



Lobbying in the European Union. A model for Romania?

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Abstract. *Citizens' engagement in public decision-making is one of the pillars of any democracy. Therefore, the tendency of private actors to participate in the policy-making process can be seen as a natural consequence of a democratic society. As society's needs and desires have diversified more and more, lobbying has also increased - phenomenon that is generically perceived as an attempt to influence decision-making within a legal framework. However, lobbying is not a new concept in the public arena. In fact, its existence dates back as far as the mid-17th century, when British citizens gathered in the halls of Parliament to try to persuade their representatives to adopt various positions. In the European institutions, lobbying is also referred to as interest representation and plays a central role in the decision-making process. Thus, one can even speak of a "European model of lobbying" undertaken at the level of the EU institutions. In Romania, lobbying regulation is becoming increasingly relevant, with numerous failed legislative attempts (the latest one taking place in 2022). Thus, this paper aims to identify specific elements of European lobbying that could be successfully transposed into the Romanian public system. In this respect, we aim to analyse how lobbying is carried out at the level of the European institutions, to determine its effectiveness in the Romanian public system and, last but not least, to identify the perception of Romanian citizens on lobbying. In order to determine the perception of lobbying, a quantitative research based on the questionnaire method has been used.*

Keywords: *Lobby, Interest representation, European Union, Decision-making.*

JEL: D72, H83.

1. Introduction: Understanding Lobbying

When it comes to lobbying, there is no unanimously accepted definition. One can identify definitions provided by national and international bodies as well as academic definitions suggested in specialized publications.

Analyzing lobbying in the 21st century, the Organization for Economic Co-operation and Development – OECD (2021, p. 11) has defined lobbying as “an attempt made within legal limits to influence the design, implementation and evaluation of public rules and policies for which public officials in the legislative, executive or judicial branch are responsible at the local, regional or national level”. Based on this interpretation, lobbying covers the entire spectrum of public sector activity.

In his book, *Total Lobbying*, the American professor Dr. Anthony Nownes (2006, pp. 2-3) discusses the complexity of the phenomenon on the basis of six considerations, the interpretation of which leads to a comprehensive definition of lobbying. Thus, lobbying is an activity that can take a significant number of forms, carried out by a variety of organizations in every conceivable field, with the aim of influencing public decisions specific to each of the three branches of government, throughout the entire territorial organization (national, regional, local), and which sometimes produces results, sometimes not.

2. Lobbying in Brussels

At EU level, there are various rules that define the framework within which interest representations can take place. The origin of this activity is linked to the provisions of Article 11 of the Treaty on European Union. Thus, “the institutions shall give citizens and representative associations, by appropriate means, the opportunity to make known and publicly exchange their views in all areas of Union action”. In this sense, interest representation contributes to the quality of the Union's decisions. The same treaty lays down the duty of European institutions to ensure a legitimate framework for dialogue, characterized by transparency, accessibility and consistency, in which interested parties are consulted on issues of direct concern to them.

A key moment in shaping the optimal environment for legitimate interest representation was the signing of the Inter-Institutional Agreement between the European Parliament and the European Commission on the establishment of a

Transparency Register in 2011. This agreement sought the joint registration and monitoring of actors who “carry out independent activities while being involved in the process of developing and implementing EU policies” (European Union, 2011). The main criticism of this initiative has been the voluntary nature of registration, which is not considered enough to increase the transparency of lobbyists' actions (Chambers, 2016, p. 3). Over time the agreement has been revised, resulting in the current form of the Register, established through the Inter-Institutional Agreement between the European Parliament, the Council of the European Union and the European Commission on a binding Transparency Register of May 20, 2021.

As can be seen, the Council of the European Union has joined the register, strengthening coordination between EU institutions. The aim of the current agreement is to “establish a framework and operating principles for a coordinated approach to transparent and ethical representation of interests by the signatory institutions” (European Union, 2021). In other words, the three institutions will be able to monitor the activities of interest representatives (defined as “natural or legal persons or groups, associations or networks” who undertake activities aimed at influencing the drafting and implementation of EU decisions), in a unified way (European Union, 2021).

