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Dipartimento
di Scienze Politiche

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The Register of Interest Representatives of the Italian Chamber of Deputies

Prof. Nicola Lupo

RELATORE

Edoardo Chiais, 084572

CANDIDATO

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Ai miei genitori, e a tutti i miei cari, che attraverso la loro generosità, fatica e sacrificio mi hanno consentito di conseguire questo importante traguardo.

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Introduction

The adoption by the Chamber of Deputies of a Register of interest representatives is undoubtedly a colossal, although not structurally ground breaking, step in the right direction in a country where several attempts at regulating lobbying since the 1980s have all miserably failed. It may stand as the first successful initiative tending towards the eventual introduction of a national piece of legislation disciplining the activity of interest representation, thus finally putting a definitive end to the ambiguity in which interest representatives are currently forced to operate, and providing recognition on both a legal as much as a professional standpoint to a sector which, according to recently published studies and articles, has experienced an average increase of 30,5% on an annual basis. In 2017 the top ten lobbying companies had produced an overall 29,47 million € in revenue, thus testifying a growth of

24,4% when compared with 2016[1]. The lack of a comprehensive, consistent and coherent regulatory framework concerning the activity of interest representation deserves therefore to be regarded as what it actually is, namely an age old problem affecting the Republican system in our country.

However, the approval and implementation of such legislative discipline has always been troubled not just in Italy, but in most European countries whose legal systems are inspired to the continental tradition. This is mostly due to a combination of varied factors. First off, the existence of a consistent body of misconceptions about the very definition of both lobbying and lobbyists, commonly referred to as *portatori* and/or *rappresentanti d'interesse* in the context of Italian legislative organisms. Secondly the principles of the continental tradition, for instance the notions of public interest (*interesse pubblico*) and general will (*volonta' generale*)[2], are deeply engrained into Italian law, and are by definition hardly compatible with the adoption of a lobbying legislation comparable to the one in force into common law counties.

Such negative attitude towards the subject matter at hand is rooted in a widespread culture of mistrust towards the interactions between public and private sector, not just at the local or party level, but also and most importantly at the national level of decision as well as policy making. This overwhelmingly negative bias has consolidated its hold on the public opinion following dramatic events, responsible for undermining the general trust in democratic institutions in our country. The series of scandals following the so called Clean Hands (*Mani Pulite*) investigations, which dismantled the Italian political system in force at the time of the First Republic, were among the main drivers leading to the further souring and radicalization of this already widespread, preexistent prejudice towards public-private synergy and interaction. These prosecutions towards high ranking political as well as business figures were, unfortunately, just one of multiple motivations which misled the public opinion into rejecting even the suggestion of a potentially regulated and professionally well-established activity of interest representation in this country.

The controversial political legacy of the Second Republic, when Silvio Berlusconi's position entailed the responsibility and privilege of being both a prominent national political figure, when not in office as Prime Minister (*Presidente del Consiglio dei Ministri*), and also the private owner of a large mass media powerhouse, inevitably led to allegations of conflict of interests (*conflitto d'interessi*) being

[1] Torrini, S. (2018, October 3). *Lobby, cresce il fatturato ma manca una legge*. policymakermag.it. https://www.policymakermag.it/italia/lobby/

[2] Lupo, N. (2006, November 11). *Quale regolazione del lobbying*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/?s=N+lupo+lobbying, pag. 1

moved against him by the opposition, thus further deepening the already persistent enmity towards the intersection of private and public interests within the boundaries of the political sphere.

This combination of exogenous as much as endogenous factors relative to the Italian public sphere has inevitably left the country backwards as far as the issue of a national lobbying legislation is concerned, in particular when put into a direct comparison with its counterparts located, for instance, in the English speaking world, USA and UK above all. The association between lobbying, or activity of interest representation, and corruption is *de facto* a cultural *topos* in the Italian public opinion. This is also reflected in the electoral slogans of both populist as well as, sometimes, even non populist parties. Lobbies and interest groups are constantly placed under attack in the current public discourse and political, or better electoral narrative. Instead of regarding the constitution of particular interest groups interacting with each other and with public decision makers as a natural and genuine side effect of a democratic system founded on a society based upon pluralism and individual as well as community values, this process is depicted and misrepresented in the eyes of the public as the epitome of corruption. It is vilified as the very embodiment of both the current crisis and supposed "failure" of liberal democracies, while it is one of the objectives of this thesis to demonstrate the opposite, namely that a properly regulated activity representation of such particular interests, if inspired to the core principles of transparency, publicity and knowability like the action of the Register adopted by the Chamber of Deputies, can actually prove itself a valuable device in stabilizing democracy and democratic institutions.

Such cultural gap along with the consequences it inevitably bears, is further emphasized by the structural as much as dysfunctional traits underpinning the Italian Parliamentary system. Worth mentioning are in particular: the overlapping roles between the Chamber of Deputies and the Senate of the Republic, the latter currently lacking a Register of Interest representatives in contrast to the former; the fragmentation of historical/traditional mass political parties following the aforementioned demise of the First Republic; the consequent political instability partially contained by the bipolar confrontational mechanics of the Second Republic, but amplified following the collapse of the center as in many other western democracies; the abuse by the national political elite of direct democracy devices like referendums in order to solve delicate and politically controversial issues and finally the consolidated tendency of the executive power to rule by decree even when not dictated by any apparent emergency. The combination of this factors, which are simply the most superficially evident symptoms, stands as a clear sign concerning the existence of a systemic disease affecting Italian democracy, which is further amplified by an increasing lack of political participation reflected by recent electoral turnouts.

The statistical inquiries conducted by the Interior Ministry in Italy in the wake of the 2018 Italian elections detected an increase in terms non participation by the voters in comparison to the previous turnout held in 2013, thus showing a clear trend of disillusion with the main democratic instrument held by the people in a democracy, namely the vote[3]. This attitude, which affects disproportionately the youth included between 18 and 25[4], further weakens the Republican system and undermines the very future of democracy in Italy, but, as treated in the thesis, it may also be interpreted as a "fire alarm" indicating that innovative solutions are necessary not only in order to restore people's trust in Republican institutions and to drastically reduce the level of perceived corruption, but also that a transparent and efficient regulation of lobbying may actually be that innovative solution we should desperately be looking for by now.

On the grounds of such considerations, and relying on the belief that the adoption of a comprehensive regulatory framework defining both the standards and the boundaries of the activity of lobbying and the profession of lobbyist in Italy is more than ever a necessity, in order to enlarge the notion of the principle of representation on which our democracy is founded, the objectives of this Thesis are therefore:

- to analyze in-detail the Register of interest representatives of the Italian Chamber of Deputies starting with the very notion of both interest representation and representative as stated in the register and as stated abroad by means of a direct comparison with the US system and the Register of Transparency at the EU level;
- to determine how did the Register come into being, and which non approved pieces of legislation did actually precede it;
- to explore what consequences did the approval and subsequent introduction of the register have in Italy;
- to emphasize who are the individuals and organizations subscribed to the register, to its requirements and codes of conduct;
- to determine whether such requirements are strict enough and what do they actually entail;
- concluding the work by means of a complementary discussion of the major topics treated in the thesis;

[3] Martines, F. (2018). *Il lobbismo come possibile rimedio alla crisi del principio di rappresentanza democratica.* Le istituzioni del Federalismo, n.3-4, pag. 584

[4] Martines, F. (2018). *Il lobbismo come possibile rimedio alla crisi del principio di rappresentanza democratica.* Le istituzioni del Federalismo, n.3-4, pag. 584

- to discuss how a properly disciplined lobbying activity in this country may actually be functional to an increase in the general public trust towards public institutions and public decision making processes;
- to emphasize the necessity to develop and adopt a complementary as much as specular Register for the Senate of the Republic in order to properly reflect the perfect bicameral nature of our Parliamentary system;
- to envision, on grounds of previously analyzed elements, what potential developments the effort to regulate the activity of interest representation may eventually follow in Italy, being inspired by the experience of the Register.

This is achieved through a specific focus on the American and European (EU) systems as openly and transparently described in the first Chapter, taking into account not just the way in which the activity of lobbyist is conducted at the Union or Federal level, but also on the way it is considered professionally, what the responsibilities and institutional roles of a lobbyist are in the US and Europe. What code of conduct are they expected to follow in the exercise of their professional prerogatives and what is the general public perception about this are questions which will be answered in this Chapter, while the Italian system in the manifestation of a specific analysis of the Register is finally introduced into the second Chapter.

The Register of interest representatives approved by the Italian Chamber of Deputies on the 26 of April 2016, is just the last attempt by our Republican Institutions to address the topic by means of parliamentary regulation operating within the boundaries *(intra moenia*) of the Chamber, in order to provide not only a starting point for further development of a potentially national piece of legislation concerning the lobbying activity, but also a testing ground to be monitored by the executive as well as the legislative branches of the State in order to determine what measures are deserving to be fleshed out and which ones are rather less deserving and, therefore, destined to be modified or discarded.

The Second Chapter is focused on reporting the way the Register itself has eventually come into being, and which previous attempts to legislate the subject have preceded it, with also a reference to the 2011 Register of Transparency developed at the European level, that many authors at the academic level regard as a fundamental source of inspiration for the Italian equivalent and which will be an object of analysis in the first Chapter as far as the EU system *soft law* approach goes. There is then a section fully dedicated to the main features of the Register.

The most relevant as well as innovative, at least as far as the Italian system is concerned, aspects introduced through the Register which are going to be treated in detail in Chapter II are the definitions

of interest representation and interest representative, an attempt at defining the requirements necessary to join the register and to perform the activity of interest representative, how the register actually works and what are to be considered its main weak spots as also emphasized by different authors.

The third Chapter is instead entirely dedicated to the legacy of the Register, the consequences stemming from its implementation and which interests, in the form individuals and organizations, have been registered in order to be represented, and which ones have been removed following irregularities. The last part of the Chapter is entirely focused on the operative action of the register, not just the consequences of its implementation but the implementation itself, and what lessons could be drawn from it in future developments.

Chapter 1

1.1 A comparative study of lobbying: defining the phenomenon through an historical perspective to explain its contemporary nature, its multiple manifestations and ramifications

What is lobbying, what are its origins, in which forms is it practiced in contemporary political systems and how is or can it possibly be regulated are all endearing questions which, as a matter of fact, are nothing short than a reflection of the general climate of confusion characterizing the public opinion when looking at the subject of lobbying. As stated in the introduction, it is my intention to delve as deep as possible in the nature of the phenomenon in order to explain it and expand upon it, thereby reaching an overall comprehension of the opportunities and risks its regulation entails for democracies, always bearing in mind the substantial structural limitations that the history and culture of each specific political system and country may impose upon such endeavor. The nature and function of lobbying is intrinsically linked to its history, an history which is implicitly entailed in the very concept and word "lobby".

The term lobby derives, in fact, directly from its late medieval Latin equivalent, namely the word *laubia*[5], referring, in XIX century literature, to a specific wing of the English Parliament, where the various interest groups representatives tried to get in touch with MPs in order to perorate their cause and expose their grievances. This may also be the possible origin for the world lobbyist in Britain, since journalists or common citizens waiting in the corridors of the House of Commons to interview

[5] Online Etymology Dictionary. (n.d.). Lobbying/Lobby. In etymonline.com. https://www.etymonline.com/word/lobby

or interrogate MPs were given such epithet already in 1640[6]. Another theory refers to the American terminology lobby-agents, used in 1829 to describe privilege-seekers in Albany, the capital of the State of New York. Three years later, in Washington D.C., the abbreviation lobbyist started to be commonly used. For this very reasons, today's interest representatives are denominated as lobbyists, and their professional endeavor labeled as lobbying.

The activity of lobbying evolved substantially throughout time, and flourished mostly into the sphere of influence of Common Law countries. There are multiple reasons to explain this, and they all refer the very concept of lobbying. First of all, it can be argued that lobbying, in conceptual terms, originated in 1215 AD, when King John of England gave the barons the right to petition him and to protest any violation of their new rights granted under the Magna Carta, above all the right "to petition the government for a redress of grievances". This fundamental prerogative granted by the Magna Carta is also the current basis of lobbying in the United States, where such activity became common practice in the 1830's. Thus, it can be argued that lobbying is originally based on the right to openly express grievances and have one's voice heard by the institutions, a right which is intrinsically intertwined with the very notion of representative government. An element which may have discouraged until now the development of comparatively advanced system in continental Europe, is the previously mentioned concept of public interest, which is not proper of common law countries since it considers as apparent the interest of a non-specified collectivity and plurality of individuals who constitute together a single unit. It is self-evident how difficult it is to reconcile such idea with the representation of particular interests entailed in the very notion of lobbying, especially when also taking into account the principle of general will, originally conceived by Rousseau. The activity of lobbying was further encouraged in its development within the English speaking world by the stabilization and consolidation, even with violent means, of Parliamentary power following the Roundheads victory in the first English civil war and the strategic role Parliament played during the later Glorious Revolution, which set the foundations for the future development of England and, later, Britain into a constitutional monarchy. A political system based upon the sovereignty of Parliament, what would be later known as Westminster system, is surely far more open and accepting towards the necessity of various social bodies to engage into the activity of lobbying their representatives.

Such activity, so hardly received in most continental European countries and object of severe suspicion on behalf of the Italian public opinion to this day, is usually directed towards the executive and the legislative powers (depending on the constitutional order of the State), in order to either

[6] Merriam-Webster. (n.d.). Lobbyist. In Merriam-Webster.com dictionary. https://www.merriam-webster.com/words-at-play/the-origins-of-lobbyist

undermine, reshape or highjack the development and approval of a given piece of legislation. Alternatively, the objective may be to further the interest of a given lobbying entity within the institutional setting, even leading to the approval of an ad hoc law or to the addition of specifically devised provisions to preexisting legislation, for instance by sponsoring bills in order to make specific changes into the law. Of course this understanding of the phenomenon is extremely superficial, since it does not delve into the more indirect, subtle and subsequently more used, or abused, actual forms of lobbying. But before expanding our comprehension of lobbying as a social and political phenomenon, so that we may later analyze it in comparative terms, we must first determine from where it comes from. In other words, what is the historical origin of the definition of such activity, and how are those conducting it and their professional activity regulated as well as defined in the two cases discussed in this chapter, namely the US and the EU? Before introducing the notion of lobbying, however, we must first comprehend which entities are the main drivers of the activity of interest representation and with which institutional counterparts they interact in the pursuit of their peculiar interests.

Interest groups, formally organized associations of both private or public (non-profit) nature[7], are the foundations of the activity of lobbying, besides being an essential component of a liberal-democratic, plural society[8]. Their stated objective is to influence public policy, and they stand as one expression of the very essence of both Republicanism and Constitutionalism, which are intrinsically tied to the notion of representative government, and the understanding of such notion is crucial to the comprehension of the socio-political phenomenon known as lobbying. This consideration stems from the fact that politics and private interests, as the experience of Italian medieval and renaissance city-states and more recent Western democratic systems teaches us, are intrinsically linked and not separable in a realistic perspective. The Italian Confindustria, or the American Federation of Labor-Congress of Industrial Organizations, are two real life examples of influential, organized interest groups capable of influencing public decision making[9]. The peculiar characteristic of particular interests within all political systems, be them authoritarian or democratic, is their permanent,

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[7] Britannica, T. Editors of Encyclopedia (2020, February 28). Lobbying. Encyclopedia Britannica. https://www.britannica.com/topic/lobbying

[8] Britannica, T. Editors of Encyclopedia (2020, February 28). Lobbying. Encyclopedia Britannica. https://www.britannica.com/topic/lobbying

[9] Britannica, T. Editors of Encyclopedia (2020, February 28). Lobbying. Encyclopedia Britannica. https://www.britannica.com/topic/lobbying

prevalent and essential nature. Therefore, it can be argued that the social and political function embodied by the activity of interest representation, also known as lobbying, is to be regarded as permanent, prevalent and essential. In other words, as long as particular interests exists, so does the necessity to convey them to public decision makers who, depending on the constitutional setting adopted by the interested State or on the peculiar necessities of the lobbying party, can either be the legislative or rather the executive power. Since lobbying emerges however as an essential element, pivotal to the correct functioning of representative government, it becomes imperative to define it.

The definition of lobbying is, in spite of its pervasive nature, still a matter of debate in various countries or supranational institutional settings like the EU, displaying sometimes substantially different political systems. Lobbying can be defined in contemporary terms as the, realistically inevitable, action of either group or individual private interests aimed at influencing the decision making process in a liberal-democratic State[10]. It is, in other words, a professionally coordinated effort, on behalf of organized interest groups or individuals, designed to affect what the government does or may do in the future[11].

