

THE LOBBYTOMIE AND THE EUROPEAN UNION TRANSPARENCY REGISTER

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Abstract: Brussels is the lobbying capital of Europe. And so it is not difficult to understand why, big companies, industry interest groups, lobbying consultants and law firms spend hundreds of millions of euros every year to ensure that EU policy meets the needs of "big companies"... and their efforts very often they are crowned with success! It is estimated that more than 25,000 lobbyists work in the European Quarter, most of them serving businesses and their interest groups. Every time the European Commission proposes a regulation, or when the European Parliament votes on a new directive, corporate lobbyists are present, far more numerous than the groups that defend the public interest and equipped with much more significant financial resources. On certain issues, the imbalance is staggering: thus, in the case of European financial regulation, the lobbying costs incurred by the banking sector are thirty times higher than those of NGOs, trade unions and other interest groups. This imbalance and the opportunities for corruption were even greater before the Lobbying Transparency Register was enacted.

Keywords: European Union, interest groups, lobbying, Lobbying Transparency Register

1. INTRODUCTION

The Treaty of Rome establishing the European Economic Community dates back to 1957, but the development of lobbying in Brussels began in 1973, with the entry of the United Kingdom. Indeed, Anglo-Saxon countries have known and practiced these techniques for a long time. (Gueguen, D., 2007). This allowed a good start and increases the efficiency of their actions. Little by little, other member states discovered and implemented lobbying in their own way, but only two member states took care to regulate this practice: Germany and Denmark. At EU level, the means of controlling public money and lobbying generally remain virtual and notoriously insufficient. (Talleut, C., 2015, 63-70 pp.)

As long as EU policy makers continue to confuse the interests of big business with the interests of the public, the pursuit of profit will prevail over the protection of the climate and public health. If we want policies that protect the environment and public health, then the companies most likely to oppose them should not be allowed to make those policies. This applies at all stages of legislation, from the guarantees of independence that must surround advisory groups and European agencies such as the European Food Safety Authority (EFSA) to protecting consumers from the chain of alimentary risks, through stopping the lobbying of European elected representatives. Finally, the introduction of control would make it possible to find out which industry players are involved in lobbying activities and which member states are trying to weaken the legislation in favor of "their" companies. Awareness of the dangers of corporate appropriation of the decision-making process has increased over time, and therefore demands for change have been constantly asserted. Within the framework of the European Parliament, more than 180 parliamentarians signed a pledge for "the struggle of citizens and democracy against the excessive influence of banking lobbies and big business". The elections for the European Parliament in May 2019 and the establishment of the EU Commission made it possible to partially limit the influence of large companies on the decisions of the EU institutions. (Cambierl, C. 2019, p.12) After four years of negotiations, the European Parliament, the Council of the European Union and the European Commission reached an agreement in July 2021 on the reform of the transparency register. With this new agreement, the Council integrates the transparency register. Each institution can also adopt additional transparency measures: this can, for example, consist of online publication of information about meetings held between public officials and interest representatives.

2. WHICH INSTITUTION ARE COVERED BY THE TRANSPARENCY REGISTER?

Member States, Permanent Representatives, for example, have committed to meeting only registered lobbyists during their rotating presidency of the EU Council and during the six months leading up to it, and to publish these meetings online. What is the definition of lobbying activity at the European level? At the European level, lobbying includes "all activities carried out with the aim of influencing the policies and decision-making processes of Union instruments, regardless of the place where they are carried out and regardless of the channel or method of communication used ". This definition is one of the broadest in existence. This includes communication campaigns in the media, for example, which is not the case in all EU member states. Who in the EU is a lobbyist? "All organizations and individuals acting independently, regardless of their legal status, carrying out lobbying activities" are considered lobbyists. (De Graffenried, V. (2023, p.1), This includes six main categories of lobbyists: consulting firms, companies and trade unions, think tanks and academic institutions, religious organizations, local government

agencies and other public entities. From the reform of the register in 2021, consultancy firms must also report advocacy activities carried out on behalf of third countries.

