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Briefing: lobby transparency in the EU

Pia Engelbrecht-Bogdanov · Monday, February 12th, 2024

Lobbying is part of any healthy democracy: it allows policymakers to gather expertise from a variety of stakeholders and take informed decisions. But if unregulated, lobbying can have dire consequences: legislation privileging special interest groups, unaccountable environmental and socio-economic harm and, more recently, actual instances of corruption. Dieselgate, the Uber files and Qatargate are but a handful of examples of the consequences of weak interest representation rules.

So what does lobby regulation across the EU look like? To what extent are institutions protected against undue influence, be it domestic or foreign, across the Union? We've analysed the regulatory frameworks for all 27 Member States, as well as the three main EU institutions, to gain a complete overview.[1] We've assessed their rules according to four standards[2]:

- A **broad-scope definition of lobbying**: lobbying rules should refer to all organisations that seek to influence decision making, including companies, business associations, civil society organisations, consultancies, law firms, think tanks, academic institutions and, wherever possible, organised labour and religious groups.

Only eight EU Member States and the EU institutions have adopted a broad scope definition of all lobbyists. Restrictive definitions create a loophole allowing certain organisations to be non-transparent about their influencing activities stopping them from being held accountable for their actions.

- A **mandatory public register for lobbyists**, requiring key information such as basic identification, interests represented, financial and human resources involved, sources of funding, clients, and associated organisations wherever applicable

Our research found 15 Member States with publicly accessible registers of lobbyists. Unfortunately, their scope and quality of information contained varies considerably from country to country. In fact, only three Member States, as well as the EU institutions, have lobby registers that cover both the executive and legislative branches of government and require lobby organisations to provide key information on their lobbying interests, including financial information tied to their activities.

- An **enforceable Code of Conduct** that bans certain behaviours, such as providing misleading information, paying for access, achieving legislative outcomes through financial or lavish “quid pro quo” gifts, or lying about the actual interests that a given organisation is representing (i.e. ‘astroturfing’).

Codes of Conduct coupled to a robust oversight and sanctioning system are key to preventing undue influence in interest representation. Only eight Member States have one, as does the EU Register. But when it comes to enforcing these Codes, rules diverge further: three Member States, as well as the EU institutions, leave enforcement to either the executive or legislative authority. The remaining five adopt the best practice of delegating oversight to an independent authority, ensuring that ethics and transparency rules are properly enforced.

- A **lobbying footprint**: open and accessible pro-active publication of interactions between public officials and interest representatives. This can take the form of meetings, legislatives footprints or lobbying activities.

The publication of interactions between public officials and lobbyists is often the final piece of the puzzle to complete a system of transparency and integrity. Only five Member States and two EU institutions have adopted a mandatory publication of their interactions with lobbyists. This means that very few citizens across the EU can hold lobbyists and politicians alike to account for the decisions made on their behalf. Though 3 EU Member States as well as one EU institution have adopted a voluntary system, this often leads to an incomplete picture of lobbying activities.

Our results show a fragmented lobbying regulation landscape across the single market: while 15 Member States have adopted mandatory or partially mandatory lobbying provisions, the remaining 12 have virtually no—or only voluntary—rules governing lobbying.

But of those that do have rules, few Member States or EU Institution come even close to achieving a complete lobbying framework across all four standards. Lobby transparency should be a mere box-ticking exercise. Rules should not inform the wider public about who is trying to sway public decisions in their favour, but also enforce ethical behaviour when doing so. The overall picture across the EU highlights that most existing frameworks do not abide by the bare minimum required.

Our findings therefore raise the question as to why there is no EU-wide regulation of lobby transparency. Harmonised rules across the EU would ensure that citizens across the union can hold their elected representatives to account, particularly at a time when malign influence from both domestic and foreign actors appears to be rising. This is especially relevant given that the Commission directly examines lobby rules in its country-level rule of law reports. We found these to be highly inconsistent, pointing to a lack of a common standards by which Member State performance on lobby transparency is appraised.

Public institutions must be protected from undue influence to ensure decisions are taken the public interest. This would require the EU to step up its game: we must move away from a haphazard approach to regulating lobbying activities to a framework based on common standards. Citizens across the Union deserve to know who is influencing the policy they are affected by, and the EU

should lead the way.

Check out the in-depth briefing here.

[1] Only operational frameworks have been considered. Regulations that have yet to enter into force or are currently under consideration by lawmakers have therefore been excluded from the scope of this briefing.

[2] Based on a streamlined framework of our International Standards for Lobbying Regulation:

https://transparency.eu/wp-content/uploads/2016/12/International-Standards-for-Lobbying-Regulation_EN.pdf

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