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Institutionalisation of Lobbying in Ukraine in the Context of International Standards and Practices²

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Abstract

Harmonising Ukrainian legislation with European standards, including the legal regulation of lobbying, is a key requirement for Ukraine's further European integration. This article examines the legal regulation of lobbying in Ukraine, the United States, and within European Union institutions. Particular attention is given to foreign experience, focusing on the advantages and distinctive features of standards and practices in the institutionalisation of lobbying, as well as their potential transfer to the Ukrainian legal system. The study identifies gaps, shortcomings, insufficient regulation, and possible corruption risks in Ukraine's current legislative framework for lobbying. Based on this analysis, the paper substantiates approaches and offers proposals for optimising the legislative regulation of lobbying in Ukrainian society.

Keywords: lobbying, lobbying subjects, lobbying objects, lobbying methods, managerial decisions.

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Instytucjonalizacja lobbingu w Ukrainie w kontekście standardów i praktyk międzynarodowych³

Streszczenie

Harmonizacja ukraińskiego ustawodawstwa ze standardami europejskimi, w tym w zakresie prawnej regulacji działalności lobbingowej, stanowi jeden z kluczowych wymogów Unii Europejskiej wobec dalszej integracji europejskiej Ukrainy. Autorka analizuje regulacje prawne dotyczące lobbingu na Ukrainie, w Stanach Zjednoczonych oraz na poziomie instytucji Unii Europejskiej. Szczególną uwagę poświęcono doświadczeniom zagranicznym, koncentrując się na zaletach i specyfice standardów oraz praktyk instytucjonalizacji lobbingu, jak również możliwościach ich adaptacji do ukraińskiego systemu prawnego. W artykule zidentyfikowano luki i niedociągnięcia w obecnych regulacjach, wskazano na niewystarczający poziom uregulowania oraz potencjalne ryzyka korupcyjne. Na tej podstawie sformułowano propozycje i podejścia służące optymalizacji regulacji prawnych dotyczących lobbingu w Ukrainie.

Słowa kluczowe: lobbing, podmiot lobbingu, przedmiot lobbingu, metody lobbingu, decyzje menedżerskie.

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Introduction

The nature of modern political processes in the context of the transnationalisation of political space reflects certain significant changes in the system of political representation in modern democracies. In addition to traditional political institutions, such as governments, parliaments, and political parties, non-institutional actors – including lobbying organisations and individual lobbyists – now play an active role in shaping political and governmental decisions at both national and global levels. Since the mid-20th century, lobbying has become increasingly professionalised in the United States, a trend that has subsequently expanded to European countries. The integration processes within Europe necessitated the institutionalisation of lobbying at the supranational level, particularly within the institutions of the European Union (EU). Of the 27 EU member states, most have now adopted rules and regulations governing lobbying. In 2024, Ukraine enacted the Law of Ukraine No. 3606-IX “On Lobbying”, aimed at legalising the country’s pre-existing shadow lobbying market while simultaneously establishing legal principles for lobbying in accordance with international standards and practices. Today, Brussels and Washington are the two global centres of lobbying activity.

Accordingly, the empirical basis of this study comprises selected legal acts on lobbying, namely: the Law of Ukraine No. 3606-IX “On Lobbying” of 2024 (hereinafter – Law of Ukraine No. 3606-IX), the Lobbying Disclosure Act of the United States No. 104-65 of 1995 (hereinafter – LDA USA No. 104-65), and regulatory documents on lobbying within the EU.⁴

⁴ Recommendation CM/Rec(2017)2 adopted by the Committee of Ministers of the Council of Europe on 22 March 2017 and explanatory memorandum. Council of Europe. *Legal regulation of lobbying activities in the context of public decision making*, <https://rm.coe.int/legal-regulation-of-lobbying-activities/168073ed69>, Recommendation PACE Rec. 1908 (2010). *Lobbying in a democratic society (European code of good conduct on lobbying)*. Available from: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17832> (accessed: 19.05.2025); Venice Commission. Report CDL-AD(2013)011, *on the Role of Extra-Institutional Actors in the Democratic System (Lobbying)*. Study 590/2010. Available from: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)011-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)011-e) (accessed: 19.05.2025), Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register. Available from: https://eur-lex.europa.eu/eli/agree_interinst/2021/611/oj (accessed: 19.05.2025); *Recommendation of the Council on Transparency and Integrity in Lobbying and Influence* (OECD/LEGAL/0379). Available from: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0379> (accessed: 19.05.2025).

