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*Dynamics of lobbying in Romania: from inception to
paradigm shift*

SUMMARY OF THE DOCTORAL THESIS

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CONTENTS OF THE DOCTORAL THESIS

Introduction

I. Lobby around the world

I.1. Washington vs. Brussels

I.2. Ubiquity of lobbying in the US

I.2.1. Overview

I.2.2. Particularities of lobbying in the US

I.3. Lobby in the EU member states

I.3.1. UK

I.3.2. Germany

I.3.3. Austria

I.3.4. France

I.3.5. Spain

I.3.6. Netherlands

I.3.7. Northern European states

I.3.8. Central and Eastern European states

I.4. Brussels – the capital of European lobbying

I.4.1. Quality vs. quantity

I.4.2. Lobby within the European institutions

I.4.3. Sectoral lobby at community level: tobacco industry

II. Lobby regulation and ethics of the lobbyist profession

II.1. US Legislation on lobbying

II.2. UK regulations

II.3. Brussels regulations

II.4. Codes of Ethics

II.5. Funding politicians as a lobby tool

III. Lobby: conceptual approaches, patterns and techniques

III.1. Searching for the right definition

III.2. Qualities of a lobbyist. The art of persuasion

III.3. Theoretical approaches to lobby

III.4. Related concepts: government relations, public affairs & lobby

III.5. Lobby or advocacy?

III.6. Persuasion techniques and tools used in lobby

III.7. Effects and functions of lobby

III.8. Role of the public affairs strategy in the reputation of successful companies

III.9. Lobby campaign: strategy and implementation. Lobby typologies

III.9.1. Data identification and gathering

III.9.2. Information analysis

III.9.3. Lobby per se

III.9.4. Lobby campaign follow-up

III.10. Role of lobby in diplomacy

IV. Milestones in the development and mythology of lobby in Romania

IV.1. Beginning and evolution of lobby in Romania

IV.1.1. Milestones in the evolution of lobby in Romania

IV.1.2. Elements influencing the evolution of lobby in Romania

IV.2. Political system in Romania: the position of lobby in current politics

IV.3. Legislation vs. self-regulation of lobby in Romania

IV.4. „The original sin” of Romanian lobby

IV.5. Romanians’ perception on lobby

IV.6. Romanian lobbyists’ and politicians’ perception on lobby

IV.7. Lobby stereotypes and genesis; reality vs. myth

IV.7.1. Myth of lobby as a means of influence peddling

IV.7.2. Myth of lobby as a source of corruption

IV.7.3. Myth of the lobbyist with “supernatural” persuasion power

IV.7.4. Myth of the “nabob” lobbyist

IV.7.5. Stereotype of the need for a law on lobby

V. Particularities of lobby in Romania

V.1. Particularities of lobby in Romania

V.2. Who’s lobbying in Romania?

V.2.1. Non-governmental organizations

V.2.2. Corporate foundations

V.2.3. Corporations

V.2.4. Industry or business associations and employers’ unions

V.2.5. Trade unions

V.2.6. Consultancy firms

V.2.7. Law firms

V.2.8. Other ad-hoc organized bodies

V.2.9. Citizens

V.3. Lobbying techniques in Romania: how are the Western patterns applied?

V.4. Cyber-lobbying

V.5. Lobby campaigns: players, actions and interests

V.6. Lobby in Romanian diplomacy

VI. Media coverage of lobby and influence peddling in Romania

VI.1. Overall considerations

VI.2. Media content analysis

VI.2.1. Research methodology

VI.2.2. Research assumptions

VI.2.3. Data presentation and interpretation

VI.2.4. Findings

VII. Paradigm shift

VII.1. Demythologization – an illusion?

