



Lobbying and Foreign Agent Registration Laws

Czech Republic • France • Greece • Malta
Netherlands • Portugal • Sweden

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Comparative Summary

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I. Overview

This multi-national report covers lobbying and foreign agent registration laws in the select jurisdictions of **Czechia, France, Greece, Malta, Netherlands, Portugal, and Sweden**. The report focuses on legislative developments in the jurisdictions with regards to (1) the regulation of lobbying, and (2) the registration of foreign agents. Furthermore, the report includes information on (3) the extent to which **China** is referred to in the discussions on the need to pass such laws (or to amend them, if they already exist).

II. Transparency Registers for Lobbying

According to survey reports, **France** and **Greece** have *mandatory* lobbying registers currently in force. France's 2016 "Sapin II" law established regulations for lobbying and introduced a compulsory registration system for domestic and foreign lobbyists. **Greece's** 2021 Law establishes a "transparency register" in which all persons and entities engaging in influential activities before legislative and executive bodies and their members on behalf of a client for remuneration ("interest representatives") must be registered before engaging in such activities.

Netherlands has no legislation for lobbying but the House of Representatives in the bicameral legislature has a lobbying register which is *voluntary*. Registering provides advantages such as access to certain semi-public spaces in the House of Representatives building.

Both **Malta** and **Czechia** have legislative proposals for *mandatory* registers for lobbyists. Both proposals include a publicly-accessible registers of lobbyists and would contain information about their lobbying activities.

Currently, **Portugal** does not have any law or regulation, enacted or pending, that requires the registration for lobbying activities or foreign agents engaged in such activities. **Sweden** does not require that lobbyists register, and previous proposals were rejected by Sweden's parliament. However, a new proposal is currently being reviewed by a special government committee following international criticism of Sweden's lack of transparency in government-lobbyist contacts.

III. Registers for Foreign Agents

In **France**, the "Sapin II" Law has registration requirements for foreign agents operating in France but it is not completely equivalent to the US Foreign Agents Registration Act. **Czechia, Greece, Malta, Netherlands, Portugal, and Sweden** do not have laws in force that require registration of foreign agents. In **Czechia**, registration of foreign agents is not required under Czech law but foreign investors in sensitive areas are subject to a special screening mechanism and government

oversight. Similarly, **Sweden** does not have laws requiring that foreign agents register with the government or someone else. However, proposed legislation would require that direct investments by foreigners in sensitive industries be reported to the government.

IV. References to China or Chinese Entities in Legislative Discussions Concerning Proposed or Enacted Transparency Laws

In all selected jurisdictions, there was no explicit mention made of China or Chinese entities in the discussions during the legislative process regarding enacted or proposed lobbying/foreign registration laws. However, in **Sweden**, the proposed legislation on direct investments by foreigners in sensitive industries mentions the increase in direct investments in Swedish companies by Chinese investors. Also, in **Czechia**, China's involvement in Czech economic and social life appears to be a matter of public discourse and concern for scholars and counterintelligence services.

Czech Republic

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SUMMARY Czechia does not have lobbying legislation in force. Several bills have been rejected previously and a new law should become effective as of 2025. New legislation on lobbying activities is aligned with efforts of the Czech government to fight corruption; however, it is criticized for creating numerous loopholes. A publicly available registry of lobbyists will be established. Czech and foreign nationals can register as lobbyists. Reporting of the lobbying interests and purposes will be required. In absence of enforceable legislation, present lobbying activities are regulated by voluntary measures and general limitations on bribery and other prohibited activities established under criminal and administrative law. Registration of foreign agents is not required under Czech law. Foreign investors in sensitive areas are subjects to a special screening mechanism and government oversight. While no information on parliamentary discussions concerning Chinese policies in Czechia during the lobbying law debates has been located, Chinese influence and involvement in Czech economic and social life appears to be a matter of concern for scholars and counterintelligence services.

I. Legislative Initiatives

Currently, no Czech law in force regulates lobbying activities. Furthermore, there is no formal requirement for legislators to report their communications with lobbyists. Since 2004, several attempts have been made to regulate lobbying activities but they have not been successful. A 2016 report prepared by the European Parliament Research Service states that in 2006, the legislation on lobbying was included in the program of the coalition government.¹ In 2009, the first bill on lobbying was introduced by a group of Socialist members of Parliament but it was rejected. The report said that the pressure Czech NGOs make on legislators in order to adopt anticorruption measures remains steadily considerable.²

In August 2019, the Ministry of Justice introduced the draft Law on Lobbying to the Chamber of Deputies, the lower house of the legislature. In 2021, during the third reading, the bill was put on hold as the term of the Chamber of Deputies expired.³

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¹ European Parliamentary Research Service, *Transparency of Lobbying in Member States: Comparative Analysis* (Apr. 2016), at 10, <https://perma.cc/95FW-PPM3>.

² *Id.*

³ Parliament of the Czech Republic, Chamber of Deputies, Draft law on lobbying sent to MPs as print 565/0 on Aug. 21, 2019, <https://perma.cc/GZ7X-F7EB> (in Czech).

In November 2021, another framework bill aimed at regulating lobbying was introduced by the Czech Government to the Parliament.⁴ The new version of the law was “heavily built on the 2019 bill.”⁵ As stated in the European Commission report,

this bill was discussed in the first reading and returned by the Chamber of Deputies for amendments on 3 March 2022. The Ministry of Justice submitted a new bill on lobbying at the end of November 2022 to the inter-ministerial commentary procedure. Currently comments received are being incorporated. The new act is to be effective from 1 January 2025. The Czech Republic is obliged to implement the lobbying regulation by 31 March 2026, according to the anti-corruption reform included in the National Recovery Plan of the Czech Republic that was adopted within the framework of the EU Recovery and Resilience Facility.⁶

This most recent version of the proposed law has received a lot of criticism for being flawed and easily circumvented.⁷ Critics of the proposed law mention that it does not extend to lobbying activities of professional associations, employers’ organizations, churches, or employee unions. Further, lobbyists who would be exempted from the law would not be subject to sanctions.⁸

II. Currently Proposed Legislation

A. Definition of Lobbyism

The 2021 bill defined lobbying as an activity involving communications aimed at influencing actions related to the preparation, discussion, or approval of legal regulations, conceptual documents, or international agreements.⁹ Notably, this bill did not address issues related to labor contracts, service agreements, or similar relations between individuals and the Czech Republic, or those related to an individual’s role in a Czech governmental body.

B. Lobbyist Registration

The proposed legislation provides for a publicly-accessible registry of lobbyists and lobbying activities. Czech and foreign nationals intending to engage in lobbying on an ongoing basis would be required to notify the authorities through the registry.¹⁰ The government would collect the following information about lobbyists: their full name, date of birth, place and country of birth,

⁴ Parliament of the Czech Republic, Chamber of Deputies, *Proposal by MPs Radek Vondráček and Others to Issue a Law on Lobbying* 1/0, delivered to Members on Nov. 15, 2021, <https://perma.cc/T8RQ-2VL9> (in Czech).

⁵ European Commission, *European Rule of Law Mechanism: Input – Czech Republic* 7, <https://perma.cc/BY4K-JH3E>.

⁶ Id.

⁷ MFD: *Leaky Law on Lobbying*, Government of the Czech Republic (May 31, 2023) 6-8, <https://perma.cc/QHB3-VNXX> (in Czech).

⁸ Vilém Janouš, *Fiala’s Government Wants to Regulate Lobbying. But the Law Ignores the Biggest Players*, Denik.cz (June 17, 2023), <https://perma.cc/5GLS-TNXY> (in Czech).

⁹ *Proposal by MPs Radek Vondráček and Others to Issue a Law on Lobbying*, supra note 4, § 2.

¹⁰ Id. § 5.

citizenship status, if they have multiple citizenships, the type and address of their residence within the Czech Republic, information about the individual or entity on whose behalf they are lobbying, and area of operations. Lobbyists must also declare the objectives they are seeking to accomplish through their lobbying efforts and name the officials they are lobbying.¹¹ Also, lobbyists are obligated to inform the party they are lobbying about their status and explicitly state whose interests they represent.¹² Officials who could be a subject of lobbying are listed in the proposed law.¹³

C. Rules for Transferring from Specific Political Positions to the Private Sector

Proposed legislation is focused on regulating activities of lobbyists and does not address issues related to the responsibilities of public officials. Registered lobbyists can be punished for breaching existing regulations. The punishment is a fine in the amount of up to 100,000 Cz Korunas (approximately US\$4,300) or a ban on lobbying activities in exceptional cases.¹⁴

III. Existing Practice

In the absence of enforceable legislation, lobbying activities are regulated by voluntary measures and general limitations on bribery and other prohibited activities established under criminal and administrative laws. The voluntary code of ethics for government officials was introduced in 2005. The code provides recommendations to elected officials in their relations with interest groups.¹⁵

Some professional associations with active government affairs involvement, such as the Czech Association of Public Affairs (APA) and the Industry Confederation, have adopted internal codes of conduct, which remain voluntary and are minimally enforced.¹⁶ Reportedly, these associations view themselves primarily as public relations entities rather than dedicated lobbying organizations. Even if these codes are adopted, they do not have provisions that would provide for the reporting of their members' lobbying initiatives or oversight of dealings with the government. APA adopted its own code of conduct in 2012, and the only lobbying-related rule is the prohibition against members providing tangible benefits to members of the Parliament, cabinet ministers, and state officials when advocating for their clients' interests.¹⁷

Public organizations are pushing for self-regulation to be adopted by lobbying firms and public relations companies. It is expected that these legal entities would establish clear rules for

¹¹ Id. §§ 6-8, 13.

¹² Id. § 14.

¹³ Id. § 4.

¹⁴ Id. § 17.

¹⁵ Transparency International, *V Cim Zajmu? Jak Funguje Lobbing [In Whose Interests? How Lobbying Works]* 9, <https://perma.cc/JWY4-963Z> (in Czech).

¹⁶ Sarka Laboutkova & Petr Vymetal, EU Economic and Social Policy Conference, *Evaluation of Transparent Lobbying in Visegrad Group Countries* 327, <https://perma.cc/NWK5-FAPQ>.

