



European Commission
Att. Mr. Hoekstra

Samen kunnen we meer

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Subject: Remove the foreign funding directive from the Defence of Democracy package

Dear Commissioner Hoekstra,

Partin is the umbrella organisation for 450 Dutch grassroots civil society organisation that aim to contribute to the Sustainable Development Goals

We are writing to you to express our concern about the European Commission's proposal for a Directive establishing harmonized requirements in the internal market on transparency of interest representation on behalf of third countries which is foreseen to be adopted on 12 December 2023 as part of the Defence of Democracy package. This letter follows a [statement](#) issued in May by 230 civil society organizations across Europe¹.

Civil society plays a key role in vibrant and healthy democracies, in upholding the rule of law and defending fundamental rights. We share the Commission's concerns about malign interference and disinformation, including in the context of the upcoming elections to the European Parliament, especially because such interference targets checks and balances of the rule of law, which include civil society organisations and the media. However, tackling malign foreign interference in isolation will not be effective. Instead, this directive will have negative repercussions on Europe's role in protecting civil society and democracy in the world.

The proposed legislation creates a register of entities who carry out interest representation services or activities on behalf of third countries to "influence public decision-making processes in the EU".

Partin is concerned that the proposal may breach EU primary law, affecting both economic freedoms like capital and establishment, and fundamental rights such as assembly, expression, personal data protection, and privacy. For instance, it could limit people and organisation's ability to gather, express opinions, or engage in advocacy. Additionally, it imposes discriminatory capital restrictions on organizations carrying out services representation activities funded by third countries as compared to those being funded by EU countries, and introduces added costs and administrative burdens that could hinder establishment freedoms. In addition, the public access to the data contained in the register with limited exceptions, or limitations on access to funding, would constitute a serious interference with Articles 7, 8 and 12 of the Charter, as already established by ECJ case law ([C-78/18](#) – Commission v Hungary; Joined Cases [C-37/20](#), [C-601/20](#)).

¹ <https://civilsocietyeurope.eu/wp-content/uploads/2023/07/230-Civil-Society-Organisations-Statement-on-EU-Foreign-Interference-Law-7-2.pdf>

By only capturing foreign funding through a public register and a special registry number to be displayed by organisations, the proposal could also lead to unintended consequences for civil society, such as refusal of entering into dialogue by authorities, stigmatisation and harassment, including of citizens that are members of civil society organisations.

In addition, the directive will undoubtedly undermine the EU's external efforts to strengthen civil society in third countries, as it mirrors foreign agent laws that the EU has actively opposed elsewhere. The negative impacts of foreign funding legislation on civil society have been well-documented, including in countries like the US, and the UK, and Hungary². More recently, foreign agents laws have been proposed in candidate countries such as Georgia, Bosnia and Herzegovina, as well as in other countries like Kyrgyzstan and Kazakhstan³. The safeguards contained in the proposal do not protect civil society from these adverse consequences and will therefore prove to be ineffective

We therefore call on the Commission to remove the directive from the Defence of Democracy Package. We propose replacing the current Directive with an EU Interest Representatives Act which would effectively and comprehensively address third-country malign interference. This Act would cover all interest service representatives in the Union, addressing domestic and foreign funding, aiming to enhance transparency, accountability, and integrity, by establishing a horizontal and fair framework.

Such a revised proposal should be built as a result of a thorough civil dialogue process, taking into account the different nature of interest representation as compared to civil dialogue.

We reaffirm our willingness to work with the Commission on a truly effective legislation that strengthens our democracies from within and increases transparency in the EU.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Erik Boerrigter", written over a horizontal line.

Erik Boerrigter
Director Vereniging Partin

² <https://www.thegoodlobby.eu/wp-content/uploads/2023/11/TGL-Study-How-to-Evaluate-a-Foreign-Influence-Legislation-A-Comparative-Analysis.pdf> ; https://www.thegoodlobby.eu/wp-content/uploads/2023/11/Press_Conference_Handout_Nov_2023.pdf

³ https://monitor.civicus.org/globalfindings_2023/europeandcentralasia/