This agreement also establishes a code of conduct for entities included in the Transparency Register. Thus, various obligations are specified, such as: declaration of interests, objectives and clients represented, when contacting the signatory institutions; obtaining information and decisions exclusively through legitimate channels, without the use of pressure tactics or improper behavior; and preventing conflicts of interest by respecting confidentiality requirements and rules, for former members of the European institutions who have become lobbyists (European Union, 2021b). The well-established prerogative of the European institutions to determine their own internal regulations has led to a fragmented approach to lobbying standard setting (Coen & Richardson, 2009, p. 318), and the coordination of the signatory institutions in 2021 was a moment of clarity that may change the current lobbying paradigm.

At the start of 2019, the European Parliament took an important step towards strengthening the regulation of lobbying by introducing a number of new obligations for its members. These stipulate both that MEPs can only have meetings with lobbyists who are registered in the joint transparency register of the Commission, Council and Parliament, and that rapporteurs, shadow rapporteurs and

committee chairs must disclose to the public all scheduled meetings with lobbyists for each report drafted (European Parliament, 2021).

Furthermore, the Rules of Procedure of the European Parliament state that only representatives of interest groups listed in the Transparency Register may attend meetings and events of intergroups or other informal groupings formed at Parliament level (European Parliament, 2021). Only registered lobbyists are allowed access to the European Parliament via badges. Under the European Parliament's Rules of Procedure, the holders of these badges are bound by a specific code of conduct, as well as other provisions and procedures, the breach of which may result in the withdrawal or deactivation of the badges (European Parliament, 2021). Still in relation to interest representation, the code of conduct mentioned above establishes on the one hand the prohibition for MEPs to “engage professionally in paid lobbying activities directly related to the Union's decision-making process” (European Parliament, 2021b), and on the other hand, the ex-MEPs' duty to inform the European Parliament if they engage in such activities (thus waiving the facilities granted to former MEPs for the duration of their engagement) (European Parliament, 2021b).

The framework for interaction between Members of the European Commission and interest representatives is laid down in the Commission Decision on the Code of Conduct for Members of the European Commission adopted on January 31, 2018. This Decision sets out, but is not limited to, the following rules of conduct:

- members of the Commission and their cabinets may attend meetings or events organized by interest groups or lobbyists only if the latter are registered in the Transparency Register of the signatory institutions and only with disclosure of the information about the events (European Commission, 2018);
- in the case of former Members of the European Commission, two years must elapse between the end of their mandate and the start of their lobbying activity, and three years in the case of former Presidents of the Commission (European Commission, 2018).

3. Legislative Attempts to Regulate Lobbying and Their Failure in Romania

The regulation of lobbying in Romania has been the subject of many legislative proposals, but so far none of them resulted in a law. Among them, we can highlight the legislative proposal no. 739/2011.

According to the initiators of this proposal, lobbying services were already found in Romania, under various forms and labels, and in order to professionalize and enhance their transparency, as well as to create a truly competitive market, it was essential to regulate lobbying (Romanian Parliament, 2011). In addition, the confusion between legitimate mechanisms for influencing public decisions and influence peddling/conflict of interest would have been eliminated (Romanian Parliament, 2011).

In the draft legislation, only lobbying activities carried out in exchange for material benefits were addressed, whereas situations may arise where lobbyists act voluntarily, without receiving any remuneration. Although these situations are rare, the legislative draft would place them outside the scope of lobbying. The definition provided did not cover the situation in which a private entity employs a lobbyist directly, without signing a contract with a lobbying firm, nor the situation in which the private entity itself decides to undertake lobbying. Two specific terms are also used, namely “lobbying entity” and “client”. A lobbying entity is “a commercial company solely owned by private parties which carries out lobbying activities (...) in favor of a third party, under a lobbying contract, in exchange for material benefits” (Romanian Parliament, 2011). Thus, non-governmental organizations (NGOs) were excluded from this category, although traditionally they proved to be important players in the lobbying arena. The term “client” refers to natural and legal persons under private law who may engage lobbying entities.

An important measure laid down in the legislative proposal aimed at establishing a Lobbyists' Register, under the Ministry of Justice, encompassing all legal persons whose activities include lobbying (Romanian Parliament, 2011). Although the usefulness of the Register cannot be contested, its organization under the Ministry of Justice could prove problematic, given the mission and competence of this particular organization.

