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Lobbying in Portugal: to regulate or not to regulate?

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ABSTRACT In recent years, lobbying has taken up an important space in national and international agendas for political reform. Portugal has recently attempted to pass a law regulating lobbying at the executive level, but the legislative process was brought to a halt as it failed to mobilize sufficient support across the political spectrum. There are still a series of misconceptions about lobbying that curtail any well-intentioned regulatory efforts. Lobbying regulation cannot be drafted based on general suppositions and moral claims. In order to design a robust and purposeful lobbying regulation, it is necessary to understand what is at stake, so that we cannot expect more than what the regulatory framework is capable to deliver.

KEYWORDS: lobbying, regulation, conflicts of interest

Introduction

In recent years, lobbying has taken up an important space in national and international political agendas for political reform. Until 2000, only four countries had some form of regulation, but since then eleven countries have adopted rules on lobbying and many others have discussed dedicated legislative proposals (Chari *et al.,* 2010; OECD, 2012). In addition, calls for regulatory assessment and improvement of existing legislative frameworks have increased, along with more general demands for transparency and accountability in public life, in particular regarding the relationship between policy-makers and powerful economic groups.

Portugal is a latecomer to the discussion about the need to regulate lobbying, but there are signs that the political context is changing. There were three discreet attempts to introduce some form of regulation of lobbying: in 2007, when some communication agencies called for free access to the Parliament's lobby;[1] in 2009, when the regulation of lobbying was mentioned in the Government Program[2] led by the Socialist Party; and in 2014 through an initiative of the parliamentary group of the Socialist Party. However, it was only in 2015 that a draft bill to regulate lobbying contacts at the cabinet level was finally put forward by the centre-right coalition government (PSD-CDS/PP), opening the door to a wide public debate about lobbying practices and controls.[3] The draft bill was never approved in parliament, or made public to that matter, since it failed to mobilize sufficient support from inside the government coalition and opposition parties.[4] The proposal was concluded in a difficult pre-electoral political context. Due to the increased level of polarization between the governing coalition and opposition parties, the conditions for its discussion, review and approval were not

[1] Almeida Leite, Francisco (27 July 2007), "Jaime Gama vai vetar 'lobby' no Parlamento", JN.

[2] VIII Constitutional Government (2009), Programa do XVIII Governo Constitucional (2009-2013), p. 114.

[3] Duarte, Catarina (18 june 2015), "Governo avança com lei do lobby mas deixa de fora os deputados", Económico.

[4] Pereira, Helena (2015), "Governo desiste de regulamentar lobbying", Observador.

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met. Nevertheless, regulating lobbying activities had finally settled in the political agenda. During the 2015 legislative elections, the centre-right governing coalition included lobbying regulation in its electoral manifesto, a pledge also matched by the Socialist party. More recently, in 2016, the parliament set up an ad-hoc committee on transparency in public life. Among other issues, this committee is charged of presenting a feasibility study on lobbying regulation. [5]

Democracy is not limited to political parties and elections. There are other players in the political system equally relevant to the way decisions are formulated, decided and implemented. Decision-making needs to be understood as a dynamic system, where multiple interests compete for power and display different resources and capacities to influence the course of political action. Lobbying is not just a form of civic participation in pluralistic democratic societies, alongside public petitions and demonstrations; it is also a form of mediation and information management between a passive agent (with decision-making capacity) and an active agent (with a vested interest in the decision-making process). Lobbyists try to influence, directly or indirectly, the results and outcomes of the decision-making process, by representing and promoting the concerns and interests of companies, business groups, sectors of activity, civic associations, communities, regions or even countries. However, it differs from other forms of political participation and interest representation, because it involves direct access to the decision-maker and therefore requires a certain level of organization, the development of an advocacy strategy and sufficient financial resources to sustain such leverage capacity.

