

From Problem to Policy: a Case Study on Adopting a Lobbying Law in Austria

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Author's Declaration

I, the undersigned **Andrija Višić** hereby declare that I am the sole author of this thesis.

To the best of my knowledge this thesis contains no material previously published by any other person except where due acknowledgement has been made. This thesis contains no material which has been accepted as part of the requirements of any other academic degree or non-degree program, in English or in any other language.

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ABSTRACT

European countries started adopting lobbying regulation policies in the last 10 years, which resulted in an evolving discussion about ways of possible regulation of this young profession. Using a case study approach, this thesis tracks the process from the creation to the adoption of the Austrian Lobbying and Advocacy Transparency Law in 2012, drawing on information from interviews with stakeholders in different roles during that process and analyzing documents relevant for understanding the changes in draft versions of the law. It applies Kingdon's three streams theory of how an item comes to the governments' agenda, by explaining that: (1) the Austrian government reacted on the corruption scandal and perceived lobbying as a problem; (2) the social partners had crucial influence in changing the first draft of the law and thus excluded themselves from transparency requirements; (3) the Austrian people and the media pressured the government to react after the corruption scandal occurred. The thesis also identifies political opportunists of this law inside the Austrian government and at the same time shows how the law is a mirror image of the neo-corporatist culture in Austria.

Key words: lobbying, lobbying law, corruption, pluralism, corporatism, regulation, lobbying register, Austria.

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TABLE OF CONTENTS

ABSTRACT	i
ACKNOWLEDGEMENTS.....	ii
INTRODUCTION.....	1
1. INTEREST GROUP INFLUENCE ON POLICY ADOPTION AND THE LOBBYING PROFESSION: A THEORETICAL FRAMEWORK FOR UNDERSTANDING THE AUSTRIAN CASE	5
1.1. Ambiguous definitions of lobbying and forms of lobbying regulation policy	6
1.2. Political pluralism or neo-corporatism?	8
1.3. Kingdon's three streams model – problem, policy, politics	9
2. METHODOLOGY	12
2.1. Case study selection	12
2.2. Research methods.....	13
2.3. Analyzing the materials and research limitations.....	15
3. TRACING THE PROCESS – FROM CREATION TO POLICY ADOPTION	16
3.1. Introducing the problem	16
3.2. Ideas in the policy primeval soup.....	19
3.3. Politics and the final draft of the law.....	25
4. OUTLINING THE FINDINGS	28
CONCLUSION.....	32
REFERENCES	34

INTRODUCTION

How an idea is transformed into a legitimate policy is a long and complex process. Every day governments face issues framed as societal problems, as well as solutions to these problems, presented by public servants, interest representatives, pressure groups and other stakeholders. Analyzing a process of how policy is created and then in the end adopted or rejected can result in discoveries that trump the general understanding of why a certain policy was formed in a specific way. Lobbyists, as specific interest representatives play a special role in this process, and the lobbyist profession is strictly regulated in certain countries. Many countries, however, have no lobbying regulation at all.

Austria adopted its first lobbying regulation policy in June 2012, only one year after a major corruption scandal involving an Austrian Member of the European Parliament, Mr. Ernest Strasser, which resonated on the EU level and on the Austrian political scene as a lobbying scandal. Although lobbying is frequently understood as corruption by the general public, there are precise differences between lobbying as a legitimate profession, and corruption as a criminal act.

This research will trace the process of the Austrian Lobbying and Advocacy Transparency Law (Austrian Parliament 2012) being drafted, consulted on with the public, revised and adopted. The contribution of this thesis will be a deep understanding of the creation and pathways to adoption of a lobbying law. It will complement the work of other experts on lobbying regulation such as McGrath (2008), Lowery and Gray (1997), and Kolbe et.al (2011). Although the Austrian case is unique, it might serve as an example to other countries, especially since Austria's public administration systems have been used as benchmarks throughout the 20th century by the south-eastern European Countries such as Croatia, Serbia, Montenegro, Macedonia and Slovenia. These countries have in the last eight years experienced the appearance of lobbyists' and public affairs

associations that have started their own initiatives for the implementation of a lobbying law in their respective countries. Slovenian Lobbyists' Association advocated for the Slovenian lobbying law that was adopted in 2010 (Association of Accredited Public Policy Advocates to the European Union [AALEP] 2015a); Macedonia's lobbying law was adopted in 2008 (AALEP 2014); and in Croatia in Serbia, two NGOs that are gathering lobbyists are advocating for the implementation of the lobbying law since 2008 (Hrvatsko drustvo lobista [HDL] Croatian Lobbyists' Society 2008). These initiatives are highly supported by many NGOs and social partnership institutions in Croatia for example, but the draft of the law is still in the Ministry of Justice, waiting for public consultation procedure to start (HDL 2015).

Case studies are conducive for the generation of rich empirical data on complex processes, and while this is a single-case study its findings are expected to be relevant at least for the area mentioned above and possibly beyond. The case study approach is therefore appropriate for this research to discover what processes on the Austrian political and policy scene led to this particular way of a law being created and adopted. The research will try to explain the mechanism of adopting a lobbying law by answering the following research question:

- *What factors facilitated the creation and adoption of the lobbying law in Austria?*

Expectations of this research go beyond the general understanding of how lobbying is regulated. The analytical framework used draws on two pieces of literature:

(1) Wide literature on interest representation and thus lobbying as one of the ways to represent a personal or common interest (LaPira and Thomas 2014). Lobbying has strong rooting in the theory of *political pluralism*, will be analyzed and compared to the characteristics of the *neo-corporatism* theory, considering the social partners' status on the Austrian political and economic scene. Austria has a special relationship with its social partners, since it owes its

economic and social development to social partnership institutions which were formed on voluntary and informal basis by the Austrian Trade Union Federation and the Chambers of Agriculture, of Commerce and of Labor to control post-war inflation in the early 1950s (Nowotny 1993). The two most influential social partners today are the Austrian Economic Chamber and the Austrian Trade Union Federation and their role is recognized in the Austrian constitution in article 120a (2); article 10 (1) 8; and article 10 (1) 11. Article 120b (1) further authorizes the social partners to “take care of their tasks in own responsibility without instructions and to render statuses in the frame of the laws” (Austrian Federal Constitutional Law [B-VG] 2014; 94, 11).

(2) Kingdon’s three streams theory, convergence of problem, policy and politics streams, is going to be tested in the case of the Austrian lobbying law being created and adopted. The corruption scandal is expected to be the *problem* which needed to be solved immediately; different policy proposals for a lobbying law prior to the scandal should prove an existence of a “policy primeval soup” (Kingdon 1995) characteristic for the *policy* stream; and the *politics* stream will be explained by describing the national mood of the people towards the lobbying profession, as well as analyzing the pressure group campaigns being organized to pressure the government into introducing lobbying regulations.

