

## **Legislative proposal on transparency : a first step towards lobby control**

Today in France, the only existing instruments to control lobbying activities by private interests groups with decision makers are the National Assembly and Senate voluntary lobby registers. Those registers, besides being only used on a voluntary basis, are totally independent, that is, no harmonization efforts have been made between the two chambers, making them totally ineffective.

The draft bill to fight against corruption and for the transparency of economic life, submitted by the Minister of finance Michel Sapin<sup>1</sup>, is to be presented before the Council of Ministers on 23 March. This vast undertaking tackles issues of corruption within businesses, the creation of a status for whistle-blowers and the control of lobbying activities. It finally deals with the issue of lobby influence on public decision making, too often set aside.

Therefore, this draft bill is the first substantial initiative with regard to lobby control. The proposal recognises -by being mandatory- that voluntary registers for lobbyists is utterly inefficient.

One of the objectives of this law is to control lobbyist activities with the executive (ministers, cabinets, high level civil servants, the Elysée), by means of a mandatory register and good practices rules to respect, upon pain of formal notices and fines. The High authority for public life transparency (HATVP) will be in charge of the application of such rules.

Lobbyists will have to make the identity of their clients public as soon as they get in contact with a policy maker. They will have to refrain from offering significant gifts, reselling government documents, organising conferences with paid speeches inside administrative buildings, encouraging decision makers to break their deontological code, etc.

On the other hand, requirements for decision makers are considerably lighter: they will only be asked to refrain from meeting non-registered lobbyists, except for cases of “emergencies”... It is also worth noting that the presidency (Elysée) is exempt from those rules. Similarly, members of the Constitutional and State Councils, despite their potential determinant great influence, escape those obligations.

One of the big weaknesses of the law is the absence of mandatory transparency on the amount of money spent for lobbying activities, which runs counter to National Assembly, Senate and Brussels rules. This lack of financial transparency is a real problem to shed light on inequalities of means between public and private interest defenders. In a law against corruption, it is all the more serious as there is just a short step between search of influence and corruption, as many scandals have shown.

Considering the current difficulties faced to condemn corruption, the HATVP would be able to send a formal notice to the lobbyists that are in violation, and to impose them fines up to 30 000€. Nevertheless, such a fine is ridiculously weak when one knows the financial issues at stake in the search for influence, and would not be dissuasive penalties against illicit lobbying practices.

As for state officials, sanctions are limited to the public disclosure of the infringement, and in case of serious (?) allegations, the HATVP could go to court. Unfortunately, we know too well the inefficiency of trials against policy makers for cases of corruption, diversion of public money etc. Hence, we can legitimately consider those sanctions as too weak, and that responsibility of decision

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1 [https://www.mediapart.fr/journal/france/310116/le-plan-de-bercy-pour-controler-les-lobbyistes?page\\_article=1](https://www.mediapart.fr/journal/france/310116/le-plan-de-bercy-pour-controler-les-lobbyistes?page_article=1)

makers is not put forward enough in this draft law.

Another important missing element in the draft bill is the traceability of people participating to hearings, consultations and received contributions. No trace of exchanges or meetings would be available, which prevent any analysis of private influence on this or that decision making process. This latter point is decisive, without which this law would be only a timid start towards real public life transparency.

An efficient law would include the following elements:

- Disclosure of the approached decision makers, date of exchanges, subjects of discussion, contributions made;
- Disclosure of the amount of money spent on lobby activities.

Code of conduct:

- In order to avoid “revolving doors”, disclosure of private activities of civil servants or temporary agents whom have ceased their occupational activity temporarily or permanently
- Prevent conflict of interests: incompatibility of a -possibly salaried- business management or consultancy job with an elected office.

Sanctions:

- Prohibition of access to administrative buildings to any lobbyist who received an official notice of infringement.

Unfortunately, none are currently included in Sapin's draft proposal.