.23	264.34
Germany	46.81	93.61	187.23	280.84
Greece	21.74	43.49	86.98	130.46
Hungary	12.16	24.31	48.63	72.94
Ireland	48.08	96.16	192.32	288.48
Italy	42.39	84.78	169.55	254.33
Latvia	13.60	27.21	54.42	81.63

Country	ISCO 2 income: EUR per hour[(1)]	Cost scenarios in EUR *(time spent * ISCO 2 income)*		
		Low scenario (2 hr)	Middle scenario (4 hrs)	High scenario (6 hrs)
Lithuania	11.81	23.62	47.25	70.87
Luxembourg	46.01	92.02	184.04	276.07
Malta	20.30	40.60	81.20	121.81
Netherlands	41.76	83.53	167.06	250.59
Poland	13.19	26.38	52.76	79.14
Portugal	20.77	41.53	83.06	124.59
Romania	12.92	25.84	51.68	77.52
Slovakia	14.27	28.55	57.09	85.64
Slovenia	19.51	39.02	78.04	117.05
Spain	29.59	59.17	118.35	177.52
Sweden	43.10	86.20	172.40	258.61
	Total:	**1,533.06**	**3,066.11**	**4,599.17**

[(1)] EU wage tariffs: Hourly earnings 2018 plus non-wage labour costs (NWLC) and 25% overheads (OH), per Member State and ISCO (International Standard Classification of Occupations) category, last updated January 2021. ISCO 2 covers professionals, including legal, social and cultural professionals.

4.1.2.2. Ensuring an appropriate transparency regime and register exists

This cost type can be broken down into 3 main components: i) ensuring an appropriate register/IT tool is in place; ii) maintaining the IT tool; and iii) ensuring an appropriate management, monitoring and enforcement regime is in place. Data on the nature and scale of these costs was collected through interviews with authorities from 7 Member State with an existing register (AT, BE, DE, FR, IE, LT, RO) and 2 Member States (CZ, LV) without an existing register, as well as a review of documentation related to existing transparency laws and registers (e.g. Austrian Court of Audit report on the national register for lobbying and interest representation[252]).

In general, Member State authorities were unable to provide concrete data, considering the costs of conducting the activities necessary to comply with the proposed legislative intervention, but, in some cases, also the costs related to the development and management of existing registers. Certain authorities could not provide information on decisions related to IT funding, as this information was not available to them (e.g. on the original costs of developing a register) or these costs were not within their remit. Furthermore, authorities stated that it was difficult to estimate future costs without knowing the full details of the proposed intervention. In this context, it is important to highlight that, in many cases, feedback was provided before the final scope of the policy options were finalised.

With these caveats established, however, some data was provided across the interviewed authorities. This evidence on the nature and scale of different cost components is now presented.

- **Ensuring an appropriate register is in place**: This will require one-off costs to be borne by Member State authorities in year 1 relating to either: i) establishing a new

[252] 'Lobbying und Interessenvertretungs Register' ('Lobbying and advocacy register'), Rechnungshof Österreich, Bericht – Federal Court of Auditors, 2019, available at: https://www.rechnungshof.gv.at/rh/home/home/BUND_2019_45_Lobbying_Register.pdf.

register (for up to 12 countries); or ii) amending an existing register (for a minimum of 15 countries). While 11 Member States currently have new or updated transparency laws for interest representation or lobbying in development, it is assumed for the purposes of this analysis that these interventions are not implemented prior to the adoption of the proposed EU legislative initiative. As further explained in the below table, it is only possible to provide examples that are indicative of the magnitude of the compliance costs.

Table 6: Costs associated with ensuring an appropriate register is implemented

Evidence on the scale of the cost: Ensuring an appropriate register is in place

Data on the initial transparency register development costs were provided in Austria, Lithuania and Germany. The Lithuanian register cost around EUR 130,000 to develop, while the costs for the development and maintenance of the German register were reported to be EUR 2-3 million. The Austrian register reportedly cost at least EUR 87,716.16 and less than EUR 100,000; however, the exact costs are not completely clear. Furthermore, the Austrian Court of Audit determined that a planned amendment to the functionality of the Austrian register would cost at least EUR 3,487.53.

While these data provide useful indications of the possible scale of the costs, they are also too few and too disparate to establish a basis on which the approximate costs of developing or amending a transparency register for interest representation or lobbying can be calculated for: i) those Member States where data is not available; and ii) extrapolation to the entire EU.

More specifically, significant efforts have been made to adjust the known costs of both developing a new register and amending an existing register, for instance by adjusting the figures to account for the whole population or the register user population (i.e. interest representation service providers). However, this approach is limited as there is significant variance in the cost examples, both in general and in proportion to other relevant factors (e.g. user population), while the register development costs appear to be heavily dependent on the nature of the system implemented and limited technical details on the systems in place are available.

- **Maintenance of the IT tool**: Once established, Member States will be required to ensure the proper functioning of the IT tool. This will bring annual maintenance costs. It is assumed that costs related to the maintenance of the IT tool in year 1 are covered by the above equipment costs. As such, the maintenance costs will be calculated as recurrent across years 2-10 within the 10-year time horizon. The below table presents the evidence on the estimated scale of the IT maintenance costs.

Table 7: Costs associated with maintenance of the IT tool

Evidence on the scale of the cost: Maintenance of the IT tool

Data on the annual maintenance costs for existing registers were provided in Lithuania (EUR 20-30,000 per year), Ireland (EUR 20-25,000 per year) and Austria (EUR 5,000 per year), while maintenance was included in the total cost of the German register provided above. On this basis, it is assumed that the Member States with existing registers will not experience a notable increase in maintenance costs due to the limited number of interest representation service providers within scope of the intervention. As such, annual IT maintenance costs will be considered as business as usual (BaU) costs for the 15 Member States with existing

registers. The incremental costs in this category will therefore be borne solely by those 12 Member States that do not currently have registers.

However, as for the cost data related to ensuring an appropriate register is implemented, there are a range of challenges related to the extrapolation of the data on IT maintenance costs to these Member States. In particular, the scale of the costs has no notable link to the scale of the register and appears to rely on the nature of the maintenance required and the scope of the systems in place. For instance, the Lithuanian and Austrian registers have a similar number of registrants – 385 in AT versus 303 in LT – but the maintenance costs in Lithuania are reportedly up to 6x more per year than in Austria.

Taking rough low (EUR 5,000), middle (EUR 20,000) and high (EUR 45,000) cost scenarios, based on the data provided and the insight that more costly and complex registers exist (e.g. in Germany), it is estimated that the total incremental costs across the 12 Member State authorities without existing IT tools will be between EUR 60,000 and EUR 540,000.

Across years 2-10 of the 10-year time horizon, this would equate to approximately EUR 540,000 to EUR 4.86 million.

- **Ensuring an appropriate management, monitoring and enforcement regime is in place**: This will require Member State authorities to bear costs in year 1 related to either: i) establishing and operating a new management, monitoring and enforcement regime; or ii) amending and operating an existing regime. These costs will then be recurrent across years 2-10. The below table presents the evidence gathered on the estimated scale of the management, monitoring and enforcement costs.

Table 8: Costs associated with ensuring an appropriate management, monitoring and enforcement regime is implemented

Evidence on the scale of the cost: Ensuring an appropriate management, monitoring and enforcement regime is implemented

Data on the existing costs for management, monitoring and enforcement were provided by Member State authorities in 6 countries, as follows: Austria (around 1 FTE across 2 teams), Germany (around 8 FTEs), Ireland (around 4 FTEs), Lithuania (around 1.5 FTEs) and Romania (around 2 FTEs). In Austria, additional detail is provided by the Court of Audit report, which notes that 0.3 FTEs are provided by the judicial / prosecutorial service and 0.7 FTEs are provided by the general administration. Furthermore, in Germany, it was noted that the suggested changes to be implemented through the proposed legislative intervention would require an addition 2-3 FTEs.

Using these data, it is possible to provide rough estimates of the human resource required for management, monitoring and enforcement across the Member States, as well as the costs associated with that resource. In this context, the following process was conducted:

- Three scenarios have been developed utilising the data from Germany on the increase in FTEs required as a result of the potential legislative intervention. These include a low (2 FTEs), middle (2.5 FTEs) and high (3 FTEs) scenario. These scenarios have been used to calculate the proportional increase in human resources in the Member States where data is available.
- Building on the data from Austria, responsibility for management, monitoring and enforcement will be split between 0.3 FTEs of an ISCO 2 level professional and 0.7 FTEs of an ISCO 4 level clerk. This time split has been applied to the proportional human resource increases calculated for each scenario in each Member State. The

EU wage tariffs, which combine direct labour costs and overheads, for ISCO 2 and ISCO 4 workers in each Member State were then applied to the proportions to obtain estimated costs for each scenario.

- For the Member States where no data was available, costs were calculated based on the median cost per organisation for each scenario in the 6 Member States with data and the annual ISCO 2 and ICSO 4 labour costs.
- This requires assumptions related to the scale of the additional resource required, as well as the nature and responsibilities of the workers involved in management, monitoring and enforcement activities. In addition, the annual wages for ISCO 2 and ISCO 4 workers in each Member State were calculated using averages of 251 working days per year and 8 working hours per day.

On this basis, it is estimated that the incremental costs associated with the implementation of appropriate register management, monitoring and enforcement systems will cost Member State authorities between approximately EUR 565,000 and EUR 848,000 per year. As such, across the 10-year time horizon, the total costs to Member State authorities are estimated to be in the region of EUR 5.65-8.48 million. The estimates are presented in the below table.

Table 9: Estimated annual incremental costs of register management, monitoring and enforcement

Country	Low scenario (EUR per year)	Middle scenario (EUR per year)	High scenario (EUR per year)
Austria	16,200.60	20,250.75	24,300.90
Belgium	20,913.85	26,142.32	31,370.78
Bulgaria	2,526.31	3,157.89	3,789.46
Croatia	5,038.37	6,297.96	7,557.56
Cyprus	1,166.02	1,457.52	1,749.02
Czechia	17,103.64	21,379.56	25,655.47
Denmark	18,064.52	22,580.65	27,096.78
Estonia	4,234.73	5,293.41	6,352.10
Finland	19,492.66	24,365.82	29,238.99
France	79,325.91	99,157.39	118,988.87
Germany	137,859.90	172,324.87	206,789.85
Greece	1,209.82	1,512.28	1,814.73
Hungary	11,380.05	14,225.06	17,070.08
Ireland	66,989.70	83,737.13	100,484.56
Italy	65,849.45	82,311.81	98,774.17
Latvia	2,119.95	2,649.93	3,179.92
Lithuania	6,669.85	8,337.31	10,004.77
Luxembourg	1,548.34	1,935.42	2,322.50
Malta	521.40	651.74	782.09
Netherlands	8,628.30	10,785.38	12,942.46
Poland	13,208.85	16,511.06	19,813.28
Portugal	12,245.13	15,306.41	18,367.69
Romania	8,366.15	10,457.68	12,549.22
Slovakia	3,596.70	4,495.87	5,395.05

Country	Low scenario (EUR per year)	Middle scenario (EUR per year)	High scenario (EUR per year)
Slovenia	4,760.04	5,950.06	7,140.07
Spain	18,085.36	22,606.69	27,128.03
Sweden	18,388.97	22,986.21	27,583.45
Total:	**565,494.56**	**706,868.20**	**848,241.84**
Over 10 years	**5,654,945.59**	**7,068,681.99**	**8,482,418.39**

4.1.2.3. Summary of costs: Member State authorities

In total, under policy option 2.1, the estimated costs to Member State authorities over a 10-year time horizon can be summarised as follows:

Table 10: Policy option 2.1 – Summary of total costs to Member State authorities (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Familiarisation costs	1,533.06	3,066.11	4,599.17
Ensuring an appropriate register is in place	*Not possible to ascertain EU-wide costs based on the available data.*		
IT tool maintenance (15 Member States **with** existing IT tools)	*Costs are considered to be business as usual (BaU) costs.*		
IT tool maintenance (12 Member States **without** existing IT tools)	540,000.00	2,160,000.00	4,860,000.00
Implementing appropriate management, monitoring and enforcement mechanisms	5,654,945.59	7,068,681.99	8,482,418.39
Total:	**6,196,478.65**	**9,231,748.10**	**13,347,017.56**

4.1.3. Policy option 2.2: Extended legislative intervention

Many of the costs to be borne by Member State authorities under policy option 2 would also be relevant under policy option 2.2. Concretely, this includes:

- **Familiarisation costs**: While the provisions of the interventions proposed under options 2.1 and 2.2 will be different, it is assumed that the time required for Member State authorities to familiarise themselves with the provisions and develop an implementation strategy would be the same.
- **Implementing, managing, monitoring and enforcing an appropriate transparency regime / register**: As for policy option 2.1, policy option 2.2 would require Member States to ensure that an appropriate transparency regime / register for interest representation on behalf of third countries is in place. The activities required to monitor and enforce that regime would also be largely similar.

However, option 2.2 would also require Member States to **establish a system for managing and granting applications for EU-wide licences** to conduct interest representation activities

on behalf of third countries. This system would bring additional recurrent costs for Member State authorities.

The below table summarises the nature of the different costs to Member State authorities under policy option 2.2.

Table 11: Policy option 2.2 – Summary of costs to Member State authorities

Cost items – Member State authorities	One-off vs. recurrent	Type	Frequency	Number of Member States
Familiarisation costs *Adjustment cost*	One-off	Implementation	Year 1	**EU-27**
Establish new register / regime *Adjustment cost*	One-off	Equipment	Year 1	**12 MS** (BE[253], BG, HR, CZ, DK, EE, HU, LV, MT, PT, SK, SE)
Amend existing register / regime *Adjustment cost*	One-off	Equipment	Year 1	**15 MS** (AT, CY, FI, FR, DE, EL, IE, IT, LT, LU, NL, PL, RO, SI, ES)
IT maintenance *Adjustment cost*	Recurrent	Implementation	Years 2-10, annual	**EU-27**
Amend and operate management, monitoring & enforcement systems *Enforcement cost*	Recurrent	Direct labour costs + overheads	Years 1-10, annual	**EU-27**
Establish system for processing licence applications *Adjustment cost*	One-off	Implementation	Year 1	**EU-27**
Operate the system for processing licence applications *Enforcement cost*	Recurrent	Direct labour costs + overheads	Years 1-10, annual	**EU-27**

4.1.3.1. Establish and operate a system for processing prior authorisation / licensing applications

Novel costs will be borne by all Member States related to establishing and operating a system for processing and granting licences to carry out interest representation on behalf of third countries. More specifically, Member States will be required to:

Establish a system for processing licence applications, which could include activities such as stipulating the information to be provided within applications and the process by which applications will be submitted, developing tools to support the application process, and determining the criteria on which applications should or should not be granted, as well the

[253] While a register exists in BE, there is currently no IT tool; instead, the register is published as a PDF document. As such, it is assumed that the BE authorities would need to develop a new IT tool.

responsibilities for such activities. The costs related to establishing the system would be borne in year 1 following the adoption of policy option 2.2.

Given the novel nature of these costs, no feedback was provided directly by relevant stakeholders on their scale. However, many of them could be considered as covered by the other cost items. More specifically, the information to be provided, the criteria against which applications should be judged and the allocation of responsibilities could be incorporated into the familiarisation costs with limited impact on the scale of those costs.

Operate the system for processing licence applications. This cost would take the form of the human resources required to review, request further information (if necessary) and make decisions on individual applications. This cost is recurrent in all years. However, the scale of this cost will depend significantly on the scale of applications per year and will therefore differ by Member State.

As above, no feedback was provided directly by relevant stakeholders on the scale of these costs. While it is therefore difficult to assess the scale of the costs with certainty, it is possible to develop rough estimates of: i) the number of applications per year using data on the estimated number of entities within scope and data on new registrants per year as a proportion of total active registrants from FITS and FARA; and ii) logical data estimates on the amount of time taken and the type of human resource required to process an application. Noting the caveats associated with this approach, as described throughout, these 2 estimates can then be used to develop an estimate for the total annual costs of operating the system for processing applications in each Member State.

Given previous points related to the potential for entities to stop conducting such activities on behalf of third countries, or the risk that certain entities do not apply, the number of entities applying in the first year may not reach 100%. However, for the purposes of this scenario, it is assumed that all entities within scope register in year 1 and that, over subsequent years, a certain number of new entities apply each year. In FARA, the average number of new registrants in a given year over the past 5 years of operation for which data is available (2016-2020) reached 25.8% of the total number of active registrants. This figure rises to 49.1% under FITS, where only 3 full years of data (following year 1, from 2019-2022) were available.

The below table presents the number of first year applicants and the number of average new applicants per year according to these estimates and assumptions. The low end of the range for new applicants was calculated using the FARA figure of 25.8%, while the upper end of the range was calculated using the FITS figure of 49.1%.

It is important to note that there are few additional challenges relating to these estimates. As highlighted previously, there are significant differences between the transparency registers implemented, as well as the markets for interest representation, between the EU, its Member States, FITS and FARA. This could impact the accuracy of these figures. Moreover, FITS and FARA do not take a prior authorisation / licencing approach, which could further impact the proportion of entities within scope that apply for a licence under policy option 2.2. These data should be read in this context.

Table 12: Policy option 2.2 – Estimated applications per year

	First year applicants	Average new applicants per year
Low scenario	712	184-350
Middle scenario	890	229-437
High scenario	1,068	275-524

To determine the costs stemming from each application, it is necessary to understand: i) the types of staff that would be involved in processing and granting applications; and ii) the time that would be required to process each application. Building on the evidence provided in relation to the other cost items on these elements, it is assumed that most of the processing activity is conducted by ISCO 2 category professionals (2-6 hours per application), with limited sign-off by ISCO 1 category managers or officials (0.5 hours per application in all scenarios). This would cover an initial review of the inputs provided by the application to check that all required inputs have been provided, cross-checking with existing data, requesting any additional information that is required and ultimately granting the application.

To illustrate a selection of different scenarios, the below data tables consider the different possibilities in terms the number of entities within scope (across 3 scenarios), the lower and upper bounds of the estimated new applicants per year, and 3 scenarios for the time taken by the ISCO 2 category worker to process each application (2, 4 and 6 hours).

The table below presents the estimated year 1 costs per Member State and in total across 3 scenarios: the low scenario combines the low estimate for the number of entities within scope with the low estimate for time required to complete processing, the middle scenario combines the middle estimates for these data, and the high scenario combines the high estimates for these data.

Table 13: Policy option 2.2 – Estimated costs of processing licence applications (Years 1)

Year 1 costs	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	0.5 hours - ISCO 1	2 hours - ISCO 2	0.5 hours - ISCO 1	4 hours - ISCO 2	0.5 hours - ISCO 1	6 hours - ISCO 2
Austria	735.87	1,995.57	919.83	4,988.93	1,103.80	8,980.08
Belgium	759.75	2,368.88	949.69	5,922.20	1,139.63	10,659.95
Bulgaria	16.02	41.14	20.02	102.85	24.03	185.13
Croatia	51.86	154.16	64.83	385.41	77.79	693.74
Cyprus	31.46	67.47	39.32	168.67	47.19	303.60
Czechia	247.02	655.66	308.78	1,639.14	370.53	2,950.45
Denmark	751.82	2,038.36	939.78	5,095.90	1,127.73	9,172.61
Estonia	49.85	160.84	62.31	402.11	74.78	723.79
Finland	754.47	1,796.08	943.09	4,490.21	1,131.71	8,082.37
France	7,624.25	22,889.69	9,530.31	57,224.23	11,436.38	103,003.62
Germany	4,716.28	11,776.07	5,895.35	29,440.17	7,074.42	52,992.30
Greece	21.55	59.09	26.93	147.73	32.32	265.91
Hungary	109.87	310.77	137.33	776.92	164.80	1,398.46
Ireland	169.51	650.47	211.89	1,626.18	254.27	2,927.13
Italy	2,749.55	6,269.92	3,436.93	15,674.80	4,124.32	28,214.64
Latvia	21.13	64.78	26.41	161.96	31.70	291.53
Lithuania	23.69	69.99	29.62	174.96	35.54	314.93
Luxembourg	60.46	160.03	75.58	400.07	90.69	720.12
Malta	7.94	23.78	9.92	59.44	11.91	106.99
Netherlands	271.96	809.47	339.95	2,023.67	407.94	3,642.60
Poland	131.47	391.34	164.34	978.35	197.20	1,761.02
Portugal	207.07	571.17	258.84	1,427.93	310.61	2,570.28
Romania	97.68	318.86	122.09	797.16	146.51	1,434.88

Year 1 costs	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	0.5 hours - ISCO 1	2 hours - ISCO 2	0.5 hours - ISCO 1	4 hours - ISCO 2	0.5 hours - ISCO 1	6 hours - ISCO 2
Slovakia	44.43	115.32	55.54	288.30	66.65	518.93
Slovenia	81.19	208.60	101.48	521.49	121.78	938.69
Spain	416.35	1,201.95	520.44	3,004.88	624.52	5,408.79
Sweden	654.04	1,780.36	817.55	4,450.90	981.06	8,011.62
EU-27 Total (per ISCO)	**20,806.54**	**56,949.82**	**26,008.18**	**142,374.54**	**31,209.81**	**256,274.18**
Total		**77,756.36**		**168,382.72**		**287,483.99**

The 2 tables below present the lower and upper bounds, respectively, of the estimated costs of processing licence applications per Member State and in total across years 2-10 and across 3 scenarios. The first table presents the lower bound (based on the FARA proportion of new registrants), while the second presents the upper bound (based on the FITS proportion of new registrants). The scenarios are formulated as above, combining the low/middle/high scenarios for the number of entities with the low/middle/high scenarios for the time required.