Object and Subject of Lobbying under Ukrainian Law

Article 1(1)(6) of the Law of Ukraine No. 3606-IX defines lobbying through three key features: (1) influence or an attempt to influence the object of lobbying, (2) a commercial interest, meaning that lobbying activities are carried out for direct or indirect remuneration and/or reimbursement of expenses necessary for performing these actions or in the lobbyist's own commercial interest, and (3) actions related to the subject of lobbying. In the author's view, this definition does not fully disclose the essence, content, and intended outcome of lobbying. By comparison, European regulatory documents define lobbying as oral or written communication by private individuals or groups pursuing their interests with a public official for the purpose of influencing legislation, policy, or administrative decisions.⁵

Under Ukrainian legislation, the object of lobbying is defined as public authorities engaged in law-making or possessing legislative initiative.⁶ Thus, employees of public authorities are not considered to be lobbying targets. In contrast, the LDA USA No. 214-65 defines both officials and employees as targets of lobbying influence.⁷ It would therefore be appropriate for Ukrainian legislation to provide an exhaustive list of state authorities that cannot be the object of lobbying.⁸

Since the 1960s, indirect methods of lobbying – involving relatives and friends with access to officials – have become widespread globally.⁹ For example, North Carolina law defines lobbying as an attempt to influence through direct communication or actions not only a public official but also their immediate family members.¹⁰ This, it is suggested that Ukrainian legislation expand the definition of lobbying objects to read e.g.: “public authorities defined by law, officials and officers of these authorities, and their immediate relatives.”

Under Ukrainian law, a lobbying subject may be a legal entity or an individual who engages in lobbying in accordance with the procedure prescribed by law.¹¹ An individual or legal entity (such as a company or non-governmental organisation) may become a lobbyist by registering with the Transparency Register. However, the absence of legislative requirements regarding age, professional competences, or experience (e.g. civil service or prior interaction with public authorities) undermines

⁵ *Ibidem*.

⁶ Law of Ukraine No. 3606-IX, Article 1(1)(7).

⁷ Lobbying Disclosure Act USA № 104-65, Article 3 (3),(4), (5).

⁸ V. Nesterovych, *Constitutional and legal foundations of the institution of lobbying: foreign experience and prospects for Ukraine*, Luhansk 2010, p. 122.

⁹ I.V. Bovsunivska, *Lobbying in public authorities*, Kyiv 2019, p. 18.

¹⁰ North Carolina General Statutes. Available from: <https://www.ncsl.org/ethics/how-states-define-lobbying-and-lobbyist> (accessed: 19.05.2025).

¹¹ Law of Ukraine No. 3606-IX Article 1 (1) (9).

the perception of lobbying as a professional activity and diminishes the value of professionalism. C. Lahusen, in his study of lobbyists as a professional group, identifies a number of common features such as professional knowledge, education, know-how and specialised skills (including claims to exclusivity), and professional capital (networks, experience, reputation, affiliations).¹² At the EU level, a code of conduct for lobbyists has been established,¹³ while in the United States, certain professional aspects of lobbying are regulated by codes of ethics approved by lobbying associations.¹⁴ The Code of Ethics of the National Institute for Lobbying & Ethics (NILE) in the United States requires lobbyists to 1) understand the fundamentals of legislative and governmental processes, and 2) possess highly specialised knowledge on the issues on which they lobby.¹⁵ It also obliges lobbyists to maintain their professional level and develop competencies through ongoing self-education and training.¹⁶

In our view, the professional and qualification-related requirements for lobbyists in Ukraine should be governed normatively. For example: “a lobbyist may be an individual who, at the time of registration, has a university degree in law, business, political science, public relations, special knowledge for professional representation of the client’s interests, at least 3 years of professional experience, political or government experience, and speaks the state language.” The adoption of Law No. 3606-IX also provides grounds for including the profession of “lobbyist” in the National Classifier of Ukraine “Classifier of Professions” DK 003:2010.