Expectations also include: (a) that lawyers would have a big influence on creating a lobbying law that would in certain ways exclude them from having to register since their profession is not lobbying, but practicing law, although many of their actions are typical lobbying activities; (b) that the European Transparency Initiative (ETI) and the EP itself pressured Austria to adopt lobbying regulations.

The thesis will show how the definition of lobbying becomes a product of a country in which it is regulated in a certain way. The Austrian lobbying law was amended many times after the first draft was created, along with the definition of the profession. The current definition of

lobbying in Austria, and regulations that are in place, show that lobbying that lawyers do is regulated in one way, social partners lobbying activities in the other, and private consulting/lobbying firms in a third way, with the strictest rules for transparency.

The methods used in this research are: (1) semi-structured and structured interviews with six key actors in the creation and adoption process of the law: public affairs NGOs representatives, public officials in the Ministry of Justice and the Austrian parliament, and the representatives of social partnership institutions; (2) review of parliamentary documents such as the first, second and the final draft of the law, stakeholder's responses to the first and second draft, and analysis of the final version of the law; (3) analysis of articles from the Austrian media from the time when the corruption scandal happened to the adoption of the final version of the law by the Austrian Parliament.

1. INTEREST GROUP INFLUENCE ON POLICY ADOPTION AND THE LOBBYING PROFESSION: A THEORETICAL FRAMEWORK FOR UNDERSTANDING THE AUSTRIAN CASE

The first chapter of this thesis focuses on how the lobbying profession is defined academically and legally. Two major theories from political sciences are going to be used to explain the position of this young profession in today's economy and political life – the theory of political pluralism strengthened by David Truman and Robert Dahl in 1951 and 1961, and the theory of corporatism and neo-corporatism improved by Philippe Schmitter in the 1970s and elaborated by Graham Wilson in his work on interest groups.

The definition of lobbying used by most scholars is the one by Frank Baumgartner and Beth Leech from 1958/1961, which qualifies lobbying as an activity that affects the policy process itself. This definition is too wide and inefficient so contemporary definitions were consulted. Next to the lobbying definition, it is also important to see how lobbyists in different roles are lobbying for the implementation of different versions of a lobbying law.

Since the main goal of this thesis is to trace the process from the creation of the Austrian lobbying law to its adoption, the appropriate model for analysis is the Kingdon's three streams model: the problem, the policy and the politics stream. This theory has never been used for explaining how a lobbying law receives or does not receive government's attention, and since many countries in the world have not yet adopted lobbying regulations, the Austrian case is appropriate to test the theory. A combination of this model and the theories of political pluralism and neo-corporatism will produce viable explanations for why the Austrian lobbying law was created and adopted in a certain way.

1.1. Ambiguous definitions of lobbying and forms of lobbying regulation policy

The term ‘lobbying’ was first used in the United States Senate, where senators lobbied their House colleagues in 1820 (Gelak 2008, 8), placing the origin of the term and the profession in the US, “where, today, lobbying is regulated in all 50 states” (Verčič and Tkalac Verčič 2012). The first academic papers and books about lobbying also date from mid-20th century US. Baumgartner and Leech were one of the first US authors to write about interest groups and lobbying. They go into great length to elaborate different uses of lobbying definitions due to different understandings of lobbying strategies. Their understanding of lobbying as “an effort to influence the policy process”, described by Nownes in his book *Total lobbying* (Nownes 2006), is too wide to be used in this thesis, so other, contemporary lobbying literature will be consulted.

Since the policy process includes complex and interconnected phases, Nownes mentions that lobbying itself is a process and not a single activity (Nownes 2006, 6). Christian D. de Fouloy, the President of the Association of Accredited Public Policy Advocates to the European Union (AALEP), notes in his lobbying dictionary that lobbying means to “conduct activities aimed at persuading legislators or public officials to propose, pass, or defeat legislation or change existing laws” (Fouloy 2011, 187), to which one can add that it is all done in favor of someone’s interest. Some findings show that “even key political scientists cannot define lobbying by a meaningful definition that is not tautological (i.e., lobbying is what lobbyist do) nor can they differentiate it from other forms of political behavior” (Verčič and Tkalac Verčič 2012).

Regarding the legal definition of lobbying, which can show how lobbying is perceived and thus regulated by a certain country; Fouloy explains that one does not exist, since:

Lobbying practices are deeply embedded in a country’s democratic and constitutional setting. For instance, they are interrelated with constitutional right to petition government, interest representation and consultation mechanisms such as social partners (Fouloy 2011, 187).

In the UK, the 2014 ‘Lobbying Bill’ creates a term ‘consultant lobbying’¹ and defines it as making communication with public officials, defining a narrow 1% of lobbyists (Parliament of the United Kingdom 2014). Ireland is the latest European country that adopted a standalone lobbying law where explicit definitions of lobbying and lobbying targets are used (Parliament of Ireland 2015). The Austrian lobbying law “covers all activities, by which direct influence is exerted to Austrian legislature or administration through structured and organized contacts”, although only direct contacts with public servants count (OECD et al. 2014).

As mentioned before, every effective lobbying law includes setting up a functioning public lobbying register which serves as a transparency tool. In the register, lobbyists usually disclose the following information: (1) personal and contact data about themselves or about the company they work in; (2) details about the services they deliver and the list of clients they represent; (3) financial data. They also have to abide by the code of conduct. The Austrian lobbying register is going to be described in the following chapters, but it is important to make a distinction first between voluntary and mandatory lobbying registers, and that they can be set up by professional association or by government/parliament. In their newest research, OECD notes that self-regulation can enhance transparency and accountability through: “developing and promulgating an ethics code”, “ethics training”, “investigative panels” and a publicly available lobbying register run via professional associations. Mandatory registration, usually run by governments (US, Canada, Austria), OECD describes as having measures that include: “capturing all persons who pass a minimal threshold of paid lobbying activity as ‘professional lobbyists’”, “mandating registration and disclosure of professional lobbyists, their clients and

¹ The term consultant should not be used alongside with lobbying. A consultant is a person who “provides expert advice in a subject area, but lacks the authority to implement change”, while a lobbyist “provides advice, but then actively seeks to influence external decisions, often with significant impacts to their client’s bottom line” (McMorrow and Costantino 2012).

certain financial activity”, “monitoring and enforcing compliance to the lobbyist registration and disclosure requirements”, as well as ”extending transparency and accountability measures beyond lobbyists to public officials” (OECD 2012, 15-16).

