

Obligation to register/voluntary registration

Section 2 (1) of the Lobbying Register Act defines an **obligation to register** for representatives of special interests under certain legal conditions.

In accordance with section 1 (3) of the Lobbying Register Act, representation of special interests means **any contact made for the purpose of directly or indirectly influencing the process of formulating aims or taking decisions conducted by the bodies, Members, parliamentary groups or groupings of the German Bundestag or by the Federal Government.**

Representatives of special interests

All natural or legal persons, partnerships or other organisations, including those in the form of networks, platforms or other forms of collective activities which engage in the representation of special interests themselves or commission such representation on their behalf are representatives of special interests within the meaning of the Act. It is immaterial whether the place of residence or registered office of the representative of special interests is **in Germany or abroad**.

Natural persons are representatives of special interests within the meaning of the Lobbying Register Act if they engage in the representation of special interests themselves or commission such representation on their behalf (e.g., as self-employed business consultants or individual activists). If the natural person engages in the representation of special interests themselves, it does not matter whether they are representing their own interests or representing special interests on behalf of others.

Persons acting as (statutory) representatives or members of staff of a legal person, partnership or other organisation and who represent the interests of the legal person, partnership or other organisation, are not considered themselves to be independent representatives of special interests, and are therefore not obligated to enrol in the Lobbying Register. In these cases, the legal person, partnership or other organisation is considered the representative of special interests and is to be enrolled in the Lobbying Register. The organisation then specifically names the natural persons engaging directly in the representation of special interests where these are (statutory) representatives or members of staff.

Legal persons, partnerships or other organisations, including those in the form of networks, platforms or other forms of collective activities, are representatives of special interests within the meaning of the Lobbying Register Act where they engage in the representation of special interests not as an individual natural person. This includes companies (e.g., stock corporations or limited liability companies) and bodies (e.g., associations), but also alliances that have no legal form and that cannot be classified along typical organisation lines (e.g., initiatives).

All forms of collective representation of special interests are included in this category. Alliances of persons who act as a unit in their dealings with addressees of the representation of special interests or in public are therefore also subject to the obligation to register if the legal requirements of the Lobbying Register Act apply.

Special case: Group of affiliated companies

According to the principle of separability in German law, groups of affiliated companies or other groups of undertakings are not obligated to register in the Lobbying Register. Only the individual, independent group companies must be registered.

The parent and subsidiary companies are therefore to be considered separately in the Lobbying Register. Each company is to be entered separately in the register if the legal requirements are met.

Within a group of affiliated companies, it is possible that the parent company represents the interests of the subsidiary companies in equal measure because it engages in the representation of special interests for the group as a whole.

If this is the case and the subsidiaries do not reimburse the costs incurred by the parent company in engaging in the representation of special interests and the subsidiary companies do not engage in any representation of special interests on their own behalf, then only the parent company needs to be entered in the Lobbying Register. The parent company then includes all financial expenditure for the representation of special interests for the entire group in its register entry.

*If costs incurred by the parent company for the representation of special interests are reimbursed by a subsidiary company, then this indicates that the subsidiary company is also engaging in its own representation of special interests through the parent company. If this is the case, then the subsidiary company must enrol independently in the Lobbying Register, because it **commissions** the representation of special interests on its behalf within the meaning of section 1 (4) of the Lobbying Register Act. The parent company must list the subsidiary company as a “client” in its register entry.*

The same applies if a subsidiary company engages in the representation of special interests for other subsidiary companies in the group, or for the parent company.

Under section 2 (1) of the Lobbying Register Act, representatives of special interests as described above are subject to an obligation to register in the Lobbying Register if the conditions listed in section 2 (1) nos. 1 to 4 of the Lobbying Register Act are met and there are no exemptions under section 2 (2) or section 3 of the Lobbying Register Act.

If there is representation of special interests subject to an obligation to register, then **registration in the Lobbying Register** is to take place **without delay** under section 2 (1) sentence 2 of the Lobbying Register Act. In order to allow sufficient time

from the beginning of possible registration, the Act includes a transitional provision (section 8 of the Lobbying Register Act) under which registrations which are effected within two months from the date of entry into force of the Act on 1 January 2022 are regarded as having been effected without delay.