VII.2. Paradigm shift: from influence peddling to the art of political persuasion

VII.3. Perspectives on the development of lobby in Romania: trends and directions

Perspectives and limitations of the research

Findings

Annexes

References

Online references

KEY WORDS OF THE DOCTORAL THESIS

- Lobby/Lobbying
- Lobbyist
- Public affairs
- Lobby campaign
- Position paper/Grounding paper
- Government affairs
- Political persuasion
- Persuasion techniques
- Influence peddling
- Legislation on lobby
- Ethics in lobby
- Myths on lobby
- Media coverage on lobby

EXECUTIVE SUMMARY

Before being an activity, lobby is first and foremost a right enshrined by the Universal Declaration of Human Rights: “Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. (Article 19)

The lobby activity widely varies, depending on the geo-political space we refer to. Some researchers state that lobby for public interests accounts for a higher share in the US as compared to Europe, where private interests have a greater share. We live in an era of private interest groups, prevailing over the global interest of the society as a whole. Public participation is weaker in Europe as compared to the USA, because of the lack of a single government, of a single public space and of one common language.¹

Despite having officially appeared in the mid ‘90s with the establishment of the first consultancy firm of this kind, lobbying in Romania is still in its infancy, as long as the consultancy market counts around ten companies exclusively specialized in lobby and public affairs. From a research perspective, we find that lobby is hardly explored in Romania and only insufficiently researched in the Western literature. In the USA, although lobby-related research is more advanced, many of the related works consist in lobby and *public affairs* guidelines or manuals, and only a small part focuses on the actual theory and analysis as part of the research process.

The unfavorable circumstances surrounding the debut of lobby in Romania do not allow, unfortunately, for an analytic endeavor in this field, but rather for an exploratory and tentative approach, which we are undertaking with this paper. The thesis we are putting forward is that the beginnings of lobby in Romania are not fundamentally different from other countries with genuine and more mature democracies. One of our assumptions which we are going to elaborate upon in this paper is that lobby in Romania requires natural dynamics and development so as to reach the maturity characterizing historically democratic states, and this process, which started with the establishment of the first lobby companies and lobbyists’ association forms, needs to evolve through intrinsic, non-invasive mechanisms, rather than through the coercive interference

¹ Justin Greenwood, *Interest representation in the European Union*, Palgrave Macmillan, New York, 2011. p. 2.

of the state. Thus, we hold the view that in lobby, as in other sciences, *natura non facit saltum*: evolution should not be forced, but rather monitored, understood and corrected naturally, more through soft interventions (such as increasing transparency of the decision-making process) and less through radical measures (such as the forced adoption of a restrictive law on lobby).

Another assumption is that in Romania, lobby needs to become more professional, through increasing transparency and accountability among lobbyists. In order to identify the best sources and means to increase transparency, we are using sociological methods (national survey) to explore the Romanians' perception on lobby and how collective representations are changed as a result of the action of the mass-media, as well as to find out the politicians' and lobbyists' opinions on this activity.

We will undertake a media content analysis in order to answer two major questions: how the Romanian media reflects lobby and influence peddling –related matters and to what extent the mass-media forms opinions within these two areas. The differences between these concepts cannot be properly understood by the public, as long as the media, the key opinion leader, is distorting them. We will show that the association between lobby and influence peddling is simply a myth which needs to be openly explained by professional lobbyists, as the only solution to educate the public and the civil society.

We are also looking into another assumption, which is that lobby generated an entire mythology build upon an insufficient amount of public information and on the collective psychology of a people transformed by decades of censorship, mistrust in others and lack of access to the decisional process into a mistrustful mass with regards to the attributes of participatory democracy, also including the right to lobby. In our research undertaking, we have identified a series of stereotypes which we are confronting against the reality, by commenting upon them.

The lack of studies on lobby or *advocacy* in Romania is mainly a result of the opaque communication in the process of public policy making. The fact that both politicians and many of the lobbyists are not open and accountable in their lobbying actions does not provide enough material to enable an analysis that can validate certain theories on lobby.

The main reason why we chose to focus on lobby – a rather plain concept – is that we are convinced that a term proposed and fundamentally imposed by a set of empirical activities can be developed into a concept and described theoretically. Notwithstanding this objective, the goal of our undertaking is to further contribute to the acceptance and legitimacy of lobby in Romania. We are also attempting to understand the meaning of the paradigm shift for the dynamics of lobbying in Romania and how it can be achieved. We will look into three basic directions that would help reposition lobby: lobbyists’ accountability, increased transparency and, finally, professionalization of politics and governance. The outcome would be that a savvier political class would generate more sophisticated lobby levers.

Lobby is an activity as complex as the public policies targeted by the very lobby campaigns, with heterogeneous players and processes. We will demonstrate throughout this paper that lobbying has earned its place in the political science vocabulary, to the benefit of all parties involved. If lobby is properly handled, it is likely to lead to the formulation of public policies benefiting all social stakeholders: citizens, organizations, authorities, business sector.