Much of the work carried out by lobbyists takes place prior to mediation or the direct contact with decision-makers: from the collection of sensitive information to the monitoring of legislative and regulatory processes; through the establishment of advocacy coalitions and the definition of a communication strategy; the lobbyist is required to monitor, study and understand current public affairs and the specificities of the governance system, not to mention the character of political interlocutors, their sensitivity to the problem/cause, their availability to talk/listen, their flexibility to negotiate and review positions, their leverage and capacity to influence the course of action (Lampreia and Guéguen, 2008) .

Asymmetric power and interest representation in pluralistic democracies

Democracies are a stage for the interaction of various interest and pressure groups, seeking to influence the development, adoption and implementation of public policies. The ability to influence is not symmetrically distributed among these groups. The definition of public policies in democracy is not a linear process: decision-makers are part of a web of influences and conflicts between various interest and pressure groups. The decisions taken are not only the result of persuasion, but also constant and sometimes fierce negotiation between various stakeholders, with different levels of organization and resources, seeking to defend, protect or promote their interests. The fact that these groups seek to influence the decision-making process, by claiming their interests or expressing support/discontent for certain policies does not mean that their demands will be met by the decision-maker or that all the arguments and positions of all intervening parties will have the same weight in the final decision.

In democratic societies, power is often dispersed into several groups (Dahl, 1958). The various components of power (money, information, technical capacity, strength, etc.) are not concentrated in a single player. On the one hand, this makes the representation system competitive and on the other hand, it allows the creation of strategic alliances between different interests with different agendas. The asymmetric distribution of these skills by the various groups results in a lack of dominance by any of them (Polsby, 1963): if it is true that, as Harold Lasswell (1936) taught us, not all groups have the same power of influence, and that in politics, it is often the influential groups who get the most of what is available in the political system (i.e. wealth, security, respect); it is also true that no one has enough power to capture the entire decision process. In one way or another all players seek to influence the course and outcome of policies.

Although from a constitutional perspective, all interest groups are regarded as politically equal, some are more powerful than others, some are more organized than others, and some are better represented than others. The greater or lesser degree of openness of the decision-making procedures to the participation of stakeholders, the greater or lesser responsiveness of governments to the preferences of voters, the greater or lesser permeability of decision-making to external influences whether legal or illegal, that

[5] Comissão Eventual para o Reforço da Transparência no Exercício de Funções Públicas. More info available at http://www.parlamento.pt/sites/com/XIIILeg/CERTEFP/Paginas/default.aspx [consulted on 9 June 2016].

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try to influence the course of decisions, varies from one country to another.

The formal and informal dimensions of politics and the independence of decision-makers

Politics has two dimensions: an institutional one, composed of laws, elections, principles, procedures, power institutions and programs, which places political parties and interest groups at the heart of the representation system; and a more informal face, which materializes through forms of veiled influence, corruption, influence trafficking, patronage and favouritism. Lobbying takes place between these two worlds.

Lobbying is a mechanism to defend and promote interests, perspectives and points of view regarding certain political problems or solutions, through the mobilization of a set of resources (money, information, technical training, etc.) and the definition and implementation of advocacy, communication and public relations strategies, with the aim of influencing legislative, regulatory or decision-making processes, to one's benefit or those of third parties. In theory, lobbying plays an important role in the definition and implementation of public policies, not only because it allows politicians and senior public officials to become acquainted with problems and solutions in different domains, raising the levels of quality, responsiveness and effectiveness of the policy processes, but because it may also prevent the interests and ambitions of certain groups to prevail (OECD, 2009). In practice, however, lobbying often ends up being associated with shadow influence in politics. In many countries, lobbying is not regulated at all. Therefore, it does not work as an open mechanism of influence that facilitates access to decision-makers. In some cases, we are simply faced with situations of legislative, regulatory or decision-making capture through the institutionalization of conflicts of interest (De Sousa, 2002). Therefore, the problem arises particularly in terms of greater or lesser permeability of politicians to such influence, that is, the forms of interaction between interest groups and decision-makers and whether those interactions are regulated or not.

