

Lobbying Disclosure Laws

France • Germany • United Kingdom

March 2017



This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official
opinion of the United States Government. The information provided
reflects research undertaken as of the date of writing.
It has not been updated.

Contents

Introduction.....	1
France.....	2
Germany.....	4
United Kingdom.....	11

Introduction

This report, prepared by the staff of the Global Legal Research Center of the Law Library of Congress, surveys laws governing registration of lobbyists in France, Germany, and the United Kingdom.

Current French law does not require lobbyists to register, but France recently enacted a law requiring registration that will go into effect on July 1, 2017. It will require lobbyists to provide information that will become publicly available, including the identity of organizations with interests related to the registrant's representation.

The UK enacted a lobbying registration law in 2014 that requires lobbyists whose annual lobbying business reaches a certain threshold to disclose specified information. The information provided is made available in a public register. Among the information that must be disclosed is the identity of lobbyists' clients.

Germany does not have a mandatory register for lobbyists at the federal level, although it does have a voluntary register. (One state, Saxony-Anhalt, has a mandatory register for lobbyists at the state parliament.) There have been initiatives supporting a mandatory register at the federal level, and the Social Democratic Party has submitted draft legislation to establish one.

France

*Nicolas Boring
Foreign Law Specialist*

I. New French Transparency Law

France recently adopted a mandatory registration scheme for lobbyists. This registry is created by Law No. 2016-1691 of December 9, 2016, Regarding Transparency, the Fight against Corruption, and Modernization of Economic Life,¹ colloquially known as the Second Sapin Law, after the bill's primary sponsor, Finance Minister Michel Sapin.²

The Second Sapin Law establishes an electronic registry to “ensure the information of citizens on the relationships between representatives of [special] interests and public authorities.”³ This registry, which will be publicly accessible, will aim to show the identity of individuals and organization regularly engaged in lobbying activity.⁴ The law requires public or private organizations engaged an industrial or commercial activity, and chambers of commerce, chambers of industry, and chambers of trades and craft (“chambres de métiers et de l’artisanat”) to register if the principal or regular activity of at least one executive, employee, or member is to influence the decision of a government body, especially the content of a law or regulatory act, through communications with legislators, cabinet members, legislative or cabinet staff and advisors, or other government officials.⁵ Individuals who, though not employees of the organizations mentioned above, nevertheless exercise lobbying activities on their behalf, will also have to register, and will have to disclose the identity of the people or organizations whose interests they are representing.⁶

Registrants will be required to disclose their identity (or, in the case of corporations or other organizations, the identities of their leadership, and of any employee or member in charge of

¹ Available online at <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&categorieLien=id> (archived at <https://perma.cc/9N47-2FTG>).

² Loi 2016-1691 du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique [Law 2016-1691 of Dec. 9, 2016 Regarding Transparency, the Fight Against Corruption, and Modernization of Economic Life], VIE-PUBLIQUE.FR (French government website) (Dec. 12, 2016), <http://www.vie-publique.fr/actualite/panorama/texte-discussion/projet-loi-relatif-transparence-lutte-contre-corruption-modernisation-vie-economique.html> (archived at <https://perma.cc/D8HA-NMLD>); Maria Knapp, *Will the Sapin II Anti-Corruption Law Shepherd France Into a New Era of Transparency ?*, FORBES (Dec. 14, 2016), <https://www.forbes.com/sites/riskmap/2016/12/14/will-the-sapin-ii-anti-corruption-law-shepherd-france-into-a-new-era-of-transparency/#7e97531248f0>, archived at <https://perma.cc/E4ZW-QF4W>.

³ Law 2016-1691 of Dec. 9, 2016, art. 25 (amending Loi n° 2013-907 du 11 octobre 2013 relative à la transparence de la vie publique [Law No. 2013-907 of Oct. 11, 2013 Regarding Transparency in Public Life], <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028056315&dateTexte=20170327>, archived at <https://perma.cc/57NR-KEV7>).

⁴ Law 2016-1691 of Dec. 9, 2016, art. 25.

