How Much does Transparent Lobbying Cost?

Abstract
Lobbying transparency increase can be considered a specific public project, i.e. a systemic proposal of public funds allocation. Modern dynamic indicators which analyse costs (input) of a project and are related to its utilities (output) are reflected from the viewpoint of public project evaluation. The used CBA (Cost Benefit Analysis) method was specified on the basis of the delimitation of characteristics and attributes of transparent lobbying. The evaluation of the project is performed on the basis of the creation of a specific model of a social-economic analysis in a non-reduced form. The model works with the delimitation of quantifiable and non-quantifiable costs and benefits of the project. The basic options were determined which are: 1) the existence of the current legislation and 2) the project option of lobbying transparency increase, which was further divided into 2.1) a project option of lobbying transparency increase by means of legislation changes and 2.2) a project option of lobbying transparency increase on the basis of self-regulation principles. From the viewpoint of costs, the second option is financially more demanding and mainly the option of implemented legislation changes. The option by means of self-regulation can, but does not have to, be accompanied by additional costs. The first option is not connected with any immediate financial costs. The selection of the most suitable option will be done in relation with the presupposed acquired quantifiable and non-quantifiable benefits which will be evaluated by means of indexes and indicators of democracy, institutional quality and competitiveness.

Key Words: transparency, lobbying, Cost Benefit Analysis, public project

JEL Classification: H43, D72

Introduction
Lobbying as a term can be defined in a lot of ways. In essence, however, it always involves advancing of interests of a particular interest group in the course of a decision making process. A definition which is often considered as the most precise is that by L. Graziana (2001: 248), when: “Lobbying is a specialised and professional representation of interests by means of a wide variety of tools which in principle eliminate a corruptive change of services. It is by its nature very different from a general non-specialised representation provided by elected representatives. As a representative of particular interests a lobbyist provides information and technically-professional expertises which can be useful and sometimes decisive for defining legislative and administrative regulation.” In addition to this, there is Schendelen’s definition stating that “Lobbying refers to the various types of unconventional behaviour of interest groups focused on achieving requested results” (Van Schendelen, 2002: 210). In 2006, the European Commission (further just as Commission) issued a document called Green Book - European Transparency Initiative. This document formulates relatively broad definition of
lobbying: “All activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions” (Commission, 2006: 5). Š. Laboutková and M. Žák (2010: 2) delimited the basic attributes of lobbying when “lobbying is first of all focused on advancing interests, it is an indispensable source information and the biggest problems is to distinguish lobbying from corruption.”

Lobbying helps to articulate and advance interests of various parts of society and it is at the same an information channel by means of which the knowledge of the holders of the public power about decisive facts is improved. Affecting representatives of the public power with the aim to influence their decisions is not always transparent and according to clear rules, which brings the risk of the public interests being manipulated in favour of hidden partial interests. Strengthening the transparency of the legislation and decision making process helps to reveal the influence and the relations between lobbyists and interest groups on the one hand and public entities on the other hand to public control, which should contribute to the reduction of negative impacts often connected with lobbying, such as corruption, conflict of interests, protection and clientelism. According to OECD (2013), creating limits for transparent lobbying is essential also for the integrity of the public decision making process.

The article has been written as an integral part of the evaluation of the project focused of lobbying transparency increase as part of the GAČR grant "Impact of Transparency of Lobbying on Democratization and Its Consequences". The aim of the article is to determine project options for lobbying transparency increase, their evaluation and comparison from the viewpoint of quantifiable and non-quantifiable costs.

1. Methods of Research

Increasing the transparency of lobbying can be considered a specific public project. It follows from the definition of F. Ochrana (2004), who defines a public project as "a systemic proposal of public funds allocation which (usually) has the character of an investment action while a public project can also be understood as a proposal of a systemic change of the funds allocation itself". Public projects differ from purely private ones by the fact that the public sector is always involved in their implementation to a certain extent. The classification of lobbying transparency increase among public projects corresponds also with the definition of a public project by B. Hamerníková and K. Kubátová (2004), who define a public project as "the execution of specific concrete aims as a result of which either specific production (of assets or services) or investment units originate, or the correction of injustice towards specific groups of inhabitants on the basis of set down or generally shared criteria occurs". Also J. Weber (2001: 601) considers a public project to be "a specific way of reaching a change, a temporary activity which unites and organizes the effort of different kinds of expertise invested into the creation of a unique intention (usually a product or a service)".