The draft required registered entities to report annually on the status of all contracts concluded in that year.

The approval of the draft was not supported by the Government of Romania, with both specific criticisms of form and substance and counter-arguments on the regulation of lobbying in general. First of all, the regulation of this activity is not an obligation established by EU legislation, and in that particular year, lobbying was only regulated by a limited number of European countries (Romanian

Government, 2011, p. 2). In addition, the regulation of lobbying was deemed contrary to the Criminal Law Convention on Corruption, adopted in Strasbourg in 2007. The convention criminalizes the act of giving or offering undue advantages to individuals claiming to be able to influence the decision of a public official, international official or Member of Parliament (Romanian Government, 2011). The government has also expressed its views in 2013, 2016, 2017 and 2020, but the arguments have remained unchanged. In 2021, the Chamber of Deputies definitively rejected the legislative proposal by an overwhelming majority (297 votes for rejection, 0 votes against and 4 abstentions).

The legislative proposal no. 129/2019 on transparency in the field of lobbying and interest representation was another attempt to regulate lobbying in Romania.

The introduction of a lobby register was an integral part of the aforementioned proposal. The register was to be administered by the Commercial Registry Office attached to the Bucharest Municipal Court (Romanian Parliament, 2019).

The registration of natural and legal persons in the Lobby and Interest Representation Register would have taken place upon request, but without being registered, no entity could lobby (Romanian Parliament, 2019). In other words, even if registration would have been voluntary, legislators have identified a way to persuade organizations to register. The legislative proposal also established a series of obligations for lobbyists. Thus, they would have to: communicate to the public representative with whom they come into contact their mission (during their first meeting), i.e. the identity and concerns of their client; not use illegal means to acquire information; always communicate the information they hold truthfully; inform and respect the limits and incompatibilities established by the law; not exert illegal pressure on the public representative (Romanian Parliament, 2019). This proposal was not supported by the Government of Romania either. In the motivation given, certain arguments that led to the negative position on the legislative proposal no. 739/2011 can be identified, namely the incompatibility between lobbying and the Convention adopted in Strasbourg in 2007, the existence of mechanisms for participation in the act of government or the overlap of lobbying with influence peddling (Romanian Government, 2019, pp. 2-6).

During the parliamentary debate on February 8, 2022, the Chamber of Deputies rejected the legislative proposal no. 129/2019 with 286 votes for rejection, 0 votes against and 4 abstentions.

4. The views of Romanian citizens on lobbying regulation

A key feature of any democratic governance is the active engagement of citizens in public affairs. Of course, active engagement can only happen when citizens are aware of what is being debated. That being said, it is necessary to identify the degree to which Romanian citizens are familiar with lobbying.

The questionnaire method was used to obtain this information. With regard to the method of data collection, the process took the form of quantitative research, which allowed for statistical processing of the data. The research instrument followed a self-administered questionnaire, available online. In order to project a comprehensive picture, but also to highlight some subtle elements that might have been overlooked, it contained both closed-end and open-end questions. The questions followed a logically ordered structure, comprising three categories, namely: identification questions; questions designed to establish whether respondents know what lobbying entails and what their views are on lobbying; and questions designed to establish whether respondents would agree with and support lobbying regulation. This research was conducted between May and April 2022.

In order to avoid excluding respondents who do not know what lobbying entails, a mechanism has been identified for them to acquire the basic general knowledge (where applicable) needed to complete the questionnaire. Thus, if the respondent chooses “no” to the question “do you know what lobbying entails?”, then a new section will become visible containing a short and concise definition of lobbying. Last but not least, the topic of European lobbying was also addressed, in order to ascertain respondents' perceptions on the effect of lobbying on European legislation. Probabilities and inductive reasoning served as the basis of this research, starting from particular cases (of questionnaire respondents) to draw some general conclusions.