⁵ *Id.*

⁶ *Id.*

lobbying activities); the scope of their lobbying activities; how many people they employ for lobbying activities; how much money was spent on lobbying activities during the preceding year; and any professional organization, union, or nongovernmental organization that has interests related to the interests represented by the registrant.⁷ Failure to disclose the required information can potentially lead to criminal charges and is punishable by up to one year of jail and a fine of €15,000 (about US\$16,190).⁸

The law generally excepts certain parties from the lobbying registration requirements, including elected officials acting within their official capacity, political parties acting within their constitutional roles, labor unions, and religious organizations.⁹

The provisions regarding the lobbyist registry will come into force on July 1, 2017.¹⁰ The registry will be kept and managed by the High Authority for Transparency in Public Life.¹¹

II. Current Law

The Second Sapin Law was adopted to rectify what was seen as very inadequate regulation of lobbying activities.¹² The current rules, which remain in place until the registry is implemented on July 1, 2017, do not provide for any mandatory lobbyist registration scheme. The two chambers of Parliament, the Senate and the National Assembly, each have a voluntary registry.¹³ The main incentive for registering with the parliamentary registries appears to be that it provides the registrant with a special badge giving him/her access to parts of the Senate and/or the National Assembly that he/she would otherwise not be allowed into.¹⁴ Few lobbyists appear to be registered under the current rules.¹⁵

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ The website of the Haute Autorité pour la transparence de la vie publique [High Authority for Transparency in Public Life] may be accessed at <http://www.hatvp.fr/la-haute-autorite/#r-1>, archived at <https://perma.cc/V3J5-JUDE>.

¹² *Etude d'impact, Projet de loi relatif à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique [Impact Study, Bill Regarding Transparency, the Fight Against Corruption, and the Modernization of Economic Life]*, NOR : FCPM1605542L/Bleue-1, 44 (Mar. 30, 2016), https://www.legifrance.gouv.fr/content/download/9989/117721/version/1/file/ei_transparence_corruption_modernisation_vie_economique_cm_30.03.2016.pdf, archived at <https://perma.cc/C39W-DZ48>.

¹³ Règlement du Sénat et Instruction générale du Bureau [Rules of the Senate and General Instructions of the Bureau] (Mar. 2, 2017), https://www.senat.fr/reglement/reglement_mono.html, archived at <https://perma.cc/E52A-KGJC>, Art. XXII bis; Règlement de l'Assemblée nationale [Rules of the National Assembly] art. 80-5 (Jan. 2015), http://www.assemblee-nationale.fr/connaissance/reglement_2015_01.pdf, archived at <https://perma.cc/57RT-ZEZL>.

¹⁴ *Etude d'impact, supra* note 12, at 46–48.

¹⁵ *Id.* at 48.

Germany

Jenny Gesley
Foreign Law Specialist

SUMMARY Germany does not have any laws similar to the US Lobbying Disclosure Act or the Foreign Agents Registration Act. The German parliament keeps a voluntary register for associations that lobby the German parliament and the federal government. The state of Saxony-Anhalt has a mandatory lobby register for associations that lobby the state parliament. There are several ongoing initiatives to set up a mandatory lobby register.

Lobbyists can also apply to the parliamentary groups of the political parties to receive access passes to the nonpublic areas of the parliament that are valid for a year. The names of the access pass holders and the parties that granted them are subject to publication if requested under the German Freedom of Information Act, following a successful lawsuit by a German newspaper.

Political parties may generally accept donations without a limit. They must be declared in the annual general statement of accounts, separately listing any single-source donation exceeding €10,000 (about US\$10,866) in a calendar year to include the name and address of the donor. Donations exceeding €50,000 (about US\$53,633) must be reported immediately to the President of the German Bundestag, who will publish the amount as well as the name and address of the donor in parliamentary report. Donations from foreign sources or persons who clearly donate in expectation of or in return for a certain commercial or legal advantage are generally prohibited. A recent lawsuit from a nonprofit organization obligated the German parliament to also release internal documents in connection with donations listed in the annual statement of accounts.

I. Lobby Register

A. Federal Level

Germany does not have any laws similar to the US Lobbying Disclosure Act or the Foreign Agents Registration Act. The German Bundestag (parliament) keeps a voluntary register for associations that lobby the German parliament and the federal government.¹ This register is published yearly in the Federal Gazette.² The official version (*amtliche Fassung*) as well as a

¹ Registrierung von Verbänden und deren Vertreter (Anlage 2 der Geschäftsordnung des Deutschen Bundestages) [BTGO1980Anl2] [Registration of Associations and their Representatives (Annex 2 to the Rules of Procedure of the German Parliament)], June 25, 1980, BUNDESGESETZBLATT [BGBL.] [FEDERAL LAW GAZETTE] I at 1237, 1256, as amended, http://www.gesetze-im-internet.de/bundesrecht/btgo1980anl_2/gesamt.pdf, archived at <http://perma.cc/VC94-JXL4>.

