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ADOPTING REGULATIONS ON LOBBYING: POTENTIAL REASONS AND MOTIVES

Abstract: Lobbying is increasingly gaining significance among public policy makers in contemporary society. Whether triggered by scandals or driven by growing demands from civil society and international organizations for transparency and accountability, the debate on lobbying has been initiated not only in countries with formal rules regulating this widespread political practice, but also in those without such frameworks. The regulatory approach observed within normative legal systems raises the question of why states choose to regulate lobbying and what motivates them. In this regard, the author draws on empirical data and a substantive analysis of theoretical approaches to lobbying regulation—focusing on variables such as political scandals and external promotion by international organizations—to explore the factors that have both captured public attention and prompted governmental responses. Although these variables do not provide conclusive evidence of a definitive regulatory model, it can be argued that, in certain cases, political scandals motivate governments to propose lobbying legislation without necessarily leading to its adoption. Meanwhile, the recommendations of international organizations, disseminated through policy diffusion, may in some instances facilitate the enactment of such laws.

Keywords: lobbying, legal regulation, corruption, political scandals, policy diffusion, international organizations, Serbia

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1. Introduction

At the beginning of the 1990s, lobbying became increasingly relevant in Europe as a result of European integration and changes in society and management methods. This activity is no longer carried out solely by economic interest groups, but also by a wide range of participants, associations, social movements, and others who engage in it in various ways. However, the most notable fact is that in modern society, this activity is becoming ever more current and legitimate as a form of participation in political decision-making. Enhancing the role of lobbying in decision-making and political processes represents an important task for democratic states, which must bring this activity under legal regulation. Specifically, appropriate legal mechanisms should ensure the maintenance of balance—facilitating, on the one hand, the functioning of this mechanism for expressing and representing the interests of members of society, and on the other, safeguarding the public interest in political decision-making. By promoting the interests of various groups, lobbying can influence the outcomes of public policy. However, differing attitudes toward lobbying and its occasional association with negative phenomena such as corruption scandals pose significant challenges to its legal regulation in modern democratic systems.

Despite the above, lobbying has found its place on the public agenda. From supporters who advocate for this field to be placed within a legal framework, to opponents who point to the potentially high level of corruption associated with lobbying practices, many countries have found it appropriate to devote greater attention to the issue by acknowledging and exploring the depth of the profession's challenges. In some cases, where lobbying is more closely associated with corruption, these challenges have served as a clear and compelling impetus to take action—encouraging and promoting regulated lobbying as a potential mechanism in the fight against corruption.

By the year 2000, certain countries such as the USA, Canada, and Germany had already introduced regulations on lobbying. However, since 2001, an increasing number of countries have adopted legal frameworks for regulating lobbying, including Lithuania, Poland, Hungary, Israel, France, Mexico, Slovenia, Austria, Australia,

the Netherlands, Chile, the United Kingdom, and Ireland (OECD, 2016). Among the former Yugoslav republics, North Macedonia was among the first to do so, followed by Montenegro and Serbia. However, the essential question remains: why did these countries decide—or, more precisely, what motivated them—to legally regulate this field? This question has prompted recent research, particularly focused on exploring the underlying assumptions and motives behind the attempt to understand "why lobbying is regulated in these political systems." Relying on various studies complemented by relevant professional literature—particularly focusing on theoretical arguments related to political scandals (Thomas, 1998; Newmark, 2005; Ozymy, 2013) and policy diffusion and learning processes (Rosenson, 2005; Greenwood & Dreger, 2013; Crepaz & Chari, 2014)—we seek to analyze the thesis concerning the regulation of lobbying in a normative-legal format. Furthermore, we share the view of most scholars who argue that international organizations, such as the OECD and the EU, promote the dissemination of lobbying legislation among their members through the publication of recommendations and policy documents (Crepaz, 2017). However, in our view, this influence extends beyond member states to include countries that share their economic, political, and cultural values or support their institutional models. It is assumed that for some countries of the former Yugoslavia that are not yet EU members—but aspire to join, such as North Macedonia, Montenegro, and Serbia (except for Bosnia and Herzegovina, which has not yet regulated this area)—this aspiration served as an additional incentive to adopt laws on lobbying. It should be noted that in Bosnia and Herzegovina, the adoption of the Law on Lobbying was initiated and incorporated into the Anti-Corruption Strategy 2015–2019, as well as the accompanying Action Plan for its implementation. Within these documents, it is anticipated that this area will eventually be regulated by legislation (Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, Bosnia and Herzegovina, 2014). Given that EU institutions support and recognize the legal legitimacy of lobbying, the Law on Lobbying—particularly in the context of anti-corruption efforts—essentially constitutes one of the obligations that precede any accession procedure for a country seeking membership in this organization.

