

PUBLIC RELATIONS AND ADVOCACY VERSUS LOBBYING IN SPORT: A CASE STUDY OF THE REPUBLIC OF SERBIA AND COMPARATIVES INTERNATIONAL PRACTICE

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Introduction

Every mentioning of lobbying is important, for people and any person in particular. Also, professional lobbying appears to be essential. At the same time, many dilemmas and ambiguities are present as most people do not know what lobbying is, as well as how and what actually lobbyists do while performing their professional work. Thus, there are many issues and dilemmas related to lobbying and no one should be surprised that this is the case. In this scientific paper, we shall try to consider different aspects and dilemmas regarding lobbying, and also clarify the relationship between three partially related but essentially different professions: 1. public relations, 2. advocacy and 3. lobbying. In particular, the focus will be on the lobbying in sport.

We will start, first with the re-actualization and thematization of lobbyist-related questions. What are lobbyists or who are they? The correct and simplest answer we can give is that they are lobbyists, people who formally or informally do lobby. Besides, it should be mentioned on this occasion, that not all the people, who are famous and powerful, are involved in lobbying.

In order to simply understand what lobbying is, it is necessary to give a definition of the phenomenon. "Lobbying is a set of professional measures, practical skills and official legal procedures, implemented through the lobbyist's relationship with the lobbied in the interest of the client" (Vasić, 2015).

Lobbying is a part of lobbyistology. In this context, a question inevitably arises: what is the lobbyistology? Let's clarify. Lobbyistology is a brand new science in the corpus of the social sciences and humanities that was discovered and published for the first time in the world in 2015 in Belgrade, Republic of Serbia by scientist *Dr. Nenad A. Vasić* from the Institute of International Politics and Economics, and theoretically fully defined in 2017, when the book entitled *Introduction to Lobbyistology* (in Macedonian *Voved vo lobistologija*) was published for the first time in Skopje, then the Republic of Macedonia, with an international board of reviewers, which represented the first international recognition of lobbyistology. "Lobbyistology is the science of lobbyistologists who study the theory and practice of different types of lobbying" (Vasić, 2017). The first scientific recognition in the Republic of Serbia, was achieved in 2019 with the holding and subsequent publication of a hosting lecture of the scientist *Dr. Nenad A. Vasić* entitled: *The relevance of lobbying in sport: National position of the Republic of Serbia and international perspectives* (Vasić, 2019).

After all that has been mentioned and clarified regarding lobbyists, lobbying and lobbyistology, we should first analyse and comment on what is the *differentia specifica* in-between public relations, advocacy and lobbying in the modern world and in our case study of the Republic of Serbia. When we deal with the public relations, advocacy and lobbying, specifically lobbying in sport, we should point out the fact that it is not professionally treated and legally regulated in the same way internationally. In some countries, it is possible for established public relations professionals or lawyers to engage in lobbying, since often it is legally possible and socially acceptable, but sometimes it is not the case. Take, for example, the United States, where there is the Lobbying Act (United States Congress on December 19, 1995) and where anyone who wants to lobby is required to register and possess a license to legally lobby. All contracts between lobbyists and their lobbying firms are traditionally legal, public, and readily available at the United States Department of Justice. Therefore, in the United States, lobbyists are people who are engaged in any legal business or profession, being trained and duly registered in the register of lobbyists. "The term 'lobbyist' means any individual who is employed or hired by a client for financial or other compensation for services involving more than one lobbying contact, other than persons whose lobbying activities account for less than 20% of time spent in services, while the individual and client are engaged for more than six months" (Lobbying Disclosure Act, 1995). This bill requires to register and submit six-month reports to the Senate Secretary for all lobbyists paid for lobbying in Congress.

U.S. lobbying legislation was amended by the 1998 Lobbying Disclosure Technical Amendments Act of 1998. Lobbyists are obliged to present their financial reports, which is quite understandable and acceptable. In January 2004, an omnibus ethical reform was carried out in the Senate, including the disputed Article 220 of the Law on Lobbying, which stated that the basis of lobbying is public communication of citizens with official representatives of the American government. After the protests of a large number of influential officials from various organizations, they pointed out that the influence of their representatives is the centre

of representative democracy. Finally, after the mentioned request and successful protests, by the decision of the American Senate, the disputed Article 220 was abolished on January 18, 2007. Prior to that, the Lobbying Transparency and Accountability Act of 2006 (H.R. 4975) was enacted. It has further improved the transparency in lobbying.

As for the profession of lobbyist and lobbying companies, the Honest Leadership and Open Government Act, passed on September 14, 2007, is important. Contrary to the 1995 law, the current law on lobbying contains amendments with the aim of increasing the control of the work of registered lobbyists while prescribing new conditions for lobbying (110th Congress, Washington D.C. 2007). This law was signed by the then President of the United States of America, George Walker Bush Jr. Additionally, the attempt to regulate lobbying in the United States in 2007 was the Executive Branch Reform Act, (H.R. 985).

Lobbying laws enacted in the United States contain the following provisions:

- A. definition of lobbying (what is officially considered lobbying and what is not),
- B. who are the subjects or actors of lobbying (clients and lobbying firms),
- C. administrative procedures as per the registration of a lobbying firm is handled,
- D. official report on implemented lobbying activities,
- E. economic elements and the way of functioning of lobbying firms,
- F. manner of termination and suspension of active work of lobbyists,
- G. the relationship and connection of lobbying laws with other applicable legislation and
- H. rights, obligations and responsibilities of lobbyist.

In lobbyistology and legal science, the American Law on Lobbying is considered a glaring example of good and successful legal regulation of the lobbyist profession.

With the election of *Barack Hussein Obama* as the President of the United States and his arrival at the White House on January 21, 2009, two executive orders and three presidential memoranda were signed. One of those executive orders directly concerned lobbyists. There are three priority and binding legal principles of Obama's executive order, as the President of the United States, which concerns the new obligations of lobbyists.

- First, all those lobbyists who enter his service will not be able to perform lobbying activities, which also applies to the agency they worked for in the last two years.
- Secondly, all those officials who leave his service will not be able to lobby in it for their clients while he is the President of the United States of America.
- Third, officials are prohibited from receiving gifts from lobbyists.

"1. Prohibition of lobbying gift. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee" (Obama, 2009). Already in the mentioned point 1, the officials of the administration are explicitly forbidden to receive any gifts from registered lobbyists and their lobbying companies. In the U.S. legal practice regarding lobbying, the provision of the institute of prohibition known as the Revolving Door, or the Cooling off Periods, is traditionally used.

"2. Ban on the Revolving Door for all appointees entering the Government. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts" (Obama, 2009). In addition to the above-mentioned prohibitions, an important provision of prohibitions on lobbyists is written in point 3 of the Obama's executive order.

