

ROMANIAN CORPORATE GOVERNANCE, PUBLIC AFFAIRS AND LOBBYING

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ABSTRACT

This research paper provides an outline of corporate governance in Romania and the impact of public affairs and lobbying on the subject. We endeavoured to stress these two notions as sustainable parts of sound business practices and methods, as well as the development of improved strategies for achieving macroeconomic growth. The lobbying effort contributes to the maintenance and improvement of public confidence in democratic institutions and the representation process of public politics. In addition, professional lobbying and interest groups are required to always act ethically and morally in their dealings with all parties involved. There is now a lobbying law in Romania, although it is simply a draft and lawmakers provide no indications of future legislation. As we will analyse in this research paper, the lobbying effort in Brussels, the center of the European Union, is a highly active one, acknowledged by European Union officials as essential to the democratic process.

KEYWORDS: *corporate governance, lobbying, public affairs.*

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1. INTRODUCTION

The concept of corporate governance arose relatively late in Romania (in 2000). Political, legal, economic, and social transformations necessitated arduous measures, which explains the delay. Similar to other ex-communist nations, Romania has adopted some organizational structures typical of modern nations, but has not always had the most effective procedures for putting them into effect. This resulted in a heterogeneous system in which market economy structures and institutions coexist alongside centralized economy structures and institutions.

Corporate governance in Romania is especially relevant to firms registered on the Stock Exchange (Bucharest Stock Exchange (BSE), etc.). Romania's Corporate Governance Code was developed by the Corporate Governance Institute of the Bucharest Stock Exchange (IGC).

As part of the process of transitioning the Romanian economy to market economy procedures, it is necessary to offer proper protections for minority shareholders. In addition to the ethical character of the methods designed to accomplish this objective, investors may have confidence in obtaining shares in the new offerings, a factor that defines the very operation of the Romanian capital market. Lobbying refers to the labor that consists of interventions meant to directly or indirectly affect the development, implementation, or interpretation of legislative laws, rules, and regulations, as well as, more generally, all remarks or choices made by political authorities.

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Lobbying is often defined as the endeavor to influence government action through written or verbal communication (Lobby Romania, 2021). However, each state may have its own criteria for lobbying, exceptions to the definitions, and exceptions to the exceptions.

Since the beginning of the 20th century, many interest groups have exerted a significant influence on the public decision-making process (OECD, 2021). This influence may be witnessed not only on the parties engaged, i.e. lobbying organizations and political decision-makers, but also on the level of public opinion, which might become involved and criticize the communication between these groups.

2. GOVERNANCE FROM THE STANDPOINT OF ROMANIA

Either the management or the controlling shareholders, or both, play the most important role in an organization. Minority shareholders are those who need to be safeguarded by suitable laws and an active judicial system and are eager to participate. The characteristics of the system for corporate governance rely on the severity of the agent's difficulties at the firm level. The crux of the issue is the division between management and finance, or ownership and control.

Companies listed on the Bucharest Stock Exchange may opt for the full or partial adoption of the Corporate Governance Code and, beginning in 2009, will annually submit to the BSE a Statement of Compliance or Noncompliance with the Provisions of the CGC (the "Declaration") containing information on the CGC recommendations actually implemented and the manner of implementation. The statement will be drafted according to the BSE's specifications.

Although the Code is primarily designed for corporations whose financial instruments are traded on the BSE-operated regulated market, this does not prohibit other companies or categories of issuers from adopting and implementing the Code's principles.

This Code contains some recommendations that are supplementary to certain Romanian legal acts (Law No. 31/1990 on commercial companies, as subsequently amended and supplemented, Law No. 82/1991 on accounting, with subsequent amendments and completions, Law No. 297/2004 on the capital market, with subsequent amendments and completions, etc.).

The Company Governance Code assists Romanian societies in applying the OECD's corporate governance standards as precisely and openly as feasible. In addition, corporate governance rules must be adhered to for a company to be listed on a foreign exchange (Ungureanu, 2013).

Given that Romania has just joined the European Union and is through a time of transition and growth, corporate governance is a relatively new concept and challenging to implement in our culture. This has led to the formation of this institution, which provides greater assistance to businesses so that as many organizations as feasible want to implement corporate governance as quickly as possible (IER, 2015). This may provide several advantages to both shareholders and other parties engaged in corporate activities, the most notable of which is the ability to attract significant investors on both the Romanian and international capital markets.

3. PUBLIC RELATIONS CONSULTING (LOBBYING)

On 15 July 2014, Jean-Claude Juncker, president of the European Commission, presented the political guidelines to the European Parliament and advocated for more contract transparency with interest groups and lobbyists. This time, Jean-Claude Juncker said, "Even if we achieve the greatest possible achievements, they would be meaningless without the support and confidence of the population we serve. Therefore, let's be more open, since we have nothing to hide. Let us demonstrate that this is in fact occurring differently and that, by working together, we can transform and revitalize Europe." Juncker said that in 2015 the European Commission would start an interinstitutional agreement with the European Parliament and the Council of the European Union

to establish a required register for lobbyists of all three supranational organizations with decision-making authority (European Commission, 2012).