Table 14: Policy option 2.2 – Estimated costs of processing licence applications (Years 2-10, lower bound)

Years 2-10 - Lower bound	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	0.5 hours - ISCO 1	2 hours - ISCO 2	0.5 hours - ISCO 1	4 hours - ISCO 2	0.5 hours - ISCO 1	6 hours - ISCO 2
Austria	189.85	514.86	237.32	1,287.14	284.78	2,316.86
Belgium	196.02	611.17	245.02	1,527.93	294.02	2,750.27
Bulgaria	4.13	10.61	5.17	26.53	6.20	47.76
Croatia	13.38	39.77	16.73	99.44	20.07	178.98
Cyprus	8.12	17.41	10.15	43.52	12.17	78.33
Czechia	63.73	169.16	79.66	422.90	95.60	761.22
Denmark	193.97	525.90	242.46	1,314.74	290.96	2,366.53
Estonia	12.86	41.50	16.08	103.74	19.29	186.74
Finland	194.65	463.39	243.32	1158.47	291.98	2,085.25
France	1,967.06	5,905.54	2,458.82	14,763.85	2,950.59	26,574.93
Germany	1,216.80	3,038.23	1,521.00	7,595.56	1,825.20	13,672.01
Greece	5.56	15.25	6.95	38.11	8.34	68.60
Hungary	28.35	80.18	35.43	200.45	42.52	360.80
Ireland	43.73	167.82	54.67	419.56	65.60	755.20
Italy	709.38	1,617.64	886.73	4,044.10	1,064.07	7,279.38
Latvia	5.45	16.71	6.81	41.79	8.18	75.21
Lithuania	6.11	18.06	7.64	45.14	9.17	81.25
Luxembourg	15.60	41.29	19.50	103.22	23.40	185.79
Malta	2.05	6.13	2.56	15.34	3.07	27.60
Netherlands	70.17	208.84	87.71	522.11	105.25	939.79
Poland	33.92	100.97	42.40	252.41	50.88	454.34
Portugal	53.42	147.36	66.78	368.41	80.14	663.13
Romania	25.20	82.27	31.50	205.67	37.80	370.20

Years 2-10 - Lower bound	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	0.5 hours - ISCO 1	2 hours - ISCO 2	0.5 hours - ISCO 1	4 hours - ISCO 2	0.5 hours - ISCO 1	6 hours - ISCO 2
Slovakia	11.46	29.75	14.33	74.38	17.20	133.89
Slovenia	20.95	53.82	26.18	134.55	31.42	242.18
Spain	107.42	310.10	134.27	775.26	161.13	1,395.47
Sweden	168.74	459.33	210.93	1,148.33	253.11	2,067.00
EU-27 Total (per ISCO)	**5,368.09**	**14,693.05**	**6,710.11**	**36,732.63**	**8,052.13**	**66,118.74**
Total (per year)		**20,061.14**		**43,442.74**		**74,170.87**
Total (Years 2-10)		**200,611.41**		**434,427.42**		**741,708.70**

Table 15: Policy option 2.2 – Estimated costs of processing licence applications (Years 2-10, upper bound)

Years 2-10 - Upper bound	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	0.5 hours - ISCO 1	2 hours - ISCO 2	0.5 hours - ISCO 1	4 hours - ISCO 2	0.5 hours - ISCO 1	6 hours - ISCO 2
Austria	361.31	979.83	451.64	2,449.57	541.97	4,409.22
Belgium	373.04	1,163.12	466.30	2,907.80	559.56	5,234.04
Bulgaria	7.87	20.20	9.83	50.50	11.80	90.90
Croatia	25.46	75.69	31.83	189.24	38.20	340.63
Cyprus	15.45	33.13	19.31	82.82	23.17	149.07
Czechia	121.29	321.93	151.61	804.82	181.93	1,448.67
Denmark	369.14	1,000.83	461.43	2,502.09	553.72	4,503.75
Estonia	24.48	78.97	30.60	197.43	36.72	355.38
Finland	370.45	881.88	463.06	2,204.69	555.67	3,968.45
France	3,743.51	11,238.84	4,679.38	28,097.10	5,615.26	50,574.78
Germany	2,315.69	5,782.05	2,894.62	14,455.12	3,473.54	26,019.22
Greece	10.58	29.01	13.22	72.53	15.87	130.56
Hungary	53.94	152.59	67.43	381.47	80.92	686.65
Ireland	83.23	319.38	104.04	798.46	124.85	1,437.22
Italy	1,350.03	3,078.53	1,687.53	7,696.33	2,025.04	13,853.39
Latvia	10.38	31.81	12.97	79.52	15.56	143.14
Lithuania	11.63	34.36	14.54	85.91	17.45	154.63
Luxembourg	29.69	78.57	37.11	196.43	44.53	353.58
Malta	3.90	11.67	4.87	29.19	5.85	52.53
Netherlands	133.53	397.45	166.92	993.62	200.30	1,788.52
Poland	64.55	192.15	80.69	480.37	96.83	864.66
Portugal	101.67	280.45	127.09	701.11	152.51	1,262.01
Romania	47.96	156.56	59.95	391.40	71.94	704.53

Years 2-10 - Upper bound	Low scenario (number of entities)		Middle scenario (number of entities)		High scenario (number of entities)	
Country	**0.5 hours - ISCO 1**	**2 hours - ISCO 2**	**0.5 hours - ISCO 1**	**4 hours - ISCO 2**	**0.5 hours - ISCO 1**	**6 hours - ISCO 2**
Slovakia	21.82	56.62	27.27	141.55	32.72	254.80
Slovenia	39.86	102.42	49.83	256.05	59.79	460.90
Spain	204.43	590.16	255.53	1,475.40	306.64	2,655.72
Sweden	321.13	874.16	401.42	2,185.39	481.70	3,933.71
EU-27 Total (per ISCO)	**10,216.01**	**27,962.36**	**12,770.01**	**69,905.90**	**15,324.02**	**125,830.62**
Total (per year)		**38,178.37**		**82,675.92**		**141,154.64**
Total (Years 2-10)		**381,783.72**		**826,759.16**		**1,411,546.40**

On this basis, the total costs associated with processing and granting licence applications for entities carrying out interest representation activities on behalf of third countries range from EUR 278 thousand to EUR 1.7 million across the 10-year time horizon. These are summarised in the below table.

Table 16: Policy option 2.2 – Total estimated costs of processing licence applications

	Low scenario (entities & time)	Middle scenario (entities & time)	High scenario (entities & time)
Lower bound (years 1-10)	**278,367.77**	**602,810.14**	**1,029,192.69**
Upper bound (years 1-10)	**459,540.08**	**995,141.88**	**1,699,030.39**

4.1.3.2. Summary of costs: Member State authorities

In total, under policy option 2.2, the estimated costs to Member State authorities over a 10-year time horizon can be summarised as follows:

Table 17: Policy option 2.2 – Summary of total costs to Member State authorities (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Familiarisation costs	1,533.06	3,066.11	4,599.17
Ensuring an appropriate register is in place	*Not possible to ascertain EU-wide costs based on the available data.*		
IT tool maintenance (15 Member States **with** existing IT tools)	*Costs are considered to be business as usual (BaU) costs.*		
IT tool maintenance (12 Member States **without** existing IT tools)	540,000.00	2,160,000.00	4,860,000.00
Implementing appropriate management, monitoring and enforcement mechanisms	5,654,945.59	7,068,681.99	8,482,418.39

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Operating the system for processing licence applications	278,367.77	798,976.01[(1)]	1,699,030.39
Total:	**6,474,846.42**	**10,030,724.11**	**15,046,047.95**

[(1)] Given the use of 2 bounds in the calculation of the estimated costs of processing licence applications, the middle scenario presented here is an average of the lower and upper bounds in the middle scenario.

4.2. Costs for entities carrying out interest representation activities on behalf of third countries

In line with the detailed assessment of the practical implications of the proposed policy options presented, the following main cost types are relevant to entities conducting interest representation activities across the 3 policy options.

- **Familiarisation costs**: It is assumed that all entities in the impacted sectors will need to spend time familiarising themselves with the new requirements, even if only to determine that they are out of scope. As such, the familiarisation costs will apply to all commercial and non-commercial entities carrying out interest representation activities, not just those operating on behalf of third countries. It is assumed that such costs will occur once per entity.

  For policy options 2.1 and 2.2, these costs will result directly from the proposed EU intervention and will be the same for both options. For policy option 1, no costs will stem directly from the recommendations proposed. However, costs will be incurred indirectly by such entities, due to the need to familiarise themselves with measures implemented independently by Member State authorities as a result of the recommendations under option 1.

- **Registration and information update costs**: Depending on whether a transparency register for interest representation or lobbying already exists in a Member State, entities that are within scope will need to either: i) update information on their existing registration; or ii) register for the first time. While it is assumed that all relevant entities are already registered in Member States with existing registers, this is likely not the case in practice. Across the national-level stakeholders interviewed for the supporting study (including public authorities, service providers and representative associations), there was limited insight into compliance rates, while insufficient monitoring and enforcement activities, as well as the voluntary nature and limited scope of some regimes mean that existing registers almost certainly do not capture all relevant entities.

  Beyond these initial costs, borne in year 1, there will be a need for entities within scope to regularly ensure the information is correct and submit any additional information on material changes to the circumstances of the interest representation activities they carry out on behalf of third countries. According to feedback from service providers, different approaches are taken across industry and across different registers regarding the frequency of such checks and updates. For instance, within the context of the EU Transparency Register, commercial entities interviewed for the supporting study have reported conducting updates once a year or quarterly, in both cases supplemented by ad hoc updates whenever they begin representing new interests. These costs will be borne on an annual basis across years 2-10.

  As discussed further below, there may be some synergies in this context that could reduce the costs associated with regular information provision, through the submission

of the same information across multiple registers and/or through business as usual (BaU) costs linked to existing information provision obligations.

The nature and scale of these costs in this regard are largely similar across policy options 2.1 and 2.2; the key difference being the requirement to self-declare compliance with the record-keeping obligations (see below) on an annual basis. For policy option 1, entities within scope will face no direct costs; however, entities will likely face indirect costs stemming from the implementation of measures by Member State authorities adopted in accordance with the Commission's recommendations. The scale of these costs and the potential synergies due to improved harmonisation of rules will depend on the nature and scale of the adoption of provisions recommended by the Commission.

- **Record-keeping costs**: Entities within scope will be required to keep, for a reasonable period, information on the identity of the third country entity whose interests they are representing, a description of the purpose of the interest representation activity, contracts and key exchanges with the third country entity. As above, the provisions and related costs under policy options 2.1 and 2.2 are largely similar, while the costs under option 1 depend heavily on the nature and scale of the measures implemented by Member State authorities.

In addition to the above cost types, which are relevant across all policy options, the following 2 cost types are only relevant in the case of policy option 2.2:

- **Prior authorisation / licencing costs**: The information requirements necessary to obtain a licence, and thus the direct costs of the licencing application, would be the same as those noted above. However, as noted by industry stakeholders interviewed for the supporting study, the licencing system could have indirect costs for entities with scope stemming from the additional time taken to process a licence application.

Beyond these core costs, entities carrying out interest representation activities on behalf of third countries may be subject to additional costs across all options stemming from: i) administrative sanctions; ii) registration fees; and iii) potential loss of business from decisions taken by such entities not to work with third countries due to the possible reputational impact. In addition, under policy options 2.1 and 2.2, entities subject to the risk-based approach will face further information disclosure costs when they either receive particularly high amounts from a third country or third country entity or carry out interest representation on behalf of a third country that has spent a significant amount in a Member State or the Union as a whole. However, it was not possible to quantify these costs.

For each policy option and cost type, the following sections present the available evidence, calculations, assumptions, and limitations / caveats.

4.2.1. Policy option 1: Non-legislative measures

The cost implications of policy option 1 will not stem directly from the Commission recommendations, but will result from any measures implemented by Member State authorities as a result of the recommendations. However, the nature and scale of the costs will depend significantly on the extent to which the Member States implement the measures recommended, the extent to which the measures implemented are consistent and coherent across the EU, as well as the Member States in which the entities operate.

In this context, as under policy option 2.1, the main costs these stakeholders would potentially be required to conduct will include:

- **Familiarisation activities**. As for Member State authorities, all entities conducting interest representation activities would need to familiarise themselves with the measures implemented in the Member State(s) in which they operate. This would apply at a basic level to all entities conducting interest representation (i.e. to determine whether they are within scope) and to a greater extent for those entities within scope of the measures (i.e. to determine compliance strategies).
- **Ensuring compliance with the provisions** stipulated in the national-level measures, including registration and information update requirements and record-keeping obligations. As detailed further under policy option 2.1, in Member States where transparency registers are developed or amended to cover third country interest representation activities, entities carrying out such activities would likely be required to: i) provide relevant information on these activities; and ii) ensure that information is updated and remains accurate. Furthermore, where record-keeping obligations are introduced, entities within scope would be required to ensure their processes and systems are sufficient to ensure the retention of relevant information.

Beyond the costs linked to the practical implications of the measures, as described above, additional costs could stem from registration fees and fines for non-compliance.

4.2.1.1. Scenario 1: Full take-up of the non-legislative measures

As for the Member State authorities, it is difficult to concretely assess the scale of the costs of policy option 1 to entities carrying out interest representation. However, if implemented to the extent where the provisions across the Member States are similar enough to contribute to the stated aims of the intervention, the costs and benefits would be largely similar to those documented under policy option 2.1.

The following table presents a summary of the maximum costs to interest representation entities over a 10-year time horizon under scenario 1.

Table 18: Policy option 1 – Summary of maximum costs to interest representation entities (over 10 years) under Scenario 1 (Full take-up of the non-legislative measures)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Basic familiarisation costs	71,165,916.06	142,338,950.84	213,519,104.36
Extended familiarisation costs	56,949.82	142,374.54	256,274.18
Registration and information disclosure costs	6,142,119.10	7,677,648.90	9,213,178.70
Record-keeping costs	*Business as usual (BaU) – No incremental costs*		
Other costs (incl. admin sanctions, registration fees)	*No total cost estimates possible due to lack of evidence on possible frequency and actual scale of fines.*		
Total:	**77,364,984.98**	**150,158,974.28**	**222,988,557.24**

4.2.1.2. Scenario 2: 50% take-up of the non-legislative measures

Under the assumptions detailed above in section 4.1.1.1 and 4.1.1.2., the direct costs for entities conducting interest representation over the 10-year time horizon are summarised in the below

table. However, should these firms operate cross-border where one country has implemented the measures and one country has not, they will face additional costs due to these inconsistencies.

Table 19: Policy option 1 – Summary of maximum costs to interest representation entities (over 10 years) under Scenario 2 (50% take-up of the non-legislative measures)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Basic familiarisation costs	35,582,958.03	71,169,475.42	106,759,552.18
Extended familiarisation costs	28,474.91	71,187.27	128,137.09
Registration and information disclosure costs	3,071,059.55	3,838,824.45	4,606,589.35
Record-keeping costs	*Business as usual (BaU) – No incremental costs*		
Other costs (incl. admin sanctions, registration fees)	*No total cost estimates possible due to lack of evidence on possible frequency and actual scale of fines.*		
Total:	**38,682,492.49**	**75,079,487.14**	**111,494,278.62**

4.2.2. Policy option 2.1: Targeted legislative intervention

In line with the categorisation of costs, the below table summarises the nature of the different costs to entities carrying out interest representation activities on behalf of third countries that are relevant within policy option 2.1.

Table 20: Policy option 2.1 – Summary of costs to interest representation entities within scope

Cost items – Interest representation service providers	One-off vs. recurrent	Type	Frequency	Service providers covered
Basic familiarisation costs	One-off	Implementation	Year 1	Out of scope entities
Extended familiarisation costs	One-off	Implementation	Year 1	In scope entities
Initial registration costs & new registrations per year	One-off	Administrative	Year 1 Years 2-10	In scope entities in MS without register
Initial information update costs	One-off	Administrative	Year 1	In scope entities in MS with register
Regular information provision	Recurrent	Administrative	Years 2-10	In scope entities
Establishing record-keeping processes	One-off	Implementation	Year 1	In scope entities
Implementing record-keeping processes	Recurrent	Implementation	Years 1-10	In scope entities

4.2.2.1. Familiarisation costs

Basic familiarisation costs will be borne by all entities conducting interest representation activities in the EU, as it is assumed that each entity conducting activities covered by the intervention will need to assess whether its operations are in scope. In addition, it is assumed that entities conducting interest representation activities that are within scope will need to conduct extended familiarisation activities, as follows:

- **Basic familiarisation costs**: This will require a large number of entities to spend a small amount of time reviewing the legislative text and any related guidance. It is assumed that all entities conducting interest representation activities, minus those entities within scope, will conduct only this basic familiarisation. 3 scenarios have been developed based on the assumed time spent by a legal professional. As detailed in Table **22**, the scenarios assume that the time spent on basic familiarisation costs is 30 minutes (low scenario), 1 hour (middle scenario) or 1.5 hours (high scenario). In these scenarios, the total costs across all entities would range from approximately EUR 71.2 – 213.8 million at around EUR 20–60 per organisation.
- **Extended familiarisation costs**: This will require a much smaller number of entities (i.e. those within scope of the proposed legislative intervention) to spend more time reviewing the legislative text and any related guidance, but also to assess the practical implications, develop compliance strategies and allocate responsibility for compliance-related tasks. Table **23** presents 3 scenarios for these costs: 2 hours (low scenario), 4 hours (middle scenario) and 6 hours (high scenario). The associated costs would range from approximately EUR 57–256 thousand at around EUR 80–240 per organisation.

On this basis, the total familiarisation costs across the 3 scenarios are summarised below. An **approximate total of EUR 71.2 million to EUR 213.8 million** worth of resource will be spent on familiarisation for this proposed intervention. It is assumed that the familiarisation costs are the same across all policy options.

Table 21: Summary of familiarisation cost estimates

Cost type	Low scenario (in EUR)	Middle scenario (in EUR)	High scenario (in EUR)
Basic familiarisation costs	71,165,916.06	142,338,950.84	213,519,104.36
Extended familiarisation costs	56,949.82	142,374.54	256,274.18
Total familiarisation costs	**71,222,865.88**	**142,481,325.39**	**213,775,378.54**

Table 22: Estimated basic familiarisation costs: Interest representation entities out of scope of the proposed intervention

Country	ISCO 2 income: EUR per hour[(1)]	Number of entities (*total interest representatives – non-EU/EEA interest representatives*)			Cost scenarios in EUR (*number of entities * time spent * ISCO 2 income*)		
		Low scenario	Middle scenario	High scenario	Low scenario (30 mins)	Middle scenario (1 hour)	High scenario (1.5 hours)
Austria	42.18	118,251	118,256	118,262	2,493,718.33	4,987,686.10	7,481,903.32
Belgium	50.42	117,411	117,417	117,423	2,960,209.35	5,920,714.81	8,881,516.38
Bulgaria	7.25	14,183	14,183	14,184	51,408.22	102,821.57	154,240.07
Croatia	13.62	28,286	28,287	28,288	192,647.04	385,313.36	577,998.94
Cyprus	25.76	6,546	6,546	6,547	84,308.01	168,624.46	252,949.34
Czechia	17.07	96,020	96,025	96,030	819,324.08	1,638,730.13	2,458,218.12
Denmark	50.23	101,415	101,420	101,425	2,547,184.04	5,094,622.88	7,642,316.51
Estonia	16.91	23,774	23,775	23,776	200,993.58	402,007.26	603,041.05
Finland	41.02	109,432	109,438	109,443	2,244,430.12	4,489,084.76	6,733,963.90
France	44.06	1,298,467	1,298,532	1,298,597	28,603,532.66	57,209,926.52	85,819,181.60
Germany	46.81	628,783	628,815	628,846	14,715,668.41	29,432,808.83	44,151,421.25
Greece	21.74	6,792	6,792	6,793	73,841.50	147,690.38	221,546.65
Hungary	12.16	63,888	63,891	63,894	388,345.59	776,730.02	1,165,153.30
Ireland	48.08	33,813	33,815	33,816	812,847.40	1,625,776.11	2,438,786.13
Italy	42.39	369,680	369,699	369,717	7,835,048.81	15,670,881.37	23,507,497.66
Latvia	13.60	11,901	11,902	11,903	80,955.62	161,919.34	242,891.15
Lithuania	11.81	14,809	14,809	14,810	87,455.19	174,919.13	262,391.82
Luxembourg	46.01	8,692	8,693	8,693	199,973.84	399,967.68	599,981.52
Malta	20.30	2,927	2,927	2,927	29,711.53	59,426.03	89,143.51
Netherlands	41.76	48,439	48,442	48,444	1,011,529.98	2,023,161.14	3,034,893.49
Poland	13.19	74,155	74,158	74,162	489,026.02	978,100.96	1,467,224.81
Portugal	20.77	68,744	68,748	68,751	713,751.15	1,427,573.69	2,141,467.64
Romania	12.92	61,679	61,683	61,686	398,458.73	796,957.31	1,195,495.75
Slovakia	14.27	20,192	20,193	20,194	144,105.17	288,224.75	432,358.75
Slovenia	19.51	26,723	26,724	26,726	260,668.36	521,362.80	782,083.31
Spain	29.59	101,532	101,537	101,542	1,501,991.15	3,004,132.55	4,506,424.19
Sweden	43.10	103,236	103,241	103,246	2,224,782.18	4,449,786.90	6,675,014.17
	Total	**3,559,770**	**3,559,948**	**3,560,126**	**71,165,916.06**	**142,338,950.84**	**213,519,104.36**

[(1)] EU wage tariffs: Hourly earnings 2018 plus non-wage labour costs (NWLC) and 25% overheads (OH), per Member State and ISCO (International Standard Classification of Occupations) category, last updated January 2021. ISCO 2 covers professionals, including legal, social and cultural professionals.

