

# Lobbying and foreign influence

Lobbying and foreign influence are normal, integrated activities in modern public policy-making and geopolitics. When these influencing activities are covert or illicit in nature, however, they can be damaging to public image and levels of public trust in our democratic societies and their institutions, including those of the EU. Although not a modern [concept](#), the frequency and extent of covert influence activities by third countries have been increasing since the mid-[2010s](#). In the EU, this has taken the form of [disinformation attacks on the EU](#), hidden agendas pushed by [foreign funded academic think-tanks](#) and [funding of Member State political parties](#) by authoritarian regimes, all with the aim of undermining the legitimate decision-making processes and political structures in and of the EU.

The term foreign interference is often utilised to differentiate between legitimate influencing activities, such as diplomatic relations, and activities with the intention to disrupt. As this is not an exact [science](#), however, it is also often difficult to distinguish between foreign influence and foreign interference activities. While interference tactics are often coercive, covert, deceptive, and clandestine in nature, influence activities can be made more transparent, thereby making it easier to differentiate between interference and the more legitimate influence activities.

In light of the aforementioned growing foreign interference efforts, the EU considers foreign interference tactics as a [serious threat](#) and is taking steps to monitor and mitigate them, by, for example, setting up specific bodies or committees, especially in the context of EU elections. In parallel, the EU is also trying to improve the transparency of foreign influence activities. One such measure is broadening the scope of the [Transparency Register](#), a public database of the European Parliament, the Council of the European Union and the European Commission, for the registration of transparent and ethical interest representation activities. According to the latest OECD [report](#) on lobbying, only three OECD nations (the USA, Australia and Canada) have rules in place that cover foreign influence. On the back of a new [Interinstitutional Agreement](#) (IIA) on a mandatory Transparency Register, however, the EU looks set to join those three nations.

## The example set by the USA, Australia and Canada for transparency of foreign and domestic lobbying

The USA, Australia and Canada all operate some form of publically accessible lobby register. Core to the differences in the way each nation tries to make foreign influence lobbying transparent is how they define the actors involved. The US example provides the broadest definition, whereby anyone representing foreign governments, political parties, corporations, individuals and nongovernmental organisations must disclose their relationship with a foreign government and such activities on a specific foreign agents register. The scope of Australia's example is narrower than that of the USA, excluding any corporations and organisations that are not directly tied to foreign government's activities, for example, organisations promoting tourism. Both these schemes operate in parallel to national public databases intended to capture domestic lobbying. Canada's example, on the other hand, takes a more holistic approach where the same law applies to both domestic and foreign lobbyists. Here, all lobbyists must disclose funding received by foreign governments in a common register.

In the USA, the [Foreign Agents Registration Act \(FARA\)](#) was first enacted in 1938 as a means to monitor and fight Nazi propaganda. Notably, FARA registration numbers have risen since US intelligence agencies concluded that Russia had interfered in the 2016 presidential election and, as a result, has subsequently led to substantial [increases](#) in prosecutions of violations. Despite the increased enforcement, however, the American scheme has faced challenges on different fronts. FARA has been [criticised](#) because of its overly broad scope, with for example, even some foreign media and journalists having been labelled as foreign agents. There have also been [concerns](#) that FARA is not well enough equipped to catch up with the changing lobbying environment through increased [use](#) of indirect lobbying channels such as social media and grassroots [strategies](#). In an attempt to address some of these concerns, however, a Republican-backed [bill](#) to increase enforcement and disclosure requirements of FARA was introduced in the US Senate in May 2021.

The [Australian Foreign Influence Transparency Scheme](#) was put in place in late 2018 as a means to render the nature, level and extent of foreign influence in Australia more visible.

Like the American example, the Australian scheme has had its challenges. One such challenge stems, once again, from the difficulty in defining the actors concerned by the legislation and the blurred [lines](#) between commercial and state interests, which has resulted in an [underwhelming](#) sign-up response.