As far as the evaluation of public projects is concerned, the most commonly used one-criterion methods include economic analyses, so called cost-output methods. Input-output methods differ in the approach to the utilities and costs from the viewpoint of their assessment. It is possible to evaluate public projects and to determine their profitability by means of four basic methods: CMA (Cost minimalisation Analysis), CEA (Cost Effectiveness Analysis), CUA (Cost Utility Analysis) and CBA (Cost Benefit Analysis).
In connection with the project, the possibilities of the use of the CUA and CBA methods are specified. In the case of the use of the CUA method, which is used e.g. in the area of health care, for the quantification of costs of the lobbying transparency increase and for measuring society-wide benefits representing a wide spectrum of outputs also a qualitative dimension can be used which replaces the monetary representation of effects. In the optimal case, if it is possible to express both the input and output of a project in monetary units, it is suitable to use the CBA method, namely a social-economical (wide) analysis in a non-reduced form. This method is further specified on the basis of the delimitation of the characteristics and attributes of transparent lobbying. Š. Laboutková and P. Vymětal (2017) propose a catalogue of currently used measures dealing directly or indirectly with lobbying regulation that support the transparency principle in general. All measures are grouped in four logical categories:

1. Direct rules focusing on lobbyists in term of lobbying activities and their behaviour, both legal and self-regulation. Those include register of lobbyists; Codes of Ethics / Codes of Behaviour for lobbyists with effective penalties; regular disclosure of lobbyists’ activities; open calendars of meetings with all decision-makers.

2. Indirect provisions rule subject of lobbying (the targets of lobbying). This category mostly includes Codes of Ethics / Codes of Behaviour for Members of Parliament, Ministers, Employees in the Civil Service; revolving doors provisions (pre- and post-employment separation); open calendars of meetings (appointment diaries) of all decision-makers; Conflict of Interest regulation; declaration of (financial) assets, income and/or fact-finding trips.

3. Sunlight principles and/or anti-corruption tools are indirect also, but they are supposed primarily as a measure with a different goal rather to be linked only with lobbying and they include clear and transparent rules on legislative process; rules on Governmental decision-making and decision-making in the public sector; rules on consultations with public, civil society, interest groups, professional bodies etc.; legislative footprint and/or other declaration of consulted bodies/organizations; programme of proposed legislative work; Open Government Data; regulation of political parties financing (limits for lobbyists donations and expenditures); freedom of information act.

4. The monitoring and sanctioning system. Here only general statements can be made – enforcement of the rules should be effective, and the penalties should force subjects to comply with the rules.

The procedure of the lobbying transparency increase evaluation by means of the social-economical effectiveness of the project is illustrated in the following Figure 1:
The first step in the evaluation is the identification of the project and its implementation alternatives. Subsequently relative effects are evaluated, i.e. costs and profits of the project, while it is necessary to avoid duplicate inclusion of one effect. Then the effects are expressed in such units so that it were possible to aggregate and mutually compare the individual effects. Based on these it is possible to calculate criteria indicators with the help of which it is possible to decide about the implementation of the project and to select the best alternative.

2. Results of the Research

The proposed measures of lobbying transparency increase can work individually or in mutual combination, which can intensify their effects in practice. With regards to
national specificities and historical approach it is necessary to thoroughly consider which of the possible measures should be applied and in what forms so that the expected results were ensured. In connection with the evaluation of lobbying transparency increase in the Czech Republic, three basic project options are delimited.

**Option 1 – the existence of the current legislation, i.e. the current state without an increase in transparency**

Retaining the current state and thus not adopting any of the measures for the regulation of lobbying and the increase in transparency of the legislation and decision making process is unsatisfactory for a number of reasons. It can be assumed that the problems of the current condition will become worse and deeper, namely (Government Office, 2012):

- the lingering low transparency of the legislation process which will lead to gradually deteriorating quality of legal regulations;
- pressure coming from interests groups and aiming at reaching such legislation which would be advantageous mainly for the groups themselves;
- consequently to this, the quality of business environment will deteriorate and also the attractiveness of the CR not only for foreign investors (including the risk of international arbitrations due to breaches of agreement on the mutual protection of investments), but also for Czech companies (including the outflow of Czech companies headquarters out of the Czech Republic);
- low level of decision-making processes transparency (strategic planning, awarding tenders, etc.) in public administration (state administration and public corporations);
- low level of control over the influence on decision making of entities in public power.

This option is not connected with any immediate financial costs. Potential direct costs would arise in the case of unsuccessful international arbitrations, in the case of reduced tax income caused by the outflow of businesses form the Czech Republic, or if small business becomes more difficult to run or if the rating and evaluation of the Czech Republic by the World Bank and the International Monetary Fund worsened, which would lead to the reduction of international investments.

**Option 2 – project option of lobbying transparency increase**

This option includes the adoption of a whole set of measures in support of legislation and decision-making processes transparency in relation to lobbying activities. The strategic aims include (Government Office, 2012):

- to enable transparent protection of interests in the legislation process, also on the level of self-governments, for individuals as well as groups - i.e. to make the process of legitimate lobbying more transparent and to increase the credibility of legitimate lobbyists;
- to reduce corruptive environment in the legislation process in the CR, potentially also on the level of self-governments;
- to strengthen tools for advancing non-profit interests in civil society.
If the whole set of new measures is to be created and work, it is an expensive option. From the viewpoint of transparency, however, this option including a combination of legislation and non-legislation processes is the most complex one. Within this option there are two possible solutions in relation to the fact whether the regulation of lobbying will be done by means of legislation changes of on the basis of self-regulation principles.

