EURO-LATIN AMERICAN PARLIAMENTARY ASSEMBLY

RESOLUTION:

Regulating lobbying activities in the EU and LAC

based on the report by the Committee on Political Affairs, Security and Human Rights

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EUROLAT – Resolution of 13 December 2019 – Panama

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Regulating lobbying activities in the EU and LAC

The Euro-Latin American Parliamentary Assembly,

– having regard to the United Nations Convention Against Corruption of 2003, which entered into force on 14 December 2005,

– having regard to the OECD Recommendation on Public Integrity, adopted by the OECD Council in 2017¹,

– having to the Inter-American Convention Against Corruption, adopted by the Organisation of American States (OAS) in 1996,


– having regard to the OECD principles for transparency and integrity in lobbying, adopted by the OECD Council as a recommendation in 2010,

– having regard to Articles 41 and 42 of the EU Charter of Fundamental Rights²,


– having regard to Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups⁴,

– having regard to the European Parliament Resolution of 8 May 2008 on the Development of the Framework for the Activities of Interest Representatives (lobbyists) in the European Institutions⁵,

– having regard to the Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation of 2011,

– having regard to the European Commission proposal for an Interinstitutional

Agreement on a Mandatory Transparency Register¹,

– having regard to the Rules of Procedure of the European Parliament², in particular Rules 11(2), and 116a thereto,

– having regard to Article 3 of the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest,


A. whereas lobbying can be defined as the set of permissible activities carried out with the objective of influencing policy formulation and decision-making processes of public authorities with a view to obtaining a particular result; whereas, however, it is difficult to find a single definition that encompasses the work carried out by the various organisations involved in activities of this kind;

B. whereas lobbying has turned into an economic activity with significant financial implications on a global scale that employs a considerable number of individuals in the EU and in Latin America and the Caribbean (LAC);

C. whereas making lobbying activities public brings greater legitimacy to public authorities’ decision-making processes, strengthens transparency in relations with state bodies and contributes to a balanced playing field within interest groups;

D. whereas there is a growing general consensus on the need to regulate lobbying activities, whereas there are proposals on how to regulate them properly and whereas there is a need for further discussion due to the complexity and sensitive nature of the topic; whereas, however, countries and international organisations are increasingly adopting rules to regulate this matter more closely and more effectively with a view to achieving greater transparency and accountability;

E. whereas in 2011 the EU created a voluntary Transparency Register by virtue of an interinstitutional agreement setting a milestone in regulating and monitoring lobbying;

F. whereas, moreover, on 1 December 2014 the European Commission undertook to publish information on meetings held between lobbyists and Commissioners, members of their private offices and directors-general; whereas Members of the European Parliament have also complied, on a voluntary basis, with this call to publish their meetings with lobbyists;

G. whereas in the EU negotiations have begun recently between the Council, the Commission and the European Parliament on a new, mandatory, transparency register for lobbies in the EU;

H. whereas EU and LAC citizens have a right to a decision-making process that is highly transparent and open; given that open processes need to ensure the balanced, fair

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² 8th parliamentary term – July 2018.
representation of different interest groups avoiding undue pressure and illegitimate or privileged access to information or decision-makers; whereas transparency and accountability also constitute a key part of encouraging citizens to participate more actively in public affairs;

I. whereas there is a need for a clear distinction in regulatory practices covering lobbying and those covering influence-peddling, and whereas this can be achieved through transparency and clear rules;

J. whereas the controversial practice known as ‘revolving doors’, whereby government or public officials leave office for jobs in the private sector, or vice versa, jeopardises the integrity of public sector decisions, as it is intrinsically related to conflicts of interests, and may be linked to improper lobbying practices;

K. whereas Sustainable Development Goal 16, and particularly its targets, establishes the need to ‘Substantially reduce corruption and bribery in all their forms’ (16.5), ‘Develop effective, accountable and transparent institutions at all levels’ (16.6) and ensure responsive, inclusive, participatory and representative decision-making at all levels (16.7)1; whereas the European Commission and the European Parliament afford great importance to implementing the 17 Sustainable Development Goals in their international agendas;

L. whereas on 28 September 2016, the European Commission presented a proposal for a new interinstitutional agreement on a mandatory Transparency Register covering the European Parliament, the Council of the European Union and the European Commission,

1. Is of the view that lobbying provides decision-makers with valuable input and information, guaranteeing access to the decision-making process and implementation of public policies to all the sectors involved; stresses, however, that unregulated lobbying may also lead to practices and abuse such as corruption, influence peddling, unfair competition and adoption and implementation of regulations to the detriment of the public interest and the effectiveness of public policies;