Representatives of special interests who are exempt from the obligation to register may register **voluntarily** under section 2 (5) of the Lobbying Register Act. Voluntary registration must also meet the requirements in section 3 (1) to (3) of the Lobbying Register Act. The fines set forth in section 7 of the Lobbying Register Act also apply to voluntary registrations.

It is therefore important to check before beginning the registration process whether the legal requirements are met for registration and whether there is a registration obligation or not.

A useful approach here is to go through **four steps** by answering the following questions in order:

Specific process:

➤ **Step 1:**

Is representation of special interests taking place within the meaning of the Lobbying Register Act?

➤ **Step 2:**

Is there an obligation to register?

➤ **Step 3:**

Is there an exemption from the obligation to register?

➤ **Step 4:**

If the answer to Step 1 was yes and either the answer to Step 2 was no or the answer to Step three was yes: Would voluntary registration be an option?

Step 1:

Is representation of special interests taking place within the meaning of the Lobbying Register Act?

In accordance with section 1 (3) of the Lobbying Register Act, representation of special interests means any contact made for the purpose of directly or indirectly influencing the process of formulating aims or taking decisions conducted by the bodies, Members, parliamentary groups or groupings of the German Bundestag or by the Federal Government. These persons and groups of persons will be referred to in this handbook as **addressees of the representation of special interests.**

Bodies of the German Bundestag within the meaning of the Lobbying Register Act are the **President and her deputies**, the **Presidium**, the **Council of Elders**, the **Plenary**, the **permanent committees and special committees**, and other **bodies deployed by the Bundestag** such as study commissions, the Parliamentary Oversight Panel, the G 10 Commission, the Parliamentary Commissioner for the Armed Forces, and the Federal Commissioner for the Victims of the SED Dictatorship at the German Bundestag.

Members of the German Bundestag are the Members elected for the current electoral term.

Parliamentary groups in the German Bundestag are federations of a minimum of five percent of the Members of the Bundestag who pursue parallel aims. Parliamentary groups have specific rights assigned to them.

Groupings in the German Bundestag are associations of Members of the Bundestag recognised by the Bundestag of whom there are not enough to create a parliamentary group.

According to Article 62 of the Basic Law (Grundgesetz, GG), the Federal Government consists of the **Federal Chancellor** and the **Federal Ministers**. According to section 1 (2) of the Lobbying Register Act, the rules for the Federal Government shall also apply to **Parliamentary State Secretaries**, **State Secretaries**, **Heads of Directorates-General** and **Heads of Directorates**.

Special case: Employees of addressees of the representation of special interests

In accordance with the explanatory memorandum (BT Printed Paper 19/27922, page 18), representation of special interests within the meaning of the Lobbying Register Act also includes situations in which, for the purpose of influencing the process of formulating aims or taking decisions by addressees of the representation of special interests, contact is made with employees of the bodies, Members, parliamentary groups or groupings of the Bundestag, since (and in so far as) it is assumed that the matter will be forwarded to the addressee.

Making contact with members of staff of the Federal Ministries below the level of Heads of Directorate is not considered to be representation of special interests.

Making contact is understood as any **active conduct** that initiates or is intended to initiate a process of communication with addressees of the representation of special interests in accordance with section 1 (1) and (2) of the Lobbying Register Act. Making contact can therefore consist of, for example, a personal meeting, a telephone call, an email or a letter. Attempts to initiate processes of communication are to be considered making contact, irrespective of their success. Sending an email also represents making contact, regardless of whether the addressee acknowledges the email or not.

Processes of communication initiated by addressees of the representation of special interests in accordance with section 1 (1) and (2) of the Lobbying Register Act, which means by bodies, Members, parliamentary groups or groupings of the Bundestag or by the Federal Government, are not considered to be making contact within the meaning of the Lobbying Register Act.

Conduct that is intended for the general public (e.g., publications or public comments) and that does not explicitly speak to addressees in accordance with section 1 (1) and (2) of the Lobbying Register Act is also not considered to be making contact within the meaning of the Lobbying Register Act.

Approaching addressees by “tagging” them publicly as part of public communication via social networks is considered a sufficiently low-threshold form of communication so as not to be taken as making contact within the meaning of the Act.

The **intention** of making contact must be to **influence the process of formulating aims or taking decisions** by the addressees of the representation of special interests. A connection with a formal process that is already under way is not necessary. Influence can be exerted on the process of formulating aims or taking decisions in advance of formal processes. Influence on the process of formulating aims or taking decisions need not be the sole aim with which contact is made.

