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Lobbying in Local Self-Government: Implementation Challenges and Risks for Public Governance

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ABSTRACT

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The article examines the issues of legal regulation of lobbying in local self-government bodies of Ukraine following the enactment of the Law of Ukraine “On Lobbying”. The study provides a comprehensive analysis of legislative inconsistencies, regulatory gaps, and practical challenges arising during the implementation of the new legal institution at the local level. Particular attention is paid to the definition of the object, subject matter, and actors of lobbying, as well as to the correlation between the provisions of the Laws of Ukraine “On Lobbying” and “On Law-Making Activity”. It is established that the current legal framework contains a number of internal contradictions related to the postponed enactment of certain legislative provisions, which creates legal uncertainty and complicates the practical application of lobbying regulation mechanisms. The article substantiates that a significant number of individual acts adopted by local self-government bodies formally fall outside the scope of lobbying regulation, although they may directly relate to the realization of commercial interests of particular actors. It is determined that the lack of clear criteria for distinguishing lobbying from advocacy, as well as public interest from commercial interest, creates preconditions for the spread of “shadow lobbying” practices and increases the risks of corrupt influence on managerial decision-making processes. The study also analyzes the problems associated with excluding certain activities and categories of actors from the scope of lobbying regulation, which may be used as a mechanism for circumventing legal restrictions. The author concludes that further improvement of lobbying legislation, harmonization of normative legal acts, clarification of the conceptual framework, and development of stable administrative and judicial practice are necessary. It is emphasized that ensuring transparency of interest representation and effective control over lobbying activities constitutes an important prerequisite for improving the efficiency of public governance and minimizing corruption risks in the activities of local self-government bodies.




KEYWORDS

lobbying, local self-government, public governance, law-making activity, commercial interest, advocacy, corruption risks.



Лобіювання у місцевому самоврядуванні: виклики впровадження та ризики для публічного врядування

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Стаття присвячена дослідженню проблем, які виникають під час практичного впровадження лобіювання в органах місцевого самоврядування України в умовах набрання чинності Законом України «Про лобіювання». У роботі здійснено комплексний аналіз нормативних колізій, прогалин законодавства та практичних проблем, що виникають у процесі впровадження нового правового інституту на місцевому рівні. Особливу увагу приділено визначенню об'єкта, предмета та суб'єктного складу лобіювання, а також співвідношенню положень законів України «Про лобіювання» та «Про правотворчу діяльність». Доведено, що чинне законодавство містить внутрішні суперечності, пов'язані із відкладеним введенням у дію окремих нормативно-правових актів, що спричиняє стан правової невизначеності та ускладнює практичне застосування механізмів регулювання лобістської діяльності. У статті обґрунтовано, що значна частина рішень органів місцевого самоврядування індивідуального характеру формально не належить до предмета лобіювання, хоча фактично може бути пов'язана із реалізацією комерційних інтересів окремих суб'єктів. Встановлено, що нечіткість критеріїв розмежування лобіювання та адвокації, а також суспільного і комерційного інтересів створює передумови для поширення практик «тіньового лобіювання» та ризиків корупційного впливу на процес прийняття управлінських рішень. Проаналізовано проблеми виключення окремих видів діяльності та категорій суб'єктів із сфери правового регулювання лобіювання, що може використовуватися як механізм обходу законодавчих обмежень. Зроблено висновок про необхідність удосконалення законодавства у сфері лобіювання, гармонізації нормативно-правових актів, уточнення понятійного апарату та формування сталої адміністративної й судової практики. Наголошено, що забезпечення прозорості представництва інтересів і належного контролю за лобістською діяльністю є важливою передумовою підвищення ефективності публічного врядування та мінімізації корупційних ризиків у діяльності органів місцевого самоврядування.



КЛЮЧОВІ СЛОВА

лобіювання, місцеве самоврядування, публічне врядування, правотворча діяльність, комерційний інтерес, адвокація, корупційні ризики.

1. Introduction

The Law of Ukraine “On Lobbying” [1], which came into force on September 1, 2025, poses a number of critically important questions for local governments, the answers to which cannot lie exclusively in the field of law enforcement. The vagueness of the provisions of the specified legislative act creates a field for “shadow lobbying” and for interpreting the actions of lobbyists and their objects in local governments as corruption offenses. This occurs both due to the lack of clarity of the object, subject and substantive composition of the institution of lobbying, and due to the explanations of the National Agency for the Prevention of Corruption, which partially contradict the law itself. Under these conditions, lobbying in local governments is doomed to a significant period of formation, which will be accompanied by both law enforcement problems and the need to amend legislation and develop consistent judicial practice. At the same time, if the former will be associated with the separation of lobbying from advocacy, and commercial interest from public interest, then the latter will be associated with corruption criminal offenses, to which law enforcement agencies can attribute most of the actions of both lobbyists and officials.