Interest groups, however, are not only private in nature, as it was previously mentioned. There are also nonprofit organizations representing their constituents' interests, thus leading to the distinction between the previously mentioned private and public interest groups. The term public interest group is usually applied to underrepresented categories or to the interests of the general public, in contrast to particular private interests. The focus on liberal, or constitutional, democracy is required in order to distinguish it from other forms of interest representation which may be characteristic of illiberal political systems. It is imperative to also emphasize the pivotal role that lobbying plays in open democratic systems, like the US or the EU for instance, where even "foreign" lobbies are able to perorate their interests, in order to influence the decision making process more or less transparently. In some cases, the political influence gained by the lobbying industry has been defined as a structural feature of contemporary democratic systems, operating in an age of increasing globalization and regional economic integration at the supranational level. It is therefore undeniable that the activity of lobbying, whether enjoying the approval of the public opinion at large or not, has become a defining feature of our contemporary way of conceiving and understanding democracy, not just as a system but as a principle.

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[10] Britannica, T. Editors of Encyclopedia (2020, February 28). Lobbying. Encyclopedia Britannica. https://www.britannica.com/topic/lobbying

[11] Nownes, A. J. (2006). *Total lobbying*. New York: Cambridge University Press.

Lobbying, as a professional endeavor and as a social phenomenon, can take various forms. These have been subdivided into three main categories as far as professional methodology (execution) is concerned, namely grassroots, direct and indirect lobbying. This subdivision is purely theoretical in essence and it derives from an analytical examination of the phenomenon in the USA and other Western democracies. It was developed with the clear aim of rationalizing such a diversified socio-political landscape on the grounds of the different approaches, methods and technical devices used by lobbyists. While grassroots lobbying is an effort to affect the opinions of the general public or any segment of the general public, direct lobbying is instead communication with any member or employee of a legislative body or with any government official or employee who may participate in the formulation of legislation. Examples of grassroots lobbying vary greatly, from social media to traditional mass media campaigns. Meeting with legislators and drafting bills are instead practical examples of direct lobbying. The third manifestation of lobbying which I have previously mentioned, namely the indirect one, is the subtlest and complex to categorize, probably in virtue of its counterintuitive nature and the fact of being more or less explicitly addressed only in the US and few European Countries. However, it is also as essential component of the lobbying activity, in particular when looking to the American system and to the interpretative complexities it caused in reference to the ambiguity of the first amendment in defining what is regarded as the right to redress grievances, or to lobby in defense of one's interests. Indirect lobbying can, *de facto*, be a subset of both grassroots or direct lobbying, at least in terms of the subjects addressed in the lobbying action.

Let's take for instance a EU member State like the Republic of Ireland. In Ireland the Regulation of Lobbying Act (2015), provides in fact that a "relevant communication" can be made both directly as well as indirectly to a Designated Public Official (DPO). A subject requesting another subject, be it an individual or entity, to lobby on his or her behalf, may be engaging in indirect lobbying. Another practical example of indirect lobbing may be the one of a person who is asking their neighbor, who is related to a DPO, to speak to the DPO on his or her behalf. In this case the first person, if falling within the scope of application of the Act, would be required to register and submit a return of the lobbying activity under the Regulation Lobbying Act. If, however, a subject is being paid to lobby on another's behalf then the payment recipient is required to register and submit a return of all the lobbying activities concerned. He or she is also required to include the other person as "a client" on the return of the aforementioned activities. When a subject is communicating on a "relevant matter" with a public official who is not a DPO and there is an explicit request on the subject's behalf for the communication to be brought to the attention of an official who is in fact a DPO, then this is regarded as a communication made indirectly to the DPO and, therefore, as a relevant communication. A subject meeting with a public servant who is not a DPO, and asking that the matter discussed is

brought to the attention of the organizational head or to the attention of the Minister, who are both DPOs, is indirectly communicating with the DPO and is then required to register, if within scope of the Act, thereby submitting a return in respect of that specific lobbying activity. These are few examples helping us to contextualize the phenomenon of indirect lobbying by adopting the perspective of the Irish legislator. It should be emphasized however that the distinction with direct lobbying is purely determined by the method used to approach public officials and expose the interest representatives' grievances.

If we look in fact to the more in depth definition of direct lobbying, this time in the US system, it is defined as any attempt to influence legislation through communication with any member or employee of a legislative body, or any government official or employee who may participate in the formulation of the legislation, but only if the principal purpose of the communication is to influence legislation. Contacting a legislator or government official by means of communication will be treated as direct lobbying, if, but only if, the communication refers to specific legislation, thus reflecting a view on such legislation. The difference lies therefore in the way the legislator is approached, if by means of direct or indirect communication, but the lobbied subject is always the same and so the objective of the lobbying party. Grassroots lobbying differs substantially however, as it was previously mentioned in a more generalist overview of the phenomenon. Grassroots Lobbying is, in fact, defined as an attempt to influence legislation through campaigns aimed at swaying the opinions of the general public[12]. This definition implies, however, that a communication with the general public will be treated as a grassroots lobbying only if it refers to and reflects a view of specific legislation and encourages the recipient of the communication to take action with respect to such legislation. There are various actions which can be taken in relation to this lobbying methodology, for instance stating that the recipient should contact legislators or other government officials participating in the formulation of legislation for the purpose of influencing it, or stating a legislator's address, phone number, or similar information. Providing a petition or similar material for the recipient to send to a legislator may also be an alternative way to act in such situations.

Now that a clear overview of the origin, definition and of the main varieties of lobbying has been provided, it comes natural to speculate on how different systems have adapted in terms of regulating the subject. In line with the research object of the dissertation and, specifically, of this chapter, the main case studies will be the US system, mostly at the Federal level, and the EU system, with a

[12] Duke Health Government Relations. *Lobbying Defnitions, Excetpions and Examples*. govrelations.duke.edu. https://govrelations.duke.edu/ethics-and-compliance/lobbying-definitions-exceptions-and-examples

particular focus on the Transparency Register responsible for inspiring the later approval of the Italian Register of interest representatives by the Chamber of Deputies.

1.2 The regulation of lobbying in the US and the EU, a comparative study to understand the subject of the Register and its later development in Italy

Both Washington D.C. and Brussels are global capitals of lobbying, with the latter surpassing its US counterpart in 2019 with 11.801 lobbyists[13] enrolled into the Transparency Register, in contrast with the 11.641 (2018 data) operating in D.C[14]. In Brussels the subjects performing the activity of interest representative are subdivided by categories of interest groups, an approach later reproduced in Italy through the approval of the Register by the Chamber of Deputies. The subdivision criteria consider six distinct categories for lobbyists' classification[15]. The first one is industry end enterprises, and includes 5.996 subjects. Of these 5.996 industrial and entrepreneurial lobbying agents 907 are labor unions and professional associations, 2.337 are companies and entrepreneurial groups, 2.430 trading associations and trade associations, while the remaining 322 are organizations of another type. Among these Industrial lobbying operators and "honorable" mention goes to corporative giants like Huaweii, Google and Microsoft. Italy used to be the fifth most represented country, with 841 subjects, following Belgium (hosting many non-European subjects), Germany, UK (before Brexit) and France. Now that the UK has finalized its exit Italy is the fourth most represented country.

NGOs and consumer associations are the second category, comprising 3.141 lobbying operators. Consulting companies and advising firms are the third category, representing 1.124 subjects, while academic institutions and research institutes include 913 subjects. Public entities and religious organizations respectively comprise 576 and 51 operators.

In terms of financial expenses connected to the activity of lobbying, Washington was the first in 2018 with 3.1 billion euros, while in Brussels 2017 data show an overall flow of 1.5 billion euros, mostly

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[13] Society of European Affairs Professionals. (n.d.). *What is Lobbying?*. lobbyeurope.org. https://lobbyeurope.org/what-is-lobbying/

[14] Society of European Affairs Professionals. (n.d.). *What is Lobbying?*. lobbyeurope.org. https://lobbyeurope.org/what-is-lobbying/

[15] Troiso, G.G. (2020, September 25). *Lobbying: comparazione fra USA, UE e Italia. Numeri e Legislazione*. Risk Compliance Platform Europe. 1-2. https://www.riskcompliance.it/news/lobbying-comparazione-fra-usa-ue-e-italia-numeri-e-legislazione/

used in order to maintain employees, staff, bureaus, besides promoting campaigns and conferences[16]. The real distinction however, as far as the comparison between the two systems goes, is between the regulatory framework they implemented and the principles they followed in the process, in particular as far as transparency and relevance of economic interests involved are concerned.

The debate in Europe on how to regulate the activity of lobbying started in the 1990s, with 1995 being the year marking the introduction of register for interest representatives by the European Parliament. The register underwent a period of testing within the Parliament before the European Parliament decided to adopt the 2001 "*White Paper on European Governance*", which set values such as transparency, coherence, responsibility, openness, participation as the core pillars of future EU governance. The White Paper was followed by the 2006 "*Green Paper on the European Transparency Initiative"*, which stands out as the first step towards a European definition of the concept of lobbying by requiring the Member States to publish information on beneficiaries of EU funds and other institutional practices in order to allow the EU citizens to understand how the "community works" and to what "pressure EU institutions are subjected". The paper also expressed reservations concerning the potentially damaging consequences deriving from lobbying operating beyond the boundaries of "legitimate interests", for instance possible conflict of interest or public campaigns to sway the public opinion in favor or against given policies, as well expressing concerns on a substantial risk of "excessive influence" gained by some interest groups. In spite of the gigantic step the Green Paper represented, only in 2008, following the adoption on May 8 of a resolution concerning the development of the activity of lobbying within the European Union by the European Parliament, the EU institutions managed to agree on both a definition of lobbying as well as on its legitimacy and compatibility with parliamentary procedure.

The definition agreed upon was the result of a compromise reached within Parliament in a favor of the proposal made by the Commission, which defined lobbying as an activity exercised with the deliberate aim of influencing the elaboration of policies, and the decision making processes of European institutions. The Commission is in fact the epicenter of the lobbying activity within the EU institutions, so it is not surprising that the leadership was taken by such institutional body in the process of reaching a common ground on the definition and regulation of the activity of interest representation. Direct access to the European Commission decision making organs, in particular the consulting committees, combined with the eminently technocratic nature of the body, which surely

[16] Troiso, G.G. (2020, September 25). *Lobbying: comparazione fra USA, UE e Italia. Numeri e Legislazione*. Risk Compliance Platform Europe. 1-2. https://www.riskcompliance.it/news/lobbying-comparazione-fra-usa-ue-e-italia-numeri-e-legislazione/, pagg. 1-2

does not encourage transparency and democratic decision making, is the ambition of all major lobbying agents in Brussels. The committees are instituted through the action of the European legislator and they are expected to support the Commission in its action. The committees are in fact instituted either directly, like in the case of formal committees through a decision of the European Commission, or through a Commission service following the consensus given by the responsible commissioner and vice president alongside the general secretary. In the latter case, we are talking about informal committees. They consist mostly of groups of experts who are subject to regulations established by the decisions of the Commission and enrolled into a register. European governments tend to operate, within the aforementioned committees, in concert with private interest groups and with each other in order to further an interpretation and application of EU law which is functional to their interests. The strategic role played by the committees in influencing the technocratic decision making process within the Commission is demonstrated by the data gathered in 2015 by a European Commission report on the subject matter at hand. In 2015, December 31st, 280 committees were active, being concentrated mostly into three main sectors, all strategic for European policies and policy making. Single market, industry and entrepreneurship had 43 committees, environment had 31 while mobility and transportation had 30. In addition to this, in fashion not dissimilar from what happened in Italy, the debate on the legitimacy or potential dysfunctionality of lobbying, depicted by most as a risk for the transparency of democratic decision making process, ended up with a very generalist recognition of lobbying as an essential component of parliamentary procedure, as long as regulated.

The legal basis for further deepening the regulatory framework of the activity of lobbying within the EU was provided by art. 11 of the *Treaty of Lisbon*, which had already come into force on December the 1st 2009. The article regulates the various forms of participative democracy within the EU, and mentions in particular the two forms of civil dialogue with EU institutions, vertical and horizontal. This provision, in a European system based upon Treaties since there is no fundamental law or constitution of a European State considering the EU is a supranational organization and not a federal State like the US, provided the justification to coordinate and increase the efforts aimed at regulating the activity of lobbying.

To this end, following years of non-cooperative and uncoordinated action which led to the adoption of two separated registers for interest representatives, each used by one of the two institutions, the Parliament and the Commission finalized an agreement, known as *Interinstitutional Agreement*, in order to create a joint Register, known as *Transparency Register*, in 2011. The Council was originally excluded by this operation, but eventually joined as an observer in 2014. In 2014, besides being the

year for the start of negotiations involving the Council on the current proposal for a compulsory Register, the final details of the agreement between Parliament and the Commission were being concluded in relation to the Register originally adopted in 2011, thus giving the agreement a new form. The importance of this new step in the evolution of the agreement becomes evident when considering how much influence the Transparency Register had on the development of the Register adopted in 2016 by the Italian Chamber of Deputies, also taking into account how fragmented, if and when existent at all, was and still is the legislation on the activity of interest representation in Europe.

The agreement established the scope of application of the Register, extending it to all the activities different from the ones listed in paragraph 10, 11 and 12, aimed at influencing directly or indirectly the elaboration and implementation of EU policies and decision making processes, independently from where they are conducted. In this context, direct influence is defined by the agreement as any sort of influence exercised through direct contact or communication with the EU institutions, while indirect influence is defined as the one exercised through intermediate means, like the media or conferences and the manipulation of the public opinion. It is self-evident how reminiscent of the American notion of direct and grassroots lobbying these two definitions are. The activities falling under the scope of the *Transparency Register* are highly varied, as the broad definition provided by the agreement has already suggested. Some of these activities, listed in paragraph 7, are: the organization of protests, meetings, promotional and advertising campaigns; contacting members of EU institutions, their assistants or other EU officials; the preparation and disclosure of official documentation, such as letters, informational material, debates transcripts or documentation and others. In 2018, the three institutions of Parliament, Council and the Commission agreed to develop common regulations aimed at making the activity of interest representative within the EU even more transparent, since the explicit objective of the *Transparency Register* is the one of making the interests represented in the EU public and accessible. Enrollment into the *Transparency Register* used to be voluntary, but it nonetheless granted to the registered subjects a series of privileged accesses otherwise not available to them. For instance, in order to speak to a public audition one needed to be enrolled into the Register. The registered subjects also received information and notifications faster, concerning projects and activities in which they had expressed an interest. The voluntary character of the Register has recently come to an end however.

In 2016, in fact, the European Commission officially made a new proposal for reaching another *Interinstitutional Agreement* aimed at making registration compulsory through the strengthening of the Transparency Register currently in force, extending its scope of application also to the Council and the transparency policy of the Commission with it. The report was approved, following years of

negotiation started in 2014 and involving all the major EU institutions, between April 27 and April 28 2021. The support was broadly in favor of the agreement, with 646 MEPs approving it, 4 voting against it and 49 abstaining. This shared spirit of enthusiasm did not however extend to the adoption of several amending measures aimed at improving the level of transparency within the European parliament, most of which were all brought down during the vote. For instance, one proposal made by the French MEP Leïla Chaibi was trying to impose a rule requiring the disclosure to the public of all the meetings between MEPs and interest representatives. Needless to say, that with 400 votes contrary to it, the proposal fell. Still, despite the level of resistance to change and transparency within various EU institutions, the new agreement has finally introduced the essential feature of compulsory registration, also for lobbyists operating on behalf of subjects closely tied to foreign powers, alongside a shift from a status based approach towards an activity based approach. The requirements for registration have also been strengthened, with the introduction of a quantitative element inspired by the US system, namely an annual estimate of the full time equivalents for the persons involved in covered activities according to a 10, 25, 50, 75 or 100% percentage of a full time activity. Other requirements are about providing information concerning the form of the lobbying entity, the type of interest represented, a confirmation that the applicant subject is operating in accordance with the code of conduct, the name of the person who is legally responsible for the entity, etcetera. In this regard, the new approach does not radically differ from the original 2011 document. Unfortunately, in spite of this remarkable progress and subsequent achievements, the report is also being subjected to sharp criticism, in particular concerning the refusal by the plenary to approve another amendment which was calling for the prohibition of meetings between all MEPs and non-registered interest representatives. One cannot realistically expect, as an institutional authority, to enforce a mandatory registration into a Register aimed at granting transparency, while at the same time individual MPs retain the right to meet with subjects operating outside of the scope of that very mandatory registration. And yet, the amendment was watered down substantially in committee works, allowing MEPs who are not currently working on the elaboration of legislation to encounter non-registered lobbyists.