The [Canadian Registry of Lobbyists](#) came into force in 2008. The Canadian approach differs to Australian and US foreign influence laws, as the lobby register used is not designed exclusively to shed light on foreign influence. As a result, while foreign agents need to register their activities, there are no means to measure the exact number of such foreign agents. Having said that, Canada is [considering](#) setting up a separate foreign agent's registry to better monitor foreign influence activities.

## European Union

The European Parliament has jointly operated the EU Transparency Register with the European Commission since 2011, before the Council of the European Union joined operations on 1 July 2021 (on the basis of an interinstitutional agreement). With 12 187 registrants [recorded](#) on 31 December 2020, this database, featuring interest representatives from all over the world, is already one of the better tools amongst EU Member States' own national lobby registers to detect foreign influence channels. For example, a [study](#) by the OECD showed that the top concern for parliamentarians, in terms of what transparency rules should cover, is the funding of think-tanks. The Transparency Register is the only transparency scheme amongst OECD nations requiring registered think-tanks, research centres and academic institutions to disclose their funding, and over 150 of those currently [active](#) list head offices outside the EU. Moreover, the study also highlighted that the EU Transparency Register is one of the few registers that require registrants to disclose information about indirect lobbying strategies. Most importantly, all registrants need to sign up to a code of conduct to perform ethical and transparent interest representation.

It is a sign of the times that this newest agreement between the three EU institutions is not only meant to strengthen transparent and ethical interest representation, but also better equip the EU to put the spotlight on foreign influence. Specifically, it will now [cover](#) influencing activities on behalf of third countries, when carried out by entities without diplomatic status or through intermediaries. This means that while official diplomatic channels will not have to register, public affairs consultancies must declare the policy targeted and costs related to representing foreign government actors who have hired them to lobby at EU level. Transparency obligations have even been extended to both sides of the decision-making process with top level officials of the permanent representations to the EU now having agreed to meet only registered interest representatives when they prepare or hold the rotating Council presidency, in support of the new agreement.

## Missing elements and other challenges

Although the 2021 IIA on a mandatory Transparency Register provides for more transparency on foreign influence, it remains to be seen, as with the Canadian example, how visible this type of influence will become if it is logged in one single register.

While the Transparency Register is broad in scope, it does exempt certain types of organisations. This, critics allege, could create loopholes for foreign interest activities, for example in cases of expert [advice](#) asked by the EU institutions.

Furthermore, [critics persist](#) in highlighting the lack of enforcement of penalties and sanctions for breaches of the EU Transparency Register code of conduct. Although the new mandatory Transparency Register will allow for stronger investigative and sanctions powers, it is yet to be seen whether these increased powers will need to be used and if the results satisfy critics.

Lastly, the EU is, after all, a supranational union made up of 27 Member State governments who are all prone to foreign influence individually, which could [indirectly](#) translate to influence at EU level. Although some Member States such as France and Ireland have strict national transparency rules on lobbying, there are no specific rules [in place](#) to regulate foreign influence at national level.

## Outlook

The topic of foreign influence and interference will be of growing importance in the foreseeable future. Research shows that the difficulty in regulating or in mitigation lies in multifaceted aspects, from classic geopolitics to election interference to disinformation campaigns. In order to assist the EU to handle these challenges, the European Parliament has set up a [special committee](#) on Foreign Interference in all Democratic Processes in the European Union, including Disinformation (INGE), which is due to produce a report on possible solutions and tools on how to counter foreign interference in the EU. On the European Commission side, Vice-President Věra Jourová has been [entrusted](#) with the task of promoting EU democratic values and transparency. In parallel to increased lobby transparency, she has announced planned measures to better protect EU democracy, ensure free elections in a digital age, strengthen independent media, and counter disinformation. The EU plans to implement by 2023 a toolbox for countering foreign influence operations and interference, including new instruments that allow for the imposition of costs on perpetrators.

## FURTHER READING

Naja Bentzen, [Foreign influence operations in the EU](#), EPRS, 2018.

European Parliament and European Commission, [Annual report on the operations of the Transparency Register 2020](#), 2021.

OECD, [Lobbying in the 21st Century – Transparency, Integrity and Access](#), 2021.

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