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Working session 4:  
governance and the interaction of public and private actors



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A poster for the 'OCTOPUS INTERFACE CONFERENCE'. The background is orange. At the top, in a black bar, is the text 'OCTOPUS INTERFACE CONFERENCE'. Below that, the word 'CORRUPTION' is written in large, bold, black letters. In the center, there is a graphic of a classical building facade (columns and pediment) made of Euro banknotes. A black box in the center of the building contains the text: 'Political finances', 'Lobbying', 'Conflicts of interest', and 'Influence on justice'. Below the building, the word '&amp;' is written, followed by 'DEMOCRACY' in large, bold, black letters. At the bottom, it says 'Council of Europe' and 'Strasbourg, 20-21 November 2006'. The footer is black and contains the Council of Europe logo, the website 'www.coe.int/economiccrime', and the European Union flag.

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# 1 Democracy

"the name of our political order, for it is not based on a few but on the majority, is known as *demokratía*" (Thukydides)

"government of the people, by the people, for the people"  
(Lincoln)

"democracy is a possibility to get rid of rulers without bloodshed" (Popper)

"Modern political democracy is a regime or system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting directly through the competition and cooperation of their representatives"  
(CoE 2004: the Future of Democracy in Europe)

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## Democracy ... as a set of principles

- Human rights and freedoms
- Elections (government by the people)
- Political equality
- Government for the common public interest
- Separation of powers
- Rule of law
- Accountability
- Transparency
- Competition of political parties
- Pluralism of interest
- and others

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## Challenges to the future of democracy in Europe

- Globalisation and declining government capacity: Shift of power and policy decisions from democratically legitimised governments to unaccountable supra-national levels and private corporations
- Lobbying and corporate interests
- Europeanisation and the democratic deficit (accountability)
- The economics of democracy: political finance and equality
- "It is our collective judgement that the major generic problem of contemporary European democracy concerns the declining citizen trust in political institutions and participation in democratic processes" (Council of Europe 2004: The Future of Democracy in Europe)

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## 2 Corruption

- the misuse of an entrusted position for private benefit
- Legal definitions: bribery +

### Political corruption?

Grey/white corruption -  
favouritism - lobbyism -  
use of administrative  
resources - patronage -  
trading in influence -  
mediated corruption -  
exchange clandestin -  
betrayal of the democratic  
transcript ....

Political corruption in  
democracies:

the misuse of an entrusted  
position in exchange for an  
undue political or other  
advantage in violation of  
democratic principles or  
processes [?]

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## Corruption in Europe

- Perception of corruption: wide range in CPI
  - People experience bribery (police, customs, health, education, licenses and permits)
  - Corruption experienced  $\approx$  corruption perceived
  - Political parties perceived to be most corrupted institutions in two thirds of European countries
  - Strong influence by corporate sector on policy makers through legal and illegal forms of corruption (Kaufmann)
- = Political corruption appears to be the main corruption problem in Europe

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## 3 Corruption and democracy

### Critical issues:

- 1 Political finances
- 2 Conflicts of interest, patronage and revolving doors
- 3 Lobbying
- 4 Influence on the justice system



### Corruption of democratic principles and processes

- Political equality
- Political competition and elections
- Accountability
- Transparency
- Rule of law
- Separation of powers
- Government for public interest

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# Political finances

Politics/democracy needs money

Unregulated political finance

Corrupt political finances

Improper financial operations for political gain:

- Violation of regulations
- Political contributions in exchange for favours, contracts or policy change
- Illegal expenditure (e.g. vote buying)
- Selling access, appointments
- Abuse of State resources
- Patronage
- Extorting private sector contributions

Distortion or corruption of democratic principles

- Political inequality
- Uneven playing field
- Distorting elections
- Unequal access to office
- Unequal access to law and decision makers
- Coopted politicians
- Evasion of transparency and accountability
- Tainted politics
- Corporate democracy