Another characteristic which has raised some eyebrows concerns the many loopholes left by the *Mandatory Transparency Register* for institutions staff and for lobbying groups. The obligation of enrollment is in fact only applicable to permanent interest representatives during current EU presidencies, thus leaving out major lobbying centers like national embassies, also considering the fact that lawyers working for private subjects will be able to provide an argument of attorney client secrecy even if, theoretically, obliged to enroll into the register. In addition to the aforementioned issues, the fact that most changes weakening the transparency report were determined in a

Parliamentary Committee vote, and not during the plenary, is surely not a guarantee of reliability and moral integrity in terms of decision making.

In this case, the comparison with the Italian decision to eventually adopt a soft law oriented regulatory framework is striking. The approach adopted by the Italian legislator, although lacking the inter-institutional character of its European counterpart mostly because of the absence of a Register for the Senate of the Republic, resembles in some form the European experience, besides being eventually inspired by it. Following years of unsuccessful attempts to pass a piece of legislation capable of finally regulating lobbying at the national level, the Chamber of Deputies approved and adopted a Register of interest representatives restricted, in terms of scope of application, only to the Chamber itself, therefore abandoning, at least temporarily, the objective of achieving a nationwide legislation on the activity of interest representation inspired to the values of knowability, transparency, participation and disclosure to the public. Another shared element between the Italian and European regulatory framework, and which was object of strengthening under the Obama administration in the US, concerns the prohibition of "revolving doors", namely the possibility for a public official to immediately turn to the activity of interest representative as soon as his mandate has expired, or following a period of "cooling off" as it is called in the American *Lobbying Disclosure Act* (1995), thus exploiting his competence, knowledge and personal relationships within the institutional setting to further private interests. In Italy this potentially compromising aspect of lobbying is addressed only within the Register adopted by the Chamber of Deputies, since there isn't a nationally applicable norm countering the phenomenon of revolving doors. At the European level only the UK, now a former EU member, had a specific norm addressing the subject.

As previously emphasized, the North American and continental European regulatory approaches to the subject of lobbying differ substantially between each other. The European system, as we have witnessed in our analysis, is mostly focused on a soft law regulatory model based on voluntary enrollment and procedural incentives to transparency. In contrast the US system relies mostly on hard law legislative devices to regulate the subject, which is regarded a golden opportunity to increase the responsibility of public decision makers while at the same time maintaining a thread between private business or social environments and politics. In the US lobbying is in fact treated and conceived as a constitutionally given right under the first amendment, in the form of the right of the people to petition the Government for a redress of grievances. The interpretation of this specific passage of the amendment has been object of a heated debate. The inherent conflict which made interpretation difficult lied within the dichotomy between the possibility, granted by the apparent generality of the passage, for the constituent to contact the legislator both through direct or indirect means and the

necessity for the legislator to determine the identity and real interest of the lobbying party, which is clearly incompatible with the practice of indirect lobbying.

In the *Federal Regulation of Lobbying Act* (1946), the first legislation ever approved by the Federal Government on the subject matter of lobbying with the explicit aim of regulating it, the Congress seemed to be requiring detailed reporting and subsequent registration by all subjects operating as lobbyists who were soliciting, expending or receiving public funds. In other words, a registration process of all the subjects indirectly or directly influencing congressional activity. In *United States v. Harris* (1954), a US Supreme Court case applied to the *Federal Regulation of Lobbying Act*, the Court ruled in favor of the constitutionality of the Act, but substantially reduced its scope. The ruling established in fact that the Act applied only to paid lobbyists directly attempting to influence legislation by means of direct communication with members of Congress, although three Justices, Douglas, Jackson and Black dissented, judging the Court ruling too narrow[17].

It is however only in 1995 that the legislation currently in force has been passed as the *Lobbying Disclosure Act*, which has been subject to various integrative intervention on behalf of the legislator moving forward in time during the last twenty years, in particular under the Obama administration. For instance, it was first extensively amended and subsequently integrated through the *Honest leadership and Open Government Act* in 2007 (HLOGA), which imposed substantial restrictions to the revolving doors phenomenon, effectively "closing" it, by increasing the period of "cooling off" from one to two years. Other restrictions introduced in 2007, and are worthy of being mentioned, concern the prohibition for Cabinet Secretaries and other senior executives to contact their former agency or department following the two years "cooling off" period, as well as prohibiting Senators and House staff from contacting the entire Senate and their former offices or committees for one year after they left their position. In addition to other restrictions of this sort, explicitly aimed at reducing complacency on behalf of public institutions towards former officials and employees now turned lobbyists, there was also a prohibition of gifts and/or travel to Member of the Congress when in violation of House or Senate rules, an overall toughening of penalties for falsifying financial disclosure forms from $10.000 to $15.000, prohibition to use private aircrafts for House candidates, a series of new transparency requirements concerning lobbyists' political donations and other financial contributions, implying the presentation of disclosure forms to the Federal Election Commission and to the Secretary of the Senate and House Clerk. Most importantly, also for future

[17] University of Minnesota Libraries Publishing. (2011). *American Government and Politics in the information age*. https://open.lib.umn.edu/americangovernment/chapter/9-2-lobbying-the-art-of-influence/

developments, new transparency requirements requiring full disclosure of lobbying activities were implemented, for instance twice increasing the frequency of disclosure forms filling from semi-annual to quarterly, as well as increasing civil penalty for willingly violating the *Lobbying Disclosure Act* from $50.000 to $200.000 and introducing a criminal penalty up to five years of conviction for a corrupt failure to comply with the Act. Later modifications were operated by President Obama, starting in 2009 with Executive Order n. 13490, and were mostly aimed at increasing transparency and substantially reducing, or at least regularizing, the phenomenon of revolving doors alongside other manifestations of irregular lobbying practices. As far as the definitions of lobbying and lobbyist is concerned though, the American system, apart from its constitutional legitimation in the first amendment, is extremely interesting, since it adopts an eminently quantitative approach. In contrast with the European as well as Italian methodology, both exclusively reliant on a qualitative type of definition, the *Lobbying Disclosure Act* adopts a radically different perspective, grounded in numbers and statistics.

We must first of all consider that, following January 1st 2017, an organization operating in the lobbying sector by employing in-house lobbyists is no longer required to register as long as the expenses of the organization are not expected to exceed $13.000 during a quarterly period, and that an organization is regarded as actively participating in the activity of lobbying if it directly supervises, plans or controls some lobbying activity of the client registrant. A similar logic of exemption applies to lobbying firms.

Lobbying firms, classified as persons or entities consisting of a single or multiple individuals who meet the definition of lobbyist relative to a client other than those persons or entities, are also required to file a separate registration for each of their clients, but they are exempt from registration for a particular client as long as the client's expenses for the activity of interest representation are not expected to exceed $3000. The amended Act defines a lobbying contact as any oral, written or electronic communication made on behalf of a client and directed towards the subjects enumerated by the Act. The most prominent instances of these subjects include the formulation, adoption or modification of Federal legislation, rule, regulation, executive order or any other policy, including its administration and execution, while the definition of lobbying contact does not include communications made by public officials acting in their capacity, made in the context of media organizations, mass media devices or through speeches, articles and publications, with the purpose of being distributed and made available to the public. Concerning the activity of lobbying itself, it is described as any effort made in support of the aforementioned lobbying contacts and in coordination with the lobbying activity of others. This definition encompasses various types of action, including

the planning or preparation of lobbying activities, the research and also the necessary background work.

Until now, it emerges how the US legislator privileges a more "on the ground" approach, oriented towards the model of transparency and accountability through total disclosure, when addressing a complex and multilayered phenomenon such as the one of lobbying. The definitions are considerably less abstract and more concise when compared with their European counterparts, while at the same time retaining a functional degree of generality which can be useful in allowing flexibility of interpretation in order to tackle potential irregularities in the most effective way. The scope of action of the Act is therefore extremely wide, encompassing all the possible interpretations of lobbying contact and activity, as long as related to the aforementioned subject. The substantial qualitative difference between the action of the American and European legislator is further emphasized by the definition of lobbyist which is provided by the *Lobbying Disclosure Act*.

The figure of the lobbyist is defined as an individual who is employed by a client and dedicates 20% of his or her time in services over a three-month period in return for financial or other forms of compensation. His or her services must include more than one lobbying contact. The aim of such quantitative definition is to create a strict correlation between the professional character of the activity of interest representation and the actual exercise that this professional character requires in order to be regarded as such. In other words, in order to be labeled as a lobbyist, a legitimate lobbying agent, an individual is obliged to actually dedicate a legally set minimum amount of his or her time and expertise in return for whatever form of compensation. When compared with its European counterparts this approach may appear as simplistic, almost "rustic" in its straightforwardness. Many legitimate questions arise, for instance how and with which devices to determine the amount of time spent by a lobbyist during a three-month period actually performing his or her professional activity. It should, however, be bared in mind that these very elements allow for a pragmatic and flexible interpretation, as well as granting the Act an increased scope of application.

As far as registration is concerned, the requirements and the procedure are both fairly simple. In order to operate legitimately as a lobbyist, one is in fact required to enroll into *ad hoc* registers held respectively by the Secretary of the Senate and by the House Clerk, thus providing personal data, the identity of the clients and the sectors within which the lobbying activity is going to be performed. Every three months a report on the activity performed for each client has to be furthered, specifying the kind of activity, the expenses or the financial support which may have been received. The public list displaying the identity of all the enrolled lobbyists and the information concerning their activities is eventually drafted by the Secretary and the Clerk. In case false information has been provided,

fines and criminal punishments are varied and harsh, as it has been previously demonstrated in detail by analyzing the 2007 amendment. The principles of transparency and disclosure are, therefore, implemented with absolute severity.

In addition to the *Lobbying Disclosure Act*, there are also other major sources regulating the activity of interest representation, in particular as far as electoral lobbying is concerned. *The Federal Election Campaign Act* is in force since 1971, and disciplines the way electoral campaigns are conducted by imposing transparency obligations, disclosure on behalf of political parties and candidates about the origins of private funds and about the entity of public funding for the campaigns, limits to electoral contributions and expenses and the establishment of an *ad hoc* Commission, known as *Federal Election Commission,* endowed with the authority to supervise the transparency and regularity of the electoral process in accordance with the provisions of the Act. In accordance with these provisions is the creation of the so called *Political Action Committees*, namely interest groups raising funds in order to finance electoral campaigns and candidates who will be later bound to support their interests in return for the financial support they received. Following the 2010 landmark decision *Citizens United v. Federal Election Commission*, in which the Court held that the free speech clause entailed into the First Amendment prevents the Federal Government from imposing any sort of restriction on independent expenditures for political campaigns, the number of *Political Action Committees* and of the so called *Super Political Action Committees* multiplied, leading to a real proliferation of this interest groups, making them not only more numerous but also increasingly larger in size, relevance, financial and bargaining power, thus making the elections increasingly more expensive. The restrictions the *Bipartisan Campaign Reform Act*, enacted by Congress in 2002, had imposed in section 441b on certain specific types of contributions and expenditures by corporations to support candidate for federal office, were therefore wiped out with a single decision, changing the very structure of American politics.

Now that what could be defined as the two "parental" systems of lobbying regulation, which have influenced the Italian legislator in its past, present and will likely continue to influence it in its future action, have both been explored through a general overview, it is time to analyze the Register if Interest Representatives of the Italian Chamber of Deputies.

Chapter2

2.1 First legislative attempts aimed at regulating the activity of lobbying in Italy, the long road to the Register

In order to properly introduce the topic of the Register and how it was approved and, subsequently, adopted, it is necessary to analyze previous proposals concerning the creation of a legislative discipline on the subject matter of interest representation in Italy, starting with the more chronologically distant attempts to introduce an organic as much as comprehensive national legislation on the activity of lobbying and moving to their successors in a later phase. Although most of the following proposals didn't even start the *iter* of discussion in Parliament, many of the fundamentals entailed within them were to play a major role into the later development of the Register by the Chamber of Deputies.

The first national attempts aimed at producing a regulatory discipline for the activity of interest representation in Italy date back to the VIII legislature, 1979-1983, when a legislative proposal was presented to the Chamber of Deputies (A.C. 3200, "Riconoscimento e disciplina delle attività professionali di relazioni pubbliche") by the MP Inchino, member of the Italian Communist Party, PCI, and another one was instead proposed to the Senate of the Republic by Senator Salerno, of the Christian Democratic Party, DC, as A.S. "Riconoscimento delle attvità professionali di Relazioni pubbliche". Neither of the two proposals has ever started the process of discussion.

Another chance to approve a coherent national law on interest representation appeared during the IX legislature, 1983-1987, when three proposals , A.C. 571 by the MP Francese of the Italian Communist Party, basically reproducing A.C. 3200 of the previous legislature, A.C. 148 and A.C. 2983, were all examined and discussed at the same time during committee works, which were followed by the immediate release of a consolidated text originally conceived to push for the discussion at the Chamber of Deputies. However, once again, the examination by the Chamber never started, repeating therefore a common thread which can be defined as being connecting all these proposed pieces of legislation, and which inevitably reappeared in the same legislature, namely the IX, when a new proposal, A.C. 125, heavily inspired by and therefore holding the legacy of its unlucky predecessor A.C. 16, was furthered to the Senate of the Republic by Senator Mezzapesa, member of the Christian Democracy.

This long sequence of legislative debacles led to a sterile environment for the development of innovative initiatives related to the issue of lobbying and by extent to the very recognition of the professional activity exercised by interest representatives within as much as outside of the boundaries

of the legislative decision making process and of Parliament. Such proposals were *de facto* mostly regarded as being doomed to fail from the very start or, alternatively, not even being considered worthy of parliamentary debate and examination in the two chambers, considering the overwhelmingly negative experience characterizing previous attempts at regulating the subject matter at hand.

Other legislative proposals concerning a comprehensive regulation of the activity of interest representation and preceding chronologically the introduction of the Register were made respectively to the Chamber of Deputies in the midst of the XI legislature, 1992-1994, A.C. 144 by the MP Aniasi, from the Italian Socialist Party, PSI, and during the XII legislature, 1994-1996, when A.C. 3269 was presented by MP Pieraboni, representative of the at the time recently constituted Northern League, Lega Nord. Both these two projects met the ultimate fate of ending into a definitive *fiasco*, without even being discussed, in the same fashion as their forerunners.

The nature of this proposals and the sheer fact that they were being made by representatives embodying different, if not at times even conflicting, positions and interests, shows how the necessity to adopt such a law was widely perceived by MPs serving in the majority of the political parties sitting in Parliament at the time, even the ones located at the two opposites of the political spectrum.

However, what is essentially worth emphasizing about these failed legislative projects, is the series of common elements that, once properly assembled together, entail all the fundamental disciplinary principles aimed at guaranteeing a coherent definition of the professional profile of an interest representative as well as providing a particular insight on the relationship between him, namely the lobbyist, and the main legislative organisms. These elements are relevant in virtue of the influential role they played into inspiring the structuration and creation of the Register approved by the Chamber of Deputies in 2016 and activated in 2017. The most prominent among the commonalities shared by all the proposals analyzed so far are the following ones. The institution of a professional register for all the subjects willing to subscribe in order to perform the activity of interest representative is the first one, followed suit by the creation of a Committee, based within the Ministry of Labour, (*Ministero del lavoro)*, endowed with the authority and duty of monitoring and controlling the activity of the registered subjects. The Committee was theorized as an organ made up of a judge holding the rank of *Consigliere di Cassazione*, acting as president, three members elected by the registered subjects, three further members from the CNEL, (*Consiglio Nazionale dell'economia e del Lavoro)*, and a secretary appointed by the Ministry of Labour. a precise definition of the rights, objectives and duties recognized to a professional interest representative, all inspired to a triad of principles, namely information (*informazione)*, transparency (*trasparenza)* and participation (*partecipazione)*. In

addition to the aforementioned definition, stood the proposal for the adoption and implementation of sanctions directed at the subjects caught in violation of their professional as much as operative standards, further strengthened by the introduction of a clear discipline concerning the procedure of notification (*contestazione),* and infliction (*irrogazione*).