"3. Revolving Door ban for lobbyists entering the Government. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied within the 2 years before the date of my appointment

(b) participate in the specific issue area in which that particular matter falls;

(c) I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts" (Obama, 2009). The provisions of the Revolving Door Institute, the aforementioned act of the then President Obama, also apply to item 4 (regulates the departure of appointed officials from the Government and a ban on lobbying for 2 years), and item 5 (regulates the departure of appointed officials from the Government and their lobbying in it).

However, despite all the efforts of former President Obama, his administration had a different approach and treatment of certain lobbyists. "Despite, some officials work in the administration, thanks to certain exceptions from the president's executive decision" (<http://www.voanews.com/serbian/news/Lobbying-Influencing-Policy-Part-Two-09-05-2010-102257629.html>). In the campaign for the second presidential election in the United States in 2012, *Barack Obama* received money for the election campaign through consulting firms, associated with lobbyists. Thus, *Eric Lichtblau*, a New York Times journalist who conducted

the research, stated that 15 lobbyists through consulting firms in the presidential election are “involved in different aspects of the lobbying and influence industry, representing a range of corporate interests from telecommunications and high-tech software to Wall Street finance, international commerce and pharmaceuticals” (<http://www.nytimes.com/2011/10/28/us/politics/obama-bundlers-have-ties-to-lobbying.html>).

Learning from the previous experience of former President Obama with lobbyists and the implementation of restrictions on their rights, the restriction of the rights of lobbyists was also implemented by the next President of the United States of America, *Donald John Trump*. In his election campaign, Trump had already announced the reduction of lobbyists’ rights. That didn’t happen long afterwards. After his triumph in the presidential elections in the United States of America, on November 8 2016, President Trump announced his program for the first 100 days of his rule in six points a day later. Of those six, three were directly related to lobbyists and their lobbying, which Trump shall conduct from the first day of his rule.

“* FOURTH, a 5 year-ban on White House and Congressional officials becoming lobbyists after they leave government service;

* FIFTH, a lifetime ban on White House officials lobbying on behalf of a foreign government;

* SIXTH, a complete ban on foreign lobbyists raising money for American elections” (<http://www.npr.org/2016/11/09/501451368/here-is-what-donald-trump-wants-to-do-in-his-first-100-days>).

After the inauguration ceremony on January 20, 2016, US President Trump signed on January 28, 2016 – Executive Order: Ethics Commitments By Executive Branch Appointees. For lobbyists in the United States, Section 1, Ethical Pledge, is particularly relevant.

According to this, every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

“As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

“1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

“2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

“3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

“4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

“5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

“6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

“7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

“8. I agree that any hiring or other employment decisions I make will be based on the candidate’s qualifications, competence, and experience.

“9. I acknowledge that the Executive Order entitled ‘Ethics Commitments by Executive Branch Appointees,’ issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service” (<https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees>).

In contrast to the United States, in the European Union (Ladevac, 2016), which is an international organization sui generis with international legal subjectivity, there is a Register in which all registered lobbyists are signed, but there is no central law on lobbying. Besides, the legal regulation of lobbying has been done except for few member states of the European Union, such as: the Republic of Austria, the Republic of Slovenia, the Republic of Poland and the Republic of Lithuania.

As of 23 June 2011, all individuals and representatives of lobbying firms lobbying the European Commission and the European Parliament have been required to register in the Transparency Register (<http://europa.eu/transparency-register/>). In relation to the old Register of Lobbyists, the possibility of lobbying has been extended to law firms, non-governmental organizations, think tanks, i.e. all individuals and representatives of organizations dealing with the creating of public policies in the European Union, but also in their implementation. An active campaign for the introduction of the Register of Lobbyists in Brussels was led by representatives of the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) (<http://www.alter-eu.org/>). The ALTER-EU was created as a reaction to the European Transparency Initiative (ETI), in Brussels in June 2005. In the history of lobbying in the European Union, it has been noted that the changes of the Transparency Register were opposed by officials of two lobbying associations, who wanted to preserve a lesser degree of publicity and old privileges: a) The European Public Affairs Consultancy Association - EP-ACA and b) Society of European Affairs Professionals - SEAP. Professional opposition to the introduction of the Transparency Register was also expressed by commercial lobbyists who are dominant among lobbyists in Brussels and Strasbourg. The process of re-registration in the Transparency Register lasted a year and was completed on June 23, 2012.

The statistics (<http://europa.eu/transparency-register/>) of the Transparency Register of the European Parliament and the European Commission as of October 29, 2020, had 12,024 registered legal actors. Out of that, the most numerous are business lobbyists, 6,377 of them. In second place are lobbyists of non-governmental organizations (NGOs), 3,263. In third place are Think tanks, research and academic institutions, 907. Fourth place occupy professional consultants, lawyers and independent consultants, 850 of them. In fifth place there are organizations representing local, city and regional authorities, other public and mixed actors, 568. In sixth place organizations representing church and religious communities, 59.

Table 1. Lobbying: comparison U.S. – EU

	Washington	Brussels
Lobbyists registration	U.S. Congress: Mandatory.	For now, registration in the Transparency Register is mandatory only for those lobbyists who actually enter of the European Commission and the European Parliament.
Ethical code for officials	Administration: Yes. Congress: Yes.	EU Commissioners and officials: Yes. EP members and officials: Yes.
Ethical code for lobbyists and lobbying organizations	Congressional legislation sets limits for lobbyists. Lobbying organizations often have their own codes of ethics.	European Commission: Yes, as part of the Register (mandatory) European Parliament: Yes, as part of the accreditation process.
Levels of lobbying	Different levels: Legislature: Congress and National legislation. Executive power: Federal and state.	Different levels: European Union and national levels, multiple EU institutions (executive and legislative), European Commission, European Parliament (directly elected) and Council.
Financing of non-profit organizations	Private funding, very little or no federal funding for lobbying.	Many financed by European Commission, some founded by European Commission.
Revolving Door phenomenon	Former legislators and government officials often become lobbyists, but the limitations of this phenomenon are increasing.	Rare case.
Corporate financing of political campaigns	Stable (standard) but there are limits Funding: private sector, public sector and politicians.	Not standard: considered unethical. Funding: public sector, private sector and civil society.
Transparency	Strict regulations, consistently implemented by the Law on Lobbying, lobbyists are required to publish client lists and sources of funding.	Minimal regulation and its consistent implementation.
Role of local issues	Senators and members of Congress focus on local issues, in order to be elected. Lobbyists and lobbying to represent local issues and interests is very influential.	Members of the European Parliament are far from the local community. Lobbyists representing local interests are less influential. Local and regional interests are realized through Committee of the Regions composed of representatives of local and regional authorities.

For all registered lobbyists in the European Union, a binding “Code of Conduct” (https://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?reference=CODE_OF_CONDUCT&locale=en#en) is also important. If someone wants to succeed in international business, they should have active communication with lobbyists “in Washington and Brussels” (Mahoney, 2007).

