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## Article

# Towards more transparency: The NGO LobbyControl and the German lobby register

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## Towards more transparency

### The NGO LobbyControl and the German lobby register

Dieter Plehwe

In 2021, the German federal governing coalition, in a joint vote of the Christian Conservative (CDU/CSU) and the Social Democratic (SPD) parliamentary groups, passed a bill to introduce a German transparency register. In the United States and the European Union, such lobby registers were established much earlier. LobbyControl, a non-governmental organization (NGO) also enlisting many scientists, had long campaigned for the lobby register, which also helps expanding the opportunities for researchers to investigate lobbying activities. Dieter Plehwe describes how, 16 years after LobbyControl was founded in 2005, its work finally bore fruit.

Scientists like to insist on the need for keeping a political and normative distance to the object and purpose of their research beyond producing scientific knowledge. “Opinionated” contributions are considered dubious. However, Max Weber’s freedom-from-value-judgement postulate does not mean that researchers are neutral – aside from the question of whether that is at all possible. Rather, the point is that scientific findings (the perennially provisional “truth”) do not depend on their normative content. They must be further tested, supported empirically, and secured through methods of quality assurance. The connection between social activism and scientific research becomes particularly interesting when key data for improving the quality of research and insight into social contexts only become available through researchers’ prior advocacy effort.

The work of organizations in the new democracy movement (Abgeordnetenwatch, Transparency International, FragDenStaat, etc.), which call for more transparency in the political process, offers ample illustration. For a long time, the call for an effective lobby register in Germany remained unheard. As in the US and the EU, it took a major crisis to create the conditions for a law to be passed to introduce such an instrument for monitoring political influence.

In Germany, it was the 2020 scandal surrounding the US start-up Augustus Intelligence, which was exposed to be a dodgy venture. It involved CDU politician Philipp Amthor, former federal minister and management consultant Karl-Theodor zu Guttenberg and former President of the German domestic intelligence services Hans-Georg Maaßen, among others. The CDU only gave up its resistance to the creation of a lobby register after renewed calls for its introduction came not only from its coalition partner, various opposition parties and civil society organizations but also from business associations and other lobbyists. In 2021, the moment had finally arrived: the governing coalition’s bill was passed in the German Bundestag with the votes of the CDU/CSU and SPD parliamentary groups.

After 16 years of persistent work, the initiative of NGO campaigners, many thousands of members and donors, as well as supporting experts had borne fruit with regard to one of the organization's core demands.

The “Act on the Introduction of a Lobbying Register for the Representation of Interests vis-à-vis the German Bundestag and the Federal Government” (Lobbyregistergesetz, German Lobbying Act) obliges associations, companies, lobby agencies, non-profit entities, and natural persons to be entered in the register if they lobby the Bundestag and the federal government on a permanent or commercial basis. Non-compliance can be fined with up to 50,000 euros. It thereby also extends the possibilities for scientists to perform more detailed inquiries into lobbying in Germany. The law became possible in large parts thanks to the work of the NGO LobbyControl. The activities of LobbyControl and allied NGOs of the new democracy movement ensured, among other things, that the call for introducing a lobby register was included in the party and election manifestos of the Left Party, the Greens and the SPD and was discussed at both national and state level.

### **The history of LobbyControl**

[LobbyControl](#) emerged from the 2004 “Controlled Democracy?” conference, which was attended by its later founding members. After the conference, the political scientist Ulrich Müller mobilized economist Thomas Dürmeier, political scientist Heidi Bank, and this author to found the NGO as a non-profit association. Their shared goal was to analyze and criticize asymmetrical power relations in lobbying among companies, interest groups and their associations in Germany and the EU on the one hand and extended lobbying power in the media and the public sphere via think tanks and campaign organizations on the other, including Stiftung Marktwirtschaft or Initiative für eine neue soziale Marktwirtschaft. The primary reform project was to introduce a compulsory lobby register in Germany.

### **The US as a role model**

The NGO's efforts were based on several examples. In the United States, a law requiring lobbyists under the penalty of the law to register their activities was introduced as early as 1995 during the Clinton presidency. It was supplemented and tightened in 2007, especially regarding the fines imposed for missing or false information. The previous regulations on registering foreign lobbyists, for example, dated back to the 1930s and 1950s and were long considered outdated and inappropriate for addressing modern strategies for petitioning government. The [US register](#) is very comprehensive; for example, it also requires lawyers and law firms to disclose information on lobbying contracts. As a result, it has been very easy since 2007 to collect a great deal of [information on the lobbying activities and expenditures](#) of German companies in the US – information that was not available in Germany and the EU. Although loopholes and gray areas of lobbying continue to exist in the US as well, the lobby register can be considered a major milestone in transparency.

