

## CRIMINAL LAW ASPECTS OF LOBBYING IN THE REPUBLIC OF CROATIA

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### Abstract

Lobbying as an integral part of modern democratic processes, plays a key role in shaping political and legislative decisions. In the Republic of Croatia, lobbying represents an area that is still awaiting its full normative regulation. This paper seeks to explore the criminal law aspects of lobbying in the context of the Croatian legal system, particularly in light of the lack of specific legislation on lobbying. Given that the Government of the Republic of Croatia has recently proposed the adoption of a Lobbying Act, which is currently in parliamentary procedure, this research comes at a crucial time for understanding and potentially shaping the future legislative framework.

The paper will analyze the proposed law that the Government of the Republic of Croatia has put into parliamentary procedure, with a special emphasis on the Criminal Code of the Republic of Croatia, which prescribes criminal offenses such as trading in influence and illegal intermediation with state officials and civil servants. The paper will also illuminate how the lack of a specific law on lobbying affects the transparency and ethicality of the political process in Croatia. In addition, the research includes an international context, particularly the obligations arising from the recommendations of GRECO (Group of States Against Corruption) and the Strategy for Combating Corruption, and how they affect Croatian legislation and lobbying practices.

Through this paper, an attempt is made to contribute to a better understanding of the dynamics between lobbying and the criminal justice system in Croatia, and to encourage discussion about the need and manner of regulating lobbying activities in order to promote transparency and accountability in the political process.

**Keywords:** *lobbying, criminal law aspects, ethics in politics, combating corruption*

### Introduction

This research aims to provide a comprehensive overview that integrates different aspects of lobbying, using the method of analyzing legislation and educational programs for lobbying jobs, as well as the obligations arising from international and national recommendations and strategies.

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Regarding the definition of the term itself, there is no universally accepted definition of lobbying. In a broader sense, lobbying is informal action in someone's favor, or an attempt to influence decision-makers. In practice, it is often used as a term to describe public activity or public business activity of various institutions. In a narrower sense, lobbying can be defined as an activity that attempts to influence someone in the executive and legislative bodies, to support laws, regulations, or general acts that give a certain advantage or benefit to a community, organization, or industry. Lobbying is a widespread practice of advocating interests with decision-makers that has decades of history and the need for legal regulation of lobbying is contained within the democratic framework of modern societies. A high level of openness and transparency in shaping public policies and the decision-making process is considered the basis for ensuring effective public administration. Looking at the entire issue in broader terms, it is possible to highlight that the modernization of political processes and foreign policy challenges impose the need to align lobbying practices in the Republic of Croatia with standards in this area. The effort to make lobbying practices and the possibility of influencing the process of making and effectiveness of public policies as transparent as possible, thereby increasing citizens' trust in decision-makers, exists also due to limiting the inappropriate influence (of interest groups) of private capital representatives on public policy, encouraging responsibility and integrity of lobbyists and decision-makers, raising public trust in institutions, and also strengthening the position of citizens with regard to participation in the formation of public policies.

### **1. Lobbying in the Republic of Croatia**

In 2012, the Republic of Croatia formed a working group to draft a proposal for the Lobbying Act, and a draft proposal of the Lobbying Act was created. Work on this Draft Proposal was paused until a comparative analysis of lobbying regulation was completed.

However, regarding lobbying or the activities of lobbyists, interest groups, and organizations that can influence the processes of forming regulations and public policies, there is no regulation in Croatia. Regulating lobbying practices would contribute to greater transparency in lobbying and more effective prevention of potential illegal lobbying activities, as well as to raising the level of professionalism in the lobbying profession.

The value of regulating lobbying in developing a culture of personal and professional integrity is recognized in the OECD's<sup>77</sup> ten principles for ensuring transparency and

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<sup>77</sup> OECD - Organizacija za ekonomsku suradnju i razvoj, međunarodna ekonomska organizacija osnovana 14. prosinca 1960. godine nastala kao nasljednik Organizacije za europsku ekonomsku suradnju (OEEC).

integrity of lobbying practices. Among other things, these principles emphasize that a crucial guarantee of public interest is a reliable legal framework for lobbying transparency that promotes equal opportunities for success in the business world and avoids being held hostage by influential interest groups.<sup>78</sup>

In an effort to regulate this important area, the Government of the Republic of Croatia, in early November 2023, submitted a proposal for the Lobbying Act to the Croatian Parliament for legislative procedure, in the first reading.

## **2. Recommendations of International Bodies**

In the Recommendation of the Committee of Ministers of the Council of Europe to member states on the legal regulation of lobbying activities in the context of public decision-making (Recommendation CM/Rec(2017)2) dated 22 March 2017, lobbying is defined as promoting specific interests through communication with a public official as part of structured and organized action aimed at influencing public decision-making. Here, "public decision-making" means making decisions within legislative and executive authorities, whether at the national, regional, or local level, and the term "public official" refers to any person who holds a public office, whether elected, employed, or otherwise engaged, in the legislative or executive authority.

The OECD Council's Recommendations on Principles for Transparency and Integrity in Lobbying, dated 18 February 2010 (OECD/LEGAL/0379)<sup>79</sup>, state that lobbying is oral or written communication with a public official to influence legislation, policies, or administrative decisions, often focusing on the legislative authority at national and subnational levels. However, it also occurs in the executive branch, for example, to influence the adoption of regulations or the development of projects and contracts. Here, the term "public official" includes state and public officials, employees, and holders of public offices in the executive and legislative authorities, whether elected or appointed. The Interinstitutional Agreement of 20 May 2021 of the European Parliament, the Council of the European Union, and the European Commission on the Mandatory Transparency Register (Official Journal of the European Union L 207/1) covers activities conducted by representatives of interest groups aiming to influence the shaping or implementation of policies or legislation or the decision-making processes of the signatory institutions or other institutions, bodies, offices, and agencies of the European Union.