Contact may be made for the purpose of exerting influence both directly and indirectly.

Influence is direct when the representative of special interests appeals directly to the addressee in regard to a specific process of formulating aims or taking decisions, for example, by submitting specific proposed amendments to a particular bill.

*Influence can be indirect if it takes place with the involvement of **one or several mediators**. Mediators are persons who are independent of the person exerting an influence (which means they are not members of staff, members or contractors) whom the person exerting influence uses for this purpose.*

Example:

The desired contact is made through third parties, for example, by means of a managed letter-writing campaign in which citizens are deployed to send pre-formulated messages to addressees. Participants in such campaigns are not themselves recorded as lobbyists.

*There is also indirect influence in situations in which making contact only serves to create or improve the **basis, requirements or possibility for later direct influence**. In such situations, there is no direct attempt to influence a current process of formulating aims or taking decisions, or to initiate such a process. Rather, this type of indirect influence often serves as the first step in making contacts and creating trust which will later enable or facilitate direct influence.*

Example:

If an interest group invites Members of the Bundestag to a parliamentary evening intended to cultivate contacts, this can be considered indirect influence.

According to section 1 (4) of the Lobbying Register Act, representatives of special interests are not only all natural or legal persons, partnerships or other organisations engaging in the representation of special interests themselves in accordance with section 1 (3) of the Lobbying Register Act, but also those who commission such representation on their behalf.

*Representation of special interests is commissioned when a representative of special interests **does not** directly or indirectly influence the process of formulating aims or taking decisions **themselves** (or, in the case of organisations, influence is not exerted by representatives or members of staff), but has their interests **represented by a third party**. This is the case, for example, if a company commissions a consultancy agency to represent their interests vis-à-vis the political sphere.*

*A **contractual relationship between the representative of special interests and the third party** is required in such cases. This does not need to be a **written contract, nor does it necessarily need to be explicit**. A quid pro quo, for example in the form of monetary payments to the third party for the representation of special interests, is not absolutely necessary for a contractual relationship to exist. However, it can be an indication that the representation of interests is commissioned from a third party.*

Special case: Interest groups

If several companies in a branch of industry or several civil-society organisations join together as an interest group, or if several interest groups join together as an umbrella organisation tasked with representing the joint interests of all of the members, this often takes the form of an association. Simply being a member of such an interest group does not automatically constitute a commissioning relationship between the member and the association. The members of such groups therefore do not need to register in the Lobbying Register, in contrast to the group itself, unless they carry out representation of special interests on their own behalf independently of their membership of associations, or if they commission such representation on their behalf elsewhere.

If natural or legal persons, partnerships or other organisations do not carry out representation of special interests within the meaning of the Lobbying Register Act themselves, or commission such representation on their behalf, they may not register in the Lobbying Register. In this case, if an administrator account has already been set up with the aim of creating an entry in the Lobbying Register and the registration process has

been started, you must stop the process. The administrator account is automatically deleted after 28 days of inactivity.

Step 2:

Is there an obligation to register?

If representation of special interests within the meaning of the Lobbying Register Act is engaged in or commissioned, this step must be used to ascertain whether the **materiality threshold** in accordance with section 2 (1) of the Lobbying Register Act is exceeded and therefore an obligation to register exists.

Please check whether at **least one of the four (alternative) requirements** under section 2 (1) nos. 1 to 4 of the Lobbying Register Act below applies to the activities of the representative of special interests to be registered. Multiple requirements may apply at the same time.

- **Is the representation of special interests carried out regularly?**

*Representation of special interests is carried out regularly when it is **not just of an occasional nature**. This means that contact must be made repeatedly within a limited period of time. Representation of special interests can be assumed to be regular as of the third instance of making contact with addressees, where it can be taken that contact will continue to be made and the periods between individual instances of making contact are short enough that they can be considered regular in proportion to the number of instances of making contact.*

Representation of special interests is not considered regular only after 50 instances of making contact. In contrast to the materiality threshold defined in section 2 (1) no. 4 of the Lobbying Register Act, which covers particularly intensive representation of special interests within a short period of time, section 2 (1) no.1 of the Lobbying Register Act also includes less intensive activities for the representation of special interests that take place over a longer period of time.

If the representation of special interests is commissioned from others, then the deciding factors are whether this commissioning is regular in nature and/or whether the party commissioned regularly engages in the representation of special interests as commissioned.