¹⁷ The Association of Public Affairs, Code of Conduct, art. 5, <https://perma.cc/U4WY-FDTG>.

lobbying.¹⁸ Tobacco companies and the gambling industry appear to be major lobbyists in the Czech Republic.¹⁹ Czech media has reported that representatives of three international tobacco corporations, Imperial Tobacco, British American Tobacco, and House of Prince Czech, worked as assistants to members of Parliament, and enjoyed unlimited access to lawmakers.²⁰

IV. Legislation and Rules on Foreign Agents

No laws on foreign agent registration have been identified and no proposals that would regulate activities of foreign agents have been introduced. Legislation does not prohibit foreign nationals from being lobbyists in Czechia.

The Czech Republic has legislation concerning foreign involvement in investment activities, especially in sensitive areas. In February 2021, the Czech Parliament adopted the Foreign Investments Screening Act.²¹

This Act established the rights and obligations of foreign investors whose ultimate beneficial owner is from a non-EU country, and introduced a foreign direct investment screening mechanism in regard to certain target individuals or owners of target objects in Czechia, who could pose a security or public order concern.²²

The Act defined the most sensitive sectors and industries where foreign investments may carry a higher risk of harm for interests safeguarded by the state.²³ Foreign investors working in these areas must have approval from the state before making a transaction.²⁴ All other investments do not initially require approval but may subsequently undergo ex officio screening if they have the potential to threaten state interests, to endanger state security, or to endanger internal, public order protected by the state.²⁵

Investments that grant substantial control must be disclosed when the target company engages in any of the subsequent activities:

- manufacturing, research, development, innovation, or the management of the entire life cycle of arms and military equipment;

¹⁸ *V Cim Zajmu? Jak Funguje Lobbying*, supra note 16, at 6.

¹⁹ Jan Richter, *Efforts to Regulate Lobbying Won't Achieve Much, Says Lobbyist James de Candole*, Radio Prague International (Sept. 5, 2012), <https://perma.cc/U3UK-5A6M>.

²⁰ Jan Richter, *MPs Reject Lobbying Legislation*, Chechradio.cz (Jan. 10, 2009), <https://perma.cc/VR7K-TS64>.

²¹ Act of January 19, 2021 on the Screening of Foreign Investments and Amendments to the Related Laws (Foreign Investments Screening Act) No. 34 / 2021, adopted on Feb. 3, 2021, *Zákon o Prověřování Zahraničních Investic a o Změně Souvisejících Zákonů (Zákon o Prověřování Zahraničních Investic)*, art. 1(a), <https://perma.cc/RL7T-JJBC> (in Czech), unofficial English translation, <https://perma.cc/RJ9U-B85R>.

²² Id. art. 1, art. 2, § 1(a), (b).

²³ Id. art. 7.

²⁴ Id.

²⁵ Id. art. 8, §§ 1 & 2.

- manufacturing or development of dual-use items, such as items that have applications for both civilian and military purposes;
- operations related to critical infrastructure, which encompasses infrastructure associated with energy, water management, food and agriculture, healthcare, transportation, communication and IT systems, financial markets, emergency services, or public administration; and
- management of an information or communications system integral to critical information infrastructure, an essential service, or operation of an essential service.²⁶

All acquisitions by non-EU investors of at least a 10% stake or any other form of control in a Czech company engaged in specific sensitive sectors are subject to approval by the Ministry of Industry and Trade.²⁷

In addition, the Ministry of Industry and Trade is authorized to review any non-notified foreign investments capable of compromising the security of the Czech Republic or public order within five years of its completion.²⁸ In the case of foreign investments in the media sector, a mandatory consultation procedure with the Ministry of Industry and Trade is prescribed.²⁹ When proceedings regarding foreign investment screening are initiated, the Ministry shall promptly provide the data received, along with the opinions of the Ministry of Interior, Ministry of Defense, Ministry of Foreign Affairs, and the Police of the Czech Republic.³⁰

V. References to China in the Course of Discussing the Bill on Lobbying

No information related to parliamentary debates concerning Chinese influence has been located. However, Czech scholars and counterintelligence officials express concerns about China's economic and political goals in Czechia.³¹ It appears that Czech bilateral relations with China accelerated with the election of President Miloš Zeman in March 2013.³² In addition to obtaining dominant positions in major sectors of the Czech economy, finance,³³ and media markets,³⁴ a Chinese businessman with suspiciously close ties to Chinese political and military elite was

²⁶ Id. art. 7 (a)-(d).

²⁷ Id. art. 5(a).

²⁸ Id. art. 8, § 4(d).

²⁹ Id. art. 10, § 1, art. 6, § 1.

³⁰ Id. art. 11, § 1(a).

³¹ Bartosz Kowalski, *Central and Eastern Europe, China's Core Interests, and the Limits of Relational Politics: Lessons from the Czech Republic in the 2010s*, Vol. 36, No. 1, *East European Politics and Societies and Cultures* 51-74 (Feb. 2022), <https://perma.cc/T3XX-TRYQ>.

³² Ivana Smolenova, *The Czech Republic's Foreign Policy U-Turn*, *Forbes* (Dec. 9, 2014), <https://perma.cc/33PW-WJSC>.

³³ Li Jiang, *Development of Relations Between China and Czechoslovakia and Its Successor States, Czechia and Slovakia*, Vol. 2, No. 1 *Chinese Journal of Slavic Studies* 100-113 (July 18, 2022), <https://perma.cc/AFB9-D26E>.

³⁴ Alžběta Bajerová, *A Tale of a CEFC Acquisition in the Czech Republic*, *Chinaobservers.eu* (Aug. 22, 2019), <https://perma.cc/CS9C-MWSM>.

appointed as a special advisor to President Zeman.³⁵ Annual reports from the Czech Counter Intelligence Services also indicated an increased utilization of local Chinese businesses for influence campaigns.³⁶ According to a Czech researcher, in the first several years following the restart of relations, “China operated somewhat discreetly, and its interests were promoted by various local intermediaries, including former high-ranking officials, some of whom retained high-level security clearances despite prior associations with Chinese businesses.”³⁷

The favorable attitude of the ruling political elite toward China has resulted in the emergence of a China-centric business elite. Representatives of these businesses actively have propagated pro-Chinese narratives through the use of professional PR groups.³⁸ Studies show that pro-Chinese sentiments have become mainstream in Czech politics, although civil society and critical media have remained resilient.³⁹

Apart from private enterprises, major Chinese conglomerates such as Huawei and ZTE have become highly active in the Czech Republic since 2014, supplying inexpensive or complimentary products to government agencies, and becoming major equipment and software providers.⁴⁰ In 2019, the National Cyber and Information Security Agency (NÚKIB) issued a formal warning against the use of hardware and software from these Chinese companies.⁴¹ This warning echoed concerns raised by the Czech Counter-Intelligence Service, whose 2017 report stated that Chinese intelligence and Chinese companies posed an “extremely high threat” to Czech citizens.⁴² Even though the experts claim that since 2018, “China-Czech relations have deteriorated as Prague pursues closer relations with Taipei, jeopardizing status quo EU-China relations,”⁴³ the 2021 Czech counterintelligence report stated that, “China poses a complex and growing intelligence threat.”⁴⁴ This report identified recurring activities of Chinese intelligence services in the Czech Republic, which include promoting a positive image of China, utilizing the diaspora for their activities, engaging in lobbying efforts, spreading disinformation and propaganda, attempting to

³⁵ Anne-Marie Brady, *On the Correct Use of Terms*, Vol. 19(9) China Brief (May 9, 2019), <https://perma.cc/4ZTK-3XLG>.

³⁶ Security Information Service (BIS), *Annual Report of the Security Information Service for 2016*, <https://perma.cc/MV7S-E5YC>.

³⁷ Ivana Karásková, *Chinese Influence in the Czech Republic*, (Aug.16, 2022), Comprehensive Reports, CEPA, Center for European Policy Analysis, <https://perma.cc/UX8K-P4A8>.

³⁸ Lukáš Valášek & Jan Horák, Home Credit of wealthiest Czech Petr Kellner Has paid for a Campaign Promoting China, *Aktuálně.cz* (Dec. 10, 2019), <https://perma.cc/U6FU-FVHC> (in Czech), <https://perma.cc/ZK7A-LLMZ> (English translation).

³⁹ Ivana Karásková et al., National Endowment for Democracy, *Central Europe for Sale: The Politics of China's Influence* 7 (Apr. 2018), <https://perma.cc/2GL7-AXJS>.

⁴⁰ Daniel McVicar, *How the Czech Republic Became One of Taiwan's Closest European Partners and What It Means for EU-China Relations*, Council on Foreign Relations (Apr. 24, 2023), <https://perma.cc/Y93L-PTB5>.

⁴¹ CCD COE: *Huawei, 5G and China As a Security Threat*, National Cyber and Information Security Authority (NÚKIB) (Apr. 5, 2019), <https://perma.cc/4QT2-QTE9> (in Czech).

⁴² BIS, *Annual Report of the Security Information Service for 2017*, <https://perma.cc/3QGL-GX64>.

⁴³ Daniel McVicar, *supra* note 41.

⁴⁴ BIS, *Annual Report of the Security Information Service for 2020 14-15*, <https://perma.cc/MFB4-F8L2>.

undermine the image of the EU, engaging in industrial espionage, seeking to obtain confidential and classified information, pursuing takeovers of companies relevant to the state's interests, purchasing dual-use goods, involvement in academic institutions, attempting to influence politicians and other influential individuals, as well as causing disturbances in Czechia's relations with Taiwan.⁴⁵

⁴⁵ Id.

France

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SUMMARY France’s 2016 “Sapin II” law established regulations for lobbying and introduced a compulsory registration system for lobbyists. France’s lobbyist register does not differentiate between foreign and domestic representatives but lobbyists must disclose any third parties they represent. No explicit mention of China was located in discussions related to the necessity of enacting additional lobbying registration laws.

