







Weekly Briefing

Serbia Social briefing:
Lobbying Act Entering the Parliamentary Procedure
IIPE

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Lobbying Act Entering the Parliamentary Procedure

Serbia has undertaken to adopt the Law on lobbying as its obligation on the path towards European Union. After 13 years this June the Draft law has finally entered parliamentary procedure. In this brief we will shortly present the purpose, contents and expected consequences for Serbian society of the potential adoption of this act.

Introduction

In the month of June Draft Law on Lobbying has entered a parliamentary procedure. Already in the National Strategy for the Fight against Corruption adopted in 2005 was indicated that Serbia needs a Law on lobbying, and the Action plan for the implementation of the Strategy anticipated the adoption of this law for 2008. Ten years later, the law still does not exist in Serbian legislation, but it seems it soon will. GRECO, the Council of Europe's anti-corruption body recommended back in 2015. that Serbia should adopt this law by the end of 2016, which did not happen, so GRECO published in March this year a report which stated that Serbia did not fulfill any of its recommendations, including the one about lobbying.

In the Action plan for Chapter 23 of the negotiations with the European Union the lack of this law is mentioned too. The president of the Society of Lobbyists of Serbia expects the law to be adopted in autumn, at the same time indicating some flaws of the draft which can be repaired.

Purpose of regulating lobbying in Serbia

Since lobbying is a kind of influence on the decision maker with the aim of pursuing a particular interest, lobbying activity must be regulated by external rules. Lobbying has become a structured professional discipline, with its methodology and necessary elements, such as the lobbying contract and

lobbying report. The influence on the decision maker must be legal, regulated and transparent. This is the definition of the Draft law as well. Lobbyists always lobby for a general and not an individual legal act and they undertake an obligation of means and not of goals. A lobbyist cannot promise to fulfill a certain goal, he can just promise to work to achieve a certain goal.

The thin line between lobbying and corruption should be drawn more clearly by this law. Registered lobbying must be pursued under a contract, and should be followed by a report both by the lobbyist and the decision maker. Serbia should become a more regulated society where interested people would be motivated to hire a lobbyist and not to corrupt a politician to bypass the rules. The aim of lobbying is therefore legal and moral. Lobbyist can include in his activity other professionals to create analysis for decision makers, to argue for a particular decision, to engage public opinion for support. Lobbying is a tool of democratisation and legitimate fight for interests which is useful to all sides involved, even the decision maker, since it enables him to hear an opinion backed by strong argumentation and support which otherwise he could not hear.

The potential problem for the implementation of this law is a negative public image of lobbyists in Serbia. This is not a lone case, even in the USA, country of origin of this activity, there exist strong criticisms of lobbying which has allegedly put itself between the legislative power and citizens, obstructing the democratic process of decision making. However, lobbyist sometimes are the only channel for marginal and endangers social groups to become visible to decision makers. Lobbying houses often work *pro bono* in those cases, wanting to prove themselves professionally.

Contents of the Draft Law on Lobbying

The Draft Law on Lobbying appeared a month ago, it was a working paper on which a public discussion was based, and the working group continued later with fine tuning of some provisions. In the EU countries, there are two ways of regulating lobbying. One is to adopt a special law as is the case in Serbia, and

the other to change the law on the Agency for the fight against corruption, to define lobbying and establish a register (one example is Slovenia). Serbian Draft Law is based on three principles – transparency, integrity, equality of arms. The unregistered lobbyists, such as syndicates, humanitarian organisations and companies do not have to register if they are lobbying for their own purposes. This is a great exception to the general rule on obligatory registration. However, a public official that was approached by this entities must create a report on this contacts. On the other hand, registered lobbyists must send the report to the Agency for the fight against corruption. This puts registered lobbyists in an underprivileged position in comparison with the unregistered ones.

The Register of transparency is the most important institute of the Draft Law. All the lobbyists must be registered, one report per year is enough to get someone on the register. Transparency, integrity and equality, as general principles of the Draft Law can be controlled exactly through the register. Regulated lobbying might also prove useful in the course of Serbian negotiations for the accession to the European Union.

Lobbying without the proper license, or without sending reports to the Agency for the fight against corruption, or without drafting contracts with clients, represent offenses under the Draft Law which provoke pecuniary penalties from 30.000 to 200.000 dinars. Same penalties are proposed for public dignitaries who do not report to the Agency on their contacts with lobbyists, as well as the responsible persons in state organs who do not lead the evidence of lobbying contacts.

Finally, lobbying in the Draft Law is through these principles strictly delineated from advocacy. A lawyer has a confidential relationship with a client, their conversations are secret for every outsider. On the contrary, a lobbyist must give reports on his conversations in detail, since he performs a public action connected to a general legal act. Undoubtedly the general legal act is in the private interest of his client, but this is not something illegal, it does not breach any laws.

Consequences of the adoption of the Draft Law

Lobbying in developed countries is an economic issue, however in Serbia as a relatively underdeveloped, its primary purpose is corruption mitigation. Lobbyists under the Draft Law should have access to all designated officials, including local ones, involved in the process of making of general legal acts. This includes whole of legislative and in a good measure executive power. The Draft law is in large measure accorded with the will of professional associations of future lobbyists, which had the opportunity to suggest to the Ministry of Justice the best normative solutions, much of which were at the end accepted.

There is a dilemma whether only those with resources and power can hire a lobbyist. At the same time, it seems that those without such resources and power usually do not have against them mighty multinational companies as opponents, but rather municipal authorities. Legalised lobbying is an opposite to corruption. Legalised lobbying must be transparent and public. Influence on the decision makers is always present in some measure, but the point with lobbying is that influence channeled through it is strictly regulated. Lobbying actually puts the limit to corruption.