3. WHAT INFORMATION MUST LOBBYISTS AND HOW OFTEN?

Lobbyists fill out an annual declaration, the information of which is published in the register. This information includes the amount of costs and the purpose of lobbying activities which can be in the form of communication (event, publications), meetings with members of the European Commission, contributions to the roadmaps and public consultations used by the Commission to prepare its legislative proposals, or to participate in expert groups of the Commission. Unlike the French register, business groups register the various entities of the group in a consolidated manner in the European register. In addition, the register shows the main EU legislative proposals or policies targeted by registered lobbyists. The areas of interest of the lobbyists in question are also listed: climate action, employment and social affairs, taxes, youth, etc. Lobbyists must also make public their affiliation with professional organizations, the names of people who work for them and who are accredited to the European Parliament, and a list of meetings they have had with the European Commission. Are lobbyists subject to ethical obligations? By subscribing to the transparency registry, lobbyists agree to comply with a common code of conduct. Among the obligations of the code, lobbyists should especially refrain from dishonestly obtaining information. What means of control does the registry secretariat have? The Secretariat of the Registry for Transparency performs quality checks on lobbyists' statements. In 2020, 4,973 entities were inspected. The Secretariat may delete entries from the register due to inadmissibility or failure to update them. The Secretariat also investigates alerts and complaints it receives and conducts investigations on its own initiative. In 2020, the secretariat conducted a new investigation against an entity that seriously failed to fulfill its obligations under the code of conduct. For the first time, the investigation led to the removal of the lobbyist in question from the register for a period of two years (maximum sanction provided) and to the publication of this measure on the website of the transparency register.

4. PURPOSE OF THE TRANSPARENCY REGISTER OF EU

EU institutions have reached an agreement to update the transparency register with a list of lobbyists who contact them. Why is this register important and what is the number of registered lobby organizations? During the April 2021 plenary session, the European Parliament approved an agreement with the European Commission and the Council to update common rules that will make the activities of interest representatives at the EU level more transparent. Since 2011, the European Parliament and the Commission jointly manage a public register called the Transparency Register. This second Register replaced several previous separate registers, the Assembly Register dating from 1995.(Kluger-Dionigi, M. & Martens, H (2016, p.1).The EU Council has acted as an observer to the registry since 2014, but became a full participant after negotiations on the updated agreement ended at the end of 2020

Purpose of the Transparency Register In the European Union, exactly 49,059 people lobby for various interests of large, medium and small business companies, interest groups, non-governmental organizations, consulting organizations, law firms. The purpose of the Transparency Register is to ensure that those who wish to contact the European institutions publicly declare their interests and provide certain information about themselves. If you want to carry out certain activities to influence EU policies, for example if you want to speak at a public hearing, you will need to register. The number of registered organizations continues to grow over the years. More than 12,500 organizations are now registered, representing more than 50,000 people. Among them are non-governmental organizations, business associations, companies, unions and think tanks. Registered organizations vary widely in size and the interests they represent. The topics most organizations are interested in are the environment, research and innovation, and climate action. Almost a fifth of the organizations have their headquarters in Belgium. (Laurens, S., 2017)

EU member states have different approaches on how to regulate the phenomenon of lobbying. In Austria, France, Germany, Ireland, Lithuania, Poland and Slovenia, as well as in the Spanish region of Catalonia, registration is mandatory. In Belgium, Italy and the Netherlands, lobbyists are encouraged to register voluntarily. In other EU countries, authorities have not introduced rules, but interest representatives have established mechanisms for self-regulation.

5. HOW LOBBYISTS OF INDUSTRIAL COMPANIES CAN MANIPULATE SCIENTIFIC INFORMATIONS?

Following the tobacco industry that developed a series of strategies in the 1950s, entire sectors of the industry manipulated "scientific information" in order to support the sale of toxic products. In essence, it is neither fraud nor fabricated data. When it comes to defending their products and their interests, some firms use very subtle means to

manipulate scientific information. It could be, for example, oil companies that cast doubt on the origin of climate change as a result of weather cycles and not human error. Multinational beverage companies are shifting attention away from sugar to point to a lack of physical activity while pesticide manufacturers criticize studies documenting the harm of their bestsellers. The production of tailor-made scientific material dedicated to the defense of commercial interests essentially goes through two cycles: articles published in scientific journals on the one hand, and the production of toxicity studies intended for authorities on the other. Guéguen, D. (2023,p11)

In general, industry-funded studies did not include original research results. This often irritated the reaction and criticism of independent scientific studies that documented the harmful effects of the product. The goal was to create an impression of disagreement in the scientific community. These pseudo-controversies thus allowed firms to maintain suspicion and delay decision-making by public authorities. This is what experts and analysts call the creation of "factories of doubt" (Stéphane Foucart, S.(2017) This type of mission used to be entrusted by manufacturers to specialized firms known as "product defense" that employed lobbyists with degrees in toxicology, epidemiology, etc. However, this role was often dealt with by the scientific and academic world, current or retired professors, experts, who use their reputation and the reputation of their institution to sell their services. By the way, it should be taken into account that all these activities are quite legal. Thus, academics sometimes sign "scientific expertise" of dubious quality to the elaboration of which they did not contribute much or that contribution was minimalist. This practice of "ghost writing" is widespread in the pharmaceutical sector writes (Horel, S., 2019, p.3). In 2017, the "Monsanto papers" (Monsanto papers) – internal documents of the agrochemical company released by a court decision in the United States of America – revealed that this practice is routine in the company, and even in the entire sector. At the end of this "scientific laundering" process, product defense material is integrated into the scientific corpus, where it can create illusions of reliability and quality. (Hoedeman, O. 2018, p.5)

