



EUROPEAN CODE OF CONDUCT ON LOBBYING/PACE

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Lobbying in a democratic society (European Code of conduct on lobbying)

Extract From Report

Committee on Economic Affairs and Development

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The rapporteur considers that pluralism of interests is an important element of democracy, but unregulated or secret lobbying may be a danger and can undermine democratic principles and good governance.

The draft recommendation proposes a number of principles for the elaboration of a European Code of good conduct on lobbying with a view to improving transparency in this field.

- The Parliamentary Assembly notes that during recent decades the activities of different interest groups have been constantly increasing. This phenomenon is true both at the level of the Council of Europe member states, and at the level of the European institutions.
- The Assembly is convinced that pluralism of interests is an important feature of democracy and it is perfectly legitimate for members of society to organise and lobby for their interests. However, unregulated, secret lobbying as such may undermine democratic principles and good governance. In a democracy, all interests ought to be duly taken into account and all citizens should have equal access to the law and decision-making.
- The Assembly notes that very few Council of Europe member states have regulated lobbying activities in some way.
- The Assembly is concerned by the fact that such a situation may undermine democratic principles and good governance in those Council of Europe member states where democratic traditions are not deeply rooted and where absence of effective mechanisms of checks and balances exercised by civil society constitute a danger.
- The Assembly is concerned by the fact that in recent decades we have seen a dramatic decline in public confidence in politics in many Council of Europe member states. The lack of transparency in political lobbying activities can be deemed to constitute one of the causes of this phenomenon.
- The Assembly is convinced that, in a democratic society, citizens are entitled to know the identity of the lobbying organisations which influence political decision-making

and voting by members of parliament. Therefore, greater transparency of lobbying activities can make political players even more accountable and restore public confidence in government authorities' democratic functioning.

- Citizens consider access to political decision-makers with a view to providing them with information and attempting to influence their decisions as one of their democratic rights. However, this access or lobbying possibility must be fair and equal, transparent and governed by democratic rules. If citizens do not believe that they can have a real influence on political decision-makers, democracy may be undermined.
- Taking into consideration the importance of the activities of different interest groups in the member States of the Council of Europe, the Assembly recommends that the Committee of Ministers of the Council of Europe should elaborate a European Code of good conduct on lobbying based on the following principles:
 - lobbying should be very clearly defined, differentiating between lobbying as professionally compensated activity and the activities of the organisations of civil society;
 - transparency in the field of lobbying should be enhanced;
 - rules applicable to politicians, civil servants, members of pressure groups and business enterprises should be laid down, including the principle of potential conflicts of interest and the period of time after leaving office during which carrying out lobbying activities should be banned;
 - entities involved in lobbying activities should register;
 - prior consultations should be held with lobbying organisations on any draft legislation in this field;
 - well-defined, transparent, honest lobbying should be encouraged so as to improve the public image of persons involved in these activities.

Introduction: on lobbying and lobbyists

- European democracies increasingly face complex challenges stemming from globalisation, notably the influence of interest groups and economic powers on political decision-making, and the declining trust and participation of citizens in democratic institutions and processes.
- While the pluralism of interests is an important feature of democracy and it is perfectly legitimate for members of society to organise and lobby for their interests, unregulated, secret lobbying as such may lead to the corruption of democratic principles and good governance. In a democracy, all interests ought to be duly taken into account and all citizens should have equal access to law and decision-making.
- Holding decision makers accountable to prevent any abuse of office has been a major concern of democratic societies, with continuous efforts to better enforce anti-corruption measures at all levels.
- A European code of conduct for lobbyists could be a highly valuable step in strengthening transparency, accountability, public confidence and citizen participation in the democratic process as part of a broader set of legislative measures.

This report will therefore present compelling arguments for the Council of Europe to start working on such a text as a matter of priority and will encourage member states to adopt effective rules on lobbying. It will review selected national experiences, best practices and views from the corporate sector, civil society interest groups and professional lobbyists in order to formulate proposals for action at European and national level.

There is a growing public awareness that many decisions in parliaments and governments are made as a result of lobbying by peers or outside pressure groups. Although the term of lobbying has been coined from the ‘lobbies’ or hallways of parliament where members gather before and after debates, today lobbying takes many different forms.

Lobbying is generally understood as a concerted effort to influence policy formulation and decision-making with a view to obtaining some designated result from government authorities and elected representatives. In a wider sense, the term may refer to public actions (such as demonstrations) or ‘public affairs’ activities by various institutions (associations, consultancies, advocacy groups, think-tanks, NGOs, lawyers, etc.); in a more restrictive sense, it would mean the protection of economic interests by the corporate sector (corporate lobbying) commensurate to its weight on a national or global scene.

In European public opinion, lobbying very often tends to have a negative connotation and is frequently perceived as a form of corruption/manipulation that excludes ordinary citizens from decision-making and circumvents the general interest of the population.

At the same time, one should not forget that lobbying that takes place in accordance with clear, transparent rules is a legitimate part of the democratic system and is one way of allowing citizens to express their concerns. Moreover, lobbying viewed as a channel to expertise and feedback is helpful for informed and balanced conduct of public affairs.

The Council of Europe’s rules on relations with interest groups are not explicit. Relevant provisions are dispersed in a number of internal staff regulations and the Statute (Articles 36, 40, as well as the Statutory Resolution (51) 30 as regards relation with intergovernmental and non-governmental international organisations) or codified in several texts adopted by the organs of the Organisation (the Committee of Ministers and the Parliamentary Assembly).

Conclusions

The rapporteur is convinced that, in a democratic society, citizens are entitled to know the identity of the lobbying organisations which influence political decision-making and voting by members of parliament. Greater transparency of lobbying activities can make political players even more accountable and restore public confidence in government authorities’ democratic functioning. This transparency is an effective means of combating the risk of a loss of trust in politics and in democracy.