2. Literature Review

The issues of legal regulation of lobbying, its institutionalization and role in the public administration system have become the subject of active scientific discussions in Ukraine in recent years. This issue has become particularly relevant after the adoption of the Law of Ukraine “On Lobbying” [1], which initiated the formation of a regulatory framework for the functioning of the institution of lobbying and mechanisms for ensuring transparency of interest representation through the Transparency Register [2]. The theoretical and legal aspects of the institution of lobbying were studied by D. Chernokhatniy [3], V. Kravchuk [4], O. Kushnirenko and O. Diaghilev [5], who considered the essence of lobbying, its forms, types and place in the system of democratic interest representation. The issue of introducing lobbying into the activities of public authorities, as well as the organizational and legal mechanisms of its functioning, were analyzed by I. Bovsunivska [6], N. Berezka [7], O. Volokhov [8], I. Garkavy and S. Retynskiy [9]. The above works emphasize the need for regulatory regulation of the interaction of lobbying entities with state authorities and local self-government bodies, as well as the problems of ensuring transparency and minimizing corruption risks.

A separate area of scientific research concerns the relationship between lobbying and advocacy. In particular, I. Kobushko and Ya. Kobushko [10], P. Pokatayev [11], D. Nazarenko [12] investigate advocacy as a mechanism for public participation in the formation of administrative decisions at the local level. At the same time, the works emphasize the complexity of distinguishing advocacy activities and lobbying, especially in cases of representing private or corporate interests.

The issues of lobbying legitimation and its public perception are covered in the works of D. Zayets [13], as well as in materials of public discussion on the legitimation of the institution of lobbying in Ukraine [14]. The authors emphasize the need to form transparent mechanisms of communication between subjects of power and interested persons in accordance with international standards of democratic governance. A comparative analysis of international experience in lobbying regulation was carried out in the studies of D. Lubinets [15], M. Palanytsia [16], as well as in analytical materials of the public organization “ANTS” [17], which substantiate the expediency of adapting European and American models of lobbying regulation to Ukrainian realities. Of great importance for the study are scientific works devoted to law-making activity and problems of the validity of regulatory legal acts. In particular, M. Teplyuk [18; 19], A. Shulima [20] analyze the issue of the introduction of laws into force, the correlation of the concepts of “validity” and “action” of regulatory legal acts, and V. Hutsul [21] also analyzes the features of the law-making activity of public authorities. The above-mentioned studies are important for understanding the practical problems of implementing the provisions of the laws of Ukraine “On Lobbying” [1] and “On Law-Making Activities” [22].

Despite a significant number of scientific works, the issues of implementing lobbying mechanisms in local self-government bodies, the features of applying new legislation in practice, as well as the risks of “shadow lobbying” when making individual management decisions remain insufficiently studied. The problems of the relationship between lobbying and public participation, the definition of the boundaries

of commercial and public interests, as well as mechanisms for ensuring transparency of interaction between lobbying entities and local self-government bodies require further scientific understanding.

3. Problem Statement

The purpose of the article is a comprehensive analysis of the legal and administrative problems of applying the Law of Ukraine “On Lobbying” in the activities of local self-government bodies, identifying legislative conflicts and gaps in determining the object, subject and subject composition of lobbying, as well as substantiating the directions for improving regulatory regulation in order to ensure transparency of interest representation, proper distinction between lobbying and advocacy, commercial and public interests, and minimizing the risks of “shadow lobbying” and corruption practices in the activities of local self-government bodies.

