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Lobbying and Advocacy in Assuring Participative Democracy in Romania

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Abstract

Applying total decentralization requires efficiency in itself, because the administration-citizen relationship will move closer towards that company-client relation (initiator-agent type relationship). Through decentralization the level of a state's democracy increases, resulting in a basis for proper governance. Transparency and responsibility of the deciding factors is improved, due to a high level of control by the public sector's beneficiaries at the local level. A major part of the feedback offered to the public administration will be from the citizens and the civil societies, which will improve cohesion and social capital on a local level. As a corollary to the afore mentioned, decentralization's role is to support development, first of all by a stronger motivation of the citizen's in order to draw more resources for projects, which will have a direct impact on them and second, by focusing on the groups that find themselves in vulnerable situations.

Keywords: Decentralization, Participative Democracy, Civil Society, Lobbying

Introduction

The democratization of the institutional life presumes efficiency of bureaucracy and contends the negative effects of the role type organizational culture. The democratization of the governing systems is accomplished by contending centralism and promoting local governance. The essence of the democratic political systems comes from the attention bestowed on the many, opposite to autocracies and dictatorships, where the needs and benefits of a small group (in power) are the only ones taken into account by the system.

In Lipset's concept, democracy stands for the correct representation, by participation in elaborating public decisions and the right to choose the deciding factors: *the political system that offers constitutional opportunities for changing the governing factors and a social mechanism which allows the majority of the population to influence major decisions by choosing certain competitors for that public function*¹.

The institutions that assure the democracy of the public life are: the election system, the representative central authorities, and the control and stability methods. Democracy is a system in

¹ Seymour-Martin Lipset, Political Man: *The Social Bases of Politics*, Doubleday, New York, 1960, p.45.

which no one can choose themselves, cannot self-appoint with the power to lead and cannot bestow on themselves unconditional and unlimited powers. ²Inclusive participation of the citizens in the public life and a high level of civilian and political freedoms required in assuring the integrity of a competitive life, are guarantees for the institutional democracy. The paths of analysis for the democratization of democracy are public opposition and participation.

Institutional decentralization can be achieved much easier than the attitudinal and behavioral democratization, and is usually before the last two. Social and economic development is determined by the institutional democratization level: the drop of inflation depends much more on the absence of corruption, clienteles and similar institutional phenomenon, rather than on a favorable opinion with regard to the lay-offs from the non-competitive factories, in order to achieve an efficient economy.

Autonomy should be conferred to the local administration in regard to satisfying the direct interest of the communities (public administrative services). In other areas, only certain sectors or just the implementation should be decentralized.

Monitoring the effects of decentralization in the developing countries as well as in the ones in transition, has determined the following conclusions with regard to the conditions that need to be fulfilled in order to fight poverty through decentralization:

- The ability of the local actors to control the process, the social institutions and the inherited power type structures;

- The existence of political will, political cohesion in the decentralization area;

In Romania, decentralization has been following two paths:

- Increasing the local public administration's autonomy (municipal councils, local councils and city halls);

- Creating economic development regions according to the useful administration principle.

The decentralization law stipulates that, the transfer of competences be done concurrently with the necessary resources.

The following study's objective is to exemplify why the lobbying and advocacy policies would solve the problem of political decentralization and the democratization of the Romanian public life.

In the contemporary society, three categories of organizations are delineated:

- Economic societies (lucrative organizations), who's activity has profit as its main goal;

- Non-profit organizations, provide public services or fight for certain causes

- Governmental organizations (institutions) or public agencies that provide services for the public's benefit.³

Unlike the economic organizations' managers, the ones in the public and non-profit organizations must be genuine "political leaders". This managerial trait is determined on one hand by the existing interdependencies among organizations and civil society ("builds" demand, according to which the organization will establish the offer) and by the interdependencies among organizations and the political zone, on the other. Being in the position of "political leaders", the managers succeed or not, according to the impact generated by the decisional and implementation process.⁴

² Giovanni Sartori, *The theory of democracy revisited*, Chatham House Publishers, 1987, p. 206.

