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# THE APPLICATION OF THE RATIONAL CHOICE THEORY WITHIN THE LOBBYING PRACTICE

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## Abstract

*The lobby activity is recognized as an action to influence the political decision making process. Lobby can be analyzed from the perspective of the game theory, as a sub-topic of rational choice theory. According to Neuman and Morgenstern (1953), an analysis of a game must take into account several criteria and their interdependencies: the categories of players, their strategies, the choices made, the chosen standard of behavior with impact probabilities and the expected results. Depending on these criteria the theory describes several types of games which could be applied to the lobby. The purpose of this article is to show through a comparative analysis how lobby can be described using the criteria of this political science theory.*

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## INTRODUCTION

The unity in diversity that characterizes the spirit of the European Union is also found in the case of legislative regulation of lobbying at Member States' level. For now, the number of those who have recognized lobbying as a legitimate activity is much lower than that of states that still have doubts about the need to regulate this activity. Even if some specialists try to motivate the differences in the regulatory approach of this activity through pragmatic Anglo - Saxon empirical thinking versus French rationalism, the lobby remains a de facto but not de jure recognized instrument among the Treaty of Lisbon.

Practice, however, proves that lobbying is an important tool in the mathematics of decision-making both at the level of the European institutions and at the level of the Member States of the Union. The Treaty of Lisbon, by reforming the role of the European citizen, de facto induces its role as an active player in the decision-making process, whether individual or organized in various associative forms.

Applying respect for the principle of active citizenship The Treaty of Lisbon provides democratic citizens and institutions with democratic representation and participation. Thus, in the wording of Article 10 of the Treaty there is stipulated- without interpretation - that citizens, on the basis of "the principle of representative democracy", are entitled and even invited to play an active role in the decision-making process, as "decisions are taken as openly as possible to the level closest to the citizen." (see art. 10 of 5. The Treaty of the Functioning of the European Union, 2012)

Any European citizen, any legal entity, be it NGO, S.A. or L.T.D., has the right to petition to the attention of the European Parliament, has easy access to the documents and the decision-making process of the European institutions and has the right to receive a response to the suggestions and referrals they officially make to the Charter of Fundamental Rights of the European Union, 2010.

At a European level, the lobbyist can be a tool to analyze and support new theories of European integration by intervening in the decision-making process based on "the feeling of belonging to the same community of values, the existence of supra-state institutions, the flow of transnational communications and economic interdependencies" (Bărbulescu, 2015).

Starting from the belief that lobbying, by getting the highest levels of decision-making, can induce both desired and unwanted effects, it is important to recall here also the moral profile of the lobbyist. Voltaire said in a famous quote: "Those who can convince you to believe in absurdities, can make you commit

atrocities." Starting from this quote an important aspect of the lobbying activity could be considered, namely, the moral aspect of lobbying.

So the obvious question arises: what is the paradigm of lobbying? Adrian Miroiu (2006), speaking of the Kuhnian concept of paradigm, confirms Pârveu's view that "the central concept of the kuhnian theory of science, which allows the distinction between research types and their norms, is that of the paradigm (...). a set of standard applications of a theory (...) through the Kuhn paradigm refers to a set of (...) conceptual, theoretical, instrumental and methodological options (...) imposed on scientists" (Pârveu, 1981).

In the "Fundamentals of Politics", Adrian Miroiu (2006) classifies the researchers of political science according to the type of practical approach and reviews into three main categories: institutional studies, behavioral analysis and rational choice theory.

From the perspective of institutional studies, we can address the rules and procedures that govern formal social organization according to their impact on social decision-making. The lobby is undoubtedly an act that engages in the decision-making process and induces social impact, regardless of the purpose and outcome of the action. For this hypothesis to be truly supported, it is necessary to identify the rules and procedures as well as the framework that can govern the involvement of lobbying at the level of the European institutions. The Treaty of Lisbon offers a procedural and institutional framework for the conduct of lobbying. Thus, the European Union receives legal personality and "the political character of the Union is also enhanced by the explanation of its functioning principles: representative democracy and participatory democracy" (Bărbulescu, 2010)

Professor Bărbulescu stressed in the same work that participatory democracy is strengthened by introducing the right of legislative initiative to the proposal of a million citizens in the model of functioning of the European Union. In the same context, it recalls the introduction, for the first time, of the recognition of the possibility of a Member State to voluntarily withdraw from the European Union. Thus, here comes the question - what is the methodology, procedure and institutional framework through which lobby can access the institutional decision-making process at the Union or Member State level? Is the referendum for Brexit an example of involving the lobby through participatory democracy? Is the current created with the economic crisis of excessive consumer protection in relation to the economic agent an example of the institutional framework of the lobby exercise? Who would be the actors that would generate such a decision-making process? What

could be the instrument, the actors - political parties and / or interest groups?