I. Regulation of Lobbying in French Law

A. The “Sapin II” Law

Historically, the legal framework governing lobbying activities in France was limited to a 1993 law, covering acts of corruption,¹ and a 2013 law, aimed at improving transparency in the public sector.² In 2016, France took further steps to regulate lobbying, enacting the Sapin II Law.³

1. *Expanding the Scope of Existing Law*

The Sapin II Law modified the existing 2013 law, providing a definition of lobbying activities.⁴ The law defines lobbyists as natural persons and legal entities who regularly carry out an activity with the aim of influencing public decision-making, particularly in legislative or regulatory matters, by entering into communication with

- government members,
- presidential aides or cabinet members,
- officials in independent administrative or public authorities, or

¹ Loi n° 93-122 du 29 janvier 1993 relative à la prévention de la corruption et à la transparence de la vie économique et des procédures publiques [Law no. 93-122 of January 29, 1993, on the prevention of corruption and the transparency of economic life and public procedures], Journal Officiel de la République Française [J.O.] [Official Gazette] 25, Jan. 30, 1993, <https://perma.cc/CU2H-HWPH>.

² Loi n° 2013-907 relative à la transparence de la vie publique [Law on the transparency of public life] of Oct. 11, 2013, J.O. 0238, Oct. 12, 1993, <https://perma.cc/2FBG-NF75>.

³ Loi n° 2016-1691 du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique [Law no. 2016-1691 of December 9, 2016, on transparency, the fight against corruption and the modernization of economic life], J.O., Dec. 10, 2016 (Sapin II Law), <https://perma.cc/KF85-NZTD>.

⁴ Sapin II Law art. 25.

- individuals appointed by the Council of Ministers for specific roles determined by the government.⁵

The Sapin II Law contains the following exceptions to the definition of lobbyist:

- elected representatives, in the exercise of their mandate,
- political parties,
- civil servant and employee trade unions, as well as professional employers' organizations,
- religious associations in dealings with relevant ministerial departments, and
- associations representing elected representatives in the performance of their statutory duties.⁶

2. *Expanding the Role of the French High Authority for Transparency in Public Life*

The Sapin II Law expanded the role of the French High Authority for Transparency in Public Life (HATVP), an independent administrative authority responsible for overseeing lobbying activities. The Sapin II Law entrusted the HATVP with the tasks of drawing up a directory of lobbyists and lobbying activities, ensuring compliance with registration requirements, and advising lobbyists on the scope of their obligations.⁷

3. *Creation of a Single Register for Lobbyists*

The Sapin II Law established a single, publicly accessible lobbyist register with stricter disclosure rules for interactions with public officials.⁸ Administered by the HATVP,⁹ this register forms the foundation of France's lobbying regulations, encompassing all declaratory and ethical responsibilities tied to lobbyist registration.¹⁰

4. *New Responsibilities for Economic Actors*

The Sapin II Law added "influence peddling by foreign public officials" to the French Penal Code,¹¹ covering not just public officials but also private agents,¹² judicial officials,¹³ and foreign

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ *Fiche de synthèse n°56 : Les représentants d'intérêts*, Assemblée Nationale, <https://perma.cc/932D-BTZ9>. See also Christophe Sirugue, *Rapport Présenté par M. Christophe Sirugue, Président de la Délégation Chargée des Représentants d'Intérêts et des Groupes d'Etudes au Nom du Groupe de Travail sur les Lobbies à l'Assemblée Nationale*, Assemblée Nationale (2013), <https://perma.cc/675S-PDXG>.

¹¹ Code Pénal [Penal Code] arts. 432-11, 433-1.

¹² Id. art. 433-2.

¹³ Id. art. 434-9-1.

public officials.¹⁴ Additionally, companies in France with over 500 employees or part of a group meeting this criteria must establish an anti-corruption code of conduct integrated into their internal regulations.¹⁵

5. *Implementing Decree*

In 2017, a decree expanded and clarified lobbying regulations within the Sapin II Law.¹⁶ It refined the definition of lobbying activities and broadened the range of activities subject to regulation.¹⁷ The decree defined the “regular activity” criterion,¹⁸ requiring individuals to communicate with a public official at least 10 times within a year to be considered lobbyists.¹⁹ The decree also broadened the definition of lobbying to encompass lobbying activities directed toward local and regional authorities.²⁰ Additionally, the decree bolstered the HATVP’s auditing and investigative authority, enabling it to request more documentation for compliance verification.²¹ As a result, lobbyists had to provide comprehensive information detailing their activities, goals, the officials with whom they engaged, and the financial resources allocated to lobbying campaigns.²²

B. Amendments to the Sapin II Law

- 2017 Amendment: A 2017 amendment to the Sapin II Law banned members of parliament from lobbying, either individually or within legal entities registered on the HATVP directory.²³
- 2018 Amendment: This law further modified the definition of lobbyists by excluding certain public decision-makers from the definition, such as elected representatives in the exercise of their mandates, trade unions representing employees, civil servants, and employers, as well as religious associations.²⁴

¹⁴ Id. arts. 435-2, 435-4.

¹⁵ Sapin II Law art. 17.

¹⁶ Décret n° 2017-867 du 9 mai 2017 relatif au répertoire numérique des représentants d’intérêts [Decree no. 2017-867 of May 9, 2017, on the digital directory of interest representatives.], J.O., May 10, 2017 (2017 Implementing Decree), <https://perma.cc/G8SL-QYH6>.

¹⁷ Id. art. 2.

¹⁸ 2017 Implementing Decree art. 1.

¹⁹ Id.

²⁰ Id.

²¹ Id. art. 12.

²² Id. art. 3.

²³ Loi n° 2017-1339 du 15 septembre 2017 pour la confiance dans la vie politique [Law no. 2017-1339 of September 15, 2017, for confidence in political life], J.O., Sept. 16, 2017, <https://perma.cc/UL8K-C7CS>.

²⁴ Loi n° 2018-727 du 10 août 2018 pour un Etat au service d’une société de confiance [Law no. 2018-727 of August 10, 2018, for a State serving a society of trust], J.O., Aug. 11, 2018, art. 65, <https://perma.cc/Y7MF-XPJB>.

- 2022 Law on Measures to Simplify Local Public Action: In 2022, the French legislature, prompted by an HATVP recommendation,²⁵ broadened the lobbyist register.²⁶ Starting July 1, 2022, the list of public officials subject to lobbying actions was expanded to include local executive roles and new public officials.²⁷

II. Registration of Foreign Agents

While France lacks a direct equivalent to the US Foreign Agents Registration Act (FARA), it does have regulations for individuals and entities involved in activities amounting to foreign influence. The Sapin II Law and its 2017 implementing decree introduced a comprehensive registration requirement for lobbyists, including registration requirements for foreign agents operating in France. The Sapin II Law not only consolidated both the Assembly's and Senate's then existing registers,²⁸ but also expanded the new register's coverage to include lobbying efforts aimed at the executive branch.²⁹ Furthermore, as noted above, the 2022 law extended the list of public players covered by the lobbyist register, covering public decision-makers acting at the local level, and in particular, local executives. Under Sapin II, public and private entities, including chambers of commerce and industry, must register if at least one executive, employee, or member regularly engages in activities that influence government decisions.³⁰

The HATVP is responsible for maintaining this register and investigating lobbying activities. Lobbyists must register within two months of the start of lobbying activities and provide a comprehensive set of information, including their identity, or in the case of corporations and other entities, the identities of their leadership, employees, or members responsible for lobbying activities.³¹ Registrants must provide information on the scope of their lobbying activities, the number of staff involved, the previous year's lobbying budget, and any third parties they work for, as well as any professional organizations, unions, or NGOs with interests related to those represented by the registrant.³² Additionally, when lobbying for a new client, the client's identity must be registered within one month.³³ Lobbyists must file "annual activity reports" within three

²⁵ Haute Autorité pour la transparence de la vie publique, *L'encadrement de la représentation d'intérêts* (Oct. 2021), <https://perma.cc/87MX-DZEZ>.

²⁶ Loi n° 2022-217 du 21 février 2022 relative à la différenciation, la décentralisation, la déconcentration et portant diverses mesures de simplification de l'action publique locale [Law no. 2022-217 of February 21, 2022, on differentiation, decentralization, deconcentration, and various measures to simplify local public action], J.O. 0044, Feb. 22, 2022, <https://perma.cc/9AAC-N46M>.

²⁷ Id. arts. 217, 224, & 225.

²⁸ Assemblée Nationale, *supra* note 10.

²⁹ *Le lobbying en France : Vers un Contrôle Accru*, Vie Publique République Française (2020), <https://perma.cc/MVE4-Q8WP>.

³⁰ Sapin II Law art. 18-3.

³¹ 2017 Implementing Decree, art. 2.

³² Sapin II Law art. 25.

³³ Id.

months of the end of their financial year.³⁴ Failure to comply can lead to criminal charges, imprisonment for up to one year and fines of up to 15,000 Euros (approximately US\$16,000).³⁵

III. References to China

No explicit references to China were found in the discussions surrounding the regulation of lobbying in France.

³⁴ 2017 Implementing Decree art. 3.

³⁵ Sapin II Law art. 25.

Greece

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SUMMARY Law 4829/2021 establishes a “transparency register” in which all persons and entities engaging in influential activities before legislative and executive bodies and their members on behalf of a client for remuneration (“interest representatives”) must be registered before engaging in such activities. The law prohibits governmental bodies from communicating with interest representatives if they are not registered in the transparency register. The law also incorporates rules regarding the rights and obligations of interest representatives and requires these and governmental bodies that communicate with them to file annual statements with the National Transparent Authority regarding the communication. It does not appear that any concerns regarding China or Chinese entities were raised or debated in the legislative process that led to the adoption of Law 4829/2021. Greece does not otherwise have a law that requires the registration of persons acting on behalf of foreign states similar to the US Foreign Agents Registration Act (FARA).

I. Regulation of Lobbying

A. Transparency Framework of Law 4829/2021

In 2021, Greece enacted Law 4829/2021, which includes provisions regarding the enhancement of transparency and accountability in governmental bodies.¹ The law establishes the rights and obligations of “interest representatives” and provides rules governing their communications with legislative and executive bodies, including their members or employees, especially communications that are categorized as “lobbying” under the law. The law defines “interest representative” as a person or entity who engages in the services of influencing legislative and executive bodies through communication on behalf of their clients for remuneration, excluding persons who are directly employed by the client.² “Lobbying” is defined as

any kind of direct communication of an interest representative with [bodies exercising a legislative or executive function, including their members or employees], which aims to influence the decision-making process, and in particular, as to the content of a law, presidential decree, ministerial decision, other regulatory administrative act or circular, and which is carried out for remuneration, in the context of representing the interests of the client of the persons referred to in the case of the above . . .³

The transparency framework set by Law 4829/2021 incorporates general rules governing the conduct of influential activities by interest representatives, such as those regarding required

¹ Law 4829/2021, E.K.E.D. 2021, A:166, <https://perma.cc/9M9F-JVV7>.