Option 2.1 – project option of lobbying transparency increase by means of legislation changes

This option presupposes the existence of one legal regulation which would comprehensively regulate the area of lobbying control, the related legal regulations will be amended and it will include a sanction mechanism, which would ensure real enforceability. This option presupposes the establishment of a register of lobbyists based on the new law and the increase in the transparency of lobbying in accordance with the recommendation by OECD and EU activities, it further presupposes the establishment of an authority for the control and enforcement in connection with lobbying.

It is rather an expensive option when it will be necessary to proceed in such a way so that the costs did not exceed the expected social benefits. The costs will be derived from the number of legislation actions when the government annually discusses approximately 160 materials of a legislation nature, the parliament annually passes 400 - 500 legal regulations. The costs of the control of to what extent the obligations arising from the legislation regulating lobbying are observed can be calculated in relation to the presupposed agenda performed by the authority for lobbying control which includes the registration of lobbyists and the maintenance of their register, the checks of financial/annual reports, analytical, educational, consultancy and methodical activities, checks of reports on forbidden activities of lobbyists, or the imposition of correct sanctions. How time demanding the activities will be depends on the number of lobbied entities and the number of lobbyists. The number of the lobbied entities is estimated based on the number of persons in a position which authorises them to effectively influence these processes per 2000 – 3000 persons and maximally several hundreds of lobbyists. In the case of administration agendas of a similar type (so called agendas residing in records, checks and supervisions or in education) the presupposed number of entities per one officer is 300 - 1000, thus 4 - 5 should be able to perform such agenda. Other overhead and operations costs are connected with activities according to the new legislation in the area of lobbying. There will be no costs of specialized customized software for the establishment of the register as with regards to the expected number of the registered entities, commonly used office software should be sufficient.

Option 2.2 – project option of lobbying transparency increase on the basis of self-regulation principles

This option is based on voluntariness which both in the conditions of the Czech Republic as well as in other countries is a serious disadvantage because it causes insufficient enforceability of the set down rules. Voluntary registration has proved unsatisfactory even in the EU institutions in the long run. The effective functioning of the discussed
option is closely interrelated with long-lasting political and cultural traditions in some countries which are not directly transferable to the Czech environment. Codes of conduct, voluntary registers of lobbyists, public diaries, etc. are not sufficiently enforceable at the moment because of the insufficient role of moral imperatives. These at the same time limit educational approach which purely theoretically could eventually lead to the establishment of a transparent state when legal regulations are not essentially needed.

This option can, but does not have to be, connected with costs for the state budget. This depends on to what extent the state will get actively involved in educational activities (campaigns focused on businesses, citizens and executives related to the importance and benefits of transparent lobbying), or whether everything will be left completely to non-governmental organizations or how these organizations will be supported within the grant policy (in this case indirect costs might arise). Other additional costs include certain small increases in administration load, mainly for the lobbied entities, which means state administration and public authorities.

Conclusion

The article has been written as an integral part of the evaluation of the project focused of lobbying transparency increase as part of the GAČR grant "Impact of Transparency of Lobbying on Democratization and Its Consequences". The aim of the article was to determine project options for lobbying transparency increase, their evaluation and comparison from the viewpoint of quantifiable and non-quantifiable costs. Lobbying transparency increase can be considered a specific public project, i.e. a systemic proposal of public funds allocation which (usually) has the character of an investment event while a proposal for a systemic change of the fund allocation itself can be considered a public project. Modern dynamic indicators which analyse costs (input) of a project and are related to its utilities (output) are reflected from the viewpoint of public project evaluation. The used CBA (Cost Benefit Analysis) method was specified on the basis of the delimitation of characteristics and attributes of transparent lobbying which are: 1) Direct rules focusing on lobbyists in term of lobbying activities and their behaviour, both legal and self-regulation, 2) Indirect provisions rule subject of lobbying (the targets of lobbying), 3) Sunlight principles and/or anti-corruption tools a 4) The monitoring and sanctioning system. The evaluation of the project is performed on the basis of the creation of a specific model of a social-economic (wide) analysis in a non-reduced form. The model works with the delimitation of quantifiable and non-quantifiable costs and benefits (utilities) of the project. The basic options were determined which are: 1) the existence of the current legislation and 2) the project option of lobbying transparency increase, which was further divided into 2.1) a project option of lobbying transparency increase by means of legislation changes and 2.2) a project option of lobbying transparency increase on the basis of self-regulation principles. From the viewpoint of costs, the second option is financially more demanding and mainly the option of implemented legislation changes. The option by means of self-regulation can, but does not have to, be accompanied by additional costs. The first option is not connected with any immediate financial costs. The selection of the most suitable option will be done in relation with the presupposed acquired quantifiable and non-quantifiable benefits which will be evaluated by means of indexes and indicators of democracy, institutional quality and competitiveness.
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