1.2. Political pluralism or neo-corporatism?

Lobbying, as well as interest representation as an umbrella term, is understood as a legitimate part of the democratic system and has strong rooting in the theory of political pluralism. Nownes writes that Truman and Dahl “studied organized interests primarily in the 1950s, and argued that lobbyists are highly influential actors who exert profound influence over government decisions” (Nownes 2006, 32). Explaining the model of pluralist democracy Dahl writes that “in pluralistic, democratic political systems with wide political consensus, the range of acceptable strategies is narrowed by beliefs and habits of legality, constitutionality, and legitimacy that are constantly reinforced by a great variety of social processes for generating agreement on and adherence to political norms” (Dahl 1961, 225). These characteristics can be found in Austria as a developed western country where the rule of law is respected; where the social partners draw the legitimacy for their work from the constitution; and where media and the general public strongly criticize the government.

Corporatism on the other hand involves political attitudes and representative mechanisms necessary to create formal nexus between organized associations in the society and State structures (Schmitter 1974). Schmitter explains it as a political arrangement where the state regulates social classes in functional, vertical and non-conflictive organizations. When considering Austria, one must turn to a more specified theory – neo-corporatism. Wilson explains neo-corporatist political systems as those:

In which policy is made and implemented in a partnership with government and the major interests in a society (usually business and labor), represented by a limited number of interest groups licensed or recognized by the state which enjoy a monopoly on the effective representation of their interests (Wilson 1990, 109).

While pluralism highlights the competition among interest organizations, corporatism (and thus neo-corporatism) points to negotiations among state institutions and peak associations (Beyers, Eising, and Maloney 2011).

Nationwide peak associations enjoy monopolies for the domains they represent. Interest group leaders tend to be trustees, having a broad mandate to represent their members' interests. (...). In its second use, corporatism is an institutionalized pattern of policy formation, mostly in economic policy making (Beyers, Eising, and Maloney 2011).

Roles played by the social partners in Austria in these “negotiations” are those of lobbyists, since their job is to facilitate cooperation between the businesses and the state by changing policies in favor of various interests. The important question here is: *How to distinguish between a lobbyist in a pluralistic system and one in a neo-corporatist system, when neo-corporatist systems do not recognize the activities of social partners and similar institutions as lobbying?*

1.3. Kingdon's three streams model – problem, policy, politics

One characteristic of a successful lobbyist is reacting on time. There are many intervention points for lobbyists in the policy cycle, but knowing when and how to apply a certain lobbying strategy creates a distinction between successful and less successful lobbyists. Some of these intervention points are explained in theory by prominent political scientists. John Kingdon was interested in governments' agendas, alternatives and public policies, and in the eponymous book presented his three streams theory. He was trying to determine why certain items on the governments' agendas receive their attention and others do not. He defined an *agenda* as “the list of subjects or problems to which governmental officials, and people outside of government

closely associated with those officials, are paying some serious attention at any given time” (Kingdon 1995, 3). Kingdon explained that there are three streams flowing through the system: problems, policies and politics. When all three streams come together at the same time, a *policy window* is opened and a certain policy gains the government’s full attention. A policy window is defined as “an opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems” (Kingdon 1995, 165).

The *problem* stream consists of indicators that point to certain problems, such as high rate of highway deaths or a sudden rise in consumer prices. But some problems are not always self-evident by the indicators and they need a focusing event like a crisis or a disaster. The *policy* stream is described by a variety of ideas floating around in the policy primeval soup, meaning that different policy expert communities are ready to advocate for a certain policy change or are already doing so. This is where the selection criteria play an important role, especially technical feasibility and value acceptability. The difficulty of implementing a policy can make a policy proposal be removed from the government’s agenda. The *politics* stream consists of three elements: the national mood, pressure group campaigns and administrative and legislative turnover. The national mood regarding a certain problem or crisis can be measured by public opinion polls. Governments react to a change of mood by tackling items on the agenda that would appeal to the people, while “pushing other items into relative obscurity” (Kingdon 1995, Zahariadis 1999).

For a policy window to be opened, it is not enough only for these three streams to come together at a certain point in time. This is where Kingdon introduces the concept of coupling in his theory, explaining the role of policy entrepreneurs:

As advocates who are willing to invest their resources, (...) to promote a position in return for anticipated future gain in the form of material, purposive, or solidary benefits (Kingdon 1995, 179).

Using this theoretical framework, the thesis will show how a corruption scandal (*problem*) involving an Austrian MEP, with a long career in lobbying and consultancy before his political career, exploded on the Austrian political scene and became a political issue. The *policy* stream will be analyzed by looking into proposals of drafts of the law introduced by different stakeholders. Information about the national mood of the Austrian people will also be collected to partly explain the actions of the Austrian government (*politics*).

This thesis will also try to identify the policy entrepreneurs inside and outside the Austrian government who were the main actors in coupling the streams. Since every lobbying law serves as a protection policy not just for lobbyists but also for politicians, one could suspect that politicians will try to modify the law to secure future gain, if its adoption is unavoidable. The policy entrepreneurs outside of the Austrian government could be the professional associations that bring together lobbyists, which have been advocating for a law in the years prior to its creation.

2. METHODOLOGY

Qualitative research methods are often used in social sciences for deep understanding of certain phenomena. This thesis relies on the process tracing method² combined with semi-structured and structured interviews, and position paper documents from stakeholders involved in the creation and adoption of policies in Austria. It also includes analysis of media articles from the Austrian media in English and German language. The case selection section justifies choosing neo-corporatist Austria for this research as well as the importance of lobbying regulation policy research.

2.1. Case study selection

Austria was primarily selected for this research because the Austrian lobbying law was created and adopted swiftly, which was not the case in adopting lobbying regulation policy in any other country. The process that led into its adoption needed to be understood especially because the professional lobbyists in Austria are the ones who do not agree with the adopted version of the law (Köppl 2014). Secondly, Austria is a country with neo-corporatist culture, and lobbying is not regulated in other neo-corporatist cultures in Europe as strictly as it is in Austria. Thirdly, Austria has throughout decades been the role model for eastern and southern European countries in adopting policies because of their strong economic and political ties. Austria is for example still the biggest investor in Croatia. Fourthly, interviews were conducted only in Vienna since most lobbying is done in the city which holds governments' main institutions. One of the reasons was also the author's former education and interest in Austrian economy and politics, as well as

² 'Process tracing' is an increasingly popular, and contested, research method. Note for instance the differences between Beach (2013) and George and Bennet (2005). In this thesis, a bit different version of process tracing is conducted, and the procedures suggested by the above authors are not rigidly followed.

professional connection the Austrian think-tank European Forum Alpbach. It is important to note that some of the documents that were analyzed for this research are not publicly accessible unless specifically asked for in case of a research project such as this one.

2.2. Research methods

The main data sources for this research were four semi-structured interviews conducted in Vienna in the period from March to June 2015, and two structured interviews conducted via email. Interviewees were selected based on their positions during the creation and adoption of the lobbying law: (1) two NGO representatives; (2) two public officials; and (3) two representatives from social partnership institutions. This structure was created so that views on the complete process from creation to adoption are received from different stakeholders that are in three different ways connected to the effects of the new law.