² Id. art. 3(c).

³ Id. art. 3(a).

disclosures, conflicts of interest, and prohibitions concerning the exertion of undue influence, misrepresentations, and the procurement of unfair advantages through gifts.⁴ The law also guarantees the right to engage in influential activities provided that they are undertaken in accordance with the law, and entitles interest representatives to participate as speakers in public hearings, request meetings with governmental bodies, and submit proposals for administrative or legislative action.⁵

Executive and legislative bodies are required to report to the National Transparency Authority⁶ the communications they had with interest representatives in annual statements that must include details regarding the identities of the representatives, the timing of the communications, the relevant policy area, and the type of decision that is related to the communication.⁷ The interest representatives are likewise required to submit an annual statement to the National Transparency Authority regarding (a) the policy area and decision to which their influential activities were related, (b) the identity of the persons engaging in the activities and the identity of the client on whose behalf the activities were undertaken, (c) the time and manner in which the activities were carried out, (d) the bodies to which the activities were directed, and (e) the results sought to be achieved by the activities.⁸

B. The Transparency Register

Central to the transparency framework of Law 4829/2021 is the creation of a “transparency register” (TR) for lobbying activities in which all persons and entities that wish to act as an interest representative must register.⁹ The law prohibits bodies exercising legislative or executive function from communicating with interest representatives that are not registered in the TR. Other rights granted by the law to interest representatives are also conditional on their registration in the TR.¹⁰

The TR is administered by the National Transparency Authority and is publicly searchable.¹¹ The search engine allows searches by name or policy/interest areas. The search engine yields the name of the interest representative, its legal status (e.g., private person or LLC), whether the agent is active, and the policy areas in which the representative is active. Significantly, the names of the clients of the representatives are not accessible through the register search function. As of this

⁴ Id. art. 7(1).

⁵ Id. art. 7(2).

⁶ The National Transparency Authority is an independent government body established by Law 4622/2019 and responsible for enhancing governmental and administrative transparency and detecting and preventing fraud and corruption in the activities of public bodies and private entities that deal with the government or are funded by the government. Law 4622/2019, E.K.E.D. 2019, A:133, art. 82, <https://perma.cc/SW6V-DHCZ>. The authority is vested with supervisory and investigatory powers. See id. art. 83.

⁷ Law 4829/2021, art. 5(1)(e).

⁸ Id. art. 10.

⁹ Id. art. 8.

¹⁰ Id. arts. 5 & 7.

¹¹ Id. art. 8(1). The TR public search function is accessible at <https://perma.cc/9C6C-4UUH>.

writing, a search in all categorized policy areas yielded 13 persons and entities registered as interest representatives across all policy areas.

The most recent report of the Council of Europe’s Group of States against Corruption (GRECO), was prepared following an on-site visit that took place before the adoption of Law 4829/2021 and therefore did not include detailed observations regarding the efficacy of the transparency framework and the TR.¹²

II. Registration of Foreign Agents

No rules similar to the US Foreign Agents Registration Act (FARA), which requires agents and representatives undertaking certain activities on behalf of foreign states to be registered in a special register, were found to be in force in this jurisdiction.

III. References to China in the Course of the Enactment of Law 4829/2021

A survey of the recorded legislative history of Law 4829/2021, including the explanatory memorandum of the bill that has become the law, publicly available legislative committee reports, public consultations, and minutes of the relevant parliamentary plenary session did not find any reference to a specific concern about China or lobbying activities that are related to China or Chinese entities.¹³

¹² See GRECO, *Fifth Evaluation Round Evaluation Report: Greece*, Document No: GrecoRC(2020)4, (Mar. 3, 2022), para. 3, <https://perma.cc/4FBQ-3933>.

¹³ See Hellenic Parliament, *Explanatory Memorandum and Other Accompanying Reports for Law 4829/2021*, <https://perma.cc/44XY-9D7E> (in Greek); Hellenic Parliament, *Minutes of the Plenary Session of the Hellenic Parliament of September 7, 2021*, <https://perma.cc/WB7H-V22J> (in Greek).

Malta

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SUMMARY Malta has a number of pieces of legislation that aim to prevent corruption and increase transparency within the government. The Standards on Public Life Act established the Commissioner for Standards on Public Life to enforce statutory and ethical obligations under the Act and keep specified issues under review. The Act includes codes of ethics designed to prevent conflicts of interest for politicians and senior ranking public office employees, but these do not include restrictions on lobbying or post government employment. The Public Administration Act contains a code of conduct that applies to most public office employees and provides restrictions on post-public office employment for those in designated regulatory or inspectorate roles.

Despite this legislation, there have been concerns raised, from both within Malta and outside, of issues of non-transparent lobbying. Proposals have been made to revise the codes of ethics to broaden the application of restrictions on post-public office employment to politicians and other senior public office employees, and new legislation has been introduced to increase transparency in lobbying through the use of publicly available registers and a code of conduct that applies to any person or entity that conducts lobbying activities. There do not appear to be any requirements for foreign agents to register in Malta.

I. Introduction

Malta has a number of pieces of legislation that aim to increase transparency and restrict corruption from its political figures and public employees and it was one of the first countries to introduce a code of ethics that applies to these individuals.¹ The Standards on Public Life Act includes codes of ethics that aim to prevent conflicts of interests and the receipt of benefits for individuals in public life, such as ministers and members of the House of Representatives.²

The Public Administration Act applies to public officers and employees of government agencies and government entities and, in addition to requiring government employees to uphold specified values, the Act includes restrictions on post-government employment for those who have worked in a designated regulatory or inspectorate role.³

There currently appear to be no restrictions on lobbying for ministers, members of the House of Representatives, or government employees. There are proposals to introduce legislation to

¹ Commissioner for Standards in Public Life, *Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries* (July 29, 2020), ¶ 1.2, <https://perma.cc/T3C8-5MLV>.

² Standards in Public Life Act, cap. 570, <https://perma.cc/HU8C-4AM6>.

³ Public Administration Act, cap. 595, art. 2, <https://perma.cc/FLN4-3KNA>.

regulate lobbying for these individuals,⁴ as well as to revise the current codes of ethics to introduce wider restrictions on post-public office employment.⁵ There do not appear to be any requirements for the registration of foreign agents.

The Organisation for Economic Co-operation and Development (OECD) notes that Malta has a serious issue with non-transparent lobbying and “[p]erception indices show that the perception of undue influence and an opaque relationship between the public and private sectors is significant.”⁶ The OECD made recommendations in a report to the Commissioner on Standards of Public Life in July 2022, and these recommendations were passed along to the Prime Minister, but no further action appears to have been taken to implement them.

II. Legislative Framework

A. Standards on Public Life Act

The Standards in Public Life Act, enacted in 2018, aimed to strengthen ethical standards in public life. The Act applies to members of the House of Representatives, ministers, parliamentary secretaries, and “persons of trust.”⁷ The term “persons of trust” is defined in article 2 of the Act as

- (i) 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
- (ii) 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 Parliamentary Secretary; or
- (iii) a person engaged in the event that a post remains vacant following repetitive public calls for engagement; or
- (iv) a person who has been engaged according to the procedure established under article 6A of the Public Administration Act.⁸

The Standards of Public Life Act established both a Commissioner for Standards in Public Life (the Commissioner) to oversee and enforce the Act, and a Committee for Standards in Public Life to review the work of the Commissioner and impose sanctions when it determines there has been a breach of any statutory or ethical duty.⁹

⁴ Commissioner for Standards in Public Life, *Towards the Regulation of Lobbying in Malta: A Consultation Paper (Feedback by the National Audit Office)* (April 2020), <https://perma.cc/66NC-UK9Y>.

⁵ *Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries*, supra note 1, ¶ 1.2.

⁶ Organisation for Economic Co-operation and Development (OECD), *Review of the Lobbying Framework in Malta* (2022), <https://perma.cc/9PXL-Y983>.

⁷ Standards in Public Life Act, cap. 570.

⁸ Id. art. 2.

⁹ Id. arts. 4 & 26.

The Act includes two codes of ethics in its schedules that apply to members of the House of Representatives, ministers, and parliamentary secretaries.¹⁰ The code of ethics that applies to members of the House of Representatives was “reproduced with a minor amendment”¹¹ from the House of Representatives (Privileges and Powers) Ordinance¹² and includes conflicts of interest, the acceptance of gifts, and benefits for individuals in public life, but makes no references to lobbying or post-public office employment.¹³ The code of ethics that applies to members of the House of Representatives requires members to declare any professional interest that has a direct interest in legislation at the earliest opportunity, but does not include provisions on lobbying or any restrictions on post-public office employment.¹⁴ When there has been a breach of the code of ethics that applies to ministers, the Prime Minister is responsible for “us[ing] his discretion in order to decide what actions shall be taken.”¹⁵

The Commissioner has a number of responsibilities, including identifying “activities which are to be considered as lobbying activities, to issue guidelines for those activities and to make such recommendations as he deems appropriate in respect of the regulation of such activities.”¹⁶ The Commissioner may also recommend improvements to the code of ethics, including limitations on employment or activities after a person is no longer in public office¹⁷ and a report was recently made (discussed below), but no action appears to have been taken to implement these recommendations.¹⁸

B. Public Administration Act

The Public Administration Act applies to public officers and employees of government agencies and government entities.¹⁹ The Public Administration Act includes requirements for public employees to uphold and promote a number of values including integrity, trust, accountability, and impartiality. An employee who fails to act in a manner that reflects these values can be subject to disciplinary proceedings. Article 4 of the Public Administration Act provides restrictions on employment for those who worked in designated posts “involving regulatory and inspectorate functions.”²⁰ These individuals are required to enter into an agreement that they will not, for up to two years, “have a relationship of profit with any private enterprise or non-government

¹⁰ Id. art. 3 and scheds. 1 & 2.