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<sup>78</sup> The Ten Principles of Transparency and Integrity in Lobbying Practice" by the Organisation for Economic Co-operation and Development (OECD) from 2013 are aimed at providing decision-makers with guidance and guidelines to promote transparency and integrity in lobbying. These principles focus on four main areas: building an effective framework for openness and data access, enhancing transparency, fostering a culture of integrity, and creating mechanisms for effective implementation, compliance, and effectiveness assessment, (<http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf>; Transparency and Integrity in Lobbying)

<sup>79</sup> <https://www.oecd.org/gov/ethics/oecdprinciplesfortransparencyandintegrityinlobbying.htm>

Individuals and organizations legitimately and reasonably want to influence decisions that can significantly affect them. In return, the state gains access to their knowledge, experiences, and views on possible solutions to certain problems. Lobbying can provide decision-makers with valuable insights, information, policy perspectives, and dialogue around various policy options. Such a role of lobbying is essential given the complexity of public policies and decision-making in the state and can create a broad impact on political processes. Evidence-based lobbying, with comprehensive and detailed research and analysis, can improve the quality of decision-making. On the other hand, the potential harm of these influences to the public interest, especially when hidden, is the main reason for the efforts to regulate lobbying by law. Given that communication is the essence of making political decisions, legislation on lobbying must not negatively affect the flow of information between the public and bodies at the national, regional, and local levels.

It is important that lobbying is defined in a way that ensures that individual citizens, civil society associations, interest groups, or any interested social stakeholders do not hesitate to present their views to state bodies.

International experiences in the enactment and implementation of lobbying regulations show that regulation itself does not hinder access to the main creators of public policies and decision-makers. Legal regulation of lobbying has been well received in many countries and has not contributed to unwanted harmful effects.

The European Commission's 2020 Rule of Law Report states that in the Republic of Croatia, a legal and political framework has been largely established to promote integrity and prevent corruption in the public sector. However, it highlighted the need to establish a system to strengthen the ethics and integrity of persons in the highest executive functions and parliamentary representatives, as well as at the local level. Integrity also addresses areas of preventing conflicts of interest and lobbying.

The European Commission's 2021 Rule of Law Report notes that the Government of the Republic of Croatia's 2020-2024 Program and the Draft Strategy for Corruption Prevention for the period 2021-2030 envisage the adoption of comprehensive regulations related to lobbying.

The 2023 Rule of Law Report found that some progress has been made in implementing the recommendation from the 2022 Rule of Law Report. The GRECO's<sup>80</sup> Fifth Evaluation Round Report for the Republic of Croatia, published on 24 March 2020, which deals with preventing corruption and promoting integrity in the executive branch at the highest executive levels and in law enforcement bodies

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<sup>80</sup> GRECO is an acronym for the expert body of the Council of Europe responsible for the evaluation and monitoring of anti-corruption policies in member states, candidate countries, and third countries. The Republic of Croatia has been a member since 2000. (<https://www.coe.int/en/web/greco>)

(police and border police), among 17 specific recommendations for improving the established framework in the areas covered by the evaluation process given to Croatia, includes a recommendation related to regulating the way lobbyists contact the highest officials of the executive branch, i.e., enhancing transparency in this area. The need for such regulation is discussed in the report in the context of the transparency of legislation and notes that there are no rules governing the contacts of persons in the highest positions of executive authority with lobbyists and third parties who want to influence the decision-making process. There are no reporting or disclosure requirements that apply to those who want to influence government procedures and policies.

GRECO, in recommendation number V., recommends introducing rules on how persons entrusted with the highest duties of the executive branch contact lobbyists and third parties who wish to influence legislative and other Government activities and that sufficient information about the purpose of these contacts is published, such as the identity of the person (or persons) with whom or on whose behalf a meeting was held and the specific topics of discussion.

Furthermore, taking into account one of the important goals of the Republic of Croatia in joining the Organisation for Economic Co-operation and Development (OECD), it is important to highlight the OECD's 2019 Investment Policy Review for the Republic of Croatia. While highlighting numerous positive steps that have been made so far in the field of anti-corruption policies, the report also identifies areas that require additional efforts. Among other things, it recommends continuing work on improving the public integrity framework along with regulating lobbying activities.

### **3. National Strategic Framework**

The need for regulating the field of lobbying in the Republic of Croatia was already emphasized in the 2015-2020 Anti-Corruption Strategy<sup>81</sup> and its accompanying Action Plan for 2015 and 2016. In the strategic horizontal area 5.1.1. Integrity within the political system and administration, Measure 3 - Regulation of Lobbying in the Republic of Croatia, it was determined to carry out the activity "Drafting an analysis for the arrangement of the legal framework for lobbying". The Strategy stated that with the development of democratic institutions and civil society, lobbying becomes increasingly important, as the number of public decision-makers increases, simultaneously expanding the possibility of influencing them. Lobbying can contribute to better defining interests and better informing the

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<sup>81</sup> The Anti-Corruption Strategy for the period from 2015 to 2020 ("Narodne novine", number 26/15).

Government, ultimately leading to higher quality decisions and regulations and more effective public policy. The experience of most countries that have introduced a legislative framework for lobbying shows that it is only effective if it is aligned with relevant laws on combating corruption and preventing conflicts of interest, as well as with ethical codes. By regulating lobbying in the Republic of Croatia, it would be possible to establish lobbying activities according to the highest ethical standards, with the aim of transparency of work, effective management of corruption risks, and a positive impact on the quality of regulations and decisions made by legislative and executive bodies.