³ Cătălin Zamfir, Simona Stănescu, *The encyclopedia of social development*, Iasi, 2007, p. 141.

⁴ www.descentralizare.ro

Literature Review

Enhancing local democracy and empowering communities in decision-making are top priorities of European political agendas. However, the abundance and heterogeneity of existing examples of inclusive practices have provoked an ongoing debate on the implications and outcomes that deliberation might generate under specific conditions. Among these practices, urban regeneration is usually welcomed as a vehicle for engaging communities in public-decision making; nevertheless, the specific participative settings designed to implement those programs tend to generate peculiar communicative dynamics, which can in turn lead to unexpected results. The specific manner in which participation is set up by local governments does influence empowerment results. This hypothesis is verified through a cross-case comparison of two neighborhood regeneration initiatives in Copenhagen and Milan, which has been studied by Savini⁵. *"The empirical results show to what extent issue-centered and structural models of participation differ in terms of the institutional devices they adopt, the type of participants, the nature of the controversies occurring, and the empowerment outcomes. Furthermore, participatory settings tend to reproduce institutionalized practices of interaction between third-sector agencies, voluntary associations and public authorities. Specifically, consolidated third-sector regimes in Denmark and Italy tend to influence the devices that their local governments adopt in order to engage local civil society"*.

The Hungarian Model of the representative democracy has been described by Peterfi Ferenc.⁶ *"In the last two decades Hungary's NGO sector has gained a significant role of supplying services while the safeguarding and enforcing of interests are astonishingly weak. These would be the functions that are indispensable for a healthy and responsible society. The prerequisite of a free and self-organizing society are its members' having actual effect on the rules and regulations that frame their lives"*. Party politics and the political elite use every means to hinder the efficient control of power and to keep civil society communities from entering policymaking. Those working for the division of power and deliberative democracy, to achieve participation are often accused of questioning representative democracy. In order to achieve effective control of power and enforcement of interests, civil society needs—among others—increased preparedness and a significantly stronger supporting environment. Most likely this will not be offered by those in power, so the sector has to enforce it, possibly looking for allies to assist in the process.

Plichtova in 2004 established the relation between civil society and youth generation in Slovakia⁷. On the background of the dispute of liberalism and communitarism, the Study formulates the basic sociological and social psychological questions connected with realization of individual freedom in the civic, political and social sense. Both are analyzed in the context of contemporary post materialistic Culture and in the context of post communism society. It introduces problems of active participation and active citizenship as important factor in solving the topical societal problems respectively. *"The question is asked, if the contemporary Youth not influenced by the past regime, is prepared sufficiently to the role of an active citizen. Referring to empirical studies the author states that although the Young generation disposes to sufficient knowledge, its relation to politics is rather reserved. It is assumed that the only rational strategy consists in such socialization that would support*

⁵ Federico Savini, *The Endowment of Community Participation: Institutional Settings in Two Urban Regeneration Project*, in International Journal of Urban and Regional Research, Vol.35, Issue 5, 2011, DOI:10.1111/j.1468-2427.2010.00997.X, pp. 949-968.

⁶ Peterfi Ferenc, *Representation and safeguarding of interests, control of power*, in Civil Szemle, vol.6, Issue 1-2, 2009, p. 78.

⁷ Plichtova, J., *Active citizenship in social and psychological contexts*, in Ceskoslovenska Psychologie, volume 48, issue 1, 2004, pp. 52-68.

and develop abilities and competences of children and youth enabling them to solve and to participate on solving the societal problems”.

Body of the Paper

The key to success and the essence of the political management is based exactly on understanding the manner in which the power relations amongst groups can lead to a consensus. Under these conditions, the managers must be excellent communicators and negotiators, as they are involved in the interrelation movement among the civil society and the competing environment, in lobbying. Lobbying confers an increased level of importance to the non-governmental organizations, which bring to the community's knowledge, certain programs, ideas, and/or opinions, which in general due to their conflicting nature, determine adversities in the economic sector as well as in the adopting public policies sector. Therefore, lobbying emerges as an inter-human and institutional communicational medium, used in general by the civil society, and especially by the groups of interest, in order to propagate certain needs in the decisional process.