² *Id.* at para. 5. The latest official version of the register dates from May 2, 2016. Deutscher Bundestag [German Parliament], Bekanntmachung der öffentlichen Liste über die Registrierung von Verbänden und deren Vertretern [Publication of the Public List of Registered Associations and their Representatives], May 2, 2016, BUNDESANZEIGER AMTLICHER TEIL [BANZ AT] [FEDERAL GAZETTE OFFICIAL PART], May 19, 2016, B1, <https://www.bundestag.de/blob/189456/00aab1db13ea7fda086a19ad3641d4fa/lobbylisteamtlich-data.pdf>, archived at <http://perma.cc/M4WF-67VE>.

more current version (*aktuelle Fassung*), which is updated more regularly, can also be accessed on the website of the German parliament.³

B. State Level

In 2014, the state parliament of Saxony-Anhalt amended the rules of procedure to require all lobbyists from associations that lobby the state parliament to register.⁴ Representatives from associations that are not included in the mandatory lobby register will not be heard in parliament. However, representatives of associations on the register do not have an enforceable legal right to be heard.⁵ The list is published online on the state parliament website.⁶

II. Access to Parliamentary Premises for Lobbyists

A. Access for Associations on the Voluntary Register

Associations that are on the German parliament's voluntary public list may also apply for a pass (*Hausausweis*) that allows them to access the nonpublic parts of the parliamentary premises at any time.⁷ The pass is valid for a year.⁸ However, being on the register is no guarantee that a pass will be issued.⁹

B. Access Pass from Political Parties

All lobbyists, including those not part of associations, may obtain an access pass by applying directly to the parliamentary groups of the individual political parties represented in the German parliament.¹⁰ The law does not require the parties to publish the names of lobbyists that receive a pass that way. However, the German nonpartisan group Parliament Watch (*Abgeordnetenwatch*) that operates an independent Internet platform to promote parliamentary

³ Deutscher Bundestag [German Parliament], Öffentliche Liste über die beim Bundestag registrierten Verbände [Public List of Associations that are Registered with the Parliament], <https://www.bundestag.de/parlament/lobbyliste>, archived at <http://perma.cc/V3WK-L52Y>.

⁴ Geschäftsordnung des Landtages von Sachsen-Anhalt [Rules of Procedure of the State Parliament of Saxony-Anhalt], Apr. 12, 2016, Drucksache 7/36 [Parliamentary Documentation 7/36], *as amended*, § 86b, in conjunction with the annex, <http://www.landtag.sachsen-anhalt.de/fileadmin/files/drs/wp7/drs/d0036vun.pdf>, archived at <http://perma.cc/H85W-VCMJ>.

⁵ *Id.* annex, § 2.

⁶ *Id.* annex, § 3. Landtag Sachsen-Anhalt [State Parliament of Saxony-Anhalt], Lobbyregister Gemäß § 86b GO.LT [Lobby Register according to § 86b of the Rules of Procedure of the State Parliament], Stand: 21. März 2017 [Current as of Mar. 21, 2017], http://www.landtag.sachsen-anhalt.de/fileadmin/Downloads/Lobbyregister/Lobbyregister_Landtag_von_Sachsen-Anhalt_2017_03_21.pdf, archived at <http://perma.cc/2ZJX-JRHS>.

⁷ Annex 2 to the Rules of Procedure of the German Parliament, para. 3; Hausordnung des Deutschen Bundestages [BTHausO 2002] [House Rules of the German Parliament], Aug. 7, 2002, BGBl. I at 3483, as amended, § 2, http://www.gesetze-im-internet.de/bundesrecht/bthauso_2002/gesamt.pdf, archived at <http://perma.cc/2AJP-TEGH>.

⁸ House Rules of the German Parliament, § 2, para. 7, no. 1.

⁹ Annex 2 to the Rules of Procedure of the German Parliament, para. 4.