In our case of the Republic of Serbia, although the Law on Lobbying was passed on November 9, 2018 in the National Assembly of the Republic of Serbia, the provision of Article 4 enables lobbying even in case of unregistered lobbyists who are unjustifiably and unnecessarily equated with registered lobbyists.

“Lobbying may be performed by a natural person registered in the Register of Lobbyists, in accor-

dance with this Law (hereinafter: lobbyists) or a company, i.e. an association registered in the Register of Legal Entities Performing Lobbying in accordance with this Law (hereinafter: legal entity conducting lobbying). Lobbying may be performed by a natural person who is not registered in the Register of Lobbyists if he/she is a legal representative or is employed by a lobbying user or represents interests of an association or company of which the lobbying user is a member (hereinafter: unregistered lobbyist)” (Zakon o lobiranju, 2018). Unregistered lobbyists should be gotten rid of by the first amendment to the Law on Lobbying.

Public relations and lobbying

Lobbyists are in a business relationship with media professionals as well, influencing public opinion through public relations. Every lobbyist who is professionally engaged in political lobbying, for example, should very carefully and responsibly strike a balance between public relations skills and lobbying strategy, in order to enable the formation and to direct the development of a coalition of common interests in the desired direction. In this way, a lobbyist engaged in political lobbying influences the creation of “public opinion in support of the goals set by politicians, which will then help them to make decisions more easily and justify these to themselves and to the public” (Dejvis, 2005).

However, most lobbyists do care that, and it is understandable and justified, not to be included as a part of public relations. All of them usually want to be independent, to have their own identity, but also to acquire and preserve professional credo. To achieve their goals, lobbyists are actively using public relations resources. Lobbyists are not part of public relations, rather the opposite: public relations is a part of lobbying.

“Successful public relations depends on achieving an effective connection of public relations organization and wise management” (Filipović, Kostić – Stanković, 2008). Therefore, in lobbying there is what we call influence management.

Advocacy and lobbying

Advocate is a term that originated from the Latin word *advocatus*, from *voco ad* which means I call, specifically I call for help. In fact, a lawyer is essentially a person who, in accordance with the valid constitution and other legal regulations of the state in which he/she performs professional activities, practices law. The profession of lawyer (Sibinović, 2019) is highly specific and important both for people who are lawyers and for the users of their services. The occupation of a lawyer is to represent his/her clients in court proceedings, and, if necessary, in organizations or institutions of the state administration. In this regard, lobbyists can represent their clients, and sometimes lobby for their own interests, as lawyers do. According to the Code of Professional Ethics of Lawyers adopted by the members of the Serbian Layers Association at the meeting on February 11, 2012, all lawyers are not prohibited from lobbying in their work. In Part II - Principles, in the provision of Article 11, item 11.3, which concerns incompatibility, it is strictly stated which of the functions are compatible with the advocacy and which are not. “It is incompatible with the advocacy to practice any other profession and activity at the same time, except in the fields of science, literature, art, journalism, legal education, mediation, humanitarian work, translation and sports (Advokatska komora Srbije, 2012). In, Part IV - Inadmissible Acquisition of Clients, in the already mentioned Code of Professional Ethics of Lawyers, all lawyers are strictly prohibited by Article 17 advertising, Article 18 unfair competition, and finally by Article 19 dishonest or other illicit acquisition of clients.

Contemporary lobbyists, in order to succeed in the business, actually need to find connections between lobbying, public relations and advocacy (Gelak, 2008) (public representation). “Thus, advocacy is a central function of both public relations and lobbying” (Berg, 2009). Therefore, most lobbyists are fully aware that without using public relations, they diminish the possibility of their success in the lobbying process.

However, for a lobbyist, just like for a lawyer, the most important thing is to have clients. The business rating directly depends on the number of clients and the success of the lawyer or lobbyist. The fact is that both lawyers and lobbyists need to be visible and recognizable among people who voluntarily are their clients in any society and state, primarily an internationally recognized member state of the United Nations. In the Republic of Serbia according to the mentioned Law on Lobbying (Provisions of Articles 2 and 4, paragraph 1, Article 8, paragraph 1 and 2), but also the provisions of the Law on Advocacy (provisions of Article 2, paragraph 1, Article 3, Item 6, Article 21, paragraphs 1 and 2) a person whose profession is a lawyer (Agencija za sprečavanje korupcije, 2020) may engage in lobbying as an activity, with the obligation to act legally, transparently, ethically and last but not least responsibly.

Lobbying in sport

From the point of view of the lobbyistology, a successful combination of sport and lobbying is the sport lobbying. In this context, a justifiable accompanying question arises: what is the sport lobbying? Here are the scientific definitions, from the standpoint of the lobbyistology - sport lobbying.

“Sport lobbying is a set of professional measures, practical skills and official legal procedures, implemented through the lobbyist’s relationship with the lobbied in the interest of the client” (Vasić, 2019).

Besides, let us also mention this: sport lobbying can be constituted as an independent scientific discipline in the sport science, i.e. the science of sport, as its integral part in the corpus of social sciences and humanities.

Let’s clarify the sport lobbying scientifically and theoretically. The subject of the sport lobbying is the study of sport, specifically of a sport task, which the lobbyist forms as the subject of his/her lobbying, and which is contractually ordered as an obligatory relationship in the domain of the obligation law by a known client, and of course in his interest. The method in the sport lobbying is the influence on a lobbied, that is, on the person who decides on someone or something. Influence can also be exerted on a group of people, who also make decisions about someone or something.

If a man is an athlete, powerful and involved, so he/she got elected or selected to power in one of the organizations and institutions of a democratic state, such as the government or one of the ministries, but which is also the case in one of many international sport organizations, it does not mean a priori that he/she is also a professional lobbyist. In order to be a professional lobbyist, it is necessary to be legally recognized and acknowledged, i.e. to be a licensed lobbyist in a lobbying system, as is the case with the lobbying system of the Republic of Serbia. In a smaller number of states and societies, lobbying is regulated by bylaws, and also in these cases accreditation is often required. At the same time, athletes who would also like to professionally engage in lobbying in sport clubs, sport federations, the President’s Office, ministries of the national government, judicial system where lobbyists are allowed to lobby, and relevant international sport organizations, where lobbying is allowed too, but also in diplomatic lobbying, they need to have certain specialized knowledge and skills. They do so in order to influence public decisions, official legal processes and procedures as well as sport policy guided by the interests of actors involved in certain sport, political or diplomatic affairs.