Table 23: Estimated extended familiarisation costs: Interest representation entities within scope of the proposed intervention

Country	ISCO 2 income: EUR per hour[1]	Number of entities (*total interest representatives – non-EU/EEA interest representatives*)			Cost scenarios in EUR (*number of entities * time spent * ISCO 2 income*)		
		Low scenario	Middle scenario	High scenario	Low scenario (2 hrs)	Middle scenario (4 hrs)	High scenario (6 hrs)
Austria	42.18	24	30	35	1,995.57	4,988.93	8,980.08
Belgium	50.42	23	29	35	2,368.88	5,922.20	10,659.95
Bulgaria	7.25	3	4	4	41.14	102.85	185.13
Croatia	13.62	6	7	8	154.16	385.41	693.74
Cyprus	25.76	1	2	2	67.47	168.67	303.60
Czechia	17.07	19	24	29	655.66	1,639.14	2,950.45
Denmark	50.23	20	25	30	2,038.36	5,095.90	9,172.61
Estonia	16.91	5	6	7	160.84	402.11	723.79
Finland	41.02	22	27	33	1,796.08	4,490.21	8,082.37
France	44.06	260	325	390	22,889.69	57,224.23	103,003.62
Germany	46.81	126	157	189	11,776.07	29,440.17	52,992.30
Greece	21.74	1	2	2	59.09	147.73	265.91
Hungary	12.16	13	16	19	310.77	776.92	1,398.46
Ireland	48.08	7	8	10	650.47	1,626.18	2,927.13
Italy	42.39	74	92	111	6,269.92	15,674.80	28,214.64
Latvia	13.60	2	3	4	64.78	161.96	291.53
Lithuania	11.81	3	4	4	69.99	174.96	314.93
Luxembourg	46.01	2	2	3	160.03	400.07	720.12
Malta	20.30	1	1	1	23.78	59.44	106.99
Netherlands	41.76	10	12	15	809.47	2,023.67	3,642.60
Poland	13.19	15	19	22	391.34	978.35	1,761.02
Portugal	20.77	14	17	21	571.17	1,427.93	2,570.28
Romania	12.92	12	15	19	318.86	797.16	1,434.88
Slovakia	14.27	4	5	6	115.32	288.30	518.93
Slovenia	19.51	5	7	8	208.60	521.49	938.69
Spain	29.59	20	25	30	1,201.95	3,004.88	5,408.79
Sweden	43.10	21	26	31	1,780.36	4,450.90	8,011.62
	Total	**712**	**890**	**1,068**	**56,949.82**	**142,374.54**	**256,274.18**

[1] EU wage tariffs: Hourly earnings 2018 plus non-wage labour costs (NWLC) and 25% overheads (OH), per Member State and ISCO (International Standard Classification of Occupations) category, last updated January 2021. ISCO 2 covers professionals, including legal, social and cultural professionals.

4.2.2.2. Registration and information update costs

The second cost type examined is the need for entities within scope to conduct initial activities to either: i) register; or ii) update or add information to an existing registrant profile. In both cases, this cost type will be one-off and occur in year 1 of the proposed intervention. The nature of the practical changes required for each entity conducting interest representation activities within scope would depend on:

- Whether a transparency register for interest representation or lobbying already exists in an entity's Member State(s) of operation; and
- In Member States with existing transparency registers, whether such entities are already registered.

Considering the first point, the below table summarises the situation as regards existing Member State legal regimes / registers, and the type of action entities carrying out interest representation activities will need to take in each country.

Table 24: Overview of Member State legal frameworks and resulting compliance activities under the proposed policy options

Country	Current legal framework			Immediate activities required by entities within scope	
	Existing law(1)	Existing register	Existing monitoring & enforcement regime	Initial Registration	Information update
Austria	X	X	X		X
Belgium	X	(2)			X
Bulgaria				X	
Croatia				X	
Cyprus	X	X	X	X	
Czechia				X	
Denmark				X	
Estonia				X	
Finland	X	X			X
France	X	X	X		X
Germany	X	X	X		X
Greece	X	X	X		X
Hungary	X			X	
Ireland	X	X	X		X
Italy		X			X
Latvia				X	
Lithuania	X	X	X		X
Luxembourg	X	X	X		X
Malta	X			X	
Netherlands		X	X		X
Poland	X	X	X	X	
Portugal				X	
Romania	X	X			X
Slovakia				X	
Slovenia	X	X	X		X

Spain	X	X	X		X
Sweden				X	
Total	16 MS	15 MS	12 MS	12 MS	15 MS

(1) In addition to the existing laws, the legal and policy mapping conducted for the supporting study identified that relevant laws are in development in 11 Member States (BE, BG, CZ, IE, IT, LV, MT, NL, PL, SK, ES).

(2) While a register exists in BE, there is currently no IT tool; instead, the register is published as a PDF document. As such, it is assumed that the BE authorities would need to develop a new IT tool.

The differentiation of impacts based on the second point (i.e. the number of entities carrying out interest representation activities within scope that are already registered) is more challenging to assess. As highlighted above, interview feedback from national-level stakeholders interviewed for the supporting study (including public authorities, interest representation providers and representative associations) demonstrated limited insight into registration compliance rates across the EU, while the voluntary nature of registration in some Member States (e.g. BE, IT, RO), the differences in scope across Member States (e.g. no coverage of existing interest representation on behalf of third countries; coverage of lobbying versus interest representation more broadly) and the wide variance in number of registrants across Member States (e.g. 82 in SI and 84 in IT compared with 5,676 in DE and 2,454 in IE), mean that it is not possible to estimate with any certainty the proportion of entities conducting interest representation activities that are already registered. For those entities that are operating on behalf of third countries, it is even more difficult.

As such, while this may not be the case in practice, it is assumed that all entities within scope operating in a Member State with an existing register are already registered in that country.

The characteristics of these 3 core costs are now described, before the data collected on the scale of the costs is presented:

- **Initial registration costs**: In Member States that currently do not have existing registers (i.e. 12 Member States), entities conducting interest representation activities on behalf of third countries will be required to register.
- **Initial information update costs**: In Member States that currently maintain existing registers, entities carrying out interest representation activities on behalf of third countries will be required to update existing information to explicitly disclose the third country interests they represent.
- **Ongoing information disclosure costs**: All entities conducting interest representation activities on behalf of third countries will be required to ensure the information submitted to registers across the Union is regularly updated and remains accurate.

The costs related to both initial registration and updating of information will be administrative, one-off costs, borne in year 1. The ongoing information disclosure costs will be administrative in nature, but will be recurrent, borne annually in years 2-10. The costs will take the form of human resources spent collecting and submitting the required information (i.e. time of direct labour costs and related overheads). As for the familiarisation costs, the EU wage tariffs, based on ISCO employee categories, have been used to calculate the different costs associated with registration and information disclosure.

The following table presents the available evidence on the estimated scale of these costs.

Table 25: Costs associated with registration and updating information at the Union and national levels

Evidence on the scale of the cost: Initial registration and information update costs

According to commercial and non-commercial entities conducting interest representation activities interviewed for the supporting study, as well as their representative associations, registration and information update activities require the following tasks: i) the collection of relevant information through liaison between different professionals (e.g. legal and compliance teams, delivery teams, board members); ii) the submission of that information to the register/authorities through a dedicated form/portal; and iii) any additional internal processes, such as staff training on record-keeping and retrieval.

In line with the detailed explanation of policy option 2.1, entities within scope would be required to provide the following types of information at **initial registration**:

- Information on the entity conducting interest representation activities, including their name, contact details, category of organisation, address of place of establishment.
- Information on the activities conducted, including the type of activity, the Member State in which it will be conducted, the policy being targeted and the remuneration received.
- Information on the third country entity on whose behalf the interest representation is being conducted, including their name, contact details and the third country.

The **information update** will only require submission of new information explicitly on third country interests represented.

Most experiences discussed with interviewees in this regard referred to the EU Transparency Register; however, experiences of registration and information update procedures in Germany, Luxembourg, the Netherlands and Slovenia were also shared.

In general, there was a consensus across these stakeholders that the **processes of registration and information disclosure place a minimal burden on these entities**. However, the following complexities and considerations were highlighted by stakeholders:

- It is often difficult to determine the extent to which certain activities are within scope and thus what data (including financial data) needs to be provided. For instance, many commercial firms conduct legislative monitoring activities within the context of broader engagements with clients.
- Mixed feedback was provided on the differentiation of impacts between larger and smaller organisations. While larger consultancy firms noted that the registration exercise is more burdensome for them, given the complexity of collecting data on more clients, many stakeholders stated that the impact would be proportionally higher on SMEs, who may not have the systems in place to easily access the required information. Others noted that some firms rely on software systems to track key information or outsource certain activities related to these transparency obligations, while one commercial firm noted that the administrative costs related to registration are built into their fees.

- Within the EU Transparency Register, there is also a need for commercial firms to ensure their clients are registered. This is reported as being burdensome for those firms and should be considered within the reading of the below figures.

Considering the time required to register and update the relevant information, estimates from entities conducting interest representation activities focused on the following elements:

- **Registration / information provision only**: Estimates ranged from 5 minutes to register in Belgium to up to 1 hour to register in the EU Transparency Register.
- **Overall annual cost of compliance**: Quantitative estimates provided include 1-2 weeks a year and approximately 10 days per year split equally between a partner and an administrative staff member (in Belgium, this equates to around EUR 3,500 per year), up to as much as EUR 40,000 per year to ensure compliance with EU, national and regional registers over the course of a year (e.g. for entities operating in Germany). However, qualitatively, other stakeholders noted the light administrative burden associated with existing transparency registers. Furthermore, given these estimates reflect information disclosure related to all lobbying or interest representation activities conducted by an organisation, or efforts across multiple registers, the costs for information disclosure related to interest representation carried out on behalf of third countries will likely be reduced. However, it is not possible to assess the scale of this reduction.

In this context, 3 scenarios have been developed to assess the possible costs associated with these information obligations. The low scenario assumes 2.5 days per year split equally between one ISCO 1 (senior managers) and one ISCO 4 (clerks) category employee. Using the same division of labour, the middle and high scenarios assume 5 days and 10 days per year, respectively.

The following assumptions are also relevant in this context:

- Given the data available and their limited scale, the costs associated with the initial act of registration is considered to be part of the overall annual cost of compliance, which is assumed to be the same in year 1 as in the other years. As such, the calculations use the annual cost of compliance as a proxy for the 3 different types of costs noted above.
- While some organisations will experience synergies due to cross-border or multi-national interest representation service provision, which will lead to cost-savings, there is limited indication of the scale of multi-national or cross-border interest representation (in general or for third countries). Moreover, the scale of these synergies will differ based on the nature of an organisation's engagements with such third countries. For instance, a commercial firm working with the same client in multiple Member States will experience direct synergies with regard to both the types of information to be provided and the specific information; however, a commercial organisation working in multiple Member States but with different clients will only benefit from synergies related to the types of information to be provided.

With these caveats and assumptions established, the costs were calculated by multiplying the number of working days by the relevant ISCO category wage for each country and the estimated number of entities within scope (as per the above estimates). It is important to note that, alongside the number of working days, the estimates for the number of entities

within scope also change across the 3 scenarios presented. This is primarily due to the way in which the estimates for the number of entities conducting interest representation per Member State were calculated (i.e. across 3 scenarios). More specifically, the low / middle / high scenarios for the number of entities are used in conjunction with the low / middle / high estimates for the number of working days.

On this basis, the annual registration and information disclosure activities to be conducted by entities carrying out interest representation activities on behalf of third countries will cost between approximately EUR 590,000 and EUR 3.5 million at approximately EUR 828 – 3,314 per organisation. Across the 10-year time horizon, this will reach a total cost of approximately EUR 5.9 and EUR 35.4 million. The detailed breakdown of the annual cost estimates per Member State is presented in the below table.

Table 26: Estimated registration and information disclosure costs

Country	Low scenario (2.5 days)		Middle scenario (5 days)		High scenario (10 days)	
	ISCO 1 1.25 days	ISCO 4 1.25 days	ISCO 1 2.5 days	ISCO 4 2.5 days	ISCO 1 5 days	ISCO 4 5 days
Austria	14,717.35	6,630.45	36,793.38	16,576.13	88,304.12	39,782.72
Belgium	15,195.06	6,478.72	37,987.64	16,196.80	91,170.34	38,872.32
Bulgaria	320.39	118.08	800.98	295.21	1,922.36	708.50
Croatia	1,037.22	504.41	2,593.06	1,261.04	6,223.34	3,026.49
Cyprus	629.17	165.89	1,572.93	414.71	3,775.03	995.31
Czechia	4,940.41	2,030.04	12,351.03	5,075.09	29,642.48	12,180.22
Denmark	15,036.44	7,983.77	37,591.11	19,959.42	90,218.66	47,902.61
Estonia	997.03	525.43	2,492.59	1,313.58	5,982.21	3,152.59
Finland	15,089.45	5,753.13	37,723.62	14,382.83	90,536.68	34,518.79
France	152,485.04	68,233.55	381,212.59	170,583.86	914,910.23	409,401.27
Germany	94,325.61	36,454.54	235,814.04	91,136.35	565,953.69	218,727.23
Greece	430.92	193.23	1,077.30	483.06	2,585.51	1,159.36
Hungary	2,197.30	1,011.99	5,493.25	2,529.98	13,183.81	6,071.96
Ireland	3,390.30	1,830.08	8,475.74	4,575.20	20,341.78	10,980.48
Italy	54,990.92	17,792.32	137,477.29	44,480.80	329,945.50	106,753.91
Latvia	422.62	205.78	1,056.55	514.46	2,535.72	1,234.71
Lithuania	473.89	224.91	1,184.73	562.29	2,843.34	1,349.49
Luxembourg	1,209.24	514.62	3,023.10	1,286.54	7,255.44	3,087.70
Malta	158.79	79.83	396.99	199.57	952.77	478.96
Netherlands	5,439.20	2,623.80	13,598.00	6,559.50	32,635.19	15,742.80
Poland	2,629.37	1,090.84	6,573.44	2,727.10	15,776.25	6,545.03
Portugal	4,141.43	1,402.05	10,353.58	3,505.12	24,848.58	8,412.28
Romania	1,953.51	785.63	4,883.78	1,964.08	11,721.08	4,713.79

Country	Low scenario (2.5 days)		Middle scenario (5 days)		High scenario (10 days)	
	ISCO 1 1.25 days	ISCO 4 1.25 days	ISCO 1 2.5 days	ISCO 4 2.5 days	ISCO 1 5 days	ISCO 4 5 days
Slovakia	888.66	392.66	2,221.64	981.66	5,331.94	2,355.97
Slovenia	1,623.75	685.78	4,059.37	1,714.44	9,742.49	4,114.66
Spain	8,326.99	3,713.02	20,817.48	9,282.55	49,961.95	22,278.12
Sweden	13,080.74	6,465.68	32,701.86	16,164.20	78,484.45	38,794.07
Total per category:	**416,130.82**	**173,890.23**	**1,040,327.06**	**434,725.57**	**2,496,784.94**	**1,043,341.36**
Total cost:	**590,021.05**		**1,475,052.63**		**3,540,126.31**	

Moreover, in line with the above considerations, it is assumed that the size of the entity impacts the scale of the effort required to conduct the required annual information disclosure tasks. The data on full-time equivalents (FTE) working on interest representation activities from the EU Transparency Register illustrates that, while the number of reported FTEs reaches a maximum of 85.5 FTEs and a total of 17,882 FTEs, the mean (2 FTEs), median (1 FTE) and mode (0.25 FTEs) are all significantly lower. On this basis, tailored definitions for micro / small (<10 FTEs), medium (10-19 FTEs) and large (>=20 FTEs) entities were assumed in this context. The data are presented in the below table.

Table 27: Estimated number of entities per size class (EU Transparency Register)

Size classification & rationale	Number of entities	Percentage of entities
Micro / Small (<10 FTEs)	8,562	97.3%
Medium (10-19 FTEs)	175	2.0%
Large (>=20 FTEs)	59	0.7%
Total	**8,796**	**100%**

To achieve more nuanced estimates of the costs based on firm size, the rationale was used that the larger the firm, the more complex and costly the reporting process to assume that: micro / small entities require 2.5 days to comply with the foreseen information disclosure and reporting requirements; medium-sized entities require 5 days; and large entities require 10 days. These estimates are in line with the 3 scenarios for the number of working days calculated above.

Under these assumptions, the costs were calculated by applying the above entity-size percentages to the 3 scenarios for the estimated number of entities carrying out interest representation activities on behalf of third countries. These proportions were then multiplied by the average cost per organisation across the EU-27 per scenario (i.e. low, middle, high). For instance, as shown in the first of the below tables, approximately 693 of the 712 estimated entities conducting interest representation on behalf of third countries across the EU-27 are micro / small entities, while 14 are medium-sized and 5 are large. The same breakdown of entities by size class has been done for the middle and high scenarios for the number of entities within scope.

Table 28: Estimated number of entities per size class, per scenario

Number of entities (scenarios)	Micro / Small (97.3%)	Medium (2%)	Large (0.7%)	Total

Low scenario (# of entities)	693	14	5	**712**
Middle scenario (# of entities)	866	18	6	**890**
High scenario (# of entities)	1,039	21	7	**1,068**

On this basis, the following table illustrates the calculated costs per entity size class. These calculations suggest that, in practice across the 3 scenarios, the estimated total costs will sit somewhere between EUR 614,000 and EUR 921,000 at an average cost per entity of EUR 862.45. Across the 10-year time horizon, total costs will reach approximately EUR 6.1 mn to EUR 9.2 mn.

Table 29: Estimated costs per entity size class, per scenario per year

Number of entities (scenarios)	Micro / Small (97.3%)	Medium (2%)	Large (0.7%)	Total
Low scenario (# of entities)	574,090.48	23,600.84	16,520.59	**614,211.91**
Middle scenario (# of entities)	717,613.10	29,501.05	20,650.74	**767,764.89**
High scenario (# of entities)	861,135.72	35,401.26	24,780.88	**921,317.87**

Conversely, the table below provides a summary of the estimated average costs per entity per information update scenario (i.e. 2.5 / 5 / 10 days). For the purpose of calculating the average costs across the body of entities, it has been assumed that micro / small entities experience the lower average costs (i.e. EUR 828.49), medium-sized firms experience the middle average costs (i.e. EUR 1,656.97) and large firms experience the higher average costs (i.e. EUR 3,313.94).

Table 30: Estimated average costs per entity, per size class

	Micro / Small (97.3%)	Medium (2%)	Large (0.7%)	General average costs across all entities
Average total costs per entity	828.49	1,656.97	3,313.94	**862.45**

4.2.2.3. Record-keeping costs

The third cost type examined is the need for entities within scope to ensure appropriate **record-keeping**. This would include retaining, for a reasonable period: i) information on the identity of the third country entity on whose behalf the interest representation activities are being carried out; ii) a description of the purpose of the interest representation activity; and iii) contracts and key exchanges with the third country entity to the extent that they are essential to understand the nature and purpose of the interest representation carried out or information or material constituting key components of the interest representation activity.

Beyond supporting the entities in their registration and information disclosure requirements (see above), the purpose of this record-keeping is to ensure sufficient transparency is possible in response to possible supervision or enforcement requests.

In this context, entities within scope will need to: i) establish the processes and systems to identify and securely retain key information (one-off in year 1); and ii) implement those processes and systems to ensure the continued identification and retention of that information over the remainder of the time horizon (recurrent in years 2-10).

However, given the existing importance of this information to the provision of services by entities within scope, it is assumed that the costs of formalising such record-keeping obligations in this context could be characterised as **business as usual (BaU) costs**, thereby adding no incremental costs to the intervention.

4.2.2.4. Other costs (e.g. administrative sanctions, risk-based approach, etc.)

Beyond these core costs, there are a range of additional costs that could be incurred by entities within scope depending on the implementation specifics. These include i) administrative sanctions; ii) registration fees; iii) costs related to the risk-based approach. Each additional cost item is briefly discussed here.

The **proposed administrative sanctions** regime within policy option 2.1 would allow the imposition of fines on non-compliant interest representation service providers. However, it was not possible to estimate the scale or frequency of potential fines due to a lack of available data on breaches of existing interest representation transparency registers and related sanctions at the national level, twinned with challenges regarding the adequacy of monitoring and enforcement resources and activities across the Member States.