- **Is the representation of special interests established on a permanent basis?**

The representation of special interests can be considered to be established on a permanent basis where the intention is to pursue objectives associated with the representation of special interests over a long period of time.

This materiality threshold is generally also exceeded if a third party is commissioned with the representation of an individual's special interests for a certain length of time, as opposed to on individual occasions.

- **Is the representation of special interests carried out commercially for third parties?**

*There is an obligation to register representation of special interests where this is carried out **for third parties**, which means that the representation is not of **own special interests**, but rather is carried out for others, either for payment or without payment. Representation of special interests is also carried out for third parties where, within a group of affiliated companies, a group company is commissioned to represent the interests of another group company. An interest group also regularly carries out representation of special interests for third parties, specifically its members, although the members are not considered to be clients commissioning representation of special interests within the meaning of section 1 (4) of the Lobbying Register Act and are therefore not required to be listed by name in the register.*

*Representation of special interests is carried out "commercially" if it **takes place repeatedly**. Neither commercial action nor intent to realise a profit is necessary. Conduct is not commercial, on the other hand, if the representation of special interests only takes place as part of a personal courtesy or is an exceptional one-off in any other way.*

- **Have more than 50 separate contacts been made in the course of the past three months for the purpose of representing special interests?**

Representation of special interests subject to an obligation to register exists where more than 50 separate contacts representing special interests have been made in the last three months.

This encompasses cases of representation of special interests where this representation is not regular or long term, but nonetheless exceeds a specific frequency threshold.

It should also be noted that one process of representation of special interests can include a large number of contacts made with the same addressee. Each meeting, telephone conversation, email etc. is to be counted individually as an instance of making contact. An email with a distribution list of more than 50 addressees of the representation of special interests also results in making more than 50 separate contacts.

Example:

If someone who wants to influence a specific legislative proposal sends a statement to more than 50 Members of the Bundestag, this exceeds the materiality threshold under section 2 (1) no. 4 of the Lobbying Register Act.

- **Even if only one of the four requirements applies, there is a general obligation to register in accordance with section 2 (1) of the Lobbying Register Act.**

Step 3 should now be followed to ascertain whether one or more legal exceptions to the obligation to register exist.

- **Entry in the Lobbying Register is only not absolutely obligatory if not one of the four requirements is met.**

Representation of special interests exists within the meaning of the law, but this is not subject to the obligation to register.

However, it is possible to check whether a **voluntary** entry in the Lobbying Register should be made under section 2 (5) of the Lobbying Register Act (see **Step 4** in this regard).

Step 3:

Is there an exception to the obligation to register?

Section 2 (2) and (3) of the Lobbying Register Act set out **numerous exceptions to the obligation to register** for certain activities, people or organisations which may apply, depending on whether the representation of special interests is to be exercised vis-à-vis the German Bundestag, the Federal Government, or both groups of addressees.

All of the legal exceptions are listed individually below to make checking easier, with an indication of the type of representation of special interests to which they apply.

Important note

According to section 2 (2) and (3) of the Lobbying Register Act, there is only an exemption from the obligation to register “**if and in so far as**” specific grounds for exemption apply. The representation of special interests must therefore **only take place in the form of the stated exception(s)**.

Only means that no representation of special interests may be carried out that goes beyond the limit of the activities listed as exceptions to the registration requirement. The representation of special interests is to, and must, take place **entirely** within the applicable exception or exceptions.

There are **three potential cases** that may apply:

- Should the representation of special interests take place **vis-à-vis the bodies, Members, parliamentary groups or groupings of the Bundestag and vis-à-vis the Federal Government**, only those exceptions listed under 1 to 12 below are to be checked.
- Should the representation of special interests take place **solely vis-à-vis the bodies, Members, parliamentary groups or groupings of the Bundestag**, those exceptions listed under 1 to 16 below are to be checked.
- Should the representation of special interests take place **solely vis-à-vis the Federal Government**, including Parliamentary State Secretaries, State Secretaries, Heads of Directorates-General or Heads of Directorates, those exceptions listed under 1 to 12 and 17 to 22 below are to be checked.

An additional note is included for each exception stating to which of the groups listed the exception applies ([**BT and FGov**]/[BT]/[FGov]).

1. Formulation of personal interests by a natural person:
Section 2 (2) no. 1 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is a **natural person** who, in their submission, formulates **exclusively personal interests**, regardless of whether these coincide with business or other interests.