Final considerations

In this scientific paper, various aspects and dimensions of public relations, advocacy and lobbying in sport with comparative international practice are considered. Public relations and advocacy, as professions, appears to be the opposite of lobbying, and specifically lobbying in sport, according to the previously found and expertly commented arguments. Thus, there we find different professions, legal regulations, but also codes of ethics in conduct and management. However, lobbying is the profession that unites them, because their common characteristic is the impact on people with all the rights, obligations and responsibilities, in addition to the mentioned prohibitions. Considering that lobbying is a recognized and affirmed profession, it should also be in the Republic of Serbia, since now that is not the case or legal possibility. Lobbying in sport is certainly important for all athletes, sport federations and international sport organizations as well as for all those people who are involved in the sport lobbying. For that reason, people who play sports should be educated in order to realize their various sport, professional and general interests. Lobbying in the Republic of Serbia, and so lobbying in sport, can be conducted by all those people who have obtained the legal license from the Agency for Prevention of Corruption of the Republic of Serbia in Belgrade, after successfully completing required course, be it public relations professionals or lawyers.

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Note

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ODNOSI SA JAVNOŠĆU I ADVOKATURA NASUPROT LOBIRANJU U SPORTU: STUDIJA SLUČAJA REPUBLIKA SRBIJA I UPOREDNA MEĐUNARODNA PRAKSA

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Uvod

Svako, pominjanje lobiranja je važno, za ljude i bilo kojeg čoveka konkretno. Isto tako, od suštinske važnosti je i profesionalno bavljenje lobiranjem. Pritom, mnoge su dileme i nejasoće prisutne kako kod većine ljudi koji ne znaju šta je to lobiranje, kao i to kako i šta rade lobisti u obavljanju njihovog profesionalnog posla. Dakle, mnoga su pitanja i dileme povezane sa lobiranjem i niko ne treba da bude začuđen što je to tako. U, ovome naučnom radu pokušaćemo da razmotrimo različite aspekte i dileme kako u vezi lobiranja, ali i razjašnjenje odnosa između tri delimično povezane i u suštini različite profesije: 1. odnosa sa javnošću, 2. advokature i 3. lobiranja. Poseban, fokus biće stavljen na lobiranje u sportu.

Počecemo, najpre sa reaktuelizacijom i tematiziranjem pitanja lobista. Šta su i ko su lobisti? Tačan i najjednostavniji odgovor koji možemo dati je da su lobisti, ljudi koji se formalno ili neformalno bave lobiranjem. Inače, trebalo bi ovom prilikom napomenuti i to da se ne bave lobiranjem svi ljudi koji su poznati i moćni, sportisti.

Da bi se, jednostavno razumelo šta je to lobiranje, potrebno je dati i definiciju istog. "Lobiranje je skup profesionalnih mera, praktičnih veština i službenih pravnih procedura, sprovedenih kroz odnos lobiste prema lobiranom u interesu klijenta" (Vasić, 2015).

Lobiranje je deo, lobistologije. U, ovom kontekstu, postavlja se neizostavno i ovo pitanje: šta je to lobistologija? Da, pojasnimo. Lobistologija je nova nauka u korpusu društvenih i humanističkih nauka koja je otkrivena i objavljena po prvi put u svetu 2015. godine u Beogradu u Republici Srbiji od strane naučnika dr Nenada A. Vasića sa Instituta za međunarodnu politiku i privredu, a teorijski definisana u potpunosti 2017. kada je objavljena takođe po prvi put u svetu i knjiga pod tim nazivom Uvod u lobistologiju (makedonski Voved vo lobistologijata) u Skoplju u tadašnjoj Republici Makedoniji sa međunarodnim timom recenzenata, a što je predstavljalo i prvo međunarodno priznanje lobistologije. "Lobistologija je nauka kojom se bave lobistolozi koji proučavaju teoriju i praksu različitih vrsta lobiranja" (Васиќ, 2017). Prvo, naučno priznanje u državi Republici Srbiji, ostvareno je 2019. godine sa održavanjem i potonjim objavljivanjem predavanja po pozivu naučnika dr Nenada A. Vasića pod naslovom: Aktuelnost lobiranja u sportu: nacionalna pozicija Republike Srbije i međunarodne perspektive (Vasić, 2019).

Posle, svega pomenutog i razjašnjenog u vezi lobista, lobiranja i lobistologije, trebalo bi, najpre izanalizirati i prokomentarisati, ono što je differentia specifica između odnosa sa javnošću, advokature i lobiranja u savremenom svetu pa i na našoj studiji slučaja države, Republike Srbije. Kada, spominjemo i bavimo se odnosima sa javnošću, advokaturom i lobiranjem konkretno lobiranjem u sportu, trebalo bi istaći činjenicu da to nije svuda isto profesionalno tretirano i pravno regulisano. Negde je moguće da se i afirmisani profesionalci odnosa sa javnošću ili poznati advokati, mogu baviti i poslovima lobiranja ukoliko je to zakonski omogućeno i društveno priznato, a negde i ne. Uzećemo za primer, Sjedinjene Američke Države u kojima postoji Zakon o lobiranju (United States Congress on December 19, 1995), gde svako ko želi da se bavi lobiranjem, u obavezi je da se registruje i ima licencu za legalno lobiranje. Svi, ugovori između lobista i njihovih lobističkih firmi su tradicionalno legalni, javni i jednostavno dostupni u resornom Ministarstvu pravde Sjedinjenih Američkih Država. Dakle, u Sjedinjenim Američkim Državama su lobisti ljudi koji se bave bilo kojim legalnim poslom ili profesijom, a da su za to osposobljeni i uredno upisani u registar lobista. "Pojam 'lobista' označava bilo kojeg pojedinca koji je zaposlen, ili angažovan od klijenta uz finansijsku ili ostale kompenzacije za usluge koje obuhvataju više od jednog lobističkog kontakta, osim lica čije aktivnosti lobiranja čine manje od 20% vremenske angažovanosti u službama u kojima su pojedinac i klijent angažovani više od šest meseci" (Lobbying Disclosure Act, 1995). Ovim, zakonskim aktom se od lobista zahteva da se svi lobisti koji su plaćeni za lobističko angažovanje u Kongresu, da se registruju i podnose šestomesečne izveštaje sekretaru Senata.

Američko, lobističko zakonodavstvo je dopunjeno sa Lobbying Disclosure Technical Amendments Act of 1998. godine. Njime su, lobisti obavezani da prikažu i svoje finansijsko poslovanje što je sasvim razumljivo i prihvatljivo. U, januaru 2004. godine, u Senatu je izvršena omnibus etička reforma koja je sadržala i osporavani član 220 Zakona o lobiranju, a kojim je insistirano da je osnova lobiranja javno komuniciranje građana sa zvaničnim predstavnicima američke vlasti. Najzad, odlukom američkog Senata, sporni član 220 je, ukinut 18. januara 2007. godine. Pre toga, donešen je i Lobbying Transparency and Accountability Act of 2006 (H.R. 4975). Njime je, dodatno poboljšana transparentnost u lobiranju.