The mentioned analysis provides a comparative overview of different models of regulation, self-regulation, and legislative frameworks for lobbying in the Member States of the European Union and outside the European Union. It also gives an overview of recommendations and guidelines of international organizations for regulating lobbying. The analysis, among other things, emphasizes that the regulation of lobbying in the Republic of Croatia is imposed as one of the prerequisites for the prevention of corruption, where the regulatory tendency should achieve the establishment of lobbying activities at the highest ethical standards, with the aim of transparency of lobbyists' work and the positive impact of interest groups on the quality of regulations and decisions made by legislative and executive bodies.

The Anti-Corruption Strategy for the period 2021-2030<sup>82</sup> emphasizes that a regulatory framework needs to be developed for the area of lobbying. The reason for this is that with the development of democratic institutions and civil society, lobbying is becoming increasingly important, as the number of public decision-makers increases, while simultaneously expanding the possibility of influencing them. Unregulated lobbying can lead to inappropriate influence on decision-making processes and the realization of special and/or private interests at the expense of the public interest. In this area, digitalization of registration and deletion procedures and the possibility of public access to data from the future lobbyist register are planned, as well as informing citizens about the future regulatory framework.

#### **4. Overview of Existing Regulation of Lobbying Practices in the EU**

The European Commission, in its efforts to maintain as open a dialogue as possible with all interested social actors, has generally resisted stricter formal measures that could discourage organized interest groups of the member states from actively participating in the Union's political processes. This is evidenced by the often-cited 1992 Commission Notice, which states, "the Commission's general policy is not to

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<sup>82</sup> The Anti-Corruption Strategy for the period from 2021 to 2030 ("Narodne novine", number 120/21).

grant privileged status to interest groups that would include passes and special access to information, nor does it intend to officially support certain groups by formalizing their advisory status.<sup>83</sup>”

On the other hand, the Commission has sought to encourage self-regulatory measures within the lobbyist community. In the Annex to the 1992 Notice, the Commission suggests that interest groups themselves develop codes of conduct in the lobbying process. Two umbrella organizations of interest groups - Society of European Affairs Professionals (SEAP)<sup>84</sup> and Public Affairs Practitioners (PAP)<sup>85</sup>, have adopted a Code with twelve principles for clearer and more effective communication with the EU.

In response to criticisms, the Parliament established its own Transparency Register in 1995, followed by the Commission in 2008. After an unsuccessful seven-year attempt to introduce a regulatory framework for lobbying in the European Parliament, a final agreement was reached in 1996 when the Code of Conduct was adopted. Among other things, it defines lobbyists as persons who wish to enter the Parliament premises more frequently for contacting and informing members of Parliament, and requires lobbyists to register and be issued special passes to be distinguished from other visitors. The only sanction for violating the Code's provisions is the revocation of the pass for Parliament access.

The Green Paper document, published in 2006, reopened the topic of increasing the transparency of the European Union, consulting with civil society, and the role of lobbyists and civil society associations in the decision-making process in EU institutions.<sup>86</sup> In the same-named document, the Commission considers that an optional registration system and stricter self-regulation of the code of conduct by lobbyists will be sufficient to increase transparency in the EU. The Commission believes that it will take a long time for a mandatory register to operate effectively and considers it will be subject to legal loopholes.

On 23 June 2008, the Commission established its own voluntary Lobbyist Register. The voluntary Lobbyist Register requires, first and foremost, that along with the objectives, missions, main activities, and financial information of organizations, the Code of Conduct for interest groups of the European Commission from May 2003, which

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<sup>83</sup> European Commission (1992) – An open structured dialog between the Commission and special interest groups, 93/C63/02: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOC\\_1993\\_063\\_R\\_0002\\_01&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOC_1993_063_R_0002_01&from=EN).

<sup>84</sup> <https://seap.be/>

<sup>85</sup> <https://pac.org/>

<sup>86</sup> Green Paper on the European Transparency Initiative, 2006, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52006DC0194>.

imposes respect for the principles of openness, honesty, and integrity, along with strict rules ensuring their impartiality, be signed.

In an effort to further raise the level of transparency in EU decision-making processes, the European Parliament and the European Commission signed an Interinstitutional Agreement on the establishment of a common Transparency Register, the new Unified EU Register, on 23 June 2011<sup>87</sup>. The voluntary register replaces the registers of the European Commission and Parliament and includes, not only traditional lobbyists, but all groups and organizations, including law firms, non-governmental organizations, think tanks representing certain interests and wanting to influence the EU decision-making process.

The Transparency Register is a voluntary system for registering entities wishing to directly or indirectly influence decision-making processes in the EU.<sup>88</sup>

Although it is very difficult to assess the actual coverage of the Register, academic studies from 2013 have shown that it covers 60-75% of lobbying organizations operating at the European Union level. Consequently, a political review of the system was conducted in 2013 and 2014. As a result, a new improved online registration system was introduced in January 2015.<sup>89</sup>

Currently, 6,240 individuals have lobbying passes to enter the European Parliament. On the other hand, 9,860 organizations are currently registered in the voluntary Lobbyist Register. On average, 1,000 new organizations are registered in the Register annually.<sup>90</sup>

The EU provides a figure of 91,251 people involved in lobbying activities in institutions. Transparency International estimates that 37,351 people are involved in lobbying in the EU, with 26,483 lobbyists permanently present in Brussels.<sup>91</sup>

The Transparency Register offers immediate access to information about the decision-making process and the creation of EU policies and the people, institutions, and organizations that carry out this process. The Register allows interested citizens to transparently see which organizations and individuals are engaged in the process of creating EU policies and making decisions in EU institutions, to what extent, how

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<sup>87</sup> [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2023\)751434](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2023)751434)

<sup>88</sup> The Unified Transparency Register is available at the following link:

<http://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en>.

<sup>89</sup> Ibid.