4. Methods and Materials

The methodological basis of the study is a complex of general scientific and special legal methods of scientific knowledge. Using the formal legal method, the provisions of the Law of Ukraine “On Lobbying”, the Law of Ukraine “On Law-Making Activity”, the Law of Ukraine “On Prevention of Corruption” and other regulatory legal acts regulating the activities of local self-government bodies and mechanisms for representing interests were analyzed. The system-structural method was used to study the relationship between the institution of lobbying and the institutions of advocacy, law-making activity, prevention of corruption and public governance. The comparative legal method was applied when analyzing scientific approaches to defining the concept and forms of lobbying, as well as international practice of regulatory regulation of relevant social relations. The method of legal modeling and forecasting was used to determine the potential risks of introducing the institution of lobbying into the activities of local self-government bodies of Ukraine. The materials for the study were regulatory and legal acts of Ukraine, scientific works of domestic researchers in the field of public administration and law, official explanations of the National Agency for the Prevention of Corruption, as well as examples of the practical implementation of mechanisms for influencing decision-making by local self-government bodies.

5. Results and Discussion

The entry into force of the special law did not immediately lead to the active appearance of lobbyists in the “white zone” of their activities. As of 07.06.2026, the Transparency Register includes only 183 lobbying entities [2], and their reports are mostly formal in nature. This, summarizing the opinion of D. Buzanov, indicates systemic methodological and regulatory limitations (in particular, the lack of two-way transparency, the range of financial reporting and the vagueness of lobbying subjects), which reduce the analytical completeness and control effectiveness of the mechanism for regulating lobbying activities in Ukraine [23].

The public organization “National Association of Lobbyists of Ukraine” [24], created by lobbyists themselves, is partially trying to eliminate these gaps, which claims to be a self-regulatory organization. However, the special law does not contain any mention of the possibility of self-regulation of lobbyists’ activities in Ukraine, despite the presence of self-regulatory organizations in almost all areas of self-employment, which puts the acquisition of this status in a long-term perspective.

At the same time, in our opinion, the above problems cannot be solved without a comprehensive update of the legislative framework. Thus, the wording of the Law of Ukraine “On Lobbying”, which states that lobbying is not an activity that does not contain all the features of lobbying (part two of article 3) [1] in practice already raises the first questions about the subjects, objects and subject of lobbying. First, the law defines the subject of lobbying as a subject of law-making activity or a subject of law-making initiative, separately distinguishing the Ukrainian people and the territorial community in the relevant referendums (paragraph 7 of part one of article 1) [1]. In the logic of the legislator, the specified definition is sufficiently complete, since it refers us to the list of such subjects already defined by the Law of Ukraine “On Law-Making Activity” (part two, third article 4) [22] (see Fig. 1).

At the same time, the first problems are already inherent in this logic of the legislator. The aforementioned law itself is put into effect one year after the abolition or end of martial law in Ukraine.

That is, as of today, there is no legal possibility to use the definitions contained in it, and the legislator has known this for a long time [18; 19; 20]. Therefore, the object of lobbying remains undefined at the legislative level as of today. Moreover, both laws contain an internal contradiction, since the law on lawmaking activity actually limits the object of lobbying to the subject of a lawmaking initiative. Thus, under this law, it is possible to initiate the preparation of the subject of lobbying only before the subject of lawmaking activity (part six of article 4) [22].