¹⁰ House Rules of the German Parliament, § 2, para. 4.

transparency,¹¹ submitted a Freedom of Information Act¹² request to the individual parties to publish their lists. While the Green Party and the Left Party complied with the request,¹³ followed eventually by the Social Democratic Party,¹⁴ the Christian Democratic Union party refused. In June 2015, Parliament Watch therefore filed an action for performance in the Administrative Court in Berlin to compel the German parliament to make public the names of all lobbyists with access passes.¹⁵ In addition, in September 2015, German newspaper *Der Tagesspiegel* requested a preliminary injunction from the Administrative Court in Berlin to compel the release of information about the number of access passes and the parties that issued them.¹⁶ Both the action for performance and the preliminary injunction were granted and the court obligated the German parliament to make the names public.

The German parliament appealed the preliminary injunction in the newspaper case. The Higher Administrative Court of Berlin-Brandenburg confirmed the order of the lower court and held that neither the “right to informational self-determination”¹⁷ of the lobbyists nor the constitutionally

¹¹ Their website can be accessed at <http://www.abgeordnetenwatch.de/> (last visited Mar. 23, 2017).

¹² Gesetz zur Regelung des Zugangs zu Informationen des Bundes (Informationsfreiheitsgesetz - IFG) [Federal Act Governing Access to Information held by the Federal Government (Freedom of Information Act)], Sept. 5, 2005, BGBl. I at 2722, *as amended*, <http://www.gesetze-im-internet.de/bundesrecht/ifg/gesamt.pdf>, archived at <http://perma.cc/AE48-RK9U>, unofficial English translation available at http://www.gesetze-im-internet.de/englisch_ifg/englisch_ifg.pdf, archived at <http://perma.cc/2NBL-F7VZ>.

¹³ Michael Grosse-Brömer et al., *GroKo schweigt zu Lobbykontakten (Update)* [Grand Coalition Remains Silent with Regards to Lobbyists (Update)] (June 19, 2014), <https://www.abgeordnetenwatch.de/blog/2014-06-19/fraktionen-schweigen-zu-lobbykontakten#lobbykontakte>, archived at <http://perma.cc/23YU-4FQK>.

¹⁴ SPD, Befürwortete Hausausweise 2014 [Approved Access Passes 2014], available at https://www.abgeordnetenwatch.de/sites/abgeordnetenwatch.de/files/spd_2014.pdf, archived at <http://perma.cc/TL5K-WTML>; SPD, Befürwortete Hausausweise 2015 [Approved Access Passes 2015], available at https://www.abgeordnetenwatch.de/sites/abgeordnetenwatch.de/files/spd_2015.pdf, archived at <http://perma.cc/33ZV-6HBL>.

¹⁵ Verwaltungsgericht Berlin [VG Berlin] [Administrative Court Berlin], June 18, 2015, 2 K 176.14, http://www.gerichtsentscheidungen.berlin-brandenburg.de/jportal/portal/t/1ijl/bs/10/page/sammlung.psm?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=13&numberofresults=35&romdoctodoc=yes&doc.id=JURE150011694&doc.part=L&doc.price=0.0&doc.hl=1#focuspoint, archived at <http://perma.cc/U4MM-6X5E>.

¹⁶ Verwaltungsgericht Berlin [VG Berlin] [Administrative Court Berlin], Sept. 28, 2015, 27 L 126.15, http://www.gerichtsentscheidungen.berlin-brandenburg.de/jportal/portal/t/279b/bs/10/page/sammlung.psm?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=1&romdoctodoc=yes&doc.id=JURE150015155&doc.part=L&doc.price=0.0#focuspoint, archived at <http://perma.cc/Z862-C6RE>.

