

Octopus Interface Conference ‘Corruption and Democracy’ held on 20-21 November 2006 at the Council of Europe in Strasbourg

The Octopus Interface Conference held at the Council of Europe in Strasbourg from 20 to 21 November 2006 provided a platform for more than 120 public and private sector experts from 45 countries, international organizations, non-governmental organizations, research and the media to identify the risks that corruption poses to the future of democracy in Europe, to shape good practices aimed at preventing corruption from undermining democracy, and to determine further efforts that should be undertaken to meet the challenges ahead. The meeting was opened by Guy De Vel (Director General of Legal Affairs of the Council of Europe), and addressed by Siim Kallas (Vice-President of the European Commission), Mikhael Grishankov (Chairman of the Anti-Corruption Commission of the State Duma of the Russian Federation), Piero Grasso (National Anti-Mafia Prosecutor in Italy) and other distinguished speakers.

Summary and Conclusions Pertaining to Lobbying

The Challenge

The pluralism of interest is an important feature of democracies. It is therefore legitimate that members of society organize and lobby for their interests. Lobbying is one way of allowing citizens to participate in decision-making processes. An interest groups may make expertise available that policy makers need in order to make informed decisions so they can contribute to “better regulation”.

On the other hand, lobbying is not very transparent and certain lobbying techniques may be of a corruptive nature such as contributions to political parties, campaigns or elected representatives, undue advantages to public officials or elected representatives such as consulting or employment contracts, board memberships, kick backs or post-office employment (revolving doors). In most European countries, lobbying is not regulated.

Lobbying therefore risks to lead to the corruption of democratic principles, such as policies serving particularistic interests, the evasion of transparency and accountability, co-opted politicians, political inequality, unequal access to law and decision makers, corporate democracy, and the exclusion of ordinary citizens from decision-making. And in the public opinion, lobbying appears to be perceived as a form of corruption (different from bribery) which is excluding or reducing the voice of citizens in decision-making. It may also be associated with trends towards authoritarian tendencies in the decision-making process. It was suggested, however, that corporate lobbying acted as a balance to the power of politically popular NGOs.

It is also likely that lobbying activities will increase in Europe in the future- and with it the risks to democracy- and that this topic will move higher on the political agenda of

European countries in the very near future. Some speakers linked the growth of lobbying with a more general trend of increasing corporate power.

While regulations may help increase transparency and accountability, they also carry risks to democracy. They may limit possibilities for participation in decision making or provide legal cover for trading in influence and other forms of corruption.

Workshop participants discussed the following questions:

- How could lobbying be made more transparent?
- What lessons can be learnt from existing regulations or (voluntary) codes of conduct?
- Is there a need to further regulate lobbying (pro/contra and alternatives)?
- What would be the scope and key elements of regulations on lobbying?
- Is there a need for common standards throughout Europe?

The role of civil society organizations in the monitoring of lobbying activities and conflicts of interest is highly valuable and needs to be further strengthened.

Very few countries have regulated lobbying. In Germany, the Federal Parliament requires interest groups to register if they want to be heard. In Poland, the Act of July 7, 2005 “On Lobbying Activity in the Lawmaking Process” is rather new. The experience so far suggests that such a regulation should be just one part of a broader effort to strengthen transparency and accountability and citizen’s participation.

Unlike in Canada or the USA, there is thus little experience to be shared in Europe regarding regulations on lobbying (there is however a fundamental difference in that lobbyists in Europe are not directly involved in political fundraising in Europe).

The way ahead

Given that only limited experience is available in Europe regarding lobbying, it is important to launch research and public debate on this topic. These should in particular help define the problem more clearly.

Based on such research and debates, governments and parliaments should adopt and enforce regulations on lobbying aimed at enhancing transparency and accountability and at preventing corruption and thus at strengthening public confidence in democratic institutions.

The aim of policies and regulations on lobbying is to promote democracy and to re-establish confidence and participation of citizens in democratic institutions and processes.

When considering regulations on lobbying, a careful balance needs to be established between the need for transparency and accountability and the prevention of corruption on

one hand, and the risk of restricting direct participation in decision-making and the pluralism of interests on the other hand. In democracies lobbying is legitimate, however, it needs to be made transparent. Care should be taken to ensure that legislations are well-designed to enhance enforce ability.

Regulations should not serve as a legal cover for corrupt activities

Regulations should not be used as a means to control civil society organizations

In order to reduce risks, public-private partnerships should be sought when developing and implementing regulations.

Regulations on lobbying are just one element or a broader effort aimed at ensuring transparency and accountability and thus public confidence in democratic institutions.

Such policies and regulations should include (binding) codes of conduct, registration systems and the public disclosure of lobbying activities.

Hearings on policies and draft laws in which lobbyists participate need to be documented and made public.

Further steps should be taken to facilitate scrutiny of lobbying activities by media and civil society organizations.

Many problems related to lobbying need to be resolved by parliaments and governments themselves, such as regulating post-service employment (revolving doors) and conflicts of interests of members of parliaments who at the same time represent private interests or are themselves lobbyists.

The Council of Europe, the OECD, UNDOC and other international organizations should provide platforms for public debate, should support research and develop tools as bases for national policies on lobbying.

Such activities could lead to an instrument providing common principles or guidelines to European countries on lobbying policies. The process of preparing such an instrument, including public debates, consultations and research would in itself be very valuable.

Strong parliaments and parliamentarians are needed to be able to make informed decisions keeping in mind the public interest and counter the undue influence of lobbyists. The Parliamentary Assembly of the Council of Europe should thus reflect on this topic in its future work.

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