

# Transparency Register benchmarking Report

presented by **DII** DRIVE  
INNOVATION  
INSIGHTS

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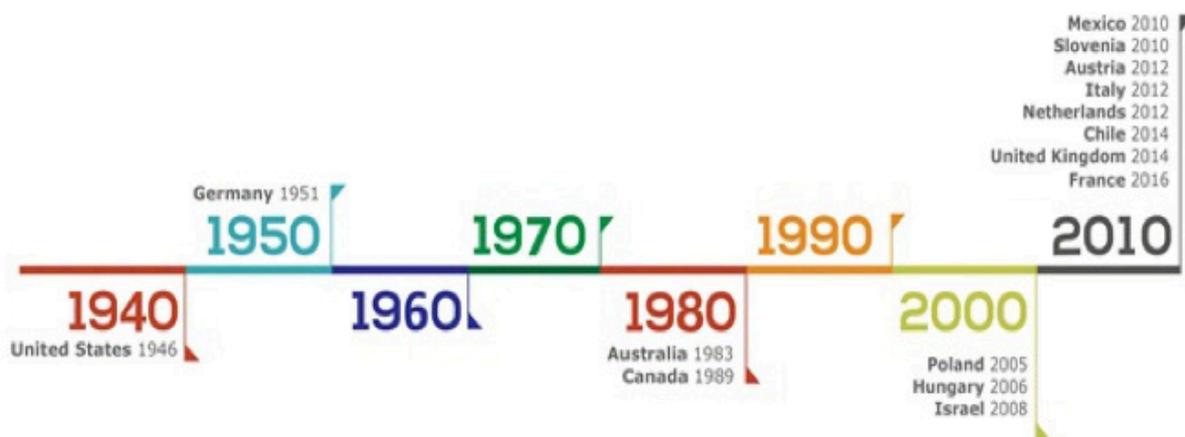
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## A. INTRODUCTION

### 1. Why a Transparency Register Benchmarking Report?

Globally, there is a move towards greater and stricter regulation of lobbying activities. Leading the way are the U.S. and Canada, but regulation is also gaining momentum in Europe, both in Europe individual member countries and at EU level. Nine European states have introduced lobbying legislation in the past decade and a half.

#### Timeline of Lobbying Regulation in the Organisation for Economic Cooperation and Development (OECD) countries



Source: OECD website, 2014. Updated by DII

Whether they are labeled lobby registers, repertoires, business registers or transparency registers, national instruments that record information about interest groups are emerging as the most popular tool to regulate lobbying activities. In this report we use the term **transparency register (TR)** to refer to all such registers. In part, the growth of TRs reflects the growing professionalization of Public Affairs work. It also reflects concern with the transparency and standardization of lobbying practice: if TRs aim to identify the various interest groups that influence legislative and political processes, they also seek to define clearer rules and standards for public affairs professionals. Yet at this stage little harmonization exists between the requirements set by various registers, resulting in complex and at times contradictory requirements for public affairs teams operating in transnational settings.

*Little harmonization exists between the requirements set by various registers*

## 2. Study zone selected

While global in scope, this report focuses on the European region as it most clearly typifies the worldwide move towards TR adoption and growing regulation. The U.S. and Canada, two countries with strong regulatory traditions in the area of interest representation, will also be included to provide comparative breadth and help predict prospects globally.

### TRANSPARENCY REGISTERS IN EUROPE

- 9 countries have mandatory registers
- 3 countries have voluntary registers
- 16 countries have no register

The public affairs landscape in Europe is particularly diverse, fragmented and complex. National legislation on interest representation varies from country to country and interacts with a different set of standards at EU level. Some municipalities also have their own registries and regulation. National and EU regulatory frameworks are also evolving rapidly: In Spain, Finland, Romania and Latvia, governments are all currently discussing proposals to introduce a TR; while against the tide, Hungary repealed its TR in 2011. Likewise, the 2011 voluntary register common to the EU Parliament and Commission is being renegotiated to tighten regulation, with the last rounds of talks having occurred on June 12, 2018.

## 3. Objective and methodology of the Transparency Register Benchmarking Report

In order to develop effective strategies adapted to each country, heads of public affairs must have a clear vision of the legal and cultural requirements that apply in specific nations. This Transparency Register Benchmarking Report aims to provide heads of public affairs with a succinct overview of lobbying regulation across Europe that can be used for public affairs management and resourcing decisions.