¹⁷ GRUNDGESETZ FÜR DIE BUNDESREPUBLIK DEUTSCHLAND [GRUNDGESETZ] [GG] [BASIC LAW], May 23, 1949, BUNDESGESETZBLATT [BGBl.] I at 1, art. 2, para. 1 in conjunction with art. 1, para. 1, <http://www.gesetze-im-internet.de/bundesrecht/gg/gesamt.pdf>, archived at <http://perma.cc/298A-G79X>, unofficial English translation at http://www.gesetze-im-internet.de/englisch_gg/basic_law_for_the_federal_republic_of_germany.pdf, archived at <http://perma.cc/9JE7-RP4D>. The “right to informational self-determination” has been defined by the German Federal Constitutional Court as the right of a person to decide whether to reveal personal data and how it will be used. See BUNDESVERFASSUNGSGERICHT [BVERFG] [FEDERAL CONSTITUTIONAL COURT], 65 ENTSCHEIDUNGEN DES BUNDESVERFASSUNGSGERICHTS [BVERFGE] [DECISIONS OF THE FEDERAL CONSTITUTIONAL COURT] at 1, 43.

guaranteed “free mandate”¹⁸ of the parliamentarians precluded the applicant’s right to information.¹⁹ *Der Tagesspiegel* subsequently published the list on their website.²⁰

As a consequence of the court cases, the parliament’s Council of Elders²¹ decided that the parliamentary groups of the political parties would no longer be allowed to give out access passes to lobbyists other than to associations listed on the voluntary register. In addition, the number of access passes granted per association would be limited to two instead of five. Other lobbyists may only apply for day access passes.²²

III. Initiatives to Set Up a Mandatory Lobby Register

The nonprofit Parliament Watch has started two initiatives to set up a mandatory lobby register. On March 8, 2017, the group submitted a petition with about 180,000 signatures to the petition committee of the German parliament for discussion.²³ Parliamentary procedure generally dictates that petitions for the adoption of legislation submitted by any person to the petition committee require only 50,000 or more valid signatures when submitted, or must collect that amount of signatures within four weeks of their submission, in order to be debated in the committee and for the requester to be heard.²⁴ After the debate, the petition committee will

¹⁸ BASIC LAW, art. 38, para. 1, sentence 1.

¹⁹ Oberverwaltungsgericht Berlin-Brandenburg [OVG Berlin-Brandenburg] [Higher Administrative Court Berlin-Brandenburg], Nov. 20, 2015, 6 S 45.15, http://www.gerichtsentcheidungen.berlin-brandenburg.de/jportal/portal/t/279b/bs/10/page/sammlung.psml?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=1&fromdoctodoc=yes&doc.id=MWRE150003300&doc.part=L&doc.price=0.0#focuspoint, archived at <http://perma.cc/5HQM-25CY>.

²⁰ Gesamtliste der Interessenvertreter, die pro Kalenderjahr Zugang per befürwortetem Bundestagsausweis hatten/haben [Complete List of Lobbyists that Had/Have an Parliamentary Access Pass in a Calendar Year], Beginn 18. WP bis 20. November 2015 [Start of the 18th Parliamentary Term until November 20, 2015], http://www.tagesspiegel.de/downloads/12651316/3/gesamtliste-pgf_18-wp-20-11-15.pdf, archived at <http://perma.cc/7KN3-KWBX>.

²¹ The Council of Elders is composed of the President of the German parliament, the Vice Presidents, and twenty-three other members from the political parties according to the number of seats they have in parliament. The Council of Elders assists the President of the German Bundestag in his or her work. *See* Geschäftsordnung des Deutschen Bundestages [BTGO] [Rules of Procedure of the German Parliament], June 25, 1980, BGBl. I at 1237, as amended, § 6, http://www.gesetze-im-internet.de/bundesrecht/btgo_1980/gesamt.pdf, archived at <http://perma.cc/2A73-LP93>.

²² Jost Müller-Neuhof & Antje Sirleschtov, *Ab heute keine Hausausweise für Firmenlobbyisten mehr* [Starting Today, No More Access Passes for Lobbyists] (Feb. 29, 2016), <http://www.tagesspiegel.de/politik/bundestag-ab-heute-keine-hausausweise-fuer-firmenlobbyisten-mehr/13033656.html>, archived at <http://perma.cc/ZN5X-ZK52>; Deutscher Bundestag, Zentrale Ausweisstelle [German parliament. Central ID Office], *Merkblatt zum geänderten Antragsverfahren auf Erteilung von Bundestagsausweisen an Mitarbeiter von Verbänden und deren Interessenvertreter* [Explanatory Leaflet on the Amended Procedure for Granting Parliamentary Access Passes to Employees from Associations and their Representatives] (Feb. 18, 2017), <https://www.bundestag.de/blob/409838/b1b7767b2ec708e4f26b55870329a71c/merkblatt-data.pdf>, archived at <http://perma.cc/2XMN-9BKC>.

