

## Lobbying in Romania between utopia and legislative framework

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**Abstract.** *The regulation of lobbying is a topic of increasing debate in many European countries, not just those in the West. The significance of lobbying regulation is its capacity to promote dialogue between government officials and stakeholders, while also promoting transparency, accountability, and integrity in decision-making processes in democratic societies.*

*Enacting lobbying laws, which require lobbyists to register, disclose their activities, expenditures, clients, and interactions with government officials, is necessary to ensure the legitimacy of the lobbying process. Both ethical and legal dimensions are integral to this process, and the paper takes a two-fold approach by examining the legislative framework for lobbying regulation in Romania within the context of the European Union, while also considering the ethical perspective. The ethical and legal dimensions of lobbying are interconnected, and both are vital in guaranteeing the legitimacy and integrity of the lobbying process.*

*The research argument is supported by a theoretical background through the utilization of qualitative research in the paper.*

**Keywords:** ethical dimension, legislative framework, lobbying.

**JEL Classification:** D70, D72.

## Introduction

This article provides a detailed explanation of why lobbying rules and regulations are needed to prevent adverse influence of government decisions and protect the integrity of the democratic process, especially in a country like Romania that after the communist period, it was in a process of transition to a democratic society that it still consolidates in our days. At the same time, I want the article to argue that an appropriate legal framework for lobbying can improve transparency and accountability, prevent corruption and protect public interests.

The article is divided into two chapters: in the first one, I present the legislative framework for lobbying in Romania, and in the second one, I describe the link between ethics and legal perspective of lobbying in the European and Romanian space. Conclusions and references will be found at the end of the article.

Lobbying refers to “the process of attempting to influence government officials or policymakers on behalf of an individual or organization with the goal of advancing their interests” [12]. This can involve various activities such as advocacy, persuasion and negotiation [12]. The ultimate aim of lobbying is to shape public policy or government decisions in a way that benefits the lobbyist or their clients [12].

In the case of lobbying, ethical principles ensure transparency, accountability and integrity of the process as we will see further in this article. Lobbyists must adhere to a set of ethical manner and to comply with the rules and laws governing this activity.

I proposed that the paper answer some questions: “How do ethical principles influence the regulation of lobbying?”, “To what extent are ethical principles observed in lobbying in Romania?”, “How can ethical principles be implemented in lobbying practice and in the legal regulations governing it?” and “Are there significant differences between ethical and legal regulations regarding lobbying? How can these differences be reconciled?”.

As in any academic paper, I need a hypothesis: “The inclusion of ethical principles in the regulation of lobbying activity can reduce the potential for corruption and abuse of power in the decision-making process of public institutions”.

The research method used is the qualitative method, combining the instrument of comparison with the legislative and ethical framework to substantiate and support whole argument.

In view of what is presented in the introductory part, I invite you to read this paper in order to give you a more concrete picture of the proposed subject.

### Lobbying in Romania – legislative framework

The lobbying activity in Romania is not expressly regulated by a law [16]. There have been numerous attempts over time to pass a bill in this regard, but none of them have enjoyed a real success [16]. These drafts laws have been specifically designed to address issues related to lobbying, and include: Proposal for legislation pertaining to the regulation and organization of lobbying (Pl-x no. 581/2010) [8], Proposed legislation aimed at regulating lobbying activities within Romania (Pl-x no. 739/2011) [9] and Proposed legislation focused on promoting transparency in the area of lobbying and advocacy (Pl-x no. 129/2019) [7].

The democratic transition of Romania has led to a pluralism of opinions, actors and some forms of their manifestation that require a regulatory framework in order to be able to carry out their work [16]. Much of this regulatory framework already exists and is largely coherent and harmonized with some relevant international standards [16]. It can be noted that the mere existence of a regulatory framework conducive to the participation of the general public in the political decision-making process does not constitute in itself enough for the participatory spirit to be created [16].

Thus, I proposed to bring into discussion the main acts in Romania that refer to lobbying activity [16]. We will differentiate three categories: primary legislation, secondary legislation and self-regulation [16].