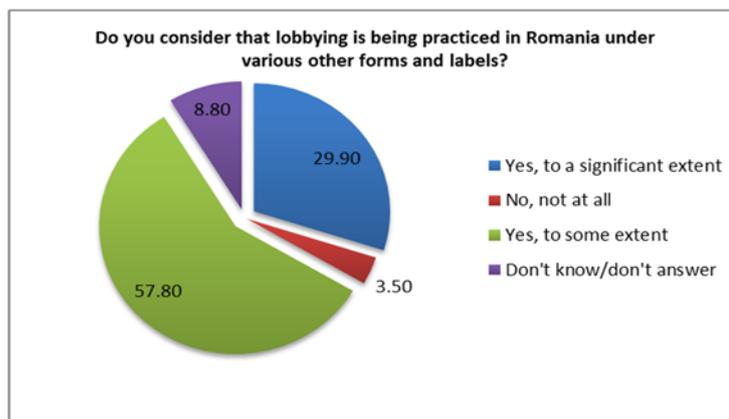
By processing the data collected from the questionnaire, the degree to which Romanian citizens are familiar with lobbying has been determined. Of the total respondents, 76.50% know what lobbying entails, while 23.50% have no knowledge of lobbying. Of all respondents who know what lobbying entails, most are in the 25-35 age group (85%). At the other end of the spectrum are respondents in the 50+ age group, where only 46.15% know what lobbying entails.

With reference to the gender of respondents, a relatively balanced ratio can be observed in terms of knowledge of lobbying. Thus, of all women who responded to the questionnaire, 76.76% understand what lobbying entails, while for men this percentage reaches 75.81%. In another sense, a significantly lower level of knowledge of lobbying can be observed in rural areas (60.98%) as compared to urban areas (80.37%). In terms of education, lobbying is most known among respondents with higher education (86.67%), especially among PhDs (100%) and Masters (90.48%) graduates, and least known among respondents with secondary education (0%).

The results indicate that 80.99% of employees surveyed understand the subject of lobbying among various professional categories. A higher percentage of public sector employees know what lobbying entails as compared to private sector employees (91.23% versus 71.88%). This may indicate that public sector employees have been exposed to the issue of lobbying, which reinforces the assumption that lobbying is already practiced in Romania in various other forms.

In addition, 87.70% of respondents consider that lobbying is practiced in Romania at least to some extent, under various forms and labels such as advocacy, consultancy, public relations, etc. Essentially, more than $\frac{3}{4}$ of respondents believe that various private actors take action to influence the decision-making process in Romania, as shown in the figure below:

Figure 1. *The practice of lobby in Romania*



Source: author's personal processing

Romanian citizens' views on being a lobbyist were predominantly positive, with a low percentage of respondents having no opinion (19.12%), a negative opinion

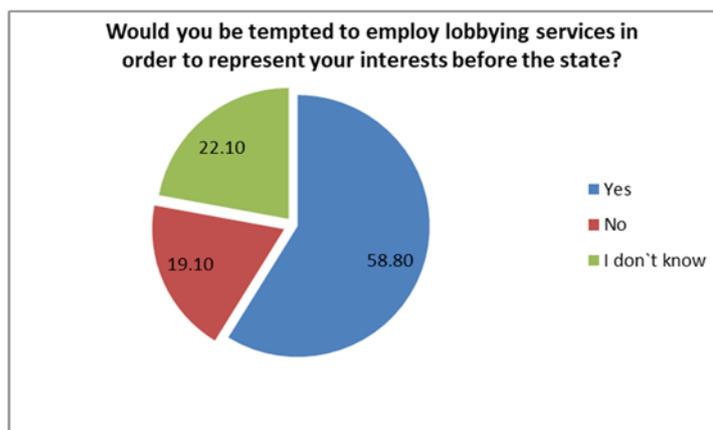
(2.94%) or a neutral opinion (8.33%). One of the most common responses from those surveyed was that this role is insufficiently defined/regulated. Another common response on this topic also highlighted that lobbying is an important element in a democratic system.

The main arguments put forward to support this hypothesis refer on the one hand to the educational/informative role of lobbying (educates public officials on issues relevant to a particular group) and on the other hand to the pragmatism created by lobbying (facilitates the initiation or completion of public initiatives).