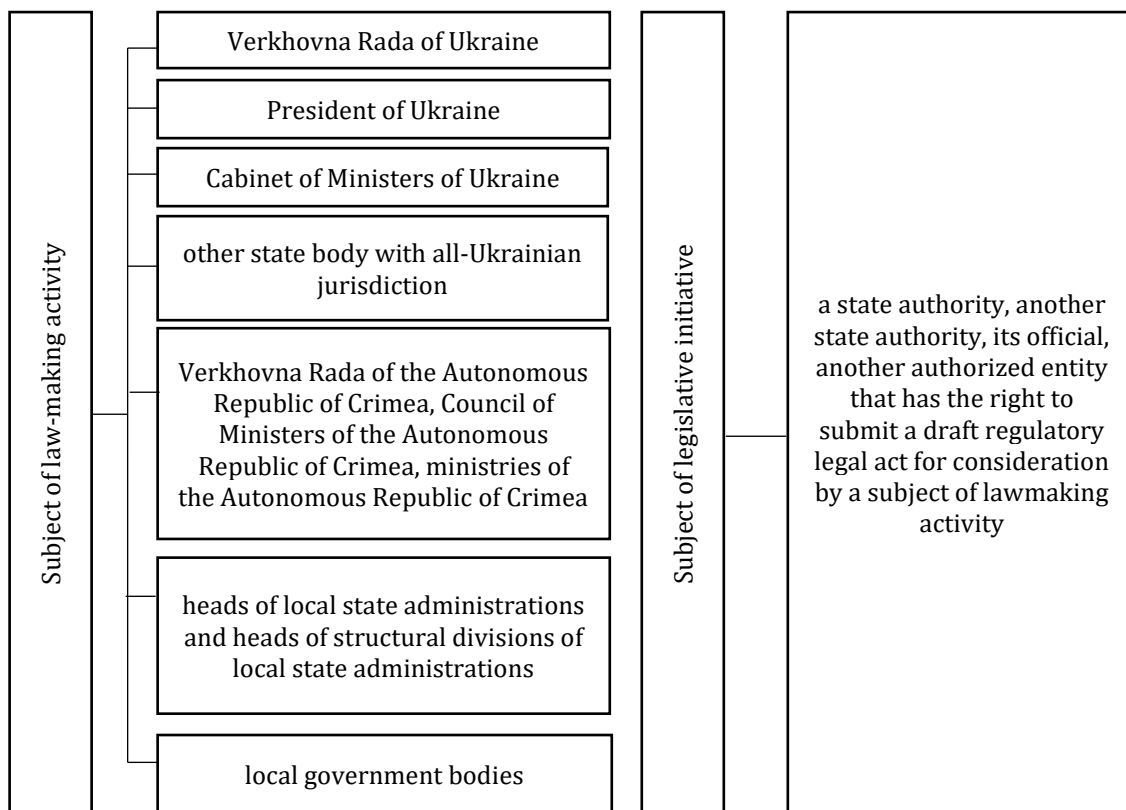


Figure 1. Lobbying objects

Source: Compiled by the authors based on [1; 22; 25].

The final provisions of the special law have made changes only to the regulations of the Ukrainian Parliament [26], which currently allows us to assert that the law applies exclusively to the Verkhovna Rada of Ukraine and its bodies (committees), people's deputies of Ukraine. The attempts of the National Agency for the Prevention of Corruption in its explanations [25, p. 10] to answer this question do not solve the problem, because the answer to the question contains a blanket norm of the Law of Ukraine “On Law-Making Activity”, which has not entered into force as of today. Scientific definitions of subjects of law-making activity, in particular according to V. Hutsul [21, p. 3], are, firstly, difficult to apply in practice, secondly, they narrow the object of lobbying, and thirdly, they again refer to the Law of Ukraine “On Law-Making Activity”, which has not entered into force as of today.

Under these conditions, the need for a clear definition at the level of the law [1] of the object of lobbying is critically important. At the same time, there is an objective need to amend the Law of Ukraine “On Law-Making Activities” to bring it into line with the law on lobbying.

The subject of lobbying under the law [1] is a regulatory legal act and a set of actions related to it (clause 8 of part one of article 1) (see Fig. 2). The definition of regulatory legal act in Ukrainian legislation is present in several laws and by-laws, which in practice does not create problems for determining the subject of lobbying before the entry into force of the law on lawmaking activity. Despite some differences, it is always about the establishment, change, or termination of a rule of law, repeated application and an indefinite circle of persons to whom such an act is applied. At the same time, lobbying can be aimed both at the adoption and at opposing the adoption of the relevant subject of lobbying [1].

For local governments, this also creates several problems, since the vast majority of acts issued (adopted) by local governments are individual in nature and must be issued in compliance with the administrative procedure. And the adoption, amendment, or cancellation of such acts is often associated with commercial interests. The process of their adoption or cancellation is accompanied by actions by entities that fall under the definition of lobbying. The National Agency for the Prevention of Corruption,

in its explanations, separately indicates that such acts are not the subject of lobbying [25, pp. 11-12]. Of course, this statement is quite controversial given the practice of the USA, Great Britain and European countries [27, p. 30]. In our opinion, it is worth agreeing with O. Volokhov, I. Garkavy and S. Retynsky that the subject of lobbying is not only regulatory and legal acts, because lobbying can be carried out both in relation to the executive branch and in relation to individual acts [8, p. 11; 9, p. 231]. That is, the issuance of individual decisions by local government bodies is also in fact the subject of lobbying, but currently under the law it will be in the “gray zone”. Therefore, the extension of the subject of lobbying to acts of individual action could resolve this issue, although it remains a subject of discussion.