Support for the view that international organizations promote policy diffusion among their member states can be found in the works of Dolowitz and Marsh (2000), and True and Mintrom (2001). Conversely, the eruption of political corruption scandals—typically associated with the adoption of lobbying laws and other ethics-related policies—does not necessarily lead to regulatory change, a view also supported by Crepaz (2017). Specifically, the author notes that while scandals often coincide with the introduction of legislative proposals to regulate lobbying, such proposals are not always enacted into law. The literature suggests that scandals frequently serve as catalysts for "symbolic politics" and rhetorical gestures, rather than substantive policy implementation (Lowery & Gray, 1997; Blühdorn, 2007). Nonetheless, in certain cases, scandals may still result in lobbying being formally regulated through legal frameworks. This is largely attributable to the topical nature of such incidents—when media attention amplifies a scandal's societal impact, it can prompt public debate and generate pressure that ultimately leads to legislative reform.

This paper aims to examine the sequence of events that followed the recognized need to regulate lobbying within a legal framework. These include various corruption scandals with lobbying implications at their core, as well as recommendations issued by international organizations that encouraged both their own members and others to introduce national legislation on lobbying. Such developments have contributed to the emergence of lobbying regulation and form the central subject of this analysis.

2. Introduction of the Law on Lobbying

Theorists and practitioners view lobbying as a form of political participation that goes beyond voting and abstention, aiming to influence actions, policies, or decisions. The foundation for this perspective lies in the assertion that the core value driving lobbying regulation is the need to "prevent undue influence on government action and promote a level playing field, as opposed to unfair or unequal opportunities that may influence government action" (Briffault, 2014, p.163). Public attitudes

toward the term lobbying are often negative, with many perceiving it as a pejorative expression associated with "corruption" and "unethical practices" (McGrath, 2008; Bitonti & Harris, 2017). In many countries, this negative perception has contributed to growing demands for specific regulations governing lobbying practices and the activities of lobbyists (Keeling, Feeney & Hogan, 2017). Governments have responded by introducing lobbying laws aimed at reducing the potential for corruption and supporting a level playing field in the policy-making process for interest groups (Holman & Luneburg, 2012; Chari et al., 2019). Thus, from a theoretical standpoint, the justification for regulating lobbying lies in ensuring transparency and accountability within the political system and decision-making processes. Transparency allows the public to hold policymakers accountable for their decisions—or their absence (Etzioni, 2010). When policy-making becomes more transparent, the public not only gains insight into how decisions are made, but the entire process also benefits from more thoughtful deliberation and reflection. Accordingly, lobbying laws aim to regulate the actions of private actors seeking to influence public institutions (Chari et al., 2019). As Brinig et al. observe, lobbying legislation "takes more account of the general welfare and less of private interests" (Brinig et al., 1993, p. 377). In this sense, lobbying regulations can be viewed as an integral component of the broader movement toward open government policies that have been implemented globally in recent decades.

Globally, the number of countries regulating lobbying through dedicated legislation continues to grow. In Europe, the post-2000 period has seen what some describe as a "boom" in lobbying legislation—a trend already discussed in the earlier part of this paper and one that remains ongoing. However, the current landscape of lobbying regulation is best described as a "motley" patchwork. On the one hand, a deregulatory approach dominates, often accompanied by soft forms of regulation. On the other hand, there is limited proactive engagement in this area, often reflected in narrow definitions—not only of lobbying as a term but also of its broader structure. Countries such as Austria, France, Lithuania, Ireland, Poland, and Slovenia have embedded lobbying within a formal legal framework. In contrast, states like Belgium, Germany, Italy, and Romania have