In addition, while not explicitly included (or excluded) in policy option 2.1, Member States may impose **registration fees** on entities within scope. This is a practice that already occurs in some Member States (e.g. in Slovenia). However, it has not been possible to ascertain the number of Member States that would implement such a registration fee, nor the size of such fees. As such, it has not been possible to quantitatively assess this cost item.

The final cost item to note in relation to policy option 2.1 relates to the **risk-based approach** proposed. Under this option, entities will be required to provide, at the request of national independent supervisory authorities, the records kept on certain interest representation activities (as detailed above). This may be necessary under 2 scenarios: i) when the entity has received a particularly high amount from a particular third country; or ii) when the entity is carrying out interest representation activities on behalf of a third country that has spent a significant amount on interest representation across the Union as a whole. However, it has not been possible to assess the extent to which entities within scope would be subject to such requests for records, primarily due to limited quantitative data available on the scale of interest representation conducted on behalf of third countries across the EU. As such, it has not been possible to quantify this cost item.

4.2.2.5. Summary of costs under policy option 2.1: Entities within scope

In total, the **estimated incremental costs of policy option 2 to entities conducting interest representation activities on behalf of third countries** over a 10-year time horizon can be summarised as follows:

Table 31: Policy option 2.1 – Summary of total costs to interest representation entities within scope (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Basic familiarisation costs	71,165,916.06	142,338,950.84	213,519,104.36
Extended familiarisation costs	56,949.82	142,374.54	256,274.18
Registration and information disclosure costs	6,142,119.10	7,677,648.90	9,213,178.70
Record-keeping costs	*Business as usual (BaU) – No incremental costs*		
Other costs (incl. admin sanctions, registration fees)	*No total cost estimates possible due to lack of evidence on possible frequency and actual scale of fines.*		
Total:	**77,364,984.98**	**150,158,974.28**	**222,988,557.24**

4.2.3. Policy option 2.2: Extended legislative intervention

The description of the policy options and the categorisation of costs highlights that many of the costs borne under policy option 2.1 by interest representation entities within scope will also be relevant under policy option 2.2. Concretely, this includes:

- **Basic and extended familiarisation costs**: While the provisions of the interventions under option 2.1 and 2.2 will be different, it is assumed that the time taken for familiarisation, as well as the population of entities impacted is the same for both options. Thus, the cost of both the basic and extended familiarisation activities will be the same under policy option 2.2 and under policy option 2.1.
- **Registration and information update costs**: The registration and information disclosure obligations under policy option 2.2 remain the same as under option 2.1. Therefore, the costs will also be the same.
- **Record-keeping costs**: While there are some subtle differences between the record-keeping requirements under policy options 2.1 and 2.2, they are in practice largely similar in nature. Moreover, as for policy option 2.1, these obligations could be characterised as BaU costs due to the existing importance of the information to be retained.
- **Other costs**: Entities within scope could be subject to further costs related to administrative sanctions for non-compliance, registration/application fees and additional information disclosure under the risk-based approach. For the reasons stated under option 2.1, it has not been possible to quantify these other costs.

Beyond these costs, however, entities within scope will face additional costs under policy option 2.2 that would not be borne under option 2.1. These include due costs related to the prior authorisation / licencing system.

The below table summarises the nature of the different costs to entities carrying out interest representation activities on behalf of third countries that are relevant within policy option 2.2.

Table 32: Policy option 2.2 – Summary of costs to interest representation entities within scope

Cost items – Interest representation service providers	One-off vs. recurrent	Type	Frequency	Service providers covered
Basic familiarisation costs	One-off	Implementation	Year 1	Out of scope entities
Extended familiarisation costs	One-off	Implementation	Year 1	In scope entities
Initial registration costs & new registrations per year	One-off	Administrative	Year 1 Years 2-10	In scope entities in MS without register
Initial information update costs	One-off	Administrative	Year 1	In scope entities in MS with register
Regular information provision	Recurrent	Administrative	Years 2-10	In scope entities
Establishing record-keeping processes	One-off	Implementation	Year 1	In scope entities
Implementing record-keeping processes	Recurrent	Implementation	Years 1-10	In scope entities
Prior authorisation / licencing	One-off	Administrative	Year 1	In scope entities

Given the costs for the first 3 overarching categories are the same as in policy option 2.1, the focus in this section is on the costs stemming from the prior authorisation / licencing system.

4.2.3.1. Prior authorisation/licensing system

Under the prior authorisation / licencing system, entities carrying out interest representation activities on behalf of third countries with the objective of influencing a public decision-making process would be required to apply at the Member State level for an EU-wide licence to conduct such interest representation activities.

Within the application for a licence, entities within scope would be required to submit the same information as under the registration obligations of policy option 2.1. Thus, while this could lead to hassle costs (e.g. from delaying the provision of services), the core activities, and direct costs, stemming from the prior authorisation / licencing system would be covered by the registration and information update costs detailed above.

The Better Regulation Toolbox categorises hassle costs as direct costs of regulation, stating that "hassle costs are often interpreted as 'regulatory annoyance' resulting from unnecessary waiting time, delays, redundant legal provisions, corruption, etc.", further noting that "as this category of costs is not well-defined, in most cases it is not analysed in impact assessments, evaluations and fitness checks".

In line with this description, the hassle costs identified within the context of PO2.2 are difficult to define such that quantification is possible. The primary cost foreseen is 'delaying the provision of services' due to having to wait for a licence to be granted.

While this should not prevent an entity from conducting other economic activity as it waits, it could ultimately delay payment for the services to be delivered, or even impact the business relationship with the third country on whose behalf the entity is conducting interest representation activities. However, it is not possible to quantify these costs.

Nonetheless, the system may have an indirect economic impact on entities within scope that it is not possible to quantify. While registration is necessary under option 2.1, it is a simple process with activities only required by the entities within scope before they can obtain a registration number and conduct interest representation activities on behalf of third countries. Contrastingly, the prior authorisation system to be implemented under policy options 2.2 also requires activities from national authorities – i.e. to assess an application and grant (or not) a licence to operate. The time taken from submitting an application to it being granted could negatively impact the economic capacity of the entity, for instance resulting in a concentration of contracts with entities that are already registered.

4.2.3.2. Summary of costs under policy option 2.2: Entities within scope

In total, the **estimated incremental costs of policy option 2.2 to entities conducting interest representation activities on behalf of third countries** over a 10-year time horizon can be summarised as follows:

Table 33: Policy option 2.2 – Summary of total costs to interest representation entities within scope (over 10-years)

Cost item	Low scenario (EUR)	Middle scenario (EUR)	High scenario (EUR)
Basic familiarisation costs	71,165,916.06	142,338,950.84	213,519,104.36
Extended familiarisation costs	56,949.82	142,374.54	256,274.18
Registration and information disclosure costs	6,142,119.10	7,677,648.90	9,213,178.70
Record-keeping costs	*Business as usual (BaU) – No incremental costs*		
Other costs (incl. admin sanctions, registration fees)	*No total cost estimates possible due to lack of evidence on possible frequency and actual scale of fines.*		
Prior authorisation / licencing	Covered through the registration and information update costs (above)		
Total:	**77,364,984.98**	**150,158,974.28**	**222,988,557.24**

5. Potential administrative simplification and costs savings

An analysis on the scale of potential administrative simplification and cost savings for entities conducting interest representation on behalf of third countries requires an assessment of: i) how the registration and information disclosure costs could decrease as an entity enters additional Member State markets; and ii) how these cost savings can be applied to the overall population of entities potentially working cross-border. This section first sets out the key information on this issue from the report, before discussing these additional analytical tasks.

The report presents the following information of relevance to this aim:

- Provides estimates for the potential population of entities conducting interest representation activities on behalf of third countries in the Union as well as an estimate of the proportion of entities within scope that operate cross-border.

- Indicates that entities are required to conduct the following tasks to meet the registration and information disclosure obligations: *"i) the collection of relevant information through liaison between different professionals (e.g. legal and compliance teams, delivery teams, board members); ii) the submission of that information to the register/authorities through a dedicated form/portal; and iii) any additional internal processes, such as staff training on record-keeping and retrieval."*
- Notes that entities working cross-border will likely experience cost savings related to these tasks.
- Highlights the challenges associated with quantifying cost savings in this context:
    - Limited evidence exists on the scale and nature of cross-border interest representation, including how many entities work cross-border and, where they do work cross-border, in how many and in which Member States.
    - Limited evidence on the scale and nature of the synergies that entities will experience due to the implementation of harmonised rules across the Union when operating cross-border.
    - Limited evidence on the granular breakdown of costs stemming from registration and information disclosure compliance tasks. While estimates have been provided by entities for the overall time/cost spent on compliance with registration and information disclosure obligations, this was not broken down by the specific tasks conducted (e.g. liaising with different professionals internally to collect relevant information, the act of submitting the information).
    - The fact that the costs under the baseline scenario differ based on whether a Member State already has a register. For instance, currently, entering a new market might not bring any additional registration and information disclosure costs.

On this basis, it should be clearly stated that any estimates of the scale of possible cost savings are subject to an extensive set of assumptions based on limited concrete evidence that limit the level of certainty in the accuracy and precision of the estimates.

In terms of the cost savings, the key assumption in this context is that entities conducting interest representation activities on behalf of third countries will experience synergies and thus cost savings when they enter Member State markets outside their Member State of establishment. More specifically, they will be subject to reduced administrative burden in these additional Member States stemming from:

- The need to provide exactly the same information (i.e. when operating on behalf of a given third countries in multiple Member States). In this scenario, the costs of registration and information disclosure for additional Member States would be limited solely to the submission of information as there would be no need to collect additional information.
- The need to provide different information but for the same types of information (i.e. when operating in different Member States on behalf of different third countries). In this scenario, likely minor efficiency gains would be possible, for instance, through the use of the same information recording and retrieval systems across all Member States. However, entities would still be required to conduct the same internal liaison and information collection tasks, as well as the information submission tasks.

Moreover, it is assumed that any additional costs stemming from other internal processes noted by entities, such as staff training, can be considered as business-as-usual (BaU) costs. While it is not anticipated that such costs would be significant, they would be borne in any case when moving into a new Member State market.

To develop a quantitative estimate of the potential cost savings, one would need to generate assumptions for: i) the costs associated with the granular tasks of liaison and information collection, compared with the information submission; and ii) the extent to which entities conducting interest representation activities on behalf of third countries would be subject to each of the above categories of synergies.

However, in line with the above caveats and limitations, it has not been possible to find an appropriate solution for generating these assumptions. Primarily, this is because the cost estimates currently presented for registration and information disclosure are based on evidence of the total compliance costs of entities conducting interest representation, thereby already reflecting cross-border operations (or at least engagement with multiple registers). As such, the cost estimates cannot be used as a basis on which to calculate the cost savings because, in theory, they already reflect the identified synergies.

The summary of costs and benefits in Annex 3 therefore provides benefits only in a qualitive way instead of a quantitative way.

6. Comparison of options and proportionality

Criterion	Key Questions	Indicators/Methods for comparison
Effectiveness	What would be the (quantitative and qualitative) effects of each option? Which policy option would be most effective in achieving the set objectives of the current initiative?	Comparison of expected effectiveness of each policy option against the evaluation baseline Comparison of expected effectiveness of the policy options against each other; Identification of a preferred option, where possible.
Efficiency	What would be the incurred costs and benefits under each policy option? To what extent will the costs associated with the intervention be proportionate to the benefits it is expected to generate? How proportionate will be the costs of the intervention borne by different stakeholder groups, taking into account	Comparison of potential costs and benefits borne by each stakeholder group under each policy option; Identification of a preferred option, where possible.

	the distribution of associated benefits? Which policy option would be most cost-effective?	
Coherence	To what extent is each policy option coherent with other relevant EU initiatives? To what extent is each policy option coherent with wider EU policy? To what extent is each option is contributing to establish a coherent framework by reducing the legal fragmentation across Member States?	Identification of overlaps and/or synergies between policy options and relevant initiatives; Identification of contrasts and/or discrepancies between policy options and relevant initiatives; Identification of a preferred option, where possible.
Proportionality	Does the initiative go beyond what is necessary to achieve the problem/objective satisfactorily? Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better? Is the form of Union as simple as possible, and coherent with satisfactory achievement of the objective and effective enforcement? Does the initiative create unjustified financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved? Does the Union action leave as much scope for	Ensuring that the policy approach and its intensity match the identified problem/objective.

	national decision as possible while achieving satisfactorily the objectives set? While respecting Union law, are special circumstances applying in individual Member States taken into account?	

The table in chapter 6 of the Impact Assessment should be read in vertical: '++' means positive impact of high magnitude compared to the baseline, '+' means positive impact of moderate magnitude compared to the baseline, '0' means neutral impact compared to the baseline, '-' means negative impact of moderate magnitude compared to the baseline, '- -' means negative impact of high magnitude compared to the baseline, 'n.a' means not applicable.

This table summarises the impacts of each the options with regard to both legislative and non-legislative measures considered. The table provides an overview of how the options compare. The corresponding narrative sections provide explanations as to why which option is considered better for each category.

Annex 5: Competitiveness check

1. Overview of impacts on competitiveness

Dimensions of competitiveness	Impact of the initiative (++ / +/ 0 / - / --/ n.a.)	References to sub-sections of the main report or annexes
Cost and price competitiveness	+	Sections 6.2.1.1, 6.2.1.2 & 6.2.1.3
Capacity to innovate	0	Section 6.2.1.2
International competitiveness	0	Section 6.2.4
SME competitiveness	+	Section 6.2.1.2

The table should be read in horizontally: **'++' means positive impact of high magnitude, '+' means positive impact of moderate magnitude, '0' means neutral impact, '-' means negative impact of moderate magnitude, '- -' means negative impact of high magnitude, 'n.a' means not applicable.**

2. Synthetic assessment

2.1. Cost and price competitiveness

The preferred option is expected to have a positive impact on the competitiveness, innovation and investment in cross-border interest representation activities carried out on behalf of third countries by: 1) reducing the fragmentation of the regulatory environment in the internal market and providing legal certainty to concerned entities; 2) levelling the playing field through the elimination of diverging obligations for different types of entities carrying out similar activities and 3) reducing administrative costs for entities carrying out interest representation activities on behalf of third countries, in particular compliance costs, because the initiative would reduce the need for multiple registrations.

The costs savings, better competitive environment, and the possibility to register in only 1 Member State permitted by the initiative will have positive effects on the capacity of concerned entities to expand beyond their Member State's domestic market.

It is to be noted nonetheless that some entities will only bear extra costs, in the case that they were operating in a Member State which did not have any rules on interest representation activities.

2.2. Capacity to innovate

The preferred options would only provide for proportionate (see section 6.2.3) transparency requirements and would thus have no impact on the capacity to innovate of the entities falling within their scope.

2.3. International competitiveness

The preferred option is not expected to affect international competitiveness of EU entities carrying out interest representation activities.

2.4. SME competitiveness

The proposed obligation to maintain updated registration would involve an ongoing compliance cost which could affect SMEs proportionately more than other actors. However, other elements of the proposed initiative also will result in savings that can offset those costs, in particular thanks to the simplification of the rules and the elimination of the need for multiple registration when offering services across borders. Overall, the proposed measures would increase cross-border activity for SMEs, which would have the opportunity to scale up to operate at EU level.

Annex 6: Evidence of current and potential future fragmentation in the regulation of interest representation activities across the internal market

This annex provides an overview of the evidence of fragmentation in the regulation of interest representation activities across the internal market. The detailed information contained in this annex has been extracted from the supporting study. The cut-off date is January 23.

1. Overview of transparency rules, obligations and national transparency registers on interest representation activities

One of the drivers of the lack of transparency in interest representation activities carried out on behalf of third countries is the insufficient regulation of these activities at EU and Member State level.

This sub-section first provides an analysis of the interest representation activities rules applicable in the Member States, including information on available self-regulation and guidelines adopted by the authorities, as well as any information available on draft laws in the legislative pipeline of selected Member States (including for non-profit organisations). This sub-section also specifies to what extent interest representation activities rules in Member States also apply to such activities when carried out on behalf of third countries. A comparative overview of national transparency registers for interest representation activities in place in the Member States is then provided. Information on national monitoring and enforcement is then detailed.

Overall, national rules on interest representation activities vary significantly across the Member States. While some Member States have detailed legislation on interest representation in place, others do not have any current or draft legislation.

1.1. Member State legislation on interest representation activities

While the laws of Member States do not contain specific rules on interest representation activities carried out on behalf of third countries, 16 Member States (**BE, DE, EL, ES**[254]**, FR, FI, CY, LT, HU, IE, LU, MT**[255]**, AT, PL, RO**[256]**, SI**) have legislation on interest representation activities in general, which is applicable by default to interest representation activities carried out on behalf of third countries. Transparency registers for lobbying exist in most of these Member States. The table below provides an overview (grouped by type of provision) of several common provisions found in Member State laws regulating interest representation.

[254] Regulated at regional level.

[255] While relevant provisions are found in various laws, these are not specifically addressed to lobbying by third countries and illegal activities specifically in the context of foreign influence lobbying are not defined.

[256] RO does not currently have specialized legislation regulating foreign lobbying activities, but it does have some secondary legislation concerning lobbying (although this term is not specifically used).

Overview of some common provisions, grouped by type

Provisions on interest representation	Countries
Specific legal obligation to register before undertaking interest representation activities	DE[257], IE, EL, FR, LT, LU, AT, PL, RO[258]
Public national transparency register	BE, DE, IE, EL, ES[259], FR, IT, LT, LU, NL[260], AT[261], RO, SI
Reporting/declaration requirements for registrants	CY[262], LT[263]
Entry restrictions to buildings of decision-makers	DE

In **Austria**, lobbyists are obliged to register in the Lobby Register before taking up their activities[264]. The Lobby Law provides for a differentiated system according to the type of lobbyist/entity for registration in the Lobby Register, which is useful to detail[265]. 4 types of lobbyists (Types A, B, C, D below) are foreseen and for one such type, different threshold were defined in practice[266]:

- A: Lobbying companies: a company whose business purpose includes taking on and fulfilling a lobbying mandate, even if it is not of a permanent nature. What is important is whether lobbying is part of its business and whether the company takes on lobbying assignments for a fee. This refers to lobbying assignments as defined in the Lobby Law, i.e. the direct, structured and organised exertion of influence on the public authorities.
- B: Companies that employ corporate lobbyists: Companies that do not use lobbying companies to represent their individual interests vis-à-vis the public authorities, but have this task performed by their own bodies or employees. Such employees or organs of the company are called corporate lobbyists by the Lobby Law.
- C: Self-governing bodies: a non-territorial self-governing body established by law or ordinance which looks after professional or other common interests of its members, as well as an association of self-governing bodies which looks after these interests nationwide (e.g. various chambers of commerce, professional

257 Registration is mandatory only for those lobbyists who are contacting representatives of the DE Bundestag and/or DE Federal government. In addition to the mandatory requirement of registration, the Lobby Register Act contains a long list of those who may register voluntarily.

258 There is no special transparency register related to interest representation activities carried out on behalf of third countries in RO. However, there is a Sole Register of Interests Transparency, which is a governmental online platform (website) administered by the General Secretariat of the RO Government, by means of which decision-makers register their meetings with specialised groups who manifest, of their own initiative, their interest for a certain field falling under the prerogatives of the central and/or local public administration, for the purpose of promoting a public policy initiative.

259 At the regional level.

260 The Travel Register and The Register for Side Activities are public.

261 However, access to data on clients of lobbyists and on principals of lobbyists is limited.

262 Semi-annual reports.

263 A lobbyist shall declare lobbying activities by submitting a declaration of transparent legislative processes for each draft legal act.

264 'Federal Act on Ensuring Transparency in the Exercise of Political and Economic Interests (Lobby law)' (Bundesgesetz zur Sicherung der Transparenz bei der Wahrnehmung politischer und wirtschaftlicher Interessen (Lobbying- und Interessenvertretungs-Transparenz-Gesetz – LobbyG)), 2012, available at: https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007924.

265 § 9 in conjunction with § 4 Lobby Law Vademecum to the Lobby Law (Section 6).

266 Confirmed in interviews conducted with Austrian stakeholders.

organisations and professional associations). The Lobby Law applies to such self-governing bodies only to a limited extent (e.g. no sanctions may be imposed on their employees, such as an administrative fine if they misbehave in the context of interest representation, it is up to the respective chamber to take the appropriate measures).

- D: Interest groups: an association or contractual grouping of several persons whose activities include the representation of common interests and which is neither a lobbying firm nor a self-governing body. The representatives (organs or employees) of these associations are also interest representatives according to the Lobby Law, so the same considerations as described for self-governing bodies apply here.

Total exemptions from the Lobby Act apply to political parties and to stakeholder association for example. The Act is not applicable to them if they have no employees, who are predominantly active – relative to their annual working hours – as interest representatives in this field. With this, the legislature's intention was to exempt small associations[267].

Non-compliance with the registration requirement is an offence and is sanctioned by administrative penalties: fine of up to EUR 20,000 may be imposed, in cases of repeat violations even up to EUR 60,000.

