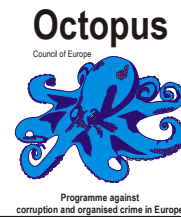




Octopus workshop on corruption and democracy
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Conflicts of interest, corruption and democracy

Alexander Seger
Department of Crime Problems
Directorate General of Legal Affairs
Council of Europe
alexander.seger@coe.int



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About conflicts of interest

Throughout Europe discussions/controversies on

- elected representatives pursuing private interests
- compatibility of elected office with outside employment/paid functions/
- post-office employment of elected representatives (revolving doors)

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About conflicts of interest

OECD: In the public sector a conflict of interest arises when a public official has private-capacity interests which could improperly influence the performance of his official duties and responsibilities

Situations

- **Actual: leading to improper performance of duty**
- **Apparent: it appears the private interest interests could improperly influence the performance of public functions**
- **Potential: existing private interests could lead to a conflict in the future**

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Conflicts of interest and democracy

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

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

Cumul des mandates

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

Revolving doors

Patronage

Corruption of democratic principles and processes

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

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Regulating conflicts of interest

United Kingdom

- Committee on Standards in Public Life (Noland Committee) 1995
- Code of Conduct 1996
- Revised Code of Conduct and Guide to the rules relating to the Code of Conduct of Members 2005
- Prohibits lobbying for reward or consideration
- Registration and declaration of interests

New conflict of interest laws in countries of central and eastern Europe (Albania, Montenegro, Serbia)

European Commission code of conduct (SEK(2004)1487/2):

- Prohibition of any paid or unpaid outside employment (including lectures unrelated to EU)
- Declare all interests/assets which could lead to conflict of interest

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Regulating conflicts of interest

Germany: Code of Conduct for members of the Federal Parliament

- Paid outside activities acceptable but mandate must represent the core function
- Must declare to President of Parliament paid external activities
- Gifts and contributions to be declared if more than Euro 5000/year
- Must declare conflicts of interest re specific issues to be debated in a parliamentary committee
- Code adopted in December 2005
- Declarations to be made by 30 March 2006
- On hold pending a decision of the Constitutional Court on complaints submitted by some members of Parliament

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OECD Guidelines for managing conflicts of interest in the public service

Core principles:

- Serving the public interest
- Supporting transparency and scrutiny
- Promoting individual responsibility and personal example
- Organisational culture intolerant to conflicts of interest

Developing the policy framework:

- Identify Col situations
 - Clear description of circumstances and relationships
 - Ensure that Col policy is supported by organisational strategies and practices
- Establish procedures for identifying, managing and resolving Col situations
 - Ensure that official know what is required
 - Set clear rules for dealing with Col situations

Implementing the framework:

- Demonstrate leadership
- Create partnership with employees
- Enforce Col policy (procedures, sanctions, monitoring)
- Initiate new partnership with business and non-profit sectors

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Regulating conflicts of interest in Romania

Law 115/1996

Law 161/2003

- Each MP to make an asset declaration when entering and leaving public office
- To be submitted to Secretary General of respective chamber
- Control of declarations by commissions within Courts of Appeal and High Court of Cassation
- Investigation at request of concerned person, Minister of Justice or General Prosecutor

Issues:

- No special body in charge of supervising conflicts of interest
- No clear provisions about compliance procedures if Col is not declared or resolved
- Many provisions do not apply to MPs
- Rules not enforceable against those in top positions
- National Integrity Agency to be established

Modification of Law 161/2003 through Law 158/2005 (approving emergency ordinance 14/2005)

Issues raised in the OECD/SIGMA report
Romania - Elements of the Public Integrity
System - Assessment June 2005

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Regulating conflicts of interest in Romania

**How effective is the current system
regulating conflicts of interest in
Romania?**