²³ *180.000 Unterschriften für ein Lobbyregister übergeben!* [180,000 Signatures for a Lobby Register Handed Over!], ABGEORDNETENWATCH.DE (Mar. 8, 2017), <https://www.abgeordnetenwatch.de/blog/2017-03-08/180000-unterschriften-fur-ein-lobbyregister-uebergeben>, archived at <http://perma.cc/L7M7-CB97>.

²⁴ BASIC LAW, arts. 17, 45c; Gesetz über die Befugnisse des Petitionsausschusses des Deutschen Bundestages (Gesetz nach Artikel 45c des Grundgesetzes) [GGArt45cG] [Act on the Powers of the Petition Committee of the German Parliament (Act According to article 45c of the Basic Law)], July 19, 1975, BGBl. I at 1921,

submit its recommendation to the German parliament, which will then debate the issue and forward its recommendation to the federal government.²⁵

Furthermore, Parliament Watch, in collaboration with the group Lobby Control and a German law firm, drafted a federal lobbying law that would require registration of all lobbyists.²⁶ A revised draft act was published online in February 2017 after public comments had been incorporated and was submitted to the political parties in parliament for consideration.²⁷

In addition, the Social Democratic Party has submitted its own draft law that, if enacted, would set up a mandatory lobby register, require that future draft laws list the experts and lobbyists that participated in the drafting process (“executive footprint”), and mandate political parties to identify lobbyist sponsoring in excess of €10,000 (about US\$10,866) in the annual statement of accounts.²⁸

IV. Donations to Political Parties

A. General Information

Section 25, paragraph 1 of the Political Parties Act²⁹ provides that a political party may generally accept donations without a limit. A donation is defined as any revenue that the political party receives in excess of recurring membership fees and additional recurring payments by party members beyond their membership fees.³⁰

<http://www.gesetze-im-internet.de/bundesrecht/ggart45cg/gesamt.pdf>, archived at <http://perma.cc/Y5KZ-D3XP>; Rules of Procedure of the German Parliament, § 110; Grundsätze des Petitionsausschusses über die Behandlung von Bitten und Beschwerden (Verfahrensgrundsätze) [Rules of the Petition Committee on Handling Requests and Complaints (Procedural Rules)], Mar. 8, 1989 (current as of Jan. 15, 2014), paras. 8.2.1., 8.4(4), <http://www.bundestag.de/verfahrensgrundsaeetze?url=L2F1c3NjaHVlc3NlMTgvYTAyL2dydW5kc2FldHpL3ZlcmZhaHJlbnNcnVuZHNhZXR6ZS8yNjA1NjQ=&mod=mod472954>, archived at <http://perma.cc/JFE7-N64S>.

²⁵ Rules of Procedure of the German Parliament, §112, para. 1; Rules of the Petition Committee on Handling Requests and Complaints (Procedural Rules), paras. 8.6(1), 9.2.

²⁶ Lobby-Transparenzgesetz [Lobby Transparency Act], https://lobbyregister.org/wp-content/uploads/2017_01_27_Lobby_Transparenzgesetz.pdf, archived at <http://perma.cc/Q9P7-U2WA>.

²⁷ *180.000 Unterschriften für ein Lobbyregister übergeben!*, *supra* note 23.

²⁸ *Id.*; Gesetzentwurf der Abgeordneten Thomas Oppermann, Dr. Eva Högl und der Fraktion der SPD. Entwurf eines Gesetzes über die Vertretung von Interessen gegenüber dem Deutschen Bundestag und den Bundesbehörden (IntVertG) und zur Änderung des Parteiengesetzes und anderer Gesetze [Draft Act of the Parliamentarians Thomas Oppermann, Dr. Eva Högl, and the Parliamentary Group of the SPD Party. Draft Act on Interest Lobbying at the German Parliament and in Federal Agencies and to Amend the Act on Political Parties and Other Acts], Feb. 20, 2017, <https://www.zdf.de/assets/spd-gesetzentwurf-schaerfere-regeln-fuer-lobbyisten-100~original?cb=1490627949479>, archived at <http://perma.cc/QA9B-XKSR>.