The registration obligations are also ranked in relation to which company or which institution performs the lobbying or the interest representation. Lobbying companies are subject to the most comprehensive registration obligations. Registration obligations for companies with in-house lobbyist are less far-reaching. Registration obligations require only a minimum of data for self-governing bodies and private stakeholder associations. Lobbying companies must communicate data on their lobbying contract: includes the name of their client with all key data and the task area agreed.

The Austrian Court of Audit (ACA) presented reports on the lobby register in 2019[268] established that there were a lot of gaps in the register and inaccurate information and data was not always up-to-date. A further point being raised was that not all sections of the register were open to the public, only the contracting parties of a lobbying order as well as functionaries with whom a lobbyist could come into contact had the right to inspect the register section A2 (lobbying orders from lobbying companies).The ACA criticised the fact that the responsible Ministry did not feel responsible for examining the informational value of the entries or to assess whether the obligation to register was fulfilled. No sanction imposed by the Ministry for those lobbyists who failed to comply with the obligation to register.

In **Belgium**, actors who are directly or indirectly influencing parliamentarians can register in the Lobby Register[269]. However, there are no penalties for non-compliance with the

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[267] 'The Austrian Transparency Act 2013 for Lobbying and Interest Representation', Austrian Federal Ministry of Justice, 2014, available at: https://www.bmj.gv.at/dam/jcr:99f2bda7-4e79-4e7d-8b10-975c64cf0374/report_on_the_austrian_transparency_act2013.pdf.

[268] See note 252.

[269] Article 163ter du règlement de la Chambre des Représentants du 2 octobre 2003, Chapitre IIIter, Le register des lobbies (Article 163ter of Rules of the Belgian House of Representatives of 2 October 2003, Chapter IIIter. - The register of lobbies), available at: https://www.lachambre.be/kvvcr/pdf_sections/publications/reglement/reglementFR.pdf. These regulations go beyond soft law rules of procedure because they are based on a constitutional provision on the exercise of the powers of the chambers. They are a source of public law published in the national gazette.

registration requirement, as there is no obligation to register and it is done on voluntary basis. It should be noted that Belgian MEPs are not required to mention their meetings with lobbyists.

In **Cyprus**, a law adopted in 2022[270] regulates the participation of representatives of interests (lobbyists) in public decision-making. However, interest representation activities carried out on behalf of third countries is not distinguished in the law. All interest representatives shall be registered in a Register of Lobbyists, although it is not accessible to the public. The Register is operated by the Independent Authority against Corruption. No specific threshold is set for the registrants to declare the amount of remuneration received for lobbying services or any threshold for the amount of remuneration received for each client. The registrants are obliged to submit semi-annual reports to the Authority on any involvement in a public decision-making process that took place during the preceding 6 months. These reports shall contain, inter alia, data referring to the identity of the client, the objective of the lobbying services, the timeline for the provision of the services etc.

The law also foresees several cases of offence. Particularly, the following are committing an offence:

- Any person that is involved in decision-making procedures and actions and is not registered with the Register[271];
- Anyone registered with an untrue application[272];
- A registered person that fails to report to the Authority[273];
- Anyone who submits an untrue complaint before the Authority[274].

In addition, the Authority may impose an administrative fine of up to EUR 100,000 or to suspend or withdraw the registration of the registered lobbyist when the lobbyist commits an act or omission. This holds true regardless of whether the act or omission is punishable under the provisions of Law.

In **Finland**, in November 2023, an act entered into force which aims to establish a transparency register. The purpose of the Act is to improve the transparency of decision-making and thereby prevent undue influence and to strengthen citizens' trust. The Ministry of Justice is currently preparing to also update the Act on the Openness of Government Activities. The Act lays down a registration obligation for private traders and legal persons engaged in advocacy activities and related advice as a business. Besides that, tnterest representation is currently indirectly regulated to some extent based on general legislation[275]. Particularly, provisions on administrative transparency are mainly laid down in the Act on the Openness of Government Activities. Pursuant to this Act, a public authority must, on request, provide information on public documents in its possession and, in some cases, proactively communicate them. In some cases, letters and e-mails sent and received by ministers, their political assistants and ministry officials may contain informal influence and, as documents held by public authorities, fall within the scope of the Act on

[270] Law No. 20(I) 2022, available at: http://www.cylaw.org/nomoi/enop/non-ind/2022_1_20/full.html.
[271] Subject to 1 year of imprisonment or a fine of up to EUR 10,000.
[272] Subject to 3 years of imprisonment or a fine of up to EUR 30 000.
[273] Imprisonment not more than 6 months or a fine not exceeding EUR 5 000.
[274] Imprisonment or fine.
[275] Such as the Civil Service Act, the framework formed by the Act on the Openness of Government Activities and the Administrative Procedure Act, as well as the administrative regulations, such as the guidelines for consultation on legislative drafting.

the Openness of Government Activities unless they are internal work between civil servants.

A registration requirement exists also in **France**, where, inter alia, interest representatives have to provide information on the resources devoted to interest representation activities. This platform is the Directory of the High Authority for the Transparency of Public Life (HATVP).

A requirement to register with the Lobby Register exists also in **Germany**. Registration is mandatory only for those lobbyists who are contacting representatives of the German Bundestag and/or German Federal government. In addition to the mandatory requirement of registration, the Lobby Register Act[276] contains a long list of those who may register voluntarily. In addition, the entry into the Bundestag is limited for lobbyists: for instance, only the registered lobbyists with up-to-date data on the Register have the possibility to participate in public hearings of committees as respondents. The provision of incorrect or incomplete information at registration, the failure to register in time and the failure to update the information are offences punishable by a fine. Notably, to ensure transparency in every contact with representatives of the German Bundestag or Federal government, in addition to disclosing their (or their principal's) identity and request when interacting with the abovementioned public officials, lobbyists must indicate that they are registered in the lobby register and name the code of conduct on the basis of which they act.

In **Greece**, there is an obligation for lobbyists to register with the National Transparency Authority's (NTA) Register. The NTA has the power to conduct audits, adopt a code of conduct for the registered lobbyists, and investigate any complaints for potential violations. In case of violation, the NTA has the power to impose sanctions ranging from corrective action notices, to fines from EUR 5,000-20,000 or even suspension of the right to exercise lobbying activities and temporary/permanent exclusion from the Register.

In **Hungary**, the sector was regulated by Act XLIX of 2006 on lobbying (which included provisions on a lobbying register). This was repealed and replaced in 2010 by Act CXXXI on public participation in the preparation of legislation[277]. The act regulates 'direct negotiations'. In this framework, the minister creates 'strategic partnerships' with organisations ready to provide reciprocal cooperation and which represent wider social interests. According to this act, the existence of such strategic partnerships must be public, while the written opinions/views of strategic partner organisations must be made public only to the parliamentary committee responsible for the legislative proposal, if the committee requests it. Furthermore, a memo including the views of the strategic partner must be made for in-person negotiations with strategic partners. These memos must be published on the website operated by the Minister of Justice. Nevertheless, interest representation carried out on behalf of third countries is not mentioned in this act.

In **Ireland**, the relevant legislation[278] does not explicitly specify whether it is applicable to cases of foreign lobbying. Nonetheless, it should be noted that "communications by or on behalf of a country or territory other than the State" are "excepted communications" (i.e.

[276] Vis-à-vis the German Bundestag and vis-à-vis the Federal Government (Lobby Register Act) (Gesetz zur Einführung eines Lobbyregisters für die Interessenvertretung gegenüber dem Deutschen Bundestag und gegenüber der Bundesregierung (Lobbyregistergesetz - LobbyRG)), 2021, available at: http://www.gesetze-im-internet.de/lobbyrg/BJNR081800021.html.

[277] Act CXXXI on public participation in the preparation of legislation, 2010, available at: https://net.jogtar.hu/jogszabaly?docid=a1000131.tv.

[278] Regulation of Lobbying Act 2015, available at: https://revisedacts.lawreform.ie/eli/2015/act/5/revised/en/html.

are not deemed lobbying activities). The main gap left by the Act is the lack of regulation over the lobbying of Irish public officials taking place outside of Ireland[279]. Similarly to the abovementioned Member States, Ireland also has a Register of Lobbying, where lobbyists are obliged to register before carrying out lobbying activities.

The Register is available free of charge on a website (save for personal data) maintained or used by the Standards in Public Office Commission (SIPO), which establishes and maintains the Register. According to an interview conducted with SIPO, the system works with 2,400 registrants at the moment.

In addition, under the Lobbying Act of 2015, the following are considered offences:

- Failing to register as a lobbyist;
- Failing to make a return by the deadline;
- Providing SIPO with inaccurate or misleading information;
- Failing to co-operate with an officer who is investigating possible contraventions;
- Obstructing an investigation;
- Committing these offences can result in a fine or imprisonment of up to 2 years.

The **Lithuanian** legislation[280] contains general restrictions on lobbying (albeit not specifically on foreign lobbying). Particularly, only persons on the List of Lobbyists shall have the right to carry out lobbying activities. Moreover, a lobbyist shall declare lobbying activities by submitting a declaration of transparent legislative processes for each draft legal act. Therefore, lobbying activities shall be considered illegal if (i) a lobbyist has failed to declare lobbying activities or (ii) a person, who is not on the List of Lobbyists, carries out lobbying activities. The Register is available publicly (in Lithuanian) on the website of the Chief Official Ethics Commission. Lobbying activities in violation of the requirements of the Law on Lobbying Activities shall be punishable by a fine of EUR 1000-4500[281].

In **Luxembourg**, any legal or natural person representing a third party or mandated by a third party and acting on behalf of the latter or for himself or herself wishing to contact Members with a view to influencing in any way their legislative work or the decision-making process of the Chamber of Deputies (Lower House of the Parliament) must, prior to any organised contact, register on the transparency register which is published on the Chamber's website (available to the public). Without such registration, there can be no organised contact with Members to influence their legislative work or the decision-making process of the Lower House.

While there is no specific legislation on lobbying in **Malta**, relevant provisions can be found in various laws. Trading in influence is a criminal offence under Article 121A of the Criminal Code. Moreover, the General Elections Act expressly provides for undue influence as one type of corrupt practice under the Act. The Standards in Public Life Act

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279 The counterargument to this has been that the onus should be on the lobbyists to register their activities. However, that cannot be enforced when the lobbying takes place outside of the territory of Ireland. Therefore, regulating this gap would require placing the onus on the public officials, which was not agreed upon by the legislators. In these situations, "international lobbyists are merely encouraged to disclose such information, without any legal obligations." See M Reilly, 'What the Irish Regulation of Lobbying Act 2015 has failed to tackle' *Regulating Lobbying*, available at: https://sites.google.com/view/regulating-lobbying/home/work-of-colleagues/the-curious-case-of-international-lobbying. However, guidance has been adopted to address this issue: see "How does the Act apply to communications that take place outside of Ireland?", available at the following link: https://www.lobbying.ie/media/6262/frequently-asked-questions-june.pdf.

280 Law Amending the Law on Lobbying Activities No. VIII-1749 of the Republic of Lithuania, 2020, available at: https://vtek.lt/wp-content/uploads/2021/06/EN_Law_on_Lobbying_Activities_2021.docx.

281 Article 14(1)(2) of the Law on Lobbying Activities of the Republic of Lithuania, available at: https://vtek.lt/wp-content/uploads/2021/06/EN_Law_on_Lobbying_Activities_2021.docx.

provides for the appointment of a Commissioner for Standards in Public Life and a Standing Committee on Standards in Public Life with power to investigate breaches of statutory or ethical duties of categories of persons in public life matters. The Act applies to members of the House of Representatives including Ministers, Parliamentary Secretaries and Parliamentary Assistants and 'persons of trust' (Article 3(1) of the Act). A 'person of trust' is defined in Article 2 of the Act as: any employee or person engaged directly from outside the public service and the public sector to act as consultant or staff in the private secretariat of a Minister or a Parliamentary Secretary; or a person engaged when a post remains vacant following repetitive public calls for engagement; or a person who has been engaged by a Minister or Parliamentary Secretary as a person of trust.

In **Poland**, the Exercise of Legislative Initiative by Citizens Act stipulates that a committee may not cover the expenses related to the exercise of a legislative initiative with funds (and, accordingly, non-monetary values) coming from:

- natural persons not residing in the territory of the Republic of Poland, excluding Polish citizens residing abroad;
- foreigners residing in the territory of the Republic of Poland;
- legal persons not residing in the territory of the Republic of Poland;
- other entities not domiciled in the Republic of Poland, capable of undertaking obligations and acquiring rights on their own behalf;
- legal persons with foreign participation;
- foreign diplomatic representations, consular offices, special missions and international organisations, as well as other foreign representations enjoying diplomatic and consular immunities and privileges under agreements, laws or commonly established international customs.

The Lobbying Act[282] stipulates that a public register of entities performing professional lobbying activity is kept in the law-making process. Professional lobbying activity may be carried out after obtaining an entry in the register.

In **Romania**, there is secondary legislation concerning lobbying. Particularly, there are minimum transparency rules concerning the recommended framework of cooperation between decision-makers at the level of central and local public administration authorities and interested persons in civil society and specialized groups for the purpose of promoting public policy initiatives. In addition, the Sole Register of Interests Transparency (Registrul unic al transparenţei intereselor, RUTI) is the relevant transparency register for lobbying.

In **Slovenia**, lobbying is regulated by strict provisions in the Integrity and Prevention of Corruption Act. Foreign lobbying is allowed in Slovenia on the condition that the lobbyist is registered in the Register of Lobbyists. The Register is maintained by the Commission for the Prevention of Corruption. Notably, the persons lobbied may agree to have contact with the lobbyist only after verifying whether the lobbyist is entered in the register of lobbyists. If, during contact with a particular lobbyist, a conflict of interest arises on the part of the person lobbied, the person lobbied shall refuse any further contact with the lobbyist. At every contact with a lobbyist, the person lobbied shall make a record containing detailed information about the lobbyist.

Spain does not currently have legislation at state level. However, at regional level, some Spanish regions have regional rules regulating the "activity of interest groups."

[282] Act of 7 July 2005 on lobbying activities in the law-making process (OJ 2005 No. 169, item 1414, i.e. OJ 2017 No. 248), available at: https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20051691414.

1.2. National obligations on intermediaries in the context of interest representation activities

There are no rules directly focused on the role of intermediaries in the context of lobbying. However, 3 Member States' laws (**DE, IT, FI**) mention intermediaries that can be relevant to lobbying. In Germany, as noted earlier, the Lobby Register Act contains a list of actors who may register voluntarily in the Register. This list includes "intermediary organisations in foreign cultural and educational policy, insofar as they are institutionally supported with funds from the (German) Federal budget." In Finland, the Accounting Act and the Auditing Act read together with the Act on the Prevention of Money Laundering and Terrorist Financing can contain obligations for intermediaries in certain cases. Similarly, the anti-money laundering legislative framework in **Italy** imposes obligations on intermediaries[283].

1.3. Draft laws/proposals on interest representation activities

According to the supporting study, in January 2023, draft legislation related to lobbying was in discussion in 11 Member States (**BE, BG, CZ, IE, ES, IT, LV, MT, NL, PL, SK**).

The fourth edition of the Rule of Law Report issued by the Commission in July 2023 also contains information on recent development on the regulation of lobbying activities in the Member States.

More information is provided in Annex D of the supporting study.

1.4. Draft laws/proposals on transparency on (foreign) funding of non-profit organisations

According to the supporting study, in January 2023, specific regulations were considered on transparency on (foreign) funding of non-profit organisations in the Netherlands and Poland. Since then, other Member States (**SK** and **HU**) have announced new measures.

More information is provided in Annex D of the supporting study.

1.5. Codes of conduct on interest representation activities

Codes of conduct on lobbying are available in 11 Member States (**DE, IE, ES, HR, LV, MT, NL, AT, RO, SI, FI**). These codes are adopted by public authorities or by private entities. An overview is provided in the table below, with further details provided in the text.

Overview of codes of conduct in Member States based on the adopting entity

Adopting entity	Member States
Codes of conducts adopted by public authorities (including codes contained in laws and orders of public authorities)	DE, IE, ES[284], MT, NL, RO, FI.

[283] The legislative framework includes Legislative Decree No. 231 of November 21, 2007, most recently amended by Legislative Decree No. 125 of October 4, 2019, and the relevant implementing provisions issued by the Minister of Economy and Finance, the Financial Intelligence Unit for Italy, and the sector supervisory authorities.

[284] At the regional level in Valencia.

Adopting entity	Member States
Codes of conducts adopted by organisations / companies	DE[285], AT[286], HR[287], LV[288], SI[289]

The **Austrian** legislation requires that each lobbying company or a company that engages lobbyists to adopt its own code of conduct. Every company registered in the lobbying register should have such a code that should be available on its website. These codes of conduct include a range of due diligence rules for lobbyists towards politicians.

In **Croatia**, lobbying organisations are often registered as consulting companies or business advisors. In this light, it should be noted that some consultants have registered with the Croatian Chamber of Commerce as the 'Association of Business advisors', which includes some lobbying organisations. The Chamber has issued a Catalogue of Advisory Services,[290] which contains a Code of Ethics in business. However, this document does not contain guidelines in respect of (foreign) funding.

The self-regulation of lobbing in **Finland** is mostly sectoral and voluntary. Meanwhile, the Code of Conduct for civil servants and persons entrusted with top executive functions, which consolidates existing guidelines, was published in May 2021[291].

The Lobby Register Act in **Germany** requires that the Bundestag and the Federal government, with civil society, prepare and adopt a code of conduct for lobbyists. This Code was adopted in June 2021 and has been in force since 1 January 2022. It largely reiterates the provisions of the Lobby Register Act. In addition to this, some companies and associations also have internal codes of conduct for lobbying activities[292]. Moreover, some companies are members of the German Association of Policy Consulting[293], which has its own code of conduct[294], and participating companies adhere to this code[295].

In **Ireland**, the Standards in Public Office Commission has adopted a Code of Conduct[296], which sets out several principles by which persons carrying out lobbying activities should govern themselves. The Code of Conduct elaborates on the principles in separate sections/chapters[297] and should apply to all communications with persons in public office.

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285 Some companies are members of the German Association of Policy Consulting, which has its own code of conduct, and participating companies adhere to this code.

286 Each lobbying company or a company that engages lobbyists is required to adopt its own code of conduct.

287 Some of the lobbying organisations which are formed as consultants are registered with the Croatian Chamber of Commerce. The Chamber has issued a Catalogue of Advisory Services, which contains a Code of Ethics in business, although does not contain guidelines in respect of (foreign) funding.

288 Some organisations have such codes but may have not addressed how to engage with public officials in terms of participation in decision-making processes.

289 Lobbyist organisations can adopt codes of ethics.

290 Catalogue of Advisory Services, Croatian Chamber of Commerce, available at https://www.hgk.hr/documents/hgk-katalog-savjetodavnih-usluga-zajednice-poslovnih-savjetnika-drugo-izdanje596737316fb04.pdf.

291 Code of Conduct for administration, available at: https://julkaisut.valtioneuvosto.fi/handle/10024/163089.

292 Examples include the law firm Taylor Wessing (https://www.taylorwessing.com/de/about-us/lobbyregister-deutschland), the association of real estate industry ZIA Central Real Estate Committee (https://zia-deutschland.de/project/verhaltenskodex-des-zia-im-rahmen-des-lobby-und-transparenzregisters/), and the multinational company Bayer (https://www.bayer.com/de/nachhaltigkeit/unsere-richtlinien-fuer-verantwortungsbewusste-interessenvertretung).

293 De'ge'pol - Deutsche Gesellschaft für Politikberatung e.V.

294 Code of Conduct, available at: https://www.degepol.de/ethik-t.

295 For example, the bank ING (https://www.ing.de/ueber-uns/menschen/positionen/).

296 Standards in Public Office Commission, 'Code of Conduct for persons carrying on lobbying activities', published in 2018 and in force from 1 January 2019, available at: https://www.lobbying.ie/media/6119/code-of-conduct-english-final-version-for-web.pdf.

297 These principles are: 1. Demonstrating respect for public bodies; 2. Acting with honesty and integrity; 3. Ensuring accuracy of information; 4. Disclosure of identity and purpose of lobbying activities; 5. Preserving confidentiality;

Among their obligations on identification, the lobbyists also "must not conceal or try to conceal the identity of a client, business or organisation whose interests they are representing." Moreover, a person carrying out lobbying activities should always the elected or appointed public official of any personal interests they may have in the matter. In addition, Chapter 6 on the principle of avoiding improper influence stipulates that a person who is carrying out lobbying activities should not "seek to create a sense of obligation on the part of the elected or appointed official by making any offer of gifts or hospitality." Moreover, such a person should not seek to influence an elected or appointed public official "other than by providing evidence, information, arguments and experiences which support their lobbying activities."

In **Latvia**, most organisations currently lack applicable codes of conduct/ethics, while many of those that do have such codes have not addressed how to engage with public officials in terms of participation in decision-making processes.

The First and Second Schedules to the **Maltese** Standards in Public Life Act contain Codes of Ethics applicable to members of the House of Representatives and to Ministers, Parliamentary Secretaries and Parliamentary Assistants respectively. The codes, inter alia, (i) prohibit members of the House of Representatives to receive any remuneration or compensation for their work, except for their official remuneration, (ii) prohibits them from using any improper influence, threats or undue pressure in the course of their duties, (iii) prohibits Ministers, Parliamentary Secretaries and Parliamentary Assistants from putting themselves in a position of being influenced by a financial obligation or otherwise of persons or organizations that try to do so, or making improper use of information that comes to their knowledge because of their office to give undue advantage to someone whilst disadvantaging others, (iv) prohibits acceptance of any decoration from foreign countries, except with the Prime Minister's permission.