Modeling the community, generating behavioral attitudes, in many instances impassioned, the groups of interest manifest themselves actively in the social zone. The group of interest is viewed as “...that assembly of individuals with common interests, whose purpose is to support and defend them, through the influence exerted on the decisional, political economical, professional and moral processes, carried out by certain public institutions or persons who hold certain functions within these institutions. In order to be considered lobbying, three criteria need to be met cumulatively:

- The existence of a group of interest
- Quantification of the common interest and its propagation by representation
- Exerting the will of the group of interest, through actions focused on the core of the public, political or administrative authority.

In Europe, lobbying is focused mainly on relations established among different organizations, foundations, groups of interest and European Union's institutions. The objective is autonomy and national representation, distribution of E.U. funds, supporting certain interests of the national minorities. In Romania, lobbying is inadequately formalized. In our opinion it should be regulated by a normative act, thereafter being supported by local resources, especially human (experts, volunteers) and financial resources. Lobbying is in many instances used by unions and owners in developing relations with the governing factors. Usually, lobbying expresses a series of opinions, ideas, etc., which can help the rapid improvement of certain problems present in the business sector. Therefore, lobbying is a necessity in the Romanian economy, as a channel of communication among the economic, social and political areas, with very encouraging results with regard to the swift approval of normative acts, especially in the business sector.

Lobbying refers to the any effort made by individuals or private groups of interest (special) in order to influence the decisions of the governmental institutions.

Any political system is inevitably exposed to a certain degree of lobbying. Consequently, lobbying may be understood as a form of pressure exerted on certain governmental factors, through public relations tactics, with the objective to influence a certain political decision. The groups that exert this pressure must justify their actions in front of the public opinion, and this is achieved through public relations campaigns.

In Romania, lobbying is present, though very little from an official point of view, being still regulated judicially. In the past, certain governments have assumed responsibility for a legislative package which encompassed certain regulations which sanction corrupt influence, discussions on this subject being carried out ever since 1993-1994.

In the U.S.A., where a lobbying law exists (over 8 years), it is defined as a declared action of influence on the government, parliament or local authorities, generally in favor of the business sector. According to the American law, the person lobbying must notify the Senate as well as the House of Representatives when the lobbying campaign starts and must hand in a report regarding the actions taken and the institutions that person contacted. The approved law in the U.S. prohibits a member of parliament or any other public servant to receive money in order to support a cause, because that person will be suspected of taking bribes or corrupt influence. Under these circumstances, lobbying comes into play. By law, the lobbyist has the right to receive money in order to convince a public authority to promote and accept a certain project instead of another.

Lobbying campaigns (created a great deal of commotion), have been initiated, especially, in the tobacco, alcohol, coffee and oil industries, as well as in the more sensitive areas such as, weapons, infrastructure, introduction of information technology in certain networks, etc.

In Romania a number of similar activities to lobbying have taken place. Examples of such activities are the actions carried out by the Pig Farmers' Association, the actions of promoting Romania's foreign image (even to the European Parliament), approval of the EIB loans (BEI) by collecting signatures from the citizens of the capital city of Bucharest, maintaining low customs taxes on sugar (used in the production of soft drinks and alcoholic beverages) etc.

We point out the facts that, around the European commissioners in Bruxelles are less than 10 000 lobbying firms that support the interests of certain groups. In Romania, lobbying is very modestly present scientifically and very present empirically. However, in Romania, British and American firms, specialized in public business and lobbying, have no difficulties in carrying these types of activities. Central Europe Consulting is an example of that, an organization run by Guy Borrows, it represents in an official manner the interests of the large tobacco, alcohol and coffee companies, ever since 1995. Guy Borrows, in an interview for Capital magazine stated that, "Our main objective is to assist companies in the efficient administration of relations with the authorities". His firm offers lobbying services on topics that require legislative modifications. A great example is the freezing of taxes campaign for the tobacco and coffee industry.⁸

The opinions are divided with regard to regulation. Except for the foreign firms, all the other organizations avoid using the lobbying formula in identifying their activities, which in turn they are named consultancy, promotion or counseling services.

