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Transparency International Lithuania recommendations for

Draft recommendation of the Committee of Ministers to member states on the legal regulation of lobbying activities in the context of public decision-making

Transparency International Lithuania (TI Lithuania) provides feedback to the Draft recommendation of the Committee of Ministers to member states “on the legal regulation of lobbying activities in the context of public decision-making” by the European Committee on Legal Co-operation (CDCJ).

The text below details the most important recommendations built on the previous work of TI Lithuania in the area of lobbying transparency. In Lithuania, lobbying has been regulated by a separate law since 2001. However, lobbying system in Lithuania is still rather primitive, representation of interests groups is still widely perceived as using personal connections and the vast majority of *de facto* lobbying related activities take place outside the regulations. It is now widely accepted that the Lithuanian Law on Lobbying Activities is not working. TI Lithuania encourages the European Committee on Legal Co-operation to take into account this experience and provide adequate accountability safeguards in the Draft recommendation of the Committee of Ministers to member states on the legal regulation of lobbying activities in the context of public decision-making.

We hope that the CDCJ will take these recommendations into account. We also recommend that – in line with the CDCJ transparency standards – the CDCJ publishes its thorough feasibility study that was commissioned before drafting these recommendations.

Transparency International Lithuania welcomes the initiative of the European Committee on Legal Co-operation (CDCJ) to provide recommendations for legal regulation of lobbying activities in the context of public decision-making.

We recommend the following to further strengthen the currently proposed text:

Definitions

ON a) to consider the following definition: “‘Lobbying’ – any direct or indirect communication with a public official that is made, managed or directed with the purpose of influencing public decision-making.”

One of the major issues with the legal regulation of lobbying activities in Lithuania has always been that the current legal definition of lobbying and lobbyists only comprises registered professional lobbyists, thus limiting the scope of regulation to this specific narrowly defined professional group. The oversight institution has never been able to effectively monitor actual influence on decision-making that does not fall into this scope.

ON b) to consider the following definition: “‘Lobbyist’ – natural or legal person who engages in lobbying activities, whether for private, public or collective ends, whether for compensation or without.”

B. Scope

ON 2. to consider amending the list of categories: “b. In-house lobbyists acting on behalf of their employer or their organisation”;

In-house lobbyists should include the company owners, whenever they act as the representatives of their business and not just in their capacity as a private citizen. The case example of Lithuania illustrates that company owners / executive directors tend to use the legal leeway to influence decision making by submitting their proposals on behalf of their companies rather than using the services of lobbyists, thus avoiding any additional reporting.

D. Transparency

ON 5. to consider including broader disclosure requirements and provide that all attempts to influence decision making should be recorded and disclosed in an interactive legislative footprint. This footprint should also link to the lobbying register data.

Laws should require that all attempts to influence decision making are registered. The law makers should be obliged to ensure that a coherent legislative footprint exists allowing to know who has contributed to the development of legislation.

E. Public registers of lobbyists

ON 7. to consider adding that the registration should be mandatory for lobbyists.

ON 8. to consider specifying quality requirements for the published data: filed declarations should contain accurate, comprehensive, meaningful, up-to-date and accessible information.

ON 9. to consider specifying that the register is publishing the information in open data formats.

ON 11. to consider adding the following minimum disclosure requirements to be held in the register:

- the subject matter of lobbying activities and outcomes sought;
- lobbying expenditure, including in-kind (calculated to set criteria, in cost bands, if need be);
- the ultimate beneficiary of lobbying activities (where relevant);
- the targeted institution and/or the public official concerned;
- the type and frequency of lobbying activities;
- sources of funding, per client and per dossier;

I. Oversight, advice and awareness

ON 18. to consider detailing the nature of the designated public authority as “independent, mandated and well-resourced”

TI Lithuania also encourages the CDCJ to provide that the use of cost benefit analyses and other analytical approaches should be encouraged in legislation. As a general rule, all such analysis should be publicly accessible for all interest groups.