In **the Netherlands**, the sector of lobbying is regulated by the Code of Conduct for Members of the House of Representatives[298], which in Rules 1 and 2 states that in their relations with lobbyists, "members should always be aware of their independent position and the duties that the Constitution assigns to them." The Rules also state that although for some degree of information lobbyists are important, "a degree of distance must always be maintained from lobbyists. A member must therefore refrain from making promises in the event of an offer from a lobbyist (not being information) about certain actions." Notably, foreign trips paid for in whole or in part by lobbyists are also deemed offers. The Code stresses that a lobbyist "should be understood broadly" and may include "not only persons working for lobbying firms, but also others who approach a Member of Parliament to stand up for particular interests." Furthermore, Members of the House of Representatives "must declare their outside activities and income, interests that can reasonably be regarded as relevant, foreign travel whose transportation and accommodation expenses were paid in whole or partially paid by third parties, including lobbyists, and gifts and benefits that exceed an amount of EUR 50 in excess[299]".

In addition, a Code of Conduct for the Senate obliges Senate Members to "guard against improper influence" and maintain transparency when engaging with third parties. The explanation to Article 3 of the Code specifically stipulates that "Members of the Senate are expected to be transparent about their contacts with third parties, including foreign

6. Avoiding improper influence; 7. Observing the provisions of the Regulation of Lobbying Act; and 8. Having regard to the Code of Conduct.

298 Code of Conduct for Members of the House of Representatives, rules of conduct 1 and 2, available at: https://www.tweedekamer.nl/sites/default/files/atoms/files/gedragscode_leden_-_maart_2021.pdf.

299 See note 298, rule of conduct 3.

entities." The explanation, however, adds that not all such contacts must be registered and made public, justifying the lack of a lobby register (called "active disclosure" in the explanation) by the lack of feasibility due to the large number of contacts maintained by the Members. Nonetheless, "if asked, members should disclose what contacts they have had with third parties regarding certain files" (called "passive disclosure" in the explanation).

It should be noted that a gift register is established "in which members shall record gifts received by them in their capacity as members of the Chamber with a value greater than EUR 50, not later than1 week after receiving the gift[300]". This register should be available for inspection by anyone.

Lastly, there is a Handbook for government officials, also called the "blue book[301]" which stipulates that for a period of 2 years after their resignation, former ministers and other government officials are not allowed to lobby employees of their former ministry on behalf of a company, semi-public organisation or a lobbying organisation representing interests in the former minister's policy area.

The largest professional association for lobbyists in the Netherlands, the Professional Association for Public Affairs[302], has its own Code of Conduct, which contains rules of conduct regarding transparency, integrity, and conflicts of interest. The government calls on lobbyists to join and acknowledge this Code of Conduct[303]. The Code applies to all members of the Association, is public and reviewable. Nonetheless, it should be noted that it does not contain rules related to interest representation activities carried out on behalf of third countries specifically.

In **Romania**, Order no. 1056/2022 of the General Secretariat of the Romanian Government also includes, in its Annex 2, a code of conduct for specialized groups participating in meetings with decision-makers. It includes transparency, ethics and responsibility rules to be respected by specialised groups in their relations with decision-makers[304].

In **Slovenia**, Article 57 of the Integrity and Prevention of Corruption Act[305] gives lobbyist organisations the right to adopt codes of professional ethics. They summarise the provisions of the Integrity and Prevention of Corruption Act or uphold, in very general terms, the importance of integrity and prevention of corruption in Slovenia.

At the regional level in **Spain**, the region of Valencia regulates lobbying by, inter alia, setting out a code of conduct that interest groups must meet[306].

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300 Code of Conduct for Senate Integrity, article 3, available at: https://wetten.overheid.nl/BWBR0042225/2019-06-11.

301 Handbook for government officials, or the blue book, paragraph 6.2.2, available at: https://open.overheid.nl/repository/ronl-a594769961105e6f150dc7b2726729961fa404ec/1/pdf/handboek-voor-bewindspersonen.pdf.

302 In Dutch, 'Beroepsvereniging voor Public Affairs' (BVPA).

303 3559 Questions by the members Van Baarle (DENK) and Sneller (D66) to the Minister of Internal Affairs on the report that the Netherlands would fall far behind with rules for lobbyists would fall far behind (submitted May 28, 2021), available at: https://zoek.officielebekendmakingen.nl/ah-tk-20202021-3559.pdf. Reply by Minister Ollongren (Internal Affairs) (received July 13, 2021).

304 Example of these rules are: the obligation to declare their interests, objectives and purposes and to clarify who are the clients or members that they represent in the meeting; the obligation not to obtain or to seek to obtain information or to persuade public decision-makers by the use of illicit means.

305 Text in English available at: https://www.kpk-rs.si/en/wp-content/uploads/sites/2/2021/03/ZintPK-ENG-3.pdf).

306 Article 12 of Law 25/2018, of 10 December, regulating the activity of interest group groups of the Region of Valencia, available at: https://www.boe.es/buscar/act.php?id=BOE-A-2019-967.

1.6. Guidelines on interest representation activities/ interest representation activities carried out on behalf of third countries

Only **Estonia** and **France** have Guidelines adopted by public authorities which to some extent are relevant for the transparency interest representation activities. In 2021, the **Estonian** government adopted the document on "Good Practice in Communicating with Lobbyists for Official[307]". According to the Good Practice, "information on the meetings that have taken place is published on the websites of authorities on a quarterly basis." In contrast, in Denmark, the access to diaries/calendars of Ministers in office is specifically exempt from the right to access to information[308]. In **France**, the only relevant guidelines on the topic are the ones issued by the High Authority for the Transparency of Public Life (HATVP) on the Directory of Interest Representatives.

1.7. Member States with no regulation of the issue

4 Member States (**DK, HR, PT, SE**) do not have legislation, self-regulation or guidelines related to lobbying.

In **Croatia**, there is no draft law as of November 2023. However, the Croatian Association of Lobbyists is hoping that a law will be adopted in the course of 2023. The lack of regulation of the topic and the lack of transparency has been raised as a concern from various sides in **Denmark**. A draft legislation was proposed in **Portugal** in 2018[309]. However since then the Parliament was dissolved in 2022 and the proposal was left aside, with no discussions on it as of November 2023. Lobbying generally is not regulated in **Sweden**, save for recent rules imposing quarantine on ministers and secretaries of state to work in the private sector[310]. Calls for introducing a transparency register for lobbying in the country are regularly dismissed in the name of the freedom of opinion.

2. Transparency registers related to interest representation activities

This sub-section provides a comparative analysis of transparency registers related to interest representation activities, taking into consideration specific rules on interest representation activities carried out on behalf of third countries. More precisely, the analysis focuses on Member State rules on reporting and due diligence requirements towards interest representatives as well as on required thresholds for transparency registers. Applicable monitoring rules and sanctions for non-compliance are also analysed. Similarities and divergences across Member State rules are discussed. The below table provides a brief overview of the most significant findings under this sub-chapter.

Overview of main findings regarding transparency registers

Transparency register approaches	Countries
15 Member States with transparency register related to interest representation **(No Member State with transparency register specifically related to interest**	BE, CY, DE, IE, EL, ES, FR, IT, LT, LU, NL, AT, RO, SI, FI.

[307] Good Practice in Communicating with Lobbyists for Officials, Approved by the decision of the Government of the Republic of Estonia of 18 March 2021, available at: https://www.korruptsioon.ee/sites/www.korruptsioon.ee/files/elfinder/dokumendid/good_practice_in_communicating_with_lobbyists_for_officials_0.pdf.

[308] § 22 of the Act on Access to Information.

[309] Available at: https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalheIniciativa.aspx? BID=43223.

[310] The Act on Restrictions for Ministers and Secretaries of State to take up positions in the Private Sector 2018:676.

Transparency register approaches	Countries
representation activities carried out on behalf of third countries)	
8 Member States with mandatory transparency registers	DE, ES, FR, CY, LU, NL, AT, RO

2.1. Scope of transparency registers

12 Member States (**BG, CZ, DK, EE, HR, LV, HU, MT, PL, PT, SK, SE**) do not have a transparency register covering interest representation activities and/or do not have specific rules on interest representation activities carried out on behalf of third countries.

15 Member States (**BE, DE, IE, EL, ES, FI, FR, IT, CY, LT, LU, NL, AT, RO, SI**) have a form of transparency register in place to monitor interest representation activities. **Belgium** has a transparency register at federal level, and not on the level of its regions and communities. **Spain** has transparency registers in place only in certain regions[311], but a draft national level law is in the legislative pipeline[312].

The scope of rules related to transparency registers in the Member States where such transparency registers exist show some similarities.

The actors required to register are usually formulated in general terms (**DE, IE, ES, IT, CY, LT, LU, RO, SI**). In other words, natural and legal persons conducting lobbying activities have an obligation to register themselves as lobbyists (sometime national laws refer to lobbyists as interest representatives). In 5 Member States (**BE, IE, FR, NL, AT**) more precise rules exist on the personal scope for registering:

- In **Austria**: 4 types of lobbyists (Types A, B, C, D as explained above) are obliged to register;
- In **Belgium**, the Rules of the House of Representatives specify the entities that are obliged to register. The list includes, for example, specialised law firms, NGOs and think tanks;
- In **France**, the Act on Transparency, Action against Corruption and Modernisation of Economic Life (Law Sapin II) lays down that interest representatives must register. The law defines who can be regarded as an interest representative (for example, certain actors under the Commercial Code);
- In **Ireland**, different groups of lobbyists are required to register (interest body, advocacy body, professional lobbyist, any person communicating about the development or zoning of land);
- In **the Netherlands**, 3 groups are defined who need to register in the public register of lobbyists: public affairs and public relations employees; agency representatives of CSOs; and representatives of municipalities and provinces. At this point, it is noted that further registers exist for parliamentarians, namely a travel register (for example it includes information on who bore the accommodation costs of a certain trip), a register of side activities (for example includes information on income of ancillary activities exercised by a

311 In the following regions: Aragon, Asturias, Castilla-La Mancha, Catalonia, Madrid, Navarre and Valencia.

312 Draft Law on the Transparency and Integrity in the Activities of Interest Groups, available at: https://www.hacienda.gob.es/Documentacion/Publico/NormativaDoctrina/Proyectos/Ley-Transparencia-Ley-NT8-11-22-1.pdf.

parliamentarian) and gift registers for the House of Representatives and for the Senate (includes information on gifts of parliamentarians received from third parties).

No Member State legislation with a transparency register in force distinguishes between domestic and foreign lobbyists. The existing rules apply to interest representatives regardless of their domestic or foreign nature and no specific provisions applicable to interest representation activities carried out on behalf of third countries exist. Similarly, Member State laws do not require registrants to distinguish between sources of domestic or foreign origin.

Furthermore, the definition of lobbying activities varies by Member State. The common denominator is that lobbying activities cover activities aimed at influencing public decision-making processes. 3 Member States (**DE, LU, NL**) have a more restrictive approach, as they narrow down the regulation of lobbying activities to the scope of contacting members of the government and/or the parliament.

2.2. Registration process and IT solution used

In 8 Member States (**DE, ES**[313]**, FR, CY LU, NL, AT, RO**) with an existing transparency register, registering for lobbyists is mandatory (as mentioned earlier, this is primarily an obligation for the state authorities in Romania). It should be noted that Germany keeps the option for voluntary registration for certain actors (e.g. for religious communities). In 2 Member States (**BE, IT**) registration is voluntary.

Information regarding the IT solutions used for the registration process is limited in 3 Member States (**EL, ES, CY**).

In most Member States with a transparency register for lobbying activities, the registration of interest representatives takes place online, through a website. An exception is **the Netherlands**, where lobbyists wishing to be registered in the transparency register need to pick up a form at the State Passes Service Desk of the House of Representatives (these forms then can be submitted after they are filled out and the data provided is made publicly available online). In the other Member States, where the registration is online, the websites for registering are operated by various bodies:

- In 3 Member States (**BE, DE, LU**), the website is maintained by the (federal) parliament;
- In 3 Member States (**IT, AT, RO**) the website is maintained by the government;
- In 6 Member States (**IE, EL, FR, CY, LT, SI**) the website is maintained by a certain state body (e.g. by the National Transparency Authority in Greece).

As part of the registration process, most Member States require a specific online form (or questionnaire) to be filled out and submitted, accessible on the website. However, in 2 Member States (**LU, RO**) specific rules are in place:

- In **Luxembourg**, registration can take place once a lobbyist has sent an email with relevant data requesting registration to the Chamber of Deputies. The Chamber of Deputies operates a specific email address[314] for such requests. An Excel file is accessible on the website of the parliament, which contains specific information on registered lobbyists.

[313] In Valencia, mandatory registration for interest groups contacting regional administration.
[314] The request must be sent to the following email address: registredetransparence@chd.lu

- In **Romania**, the registration process is in inverse compared to other Member States. This means that decision-makers must administer contacts prior to a meeting with lobbyists into the online transparency register (RUTI), the platform operated by the government. Lobbyists are obliged to provide necessary data to the state representatives.

Moreover, as part of the IT solution, 4 Member States (**DE, IE, IT, LT**) require the creation of an account on their website before registering. In 7 Member States (**BE, EL, FR, CY, LU, NL, AT**) an account is not required to complete the registration process.

In addition, 3 Member States (**FR, RO, SI**) have more detailed provisions related to the registration process:

- In **France**, lobbyists must complete registration no later than 2 months after the date the entity meets the conditions to be regarded as an interest representative;

- In **Romania**, registration by the authorities in the RUTI must be completed at least 48 hours before the meeting with lobbyists takes place.

- In **Slovenia**, following an application by the interest representative, the authority (Commission for the Prevention of Corruption) sends a confirmation form to the applicant, which must be returned by the lobbyist within 8 days. Following the receipt of the application form, the authority makes a decision within 15 days. A fee is charged for the entry into the transparency register.

2.3. Data required

In terms of data required for transparency registers, Member States with such an instrument in force show **similarities**.

The most recurring data required by transparency registers are the following:

- 12 Member States (**BE, DE, IE, EL, FR, IT, LT, LU, NL, AT, RO, SI**) require identification data of interest representatives (e.g. name of the lobbyist).

- 10 Member States (**BE, DE, IE, EL, FR, IT, LT, LU, AT, SI**) oblige lobbyists to provide information on the policy field in which they pursue interest representation of clients.

- 8 Member States (**BE, DE, EL, FR, IT, LU, NL, AT**) request specific information on the client represented by the lobbyist (e.g. name of the client).

- 5 Member States (**DE, ES[315], FR, IT, AT**) ask for information on the (annual) budget/expenditure from entities conducting lobbying activities, while **SI** requests information on payments received from interest groups for each matter concerned.

No data is available on what type of information should be provided **in Cyprus** when registering.

Beyond these similar rules, 5 Member States (**DE, FR, AT, RO, SI**) have specific rules on types of data necessary to be included in their transparency registers:

[315] In regions of ES with a transparency register, interest representatives must provide financial information. However, in Valencia, data specifically on received funding is required.

- In **Austria**, legislation differentiates 4 types of lobbyists (lobbying company acting on behalf of others; lobbying company acting in their own interest; interest group; self-governing body) which provide different data when registering. For example, lobbying companies need to declare their turnover and the number of their contracts, while interest groups and self-governing bodies need to share information on their total budget for lobbying (certified by an auditor).

- In **Germany**, individual donations and grants from the public sector exceeding EUR 20,000, as well as individual gifts from third parties over EUR 20,000 are to be announced by lobbyists. In addition, data on the number of employees of a lobbyist is necessary to add into the register.

- In **France**, expenditure related to interest representation activities must be provided (broken down by human and financial resources mobilised for lobbying activities). The expenses must be communicated by indicating various ranges (e.g. expenses between EUR 10,000 and EUR 25,000). Furthermore, information on all interest representation actions aimed at influencing decision-making need to be forwarded, as well as data on the number of staff employed annually.

- In **Romania**, the authority registers information related to meetings between lobbyists and authorities, including the date and format of the meeting, as well as names of all the participants in such a meeting.

- In **Slovenia**, data on the amount of payment received from interest groups must be provided by the lobbyist (in case lobbying activities are part of a service contract, the value of the contract must be stated). Furthermore, certain provisions exist regarding foreign lobbyists. On the one hand, foreign lobbyists must hand in officially translated documents for the registration to be approved. On the other hand, foreign natural persons acting as lobbyist can be registered, if proven (with an extract from the transparency register) that they act in the interest of a registered lobbying entity (except if they are an employee or legal representative of an interest group).

The data of transparency registers on lobbying is made public on websites of Member State authorities in most Member States (**BE, DE, IE, ES, FR, IT, LT, LU, NL, AT, RO, SI**). In 2 Member States (**EL, CY**), the data is not publicly available. In the Member States where transparency registers are publicly accessible, certain restrictions exist. In **Austria**, data related to clients of lobbyists is limited. In **Germany**, some pieces of personal data in the register are not public. In **Slovenia**, the tax ID number of lobbyists is not accessible.

2.4. Applicable thresholds for registration

Concerning applicable thresholds, 10 Member States (**BE, IE, EL, ES, CY, LT, LU, NL, RO, SI**) do not have such thresholds in place. In the remaining 5 Member States (**DE, IE, FR, NL, AT**), various rules on thresholds are in place. The thresholds are either purely financial (**FR, NL**) or it is based on non-financial thresholds such as frequency of contacts, the number of employees, or the time dedicated to lobbying activities. These types of thresholds are presented below:

- In **Austria**, what is interesting to note is that applicable thresholds differ according to the type of lobbyist:

    - The Act provides a threshold for company lobbyist: When determining whether an employee, including directors, board etc, is a corporate lobbyist,

lobbying must be "more than minor duty" which was defined as more than 5% of the total working time.

- For advocacy groups, 1 employee has to spend at least 15% of their time conducting lobbying activities (it must be an employee of the advocacy group, not e.g., its president).

- In **Germany**, legislation lays down that in case a certain condition is met, the obligation to register is established. These thresholds are non-conjunctive (i.e. if1 of the 4 stands, the obligation is present). 2 out of 4 obligations are related to the frequency of lobbying activity (lobbying is carried out regularly, or carried out on a permanent basis). Another condition that can create the obligation is when the lobbying activity has a commercial nature. Also, a lobbyist must be registered in case such activity was conducted with 50 different contacts in 3 consecutive months. This last condition ensures that the registration obligation is not circumvented by non-regular or non-permanent activities. Furthermore, as already mentioned on the previous page, financial thresholds to provide data on individual donations, grants and gifts exceeding a certain amount exist in German federal legislation.
- In **France**, financial thresholds exist in relation to turnover to be declared and annual expenditure. The range for turnover is to be declared indicating an approximate, between various ranges (indicated in increments), as mentioned earlier under the previous sub-heading.
- In **Ireland**, persons who are carrying on lobbying activities are required to register, if they meet all the following conditions:
  - They are communicating either directly or indirectly with a "Designated Public Official"; and
  - That communication is about "a relevant matter"; and
  - That communication is not specifically exempted; and
  - They are one of the following:
    - An employer with more than 10 employees where the communications are made on the employer's behalf.
    - A representative body with at least 1 employee communicating on behalf of its members and the communication is made by a paid employee or paid office holder of the body.
    - An advocacy body with at least 1 employee that exists primarily to take up particular issues and a paid employee or paid office holder of the body is communicating on such issues.
    - A professional lobbyist being paid to communicate on behalf of a client (where the client is an employer of more than 10 full time employees or is a representative body or an advocacy body which has at least1 full-time employee).
- In **the Netherlands**, the gift register for the Members of the House of Representatives includes a specific threshold. According to rules, gifts exceeding the value of EUR 50 must be registered, specifying the nature of the gift, the price of the gift and the person providing the gift.

3. Monitoring and enforcement of national transparency registers

In this sub-chapter, monitoring practices and enforcement rules in Member States with a transparency register in place are outlined. Lobbying carried out on behalf of third countries is not addressed by any Member State, neither for monitoring, nor for enforcement rules. A raft law in **Spain**[316] would introduce a mandatory public transparency register, which would be complemented by monitoring and enforcement rules.

In 9 Member States **(IE, EL, ES[317], FR, IT, CY, LT, SI, FI)** the national register is supervised by an independent authority. In the 6 other Member States that have a transparency register, 3 **(LU, AT, RO)** tasked their government with this tasked and 3 tasked their parliament **(BE, DE, NL)**.

3.1. Monitoring

2 Member States **(BE, IT)** with existing transparency registers lack rules on monitoring and enforcement in this regard. 11 Member States **(DE, EL, ES[318], FR, CY, LT, LU, NL, AT, RO, SI)** implement monitoring and enforcement regimes, which differ in strictness.

Several Member States have introduced reporting obligations. On the one hand, 3 Member States (**FR, CY, SI**) oblige lobbyists to report periodically (e.g. annually) on their activities involving public decision-making. On the other hand, 4 Member States (**LT, LU, RO, SI**) oblige parliamentarians and/or public officials to inform the competent authority on their contacts with lobbyists. Additionally, in **Slovenia**, clients of lobbyists must also provide details related to lobbying activities to the Commission for the Prevention of Corruption.