implemented more limited or "soft" regulatory approaches. Others, such as Croatia, Sweden, the Czech Republic, Denmark, and Latvia, have adopted ethical codes of conduct and established professional associations to self-regulate lobbying activities. Meanwhile, several EU member states—including Bulgaria, Estonia, Malta, Portugal, and Slovakia—still lack any lobbying regulation, though some are currently considering how to approach this issue (Bauer et al., 2019). Among the former Yugoslav republics, several countries have adopted dedicated lobbying laws since 2000. North Macedonia was the first, enacting its Law on Lobbying in 2008, followed by Montenegro in 2011, and Serbia, where the law entered into force in 2019.

3. Various Motives Related to the Regulation of Lobbying (from Corruption Scandals to Policy Diffusion)

3.1. The Effect of Corruption Scandals on Lobbying Regulation

The persistent perception of lobbying as a phenomenon with negative connotations continues to spread and remains a prominent topic in contemporary society. This is partly due to extreme cases in which lobbying activities meet the criteria of legally prohibited acts—such as bribery, paid protection, or influence peddling—and may contribute to the abuse of public authority. In public discourse, lobbying is often perceived as a morally unacceptable attempt by professional lobbyists to influence decision-making within public institutions. Simply put, this negative perception was shaped by numerous scandals—first in the United States, widely regarded as the "cradle" of lobbying, and later in Europe. However, in countries where lobbying is already regulated, such scandals have prompted precautionary measures—motivated by the desire to prevent similar developments. In such contexts, these affairs spurred the promotion and improvement of lobbying regulations. In other countries, they served as a wake-up call, bringing awareness to the need for legal regulation in this field. The widely known lobbying scandal that hit the United States in 2006 raised serious

questions about the need to revise existing lobbying legislation. At the center of the scandal was attorney Jack Allan Abramoff, who quickly became one of the most influential lobbyists in Washington. Among the numerous lawsuits filed against him, one received particular attention—the primary charge accused him of collecting millions of dollars by artificially inflating lobbying campaigns. Specifically, Abramoff was found to have influenced members of Congress through the use of gifts and political donations (Abramoff, 2011). This scandal revealed numerous deficiencies in lobbying regulation and led to the adoption of the Honest Leadership and Open Government Act (HLOGA), which placed particular emphasis on regulating the "behavior of lobbyists" (GovInfo, 2007). The United States has had lobbying legislation in place for decades, with the first attempt to regulate the practice introduced through the Foreign Agents Registration Act (FARA) in 1938 (Department of Justice/NSD FARA Unit). The impetus for FARA arose from a scandal involving a senator from Connecticut who placed lobbyist Charles Eyanson, representing the Producers Association of Connecticut, on the institution's payroll—an action the Senate condemned as morally and ethically inappropriate (Barić & Acinger, 2018). At the federal level, a significant step forward in the regulation of lobbying was taken with the passage of the Federal Regulation of Lobbying Act in 1946 by Congress. This legislation was later amended with the adoption of the Lobbying Disclosure Act (LDA) in 1995 (Lobbying Disclosure House, 1995), and again in 2007. The 2007 amendment is widely regarded as a direct response to the lobbying scandal that preceded its enactment. Notably, the scandal laid bare the deficiencies in existing legal frameworks—particularly in relation to transparency and accountability—which are, in fact, the foundational principles of normative lobbying.

In the case of Poland, the political context appears to have played a crucial role in advancing lobbying regulation and its legal adoption. When the Polish Social Democratic government, led by Leszek Cezary Miller, prioritized this issue in 2003, it was closely tied to declining public support, a coalition crisis, and the discrediting of senior government officials during the Rywin affair. The scandal came to light in December 2002, when the Polish newspaper *Gazeta Wyborcza* published excerpts of a transcript in which film produc-

er Lech Rywin proposed that the newspaper pay him $17.5 million in exchange for influencing a planned amendment to the media law—an amendment that would benefit the *Agora* publishing house. This affair accelerated progress on the political agenda to regulate lobbying. It also drew the attention of the Prime Minister, who authorized an expedited drafting of the law and its prompt submission to the Council of Ministers. The drafting process was facilitated by the institutionalization of anti-corruption policies, including the creation of specialized departments to combat corruption—reforms implemented under the influence of EU accession efforts (Vargovčíková, 2017).