In this context, we propose an assessment of lobbying in one of the most analyzed theories of political science, namely the theory of rational choice. It is easy to highlight the action of lobbying as influencing the decision-making process with well-defined actors and transparently expressed and sustained interests. Game theory and lobbying can thus be an analysis exercise to identify a theoretical paradigm of lobbying, an activity that is both present in the decision-making process at a global but undefined level in its own personality and value at the level of a well-established paradigm.

### THE THEORY OF GAMES

By using concepts and principles of linear geometry and set and group theory Neuman and Morgenstern (1953) developed a new theory that today equally applies to economic, sociological and political fields - the game theory. In the book that sets out the underlying foundations of this theory in hundreds of pages the authors deal with the application of the mathematical methodology of the game theory in economy - and beyond - by developing the formal description of strategy games, the simplified and complete concept of the game, the theory of zero - multiplayer scenarios according to the number of players, the composition and decomposition of games, or games with a nonzero amount.

Each category of game is based on a problem, which must be well described and assumed by the players. It is also supposed that each player builds a solution and a method of application for a well-defined purpose. Because solutions cannot always be unique, the answer to any specific problem can determine a set of solutions. In determining the formulation of the problem, an important step in the analysis of game theory, Neuman and Morgenstern state that "the mathematical structure of strategy game theory provides a formal form in justifying the procedure". Moreover, the authors justify this formal approach by what the theory attaches as important to the notion of behavioral standard, as well as the multitude of these standards in the context of multiple game-resolving solutions. The set of hypotheses, of behaviors, of rules and their intersection in the different categories of games are described, in details, by the authors. Starting from the notion of behavioral standard and reaching the inventory of a set of rules, the authors define the notion of strategy of the game. Neuman and Morgenstern (1953) emphasize the idea that "the same arguments that have forced us to consider sets of solutions instead of unique solutions require abandoning the narrow concept of" behavioral

standard. "These sets of rules are described as the "strategies" of the game".

It is obvious that the term itself taken from real life such as children's naïve games or chess, has an essential set of concepts that maybe recognized as a theory. This set refers to the recognition of the terms already mentioned above in the context of the theory of the two authors: the player or the players, their choice or choices throughout the game, the set of rules defined as the game strategy- and subsequent to the set of rules - the notion of behavioral strategy; they all induce an unpredictability area - namely - the probability of a choice directly dependent on each player's access to information. If we return to the logic and rationality of the game, we need to complete this set of concepts that defines the game theory with the win / win term, which simply represents the game's incentives and generates the risks. Thus, starting from the winning outcome, the authors generate the zero-sum games or the games with nonzero amount.

Generally recognized as a sub-theory of rational choice theory, the authors of the game theory conclude that in comparison with the principles of mechanical theory and physics dynamics, the game theory is a static one. "Our static theory specifies the balance - that is, the solution in the sense of a set of responsibilities. A dynamic theory probably describes the changes in terms of simpler concepts: single solution, valid at the time - or similar solutions. (...) The dynamic theory addresses inequalities - even if they are sometimes called "dynamic balance" (Neuman and Morgenstern 1953).

Starting from the concept of static theory to the comparative analysis with the theory of classical dynamics one cannot fail to notice that the game theory induces, to the expected gains, the classical methodological individualism of the theory of rationality. This comes out by discounting the maximin principle, by inducing additional criteria by the multiple alternatives of the players, through the multiple consecutive phases, games and set of rules - defined by the above-mentioned authors - as strategies that players assume to fit into the rational notion of the game. Here comes the mathematical logic of probability that allows, by evaluating alternatives, the playing with increasing or decreasing the role of alternatives, going up to the strategy of eliminating, reducing out of the number of alternatives those which, according to the evaluation, can remove the player from the desired result. Therefore, the notion of strategy - as a complete set of rules - "does not restrict the player's freedom of action at all". However, "the only additional burden we assume for an intellectual player is that it must be prepared with a rule of conduct for all contingencies; although he passes through a single piece. But this is a harmless thing for a hypothesis within the limits of a mathematical

analysis. "Here are the clues about player's quality, intelligence, morality by the way the participants follow or not the agreed rule during the game. This happens especially in the context where the authors agree, without reservation, that the set of rules cannot be defined as a restriction of the freedom of action but as a proof of the rationality of the game.

