

## **Regulating Lobbying in the Czech Republic and the Visegrad Four**

### **Summary**

*The project analyzes lobbying activities primarily in the Czech Republic and more generally in the comparative perspective of the Visegrad Four countries. The region has witnessed a recent surge in interest in this topic but careful analysis and policy recommendations are still lacking. Understanding and regulating lobbying is crucial for good democratic governance, transparency, and accountability, especially with the rising role of money and group interests in politics throughout the region. Project's initial conceptualization and analysis of lobbying will serve the purpose of proposing policy recommendations directed towards achieving a regulative framework for such activities in the Czech Republic and enhance cooperation among groups with the same goal throughout the Visegrad area. The project will also generate knowledge transferable to other developing democracies.*

### **Research topic:**

The topic of this project is lobbying in the Czech Republic and the Visegrad region and its potential regulation. A recent outcry over the alleged attempted bribery of an MP by a lobbyist in the Czech Republic (so-called Kořistka affair in August 2004) has once again exposed the role of shady money in politics and the lack of its regulation. During the initial outcry presidents of both chambers of the Parliament called for the need to somehow give a framework to the activities of lobbyists but little has happened since then. The scandal is quickly waning away and so is the political momentum to regulate this increasingly important aspect of political and economic life throughout the region.

While there have been attempts to regulate lobbying in Slovakia (Erik Láštík and Marek Rybář from the Slovenské združenie pre politické vedy), Hungary, and Poland, the Czech Republic has remained on the sidelines in this process. A group of individuals at the Prague-based Institute for Political and Economic Culture (IPEK), of which I am a member, has begun mapping out the situation of lobbying in foreign countries and in the Czech Republic but the project is not funded and the individuals working on it do so in their spare time. Moreover, IPEK's objective is description of "how lobbying works" rather than a careful analysis of the role of the state and civil society in the control of lobbying. The proposed project will thus complement this descriptive enterprise with crucial elements of analysis and policy recommendations.

Finally, it is likely that with the accession to the European Union lobbyists' activities expanded and this trend will continue, as there are new benefits to be competed for on the European level. At the same time, European and global companies and groups with extensive experience with lobbying will continue to move to and operate in the Czech Republic as well the Visegrad region. With the traditions of responsible governance, transparency, and accountability still in their infancy, it is crucial that mechanisms to cope with the lobbyists' money and interests in politics be put in place as soon as possible. Unfortunately, such mechanisms were not the focus of transformation and their absence has seriously hampered lawmaking and public policy in various areas as often-problematic involvement of various interest groups could take place away from society and media oversight. Given the role of financial and other material resources in lobbying activities and the evidence from other countries, there are good reasons to assume that such activities have disproportionately benefited the financially and socially privileged groups and individuals.

## **Research objectives:**

The proposed research has four main objectives: 1) Analytical conceptualization of lobbying; 2) Gathering information and data about lobbying in the Czech Republic in a comparative perspective of the Visegrad region; 3) Analysis of the gathered information and data with the primary objective of developing policy recommendations and the secondary objective of reevaluating analytical conceptualization; 4) Policy recommendations regarding the regulation of lobbying in the Czech Republic.

### 1) Analytical conceptualization of lobbying

The label “lobbying” is frequently used without clear definitions and subsumes most forms of attempts to gain influence in political law- or decision-making. While such usage is widespread, to equate lobbying with gaining influence is analytically as well as legally counterproductive. Lobbying understood in this way would practically lose any of its meaning since it would become interchangeable with the entire range of political activity. That is not desirable either for analysts or for the general public affected by lobbyists’ activities. An alternative and narrower conceptualization of lobbying is essential in any effort aiming at its regulation and such a definition is one of the objectives of this research.

### 2) Gathering information and data about lobbying

The lack of regulation breeds the lack of information and data about lobbying everywhere. Largely stated, mechanisms to regulate lobbying could be divided into two models. One comes from the United States, the other from the Great Britain. The American model assumes that there will always be money and interests in politics, i.e. to attempt to rule them out would be futile and bring no results. Therefore those wielding influence through monetary means have to disclose information about their means such as who has paid for what to whom; with whom did the lobbyist meet, on whose behalf, etc. This information is then made public, the assumption being that the media and societal groups will be able to analyze this information, put it into broader context and draw conclusions based on which the electorate will decide. The British model (to which most European countries and institution lean), on the other hand, operates on rather different grounds of strong traditions of statesmanship, high moral requirements of the public service, and elite socialization. Therefore, lobbying is regulated not on the side of the lobbyists but rather on the part of those lobbied, mostly legislators. There are ethical codex and ethical commissions but relatively little publicly available information about lobbyists themselves.

Current situation in the Czech Republic and more generally in the Visegrad region offers no model of regulation of lobbying at all. While there will be little information to be gathered based on mandatory disclosure (though some disclosure about political parties’ funding does exist and could perhaps be used as a proxy measure) any effort to analyze and design policy recommendations for regulation will have to provide the best possible idea about the state of the lobbying in the Czech Republic. For these reasons, accurate description, information and data accumulation are a logical objective of this research.