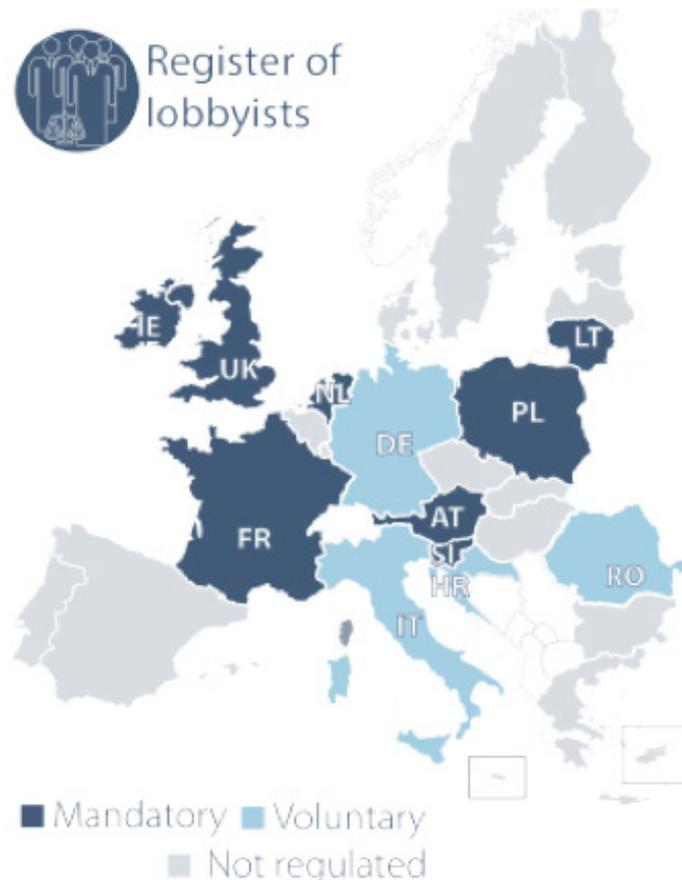
*This brief overview of lobbying regulation across Europe can be used for Public Affairs management and resourcing decisions.*

To begin, a brief overview of the various requirements set by TR legislation is provided for countries in Europe and North America. Special consideration is then given to the EU TR as many lobbyists operate simultaneously in member countries and in Brussels; EU standards also hold normative force, which means they have the power to influence legislation in member countries and can help determine future trends. For easy, friendly and quick use by public affairs professionals, countries will then be classified into three categories — those with strong, medium and weak levels of regulation. Visual aids will be provided to summarize findings. Finally, the report concludes with a set of recommendations for public affairs executives operating in this complex lobbying landscape.

## B. OVERVIEW OF TRANSPARENCY REGISTERS IN EACH MEMBER COUNTRY

### 1. Regulatory acceleration

From the 1940s to the early 2000s, only four countries in Europe and North America regulated the activities of interest representatives. Since 2005, nine European countries have enacted legislation and introduced mandatory TRs. Others have introduced voluntary TRs. The rapid shift toward greater regulation since the 2000s is easily visible on the timeline page 2.



Source: European Parliamentary Research Service, December 2016.

At present, the nine European countries with mandatory registers (the «Mandatory 9») are : France, Ireland, Slovenia, Lithuania, Austria, Poland, Scotland, the Netherlands and the United Kingdom. Except for the U.K., all of these have a code of conduct for lobbyists mandated by law.

Mandatory registers for lobbyists provide an important (though not exclusive) measure of the severity of a country's regulatory framework. The map on the right shows the geographic spread of countries in Europe that have adopted mandatory and voluntary registers:

## 2. The “Mandatory Nine”, USA and Canada: Country Summaries

Country summaries are listed in chronological order, with the oldest country to introduce legislation on lobbying appearing first. In cases where a new law replaced existing legislation, the date of the new law is used. We use the date legislation was passed and not when it came into force.

### **1995 USA** : Lobbying Disclosure Act (*strong regulation*)

Lobbying is very entrenched in American culture and the not surprisingly the U.S. is at the forefront of the regulatory approach. In 1995, the Lobbying Disclosure Act significantly strengthened already existing laws. Interest representatives are subject to mandatory registration and reporting obligations at every level (federal, state and local). The Lobbying Disclosure Act includes sweeping and clear definitions of lobbyists (lawyers who lobby on behalf of clients, in-house and contract lobbyists, and of disclosure obligations. In addition to issues lobbied and names of clients and lobbyists, financial information is included in reports; Strong sanctions apply, up to **five years imprisonment** and \$ 50,000.

### **2000 Lithuania** : Lobbying Act (*medium regulation*)

One of the first states in Europe to jump on the bandwagon of regulation. In 2001, the Lobbying Act instituted a mandatory register for lobbyists, who are expected to report annually on the financial amount spent on lobbying as well as detail which specific legislation was targeted. The regulation is however very weak: Its scope includes contract lobbyists only; thus the legislation does not apply to in-house lobbyists who belong to a company’s permanent staff. In November 2014, the list contained only 36 registered lobbyists, indicating weak implementation.. No sanctions apply beyond suspension of lobbyists. A new 2017 bill aims to strengthen rules.

### **2005 Poland** : The Act on Lobbying in the Legislative Process (*medium regulation*)

The Act on Lobbying in the Legislative Process also known as the Act on Legislative and Regulatory Lobbying introduced a mandatory register, which came into force in 2006. Besides the government’s lobbying register created by this Act, the parliament runs registers for both of its chambers independently. Like Lithuania, only contract lobbyists need to register so its scope is limited as it leaves out most lobbyists. Interest representatives must submit annual reports and disclose limited personal data. This does not provide members of the public with knowledge about their specific activities or the desired results. No financial disclosure is required. A unique feature of the Polish system however is that public officials are also required to keep a list of lobbying contacts and publish their legislative agendas. Maximum sanction is 50,000 in the Polish zloty, or approximately € 12,000. With only 400 entries in the register in 2016, it is likely that a fair share of lobbying goes unreported.

### **2008 Canada** : Lobbying Act (*strong regulation*)

Canada’s system is comparable to that of the U.S. In 2008, the Lobbying Act made the register compulsory for lobbyists subject to comprehensive disclosure requirements, including name of clients and/or lobbyists, issues lobbied, legislation targeted and financial budgets. Strong sanctions apply, up to **2 years imprisonment** and \$200,000 dollars.