¹¹ *Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries* (July 29, 2020), *supra* note 1, ¶ 1.2.

¹² House of Representatives (Privileges and Powers) Ordinance, cap. 113, <https://perma.cc/B42X-5VJ9>.

¹³ Standards in Public Life Act art. 3 & scheds. 1 & 2.

¹⁴ Id. sched. 1. ¶ 2.

¹⁵ Id. sched. 2, ¶ 3.

¹⁶ Id. art. 13(f).

¹⁷ Id. art. 13(g)(i).

¹⁸ *Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries* (July 29, 2020), *supra* note 1.

¹⁹ Public Administration Act art. 2.

²⁰ Id.

body”²¹ they dealt with in their professional capacity in the government in the five year period prior to them leaving public employment.

III. Commissioner for Standards in Public Life and the Committee for Standards in Public Life

The Commissioner is appointed by the President of Malta and is responsible for investigating whether individuals in public life have breached statutory or ethical duties provided for in the Act.²² The Commissioner may conduct an investigation into any alleged breach of a statutory or ethical duty, or may act in response to a complaint. Types of conduct the Commissioner investigates include

whether ministers, parliamentary secretaries or other members of Parliament have acted in ways that:

- are against the law;
- are in breach of any ethical or other duty set out by law;
- or constitute an abuse of power.²³

The enforcement tools available to the Commissioner when he or she determines that a minister, parliamentary secretary, member of Parliament, or person of trust has not acted in accordance with the law are to notify the person they must remedy their actions within a certain timeframe, or to make a report to the Standing Committee for Standards in Public Life.²⁴ When the Committee for the Standards of Public Life receives a report from the Commissioner, it can decide

- not to adopt the report and reject it outright, providing its reasons for doing so;
- investigate the allegation further, with the assistance of the Commissioner;
- request the Commissioner to explain the report further or conduct further investigations; or
- to adopt the report.²⁵

Where the Committee for Standards of Public Life determines there has been a breach, it can take one, or more, of the following sanctions:

- (a) admonish the person investigated;
- (b) recommend that the matter be reported to the Commissioner of Police or the Permanent Commission Against Corruption, as the case may be, for further investigation;
- (c) in the case where the person investigated is an employee, it may direct Government or any entity or statutory body, to take all necessary measures in

²¹ Id.

²² Id. art. 13.

²³ *The Role of the Standards Commissioner*, Commissioner for Standards in Public Life, <https://perma.cc/22TC-3KCC>.

²⁴ Standards on Public Life Act art. 22.

²⁵ Id. art. 27.

- accordance with the said person's conditions of employment, with a view to remedy the breach;
- (d) in the case of a member of the House of Representatives –
- i. recommend that the said House should direct the member to rectify any breach;
 - ii. demand an apology in writing to be made to the Committee;
 - iii. demand an apology by way of a personal statement on the floor of the House;
 - iv. demand the repayment of or payment for resources improperly used;
 - v. recommend that the House of Representatives takes any other measure it may deem fit;
- (e) in any case, it may recommend that the House of Representatives directs the person being investigated to rectify the breach.²⁶

The Commissioner is also able to recommend changes to improve the codes of ethics and for the better regulation of matters under the Act, such as lobbying.²⁷

IV. Restrictions on Employment After Public Office

Currently, the only restriction on employment after an individual has left government employment appears to be for a period of two years for those who worked in designated posts “involving regulatory and inspectorate functions”²⁸ under the Public Administration Act, discussed above.

V. Proposals for Change

The Commissioner requested a review of his office, the Standards in Public Life Act, and the lobbying framework in Malta from the OECD.²⁹ Reports from the OECD that made a number of recommendations were published in 2022 and the Commissioner and presented these to the Prime Minister in July 2022.³⁰ There do not yet appear to be any amendments or legislation introduced as a result of these reports.

²⁶ Id. art. 28.

²⁷ Id. art. 13(1)(f). See also *The Role of the Standards Commissioner*, supra note 23.

²⁸ Public Administration Act art. 4 & sched. 5, <https://perma.cc/FLN4-3KNA>.

²⁹ OECD, *Organisational Review of the Office of the Commissioner for Standards in Public Life of Malta* (2022), <https://perma.cc/HM5V-WNW2>; OECD, *Review of the Standards in Public Life Act of Malta* (2022), <https://perma.cc/7PUY-LDXT>; OECD, *Review of the Lobbying Framework in Malta* (2022), supra note 6; OECD, *Review of the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives: Recommendations for Improving the Codes* (2022), <https://perma.cc/2D3D-LPVE>.

³⁰ Letter to the Prime Minister from the Commissioner for Standards in Public Life (July 11, 2022), <https://perma.cc/WJM2-T72U>.

Prior to the OECD reports, the Commissioner had recommended the introduction of legislation to regulate lobbying³¹ noting that currently in some cases, lobbying “come[s] uncomfortably close to trading in influence, which is a crime in many countries, including Malta. This danger could be minimised through the introduction of rules of transparency.”³² The Commissioner has proposed to regulate lobbying through a dedicated law, rather than by issuing lobbying guidelines or amending the Standards in Public Life Act, which would only apply to a small class of public officials, not the public generally, and not be binding, thus relying on voluntary cooperation.³³ As a result, the Commissioner recommended the introduction of a Regulation of Lobbying Act to help “increase transparency and improve standards of governance in Malta.”³⁴

The Commissioner has proposed that the term “lobbying” be defined as any relevant communication³⁵ on relevant matters³⁶ made to designated public officials³⁷ and that the applicable definitions should be contained in the schedules to the Act to allow them to be amended as needed by legal notice.

A. Public Registers

The proposed Act would introduce two registers. The first is a publicly-accessible register of lobbyists, for individuals and bodies that lobby public officials, and would contain information

³¹ *OECD Presents Recommendations on Integrity Standards in Malta*, Commissioner for Standards in Public Life, (July 11, 2022), <https://perma.cc/8Z7N-3FRZ>. See also *Towards the Regulation of Lobbying in Malta: A Consultation Paper (Feedback by the National Audit Office)* (April 2020), *supra* note 4.

³² Commissioner for Standards in Public Life, *Towards the Regulation of Lobbying in Malta* ¶ 2.2.3 (Feb. 28, 2020), <https://perma.cc/3TQ8-ENLF>.

³³ *Id.* ¶ 4.2.2.

³⁴ *Id.* at 4.

³⁵ The proposed definition for the term relevant communication is: “... a communication that: (a) may be written or oral; (b) deals with a relevant matter; and (c) is made personally (directly or indirectly) to a designated public official.” *Id.* ¶ 4.5.2.

³⁶ The proposed definition for the term relevant matter is: “(a) the initiation, development or modification of any public policy, action or programme; (b) the preparation or amendment of any enactment, that is to say a law or other instrument having the force of law; (c) the award of any grant, loan or other form of financial support, and any contract or other agreement involving public funds, land (including concessions of public land) or other resources; (d) the grant of any license, permit or other authorisation; and (e) the award of development permits and the zoning of land.” *Id.* ¶ 4.5.5.

³⁷ The proposed definition for the term designated public official is: “(a) the Prime Minister, ministers, parliamentary secretaries and (if appointed) parliamentary assistants; (b) other members of the House of Representatives; (c) the heads and deputy heads of the secretariats of ministers and parliamentary secretaries; (d) the Principal Permanent Secretary, permanent secretaries and directors general in the public service of Malta; and (e) mayors, other local councillors, and executive secretaries in local councils; (f) chairpersons and chief executive officers in companies owned by the state, government agencies, foundations set up by the government (on its own or in conjunction with other bodies), and other government entities as defined in the Public Administration Act; (g) members of the Executive Council, the Planning Board and the Planning Commission within the Planning Authority; and (h) members of the board of the Environment and Resources Authority.” *Id.* ¶ 4.5.10.

about their lobbying activities.³⁸ Information that has been proposed to be included on the register includes

- (a) the type and extent of the lobbying activities undertaken;
- (b) the clients on behalf of whom such activities were carried out;
- (c) the designated public officials who were contacted;
- (d) the subject matter of these communications and the results they were intended to secure;
- (e) if the registrant is a body, the name of the individual who had primary responsibility for carrying out the lobbying activities; and
- (f) the name of any individual who is or has been a designated public official and who is carrying out lobbying activities on behalf of the registrant.³⁹

The second register is a transparency register for ministers, parliamentary secretaries, and the heads and deputy heads of the secretariats, who would be required to register all relevant communications, including meetings, in a publicly-accessible transparency register.⁴⁰ Information that has been proposed to be included on the register includes

- (a) the name of the persons (including legal persons) with whom each relevant communication was held;
- (b) the subject matter of the communication;
- (c) in the case of a meeting, the date and location, the names of those present, and who they were representing; and
- (d) any decisions taken or commitments made through the communication.⁴¹

B. Code of Conduct

The Commissioner also proposed the introduction of a code of conduct that sets out principles that all lobbyists, even those not required to register, should be governed by when conducting lobbying activities.⁴² The proposed principles include

- (a) demonstrating respect for public bodies;
- (b) acting with honesty, integrity and good faith;
- (c) ensuring accuracy of information communicated to designated public officials;
- (d) disclosing information about lobbying activities as required by law, while otherwise preserving confidentiality as appropriate; and
- (e) avoiding improper influence (such as giving gifts, benefits and hospitality to designated public officials).⁴³

³⁸ Id. ¶ 4.3.3.

³⁹ Id. ¶ 4.6.9.

⁴⁰ Id. ¶ 4.9.

⁴¹ Id. ¶ 4.9.2.

⁴² Id. ¶¶ 4.3.4 & 4.7.

⁴³ Id. ¶ 4.7.2.