2 Member States (**DE, NL**) have established rules on an access protocol into the premises of their respective parliaments. In other words, unregistered lobbyists do not receive the necessary pass to enter parliament. These measures also aim to ensure that lobbyists keep their registered data updated.

In **Greece**, the National Transparency Authority has the power to conduct audits and create codes of conducts for registered lobbyists as part of their monitoring system.

3.2. Enforcement

In terms of enforcement, currently 5 Member States **(DE, IE, EL, CY, LT)** have sanctions in place for non-compliance with registering rules. Fines as a form of sanctions are applied by all aforementioned Member States, while suspension or removal from the transparency register is present as an enforcement measure in 2 Member States (**DE, EL**). In addition, in **Ireland**, offences to registration rules (as detailed previously) can result in an imprisonment of up to 2 years.

[316] A draft law ('Draft Law on the Transparency and Integrity in the Activities of Interest Groups') at national level is under discussion, available at: https://www.hacienda.gob.es/Documentacion/Publico/NormativaDoctrina/Proyectos/Ley-Transparencia-Ley-NT8-11-22-1.pdf.

[317] Catalonia.

[318] Solely on regional level.

Annex 7: Analysis of administrative fines and thresholds for information requests

This Annex provides explanations on the proposed pecuniary sanctions and thresholds for requests for additional information by supervisory authorities set out in the preferred policy option.

1. Administrative fines

To determine the figures for the amounts of the administrative fines proposed under the preferred policy option, the following methodology was used.

First, figures for the average turnover per entity were obtained from the Eurostat Structural Business Statistics (SBS) annual detailed enterprise statistics for services for NACE code M70.21 on "Public relations and communication activities".

Second, benchmarks from percentage figures based on other recent EU regulatory instrument were compared to existing pecuniary sanctions regime in Member States. In the table below, the figures of 2% and 4% of global turnover are the maximum fines for different types of GDPR violations, while 1% and 6% are the maximum fines for different types of DSA violations. Data on existing maximum fine amounts in Member States is provided where possible, along with approximate equivalents in proportion of turnover.

Lastly, the benchmark retained was that of the penalties under Article 52(3) of the DSA which relates to failures to comply with transparency requirements, namely, penalties of "*1% of the annual income or worldwide turnover*" for "*for the supply of incorrect, incomplete or misleading information, failure to reply or rectify incorrect, incomplete or misleading information and failure to submit to an inspection"*.

TABLE 1: Benchmarks for administrative fines									
Member State[319]	Average turnover per entity (EUR million)	Existing maximum fines (EUR)		Proposed fines (EUR) – Proportion of turnover					
		Amounts	Equivalent in proportion of turnover (approx.)	0.25%	0.50%	1%	2%	4%	6%
EU-27	**140,809.83**	-	-	352.02	704.05	1,408.10	2,816.20	5,632.39	8,448.6
Ireland	**627,505.33**	25,000	4%	1,568.76	3,137.53	6,275.05	12,550.11	25,100.21	37,650.33
Germany	**540,219.95**	50,000	10%	1,350.55	2,701.10	5,402.20	10,804.40	21,608.80	32,404.20
Spain	**334,015.00**	300,000[320]	10%	835.04	1,670.07	3,340.15	6,680.30	13,360.60	20,640.90
Luxembourg	**286,956.52**	-	-	717.39	1,434.78	2,869.57	5,739.13	11,478.26	17,217.39
Austria	**223,833.33**	60,000	25%	559.58	1,119.17	2,238.33	4,476.67	8,953.33	13,430.01
Finland	**220,481.93**	-	-	551.20	1,102.41	2,204.82	4,409.64	8,819.28	13,228.92
Belgium	**219,701.25**	-	-	549.25	1,098.51	2,197.01	4,394.03	8,788.05	13,182.09
Denmark	**211,414.21**	-	-	528.54	1,057.07	2,114.14	4,228.28	8,456.57	12,684.84
Cyprus	**205,000.00**	100,000	50%	512.50	1,025.00	2,050.00	4,100.00	8,200.00	12,300.00
Sweden	**167,768.40**	-	-	419.42	838.84	1,677.68	3,355.37	6,710.74	10,066.11
Malta	**150,000.00**	-	-	375.00	750.00	1,500.00	3,000.00	6,000.00	9,000.00
Italy	**132,224.44**	-	-	330.56	661.12	1,322.24	2,644.49	5,288.98	7,933.47
Slovakia	**130,769.23**	-	-	326.92	653.85	1,307.69	2,615.38	5,230.77	7,846.14
Croatia	**128,070.18**	-	-	320.18	640.35	1,280.70	2,561.40	5,122.81	7,684.20
Portugal	**124,046.92**	-	-	310.12	620.23	1,240.47	2,480.94	4,961.88	7,442.82
Slovenia	**103,875.97**	100,000	10%	259.69	519.38	1,038.76	2,077.52	4,155.04	4,155.04
France	**97,159.05**	15,000[321]	1.5%	242.90	485.80	971.59	1,943.18	3,886.36	5,829.54
Romania	**95,218.72**	-	-	238.05	476.09	952.19	1,904.37	3,808.75	5,713.11
Poland	**85,797.81**	12,000	15%	214.49	428.99	857.98	1,715.96	3,431.91	5,147.88
Latvia	**76,712.33**	-	-	191.78	383.56	767.12	1,534.25	3,068.49	4,602.75
Hungary	**68,002.84**	-	-	170.01	340.01	680.03	1,360.06	2,720.11	4,080.18
Greece	**62,115.38**	20,000	30%	155.29	310.58	621.15	1,242.31	2,484.62	3,726.93
Lithuania	**57,541.19**	4,500	8%	143.85	287.71	575.41	1,150.82	2,301.65	3,452.46
Bulgaria	**39,108.91**	-	-	97.77	195.54	391.09	782.18	1,564.36	2,346.54

[319] Data on turnover was not available in CZ, EE and NL.
[320] In ES, pecuniary sanctions only exist at regional level.
[321] In FR, the sanctions amounts provided are of criminal nature, as in they are the highest amounts possible. Figures for all other Member States concern administrative sanctions.

2. Thresholds for information requests

As part of the risk-based approach set forth in the preferred policy option, thresholds are proposed in order to allow supervisory authorities to request records kept by entities carrying out interest representation activities on behalf of third countries.

The thresholds are as follows:

- The first threshold sets that supervisory authorities will be able to request information to an entity if it received more than EUR 1 000 000 from a single third country entity in the preceding financial year.
- The second thresholds establish that Supervisory authorities will be able to request information to an entity if it carries out interest representation activities for a third country entity whose action can be attributed to a third country that has spent a EUR 1 500 000 on interest representation in a Member State or EUR 8 500 000 in the Union as a whole in 1 of the last 5 years.
- The third threshold is a *de minimis* to exclude entities that received an aggregate remuneration of less than EUR 25 000 in the preceding financial year.

The figures for the **first and third thresholds** are based on the data coming from the annual costs for entities in the EU Transparency Register (EU TR) whose head office is located outside the Union and who "Promote their own or collective interests". Limitations in the data of the EU TR did not permit to provide further detail, e.g. per sector or policy area. As detailed in the table below, the first threshold, at EUR 1 000 000, permits to cover the top 3.58% largest entities with enhanced information disclosure requirements (see below highlighted in green). The third thresholds, *de minimis*, at EUR 25 000 permits to exclude from the scope the 36.21% smallest entities which carry out only very limited amounts of interest representation activities on behalf of third countries (see below highlighted in orange).

TABLE 2: EU TR – Annual costs of entities whose head office is outside the Union and that "Promote their own or collective interests"			
Brackets of reported annual costs (EUR)	**Number of entities**	**Proportion of entities (in %)**	**Cumulated proportion of entities (approx., in %)**
0.00 – 0.00	29	2.12	2.12
0.00 – 10,000.00	321	23.43	25.55
10,000.00 – 24,999.00	146	10.66	36.21
25,000.00 – 49,999.00	133	9.71	45.92
50,000.00 – 99,999.00	171	12.48	58.40
100,000.00 – 199,999.00	171	12.48	70.88
200,000.00 – 299,999.00	117	8.54	79.54
300,000.00 – 399,000.00	64	4.67	84.09
400,000.00 – 499,999.00	55	4.01	88.10
500,000.00 – 599,999.00	33	2.41	90.51
600,000.00 – 699,999.00	27	1.97	92.48
700,000.00 – 799.999.00	22	1.61	94.09
800,000.00 – 899,999.00	14	1.02	95.11
900,000.00 – 999,999.00	18	1.31	96.42
1,000,000.00 – 1,249,999.00	14	1.02	97.44
1,250,000.00 – 1,499,999.00	13	0.88	98.32
1,500,000.00 – 1,749,999.00	1	0.07	98.39
1,750,000.00 – 1,999,999.00	4	0.29	98.68
2,000,000.00 – 2,249,999.00	2	0.15	98.83
2,250,000.00 – 2,499,999.00	4	0.29	99.12
2,750,000.00 – 2,999,999.00	3	0.22	99.34
3,000,000.00 – 3,499,999.00	2	0.15	99.45
4,000,000.00 – 4,499,999.00	2	0.15	99.64
4,500,000.00 – 4,999,999.00	1	0.07	99.71
5,000,000.00 – 5,499,999.00	1	0.07	99.78
6,000,000.00 – 6,499,999.00	1	0.07	99.85
6,500,000.00 – 6,999,999.00	1	0.07	99.92
Total	**1,370**	**-**	**100**

With regard to the **second thresholds**, as explained in the problem definition chapter, no data currently exists as to how much third countries spend on interest representation activities in the EU. It is therefore difficult to estimate at which pecuniary amount to draw to line. The only closest possible benchmark that could be used is that from the FARA portal for 2020. However, this approach suffers from several limitations: (i) The market in the US is vastly different and amounts spent in interest representation activities tend to be much higher, and (ii) FARA covers a broader set of activities than the EU TR (for example, it includes spending by embassies, as well as spending on broadcast and media content which are excluded from both the EU Transparency Register).

Nonetheless, the table below shows the total amount spent on so-called 'core' interest representation services under FARA[322] by a selected set of countries in 2020, as well as the total amounts they reported under FARA that same year. These figures were used as a benchmark to help the definition of the second thresholds. Among the 11 selected third countries under the US FARA, the average amount spent by the selected third countries in 2020 in the US was USD 12,090,456.12, which is equivalent to EUR 11 284 730.04. Because the EU economy was approximately 25% smaller than that of the US in 2020[323], a factor of 25% was applied to this amount, leading to a threshold of EUR 8 463 547.53[324]. This figure was then approximated to EUR 8 500 000.

TABLE 3: Lobbying costs reported under US FARA		
Selected 3rd Country	**Total amounts reported under FARA in 2020[325]**	**Total amounts spent on core interest representation services in 2020**
Canada	USD 12,602,960.45	USD 1,244,662.12
Russia	USD 45,320,532.84	USD 2,992,033.28
Morocco	USD 4,090,941.91	USD 3,149,269.29
Iraq	USD 3,413,684.68	USD 3,383,533.79
South Korea	USD 31,051,235.52	USD 3,805,698.95
Japan	USD 37,434,911.22	USD 4,943,798.86
China	USD 58,840,168.30	USD 16,941,737.95
UAE	USD 26,230,546.06	USD 17,949,480.51
Turkey	USD 24,803,996.99	USD 21,101,502.22
Qatar	USD 53,748,327.60	USD 22,507,594.28
Saudi Arabia	USD 40,175,849.53	USD 34,975,746.10
Average across selected 3rd countries	**USD 33,771,315.41**	**USD 12,090,456.12**

Lastly, the threshold at EUR 1 500 000 was obtained by dividing the EU-wide EUR 8 500 000 threshold by the share of GDP of each Member State. This results in the figures in the table below. The Commission decided to use as a benchmark the resulting thresholds of France, rounded to the nearest 100 000 above. It is important to note that this is an initial threshold that it will be possible to modify via a Delegated Act after the entry into force of the legislative instrument once more data is available on the phenomenon of interest representation activities carried out on behalf of third countries. Setting a high bar at first permits to scope in fewer entities and reduce risks of overburdening.

[322] Core interest representation services in the FARA system relate to the following categories: "Legal and Other Services/Lobbying", "Lobbying", "Public Relations", "U.S. Policy Consultant".

[323] According to World Bank data for 2020, the US nominal GDP was of USD 20,893,746 bn, and that of the EU was of USD 15,292,101 bn, making the EU' economy approximately 25% smaller than that of the US. Figures available at the following link: https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?most_recent_value_desc=true.

[324] EUR 11,284,730.04*0.75= EUR 8,463,547.53

[325] For countries like China or Russia, the vast majority of the total spending reported under FARA falls into activities which are covered by FARA but that would not fall into the scope of the preferred option, such as "Broadcast spent in broadcast services etc.", hence the drops in amounts.

TABLE 4: Thresholds for information requests based on individual Member States' portions of EU GDP		
Member State	**Percentage of EU GDP (nominal)[326]**	**Possible thresholds (EUR)**
Germany	24.46	2,164,100
France	16.72	1,421,200
Italy	12.08	1,026,800
Spain	8.41	714,850
Netherlands	5.96	506,600
Poland	4.14	351,900
Sweden	3.53	300,050
Belgium	3.49	296,650
Ireland	3.18	270,300
Austria	2.83	240,550
Denmark	2.37	201,450
Romania	1.81	153,850
Czechia	1.75	148,750
Finland	1.69	143,650
Portugal	1.51	128,350
Greece	1.32	112,200
Hungary	1.07	90,950
Slovakia	0.68	57,800
Bulgaria	0.53	45,050
Luxembourg	0.49	41,650
Croatia	0.43	36,550
Lithuania	0.42	35,700
Slovenia	0.37	31,450
Latvia	0.25	21,250
Estonia	0.23	19,550
Cyprus	0.17	14,450
Malta	0.11	9,350

[326] Figures from: 'Percentage share of the European Union's Gross Domestic Product (GDP) in 2022, by member state', Statista, https://www.statista.com/statistics/1373419/eu-gdp-percentage-share-member-state-2022/.

Annex 8: Fundamental rights impact

1. Right to private life and the right to the protection of personal data

All 3 policy options **impose limited restrictions** on the **right to private life** (Article 7 of the Charter) and **the right to the protection of personal data** (Article 8 of the Charter), insofar as they require that entities keep and provide certain information to the national authorities and provide access for the public to a part of that information which might include personal data. The legislative policy options (PO2.1 and PO2.2) provide in addition for the exchange of such information among competent national authorities.

As noted by the Court, provisions imposing or allowing the communication of personal data such as the name, place of residence or financial resources of natural persons to a public authority must be characterised as an interference in their private life and therefore as a limitation on the right guaranteed in Article 7 of the Charter, without prejudice to the potential justification of such provisions. The same is true of provisions providing for the dissemination of such data to the public[327]. Furthermore, the Court has considered that making personal data available to the public in a manner that such data are accessible to a potentially unlimited number of persons constitutes a serious interference with the fundamental rights enshrined in Articles 7 and 8 of the Charter[328].

However, as also stated by the Court, fundamental rights enshrined in Articles 7 and 8 of the Charter are not absolute rights, but must be considered in relation to their function in society. These rights may be restricted if such restriction is provided by law, it respects the essence of these rights and if it is strictly necessary and proportionate in relation to the objective of general interest recognised by the European Union. In this regard, Article 8(2) of the Charter requires that personal data must be processed for specified purposes and on the basis of consent or some other legitimate interest laid down by law[329].

For all 3 policy options, by providing for citizens' access to information on entities active in the internal market carrying out interest representation activities carried out on behalf of third countries, as well as the third country entities they represent, seek to ensure that citizens, public officials and stakeholders, like journalists and CSOs, can exercise their democratic scrutiny while knowing with which entities they themselves, or their elected representatives, may be confronted with. As voters, citizens are important decision-makers in their own right, and as such, they can be the target for certain interest representation activities.

All 3 policy options enhance the integrity of, and public trust in, the EU's and Member States' democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries, and by improving the knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries (see sections 6.2.2.1 and 6.2.2.2)[330]. The CJEU has recognised that the objective consisting in increasing transparency is an overriding reason in the public

[327] See, to that effect, judgments of the Court of Justice 20 May 2003, *Österreichischer Rundfunk and Others*, C- 465/00, C- 138/01 and C- 139/01, EU:C:2003:294, paragraphs 73 to 75 and 87 to 89; of 9 November 2010, *Volker und Markus Schecke and Eifert*, C- 92/09 and C- 93/09, EU:C:2010:662, paragraphs 56 to 58 and 64; and of 2 October 2018, *Ministerio Fiscal*, C- 207/16, EU:C:2018:788, paragraphs 48 and 51).

[328] Judgment of the Court of Justice of 22 November 2022, *Luxembourg Business Registers*, joined cases C-37/20 and C-601/20, EU:C:2022:912, paragraphs 42 to 44.

[329] See note 328, paragraphs 45 to 63 and the case-law cited.

[330] See note 182, paragraph 105.

interest[331].The aim pursued by the 3 policy options therefore constitutes **an objective of general interest that is capable of justifying interferences with the fundamental rights enshrined in Articles 7 and 8 of the Charter in line with Article 52 thereof**.

Furthermore, the seriousness of the interference with the fundamental rights enshrined in Articles 7 and 8 of the Charter should be balanced against the importance of the objective of general interest of ensuring that citizens can exercise their right of democratic scrutiny while knowing with which entities they themselves, or their elected representatives, may be confronted with. It must be noted that, in contrast with the situation that gave rise to the judgment in Luxembourg Business Registers concerning the general public's access to information on beneficial ownership, ensuring transparency of activities affecting democratic decision-making is a priority for all citizens, and not just a matter for public authorities.

All 3 policy options provide for public access to a clearly defined and limited set of information, which excludes information that is not adequately related to the purposes pursued. As a result, making publicly available information that is so related **does not in any way undermine the essence of the fundamental rights** guaranteed in Articles 7 and 8 of the Charter[332].

Public access to information on interest representation activities carried out on behalf of third countries is appropriate for contributing to the attainment of the objective of general interest pursued, since the public nature of that access and the increased transparency resulting therefrom contribute to the creation of an environment of greater democratic scrutiny and accountability.

All 3 policy options provide for public access to a **proportionate**, clearly defined and limited set of information, which excludes information that is not absolutely needed to reach the purposes pursued. The limitations on the right to private life and the right to the protection of personal data**, genuinely meet a general interest recognised by the EU, and are proportionate and limited to the minimum necessary**.

In particular, in the legislative policy options (PO2.1 and PO2.2), the set of data to be made available to the public is limited to what is necessary to improve knowledge about the magnitude, trends, and actors of interest representation carried out on behalf of third countries[333]. It is clearly and exhaustively defined and fully harmonised throughout the EU. In addition, the personal data made publicly available is limited to the minimum required for citizens to be informed about the entity carrying out interest representation and the activity carried out on behalf of third country entities. Information of relevance only to the competent national authorities, supervising and monitoring compliance with those options, would not be made publicly available, to safeguard against the risks of abuse of the information provided.

In addition, the legislative policy options (PO2.1 and PO2.2), beyond fully harmonising the set of data to be made public, provide for additional and specific safeguards by enabling entities to request that all or part of the information gathered for the purpose of the transparency requirement is not made public based on an overriding interest.

The requirement in PO2.2 that entities falling within the scope of the risk-based approach is required to automatically share all of their records with the supervisory authorities could

[331] See note 125, paragraph 79.
[332] See note 328, paragraphs 51 to 52.
[333] See section 5.3.2.1 for details on the information to be made public.

go beyond what is necessary to ensure the transparency of interest representation activities carried out on behalf of third countries.

2. Freedom of Association

The fundamental right to **freedom of association** is guaranteed both under Article 12 of the Charter and Article 11 of the European Convention on Human Rights to all associations, including CSOs, interest groups, trade unions and political parties.

Careful consideration is being given to the potential spill over effect of the measures and unintended negative consequences for the operation of CSOs, which are operating in a shrinking civic space.

The 2022 FRA's report[334] highlights that in 2020, 15% CSOs faced legislations on transparency and lobby laws negatively affecting their freedom. Examples of burden include costly registration procedures and disproportionate transparency regulations[335]. Moreover, the risk of such laws being abused arises when laws prohibit CSO registration, allow their dissolution, or criminalise CSO membership, for example, on the basis of a lack of adherence to democratic values.

The Hungarian Transparency Act (Law No LXXVI of 2017) introduced restrictions on financing of civil organisations. The law applied indiscriminately to any financial support from any other Member State or any third country[336]. Among other requirements, it required CSOs to systematically present themselves to the public as 'organisation in receipt of support from abroad', thereby creating a climate of distrust towards them, apt to deter natural or legal persons from other Member States or third countries from providing them with financial support[337].

Following an infringement procedure initiated by the Commission, the Court of Justice ruled that by adopting the legal provisions in question, which impose obligations of registration, declaration and publication on certain categories of CSOs directly or indirectly receiving support from abroad exceeding a certain threshold and which provide for the possibility of applying penalties to organisations that do not comply with those obligations, Hungary introduced discriminatory and unjustified restrictions on foreign donations to CSOs, in breach of its obligations under Article 63 TFEU on the free movement of capital and Articles 7, 8 and 12 of the Charter[338].