## **2008 Croatia:** *(weak regulation)*

There is no legislation of lobbying in Croatia. The Croatian Society of Lobbyists established in June 2008 a voluntary register for professionals in the public affairs and consultancy sector. Registrants sign a Code of Conduct upon registration.



## **2010 Slovenia:** Integrity and Prevention of Corruption Act *(strong regulation)*

The 2010 Integrity and Prevention of Corruption Act instituted a mandatory TR. Registrants are to report annually the name of the lobbyist, data on interest groups for which lobbying was done, amount of payment received or disbursed, purpose or objective of lobbying, name of person lobbied, and methods used for lobbying as well as type and value of donation made to political parties. Slovenian public officials are also obliged to disclose their contacts with lobbyists. Disclosure requirements are comprehensive and maximum sanction is € 100,000. On paper, regulation is strong but there is concern over its application. Only 63 individuals were registered in Jan 2016.



## **2012 The Netherlands:** House of Representatives Rules of Procedure *(weak regulation)*

The 2012 House of Representatives Rules of Procedure instituted a mandatory register for lobbyists wishing to enter parliament. Its scope is thus limited since public officials other than parliamentarians are not included; forms of contact that take place outside the parliament are also not recorded. For all intent and purposes, the register seems to be treated as a voluntary system. No sanctions apply.



## **2013 Austria:** Lobbying and Special Interest Group Transparency Law *(medium regulation)*

The 2013 Lobbying and Special Interest Group Transparency Law requires annual reports to disclose identities of lobbyists and or clients, issues lobbied, the value of lobbying contracts and lobbying contacts made with government officials. The law distinguishes advocacy from lobbying but fails to provide clear formulations for each. Also, implementation of the law is weak. The maximum sanction is a €60,000 fine but monitoring of register entries is non-existent. Minimal information is disclosed to members of the public, but detailed information (who lobbied who about what) is only accessible to authorities.



## **2014 United Kingdom:** Transparency of Lobbying, Non-Party Campaigning and Trade Union Administrative Act *(weak regulation)*

In 2014, the UK enacted the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administrative Act, which introduced a mandatory register. Definitions used exclude the majority of interest representatives — by some counts only one in 20 lobbyists. Significantly, there is no code of conduct which clearly sets behavioral norms for interest representatives. No financial disclosure is required. In reality, very few lobbyists have registered. Maximum sanction is a fine of £7,500.

## How lobbying is regulated in the EU and North America



Source: EU parliament website, 2017



### 2015 Ireland : Registration of Lobbying Act (*strong regulation*)

One of the strongest regulatory frameworks in Europe. Introduced in 2015, the Registration of Lobbying Act requires interest representatives to file reports or updates every four months. Disclosure requirements are comprehensive, though notably they do not include financial information. A code of conduct mandated by law provides clear standards. Sanctions apply, up to **two years imprisonment** and € 2,500 fines.



### 2016 Scotland: Lobbying Act or Transparency Bill (*medium legislation*)

The Lobbying Act came into force in March 2018 and sets up a mandatory TR for lobbyists. Definition of lobbyists is ambiguous as a question remains whether legislation concerns individual and organization. The scope is limited, as it concerns only Members of Scottish Parliament and ministers, and only pertains to face-to-face communication. The bill includes a code of conduct for lobbyists. Disclosure requirements are incomplete though they include campaign expenditure and must be filed every six months. If the code of conduct is not respected, an educative compliance regime is set up. A review of the law will be made in 2020 with recommendations as to how to strengthen transparency. Many expect changes will be modeled along the Irish Registration of Lobbying Act.