Note that the exemption is only applicable if the representative of special interests is **themselves** a natural person. This means that this exemption never applies to legal persons, partnerships or other organisations, even if the representation of special interests is carried out by representatives or members of staff or is engaged in by natural persons commissioned for this purpose.

Personal interests are formulated in a submission where these express reflections, desires or aims that are a result of the personal situation of the representative of special interests. A case-by-case decision is usually called for. If a representative of special interests formulates concerns that do not solely affect themselves, then this is not an exclusively personal interest. Influencing the formulation, amendment or abolition of general legal provisions (for example, laws and ordinances) generally does not come under the exception set out in section 2 (2) no. 1 of the Lobbying Register Act, as such provisions always regulate numerous situations.

2. **Public office or mandate:**

Section 2 (2) no. 6 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act **[BT and FGov]**

The representative of special interests exercises a **public office or mandate**. A person is exercising a public office or mandate when the person has been assigned to carry out specific public functions on the basis of legal provisions and/or elections, and is acting to fulfil these functions.

This provision encompasses holders of public office or mandates both **in Germany** and **abroad** (see also exception 21) and persons who hold public office or mandates in international or transnational organisations. This therefore includes contact made by foreign diplomats or other members of staff of a diplomatic mission resulting from the exercise of a public office.

Public office or mandates are exercised, for example, by Members of the Bundestag, members of *Land* (federal state) parliaments and members of local councils, but also by Members of the European Parliament or of national governments abroad, as well as members of *Land* governments, mayors, judges, ministry officials, and diplomats (see also exception 21). The exemption applies to **all corporations and all other legal persons under public law** (e.g., institutions, foundations under public law, public universities, professional chambers as public-law corporations) which are acting through their representatives or employees (whether civil servants or not) to carry out the functions assigned to them by a legal act.

In contrast, representation of special interests carried out by legal persons under private law is subject to the obligation to register, including when these legal persons are governed by public bodies (e.g., federal enterprises, federal foundations under civil law).

The exemptions listed do not apply to holders of public office or mandates who are acting outside of the functions assigned to them.

Example:

The activities of a mayor representing the special interests of his community as their statutory representative are subject to exemption. However, if the mayor also engages in the representation of special interests on topics which are beyond the functions assigned to him (for example, the representation of special interests for his own company), the exemption does not apply.

3. Associations of employers or employees:

Section 2 (2) no. 7 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is seeking to **influence working and economic conditions as an association of employers or employees (Article 9 (3) of the Basic Law).**

Provided that groups protected by the right to form associations under Article 9 (3) of the Basic Law are seeking to influence general economic and socio-political relations or circumstances related to specific working conditions, they are not subject to the obligation to register.

According to section 2 (4) of the Lobbying Register Act, the exception also applies to anyone acting on behalf of the representatives of special interests referred to in section 2 (2) no. 7 of the Act in the context of their activities specified therein.

4. Provision of legal advice:

Section 2 (2) no. 8 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is providing **legal advice for a third party or themselves**, including the delivery of **scientific opinions or the presentation and discussion of legal issues aimed at the general public**, or is performing activities which do not target the enactment, amendment or non-adoption of a legal provision by the German Bundestag or the Federal Government. Legal advice can be provided by lawyers and also by tax advisers.

These groups of persons are only exempt when they are providing **legal services** for themselves or for a third party. Any activity aimed at influencing the **enactment, amendment or non-adoption of a legal provision** that also affects other groups of persons or cases is **not considered provision of legal advice within the meaning of the Act**. This means that lawyers can only be considered exempt when providing legal services. If they are involved in representation of special interests that is not the provision of legal services, they are subject to the obligation to register.

The duty of professional secrecy of lawyers in accordance with section 43(a) (2) sentence 1 of the Federal Lawyers' Act (*Bundesrechtsanwaltsordnung*, BRAO) and section 2 (1) of the Rules of Professional Practice for Lawyers (*Berufsordnung für Rechtsanwälte*, BORA) explicitly does not apply to facts that do not need to be kept secret from the point of view of their significance (section 43(a) (2) sentence 3 of the Federal Lawyers' Act). Section 2 (3) of the Rules of Professional Practice for Lawyers explicitly states:

“A violation of the duty to observe confidentiality (§ 43 (a) (2) Federal Lawyers' Act) does not exist insofar as the law and regulations stipulate or permit an exception.”

