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PROBLEMS OF PARLIAMENTARISM: IMPROVEMENT OF LEGAL SUPPORT FOR LOBBYING (US AND EU EXPERIENCE)

Abstract. *The main problem to which the article is devoted is the answer to how to restructure the work of parliament - the highest decision-making body in society. The main attention is paid to the function of lobbying bills. Until recently, this function was not regulated. Now the corresponding law on lobbying has been adopted. However, lobbying bills in the interests of business on a commercial basis is, in the opinion of the authors, only one side of the story, the solution of one problem. There is another, second problem. This is when a scientist, a research team, the public wants to propose a bill aimed at solving the problem (problems) facing the country. The best practices in the field under consideration, the experience of Western countries, in particular, the USA and EU countries, are analyzed. American lobbying laws are strict and precise: tough sanctions for their violation are designed to ensure (and ensure) the transparency of lobbying as an important part of democratic governance. Regarding the author's proposals. It is advisable, in our opinion, to provide for the possibility of lobbying for draft laws that are not related to business interests - that is, such draft laws that provide for the improvement of public administration, as well as to introduce appropriate mechanisms to ensure the implementation of this possibility. It is advisable, in our opinion, to include the appropriate function in the legislation on lobbying, as well as to introduce appropriate mechanisms to ensure its implementation. This is not only about creating an appropriate organizational structure, but also about the obligation to post the proposed project on a certain website, with access to all those interested in such issues, giving them the opportunity to express their vision of the expediency of adoption. In the event that the parliament avoids considering the draft law, and it has gained a certain number of those who support its adoption (say, set - not less than 200 thousand votes), then the issue must be submitted for resolution in an all-Ukrainian referendum.*

Keywords. *Lobbying, parliament, legislative activity, experience of the USA and the EU, referendum, mechanisms for ensuring it.*

Introduction. The general problems of Ukrainian parliamentarism include the crisis of representation - the separation of deputies from the interests of voters, voting at the behest of the party (in the recent past - office-presidential) leadership, populism and mediatization of politics. The result: the parliament is turning into a "registrar" of the above (office-presidential) decisions, large-scale corruption and non-transparent financing of state policy, the creation of conditions that contribute to the emergence of the so-called "Mindych cases", etc. The consequences (extremely negative) are also that decisions are made for the sake of ratings, not strategic development; dependence on the president, or rather, on his former office in the development of legislation. Hence the adoption of low-quality laws, political crises, halts in state processes,

inefficiency of parliamentary procedures, adoption of some decisions outside the state (EU, international organizations), etc. Thus, parliamentarism is experiencing a crisis of adaptation: traditional mechanisms of representation do not correspond to rapid social changes, technologies and global politics.

Review of scientific research. Certain aspects of law-making activity in Ukraine were studied by such scholars as A. Hrynyak, O. Dzera, I. Myshchak, V. Kosovych, N. Kuznetsova, S. Melnychuk, N. Milovska, N. Onishchenko, O. Petryshyn, V. Ryndyuk, M. Teplyuk, and others, but their works, as noted by R. O. Stefanchuk, do not comprehensively cover all aspects of modern trends in the development of legislation and the features of the law-making activity of the Verkhovna Rada of Ukraine during the period of martial law. One of the rather significant problems of parliamentarism is the problem of lobbying for bills without proper control. And this often leads to distortion of legislative activity. This is precisely **the purpose** of the study - IMPROVEMENT OF LEGAL SUPPORT FOR LOBBYING (US and EU experience), which is presented.

Presentation of the main material. Lobbying, according to the Law of Ukraine “On Lobbying” - is an activity carried out with the aim of influencing (attempting to influence) the object of lobbying in the commercial interests of the beneficiary (for remuneration received directly or indirectly, and/or with payment of actual expenses necessary for its implementation) or in the person’s own commercial interests and related to the subject of lobbying. So, what business previously did secretly, illegally - now does openly, under state and public control. Thus, the law on lobbying provides for the registration of participants in this process, their reporting, and the central element of this law is the Transparency Register. This is an open electronic system managed by the NACP. It collects and publicly displays data on all lobbying entities: who they are, in whose interests they work, what contracts they conclude, how much they earn and spend, who they meet with among officials. This system is called “Google for lobbying” — because now anyone can go in and see who communicates with whom in power, for what money and with whom.

