

The German Lobbying Register Act: New registration obligations for companies that are in contact with politicians and Ministries

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Lobbying is an everyday reality in politics and constitutes an integral part of democracy. However, in the recent past, several lobbying scandals have revealed deficits in the transparency of lobbying – also in Germany. In particular, lobbying was often not subject to public scrutiny. To counteract the deficits, the German *Bundestag* has passed the German Lobbying Register Act in 2021. It obliges lobbyists to sign up in a Lobbying Register and publish certain information in connection with their lobbying activities. Recently, the German *Bundestag* has **amended the Act**, *inter alia* by extending the scope of the obligation to register. The changes will come into force on **1 March 2024**. They constitute **additional obligations** both for companies which are already registered in the Lobbying Register as well as new obligations to register for companies which do not have a Lobbying Register entry yet. As violations of obligations under the Lobbying Register Act can be sanctioned with **harsh fines** up to EUR 50.000 and there is also a risk of considerable reputational damage, it is crucial for companies to ensure compliance with the new rules.

What is lobbying according to the Lobbying Register Act?

The Lobbying Register Act defines an obligation to register for “**representatives of special interests**”. The circle of persons to which the provisions apply is intentionally kept broad. A representative of special interests can be any natural or legal person, partnership, or other organization, which engages in the representation of special interests themselves or commissions such representation on its behalf. Whether the place of residence or registered office is in Germany or abroad is irrelevant.

Representation of special interests includes any contact made for the **purpose of directly or indirectly influencing the process of formulating aims or taking decisions** conducted by

- the bodies (*Organe*), members (*Mitglieder*), parliamentary groups (*Fraktionen*) or groupings (*Gruppen*) of the German *Bundestag* or
- the Federal Government.

The rules for the Federal Government also apply to Parliamentary State Secretaries (*Parlamentarische Staatssekretäre*), State Secretaries (*Staatssekretäre*), Heads of Directorates-General (*Abteilungsleiter*) and Heads of Directorates (*Unterabteilungsleiter*).

With the changes to the Lobbying Register Act that enter into force on 1 March 2024, panels (*Gremien*) of the German Bundestag are included in this list. Furthermore, the rules were extended to contacts with **employees** of the bodies, panels, members, parliamentary groups, and groupings of the German *Bundestag*. With regard to the Federal Government, contacts at the level of **Heads of Divisions** (*Referatsleiter*) will also be covered. Under the previous legal situation, only the levels from Heads of Directorates (*Unterabteilungsleiter*) upwards were included. Thus, in the case of contacts with Federal Ministries, only contacts with policy advisors (*Referenten*) are outside the scope of the registration obligation in the future.

A representation of special interests can include a **wide range of means of communication**. In particular, it can consist of a personal meeting, a telephone call, an email, or a letter. Already attempts to initiate communication are to be considered representation of special interests, irrespective of their success. A reference to an already ongoing formal procedure (e.g. concrete legislative procedure) is not required.

Obligation to register

Not every representation of special interest leads to an obligation to register. Instead, the contacts must exceed a certain threshold. Currently, this threshold is exceeded in particular if one or more of the following applies:

- The representation of special interests is **carried out regularly**. This means that contact must be made repeatedly within a limited period of time. Representation of special interests can be considered to be regular from the **third instance of making contact** with the addressees if it can be assumed that contact will continue to be made and the intervals between the individual instances of making contact are not too long.
- The representation of special interests is **established on a permanent basis**.
- The representation of special interests is carried out **commercially for third parties**.

According to the changes to the Lobbying Register Act which enter into force on 1 March 2024, a representation of special interests which is **commissioned in exchange for compensation** also constitutes an obligation to register. A company that does not lobby itself but engages another company to do so is therefore also subject to registration under the new Act.

There are certain **exemptions** to the obligation to register. For example, natural persons who exclusively formulate personal interests in their submission must not register. The same applies to the provision of legal advice for a third party or the company itself. Apart from that, companies that have contacts to politicians or ministries related to their economic activity are not normally likely to be covered by these exceptions.

The information to be provided in the Register

Representatives of special interests who are obliged to register or who want to register voluntarily must do so on the [online portal of the Lobbying Register](#) which is hosted by the German *Bundestag*. The registration process requires **detailed information about the representative of special interests**. Beside general company data, this includes the names of the employees who are entrusted with the representation of special interests, the aim of the lobbying, as well as financial information such as annual financial expenditure involved in the representation of special interests, individual allowances and grants to the company as well as gifts and other donations from third parties. The information provided in the register is **publicly available**.

The legislative amendments of the Act which come into force on 1 March 2024 oblige registered representatives of special interests to provide **certain additional information** in the Register. This includes, *inter alia*, more detailed information on the aim of the lobbying, such as the particulars of the current, planned or intended regulatory proposal in regard to which the representation of special interests is carried out. Furthermore, essential comments and expert opinions in regard to regulatory proposals that have been submitted to at least one of the addressees have to be made available in anonymised form.

Compliance is key

Companies that may be affected by the obligation to register in the Lobbying Register should familiarise themselves with the (new) regulations as soon as possible. Several breaches against the obligations set out in the Lobby Register Act are classified as administrative offence and can be **fined with up to EUR 50.000**. This is the case if certain particulars and changes are not entered or updated at all or are not entered or updated correctly, completely or in a timely manner.

The amended Act comes into force on 1 March 2024. If a registration already exists that needs to be adapted to the new rules, the **amendment must be completed by 30 June 2024**.

If you have any questions about the existing or new obligations under the Lobbying Register Act, please do not hesitate to contact us. [Dr. Roland Stein](#), [Dr. Leonard von Rummel](#), [Ramona Ader](#) and the entire BLOMSTEIN team will be happy to advise.