Primary legislation on lobbying in Romania includes laws, emergency ordinances and simple ordinances [16].

Secondary legislation on lobbying in Romania is composed of Government decisions [16].

The self-regulation of lobbying activity in Romania is carried out through “The Code of Ethics of lobbying and advocacy practitioners”; “The transparency Register of lobbying and advocacy activities” and “The transparency Register Supervisory Commission” [2].

“The Code of Ethics for lobbying and Advocacy practitioners” is a document that has been developed in accordance with the “Code of Conduct of the Society of European Business Professionals”, the “European Association of Public Affairs Consultancy Firms”, the “European Commission associated with the Transparency Register”, as well as the “Charter of Professional Deontology of the French Association of Lobby and Public Affairs Consultants”, and adopted by “Romanian Lobby Registry Association” to ensure basic guidelines and standards for professional conduct [2].

The Code of Ethics for lobbying and Advocacy practitioners is based on principles such as: integrity, transparency, accuracy, confidentiality and professionalism [2].

The principle of integrity requires that lobbyists and advocacy workers must act honestly, treat competitors, journalists, politicians, representatives of public institutions and others

with respect, and to not exert an unlawful and immoral influence on the persons with whom they work professionally in accordance with article 1 paragraph (1), (2) and (3) [2].

The principle of transparency refers to the fact that lobbying and advocacy practitioners must interact with openness and transparency in relation to third parties by declaring their name, organization or company, but also of the interest they support and not intentionally create a wrong impression on their state or the nature of their request to public institutions pursuant to article 2 paragraph (1) and (2) [2].

The principle of accuracy requires that all measures are reasonable to ensure the accuracy of statements or information they transmit to public institutions and that false or misleading information is not disseminated intentionally or negligently, but also to correct them promptly if such situations arise in accordance with article 3 paragraph (1) and (2) [2].

The principle of confidentiality means that practitioners cannot obtain information from public institutions in an unlawful or dishonest manner, but only in compliance with the regulations and/or conventions provided for obtaining and distributing the documentation of public institutions and not to sell to third parties documents obtained from those institutions according to article 4 paragraph (1) and (2) [2].

The principle of professionalism is that lobbyists or advocacy must have sufficient knowledge of the legislative and governmental process, but also specialized knowledge to help them to represent their clients, to devote sufficient time, attention and resources to satisfy the client's interest, to faithfully support the client's interests, to keep the client's interest, to faithfully support the client's interests, to keep the client or the employer informed about the lobbying or advocacy activity, not to present unrealistic estimates or possible results intentionally expected to the client according to article 5 paragraph (1), (2), (3), (4) and (5) [2].

The principle of conflict of interest implies the avoidance of any situation assimilated to conflict of interest, the disclosure of these types of conflicts if they occur, taking measures to resolve such conflicts and employing staff who have worked in public institutions only in compliance with the confidentiality requirements of those institutions in accordance with article 6 paragraph (1), (2), (3) and (4) [2].

The Lobby and Advocacy Transparency Register is modelled on the common transparency Register of the European Parliament and the European Commission, which is an open database for all organizations and individuals engaged in lobbying and advocacy activities [6]. Therefore, all individuals and organizations who wish to sign up to demonstrate the legitimacy of their actions and the guarantee for promoting the principles of transparency [6].

After their registrations, the Parliament, the Government and the Ministries will automatically accredit them [6].

At European level, the three central institutions, the European Parliament, the Council of the European Union and the European Commission, are open and transparent at all times when it comes to their regular dialog with interest representatives and civil society [1].

The purpose of the transparency Register is to ensure that those who attempt to interact with the EU institutions publicly state their interest and provide information about themselves [1]. If you want to influence EU policies through various activities, for example: if you want to speak at a public hearing organized by a committee of Parliament, then you need to register [1]. On 1 July 2021 the Interinstitutional Agreement of 2021 entered into force, introducing new registration form in accordance with the requirements of the Interinstitutional Agreement [14].