The first two interviews were conducted in March 2015 with the current President of the Austrian Public Affairs Association (OePAV) Mr. Peter Köppl, and the Association's former president Mr. Feri Thierry. They both provided precise insights in the process from creation to the adoption of the Austrian lobbying law and suggested two Austrian politicians from the Ministry of Justice to be interviewed – Mr. Georg Kathrein, who is the Director General for Civil Law in the Austrian Federal Ministry of Justice, and Mr. Georg Krakow, former Head of Cabinet of the Austrian Federal Ministry of Justice. They were interviewed in April 2015. The parliamentary speaker Mr. Johannes Jarolim, mostly involved during the negotiation process and during the Parliament sessions, declined to be interviewed for this research. The interviews were semi-structured so that additional questions could be formed and asked during the interview. They were conducted in English and lasted 45 – 60 minutes. Most of the interviews

were recorded with an exception of the interview with Mr. Krakow who asked for the interview not to be recorded. Invitations for interviews were also sent to prominent lawyers from law firms in Austria, but no response was received from them. Interview answers from lawyers would have been valuable for this research to understand their position even more precise during the creation of the law as well as now when the law is implemented.

The questionnaire consisted of questions that tackle:

- The ways lobbying was regulated in Austria prior to the lobbying law;
- The role of the interviewee during the process of creation and adoption of the law;
- The process that led to the creation of the first draft of the law;
- The potential factors that influenced the government to create a lobbying law; divided by Kingdon's three streams;
- The role of the Austrian media and the public interest in government affairs.

Besides the one-on-one interviews, invitation to participate in this research by answering questions by email was sent to four main social partnership institutions in Austria mentioned in the introduction. The questionnaire was slightly modified so it would extract as much information as possible from the representatives of social partners. The response arrived only from the Austrian Economic Chamber's President, Mr. Christoph Leitl and the Austrian Chamber of Agriculture's Head of Legal Department, Mr. Anton Reinl; while the Austrian International Chamber of Commerce answered that they "are not involved in lobbying laws" (ICC Austria May 21st 2015, e-mail message to author).

Documents that were available online through the website of the Ministry of Justice were the first draft of the lobbying law and the 74 opinion responses (*Stellungnahme*) from NGOs, lobbying firms, law firms and other stakeholders. The second draft of the law was obtained from

Mr. Kathrein by email, as well as the Judiciary Committee legislative text and report (*Justizausschuss Gesetzestext und Bericht*) and the Government Bill Text and submission notes (*Regierungsvorlage Text und Erläuterungen*).

Articles from the media were specifically selected to show the position of the printed and online media regarding the regulation of lobbying in Austria. They were used along with the interview responses to strengthen the interviewee's and author's arguments.

2.3. Analyzing the materials and research limitations

The interview answers were analyzed based on the topics they cover connected to the three streams. Questions regarding the corruption scandal, former types of lobbying regulation in Austria and the need for a lobbying law were analyzed as a part of the problem stream. The combination of lobbying regulation policy proposals from NGOs and other stakeholders were analyzed for the policy stream. The politics stream was tackled with questions about the national mood, political opportunists and pressure groups active before and after the scandal.

First, second and the final version of the law were compared to track the change of definitions of lobbying as well as the scope of lobbyists that the register would cover. Specific parts which point to the changes connected to the 74 responses were noted and described. As the documents were in German language and the author's level of German knowledge is basic, online translation tools such as *Dict.cc* and *Google Translate*.

Limitations considering the documents must be noted since most of the interviewees mentioned that it is not possible to obtain inter-parliament communication documents as well as most of the minutes from the discussions with stakeholders, which would make this research go deeper in analysis.

3. TRACING THE PROCESS – FROM CREATION TO POLICY ADOPTION

The interviews and documents collected provide enough material to portray a pathway towards a lobbying law in Austria. Tracing the process begins by noticing when the first discussions about the lobbying law in Austria began; continues with explaining the events that led to the creation of the first draft of the law, its revision and negotiations that formed the final version; and ends with analysis of specific recommendations made by the social partnership institutions in their position papers, that were then inserted into the law.

3.1. Introducing the problem

Professional public affairs, including lobbying, have always followed the path laid out by the political system itself (Köppl and Wippersberg 2014). In Austria, the change of government in 2000 resulted in the new coalition between Freedom Party of Austria (FPÖ) and the Austrian People's Party (ÖPV) outsourcing “policy making, strategy consulting, opinion research, advertising and PR³ to the independent political consulting market” (Köppl and Wippersberg 2014). In line with other professions, lobbying also became a noticed profession in Austria, but with no regulatory framework except regulations that cover any consultancy business.

This created concerns in the public affairs professionals’ community in Austria, consisting of communication and PR experts, consultants and lobbyists. They started meeting with policy and decision makers in Vienna to issue their concerns specifically about lobbying activities not being regulated, and that Austria needs a full, comprehensive and clear law with

³ Outsourcing these jobs was never done before in Austria because: “Political consulting has never become fully emancipated from the control of those normally seeking consulting. (...)Traditionally, the political system in Austria produces political consultants primarily by recruiting among its own elites. Thus, campaign and public affairs consultants are usually former politicians” (Köppl and Wippersberg 2014).

high professional and ethical standards, and a public lobbying register. The current President of the Austrian Public Affairs Association, Mr. Peter Köppl, was at that time and still is today one of the main advocates for lobbying regulation in Austria.

Going back in time, there have never ever been specific discussion on regulating the lobbying business in Austria, although I started out in 2006/2007, having back then founded ALPAC – Austrian Lobbying and Public Affairs Council, which basically was a fore runner to OePAV. ALPAC was a small platform. I think we were 4-5 members, consultants, trying to figure out what is going on in Austria behind the curtains. And our goal and aim was to get lobbying regulated in Austria in a positive way. This was approximately the time when Siim Kallas, then commissioner to the EU, and responsible for constitutional affairs, started to set up what is now called, the European Transparency Initiative (ETI) (Köppl 2015; 04:03).

Although they tried to portray this issue as a problem, they were not heard by the political decision makers. The ETI and lobbying by ALPAC proved to be significant in the later years, described as frequent informal talks with politicians in the parliament, prior to the scandal, about the need for a lobbying register (Kathrein 2015; 07:35).

Before the informal talks started, the ETI's influence on Austria was spread through the work of Transparency International Austria (TIA). After the ETI was adopted in Brussels in 2007, ALPAC and TIA again started 'lobbying for the lobbying law'. There was still at that time no interest in public decision makers to create a lobbying register, but "there were some companies saying: we need ethical standards, we need quality standards and we need a register" (Thierry 2015; 04:42).