Monitoring the mass-media leads us to the conclusion that, between 1990 and 2000, actions of influence took place on the legislative or executive activities. Such an example is the activities of certain non-governmental organizations or media campaigns.

The research in the business, political or mass media environment shows that lobbying is beneficial and normal for modern democracies. Furthermore, it is noted that the lobbying profession shouldn't be corporately regulated; just as entering/exiting this market shouldn't be controlled by the public authority, since it constitutes the nature of the liberal professions. In some European countries, lobbying is forbidden. France is an example of that, where constituting firms or groups in

⁸ D. Nedelcu, M. Preoteasa, *Lobby, the exchange currency for corrupt influence*, Capital, 11/13.03.2003, Bucharest, p. 7.

order to represent individual interests is forbidden, due to the fact that, the French consider that it is abnormal that someone who interferes between the authority and the citizen should make a profit out of it also.

There are no rules in Belgium, Luxemburg, Portugal and Greece, with regard to the lobbying activities. Germany, Holland and Denmark allow, or better yet, tolerate lobbying. In Great Britain there are no lobbyists' lists, ever since 1991, the parliament has requested that a lobbyists' registry and a code of conduct be established. Its application goes as far as the removal from the profession of lobbying of those that do not declare all their incomes from these activities.

According to the implemented registry, the journalists must declare the activity for which they were accredited, and all the other jobs they have been paid for in connection to their privileged access to the parliament.

An intense lobbying activity is taking place in the U.S. Here, it is considered that the national interest, one of the fundamentals in delegating power and sovereignty, it is not always enough to constitute the perfect criteria for satisfying the collective needs of the sovereign people, especially when the social groups evolve and diversify⁹. Right now, in Romania there is no special law, however lobbying it is not prohibited. In order to carry out such activities, the following two laws are invoked, Law Nr. 554/2000 regarding the access to public information and Law Nr. 52/2003 regarding transparency. The debate in this direction reveals the fact that corrupt influence can be exposed through declared official and transparent lobbying. Lobbying takes into account the planning and implementation of a certain strategy regarding public affairs and the relations with the authorities, based on a business plan of the organizations, with the purpose of overcoming hurdles that might encounter. A firm in this area such as CEGOR offers lobbying services on specific problems, which might necessitate certain amendments or clarifications in the existing legislation, with regard to media monitoring and to the legislative initiatives and elaborates reports on specific subjects.¹⁰ Right now there is a great void in Romania's market and in the business sector in general, due to the inexistence of lobbying organizations. The business sector's interests are neglected due to this void, just as the informational "connecting bridges" between this sector and the civil society are being neglected. The terminological difference between lobbying and advocacy is significant, despite the numerous attempts to blend these two terms together.

Lobbying is a process of building and maintaining relations with the legislators and the administration, in order to influence the purpose of the laws and politics formulated or implemented by them. It refers to the act of promoting or opposing certain legislation, certain political candidates or voting legislative initiatives. Lobbying directly affects the legislative and election outcome.¹¹

Advocacy is a practice used by public relation specialists who work for corporations or public services. According to the dictionary, advocacy means:

- Expressing an opinion on an important matter;
- The act of supporting a cause or a proposition;
- Storytelling;
- Leadership.

⁹ The Americans use the tem lobby and not lobbying (as we consider to be correct – n.a.)

¹⁰ Simona Mina, *Perfecting the management of conflict*, Bucharest, 2010, p. 167.

¹¹ Al. Taşnadi, R. Ungureanu, *Public Relations*, vol. I, Edition of the Academy of Economic Studies, ASE Bucharest, 2001, p. 135.

Advocacy promotes ideas, subjects, values, broad dialogue on certain political and social matters. Advocacy searches for effective solutions beyond the legislative initiative. When non-profit organizations advocate, they point out the different aspects of society, whether it informs the individuals regarding their behavior, the employers regarding the in-house rules or the government regarding the laws. Lobbying refers to those advocacy actions that try to influence the legislation. The difference between the two is great, because those laws that limit the lobbying actions do not apply to the entire advocacy actions.