Ukraine’s law contains no provisions on the financial and economic status of individual lobbyists as potential taxpayers. In contrast, Article 3(9) of the LDA USA No. 104-65 explicitly recognises that a lobbyist may be self-employed.

Finally, Article 10(4)(1) of Law No. 3606-IX prohibits officials or other persons authorised to perform state or local government functions from engaging in lobbying during their term of office and for one year after leaving office. In the author’s view, this “cooling-off” period is too short and should be extended at least 2 or 3 years to mitigate corruption risks.

¹² C. Lahusen, *European Lobbying An Occupational Field between Professionalism and Activism*, New York 2023.

¹³ Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register. Available from: https://eur-lex.europa.eu/eli/agree_interinst/2021/611/oj (accessed: 19.05.2025).

¹⁴ T. Holyoke, *The Case for Associational Self-Regulation of Lobbying in the United States*, *Interest Groups & Advocacy*, 13(4), pp. 478–497.

¹⁵ *Code of Ethics, National Institute for Lobbying & Ethics (NILE) USA*. Available from: <https://www.lobbyinginstitute.com/ethics> (accessed: 19.05.2025).

¹⁶ *Ibidem*, Article 3 (2).

Scope of Lobbying under Ukrainian Law

Under Ukrainian legislation, influencing or attempting to influence state authorities, local self-government bodies, and their officials in order to adopt or refrain from adopting legal acts that do not contain legal norms is not considered lobbying.¹⁷

In our view, lobbying should encompass influence on public authorities and decision-making processes more broadly, not limited exclusively to regulatory acts. Acts implementing legal provisions are themselves instruments of public administration. Therefore, non-normative, individual administrative acts – which contain specific, individualised orders and are limited to one-time application – should also fall within the scope of lobbying. Examples include access to government procurement, resolution of property-related issues and disposal rights, allocation of budget funds, subsidies, quotas, licences, and energy tariffs.¹⁸ In one of the draft laws on lobbying, Ukrainian lawyers proposed defining the subject of lobbying as encompassing both regulatory and individual acts.¹⁹

A comparable practice exists in the United States, where the subject of lobbying extends beyond legislative acts to include administrative acts, resolutions, orders, and regulations governing the management of federal programmes, contracts, loans, subsidies, licences, permits, and even staff appointments to positions that require the consent of the Senate.²⁰ A similar legal position on the subject of lobbying has been established in the EU.²¹ Ukraine's Law No. 3606-IX should therefore adopt the following wording regarding the subject of lobbying: "the subject of lobbying should be decisions of public authorities." Expanding the subject matter of lobbying would necessitate strengthening oversight mechanisms and increasing transparency in the adoption of regulatory acts and political decisions in Ukraine.

Ukrainian legislation also imposes restrictions on the subject matter of lobbying. It is prohibited to lobby provisions related to the declaration of an ecological emergency, mobilisation, war, peace, the introduction of martial law in parts of or throughout Ukraine, the imposition of a state of emergency, the use of the Armed

¹⁷ Law of Ukraine No. 3606-IX, Article 3(2)(11).

¹⁸ V. Nesterovych, *op. cit.*, p. 130; T. Ostriukova, *Does the Ukrainian Law on Honest Lobbying Comply with European Practices?*. Available from: https://biz.ligazakon.net/analytics/225930_chi-vidpovda-ukranskiy-za-kon-pro-dobrochesne-lobyuvannya-vropeyskim-praktikam (accessed: 19.05.2025).