<sup>90</sup> Briefing on EU Transparency Register, European Parliamentary Research Service, May 2016, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS\\_BRI\(2016\)581950\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf).

<sup>91</sup> <http://hdl.com.hr/koliko-se-lobista-zaista-nalazi-u-bruxellesu/>

organizations are financed during these activities, and which organizations have committed to the code of conduct in their operations.

When lobbyists register in the Register, they are required to provide written general information about their lobbying activities, including the name of the lobbying organization, their general interests related to public policies, the name of the lobbyist and hierarchical position, home address (copy of passport), and the time interval in which they intend to lobby.

All organizations and self-employed individuals, regardless of their legal status, participating in the creation and implementation of EU policies since 23 June 2011, must register in the Transparency Register. Exceptions are Churches and religious communities, political parties, and bodies of local, regional, and sub-regional administration and self-government not subject to registration.

Organizations and individuals must access the Register before requesting access to the European Parliament. Processing of online applications usually takes no longer than two or three working days. Individuals are granted access to the Parliament for a maximum of 12 months and may renew their access request no earlier than two months before the expiration date.

An organization may request access permission for an indefinite number of individuals. The Parliament may limit the number of individuals per organization allowed entry each day. If a certain organization is deleted from the register, access for individuals working for that organization is automatically revoked.

In 2008, the Parliament called for the Register to become mandatory for all lobbyists active within EU institutions. This would ensure complete compliance of all lobbyists with the Code of Conduct. The President of the Commission put this issue on the agenda, announcing the introduction of a proposal for a mandatory registration system by the end of 2016.<sup>92</sup>

In 2015, the European Commission announced a plan to adopt mandatory registration of lobbyists. On the other hand, discussions were initiated on the initial steps towards the Council of the EU joining the established Transparency Register.<sup>93</sup>

A document formed by several members of the Council (Denmark, Estonia, Finland, the Netherlands, Slovenia, and Sweden) - Enhancing Transparency in the EU, contains

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<sup>92</sup> Briefing on EU Transparency Register, European Parliamentary Research Service, May 2016, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS\\_BRI\(2016\)581950\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf).

<sup>93</sup> Briefing on Transparency of lobbying at EU level, European Parliamentary Research Service, December 2015, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS\\_BRI\(2015\)572803\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS_BRI(2015)572803_EN.pdf)

practical proposals for improving transparency in the Council. Among other things, the document emphasizes the importance of applying the same transparency standards to all EU legislators, implying the Council's accession to the Register.<sup>94</sup>

In May 2016, the President of the European Commission proposed a mandatory system of lobbyist registration at the request of the European Parliament and initiated a public consultation process regarding the proposal for a mandatory lobbyist register.<sup>95</sup> In September 2016, the European Commission published an official proposal for an interinstitutional agreement that would regulate interactions of interest representatives with the European Commission, the European Parliament, and the Council of the EU using a mandatory Transparency Register. Vice-President of the Commission Frans Timmermans emphasized the urgent need to renew trust in the EU decision-making process and highlighted that citizens have the right to know who is trying to influence European Union officials. A simple rule was proposed: “no meetings with decision-makers without prior registration.” Through the register, the public will have access to information about who is lobbying, whom they represent, and how much money is being spent in the process.<sup>96</sup> The current Transparency Register only covers the Commission and Parliament, while the proposed amendment anticipates expanding the authority to the Council of the EU, as well as the aforementioned obligation to register, instead of it being voluntary as it has been until now.<sup>97</sup>

Table 1. Regulation of lobbying in the member states of the European Union

Member States	Legal regulations	Code of conduct	Transparency register
<b>Austria</b>	Lobbying and Interest Representation Transparency Law from 2013.	Code prescribed by law	Mandatory Register prescribed by law
<b>Belgium</b>	/	/	/
<b>Bulgaria</b>	/	/	/
<b>Cyprus</b>	/	/	/
<b>Czech Republic</b>	/	Self-regulation of lobbyist associations	/
<b>Denmark</b>		Self-regulation of lobbyist associations	/ (existed in 2012)

<sup>94</sup> “It is essential that all co-legislators apply the same standards for transparency, which implies that the Council joins the transparency register used by the Commission and the EP” Enhancing transparency in the EU, April 2015, <http://www.statewatch.org/news/2015/jun/eu-non-paper-eu-transparency.pdf>.

<sup>95</sup> [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS\\_BRI\(2016\)581950\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf)

<sup>96</sup> <http://hdl.com.hr/europska-komisija-iznijela-prijedlog-o-obveznoj-registraciji-lobista/>.

<sup>97</sup> [http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=INTER\\_INST\\_AGREEMENT](http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=INTER_INST_AGREEMENT)

<b>Estonia</b>	/	/	/
<b>Finland</b>	/	Self-regulation of lobbyist associations	/
<b>France</b>	National Assembly Rules of Procedure from 2013.	Code approved by the National Assembly (Lower House of Parliament)	Voluntary Register
<b>Greece</b>	/	/	/
<b>Croatia</b>	/	/	Self-regulation of lobbyist associations - voluntary Register
<b>Ireland</b>	Registration of Lobbying Act was adopted in 2015	Code provided by the Law	Mandatory Register prescribed by law
<b>Italy</b>	/	Self-regulation of lobbyist associations	Certain rules exist at the regional level - Tuscany has a Register of Lobbyists
<b>Latvia</b>	/	Self-regulation of lobbyist associations	/
<b>Lithuania</b>	Law on Lobbying Activities from 2001.	Code provided by the Law	Mandatory Register prescribed by law
<b>Luxembourg</b>	/	/	/
<b>Hungary</b>	/ The law and the mandatory Register existed until 2011	/	/
<b>Malta</b>	/	/	/
<b>Netherlands</b>	Parliamentary Rules of Procedures from July 1, 2012	/	Mandatory Register of all entities accessing the Parliament
<b>Germany</b>	Bundestag's Rules of Procedure from 1951	/	Voluntary Register at the Parliament
<b>Poland</b>	Act on Legislative and Regulatory Lobbying from 2006.	/	Mandatory Register prescribed by law
<b>Portugal</b>	/	/	/
<b>Romania</b>	/	Self-regulation of lobbyist associations	Self-regulation of lobbyist associations - voluntary Register
<b>Slovakia</b>	/	/	/
<b>Slovenia</b>	Integrity and Prevention of Corruption Act from 2010.	Self-regulation of lobbyist associations	Mandatory Register prescribed by law
<b>Spain</b>	/	Self-regulation of lobbyist associations	/
<b>Sweden</b>	/	Self-regulation of lobbyist associations	/
<b>Great Britain</b>	Transparency of Lobbying Act from 2014.	/	Mandatory Register of Consultant Lobbyists