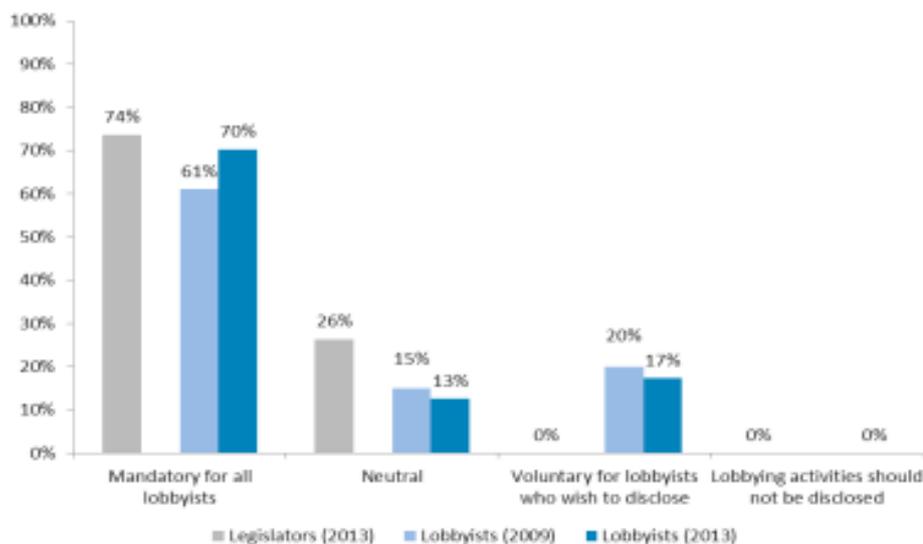


## 2016 France : Transparency of Public Life Legislation also known as Loi Sapin II (strong regulation)

Introduced in 2016, the Loi Sapin II sets a strong regulatory framework for lobbying activities. Interest groups (except religious organizations, removed in late June 2018 from the list of lobbies) are required to report their activities in an electronic repertoire, which includes to date just over 1,600 registrants (first filing obligations came into force on April 30, 2018). Interest representatives are to report annually and are bound by a code of conduct mandated by law. Disclosure requirements (fairly similar to the EU TR) are comprehensive and include the identity of lobbyists, the issues lobbied, financial budgets allocated to each issue, the number of employees, and where relevant, the name of clients. The repertoire's data is publicly accessible. Sanctions apply: 1% of turnover for legal persons, otherwise € 15,000, and up to **two years imprisonment**. In July 2021, the scope of the law will extend to cover lobbying of any regional and local public officials across the country.

For a detailed comparison of the French repertoire and EU TR, check out the European Parliament's recent briefing [Click here](#) released in July.

### Stakeholders believe that transparency of lobbying activities should be mandatory for all lobbyists



Source: EU parliament website, 2017

In both the U.S. and Canada, interest representatives, including corporate interest groups, have adapted well to the introduction of a tight regulatory framework. In polls, lobbyists overall display support for mandatory registers and strong regulation. Indeed, the standardization of practice that accompanies strong regulatory frameworks allows players to understand clearly what the rules of the game are and to strategize accordingly. When they avoid overly bureaucratic burdens, mandatory systems can benefit corporate interest groups by setting up established rules with predictable outcomes. Europeans are quickly learning this lesson, and throughout the continent, transparency at all levels is becoming the "new normal".

*Transparency is becoming the "new normal."*

## C. COUNTRY CLASSIFICATION : STRONG, MEDIUM, LOW REGULATION

### 1. Selection of criteria

Lobbying regulation in the EU and North America can be classified according to its severity into three categories. While it might be more accurate to conceive of countries as positioned on a spectrum, rather than in categories with rigid boundaries, three broad groups can be identified: those with weak, medium and strong regulation.

Criteria used for establishing the classification include:

- Is the register mandatory or voluntary?
- Scope of public officials and interest representatives targeted by the legislation.
- Comprehensiveness and frequency of reporting requirements especially vis-à-vis financial disclosure.
- Existence of a code of conduct mandated by law.
- In case of failure to comply or false reporting, is there an oversight authority competent to apply sanctions? If so how severe are they?

### 2. Results

The results (also shown in table below) can be summarized as such:

- **WEAK REGULATION:** Germany, Croatia, the Netherlands, the UK, Italian regional registers cant.
- **MEDIUM REGULATION:** Poland, Austria, Lithuania, Scotland, plus as it stands, the EU TR, which falls somewhere between medium and strong regulation. It has been included in the medium category as the EU TR is voluntary, its scope at present excludes the EU Council, and sanctions are low compared with countries that have to countries with the strongest level of regulation. Nevertheless, sanctions appear to have been a sufficient deterrent from registration evasion.
- **STRONG REGULATION:** France, Ireland and Slovenia as well as the U.S. and Canada.



**COUNTRIES WITH STRONG REGULATION:**  
The U.S., Canada, France, Ireland and Slovenia



**WEAK REGULATION:**  
Germany, Croatia, the Netherlands and the United Kingdom

What conclusions can we draw from this? First, mandatory registers in themselves do not make for strong regulation of lobbying activities (for example the Netherlands and UK). Second, the EU TR ranks as a rather strongly regulated system relative to legislation in a number of member countries. Though it has slightly lower standards than France, Slovenia and Ireland overall — the EU TR is a voluntary system and no sanctions apply except for suspension from register — it is not far behind. As such, it is likely to affect mostly countries with the least amount of regulation (or those without it entirely). Indeed, EU standards hold normative force and will likely be held up as an example to follow by those member countries considered to have weak legislation.

Name of Legislation (if any)