In Serbia, lobbying activities were present even before being formally introduced into the legal framework. According to some sources, the first indication of lobbying in Serbia emerged during the so-called tobacco amendments to excise tax legislation in Parliament. At the time, a member of the ruling apparatus highlighted an unusual circumstance during the vote on this proposal—namely, the presence of a certain "reputable" businessman as a guest in parliamentary clubs (Miloradović, 2018). This event triggered a political scandal in 2009 surrounding the adoption of the Excise Law and underscored the blurred line between corruption and lobbying, exposing the absence of clear rules and principles for the lawful conduct of this profession. In 2014, a media story revealed that the British lobbying firm Bell Pottinger had worked for the Serbian government, although the government denied any affiliation with the company (Nenandić, 2017). Despite this scandal, the issue of lobbying regulation remained absent from the political agenda. It appears that the recommendation made by the Group of States against Corruption (GRECO) to adopt a Law on Lobbying received the most serious attention from public policy makers. Ultimately, the Law on Lobbying was adopted in 2018, with its implementation following the next year (Official Gazette of the RS, 2019).

3.2. The Effect of Policy Diffusion by International Organizations on the Regulation of Lobbying

Based on specific cases, it is evident that arguments concerning the occurrence of scandals can serve as justification for regulating lobbying in certain countries. However, such arguments do not always offer a compelling reason for policymakers to prioritize the issue or integrate it into their agendas. The perception of lobbying as a form of influence peddling—where self-interested actors exert disproportionate influence over policy outcomes—has been reinforced by scandals (Veksler, 2015). As a result, politicians frequently respond to media coverage of corruption scandals by adopting political strategies aimed at combating corruption. In these contexts, lobbying regulations offer lawmakers a set of tools to mitigate corruption risks, as illustrated by the case of Poland.

However, beyond the scandals that prompted lobbying regulation, international organizations have played a crucial role in promoting such regulations through policy diffusion, particularly among their member states. In this context, Dolowitz and Marsh observe that international organizations "are increasingly playing a role in the spread of ideas, programs and institutions around the globe. These organizations influence national policy-makers directly, through their policies and loan conditions, and indirectly, through the information and policies spread at their conferences and reports" (Dolowitz & Marsh, 2000, p. 11). Among the organizations most frequently advocating for the adoption of lobbying legislation are the Organization for Economic Co-operation and Development (OECD) and the European Union, with the assumption that membership in these institutions acts as a motivating factor for the implementation of such regulations (Crepaz, 2017).

The OECD has paid particular attention to the regulation of lobbying in the context of its broader political goal of combating corruption in the public sector. Since 2008, the organization has published annual reports on lobbying activities and their regulation in each member state, with a focus on legal frameworks designed "to meet expectations of transparency and accountability in the public decision-making process" (OECD, 2009, p. 1). In 2010, the OECD issued the *Recommendation of the Council on Principles for Transparency and Integrity*

in Lobbying (OECD/LEGAL/0379), noting an increase in the adoption of lobbying regulations among its member states (OECD, 2010). Most OECD member countries are also members of the European Union, which has facilitated alignment in this policy area. Currently, the OECD comprises 38 member states, 22 of which are among the 27 EU member countries—namely Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Latvia, Luxembourg, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and Sweden. On January 25, 2022, the OECD Council decided to initiate accession talks with six additional countries, including three EU member states—Bulgaria, Croatia, and Romania—as well as Argentina, Brazil, and Peru.