EU countries have different approaches to regulation lobbying: Austria, France, Germany, Ireland, Lithuania, Poland, Slovenia and the Spanish region of Catalonia have imposed registration by law, while Belgium, Italy, the Netherlands and Romania offer incentives to lobbyists to register voluntary [1].

The Transparency Register Supervisory Commission was established to make the Transparency Register effective and improved, to promote good practices in lobbying and to oversee the application of the Code of Ethics for lobbyists and Advocacy [2].

The tasks of the Transparency Register Supervisory Commission include: analysing and tracking the evolution of the rules and practices of lobbying-specific deontology in European and International practice; propose amendments to the Code of Ethics and to the structure of the Transparency Register, the data it contains and its use; supervise compliance by persons and organizations of the Transparency Register with the regulations and decisions of the association regarding the transparency rules and compliance with the Code of Ethics; recommending to increase the transparency of the decision-making act regarding public policies and proposing measures to attract new members in the Transparency Register [2]. All decisions of the Transparency Register Supervisory Commission must be respected by the persons and organizations that register in the Transparency Register [2].

The Association of the Romanian Lobby Registry is a non-governmental, apolitical, private, non-profit and autonomous organization whose role is to contribute to the popularization and promotion of lobbying activity, and also the creation of the system of self-representation of lobbying activity in Romania [2] through the mechanisms set out above in this article.

An authentic participatory democracy necessitates the expansion of decision-making processes that pertain to the common interests of the public, in way that incorporates areas beyond the confines of the formal national government [16]. The promotion of the interests of citizens and groups made up by them may done directly or through appointed representatives legitimately [16].

Despite of the fact that in this area, two antagonistic visions regarding the implementation of the instruments of participatory democracy still face in Romania: involvement of everyone actors in public affairs are possible, but limited and controlled, a vision that belongs to the past), or involvement of all actors in public affairs must be actively supported, even by the state, a vision today fashionable, but which, like all models and excesses, it must be weighted [16].

With these insights, the review of the Romanian legislation on lobbying and advocacy activities, a component that I considered to be particularly relevant in the context of this topic.

### **Ethics versus legal perspective of lobbying**

I will keep by exposing the ethical dimension of lobbying and underlining the principles underlying this activity, because I believe that the basis of a well-defined legal framework is well-grounded moral and ethical principles.

The ethical dimension of lobbying refers to the principles and standards that govern the actions of lobbyists and the organizations they represent [4]. Ethical lobbying involves transparency, honesty, and integrity in the communication of interests to policymakers, and adherence to legal and moral standards in pursuing those interests [4]. The ethical dimension of lobbying also includes issues such as conflicts of interest, the influence of money on policymaking, and the accountability of lobbyists to the public [4]. A key concern is balancing the right to petition the government with the need for a fair and open democratic process that serves the public interest [4].

In parallel with legal perspective on lobbying activity at both international, European and national levels, there is also an ethical perspective, who enjoys the support of the Organisation for Economic Co-operation and Development (OECD) and fears of lobbyist or organizations that strict legal regulation could restrict certain fundamental rights that citizens have, such as: the right to petition, the right of association or the representation of interests [16] This correspondence highlights the fact that there is a common ethos at the level those involved in lobbying and advocacy, ethos given by the very nature of the field [16]. The recurring values are integrity, transparency, confidentiality and accuracy [16]. This could be possible by introducing measures similar to entering a liberal profession through a legal order [16].

At EU level, there is a legal framework for lobbying, but it regulates only those aspects related to transparency of the relationship between and the European institutions [16].

As we could see, the lobby climate in Europe is diverse and complex, and many countries, the lobbying profession or the lobbying consultancy service is still at an early stage, and this also applies to Romania [16].