Što se tiče same profesije lobiste i lobističkih firmi, važan je Zakon o poštenom vođstvu i otvorenoj vladi, donet 14. septembra 2007. godine. Nasuprot zakonu iz 1995. godine, važeći zakon o lobiranju sadrži izmene i dopune sa ciljem da se poveća kontrola rada registrovanih lobista uz propisivanje novih uslova za lobiranje (110th Congress, Washington D.C. 2007). Ovaj, Zakon je potpisao tadašnji predsednik Sjedinjenih Američkih Država Džordž Voker Buš mlađi. Dopunski, pokušaj u regulisanju lobiranja u Sjedinjenim Američkim Državama 2007. godine, predstavljao je Executive Branch Reform Act (H.R. 985).

Zakoni o lobiranju koji su donošeni u Sjedinjenim Američkim Državama sadrže sledeće odredbe:

- A. definiciju lobiranja (šta se zvanično smatra lobiranjem, a šta ne),
- B. ko su subjekti odnosno akteri lobiranja (klijenti i lobističke firme),
- C. administrativni način na koji se obalja registracija lobističke firme,
- D. zvanični izveštaj o sprovedenim lobističkim aktivnostima,
- E. ekonomske elemente i način funkcionisanja lobističkih firmi,
- F. način završetka i prekid aktivnog rada lobista,
- G. odnos i veze zakona o lobiranju sa ostalim važećim zakonskim propisima i
- H. prava, obaveze i odgovornosti lobiste.

U, lobistologiji i pravnoj nauci, američki Zakon o lobiranju smatra se eklatantnim primerom dobre i uspešne pravne regulisanosti lobističke profesije.

Izborom, Baraka Huseina Obame za predsednika Sjedinjenih Američkih Država i njegovim dolaskom u Belu kuću, 21. januara 2009. godine, potpisane su dve izvršne naredbe i tri predsednička memoranduma. Jedna, od tih izvršnih naredbi se direktno odnosila na lobiste. Tri su, prioriteta i obavezujuća pravna principa Obamine izvršne naredbe, kao predsednika Sjedinjenih Američkih Država, a koja se tiče novih obaveza lobista.

- Prvo, svi oni lobisti koji ulaze u njegovu službu, neće moći da obavljaju poslove lobiranja što se odnosi i na agenciju za koju su radili u poslednje dve godine.
- Drugo, svi oni zvaničnici koji izađu iz njegove službe, neće moći da lobiraju u njoj za svoje klijente dok je on predsednik Sjedinjenih Američkih Država.
- Treće, zabranjuje se službenicima da od lobista primaju poklone.

“1. Zabrana lobističkog poklona. Neću prihvatiti poklone od registrovanih lobista i lobističkih organizacija za vreme moje službe kao službenik” (Obama, 2009). Već u pomenutoj tački 1, izričito se zabranjuje službenicima administracije da primaju bilo kakve poklone od registrovanih lobista i njihovih lobističkih firmi. U, američkoj pravnoj praksi u vezi sa lobiranjem, koristi se tradicionalno i odredba instituta zabrane poznata kao vrata koja se okreću – (Revolving Door), ili period mirovanja – (Cooling off Periods).

“2. Zabrana Revolving Door-a za sve postavljene koji ulaze u Vladu. Neću u periodu od 2 godine od dana mog postavljenja učestvovati u nekom predmetu koji uključuje određene stranke koje su se direktno i suštinski odnosile na mog bivšeg poslodavca ili bivšeg klijenta, uključujući propise i ugovore” (Obama, 2009). Pored navedenih zabrana, važna odredba zabrana na lobiste zapisana je u tački 3, Obamine izvršne naredbe.

“3. Zabrana Revolving Door-a za lobiste koji ulaze u Vladu. Ako sam bio registrovani lobista u roku od 2 godine pre datuma mog postavljenja, uz poštovanje ograničenja iz paragrafa 2, neću za period od 2 godine od datuma mog postavljenja:

- (a) učestvovati u nekoj stvari za koju sam lobirao u roku od 2 godine od datuma mog postavljenja;
- (b) učestvovati u specifičnoj oblasti odluke u kojoj se posebna stvar nalazi;

(c) tražiti ili prihvatiti zaposlenje u bilo kojoj izvršnoj agenciji gde sam lobirao u roku od 2 godine, pre datuma mog postavljenja” (Obama, 2009). Odredbe, instituta Revolving Door-a, pomenutog akta ondašnjeg predsednika amerike Obame odnose se i na tačku 4. (reguliše odlazak postavljenih službenika iz Vlade i zabranu lobiranja od 2 godine), i tačku 5. (reguliše odlazak postavljenih službenika iz Vlade i njihovo lobiranje u njoj).

Ipak, i pored svih nastojanja bivšeg predsednika amerike Obame, u njegovoj administraciji je bilo drugačije stanje stvari i tretman pojedinih lobista. “Uprkos tome, pojedini rade u administraciji, zahvaljujući određenim izuzecima u odnosu na predsednikovu izvršnu odluku” (<http://www.voanews.com/serbian/news/Lobbying-Influencing-Policy-Part-Two-09-05-2010-102257629.html>). U, kampanji za druge predsedničke izbore u Sjedinjenim Američkim Državama 2012. godine, Barak Obama je dobio novac za predizbornu kampanju preko konsultantskih firmi, povezanih sa lobistima. Tako je Erik Nihtblau, novinar Njujork Tajmsa koji je sproveo istraživanje konstatovao je da su 15 lobista preko konsultantskih firmi u predsedničku izbornu “uključeni u različite aspekte lobiranja i industrije uticaja, a koji predstavljaju niz korporativnih interesa iz oblasti telekomunikacija i visoke tehnologije softvera u Vol strit finansijama, međunarodnoj trgovini i farmaceutskim proizvodima” (<http://www.nytimes.com/2011/10/28/us/politics/obama-bundlers-have-ties-to-lobbying.html>).

Poučen, predhodnim iskustvom bivšeg predsednika amerike Obamom sa lobistima i sprovedenjem ograničenja njihovih prava, restriktivnu politiku ograničenja prava lobista sproveo je i naredni predsednik

Sjedinjenih Američkih Država Donald Džon Tramp. I, Tramp je u svojoj izbornoj kampanji najvljivo smanjivanje prava lobistima. To se nedugo, potom i desilo. Posle, trijunga na predsedničkim izborima u Sjedinjenim Američkim Državama, 8. novembra 2016. godine, predsednik Tramp je dan kasnije objavio svoj program za prvih 100 dana njegove vladavine u šest tačaka. Od, tih šest, tri su se neposredno odnosile na lobiste i njihovo lobiranje, a koje će Tramp sprovesti od prvog dana njegove vladavine.