In 2005, the European Commission (EC), as the executive body of the EU, and the Council (COE) jointly launched a set of political transparency measures within EU institutions under the name of the European Transparency Initiative (ETI). The primary aim of the ETI was to enhance transparency in the policy-making process by introducing a system to identify beneficiaries of EU funds and clarify the relationship between interest groups and the Commission through the regulation of lobbying. One of the key dimensions of the ETI was the proposed creation of a lobbyist register to increase transparency in EU decision-making processes. A major concern highlighted in the European Commission's initial Green Paper on the Transparency Initiative centered on "the lack of information about the lobbyists active at EU level, including the financial resources which they have at their disposal" (European Commission, 2006, p. 6). The launch of the ETI in 2006–2007 sparked a debate that raised numerous important questions, particularly regarding the scope and content of the proposed register—namely, who and what should be included. In response, the European Parliament and the Commission established a joint working group in 2008 to develop an inter-institutional agreement on lobbying regulation and to create a register. Initially known as the Register of Interest Representatives, it was renamed the Transparency Register in 2011, and it formally united both institutions. Following the introduction of the ETI, EU member states engaged in political integration were encouraged to implement the initiative's provisions at the national level. In this sense, the process exemplifies policy diffusion as a

vertical mechanism transmitted from the supranational to the domestic level (Radaelli, 2000; Stone, 2004).

Another relevant contribution in this field comes from the Council of Europe. In 2017, the organization adopted Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision-making (Council of Europe, 2017). It appears that lobbying regulation is becoming an increasingly prominent topic in political discourse across the globe, with similar policy tools—such as transparency requirements through lobbyist registries and reporting obligations—being adopted in various countries, despite differences in their national contexts.

3.2.1. The case of Serbia

The programs initiated by international organizations promoting the regulation of lobbying through policy diffusion have motivated not only EU member states but also candidate countries to introduce legislative frameworks within their political systems. Notable among these are specific recommendations and binding regulations, such as the Resolution of the European Parliament from May 2008 on establishing a framework for the activities of interest representatives in EU institutions (Obradović, 2019), which served as an encouragement for Serbia in its capacity as a membership candidate. Serbia has strategically chosen to pursue European Union membership, a decision formalized with the launch of accession negotiations in Brussels in 2014. One of the perceived drivers behind the urgency to adopt a lobbying law appears to be Serbia's international obligations tied to the accession process. However, it is also likely that domestic policymakers recognized the importance of legitimizing lobbying through legal regulation as a means to establish its generally accepted role within a democratic society. Such recognition may contribute to fostering a broader understanding of lobbying and clarifying its place within Serbia's political system.

The national strategy for combating corruption in the Republic of Serbia was initially introduced in 2005. Together with the accompanying Action Plan, which recommended the adoption of a law on lobbying and

the establishment of transparency in this area, it was expected to be implemented by 2010. However, this measure was not adopted, necessitating the development of a new strategy, completed in 2013. The revised strategy retained the same measure, outlined in paragraph 3.1.3.2 of the "Political Activities" chapter: "Adopt a law regulating lobbying and public access to all information about lobbying in public authorities" (Official Gazette of the RS, 57/13; Official Gazette of the RS, 79/2013 and 61/2016). This provision brought lobbying regulation back into political focus in 2018. Following the opportunity to begin EU accession negotiations—specifically under Chapter 23, which addresses the fight against corruption—key elements of the National Action Plan were transferred to the new Action Plan for Chapter 23, as instructed by the European Commission. Within this new framework, the adoption of a Law on Lobbying was explicitly recommended and remained a consistent objective until its eventual passage (Ministry of Justice of the Republic of Serbia, Action Plan for Chapter 23 – Draft).

There were significant delays in the passage and adoption of the law. Although initial discussions were held in 2014, and a Working Group was formed at the initiative of the Ministry of Foreign and Internal Trade and Telecommunications on March 28, 2013—including representatives from the General Secretariat of the Government, the Faculty of Law in Belgrade, the Association of Serbian Lobbyists, the Ministry of Justice and State Administration, and the Agency for the Fight against Corruption—the law was not harmonized within the established deadline (Nenadić, 2018, p. 8). No meaningful progress was made in drafting the Law on Lobbying during 2016 and 2017. However, the "unexpected" negative publicity following GRECO's announcement in 2018, which criticized Serbia's failure to fulfill its obligations and consequently initiated proceedings (Council of Europe, 2018; Ministry of Justice of the Republic of Serbia, 2018), triggered a renewed review of the legislation. In response to the unfavorable situation, the Government established a special body in May 2018 tasked with coordinating the implementation of GRECO recommendations (Transparency Serbia). This ultimately led to the adoption of the Law on Lobbying. The adverse publicity surrounding the issue served as a key catalyst for the law's introduction. That said, this outcome does not detract from the

significance of the development—indeed, it must be acknowledged that "stronger and more effective control mechanisms" played an essential role in moving the process forward.