The Code of Conduct in Lobbying developed by the European Union must be respected by all those register in the Transparency Register of the European Union and presents some moral norms such as honesty in relations with the European institutions and their representatives and honestly in relation to the subjects of their services [16]. At certain times, it may seem that the legal perspective can overlap with the ethical one, especially when we are talking about regulation versus self-regulation, but specialists in the field say that this is not the case with regard to lobbying [16]. The moral principles and directions regarding the conduct of lobbying do not exclude the fact that there must also be a legal approach to it, by creating legal regulations so necessary to ensure decision-making transparency, avoiding corruption, traffic of influence and errors related to the legislative technique [16].

At the same time, it must be accepted that the existence of moral obligations for lobbyists does not exclude the existence and observance of obligations of the same invoice by representatives and decision-makers [16].

The situation of the codes of professional ethics at European level is of particular importance, as, going beyond the legal regulations that are undeniably imperative, they remain a benchmark in terms of the moral maturation process of all practitioners [16].

The central idea that should be kept in mind is that the role of codes of ethics is precisely to draw responsibilities and impose obligations from a professional point of view, not only to lobbyists, but also to state representatives [16].

The Organization for Economic Cooperation and Development (OECD) has endorsed this idea and established ten principles for transparency and integrity in lobbying [16], a fair measure that can be considered as mutual respect.

The ten principles for transparency and integrity in lobbying are: countries must provide a level playing field, providing all stakeholders with fair and equitable access to the design and implementation of public policies; rules and guidelines on lobbying activities should address governance concerns in relation to lobbying, and respect for socio-political and administrative contexts; rules and guidelines must be consistent with broader policy and regulatory frameworks; countries must clearly define the terms “lobbying” and “lobbyist” when considering or developing rules or guidelines for lobbying; countries must ensure adequate transparency to ensure that public officials, citizens and businesses are able to obtain sufficient information on lobbying activities; countries must allow stakeholders, including civil society organizations, businesses, the media and the general public, to examine lobbying activities; countries must promote a culture of integrity in public organizations and in the decision-making process by providing clear rules and guidelines of conduct for civil servants; lobbyists must respect standards of professionalism and transparency, share responsibility for promoting a culture of transparency and integrity in lobbying activities [13].

The OECD is one of the world's leading discussion forums, where governments have the opportunity work together to find solutions to common problems, they may face [3]. For now, Romania is not among the 38 members of OECD, but following the decision of the OECD Council of 25 January 2022, accession talks have started [3]. The National Bank of Romania has expressed its readiness to support these efforts by engaging in the work of the relevant OECD working structures [3].

I believe that ethical principles are important for lobbying, because they ensure a fair and responsible practice of influencing political decisions. Generally, ethics refers to the set of norms and standards that govern the behaviour and actions of individuals and organizations in a particular field.

Influencing decision-making processes at the level of public authorities, i.e., lobbying, must comply with a set of minimum rules in order not to become burdensome or even harmful to decision-makers and not lead to the distortion or annihilation of democracy [16]. Therefore, ensuring decision-making transparency at the level of public authorities also requires transparency of lobbying activities, whether this is required by legal rules adopted by the state or by rules of conduct mutually agreed by professionals in the field [16].

The involvement of citizens in decision-making processes generates a number of governments is also a people, and in the absence of explicit legal provisions they would not perceive this principle as a source of benefits and rather as an obligation [18].

I believe that is important to remember that ethics in lobbying is closely linked with corruption, as the potential for corruption in lobbying is high if proper ethical guidelines are not in place. Lobbying can be seen as a legitimate way for interest groups to have their voices heard by policymakers and influence decision-making, but when it involves bribery, coercion or other unethical practices, it can lead to corruption.

Similar to other regions in Southeast Europe, Romania has a reputation for being plagued by corrupt practices under different political regimes [15]. However, there has been a recent increase in anti-corruption initiatives, both from the government and non-governmental organizations, in response to public outrage against corrupt officials, pressure from international donors for accountability, and the demands of European Union membership [15]. Pursuing anti-corruption has led to the development of a range of practices focused in the creation and implementation of national and regional-anticorruption programs [15].