Outside the EU, countries have put in place legislation with the objective of restricting or controlling CSO activities. The Russian Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent, adopted in 2012 and amended in 2022 has been used to stigmatise and significantly limit the rights of different groups of society, including CSOs, unregistered public associations, media outlets, journalists, activists and human rights defenders[339]. Other attempts to enact laws aiming to scrutinize the work of CSOs receiving support from abroad include the Georgian draft law on

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334 'Fundamental Rights Report 2022', European Union Agency for Fundamental Rights, available at: https://fra.europa.eu/en/publication/2022/fundamental-rights-report-2022-fra-opinions.

335 See also the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the 2023 Rule of Law Report – The rule of law situation in the European Union (COM(2023) 800 final).

336 See note 125, paragraph 82.

337 See note 125, paragraph 58.

338 See note 125.

339 Judgment of the ECtHR, *Ecodefense v. Russia*, see note 188.

transparency of foreign influence and the Republika Srpska's draft law on the Special Register and Transparency of the Work of the non-profit organisations[340], which have been condemned by the EU[341].

Freedom of association constitutes one of the essential pillars of a democratic and pluralistic society, in as much as it allows citizens to act collectively in fields of mutual interest and to contribute to the proper functioning of public life[342]. Associations must be able to pursue their activities, operate without unjustified interference, and obtain resources to support their operations. The Court considers that legislation which renders significantly more difficult the action or operations of associations, whether by strengthening the requirements in relation to their registration, by limiting their capacity to receive financial resources, by imposing obligations of declaration and publications such as to create a negative image of them or by exposing them to the threat of penalties, in particular of dissolution, is to be classified as a limitation to the freedom of association[343].

The examined policy options are limited to ensuring transparency regarding interest representation activities carried out on behalf of third country entities and seeking to influence decision-making processes in the EU. They do not affect as such the possibility for entities to carry out these activities (with the exception of PO2.2). However, transparency requirements could have a spill over effect on other activities of CSOs for instance their advocacy work.

While imposing transparency obligations, which may be considered as having an impact on the effective enjoyment of the right to freedom of associations – in as much as the requested organisations would have to comply with the registration/reporting obligations and pay the related costs – all 3 policy options do not affect the essence of that right. Moreover, with specific regard to the right to seek for funding and resources, none of the policy options ban foreign funding.

All 3 policy options enhance the integrity of, and public trust in, the EU's and Member States' democratic institutions by ensuring the transparency of interest representation activities carried out on behalf of third countries, and by improving the knowledge about the magnitude, trends and actors of interest representation activities carried out on behalf of third countries (see sections 6.2.2.1 and 6.2.2.2)[344]. The CJEU has recognised that the objective consisting in increasing transparency is an overriding reason in the public interest[345]. **All 3 policy options meet the objective of general interest**, in light of the

[340] According to Republika Srpska's draft law, foundations as well as foreign and international non-governmental organisations receiving any form of foreign funding or other assistance of foreign origin would be designated as "Non-profit organisations" (hereinafter "NPOs"). This draft law would prohibit NPOs from carrying out political activities, requiring them to register in a special registry and all their published materials to include the mark "NPO", and to submit additional reports compared to those already required by the existing legal framework. NPOs would also be subject to an additional legal regime of oversight and inspections, and a range of sanctions for violations of the provisions of the draft law that may result in the ban of the NPOs' activities and thereby of the NPO itself. The joint opinion of the Venice Commission and OSCE/ODIHR on Republika Srpska's draft law, indicates several areas of concern due to non-compliance with international human rights standards. For instance, the Draft Law is not based on any risk assessment or consultation with associations and others potentially affected. As mentioned by the Venice Commission, legitimate reasons for imposing transparency requirements on private organisations include receiving funding from public sources or performing essential democratic functions. Particular attention should be paid to avoiding stigmatisation and duplication of existing registration and reporting obligations. Moreover, the joint opinion stressed the need to ensure proportionality of sanctions and obligations and to provide effective remedies, in full respect of fundamental rights, including the right to protection of personal data.

[341] See note 210.

[342] See note 125, paragraph 112.

[343] See note 125, paragraph 114; Judgment of the ECtHR, *Ecodefense v. Russia*, see note 188, paragraph 81.

[344] See note 182.

[345] See note 125, paragraph 79.

principles of openness and transparency, which must guide the democratic life of the Union in accordance with the second paragraph of Article 1 and Article 10(3) TEU and in conformity with the democratic values shared by the Union and its Member States pursuant to Article 2 TEU.

With regard to the proportionality of the limitation, **all 3 options apply indiscriminately to any entity receiving financial support from abroad by reason of the type of activity they carry out**. In particular, the legislative policy options (PO2.1 and PO2.2) would not cover any funding given by a third country entity[346], but only the funding which is related to an interest representation activity (structural grants, donations, etc. are therefore excluded). These legislative options only focus on the activities that are genuinely likely to have a significant influence on public life and public debate. Secondly, **none of the policy options target specifically CSOs or other associations**, significantly reducing the risk of stigmatisation. They regulate a specific type of activity – interest representation activities carried out on behalf of third country governments – regardless of the natural or legal person carrying it out.

The legislative policy options (PO2.1 and PO2.2) contain specific **safeguards to avoid stigmatisation**[347]. By imposing a **full harmonisation of the transparency requirements**, these 2 options ensure that registered entities may not be required to present themselves to the public in a stigmatising manner[348].

The legislative policy options also include proportionate sanctions and a comprehensive system of **safeguards**, including effective judicial review[349]. These options would ensure that CSOs and other associations would not be exposed to the threat of criminal penalties or dissolution.

The targeted requirements included in the PO2.1 are **proportionate** and will not overburden concerned entities. (i) In terms of *record-keeping*, the concerned entities would be required to keep, for a limited period, a clearly defined set of information[350]. (ii) In terms of *registration*, the concerned entities would only be required to provide limited information on themselves, the activities conducted, and the third country entities they conduct the activities for. The registration would include an approximation[351] of the

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346 Third country governments and entities whose action can be attributed to them, see section 5.2.1.

347 Firstly, the national public registers would have to be presented in a neutral manner and in such a way that it does not lead to stigmatisation of the entities included in the register (e.g. Member States would be prevented from requiring the entities that fall within the scope of the initiative to register 'as an organisation in receipt of support from abroad' or indicate on their internet site and in their publications and other press material the information that they are organisations in receipt of support from abroad). Secondly, Member States should ensure that when carrying out their tasks, the national authorities ensure that no adverse consequences arise from the mere fact that an entity is registered. Thirdly, the registered entities would be able to request that all or part of the information is not made publicly available where there are overriding legitimate interests preventing publication.

348 Upon registration, these entities would only be required to provide their registration number in their contacts with public officials, not the wider public.

349 Supervision would be entrusted to independent supervisory authorities with clearly established powers, whose requests for further information would need to be motivated and subject to effective judicial remedy. Sanctions would be designed in a way that would avoid a chilling effect on the concerned entities and sanction related powers subject to appropriate safeguards, including the right to effective judicial review. They would be fully harmonised and limited to administrative fines under a specific ceiling based on the entity's economic capacity. Sanctions would only be imposed following a prior early warning, except for breaches of the anti-circumvention clause.

350 These records would include information on the identity of the third country entity on whose behalf the activity is carried out, a description of the purpose of the interest representation activity, contracts and key exchanges with the third country entity to the extent that they are essential to understand the nature and purpose of the interest representation carried out as well as information or material constituting key components of the interest representation activity.

351 During the registration the precise amount would not be requested. Concerned entities would have to indicate in which bracket (e.g.: EUR 25,000 < 50,000; or EUR 50,000 < 100,000) the remuneration would fall, this remuneration would cover all the tasks carried out with the objective of influencing the development, formulation or

remuneration received. Only the information necessary for the application and oversight of the legislative initiative would need to be updated regularly. Other information would only need to be updated annually. (iii) Apart from where it is necessary to examine non-compliance with the registration requirements, registered entities can only be *requested to share their records* with the supervisory authority as part of a risk-based approach where, based on objective factors, they are particularly likely to have a significant influence on public life and public debate. (iv) As illustrated in section 6.2.1.3 and Annexes 3 and 4, the costs for private entities are not likely to render significantly more difficult the action or operations of associations and are limited to what is necessary to ensure transparency.

The extended requirements included in the PO2.2 **impose additional burdens on the concerned entities** as compared to the targeted requirements included in the PO2.1[352]. These additional provisions **enhance the restrictions on the right to freedom of association**. Member States would be able to refuse granting a licence on the ground that the activity is likely to seriously affect public security. While such measure would be suitable to address threats to internal and external security, it would still place *de facto* prior authorisation obligations on the mechanisms by which associations use certain remunerations from third countries. Such measures could have a disproportionate impact at the light of the objective that it seeks to achieve[353]. Furthermore, this system of prior authorisation would give Member States a certain leeway which could create a risk of arbitrariness in the decisions to grant said licence. Finally, the fact that a publicly available flag would be added in the registration of the entity who received a licence despite comments submitted by a Member State or the Commission, could lead to stigmatisation of the said entity.

The non-legislative option (PO1) would not provide for the extended requirements of the PO2.2. However, it would only provide for recommendations, **leaving Member States a large room of manoeuvre** to implement transparency requirements and would not ensure the implementation of the safeguards provided by the legislative options.

implementation of the same proposal. Information on the annual amounts declared would be made public within wider brackets corresponding the level of detail necessary for the purpose of informing citizens their representatives and other interested parties.

352 These additional requirements includes: (i) a requirement to apply to national-level authorities for an EU-wide licence to conduct interest representation activities on behalf of a third country entity; and (ii) a requirement to keep records of all contracts and exchanges with the entity on whose behalf the activity is carried out as well as all information or material on the interest representation activity

353 "*As to the necessity and proportionality of measures taken to secure the above-mentioned aims, interference with the right of associations to seek and obtain financial and material resources should be the least intrusive of all possible means that could have been adopted. The authorities should be able to prove that the legitimate aim pursued by the measure cannot be reached by any less intrusive measures. In particular, an outright ban on foreign funding, or requiring prior authorisation from the authorities to receive or use such funds, is not justified*." Venice Commission Report on Funding of Associations, CDL-AD(2019)002, paragraph 147; see also Report by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/50/23) paragraphs 20 to 22.

Annex 9: The baseline

The **European Democracy Action Plan** adopted in December 2020 set out specific measures to promote free and fair elections and strong democratic participation, to support free and independent media, and counter disinformation. With this Action Plan, the Commission announced measures, both legislative and non-legislative to strengthen the resilience of EU democracies.

This includes **a proposal for legislation to ensure greater transparency in the area of sponsored content in a political context ('political advertising')**, and a proposal for a **revision of the Regulation on the funding of European political parties and European political foundations (EUPP/F)**[354] which are in ongoing negotiations.

Stakeholder views:
During the focus group with representatives of European political parties and foundations[355], participants underscored the high level of transparency which applies to EUPP/F and raised the question of providing a level playing field in terms of transparency requirements between entities influencing decision-making processes.

It set up a new **joint operational mechanism through the European Cooperation Network on Elections** to support the deployment of joint expert teams to counter threats to electoral processes.

With regard to strengthening media freedom and media pluralism, under the European Democracy Action Plan, a recommendation on the safety of journalists was presented in 2021 with a structured dialogue under the European News Media Forum, with Member States, stakeholders and international organisations set up to prepare and implement the Recommendation.

On strategic lawsuits against public participation (SLAPP), the Commission put forward a recommendation[356] and a **Proposal for a Directive on protecting persons who engage in public participation from SLAPP**.

Other measures also included support for EU cooperation between national media councils, other media self-regulatory bodies, independent media regulators and networks of journalists, and initiatives promoting journalistic partnerships and standards. Measures to support media pluralism also include the setting up of a Media Ownership Monitor pilot project, promoting transparent and fair allocation of state advertising, fostering media diversity and a European approach on the prominence of audiovisual media services of general interest. In addition, in September 2022, the Commission put forward a **Proposal for a Regulation establishing a common framework for media services in the internal market (European Media Freedom Act),** which aims to address fragmented national regulatory approaches related to media freedom and pluralism and editorial independence to ensure the free provision of media services within the internal market. In particular, it will provide for transparency measures regarding to media ownership, audience measurement and state advertising.

In addition, the **Audiovisual Media Services Directive**[357] aims to create and ensure the proper functioning of a single market for audiovisual media services while contributing to

[354] See note 17.
[355] Focus group with European political parties and foundations of 21 March 2023.
[356] See note 22.
[357] See note 225.

the promotion of cultural diversity and providing an adequate level of consumer and child protection.

On the EU's Toolbox for countering foreign information manipulation and interference (FIMI), developed under the Democracy Action Plan and then reinstated by the Strategic Compass[358], a set of initiatives and actions were proposed that allow for **the imposing of costs on perpetrators** and putting in place a new protocol to strengthen existing cooperation structures to fight foreign information manipulation and interference including disinformation. In addition, the revision of **the Code of Practice on Disinformation** was carried out by the Signatories and prospective Signatories on the basis of the Commission's detailed guidance on how to step up commitments and measures against disinformation, and set up a robust framework for its monitoring. The strengthened Code of Practice was presented in June 2022.

Since 2015, **the European External Action Service significantly improved its capacity to tackle foreign information manipulation and interference (FIMI), including** disinformation by, inter alia, **developing structures** such as the EU Rapid Alert System on Disinformation, **developing a comprehensive framework and methodology** for systematic collection of evidence of foreign information manipulation and interference (FIMI) incidents and by **strengthening strategic communications** in the Eastern Partnership, the Southern Neighbourhood and the Western Balkans. The EEAS, in a close cooperation with the Commission and the Member States, **is continuously strengthening the EU's Toolbox** to tackle Foreign Information Manipulation and Interference (FIMI Toolbox), to impose costs on the perpetrators.

The initiatives foreseen under the European Democracy Action Plan, in particular the guidance on strengthening the Code of Practice on Disinformation and legislation to ensure greater transparency in the area of sponsored content in a political context are complementary to the measures that have been proposed under the **Digital Services Act**.

The Digital Services Act set out a horizontal framework for regulatory oversight, accountability and transparency of the online space in response to the emerging risks. It proposes rules to ensure greater accountability on how platforms moderate content, on advertising and on algorithmic processes. Very large platforms will be obliged to assess the risks their systems pose not only as regards illegal content and products. They will have to do the same as regards systemic risks to the protection of public interests and fundamental rights, public health and security. The Digital Services Act establishes a co-regulatory backstop for the measures, which were included in the revised and strengthened Code of Practice on Disinformation.

In 2022, as a deliverable of the Digital Education Action Plan, the Commission published a set of guidelines for teachers and educators on tackling disinformation and promoting digital literacy through education and training[359]. They provide advice on how to use digital technologies responsibly and how to assess student competences concerning digital literacy. In particular, they focus on how to encourage young people to fact-check information and think critically, and how to understand the ethical or economic dimensions of disinformation.

[358] More information on the EU's Strategic Compass for Security and Defence available here: https://www.eeas.europa.eu/eeas/strategic-compass-security-and-defence-1_en.

[359] European Commission, Directorate-General for Education, Youth, Sport and Culture, *Guidelines for teachers and educators on tackling disinformation and promoting digital literacy through education and training*, Publications Office of the European Union, 2022.

Since 2022, the Commission has been making recommendations to Member States in the context of the **Rule of Law Reports**, including on aspects relevant to interest representation. For instance, in 2022, Denmark and Slovakia were recommended to introduce rules on lobbying, while Romania was invited to introduce rules on lobbying for Members of Parliament. Belgium was called to complete the legislative reform on lobbying, establishing a framework including a transparency register and a legislative footprint, covering both members of Parliament and Government. In the same year, Spain was recommended to continue efforts to table legislation on lobbying, including the establishment of a mandatory public register of lobbyists[360].

In 2023, the Commission noted in the context of the Rule of Law Reports that developments in the area of lobbying continued, as some Member States revised their lobbying transparency rules, in line with 2022 recommendations. For example, in Latvia, a new lobbying law was adopted, which provides for the creation of a lobbying register. In Estonia, the authorities have continued efforts to effectively implement the guidelines on lobbying. Cyprus adopted an implementing regulation on lobbying, which clarifies the procedure for declaring, recording, and publishing lobbying activities. In Lithuania, current rules on lobbying gave positive results in terms of submitted declarations. The 2023 Rule of Law Report also addresses further recommendations to Member States related to lobbying and interest representation, where recommendations from 2022 were not yet fully addressed or new challenges have emerged[361].

Most recently, following up on the European Parliament resolution of 17 February 2022, aiming to promote associations and other non-profit organisations in the Union in completing the internal market, protecting their fundamental rights and fostering an EU democratic space, the Commission put forward a **Proposal for a Directive on European cross-border associations**.

When it comes to **investments by third countries,** the **FDI Screening Regulation**[362]**,** provides an EU framework for the screening of direct investments from third countries on the grounds of security or public order; while **Regulation (EU) 2022/2560 on Foreign Subsidies Distorting the Internal Marke**t, aims to establish a harmonised framework to address distortions of competition caused, directly or indirectly, by foreign subsidies.

Under the 2020 EU Cybersecurity Strategy, the Commission adopted several measures to bolster Europe's collective resilience against **cyber threats**, including by third countries, and help to ensure that citizens and businesses can fully benefit from trustworthy and reliable services and digital tools: the **NIS 2 Directive**[363] sets out a common cybersecurity regulatory framework aiming to enhance the level of cybersecurity in the European Union, requiring Member States to strengthen cybersecurity capabilities, and introducing cybersecurity risk-management measures and reporting in critical sectors, along with rules on cooperation, information sharing, supervision, and enforcement; the Critical Entities Resilience (**CER) Directive**[364] aims to reduce vulnerabilities and strengthen the physical resilience of critical entities in the Union to ensure the uninterrupted provision of services that are essential for the economy and society. It covers digital infrastructures, including

[360] In the 2022 Rule of Law Report, further recommendations on lobbying concerned DE, EE, IE, FR, HR, IT, LV, LU, HU, NL and PL.
[361] Further recommendations related to lobbying concern DE, CZ, DK, DE, IE, ES, FR, HR, IT, LV, LU, HU, NL, AT, PL, RO and SK.
[362] See note 23.
[363] The NIS 2 Directive, see note 24.
[364] Directive (EU) 2022/2557 on the resilience of critical entities.

electronic communications services, data centres and public administration. The work of the Commission is also supported by **ENISA**, the European Union Agency for Cybersecurity. Additional work is ongoing on the proposal for a **Cyber Resilience Act**[365], which lays down rules for the placing on the market of products with digital elements to ensure the cybersecurity of such products, setting out essential requirements, obligations for economic operators and rules on market surveillance.

In the **financial sector**, the DORA Regulation,[366] entered into force in January 2023, aims at strengthening the IT security of financial entities such as banks, insurance companies and investment firms and making sure that the financial sector in Europe is able to stay resilient in the event of a severe operational disruption. In the field of **anti-money laundering**, negotiations are ongoing on a package of legislative proposals: the EU "single rulebook" – regulation – with provisions on conducting due diligence on customers, transparency of beneficial owners and the use of anonymous instruments, such as crypto-assets, and new entities, such as crowdfunding platforms; the 6th Anti-Money Laundering Directive, containing national provisions on supervision and Financial Intelligence Units, as well as on access for competent authorities to necessary and reliable information, e.g. beneficial ownership registers and assets stored in free zones and the regulation establishing the European Anti-Money Laundering Authority (AMLA) with supervisory and investigative powers to ensure compliance with AML/CFT requirements.

The **anti-corruption package**, include: i) a joint communication on EU anti-corruption policy; and ii) a proposal for a Directive on combating corruption and iii) Expanding the Common Foreign and Security Policy (CFSP) sanctions toolbox to cover serious acts of corruption, which seeks to protect democracy as well as society from the corrosive impact of corruption. These initiatives will update the Union legal framework on corruption to ensure compliance with international standards such as the United Nations Convention Against Corruption (UNCAC). They will ensure a level playing field between Member States, as well as coordination and common standards on the fight against corruption. In particular, the proposal for a Directive includes as an aggravating circumstance for the offences of bribery, misappropriation, trading in influence, abuse of functions, obstruction of justice, enrichment form corruption, and incitement, aiding and abetting and attempt, when the offender committed these offences for the benefit of a third country.

Directive (EU) 2022/2464 **on corporate sustainability reporting**[367], empowers the Commission to adopt delegated and implementing acts to specify how competent authorities and market participants shall comply with the obligations laid down in the Directive. It contains annual reporting obligations that include one governance standard (business conduct) which would be relevant for this initiative.

The Commission also provide a wide range of **funding opportunities** to foster access to democratic participation, civic engagement, and trust in democracy, most notably in the context of the Citizens, Equality, Rights and Values (CERV) funding programme, the Creative Europe programme, Erasmus+ and Horizon Europe. Actions to help tackle disinformation through funding are supported in the current financing period under Erasmus+, European Solidarity Corps and the Media programme, Citizens, Equality, Rights and Values programme and Horizon Europe.

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365 Proposal for a Regulation on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020.
366 DORA Regulation, see note 24.
367 See note 238.