Although lobbying fulfills a function in democracy – to inform the decision-maker about the existence of different views on the same problem and possible solutions – there are sufficient reasons to believe that some of these practices degenerate into undue influence. Due to the asymmetric and largely opaque way in which this influence is exerted; the lack of transparency over who has access to decision-makers and the kind of contribution groups have made to the legislative process (i.e. who has influenced what); and the unorthodox practices of mediation increasingly reported by the media and civil society organizations, such as the offer of commissions, gifts, hospitality and donations for electoral campaigns, in exchange for privileged access to the corridors of power; lobbying often ends up being mistaken for influence peddling and related offences.

While the line that separates lobbying from influence peddling is often thin, these are two distinct political practices. Both lobbying and influence peddling are based on a process of mediation and information management between two parties, a passive agent (decision-maker) and an active one (stakeholder), with direct consequences for the decision-making. The mediator (broker) has the task of collecting information from both parties and, thereby, reducing the communication costs associated with the direct approach. Thanks to the management of information between the decision-maker and the stakeholder, the broker seeks to match preferences and objectives. Unlike lobbying, influence peddling is an illegal practice to the extent that someone sells or abuses her/his real or supposed influence over any public agent to obtain favours, preferential treatment or privileged information with high or potentially high market value, usually in exchange for a payment or non-material advantage. The lobbyist, in turn, is a person who builds bridges, manages information and gets paid for it, but does not sell what is not supposed to be sold, that is, the idea of an "imperative" mandate of the decision-maker. The lobbyist can ensure that the decision-maker listens to proposals, ideas and interests, but s/he cannot ensure her/his client that the decision will be favourable in return of a payment or benefits of another kind.

In political practice, these two fields of action are often intertwined. This is the case of internal lobbying practiced by certain MPs over their peers, government officials or even senior public officials. When an MP is solicitous in demanding/obtaining payments for her/his real or supposed ability to raise binding decisions by her/his peers or officials, it is a case of financial impropriety. Payments can be made directly to the broker, in the form of "consulting fees" and/or as donations to her/his political party. The party may play an important role in ensuring the MP's reputation as a broker ("an influential person inside the party structure") and providing her/him political office so that s/he can effectively develop this "fundraising activity" associated to parliamentary duties and privilege. Both the lobbyist and the "business politician" just described (Rogow and Lasswell, 1977; Pizzorno, 1992) are socialites; networkers with an excellent command of public relations, communication and negotiation skills; pragmatic and resourceful; without strong ideological convictions; and with low consideration for formalities. Lob-

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bying is built on social capital and this is not always easily available. When social capital cannot be mobilized as an influence mechanism in decision-making processes, corruption may appear as an alternative solution to get things done. According to Campos and Giovannoni (2006), lobbying, as a means of influencing public decisions, is a more common practice in wealthy countries, whilst corruption is more frequent in poor ones. This seems a very simplistic explanation. Both lobbying and corruption/influence peddling can occur in both developed and developing countries. Any democratic system has at its genesis a set of customary practices with a certain degree of informality that characterize parliamentary work and the relationship between representatives and their constituents. Figueiredo (2012: 23-24) makes a distinction between lobbying and corruption/influence peddling based on the nature of the interests organized and represented: influence peddling, unlike lobbying, aims at the defense of private interests at the public's expense. This distinction does not seem entirely satisfactory because a lobbyist can both represent the interests of a business group and an environment protection association, it can represent private as well as public interests. In fact, the distinction public/private interests may be misleading. Defending the interests of a business group may represent an added value for the company (e.g. a change in the regulatory framework or a specific tax benefit) as well as a positive externality for the population in general (e.g. the funding of a research program on cancer cells or the subsidizing of a particular drug). Sourice (2015: 81) offers a more suitable distinction: lobbying seeks to influence the decision-maker, while corruption or influence peddling aims to control her/him. Whenever the free will and independence of the decision-maker is threatened or damaged by mediation, the risk of capture or financial impropriety in the exercise of public functions is real.