These guidelines also inspired another legislative proposal put under examination in the Senate of the Republic by the Constitutional Affairs Committee (*Commissione Affari costituzionali)* during the XVII legislature, 2013-2018, including legislative initiatives of both popular as well as parliamentary origin (A.S 281, 1522, 358, 643, 1194, 1497, 992, 806, 1632), all aimed at regulating the activity of interest representation, or "*Attività di rappresentanza di Interessi".* It is interesting to note that the basic text eventually picked and adopted on April the 8 2015 by the Committee, A.S. 1522, entailed the majority, if not the totality, of the previously mentioned guidelines, although slightly modified in order to make them compatible with the new proposal. Reviewing how they have been modified is extremely useful in order to determine potential future developments in case a new legislative discipline for lobbying should be examined by the Parliament.

Starting with the fundamental principles defining the boundaries of an interest representative's code of conduct, namely transparency, information and participation, art.1 relies on the basic structure already present in previous legislative proposals by further building upon it. The main changes lie in the addition of a few more principles, namely publicity (*pubblicità),* democratic participation (*partecipazione democratica),* and the reformulation of the principle of information into the one of knowability of the legislative processes (*conoscibilità dei processi decisionali)*. Art. 1 reports therefore 4 fundamental principles aimed at regulating the professional and operational behavior of interest representatives:

1. transparency (*trasparenza)*
2. publicity (*pubblicità*)
3. democratic participation (*partecipazione democratica*)
4. knowability of the legislative processes (*conoscibilità dei processi decisionali*)

The idea concerning the institution of a Committee fully dedicated to the constant monitoring of the activity of interest representation is recycled respectively in articles 3 and 4 (artt.3-4). The main changes proposed by the basic text concern primarily the administrative framework under which such Committee should be operating and the main focus of control. First and foremost, the Committee should in fact no longer be placed under the authority of the Ministry of Labor, as envisioned in the original proposal, but rather under the one of the Presidency of the Council of Ministers (*Presidenza*

del Consiglio dei Ministri). As far as the focus of monitoring is concerned, the purpose of such activity of surveillance was shifted from a general idea of control over the activity of interest representation to the monitoring of the public Register of interest representatives (*Registro pubblico dei rappresentanti di interessi)* and of all the lobbyists operating under its jurisdiction. Art. 7 further implies the creation of a database accessible to all the subjects subscribed to the Register. All the legislative proposals currently under preparation should be uploaded on the database in order to guarantee the wider range of participation available.

In terms of moral, ethical and professional obligations defining the operative boundaries for all the subjects, be it individuals or organizations, although the basic text mentions specifically lobbying companies, willing to subscribe to such Register in order to exercise the profession of interest representative, art. 5 prescribes the obligation of adopting a code of conduct and an internal regulation (*regolamento interno)*. The interesting aspect, which underlines the necessarily concerted action these bodies should be performing in order to guarantee the proper implementation of the basic principles listed in art. 1, is the fact that the internal regulation needs to be examined and approved by the Committee mentioned in artt. 3-4.

As far as the requirements to join the Register are concerned, they are properly reported and legally defined in artt.6-8, alongside the rights and obligations of the subscribed subjects. The obligation of transparency is instead placed on the shoulders of public decision makers, as stated in art. 10, while potential causes of incompatibility between the activity of interest representative and other professional or institutional roles are listed in art. 11. Sanctions for violations are prescribed in art. 13. In spite of the consistency defining the basic text, the *iter* of discussion never actually started. Whether this constant inability to get the legislation to its final stages is to be understood as a clearly defined political willingness, or rather as a lack of it, it is not self-evident. Still, it shows the substantial barriers persisting not only within Italian society, but also within the Italian legislator, preventing an open and transparent discussion of the subject.

A.S. 1866 during the XV legislature, also known and referred to as Ddl (*Disegno di legge*) Santagata, was in chronological terms, besides predating the Register, a further attempt to produce a piece of national legislation through Parliament aimed at regulating the activity of interest representation and at providing an overarching definition of interest representative. The Ddl was not the last or the only legislative proposal concerning lobbying during that legislature, the acts of the Chamber of Deputies (*atti della Camera*) n. 695-952-2118-1057-3076 were all aimed at disciplining specific aspects of the activity of interest representation, and they all influenced the content of A.S. 1866 in spite of their more limited nature. For instance, act n. 695 signed by MP Pisicchio (*Disciplina dell'attività di*

relazione istituzionale) differed greatly in both content and scope from act n. 952 by MP Colucci (*Disciplina dell'attività di relazione istituzionale svolta nei confronti dei membri del Parlamento)* or from act n. 3076 by MP Galli (*Disciplina dell'attività di relazione svolta nei confronti delle assemblee legislative e dei titolari di pubbliche funzioni*). The sheer relevance of A.S. 1866 however, lies in the ambitious nature of the Ddl, first of all in the inclusion of a number of principles and ideas entailed in previously mentioned legislative initiatives on the subject matter at hand as much as in the precise definition it provides of both the professional role of an interest representative as wll as of the activity of interest representation (which will both inspire the approach adopted by the Chamber of Deputies with the Register). The Ddl also stands as a blueprint, as testified by later legislative initiatives, for instance (S.1459-S.1266) proposed in 2019, for the production of a future national piece of legislation endowed with the purpose of creating a single discipline, in regulatory terms, for the professional exercise of lobbying in Italy.

The need for the creation of such coherent and organic discipline is also explicitly expressed in the Ddl, at paragraph *a)* of the "*Analisi Tecnico-Normativa"*, where all the eminently technical aspects of the Ddl are analyzed and reported in depth. Paragraph *a)* clearly emphasizes the lack of such organic legislation as a direct responsibility of the legislator, whose inability to act has created a situation of emergency.

The proposal was forwarded by the second executive led by Romano Prodi (*Governo Prodi-II*), and presented to the Senate of the Republic (*Senato della Republica*) on October 31st 2007. However, as the totality of the previous legislative initiatives aimed at regulating the subject matter at hand, the Ddl did not even start the process of discussion outside of the Commissions responsible for reviewing the text before it could start the *iter*. The text of the Ddl is worth analyzing in detail, in particular in virtue of the influence it still holds in inspiring the action of the legislator in trying to produce a similar law. It is constituted of eleven articles, each one dealing with specific aspects of the challenge of regulating such a complex and multifaceted subject.

Art. 1 provides the general program and intent of the law. It deals with the legislative objective or aim (*finalità*) of the Ddl. The object, as clearly stated in the Article, is the activity of interest representation for "particular" interests (*attività di interessi particolari*), inspired to principles of publicity (*pubblicità*) and participation (*partecipazione*). The aim is the one of regulating the relationship between institutions and interest representatives by guaranteeing transparency (*trasparenza*), the knowability (*conoscibilità*) of both the activity of the subjects involved as much as their identity and by providing a wide range of information on which public decision makers (*decisori pubblici*) may rely on for their deliberations. It is worth emphasizing how the Ddl already incorporates

in its first article most of the fundamentals of the previously discussed legislative initiatives, such as the principles of transparency, knowability and publicity. Before moving on, it should be worth mentioning that the requirements, obligations and prerogatives proposed by the Ddl under the following articles, are not universally applied to all the subjects involved in the activity of interest representation.

Art. 9 clearly reports the subjects excluded (*esclusioni*) from the constraints imposed in other articles. These are public entities (*enti pubblici*), political parties, associations or other subjects representing public entities, performing the activity of interest representation in the field of public decision making processes related to protocols of agreement *(protocolli d'intesa*) between entrepreneurs and labor unions. The only exception applies to specific disciplines regulating the action of interest representatives towards public decision makers (*decisori pubblici*) as defined in art. 2.

Art. 2 is maybe the second most relevant article following art.3 in terms of our later understanding of the Register. It provides a series of definitions (*definizioni*), 5 in total, required for the proper interpretation of the Ddl. Definitions *a), b)* and *e)* are the ones which played a major role in influencing the drafting of the Register of interest representatives, in particular the definition of the activity of interest representation. Definition *a)* deals with the notion of interest representative (*rappresentante d'interessi particolari*) as entailed in the Ddl, namely all the subjects representing lawful (*leciti*) interests, of a not general relevance (*rilevanza non generale*) and also not necessarily of an economic nature (*natura non economica*)[18]. The subjects to whom the action performed by the interest representatives is carried and directed, are the carriers of particular interests (*portatori d'interessi particolari*), whose definition is interestingly not entailed in the one of interest representatives, and public decision makers (*decisori pubblici*). Carriers of particular interests are dealt with in definition *b),* which describes them as being the employers (*datori di lavoro*) of an interest representative, in other words those subjects relying on the expertise of interest representatives for protecting and furthering their particular interests in institutional environments. Public decision makers are addressed by definition *c),* indicating all the heads of independent authorities (*vertici delle Autorità indipendenti*) responsible for the exercise of the regulatory activity, the Prime Minister (*Presidente del Consiglio dei ministri*), Vice Ministers (*Vice Ministri*), Under-Secretaries of State (*Sottosegretari di Sato*), the heads of direct collaboration offices (*uffici di diretta collaborazione*) of both Under-Secretaries of State and Ministers as well as Vice Ministers. Definiton *b)* further expands the notion of public decision makers, by extending it to all the public officials

[18] DDL Santagata. DDL n. 1866. (2007). http://www.senato.it/leg/15/BGT/Schede/Attsen/00017774_iniz.htm , pag.9

holding offices with the function of general management (*incharichi di funzione di direzionale generale*), granted to them in accordance with art. 19(3;4) of March 30th 2001 legislative decree (*decreto legislativo*) n. 165. Public decision making processes (*processi decisionali pubblici*) are instead the object of definition *d)*, where they are referred to as the processes of formation of both general administrative and normative acts (*atti amministrativi generali e atti normativi*). The activity of interest representation is defined at point *e)* as every kind of activity originally not encouraged by public decision makers and performed by interest representatives through proposals, requests, suggestions, studies, analysis, research and any other sort of written or spoken initiative aimed to the pursuit of lawful (*leciti*), particular (*di rilevanza non generale*) interests towards public decision makers[19]. This definition and the one of interest representative at point *a)* are intrinsically intertwined, and are a significant step forward in the history of Italian proposals, in terms of legislative production, at regulating lobbying. However, what emerged from the later experience of the Register adopted by the Chamber of Deputies (*Camera dei Deputati*) is that the requirements for the exercise of the profession of interest representative cannot be ambiguous or subject to flexible interpretation if the principles of transparency (*trasparenza*), knowability (*conoscibilità*), publicity (*pubblicità*) and others are supposed to be upheld. The consistency and in coherence of such requirements is what makes the difference between an effective regulatory framework and a hopelessly ineffective one. Art. 3 and art. 4 of Ddl, in contrast with the ambiguity of the later Register of the Chamber, and besides promoting the creation of a public Register for interest representatives themselves, are a very substantial example of the path the Italian legislator should follow in his attempt to regulate the activity of interest representation. They are certainly not immune to ambiguities and are certainly not deprived of weak spots, but in concert with art. 5, which was envisioned to make the obligations of the enrolled subjects explicit, art. 3 and 4 both provide a quite consistent blueprint for future legislation on the subject of interest representation, and a pretty effective one at that.

Art. 3, as mentioned earlier, called for the institution of a public Register (*Registro pubblico dei rappresentanti di interessi particolari*), where all the professionals representing particular interests or the ones having the intention to do so, were supposed to enroll. It wasn't the first legislative proposal to call for such an incisive course of action, but surely A.S. 1866 was the first to make good use of past experiences in order to build up a systematic operative structure for achieving such objective without playing down the other two aspects dealt with in artt. 4 and 5, namely subjects' requirement for enrollment and the obligations under which the subjects are going to operate once

[19] DDL Santagata. DDL n. 1866. (2007). http://www.senato.it/leg/15/BGT/Schede/Attsen/00017774_iniz.htm

enrolled. The Register would have been instituted within the CNEL (*Consiglio Nazionale dell'Economia e del Lavoro*), taking inspiration from previous legislative initiatives which tried to institute a similar mechanism, and the publicity of its content would have been guaranteed by the organ itself by means of a fully dedicated, freely accessible web page on the CNEL website. In order to uphold such expectation regular updates would have followed the publication of the Register, therefore publishing all the data concerning the activity of interest representatives operating under its framework. The Register itself was thought as being constituted of different sections or areas, on grounds of homogeneity in terms of categories of interests. The personal data required for enrollment, namely birthdate, professional residence, identification of the representative's carrier of interest (*portatore d'interesse*), the interest the representative is supposed to protect, the potential targets of his lobbying activity (the decision makers he will have to address in his quest), the financial as well as human resources the interest representative has to his disposal, were to be updated on a regular basis on his request.

Art. 4 deals with the requirements necessary to enroll into the Register (*Requisiti di iscrizione nel registro*), art. 4(2), is referred to as the code of conduct (*codice deontologico*) established by the Ddl. I will report the most relevant ones, so that a later comparison with the Register of the Chamber may result as more straightforward. Starting with the subjective (*profilo soggettivo*) of the interest representative, he must be at least 18 years old and he must not have been judged guilty of any charges against the State, the public administration (*pubblica amministrazione*), the administration of justice (*l'amministrazione della giustizia*), the public order (*ordine pubblico*), the public safety (*incolumità pubblica*), the public economy (*economia pubblica*), the public heritage (*patrimonio*), the public faith (*pubblica fede*) and the public persona. Incidentally, he must have never been suspended, even temporarily, from public offices as well as never been declared bankrupt, unless he has been fully rehabilitated.

These requisites are of course subordinated to the acceptance, in a written format, by the interest representative to respect the code of ethics deliberated by the CNEL and published on its website. Such acceptance, which shows the pivotal role the CNEL would have played in determining the correct functioning of the Register in case of approval of A.S. 1866 by the Parliament, was supposed to be presented within 90 days from the entry into force (*entrata in vigore*) of the law.

Art. 5 is focused on the obligations of the enrolled subjects and on the review of the activity exercised by interest representatives (*Obblighi degli iscritti e attività di verifica*) as it was envisioned in A.S. 1866. The enrolled professionals are obliged, under art. 5, to provide a yearly report starting in one year from their enrollment, with a deadline established on February 28th of every year. The report

must be sent to the CNEL for examination, and it must contain: a detailed list of all the activities of interest representation conducted during the related year; a list of all the public decision makers subjected to such activities; a list of all human and financial resources interest representatives relied on for the exercise of their professional activities during the year.

Art. 5 was designed to also explicitly counter a potential normative *vacuum* in the field of prevention of corruption. The CNEL, which was endowed by the A.S. 1866 with the power of monitoring the correct functioning of the Register, is in fact obliged under art. 5 of to report any irregularities to the High Commissioner responsible for fighting and preventing corruption (*Alto Commissario per prevenzione e il contrasto della corruzione*). The transmission of a yearly report on the monitoring of the activity of interest representation, with a deadline fixed on June the 30th, is also a CNEL responsibility. The obligations binding for public decision makers (*Decisori pubblici)* are reported in art. 7, and consist mostly of a series of measures aimed at guaranteeing the transparency (*trasparenza*) and publicity (*pubblicità*) of the legislative process. The three most relevant obligations to be upheld by public decision makers under art. 7 are the following ones. The influence interest representatives exercise on the legislator has to be disclosed by mentioning it openly in the illustrative report (*relazione illustrativa*), in the preamble (*preambolo*) of normative acts (*atti normativi*) or, alternatively, in the premises of general administrative acts (*atti generali amministartivi*). Public decision makers are expected under Art. 7 to guarantee free access to both documents and written communications dealing with public decision making processes currently under discussion or in phase of application (*processi decisionali pubblici in atto*). Incidentally, the public decision maker that considers the action of any interest representative to be in violation of the code of conduct (*codice deontologico*) established in Art. 4(2), or other provisions entailed in A.S. 1866, must communicate his stance to the CNEL.

The obligations under both art. 5 and art. 7 were clearly aimed at enforcing the higher possible level of transparency (*trasparenza*) and publicity (*pubblicità*), by relying on the conduct of public decision makers, interest representatives, as well as on the supervision by the CNEL. The Ddl Santagata, or A.S. 1866, stands out not just for the series of checks it tried to impose on the activity of interest representation, but also for how these constraints were balanced out by means of a set of rights granted to interest representatives to shield them during the exercise of their professional activity. These guarantees enjoyed by interest representatives were established under Art. 6.