Some negative aspects of being a lobbyist were also touched upon by the respondents. Among these, the most common are the pursuit of private interests at the expense of public interests and the thin line between legally and illegally influencing the decision-making process. One possible explanation for the lack of trust in lobbyists may be the perceived level of corruption in Romania, ranked number 63/180 by Transparency International (2023) in 2022, which generates a significant degree of skepticism and cynicism among certain segments of the population. However, the negative elements highlighted above are more the exception than the rule.

When asked whether they would be tempted to use lobbying services to represent their interests when dealing with the state, 58.80% of respondents gave an affirmative answer, while 22.10% were undecided.

Figure 2. Degree of attractiveness of lobbying services

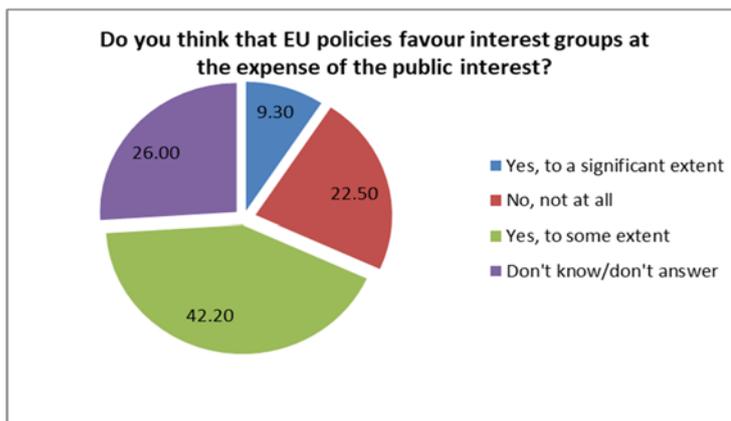


Source: author's personal processing

Of the entrepreneurs surveyed, 66.67% would be tempted to use lobbying services, showing that most of them understand the potential advantages of representing their interests to public authorities. Of all respondents working in the public sector, more than half (56.14%) indicated that they would be tempted to use lobbying services. This can be problematic given the possible conflicts of interest generated. It also reinforces the need for a norm which, like the European model, clarifies that public sector employees cannot undertake or benefit from lobbying.

In another vein, 51.50% of respondents believe that EU policies favor interest groups over the public interest to at least some extent, as shown in the figure below.

Figure 3. *Perception of lobbying outcomes in the EU*

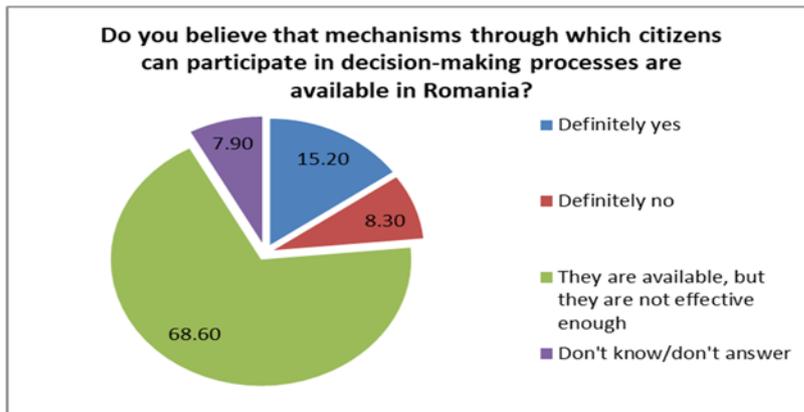


Source: *author's personal processing*

In addition, the survey reveals that around $\frac{1}{4}$ of respondents feel that they do not have enough information so as to be able to give an opinion. This indicates that a significant proportion of Romanian citizens are not aware of EU policies, which may make it difficult to integrate the European lobbying model, as this segment may either be difficult to convince of the usefulness of lobbying or cannot analyze whether lobbying has produced positive or negative outcomes.

The introduction of new mechanisms for citizens to engage in decision-making processes is a necessity, as about 68.60% of respondents consider that existing mechanisms are not effective enough and 8.30% consider that these mechanisms are completely lacking, as shown below.