Source: Author's research

## **5. Content of the Proposed Lobbying Act**

As mentioned in the introduction, at the beginning of November 2023, the Government of the Republic of Croatia submitted a proposal for the Lobbying Act<sup>98</sup> to the parliamentary procedure. Given the recommendations on the need to regulate lobbying practices in the Republic of Croatia, the question arose whether there is a need to adopt a specific law to regulate lobbying or whether this area needs to be regulated differently (by forming a Register and an ethical code for lobbyists or within the provisions of some of the existing laws or certain sub-legal acts that regulate the work of the highest executive and legislative bodies). It was proposed by relevant stakeholders to proceed with the drafting of a comprehensive law. Thus, after establishing the Working Group for drafting the Draft Proposal of the Lobbying Act, the work of the said Working Group proceeded in the direction of the Recommendations of the Committee of Ministers of the Council of Europe to member states on the legal regulation of lobbying activities in the context of public decision-making and the OECD Council's Recommendations on Principles for Transparency and Integrity in Lobbying. In accordance with these documents, the drafting of the Draft Proposal of the law was approached, respecting the fundamental principles of regulating lobbying activities.

Taking into account the necessary distinction and international recommendations, it was proposed that lobbying, in the sense of this Act, be defined as any form of oral or written communication to the lobbied person as part of structured and organized promotion, advocacy, or representation of certain interests or the transmission of information related to public decision-making to achieve the interests of the lobbying client. Public decision-making includes the preparation and drafting, enactment, amendment or supplement, repeal or putting out of force of laws, other regulations, or general acts, as well as other strategic and planning documents by legislative or executive bodies, bodies of state administration or bodies of local or regional (territorial) self-government.

Furthermore, in accordance with international recommendations, it was necessary to distinguish cases when consultants and lobbyists are engaged at the request of a third party from so-called in-house lobbyists engaged at the request of their employer, and organizations and bodies representing professional or other sectoral interests. Therefore, the term lobbyist is defined as a physical or legal person (including foreign and domestic physical and legal persons) who lobbies and includes lobbyists who lobby for the clients of lobbying, including consultants who are engaged in with lobbying and professional lobbyists; lobbyists who lobby for the

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<sup>98</sup> The Government of the Republic of Croatia adopted the proposal of the Lobbying Act and on November 2, 2023, sent it to the parliamentary procedure.

employer they are employed with (in-house lobbyists); and organizations or bodies that represent professional, business, or other sectoral interests, including professional, economic, and interest associations, employer associations, and civil society organizations.

A lobbied person is considered to be any person who is an official, special advisor, or civil servant elected, appointed, employed, or otherwise engaged in legislative or executive bodies, bodies of state administration, or in bodies of local or regional (territorial) self-government. This definition includes state officials, civil servants, and special advisors in these bodies, as well as county prefects, mayors, municipal chiefs, and members of representative bodies of local or regional (territorial) self-government, as well as officials in local or regional (territorial) self-administration.

The following activities are not considered lobbying: the democratic right of an individual to express their opinion to officials, bodies, or institutions, either collectively or individually through public consultation, referenda, petitions, or civic initiatives, or to advocate for political change or changes in legislation, policies, or practices as part of legitimate political activities, either collectively or individually. Furthermore, this includes communication with public authorities of other countries and their representatives, including their diplomatic representations, institutions of the European Union and their representatives, international intergovernmental organizations, including agencies and bodies arising from them and their representatives, and communication related to security issues. Exceptions also include activities of persons participating as experts in meetings, sessions, or consultations on issues related to the preparation of drafts of laws, other regulations, and general acts at the invitation or initiative of legislative or executive bodies, state administration bodies, or bodies of local or regional (territorial) self-government, whether acting for a fee or for free, activities of persons participating in public assemblies, sessions, debates, other public events, and/or events broadcast to the public, publishing information, views, and opinions on laws, other regulations, and general acts, as well as on proposals or drafts of these acts in the media. Furthermore, activities of officials or civil servants carried out in accordance with the official duties they perform in preparing, considering, enacting, and implementing laws, other regulations, and general acts, as well as activities of other persons participating in preparing, considering, and enacting drafts of laws, other regulations, and general acts in accordance with special regulations and activities of social partners acting in the capacity of participants in social dialogue, in accordance with special regulations, and activities of political parties, with the exception of organizations established by political parties or affiliated with them, are not considered lobbying.

The proposed law introduces a Register of Lobbyists in the Republic of Croatia, the purpose of which is to provide the public with sufficient information about registered lobbyists. A Register of Lobbyists is common in countries that have legal regulation of lobbying. In line with the guidelines followed by the Working Group, the priority was an approach that strives for transparency, but not at the expense of excessive and demanding prerequisites for registration. The Register of Lobbyists will be managed by the Commission for Deciding on Conflicts of Interest. Certain data entered in the Register of Lobbyists will be public, and the registration process will be conducted in accordance with the law governing the general administrative procedure.