Art. 6 granted to interest representatives the right to submit proposals, researches, analysis, written memoirs and any sort of documents or communication to public decision makers, as long as they are strictly related to the represented interest. Within ninety days from the entry into force of the law,

independent public authorities (*autorità pubbliche indipendenti*), as far as regulation was concerned, and administrative bodies of the State, even the autonomous ones, would have been entitled to define the forms in which the prerogatives granted under Art. 6 could have been implemented in accordance with their provisions and upholding the principles of impartiality and equal treatment.

Art. 8 dealt probably with the most delicate element of the entire Ddl, namely sanctions (*sanzioni*) and how to implement them upon the culprit. The measures adopted to punish irregular behavior were varied in their form and extent of application. Unless the action performed by the interest representative was a crime, he who would have exercised the activity of interest representation, defined in art. 2 letter *e)*, toward public decision makers without being regularly enrolled into the Register of interest representative, would have been punished by means of an economic sanction between 2000 and 20.000 €. In case:

- false information had been provided for the enrollment into Register and the subsequently required updates;
- the code of conduct entailed in art. 4 had been violated;
- the report required in art. 5 had not been provided or the information it contained resulted to be false;

the irregular behavior would have been punished, depending on the relevance of the violation, through censorship, suspension or permanent removal/cancellation from the Register. The interest representative who had been removed could not apply for a second enrollment before 4 years had passed from his/her cancellation from the Register.

The previously mentioned sanctions were all applied by the CNEL by means of a motivated provision (*provvedimento motivato*). Art. 8 established that the specific sanction of removal/cancellation from the Register would have been published within 30 days from its notification. The expenses were of course on charge of the subject responsible for the violations, and the sanction was required to be published on at least two newspapers, of which one had to be an economic newspaper. The decision to suspend a subject from the Register followed exactly the same procedure in terms of notification and subsequent publication. As far as potential controversies surrounding the application of art. 8 were concerned, the Ddl assigned exclusive jurisdiction to the figure of the administrative judge (*giudice amministrativo*) under the same article.

The last two articles, namely art. 10 and art. 11, respectively addressed the notion of regional autonomy (*autonomia regionale*) in relation to the content of the Ddl, and the principle of invariable costs (*invarianza degli oneri*). Art. 10 argued in fact that the obligations for public decision makers

to guarantee free access to both documents and communications to all potentially interested parties under Art. 6(1), as well as the other provisions aimed at securing transparency ad publicity were to be considered general principle of the legal system (*principi generali dell'ordinamento giuridico*). Art. 11 establishes that the financial burden over the public administration must not vary. The Ddl, in spite of not being even starting the discussion iter in Parliament following its examination by the competent parliamentary Commissions (*commssioni*), for instance the Constitutional Affairs Commission (*commissione affair costituzionali*), still stands as comprehensive and articulated example of how to produce an effective legislation on the activity of interest representation. This objective however was eventually, at least temporarily, abandoned in favor of a new approach inspired to the principle of Parliamentary autonomy (*autonomia parlamentare*).

The XVII legislature saw in fact a radical change in terms of methodology. Rather than trying to pass a nationwide legislative discipline through the chambers, the Regulatory Committee (*Giunta per il Regolamento della Camera)* approved a series of measures which ultimately led to the adoption of the Register of interest representatives of the Chamber of Deputies.

As far as the Regulatory Committee (*Giunta per il Regolamento della Camera*) is concerned, its purpose is described in the Regulation of the Chamber (*Regolamento della Camera*) at art.16, art. 16-bis. The Committee is an organ operating within the Chamber of deputies composed by ten MPs appointed by the President of the Chamber (who also act as President of the organ itself) as soon as the Parliamentary Groups have been formed, and endowed with regulatory prerogatives, such as the study of proposals concerning the Regulation of the Chamber (*Regolamento)* as well as providing opinions over the interpretation of the Regulation or proposing modifications of it. A brief overview of the first 4 commas of Art.16n is provided for the sake of more detailed explanation:

- Art.16(1). The organ operating within the Chamber of deputies is composed by ten MPs appointed by the President of the Chamber, acting as President of the organ himself, as soon as the Parliamentary Groups have been formed. The President may further increase the composition of the organ in order to strengthen the representative aspect, however only after consulting its members and always following, as much as possible, criterions of proportionality between different Parliamentary Groups;

- Art.16(2). The Committee is responsible for analyzing the proposals concerning the Regulation of the Chamber (*Regolamento*), for providing opinions over the interpretation of the Regulations and for solving conflicts between the various Parliamentary Commissions, as prescribed by Art. 72(4) and Art. 93(4);

• Art 16(3;4). The Committee proposes to the Assembly, on the grounds of previous legislative experience, additions and modifications to the Regulation of the Chamber. The discussion concerning the proposal by the Committee is open to proposals by every MP. The proposal must contain principles and criteria aimed to the reformulation of the text originally presented by the Committee.

The Regulatory Committee is therefore responsible as far as the regulatory subject-matter is concerned, which means directly integrating and implementing constitutional precepts (*precetti costituzionali*).

The new regulatory elements introduced by the Regulatory Committee between the 12th and the 18th of April 2016 were pivotal to the adoption of the Register on the 26th, which was followed by its activation in 2017, constituting the process thanks to which the Register ultimately came into being.

The Register is, therefore, nothing but the last step in a series of consecutive measures approved by the Regulatory Committee in 2016 in order to pave the way for the implementation of a set of internal regulations aimed at disciplining the activity of interest representation exclusively within the boundaries (*intra moenia*) of the Chamber of Deputies. The pieces of regulation introduced by the Committee before the Register itself were, in such order, the MPs Code of Conduct, the norms and the procedure to enforce them and the institution of a Consulting Committee. The Code of Conduct (*Codice di condotta dei deputati),* defines the norms regulating the behavior of MPs, while the norms and the procedure required to enforce them, are inspired to the values of correctness (*correttezza),* transparency (*trasparenza),* impartiality (*imparzialità).* The Code of Conduct was introduced by the regulatory organ of the Chamber of Deputies on April the 12th 2016. The inspiration to art.4 of A.S. 1866 emerges already in an explicit fashion. The institution of a Consulting Committee on April 18th 2016, endowed with the power and prerogative to oversee the conduct of MPs as well as providing opinions over the implementation and interpretation of the provisions entailed within the Code of Conduct, was the last essential step in paving the way to the introduction of the Register.

Once the stage had been set for the adoption of the Register, the Regulatory Committee proceeded to approve the provision with which the Register itself was instituted on April 26th 2016. The regulatory provision instituting the Register was the Regulation of the activity of interest representation within the Chamber of Deputies (*Regolamentazione dell'attività di rappresentanza di interessi nelle sedi della Camera dei deputati).* The main features underpinning the provision and with it the very structure of the Register can be synthetized in the following terms.

First of all, the institution of a Register of all the subjects performing the profession of interest representative or institutional relation (*relazione istituzionale*) within the Chamber of Deputies and

performing it by being in contact and interacting with MPs. Secondly, the subjects, be it individuals or organizations, subscribed to the Register are obliged to forward a yearly report to the Chamber of Deputies providing details concerning the objectives achieved by the interested subjects and specifying through which institutional contacts such objectives were achieved. The implementation of sanctions following violations is another essential feature, reminiscent in its form of both Ddl Santagata and of all previous legislative proposals. Sanctions may range from temporary suspension to the straight cancellation of a given subject from the Register.

The combination of all the aforementioned elements produced by the Regulatory Committee constitutes the regulatory component (*regolamento o regolamentazione,)*, which was further expanded upon trough the deliberative decision by the Presidency Bureau *(Ufficio di Presidenza*). The Regulation established by the Committee entails elements, such as the definition of activity of interest representation and the one of interest representative, also to be later found in a more detailed form within the Deliberation of the Presidency Bureau. The Register was in fact officially activated and therefore formally instituted through a deliberative decision, or Deliberation (*deliberazione*), expressed by the Presidency Bureau (*Ufficio di Presidenza)* on February the 8th 2017, being the Bureau endowed by art.12 of the Chamber Regulation (*Regolamento della Camera*) with a normative competence (*competenza normativa*) aimed at disciplining subject-matters strictly related to the internal self-organizational profile (*profilo di autorganizzazione interna*) of the Chamber of Deputies. Such deliberation, as also clearly stated on the freely accessible website of the Chamber of Deputies, contains the applicative discipline (*disciplina attuativa*) of the Register. The main aspects of the Deliberation are therefore pivotal in understanding the structure and the correct functioning of the Register, and deserve to be deliberately examined *per se*, as the Register itself alongside its ramifications.

2.2 The Institution and Structure of the Register seen through its functioning and by means of comparative analysis

The Deliberation entails the discipline of the activity of interest representation (*disciplina dell'attivita' di rappresentanza di interessi*) within the Chamber of Deputies (*nelle sedi della Camera dei Deputati*). Examining the content of the Deliberation is pivotal in also explaining the one of the Regulation (*regolamentazione*) produced by the Regulatory Committee (*Giunta per il Regolamento*). The Deliberation is subdivided into 7 articles, each one dealing with different aspects of such discipline, with a particular focus on the structure and the functioning of the Register.

The subdivision is reminiscent of the approach adopted, although in a different form and through a different type of legislative device, by A.S. 1866 and the previous proposals which never started their

discussion *iter* in Parliament. Not just the institution of the Register, but also the introduction of similar inspiring principles for the action of the latter, as well as sanctions and enrollment requirements, are a tangible and substantial evidence of the long term influence these less fortunate precursors eventually had. Of course there are also substantial differences which should be emphasized before moving to the analysis of the Deliberation and the Register itself in terms of structure and functioning.

The most self-evident distinction is the difference in terms of type of provision employed to achieve the final goal. While before the XVII legislature the legislator attempted to produce a coherent legislative measure with a nationwide scope in terms of application, as also explicitly stated in the premise of A.S. 1866, following the series of failures which underpinned this strategy the Chamber decided to take the matter in its own hands and to produce a discipline inspired to the principle of parliamentary autonomy sanctioned by the Constitution (*autonomia parlamentare*), endowed therefore with a scope of application limited to the boundaries of the Chamber of Deputies, or *intra moenia*. It is imperative however to stress the peculiar character of such discipline, in terms of the subject it is aimed to regulate it is in fact placed at a crossroad between parliamentary autonomy and the constitutional discipline regulating the participation of elements of civil society (*società civile*) to public decision making processes.

In other terms the nature of the discipline entailed in the Deliberation is a tangible example of how, in recent years, the sources of parliamentary autonomy (*fonti dell'autonomia parlamentare*) have increasingly been relied upon to introduce sector-specific regulations which would have been customarily limited to the sphere of applicative praxis (*prassi applicative*)[20]. It should be further underlined that the production of such discipline is the final outcome of an unprecedented level of cooperation between the two aforementioned organs, the Presidency Bureau and the Regulatory Committee respectively, which are distinct in terms of competences and non-overlapping in their action. The use of *soft-law* provisions, namely self-regulatory devices adopted by the interested organs in producing the aforementioned discipline, in order to regulate the activity of interest representation in contrast with previous attempts to achieve the same objective through *hard-law* provisions is therefore a remarkable transition, allowing to introduce regulations particularly fitting for the intrinsically peculiar nature of the Parliamentary Institution and delving into levels of detail which ordinary law could not have possibly achieved, but it presents some critical features.

[20] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/ , pag.2

It is in fact still debated whether the Italian legislator should eventually privilege one approach over the other, but it should be reminded that soft and hard law are not necessarily incompatible with each other and that in many other areas, such as for instance the field of advertising, the combination of deontological codes, self-regulatory provisions adopted by independent authorities and a few fundamental principles established by the national legislator helped producing a well regulated discipline[21]. The critical element however is what kind of aspect of lobbying the legislator is trying to regulate and which device between *soft* and *hard law* is more fit for disciplining that particular aspect of lobbying. In comparative terms, at the EU level the *soft law* approach is generally favored in contrast with the *hard law* oriented US system, in fact the similarities between the concept of the Transparency Register (*Registro per la Trasparenza*) adopted by the European Commission and the Register introduced by the Chamber of Deputies in Italy are enlightening in this regard, and also significant in showing the limits of the adoption of a mere *soft law* regulation[22]. First off, parliamentary regulation requires absolute majority for approval and it cannot be usually challenged as incompatible with the Constitutional order on the grounds of a judgment of constitutional legitimacy, to which instead *hard law* is always subject[23]. What however is mostly relevant in showing the limits of parliamentary regulation is its intrinsic inability to discipline the activity of interest representation outside of the boundaries of the Chamber.

This has to be clarified, although it will be further expanded upon in the conclusion of the dissertation, since the legislative process is not merely relegated to the sheer production of laws within Parliament. Interest groups and their representatives usually act at the very source of legislative production, namely the legislative initiative, which is clearly defined under the Italian Constitution in art. 71, 87, 99, 121, 132, 133, 123 as being potentially exercised by various subjects outside of Parliament itself,

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[21] Lupo, N. (2006, November 11). *Quale regolazione del lobbying*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/?s=N+lupo+lobbying, pagg.3-4

[22] Di Maria, R. (2017, April 4). *Dalla regolamentazione parlamentare della attività di rappresentanza degli interessi ad una legislazione organica in materia di lobby? Una ipotesi di integrazione istituzionale del "processo di nomopoiesi sociale"*. Osservatorio sulle Fonti. 1-11. https://www.osservatoriosullefonti.it/mobile-saggi/speciali/speciale-crisi-della-rappresentanza-e-nuove-dinamiche-della-regolazione-le-prospettive-della-democrazia-pluralista-in-europa-fasc-3-2017/1134-dalla-regolamentazione-parlamentare-della-attivita-di-rappresentanza-degli-interessi-ad-una-legislazione-organica-in-materia-di-lobby-una-ipotesi-di-integrazione-istituzionale-del-processo-di-nomopoiesi-sociale , pagg.3-4

[23] Lupo, N. (2006, November 11). *Quale regolazione del lobbying*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/?s=N+lupo+lobbying, pagg.5-6

including the Government, the CNEL and even the citizens by means popular initiative (*iniziativa popolare*). This, alongside the tendency of MPs to already act as *de facto* lobbyists while still serving their term, therefore bypassing the limitation placed upon the phenomenon commonly known as revolving doors by the Regulation, enables interest groups to influence the decision making process circumnavigating the Register, the obligation of transparency and often Parliament itself. Why passing through a potentially complicated as well as perilous registration process, while the executive branch of the State or a specific Minister operating in the current legislature can both be lobbied directly to propose desired pieces of legislation to Parliament?

While the structural weaknesses of the regulation as well as the proposition of potential improvements will receive further insight in the conclusion of the current research work, the importance of the introduction of the Register cannot be underestimated. Therefore, in order to grasp both its relevance as much as introducing its functioning, it is time to move to an in depth analysis of the Deliberation itself.

Art.1 of the Deliberation, referring specifically to the Register (*Registro*), defines the activity of interest representation exercised within the boundaries of the Chamber of Deputies as being inspired by the principles of transparency (*trasparenza*) and publicity (*pubblicità*), which we have both already encountered in all previous legislative proposals concerning the regulation of lobbying, included A.S. 1866. The Register is therefore instituted by the Presidency Bureau (*Ufficio di Presidenza*) with the purpose of upholding the aforementioned inspiring principles by means of registering all the subjects performing the professional activity of interest representation towards the MPs of the Chamber. The Register, which is subdivided in sections (*sezioni*), is officially referred to as *Registro,* while the Regulation adopted on April 26th 2016 by the Regulatory Committee (*Giunta per il Regolamento*) is formally defined as *Regolamentazione* in art.1 of the Deliberation.

The Regulation consists of 5 paragraphs relating to the functioning of the Register, the management of which is entrusted to the superintending activity of the College of Commissioner Deputies (*Collegio dei Deputati Questori*) as established in art.1 of the Deliberation. The College is in fact responsible for the publishing of the Register on the Chamber website, for monitoring the enrollment procedures and for executing both the verification and preliminary activities (*attività istruttorie e di verifica*) instructed by the Deliberation. Art.1, further defines the activity of interest representation as every professional activity exercised within the boundaries of the Chamber of Deputies by registered professionals and subjects mentioned in the third paragraph of the Regulation (*Regolamentazione*) and relying on studies, suggestions, researches and all other means of written or oral communication

aimed at legitimately representing the interests of third parties within the Chamber of Deputies[24]. The definition is rather broad and generalist, reason for which it has been targeted by various strains of criticism, mostly stressing its overall lack of specificity. Still, it is worth noting that the formulation of such definition is overall in line with all the previous legislative proposals equivalents, and that it entails two interesting aspects, namely the existence of a teleological bond between the various means of written or oral communication and the represented interest, as well as a functional bond between the activity of interest representation and the institution of the Chamber of deputies.

