

Annex B. Methodology

Background

On 18 February 2010, the OECD Council adopted the Recommendation on Principles for Transparency and Integrity in Lobbying [C(2010)16 and C/M(2010)3/PROV] (OECD, 2010^[1]) (hereafter ‘the Recommendation’). The Recommendation recognises that lobbying in all its forms, including advocacy and other ways of influencing public policies, is a legitimate act of political participation, and grants stakeholders access to the development and implementation of public policies. Lobbyists, as well as advocates and all those influencing governments, represent valid interests and bring to the attention of policy makers much needed insights and data on all policy issues. It is this variety of interests and stakeholders that allow policy makers to learn about options and trade-offs. Such an inclusive policy-making process leads to more informed and ultimately better policies.

However, evidence has shown that policy-making is not always inclusive and at times may only consider the interests of a few, usually those that are more financially and politically powerful, at the expense of the public interest. The Recommendation was the first international guideline for governments to address transparency and integrity risks related to lobbying practices. It was part of a broad set of OECD initiatives triggered by the 2008 financial crisis to set standards and principles for a stronger, cleaner and fairer economy, and avoid that policy choices be made in the interests of the more financially and politically powerful.

Evidence had shown that dishonest and non-transparent lobbying, as well as revolving door practices that led to deregulation, were partly at the origin of the 2008 financial crisis (Igan and Lambert, 2019^[2]; Igan and Mishra, 2014^[3]). A sound framework for regulating lobbying was considered vital to fostering transparency, integrity and accountability in the recovery phase. The Recommendation thus provides decision-makers within Members and non-Members having adhered to it (hereafter “Adherents”) with directions and guidance on how to promote equal access to policy discussions for all parties concerned, and how to enhance transparency, integrity and mechanisms for effective implementation.

The principles embedded in the Recommendation were developed by the PGC on the basis of reviewed data and experiences of government regulation (OECD, 2009^[4]) and self-regulation by lobbyists [GOV/PGC(2009)9]. It also reflected the views of a wide range of OECD bodies and stakeholders consulted by the PGC, including legislators, representatives of the private sector, lobbying associations, civil society organisations, trade unions, think tanks and international organisations [GOV/PGC(2009)14].

The Recommendation became applicable to all OECD Member countries through Council’s adoption, but also open to non-Members’ adherence. To date, one non-Member, Peru has adhered to the Recommendation. When adopting the Recommendation, the OECD Council instructed the PGC to report back on progress made in implementing the Recommendation within three years of its adoption and regularly thereafter. This resulted in the 2014 Report on the Implementation of the Recommendation of the Council on Principles for Transparency and Integrity in Lobbying [C(2014)7], also published as “Lobbyists, Governments and Public Trust, Volume 3: Implementing the OECD Principles for Transparency and Integrity in Lobbying” (OECD, 2014^[5]). The implementation report concluded that lobbying was receiving increased attention and some Adherents were adopting relevant regulations or policies. However, while these efforts had resulted in more risk awareness and openness on lobbying practices, the approach had

been too often driven by the pressure of addressing public and political scandals, leaving room for loopholes and weak transparency mechanisms, or at times resulting in overshooting, by which countries have gone above and beyond what is needed to address the concerns. The report also showed uneven compliance concerning regulations and policies, and that providing access to the decision-making process to all stakeholders from the private sector and the public at large, beyond specific interests, remained a challenge.

When noting and declassifying the 2014 Report, the OECD Council invited the PGC to pursue its work on transparency and integrity in lobbying, and to report back on the implementation of the Recommendation in a further three years. In its Standard-Setting Action Plan [GOV/PGC(2017)4/FINAL], the PGC confirmed that the Recommendation “still remains the sole global legal instrument to provide guidance on how to ensure transparency and integrity in lobbying activities” and scheduled the upcoming report to Council. The present document responds to the Council request and the report in the Annex takes stock of the progress made in implementation. The discussions at the Working Party of Senior Public Integrity Officials (SPIO) have demonstrated a strong interest from non-Adherents to implement the recommendation without formal adherence to it. Accordingly, in addition to OECD Members and Peru, the report also features good practices from non-Adherents such as Brazil, Costa Rica and Romania.

The key role of lobbying as a legitimate tool to influence public policies and concerns on transparency and integrity risk associated with it, remain as high as ever. As the COVID-19 crisis has demonstrated, lobbying risks persist, in particular when there is a need for rapid decision-making and high public spending, and is also changing in nature and format with wider societal evolutions (digitalisation, globalisation, etc.). Thus, the report also reflects on new challenges and risks related to the many ways special interest groups attempt to influence public policies, including through political finance, and reviews tools adopted by governments to effectively safeguard impartiality and fairness in the public decision-making process.