6. STRATEGY OF A SYSTEMIC RESPONSE TO NEGATIVE MENTIONS

But the influence of the companies is realized through a second cycle of information diffusion, which is, officially. Regulatory agencies around the world base their assessment of chemicals on toxicity studies provided by the manufacturers who commissioned them. Protected by trade secret, these data are never published in journals. That is why they cannot be submitted to independent expertise. However, research on the "funding effect" (or funding bias) has shown that studies conducted under sponsorship are four to eight times (90 for tobacco) more likely to lead to conclusions favorable to the funder's product than those conducted under sponsorship. of those carried out with public or non-commercial funds (4). This capture of the circuits of knowledge production extends to the capture of scientific information intended for the general public. Companies and their public relations firms are present on the web and social networks, where they try to persuade public opinion and influence public authorities. To defend glyphosate, the active ingredient in Monsanto's herbicide Roundup, the lobbying firm Fleischmann-Hillard has orchestrated, for example, "Don't Let Anything Go," a counteroffensive operation consisting of a systematic response to negative mentions of the product in the media or social media. networks. networks and online forum.

7. PARLIAMENT ASKED FOR GREATER TRANSPARENCY

During the negotiations with the Commission and the Council, the European Parliament fought to strengthen and improve the accountability of the European institutions and to ensure a transparent and open decision-making process at the level of the European Union. Parliament's April 2021 resolution welcomes the fact that indirect lobbying activities will also be subject to registration rules under the new treaty. Indeed, due to the pandemic, the number of face-to-face meetings has decreased leading to new forms of interaction between interest representatives and decision makers. . The MEPs also welcome the change in the Council's statute. "Leading by example, we can become a model for member states and change the paradigm in all sectors." With the new rules, citizens can more easily understand how the decisions that affect their daily life are made," said the co-negotiator of the parliament, Katarina. Barley (S&D, Germany). Parliament co-negotiator Danuta Hübner (EPP, Poland) noted: "Parliament's goals are fully reflected in the new framework: we have expanded powers and strengthened the transparency register, while ensuring that the free mandate given to MEPs by European citizens remains intact."

8. ANNUAL REPORT OF REGISTER OF TRANSPARENCY

Every year, the European Union publishes the Annual Report, which deals with the transparency of lobbying in the countries of the European Union. The report is submitted by the Board for the Register for Transparency of Lobbying to the European Parliament, the Council of the European Union and the European Commission. In accordance with Article 13(3) of the inter-institutional agreement concluded between the European Parliament, the Council of the European Union and the European Commission, such an obligation is mandatory and expressed in the Transparency Register. The report provides factual information about the Transparency Register, its content and any

changes made to it in the current year. At the same time, this report expresses the measures for conditionality and additional measures for transparency. The Transparency Register created in 2011 was a joint transparency tool of the European Parliament and the European Commission. It also marked the beginning of a new era of inter-institutional cooperation regarding the European Union's transparency policy, with the inclusion of the Council of the Union. On July 1, 2021 A new tripartite inter-institutional agreement was created on the mandatory Transparency Register (AII) entered into force. It envisages a more rigorous approach to the management of customary law, measures to promote the ethical representation of interests as well as new transparency requirements imposed on their representatives as part of their activities with the institutions of the Union. This report provides an overview of the implementation of the new IIA (see sections II and III). The transparency register is constantly growing until 31.12. 2021 has already reached 13,366 applications. From an operational and administrative point of view, preparations on the ground for a smooth transition between the old system and the new mandatory system represent a major effort. This included issuing new instructions to applicants and registrants to develop a new registration form that appears on the registry's website. This transition also assumes increased support from assistance services, assistance, as well as actions and events available to stakeholders. Data quality has remained a top priority since 2021. By the way, all requests were checked before their publication, 452 representatives of interest groups were registered and they were successfully registered through the new form. The remaining and already registered interest representatives have been given a transitional period of six months to comply with the IIA Requirements. The migration rate reached 39% on 31 December 2021 (see Section V) (Annual-reportTransparency-register-2021)

9. MAIN FEATURES OF THE 2021-INTERINSTITUTIONAL AGREEMENT

The IIA makes the registration of interest representatives mandatory in order to operate certain types of key representative activities at Union level. The principle of "conditionality", according to which "the entry in the transparency register is a condition before the implementation of specific activities", is a cornerstone of the IIA and has been implemented in the form of measures adopted separately by each of the signatory institutions (see Part III). The IIA is binding on the three signatory institutions. The other institutions, organs and bodies of the Union can choose whether to adhere to the principle of "conditionality" and this principle is placed on a voluntary basis and according to their own will. When applying, all applicants and persons agree to the ethical and deontological rules of conduct in accordance with the principles established in the code of conduct (attached to the IIA), thus showing their determination to be eligible.