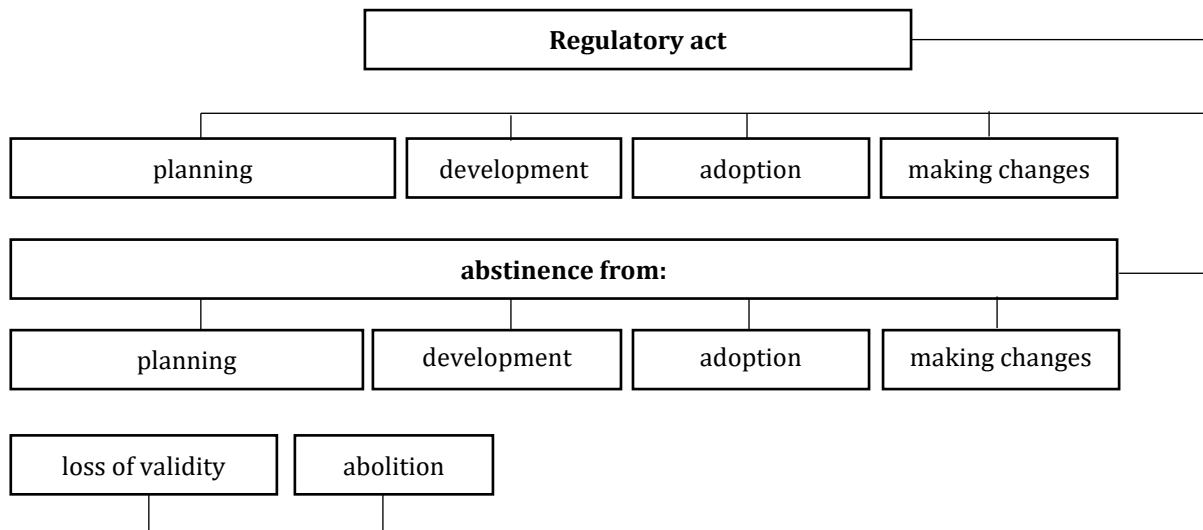


Figure 2. Lobbying subject

Source: Compiled by the authors based on [1; 22; 25].

Under these conditions, for local government bodies and their officials, the question arises of distinguishing between public and commercial interest during the actions of subjects aimed at adopting or opposing the adoption of a corresponding individual act to establish the nature of the actions taken by the subjects: advocacy or “shadow lobbying”.

The legislator defines commercial interest in a special law [1] through the prism of several factors (paragraph 4 of part one of Article 1) (see Fig. 3).

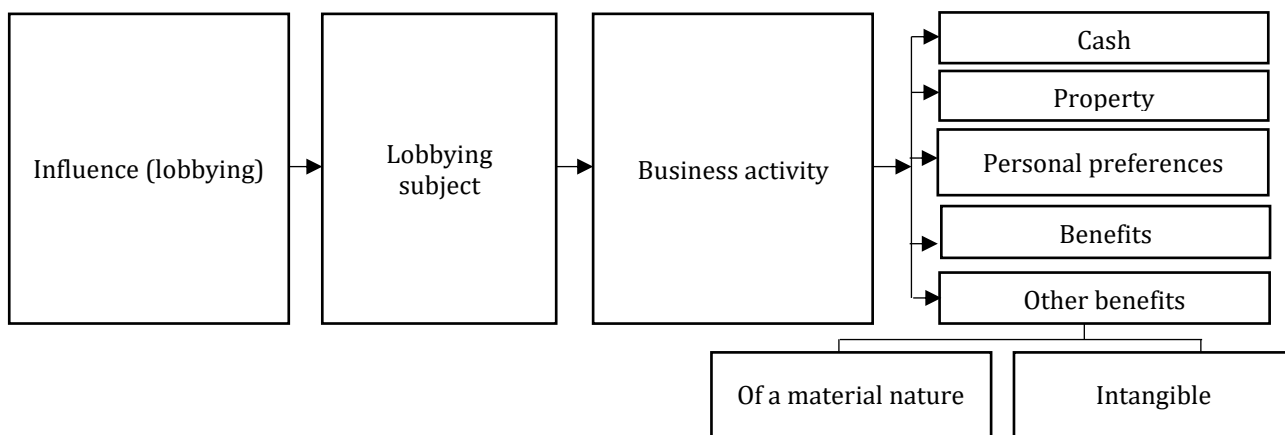


Figure 3. The concept of commercial interest

Source: Compiled by the authors based on [1; 22; 25].