When the new coalition government, formed by the Social Democratic Party of Austria (SPÖ) and the People's party came to power in 2006, many corruption scandals were reported, connecting different ministers to lobbyists and lobbying companies. There was no reaction from the courts and although "the media was high on this issue, there was no proof" to convict anyone (Köppl 2015; 11:19). In March 2011, two undercover journalists from the British newspapers *The Sunday Times* "wanted to verify allegations that some politicians were prepared 'to sell their

services’ to push through specific amendments to EU legislation in exchange for remuneration” (EurActiv 2011), which resulted in three Members of the European Parliament (MEPs) exposed in a ‘cash-for-laws’ scandal (The Sunday Times 2011). One of the three MEPs was Mr. Ernst Strasser, former Austrian Federal Minister of Interior, who resigned within hours after the story broke out. The scandal caused a huge public and media outrage in Austria against corrupt politicians but also lobbyists.

This was the breakthrough, because with this case, Austrian decision makers saw there is an urgent need for doing something. It was funny, because two or three months before this case came out, we had some talks with the responsible members of the national parliament, and with people working in the Ministry of Justice, presenting them our ideas and our concepts, for registration and both standards (...), then there was this case, and then they called us (Thierry 2015; 05:17).

The scandals were flagged as lobbying scandals because the video recording that was taken of Mr. Strasser had a huge influence and that the saying “I am a lobbyist⁴”, which he proudly yells in the video, became famous in Austria (Krakow 2015). At this stage there were initiatives from a group of journalists and lobbyists in Austria trying to convince the public and the politicians that this was not a lobbying scandal, but a typical corruption one.

There were only a few voices out there; a few journalists and me; and a couple of other individuals from the professional lobbying business that said: “look, we’re not talking about lobbying; we are talking about corruption here”. But we were not heard (Köppl 2015).

As a servant of two masters, Ernst Strasser is a symbol of all the criticism directed to Strasbourg and Brussels. Opaque processes, influence over the economy, lobbying, corruption, detachment. The EU-skepticism in this country has so far been high. (...) A politician, who does not want to get the best for the people but for himself during his mandate, gives rise to Euro skepticism (Pumberger 2011).

The scandal sparked the debate about regulating lobbying in Austria which unfurled into yet another campaign by the media, NGOs and the general public that lobbying is dangerous and

⁴ Mr. Strasser owned a lobbying company long before he became an MEP, and was known in Austria as a “facilitator”, more than a lobbyist (Köppl 2015).

needs to be regulated. Der Standard was one of the first newspapers to mention this corruption scandal as a “lobbying affair”⁵. Two days after the scandal, the General Secretary of ÖPV Fritz Kaltenegger announced that the government is going to adopt a lobbying law and a lobbying register.

“We want to ensure that every lobbyist has to register,” said Kaltenegger. This should be made transparent. Who lobbies for which company etc. and “who are the financiers behind it?” (Der Standard 2011).

The media was not always precise in the analysis, and not having enough information about what lobbying is, different misconceptions were made. The corruption scandal only proved to the Austrian people what they were already thinking is true; that the head politicians in their government were corrupt.

The picture was simple. (...) You have a bad company ‘A’, hiring a bad lobbyist, an individual guy ‘B’. Then ‘A’ gives a 100.000 Euros to ‘B’, the ‘B’ keeps 50% of it, and the other 50% is handed over to this bad politician ‘C’. That is lobbying. It was reduced to it – it was an easy way out for the social partners, for the politicians, who said: “Look, we have to protect ourselves from them” (Köppl 2015, 30:16).

This misconception of lobbying as being a dishonest and unethical profession will prove to be one of the main reasons behind the final version of the lobbying law having different categories for different kinds of lobbyists.

3.2. Ideas in the policy primeval soup

For some politicians, this scandal was a political embarrassment, for others it was an opportunity. The government body from which the initiative for the law come from was the Austrian Parliament, and the Minister of Justice, Ms. Beatrix Karl announced that the law is being created.

⁵ The journalist focused on how the scandal would hurt the reputation of ÖPV in the eyes of the European public (Pumberger 2011).

The Minister of Justice, Ms. Beatrix Karl (...), I think announced in the end of March 2011 that they are working on the lobbying law. The first draft arrived in the end of April (Thierry 2015; 09:04).

The Director General for Civil Law in the Ministry of Justice, Mr. Georg Kathrein, was appointed to start the procedure of creating the law in cooperation with the Head of Cabinet of the Ministry of Justice Mr. Georg Krakow, and the parliamentary speaker at that time, Mr. Johannes Jarolim. It is important to mention that none of the interviewees considered any of the politicians at that time as opportunists in adopting this law. There were no values or ideologies behind the creation of this law, but only a necessity to (finally) regulate lobbying.

Considering international pressure, OECD named Austria as one of the EU countries without anti-corruption policy adopted, and the government then introduced an initiative called “Transparency in Politics”, which is often recognized as a package of laws adopted at the same time as the lobbying law. The package consisted of: (1) anti-corruption law (for the first time in Austria), (2) transparency register – “where the media and the political institutions have to list, two times a year, what kind of advertising political parties do in the Austrian newspapers”, (3) a lobbying law (Köppl 2015; 14:40).

When Mr. Kathrein was appointed to create this law, he claimed not to be informed about the topic enough, and thus incompetent to create it. Mr. Krakow at that time coordinated the legal work in the Ministry of Justice and before leaving the position of Head of Cabinet was present during the negotiations with the stakeholders about the law. He was approached by Mr. Karlheinz Kopf, Head of the Parliament fraction of the Austrian People’s Party in 2011, to create a law, and then they consulted with Mr. Kathrein to start working on the new law by:

First looking at the penal law and civil law, to find the borderline between corruption and other things (...) and lobbying is something different. We had to make this distinction (Kathrein 2015; 05:10).

They first looked at different versions of lobbying laws and registers in Europe, the US and Canada. The register of the German Parliament, the Bundestag, served as an example of a non-binding register. The UK Bribe Act was consulted too, and also the way in which lobbyists in the US and Canada register their activities was also consulted (Kathrein 2015; 20:45, Krakow 2015). This is a standard procedure in creating every new law.

At that time, the same as before the scandal, ALPAC handed their suggestions for a lobbying law to the Ministry of Justice. One sheet of paper was handed in, with bullet points, after the three page suggestions from the meetings in the Parliament earlier in the same year (Thierry 2015). The definition of lobbying in those suggestions was clear, as well were the guidelines to setting up a register and fines for not registering.