We will further demonstrate that lobbying, in its essence, is not mysterious, but rather discreet. We choose to refer to this political persuasion activity as “lobby”, without any hesitation and without deliberately replacing it, so as to avoid negative connotations, with a phrase such as “representation of interests”. A productive debate on lobby, also aiming at correctly framing the term, can only be fostered by using the accepted concept also used by most involved parties as such.

The first chapter of the thesis, called “Lobby around the world”, is mainly examining the two poles supporting lobby at global level, in terms of professionalism and deployment, represented by Washington and Brussels, both characterized by an impressive resource mobilization. An important observation is that United States of America is a more appropriate space for lobbying, characterized by a higher level of professionalism compared to Brussels, despite the fact that, as the single market is under consolidation within the EU, the gap between Washington and Brussels is shrinking. The particularities of lobby at the level of the highest EU institutions represents a distinct analysis point within this chapter, along with the detailed presentation of a case study from the tobacco industry, which is representative for the lobby activity in Brussels. Chapter I also presents the status of lobby in the EU member states,

characterized by the absence of special lobby regulations, which may be explained by the fact that in the European states with developed economies, the corporate interests are represented via industry associations, trade unions and employers' associations, therefore institutionalized channels. The lobby culture varies quite extensively within the European Union from one state to another. Not all states see lobby as a natural part of the democratic system, and not all appreciate the *input* in public policy making as an essential element providing balance and legitimacy.

The second chapter, "Lobby regulation and ethics of the lobbyist profession", analyses the legality and legitimacy of lobby in America and Europe, focusing on the importance of the codes of ethics. The financing of politicians as a lobby tool is defined within a dedicated section of this chapter as a form of political participation involving major legislative and ethical aspects.

The third chapter, entitled "Lobby: conceptual approaches, patterns and techniques", defines lobby as a set of communication and research methods in support of the drafting of public policies and legislation, perceived rather as a process than an activity. Closely connected to the lobby concept is the phrase "interest group", often used with a deprecatory meaning by the media or in everyday language. The definition given by Jeffrey Berry seems to best reflect, by both its concision and comprehensiveness, the essence of an interest group: "an interest group is an organized body of individuals who share certain goals and try to influence public policy"². In Romania, as it was the case with the debate on lobby, the debate on interest group was flawed by the fundamentally political and party-minded approaches. The phrase „interest groups” was distortedly associated with strong negative terms such as „mafia” or „political clientele”, making it impossible for the average population to make a distinction as to which is the right term reference, which in fact makes no reference to any situation of illegality. The chapter also presents the conceptual differences between *government relations* vs. *public affairs*, respectively *lobby* vs. *advocacy*, as well as an analysis on the political persuasion process and the main techniques and tools used in lobby. Chapter III contains a presentation of the stages of the lobby campaign along with the typology of the lobby activities. The role of *think tanks* in the lobby campaign is discussed separately within this chapter.

² Jeffrey Berry, *The Interest Group Society*, Longman, New York & London, 1997.

The fourth chapter, entitled „Milestones in the development and mythology of lobby in Romania” shows that the term „lobby” is a neologism in the Central-Eastern European space, considering the history of these states marked by the years under communism and a totalitarian political culture banning all formal interventions among the decision makers. In the absence of political pluralism, communism represented a completely toxic environment for the emergence and development of lobby. The sudden shift from totalitarianism to a fragile democracy, which not even 20 years after the fall of communism allowed for a genuine maturity of the political class, was unfavorable to the positioning of lobby in the normal course of democracy, as it happens in mature democracies. The gap is significant: while in the ‘90s, Romania was paving its path from totalitarianism to an incipient democracy, where no form of commercial lobby could ever find its place, during the same time in Brussels, corporations were deciding to set up offices in order to directly lobby at the European institutions³, whereas in USA the tradition of corporate lobby was already over 100 years old. Chapter IV describes the milestones in the evolution of lobbying in Romania, focusing on the first lobby agency established, the first associative organization of Romanian lobbyists, respectively the first attempt to regulate lobby, as well as the elements influencing its development stages. An important subchapter analyzes the legislation and self-regulation possibilities in this field in Romania, concluding that it is not quite necessary for lobby to be regulated at this moment within a special law, based on several considerations: the existence of the necessary legislation which is sufficient to manage lobby activities; the undersized character of the lobby and public affairs consultancy services market; the discrimination which may be generated by a law on lobby to the detriment of the citizens deprived of the right to lobby, as they cannot all be authorized lobbyists. Instead of a special law on lobby, it would be probably more appropriate to draft a code of conduct for lobbyists in Romania, which would be endorsed by the following lobbyist categories: lobby consultants, lobbyists who are employees of private companies (so called *public affairs* or *government affairs managers*), NGOs, representatives of the trade unions and employers’ associations, industry or business associations. This would be the ideal situation, yet difficult to transpose into practice due to the lack of an associative umbrella harboring all interest group categories mentioned