Year passed

Type of Regis

Oversight authority or agency

Scope of disclosure requirements

Frequency of reporting updates

Code of Conduct for lobbyists

STRONG REGULATION

MEDIUM REGULATION

WEAK REGULATION

	Name of Legislation (if any)	Year passed	Type of Regis	Oversight authority or agency	Scope of disclosure requirements	Frequency of reporting updates	Code of Conduct for lobbyists	Maximum sanction
<b>USA</b>	Lobbying Disclosure Act	1995	M	Government Accountability Office	★★★★	Quarterly	Prison 5 years \$ \$50 000	
<b>Canada</b>	Lobbying Act	2008	M	Office of the Commissioner of Lobbying	★★★★	Monthly	Prison 2 years \$ CAD 200 000	
<b>France</b>	Loi Sapin II	2016	M	High Authority for Transparency in Public Life	★★★	Annually	Yes, mandated by law Prison 1 years \$ € 15 000	
<b>Ireland</b>	Registration of Lobbying Act	2015	M	Standards in Public Office Commission	★★★ No financial disclosure	Quarterly	Yes, mandated by law Prison 2 years \$ € 2 500	
<b>Slovenia</b>	Integrity and Prevention of Corruption Act	2010	M	Commission for the Prevention of Corruption	★★★	—	Yes, self-regulation \$ € 100 000	
<b>EU TR</b>	Inter-Institutional Agreement	2011	V	Joint Transparency Register Secretariat	★★★	Annually	Yes Removal from Register (published on website)	
<b>Austria</b>	Lobbying and Spec. Inte-rest Group Transpar Law	2013	M	Ministry of Justice (enforces sanction)	★★	Annually	Yes, mandated by law \$ € 60 000	
<b>Scotland</b>	Lobbying Act or Transparency Bill	2016	M	Minister for Parliamentary Business	★★	—	Yes, mandated by law Informal sanctions	
<b>Poland</b>	Act on Lobbying in the Legislative Process (poorly enforced)	2006 amended in 2011	M	Ministry of the Interior and Administration	★★ No financial disclosure	Annually	Yes, self-regulation \$ € 16 000	
<b>Lithuania</b>	Lobbying Act (only includes contract lobbyists)	2001	M	Chief Official Ethics Commission	★★	Annually	Yes, mandated by law Removal from register	
<b>United Kingdom</b>	Transparency of Lobbying, Non party campaigning	2014	M	Registrar of Consultant Lobbyists	★ No financial disclosure	—	No \$ £ 7,500	
<b>Netherlands</b>	House of Representatives Rules of Procedure	2014	M	General Secretariat	★	—	No Informal sanctions block access to parlia.	
<b>Croatia</b>	—	—	V	—	★	—	Yes, self-regulation —	
<b>Germany</b>	Bundestag Rules of Procedure	1972	V	General Secretariat	★	—	No —	
<b>Italy (Chamber of Parliament)</b>	No national legislation, only regional For the chamber: Rules and Procedures Adden	—	V	—	★ No financial disclosure	—	Yes, self-regulation Removal from Register	

NB: In addition to the Italian national register for the Chamber of Deputies, six regions in Italy introduced TRs: Tuscany (2002), Molise (2004), Abruzzo (2010), Calabria (2016), Lombardia (2016) and Puglia (2017). Germany includes a voluntary self-regulation organ, the Deutscher Rat für Public Relations but no formal oversight authority exists. Spain has no national legislation on lobbying but does have a self-regulated code of conduct for lobbyists, and Catalonia has a mandatory register (Catalan Transparency Act of 2014).

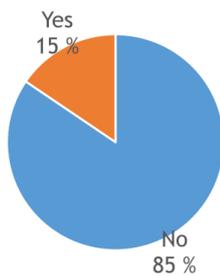
M : Mandatory V : Voluntary Prison \$ Fine  
 ★★★★★ Comprehensive and detailed disclosure requirements ★★★★★ Fairly comprehensive disclosure requirement ★★ Incomplete disclosure requirement  
 ★ Very vague and incomplete disclosure requirements

## D. THE EU TR: TOWARDS A MANDATORY SYSTEM?

### 1. The EU TR in perspective

Since the 2009 Lisbon Treaty brought new policy domains under EU competence, there has been a surge in the number of individuals and interest groups seeking to influence EU institutions. A number of them have opened offices in Brussels.

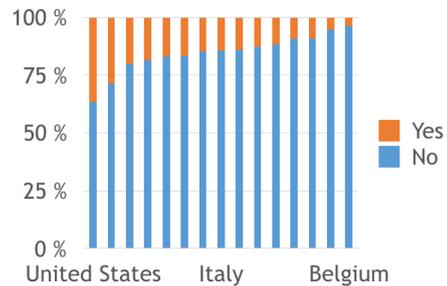
**GEOGRAPHY: SHARE OF ORGANIZATIONS WITH A DIRECT BRUSSELS REPRESENTATIVE OFFICE**  
[Excluding Belgium-headquartered organizations]



Transparency Register Analysis

POLITICO

**GEOGRAPHY: SHARE OF ORGANIZATIONS WITH A DIRECT REPRESENTATION OFFICE IN BRUSSELS**



Transparency Register Analysis

POLITICO

Source: POLITICO, 2017

Responding to the overall growth in EU lobbying activity and to a number of lobbying-related scandals, accountability and transparency have figured on the Brussels agenda. It is in this context that the Joint Transparency Register was established in 2011 through the adoption of a formal agreement between the EU Parliament and EU Commission. Prior to this, both institutions had separate voluntary registers which were more limited in scope and impact. The joint register thus represents a clear illustration of the worldwide shift towards stricter regulation.



Source: EU Parliament website

## 2. What you need to know about the EU TR

The 2011 TR is a voluntary system of registration for entities seeking to directly or indirectly influence EU institutions. It has grown at a rate of about **1000 organizations per year** and currently includes **11,785 entities** (July 1, 2018 figure). Its scope is comprehensive, as it applies to companies, trade associations, law firms, lobbying firms, NGOs, religious communities, think tanks and academic organizations. Disclosure requirements, filed on an annual basis, are also fairly comprehensive: registrants need to provide an estimate of annual costs related to activities covered by the TR, the number of representatives involved, as well as disclose any EU funding received. The specific legislative files targeted by the lobbying activity also need to be specified. Finally, a procedure exists for introducing complaints against any registrant who fails to abide by the Code of Conduct.