According to the logic of the legislator, the emergence of a commercial interest is in a direct causal relationship with a) the actual exercise of influence over the subject of lobbying and b) the economic activity of the beneficiary. The same statement is found in the explanations of the National Agency for the Prevention of Corruption, because any benefits or advantages received outside of commercial activities are not commercial interests in the opinion of the National Agency for the Prevention of Corruption [25, pp. 13-15]. Carrying out actual lobbying without the presence of commercial interest or commercial interest outside of economic activities, respectively, is not lobbying. However, in our opinion, often such actions are not advocacy. It is worth agreeing with I. Kobushko, Ya. Kobushko,

P. Pokatayev and D. Nazarenko that despite the presence of similar features, advocacy and lobbying are not identical concepts [10, pp. 5-6; 11, p. 61-62; 12, p. 174, 177, 201-202]. In particular, they have different goals and functions; G. Kiyashchenko believes that it is adequate from the point of view of scientific terminology to apply the term "civic representation" to advocacy [7, p. 34-35]. Although, for example, D. Zayets holds the opinion that lobbying includes advocacy, that is, the so-called non-commercial lobbying by associations of citizens and trade unions [13, p. 22-30]. For quite a long time, advocacy and lobbying were synonymous in Ukrainian scientific and law enforcement discourse [13, p. 25; 14 p. 4-6]. Public and even religious lobbying, along with economic lobbying, is also distinguished by O. Lyubimov, O. Kushnirenko, O. Diaghilev and D. Lubinets, and N. Berezka points to the implementation of indirect lobbying and astroturfing by public organizations along with advocacy, noting lobbying by trade unions [4 p. 14; 5, p. 108-109; 15, p. 36; 7, p. 24-25, 40-43, 59, 142-147]. However, it is worth noting that a similar identification is also available in several other EU countries and the USA [13, p. 23-24]. In our opinion, lobbying in the context of the concept laid down by the legislator in the relevant law, despite the presence of common features, differs from advocacy precisely in the purpose of influence: commercial interest. At the same time, commercial interest should be defined through the prism of the general theoretical concept of interest and the theory of pressure groups [7, pp. 49-51], which is the subject of further research.

In support of this thesis, one can also cite the opinions of non-governmental organizations themselves, which note the need to distinguish between advocacy and lobbying at the level of legislation itself [28; 17 p. 7]. D. Kotsupal held a similar opinion, analyzing previous draft laws on lobbying [7, pp. 129-130]. This opinion is also present in the European Code of Conduct on Lobbying [7, pp. 149-150].

In practice, local governments and their officials expect long-term activities to distinguish advocacy from lobbying and commercial interest from public interest. In particular, changing the organization of road traffic near a retail facility [30] will certainly bring additional benefits and advantages to the beneficiary of such a facility (at least due to an increase in the number of buyers due to the convenience of entry and simplification of the logistics of delivering goods), however, this will not be considered a commercial interest, because the subject of lobbying is not a regulatory act, and therefore activity regarding such construction at the expense of the state or community is not lobbying by its legal nature. However, it is also problematic to justify such construction as a public interest in this case. Similarly, activity regarding the construction of a multi-level parking lot near shopping centers [31] is not lobbying, although the additional benefits and advantages for their beneficiaries are quite clear. However, as in the first example, the implementation of the project does not occur through the issuance of a regulatory act. However, given the form of activity, the issue is justified by public interest, the presence of which is a difficult task for local governments to verify. Lobbying will not be considered as an activity aimed at opposing the construction of wind power facilities in the Carpathians [29], since the direct causal relationship of such activities with the benefits and advantages for the beneficiaries of these activities, precisely as a result of economic activity, is problematic to identify.

This trend is also reinforced by the subject composition of the lobbying institute, defined by a special law (clause 9 of part one of article 1). In particular, the legislator directly excludes from the sphere of lobbying several types of activities, and accordingly - representatives of some of these spheres (part two of article 3, part four of article 10) [1] (see Fig. 4).

However, it will be extremely difficult for local government bodies and officials to agree with such a logic of the legislator, given the practice of their activities. Of course, each of the types of activities mentioned in Fig. 4 can be carried out in the commercial interests of the respective beneficiaries. However, a special law [1] imperatively removed these activities from the lobbying process, thus creating a field for "shadow lobbying".

The National Agency for the Prevention of Corruption has made some attempts to eliminate these negative consequences, indicating in its explanations the possibility of lobbying, in particular, by public associations, other non-profit enterprises, institutions and organizations [25, p. 16-17, 43]. However, firstly, the explanation cannot go beyond the actual provisions of the law on lobbying, and secondly, during its practical application, the distinction between public and commercial interest (since the specified legal entities do not conduct economic activity) will be extremely difficult for local governments.