³Maximiliano Lorenzi, *Consultants in the European Union: strategizing for opportunities*, 2005, p. 5 (available online at <https://www.academia.edu>, accessed on January 27th 2014).

above. A practical solution would be to develop one such code of ethics for each of the categories mentioned above, as a form of self-regulation.

Chapter IV also explains the hesitant beginnings of lobby in Romania and the mix of factors defining what we called “the original sin of lobby”. The beginning of this activity which, historically speaking, is not yet complete within this county, is characterized by a wrongful perception of the defining elements. Because of the exotic character, novelty, and allegedly abstruse content of the lobby concept, there are many question marks surrounding every attempt to address lobby with a view to decoding its mechanisms. As to what Romanians think about lobby, the theory – vetted through sociological surveys conducted by two renowned public opinion surveying institutions, IRES and IMAS – is as follows: one opinion stream in terms of Romanians perceptions on lobby is that they are rather negative. The reality revealed by the surveys, on the other hand, is somewhat different: it does not confirm this opinion stream portrayed in the media or the hypothesis of certain researchers supporting an overall negative connotation on lobby in Romania. The studies regarding the perceptions of Romanian lobbyists and politicians on lobbying, tested via a sociological inquiry based on a questionnaire applied to all lobby specialists and members of the parliament, shows, among others, that: for both lobbyists and politicians, “a lobbyist” is first and foremost a consultant in a lobby and government relations agency; politicians consider the NGO activists as the most active lobbyists; the strongest lobby in Romania is carried out by the pharma industry, followed by the banking sector and mining. The stereotypes/myths surrounding lobbying are presented at length in Chapter IV, opposed against the realities behind the myths: the myth of lobby as influence peddling, the myth of lobby as a source of corruption, the myth of the lobbyist with “supernatural” persuasion power, the myth of the nabob lobbyist, the stereotype of the need to adopt a law on lobbying.

Chapter V, „Particularities of lobby in Romania” mainly looks into the specifics of the main categories of lobbyists in Romania: NGOs, corporations, corporate foundations, industry/business associations, employers’ associations, trade unions, lobby and public affairs consultancy companies and law firms. The lobby techniques detected within the domestic political arena and the manner in which the western methods are applied are presented further on. Based on empirical observation, we note that, despite the cultural differences between states, the

lobby techniques applied in Romania are in general the same techniques as in other European countries, the only difference being their efficiency. Nevertheless, although the globalization of lobbying is becoming more and more a reality, from an empirical perspective, the point where Western Europe is fundamentally different from Romania, in terms of the perception on lobby among public authorities, is the recognition or acceptance of lobby mechanisms as a critical element in policy making. A distinct subchapter refers to the evolution of cyber-activism/cyber-lobby. The *social media* are characterized by prolificacy and fastness in disseminating key messages, while the specificity of these channels forces the lobbyist to structure the main highlights of the campaign in simple and concise messages. While in the early times of the millennium, mass communication was the appanage of high-budget organizations, today, any individual may have access to the population of an entire country, with just one click, using the *social media*. The *advocacy* process has also never been easier due to the *social media*, which virtually erases spatial frontiers, impressively multiplying the number of activists, increasing the speed and time of action, while the invested amounts decrease notably. Corporations are compelled to change their communication strategies, to provide more weight to the *online* channel. The following subchapter refers to the lobby campaigns carried out in Romania, illustrating several strategies and tools specific to various areas of business and industries. Chapter V ends with the presentation of several features of lobbying in Romanian diplomacy.