### **LOBBY AND THE THEORY OF RATIONALITY**

This comparative analysis is focused on the criteria that Karl-Dieter Opp (1999) mentions as making the difference between the narrower and the broader rationality theory. A lobbying project referring to the amendment of the Road Code in Romania is taken as the hypothesis of the working framework. The initiative comes in the context of a statistically significant painful reality - the high number of accidents on public roads in Romania - and the attempt of the authority to limit that type of aggressive driving behavior that does not respect an area of social ethics in traffic. As the Road Code is a normative framework issued by the legislator at institutional level, it is expected that the legislative procedure will be promoted without any delay. Analyzed from the perspective of the actors involved, their identity is very transparent: the institution with the right of legislative initiative that provides the necessary framework of social representativeness and the associative framework of the professional carriers involved as a stakeholder in the legislative decision-making process, based on the Social Dialogue Law. The announced goal - the modification of the road legislation to reduce the causes of road accidents by increasing fines in case of over speeding and applying fines in case of aggressive behavior in traffic - represents, on the one hand, advantages for the passive citizen participating in road traffic and tangible, objective constraints for active participants - professional drivers on public roads. It comes as an added action to the lack of reaction to the procedure of the non-involved citizen, whose interests are represented by the state institution within the legislative initiative. The players are all informed, the procedure being a publicly announced one. Here we identify a clear opposition from professional carriers, whose information goes beyond public communication and is complemented by impact assessments on business and costs that the legislative initiative can induce by approval. A lobbying action will thus promote access to decision-making by promoting not the constraints presented in a transparent way but the objective impact of reducing the industry's contribution to transport and gross domestic product. There is an amalgam of hypothesis between the two versions, in the sense that the subjects are fully informed, but the behavior is generated on one

hand by the preferences of some actors involved and on the other by the constraints of the other actors. The postponement of the decision may lead to the conclusion that only tangible constraints count. Yet, given the importance of the subject at the general level, it can be conveyed that all kinds of preferences in the choice made by the actors could be factors that explain their behavior towards a choice. If we add the altruism factor to the essence of this legislative proposal - by supporting the interests of passive participants in road traffic and not directly involved in the decision-making process, we come to the situation described by Opp, which states that non-measurable factors - such as altruism - can be considered in the analysis of rationality only if they, by elimination, prove their lack of importance. Thus, the opinion and preferences of the citizen, indirectly represented in the decision-making process by the elected parliamentarian, cannot be considered an immeasurable variable in the meaning of Opp's definition. Moreover, limiting Opp's definitions to the hypotheses of the two variants of the rationality theory, one can draw limits and restrictions in framing the lobbying practice in this theory.

### **THE LOBBY WITHIN THE THEORY OF GAMES AND DIPLOMACY**

The analysis of a game must take into account, according to Neuman and Morgenstern (1953), several criteria and their interdependencies: the categories of players, their strategies, the choices made, the standard of behavior approached with all probability of impact and the expected results. Depending on these criteria, the theory describes several types of games already mentioned above. The Romanian political scene gives us concrete cases of analysis. Thus, a multi-player lobbying action (with reference to the obligatory process of harmonizing a European Union Directive within a well-defined deadline as an obligation assumed by Romania through the Treaty of Accession to the European Union) is the one for the harmonization of the Consumer Credit Directive in Romania. The players interested in achieving the goal of maximum utility on an equal basis are the following: The Government of Romania (in order to maximize the benefit of a Directive that brings the consumer a collective good under the title of excessive protection against the creditor, but also to minimize the cost of a possible process of the European Commission), the creditor - represented as associative, the consumer - represented as the interest group. The goal, the outcome expected by the players, is in the nature of the principle of the Directive- consumer protection principle - that can bring results of mutual trust between the parties in the credit agreement and thus maximum benefits at

minimum costs. Strategies and information thus become relatively transparent to all players involved and the expected outcome can lead to a steady state. Nevertheless, the mathematical logic of the likelihood of alternatives intervenes by manifesting behavior that brings additional alternatives by the political decision maker, namely the use of this game for a purely populist electoral purpose, and the elimination of alternatives that could lead the outcome of the game to a stable balance. Therefore, the theory of games that the application of a set of rules does not limit the freedom of action and choice actors is confirmed. Starting from this hypothesis, the game can lead to the expected outcome - towards an optimal Pareto, or towards a Nash result. Concretely, we can say that the flexibility created in the game theory by its dependence on multiplayer participants of the "n" type, finite or infinite strategies, perfect or imperfect information, opposing or similar goals, resulting in null sum or nonzero sum, all these create the premise of a classification of lobbying in the matrix of the game theory.

