



**Civic Alliance - Latvia Opinion Proposal for a
Regulation of the European Parliament and of the Council
Amending Regulations (EU) No 1024/2012 and (EU) 2018/1724**

The Association Civic Alliance – Latvia (CAL) has read the European Commission Proposal accompanying the Commission’s proposal for a Directive establishing harmonised requirements in the internal market on transparency of interest representation carried out on behalf of third countries (hereinafter – Proposal). Aligned with the previous opinions from the European Civic Forum and broader civil society within the EU, CAL endorses the European Commission's endeavor to safeguard democracy within the European Union and tackle malign interference and disinformation. However, CAL simultaneously recognises potential adverse impacts on civil society and democracy within the EU and beyond stemming from the Directive and beyond that are currently not addressed by the Proposal despite the early warning sign efforts of civil society organisations during the feedback period.

The Proposal references the requirement in the Directive for Member States to set up and maintain national registers for the purpose of ensuring transparency of interest representation activities carried out by entities, as well as to designate authorities responsible for these registers. These registers are expected to include information about entities funded by foreign countries who carry out interest representation services or activities on behalf of third, or in other words, a foreign funding register. Examples of entities required to register include lobbying and public relations companies, think tanks, civil society organisations, private research institutes, etc. Additionally, the Directive defines ‘interest representation activities’ very broadly – from participation in meetings and conferences to publication of communication or information material. **The broad definition, scope and lack of clarity will lead to confusion about which entities need to register and which do not, making its enforcement difficult, if not impossible. This will open opportunities for abuse and arbitrary application of the law by authorities wishing to unduly restrict civic space.**

At the member state level, the register will be overseen by both an administrative authority (for data collection) and a supervisory authority (for compliance and enforcement). The supervisory authority may impose administrative sanctions for non-compliance after issuing prior warnings and its decisions are subject to judicial review. Administrative penalties for non-compliance are one percent of the annual worldwide turnover for entities doing categorised as interest representation services, while for other legal entities it is one percent of their annual budget and for natural persons, €1000. Additionally, the Directive proposes that entities may be asked to present their European Interest Representation Number (EIRN) when entering into contact with public authorities. Such a requirement does not take into consideration the risk that policymakers might limit their interactions with civil society organisations that are registered and contribute to a stigmatisation of CSOs as “foreign agents”. This could result in further stigmatisation and make access to the policy-making process burdensome and less accessible. **To minimize these risks, the Directive should also make provision for sanctions if public**

officials engage in stigmatisation and harassment campaigns against CSOs because they are foreign-funded. Checks and balances must be put in place for national authorities which oversee the register.

At the EU level, civil society organisations should be invited as experts to the EU advisory body annually as part of a structured dialogue to provide feedback on whether the directive is working in practice and to report on any challenges and improvements needed.

The Proposal aims to minimise the administrative burden on legal entities and natural persons falling within the scope of the proposed Directive. However, the Directive by default is imposing a disproportional administrative burden on CSOs and their advocacy activities. Legal uncertainty is created due to the unclear wording of the Directive leaving a possibility of the creation of multiple registers, potentially leading to an even greater administrative burden. Furthermore, given the current illiberal and authoritarian trends at work, even in mature democracies, the directive may lead to a conflict of laws and legal uncertainty, as well as a further administrative burden, including disproportionate, unnecessary and misguided reporting requirements for civil society. **CSOs suggest that the Directive should make provision for minimum thresholds for entities engaged in interest representation activities,** in line with good practices of legislation regulating transparency of lobbying. This will ensure that those CSOs who are engaged in these activities once off or less frequently will not face the same requirements for registration. Additionally, there should also be a minimum funding threshold requirement. This will minimise the administrative burden for CSOs who receive smaller amounts of foreign funding.

The Proposal indicates the provision of an online Internal Market Information System ('IMI system') for easy online access to information on the rights and obligations stemming from the Directive, as well as to ensure that access to and completion of the procedure for registration required by the Directive can be made fully online. The Directive states that to ensure proportionality, when personal data is made publicly available, it should be "limited to what is strictly necessary for the purpose of informing citizens, their representatives and other interested parties about interest representation activities carried out on behalf of third countries". However, it does not indicate what information might be considered as "strictly necessary" and what would not, which leaves this open to interpretation and risks violating necessity and proportionality standards. Additionally, to prevent stigmatisation of civil society organisations receiving foreign funding, the Directive states that public national registers for such entities should be presented in a neutral, factual and objective manner to ensure that there are no adverse consequences (Article 9). However, it does not explain how this will be ensured or how it could work in practice. **Therefore, the information available in the online IMI system is expected to impose significant harm on associations and foundations, likely leading to stigmatisation and harassment of civil society and other legitimate actors that are funded by sources outside the EU and EEA.**

Even though the Proposal states no impact on fundamental rights separate from any impact that may result from the proposed Directive, CSOs are concerned about the fundamental rights threats that the Directive poses by definition. The likely stigmatisation and harassment of CSOs, will in turn weaken the key role civic actors should play in vibrant and healthy democracies and in upholding the rule of law and defending fundamental rights, including from malign interference. This will not only be deeply harmful to democracy inside the EU, but it will dramatically weaken Europe's role in protecting civil society and



democracy around the world. **Thus, there should be a clear definition of what constitutes lobbying, civil dialogue and participation, including a clear distinction between for-profit entities and non-profit entities advocating for fundamental rights.**

The Proposal makes a reference to the Impact assessment that was carried out in context of the preparation of the Commission’s proposal for the Directive. However, the impact assessment has not been thoroughly conducted using an evidence-based approach. For example, in the impact assessment, the Commission states that “the scale of interest representation activities carried out on behalf of third countries in the member states is largely unknown”, although it adds that “reports of such activities exist.” As a result, the definition of the problem and its scope within the directive is broad and unclear.