²⁹ Gesetz über die politischen Parteien (Parteiengesetz) [PartG] [Political Parties Act], in the version promulgated on Jan. 31, 1994, BGBl. I at 149, <http://www.gesetze-im-internet.de/bundesrecht/partg/gesamt.pdf>, archived at <http://perma.cc/5TTB-KXU2>.

³⁰ *Id.* § 27, para. 1, sentence 3.

Paragraph 3 lists accounting requirements for donations. Donations must be declared in the annual general statement of accounts, which the political party must submit to the President of the Bundestag.³¹ Furthermore, donations from one source exceeding €10,000 in a single calendar year must be listed separately with the name and address of the donor.³² Donations exceeding €50,000 (about US\$53,633) must be reported immediately to the President of the Bundestag, who will publish the amount of the donation and the name and address of the donor in a parliamentary report.³³

Paragraph 2 contains a list of sources outside of Germany from which a political party may not accept donations. Circumstances excepted from that list, among others, include:

- if the donor is a German citizen, is from an EU member state, or is a company headquartered in the EU or at least 50 percent owned by a German or EU citizen;
- if the donor belongs to a national minority from a country that borders Germany and the donation goes to a political party representing that minority; or
- if the donation from a foreigner does not exceed €1,000 (about US\$1,076)³⁴

Furthermore, the Political Parties Act prohibits accepting donations from natural or legal persons who clearly donate in expectation of or in return for a certain commercial or legal advantage.³⁵

B. Lawsuit to Obligate Parliament to Release Internal Information on Donations

Recently, Parliament Watch filed another Freedom of Information Act request asking the German parliament to release internal information and documents in connection with donations declared in the 2013 and 2014 annual statement of accounts submitted by the political parties. The goal of the request was to review how diligently the parliamentary administration checks the statements or is able to check the statements and whether they follow up on questionable donations. After the German parliament refused to comply with the request, Parliament Watch filed suit.³⁶

On January 27, 2017, the Administrative Court of Berlin ruled in favor of Parliament Watch and obligated the German parliament to release the requested information and documents. It held that the Political Parties Act only regulates mandatory disclosures in the annual statement of accounts but does not block releases of information on the basis of the general Freedom of

³¹ *Id.* §§ 23, 24.

³² *Id.* § 25, para. 3, sentence 1.

³³ *Id.* § 25, para. 3, sentences 2, 3.

³⁴ *Id.* § 25, para. 2, no. 3.

³⁵ *Id.* § 25, para. 2, no. 7.

³⁶ Martin Reyher, *Urteil: Bundestag muss abgeordnetenwatch.de interne Dokumente zu Parteispenden herausgeben* [Court Decision: Parliament has to Release Internal Information on Party Donations to abgeordnetenwatch.de] (Feb. 8, 2017), <https://www.abgeordnetenwatch.de/blog/2017-02-08/urteil-bundestag-muss-abgeordnetenwatchde-interne-dokumente-zu-parteispenden>, archived at <http://perma.cc/MUE7-WUFM>.

Information Act. The Political Parties Act is not *lex specialis* to the Freedom of Information Act, because they do not regulate the same subject matter.³⁷

³⁷ VG Berlin, Jan. 27, 2017, 2 K 292.16 & 2 K 69.16, available at https://www.abgeordnetenwatch.de/sites/abgeordnetenwatch.de/files/urteil_parteispenden_2014.pdf, archived at <http://perma.cc/4LNH-8JCJ>, and https://www.abgeordnetenwatch.de/sites/abgeordnetenwatch.de/files/urteil_parteispenden_2013.pdf, archived at <http://perma.cc/YC7P-GNF6>.

United Kingdom

Clare Feikert-Ahalt
Senior Foreign Law Specialist

The statutory regulation of lobbyists in the UK is a relatively recent occurrence. Prior to the enactment of legislation in 2014, registers and voluntary codes of conduct were relied upon to provide clarity during the political process.¹ David Cameron (then Conservative Party Leader) reportedly stated in 2010 that lobbying in the UK was “the next big scandal waiting to happen.”² In 2014 the government introduced the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (the 2014 Act),³ which requires consultant lobbyists to provide their details to a publicly available register. These provisions were introduced in order to “ensure that it is clear whose interests are being represented by consultant lobbyists who make representations to the Government.”⁴ The Act was enacted on January 30, 2014 and the different parts of the Act received commencement orders on later dates. The requirement to register as a consultant lobbyist entered into force on May 23, 2014,⁵ and the remaining provisions entered into force on April 1, 2015.⁶

Part 1 of the 2014 Act required “consultant lobbyists” to provide information to a publicly available register of consultant lobbyists. The register is hosted and supervised by the Registrar of Consultant Lobbyists,⁷ who is required by the Act to be independent of both the lobbying industry and the government.⁸ Under section 2(1) of the 2014 Act, a person is deemed to be carrying on the business of consultant lobbying if

¹ ROBERT ROGERS & RHODRI WALTERS, *HOW PARLIAMENT WORKS* 104 (7th ed. 2015).