LobbyControl provided information on developments in the United States, invited US experts to public lectures and information events, and worked with the US register data. Empirically, it is worth noting, among other things, that high lobbying expenditure cannot be equated with great influence. Spending by the hedge fund industry, for example, spiked after the 2007/2008 financial crisis because companies had to come to terms with the new policies to regulate the industry. Previously, their business operations saw no government interference, which is why few resources were spent to exert influence. Because US law also requires lobbyists to disclose information on the specific reason for their lobbying (legislative footprint), the register can also be used to assess the extent of opposition from the business community to proposed legislation. To date, the US register provides information that is very difficult to collect in Germany.

The distinction between legitimate and illegal types of lobbying is a recurring issue when it comes to lobby registers. The current US register is not perfect either, because non-compliance is still not addressed systematically and because activities such as covert coalitions that are not (or must not be) registered due to the thresholds for minimum recorded expenditure, for example, continue to exist. Although US law also requires non-profit organizations to provide information on funding and lobbying, the influence of companies, associations and foundations on think tanks is concealed, for example, by the use of intermediary funds (Donors Trust Fund). Nonetheless, since 1995, the US register has served as an important example and model for the demands made in Germany and Europe.

### **Lobby registers in the European Union**

NGOs critical of corporate power such as the Corporate Europe Observatory (CEO) in Brussels and, since 2005, LobbyControl have long been calling for an instrument comparable to the US register in the EU and Germany. As early as 2008, the Commission introduced a [voluntary transparency register](#) after Siim Kallas, the Estonian EU Commissioner for Administration, Audit and Anti-Corruption, had advocated for a compulsory register with penalties. The EU was buzzing with reform activity. On the one hand, the Commission adopted transparency measures in response to growing criticism of democratic deficits and corruption; on the other hand, NGOs regularly came up with evidence of glaring shortcomings in the voluntary register. In 2010, the Jacques Santer Commission resigned following massive allegations of corruption. The NGOs' analyses repeatedly revealed incorrect information and documented actors not listed in the register. The EU Parliament joined the Commission's register in 2011. When Commission President Jean-Claude Juncker took office in 2014, the incentives for lobbyists to register were raised. For example, only registered actors could be invited to talks with the Commission or to participate in expert groups. In 2021, the instrument was extended to cover lobbying vis-à-vis the European Council. Over the course of the 2010s, the number of registered lobbyists grew to over 12,000.

As mentioned above, it wasn't until 2021 that a lobby register was finally introduced in Germany as well. Until the very end, there was massive opposition from the conservative parties and the business community, even though conversations had long since taken

place with individual CDU and interest group representatives. But towards the end of the Merkel era, it had become obvious that even in the Federal Republic of Germany – increasingly dubbed the “Berlin lobbying republic” in the media – trust in political institutions had eroded so much due to corruption and abuse that it could not be regained without additional options for inquiry and monitoring. The current German register continues to draw criticism, however, because many lobbyists are exempt from registration. Given the developments in the US and the EU, exemptions for law firms, for example, are unacceptable. Likewise, the privileges for employers’ associations and trade unions no longer make sense in light of the changes in the system of interest representation. Although employers’ associations and trade unions, unlike individual corporations or industry associations, are considered to be (more) oriented towards the common good, (supposedly) negotiating good solutions with government actors, the idea of joint (corporatist) governance in the general interest is rightly considered outdated. Research has found that successful lobbying frequently results from forming coalitions and alliances in which various companies, federations and associations, as well as their partners and service providers, work together. It is probably very difficult, therefore, to distinguish “good” lobbying promoting the public good from problematic lobbying promoting narrower interests.

And there is another shortcoming: The German law does not require lobbyists to provide information on the content and financial dimensions of their lobbying. This means that important prerequisites for collecting data on the involvement of lobbyists in the legislative process and for identifying the highly unequal distribution of financial resources for exerting influence are not met.

The debate surrounding the introduction and reform of lobby registers in the US, the EU and Germany shows above all that there is a growing awareness of the need for extended monitoring and analysis tools. The transparency registers help to close important and large gaps in the data basis for analyzing interest groups and political networks. There is also an urgent need for better research opportunities concerning the work of foundations and other influential civil society organizations, as the boundaries between expertise and lobbying are becoming blurred.

The work with transparency registers is reflected in both academic research and investigative journalism, yielding numerous and often highly interesting results. Although lobby registers and the dedicated work of anti-lobbying organizations do not change the existing distribution of power and influence, they do provide better insights into the structures and activities of lobbyists and thus create important foundations for discussing the need for further political reforms.

## Literatur

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See also the [Dossier Lobbyismus](#) of the Bundeszentrale für politische Bildung:

Transparency note: The author Dieter Plehwe is a WZB researcher and founding member of the NGO LobbyControl.

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