Lobbying is amenable to several techniques, and it is difficult to be shocked by a single description. On the one hand, it is possible to identify specific approaches to a North American model of understanding the connections between interest groups and public authorities that focus on the acts of persons who are hired to represent the private interests of a client. In the United States or Canada, precise, stringent, and even time-bound laws on lobbying are advocated in order to differentiate it from other forms of actions that may be deemed related.

On the other hand, it is possible to identify interpretations that may be subsumed under a European paradigm, which targets diverse interest groups and not just commercial corporations that participate in client-funded lobbying. The European Union favored prioritizing the openness of its institutions' decision-making processes and protecting them from potentially destructive effects that would not respect free, open, and equal competition in terms of influence on policy-making processes. The goal of the European authorities is to allow the free flow of specialized information from the social partners and the business environment to the decision-making authorities and vice versa. Ultimately, the European model views lobbying in the larger context of openness in decision-making and societal interaction.

Today, lobbying is seen as an ancient, natural, and unavoidable activity that was born with society: anytime a group had power in an organization, other individuals or organizations attempted to influence the leaders' choices. In an open democratic system, lobbying is seen as a natural activity that may strengthen the responsibility of governors and the engagement of people in the decision-making process. In a restricted sense, lobbying refers to the actions of individuals or organizations, each with unique and particular objectives, that seek to influence political choices. In a wide sense, it refers to the act of influencing the choice of another person, group of persons, or commercial or governmental organization.

Influencing decision-making processes at the level of public authorities, often known as lobbying, must conform to a set of fundamental principles so as not to burden decision-makers or distort democracy, irrespective of the approach used. Therefore, guaranteeing the openness of decision-making at the level of public authorities also requires lobbying actions to be transparent.

Regardless of their size or type, all interest organizations engage in efforts to preserve and/or advance their members' interests. The following words are used by professionals to characterize these activities: public affairs, public relations, lobbying, and advocacy. These principles are often used by public communication specialists and their customers in major corporations or industry groups, as well as by certain NGO representatives. In the lack of detailed evidence to the contrary, it cannot be assumed that all users of these ideas agree on their meaning (Gruppo Hera, 2014).

Interest groups are not a novel concept. They were born with politics; politics occurs when a group of people band together to exert pressure on those who govern and create norms of behaviour for all members of society.

At least from two viewpoints, interest groups are seen as crucial to the proper operation of democracy in democratic nations. First, they constitute a mechanism to represent the interests of people more effectively than political parties, and via their activity they guarantee that public policies better satisfy the social demands of citizens. Second, interest groups educate its members by providing them with political and social democratic experiences inside the group (participation in the decision, negotiation, compromise, etc.)

1995 saw the implementation of the Lobbying Transparency Act in the United States. Lobbying is defined as any written or oral communication, as well as the preparation and planning of this communication, addressed to any official within the legislative power or executive, executed on behalf of a client or employer, and intended to form, amend, or adopt a federal act by the United States Congress, an administrative act, public policy, or any official position by the United States government (IFC, 2015).

The lobbyist is the one who meets all three of the following criteria:

Spends more than 20 percent of his time advocating for a single customer over the course of three months.

1. public communication,
2. communication done on behalf of public authorities,
3. administrative requests,
4. hearings or information supplied at the request of a public authority.

Not later than 45 days after the conclusion of a semester, each registered company must submit a report detailing its customers' lobbying actions during the reporting period. The report must include the following information:

1. customer identifying information;
2. the broad topic of lobbying activity, including legislation under discussion;
3. statements published by Congress Chambers or government agencies contacted;
4. the list of lobbyists who acted;
5. the amount (rounded) received and paid by lobbyists (for lobbyists in their own name).

Since 1935, lobbying actions in the United States have been governed under the Act on Public Utilities Companies. In 1946, the Federal Lobbying Regulation established for the first time a general register of lobbyists, but the attempt was deemed a failure because it only regulated lobbying activities exerted by Congress and not the much broader sphere of executive power, including government agencies, and because it did not regulate non-governmental lobbying organizations. However, it remained in effect for fifty years until being superseded in November 1995 by the lobbying disclosure law.

In the lack of an uniform legislation in Europe, supranational definitions target either the transparency of lobbyists' interests or their contribution to the openness of public institutions' decision-making. Both European organizations highlight the influence of lobbying on the decision-making process, as well as their contribution to the growth of true democracy.

In Europe, lobbying is managed by an agreement between the European Parliament and the European Commission about the creation of a transparency register for organizations and self-employed persons engaged in the EU policymaking and implementation processes. This agreement became effective in 2011.

Lobbying entails documenting any activities undertaken to directly or indirectly influence the development or implementation of policies or decisions within the institutions of the European Union (Merendino, 2013), regardless of the channel or means of communication used (eg by subcontracting, contracts with specialized intermediaries, think tanks, platforms, forums, local campaigns, and initiatives).