2. Stresses that interaction of public authorities with companies, associations, NGOs, trade and professional organisations, trade unions and think tanks is legitimate and a necessary component of representative democracy as it provides perspectives, points of view, opinions and criteria that may be representative of the public opinion on a given issue and for that reason is essential for policy-making;

3. Considers that there is significant public interest in ensuring the transparency and integrity of lobbyists’ activities, as well as the diversity and equality in participation and contribution to decision-making processes on public affairs;

4. Affirms that lobbying activities in the EU and in the LAC region should be regulated given the major influence that they may have on decision-making in the political, economic and social spheres;

1 https://sustainabledevelopment.un.org/sdg16
5. Welcomes the adoption by several countries and international organisations, both in the EU and LAC, of rules and regulations on lobbying, including provisions on the registration, ethical behaviour, transparency and disclosure of lobby groups;

6. Is of the view that regulation on lobbying should focus mainly on the following elements: a clear conceptualisation of lobbyists and lobbying activities; conditions for the representation of particular interests; disclosure of key aspects of lobby groups and lobbying such as their objectives, beneficiaries and funding sources; principles on ethical behaviour; the registration of lobby groups and the transparency of their meetings with public authorities; and a clear regulatory description of the sanctions against lobby groups public officials and holders of public office that infringe the regulations in force;

7. Points out that regulatory measures on lobbies and their activities should be clear, precise, effective, proportionate and should not interfere with the rights of assembly, freedom of expression and the right to petition; adds that these measures should preserve confidential information in the public interest and protect sensitive information so as not to affect market conditions as appropriate;

8. Takes the view that rules and regulations on lobbying must ensure legal certainty and clarity over this activity, enhancing the transparency of lobbyists activities in their contacts with public office holders, in order to increase public trust in decision-making process, allowing for a greater accountability of public authorities, and facilitating adequate monitoring, supervision and comparability of data;

9. Considers that increased transparency and accountability will be achieved if rules on lobbying are consistent with wider policy and regulatory frameworks, including in particular rules on disclosure of non-financial information by certain large undertakings, groups, norms and principles on corporate social responsibility;

10. Notes that although the responsibility for transparency and integrity is shared by both lobbyists and public authorities, the latter bear an additional responsibility in this respect and should be held primarily accountable to the general public for their acts and decisions;

11. Stresses that, in all cases, respect for the independent mandate and integrity of all public office holders, in particular elected Members, must be ensured;

12. Points to the need to guarantee a level playing field among all lobbies that participate in the decision-making process, in particular between those with more resources and capacity to influence and other smaller stakeholders who struggle to access decision-making spheres;

13. Underlines that the lack of clear rules to ensure transparency of lobbies and their activities may carry the risk of lobbying turning into practices that could be regarded as corruption, and be harmful to both public and private bodies as well as individuals;

14. Calls for the strengthening of control mechanisms to meaningfully combat conflicts of interest in the inappropriate practice known as ‘revolving doors,’ arising from the unhindered movement of senior officials between the public and private sectors; calls
for the establishment of stricter legal or regulatory frameworks to address this problem and ensure transparency in the decision-making process and in the appointment of officials;

15. Calls for the provision of sufficient resources (human, administrative, technical and financial) in the EU and LAC for the effective implementation, monitoring and supervision of rules on lobbying; recalls the meaningfulness of the exchange of best practice examples between the EU and LAC in this regard;

16. Calls for more precise and better-quality Transparency Register data to allow for better reliability and comparability, and easier tracking and monitoring and activities of lobbies;

17. Proposes the voluntary inclusion in all legislative drafts of a ‘legislative footprint’ to be completed by the rapporteur listing the entities or persons from whom the rapporteur received input in the preparation of a legal text, as it is already the case in the European Parliament;

18. Reiterates the need to protect those who bring to light any form of inadequate practice, corruption, fraud or maladministration in lobbying, including by offering them the status of protected witness in judicial proceedings, if needed; therefore calls for whistle-blower protection to be addressed in a binding international framework;

19. Calls for control bodies to be strengthened, for them to be autonomous from the government and to have sufficient own-resources to carry out their work, in accordance with the republican principle;

20. Instructs its Co-Presidents to forward this resolution to the Council of Ministers and the European Commission, to the parliaments of the Member States of the European Union and of all the countries of Latin America and the Caribbean, to the Latin American Parliament, the Central American Parliament, the Andean Parliament and the Mercosur Parliament, the Secretariat of the Andean Community, the Committee of Permanent Representatives of Mercosur, the Community of Latin American and Caribbean States, the Permanent Secretariat of the Latin American Economic System, the CELAC Pro-Tempore Presidency and the countries making up the CELAC Troika, and the Secretaries-General of the Organization of American States and the United Nations.