Lobbying as a mechanism of interest representation

Due to the existence of multiple and legitimate interest groups (Austin, 2006: 678) and decision processes permeable to the interaction between economic interests and power (McFarland, 2010), attempts to directly influence the public decision-makers in certain policy regulatory or administrative decisions are expected. These attempts can be made through grassroots initiatives (petitions and demonstrations, for instance), media campaigns, political funding, lobbying or a combination of all or some of the above. In addition, the current complexity of policy matters that require the attention and intervention of politicians creates room for the participation of a series of other stakeholders. Moreover, politicians and senior public officials cannot remain indifferent to the demands of their constituents, some of which resulting from emerging situations not foreseen in the electoral manifestos, and therefore must be willing to hear their views. Policy makers do not always have all the required tools, skills or expertise to decide on questions of a technical nature or do not want to take unilateral decisions on sensitive issues and consequently opt to consult more informed interest groups. Reaching out for external contributions will help decision-makers to acquire expertise on the issues at stake, to have a more comprehensive understanding of those issues and to share responsibility for the measures adopted. Finally, in a scenario where opposing interest groups have opposite objectives, the State must act as regulator of those interests, committing or trying to safeguard the public interest or at least the "minimum consensus needed for the operation of a democratic society" (Downs, 1962).

Lobbying practices have been traditionally associated with pluralistic regimes like the United States or the EU, as opposed to corporatist ones. Using Philippe Schmitter's definition, corporatism is an interest representation system in which the constituent units are organized into a limited number of categories, recognized or licensed (if not created) by the State to whom the monopoly of representation is guaranteed (Schmitter, 1974). Since participation and access to decision-making processes is selective and institutionalized, the role of mediation is relegated to a secondary level and limited to a set of informal practices of representation of non-incorporated interests. Since these interactions tend to take place in a non-regulated context, the information and power asymmetries of the various groups are felt in a more acute way and may lead to the emergence of illicit practices of access to decision-makers. Pluralism is an interest representation system in which the constituent units are organized in an unlimited number of categories, which are not specifically authorized or controlled by the State and which do not hold monopoly of representation within the respective category (Schmitter, 1974). In pluralist systems, interest groups have more opportunities for participation and influencing the decision-making process from outside. The State only plays the role of mediator and regulator of those interests. In such context, lobbying is an instrument of political participation and representation of diffused interests, accessible to all types of organization, which ultimately justifies and facilitates its regulation.

In recent decades, in continental Europe, we have witnessed an erosion of corporatism as a system of interest representation to the benefit of pluralists ideals, partly as a result of economic globalization and the expansion of business practices, the emergence of a multi-level and polycentric governance system (Schmitter, 2003: 72), the decline of membership and hence of the political influence of the traditional

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corporatist associations, especially trade unions, and an increased biodiversity of interest groups that are not only of a professional nature, but also include non-profit civil society organizations. These changes have opened the door to new forms of interest representation and mediation, less organized and hierarchical, and the import of lobbying practices forged in pluralistic regimes to contexts that, until quite recently, had a limited and well-defined number of interest groups represented in the decision-making processes.

Lobbying regulations geography

As explained above, lobbying is most often associated with pluralistic regimes. However, if at a first sight this theoretical identification makes sense given the US and EU examples, the empirical reality is slightly more nuanced. Differences between systems of interest representation start to blur and the tendency for the regulation of lobbying has been felt far beyond pluralistic democracies. The United States, at both federal and state levels, were pioneers in the regulation of lobbying, as early as 1946.[6] However, it was only in the mid-1990s that the original regulatory regime was reviewed, in order to respond to new practices and the demands of the electorate regarding the quality of government.[7] Germany was also a pioneer in identifying the phenomenon of lobbying, creating in 1951 a voluntary register which gave access to the corridors of parliament to legal entities.[8] Canada has one of the oldest and also most comprehensive lobbying regulation, dating from 1989.[9] In the 1990s, a register of lobbyists was created in the European Parliament. These examples can be considered as belonging to the first wave of regulations.

