

The Qatar Scandal and Third Country Lobbying

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The EU was given the worst kind of early Christmas present: a corruption scandal that has rocked the Union to its core giving ammunition to anti-EU populist actors and drawing attention and schadenfreude from outside the EU. The facts of the case remain under investigation, but the case has already been approached from many angles. The Qatar scandal has been described as a "[shameful and intolerable](#)" affair, as a [direct attack against European values and democracy](#), as well as the testament to the fact that the [EU has a corruption problem](#) and an ineffective ethics regime in need of immediate revamping.

Qatar has been given the role of an international villain in this story, and the EU has used the opportunities to frame the case as malign third country efforts to corrupt the EU. While there is no denying the corrupting role of a third country, the EU's framing enables it to pose as a victim, which, as I argue in this blogpost, is intellectually dishonest and harmful.

What does this case tell us about third country lobbying in the EU? Four answers

The first answer

The Qatar scandal does not tell us anything about third country lobbying because the involvement of the Qatar officials in EU policy-making is not lobbying. Lobbying, as it is defined in the 2021 [Interinstitutional Agreement](#) (IIA) on the European Transparency Register, covers "activities carried out by interest representatives with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes" within the EU. As soon as lobbying involves monetary compensation or a policy-maker assumes or accepts any direct or indirect financial benefit or consideration for influencing decisions, influence ceases to be lobbying and becomes assessed as a criminal activity.

The second answer

With the above clarification, we can safely say that the corruption scandal makes visible that the EU is being influenced by foreign actors.

According to the much discussed [Brussels Effect](#) thesis proposed by Anu Bradford, the EU currently shapes policy in areas such as data privacy, consumer health and safety, environmental protection, competition, and online hate speech. Lobbying is an important way for third country actors, both public and private, to influence in these same areas. The EU's [chemicals policy](#) is one policy area where non-EU

actors have actively attempted to shape the making of EU's chemicals law and policy. Another recent example is [Big Tech](#), the largest lobbyist in the EU measured by spending. Vodafone, Qualcomm, Intel, IBM, Amazon, Huawei, Apple, Microsoft, Facebook and Google spend more than €32 million on lobbying in the EU. Of all the companies lobbying the EU on digital policy, 20 per cent are US based.

Third country lobbying is a normal part of EU decision-making. The EU's global reach has only grown in the past decade, and it is natural that for instance industries whose activities are affected by proposed EU rules will try to make their voices heard and given consideration by EU policy-makers.

The third answer

According to some views, the Qatar scandal is exceptional because the EU was (corruptly) influenced by state actors. Yet the third answer emerging from the Qatar case is that third country lobbying is undertaken by a variety of actors, both governmental and private actors, and the Qatar scandal does not reveal anything new. It rather confirms a pattern that has been visible for some time.

It is true that often third country lobbying involves private businesses, but already in the early 2000s when the EU's ambitious chemicals regulation REACH was being prepared, [the US government lobbied EU policy-makers together with its business sector](#). It is likely that Big Tech lobbyists have also enlisted their governments to help lobbying the EU.

Third country governments are also buying lobbying and consultancy services in order to be able to lobby EU policy-makers and shape public opinion in Europe. Former Danish Prime Minister and NATO Secretary-General Anders Fogh Rasmussen founded Consultancy Rasmussen Global in 2014. [In an interview with Politico last year](#), the company's representative noted that when a foreign government or a "sovereign client" approaches the firm, the company examines how it stands in democracy ratings before taking on the account. Over the past years, the consultancy's clients have included inter alia Albania, Japan, Taiwan, and Ukraine.

The fourth answer

The EU has been aware of third country lobbying, and the interest and involvement of foreign governments in its policy-making processes cannot have come as a surprise.

The European Parliament's (EP) Special Committee adopted [a report on foreign interference](#) in March 2022. In the report, the EP described how "malicious actors who seek to interfere in electoral processes take advantage of the openness and pluralism of our societies as a strategic vulnerability to attack democratic processes" (para 13). The EP portrays openness and transparency – two fundamental values to the EU – as making the EU weak and vulnerable to malicious foreign actors.

Taking up specifically the topic of third country lobbying, the EP continues that there is a reason to be “concerned about integrated lobbying strategies combining industrial interests and foreign political goals, in particular when they favour the interests of an authoritarian state” (para 116). The EU has not considered how countries such as “China and Russia, but also Qatar, the United Arab Emirates and Turkey, have invested heavily in lobbying efforts in Brussels” (para 116).

In an article “The End of An Era for Foreign Lobbying? The Emergence of Foreign Transparency Laws in Washington, Canberra and Brussels” that is coming out in the Journal of Common Market Studies, I argue that this report is an indication of how foreign lobbying is being securitised in the EU. By this I mean that the EU increasingly sees itself as a vulnerable victim against which malign third countries try to attack. Third country lobbying is articulated as a security risk particularly in connection with repressive and/or authoritarian states. The EP President Roberta Metsola’s [speech](#) at the Parliament on 12 December is a perfect encapsulation of this idea of how the fate of European democracy is at stake and being corrupted in front of our own eyes by foreign actors.