### THE EU TR IN BRIEF

- **Voluntary**
- **Comprehensive scope:** applies to companies, trade associations, law firms, lobbying firms, NGOs, religious communities, think tanks and academic organizations.
- **Disclosure requirements:** estimate of annual costs, number of lobbyists involved, legislation targeted
- Possibility to lodge complaint against registrant for failing to comply or to register.  
**Sanction: removal from register**

Following a review process, a **new version** of the TR came into force on **January 1, 2015**. It brought stronger incentives to register (accreditation with the EU Parliament) but required more detailed information from registrants (such as membership in high-level EU groups or expert commissions, that could demonstrate conflict of interest). In addition, the Code of Conduct was made to extend to all interest representatives, including those who failed to register.

Efforts to further strengthen the system are still ongoing: Following a proposal by the EU Commission in September 2016, negotiations are currently underway to find a new inter-institutional agreement (IIA) that would include EU Council and make the register mandatory for all interest representatives active at EU level. Here again the trend towards stricter regulation is visible.

## 3. Negotiation prospects: How likely is an mandatory EU TR?

The three EU institutions convened on **June 12, 2018** to discuss the possible implementation of a mandatory TR. **A first round of talks** took place on **April 16, 2018**. The substantial differences between the EU Commission and EU Council positions were strongly underlined — the Commission being the real force behind a push for a mandatory system. At this point, the primary challenge to a new inter-institutional agreement is the Council's (and to a lesser degree the Parliament's) insistence that there is no legal basis in EU law for imposing a mandatory system. Whether these legal technicalities are invoked as excuses or constitute a genuine obstacle is difficult to assess, but a number of other challenges, summarized below, remain to be worked out.

*A New Mandatory TR for the EU is expected to come into force before the 2019 EU elections*

## Towards a mandatory EU TR : Challenges ahead



Source: EU parliament website, 2014

Nonetheless, it is expected that the new agreement will be finalized and come into force before the 2019 EU elections. In **the second round of negotiations** on June 12, 2018, the three EU institutions committed to making progress towards a common interpretation of the key issue of conditionality — that is, of making interactions with interest representatives conditional on registration. As stated by EU Commission First Vice-President Frans Timmermans in the June 12, 2018 EU Commission statement: «Being on the Transparency Register must be a pre-condition for lobbyists to get access to lawmakers. The Commission has applied this principle for almost four years, and it works. Now we must agree on the practicalities for extending it to other European decision-makers.»

*«Being on the Transparency Register must be a pre-condition for lobbyists to get access to lawmakers. The Commission has applied this principle for almost four years, and it works.»*

EU Commission First Vice-President Frans Timmermans, June 2018

Making the EU TR mandatory would send a strong message. It would likely have a strong normative impact on the shape and form of legislation adopted by member countries currently debating TR adoption or reform.

## 4. The letter of the law vs. policy on the ground

In strict legal terms, the EU TR remains at this point voluntary. However, the EU Commission headed by Jean-Claude Juncker has adopted a formal policy that top officials in the Commission may only meet with registered interest representatives. Although this policy does not concern EU civil servants below the level of departmental heads, in practice it means that anyone seeking to wield real influence on the Commissioners must register. For practical purposes then, Juncker's policy amounts to mandatory registration for anyone wishing to lobby the Commission.

What does this tell us? First, implicit standards and cultural norms about what constitutes ethical practice in public affairs is shaping policies with real effects on the activities of professionals — irrespective of what the law may say. Juncker's decision gestures at the growing consensus that is forming in Europe around the need to exert some form of control over lobbying activities: Transparency registers are increasingly being understood as part of conducting business in public affairs.

### **NO REGISTRATION ? NO MEETING**

That's the EU Commission's moto and it's simple. To some extent this policy works. For years, Goldman Sacks lobbied unregistered until it was forced to in order to maintain access.

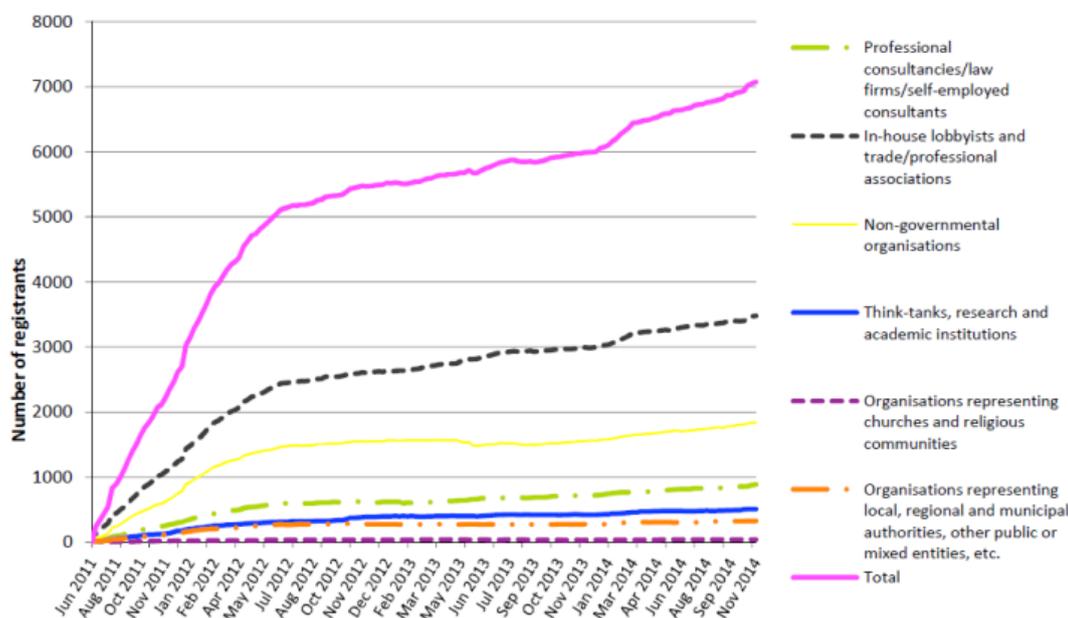
Second, stressing the importance of policy (rather than law) relativizes the outcome of current EU negotiations: In the event that legal technicalities were to prevent a new inter-institutional agreement from establishing a mandatory register, the EU Parliament and Council could follow suit with Juncker's policy-based approach. In other words, making meetings contingent on registration may well turn out to be just as efficient a way to force organizations onto the registry.

