Lobbying and litigation for policy change - Assessing compliance and congruence of the EU framework on interest representation

A Data Management Plan created using DMPonline.be

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Project abstract:

In the EU, litigation has increasingly become an essential part of interest representation and, ever more, the lines characterizing political and legal strategies of interest representation are blurring. The role of lawyers is only one of normative considerations that arise. Legal ethics rules come into play where lobbying ends and legal advice begins. Be that as it may, empirical analysis suggests that the glass wall between lobbying and litigation does not truly hold. If so, both strategies are merely different tools in the same toolkit, brought into play strategically, targeted to influence legislation at the discretion of interest groups. The question arises, should this not be adequately regulated? The research proposal puts forth a research design to assess whether the EU legal system adequately regulates interest representation and to what extent regulatory clarification is justified to ensure transparency and accountability in law-making processes.

Notwithstanding participatory gains, regulating interest representation constitutes a vital prerequisite for transparent, accountable and legitimate democratic administration. Therefore, this research proposal is not only be relevant to interdisciplinary scholarly research on interest group studies as such, but also instrumental to our democratic process, its regulatory structures, and the interest group actors who are encouraged to abide by them.

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FWO DMP (Flemish Standard DMP)

1. Research Data Summary

List and describe all datasets or research materials that you plan to generate/collect or reuse during your research project. For each dataset or data type (observational, experimental etc.), provide a short name & description (sufficient for yourself to know what data it is about), indicate whether the data are newly generated/collected or reused, digital or physical, also indicate the type of the data (the kind of content), its technical format (file extension), and an estimate of the upper limit of the volume of the data.

Dataset Name	Description	New or reused	Digital or Physical	Only for digital data Digital Data Type	Only for digital data Digital Data format	Only for digital data Digital data volume (MB/GB/TB)	Only for physical data Physical volume
Academic literature	Academic literature (articles, books and book-chapters, blogposts) on the topics of lobbying, strategic litigation, regulatory and law-making practices, professional ethics for legal professionals.	The individual publications already exist, but the relevant topical collections will be assembled during a separate literature review.	Primarily digital, complemented with physical copies of key books.	Other	pdf orhtml for the texts, Zotero-files for meta-data.	< 1GB	
EU Legislation	Relevant EU legislation collected from EUR-Lex	The legal texts already exist, but the selection of relevant legislation will be made during the project.	Digital	Other	pdf for the texts, Zotero-files for meta-data.	< 1 GB	
EU preparatory documents	Drafts, recitals, and outcomes of public consultations collected from EUR-Lex and website of the European Institutions	The documents already exist, but the selection of relevant legislation will be made during the project.	Digital	Other			
EU Case Law	Case Law from the CJEU collected from EUR-Lex	The texts already exist, but the selection of relevant cases and opinions will be made during the project.	Digital	Other	pdf for the texts, Zotero-files for meta-data.	< 1 GB	
US-Legislation	Relevant US legislation collected from Justia, USCode, and Westlaw US.	The legal texts already exist, but the selection of relevant legislation will be made during the project.	Digital	Other	pdf for the texts, Zotero-files for meta-data.	< 1 GB	
OECD guidelines and reports	Relevant guidelines, reports, and publications of the OECD.	Re-use of the topical collection on "Lobbying"	Digital	Other	pdf or html for the texts, Zotero-files for meta-data.	< 1 GB	
UN conventions, guidelines, and reports	Relevant conventions, guidelines, reports, and publications collected from UN Global Compact.	The individual regulations and publications already exist, but the relevant selection will be collected during the project.	Digital	Other	pdf or html for the texts, Zotero-files for meta-data.	< 1 GB	
Council of Europe conventions, guidelines, and reports	Relevant conventions, guidelines, reports, and publications collected from the online resources and online archives of the COE	The individual regulations and publications already exist, but the relevant selection will be collected during the project.	Digital	Other	pdf or html for the texts, Zotero-files for meta-data.	< 1 GB	
EU Transparency Register	Information about lobbyists in the relevant areas for this project (environment/energy and tech) that are registered in the EU	Re-use	Digital		pdf or html for the texts, Zotero-files for meta-data.	< 1 GB	
Lobbying registers from U.S. House of Representatives and U.S. Senate.	Information about lobbyists in the relevant areas for this project (environment/energy and tech) that are registered in the U.S.	Re-use	Digital				