In particular, the establishment of a moratorium on the demolition of temporary structures for the implementation of entrepreneurial activity [32; 33; 34] certainly brings additional benefits and advantages for their owners and tenants. However, the subject composition and forms of such activity,

despite the clarification of the National Agency for the Prevention of Corruption [25, p. 17], exclude this activity from lobbying. As a result, we have a classic example of “shadow lobbying”, when business entities lobby for the adoption of a regulatory legal act for commercial interest, justifying this lobbying by public interest already during the operation of the law on lobbying.

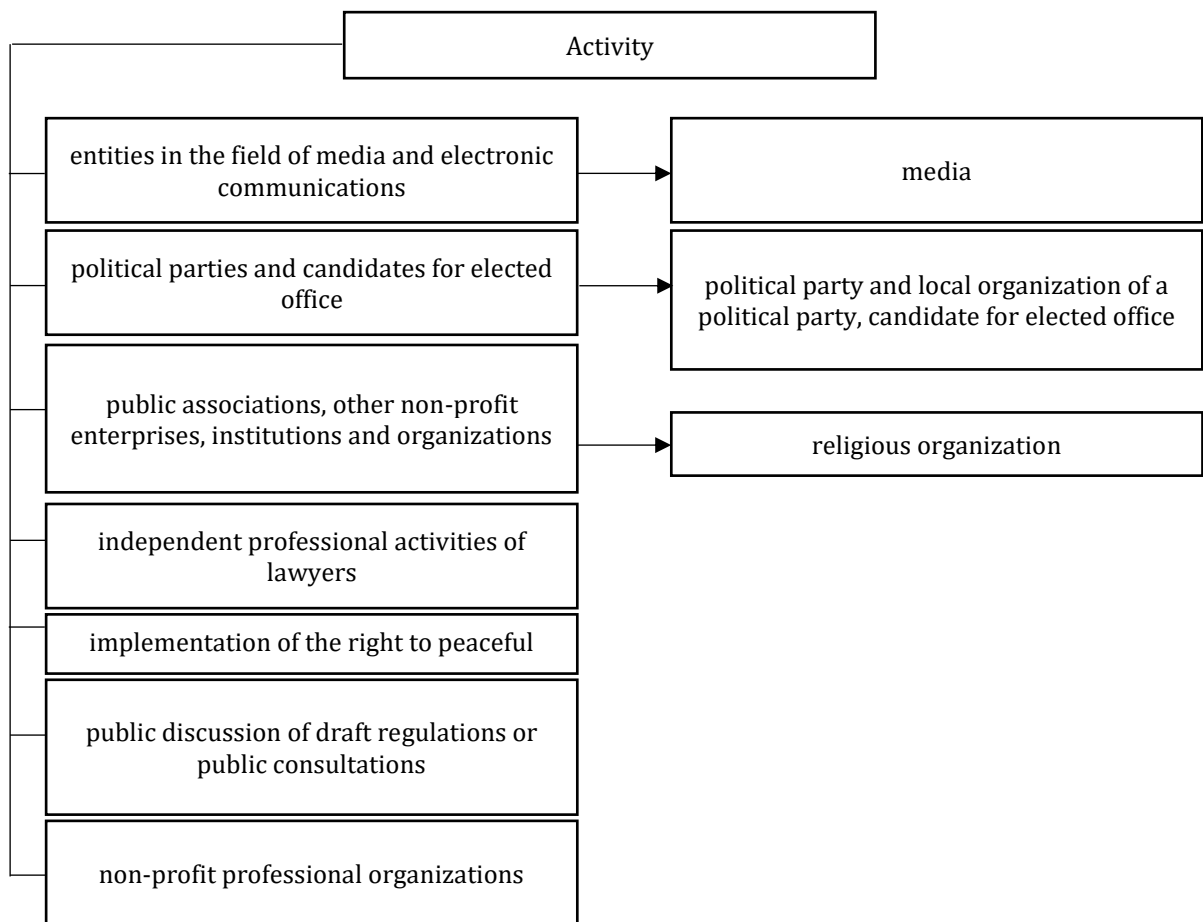


Figure 4. Certain types of activities excluded from lobbying entities

Source: Compiled by the authors based on [1; 22; 25].