² Andrew Porter, *David Cameron Warns Lobbying Is Next Political Scandal*, TELEGRAPH (London) (Feb. 8, 2010), <http://www.telegraph.co.uk/news/election-2010/7189466/David-Cameron-warns-lobbying-is-next-political-scandal.html>, archived at <https://perma.cc/5RNV-6EZ2>.

³ Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (hereinafter Transparency of Lobbying Act), c. 4, <http://www.legislation.gov.uk/ukpga/2014/4>, archived at <https://perma.cc/47CA-KG8U>.

⁴ Transparency of Lobbying Act 2014, *Explanatory Notes* ¶ 4.

⁵ Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (Commencement and Transitional Provision No. 1) Order 2014, SI 2014/1236, http://www.legislation.gov.uk/uksi/2014/1236/pdfs/uksi_20141236_en.pdf, archived at <https://perma.cc/R7JM-7AV2>.

⁶ Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (Commencement and Transitional Provision No. 3) Order 2015, SI 2015/954, http://www.legislation.gov.uk/uksi/2015/954/pdfs/uksi_20150954_en.pdf, archived at <https://perma.cc/SU2A-6SHL>.

⁷ *Registration*, OFFICE OF THE REGISTRAR OF CONSULTANT LOBBYISTS, https://registerofconsultantlobbyists.force.com/CLR_Search (last visited Mar. 22, 2017), archived at <https://perma.cc/2KM8-LURP>.

⁸ Transparency of Lobbying Act 2014, *Explanatory Notes* ¶ 3.

- (a) in the course of a business and in return for payment, the person makes communications within subsection (3) [of section 2] on behalf of another person or persons,
- (b) the person is registered under the Value Added Tax Act 1994, and
- (c) none of the exceptions in Part 1 of Schedule 1 applies.

The requirement that the person be registered under the Value Added Tax Act means that individuals who make less than the VAT threshold, which is currently £83,000 (about US\$103,500),⁹ do not need to register as consultant lobbyists.¹⁰

Information that a consultant lobbyist must provide to the register includes

- his/her company name and the address of the company's registered office;
- the VAT registration number;
- the names of the company's directors, any secretary and shadow directors, or partners where applicable;
- his/her name and the address of his/her main place of business, or other contact address; and
- the name(s) of his/her clients.¹¹

The register must also include whether the consultant lobbyist subscribes to a code of conduct that is publicly available and, if so, the location of the code. The details on the register must be updated on a quarterly basis.¹²

Operating as a consultant lobbyist without registering is a criminal offense punishable with a fine,¹³ although the Registrar may opt to pursue civil proceedings and implement a fine of up to £7,500 (about US\$8,700).¹⁴ The government notes that the register "will complement the existing transparency regime, whereby Government ministers and permanent secretaries of Government departments proactively disclose information about who they meet on a quarterly basis."¹⁵

⁹ VAT Registration Thresholds, GOV.UK, <https://www.gov.uk/vat-registration-thresholds> (last visited Mar. 22, 2017), archived at <https://perma.cc/B7FL-7GY8>.

¹⁰ Elise Uberoi, House of Commons Library, *The Register of Consultant Lobbyists*, Briefing Paper No. 07175, Jan. 22, 2016, <http://researchbriefings.files.parliament.uk/documents/CBP-7175/CBP-7175.pdf>, archived at <https://perma.cc/6TMJ-FBWX>.

¹¹ Transparency of Lobbying Act 2014, § 4.

¹² *Id.* § 5.

¹³ Transparency of Lobbying Act 2014, § 12.

¹⁴ *Id.* §§ 13–16.

¹⁵ *Id.*, *Explanatory Notes* ¶ 3.