The sixth chapter entitled “Media coverage of lobby and influence peddling in Romania” builds upon a quantitative and qualitative media content analysis. The reference period was October 1st, 2010 – April 30th, 2011, based on the following rationale: in March 2011, the European Parliament initiated an official investigation to establish guilt for Adrian Severin and two other MEPs, charged with corruption after being exposed by a British paper to have agreed on introducing amendments in the European legislative forum in exchange for considerable amounts of money. The outbreak of Severin scandal was used within this research as a reference to describe the media coverage of influence peddling and lobby topics, in order to perform a before/after analysis. Following the media content analysis on 4 daily newspapers, with the highest print run in Romania in 2011, we concluded that the media do not make a clear distinction between lobby and influence peddling, despite usually treating them separately. The term “lobby” is not adequately understood and used, as it was referred to in various tones leaving room for tendentious and usually negative interpretations. The frequency of articles on lobby is

rather low, as this is generally not a topic discussed by the media, except for negative situations, such as the case of the former MEP Adrian Severin. Lobbying is covered by the media in a more superficial way as compared to influence peddling, while the position of the analyzed newspapers with regard to lobby is rather negative, despite their imprecise understanding of the concept. Not only the editorials, but also the informational articles which in theory should not express positions, but only present the facts, show a tendency to influence via the author's opinion. We are hence entitled to conclude that, despite the fact that the media do not fuel the myth of closeness between lobby and influence peddling, it does not succeed in projecting an objective image of lobbying in Romania. On the contrary, most articles on lobby are biased, poor in factual information and insufficiently documented.

The seventh and final chapter, entitled „Paradigm shift” focuses on the trends and development directions of lobbying in Romania. We consider that the paradigm in which lobbying has been confined ever since its outset in Romania consists in a mystification of lobby, due to a lack of transparency in decision making, as well as a lack of ownership of this activity on behalf of the lobbyists. In order to reposition lobbying in Romania, three basic directions should be taken into consideration: lobbyists' accountability, ensuring transparency in decision making and professionalization of politics and governance. The paradigm we should aspire to in terms of lobby is: lobbying as a procedure of participatory democracy and as an art of political persuasion. The contribution of Romanian lobbyists to policy making is difficult to detect these days, however the situation may change as public policies are proposed by a plurality of voices such as NGOs, think tanks, professional groups and organizations. The current policy-making process is relatively compact and seal tight, which is in fact a negative feature of a political system intended to be democratic. The fragmentation of the policy making process through the inclusion of new areas of influence as the one mentioned above will lead to increased efficiency and credibility of the lobbyists in Romania.

To sum up, the early days of lobbying in Romania were marked by the ideological legacy of communism, positioned against civic and moral values. The totalitarian period was characterized by ideological pressures on the political, economic and social life, as well as by psychological influences on the population. Lack of citizenship, social mistrust, lack of accountability, lack of reciprocity and honesty between humans, high level of corruption are all

adverse consequences of totalitarianism, which affected the emergence of lobbying in Romania. These circumstances explain to some extent both the lack of genuine dialog between contemporary social and political actors in policy making, and the opaque communication in decision-making. In Romania, lobby may be correctly positioned in the political debate, as it does not have a questionable reputation such as in the UK or US, where it was flawed by an old history or the consequences arising from corruption scandals matching the scale of the political life in the two global powers. Lobby is not only benefiting from notoriety in Romania – one in two Romanians living in urban areas has knowledge of this concept – but also from a reasonable presumption of legality and fairness within the public space: only 16% of the Romanians perceive lobbying as a negative activity⁴, which does not confirm the opinions circulated in the media or the hypothesis of certain authors supporting the idea of a generalized negative connotation of lobbying in Romania. Romanian lobbyists have therefore the opportunity to build a public image of a responsible and transparent industry, with beneficial influences on the political mechanisms and decision making process. The paradigm shift should involve both actors of the political persuasion process: lobbyists and politicians. Lobbyists, through professional associations, but also on an individual level, are likely to become the driver of their own changes within the following 5 – 10 years. On the other hand, though, the political class needs stability and ownership. Both lobbyists and politicians should aim at repositioning lobby from the semi-transparent, informal paradigm, often perceived as anti-democratic and, in general, accessible to a limited number of privileged citizens, to the paradigm of a legitimate democratic lever.

⁴According to an IRES survey conducted in November 2011 in Romania, in urban areas, at the request of the author of this paper.

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