“*ČETVRTO, 5 godina zabrane da zvaničnici Bele kuće i Kongresa postanu lobisti pošto napuste vladinu službu;

*PETO, doživotna zabrana zvaničnicima Bele kuće da lobiraju u ime strane vlade;

*ŠESTO, potpuna zabrana stranim lobistima da sakupljaju novac za američke izbore” (<http://www.npr.org/2016/11/09/501451368/here-is-what-donald-trump-wants-to-do-in-his-first-100-days>).

Posle, svečane inauguracije 20. januara 2016. godine, predsednik SAD Tramp, potpisao je 28. januara 2016. godine – Nalog za izvršenje: ETIČKE OBAVEZE IMENOVANIH U IZVRŠNOJ VLASTI. Za, lobiste u Sjedinjenim Američkim Državama relevantna je posebno Sekcija 1, Etički zalag.

Njime je, svako ko je imenovan u svakoj izvršnoj agenciji na dan ili posle 20. januara 2017. godine, u obavezi da potpiše i na osnovu potpisivanja je ugovorno obavezan na sledeći zalag, a na osnovu njegovog imenovanja.

“Kao uslov i u razmatranju mog zaposlenja u vladi USA u poziciji imenovanog u koju je uloženo poverenje javnosti, ja posvećujem sebe sledećim obavezama, koje ja razumem kao moje obaveze, i koje su pravosnažne na osnovu zakona:

1. Ja neću u roku od 5 godina posle raskida mog zaposlenja kao imenovanog u bilo kojoj izvršnoj agenciji u kojoj sam imenovan da služim, da se angažujem u aktivnostima lobiranja s obzirom na tu agenciju.

2. Ako sam na osnovu mog odlaska iz vlade, pokriven obavezom nakon zaposlenja koja se odnosi na restrikcije u komunikaciji sa zaposlenima u mojoj prethodnoj izvršnoj agenciji a koje su utvrđene u selkiji 207(c) naslov 18, Kodeksa USA, ja sam saglasan da ću se pridržavati ovih restrikcija.

3. Uz pridržavanje ograničenja iz paragrafa 1 i 2, ja sam takođe saglasan da se nakon napuštanja službe u vladi ne angažujem u aktivnostima lobiranja s obzirom na bilo kog zvaničnika izvršne vlasti, ili imenovanog ne-karijerne više izvršne službe, za preostali deo Administracije.

4. Ja se neću angažovati, u bilo kom trenutku posle mog zaposlenja u vladi USA, u bilo kojoj aktivnosti u ime strane vlade, ili strane političke partije koja, ako je to preuzeto 20. 01. 2017., bi od mene zahtevala registraciju na osnovu zakona o registraciji stranih agenata iz 1938., sa izmenama i dopunama.

5. Ja neću prihvatiti poklon od registrovanih lobista, ili lobističkih organizacija, tokom trajanja moje službe imenovanog lica.

6. Ja neću u periodu od 2 godine od datuma mog imenovanja učestvovati u bilo kojoj posebnoj stvari koja uključuje posebne strane koje su direktno i bitno u odnosu sa mojim prethodnim poslodavcem, ili prethodnim klijentima, uključujući propise i ugovore.

7. Ako sam bio registrovani lobista u periodu od 2 godine pre datuma mog imenovanja, uz poštovanje ograničenja iz paragrafa 6, ja neću u roku od 2 godine posle datuma mog imenovanja učestvovati ni u jednoj posebnoj stvari u kojoj sam lobirao tokom 2 godine pre datuma mog imenovanja, ili učestvovao u posebnoj oblasti pitanja kojoj ta posebna stvar pripada.

8. Ja sam saglasan da će moje odluke o angažovanju ili drugom zaposlenju biti bazirane na kvalifikacijama kandidata, kompetenciji, i iskustvu.

9. Ja priznajem da Nalog o izvršenju pod naslovom Etika obaveze od strane imenovanih predstavnika vlasti koji je izdao Predsednik 28. 01. 2017. godine, a koji nalog sam pročitao pre potpisivanja ovog dokumenta, definiše određene uslove koji se primenjuju na gore pomenute obaveze, i propisuje metode za njihovo sprovođenje. Ja izričito prihvatam odredbe Naloga o izvršenju kao deo ovog angažovanja i kao obavezu na mojoj strani. Ja razumem da su obaveze ovog zaloga dodatak bilo kojoj statutarnoj ili zakonskoj zabrani koja važi za mene na osnovu državne službe” (<https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees>).

Nasuprot, Sjedinjenim Američkim Državama, u Evropskoj uniji (Lađevac, 2016), a koja je međunarodna organizacija sui generis sa međunarodnopravnim subjektivitetom postoji Registar u kome se nalze svi registrovani lobisti i nema centralnog Zakona o lobiranju. Inače, zakonsko regulisanje lobiranja, izvršeno je osim u nekolicini država punopravnih članica Evropske unije, kao što su: Republika Austrija, Republika Slovenija, Republika Poljska i Republika Litvanija.

Od, 23. juna 2011. godine, svi pojedinci i predstavnici lobističkih firmi koji se bave lobiranjem u Evropskoj komisiji i Evropskom parlamentu, bili su u obavezi da se registruju u Registar transparentnosti (<http://europa.eu/transparency-register/>). U, odnosu na stari Registar lobista, mogućnost lobiranja je proširena i na advokatske kancelarije, nevladine organizacije, think tankove, odnosno sve pojedince i predstavnike organizacija koji se bave kreiranjem javnih politika u Evropskoj uniji, ali i njihovoj primeni. Aktivnu kampanju za uvođenje Registra lobista u Briselu, vodili su predstavnici Saveza za transparentnost lobiranja i etičku regulaciju – The Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) (<http://www.>

alter-eu.org/). Inače, ALTER-EU je nastao kao reakcija na European Transparency Initiative (ETI), u Briselu juna 2005. godine. U, istoriji lobiranja u Evropskoj uniji ostalo je zabeleženo da su se promenama, Registra transparentnosti usprotivili zvaničnici dva lobistička udruženja, a koji su hteli da se sačuva manji stepen javnosti i stare privilegije: a) The European Public Affairs Consultancies Association – EPACA i b) Society of European Affairs Professionals – SEAP. Profesionalno protivljenje uvođenju Registra transparentnosti iskazivali su i komercijalni lobisti koji su dominantni među lobistima u Briselu i Strazburu. Proces preregistracije u Registar transparentnosti, trajao je godinu dana i završen je 23. juna 2012. godine.

Statistika (<http://europa.eu/transparency-register/>). Registra transparentnosti Evropskog parlamenta i Evropske komisije zaključno sa 29. oktobrom 2020. godine, imala je 12.024 registrovanih pravnih aktera. Od toga, na prvom mestu najmnogobrojniji su poslovni lobisti, njih 6.377. Na, drugom mestu su lobisti Nevladinih organizacija (NVO) i to njih 3.263. Na, trećem mestu su Think tank-ovi, istraživačke i akademske institucije, 907. Na, četvrtom mestu su profesionalni konsultanti, advokati i samostalni konsultanti, njih 850. Na, petom mestu su organizacije koje predstavljaju lokalne, gradske i regionalne vlasti, ostali javne i mešoviti akteri, njih 568. Na, šestom mestu su organizacije koje predstavljaju crkvene i religijske zajednice, njih 59.