Surprisingly, the UK, a pluralistic democracy, remained averse to this reform trend. Reluctance about the establishment of a register of professional lobbyists within the Westminster parliamentary tradition became clear during the first report of the Committee on Standards in Public Life, chaired by Lord Nolan. The report was commissioned by the government and published in the wake of the "cash for questions" scandal, involving a series of MPs at the beginning of 1990s: "Mention has been made in evidence to us of a proposal for a Register of Lobbyists. We are not attracted by this idea. It is the right of everyone to lobby Parliament and Ministers and it is for public institutions to develop ways of controlling the reaction to approaches from professional lobbyists in such a way as to give due weight to their case while always taking care to consider the public interest and the interests of the constituents whom Member of Parliament represent. Our approach to the problem of lobbying is therefore based on better regulation of what happens in Parliament. To establish a public register of lobbyists would create the danger of giving the impression, which would no doubt be fostered by lobbyists themselves, that the only way to approach successfully Members or Ministers was by making use of a registered lobbyist. This would set up an undesirable hurdle, real or imagined, in the way of access. We commend the efforts of lobbyists to develop their own codes of practice, but we reject the concept of giving them formal status through a statutory register." (CSPL, 1995: 35-36).

However, some of the greatest enthusiasts of lobbying regulations have in fact been the new democracies of Central and Eastern Europe. This trend is largely the result of three interconnected dynamics of institutional isomorphism (DiMaggio and Powell, 1983): a mimetic isomorphism, product of benchmarking processes and the standardization of legislative reforms with a focus on integrity systems; a coercive, or at best persuasive isomorphism, expressed by a series of constraints imposed by international organizations through the review mechanisms of international conventions (e.g. the GRECO/Council of Europe and UNCAC review mechanisms) and by the very process of European integration (the Copenhagen criteria) in view of the process of harmonization of the anti-corruption infrastructure across Member States; and a normative isomorphism, resulting from sectoral policy-learning processes, the production and sharing of knowledge and experience in international forums and an industry of consultants offering standardized measures based on a universal acquis. This tendency for legal and institutional isomorphism in the field of anti-corruption is felt worldwide, but more acutely in developing countries and transition regimes, such as post-communist democracies of Central and Eastern Europe. While seeking to import solutions from other socio-cultural and political-institutional contexts, these countries have deposited their hopes in the goodness of the new law or agency adopted without paying much attention to the actual conditions for

[6] Federal Regulation of Lobbying Act of 1946.

[7] Lobbying Disclosure Act of 1995.

[8] Deutsche Bundestag, Öffentliche Liste über die Registrierung von Verbänden und deren Vertretern. Available at https://www.bundestag.de/dokumente/lobbyliste [consulted on 9 June 2016].

[9] Lobbying Act (R.S.C., 1985, c. 44 (4th Supp.)).

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its effective implementation, which often resulted in measures with cosmetic applicability (Batory, 2012). Dedicated lobbying legislation was adopted in Lithuania (2000), Hungary (2006, withdrawn in 2011), Poland (2005), Macedonia (2008) and Slovenia (2010) and the issue was addressed, but without success so far in Bulgaria, with four proposals (the last in 2008), in the Czech Republic and Romania, where two bills were rejected in each of these countries, and in Ukraine, which already reproached six proposals (Holman and Luneburg 2012). A growing number of EU-15 Member States have recently adopted a dedicated lobbying regulation: France (2009), Austria (2012), Italy (2012) and the Netherlands (2012), and more recently, the United Kingdom (2014) and Ireland (2015), with significant variation among them.

Lobbying in non-regulated contexts: the Portuguese case

In Portugal, the representation of interests and the right to citizen participation in the decision-making is enshrined in the Constitution and is partly governed by the social dialogue rules and procedures. Although Portugal has traditionally been a corporatist country, in recent years, for the reasons discussed in the previous section, has gone through a series of structural changes in its governance context, that made its decision-making processes more exposed to lobbying practices. Portugal is a member of the European Union and of several other international organizations that regard lobbying as a legitimate practice (OECD, for example), it has an increasingly open and competitive market economy[10] and it has been experiencing a decline in trade union membership (De Sousa, 2011) and a simultaneous increase of civil society organizations (Fernandes, 2014) in the last two decades.