The first draft basically said: lobbying is trying to influence public/political decision making – we want to do it with a public register; we want to create a fine system so if any wrongdoing is proven; something has to happen, and addressed is everybody who is doing lobbying. Which is a perfect layout. But then the social partnership stepped in. Because what they are doing all day is lobbying – protected by the constitution. They said: No way, you can't do this, we're the good guys (Köppl 2015; 27:10).⁶

The first draft looked much like what ALPAC communicated to the Ministry of Justice years earlier; proving that the input from public affairs associations was useful in creating lobbying regulation policy. There were no international experts who were consulted; only looking at examples of lobbying regulation was done (Köppl 2015). It was important to have the best lobbying law possible; to get “the foot in the door” (Krakow 2015). Mr. Kathrein praised the end result (the final version of the law), although this was challenged by the two interviewees from public affairs associations, as it will be explained in the following chapters.

⁶ (...) “Then Greenpeace and Red Cross and Transparency International and those folks stepped in – saying no way. Because they are doing lobbying all day. They said: No! We're the good guys. So, the first draft was basically destroyed. The lawyers stepped in and said: No way! Because, we lawyers, in our law firms, we do lobbying! Coming back to Johannes Jarolim, being one of the famous lawyer/lobbyists in Austria, plus being a member of the Austrian Parliament. He said to me: Peter, this is never going to happen” (Köppl 2015: 28:32).

It has become the usual way of policy making in Austria that the “draft legislation formulated by the federal government's ministries (government bills) must be adopted unanimously by the cabinet” (Köppl and Wippersberg 2014). The first draft was only shown in a private consultation to experts who were invited to discuss it and revise crucial elements:

It was a pre-consultation. Then, the Ministry of Justice sent it out for a six week public consultation. That is the usual time frame in Austria. Then the draft itself and all statements to the draft were sent to the Parliament, which is a common procedure, and were publicized on the website of the Parliament (Köppl 2015; 38:09).

Since the first draft seen by the public on the Parliament's website was the one which was amended in private consultation, it will be called for the purposes of this thesis the ‘first draft’. There were 74 responses submitted on the Parliament's website, from consultancy and lobbying firms, NGOs, professional associations and business groups and social partners (Austrian Parliament 2011; First draft). At this time, the social partners' influence was the biggest:

The constitution says that the social partners are already representing the society's interest. It would be unconstitutional for them to register. (Krakow 2015).

“They tried very hard to avoid any regulation on them. They were saying: we are not lobbyists, they are lobbyists, the agencies and the companies are. We are the social partnership. But that is nonsense because they also do lobbying. They wanted to be excluded from the law. (...) I think it was crucial that they are included in the law. They are now included, but they have a lot of exclusions (Thierry 2015; 16:18).

Long discussions were led about the definition of what lobbying is. Civil society organizations were asking: “are demonstrations considered as lobbying or not?”, and “Where is the border that you have to register?” (Krakow 2015). Explaining this issue, Mr. Kathrein clarified that there is a different way of creating laws in the Anglo-Saxon countries than in continental countries such as Austria, which has simplified laws (Kathrein 2015). This could lead to misinterpretation and in the end; this was where the social partners had most of the power; in setting up the definition of lobbying in Austria. Analyzing the opinion responses (*Stellungnahme*) from The Austrian Economic Chamber (WKÖ), Trade Union Federation (ÖGB), Chamber of Labor (AK), and the

Chamber of Farm workers (LAK), inputs towards the final definition of lobbying are noticed in each one. The Economic chamber in its 46 page opinion response asks for clearer definition of the terms “decision-making process”, “functionaries” in the public sector, and precisely who can be lobbied, with the result that a tangible dialogue on an emerging issue between professional associations and public officeholders is still possible and is not considered as lobbying^{7 8}. To make this distinction clearer, the final version of the law “distinguishes on the one hand lobbying as the representation of individual interest and on the other hand the so called ‘Interessenvertretung’, as the representation of collective interest” (Leitl 2015).

The opinion also stated that the code of conduct for lobbyists (*Verhaltenskodex*) is not included in the law but created separately by each organization or company, to support the “flexibility of choices” and the idea of “self-regulation”⁹. The first draft of the law, article 1; part 1; section (§) 7 contained a long explanation of how a code of conduct should look like which is in the final version of the law reduced to:

Lobbying companies or companies that employ corporate lobbyists have to disclose their lobbying activities based on the code of conduct provided on their respective websites. At a request, the code of conduct must be available to any interested party.¹⁰

There were many changes made in the sanctions part of the law. The sanctions of the final version do not mention that lobbyists have to be sanctioned for breaching the code of conduct, as the first draft stated¹¹. All these revision and many more in the areas of specific wording, the warnings that certain sections would be in conflict with other Austrian laws and the even the constitution, regarding the activities performed by the social partners.¹²

⁷ Opinion of WKÖ, 2011, pages 6, 8 and 17

http://www.parlament.gv.at/PAKT/VHG/XXIV/SNME/SNME_06968/index.shtml

⁸ Austrian Lobbying and Advocacy Transparency law, 2012, pages 1 and 2

⁹ Opinion of WKÖ, 2011, page 21

¹⁰ Austrian Lobbying and Advocacy Transparency law, 2012, page 3

¹¹ Austrian Lobbying and Advocacy Transparency law, 2012, page 5

¹² Opinion of WKÖ, 2011, page 31

Responses from the Trade Union Federation, the Chamber of Farm Workers and the Chamber of Labor also mention that their activities have to be separated from the “business lobbyists” who are representing personal interests ¹³ ¹⁴ ¹⁵. They mention their extensive consulting and advisory services and praise their role in contributing to social progress by helping the Ministries in drafting laws and giving Chambers’ members high-quality and on time information, all under the veil of democracy and protected by the constitution.

Another special group with a strong voice for changing the first draft was the lawyer’s community in Austria. They feared that with transparency obligations involved, the Attorney-Client Privilege would be in danger (Krakow 2015). Lawyers do differentiate between their obligations to the client and their lobbying activities but they do not have to do that publically.

We have now this regulation in the law that says: lawyers who extend services for the clients above the regular issues covered by lawyer, and going to lobbying, have to register their lobbying efforts. So every lawyer says: whatever I do, is completely consulting in law issues. I am not doing any lobbying. So, in a very weak language, which basically means, if a lawyers says: I am doing lobbying – he or she has to register (Köppl 2015; 43:55).

The point is that Mr. Jarolim is a lawyer, Mr. Donnerbauer is a lawyer, and the Member of the Parliament who is responsible for Justice affairs from the People’s party is also a lawyer; and they were all involved in this discussion in the Parliament. So all the lawyers discussed with each other and they said: but the lawyers are excluded. So this was kind of, we exclude ourselves (Thierry 2015; 36:35).