Tabela 1. Lobiranje: komparacija Sjedinjene Američke Države – Evropska unija

	Vašington	Brisel
Registracija lobista	Američki Kongres: Obavezno.	Za sada, obavezna je registracija u Registru transparentnosti samo za lobiste koji ulaze u zgrade Evropske komisije i Evropskog parlamenta.
Etički kodeks za zvaničnike	Administracija: da. Kongres: da.	EU Komesari i osoblje: da. Članovi EP i osoblje: da.
Kodeks delovanja za lobiste i lobističke organizacije	Legislativa kongresa utvrđuje ograničenja za lobiste. Lobističke organizacije često imaju sopstvene etičke kodekse.	Evropska komisija: da, kao deo registra (koji je obavezan) Evropski parlament: Da, kao deo procesa akreditacije
Nivoi lobiranja	Različiti nivoi: Zakonodavna vlast: Kongres i Državno zakonodavstvo. Izvršna vlast: federalna i državna.	Različiti nivoi: Evropska unija i nacionalni nivoi, multiple institucije EU (izvršna i zakonodavna vlast), Evropska komisija, Evropski parlament (direktno izabran) i Savet ministara.
Finansiranje neprofitnih organizacija	Privatno finansiranje, vrlo malo ili nimalo federalnog finansiranja za lobiranje.	Mnoge finansira Evropska komisija, a ponekad ih čak i osniva.
Fenomen vrata koja se obrću	Bivši zakonodavci i vladini zvaničnici često postaju lobisti, ali se povećavaju ograničavanja ovog fenomena.	Redi, slučaj.
Korporativno finansiranje političkih kampanja	Ustaljeno (standardno) ali postoje limiti Finansiranje: privatni sektor, javni sektor i političari.	Nije standardno: smatra se ne etičkim. Finansiranje: javni sektor, privatni sektor i civilno društvo.
Transparentnost	Striktna regulativa, dosledno sprovedena Zakonom o lobiranju, a od lobista se zahteva da objavljuju liste klijenata i izvore finansiranja.	Minimalna regulativa i njeno dosledno sprovođenje.
Uloga lokalnih pitanja	Senatori i članovi kongresa fokusiraju se na lokalna pitanja, kako bi bili izabrani lobisti i lobiranje kojim se zastupaju lokalna pitanja i interesi su veoma uticajni.	Članovi Evropskog parlamenta su daleko od lokalne zajednice. Lobisti koji zastupaju lokalne interese su manje uticajni. Lokalni i regionalni interesi se posmatraju kroz Komitet regiona sastavljenog od predstavnika lokalnih i regionalnih vlasti.

Za, sve registrovane lobiste u Evropskoj uniji, važan je i obavezujući “Kodeks ponašanja” (https://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?reference=CODE_OF_CONDUCT&locale=en#en). Ukoliko, neko hoće da ostvari uspeh u internacionalnom poslu, trebalo bi da ima aktivnu komunikaciju sa lobistima “u Vašingtonu i Briselu” (Mahoney, 2007).

U, našem slučaju Republike Srbije, iako je donesen Zakon o lobiranju 9. novembra 2018. godine u Narodnoj skupštini Republike Srbije, omogućeno je odredbom člana 4. bavljenje lobiranjem i neregistrovanim lobistima koji su izjednačeni neopravdano i nepotrebno sa registrovanim lobistima.

“Lobiranje može da obavlja fizičko lice koje je upisano u Registar lobista, u skladu sa ovim zakonom (u daljem tekstu: lobista) i privredno društvo, odnosno udruženje koje je upisano u Registar pravnih lica koja obavljaju lobiranje u skladu sa ovim zakonom (u daljem tekstu: pravno lice koje obavlja lobiranje).

Lobiranje može da obavlja fizičko lice koje nije upisano u Registar lobista ako je zakonski zastupnik ili je zaposlen kod korisnika lobiranja ili zastupa interese udruženja ili privrednog društva čiji je član korisnik lobiranja (u daljem tekstu: neregistrovani lobista)” (Zakon o lobiranju, 2018). Neregistrovane, lobiste trebalo bi prvom izmenom i dopunom Zakona o lobiranju izbrisati.

Odnosi sa javnošću i lobiranje

Lobisti se nalaze u poslovnoj relaciji i sa mediskim poslanicima, vršeći uticaj na, javno mnjenje preko odnosa s javnošću (Public Relations). Svaki, lobista koji se profesionalno bavi na primer političkim lobiranjem, treba veoma pažljivo i odgovorno da napravi ravnotežu između veštine odnosa sa javnošću i strategije lobiranja, kako bi omogućio formiranje i usmeravao razvoj koalicije zajedničkih interesa u željenom pravcu. Na, taj način lobista koji se bavi političkim lobiranjem, utiče na kreiranje "javnog mnjenja za podršku ciljevima koje su političari zacrtali i koji će im onda omogućiti da lakše donose odluke i opravdaju ih pred sobom i pred javnošću" (Dejvis, 2005).

Međutim, većini, lobista je i te kako razumljivo i opravdano stalo da ih ne ubrajaju u deo odnosa sa javnošću. Svi oni najčešće žele da budu nezavisni, da imaju sopstveni identitet, ali i da steknu i sačuvaju profesionalni credo. U tom cilju, lobisti aktivno koriste resurse odnosa sa javnošću. Lobisti nisu deo odnosa sa javnošću, već je obrnuto: odnosi sa javnošću su deo lobiranja.

"Uspešni odnosi sa javnošću zavise od dostignuća efikasne sprege organizacije sa javnošću i mudrog upravljanja" (Filipović, Kostić – Stanković, 2008). Samim time, u lobistologiji postoji to što nazivamo upravljanje uticajima.