One of the fundamental proposals of the law is increased transparency in public and political life. In this regard, an obligation has been introduced for lobbyists to notify and inform the Commission for Deciding on Conflicts of Interest in writing about their lobbying activities on an annual basis by January 31st of the current year for the previous year. Additionally, rules for communication and principles for conducting lobbying activities have been prescribed, as well as the obligations of lobbyists and the lobbied persons. Rules of communication and mutual obligations must adhere to the principles of openness, transparency, accountability, honesty, conscientiousness, and integrity. Lobbyists are particularly expected to provide accurate information about their lobbying task and to act honestly and in good faith in relation to the lobbying task and in all contacts with lobbied persons. They are also required to refrain from unnecessary and inappropriate influence on lobbied persons and the public decision-making process, to avoid conflicts of interest, and not to lobby for two or more lobbying clients who have conflicting interests.

In accordance with international recommendations and comparative practice, it was necessary to prescribe limitations prior to engaging in lobbying activities, known as the "cooling-off" period. This refers to the period that must elapse before a lobbied person can become a lobbyist in relation to the legislative or executive body, state administration body, or body of local and regional (territorial) self-government where they performed their duties or services.

Administrative measures have been envisaged, which depending on the severity of the violation, can be: a written warning, a ban on lobbying for a certain period, a financial penalty, and removal from the Register of Lobbyists. The proposed law also introduces a penal provision for a lobbied person who violates the provision on the prohibition of lobbying towards the body in which they were employed or held a position for 18 months after the termination of their duty or service.

## **6. Criminal Law Aspects of Lobbying in the Republic of Croatia**

The Criminal Code of the Republic of Croatia<sup>99</sup> provides for several corruption and similar criminal offenses, such as Abuse of Position and Authority (Article 291), Illegal Favoritism (Article 292), Bribery (Article 293), Giving Bribery (Article 294), Influence Peddling (Article 295), Giving Bribery for Influence Peddling (Article 296), Receiving and Giving Bribery in Bankruptcy Proceedings (Article 251), Receiving Bribery in Business Transactions (Article 252), Giving Bribery in Business Transactions (Article 253), Abuse in Public Procurement Procedures (Article 254), which in practice often involve actions related to illegal lobbying to act contrary to the law, for a monetary reward or without it.

According to the State Attorney's report for 2022<sup>100</sup>, 1,165 individuals were reported for corruption-related crimes, accounting for 60.55% of the total number of individuals reported to the Office for the Suppression of Corruption and Organized Crime. The decline in the number of reported individuals compared to previous reporting periods is associated with a decrease in the number of criminal complaints filed by individuals for offenses under Article 291 of the Criminal Code. Decisions were made regarding 1,165 individuals following received complaints, and no complaints remained pending at the end of the reporting period. A decision to dismiss the criminal complaint was made for 1,025 individuals, accounting for 87.98% of the total number of decisions made, while a decision to conduct an investigation was made for 130 individuals, or 11.15% of the total number of decisions. The number of decisions to dismiss criminal complaints should be viewed in the context of the number of reported individuals and the structure of complainants and reported criminal offenses. For corruption-related crimes, direct indictments were raised against 3 individuals. After the investigation was completed, the investigation was discontinued by the order of the state attorney against 8 individuals, while indictments were raised against 178 individuals.

During 2022, courts issued verdicts for corruption-related crimes against 182 individuals. Of the total number of verdicts, 153 were convictions (84.06%), of which 65 verdicts were based on plea agreements (42.48%). Of the convicted individuals, 65 were sentenced to prison, with the sentence being replaced by community service for 24 individuals. One monetary fine was imposed. Conditional sentences were issued for 87 individuals. The courts issued 14 acquittal verdicts (7.69%) and 3 dismissal verdicts (1.64%). For 12 individuals, a decision was made to discontinue criminal proceedings after the indictment was confirmed.

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<sup>99</sup> The Criminal Code (Narodne novine, no. 125/11., 144/12., 56/15., 61/15. – ispravak, 101/17., 118/18., 126/19., 84/21., 114/22., 114/23.)

<sup>100</sup> <https://dorh.hr/hr/izvjesca-o-radu/izvjesce-o-radu-drzavnih-odvjetnistava-u-2022-godini>

During the reporting period, the Office filed 56 appeals, of which 28 were due to the decision on the penalty, 17 for reasons other than the penalty, and 11 for the penalty and other reasons.

From the structure of reported corruption crimes in 2022, it is evident that out of 1,924 reported individuals, 1,028 or 88.24% were reported for the criminal offense of Abuse of Position and Authority under Article 291 of the Criminal Code. This was followed by the criminal offense of Bribery under Article 293, Paragraph 1, and the criminal offense of Giving Bribery under Article 294, Paragraph 1, of the Criminal Code, each accounting for 2.83% (33 individuals reported for each of these offenses) of the total number of reports for corruption crimes. This is then followed by the criminal offense of Influence Peddling under Article 295, Paragraph 1, of the Criminal Code, accounting for 1.97% (23 individuals reported).

Regarding criminal complaints for the offense under Article 293, Paragraph 1, of the Criminal Code, decisions to dismiss the criminal complaint were made for 19 individuals, and decisions to conduct an investigation were made against 9 individuals, while the criminal complaint was resolved in another manner for 5 individuals.

Regarding criminal complaints for the offense under Article 294, Paragraph 1, of the Criminal Code, decisions to dismiss the criminal complaint were made for 20 individuals, and decisions to conduct an investigation were made against 9 individuals. Direct indictments were raised against 3 individuals, while the complaint was resolved in another manner for 1 individual.