## 5. Pick your poison: boycott vs. name-and-shame

The primary significance of registration at EU level is the obligation to enter information that becomes readily accessible to the public. Registration is conducted online, which means that registrant's information — including the estimate of annual costs updated annually — is included in a searchable online database. Cross-checked against other information, it becomes possible to identify missing entries in the register. For instance, since the EU Commission now discloses details on its website about all meetings with third parties, a complaint could be filed against organizations that are not identified on the register but appear on the Commission's list.

This significantly raises the stakes of not registering, as potential complaints can severely affect an entity's reputation. This fact probably explains why so many interest representatives have been quick to sign on to the joint register. The steady rise in registration entries since its introduction is reflected in the graph below:

**Figure 2: Evolution of registrations in the Transparency Register since its launch**



Source: European Parliamentary Research Service, 2014

In short, the EU Commission’s proactive approach to transparency is changing the rules of the game for lobbyists. As a result, companies that are not listed in the register may find it increasingly difficult to influence EU institutions, potentially putting them at a competitive disadvantage. With the growing importance of the register and the new climate around transparency, companies active in Brussels may wish to re-examine their approach to EU lobbying compliance. Especially with multiple studies demonstrating that transparency has various benefits for companies, including an increase in sales from ethically concerned customers and lower costs linked to reputational risks.

## E. BEST PRACTICES = HOW TO THE MINIMIZE COST OF PUBLIC AFFAIRS WORK IN EUROPE

Given the complexity of the regulatory environment in Europe, what are some of the cost-minimizing and most effective strategies that public affairs executives can adopt?

### 1. Target multiple levels

Those seeking to influence EU institutions should not primarily rely on their governments or permanent national representations in Brussels, as has mostly been the case in the past. Adopting a multi-pronged approach that targets national as well as supranational (EU), and international (WTO, WHO, FMI, World Bank, etc.) officials has proved the most effective. Sometimes the shortest road to Brussels is through an international organization! Cultivating channels at once is necessary to a successful strategy.

*Sometimes the shortest road to Brussels is through an international organization*

## 2. Cross-sectional lobbying : kill two birds with one stone

Cross-sectional lobbying can greatly help diminish the costs associated with public affairs work, especially when it takes place on multiple playing fields: Forming alliances with other industries that share the same issues is essential. A problem for the car industry may also be a problem for the chemistry industry! Building coalitions across sectors will not only reduce costs but increase impact and visibility.

## 3. Public lobbying on the rise

Public or indirect lobbying is growing and proving an efficient way to garner influence: Interest groups should seek to mobilize public opinion, use grassroots campaigns, or fund advocacy organizations (NGOs) or think tanks. The idea is to enlist support for one's issue from the general public to amass more force when petitioning the government. This is the future of lobbying.

## F. CONCLUSION: THE FUTURE OF LOBBYING IN EUROPE

Globally, the past 10 years have seen a clear shift towards stricter regulation of lobbying activities. The adoption of TRs in a number of European countries, as well as in Brussels, remain the clearest illustration of this regulatory trend in Europe. This trend is likely to be accentuated in the coming years, as lobbying stakeholders including citizens, authorities and public affairs professionals are pushing for stricter laws.

Given the current distrust of many EU citizens towards national and EU political institutions, the twin concepts of **transparency and accountability** are likely to gain importance and embolden citizens to voice demands for a clearer set of lobbying rules. Concerned with restoring public trust, political authorities are also likely to display a more proactive approach to lobbying regulation. Finally, **public affairs professionals themselves seem to be in favor of a stricter set of rules**, as a way to equalize the playing field, and to **improve the image and legitimacy of their profession**.

Finally, since the U.S. and Canada have historically been at the forefront of public affairs developments globally, there is a chance that some features of American lobbying will be adopted in Europe. In fact, many American lobbying firms such as APCO Worldwide, FleishmanHillard and Waggener Edstrom have already opened branches in Brussels in order to acquire new European clients. In the process, their tactics, methods and strategies, as well as cultural attitudes about lobbying have partially affected the European landscape. It is no surprise therefore that there has been a shift towards greater and stricter regulation in Europe.

While at this stage regulatory frameworks in Europe remain extremely diverse and in constant flux, a global consensus on acceptable lobbying practices is slowly emerging. The enactment of legislation and codes of conduct for interest representatives is gradually promoting a standardization of lobbying activities globally.