Advokatura i lobiranje

Advokat je pojam koji je nastao iz latinske reči *advocatus*, od *voco ad* što znači pozivam, konkretno pozivam u pomoć. Zapravo, advokat je u suštini čovek koji se u skladu sa važećim ustavom i ostalim zakonski propisima države u kojoj obavlja profesionalnu delatnost, bavi se advokaturom. Profesija, advokat (Sibinović, 2019) je veoma specifična i važna kako za ljude koji su advokati, tako i za korisnike njihovih usluga. Posao advokata je, da zastupa svoje klijente u sudskim procesima, po potrebi i u organizacijama ili ustanovama državne administracije. Stim u vezi, i lobisti mogu predstavljati svoje klijente, a ponekada i lobirati za sopstvene interese kao što to rade i advokati. Prema, Kodeksu profesionalne etike advokata koji su usvojili članovi Advokatske komore Srbije na sastanku 11. februara 2012. godine, svim advokatima nije zabranjeno da lobiraju u svom poslu. U, delu II – Načela, u odredbi član 11, taka 11.3 koja se tiče nespojivosti, striktno je navedeno šta je od funkcija spojivo sa advokaturom, a šta ne. "Nespojivo je sa advokaturom istovremeno obavljanje bilo koje druge profesije i delatnosti, izuzev u oblasti nauke, književnosti, umetnosti, publicistike, pravnog obrazovanja, posredovanja, humanitarnog rada, prevodilaštva i sporta" (Advokatska komora Srbije, 2012). U, delu IV – Nedopušteno sticanje klijenata, u već pomenutom Kodeksu profesionalne etike advokata, svim advokatima je striktno zabranjeno odredbom član 17, reklamiranje, odredbom člana 18, nelojalna konkurencija i najzad odredbom člana 19, zabrana nečasnog ili drugog nedopuštenog pridobijanja klijenata.

Savremeni lobisti da bi poslovno uspeali, zapravo treba da pronađu veze između lobiranja, odnosa sa javnošću i advocacy (Gelak, 2008) (javnog predstavljanja). "Tako je advocacy centralna funkcija i odnosa sa javnošću i lobiranja" (Berg, 2009). Zato je, veći deo lobista potpuno svestan da bez korišćenja odnosa sa javnošću, umanjuju mogućnost svog uspeha u procesu lobiranja.

Ipak, za lobistu baš kao i za advokata je najvažnije, da imaju klijente. Od, broja klijenata i uspeha advokata ili lobiste neposredno zavisi i poslovni rejting. Činjenica je da i advokati i lobisti trebaju da budu vidljivi i prepoznatljivi među ljudima koji su dobrovoljno njihovi klijeti u bilo kojem društvu i državi, prvenstveno međunarodno priznatoj državi članici Ujedinjenih nacija. U, Republici Srbiji kao državi, a prema pomenutom Zakonu o lobiranju (Odredbama članova, 2 i 4, stav 1, člana 8, stav 1 i 2), ali i odredbama Zakona o advokaturi (odredbama člana 2, stav 1, člana 3, tačka 6, člana 21, stav 1 i 2) čovek čija je profesija advokat (Agencija za sprečavanje korupcije, 2020), može se baviti lobiranjem kao aktivnošću, uz obavezu da postupa prilikom lobiranja zakonito, transparentno, etično i poslednje, ali ne i najmanje važno – odgovorno.

Lobiranje u sportu

Sa, stanovišta lobistologije, uspešan, spoj sporta i lobiranja je sportsko lobiranje. U ovom kontekstu, postavlja se opravdano prateće pitanje: šta je to sportsko lobiranje? Evo, i naučne definicije, sa stanovišta lobistologije – sportskog lobiranja.

"Sportsko lobiranje je skup profesionalnih mera, praktičnih veština i službenih pravnih procedura, sprovedenih kroz odnos lobiste prema lobiranom u interesu klijenta" (Vasić, 2019).

Uzged, napomenimo i ovo: sportsko lobiranje, može se konstituisati kao samostalna naučna disciplina u sportologiji, dakle nauci o sportu, kao njen integralni deo u korpusu društvenih i humanističkih nauka.

Da, naučno i teorijski, pojasnimo sportsko lobiranje. Predmet, sportskog lobiranja je proučavanje sporta, konkretno nekog sportskog zadatka, kojeg lobista formira kao predmet njegovog lobiranja, a koji je ugovorno naručen kao obligacioni odnos iz domena obligacionog prava od strane poznatog klijenta i naravno u njegovom je interesu. Metod u sportskom lobiranju je, uticaj na lobiranog to jest na onog čoveka koji odlučuje o nekome ili nečemu. Uticaj se, takođe može sprovoditi i prema grupi ljudi, koji takođe donose odluke o nekome ili nečemu.

Ukoliko je, neki čovek sportista, moćan i umešan pa se izborno ili nameštencički obre na vlast u nekoj od organizacija i institucija demokratske države, kao što su vlada ili neko od resornih ministarstava, ali i što je takođe slučaj u nekoj od mnogobrojnih sportskih međunarodnih organizacija, ne znači *a priori* da je i profesionalni lobista. Da bi neko bio, profesionalni lobista potrebno je da bude, zakonski prepoznat i priznat, dakle licenciran lobista u nekom lobističkom sistemu, kao što je slučaj i sa lobističkim sistemom Republike Srbije. U, manjem broju država i građanskih društva lobiranje je regulisano podzakonskim normativnim aktima i u tim slučajevima potrebna je često akreditacija. Pri tome, sportisti koji bi hteli da se pored sporta profesionalno bave i lobiranjem u sportskim klubovima, sportskom savezu, kabinetu predsednika države, resornim ministarstvima nacionalne Vlade, sudskom sistemu gde je lobistima dozvoljeno lobiranje i relevantnim sportskim međunarodnim organizacijama gde je takođe dozvoljeno lobiranje, ali i diplomatsko lobiranje, potrebno je da imaju određena specijalizovana znanja i veštine. To, utoliko pre, kao bi uticali na javne odluke, službene pravne procese i procedure, ali i sportsku politiku vođenu interesima aktera koji su uključeni u određene sportske, političke ili diplomatske poslove.

Završno razmatranje

U, ovome naučnom radu, razmotreni su različiti aspekti i dimenzije odnosa sa javnošću, advokature i lobiranja u sportu sa uporednom međunarodnom praksom. Odnosi sa javnošću i advokatura, kao profesije jesu nasuprot lobiranju, a posebno lobiranju u sportu iz pre nađenih i stručno komentarisanih argumenata. Dakle, različite su profesije, zakonska regulativa, ali i Etički kodeksi u ponašanju i poslovođenju. Međutim, upravo je lobiranje ta profesija koja ih objedinjuje jer im je zajednička karakteristika uticaj na ljude sa svim pravima, obavezama i odgovornostima, pored pomenutih zabrana. S obzirom na to, da je lobiranje priznata i afirmisana profesija, trebalo bi to da bude i u državi, Republici Srbiji jer sada to nije slučaj i zakonska mogućnost. Lobiranje u sportu je svakako važno za sve sportiste, sportske saveze i sportske međunarodne organizacije kao i sve one ljude koji se bave sportskim lobiranjem. Iz tog razloga, trebalo bi edukovati ljude koji se bave sportom kako bi ostvarivali njihove različite sportske, profesionalne i univerzalne interese. Lobiranjem u Republici Srbiji, pa i lobiranjem u sportu mogu se baviti svi oni ljudi koji su stekli legalnu licencu od Agencije za sprečavanje korupcije Republike Srbije u Beogradu, posle uspešno završenog kursa bili oni profesionalci koji se bave odnosima sa javnošću ili advokati.

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