Regarding criminal complaints for the offense under Article 295, Paragraph 1, of the Criminal Code, decisions to dismiss the criminal complaint were made for 17 individuals, and decisions to conduct an investigation were made against 6 individuals.

After the investigation for the offense under Article 293, Paragraph 1, of the Criminal Code, indictments were raised against 12 individuals, for the offense under Article 294, Paragraph 1, against 18 individuals, and for the offense under Article 295, Paragraph 1, against 19 individuals. In relation to these crimes, no investigation was discontinued or resolved in another manner.

The courts issued verdicts for the offense under Article 293, Paragraph 1, of the Criminal Code against 18 individuals, of which 16 were convictions (including 7 based on plea agreements) and 2 acquittals. 14 prison sentences were imposed, 5 of which were replaced with community service, and 2 conditional sentences were issued.

For the offense under Article 294, Paragraph 1, of the Criminal Code, the courts issued verdicts against 35 individuals, of which 34 were convictions (including 24 based on plea agreements) and 1 acquittal. 9 prison sentences were imposed, 5 of

which were replaced with community service, and 25 conditional sentences were issued.

For the offense under Article 295, Paragraph 1, of the Criminal Code, the courts issued verdicts against 11 individuals, of which 10 were convictions (including 4 based on plea agreements) and 1 acquittal. 2 prison sentences were imposed and both were replaced with community service, and 8 conditional sentences were issued.

During the reporting period, a total of 5 appeals were filed for the offense under Article 293, Paragraph 1, of the Criminal Code, of which 1 was for reasons other than the penalty and 4 for the penalty and other reasons. For the offense under Article 294, Paragraph 1, one appeal was filed for reasons other than the penalty, and for the offense under Article 295, Paragraph 1, a total of 5 appeals were filed, of which 4 were for the decision on the penal sanction, and 1 for reasons other than the penalty.

For the criminal offense of Abuse of Position and Authority under Article 291, Paragraphs 1 and 2, of the Criminal Code, complaints were filed against 1,028 individuals. The structure of criminal complaints for the offense under Article 291 of the Criminal Code during the reporting period:

- for the offense under Article 291, Paragraph 1, of the Criminal Code – 639 complaints,
- for the offense under Article 291, Paragraph 2, of the Criminal Code – 389 complaints.

Decisions to dismiss the criminal complaint were made for 933 individuals regarding the offense under Article 291 of the Criminal Code. Decisions to conduct an investigation were made against 95 individuals. After the investigation was completed, indictments were raised against 114 individuals, while for 8 individuals, the decision was made to discontinue the investigation.

The courts issued convictions in relation to the offense of Abuse of Position and Authority under Article 291 of the Criminal Code from the jurisdiction of the Office for the Suppression of Corruption and Organized Crime against 64 individuals, of which 26 verdicts were based on plea agreements. Of the total number of convictions, 36 individuals were sentenced to prison, with the sentence being replaced by community service for 10 individuals. One monetary fine was imposed. Conditional sentences were issued for 27 individuals. Acquittals were issued for 9 individuals, and dismissal verdicts for 3 individuals. A total of 10 appeals were filed, 20 due to the penalty, 11 appeals for other reasons, and 5 appeals due to the decision on the penalty and other grounds.

As in the previous reporting period, corruption in various social segments and at different levels was prosecuted. Thus, after the investigation was completed against the state secretary in the Ministry of Administration and other high-ranking individuals in ministries (former ministers, assistant ministers, chief secretaries), heads of state agencies and state companies, and heads of local self-government units, two indictments were raised for offenses of influence peddling, bribery, abuse of position and authority, and receiving and giving bribes for influence peddling. Based on the results of electronic data searches and related investigations in this case, an investigation was expanded against 8 more individuals for the offenses of abuse of position and authority, incitement and aiding in abuse, influence peddling related to illegal payments of subsidies/grants, and illegal employment against then 2 ministers and the deputy prime minister as well as a former minister, assistant and deputy ministers, one of whom was a current minister placed under investigative detention. An indictment was also raised in this case. Thus, at the end of the aforementioned investigations in the reporting period, 3 indictments were raised against a total of 41 individuals, and 12 convicting verdicts were issued.

Corruption in the judiciary was also prosecuted. An investigation was expanded against a county court judge for money laundering, an investigation was opened against a municipal court judge for bribery, and an investigation was expanded against the deputy county state attorney for abuse of position and authority. An indictment was also raised against two court officials for abuse of position and authority by disclosing information about the conduct of special evidentiary actions in one case.

In the Criminal Code (Official Gazette, No. 114/23<sup>101</sup>, amendments and supplements), changes were made regarding corruption offenses. In Article 293, after Paragraph 3, a new Paragraph 4 was added, which reads: "(4) In cases of committing the offense under Paragraphs 1, 2, or 3 of this article, when an official requests or receives a bribe, or accepts an offer or promise of a bribe, an official is also considered a foreign public official. A foreign public official is an appointed or elected holder of legislative, executive, administrative, or judicial duties or service of the European Union or a foreign state, as well as a person who performs or is explicitly or actually entrusted with performing public service tasks for the European Union or a foreign state, including for a legal entity established on the basis of public law to perform tasks of public interest or for a business entity in which a foreign state has a direct or indirect predominant influence, as well as an official or employee of an international public organization or any person authorized by such an organization to act on behalf of and

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<sup>101</sup> The Criminal Code (Narodne novine, no. 114/23.)

for the organization. A foreign state includes all levels of government of that state or organized foreign territory." Furthermore, in Article 294, after Paragraph 2, a new Paragraph 3 was added:

"(3) In cases of committing the criminal offense under Paragraph 1 or 2 of this article, when a bribe is offered, given, or promised to an official, the term 'official' also includes a foreign public official. A foreign public official is an appointed or elected holder of legislative, executive, administrative, or judicial duties or service of the European Union or a foreign state, as well as a person who performs or is explicitly or actually entrusted with performing public service tasks for the European Union or a foreign state, including for a legal entity established on the basis of public law with the aim of performing tasks of public interest or for a business entity in which a foreign state has a direct or indirect predominant influence, as well as an official or employee of an international public organization or any person authorized by such an organization to act on behalf of and for the organization. A foreign state includes all levels of government of that state or organized foreign territory."