Reports collected from the websites of various relevant actors and stakeholders	Reports and other grey literature published by Law Firms, Civil Society (e.g. CPI, Transparency International, ...), and Professional Bodies (e.g. CCBE).	The publications already exist, but the relevant selection will be collected during the project.	Digital		pdf or html for the texts, Zotero-files for meta-data.	< 1 GB	
Interview recordings	Recordings of exploratory and semi-structured in-depth interviews with elite stakeholder experts in the industry, (legal) practitioners, civil society actors, academics, and policy experts in the EU institutions.	New	Digital	Observational	WAV or MP3	< 100 GB	
Interview transcripts	Transcripts of interviews	New	Digital	Observational	docx	< 1 GB	
Coded interviews	Interviews coded in NVivo	New	Digital	Observational, other	NVivo-files and code-book exported as xlsx		
Signed consent forms	Signed consent forms of interviewees	New	Physical	Other			Small folder

If you reuse existing data, please specify the source, preferably by using a persistent identifier (e.g. DOI, Handle, URL etc.) per dataset or data type:

- **EU-Legislation, case-law and preparatory documents:** https://eur-lex.europa.eu/
- **US-Legislation:** https://law.justia.com/, http://uscode.house.gov/, https://next.westlaw.com/
- **OECD:** https://www.oecd.org/corruption/ethics/lobbying/
- **UN:** https://unglobalcompact.org/library/
- **COE:** https://edoc.coe.int/en/, https://www.coe.int/en/web/documents-records-archives-information/
- **EU Transparency Register:** https://ec.europa.eu/transparencyregister/public/homePage.do
- **US Registered Lobbyists:** https://lobbyingdisclosure.house.gov/, https://lda.senate.gov/system/public/

Are there any ethical issues concerning the creation and/or use of the data (e.g. experiments on humans or animals, dual use)? Describe these issues in the comment section. Please refer to specific datasets or data types when appropriate.

- Yes, human subject data

The recorded interviews will contain personal data about the interviewees.

Will you process personal data? If so, briefly describe the kind of personal data you will use in the comment section. Please refer to specific datasets or data types when appropriate.

- Yes

The planning of the interviews will involve the processing of regular personal data such as name, contact-information (email, mobile phone and professional address), professional background.
The recorded interviews will contain regular personal data. During the interviews the collection of special categories of personal data will be avoided.
The transcribed interviews will be pseudonymized.

Does your work have potential for commercial valorization (e.g. tech transfer, for example spin-offs, commercial exploitation, …)? If so, please comment per dataset or data type where appropriate.

- No

Do existing 3rd party agreements restrict exploitation or dissemination of the data you (re)use (e.g. Material/Data transfer agreements/ research collaboration agreements)? If so, please explain in the comment section to what data they relate and what restrictions are in place.

- No

Are there any other legal issues, such as intellectual property rights and ownership, to be managed related to the data you (re)use? If so, please explain in the comment section to what data they relate and which restrictions will be asserted.

- Yes

Research of Sofie Fleerackers will be conducted within a joint PhD with Uva and UNIGE. Data sharing will have to comply with the Triple Doctoral Degree Agreement that is currently being negotiated between these insitutions.

2. Documentation and Metadata

Clearly describe what approach will be followed to capture the accompanying information necessary to keep data understandable and usable, for yourself and others, now and in the future (e.g., in terms of documentation levels and types required, procedures used, Electronic Lab Notebooks, README.txt files, Codebook.tsv etc. where this information is recorded).

- The documentation of the collected documents will take place in Zotero.
- The collection and selection of legislation, preparatory documents, and caselaw will be documented in more detail by keeping a record of the keywords used when searching the relevant databases, the dates of the searches, and the criteria for inclusion/exclusion of relevant items. These records will be stored as stand-alone notes in Zotero.
- The criteria for the selection of interviewees will be recorded and a full list of persons that are contacted will be kept.
- The procedure for the pseudonymization of the interviews will be stored in a README-file.
- Information about the coding of the transcribed interviews will be stored in NVivo.

Will a metadata standard be used to make it easier to find and reuse the data? If so, please specify (where appropriate per dataset or data type) which metadata standard will be used. If not, please specify (where appropriate per dataset or data type) which metadata will be created to make the data easier to find and reuse.

- No

- No metadata standard will be used.
- For all published materials and grey literature that will be collected, full bibliographic details will be kept.
- Findability will be ensured through the use of unique identifiers, including:
  - DOI for academic literature and other published documents (OECD materials all have a DOI).
  - ELI-codes and ECLI-codes for EU legislation and EU caselaw.
  - (when available) permalinks for online publications.
- Offline copies of online publications for which the longterm availability cannot be guaranteed will be kept in Zotero either as snapshots or as pdf.