Grassroots lobbying applies when an appeal is made for public opinion to take stance against the legislative bodies regarding certain subjects.

Direct lobbying-directly contacting of the officials or governmental employees, with the purpose to change the legislature.¹²

The false dispute between the French legislative model (according to which lobbying is similar to corrupt influence, assuming an inappropriate mix of the private business with the public interest) and the Anglo-Saxon legislative model, which favors lobbying through institutional recognition, is solved by the gathered data of a study carried out on 4000 companies from 25 different countries in their transition period; it has been noted that lobbying and corruption are tightly related, the more corrupt a nation is, less lobbying can be carried out by the companies. Once more, lobbying represents the democratization of democracy, a mechanism of dependency growth among the voters and the voted, a legal tool of information that the individual, organizations, associations or certain groups of interest can use, on their behalf or on someone else's.

Aside from the right to petition and promote freedom of expression, one of the fundamentals of lobbying in the Romanian legislation is the right of any individual to demand certain amendments to a law that threatens or impinges their way of life. Although the deciding actors have many abilities, they also have their limits and cannot always make the right decisions, based solely on their knowledge, without first consulting the ones that will experience the consequences of these public decisions.¹³

Conclusions

Recently, the Romanian Parliament adopted the law regarding the regulation of lobbying in Romania (December 2011)¹⁴. We consider it to be a welcomed action regarding the facilitation of the political and social entrepreneurship in the young Romanian democracy¹⁵. We comprehend social entrepreneurship as an entrepreneurial activity that starts with the identification of a certain social problem, with impact on the collectivity as a whole and proposes solving methods for this problem, by means of specific entrepreneurial instruments. What in theory we initially describe as being a non-profit activity, it transforms into a *for profit* activity, due to the involvement of the civil society and non-governmental organizations. Lobbying is nothing else but a means of avoiding corrupt influence, as a pervert effect of the political and social entrepreneurship. According to art. 2 of the law, lobbying

¹² Lobby vs. Advocacy, www.public-relations.ro

¹³ Liviu Mihăileanu, *The balance of the lobbying activities*, 2010, www.pr-romania.ro

¹⁴ <http://www.senat.ro/Legis%5CPDF%5C2011%5C11L539FS.pdf>

¹⁵ http://www.cdep.ro/pls/proiecte/upl_pck.lista?cam=2

means the sum of all the actions undertaken by a lobbying company in order to influence the decisions of the public officials, actions which are in favor of a certain client in exchange for material benefits as stipulated in the lobbying contract. Art. 4 stipulate the formation of the lobbying registry in the Official Registry of Commerce, subordinated to The Ministry of Justice. Any business that has lobbying listed as its business activity will automatically be included in The Lobbying Societies' List (art. 4, line 3). The Lobbying Societies' List is public interest information and is published free of charge, on the institution's internet page (the goal is decisional transparency and stimulating the participative process). In the same spirit for transparency, the lobbying firm has the obligation to record the lobbying contract in the Lobbying Registry, within 5 days after signing that contract. All the information regarding the declared contracts of the lobbying firms is considered to be public information and is accessed on the institution's internet pages for 30 days, since the day it has been recorded. Art. 6, line 1 of the law pursues the same spirit of transparency: over the recording period in The Lobbying Registry, the lobbying firms are obligated to hand-in annual reports to The Official Registry of Commerce, containing:

- Name of client/firm;
- Concrete objectives of the lobbying activity that is carried out;
- Authorities' decision, that has been made the object of lobbying;
- The list of assets used;
- The list with the name of the officials that have been contacted during the lobbying process.

Art. 8. presents renewed attributes regarding decisional transparency and citizens' participation in elaborating public decisions. Line 1 stipulates the ministries' obligation to annually publish on their web site, the legislative program up until December 15th of next year. The legislative program must encompass: the proposed legislative measures, the proposed term for public debate and the initiating institution.

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