We can extend the analogy to diplomacy, especially in the context of the example above. Intervening with lobbying action to avoid the activation of the infringement procedure against a Member State is likely to intersect with the purpose of diplomatic action, and it does. But the problem is the following: if we start from the lobby definition that the lobbyist accesses the decision-making process with a view to promoting his / her client's goals against a contractual relationship or an associative relationship with a stakeholder group, which kind of relationship covers lobbying in a diplomatic process? What are the actors and costs, who assumes these costs in a diplomat process through a lobbying action? Going to analyze the maximum principle, the lobby has the freedom to juggle during the game within the limit of the contract term. However, diplomacy has normative rigor and obligations assumed by conventions and treaties that do not allow a flexible approach to an actor in a multiplayer lobbying action. Moreover, it is noteworthy that the number of players in diplomacy can sometimes be limited by the mandate received, just as the strategies, standard behavior and choices made by the actor in diplomacy are predefined sometimes before the game. However, the expression "country lobby" is outlined. This can be an action to influence the decision-making process in a national and transnational institutional context; the actors in the lobbying process are all those categories that can intervene for the intended purpose of influencing the decision. The country lobby is not only the result of a successful diplomacy or an adequate domestic policy but the result of any actor who is part of the country's social act and who promotes its image through social relationships, interest groups and access to power.

## CONCLUSIONS

Rinus van Schendelen identifies already established methods and procedures of lobbying practices with the European institutions, thus recalling the term advocacy along with coercion, argumentation and addition. Thus, the author focuses more on the notion of advocacy reminding that "advocacy activities are diversified: from propaganda through advertising campaigns with or without media involvement, complaints to control institutions or even courts." (Schendelen, 2002).

Speaking about politics in the sense of human resource distribution, the author refers to Laswell's simple statement: "Politics looks at who, what, when and how" (Laswell, 1950). In the same context, the study of the European Institute in Romania (IER) analyzes the lobby from the perspective of terminology and concepts and suggests that "Lobby can mean anything" (Tănăsescu et al., 2015). Thus, the relationship between a definition or another must take into account simple variables such as who the actor is, when and how he acts and which is the purpose for using and framing his action under the umbrella of the lobby.

One can thus construct the hypothesis based on what the study of the European Institute of Romania (IER) states that lobbying can mean anything to build analogy with the thesis described above that defines politics. It can therefore be concluded that lobbying - which may mean anything - is found in the definition of politics that "politics looks at who, what it gets, when and how".

There are lots of the definitions of politics, starting from Marx's dogmatism that sees politics as an ideology that reflects the whole spectrum of relationships and orientations among actors, whether social classes, interest groups, nations, to Hay's, according to whom "politics should be defined as encompassing the entire sphere of social " - understanding by that -" events, processes and practices that should not be labeled as "nonpolitical" or "extra-political" simply in the context of the frames in which they appear "(Hay, 2002). We can also accept the definition of politics in terms of power from Arneil's perspective: "exercising power, using reason, language in order to reach a certain result in a group of people" (Arneil, 1999). Given these definitions one should ask - not just rhetorically - is lobbying a political exercise in the sense of power? Moreover, is lobbying a policy exercise in terms of the dimension of social life?

Literature sometimes overlaps the definitions of lobbying and advocacy and descriptive definitions are more limited to lobbying and advocacy. These concepts cover a wide range of activities that together and separately propose a social change; the differences between the two terms only focus on the penetration channels and the distribution of the actions themselves can all limit the chances of these

actions of being recognized at their true value and of placing them into an appropriate paradigm. It is important to note the official O.E.C.D opinion that brings with it two definitions - not contradictory - of lobbying. Thus, a first definition refers to the "action to influence the decision of others", meaning the influence at any level, whether individual, commercial or governmental. This is broadly defined as the term lobby while narrowed by lobbying is defined and acknowledged by the O.E.C.D as acting to influence the decision at the political level through the action of individuals or groups of people representing various interests. From a temporal point of view, lobbying "can take place either before making a decision, or during decision-making or after decision-making, at the implementation stage" (Lehmann and Bosche, 2003).

This definition, recognized by both the O.E.C.D and the European Union, leads us back to multiple policy opinions and definitions, some of which have already been mentioned. All of these are within the broad scope of the policy definition in terms of power. However, the broad definition of lobbying is supposed to be Miller's definition, quoted by Adrian Miroiu: "Politics can be briefly defined as the process by which a group of people whose initial views and interests differ come to collective decisions that are generally considered binding that group and imposed as a common line of conduct." (Miroiu, 2006).

The comparative analysis outlines the similarities between lobbying and politics: while politics is a social resource allocation, lobbying comes with a supply of social resources that adds human and professional resources. While politics is a model of use and constraint of power, lobbying is a well-defined technique of using decision-making power to serve the purpose. Both lobbying and politics prove to be a real and tangible dimension of social life. Both lobbying and politics prove to be included in a well-defined frame of a theoretical paradigm of the theory of games as part of the rational choice theory.

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