The Commissioner recommended that “appropriate and proportionate sanctions should be introduced for breaches of the code.”⁴⁴

C. Changes to the Ethics Codes

In 2020, the Commissioner published recommendations under article 13(1)(g) of the Standards in Public Life Act to revise the code of ethics.⁴⁵ The recommendations included restrictions on the employment of ministers for a period of three years after they leave office with any private enterprise or non-government body that they may have had dealings with during their time as minister and that occurred within five years prior to them leaving office.⁴⁶

The Commissioner also recommended the introduction of restrictions on carrying out lobbying activities for a period of time after these individuals leave public office.⁴⁷ The proposed length of time varies according to the position the individual holds. Ministers, parliamentary secretaries, and the principal permanent secretary would be prohibited from carrying out lobbying activities for three years after leaving office.⁴⁸ Members of the House of Representatives, permanent secretaries, directors general, chairpersons, and chief executive officers of government companies, foundations, and other entities would be prohibited from carrying out lobbying activities for a year after they leave public office.⁴⁹ The recommendations also include the introduction of an obligation on ministers to record all relevant communication with lobbyists in a Transparency Register.

These changes address shortcomings in the current code of ethics, which has been described by the OECD as “lack[ing] [] standards to address some of the key risk areas for corruption and misconduct.”⁵⁰ The OECD notes the shortcomings are a lack of guidance for engaging with lobbyists; no restrictions on post public employment; limited provisions on managing and preventing conflicts of interest and asset declaration; and a lack of clarity over enforcement.⁵¹

The Committee for Standards in Public Life reviewed the Commissioner’s recommendations and determined that it would wait for the House of Representatives to present a bill to propose the new codes.⁵²

⁴⁴ Id. ¶ 4.7.3.

⁴⁵ *Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries* (July 29, 2020), *supra* note 1, ¶¶ 3.10, 3.11 & 7.25.

⁴⁶ Id.

⁴⁷ Id. ¶ 1.5.2.

⁴⁸ Id. ¶ 4.8.1.

⁴⁹ Id. ¶ 4.8.3.

⁵⁰ OECD, *Review of the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives: Recommendations for Improving the Codes* (2022), *supra* note 29, at 6.

⁵¹ Id. at 8.

⁵² Id. at 9.

D. Enforcement

The Commissioner would be responsible for enforcing the provisions of the new legislation and has proposed that sanctions, in the form of administrative fines, be available to address instances of non-compliance and that criminal penalties, administered through the courts, should also be available.⁵³

The National Audit Office has welcomed these proposals, noting

[t]he introduction of a legal framework to regulate lobbying is fully supported by this Office, particularly in view of the significant governance-related concerns identified in our work. Several audits undertaken often point towards scenarios where lobbying is likely, pivotal and central to Government's decision-making process, yet persists as a phenomenon that certainly remains unregistered in any form.⁵⁴

⁵³ *Towards the Regulation of Lobbying in Malta* (Feb. 28, 2020), supra note 32, ¶¶ 4.4.1 & 4.10.

⁵⁴ *Towards the Regulation of Lobbying in Malta: A Consultation Paper (Feedback by the National Audit Office)* (April 2020), supra note 4, ¶ 1.

Netherlands

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SUMMARY Currently, there is no specific legislation on lobbying or revolving doors in the Netherlands and there is no definition of “lobbying” in law. The House of Representatives has a voluntary lobbying register. In general, integrity rules are set out in codes of conduct or policy documents. Proposals have been submitted to codify binding rules for lobbying bans and to deal with the revolving door problem, but nothing has been adopted yet. An oversight board was established in 2021 to monitor Code of Conduct breaches by members of parliament.

Following a parliamentary motion, the “instructions for drafting legislation” were revised to include an instruction that requires including in the explanatory memorandum which external stakeholders made contributions during the drafting stage of the regulation, the nature of the contribution, and the use to which the contribution was put.

The Netherlands does not have any laws that require the registration as a foreign agent.

I. Introduction

In 2022, the Netherlands ranked eight out of 180 countries surveyed in the annual “Corruptions Perception Index” (CPI) published by Transparency International and received a score of 80 out of 100.¹ The CPI score ranges from a scale of 0 (highly corrupt) to 100 (very clean).² Despite this ranking, the Netherlands has been criticized for not improving the transparency, integrity, and equality of access with regard to lobbying.³ The European Commission, in its annual Rule of Law Report, noted that the Netherlands has made progress on a new code of conduct for ministers and state secretaries, but criticized that no independent oversight and sanctioning mechanism was included.⁴ Furthermore, the report stated that “[s]ome progress has been made on revised rules on revolving doors . . . , while the mechanism’s reliance on . . . non-binding advice might limit its effectiveness.”

¹ *Corruptions Perception Index. Netherlands*, Transparency International, <https://perma.cc/6FRT-W2GJ>.

² *Id.*

³ Transparency International Nederland (TI-NL), *Lifting the Lid on Lobbying. Hidden Power and Influence in the Netherlands* 7 (Feb. 2023), <https://perma.cc/CA9E-7EEN>.

⁴ European Commission, *2023 Rule of Law Report. Country Chapter on the Rule of Law Situation in the Netherlands* 13 (SWD(2023) 819 final, July 5, 2023), <https://perma.cc/6N39-W9K6>.

An analysis of data for the period from 2017 to 2022 by Transparency International Netherlands found that 23% of members of parliament and 44% of ministers became lobbyists after leaving office.⁵

II. Overview of the Legal and Policy Framework on Lobbying

Currently, there is no specific legislation on lobbying or revolving doors in the Netherlands and there is no definition of “lobbying” in law. In general, rules are set out in codes of conduct or policy documents. The Code of Conduct for Members of the House of Representatives contains a broad non-binding definition of “lobbyist.” Proposals have been submitted by the government to codify binding rules for lobbying bans and to deal with the revolving door problem, but nothing has been adopted yet.

A. Lobbying Register

The House of Representatives of the Dutch Parliament (Tweede Kamer der Staten-Generaal) has a voluntary lobbying register for lobbyists.⁶ There is no equivalent for the Senate (Eerste Kamer). The lobbying register of the House of Representatives was established on July 1, 2012.⁷ Registered lobbyists are issued a permanent pass that gives them access to the semi-public space in the House of Representatives building. To access the secure part of the building, lobbyists must make an appointment in advance with the member or employee they would like to visit. Passes are issued to employees of public affairs and public relations agencies; representatives of civil society organizations, trade associations, or umbrella organizations; and representatives of municipalities and provinces.⁸ A list of currently registered lobbyists is available on the website of the House of Representatives.⁹ The list includes the names of the lobbyists, the name of their workplace, and whose interests they are promoting.

B. Codes of Conduct

1. Ministers

a. Public Agendas

In December 2022, a new Code of Conduct for Ministers (*Gedragcode integriteit bewindspersonen*) was published that combines all applicable integrity rules in one document and adds new requirements.¹⁰ Among other things, it requires ministers to add a short note to the publication of their agendas which describes the subject of the meeting in question, the attendees, and contact

⁵ TI-NL, *supra* note 3, at 7.

⁶ *Lobbyisten*, Tweede Kamer, <https://perma.cc/2JJD-J2MH>.

⁷ *Id.*

⁸ *Id.*

⁹ Tweede Kamer, *Lobbyistenregister* (last updated July 6, 2023), <https://perma.cc/75XB-3THB>.

¹⁰ Rijksoverheid, *Gedragcode integriteit bewindspersonen* (Dec. 23, 2022), <https://perma.cc/SL7S-CLNZ>.

details of the responsible official.¹¹ This requirement is based on a motion submitted by two members of parliament in October 2021 that called on the government to require publication of the ministers' agendas, unless there are compelling reasons against it.¹² The motion stated that agendas must include all external meetings and at least mention the topic of the meetings.¹³ The motion was approved with 142 votes in favor and 8 votes against it.¹⁴

However, an analysis by the Open State Foundation (OSF) found that not all ministers comply with the rules and that there are major differences between the individual ministries. According to their research, the ministry of foreign affairs performed the worst, whereas the ministry of defense performed the best.¹⁵ The need for improvement was acknowledged by the then-Minister of the Interior Hanke Bruins Slot in 2022.¹⁶ In addition, the report found that some ministers kept the topic of the meeting generic, such as "introductory meeting," "periodic meeting," or "catch-up meeting," or mentioned only the sector the company belonged to instead of the actual participants of the meeting.¹⁷

b. Revolving Door

Currently, ministers that leave office are prohibited from lobbying their former ministry for two years. However, this rule is not codified in legislation and has only been set out in a memorandum (*Circulaire lobbyverbod bewindspersonen*).¹⁸ The memorandum was withdrawn in 2020, but, according to the government, it remains in place.¹⁹ In November 2021, in response to a scandal involving the former Minister of Infrastructure and Water Management Van Nieuwenhuizen, who left her job to join Vereniging Energie-Nederland (VEN), the government introduced a bill that would codify and expand the current ban.²⁰

¹¹ Id. at 11, para. 3.6.

¹² *Motie van de leden Sneller en Bromet over het opnemen van alle externe afspraken in de publieke agenda's van bewindspersonen*, no. 35 925 VII (Oct. 28, 2021), <https://perma.cc/AQ8H-LJ9V>.

¹³ Id.

¹⁴ *Motie van de leden Sneller en Bromet over het opnemen van alle externe afspraken in de publieke agenda's van bewindspersonen*, Tweede Kamer, <https://perma.cc/MD7T-93DP>.

¹⁵ Press Release, OSF, *Agenda's ministers iets meer openbaar, maar nogsteeds onvoldoende* (Oct. 7, 2022), <https://perma.cc/E2G5-4NQE>.

¹⁶ Kamerstukken II, 2022-2023, 36 101, no 12, at 9, <https://perma.cc/ZLK5-6BG3>.

¹⁷ Press Release, *supra* note 15.

¹⁸ *Circulaire lobbyverbod bewindspersonen*, Oct. 5, 2017, Stcrt. 2017, 58811, <https://perma.cc/Z4R5-J4C6>.

¹⁹ *Circulaire wijzigingen in de financiële arbeidsvoorwaarden per 1 januari 2020 voor de ambtenaren werkzaam in de sector Rijk*, Dec. 18, 2019, Stcrt. 2019, 70941, Bijlage (annex) A., <https://perma.cc/SNC2-LWZ4> (withdrawal of memorandum); *Besluit op Wob-verzoek over de circulaire 'lobbyverbod bewindspersonen'*, Oct. 5, 2021, at 2, para. 4.1.2., <https://perma.cc/LK9Y-RDN6> (stating that the memorandum merely informed ministers of existing duties and that the prohibition is included in the Code of Conduct.).