¹⁹ Draft Law of Ukraine No. 3188. *On lobbying in Ukraine*, 1999. Available from: http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=5838 (accessed: 19.05.2025).

²⁰ Lobbying Disclosure Act USA, Article 3 (8).

²¹ Recommendations CM/Rec(2017)2 adopted by the Committee of Ministers of the Council of Europe, *op. cit.*, Recommendation of the Council on Transparency and Integrity in Lobbying and Influence (OECD/LEGAL/0379), *op. cit.*

Forces, changes to the territory of Ukraine, and amnesty.²² In the author's opinion, Article 8(1)(7) of Law No. 3606-IX, which regulates such restrictions, should be supplemented with explicit provisions relating to national interests and state security, specifically: "liquidation of independence, violation of sovereignty and territorial integrity of Ukraine." Furthermore, Article 8(1) should be amended to include the following: "A legal act concerning the organisation and functioning of public authorities, the judiciary, civil and military service, foreign policy, security, and defence of Ukraine cannot be the subject of lobbying."

Article 3(2)(15) of the same law excludes from the definition of lobbying the "participation of stakeholders in public discussions of draft legal acts or public consultations on draft legal acts, except when such participation is carried out by a lobbying entity under a lobbying services agreement." However, in practice, political consultants providing lobbying services frequently see their role as developing strategies and campaigns for clients and advising them on how to lobby officials and politicians independently.²³ Therefore, Article 3(2)(15) of Law No. 3606-IX should be supplemented with the phrase "or in the person's own commercial interests" to capture these activities within the scope of lobbying regulation.

Principles and Methods of Lobbying under Ukrainian Law

Law of Ukraine No. 3606-IX introduces a set of principles for lobbying regulation. However, several aspects thereof have to be considered and addressed in more depth.

Firstly, the principle of lobbying transparency is inadequately ensured. According to Article 13(4)-(5) of the law, certain information, such as the telephone numbers and e-mail addresses of individual lobbyists, is classified as restricted and not displayed in the publicly accessible Transparency Register. This, in our view, complicates public oversight and limits the ability of potential clients to identify and engage lobbyists. More importantly, it does not align with European-wide trends toward stricter transparency and integrity requirements in lobbying regulation.²⁴

Secondly, a systematic analysis of the provisions of Law of Ukraine No. 3606-IX reveals inconsistency regarding the principle of paid lobbying as a professional activity. According to Article 1(1)-(6) of the law, lobbyists may receive either remuneration or reimbursement of actual expenses, while Article 4(1), which lists lobbying

²² Law of Ukraine No. 3606-IX, Article 8(1).

²³ Lehmann W., Bosche L., *Lobbying in the European Union: Current Rules and Practices*, working paper, Constitutional Affairs Series, Luxembourg 2003.

²⁴ Recommendation of the Council on Transparency and Integrity in Lobbying and Influence (OECD/LEGAL/0379), *op. cit.*

principles – including legality, professionalism, accountability, transparency, responsibility, and ethics – omits the principle of lobbying as a paid professional activity. Moreover, Article 9(5)(6) stipulates that the price constitutes an essential term of a lobbying agreement only when lobbying is paid for. Thus, the law effectively permits altruistic or unpaid lobbying, which blurs the line between lobbying and advocacy, and leaves room for covert, informal lobbying practices bordering on corruption. By comparison, lobbying in the United States is strictly regulated: expenditure rose from USD 1.44 billion in 1998 to USD 3.53 billion in 2020,²⁵ reflecting the institutionalisation of lobbying as a paid professional service. Treating lobbying as an unpaid activity, in the author's view, perpetuates shadow lobbying and undermines efforts to regulate the field.