However, lobbying for bills in the interests of business on a commercial basis is, in our opinion, only one side of the story, solving one problem. There is another, second problem. This is when a scientist, research team, or the public wants to propose a bill aimed at solving a problem (problems) facing the country. How to ensure lobbying for such non-business, political projects?

Before offering our proposals, we consider it appropriate to consider the best practices in the field under consideration, the experience of Western countries, in particular, the USA and EU countries. Regarding lobbying in the USA [Lobbying in the USA // <https://studies.in.ua/teorija-lobijuvannja/4484-lobyuvannya-v-ssha.html>

]. It should be noted that the USA is the first country to develop regulatory provisions regarding lobbying. The concept of lobbying is believed to have originated from the right to petition enshrined in the 1789 Constitution, better known as the Bill of Rights. Since then, the concept of lobbying has been officially used by Congress in its documents. In order to ensure transparency in lobbying, in 1876 Congress introduced a mandatory requirement for official registration of lobbyists and their organizations. However, the first federal law on lobbying activities was adopted only in 1946. This law was the first attempt in the world to regulate lobbying. This law was in force for half a century and was slightly revised in 1995. The requirements became stricter: for example, imprisonment was added as one of the forms of punishment for violating the law (until 1995, only financial fines and suspension of activities were provided for). The Lobbying and Disclosure Act of 1995 defines lobbying as an attempt to influence any government decision made by the legislative or executive branches of government.

American lobbying laws are strict and precise: tough sanctions for their violation are designed to ensure (and ensure) transparency in lobbying as an important part of democratic governance.

According to numerous lobbying regulations, lobbyists or their organizations must officially register with both houses of parliament every 3 months (once a quarter), submit information about each client ordering services in separate files (name, position, estimated costs for promoting their decision), and report the amount of monetary compensation for services. Lobbyist registration is

electronic and has open public access. The Lobbying Act of 1995 was supplemented by the Lobbying Disclosure Act, which significantly strengthened state and public control over lobbyists and introduced legal regulation. According to it, a lobbyist is a person who spends at least 20% of his working time on lobbying, has numerous contacts with members of the legislative and executive branches of government, and receives more than \$5,000 from clients for his services within a 6-month period. Lobbyists and lobbying firms are required to register with the authorities under which they operate. Every six months, such companies must submit a detailed report to the relevant government agencies, which must list their clients, the issues they lobbied for, and the funds they received from these clients. The expansion of the circle of lobbying participants by involving the wives of influential government officials, members of Congress, and politicians as lobbyists has also become a common phenomenon in the United States. This is due to the fact that sometimes lobbying companies hire his wife to lobby a man and his entourage precisely to exert more active and direct influence in the interests of the employers.

In connection with numerous corruption scandals that have shaken the Capitol for a long time and reduced voters' trust in legislators, the American Congress was forced to begin a radical reform of lobbying legislation. In 2007, both houses of the highest US legislative body voted to introduce stricter control over all forms of lobbying activities, including the activities of "foreign agents" who are engaged in influence campaigns and PR in the United States in the interests of other countries.