Article 339 is amended to read:

"(1) Whoever, as a representative in the Croatian Parliament, the European Parliament, the legislative body or representative body of a foreign state or international public organization, or as a councilor in the representative body of a local or regional (territorial) self-government unit, demands or receives a bribe or accepts an offer or promise of a bribe for themselves or another, in order to vote in a certain way in the legislative or representative body, shall be punished with imprisonment of one to eight years.

(2) The penalty from Paragraph 1 of this article shall also be imposed on anyone who offers, promises, or gives a bribe intended for that or another person to a representative in the Croatian Parliament, the European Parliament, the legislative body or representative body of a foreign state or international public organization, or a councilor in the representative body of a local or regional (territorial) self-government unit, to vote in a certain way in the legislative or representative body, or who mediates in such bribery.

(3) The foreign state in Paragraphs 1 and 2 of this article includes all levels of government of that state or organized foreign territory."

The latest amendments and supplements to the criminal code correspond with the need for legislative regulation of lobbying in national parliaments and the European

Parliament, as legally prohibited lobbying, promising, or giving bribes to parliamentarians to vote for certain particular interests is a criminal offense according to the law. To avoid this, it is necessary to regulate the lobbying system and, through transparent and reported lobbying contracts, registry in the lobbyist register, to legally influence public policy makers.

### **Conclusion**

In conclusion, this research highlights the importance and complexity of the criminal law aspects of lobbying within the context of the Croatian legal system, particularly in light of the lack of specific legislation. While lobbying plays a crucial role in democratic processes, its regulation in Croatia is still in the initial stages. The proposed Lobbying Act, which is currently in parliamentary procedure, represents a step forward towards transparency and accountability in the political process, but also raises questions about its ability to effectively address criminal offenses related to lobbying, such as influence peddling and unlawful intermediation.

Insight into international standards and recommendations, such as those from GRECO, shows that Croatia must continue to align its practice and legislation with international obligations to strengthen its criminal justice system in the context of lobbying. This includes not only the enactment of specific laws but also the establishment of effective mechanisms for monitoring and enforcing these laws.

This research also emphasizes the need for further work in the area of education and raising awareness about the ethical aspects of lobbying. Transparency and integrity in lobbying activities are key to maintaining public trust in the political process and preventing corruption and inappropriate influence on public policies.

Given the current state and proposed changes, Croatia faces the challenge of establishing a balance between legitimate lobbying and the prevention of criminal activities. Recognizing lobbying as an important factor in democratic decision-making, while simultaneously strictly regulating and monitoring it, is essential for the preservation of the rule of law and democratic values. Further development of legislation and practice in this area will need to be directed towards achieving these goals, taking into account both domestic and international contexts.

### **References**

1. <http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf>; Transparency and Integrity in Lobbying (accessed 3.11.2023.)
2. <https://www.oecd.org/gov/ethics/oecdprinciplesfortransparencyandintegrityinlobbying.htm> (accessed 3.11.2023.)

3. <https://www.coe.int/en/web/greco> (accessed 26.10.2023.)
4. Strategy for the suppression of corruption for the period from 2015 to 2020, "Narodne novine", number 26/15, (accessed 20.10.2023)
5. Strategy for the suppression of corruption for the period from 2021 to 2030, "Narodne novine", number 120/21, (accessed 20.10.2023)
6. [http://eurlex.europa.eu/legalcontent/EN/TXT/PDF/?uri=OJ:JOC\\_1993\\_063\\_R\\_0002\\_01&from=EN](http://eurlex.europa.eu/legalcontent/EN/TXT/PDF/?uri=OJ:JOC_1993_063_R_0002_01&from=EN), (accessed 19.10.2023.)
7. <https://seap.be/>, (accessed 18.10.2023.)
8. <https://pac.org/>, (accessed 18.10.2023.)
9. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52006DC0194>, (accessed 11.10.2023.)
10. [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2023\)751434](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2023)751434), (access 11.10.2023.)
11. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS\\_BRI\(2016\)581950\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf), (accessed 11.10.2023.)
12. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS\\_BRI\(2015\)572803\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS_BRI(2015)572803_EN.pdf), (accessed 10.10.2023.)
13. <http://www.statewatch.org/news/2015/jun/eu-non-paper-eu-transparency.pdf> (accessed 10.10.2023.)
14. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS\\_BRI\(2016\)581950\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581950/EPRS_BRI(2016)581950_EN.pdf), (accessed 09.10.2023.)
15. <http://hdl.com.hr/europska-komisija-iznijela-prijedlog-o-obveznoj-registraciji-lobista/>, (accessed 09.10.2023.)
16. [http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=INTER\\_INST\\_AGREEMENT](http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=INTER_INST_AGREEMENT), (accessed 19.10.2023.)
17. Criminal law (Narodne novine, br. 125/11., 144/12., 56/15., 61/15. – corr., 101/17., 118/18., 126/19., 84/21., 114/22. i 114/23., (accessed 19.10.2023.)
18. <https://dorh.hr/hr/izvjesca-o-radu/izvjesce-o-radu-drzavnih-odvjetnistava-u-2022-godini>, (accessed 19.10.2023.)
19. Amendments to the Criminal Code, "Narodne novine", br. 114/23., (accessed 10.2023.)