They represent the so called “built in lobbyists”, meaning the politicians that were involved in this process that were lawyers by profession. This is an issue also present around the Transparency Register of the European Parliament and the Commission¹⁶; that the lawyers’

¹³ Opinion of ÖGB, 2011, page 2,

http://www.parlament.gv.at/PAKT/VHG/XXIV/SNME/SNME_07016/index.shtml

¹⁴ Opinion of LAK, 2011, page 1,

http://www.parlament.gv.at/PAKT/VHG/XXIV/SNME/SNME_06974/index.shtml

¹⁵ Opinion of AK, 2011, page 2,

http://www.parlament.gv.at/PAKT/VHG/XXIV/SNME/SNME_06991/index.shtml

¹⁶ The EU Register of lobbyists which has been operating on a basis of voluntary registration since 2011

activities cannot be transparent and the Register should not require mandatory registration, since lawyers who do lobbying could be disbarred if they disclose sensitive case-related information.

3.3. Politics and the final draft of the law

The national mood played a significant role in pressuring the government to regulate lobbying. The problem was that the outrage was directed towards private lobbying companies and lobbyists, perceived as wealthy and corrupt people. Decades of understanding their politicians and business networks in this way, resulted that a discussion about lobbying being corruption was present throughout the period from creation to adoption.

I think the view of the most of people was: “This is a political scandal, and corruption and lobbying is combined. There is no difference between corruption and lobbying, because lobbying is corruption.” I think this is the general view. I think they don’t differ. “Yeah, completely clear; politicians are corrupt; they take money for their decisions and the economy is corrupt because they pay the politicians. (...) I think it was just a confirmation (Thierry 2015).

Only a few days after the scandal broke, Strasser was denied the return to ÖVP, and the European Anti-Fraud Office of the European Commission (OLAF) applied the expedited procedure to open an investigation regarding the cash-for-laws scandal (Die Presse 2011). Criticism was also directed towards the MEPs in general, suggesting that they should be “evaluated by their deeds” and to the Austrian public office holders at all levels by “the lobbying activities that are run for them” (Mölzer 2011).

The Austrian Chapter of Transparency International (TI) had a major role during this time. One of the members of TI, Mr. Hubert Sickinger is an anti-corruption specialist who participated in many discussions during the redrafting process. He claimed that the draft produced after the public consultation was finished was more “toothless” than the previous one, considering that clients of many lobbyists are not specified (Wiener Zeitung 2011). The President

of TI's advisory council (*Der Beirat*) at that time was Mr. Franz Fiedler, and he also criticized the law being too much in favor of the chambers in Austria. He claimed that they have a lot more lobbying influence than classical lobbyists (Prior 2011).

The final version of the law contains four levels of transparency and thus the register differentiates four types of registrants:

- A) Lobbying companies¹⁷ (*Lobbying-Unternehmen*)
- B) Companies that employ lobbyists¹⁸ (*Unternehmen, die Unternehmenslobbyisten beschäftigen*)
- C) Self-governing bodies (*Selbstverwaltungskörper*)
- D) Interest groups (*Interessenverbände*)

Besides providing basic information about the company, description and scope of its lobbying activities and code of conducts respected, the lobbying companies have to provide the “number of lobbying clients and annual total turnover from lobbying contracts” (public information), and “names of clients and relevant information about each lobbying client of a consulting agency and the scope of the respective lobbying activities” (exclusive access only by Ministry of Justice) (Köppl and Wippersberg 2014). Companies that employ lobbyists also disclose basic information and scope of activities but only have to disclose costs related to lobbying activities if they exceed the amount of €100.000 (Austrian Parliament 2012).

Level C and D require disclosing substantively less information. Basic information about the association, social partner, or interest group, their website, and until after nine months after the end of the fiscal year, the number of lobbyists employed and estimated costs of interest representation work (Austrian Parliament 2012, 4).

¹⁷ Companies that lobby for clients in return for payment (AALEP 2015b)

¹⁸ So called 'in-house' lobbyists, provided no more than 5% of the companies' time is used for lobbying activities (AALEP 2015b)

Which is basically nothing else than mirroring the real political system in Austria. Everybody is covered to some degree by some legal framework saying: “It’s OK what you’re doing, even in lobbying, even in interest representation, even in money funneling to political groups.” But now we have a certain group that is taken out, making responsible as bad guys. And this came when the first draft was sent out to consultation, all those actors stepped in, redrafted it, more or less. The social partners wrote the new law (Köppl 2015, 34:05).

Considering corruption to be the *problem* that the government reacted to, the policy proposals and frequent redrafting to be the *policy primeval soup* and the pressure from the public and pressure groups to be the *politics*, strong arguments have been given that this law could never be adopted in this form if any of the streams was missing.

If we didn’t have the scandals, we wouldn’t have the law. If the scandals were not that public, we wouldn’t have a law (Köppl 2015; 49:33).

I think this separation, ABCD, is a result of the social partnership lobbying definitely. I don’t think that the Austrian Parliament, or the Ministry of Justice, would have adopted it, because it was not a part of the beginning of the debate (Thierry 2015; 29:52).

It is possible that the law would be implemented in the following years, because of the “international development of lobbying laws” but in some other form. It would not be implemented in this exact form (Kathrein 2015).

The final version of the law is being “advertised” by the OECD as a good example of how lobbying should be regulated, although public affairs professionals do not agree this version of the law is efficient in regulating lobbying in Austria as it would be if the social partners and lawyers would have to disclose their lobbying activities and abide the transparency measures that the lobbying companies and in-house lobbyists have to abide to (Köppl 2015, Thierry 2015).

4. OUTLINING THE FINDINGS

After precise analysis of interview answers, opinion responses from the social partners and media articles from 2011, different findings are outlined in this chapter considering the window of opportunity, the factors that led to the adoption of the final version of the law and the quality of the law itself.

The cash-for-laws scandal initiated a wide discussion about lobbying regulation in the EU, but especially in Austria, since one of the MEPs was an Austrian politician with a background in lobbying. The Austrian government embraced it as a *problem* that needs to be solved immediately after numerous attacks towards the relationship between lobbyists and politicians in the Austrian media; just days after the story about the scandal broke. The working group for creating a lobbying law was formed in the Ministry of Justice and since it did not consist of lobbying experts, the first draft was created by: looking at forms of lobbying regulation in other countries; using recommendations from public affairs professionals associations; and privately consulting with public affairs professionals before the draft was made public.

Throughout the whole process of creation of the drafts, the public affairs associations in Austria continued to promote the lobbying profession and correct the media that the Strasser scandal was a corruption scandal, not a lobbying one. Their voice was not heard but research has shown that a path to every lobbying regulation policy starts like that, since Hungary, Croatia, Serbia, Slovenia, Montenegro, Macedonia and many other countries with similar associations have adopted their respective laws, or the laws are still in consultation procedure. Either way, the role of these associations is crucial in creating discussion about the need for a lobbying law, as well as negotiating on the last version of the law. The Austrian Public Affairs Association succeeded in negotiating for the permanent ‘Pass for Parliament’ for all registered lobbyists.