The framing of third country lobbying as a security risk is also manifest from the fact that the EP considers the EU’s ‘normal’ response to lobbying, that is, the European Transparency Register to be deeply deficient. One sign that a certain issue is securitised is that it cannot be dealt with through ‘normal’ politics or that policy instruments which would usually apply to the situation are suddenly impractical or unavailable, and special measures are needed.

In the above-mentioned report, the EP lambasts that there is a ‘serious lack of legally binding rules and enforcement of the EU’s lobbying register, which makes it practically impossible to track lobbying coming from outside the EU’ (para 116). The EP flags the softness of the lobbying register as particularly relevant to monitoring foreign lobbying, although [deficiencies of the non-binding register](#) have been documented in relation to internal EU lobbying, too.

In order to underline the importance of specifically regulating third country lobbying, the EP suggests in the report that Australia’s Foreign Influence Transparency Scheme would be ‘a good practice to follow’ in the EU (para 116).

What to do?

Recent days have seen calls for the regulation of third country lobbying. Daniel Freund, a green MEP, for instance suggests that third country lobbyists should register and provide information about their lobbying activities and expenditures in the EU’s lobbying register.

Parts of third country lobbying are already registered in the lobbying register. Third country actors such as businesses, trade associations or non-governmental organisations from outside the EU must register just like their EU counterparts.

The IIA on which the EU's Transparency Register is based exempts from its scope the governments of third countries as well as Member States' public authorities, intergovernmental organizations and their diplomatic missions, including offices and agencies emanating from them. This is known as the diplomatic exception.

Following an amendment to the IIA in 2021, the scope of this diplomatic exception was limited. When third country governments "are represented by legal entities, offices or networks without diplomatic status or are represented by an intermediary", such representation must be registered. This means that consultancies or law firms with third country governments as clients need to disclose the work they do for them.

The EU's lobbying regulation does not only involve the EU's lobbying register. Meeting diaries are an important part of the EU's lobbying regulation. [EU Commissioners](#) and [Directors-General of the Commission](#) are required to provide information about meetings held with lobbyists. According to the EP's [Rules of Procedure](#), MEPs must also publish all lobby meetings related to a report for which they are responsible as rapporteurs, shadow rapporteurs or committee chairs on Parliament's website.

But because third country governments do not currently count as interest representatives in the meaning of the IIA, meetings with them are not subject to the publication obligation, neither in the Commission nor in the Parliament.

Should third country governments register in the European Transparency Register in the future?

In my view, they should not. As instruments, lobbying registers are not intended to capture lobbying by state actors, and as deplorable as the Qatar scandal is, it should not be used to 'cannibalise' the lobbying register to aims to which it was not intended in the first place.

However, meeting diaries that policy-makers use to disclose information about their meetings with lobbyists would be better suited to include information about third country governments. While the Commission decisions and the Parliament's Rules of Procedure rely on the definition of an interest representative in the IIA, the link could be severed, and the Parliament's Rules of Procedure and the Commission decisions could be amended to include an obligation to publish meetings with third country governments. This should be easier than opening up the tripartite IIA revision. This way, meetings of MEPs, Commissioners and Commission's Directors-General with representatives of third countries could be made public.

Any such amendments should be followed by a concerted effort to fix the control and enforcement deficit. [Transparency International EU](#) analysed more than 28,000 lobby meetings that were published by MEPs between June 2019 and July 2022. During this period, just over half of MEPs used the Parliament's publication system.

Even before the Qatar scandal, the EU has considered introducing legislation to increase the transparency of foreign lobbying. Such laws currently exist in the

United States (Foreign Agents Registration Act, FARA) and Australia (Foreign Influence Transparency Scheme Act, FITSA). [The EP's delegation](#) visited Australia in September 2022 to discuss Australia's experiences. The UK has recently released a draft bill for [Foreign Influence Registration Scheme](#).

It is difficult to see how such a law would provide a silver bullet to worries that the Qatar case has brought up in the EU. Rather, such legislation may bring with it new problems. First, these laws are easily conflated with foreign interference laws, and if no clear distinction is made between foreign interference and foreign lobbying, the law may become hindrance to legitimate third country lobbying. Second, especially Australia's law as well as the UK's draft bill have been criticised for targeting foreign actors too broadly.

To summarise, the EU should resist the temptation to pose as a gullible victim of foreign forces and to portray third country lobbying as a security risk. Third countries have lobbied, are lobbying and will lobby the EU in a range of fields, and the more powerful the Brussels Effect becomes, the more intense lobbying will be. This should not downplay the importance of making sure that everything possible has been done to prevent such a thing from happening again.

Better lobbying rules may not have prevented the Qatar scandal, but they (and their better enforcement) would, however, have made a difference. Especially the EP is enveloped in a culture of non-accountability, and it currently seems to think that the freedom of mandate gives it also a freedom from transparency. This culture needs to be rooted out. But a cool head is needed so as not to close the EU to third countries' legitimate lobbying. That would make the already tragic legacy of the Qatar case even more tragic.

