
Law on lobbying

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It is difficult to have a better indication of how Serbia meets the recommendations of international organizations since the adoption of the Law on Lobbying in early November 2018, and on the recommendation of GRECO (groups of countries for fighting corruption) from 2015. Recommendation to increase the public's influence on passing laws in Serbia is "filled" by the adoption of this law without any discussion of hundreds of proposed amendments.

General estimates of the law

One of the last anti-corruption regulations that Serbia did not have, the Law on Lobbying, was finally adopted 18 years after anti-corruption normative reforms began. The adoption of the law is planned in the national strategic documents for the fight against corruption from 2005 and 2018. GRECO in the fourth round of evaluation gave the deadline by the end of 2016 that Serbia adopted this law as the most important measure for increasing the publicity of the work of legislative bodies.

A law that will begin to apply in 9 months will not solve the key problems of non-transparent work of the authorities and the preparation of laws and other general acts. Not only because the application of laws in Serbia gives too many reasons for caution, but also because the norms of the newly adopted act are not good enough. What is in the law positive, in addition to the fact that it was adopted at all? It is good that the Law does not only regulate lobbying directed towards deputies (for which at this moment there are not many reasons because it really decides elsewhere), but also the influence on officials and employees in the executive, local self-government, public enterprises and institutions. It should also be commended that the need for integrity in lobbying is emphasized, which is a specific supervisory authority (Anti-Corruption Agency), and in particular a ban on the appearance of current and former officials as lobbyists two years after the termination of office.

However, due to its shortcomings, the range of useful solutions from the law will be limited.

First, it will only apply to attempts to influence the content of general legal acts, not individual decisions. Secondly, the law does not create any ban or obligation in relation to the impact directly affected by interested natural persons, which produces absurd consequences.

For example, when taxi drivers from the Ministry of Transport and the City of Belgrade are seeking to restrict competition, when lawyers and notaries negotiate directly with the Ministry of Justice on issues concerning their interests, when a wealthy individual eager to build a sports center or amusement park requires a change of urban plans and the granting of construction land for this purpose - data on these requirements and meetings should not be recorded in special registers.

However, if interested persons would address state bodies through professional mediators - lobbyists or lobbyists firms, then there would be a duty to report lobbyists and "lobby persons" in government authorities.

Likewise, the duty of registering data in the register would exist when natural persons in the mentioned cases would not promote their interests as citizens, but through associations of taxis, public notaries or bar associations, or if instead of an individual, the company that is in his possession would address the state body. They would then have the status of an "unregistered lobbyist".

The law sets out rules on how lobbying is properly done by saying that lobbying begins with the lobbying by a lobbied person in writing, with the submission of proof of registration, a lobbying contract without contractual fee and the title of the lobbying legislation. If there is such a legal obligation, it would be logical that all other types of contacts between lobbyists and authorities are forbidden (for example, persuading officials to change the law on informal occasions and without naming lobbying for a particular client). However, since there is no explicit prohibition or sanction for such treatment, there has been a "hole in the regulations". We will have a situation similar to the one that existed for years in the field of inspection control: that inspectors are only controlled by those who have registered their business and are doing it according to regulations and that those who work "in the black" outside their jurisdiction.

For similar reasons, it could be controversial that lobbying is not considered a "public communication of attitudes and submission of proposals, expert opinions and regulatory initiatives". The legislator probably wanted to emphasize that citizens, associations and other interested parties could freely express their views and suggestions, without being considered as lobbying for which they would have to meet some special conditions, which is all in line with freedom of expression. However, the norm is written so it applies to everyone, even to lobbyists. Thus, Serbian citizens and state authorities will continue to read expert opinions that convince them that some law is good or bad, and there will be no duty for an expert who does not give his opinion independently "legitimizes" as a representative of his client's interest.

The fourth weakness is in the domain of transparency. There is a dual duty to report to the Anti-Corruption Agency: by lobbyists and lobbyist persons.

However, the Law does not prescribe the obligation to publish these reports, nor to enter data on the performed lobbying in the explanation of drafts and draft acts, so it is unknown at this time whether citizens, after this law starts to apply, have at their disposal more and more data on various impacts on the adoption of regulations.

A solution to most of the problems mentioned could be the application of a reverse approach in relation to the one initiated by the Serbian legislator. Instead of primarily regulating who and how it can lobby, it would be better if the emphasis was placed on the actions of the authorities, officials and officers, their duty to record and disclose to them who and with which proposals he addressed, regardless of the way, but and the duty to consider and respond to any argument proposal to improve regulations and practice, no matter from who they come.