Therefore, it is not surprising that, in recent years, pressure groups have diversified and intensified their action in the country. This is confirmed by two recent studies on lobbying practices in Portugal: i) an international comparative study showed the position of the Portuguese policy makers on lobbying and the lobbyists that contacted them (Burson-Masteller, 2013); ii) another study, of a more qualitative nature, focused on the risks associated with the lobbying practices in the Portuguese political system (Coroado, 2014). Both studies suggest that lobbying is widely practiced in the country and point to serious problems regarding the transparency of public/private interactions; the integrity of both demand and supply-side actors to the transaction; and the accessibility of different interest groups to the decision-making processes.

Lobbying in Portugal is different from the one practiced in regulated contexts. On the one hand, the professional lobbying industry in Portugal is virtually non-existent: as an independent professional activity, lobbying is just starting, with still few lobbying or public affairs firms; the most important intermediaries in the market are large communication agencies and law firms. On the other hand, pressure on legislative and regulatory decision-making processes is exercised through internalized networks of influence, informal contacts and parliamentary advocacy, since many MPs maintain their professional links to the major law firms in the country, which are the legal representatives of multiple interest groups.

Lobbying regulation: common measures and robustness of rules

Lobbying regulation is not a panacea, but allows an easier delimitation of what are legitimate attempts to influence the decision-making and what is corruption and influence peddling. In addition, the adoption of dedicated lobbying regulation contributes to a more transparent and fairer political, legislative and administrative process, and consequently to greater legitimacy of the public decisions taken.

The intensity of regulation varies across space: some countries have opted for more rigid and detailed rules, while others rely on self-regulation or voluntary mechanisms; some reporting obligations focus on lobbyists, while others on the decision-makers themselves and/or the bodies in charge of information reporting; the definition of lobbyist and the obligations arising therefrom also varies considerably, sometimes only covering the intermediaries, i.e. consulting firms or independent lobbyists, on other occasions opting for a broader definition, which includes churches, non-governmental organizations, lawyers or think tanks.

The most common instrument to the different models of regulation is the lobbyists register. Even in countries that place the burden of regulation in other control mechanisms, there is always a lobbyists register, as in the case of Poland and Chile. The lobbyists register is a public record with information on the identity, affiliation, among others, applicable to individuals, consulting firms, companies or associations representing interest groups. Depending on the option of the lawmakers, the registration may be mandatory or voluntary; it may include a variable number of lobbyist categories

[10] http://www.jornaldenegocios.pt/economia/detalhe/portugal_foi_o_segundo_pais_que_mais_subiu_no_ranking_mundial_da_competitividade_.html (consulted on 4 June 2016).

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and a code of conduct. The type of information required from lobbyist varies from one case to another. It may be limited to the identification of vested interests or it may go as far as demanding the disclosure of the amount invested in lobbying activities and the names of the decision-makers contacted by the lobbyist.

Depending on the required information, registration can be an important tool for transparency and data aggregation. It may be particularly useful for identifying clients of lobbying firms, since the interests they represent are not as easily identifiable as those of in-house lobbyists. It can also be important for foreign companies that are new to a market or in contexts where the lobbying industry is at an early stage and professionals need to make themselves known to decision-makers. The registration does not, however, identify the legislation or public policy that every registered individual sought to influence, or the information and documentation made available by the lobbyist to the elective or public official. A regulatory framework based only on the lobbyists register may ultimately result in failure (as it happened in Georgia and Poland, where fewer than a dozen lobbyists are registered); or may shed little light on who is influencing what decisions (if the register does not include a summary of the contacts established with decision-makers); or may have the sole purpose of facilitating access by registered lobbyists to office holders, by obtaining a credential that allows them to move freely inside public institutions, without a serious concern for transparency or integrity issues.