3. Data storage & back-up during the research project

Where will the data be stored?

- Collected documents will be kept in Zotero (laptop hard-drive and cloud).
- Recorded interviews and coding-key used for pseudonymization will be saved on a secure network-drive at KU Leuven. The coding-key will be encrypted with BitLocker.
- Transcribed and pseudonymized interviews will be saved on OneDrive.
- NVivo-files will be saved on OneDrive.

How will the data be backed up?

Back-ups on OneDrive and KU Leuven network-drives are automatic.
Separate manual back-ups of the Zotero library (which is locally stored) will be made on a weekly basis.

Is there currently sufficient storage & backup capacity during the project? If yes, specify concisely.
If no or insufficient storage or backup capacities are available, then explain how this will be taken care of.

- Yes

The total size of the collected data will not exceed the standard capacity of OneDrive for Business.

How will you ensure that the data are securely stored and not accessed or modified by unauthorized persons?

Data will not be stored on shared drives.
Two-factor authentication provides a sufficient level of protection for non-personal data as well as for the pseudonymized transcribed interviews.
The pseudonymisation key will be stored in a separate folder that will be encrypted with Bitlocker.
Recordings of interviews will be encrypted with Bitlocker and deleted after the transcription of the interviews.

What are the expected costs for data storage and backup during the research project? How will these costs be covered?

- OneDrive and KU Leuven network drives: no additional costs.
- Zotero cloud storage: 20$ per year to be covered by the FWO-grant.

4. Data preservation after the end of the research project

Which data will be retained for at least five years (or longer, in agreement with other retention policies that are applicable) after the end of the

project? In case some data cannot be preserved, clearly state the reasons for this (e.g. legal or contractual restrictions, storage/budget issues, institutional policies...).

- Documents for which the long-term public availability is guaranteed: only full bibliographic data and unique identifiers will be kept for 10 years.
- Documents for which the long-term public availability cannot be guaranteed: local copies as well as full bibliographic data and date of access will be kept for 10 years.
- Recorded interviews: these will be deleted after the transcription and verification of the transcripts.
- Transcribed and pseudonymized interviews, coding-key for the pseudonymization, coded interviews, code-book will be kept for 10 years.

Where will these data be archived (stored and curated for the long-term)?

At the end of the project all data will be transferred to a network-drive of the PI. The specific storage solution will be chosen based on what is available at that time.

What are the expected costs for data preservation during the expected retention period? How will these costs be covered?

No additional costs are expected.

5. Data sharing and reuse

Will the data (or part of the data) be made available for reuse after/during the project? In the comment section please explain per dataset or data type which data will be made available.

- Other, please specify:

The researcher will evaluate whether the creation of a topical database of relevant regulation and caselaw (similar to the currently existing databases of public interest litigation or climate litigation) has any added-value.
The interview data will not be shared.

If access is restricted, please specify who will be able to access the data and under what conditions.

To be determined based on the decisions listed above.

Are there any factors that restrict or prevent the sharing of (some of) the data (e.g. as defined in an agreement with a 3rd party, legal restrictions)? Please explain in the comment section per dataset or data type where appropriate.

- Yes, Privacy aspects
- No

For privacy reasons, interview data will not be shared.
No issues arise for the sharing of meta-data of published materials.

Where will the data be made available? If already known, please provide a repository per dataset or data type.

For the creation of a database of relevant regulation and case-law, the following options will be considered: (i) RDR (KU Leuven data repository), (ii) repositories at Uva, (iii) a separate website.

When will the data be made available?

To be determined.

Which data usage licenses are you going to provide? If none, please explain why.

Data licenses will be selected in collaboration with KU Leuven RDR-staff with a preference for CC-BY-SA.

Do you intend to add a PID/DOI/accession number to your dataset(s)? If already available, you have the option to provide it in the comment section.

- Yes

What are the expected costs for data sharing? How will these costs be covered?

None. Only meta-data (bibliographic references, identifiers and documentation) of collected documents will (depending on the decisions listed above) be shared. The size of the data is small and no additional costs are expected.

6. Responsibilities

Who will manage data documentation and metadata during the research project?

Sofie Fleerackers (researcher)

Who will manage data storage and backup during the research project?

Sofie Fleerackers (researcher)

Who will manage data preservation and sharing?

Sofie Fleerackers (researcher) and Prof. Van Calster (PI).

Who will update and implement this DMP?

Sofie Fleerackers (researcher) in consultation with Prof. Van Calster (PI) and relevant support staff at KU Leuven.

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