### 3) Analysis of the gathered information

To what extent are elements of the two models of regulation mentioned above applicable in the Czech Republic and Visegrad context will be the subject of the analytical part of this

research. It would seem that the system based on disclosure of as much information as possible would be better suited given the lack of local traditions such as those which underpin the British model. The requirement of such mandatory disclosures would provide important source of information to both media and the nongovernmental sector. Besides the obvious benefit of knowing more about the flows of money as well as the extent of contacts in politics, the availability of such vast data could spur new research and strengthen the position of groups seeking greater accountability among politicians, legislators, and civil servants. The objective of the analytical part is therefore to connect the findings from the empirical research with existing models of regulation elsewhere and consider them in regional context.

#### 4) Policy recommendations

Finally, this research has a clear objective regarding policy recommendations. Data and information collection and their analysis will be turned into devising a regulatory mechanism for lobbying activities in the Czech Republic. Recommendations will also include concrete proposals regarding dissemination of research results. Policy recommendations will be centered on the problem of securing information disclosure about lobbying.

#### **Research plan:**

##### 1. March – April 2005

*Analytical conceptualization of lobbying:* The first phase will develop coherent analytical framework of what is to be considered a lobbying activity that should be analyzed and subsequently regulated. Such a framework will be developed by the examination of the comparative sample of already existing regulative legislation or other mechanisms in the USA, EU, and selected European countries. Special attention will be given to attempts at regulating lobbying in other three Visegrad countries, since it is reasonable to assume that they will have some features in common with the Czech Republic.

##### 2. May – September 2005

*Collecting data:* This will arguably be the most complicated but crucial part of the research. Because the research itself is motivated by the lack of availability of data and information about lobbying (i.e. who spends how much on what, when and how) and it is designed to develop mechanism that would increase their public availability, difficulties are to be expected in this phase. In the absence of available data its collection will rely on connecting the dots of publicly available information about lobbying, interviews with lawmakers, governmental officials, entrepreneurs and lobbyists, as well as structured comparisons with countries that are politically and economically similar to the Czech Republic but have better disclosure rules. This phase of research will also be filled with extensive contacts with those, who have been doing related research in the Visegrad region. (see also Methodology section).

##### 3. October – December 2005

*Data assessment:* The third phase of the research will analyze data gathered in the previous phase. It will not only use them as a springboard for policy recommendations but also to reassess the validity of the conceptualization developed in the first phase. Therefore, the assessment will provide the opportunity for tying up the theoretical framework with the empirical findings. This will provide room for modifications and/or revisions in the theoretical framework should they be needed in the light of findings about actual lobbying activities.

#### 4. January – March 2005

*Policy recommendations:* The final part will work out policy recommendations, namely how to best regulate lobbying in the Czech Republic. This should then be presented to broad spectrum of lawmakers, officials, journalist, members of the non-governmental sector, and the lobbyists themselves. Recommendations will not only include how to regulate but also why to regulate. Ultimately, achieving regulation of lobbying is a matter of convincing various actors about why is regulation a good public policy.

#### **Methodology:**

One of the key motivations behind this research is to make available more data about lobbying. This puts the methodological question, how to collect data about lobbying, to the forefront. This research will analyze publicly available information about what is colloquially referred to as lobbying, develop statistical models that will allow comparing the Czech Republic to politically and economically similar entities (smaller European countries, some U.S. states) that have better disclosure rules (this will provide a rough estimates how much lobbyist money and activity could be involved). Furthermore, the research will rely on personal interviews with law- and decision-makers as well as lobbyists and their clients (getting access might be difficult). Finally, some data could be teased out from studies about corruption, which have been more common in the Czech Republic and the Visegrad region. Methodological aspects will thus include both qualitative and quantitative methods.

#### **Application of the Research:**

To regulate lobbying does not mean to ban it. This would be both impossible and undesirable. While there is a general negative connotation to lobbying, the activity also performs an important function of communication between the state and the societal and economic groups. The value of such information cannot be underestimated. What is crucial is to provide a legislative regulatory framework to this ineradicable and indispensable activity. This is in the interest of all sides: law- and decision-makers, general public, and lobbyists and their clients.

Ideally, the policy recommendations of the research will be turned into an approved legislative proposal regulating lobbying in the Czech Republic. For this to come true it will be necessary that the results of the research are as widely publicized and available as possible. This, I believe, can be done by showing that regulation of lobbying is a beneficial tradeoff concerning all sides mentioned above. For the law- and decision-makers, as well as lobbyists, the regulatory framework legalizes activities that often balance on the edge of legality and sometimes beyond. The general public, the media, and non-governmental organizations will benefit by greater knowledge that will be made available to them. This will enable them to exert greater pressure on law- and decision-makers when demanding answers. In this way, regulation of lobbying, so far a neglected area of research and policy, is essential for better democratic governance, transparency, and accountability.

To sum up, the results that can be expected if this project succeeds include among other things increased transparency about the role of money in politics leading to greater public awareness; greater accountability among law- and decision-makers, because it will be easier to find out with whom they meet and why; and better democratic governance since the regulation will keep the lines of communication between societal and economic groups and the government open while at the same time restricting the possibilities of corruption, bribery and other illicit influences on decisions about public matters.