Another notable gap in Ukrainian legislation is the absence of a clear distinction between lobbying and advocacy. European regulatory frameworks emphasise the importance of such differentiation. Advocacy is a cornerstone of democratic institutional processes, providing a platform for citizens to exercise their right to engage with public authorities. By contrast, lobbying is characterised by three essential features: it is conducted by entities outside formal institutions, performed in a professional capacity,²⁶ and involves compensation for services rendered. European standards the need for a precise legal definition of lobbying.²⁷ According to this definition, lobbying regulation must not infringe upon citizens' democratic rights to petition authorities, voice opinions, or campaign for legislative and political reforms.²⁸

The United States Lobbying Disclosure Act No. 104-65 offers a clear distinction: Article 3(5)-(6) excludes individuals who provide services without financial or other compensation from the definition of lobbyists, while Article 3(10) defines a lobbyist as an individual hired or retained by a client for financial or other remuneration to perform lobbying services. This demarcation – paid versus unpaid, professional versus non-professional – is also recognised in EU practice. The author further proposes an additional criterion: distinguishing between advancing private interests (lobbying) and public interests (advocacy). Accordingly, the Law of Ukraine No. 3606-IX should explicitly define lobbying as a professional, remunerated activity undertaken to defend commercial interests, while advocacy should be

²⁵ R. Melnychenko, *Lobbying in Ukraine: new rules of the game*. Available from: <https://epravda.com.ua/columns/2024/10/29/721118/> (accessed: 19.05.2025)

²⁶ Venice Commission. Report CDL-AD(2013)011, on the Role of Extra-Institutional Actors in the Democratic System (Lobbying), *op. cit.*

²⁷ Recommendation PACE Rec. 1908 (2010). Lobbying in a democratic society (European code of good conduct on lobbying), *op. cit.*

²⁸ Recommendation CM/Rec(2017)2 adopted by the Committee of Ministers of the Council of Europe on 22 March 2017, *op. cit.*

defined as an activity aimed at protecting public interests, carried out by public organisations.

Ukrainian experts share similar concerns. I. Krytska “fears possible abuse by CSOs that conventional tobacco companies will not register a conventional CSOs “Smokers’ Lovers” to promote their interests in this way. In the EU, about 35% of the entities registered under similar laws are CSOs. This is an international practice”.²⁹ V. Roman adds that the absence of a legal distinction between advocacy and lobbying opens the door for authorities to suppress public associations critical of government policies under the pretext of combating dishonest lobbying.³⁰ Differentiating between these activities is therefore essential to prevent abuse and protect democratic freedoms.

The law also prohibits outcome-based remuneration: Article 9(7) forbids “setting the remuneration for lobbying entities based on their lobbying outcomes”, and, in the author’s view, compromises the overall effectiveness of professional lobbying.

Further issues arise regarding the definition of commercial interest. Article 1(1)(4) describes it broadly as “money or other property, personal advantages, privileges, other benefits of a tangible or intangible nature that a person will receive or may receive within the framework of economic activity after influencing or attempting to influence the object of lobbying.” During public consultations, Ukrainian CSOs expressed concern that such a definition could classify grants, donations, or funding for anti-corruption investigations and political reforms as “commercial interests,” thus exposing advocacy organisations to inappropriate regulation as lobbyists.³¹

It is also problematic that, under Article 9(1) of Law No. 3606-IX, “legal entities – lobbying subjects, which are public associations, other non-profit enterprises, institutions and organizations, may lobby in the commercial interests of the beneficiary without concluding a lobbying agreement, unless otherwise provided by their constituent documents.” The legislative permission to lobby without a contract, firstly, calls into question the verification of the accuracy of lobbying reports by

²⁹ I. Krytska, *Lobbyists will be able to become co-authors of laws. Ukraine is preparing to legalize the lobbying market. How will it work? Blitz interview with the head of the NACP Novikov, who developed the bill*, Forbes. Available from: <https://forbes.ua/money/ukraina-gotuetsya-do-legalizatsii-rinok-lobistiv-blitsintervyyu-z-golovoyu-nazk-novikovim-pro-noviy-zakonoproekt-ta-klyuchovi-zmini-dlya-biznesu-04122023-17653> (accessed: 19.05.2025).

