



**Standing Delegation of the NARS to the
PACE
National Assembly of the Republic of
Serbia**

***Parliamentary Project Support Division
Division de soutien de projets parlementaires***

Final Report of the Seminar on "Mechanisms available to National Parliaments to Counter Corruption"

Belgrade, Serbia
2 December 2013

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The one-day seminar was held to bring together parliamentarians from various Council of Europe member states to discuss how parliaments may prevent and address corruption within their own ranks¹. Various polls conducted at European level have shown that parliaments are among the national institutions which citizens trust least. Such a perception was often rooted in allegations of corruption on the part of senior political figures or political parties, and goes hand in hand with a feeling that the criminal justice system is failing to secure convictions for violations, allowing political corruption to continue unchecked. A number of institutional and regulatory reforms are needed in order to improve parliaments' capacity to prevent, detect, investigate and prosecute corruption on the part of their members, with the emphasis on creating a balanced system of immunities, access to information, transparency in political party funding and promoting political integrity.

Furthermore, the influence exercised over the decision-making process by interest groups, associations, NGOs and think-tanks has grown considerably over the past twenty years. While it is important that citizens' initiatives receive support in a democratic society, this needs to be done in a way that complies with clearly defined and transparent rules. Ten European countries currently have laws on parliamentary lobbying which however raises questions as far as their implementation is concerned. Several parliaments have introduced instruments designed to regulate relations between lobbyists and MPs, including special registers, access procedures, and codes of conduct for lobbyists and public officials. It was important to take stock of the advantages and disadvantages of current practices in order to move further down the road to transparency in relations between parliamentarians and interest representatives.

1. Summary of proceedings

1.1 *Opening session*

Participants were welcomed by Mr Nebojša Stefanović (Speaker of the Serbian National Assembly), Ms Nataša Vučković (Chairperson of the European Integration Committee, Serbian National Assembly and Chairperson of the Committee on Rules of Procedure, Immunities and institutional Affairs of the Parliamentary Assembly of the Council of Europe), and Ms Antje Rothmund (Head of the Council of Europe Office in Belgrade). The speakers all agreed on the crucial importance of tackling corruption within Parliaments to maintain public trust in elected bodies, and on the importance of international standards and

¹ The seminar was designed as a follow-up measure to Assembly Resolution 1943 (2013) and Recommendation 2019 (2013) on "Corruption as a threat to the rule of law" in order to provide targeted support in the fight against corruption in connection with the specific topics identified in consultation with the parliaments.

monitoring mechanisms such as the Council of Europe Group of States Against Corruption (GRECO).

1.2 Strengthening the legal and institutional capacity of parliamentarians in order to prevent and unequivocally address corruption their own ranks

The first session was devoted in a general way to the issue of how to strengthen the legal and institutional capacity of parliaments to prevent and address corruption. The general rapporteur, Mr Quentin Reed, provided an introductory summary of the types of corruption that may occur within parliaments - ranging from bribes in return for voting on legislation to the abuse of privileges such as expenses. In addition, he provided a typology of mechanisms for preventing and addressing corruption and misconduct, namely: regulation of the electoral process, particularly the financing of political parties and electoral campaigns; the organisation of parliamentary work (the legislative process, oversight bodies such as committees, and the transparency of parliamentary processes); prohibitions/restrictions on the external activities of MPs; regulation of ethics, including through codes or standards of ethics/conduct; obligations to declare assets and interests, either on a regular basis or in cases where these may create a conflict of interest; the regulation of lobbyists; and the criminal liability and prosecution of MPs, with the issue of immunities of MPs being of key importance.

Two key issues were underlined in the introductory presentation. First, anti-corruption regulations for parliaments need to respect the separation of powers. Second, the way in which certain anti-corruption issues should be regulated for MPs (for example restrictions on external activities) is different than for permanent public officials or members of the government. Since MPs are elected for a limited time span, and therefore need to return to some other occupation on leaving office, the emphasis in regulation should be more on disclosure of interests than on prohibitions to hold such interests.