10. MANAGEMENT STRUCTURE

The Transparency Registry has a two-tier management structure: a Board of Directors that provides general oversight of the Transparency Registry and a Secretariat responsible for its day-to-day management. The Board oversees the overall implementation of the IIA. Therefore, he is responsible for determining the needs and priorities of the transparency register, adopts the annual report, informs and gives general instructions to the secretariat. It is also in charge of studying the requests for reconsideration of the measures taken by the secretariat against persons registered after investigation and to rule on them. The administrative council is composed of the general secretaries of the Assembly, the Council and the Commission. It meets at least once a year and each Secretary General provides that presidency for one year. The Secretary General of the European Parliament is the first to occupy this position in 2021 and until the end of 2022. The Secretariat provides guidance to stakeholders on the registration process and controls the acceptability of requests as well as the quality of information. (Berretta, E., 2023)

11. IMPLEMENTATION AND TRANSITION PERIOD

The IIA entered into force on 1 July 2021. It includes new information requirements for applicants and registrants. These requirements are set out in Annex II of the IIA. Regarding the financial information to be provided, registrants must now choose the type of interest they represent (their own interests or those of their members, clients' interests or non-commercial interests), determine the most relevant financial information (see Section V). On September 20, 2021, the secretariat published a new application/registration application form on the Transparency Register website, in order to enable applicants and registrants to meet the new information requirements. Each new applicant applying for registration had to complete the new form which was subject to an eligibility check before the transparency register was published. Subsequently, all registered persons, who had already contacted the Transparency Register before that date, were notified that they have a six-month period³ to change their registration according to the new form in order to remain registered. To raise awareness and facilitate the registration of interest representatives and their transition to the new system, the secretariat has made public, on the website of the transparency register, new guidelines for applicants and registered interest representatives, as well as a new enriched FAQ. Before preparing the detailed new guidance, the secretariat consulted stakeholders of the Transparency

Register using an online questionnaire in June 20214. The Secretariat also provides detailed information on the new governance structure of the Transparency Register as well as the conditionality measures and other transparency measures in force in the Union institutions, on dedicated pages on the website. As part of the preparations for the new registration process, the secretariat organizes a series of meetings with the representative bodies, i.e. the actors who represent the different types of declarants registered in the transparency register, in order to present them with the new framework for the register and to answer their questions and requests information and guidance (see Part IV, 2021).

12. CONCLUSION: COMPLEMENTARY MEASURES FOR CONDITIONALITY AND TRANSPARENCY

The European Parliament, the Council of the EU and the Commission of the EU adopt conditioning measures when they decide to subject the performance of certain interest representation activities to prior registration in the Transparency Register. The three institutions can also adopt additional transparency measures aimed at encouraging registration and strengthening the common registry framework. All conditionality measures and additional transparency measures currently in place at each of the three institutions are detailed below. Other institutions, bodies, offices and agencies of the Union, as well as Member States, within their permanent representations, may notify the Board of Directors of additional measures, conditionality or transparency that they have adopted and request their publication on the website of The Transparency Register. In 2021, such notice was not submitted to the Management Board. All member states have committed that, during the period in which they will preside over the Council of the European Union and during the six months, they will hold regular meetings between their permanent representative in the Union and the representatives of the interest groups or lobby groups. This conditionality measure refers to meetings organized with the representative, i.e. the permanent representative or deputy permanent representative of the country presiding over the Council or who will assume the next presidency.(eu/transparencyregister,2021) Therefore, interest group representatives should not have access to these meetings unless they are registered. In 2021, this measure was applied by Slovenia, which presided over the Council of the Union, and by France, which was preparing to take over the next presidency.(ue.delegfrance.org, 2021) On the part of the European Parliament, considering the special role and mandate, it is recommended that the members of the European Parliament meet only with the representatives of the lobby groups registered in the transparency register. All MEPs are also invited to publish any online information about planned meetings with representatives of lobbyists. These meetings are published on the official pages of the Parliament dedicated to the individual profile of each MEP. Reporters, as well as "shadow reporters" and chairpersons of the Commission, are obliged to publish online information regarding scheduled meetings with representatives of interests for each of the parliamentary reports. In this way, the published data indicate a) the date and type of the meeting held, b) the subject discussed, c) the meeting at which the representative of the lobbyists met and d) the role of the MP. In this case, the role of the member of parliament as a reporter, shadow reporter, president of a committee or MEP who has no specific responsibility in the file handled by the reporter, or "shadow reporter", i.e. the president of a committee or the MEP who has no specific responsibility in the file which is handled.

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