²⁰ Press Release, *Rijsoverheid, Nieuw integriteitsbeleid oud-bewindspersonen* (Nov. 29, 2021), <https://perma.cc/2DVZ-F4WE>; TI-NL, *supra* note 3, at 28.

In particular, the bill would extend the ban to extend to related policy fields the former members of government were actively involved in during their period of office and former ministers would not be permitted to enter the service of their former ministry for a period of two years or accept any paid, commercial assignments from their former ministry.²¹ The Secretary-General²² would be authorized to grant an exemption from the prohibitions. Furthermore, for a period of two years, former members of government would have to request advice from an independent committee on the admissibility of a new position before accepting. The committee could either issue no objections, impose conditions, or object due to an insurmountable conflict of interest.²³ The bill was sent to the Council of State (Raad van State)²⁴ for its advice in July 2023.²⁵ Once the bill is submitted to the House of Representatives, the text and advice of the Council of State will be made public.²⁶ It is unclear how long the parliamentary process will take.

A letter to parliament stated that the expansion of the lobbying ban to related policy fields would take effect immediately but that the proposed restrictions on post-employment would need to be codified in law before they enter into force.²⁷

2. Public Administration

The Code of Conduct for Integrity in the Central Public Administration (*Gedragcode Integriteit Rijk*) sets out minimum rules and provides reference for civil servants on how to deal with integrity.²⁸ The individual ministries may issue their own codes of conduct to supplement the general one, as done by the ministry of foreign affairs (ministerie van buitenlandse zaken).²⁹ In particular, the Code of Conduct provides that agreeing to a cooling-off period can help avoid potential conflict of interests when leaving a civil servant position to move to a new position, such

²¹ Kamerbrief over uitbreiding integriteitsbeleid voormalige bewindspersonen, Nov. 29, 2021, at 2 et seq., <https://perma.cc/59J7-X3G7> (original), <https://perma.cc/GT3H-B98B> (English translation).

²² The Secretary-General is the most senior civil servant of the ministry of general affairs and heads the office of the prime minister. See *Ministry of General Affairs. Organisation. The Prime Minister*, Government of the Netherlands, <https://perma.cc/GQP4-SYNW>.

²³ Kamerbrief, supra note 21, at 3.

²⁴ Article 73 of the Dutch Constitution provides that the Council of State advises the government and parliament on legislation and governance, see Grondwet, Aug. 24, 1815, Staatsblad van het Koninkrijk der Nederlanden [Stb.] 1840, 54, as amended, art. 75, <https://perma.cc/XX2Q-2UPV> (original), <https://perma.cc/4U9N-4HEJ> (English translation, updated through 2018).

²⁵ Press Release, Rijksoverheid, Wetsvoorstel vervolg loopbaan van oud-bewindspersonen naar Raad van State (July 14, 2023), <https://perma.cc/3N6A-MV5L>.

²⁶ Id.

²⁷ Kamerbrief, supra note 21, at 8.

²⁸ Gedragcode Integriteit Rijk, Staatscourant [Stcrt.] 2019, 71141, <https://perma.cc/KM9M-DFDY> (original), <https://perma.cc/DJ3F-BE6U> (English translation, updated through 2016).

²⁹ Ministerie van Buitenlandse Zaken, *Gedragcode Integriteit BZ. Eerst denken dan doen* (Jan. 2018), <https://perma.cc/GJS5-33R8>.

as when a civil servant is leaving a sensitive position for a new position that would have been unacceptable as a secondary activity before.³⁰

Furthermore, with regard to contact with lobbyists, it states that civil servants must ensure that they do their work transparently and independently and be aware of the interests that lobbyists are pursuing.³¹ The Code of Conduct advises civil servants to consult with colleagues or supervisors or to avoid contact with lobbyists altogether, if necessary. As an example, it lists contact with lobbyists from the tobacco industry. It refers to article 5, paragraph 3 of the WHO Framework Convention on Tobacco Control, which states that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”³² It reminds civil servants that meetings with representatives of the tobacco industry must be made transparent, meaning made public on the website of the government organization in question.

The Code of Conduct also points to the lobbying ban of two years for former ministers mentioned above, meaning civil servants may not maintain business contacts with former minister in their former policy area for that time period.³³

3. *Members of the House of Representatives*

The Code of Conduct for Members of The House of Representatives of The States-General (*Gedragcode Leden van de Tweede Kamer der Staten-Generaal*) states that “the term ‘lobbyist’ shall apply in its broadest sense. Besides persons in the employ of lobbying offices, others who approach an MP to support specific interests may also be considered lobbyists.”³⁴ When interacting with lobbyists, members must

always be aware of their independent position and the duties the Constitution imposes on them. Although for many members lobbyists are an important source of information, members must always maintain a measure of distance in respect of lobbyists. When confronted by an offer (not pertaining to information) from a lobbyist, a member must therefore refrain from making promises regarding specific conduct. These offers shall also include trips abroad funded wholly or in part by lobbyists.³⁵

An oversight board (*College van Onderzoek en Integriteit*) was established by the Regulations on the Monitoring and Enforcement of the Code of Conduct (*Regeling Toezicht en handhaving*

³⁰ Gedragcode Integriteit Rijk, at 4.6. (4.1.5. in the English translation).

³¹ Id. at 4.7. (not included in the English translation).

³² WHO Framework Convention on Tobacco Control, May 23, 2003, 2302 U.N.T.C. 166, <https://perma.cc/FY9R-E2NQ>.

³³ Gedragcode Integriteit Rijk, at 4.7.

³⁴ Gedragcode Leden van de Tweede Kamer der Staten-Generaal (Mar. 2021), at 5 (page 3 in the English version), <https://perma.cc/2P22-ZN5E> (original), <https://perma.cc/NU9D-ZJCY> (English translation).

³⁵ Id.

Gedragcode) in 2021 to monitor Code of Conduct breaches.³⁶ Citizens may report violations of the Code of Conduct by a member that occurred after April 1, 2021, to the oversight board, which will investigate the allegations.³⁷ If the board finds a violation of the Code of Conduct, a recommendation on sanctions can be made in its report.³⁸ The report is sent to the member and the Presidium and is subsequently made public.³⁹

C. Legislative Footprint

Following a parliamentary motion, the “instructions for drafting legislation” (*Aanwijzingen voor de regelgeving*) were revised to include an instruction in the chapter on the general elements of regulations.⁴⁰ The updated instructions require including in the explanatory memorandum (*memorie van toelichting*) which external stakeholders made contributions during the drafting stage of the regulation, how they were made, the nature of the contribution, and the use to which the contribution was put.⁴¹ Examples of external stakeholders include citizens, businesses, institutions, and other organizations. The instruction notes that

information on contributions made will not be included in so far as this is not possible, such as in cases where legislation on public access to government information precludes such, or it is not relevant to the contents of the regulation, as in cases where the contribution had no bearing on the regulation itself.” When stating which external parties have contributed, a designation based on categories rather than individual designation will suffice for groups of citizens or businesses that have made similar contributions; the term “state” also allows a succinct description.⁴²

III. Foreign Agent Registration

The Netherlands does not have any laws that require registration as a foreign agent.

IV. Mention of China in Lobbying Discussions

No mention of China was found in the discussion regarding lobbying.

³⁶ Regeling Toezicht en handhaving Gedragcode Leden van de Tweede Kamer der Staten-Generaal (Apr. 1, 2021), <https://perma.cc/9UDU-WCVT> (original), <https://perma.cc/GH7H-H3FJ> (English translation).

³⁷ Id. §§ 3, 6; *Complaints Form*, Tweede Kamer, <https://perma.cc/NDZ3-SJ7V>.

³⁸ Regeling Toezicht en handhaving Gedragcode, § 8, para. 6.

³⁹ Id. § 9.

⁴⁰ *Aanwijzingen voor de regelgeving*, Nov. 18, 1992, Stcrt. 1992, 230, as amended, <https://perma.cc/S5SH-9C9K> (original), <https://perma.cc/2XPP-9SL4> (English translation, updated through Nov. 9, 2017).

⁴¹ Id. § 4.9, instruction 4.43, part j, instruction 4.44.

⁴² Id. § 4.9, instruction 4.44.

Portugal

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I. Lobbying Laws

Lobbying has yet to be regulated in Portugal. A few proposals in this regard have been introduced to the Portuguese Parliament, but did not become law.¹ However, holders of political offices and high public offices are obliged to submit a single declaration of income, assets, and interests.

A. Holders of Political and High Public Offices

1. Law No. 7 of March 1, 1993

Article 26 of Law No. 7 of March 1, 1993, determines that deputies of the Portuguese parliament (*Assembleia da República*, Assembly of the Republic) are obliged to submit a single declaration of income, assets, and interests (*declaração única de rendimentos, património e interesses*), under the terms set out in the regime for the exercise of functions by holders of political offices (*cargos políticos*) and high public offices (*altos cargos públicos*).²

2. Law No. 52 of July 31, 2019

Law No. 52 of July 31, 2019, which approved the regime for the exercise of functions by holders of political offices and high public offices, defines deputies of the Assembly of the Republic as holders of political offices for purposes of the law.³ Article 13(1) of Law No. 52 determines that holders of political and similar positions and holders of high public offices must submit electronically to the legally competent entity, within 60 days from the date of commencement of the exercise of the respective functions, a declaration of their income, assets, interests, conflicts of interest, and impediments.⁴ Article 13(2) lists what must be included in the declaration,⁵ while article 13(3) lists the acts and activities likely to generate conflicts of interest and impediments that must also be included in the declaration.⁶

¹ Assembleia da República, Projeto de Lei 30/XIV/1, <https://perma.cc/7SYW-PKUJ>; Projeto de Lei 181/XIV/1, <https://perma.cc/8A7F-KEZK>; Projeto de Lei 253/XIV/1, <https://perma.cc/M74M-ZTLR>.

² Estatuto dos Deputados, Lei No. 7/93, de 1 de Março, as amended by Lei No. 58/2021, de 18 de Agosto, art. 26(1), <https://perma.cc/6SCS-XSHP>; Statute Governing Members of the *Assembleia da República*, Law No. 7/93 of 1 March 1993, as amended by Law No. 58/2021 of 18 August 2021, art. 26(1), <https://perma.cc/U8VF-V5AM> (English translation).