The Chairperson of the session, Ms Vučković, and Mr Reed also drew attention to the Fourth Round of GRECO evaluations, one part of which is devoted to prevention of corruption within parliament, and summarised the issues on which this part of the GRECO questionnaire is focused: ethical principles/codes; conflict of interest; prohibitions/restrictions on activities; declarations of assets and interests; enforcement of rules; and mechanisms to ensure awareness of these rules and mechanisms among MPs.

Two presentations followed describing parliamentary mechanisms on the declaration of assets and interests in two countries, the United Kingdom and Romania. One was provided by Ms Heather Wood, Registrar of Members' Financial Interests at the Office of the UK Parliamentary Commissioner for Standards, the body set up within the United Kingdom House of Commons to oversee members' declarations of interests. The second presentation was provided by Dr Tudor-Alexandru Chiuariu, Chair of the Committee on Legal Affairs, Appointments, Discipline, Immunities and Validations of the Senate of Romania.

The presentations provided a useful overview of the way in which such systems differ. Ms Wood described how the current system of regulation emerged largely in response to parliamentary corruption scandals in the early 1990s, and includes a Code of Conduct, limited prohibitions on the holding of external positions (such as a company CEO), obligations to declare a range of interests on taking office and whenever there are significant changes in assets, obligations to declare 'relevant interests' in the course of parliamentary proceedings, and the establishment of the Parliamentary Commissioner for Standards with an office in Parliament. The Romanian system is based on a much more detailed list of assets to be declared on an annual basis, an extensive list of functions that MPs may not perform externally (such as being a member of the supervisory body of a private company), and potentially very stringent sanctions for violations (including loss of an MPs mandate and

confiscation of assets). The rules are overseen and enforced by an external authority, the National Integrity Agency, which may forward suspicions of violations to special investigative committees at each Court of Appeal.

Following the presentations, detailed interventions came from participants from the parliaments of Croatia, Montenegro, "the former Yugoslav Republic of Macedonia", Poland and Slovenia. The experiences of these countries is highly varied, from the situation in Slovenia where Anti-corruption Commission (ACC) reports on violations by the Prime Minister and Mayor of Ljubljana (and head of the main Opposition party)'s asset declarations brought down the Government in early 2013, to the situation in Poland where according to the participants, the system functions only in a formal sense. Concerning possible encroachment on parliaments, the Polish participants noted that the creation of an Anti-corruption Bureau in 2006 led to politically-motivated investigations and provocations, due to the politicisation of the Bureau.

The question of the necessity of parliamentary codes of conduct/ethics was brought up. Romania, Slovenia and Serbia are in the process of developing or finalising such codes, but in Croatia and "the Former Yugoslav Republic of Macedonia", the opinion of the participants was that all the standards that would be contained in such a code are already in other laws and would overlap with already existing provisions, therefore there is no need for one. A similar opinion was forwarded on Serbia, where the code is therefore not seen as introducing substantially new obligations.

1.3 Lobbying and corruption

The second session of the seminar focused on lobbying and its regulation. The session was chaired by Mr René Rouquet, Vice-President of the PACE, Chair of the French Delegation to PACE and member of the Foreign Affairs Committee of the French National Assembly. Mr Reed introduced the session by describing what lobbying is - communication by external actors with the objective of influencing legislation, policies or decisions. His remarks underlined why the notion is a difficult one - essentially because lobbying, while being an unavoidable and even desirable phenomenon in a representative democracy, may distort democracy and even constitute corruption if it is uncontrolled. Mr Reed outlined three main ways in which lobbying or influence may be regulated: a well-designed and transparent legislative/policy, including institutionalised consultation; "regulating the lobbied" - that is MPs or other policy-makers through policies discussed during the first session of the seminar (for example declarations of interests, or restrictions on 'revolving doors' whereby MPs take up employment with a lobbyist immediately after leaving office); and regulating lobbyists themselves. Regulation of lobbyists may contain one or more of the following components: compulsory registration; a publicly available list of lobbyists; declarations by lobbyists of their activities (their target group or interest, spending, clients, and contacts); revolving door provisions (which affect lobbyists directly); and the establishment and enforcement of standards of conduct for lobbyists through self-regulation.