Figure 4. Views on participation mechanisms in decision-making processes



Source: author's personal processing

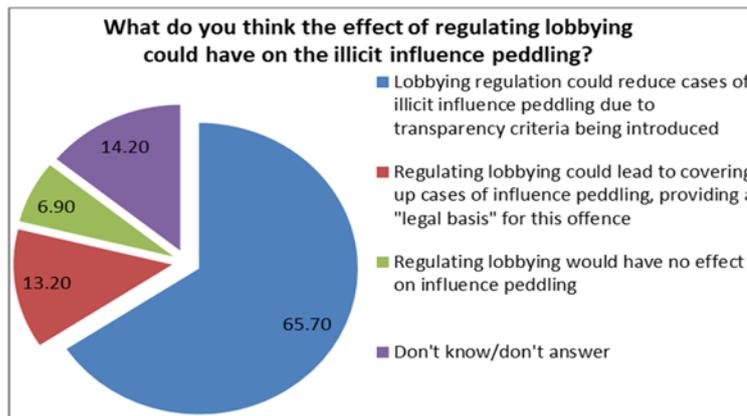
At the same time, 84.80% of the respondents consider that the establishment of a code of conduct to underpin the conduct of lobbyists, as well as the creation of a lobbying register containing data on lobbying activities, are effective tools to ensure the transparency of lobbying. Both measures listed are present in the regulations governing lobbying at the level of the European institutions. The openness towards them (in significant percentages) indicates the potential support of citizens for such tools and mechanisms.

Concerning Romanians' opinion on the impact of non-regulation of lobbying, 28.43% of respondents do not consider that they have enough information about the decision-making process to take a position, which could make civil monitoring of lobbying activities more difficult. On the other hand, respondents who felt they had enough information to give an answer expressed some consensus that the lack of regulation of lobbying negatively affects the decision-making process in Romania. Among the most common arguments put forward in support of this view are the following: decreasing the transparency of the decision-making process; fostering corruption; not reflecting and not valorising citizens' interests; and making decision-making more difficult.

Analyzing citizens' perception on the nexus between lobbying and influence peddling, 65.70% of respondents believe that regulating lobbying would lead to a reduction in cases of influence peddling due to the transparency criteria introduced. In the other side, only 13.20% believe that regulating lobbying would lead to covering up cases of influence peddling and 6.90% believe that regulating lobbying

would have no effect on influence peddling. The figure below gives a broad overview of the responses.

Figure 5. Perception of the nexus between lobbying and influence peddling

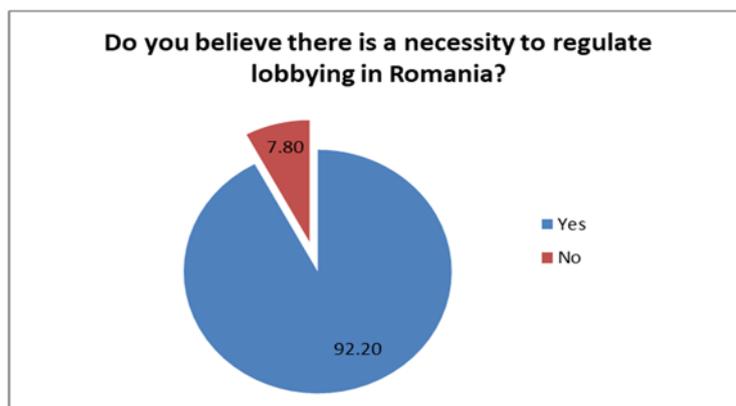


Source: author's personal processing

When it comes to the educational level, respondents holding a higher education represent the segment that most agrees (71.33%) with the statement that the regulation of lobbying could lead to a decrease in cases of influence peddling due to the transparency criteria introduced. Conversely, respondents having a secondary education are the segment with the lowest contribution to this response (20%).

Moving on to the last section of the survey, the research indicates that 92.20% of all respondents consider the regulation of lobbying in Romania to be a necessity, as shown in the figure below.