Some specific activities are however explicitly classified as not being a form of interest representation, thus falling out of the scope of the discipline established by the Deliberation. Such exceptions are declarations (*dichiarazioni)* and material (*materiale*) deposited during hearings (*audizioni*) in parliamentary commissions as well as committees (*commissioni e comitati parlamentari*). Art.1 refers therefore to the first paragraph of the Regulation, namely the institution of the Register (*Registro dei soggetti che svolgono attività di rappresentanza di interessi)*, as well as to the second and third paragraphs of the Regulation, which respectively define the activity of interest representation (*Definizione dell'attvità di rappresentanza di interessi*) and the enrollment into the Register (*Iscrizione nel registro dell'attività di rappresentanza di interessi*), although the specific procedural requirements for the enrollment are addressed by art.2 of the Deliberation.

As far as third paragraph is concerned, art.1 of the Deliberation defines the subjects whose enrollment into the Register is regarded as mandatory, if they want their interests to be legitimately represented within the Chamber of Deputies. These subjects are: labor unions; employers' organizations (*organizzazioni datoriali*); individual private companies or groups of private companies and firms; subjects who are specialized in the activity of interest representation of third parties; consumers' associations (*associazioni dei consumatori*) recognized by art. 137 of the Consumer Code (*Codice del Consumo*); professional associations (*associazioni professionali*); trade associations (*associazioni di categoria*); associations endowed with the protection of widespread interests *(associazioni di tutela degli interessi diffusi*); MPs whose term is expired and who are willing to exercise the activity of interest representation; any other subject willing to exercise the aforementioned activity, bearing in mind the exceptions already set out within the very definition provided by art. 1.

The exceptions to mandatory enrollment established under art. 1 are instead the following ones: subjects responsible for the administration of constitutional bodies or bodies having constitutional

[24] Camera dei Deputati. (2017, February 8). *Disciplina dell'attività di rappresentanza di interessi nelle sedi della Camera dei Deputati*. https://rappresentantidiinteressi.camera.it/sito/deliberazione.html

relevance; the offices of the public administration as described in art. 1(2) of March the 30th 2001 legislative decree (*decreto legislativo*) n. 165; regulatory and guarantee authorities (*autorità di regolazione e garanzia*); international as well as supranational organizations; diplomatic as well as consular officials; political parties and movements; religious denominations.

The specific procedures (*Modalità di iscrizione*) required for the enrollment of a given subject are instead explicitly reported in art. 2. The requests for enrollment are sent to the Presidency Bureau through the Chamber Website. A request is supposed to contain a description of both the kind of interests which are going to be represented as well as of the subjects who are going to be contacted by the interest representative during the exercise of his or her professional activity.

As we know from art. 1 there are different kind of subjects who can be regarded as interest representatives, the broad nature of the definition of interest representation allows for a flexible, although somewhat superficial interpretation. In art. 2 the requirements, which are to be provided through self-certification by the interested subjects, vary mostly between 2 categories, natural persons (*persone fisiche*), legal entities (*persone giuridiche*) and a variety of subjects representing the interest of third parties or simply defined, in general terms, as being different from natural persons. The enrollment procedure won't be validated unless the self-certification of what in Italian are known as *requisiti di onorabilità* is forwarded and recognized as truthful.

The requirements for a natural person stem from the minimum age of 18 to the lack of final sentences (*condanne definitive*) against the public administration, the public faith (*fede pubblica*) or the public heritage (*patrimonio*). He or she are further required to provide their professional domicile (*domicilio professionale*), their personal data (*dati anagrafici*) and they must have never been suspended from public offices as well as being able to fully enjoy their civil rights. The natural person in question is also placed under an obligation aimed to the prevention of the phenomenon commonly known as revolving doors. In the year preceding the enrollment he or she must not have served terms as MPs or government officials. Paragraph 3 of the Regulation argues that the same discipline is applied to the MPs who have ended their term and intend to exercise the activity of interest representation.

As far as legal entities and subjects distinct from natural persons are concerned the requirement of self-certification existing also for natural persons is maintained, name and registered office are to be provided in addition to the personal data (*dati anagrafici*) of the personell operating within the registered office and to the data concerning the subjects who are going to be contacted by interest representatives during the execution of their professional activity. If the activity of interest representation is exercised in the name of third parties, namely the ones whose interests are being

upheld, the disclosure of the identity of third parties as well as the legal title allowing the interest representative to operate in defense of their interests is required. When existing, the final term agreed between the third party and the interest representative for his services has to be mentioned. Any variation in the data provided for the enrollment has to be communicated by the interested subjects, be them natural persons or other legal entities, by the aforementioned mean of self-certification. The register is published on the Chamber website, therefore the data it contains need to be constantly updated through self-certification and the yearly reports envisioned under art. 5.

Other relevant features of art. 2 concern the role of the College of Commissioner Deputies, which is responsible for superintending the regularity of the documentation provided by the interested subjects for the enrollment procedure. It can also, under art.2, require further pieces of information pivotal to the validation of the previously mentioned procedure. The subject applying for enrollment into the Register shall be informed of the outcome of the validation within one month from the application. The College is endowed by art. 2 with the power to suspend the enrollment of a given subject in the case the legal title required for representing third parties' interests is missing or in case the agreed term for the activity of interest representation is expired. Another reason for suspension may be the inability of the interested subject to yearly update his data on the Register as required by the Regulation. Under art. 2 the subject is given no more than 3 months beyond schedule to update the information he provided at the time of the enrollment. If the subject fails to meet his or her obligations, then the College will resort to the ultimate measure of cancellation from the Register. However, as soon as this requirement is added by the interested subject, the suspension can be lifted. If the requirements which are object of self-certification are no longer valid, then the College can, always under art.2, require the previously mentioned cancellation of the interested subject from the Register. The College can, in these instances, act when beseeched by an MP or by an office inside Parliament, and consequently implement measures such as the audition of the interested subjects as well as the transmission of further written intelligence concerning the subject's supposedly irregular behavior, following a written request. The College will therefore deliberate accordingly, usually within a month from the MP or office complaint, or from the moment it became aware of the existing irregularity. In these two specific cases then, namely potential suspension or cancellation following a College delib eration, the outcome has to be communicated to the interested subjects within a ten days' timeframe, so that the parties involved may contest the College decision to the Presidency Bureau.

The Presidency Bureau, as established under art.6, which specifically deals with the sanctions to be levied upon subjects responsible for regulatory infringements, enacts the cancellation of the interested subject from the Register when the data on which the enrollment has been approved are determined

to be false. If the subject is found guilty of not communicating the variation of his professional situation, like a change of professional domicile etc., then the sanction to be implemented will be a one-year suspension. It is worth emphasizing that, following the cancellation from the register, the subject is prevented by the Regulation to be eligible for another enrollment for a period of five years. The sanctions envisioned under art. 6 have to be published on the Chamber Website and be visible to the public for the entirety of their time. These measures can be applied to both natural persons as much as legal entities.

Art. 3 and 4 discipline the conduct of registered subjects within the Chamber of Deputies. More specifically art. 3 disciplines the access and the movement within the Chamber (*Modalità di accesso e circolazione nelle sedi della Camera*), while art. 4 deals with the material resources available to the registered subjects while operating within the Chamber, for instance spaces put at their disposal (*Locali e attrezzature*). Essentially the registered subjects are provided, within 20 days from their enrollment, with a year-long pass granting them access to the Chamber of Deputies. They are required to uphold both decorous as well as respectful conduct towards the institutional setting within which they operate. If these obligations are not met, then sanctions established under art. 6 may follow suit. Art. 4, in line with the content of art. 3, provides the registered subjects with a dedicated room with adequate digital equipment and internet connection so that they may follow the debates within the Chamber in real time while being also able to develop an operational strategy. Let us now move to what is probably, in functional terms, probably the simplest but at same time most fundamental element in the regulatory framework of the Register, namely the yearly reports (*Relazioni annuali*).

The reports are the element which determines the correct functioning of the Register. They are specifically referred to and conceptually developed in paragraph 4 of the Regulation as well as in art. 5 of the deliberation. Art. 5 establishes, in fact, the obligation for the registered subjects to submit, on an annual basis, a periodical report concerning the activity of interest representation the subjects have conducted the previous year. The report has to be forwarded to the Presidency Bureau within January the 31st of every year, and it follows the specifics of a standardized model for all the interested subjects. In case the subject concerned is not a natural person, then the report will be forwarded in a unitary format (*relazione unitaria*). Contextually to the forwarding of the report, the registered subjects also confirm the validity of the enrollment requirements.

The standardized model was structured by the College on the specifics provided by paragraph 4 of the regulation, and its format is entirely digital. The reports must contain: the contacts established by the interest representative during the exercise of his professional activity in the previous year (names of MPs need to be explicitly reported); the objectives pursued by the interest representative; the

identity of the subjects in whose interest the interest representative has acted; potential variations in the exercise of his activity; an account of the partners or employees who operated alongside the interest representative during the exercise of his professional activity. The Presidency Bureau approved the standardized structure with Deliberation 229 of July the 4th 2017.

Art. 5 endows the College with the authority to verify the formal completeness (*completezza fromale*) of every report. In case of inconsistencies within the report, the College can require the provision of further intelligence to the interested subjects, indicating the deadline within which such integrative elements have to be provided. The College is also responsible, under art. 5, to communicate the outcome of his verification to the Presidency Bureau.

When the outcome of the College verification is positive, the reports are immediately published on the Chamber website, being thereby available to public scrutiny, in line with the inspiring principles of transparency and publicity. In case the enrollment requirements are still satisfied, then the access pass to the Chamber is extended automatically to the following year.

When a given report refers to one or multiple MPs as professional contacts of an interest representative, then the College will contact he MPs giving them the opportunity to review the content of the report and, in case they deem it necessary, provide further insight or explanation in written format to the College. These further elements have to be provided within fifteen days. The MPs' considerations are then published, on their request, as an attachment to the report.

What is also published on the Chamber website is the list of all the registered subjects who were unable to send their reports respecting the deadline. The College, under art. 5, sends them a reprimand, giving them ten days to comply with their obligations. When the inability of the interested subjects is justified by external contingencies, the College extends the term for compliance to a month. If the subjects are still unable to comply even after the extension of the deadline, then the previously mentioned sanction of suspension under art. 6 will apply. If instead the content of the reports is discovered to be false, or if the required further information were not supplied within the deadline, the Presidency Bureau will proceed to remove the subjects responsible of irregularities from the Register through cancellation. Under art. 6, as it was already mentioned, the sanction of cancellation is backed up by a five years long non-eligibility period for new enrollment into the Register.

The Deliberation, as established under art. 7, was published on the Chamber website and 30 days following its formal approval it officially entered into force on February the 8th 2017. Under the same article, the College reports periodically to the Presidency Bureau about the application of the Register regulatory framework, specifically the discipline established through the Deliberation,

thereby suggesting changes or revisions wherever deemed necessary. And it is the application of such discipline, therefore the functioning of the Register and the legacy of its experience, which stands as the object of analysis of the following Chapter.

Chapter 3

3.1 The legacy of the Register, how its application has influenced the approach of the Italian legislative and regulatory organs to the subject of interest representation

The introduction of the Register was initially successful, and was positively welcomed by the very subjects whose professional and moral conduct its discipline was trying to regulate. On June 30th 2018, namely little more than a year after the Register entry into force, 295 natural persons and 151 legal persons were enrolled[25], and the implementation of the regulatory framework set up through the deliberation was taking place.

The applicative praxis following the introduction of the Register has, however, disclosed a series of ambiguities, contradictory interpretations and irregularities, raising a debate on the future course of action that the discipline should take. As far as ambiguities and contradictions are concerned, these were emerging in the form of contrasting interpretative profiles, which required the intervention of the College, whose role of superintending the management of the Register and solving conflicts of interpretation was pivotal in reaching a common ground. The College defined a series of specific interpretative orientations aimed at granting the effective application of the Register while respecting the inspiring values of transparency and informational completeness.

The first confrontation of an interpretative character concerned the practical implications deriving from the application of the professional requirement in order to perform the activity of interest representative, entailed in art. 1(3) of the deliberative decision 208/2017[26]. The *conundrum* at the heart of this controversy was solved by determining that the information concerning the professional character of the activity of interest representation which were being provided had to be punctual and

[25] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/, pag.4

[26] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/ , pag.5

non-generic[27]. This explanation is essential for stressing the intrinsic relevance of the professional requirement in order to operate within the scope of the Register, in particular as far as physical/natural persons are concerned, since the professional character of legal persons can be easily assumed. Natural persons, following the adoption of this line of interpretation, were being in fact required to provide clear explanatory elements in justification of their professional activity as interest representatives. The upholding of the notion of clear explanatory element, implies therefore the refusal of generic requests having as objects forms of diffused or amateurish interest representation, for instance the ones having as object theoretical, cultural or political interests. The exclusion of the political object of interest is due to the assumption that political movements and parties are not required to enroll into the Register.

The second applicative complication referred to the interpretative ambiguity concerning the representation of third parties' interests[28]. In order to uphold the principles of transparency and informational completeness, thus preventing the circumnavigation of the requirement to disclose the nature of the professional relationship existing between an interest representative and a third party to the public, the obligation to specify and make thereby transparent the interest in representing third parties has been further stressed and emphasized. Such orientation has been privileged and eventually chosen by the College in order to fight against irregular practices which had emerged in the first year of activity of the Register. Some interest representatives, in order to protect the identity of their clients, were in in fact enrolling into the Register and presenting reports as being operating in representation of their own interests, and not the one of third parties. This issue was, at the time, particularly problematic for natural persons trying to enroll into the Register. A specific criterion was therefore emphasized and stressed in order to clarify the position of natural persons. This criterion implies in fact that when a natural person working for a legal person, for instance a company, decides to enroll into the Register individually but with the intent of *de facto* representing the interests of the legal person employing him or her, then the legal person is the one which is required to enroll and not the natural one[29]. The objective of the College, through the strengthening of this concept, was to

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[27] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/, pag.5

[28] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/, pag.5

[29] Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8.

effectively defend and highlight the link between the professional requirement and the disclosure of a real interest (*interesse reale*) in order to operate with transparency and informational completeness under the regulatory framework set by Register. Considering the already limited scope of action of the Register and the intrinsic deficiencies, such as the lack of a coherent professional criterion to define a lobbyist consistently, these orientations were pivotal in delineating a line of interpretation capable of preventing any subject from taking advantage of the generalist, if not at times superficial, definitions and obligations as well as the various loopholes contained within the Register.

One of these potential loopholes turned into another practical challenge to the application of the discipline, emerging one year after the Register had started to operate regularly. As prescribed by art. 5 of the deliberative decision as well as paragraph 4 of the regulation, enrolled subjects are required to present an annual report about their activity as interest representatives, providing detailed information about the way it was conducted, the financial expenses necessary for its completion and the human resources employed, among others. In 2018 239 reports were presented, some of which were non-compliant with the requirements of the deliberation[30]. In addition to the detection of irregularities, some enrolled subjects even failed to deliver on the most basic obligation, thus conducting their activity of interest representation during the entire year without eventually providing the annual report. This resulted in the application of sanctions under art. 6, implying suspension, fines and cancellation from the Register, depending on the gravity of the irregular behavior concerned. The Presidency Office imposed thereby sanctions upon these subjects under art. 6 in 2019.

Among these subjects, both natural and legal persons appeared to have not presented their respective reports concerning their 2018 lobbying activity. It emerged, in fact, that five companies had not provided their reports. They were sanctioned accordingly, by means of cancellations from the Register and by being prohibited to require a new enrollment until the end of the legislature, therefore implying also a ban from accessing the Parliament. These five subjects were Aniem (*associazione nazionale imprese edili e manifatturiere*), operating in the construction and manufacturing sectors, Ovale Italia, a company producing electronic cigarettes, Daniele Carlo Alicicco Expo Training srl, a subject operating into the sector of professional education and work placement and finally

https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/. pag. 6

[30] Proietti, I. (2019, June 18). *Trasparenza, alla Camera prime sanzioni: da Fico daspo a 11 lobbisti*. https://www.ilfattoquotidiano.it/in-edicola/articoli/2019/06/18/pasticci-furbate-e-segreti-il-daspo-di-fico-a-11-lobbisti/5262850/

Associazione Btc-Blockchain Technology Cryptocurrency[31]. Another case, this time concerning a natural person enrolled as Antonio Giordano and operating under the discipline established by the Register, ended with the cancellation of the subject. The College deemed Giordano's indications, concerning the MPs he had got in touch with during his activity, as being incorrect. Following repeatedly unanswered as well as explicit calls from the College to provide more detailed and consistent information, he was expelled from the Register[32].