The fact that the EU TR shares several features with American lobbying legislation is but one indication of this trend towards global harmonization.

In the future, we are likely to see three developments in the European lobbying landscape:

- The emergence of even stricter regulation on lobbying and an increase in mandatory TRs.
- In our information society, lobbying may well become more "public" through increasing use of media to shape public opinion.
- Finally, we are likely to see new public affairs models emerge based on multilateral strategies and cross-sectional alliances.

## EXECUTIVE SUMMARY

### A. INTRODUCTION

#### 1. Why a Transparency Register Benchmarking Report?

Lobbying regulation is on the rise globally, yet little harmonization exists between various systems, creating a complex regulatory environment.

#### 2. Study Zone Selected.

This report focuses on Europe and North America, because the move towards stricter regulation is clearest in these regions. National and EU frameworks are also evolving rapidly, and the U.S. and Canada appear to be setting global trends

#### 3. Objective and Methodology of TR Benchmarking Report.

This clarifies the legal requirements that apply in various countries and provide heads of public affairs with a succinct overview of lobbying regulation that can be used for management and resourcing decisions. Methodology consists of selecting five criteria to classify countries into three groups depending on the severity of lobbying legislation.

### B. OVERVIEW OF TRANSPARENCY REGISTERS IN EACH MEMBER COUNTRY

#### 1. Regulatory acceleration.

Since 2005, nine European countries have enacted legislation and introduced mandatory transparency registers. Germany, Croatia, Italy and Romania have adopted voluntary systems.

#### 2. The "Mandatory Nine", the U.S. and Canada: Country summaries.

Overview of legislation in states with mandatory registers: the U.S., Lithuania, Poland, Canada, Slovenia, the Netherlands, Austria, the U.K., Ireland and France.

Interest representatives are increasingly in favor of strong regulation of their profession as it allows the standardization of practice and rehabilitation of lobbying in the eyes of the general public.

### C. COUNTRY CLASSIFICATION: STRONG, MEDIUM, LOW REGULATION

#### 1. Selection of criteria.

We classify lobbying regulation into three categories (strong medium and low regulation) according to five criteria: i) mandatory versus voluntary register, ii) scope of public officials and interest representatives targeted, iii) comprehensiveness and frequency of reporting requirements, iv) existence of a code of conduct and; v) existence and severity of sanctions.

#### 2. Results.

Low regulation: Germany, Croatia, the Netherlands, the U.K., Italian regional registers and Catalonia (Spain). Medium regulation: Poland, Austria, Lithuania, and as it stands, the EU TR. Strong regulation: France, Ireland and Slovenia as well as the U.S. and Canada. Table of findings included.

### D. THE EU TR: TOWARDS A MANDATORY SYSTEM?

#### 1. The EU TR in perspective.

There has been an explosion of lobbying efforts and scandals in Brussels after 2009, despite the EU Commission and EU Parliament having separate lobby registers. In response, the EU Parliament and Commission reached an inter-institutional agreement in 2011, which created a joint register known as the EU TR with stronger requirements. To date, it excludes the EU Council.

#### 2. What you need to know about the EU TR.

It is a voluntary system with 11,785 registrants and its numbers are growing. Its scope (companies, trade associations, law firms, lobbying firms, think tanks and NGOs) and disclosure requirements are comprehensive. Failure to comply can lead to temporary suspension (very rarely used) but the real deterrent is reputational risk for the company.

#### 3. Negotiation prospects: How likely is a mandatory EU TR?

Negotiations are underway for a new inter-institutional agreement that would include EU Council and make the register mandatory. Despite challenges and reticence from the Council, analysts expect it to come into force before the 2019 EU elections.

#### 4. The Letter of the law vs. policy on the ground.

While registration in the EU TR is voluntary, the official policy of the Commission is that top officials may only meet with registered interest groups. For practical purposes, this policy matters as much as what legislation says and could well be adopted by the EU Council and Parliament,

#### 5. Pick your poison: Boycott vs. name-and-shame.

Registration in the EU TR is conducted online; entries are included in a searchable online database accessible to the public. When cross-checked against other information, citizens and NGOs can lodge complaints if inconsistencies are identified. The costs of not registering can be much higher than those associated with registration.

## E. BEST PRACTICES: HOW TO MINIMIZE THE COST OF PUBLIC AFFAIRS WORK IN EUROPE

### 1. Target multiple levels.

Targeting national, supranational (EU) and international (WTO, WHO, World Bank etc) institutions at once is an effective strategy to maximize impact.

### 2. Cross-sectional lobbying: Kill two birds with one stone.

A problem for the car industry can also be a problem for the chemistry industry. Increase impact and reduce lobbying costs by forming cross-sectoral alliances.

### 3. Public lobbying on the rise.

Influencing public opinion is the best way to amass influence and give visibility to your issues. Invest in grassroots and public relations campaigns.

## F. CONCLUSION: THE FUTURE OF LOBBYING IN EUROPE.

While at this stage regulatory frameworks in Europe remain extremely diverse, a global consensus on acceptable lobbying practices seems to be emerging. In the future, we are likely to see the emergence of even **stricter regulation** on lobbying since citizens, political authorities and **PA professionals themselves are in favor of more regulation and transparency.**

Lobbying may become more “public” through increasing media use aimed at shaping public opinion. And we are likely to see multilateral strategies and cross-sectional alliances grow.