³⁰ V. Roman, *Lobbying Law: One Step Towards the EU or Two Steps Back?* Available from: <https://www.helsinki.org.ua/articles/verkhovna-rada-ukhvalyla-zakon-pro-lobiuvannia-osnovni-nedoliky-analytyka/> (accessed: 19.05.2025).

³¹ The draft law “*On Honest Lobbying*” in its current form can be used to curtail freedom and democracy in Ukraine. *Joint statement of civil society organizations*. Available from: <https://cedem.org.ua/news/zakonoprojekt-lobiyuvannya/> (accessed: 19.05.2025).

these entities, and secondly, contradicts the civil law of Ukraine. Therefore, a written lobbying agreement should be mandatory for all lobbying entities.

Article 7(1) of the same law defines lobbying methods as “actions performed by lobbying entities in the course of lobbying,” which is, basically, a vague and incomplete formulation that fails to clarify the role of lobbying in modern democratic decision-making or the specifics of lobbyists’ activities. Therefore, the author argues that it is desirable to enshrine the definition of lobbying methods in the Law of Ukraine.³² Furthermore, Article 7(2) of the law in question contains a list of lobbying methods, and Article 7(2)(1) describes lobbying as “any form of direct or indirect communication with the lobbying target concerning issues relevant to the subject of lobbying.” This provision seems to be overly declarative, especially since international practice provides more detailed classifications, which make it possible to determine and judge the nature and outcomes of lobbying.³³ Article 3(7)-(8) of LDA USA No. 104-65 defines lobbying methods to include the preparation and planning of lobbying activities, conducting research, and “lobbying contacts,” i.e., oral or written communications (including electronic messages) with officials in the legislative or executive branches on behalf of a client regarding lobbying matters. The Council of Europe’s Recommendation on Lobbying also identifies specific methods, such as submitting requests, delivering presentations or reports on proposed policies, participating in consultations and parliamentary hearings, establishing informal contacts with politicians or officials (e.g., visits, meetings, phone calls), and attending conferences or delegations.³⁴

However, Article 7(2) of Law of Ukraine No. 3606-IX fails to include several internationally recognised lobbying methods, such as campaign financing, personnel appointments, or digital lobbying (with the use of the Internet, social media, and artificial intelligence). The omission of these methods leaves significant gaps in regulation.

Finally, as V. Roman observes, the methods of lobbying listed under Article 7 are so broad that they overlap with the activities of the vast majority of CSOs. What is more, the law lacks specific mechanisms to guarantee lobbyists’ rights or safeguard the lawful exercise of lobbying methods.³⁵

³² V. Nesterovych, *op. cit.*, p. 142.

³³ P. Harris, A. Bitonti, C.S. Fleisher, A.S. Binderkrantz (eds.), *The Palgrave Encyclopedia of Interest Groups, Lobbying and Public Affairs*, Palgrave, 2022; S. Michon, *Le lobbying dans l’espace des métiers de l’Europe. Une analyse relationnelle des auxiliaires de l’Europe politique*, [in:] W. Beauvallet, C. Robert, E. Roullaud (eds.), *EU Affairs: Sociologie des lobbyistes européens*, Bruxelles 2022, pp. 41–64; A. Polk, *The Political Economy of Lobbying: Channels of Influence and Their Regulation*, Germany 2024.

³⁴ Recommendation PACE Rec. 1908 (2010). Lobbying in a democratic society (European code of good conduct on lobbying), *op. cit.*

³⁵ V. Roman, *op. cit.*

Control over Lobbying Activities and Liability for Violations of Lobbying Legislation in Ukraine

Under the Law of Ukraine No. 3606-IX, transparency in lobbying is ensured primarily through unilateral disclosures by lobbyist, in the form of declarations and reports. By contrast, the United States model of lobbying transparency requires mutual disclosure: both lobbyists and public officials must declare their interactions. In the US, public officials are additionally required to disclose their connections with corporations, companies, firms, or other business entities in which they, their spouse, minor children, or other family members have financial interests, regardless of their role in these dealings.³⁶ The author of this article argues that similar obligations – requiring officials to report their meetings with lobbyists – should be legally mandated and embedded within Ukraine’s regulatory framework to enhance transparency and public trust.