Two presentations were provided during the second session. The first was from Mr. Michele Nicoletti, member of the PACE Committee on Legal Affairs and Human Rights and member of the Committee for Foreign Affairs of the Chamber of Deputies of Italy. Mr Nicoletti drew attention to the fact that the Italian parliament enjoys very low trust, with three-quarters of citizens believing it is corrupt; however, it was suggested that the reality may be changing, following an influx of new younger MPs in 2013 and the implementation of a new Anti-corruption Law since November 2012. Regarding lobbying, the presentation only noted that there is not national legislation regulating lobbying explicitly, although one or two regions do have legal provisions. Mr Nicoletti underlined three main points in conclusion, namely that: corruption is a complex problem requiring complex solutions, only one of which is regulations within parliament; that well-formulated legislation can make a real difference; and that some

roots of corruption lie outside formal institutions and rather in the weakness of political parties (and specifically their inability to select election candidates properly).

The second presentation was by Ms. Caroline Martin from the European Commission for Democracy through Law (Venice Commission), summarising an opinion on lobbying regulation issued by the Venice Commission in March 2013. Ms Martin in particular focused on the variety of systems in existence to regulate lobbyists, ranging from 'low', 'medium' and 'high[ly]' regulated systems. Only around 10 Council of Europe member states have introduced regulation of lobbyists, and none of these fall into the highly-regulated category. The ensuing discussion involved interventions from Poland, Slovenia, Montenegro and "the former Yugoslav Republic of Macedonia"; the striking feature of these interventions was that in the first three countries, according to the participants, regulation of lobbyists essentially exists only on paper, with very few lobbyists registered (and for example none in Montenegro).

The issue of low trust in parliaments was raised during the day's discussions. The participants gave varying answers: in Montenegro there is not seen to be such a big problem of low trust; in Slovenia, political corruption scandals have played a role while MPs need to set an example; in Croatia, excessive populism was alleged to have been an important factor; and in Italy, a combination of the privileges that politicians have enjoyed combined with a perception that they are in fact impotent (i.e. important issues are decided somewhere else) was posited as of key importance.

2. Conclusions

Mr Reed summarised the discussion of the seminar with suggested conclusions, as follows:

1. Perceptions of corruption in parliaments appear to be high in many countries. Addressing this problem is not just a matter of setting a good example, but can also be pursued through regulations that change public perceptions - an example being the restriction of provisions on the immunities of MPs in countries where these remain excessive.
2. The effective prevention of corruption in Parliament cannot be achieved only through 'anti-corruption mechanisms'. Corruption is prevented not only by "fighting corruption", but also by pursuing other policies and measures which reduce corruption as a side-effect. An example of this is ensuring that Parliament is equipped with sufficient legal expertise to guide the drafting of legislation and other relevant processes.
3. Declarations of assets and/or interests can be an effective tool for ensuring that MPs external interests or contacts do not have undue influence on the performance of their official function. A delicate balance must be found between transparency of MPs assets and interests on the one hand, and their right to privacy and protection of personal data on the other. However, there are established solutions that strike this balance effectively. Moreover, declaration of interests/assets on a case-by-case basis (i.e. when they may cause a conflict of interest) will be less likely to raise privacy issues.
4. While there are examples of external bodies overseeing the conduct of MPs in certain respects - the National Integrity Agency in Romania being a striking example - care needs to be taken to ensure that such bodies do not encroach too much on the independence of parliament.