It appears that the initially perceived effect of policy diffusion has, to some extent, evolved into a deliberate strategy for advancing lobbying regulations, particularly since the European Union began actively promoting the adoption of lobbying laws among candidate states seeking membership.

4. Instead of a conclusion

Although many countries have adopted laws to regulate lobbying activities, there remains a widespread belief that professional associations or oversight agencies engaged in lobbying will uphold high moral standards and enforce ethical codes of conduct among lobbyists. Such self-regulation may also contribute to improving otherwise fragmented legal frameworks. Nonetheless, regulations enacted by neighboring jurisdictions or international institutions can serve as persuasive models, prompting governments to introduce their own lobbying laws (Crepaz, 2017). In addition, political scandals involving lobbyists often act as catalysts, bringing the issue of lobbying regulation onto domestic political agendas.

Finally, it must be acknowledged that not all countries support the legal regulation of lobbying activities. This divergence opens up space for a broader interpretation of the thesis concerning the normative legal regulation of lobbying and its scope. In certain contexts, the existence of generally accepted ethical standards—such as voluntary lobbyist registration or codes of conduct—may be considered sufficiently effective in ensuring the legitimate functioning of lobbying practices. This divergence also raises a "sustainable" response to a seemingly "contradictory" question: Why regulate lobbying? If lobbying is viewed—as some members of the public believe—as "an integral part of a healthy democracy closely related to universal values such as freedom of speech and the right to petition government" (Mulcahy, 2015, p. 6), then can

such regulation be regarded as "undesirable," or even unfairly restrictive? Despite these concerns, there are several compelling reasons for regulating lobbying. The most prominent among them is its potential to foster corruption. This concern is highlighted by Transparency International, whose recent report emphasizes that, in European countries where lobbying regulations are weak, conflicts of interest are prevalent, "certain groups can enjoy privileged access to decision-makers," and "influence remains hidden and informal" (Mulcahy, 2015, p. 6).

All of this gives rise to suspicions of corruption. Transparency advocates argue that, when left unregulated, relationships between lobbyists and policymakers may develop in ways that lead to improper or potentially corrupt behavior. In this view, misconduct between lobbyists and government officials becomes almost inevitable unless preventive mechanisms are enacted. One such mechanism is the legal regulation of lobbying, which allows citizens to be informed about who is attempting to influence public decisions, what objectives lobbyists are pursuing, and how the government responds to those efforts (OECD, 2009, p. 127). This rationale underpins many legal frameworks requiring lobbyists to register and publicly disclose their activities (Nownes, 2017). Public opinion also supports the view that transparent lobbying regulations are essential for democratic accountability (McGrath, 2008). Still, not all perspectives converge on this point. Some scholars argue that lobbying regulations—particularly in highly institutionalized democracies where interest groups are formally integrated into policy-making processes—may "come into conflict with the fundamental right to democracy due to the influence on authorities" (Lumi, 2014, p. 305).

In Scandinavian countries, the idea of regulating lobbying through formal legal frameworks is often considered "unnatural" by both government officials and citizens, as corruption is not widely perceived as a pressing concern. According to all major indicators, these countries consistently report the lowest levels of corruption (Transparency International), and interest groups are regarded as valuable sources of information for policymakers (Lumi, 2014). In this context, formal regulations are often seen as unnecessary constraints on the free exchange of information within the policy-making process (Slingerland, 2010).

It is therefore unsurprising that many countries—particularly within Scandinavia—do not support comprehensive legal regulation of lobbying. Moreover, such countries often argue that formal legal approaches to lobbying could be counterproductive, especially in post-communist states where historical, cultural, and social conditions differ significantly. In the newer democracies of Central and Eastern Europe, the transition toward fully consolidated liberal democracy remains relatively "fragile" and "fresh." Consequently, values such as trust, community, and concern for the public good are often emphasized and interpreted differently than in Western or Northern European contexts.

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