Other five subjects, among them Imperial Tobacco Italia and World Medical Aid, were sanctioned because of the vague nature of their reports, which were not in line with the new standards set by the updated regulatory framework of February the 7th 2019[33]. The relations are in fact expected to provide detailed information about the MPs with whom interest representatives had any contact, included the specification of their names. Reports can't be generic in such regard. The five subjects were instead found guilty of not integrating their reports properly, reason for which they were not verified positively. These are among the most prominent controversies which emerged following the application the Register, but they were only one face of the medal in regard to its introduction. If, in fact, ambiguities and interpretative clashes have both afflicted its functioning, it should be bared in mind the role that the Register played a pivotal role in inspiring a renewed regulatory action on behalf of the Italian legislator, leading to a proliferation of debates on the subject of lobbying legislation and also to the introduction of transparency measures modelled on the blueprint of the Register itself. The most interesting one, also in terms of chronological proximity and ideal continuity with its 2017 putative father, was the Register of carriers of interest (*Registro dei portatori di interesse*) adopted by the Ministry of Economic Development, hereafter referred to as MISE.

The Register introduced by the MISE was originally proposed and conceived by the former Minister Calenda in 2017, but the actual implementation happened, eventually, under the management of Minister Di Maio on September 24th 2018[34]. The Directive singed by the Minister, accompanied by a code of conduct, led to the adoption of the Register not only by the MISE but also by the Ministry

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[31] Proietti, I. (2019, June 18). *Trasparenza, alla Camera prime sanzioni: da Fico daspo a 11 lobbisti*. https://www.ilfattoquotidiano.it/in-edicola/articoli/2019/06/18/pasticci-furbate-e-segreti-il-daspo-di-fico-a-11-lobbisti/5262850/

[32] Proietti, I. (2019, June 18). *Trasparenza, alla Camera prime sanzioni: da Fico daspo a 11 lobbisti*. https://www.ilfattoquotidiano.it/in-edicola/articoli/2019/06/18/pasticci-furbate-e-segreti-il-daspo-di-fico-a-11-lobbisti/5262850/

[33] Proietti, I. (2019, June 18). *Trasparenza, alla Camera prime sanzioni: da Fico daspo a 11 lobbisti*. https://www.ilfattoquotidiano.it/in-edicola/articoli/2019/06/18/pasticci-furbate-e-segreti-il-daspo-di-fico-a-11-lobbisti/5262850/

[34] *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/

of Labor and Social Policies, hereafter referred to as MLPS. On June the 7th 2021, the number of enrolled subjects corresponds to 2173, subdivided into six categories, following the organizational model introduced by the Register of the Chamber of Deputies[35]. There are: 463 legal offices, specialized advisory companies as well as independent consultants; 1486 companies, professional and trade associations; 113 NGOs; 65 academic institutions, think tanks and research centers; one organization representing religious interests and finally 43 organizations representing all levels of public administrative bodies, for instance regions or local administrations[36]. Structure aside, what is imperative to emphasize is the thread of continuity, in terms of regulatory policy, which the approval of this Directive represents for the Italian legislator, entailing both opportunities and risks.

As far as the Directive itself is concerned, it consists of 13 articles regulating the activity of interest representatives in relation to their dealings with the MISE and the MLPS. What is particularly interesting to analyze are the objectives and definitions contained in the Directive, since they both show the substantial influence wielded by the introduction of the Transparency Register at the EU level as well as of the Register of the Chamber of Deputies in shaping the approach of the regulatory authority, being a ministerial one in this specific case.

The objectives are entailed in art. 1, where the functional reasoning behind the adoption of an *ad hoc* Transparency Register for each Ministry (*Registro Trasparenza MISE; Registro Trasparenza MLPS*), both bearing the name of their EU equivalent, is clearly set out. Being the institution of the Register referred to in art. 1(1), art. 1(2) clearly addresses all the operatives working within the Ministry and endowed with the task of managing the Transparency Register, while art. 1 (3) stresses, in a fashion resembling art. 2, 3 and 5 of the 2017 deliberative decision, the obligation for all the subjects who are intentioned to enroll into the Register to guarantee the completeness, consistency and constant update of the information provided during the registration procedure and in conformity with the Code of conduct[37]. The management of the various kind of interests represented by the enrolled subjects, both of a general and diffused nature, is subordinated to the compulsory enrollment of the subjects within the two Registers and takes place through the organization of meetings between public officials and interest representatives, which have to be required explicitly by the latter. The element of compulsory enrollment is therefore also present, as well as the obligation of transparency and informational completeness through disclosure, as testified by the aforementioned content of art. 1(3). As far as the

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[35] *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/

[36] *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/

[37] *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/

definitions are concerned, art. 2 has to be examined in its most prominent features in order to identify the pattern connecting the Register to its parliamentary equivalent.

The definition of carriers of particular interests (*portatori di interessi particolari*), laid out in art. 2(1) is clearly inspired to the one adopted in 2017 by the Chamber of Deputies, and entails elements such as the distinction between natural and legal persons, influencing public decision making processes by representing professional interests of both economic and non-economic nature. The definition applies also to representatives of third parties' interests, but by using an indirect formulation of this notion, referring to these third parties as organization which do not have interest representation as their main corporative goal, but which are nonetheless relying on the professional services of interest representatives. Art. 2(2) and 2(3) respectively deal with the definition of activity of interest representation, which is basically identical to the one agreed upon in deliberative decision of 2017, and public decision making processes, namely those processes leading to creation of Ddls and ministerial decrees of a regulatory nature for which an analysis of regulatory impact (*Analisi d'Impatto Regolamentare*), or AIR, is required[38].

An interesting differentiating feature, however, is present in art. 5, dealing specifically with the information that enrolled subjects are expected to provide in order to uphold the principles of transparency, informational completeness, and accountability to the public. While the type of information required and the method of publication are reminiscent, if not the same, as the one established by the Chamber of Deputies in 2017, the element of verification of the truthfulness and consistency of such information, which are published on the web platform, is not a responsibility of the administrative organs of the Ministry. The administration is in fact also exempted by any sort of responsibility concerning the potentially irregular informational usage of the data. The duty to verify the regularity of the information provided by the subjects lies in fact with the civil participation (*partecipazione civile*), and only following an eventual contestation or filing of a specific report as established under art. 10 of the Directive. The lack of an internal, institutionalized as well as automatic mechanism of verification of the subjects' reported information is probably the most distinctive element of this specific model of Transparency Register, and it surely represents also its weakest link. The regulatory loophole emerging from such methodology is in fact a serious hindrance to the very notion of the principle of transparency, which is supposed to be inspiring the action of the legislator. The fact that in order to conduct a proper process of verification it is first and foremost necessary to

[38] *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/

report an irregularity or to contest the consistency of the information disclosed on the web platform stands as a threat to the correct functioning of this regulatory device.

Overall, however, the adoption by various Ministries and other public institutions of regulatory mechanisms aimed at disciplining the activity of interest representation, even though still in line with the usual spirit of fragmentation and "regulatory feudalism" characterizing the uncoordinated action of our Republican institutions, is a sign that something is changing, including the perception of the public opinion. The tangible demonstration of this inversion of attitude towards the matter at hand is to be found also in the proactive stance of the Senate of the Republic, which is trying to achieve the same result of the Chamber of Deputies in introducing its own Register of interest representatives, thus making a move which would finally maximize the efficiency of this whole regulatory endeavor by stressing the perfect character of our bicameral system. The proposals currently under study by the Senate have not yet been approved though or even started their due examination process in some instances, displaying the same double standard and dichotomy present in the Chamber for decades. A seemingly unbreakable deadlock preventing any substantial advancement in decision making on the subject of lobbying regulation. Among the six proposals currently under study in fact (S.318, S.266, S.241, S.1459, S.1266, C.1827) only C.1827, namely the one forwarded by Senator Silvestri, hailing from the ranks of the Five Stars Movement, is being effectively debated[39]. When connecting the dots and trying to adopt a long term vision of the phenomenon and the way it is developing in Italy following 2017, three elements are ultimately clear. The lack of a comprehensive national regulation and the current incapability to coordinate the action of various institutional bodies in their endeavor to regulate the subject is surely a symbol of dysfunctionality on behalf of our regulatory authorities, which risks to jeopardize all the progress made in the last four years and to do so in an extremely delicate situation for our country, currently under pressure on various fronts and in a precarious socio economic situation following the pandemic. When to this specific characteristic of the Italian situation in this troubled times we also add the absence of a consistent political will on behalf of major political actors in the national scenario to actually regulate the subject, it becomes obvious that the future development of the discipline will be subject to constant setbacks and heated debates characteristic of partisan politics, in an indirect attempt to mobilize the public opinion on such a delicate subject in order to gain consensus. However, the introduction of the Register in 2017 has definitely proven to be a catalyst for the revival of the debate surrounding this controversial topic.

[39] DDL Silvestri. C. 1827. http://www.senato.it/leg/18/BGT/Schede/Ddliter/51749.htm

It has instilled a new sense of legislative and regulatory activism in different republican institutions by providing both a testing ground and a blueprint for future developments of the discipline.

Conclusion

If one should give a concise definition of the regulatory scenario for the activity of interest representation in Italy, fragmentation as well as asymmetry would probably be the most fitting adjectives. Let's take for instance the lack of coordination in regulating the subject of lobbying by means of a shared, accepted single normative strategy. While the Register adopted by the Chamber of Deputies has positively contributed to the development of a proper debate on the subject of lobbying in this country, primarily by raising the level of awareness of the public opinion and by prompting a renewed activism on behalf of the Italian legislator in proposing new laws or regulatory models, it must be regarded with a critical approach. The Register, in spite of its merits, can in fact be labeled as a timid, uncertain but equally necessary step in the right direction. The reasons for such interpretation are, in fact, several.

First of all, our country currently finds itself, following the Covid 19 pandemic, in a complex as well as dangerous situation, in which the fragility of democratic institutions has been further emphasized by the social distress caused by the series of substantial restrictions implemented by the government. It is, therefore, self-evident that the introduction of a comprehensive regulatory framework at the national level, or at least of a standardized regulatory model to be adopted with little variation by different institutional bodies, is essential in order to guarantee transparency and efficiency envisioning the radical changes and reforms which will follow the implementation of the Recovery Fund. The decision of the EU Commission and other major institutions to make the enrollment into the Transparency Register of the EU compulsory is a clear signal, which should be interpreted as an encouragement to adopt the same spirit of inter-institutional cooperation in order to achieve the same goals, thereby preventing the potential and somewhat inevitable interference of corporative interests into the distribution of the funds. The introduction of the Register has the substantial merit of having opened the Pandora's box once more, thus forcing all major political institutions, for better or for worst, to consider this necessity and to elaborate potential solutions.

There is still, however, room for major improvements, in particular for finally defining a coherent national strategic approach to the subject, ultimately capable of transcending the conflicting interpretations and regulatory frameworks that different administrative organisms have put in place. A radical change of mentality and attitude to the issue of lobbying regulation will in fact be required

on behalf of the Italian legislator in order to achieve such goals, which are no longer to be postponed. Such consideration becomes particularly true right now that a new political season has started, with a government endowed with a sufficiently large majority to push forward ambitious reforms that the country desperately needs. When considering also the structural weaknesses entailed within the provisions of the deliberation itself, the necessity of developing this new approach becomes self-evident.

Looking at the most prominent instances of such deficiencies, we can identify the *intra moenia* limitation of the applicability of the Register, which cannot overstep the boundaries of Chamber of Deputies. In addition, there is also the possibility for lobbying agents to simply bypass the Register in virtue of other institutions, outside the Parliament, being endowed with legislative initiative, thereby entering into direct contact with the legislator or the executive power in order to influence the drafting of laws and legislative decrees outside of the sphere of parliamentary action. The inherently inefficient condition of having a perfect bicameral system with overlapping functions, while at the same time having only one Register operating in only one of the two chambers, is an additional source of concern which needs to be addressed as soon as possible by emulating the same regulatory experience of the Chamber of Deputies into the Senate of the Republic. Last, but not least, among the major inconsistencies of the Register, is the lack of a precise, punctual and substantial definition of the activity of interest representation, as well as of the nature of the professional role of an interest representative. These weak links in the regulatory structure are, however, to be found also in other aspects of how the subject is regulated, since they relate to the aforementioned issue of fragmentation, or as I call it, regulatory feudalism.

As it was witnessed during the pandemic crisis, and in less critical socio political phases of our country's history, the lack of coordination and concerted action between different power centers and interest groups, both operating within and outside of the administration of the administration of the State, has severely hampered the efficiency of the legislator's action. The latter has *de facto* found itself, following the 2001 constitutional reform of "*Titlolo Quinto*" in a rather precarious position when dealing with the increased powers and responsibilities of local and regional authorities. The contrasting opinions and interpretations of national guidelines during the Covid crisis have displayed this conflictual relationship between central and regional powers, also dictated by political interests, in a clear fashion. Such reciprocal overstepping of authority and undermining of credibility has to be regarded as a conflictual relationship which generates an inevitably uncoordinated approach to the subject of regulation, thus implying severe consequences for the efficacy of the legislator's action. This is particularly true in the field of interest representation.

Confronting the content of the 2017 deliberative decision and of the provisions setting the operative standards of the Register with various regional regulations, for instance the regional law 5/2002 approved by Tuscany or 61/2010, 7/2016 and 30/2017, introduced respectively by Abruzzo, Lombardy and Puglia., the lack of overall inter-institutional coordination becomes evident, even for the regional laws approved during the same year the Register was introduced. To make a practical example, in the Tuscan case, there isn't even a definition of the activity of interest representation, but rather a series of characteristics reported in art. 2[40]. Among these defining features, a peculiar one concerns the democratic character of the internal organization of interest groups, as well as the temporary nature of the organizations and associations within which interest representatives are organized. It can therefore be witnessed how a combination of these unique, although highly different, takings and perspectives on the subject with the ones set out by the Register could contribute to the development of a coherent discipline. Such discipline should not necessarily be constituted by means of hard law devices, like a national law regulating lobbying, but by simply by having the legislator setting few strict principles, thus defining a perimeter within which other institutions and administrative bodies could develop *ad hoc* approaches aimed at regulating the activity of interest representation.

An interesting addition, or rather implementation of preexisting standards, could be the introduction, as in the US system, of a quantitative standard of definition, thus relating the activity of lobbying to a specific professional requirement measured in dedicated working hours. Such prerequisite would be added to the other characteristics set out by the different regulatory frameworks already implemented in Italy, thus setting the definitional boundaries of an interesting representative as a professional figure. It would be a sensible decision, since the concept in itself does not entail any controversy which would inevitably emerge from a purely qualitative definition, and it may very well be the beginning of a long term process aimed at not only regulating the activity of interest representation, but also at recognizing lobbyists as a professional category with the same dignity, rights and duties of the like of lawyers, for instance. This element of recognition would also work as a mechanism capable of guaranteeing transparency and control over the conduct of lobbyists, and could be further implemented by the drafting of a code of conduct valid for all lobbying agents operating under the professional denomination of interest representative. Therefore, rather than having multiple ethical standards set by different decision makers operating with conflicting criteria and motivations, the final result would be an essential but solid set of principles with a cross

[40] *Toscana, Norme per la trasparenza dell'attività politica e amministrativa del Consiglio regionale della Toscana*. L.R. n. 5/2002. (2002). https://federalismi.it/nv14/articolo-documento.cfm?artid=526

institutional value and bound to the very professionalism of interest representatives. By using a wise mixture of soft and hard law devices the Italian legislator could be in fact able to discipline such complex, varied and somewhat unruly subject without being forced to drag its feet through the swampy marshes of partisan politics into Parliament, where numerous attempts at producing a nationally coherent legislation in the last four decades have all failed miserably.

Of course, the approval of a national law on the regulation of the activity of interest representation would probably be the most solid option to guarantee that the public decision maker would operate in line with the principles of accountability and transparency. However, one must realistically conclude that such potentially groundbreaking achievement may not yet be waiting right behind the corner. It is imperative to bear in mind that, in spite of the currently favorable political situation deriving from the installment of what is *de facto* a government of national unity endowed with the mandate to implement substantial reforms, the very structure of our political and institutional system has repeatedly proven to be extremely resilient to exogenously induced change. Such a realization on behalf of our decision makers would be perfectly sound, since it would allow the legislator to continue on the path set by the approval and subsequent introduction of the Register, while capitalizing on the unique historical situation in which the Republic currently is in order to pass the required reforms. The major driver for such endeavor may, in fact, be the very thing that prevented its original development by discouraging political actors from seriously addressing it for decades: social and electoral consensus.