It can be seen that at both national level, within Council of Europe member states, and European level, within the European institutions, lobbying has become a necessary and virtually day-to-day activity, which is in full expansion. This inevitably requires regulation. With the European unification process and EU enlargement a strong increase in lobbying activities has also been observed in both Brussels and Strasbourg.

The rapporteur has noted that both the United States and Canada have taken steps to regulate lobbying activities. The member states of the Council of Europe can draw many interesting lessons from these two countries’ lawmaking experience in this field and the problems encountered in applying their legislation. However, there is no single solution to all the questions raised by lobbying activities, which are not always comparable.

Attention can be drawn to the following principles that apply to the regulation of lobbying activities in the United States and Canada:

- public reporting in matters of lobbying;
- the categories of lobbyists;
- the obligation to register;
- the content of obligatory disclosures;
- the principle of potential conflicts of interest and the two-year ban on performing lobbying activities after leaving office.

It is clear that greater transparency regarding lobbyists' identities and activities could increase public confidence in politicians' integrity.

As regards Council of Europe member states, surveys have shown that 14 countries have, in one way or another, either regulated lobbying or begun to discuss the issue within their parliaments. In view of the diversity of the member states' experience, the different states of progress of the work in this area and the US and Canadian wealth of experience in this field, the rapporteur is convinced that the Council of Europe could propose to its member states that consideration be given to drawing up a European code of good practice in lobbying matters based on the following principles:

- adopting a very clear definition of lobbying;
- enhancing transparency in the field of lobbying;
- laying down rules applicable to political officials, civil servants, members of pressure groups and business undertakings;
- setting up registers of all persons involved in lobbying activities;
- holding prior consultations with lobbying organisations on any proposed legislation in this field;
- encouraging well-defined, transparent, honest lobbying which could raise the public profile of persons involved in these activities.

Citizens have a democratic right of access to political decision-makers so as to provide them with information and attempt to influence their decisions. However, this access or this lobbying possibility must be fair and equal, completely transparent and governed by clear, democratic rules. If citizens do not believe that they can have a real influence on political decision-makers, democracy may be undermined.

In recent decades we have seen a dramatic decline in public confidence in politics in many Council of Europe member states. The dearth of transparency in political lobbying activities can be deemed to constitute one of the causes of this.

COUNCIL OF EUROPE

Lobbying Legal Framework in Member Countries

MEMBER COUNTRIES	LOBBYING LEGAL FRAMEWORK
ALBANIA	No Statutory Rules
ANDORRA	No Statutory Rules
ARMENIA	No Statutory Rules
AZERBAIJAN	No Statutory Rules
BELGIUM	No Statutory Rules
BOZANIA & HERZEGOVINA	No Statutory Rules
BULGARIA	No Statutory Rules
CROATIA	No Statutory Rules
CYPRUS	No Statutory Rules
CZECH REPUBLIC	No Statutory Rules
DENMARK	No Statutory Rules
ESTONIA	No Statutory Rules
FINLAND	No Statutory Rules
FRANCE	Rules established in 2009. The French National Assembly adopted a lobbyist registry on 2 July 2009. The register is only voluntary. Lobbyists wanting to register must fill in a form with details of their clients and send in a photo. They must also agree to abide by a code of conduct. If they contravene the code, they will be removed from the register. The “carrot” to sign up is a daily pass granting access to the National Assembly. The register- which is publicly available is for individuals, not organisations. If an organization has 10 staff who lobby, all 10 must register. There is not yet a requirement for reporting expenses. The French Senate has also set up a register and registration is obligatory for any lobbyist wanting an “access pass”.
GEORGIA	Rules established in 1998
GERMANY	Regulation and Registration through rules of procedures of the Bundestag in 1951; later amended in 1975 and 1980. Rules of Procedures of the German Bundestag Ann 2 Registration of Association and their Representatives
GREECE	No Statutory Rules
HUNGARY	Regulations of Lobbying Activities introduced in 2006, but repealed in 2011. It has been replaced by the Act on Public Participation in Developing Legislation which came into force in January 2011
ICELAND	No Statutory Rules
IRELAND	No Statutory Rules
ITALY	No Statutory Rules at national level. Nevertheless, regional schemes have been introduced in the Consiglio regionale della Toscana in 2002 and Regione Molise in 2004.

LATVIA	No Statutory Rules
LITHUANIA	Regulation since 2001
LUXEMBOURG	No Statutory Rules
MALTA	No Statutory Rules
MOLDOVA	No Statutory Rules
MONACO	No Statutory Rules
MONTENEGRO	No Statutory Rules
THE NETHERLANDS	No Statutory Rules
NORWAY	No Statutory Rules
POLAND	Regulation since 2005
PORTUGAL	No Statutory Rules
ROMANIA	No Statutory Rules
RUSSIAN FEDERATION	No Statutory Rules
SAN MARINO	No Statutory Rules
SERBIA	No Statutory Rules
SLOVAKIA	No Statutory Rules
SLOVENIA	Rules established in June 2010
SPAIN	No Statutory Rules
SWEDEN	No Statutory Rules
SWITZERLAND	No Statutory Rules
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	Lobbying Law in 2008
TURKEY	No Statutory Rules
UKRAINE	No Statutory Rules
UNITED KINGDOM	No Statutory Rules
EUROPEAN COMMISSION/EUROPEAN PARLIAMENT	Joint Transparency Register launched on 23 June 2011. The register is voluntary but in case of non-registration submissions to public consultations are listed as individual, rather than as representative of the organisation. No more annual access passes to the European Parliament are granted. Only day passes