Methodology

The Secretariat used several tools to collect extensive evidence since the adoption of the previous report on the implementation of the Recommendation. To reduce unnecessary duplication and burden on Adherents, the present report builds on existing analysis developed by the OECD, notably the 2014 monitoring report “*Lobbying, Governments and Public Trust, Volume 3: Implementing the OECD Principles for Transparency and Integrity in Lobbying*” (OECD, 2014^[5]), “*Financing Democracy*” (OECD, 2016^[6]), “*Preventing Policy Capture*” (OECD, 2017^[7]), and the “*OECD Public Integrity Handbook*” (OECD, 2020^[8]).

The report follows a similar methodology to the one used for the 2014 monitoring report. Two approaches were applied to assess the level of implementation of the Recommendation:

- **Consulting stakeholders:** views were collected through relevant sessions of the annual OECD Global Anti-Corruption and Integrity Forum, and meetings of the OECD Coalition of Influencers held on 28 March 2018 and 22 March 2019. The Coalition brings together key stakeholders from government, business, academia and civil society to examine the mechanisms by which interests influence policy makers, and serves as a collaborative platform to identify and develop practical solutions to ensure integrity in public decision making and promote better policies.
- **Benchmarking** based on comparative evidence and lessons learned in specific country contexts. This included desk research and existing data on lobbying regulations, notably through the 2018 OECD Product Market Regulation indicators (PMR). New data was also collected through three separate OECD surveys addressed to public officials, legislators, lobbying associations and lobbyists, and through the analysis of peer-reviewed research papers on influence in the health, environment, finance and technology policy areas.

The three OECD Surveys on Lobbying took stock of regulations and collected experiences of public officials from the executive and legislative branches, as well as lobbyists. Respondents to the 2020 OECD Survey on Lobbying for public officials in the executive branch were country delegates responsible for integrity policies and/or lobbying-related rules and their implementation in central governments. Respondents from a total of 31 OECD Adherents – Australia, Austria, Canada, Costa Rica, Chile, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, Norway, Peru, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey and the United States – completed the survey. Italy responded to selected questions. Belgium, Colombia Estonia, Israel, Japan, New Zealand, and the United Kingdom did not respond. The United Kingdom provided information through written procedure, and information on the remaining Adherents was collected through desk research. To disseminate and promote the use of the Recommendation beyond its Adherents, the survey was also distributed to Key Partners and members of the Group of States against Corruption (GRECO), the anti-corruption body of the Council of Europe. Brazil and Romania completed the Survey. and given the expansion of lobbying activities at the European level, the “Joint Transparency Register Secretariat”, which manages the Transparency Register of the European Commission and the European Parliament, also responded to the survey.

The 2020 OECD Survey on Lobbying for lobbyists was distributed to individual public affairs professionals and lobbyists through national and international lobbyists’ associations. A total of 157 responses were collected, anonymously, from 34 Adherents and selected non-Adherents.

Lastly, the 2020 OECD Survey on Lobbying for legislators was distributed to individual legislators through the OECD Global Parliamentary Network and OECD delegations. In total, 116 responses were collected from legislators in 31 Adherents and selected non-Adherents.

Process

The process for the development of the present report began in November 2018. The Secretariat, presented a first draft outline of the report during the March 2019 meeting of the Working Party of Senior Public Integrity Officials (SPIO). Feedback and comments that were received from delegates served as a basis to design the surveys. These were used to gather information that would not otherwise be obtained through desk research, or that was not yet collected through other OECD surveys.

A second draft outline, along with the surveys, were discussed during the SPIO meeting of November 2019, which featured a session in which four roundtables of delegates discussed topics related to transparency, emerging threats to integrity in decision making, the integrity of data and evidence, as well as transnational lobbying. Surveys were disseminated through and thanks to the support of the delegates, OECD delegations and parliamentary networks.

The inputs from discussions and comments received from the aforementioned stakeholders served as a basis for the preparation of the first draft of the report. The draft report was discussed at the meeting of the SPIO on 30 November 2020, and revised on the basis of comments received. Delegates voiced strong support for the draft report, welcomed the in-depth analysis it provided, and highlighted its timeliness in the crisis currently facing governments and for their national contexts, as many Adherents are currently discussing lobbying bills or are in the process of revising existing regulations.

The Public Governance Committee discussed the draft report during the PGC Symposium “Reinforcing Democracy: 21st Century Governance Challenges” on 19 March 2021 and at its 63rd session on 22 March 2021. The draft report was also submitted to select stakeholders for a targeted consultation, namely Ethical Systems, the Good Lobby; Influence Map; Political Intelligence EPACA; Preventable Surprises; and Principles for Responsible Investment. Comments received during the consultation, discussions and additional written comments by SPIO and PGC delegates informed a second and final revision of the draft

report, which has been approved by the PGC via the accelerated written procedure on 16 April 2021 [GOV/PGC/INT(2020)9/REV2].

In line with the provisions of the Recommendation, the Regulatory Policy Committee and other relevant OECD bodies have been consulted on the draft report.