Clients should therefore be made aware that, as the party commissioning the representation of special interests by lawyers, they will also be listed in the Lobbying Register in accordance with section 3 (1) no. 4 of the Lobbying Register Act, and that they also may require an entry in the Lobbying Register as the party commissioning the representation of special interests.

Special case: Law firms and partnerships

Whether a law firm or partnership is subject to the obligation to register or whether this applies only to the individual lawyer depends on the party with whom the client signs a legal services contract. In case of doubt, a client contacts a law firm or partnership to benefit from the increased organisational, staff and technical expertise of such associations. The contract for legal services signed by the associate applies to the firm as a whole. In the case of partnerships, the prevailing understanding is that a contract for legal services is signed with the partnership. The situation is different in the case of groups of independent professionals who share offices with the purpose of saving costs but exercise their profession entirely independently of one another.

Generally, therefore, the law firm is subject to the obligation to register as a firm or partnership. An obligation to register that only applies to the associate/partner concerned can only be assumed if an individual agreement is signed explicitly stating that only one associate or partner is commissioned.

5. Political parties:

Section 2 (2) no. 9 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is **acting in the capacity of political party under the Political Parties Act** (*Parteiengesetz*).

According to section 2 (1) of the Political Parties Act, political parties are “associations of citizens who set out to influence either permanently or for a lengthy period of time the formation of political opinions at Federal or *Land* level and to participate in the representation of the people in the Federal Parliament (Bundestag) or regional parliaments (Landtage) provided that they offer sufficient guarantee of the sincerity of their aims in the general character of their circumstances and attendant conditions, particularly in regard to the size and strength of their organisation, the number of registered members and their public image.”

This exception does not apply to foreign political parties.

6. Political foundations:

Section 2 (2) no. 10 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is acting in the capacity of an **establishment for socio-political and democratic education (political foundation)**, in so far as the relevant budgetary legislator allocates block grants for the performance of their statutory tasks.

This exception includes political foundations at both Federal and *Land* level, provided that the relevant budgetary legislator allocates block grants for the performance of their statutory tasks.

This exception does not apply to foreign political foundations.

7. Intermediary organisations in the field of foreign culture and education policy:

Section 2 (2) no. 11 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is acting in the capacity of **intermediary organisation in the field of foreign culture and education policy** and receives institutional funding from the federal budget.

Intermediary organisations in the field of foreign culture and education policy that receive institutional funding from the federal budget would include, for example, the Goethe-Institut and the German Academic Exchange Service (DAAD).

According to section 2 (4) of the Lobbying Register Act, the exception also applies to anyone acting on behalf of the representatives of special interests referred to in section 2 (2) no. 11 of the Act in the context of their activities specified therein.

8. Communities based on religious or philosophical creeds:

Section 2 (2) no. 12 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is acting in the capacity of a **church or other community based on a religious or philosophical creed**.

In view of the freedom of religious and philosophical creed under Article 4 (1) and (2) of the Basic Law, the Lobbying Register Act provides for an exception for communities based on religious or philosophical creeds. These are permanent associations of natural persons within which shared religious or philosophical beliefs are comprehensively attested, cultivated and exercised.

According to section 2 (4) of the Lobbying Register Act, the exception also applies to anyone acting on behalf of the representatives of special interests referred to in section 2 (2) no. 12 of the Act in the context of their activities specified therein.

9. Press, broadcasting and film:

Section 2 (2) no. 13 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is engaged in a **protected activity within the meaning of Article 5 (1) sentence 2 of the Basic Law**.

The exemption protects the freedom of the press and freedom of reporting by means of broadcasts and films. Contact that is made solely in relation to obtaining and disseminating information by the press, the broadcasting media and film and is therefore subject to protection under Article 5 (1) sentence 2 of the Basic Law is not subject to the obligation to register.

10. Associations of local authorities:

Section 2 (2) no. 14 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is acting in the capacity of a **federal or Land association of local authorities**.

Associations of local authorities are voluntary networks of local government bodies (e.g., cities or districts) or groupings of such networks themselves.

Associations of local authorities include, for example, the German Association of Towns and Municipalities, the Association of German Counties, and the Association of German Cities.