³ Lei No. 52/2019, de 31 de Julho, art. 2(1)(d), <https://perma.cc/QSQ3-2MBY>.

⁴ Id. art. 13(1).

⁵ Id. art. 13(2).

⁶ Id. art. 13(3).

3. *Organic Law No. 4 of September 13, 2019*

On September 13, 2019, Organic Law No. 4 created the Entity for Transparency and approved its statute,⁷ which regulates its organization and functioning.⁸ It provides that the Entity for Transparency is an independent body that works with the Constitutional Court and is responsible for assessing and supervising the single declaration of income, assets, and interests of holders of political and high public offices.⁹

B. Political Parties

1. *Organic Law No. 2 of August 22, 2003*

Article 6(4) of Organic Law No. 2 of August 22, 2003 (*Lei dos Partidos Políticos, Political Parties' Law*), states, inter alia, that the origin and use of party funds are publicized in accordance with the terms established in the law on the financing of political parties and electoral campaigns.¹⁰

2. *Law No. 19 of June 20, 2003*

Law No. 19 of June 20, 2003, regulates the regime applicable to the financing of political parties and electoral campaigns.¹¹ Article 8(1) states that political parties may not receive anonymous donations nor receive donations or loans of a pecuniary nature or in kind from national or foreign legal entities, except for the provisions of item 2 of article 8.¹² According to item 2 of article 8, political parties may take out loans from credit institutions and financial companies under the conditions set out in article 3(1)(f).¹³ Political parties are specifically prohibited from:

- a) Acquiring goods or services at prices lower than those prevailing in the market;
- b) Receiving payments for goods or services provided at prices clearly higher than the respective market value;
- c) Receiving or accept any contributions or indirect donations that result in the payment by third parties of expenses that they benefit from.

II. Foreign Agents

Currently, Portugal does not have any law or regulation, enacted or pending, that requires the registration of foreign agents engaged in lobbying activities.

⁷ Lei Orgânica No. 4/2019, de 13 de Setembro, art. 1(1), <https://perma.cc/H7N2-8EV3>.

⁸ Id. ANNEX, art. 1.

⁹ Id. art. 2.

¹⁰ Lei Orgânica No. 2/2003, de 22 de Agosto, art. 6(4), <https://perma.cc/M27P-BCPN>.

¹¹ Lei No. 19/2003, de 20 de Junho, art. 1, <https://perma.cc/D4HB-H3GD>.

¹² Id. art. 8(1).

¹³ Id. art. 8(2).

Sweden

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SUMMARY Sweden does not require that lobbyists register. A register of lobbyists has previously been rejected by Sweden’s parliament, but the proposal is currently being reviewed by a special government committee following international criticism of Sweden’s lack of transparency in government-lobbyist contacts.

As of 2019, government ministers and their state secretaries must notify the Review Board for Ministers and Certain Officials’ Transfer Restrictions when they leave their position with the state for a position in the private sector.

Sweden does not have laws requiring that foreign agents register with the government or someone else. Pending legislation would require that direct investments by foreigners in sensitive industries be reported to the government. The legislation as proposed does not include any disclosure requirements for foreign ownership in lobby or media corporations, but such requirements could be added in the future.

I. Legislation and Rules on Lobbying

A. Lobbyist Registration

There are no requirements for lobbyist registration in Sweden.¹ However, political parties are required to disclose how they are funded as part of their annual reporting requirements.² Adopting a register of lobbyists has been proposed and rejected several times by members of the Swedish parliament,³ most recently by a *Statens Offentliga Utredning* (State Public Inquiry, SOU) group during 2014 to 2016.⁴

Sweden has received international criticism for not having in place sufficiently transparent rules on the government’s contacts with lobbyists.⁵ For example, in 2017, the *Groupe d’États contre la corruption* (Group of States Against Corruption, GRECO) specifically recommended that “[Sweden introduce] rules and guidance on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties seeking to influence governmental processes and decisions.”⁶ A 2019 follow-up compliance review by the organization, published

¹ *Lobbying*, Institutet mot Mutor, <https://perma.cc/3DEJ-HGEQ> (in Swedish).

² Lag om insyn i finansiering av partier (SFS 2018:90), <https://perma.cc/Z4LR-KZVP>.

³ See, e.g., SOU 2000:1 En uthållig demokrati! [A Sustainable Democracy!], <https://perma.cc/WE7S-XHQH>.

⁴ SOU 2016:5 Låt fler forma framtiden! [Let More People Shape the Future!] pts. A, B, <https://perma.cc/5CUG-2X82>.

⁵ GRECO, GrecoEval5Rep(2018)4, *Evaluation Report: Sweden* (May 3, 2019), <https://perma.cc/87G2-UX5Q>.

⁶ *Id.* at 44.

in 2021, criticized Sweden for not implementing its previous recommendations.⁷ Following publication of the 2021 report, Sweden convened a special committee to review its political finance rules, to be completed by February 15, 2025.⁸ The *kommitteedirektiv* (committee terms of reference) specifically include directives to review the adoption of a lobbyist register.⁹

B. Rules for Transferring from Specific Political Positions to the Private Sector

In 2018, the Swedish Parliament adopted new rules for government ministers and their *statssekreterare* (state secretaries), requiring them to notify a board when they leave their position for a new position that is not considered *statlig verksamhet* (working for the government).¹⁰ The Act Concerning Restrictions When Ministers and State Secretaries Transition to Non-State Activities allows for that board (the *Nämnden för prövning för statsråd och vissa befattningshavares övergångsrestriktioner* (Review Board for Ministers and Certain Officials' Transfer Restrictions))¹¹ to place *övergångsrestriktioner* (transitory restrictions) on a former official.¹² The restrictions are either a *karens* (complete quarantine), meaning the individual cannot start the employment for a certain time, or a subject-matter restriction, meaning the person cannot be involved with certain issues at the new employer. The board determines the length of the restriction, which cannot exceed 12 months.¹³

In 2022, which was an election year in Sweden, a total of 21 notifications of a transfer from state to private sector employment were received under the new rules. Restrictions were ordered in three cases and quarantine in one case.¹⁴ Thus, a clear majority were reviewed and did not warrant any restrictions.¹⁵ Members of Parliament (MPs) are not restricted from going straight from being MPs to working in the private sector.

⁷ GRECO, GrecoRC5(2021)1, *Compliance Report: Sweden* 7 (Nov. 24, 2021), <https://perma.cc/YB2X-ZRL5>.

⁸ Kommittédirektiv 2023:88 Förstärkt Insyn och Transparens i Finansieringen av Politiska Partier [Committee Directive 2023:88, Strengthening Transparency and Transparency in the Funding of Political Parties], Swedish Parliament, <https://perma.cc/3VWU-JXGB>.

⁹ Id.

¹⁰ Lag om restriktioner vid statsråds och statssekreterares övergång till annan än statlig verksamhet (SFS 2018:676), <https://perma.cc/HE6C-BBMJ>.

¹¹ *Nämnden för Prövning av Statsråds och Vissa Andra Befattningshavares Övergångsrestriktioner* [Board for Review of Transitional Restrictions by the Government and Certain Other Officials], Swedish Parliament, <https://perma.cc/5RDZ-SNRP>.

¹² 4, 8 §§ Lag om restriktioner vid statsråds och statssekreterares övergång till annan än statlig verksamhet (2018:676).

¹³ Id. 6 §.

¹⁴ Swedish Parliament, Redogörelse till riksdagen (RIR) 2022/23:NSÖ1 *Verksamhetsredogörelse för Nämnden för prövning av statsråds och vissa andra befattningshavares övergångsrestriktioner 2022* [Report to Parliament No. 2022/23, Statement of Activities of the Board for the Examination of Ministers and Certain Other Officials' Transfer Restrictions 2022] 2-3, <https://perma.cc/BWZ5-XMUB>. Sixteen cases did not warrant any restrictive measures; one case received in 2022 was not reviewed in 2022.

¹⁵ Id. at 2.

The rules for transferring from specific political positions to the private sector has been described as toothless, because a violation of the law is not tied to any direct sanctions, and because the rules do not apply to a number of politically active persons, such as government agency executives or political advisors.¹⁶

According to a report from the Institutet för framtidsstudier (Institute for Futures Studies), from 2022, about 2,000 persons are active in *påverkansarbete* (influence work) in Sweden, which includes but is not limited to lobbying. The same report estimates that about 300 to 400 persons, including politicians and their staffers, switch from politics to lobbying and vice versa each election year.¹⁷

II. Legislation and Rules on Foreign Agents

Sweden does not have any current or proposed domestic legislation related to registration as a foreign agent. Sweden has pending legislation that requires that foreign ownership or investment in certain sensitive industries conducting *samhällsviktig verksamhet* (essential services and activities) must be reported. The proposal specifically mentions the increase in direct investments in Swedish companies by Chinese investors.¹⁸ It appears that, although media and lobby firms will not be categorized as sensitive industries under the proposed legislation, future rules could include media and lobbying as sensitive industries,¹⁹ recognizing that there is a risk that foreign actors will influence “decisions, views, and actions by different actors in Sweden by spreading misleading or incorrect information through different forms of media.”²⁰

¹⁶ Esther Pollack et al., *Sabuni-Affären Ger Krav på Skärpt Lagstiftning Mot Lobbyism* [The Sabuni Affair Calls for Stricter Legislation Against Lobbyism], Katalys (May 16, 2020), <https://perma.cc/3SJ9-ZUKQ>.

¹⁷ *Ex-Politiker blir Lobbyister Efter Valet – Sverige Sticker Ut* [Ex-Politicians Become Lobbyists After the Election – Sweden Stands Out], Institutet för Framtidsstudier (Aug. 18, 2022), <https://perma.cc/T4B8-9Q9Y>.

¹⁸ Prop. 2022-23:116 Ett granskningsystem för utländska direktinvesteringar till skydd för svenska säkerhetsintressen [Government Proposal 2022/23:116 A Foreign Direct Investment Screening System: Direct Investments for the Protection of Swedish Security Interests] 224, <https://perma.cc/GF5Z-AP5E>.

¹⁹ *Id.* at 28, 46, & 228.

²⁰ *Id.* at 46. No specific country is listed in association with this particular risk.