Monitoring compliance with lobbying legislation in Ukraine is entrusted to the National Agency for the Prevention of Corruption (NAPC) and the general public, as “any person who has discovered a violation of lobbying legislation by a lobbying entity may report it” to this authority.³⁷ Thus, the law provides for a combination of institutional and non-institutional public oversight.

The primary instrument for ensuring transparency is the Transparency Register. Comparable registers operate successfully in many jurisdictions. At the EU level, lobbying is regulated through the European Transparency Register, which serves as a tool for promoting openness and informing the public about advocacy activities within EU institutions. As of May 2025, the Register contained information on nearly 14,760 organisations engaged in influencing EU policy-making and decision-making processes.³⁸

Under current Ukrainian legislation, administrative liability is the primary sanction for violations of the rules of lobbying. Engaging in illegal lobbying – such as operating without official lobbyist status, continuing to lobby after revocation of status, or lobbying despite legal prohibitions – may result in fines ranging from UAH 850 to UAH 17,000, depending on the violation.³⁹ Late submission or failure to submit a lobbying report to the Transparency Registry is subject to fines between

³⁶ *Procedure for verifying electronic declarations in the USA and other countries. Information and Research Center of the Verkhovna Rada of Ukraine.* Available from: https://pdf.usaid.gov/pdf_docs/PA00XCMQ.pdf (accessed: 19.05.2025).

³⁷ *Law of Ukraine No. 3606-IX, Article 18.*

³⁸ *Transparency Register European Union,* https://transparency-register.europa.eu/index_en (accessed: 19.05.2025).

³⁹ *Code of Ukraine on Administrative Offenses № 8073-X, 1984, Article 188-46-1.* Available from: <https://zakon.rada.gov.ua/laws/show/80732-10#Text> (accessed: 19.05.2025).

UAH 850 to UAH 1,700.⁴⁰ Repeat offenders face increased penalties of UAH 5,100 to UAH 6,800, along with a one-year ban on lobbying activities.⁴¹ Failure to submit applications for suspension or termination of lobbying status or for removal from the Transparency Register means fines of UAH 1,700 to 5,100.⁴² Breaches of restrictions – such as lobbying for the commercial interests of prohibited clients or funding lobbying activities from illegal sources – carry fines ranging from UAH 17,000 to UAH 34,000.⁴³

Yet, the author finds these fines disproportionately low compared to the potential financial gains from unlawful lobbying. Consequently, fines as the primary form of punishment are insufficient to deter misconduct, leaving Ukraine vulnerable to the persistence of quasi-lobbying practices and undermining the development of a robust, transparent lobbying framework. This approach starkly contrasts with foreign practice. In the United States, violations of lobbying regulations may result in civil fines of up to USD 200,000 and, in severe cases, criminal penalties, including imprisonment for a duration of up to five years.⁴⁴ The Council of Europe’s Committee of Ministers recommends that the legislation on lobbying include effective and dissuasive sanctions for non-compliance.⁴⁵ In line with these recommendations, the author proposes introducing criminal liability for serious cases of violation of lobbying rules in Ukraine.

What is more, Article 17(3)(8) of the Law of Ukraine No. 3606-IX obliges lobbyists to disclose meetings with officials holding “responsible or particularly responsible positions,” provided lobbying activities occurred during those interactions. The author suggests revising this provision to require full disclosure of all meetings with any public officials or staff members, regardless of their rank. This broader requirement would foster greater transparency and strengthen democratic oversight of political decision-making. Despite these proposed improvements, it is important to acknowledge that even in highly regulated jurisdictions, complete oversight of lobbyist remains elusive. For instance, in the United States, only six trials involving lobbyists’ legal violations have taken place over a 34-year period, underscoring the challenges of enforcing lobbying laws in practice.⁴⁶

⁴⁰ *Ibidem*, Article 188-46-2.