11. Exempt minorities:

Section 2 (2) no. 15 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]

The representative of special interests is acting in the capacity of a **national minority recognised in Germany, of a group of Low German speakers, of the German minority in Denmark or of an organisation or establishment of the aforementioned groups**.

The national minorities recognised in Germany are the Danish minority, the Frisian ethnic group, the German Sinti and Roma, and the Sorbian people.

According to section 2 (4) of the Lobbying Register Act, the exception also applies to anyone acting on behalf of the representatives of special interests

referred to in section 2 (2) no. 15 of the Act in the context of their activities specified therein.

**12. Absence of permanent representation in Germany and campaigning for human rights, democracy, the rule of law, humanitarian causes or sustainability issues primarily in countries outside of Germany:
Section 2 (2) no. 16 in conjunction with section 2 (3) no. 7 of the Lobbying Register Act
[BT and FGov]**

This exception applies only to representatives of special interests who do not have headquarters or a branch office in Germany and whose activities in regard to the topics listed are focused mainly on other countries. The aim of this exception is to avoid endangering persons and organisations who are active in supporting citizens' rights in countries with regimes that do not abide by the rule of law by making their details available in the public Lobbying Register.

According to section 2 (4) of the Lobbying Register Act, the exception also applies to anyone acting on behalf of the representatives of special interests referred to in section 2 (2) no. 16 of the Act in the context of their activities specified therein.

**13. Concerns of an exclusively local nature:
Section 2 (2) no. 2 of the Lobbying Register Act
[BT]**

The representative of special interests is expressing **concerns of an exclusively local nature**, provided that no more than two constituencies are directly affected.

Concerns are generally considered to be exclusively local in nature if one specific constituency or a maximum of two contiguous constituencies are affected. Representation of special interests that targets the enactment, amendment or non-adoption of general legal provisions is generally not exclusively local in nature. The decision on whether representation of special interests is purely local in nature is to be decided on a case-by-case basis according to the specific circumstances.

Examples:

As a rule, representation of special interests in the field of defence policy is not purely local in nature. However, it may be considered purely local in nature if the intention of the representation of special interests is solely to prevent the stationing of troops or the closing of a military barracks in a specific community.

Representation of special interests regarding the construction of a highway is not purely local in nature. However, it may be considered purely local in nature if the intention of the representation of special interests solely

concerns noise prevention measures or speed limits within a specific residential estate.

14. Petitions:

Section 2 (2) no. 3 of the Lobbying Register Act

[BT]

The representative of special interests submits a **petition under Article 17 of the Basic Law** to the German Bundestag.

A petition under Article 17 of the Basic Law exists when a person, individually or jointly with others, addresses written requests or complaints to competent authorities or to the legislature. Contact that extends beyond the proper submission of such written concerns is not exempt from the obligation to register. This exemption systematically applies only to petitions addressed to the Bundestag. See exception 18 for petitions to the Federal Government.

15. Public events held by the German Bundestag:

Section 2 (2) no. 4 of the Lobbying Register Act

[BT]

The representative of special interests participates in **public committee hearings, public congresses or other public events** held by the bodies, Members, parliamentary groups or groupings of the German Bundestag.

The exemption applies to events to which the bodies, Members, parliamentary groups or groupings of the German Bundestag issue invitations as the organiser. There is no obligation to register in these cases. There is usually no contact made by the representative of special interests within the meaning of section 1 (3) of the Lobbying Register Act where the representative of special interests participates in public events on the invitation of the bodies, Members, parliamentary groups or groupings of the German Bundestag.

16. Requests for information:

Section 2 (2) no. 5 of the Lobbying Register Act

[BT]

The representative of special interests is responding to **direct and individual requests from the bodies, Members, parliamentary groups or groupings of the German Bundestag for factual information, data or specialised knowledge.**

Where contact is made that is limited to providing the bodies, Members, parliamentary groups or groupings of the German Bundestag with information that they have directly requested, this is not considered representation of special interests that is subject to an obligation to register. There is usually no contact made by the representative of special interests within the meaning of section 1 (3) of the Lobbying Register Act where the representative of special interests is providing information in response to direct and individual requests.

17. Right of access to information:

Section 2 (3) no. 1 of the Lobbying Register Act
[FGov]

The representative of special interests is making a **request under a statutory right of access to information**.

Such requests may be based, for example, on the Freedom of Information Act (*Informationsfreiheitsgesetz*), the Environmental Information Act (*Umwelthinformationsgesetz*) or the Consumer Information Act (*Verbraucherinformationsgesetz*).