Exceptions to this rule include:

- Activities aimed at offering legal counsel and other specialist guidance about the client's basic right to a fair trial;
- Participation in social dialogue by social partners (trade unions, employers' organisations, etc.) in carrying out the task entrusted to them by the Treaties;
- Client-specific services provided in response to a request made directly and individually by the customer.

The registration is optional, online-only, and contains general identity information and lobbyists. The register includes rules regarding:

- the categories of actors that can be recorded and the information, including financial, that must be provided on registered entities;

- a code of conduct;
- a method for addressing complaints and actions to be done in the case of code of conduct violation.

These sanctions include suspension or removal from the register and may result in the revocation of access to certain European Parliament facilities.

3. CONCLUDING REMARKS

The notion of multi-level government is not a strategy to divide authorities, but rather to share them. Therefore, governance should become an even more flexible and dynamic allocation of power at all levels.

There is a need to develop multilevel governance processes and provide individuals with a more active and formal involvement in decision-making at various administrative levels. This specifically entails "strengthening collaboration in practice" and promoting discussion between actors with diverse institutional backgrounds. In relation to this and many conceptions of multilevel governance, it is not simply a multi-character governor, but a government with interdependent levels. This indicates, on the one hand, that the decision-making process extends beyond the representative institutions, and that an additional official authority has been dissolved between the central institutions and the institutions "above and below." In other terms, multilevel governance is "a creative process in which multiple levels of government share political authority and political influence." (Giurescu & Bodislav, 2019).

The debate arises as to whether a universal corporate governance model is essential in the context of globalization of markets, particularly the financial industry, followed by globalization of regulation. The hypothesis oscillates between the imminent arrival of convergence and its obstacles.

Considering the decline in the international market, corporate governance has been a priority for the top management of companies for quite some time, as companies that adopt a transparent organizational culture and an effective model of leadership will have a great deal of performance that is well-defined, whereas those who refuse to accept this reality, which is absolutely essential, will score lower.

Lobbying may have a significant effect on the result of public policy, and therefore on the well-being and living standards of societies. By sharing their knowledge, genuine demands, and evidence, interest groups may provide governments important ideas and data on which to base their public policies (OECD, 2021). This may help policymakers comprehend alternatives and trade-offs, resulting in better policies in the long run. Lobbying to boost environmental standards, improve traffic safety, or expand child care facilities, for instance, may be advantageous for society as a whole. Abuse of lobbying tactics, such as the monopoly of power by special interest groups, undue influence via hidden or false evidence, or manipulation of public opinion, may still result in inferior policies and results. An examination of 300 academic research revealed that such misuse has led to bad health effects, inactivity on climate measures, excessive regulation to protect incumbents, or inadequate regulation to remedy market failures or distortions, among other consequences. Moreover, the misuse of lobbying methods weakens the confidence of people in democratic processes.

The 2010 Recommendation on Principles for Transparency and Integrity in Lobbying gives guidelines to governments on how to promote transparency and integrity in lobbying. This paper assesses the progress achieved in implementing those principles and focuses on the rising complexity of lobbying operations using new methods for influencing government, such as social media, and a diverse array of players, including NGOs, think tanks, and foreign governments.

REFERENCES

- European Commission (2012). *Comunicare a Comisiei către Parlamentul European, Consiliu, Comitetul Economic și Social European și Comitetul Regiunilor*, available online at: <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:52012DC0740&from=EN>.
- Giurescu, A., Bodislav, D. A. (2019). Corporate Governance and Public Affairs/Lobbying in Romania, 2nd *ICESS Conference*, Bucharest 4-5 april, 2019.
- Gruppo Hera (2014). *Corporate Governance Models*, available online at: http://eng.gruppohera.it/group/corporate_governance/words_understand/page23.html
- IER (2015). *Lobby în România vs. Lobby în UE*, Institutul European din România, available online at: http://www.ier.ro/sites/default/files/pdf/Studiu_Lobby_site.pdf.
- International Finance Corporation/ World Bank Group – IFC (2015). *A guide to corporate governance practices in the European Union*, available online at: https://www.ifc.org/wps/wcm/connect/c44d6d0047b7597bb7d9f7299ede9589/CG_Practices_in_EU_Guide.pdf?MOD=AJPERES.
- Lobby Romania (2021). *Lobby activities in Romania and their evolution*, Retrieved 1st of September 2022, from: <https://lobbyromania.ro/lobby-activities-in-romania-and-their-evolution/>
- Merendino, A. (2013). International theories of corporate governance: critical analysis and evidence of the Italian model, *Journal of Economics, Business and Management*, 1(1), pp. 140-145.
- OECD/Anti-Corruption & Integrity HUB (2021). *Lobbying in the 21st century. Transparency, Integrity and Access*, Retrieved 1st of September 2022, from: <https://www.oecd.org/corruption-integrity/reports/lobbying-in-the-21st-century-c6d8eff8-en.html>
- Ungureanu, M. (2013). Models and practices of corporate governance worldwide, *CES Working Papers*, pp. 625-635.