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# Conflicts of interest

Conflicts of interest = when somebody has the opportunity to use an entrusted position to obtain a personal gain

Incompatibility of elected office with private sector employment and interests and other professional activities

Incompatibility of parliamentary mandates and civil service, judicial, ministerial and appointed offices

Cumul des mandates

Revolving doors

Corruption of democratic principles and processes

- Political inequality
- Evasion of accountability
- Government for particularistic interests
- Unequal access to public resources
- Undermines division of powers
- Clientelistic politics
- Corporate democracy

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# Lobbying

Private advocacy to influence public policy

Pluralism of interests  
- In democracies it is legitimate that members of society organise and lobby for their interests

Corporatism - consensual policies

Democracy - balance of all interests

Interest groups make expertise available

Interests unequally organised

Globalisation - particularistic interests, transnational corporations

"If bribery is the corruption of the poor then lobbyism is the corruption of the rich" (Arte)

Corrupt techniques of lobbying: political contributions, consulting contracts, revolving doors, kick backs, undue advantages

Lobbying not regulated in Europe

Corruption of democratic principles

- Political inequality
- Uneven playing field
- Unequal access to law and decision makers
- Coopted politicians
- Evasion of transparency and accountability
- Government for particularistic interests
- Corporate democracy

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## 4 Corruption and the future of democracy

**The past:**

- Power corrupts. Key principles of democracy are aimed at preventing abuse and corruption and holding rulers accountable

**The present:**

- Political finances, conflicts of interest, lobbying risk undermining principles of democracy

**What about the future:**

- What risks for the future of democracy?

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Corruption a major risk to the principles of democracy, but is it a direct threat to the survival of democracy?

**Challenges to the future of democracy will be compounded by political corruption or increase corruption risks:**

- **Further decline in confidence and participation in democratic institutions and processes**
- **In the context of globalisation political corruption is likely to increase as a result of steady erosion of democratic decision making and accountability of elected national governments**
- **Growing influence of corporate interests on policy making -> expansion of lobbying and other legal and illegal forms of influence**
- **Political competition becomes ever more costly -> increasing dependency on private sector financing -> political corruption likely to increase**
- **Towards a corporate capture of democracy?**

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**➤ Success in controlling corruption critical for the future of democracy**

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## Risks of corruption control for democracy

The control of corruption may carry risks for democracy

- Accusations of corruption as a means of political advancement and of discrediting opponents (Pericles vs. Kimon in 463 bc)
- Politicising corruption control
- Settling of accounts after elections
- Pretext for limiting rights and freedoms

Control of political finance

- favours those in power
- control of opposition
- discourages contributions
- limits “vitality” of politics
- limits freedom of expression

Control of lobbying:

- reduce direct democracy
- legal cover for corruption

Regulation of conflict of interest

- violate privacy rights
- professional politicians

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## Opportunities: Anti-corruption measures as a contribution to democracy

Anti-corruption measures can reinforce

- the rule of law
- transparency and accountability
- political equality
- pluralism of interest
- political competition
- government for public interest
- public confidence and participation in democracy

TO DO: enhance transparency and accountability

- Enforce rules on political finances
- Criminalise bribery of elected reps
- Limit immunities
- Regulate conflicts of interest and codes of conduct for elected representatives
- Regulate lobbying
- Facilitate media scrutiny
- Ensure independence of justice
- De-politicise anti-corruption measures (long-term strategies and independent anti-corruption services)

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### **Food for thought:**

- **Conclusions of Octopus Corruption and Democracy Conference 2006**
- **GRECO 3rd cycle recommendations on the financing of political parties**
- **European Union measures to regulate lobbying**
- **German Constitutional Court ruling concerning the declaration of interests of parliamentarians (July 2007)**
- **Efforts to regulate conflicts of interest, political finances and lobbying in countries of central and eastern Europe**

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**Thank you for your attention.**

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