Where a request is made solely under a statutory right of access to information, this is not considered representation of special interests that is subject to an obligation to register.

18. Citizen's enquiries (*Bürgeranfragen*):

Section 2 (3) no. 2 of the Lobbying Register Act
[FGov]

The representative of special interests is making a **citizen's enquiry (*Bürgeranfrage*)**.

General enquiries or petitions within the meaning of Article 17 of the Basic Law to the Federal Government and to addressees in accordance with section 1 (2) of the Lobbying Register Act do not result in an obligation to register. A citizen's enquiry/petition exists when a person, individually or jointly with others, addresses written questions, requests or complaints to competent authorities. Contact that extends beyond the submission of such concerns is not exempt from the obligation to register.

19. Public events held by the Federal Government:

Section 2 (3) no. 3 of the Lobbying Register Act
[FGov]

The representative of special interests participates in **visit programmes or attends lectures, conferences or other public events held by the Federal Government**.

The exemption applies to events to which the Federal Government or a part of the Federal Government (e.g., a federal ministry) issues invitations.

Participating in such events does not lead to an obligation to register. There is usually no contact made by the representative of special interests within the meaning of section 1 (3) of the Lobbying Register Act where the representative of special interests participates in public events organised by the Federal Government.

20. Bodies of experts:

Section 2 (3) no. 4 of the Lobbying Register Act

[FGov]

The representative of special interests is acting on behalf of **specialised advisory boards or other bodies of experts established by the Federal Government.**

An activity that is limited to participating in an advisory body established by the Federal Government (for example, scientific advisory boards or committees of experts) is not considered representation of special interests that is subject to an obligation to register.

Some examples of specialised advisory boards or other bodies of experts established by the Federal Government are the Federal Government's coronavirus expert panel (Corona-Expertenrat), the Digital Council, the German Advisory Council on Global Change, and the Advisory Council on the Assessment of Developments in the Health Care System.

21. Diplomatic or consular activities:

Section 2 (3) no. 5 of the Lobbying Register Act

[FGov]

The representative of special interests engages in **diplomatic or consular activities** vis-à-vis the Federal Government. Diplomatic or consular activities that are covered by the scope of the Vienna Convention on Diplomatic Relations of 18 April 1961 (VCDR) or the Vienna Convention on Consular Relations of 24 April 1963 (VCCR) are not subject to the obligation to register.

Representatives of international organisations that enjoy similar privileges to diplomatic and consular missions, for example under the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and the Convention of the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947, are also exempt from the obligation to register.

The exception expressly applies only to activities vis-à-vis the Federal Government. Representation of special interests vis-à-vis the Bundestag comes under the exception set out in section 2 (2) no. 6 of the Lobbying Register Act ("public office", see exception 2, above).

22. Requests for information:

Section 2 (3) no. 6 of the Lobbying Register Act

[FGov]

The representative of special interests is responding to **direct and individual requests from the Federal Government for factual information, data or specialised knowledge.**

Where contact is made that is limited to communicating to the Federal Government or parts thereof information that they have directly requested, this is

not considered representation of special interests that is subject to an obligation to register. There is usually no contact made by the representative of special interests within the meaning of section 1 (3) of the Lobbying Register Act where the representative of special interests is providing information in response to direct and individual requests

If none of the exceptions listed applies, then there is a legal obligation to register in the Lobbying Register. If one or more exceptions apply, please continue to step 4.

Step 4:

Would voluntary registration be an option?

Voluntary registration presupposes that representation of special interests is being carried out within the meaning of the Lobbying Register Act (see step 1). If no representation of special interests is being carried out within the meaning of the Act, then registration in the Lobbying Register is not possible.

The option for voluntary registration is therefore an option in the following situations:

- The representation of special interests does not exceed the materiality threshold under section 2 (1) nos. 1 to 4 of the Lobbying Register Act (see step 2)
- Section 2 (2) and/or 3 of the Lobbying Register Act provides for an exception to the obligation to register for the representatives of special interests

Section 2 (5) of the Lobbying Register Act provides the option for voluntary registration for these representatives of special interests.

It is important to note that voluntary registration must also meet the requirements under section 3 (1) to (3) of the Lobbying Register Act.

The fines set forth in section 7 of the Lobbying Register Act also apply to representatives of special interests who register voluntarily!