Figure 6. Views on the need for lobbying regulation in Romania



Source: author's personal processing

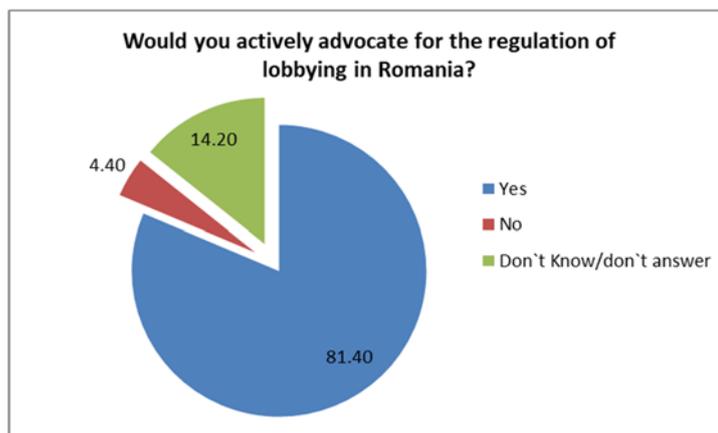
This overwhelming percentage highlights the urgent need to address social problems such as the lack of transparent interaction between the political and business worlds, the lack of favourable prerequisites for the engagement of citizens and interest groups in decision-making processes, and the high number of cases of influence peddling.

With only one exception (respondents in the age category “over 50” - 69.23%), at least $\frac{3}{4}$ of all respondents in all age categories registered consider that lobbying needs to be regulated in Romania. Although more than $\frac{3}{4}$ of both genders believe that Romania needs to regulate lobbying, a higher percentage of women are aware of this issue compared to men (95.77% and 83.87% respectively).

This necessity is also felt more strongly among urban respondents (95.71%) than rural respondents (78.05%). In terms of education, 95.33% of respondents with higher education believe that lobbying needs to be regulated in Romania (the highest percentage) and only 40% of those with secondary education share this opinion (the lowest percentage for all education categories recorded).

Even though 92.20% of all respondents consider it necessary to regulate lobbying in Romania, the share of people who would actively support this shows a decrease of about 11 percentage points, as can be seen in the following figure.

Figure 7. Active support for lobbying regulation among citizens



Source: author's personal processing

5. Conclusions

In the Romanian context, lobbying is not regulated. The legislative steps initiated in this regard have not materialized, lacking the support of the Government and the votes of the MPs, even though the low efficiency of existing mechanisms aimed at ensuring citizens' participation in decision-making processes has been reported by both the European Commission and the Romanian citizens, as shown by the survey (68.60% of the respondents to the questionnaire consider that the existing mechanisms are not efficient enough).

In terms of how lobbying is carried out within the European institutions, it can be concluded that no stage of the decision-making process is free from the involvement of private actors. However, the desire for an inclusive, transparent and competitive process has resulted in effective mechanisms for monitoring and controlling the representation of interests. In this respect, it is also worth mentioning the majority negative perception of Romanians (51.50%) regarding the impact of lobbying on European legislation, considering that EU policies favor interest groups to the detriment of the public interest at least to some extent. In addition, the existence of a transparency register containing details on lobbying activities and a code of conduct to underpin the behavior of lobbyists are central elements of the European lobbying model, which are supported by a significant percentage of respondents (84.80%).

As regards Romanian citizens' perception of lobbying, the following conclusions can be drawn:

- lobbying is rather a familiar topic among Romanians, with more than $\frac{3}{4}$ of respondents saying they are informed about what lobbying entails;
- a significant majority of Romanians interpret lobbying in a positive way, with some 83.30% of respondents believing that the issue leads to social progress; more than $\frac{3}{4}$ of respondents believe that lobbying is practiced in Romania under various forms and labels;
- some 58.80% of respondents would be tempted to use lobbying services to represent their interests;
- the fact that lobbying is present at the level of the European institutions is known among 71.60% of respondents;
- transparency requirements such as the publication of meetings between public officials and lobbyists are considered effective by 94.10% of respondents;

- there is some consensus among respondents that the lack of regulation of lobbying negatively affects the decision-making process in Romania;
- 65.70% of respondents believe that regulating lobbying would reduce cases of influence peddling;
- 92.20% of all respondents consider it necessary to regulate lobbying in Romania, but only 81.40% of them would actively pursue the regulation of this issue.

In conclusion, the issue of regulating lobbying must be included in the current public debate in order to identify the best solutions for improving the mechanisms of citizen's engagement in the decision-making process in a social context characterized by competing interests.

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