Along with the lobbyists register, the publication of agendas of office holders or the voluntary disclosure of their contacts with lobbyists and interest groups has been one of the most effective instruments provided by dedicated lobbying regulations. The Chilean regulation, approved in 2014, is based on this mechanism. The offices of the European Commissioners also publish the meetings they maintain with lobbyists and interest groups. The usefulness of this mechanism is that it provides information about who is actively seeking to influence a decision and who has been consulted by office-holders on their own initiative. In practice, it works like the Portuguese parliamentary committees, which publish on the official website the audiences (requested by entities or individuals) and the public hearings (held at the request of the committees). However, such a mechanism of information may involve considerable administrative resources.

Finally, less common but also useful for all parties involved in the decision-making process and, above all, the general public, is the so-called legislative footprint, i.e. an attached record of the pieces of legislation that discriminates those actors involved and their contributions in the preparation of a particular piece of legislation (Berg and Freund, 2015). The legislative footprint is a public record that documents the interactions between policy-makers (MPs, members of Government or regulators) and representatives of interest groups. This information is attached to draft bills and thus enables to identify the influence that various interest groups have exercised in the formulation of that piece of legislation. A good legislative footprint mechanism must register the meetings, including the date and subject of the contact and the input, advice and opinions given by lobbyists that have been taken on board in the context of a decision-making process. The publication of this information helps to ensure that the influence of certain interest groups in the drafting of policies, regulations or legislation is not disproportionate, thus seeking to avoid undue influence or capture.

Several studies have attempted to evaluate the strength of lobbying regulations. Based on the methodology developed by the Centre for Public Integrity that analysed the lobbying laws of fifty American states Chari *et al.* (2010) proposed an alternative quantitative index that evaluates regulatory strength in different countries and ranks them in low, medium and high regulation according to country scores on five dimensions: the lobbyists register; rules of disclosure regarding individual spending on lobbying activities; registration methods; publicity procedures; and sanctions framework. In this comparative study, only countries operating some form of regulation were considered.

Another assessment coordinated by Transparency International, compared lobbying regulations and practices in nineteen European countries and three EU institutions, including regulated and unregulated frameworks (Mulcahy, 2015). According to this study, only seven countries had adopted a dedicated lobbying legislation: Austria, Slovenia, France, Ireland, Lithuania, Poland and the UK.

Conclusion

Due to international and domestic pressure for more transparency in public life, sooner or later, Portuguese lawmakers will have to adopt some kind of lobbying regulation. The OECD recommends that each country find the most appropriate way to regulate lobbying and not just replicate rules and principles from other contexts (OECD, 2013).

For a lobbying regulation to be successful, one needs to take into consideration the various phases of this complex policy process:

- In the legislative process, it is crucial to try to be as inclusive as possible, consult national and foreign experts, listen to the professionals, while not forgetting that lob-

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bying regulation is always the result of political commitment. There must be a manifest desire to change the status quo, otherwise the whole exercise will result innocuous and increase the frustration of public opinion;

- During the design of the legislation, there should be an analysis of the different regulatory options, their advantages and limitations and best international practices. Regulation should seek to respond to identified risks and concerns and take into account the constitutional traditions, legal and administrative provisions of the country in question, thus avoiding mimetic solutions and contextualizing options. Excessive regulation should be avoided and lawmakers should seek a balance between controls and identifiable risks (goodness of fit), that is, they should not create more controls/limitations than is needed to ensure a climate of transparency and integrity and not expect more from the regulatory framework than what it can effectively deliver;

- During the implementation phase, it is important to consider, with great care, the oversight and enforcement mechanisms and procedures, so that the regulation does not become a gatekeeping system and an incentive to informality and non-compliance. It is precisely at this level that most lobbying regulation fails.

To conclude, in what concerns the Portuguese case, it is justifiable to move forward with the adoption of a dedicated lobbying regulation as part of a wider public integrity system. Legislating on lobbying without considering conflict of interest management and oversight is to ignore that the genesis of the problem lies in the way these interests are organized and seek to influence the decision-making processes from within the decision-making institutions.

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