The general view on the issue of lobbying may very well change drastically in a phase in which the necessity for structural change is understood and accepted even from the public opinion. Our country may never have another opportunity to attempt radical reforms of this magnitude, thus making this the time of daring policies. Should Italy fail to capitalize on such favorable contingencies, the price to pay would be significantly higher than what originally expected. The pandemic has stressed liberal democratic societies to the breaking point, including our own. In a country with collapsing trust among the electors towards the political and, by extension, the public sphere, it is imperative to give a signal of self-restraint and self-regulation in order to send a clear message. A message which should reassure the citizens, suggesting that the legislator is taking principles such as transparency and accountability quite seriously. Addressing a delicate and historically misunderstood subject such as lobbying openly and transparently will probably communicate such intention to the public, thereby solidifying the trust in democratic institutions, undermined as well as afflicted by perceived corruption and inefficiency in the last decades.

The adoption of a wise regulatory policy by the Italian legislator may ultimately turn lobbying into an alternative channel of democratic representation in the digital age, thus allowing different social groups to rely on the services provided by regulated professionals acting in plain view and in compatibility with the law, as well as the complex dynamics of the democratic process. This decision would effectively redefine the activity of interest representation and revolutionize Italian democracy, creating new alternative spaces for representing people's grievances, thus actively contributing to the filling of the gap between electors and political elite which is ordinarily witnessed today. It would bring lobbying from being merely regarded as an inherent liability to democracy in our country, to being considered a catalyst for pluralism, thus redefining the very notion of interest representatives, their role and their image within our society.

Riassunto

L'obbiettivo esplicito della Tesi, riportato sin dal principio nell'introduzione di quest'ultima, consiste nell'analizzare il processo di sviluppo ed approvazione, la struttura e l'applicazione medesima del Registro dei rappresentanti di interessi introdotto nel 2017 dalla Camera dei Deputati, al fine di condurre uno studio generale della regolamentazione del fenomeno vigente in Italia e comprenderne potenziali futuri sviluppi. Nella presente trattazione, l'analisi della fenomenologia del lobbying viene condotta nell'ottica di uno studio comparativo e dettagliato, strutturato complessivamente in tre capitoli, ognuno focalizzato su un diverso aspetto della materia. Il primo capitolo prende in considerazione la disciplina regolativa dell'attività di rappresentanza di interessi, in termini di comparazione storica e concettuale, mettendo in relazione il modello di regolamentazione italiano con quello statunitense ed europeo. Il paragone, che risulta in ultima istanza alquanto inclemente, mette in luce l'attuale arretratezza del nostro frammentato e spesso incoerente impianto regolatorio. Partendo da una riflessione inerente la natura stessa del termine lobbying e la sua origine storica, la discussione si articola in un susseguirsi di processi dinamici, in particolare quelli interni alla così detta anglo sfera, che racchiude al suo interno quella variegata galassia di Stati il cui sistema legale si fonda sui principi della Common Law. Tali processi di sviluppo storico propri del mondo anglosassone lo hanno reso la culla dell'attività di lobbying e, pertanto, all'avanguardia nello sviluppo di soluzioni di carattere legislativo atte a disciplinarla. Le istituzioni europee hanno seguito il modello federale USA sotto taluni aspetti specifici, ma combinandolo con elementi tipicamente ascrivibili alla *soft law* e introducendo, a seguito di questo processo integrativo, un Registro per la Trasparenza recentemente riformato nella sua struttura al fine di rendere l'iscrizione obbligatoria per la più ampia fascia di soggetti potenzialmente interessati. Il tema del Registro viene ulteriormente approfondito nel capitolo successivo, dove il lungo e controverso dibattito, che ha in ultima istanza dato i natali alla delibera dell'Ufficio di Presidenza del 2017, viene analizzato nel dettaglio, inclusi tutti i tentativi

di produrre una legislazione coerente in materia di lobbying a livello nazionale. Le conseguenze di lungo termine e l'influenza che le proposte di regolamentazione antecedenti al Registro hanno avuto su quest'ultimo sono oggetto di esame approfondito insieme alla struttura del Registro medesimo, la cui successiva applicazione ha inevitabilmente generato una considerevole varietà di interpretazioni della disciplina stabilita dalla Delibera e, conseguentemente, creato la condizione affinchè il Collegio di Presidenza intervenisse nel suo ruolo di soprintendente all'amministrazione ed al corretto funzionamento del Registro. In tal guisa, è emersa una linea interpretativa coerente capace di dare una direzione chiara alla prassi applicativa, costituendo pertanto un ulteriore tassello nel graduale processo di sviluppo, e potenzialmente di progressiva evoluzione, della regolamentazione del fenomeno della rappresentanza di interessi nel nostro Paese. La Tesi si conclude con una serie di considerazioni riguardanti l'avvenire della disciplina, incluse proposte atte a incrementarne l'efficienza e, soprattutto, l'operabilità nel rispetto dei valori di trasparenza, conoscibilità e responsabilità verso l'opinione pubblica.

Bibliography

- Antoniucci, M.C. (2012). *Rappresentanza di interessi oggi*. Roma: Carrocci Editore
- Austen-Smith, D., & Wright, J. R. (1994). Counteractive lobbying. American Journal of Political Science, 38(1), 25–44.
- Austin-Smith, D. (1993). *Information and Influence: Lobbying for Agendas and Votes*. American Journal of Political Science, 37(3), 799–833.
- Banks, M. (2020, December 11). *EU institutions reach agreement on new interinstitutional transparency register. The Parliament Magazine, politics, policy and people.* https://www.theparliamentmagazine.eu/news/article/eu-institutions-reach-agreement-on-new-interinstitutional-transparency-register
- Bauer, R. A., Pool, I. S., & Dexter, L. A. (1963). *American business and public policy: The politics of foreign trade*. New York: Atherton.
- Baumgartner, F. R., & Leech, B. L. (1998). *Basic interests: The importance of groups in politics and in political science*. Princeton, NJ: Princeton University Press.

- Berry, J. M. & Arons, D. F. (2003). *A voice for nonprofits*. Washington, DC: Brookings Institution Press.
- Berry, J. M. & Wilcox, C. (2008). *The interest group society* (5th ed.). New York: Pearson Longman.
- Berry, J. M. (1977). *Lobbying for the people: The political behavior of public interest groups*. Princeton, NJ: Princeton University Press.
- Berry, J. M. (1999). *The new liberalism: The rising power of citizen groups*. Washington, DC: Brookings Institution Press.
- Britannica, T. Editors of Encyclopedia (2020, February 28). Lobbying. Encyclopedia Britannica. https://www.britannica.com/topic/lobbying
- Camera dei Deputati. (2016, April 16). *Regolamentazione dell'attività di rappresentanza di interessi nelle sedi della Camera dei Deputati*. https://rappresentantidiinteressi.camera.it/sito/regolamento.html
- Camera dei Deputati. (2017, February 8). *Disciplina dell'attività di rappresentanza di interessi nelle sedi della Camera dei Deputati*. https://rappresentantidiinteressi.camera.it/sito/deliberazione.html
- *Citizens United v. Federal Election Commission.* (n.d.). Oyez. Retrieved June 15, 2021, from https://www.oyez.org/cases/2008/08-205
- Committee on Constitutional Affairs. (2021). *Report on the conclusion of an interinstitutional agreement between the European Parliament, the Council of the European Union, and the European Commission on a mandatory transparency register*. https://portal.ieu-monitoring.com/editorial/eu-parliament-report-on-the-conclusion-of-an-interinstitutional-agreement-on-a-mandatory-transparency-register/
- DDL Santagata. DDL n. 1866. (2007). http://www.senato.it/leg/15/BGT/Schede/Attsen/00017774_iniz.htm
- DDL Silvestri. C. 1827. http://www.senato.it/leg/18/BGT/Schede/Ddliter/51749.htm
- De Fouloy, C. D. (2021, April 30). *Mandatory Transparency Register for lobbyists*. aalep.eu. http://www.aalep.eu/mandatory-transparency-register-lobbyists
- Della Luna Maggio, L. (2015, April 9). *Le lobbies nell'ordinamento italiano: quale regolamentazione possibile*. Forum di Quaderni Costituzionali. 1-42. https://www.google.com/url?sa=t&source=web&rct=j&url=http://www.forumcostituzionale.it/wordpress/wp-content/uploads/2015/04/dellalunamaggio.pdf&ved=2ahUKEwiD48zL8JfxAhUDrqQKHe_

vDjsQFjAAegQIBBAC&usg=AOvVaw1S_e71PF-BK37U4Ho8TK92&cshid=1623699703776

- Di Maria, R. (2017, April 4). *Dalla regolamentazione parlamentare della attività di rappresentanza degli interessi ad una legislazione organica in materia di lobby? Una ipotesi di integrazione istituzionale del "processo di nomopoiesi sociale"*. Osservatorio sulle Fonti. 1-11. https://www.osservatoriosullefonti.it/mobile-saggi/speciali/speciale-crisi-della-rappresentanza-e-nuove-dinamiche-della-regolazione-le-prospettive-della-democrazia-pluralista-in-europa-fasc-3-2017/1134-dalla-regolamentazione-parlamentare-della-attivita-di-rappresentanza-degli-interessi-ad-una-legislazione-organica-in-materia-di-lobby-una-ipotesi-di-integrazione-istituzionale-del-processo-di-nomopoiesi-sociale
- Duke Health Government Relations. *Lobbying Defnitions, Excetpions and Examples*. govrelations.duke.edu. https://govrelations.duke.edu/ethics-and-compliance/lobbying-definitions-exceptions-and-examples
- European Pirate Party. (2021, April 20). *Mandatory Trasparency Register for lobbying in EU institutions doesn't live up to its name*. https://european-pirateparty.eu/mandatory-transparency-register-is-not-enough/
- European Union. (2020, December 15). *Questions & Answers: Agreement on a Mandatory Transparency Register*. europa.eu. https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2427
- European Union. (2021, March 11). *La Trasparenza e l'UE*. europa.eu. https://ec.europa.eu/transparencyregister/public/homePage.do
- *Honest leadership and Open Government Act.* H.R.2316. (2007). https://www.congress.gov/bill/110th-congress/house-bill/2316
- *Lobbying Disclosure Act*. PUBLIC LAW 104-65-DEC. 19,1995 109 STAT. 691. (1995). https://lobbyingdisclosure.house.gov/lda.html
- Lumen Learning. (n. d.). *Regulating Interest Groups*. lumenlearning.com. https://courses.lumenlearning.com/boundless-politicalscience/chapter/regulating-interest-groups/
- Lupo, N. (2006, November 11). *Quale regolazione del lobbying*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/?s=N+lupo+lobbying
- Mahoney, C. (2007). *Lobbying success in the United States and the European Union*. Journal of Public Policy, 27(1), 35–56.
- Marchetti, M. C. (2018). *Il lobbying nell'Unione Europea: le misure sulla trasparenza*. Le istituzioni del Federalismo, n.3-4, 745-763

- Martines, F. (2018). *Il lobbismo come possibile rimedio alla crisi del principio di rappresentanza democratica.* Le istituzioni del Federalismo, n.3-4, 583-603
- Massimo, A. G. (2009, September 24). *L'attività di Lobbying in Italia: I flebili tentativi di una possibile regolamentazione*. diritto.it. https://www.diritto.it/l-attivita-di-lobbying-in-italia-i-flebili-tentativi-di-una-possibile-regolamentazione/
- Mazzoni, M. (2010). *Le relazioni pubbliche ed il lobbying in Italia*. Laterza
- Mencarelli, A. (2018, July 30). *Profili applicativi e questioni interpretative della disciplina dell'attività di rappresentanza di interessi della Camera dei deputati*. Amministrazione in Cammino. 1-8. https://www.amministrazioneincammino.luiss.it/2018/07/31/profili-applicativi-e-questioni-interpretative-della-disciplina-dellattivita-di-rappresentanza-di-interessi-della-camera-dei-deputati/
- Merriam-Webster. (n.d.). Lobbyist. In Merriam-Webster.com dictionary. https://www.merriam-webster.com/words-at-play/the-origins-of-lobbyist
- Nownes, A. J. (2006). *Total lobbying*. New York: Cambridge University Press.
- Office of the Clerk, (effective 2008, January 8 – last review 2017, January 31). *Lobbying Disclosure Act Guidance*. https://lobbyingdisclosure.house.gov/amended_lda_guide.html#section4
- Online Etymology Dictionary. (n.d.). Lobbying/Lobby. In etymonline.com. https://www.etymonline.com/word/lobby
- *Parliament approves new rules for a common mandatory Transparency Register*. (2021, April 27). Attualità Parlamento Europeo. https://www.europarl.europa.eu/news/it/faq/25/lobbisti-e-giornalisti-accreditati
- Torrini, S. (2018, October 3). *Lobby, cresce il fatturato ma manca una legge*. policymakermag.it. https://www.policymakermag.it/italia/lobby/
- Petrillo, P. L. (2013). *L'irresistibile (ed impossibile) regolazione delle lobbies in Italia, in analisi giuridica dell'economia*. Analisi giuridica dell'economia, n.2, 465-491
- Petrillo, P. L. (2015). *Democrazie e lobbies, è tempo di regolare la pressione*. Forum di Quaderni Costituzionali, n2, 405-432
- Petrillo, P. L. (2017) *Il dialogo in Parlamento tra politica e interessi organizzati*. Il Filangieri. Quaderno, 283-303
- Petrillo, P. L. (2019). *Teorie e tecniche del lobbying*. Il Mulino
- Proietti, I. (2019, June 18). *Trasparenza, alla Camera prime sanzioni: da Fico daspo a 11 lobbisti*. https://www.ilfattoquotidiano.it/in-edicola/articoli/2019/06/18/pasticci-furbate-e-segreti-il-daspo-di-fico-a-11-lobbisti/5262850/

- *Registro Trasparenza MISE*. Direttiva Ministeriale firmata. (2018). http://registrotrasparenza.mise.gov.it/
- *Regulation of Lobbying Act*. (2015). http://www.irishstatutebook.ie/eli/2015/act/5/enacted/en/print.html
- *Toscana, Norme per la trasparenza dell'attività politica e amministrativa del Consiglio regionale della Toscana*. L.R. n. 5/2002. (2002). https://federalismi.it/nv14/articolo-documento.cfm?artid=526
- Society of European Affairs Professionals. (n.d.). *What is Lobbying?*. lobbyeurope.org. https://lobbyeurope.org/what-is-lobbying/
- Transparency International Italia. (2014). *Lobbying e democrazia. La rappresentanza degli interessi in Italia*. https://www.transparency.it/informati/pubblicazioni/lobbying-e-democrazia
- Transparency International Italia. (2014). *Lobbying in Europe: hidden influence, privileged access.* https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.transparency.org/en/publications/lobbying-in-europe&ved=2ahUKEwja99SL6JjxAhXh8uAKHQA3AV8QFjABegQIBxAC&usg=AOvVaw3j2zWiHPy_hWYhHhVrVF80
- *Transparency of lobbying, Non Party Campaigning and Trade Union Administration Act*. (2014). https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.legislation.gov.uk/ukpga/2014/4/contents/enacted&ved=2ahUKEwj1uPz56ZjxAhX0B2MBHTi9BVwQFjAAegQIAxAC&usg=AOvVaw3cEps3-IonJIvohEoM-D8K&cshid=1623732869184
- *Treaty of Lisbon*. OJ C 306. (2007). https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12007L%2FTXT
- Troiso, G.G. (2020, September 25). *Lobbying: comparazione fra USA, UE e Italia. Numeri e Legislazione*. Risk Compliance Platform Europe. 1-2. https://www.riskcompliance.it/news/lobbying-comparazione-fra-usa-ue-e-italia-numeri-e-legislazione/
- University of Minnesota Libraries Publishing. (2011). *American Government and Politics in the information age*. https://open.lib.umn.edu/americangovernment/chapter/9-2-lobbying-the-art-of-influence/
- Woll, C. (2006). *Lobbying in the European Union: From Sui Generis to a Comparative Perspective*. Journal of European Public Policy, 13(3), 456–469.