Also, the involvement of public, private, international, and civil society actors in the fight against corruption creates a complex social force that is worthy of anthropological investigation [15].

Overall, ethics in lobbying is crucial for ensuring that lobbying remains a legitimate and constructive way for interest groups to participate in the democratic process, without allowing for the potential for corruption or the undermining of public trust in government.



But how do we understand corruption? I find that corruption can be described from a legal perspective “the abuse of power or position for personal gain, usually through bribery or other forms of incentive” [17], and from an ethical perspective, corruption can be understood as “fundamentally as ethical issue, as it involves a violation of norms and values related to fairness, justice and integrity” [11]. This suggests that addressing corruption requires a combination of legal and ethical approach, including promoting a culture of ethical behaviour and fostering individual and institutional accountability [11].

In a general way, corruption poses a significant challenge to societies worldwide, be it in developing or developed nations, as it distorts economic progress, reduces foreign direct investments, and impacts productivity of organizations by promoting inefficient allocation of contracts [10].

After the above mentioned, lobbying can be viewed from both ethical and legal perspectives. While the legal framework provides rules and regulations for lobbyists to follow, the ethical perspective examines the moral principles and values that should guide their behaviour in the pursuit of their interests.

## Conclusion

For concluding, as you can see, as far as Romania is concerned, lobbying does not enjoy a legal regulation, because the legislative steps initiated so far have not materialized in a law, the lack of support from the Government contributed to this situation, but also the way in which the parliamentary representatives chose vote on the bills, the legal framework being formed rather by a self-regulation coordinated by certain codes, directives or rules imposed at the level of the European Union.

By presenting the ethical perspective of lobbying as a complementary part of the legal perspective and regulation from the legal point of view of this activity, we believe that we have created a more complex picture of this phenomenon with all the problems it can face both internationally, European, as well as national.

For the research questions proposed in the introductory part: “How do ethical principles influence the regulation of lobbying?”, “To what extent are ethical principles observed in lobbying in Romania?”, “How can ethical principles be implemented in lobbying practice and in the legal regulations governing it?” and “Are there significant differences between ethical and legal regulations regarding lobbying? How can these differences be reconciled?”, I have some conclusions.

Ethical principles can influence the regulation of lobbying in a significant way. Legislation that places a strong emphasis on ethics can lead to a more transparent and accountable lobbying environment. In this case, the representatives of the interests would be more

attentive to their practices and would be less willing to resort to unethical tactics to achieve their goals.

Also, regulations that include ethical principles can promote a culture of compliance and accountability in the field of lobbying. Organizations representing interests would be more aware of their social responsibility and more willing to respect ethical rules and values.

There are several ways in which ethical principles can be implemented in lobbying practice and in the legal regulations that govern it. Some possible ways are: the adoption of codes of conduct, promote transparency and access to information and impose clear penalties for violations of ethical principles.

There are significant differences between ethical and legal regulations relating to lobbying, as ethical regulations are often more restrictive than legal regulations and impose a higher standard of conduct. While laws focus on the legal aspects of lobbying, ethical principles involve a broader set of values and norms that call for transparency, accountability, and integrity in lobbying. To reconcile these differences, it is important to have better collaboration between lobby groups and public authorities to improve transparency and accountability in decision-making, in addition, training and education programs should be developed to increase awareness and understanding of ethical principles by lobbyists. Finally, it is necessary to adopt a more proactive approach to the ethical regulation of lobbying so that it is more appropriate and tailored to the needs of today's society.

I also appreciate that the hypothesis formulated by me at the beginning of my work: "The inclusion of ethical principles in the regulation of lobbying activity can reduce the potential for corruption and abuse of power in the decision-making process of public institutions", it can be confirmed after the content of this article. This statement can be supported by the correlation between the implementation of ethical principles and the reduction of corruption and abuse of power in the decision-making processes of public institutions.

I believe that the paper can be extended to a more complex work with several theoretical implications, data that includes various analyzes or new premises that can be explored in the academic environment.

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