The law, called the "Honest Governance and Open Government Act of 2007," introduces mandatory quarterly reporting to the Senate Secretariat of information about lobbyists' clients and fees, and prohibits representatives of the legislative and executive branches of the US government from receiving any gifts, services, or payments from lobbyists or foreign representatives. The law also instructed the Department of Justice to create a publicly available free database of "foreign agents" and to ensure that all data on them is placed in this database within 48 hours of their registration. The said law also obliges all members of Congress to inform about lobbyists who, within 6 months, transferred more than \$15,000 through small contributions to the accounts of structures controlled by legislators (charitable foundations, election committees, etc.). In addition, 2 days before a vote on a particular bill in the Senate, its members who received money from lobbyists are obliged to declare that neither they themselves nor their family members have any personal interests in the said act. Congressmen are also prohibited from attending receptions organized in their honor by lobbyists. Lawmakers guilty of violating the law will be denied pension payments after their resignation. In order to reduce the level of political lobbying, the new law also prohibits retired senators from engaging in lobbying activities for the next two years. For former members of the House of Representatives, a one-year ban has been established. Sanctions for violating the law have been significantly strengthened. In particular, the maximum fine has been increased to \$200,000, and the term of imprisonment has been increased to 10 years. It should also be added that the laws regulating lobbying activities are supplemented by a number of related legislative acts. At the federal level, these are laws on the ethics of public servants, federal election campaigns, and at the state level - in addition to duplicating federal laws, there are also such laws, such as, for example, in Florida, where the law prohibits the conclusion of state contracts with a person who has contributed funds to the funds of candidates for electoral positions.

Thus, lobbying is an integral part of the modern political system, which allows business, public organizations and other interested parties to influence decision-making. Summarizing some results of the study of the US experience, we would like to emphasize that the United States is a world leader in the issue of transparency of lobbying activities: lobbyists are required to register in the "Lobbying Disclosure Act" system and report on their expenses, clients and areas of activity. Public access to this information allows the public to monitor who and how influences political decisions. Thanks to this, the system looks clear and regulated, although it is subject to criticism due to possible conflicts of interest.

In the European Union, lobbying regulation remains less stringent. For example, registration in the Transparency Register is voluntary for many organizations, which complicates monitoring their

activities. In addition, the diversity of political systems in EU member states adds complexity to the unification of rules. A comparison of lobbying practices in the US and the EU demonstrates that an effective system requires a balance between transparency, flexibility and public involvement. Cooperation in this area can contribute to increasing trust in political processes and improving democratic governance in both regions.

Taking into account the above realities, we propose, based on the existing problems of our society (and this is, first of all, corruption in power. According to many analysts, it is going off scale: due to corruption, a war cannot be won, both military and post-war aid are being slowed down; the provision of funds by our partners for the renewal of the country is under threat; there is also a big question regarding the European integration of our country, etc.). One of the ways to solve the most important of them may be the approach developed by the authors. This concerns, in particular, solving the problem of government corruption. The importance of overcoming it can be confirmed by referring to the corruption scandal in the Ukrainian energy sector. The approach that we advocate is aimed not only at overcoming corruption, but also at solving the second, no less important task - the innovative development of the country, optimization of management processes. But to implement our proposals, it is also necessary to adopt a number of bills related to the reform of the management organization, including the power vertical.

And the authorities will definitely not like them. How then to lobby for such bills? They are not directly related to the interests of business. It is clear that theoretically you can contact the relevant authorities, go to a reception, write to the press, etc. But it is known how difficult it is to “break through” the wall of bureaucracy, especially when the adoption of a bill can affect the personal interests of a bureaucrat, especially if he has reached the rank of “celestial” (higher levels of government). How in this case to lobby for proposed bills?

It is advisable, in our opinion, to include the appropriate function in the legislation on lobbying, as well as to introduce appropriate mechanisms to ensure its implementation. This is not only about creating an appropriate organizational structure, but also about the obligation to post the proposed project on a certain website, with access to all who are interested in such issues, giving them the opportunity to express their vision of the advisability of adoption. In the event that the parliament avoids considering the bill, and it has gained a certain number of those who support its adoption (say, establish - not less than 200 thousand votes), then the issue must be submitted for resolution in an all-Ukrainian referendum.

If such proposals are adopted and included in the legislation on lobbying, this will be evidence that the above-mentioned law will work not only in the interests of business, but also to make the state system, administration, Ukrainian society better, and lobbying transparent, a means not only of earning money, but also of improving the state system, solving urgent problems of national importance. And this is already a significant step towards a mature political culture, the effectiveness of state building. We can even talk about Ukraine's leadership in this direction.

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