⁴¹ *Ibidem*.

⁴² *Ibidem*.

⁴³ *Ibidem*.

⁴⁴ Lobbying Disclosure Act USA Guidance. Available from: https://lobbyingdisclosure.house.gov/amended_lda_guide.html (accessed: 19.05.2025).

⁴⁵ Recommendation CM/Rec(2017)2 adopted by the Committee of Ministers of the Council of Europe on 22 March 2017, *op. cit.*

⁴⁶ I.V. Bovsunivska, *op. cit.*, p. 28.

Conclusions

The institutionalisation of lobbying activities is an indispensable requirement for the organisation of public authority in a democratic state governed by the rule of law – both at the national and supranational levels – within the current global political landscape. This article examined the legal regulation of lobbying in Ukraine under the Law of Ukraine No. 3606-IX “On Lobbying”. The legalisation of lobbying through this law brings Ukraine closer to international standards and democratic practices, prompting transparent interaction between public authorities and civil society. The law defines key concepts of the lobbying institution, such as “lobbying”, “subject of lobbying”, “object of lobbying”, “sphere of lobbying”, “principles of lobbying”, “client”, and “beneficiary”. In addition, It also outlines lobbying methods, exemptions, registration procedures, and reporting obligations for lobbying entities. Furthermore, the law incorporates elements of European practice, including transparency of lobbying activities and funding, registration of lobbyists in an open register, reporting requirements, and monitoring by a dedicated public body – the National Agency for the Prevention of Corruption. At the same time, the analysis of this law reveals several significant shortcomings that require improvement. Specifically, the law lacks:

- ❑ a clear distinction between advocacy as a civil society activity and professional lobbying;
- ❑ age, educational, and qualification-related requirements for lobbyists, as well as provisions addressing their financial and economic status;
- ❑ regulation of digital lobbying – pursued with the use of the Internet, social media, and artificial intelligence;
- ❑ mechanisms to guarantee that the rights of lobbyists are respected.

The law also needs refinement regarding the subject, object, and scope of lobbying, principles and methods of lobbying, and the definition of commercial interest. Moreover, the current framework poses corruption risks and enables quasi-lobbying due to:

- ❑ provisions allowing free lobbying;
- ❑ the possibility of lobbying without a written contract;
- ❑ a too short “cooling-off” period (1 year) for former officials before they may engage in lobbying;

- ❑ lenient penalties, limited primarily to administrative liability and relatively small fines, which fail to create disincentives for illegal lobbying or encourage the development of civilised lobbying practices;
- ❑ insufficient institutional control mechanisms, which leave space for the continued shadowing of lobbying activities and potential money-laundering through fictitious lobbying services.

The author argues that in order to ensure that lobbying functions effectively and transparently in Ukraine, legal reform alone is insufficient. It must be accompanied by:

- ❑ a developed civil society, where political pluralism has emerged through social differentiation, stratification, and “specialisation”;
- ❑ a genuine rule of law, with the state acting as an arbiter balancing the interests of competing groups, ensuring that no single group dominates the political decision-making process, while promoting open competition, expanded access to public authorities, and transparent relations between public authorities and interest groups;
- ❑ an efficient, independent judicial system capable of effectively adjudicating lobbying-related disputes;
- ❑ a low level of corruption within public authorities;
- ❑ societal consensus on the political rules of the game, fostering a culture of dialogue and consultation,
- ❑ as well as political, spiritual, and socio-economic stability;
- ❑ a high level of legal culture and awareness;
- ❑ effective mechanisms of institutional and public oversight, combined with media freedom;
- ❑ an inclusive regulatory approach, whereby the state is willing to provide non-material, financial, and technical support to public interests that are weak or under-represented.

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