5. Codes of conduct appear not to be a priority of parliaments in the region, on the basis that they only replicate provisions already contained in other laws. However, codes of conduct and laws are not the same thing: the purpose (at least partly) of a code of conduct/ethics is to provide a positive model of behaviour as an underpinning for an ethos of public office. Therefore, it was suggested to reconsider the necessity of a code of conduct, not least in light of ongoing/upcoming GRECO evaluations that will focus on such codes among other things.
6. Lobbying is a complicated phenomenon, both in terms of definition and types - the objectives of lobbying vary hugely in terms of the extent to which they are in the public interest, and for example contract, corporate and not-for-profit lobbyists have different characteristics. While the experience of lobbying regulation in the region has not raised various issues with regard to its implementation, such regulation can be one valuable component of regulations to prevent corruption.
7. In all the areas under discussion, the best regulation is not necessarily - and certainly not always - the 'strictest'. Regulations change the behaviour of those regulated and may produce unintended side-effects. For example: obligations to declare assets create an incentive to transfer assets formally to whoever is not obliged to declare them; restricting the activities of lobbyists within Parliament may drive their activities outside Parliament; political party finance regulations systemically generate strategies by parties to circumvent them; etc. It is therefore vital to consider all of the effects of regulations before introducing them.

3. APPENDIX

Programme

SUNDAY, 1 DECEMBER

20:00 Dinner hosted by Ms. Nataša Vučković,
Chairperson of the PACE Committee on Rules of Procedure, Immunities and
Institutional Affairs and Chairperson of the European Integration Committee of
the Parliament of Serbia

Venue : MP's Club, Tolstojeva 2 Street

MONDAY, 2 DECEMBER

8:30 Registration

9:30 **OFFICIAL OPENING SESSION**

Small Plenary Hall

Mr. Nebojša Stefanović, Speaker of the National Assembly

Ms. Nataša Vučković, Chairperson of the PACE Committee on Rules of
Procedure, Immunities and Institutional Affairs and Chairperson of the
European Integration Committee of the Parliament of Serbia

Ms. Antje Rothemund, Head of the Council of Europe Office in Belgrade

10:15 Coffee break

10:30 – 12.30 **MORNING SESSION - Strengthening the legal and institutional capacity
of parliamentarians in order to prevent and unequivocally address
corruption in their own ranks**

Committee's room 2

Chaired by Ms. Nataša Vučković, Chairperson of the PACE Committee on
Rules of Procedure, Immunities and Institutional Affairs, Chairperson of the
European Integration Committee of the Parliament of Serbia

Introductory remarks by the General rapporteur **Mr Quentin Reed**, Council of
Europe anti-corruption expert

Panellist:

Ms. Heather Wood, Registrar of Members' Financial Interests, Office of the
UK Parliamentary Commissioner for Standards

Followed by the discussion on national experiences with an opening presentation by

Dr. Tudor-Alexandru Chiuariu, Chairperson of the Committee on Legal Affairs, Appointments, Discipline, Immunities and Validations of the Senate of Romania

“Effective mechanism for deterring corruption in public sector: the control of wealth, interests and incompatibilities”

12:30 – 14:00 **Lunch hosted by Ms. Aleksandra Đurović**, Head of Serbian Delegation to the PACE
Parliamentarian Caffee, House of the National Assembly

14:00 – 17:00 **AFTERNOON SESSION - Lobbying and corruption**
Committee’s room 2

Chaired by Mr. René Rouquet, Vice-President of the PACE, Chairperson of the French Delegation to the PACE, member of the Committee for Foreign Affairs of the French National Assembly

Introductory remarks by the General rapporteur **Mr Quentin Reed**, Council of Europe anti-corruption expert

Panellists:

Mr. Michele Nicoletti, member of the PACE Committee on Legal Affairs and Human Rights, member of the Committee for Foreign Affairs of the Chamber of Deputies of Italy

Ms. Caroline Martin, European Commission for Democracy through Law (Venice Commission)

Concluding remarks by the General rapporteur