The stakeholders which had the most suggestions but also the highest success in implementing them into the final version of the law were the social partners. By tracing the process from creation to adoption of the lobbying law, one can notice the power of these corporate representatives in forming policy that would have strong impact on their daily business and political activities. The analysis of their responses to the first draft and the articles that were changed from the first to the last draft indicate patterns in all the responses, that the social partners:

- Demanded that the code of conduct is not set by the law, but by the organizations themselves;
- Wrote the Ministry of Justice about many unclear definitions of the law, recommending their own definitions many of which were later adopted;
- Warned the Ministry about certain articles of this law being in conflict with other Austrian laws, and cannot in this way be adopted;
- Claimed that they represent the society's (or collective) interest and not individual interests as the lobbying companies do.

The social partners also financed a legal study to assess the impact of the lobbying law on their work which was taken under consideration when the final version was being created. If the first draft was adopted in its original form, the social partners would have to report their activities daily, and as noted in one of the interviews, this “would have been a lot of unnecessary paper work. The final result is less paper work, but still enough.” (Reinl 2015).

Another successful community were the lawyers. They qualify as policy entrepreneurs in this case study since they actively participated in drafting this law. Most of the head politicians assigned to create and amend the law are lawyers by profession which put them in a good

position of creating a law and automatically excluding themselves from its scope. In this way, lawyers are still in a position to report their lobbying activities not as lobbying, but as consulting for purposes important for their clients; and information about this can stay hidden under the attorney-client privilege.

As for the external factors, the expected pressure from the EU on Austria to adopt lobbying regulation policy was not indicated, even though one of the MEPs involved in the cash-for-laws corruption scandal was from Austria, with a professional background in consultancy and lobbying. The need for a law was projected as soon as the Austrian government realized that the media and the public have evidence to support their suspicions about the Austrian politicians being corrupt.

The window of opportunity to adopt a lobbying law brought upon ideas to create a package of laws on matters that were important to the Austrian political scene in the years before. This resulted in the Austrian government proposing a package of laws consisting of an anti-corruption law, the political party sponsoring law and a lobbying law. This procedure has also been noticed in east and south-east European countries such as Croatia and Serbia. Croatian Minister of Justice announced in 2013 that the law on lobbying is going to be adopted inside an anti-corruption strategy 2015-2020 (Dnevnik.hr 2013), along with the whistleblower protection law. In Serbia, a lobbying law will have to be adopted to finish the negotiations on EU accession, chapters 23 and 24. (Crnjanski Spasojević 2014). This shows a trend in adopting lobbying regulation policy in Europe where lobbying laws come as an addition to other policies or to fulfill certain requirements.

Now when the policy window is closed, discussions are still led in Austria about the quality and the effectiveness of the law. Austrian professional public affairs associations are critical towards the law in its current form. The initial goal that they advocated for was to

regulate lobbying in a positive way, and the current structure of the law separates lobbying and consultancy companies from companies that employ lobbyists, social partners, NGOs and other types of organizations. The lobbying companies have to disclose information about their activities in detail to meet the transparency requirements, and if they fail to do so, the financial fines can be up to €60.000.

They expressed their concerns on the law's ignorance towards lawyers not claiming that they do lobbying; to the vagueness of the definition of lobbying; and to the design of the scheme of the fines (Köppl 2014). One of the responses from social partners also confirmed that:

A more detailed discussion on the topic of this law probably would have increased the quality of this law. Thus it could be questioned if the lobbying law was really a necessity at that time. But cases like Strasser, BUWOG and Telekom caused a quartet of laws which hide in the public and the media the substantial core of lobbying: the right for petition (Leitl 2015).

CONCLUSION

This thesis tracks the process from creation of the Austrian Lobbying and Advocacy Transparency Law in mid-2011 to its adoption in June 2012. As many other countries in the world, Austria did not have an anti-corruption law, political party financing law or a lobbying law adopted in its history. Lobbying businesses existed in Austria but lobbyists did not disclose their activities, nor had a code of conduct at the time when the industry began to rise. Only with the rise of public affairs community in Austria, the lobbying business started to be recognized and the lobbyists started forming associations so they could act as a community.

This pattern of recognizing the lobbying profession is present all throughout central and south-eastern Europe since the market for this profession only became necessary after the fall of communism and the transition into the capitalist system. Lobbying was in neither of those countries an important profession nor a crucial one for regulation. The reasons behind why countries are not introducing lobbying regulation policy vary from lobbying not being recognized in other policies, especially in transition countries¹⁹, to the lack of political will for implementing a law for such a specialized profession which in general marginally contributes to a country's GDP. If lobbying is not recognized as a profession, it lacks institutional guidelines for implementation of a lobbying law or other kinds of lobbying regulation (voluntary registers, codes of conduct, etc.). This is also important for the Transparency Register of the European Parliament and the Commission since its transition from the voluntary to the mandatory system is expected to occur in the next two years, as announced by the new Commission President Jean-Claude Juncker (McMenamin 2014). Recent changes introduced a "mandatory dimension", but an 'intern-institutional agreement' on better law-making is still in the making (Mahony 2015).

¹⁹ Some of which still do not have lobbying defined as a profession in their registers of professions.

Contrasting pluralism and neo-corporatism as theoretical frameworks in this thesis proved to be important for understanding of how lobbying is perceived in neo-corporatist cultures, although its theoretical and practical origins are in pluralist systems. In neo-corporatist systems such as Austria's, lobbying activities performed by social partnership institutions are understood as historically beneficial for the businesses, politicians and the society. The context in which the social partners found themselves in during the creation and adoption of the Austrian lobbying law, can be described as beneficial since the attention to regulate lobbying went more towards regulating 'lobbyists' as physical entities and their companies since they were in the end marked as representing individual interest, different from the social partners who are representing a common interest. The social partners successfully defended their position as being the drivers of the Austrian economy for decades and thus secured that their activities remain unquestioned since they are not acknowledged in the lobbying register, although they have to register since they have frequent meetings with public officials.

The Austrian lobbying law thus does not represent a milestone in adopting lobbying laws, nor can "Austria take on an internationally pioneering role" in this area, as the Minister of Justice claims (Stadlober 2012). The law was created and adopted out of necessity to suppress the activities of private lobbying companies and to stop the public resentment towards politicians. This thesis confirms that intention through Kingdon's three streams which were all present during its creation. The law would have never been created if there was no incentive for regulation, since all the attempts from the public affairs community in Vienna to convince the government that regulation is needed, have failed in the last five years before the scandal. The lack of interest came from the public side too, after the law and the register were implemented on January 1st 2013. The register is administered by the Ministry of Justice, and by their information, not a single politician/civil servant looked inside the register in the first year (Köppl 2014).

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