Under these conditions, in our opinion, commercial interest should be the basis for defining lobbying subjects, without singling out a number of activities that can act both as a subject and as a lobbying mechanism. The presence of commercial interest should refer to lobbying activities of any of the subjects except those whose restrictions on lobbying are caused by a conflict of interest or other corruption offense within the meaning of the law (actually, the subject composition under Part Two of Article 19 of the Constitution of Ukraine [36]). After all, singling out, for example, the media contradicts the logic of outsider lobbying strategies and existing practice: the media are widely used during lobbying campaigns (both direct and covert), and some media corporations even have their own lobbying offices in the EU and US institutions [16, p. 132; 6, pp. 15-18; 7, p. 36].

In our opinion, the forms of such lobbying should not be limited to the presence of commercial interest. We agree with D. Chernoharny and V. Kravchuk that such forms and methods of influence of lobbying subjects should be legal [3, p. 23; 4, p. 13]. After all, participation in electronic communications, the procedure provided for in regulatory acts, and public discussion of draft regulatory legal acts or public consultations already have appropriate clarifications in the legal norms of a special law [1]. However, the same clarifications should be made regarding the holding of peaceful events, as well as the exercise of rights defined by laws on citizens’ appeals and access to public information, other regulatory legal acts that regulate special mechanisms for interaction with lobbying operations, public anti-corruption expertise, as well as the submission of relevant proposals based on the results of the expertise, participation in the process of implementing social dialogue. In fact, the above are forms of lobbying if there is a commercial interest [7, pp. 145-148]. Therefore, their exclusion from the forms of lobbying creates unjustified difficulties for local governments in practice. Along with this, for local governments, the question of the possibility of deputies of local councils who carry out their activities voluntarily acting as lobbyists arises. As of today, the law on lobbying [1] contains a ban on deputies of

local councils from being subjects of lobbying during their tenure and within a year after dismissal or termination of powers. At the same time, the specified norm is blanket in its subject composition and refers to the Law of Ukraine “On Prevention of Corruption” [35]. Let us agree that within the relevant territorial communities, lobbying activities of a deputy of a local council can indeed lead to a potential or real conflict of interest and even be interpreted as abuse of influence, and therefore such a legislative restriction is justified. However, outside such territorial communities or outside the relevant local government bodies, local council deputies, in our opinion, are subject to such restrictions disproportionately. In particular, a local council deputy carries out his deputy activities voluntarily, and therefore has the rights to entrepreneurial activity and work guaranteed by the Fundamental Law of Ukraine [36]. Therefore, restrictions for local council deputies within a year after the termination of their powers are not entirely logical in view of the above. The legislator’s motivation to limit, for example, lobbying by local council deputies for the adoption of legislative initiatives is also not entirely clear. In our opinion, such restrictions should be brought into line with Article 26 of the Law of Ukraine “On Prevention of Corruption” [35] in terms of restricting activities within the relevant territorial communities or local government bodies where a person was elected as a local council deputy.

6. Conclusions

As a result of the study, it was found that the introduction of the institution of lobbying into the activities of local self-government bodies of Ukraine is accompanied by significant regulatory and practical problems. Analysis of the provisions of the Law of Ukraine “On Lobbying” revealed the presence of internal contradictions, gaps and blanket norms that complicate its proper application at the local level. In particular, the key problem is the dependence of certain provisions of the law on the Law of Ukraine “On Law-Making Activity”, which has not yet been put into effect, which creates a state of legal uncertainty regarding the object and subjects of lobbying.

Thus, the current model of legal regulation does not cover a significant part of decisions of local self-government bodies of an individual nature, although such decisions are often directly related to the implementation of commercial interests. This creates the prerequisites for the functioning of the so-called “shadow lobbying”, when the influence on the adoption of managerial decisions is carried out outside the boundaries of official legal regulation.

The need for a clear legislative distinction between lobbying and advocacy, as well as commercial and public interests, is substantiated. It is established that the exclusion of certain types of activities and categories of entities from the sphere of lobbying regulation does not eliminate the risks of hidden influence, but on the contrary, creates additional opportunities for circumventing the requirements of the law.

Therefore, the further development of the lobbying institution in Ukraine requires comprehensive improvement of legislation, harmonization of regulatory legal acts, clarification of the conceptual apparatus and the formation of consistent administrative and judicial practice. Only under conditions of proper legal certainty and transparency of mechanisms for representing interests will it be possible to minimize corruption risks and ensure the effective functioning of public governance at the local level.

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