GOVERNANCE
BASEL INSTITUTE ON GOVERNANCE

Conference 'Conflict of Interest' | 7-8 May 2010 | University of Basel, Switzerland

A Conflict by Any Other Name: The Impact of Multiple Relevant Instruments on International and Regional Regulation of Conflicts of Interest

Alexandra R. Harrington, Doctor of Civil Law Candidate, Faculty of Law, McGill University (Canada)

The rise of anti-corruption and anti-bribery laws and measures on the global scale has many implications for law and society on many levels. As attention has focused on this area, a variety of organizations and institutions have taken up the cause and enacted instruments seeking to end corruption and bribery at the public and private level. A common feature of these instruments and agreements is that they contain provisions relating to curtailing and regulating conflicts of interests within both the public and private realms.
And yet, admirable as these pieces of instruments are, there is little discussion of whether and how they work in tandem with each other. Indeed, many such agreements feature noticeable differences, many as fundamental as the definition of prohibited conduct itself.
This paper will examine the conflicts of interest provisions in a variety of international and regional instruments – such as the United Nations Convention Against Corruption, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Inter-American Convention Against Corruption, the AU Convention on Preventing and Combating Corruption, and relevant EU and EC agreements and directives – in order to evaluate the extent to which their provisions overlap and/or disconnect.
In areas where there is a disconnect, the disconnect will then be analyzed to determine the legal and practical implications for states which are signatories to both instruments, as well as to the overall strength of the instrument as a normative source itself. To fully understand the overlaps and disconnects between instruments, this paper will look beyond the facial terms of the instruments themselves and will incorporate information relating to the implementation of the instruments themselves.
The overall purpose of this paper to is determine whether, in the area of conflicts of interest regulation and curtailment, too much law is not actually a good thing for achieving the goals of these instruments.