Dissemination

The Recommendation invites the Secretary-General to “support, as appropriate, Members in taking steps to foster transparency and integrity in lobbying”, and “disseminate the Principles to non-Members and to promote good governance through encouraging them to use the Principles in their efforts to enhance transparency and integrity in public decision-making”. This has taken place in various ways:

- Policy dialogues in meetings of the SPIO and the Coalition of Influencers on Integrity in Decision-Making.
- A global policy debate during the OECD Forum on Transparency and Integrity in Lobbying held on 27-28 June 2013, which brought together more than 100 senior representatives from the executive and legislative branches of governments, the private sector and civil society.
- Dedicated discussions at relevant sessions of the annual OECD Global Anti-Corruption and Integrity Forum, including a session on “Responsible Lobbying: Aligning Profit with the Public Good” in 2019, in which panellists from the public sector, the private sector, and civil society organisations identified critical principles to that should guide responsible lobbying practices.
- Policy dialogues that took place during the OECD High Level Parliamentary Seminars held in Santiago, Chile in March 2012 and in Paris in October 2013, France, as well as the February 2019 meeting of the OECD Parliamentary Network in Paris, France.
- Presentation of the Recommendation in OECD regional networks, including the 10th Regional Conference of the Anti-Corruption Initiative for Asia and the Pacific in December, which addressed, for the first time, the issue of undue influence in the early stages of the public investment cycle.
- Presentation of the Recommendation in international conferences (e.g. Transparency International’s International Anti-Corruption Conference).
- Dissemination and promotion of the Recommendation by Adherents at the national and regional levels.

The Recommendation has been key to raise awareness and promote the relevance of lobbying standards among Adherents, encouraging them to use the Recommendation in their efforts to enhance transparency and integrity in public decision-making. It has proved to be a valuable instrument in shaping policy debates at national and supranational levels and guiding the many Adherents that since 2010 have adopted regulations or policies on lobbying. Austria, Chile, Ireland, and France reported to have used the Recommendation as a source for their regulations. It has also proven influential in framing and informing debates in Adhering countries currently designing or revising lobbying regulations, such as Costa Rica, the Czech Republic and Germany (Box A B.1).

Box A B.1. Countries currently designing or revising lobbying regulations

Czech Republic

In Czech Republic, three bills have been introduced since 2004 but failed to be passed into law. A poll among members of law schools in the Czech Republic in 2018 highlighted that 95% of respondents considered that lobbying can significantly influence the outcome of legislative process, while 93% responded that lobbying should be regulated in Czech Republic (Blažek, forthcoming^[9]). A Bill on Lobbying in the legislative process – already approved by the Czech government – is currently subject to proceedings in the Parliament. The new bill provides for a mandatory transparency register, the publication of meeting records with lobbyists, as well as a legislative footprint.

Germany

A draft lobbying bill was introduced by governing “grand coalition” parties in 2020. The bill proposes the creation of a registration obligation for those who seek influence on the decision-making process of the executive and the legislative branch. The final draft bill was adopted by the German Bundestag on 25 March 2021 and by the Bundesrat on 26 March 2021. The law will enter into force on 1 January 2022.

Costa Rica

A draft law to regulate the activities of lobbyists in the public administration (“*Ley reguladora de las actividades de lobby en la administración pública*”) was introduced and discussed in Parliamentary Committee in 2019. The draft bill provides definitions of lobbyists, lobbying activities, as well as public officials and decisions targeted. It includes the mandatory registration of public officials’ meetings with lobbyists.

Source: Czech Republic: information provided by Czech Republic during the meeting of Senior Public Integrity Officials (SPIO) in March 2019; Germany: draft lobbying bill provided by the delegate for Germany in the Working Party of Senior Public Integrity Officials ; Costa Rica: information provided by the Procuraduría de la Ética Pública.

The Recommendation has also informed debates at the subnational level. For example, the Québec Commissioner of Lobbying used the Principles embedded in the Recommendation to review implementation of the Québec Lobbying Transparency and Ethics Act in 2019 (Québec Commissioner of Lobbying, 2019^[10]).

The Recommendation is also informing debates in Adherents considering lobbying laws and regulations (Box A B.2).

Box A B.2. Lobbying laws and regulations currently under consideration in Adherents

Latvia

In 2020, the Government of Latvia adopted Latvia's Open Government National Action Plan, which includes a specific commitment on the “Transparency of interest representation and lobbying”. The commitment aims for the introduction of a new lobbying transparency law by 2021. It also includes activities to raise awareness of lobbying rules and guidelines, such as introducing a training on lobbying for public officials by the Latvian School of Public Administration, and introducing one specific training on lobbying within the Programme for the Development of Senior-level managers.

Luxembourg

In Luxembourg, the Agreement of the Governing Coalition for 2018-2023 includes consideration for introducing a register of interest representatives involved in the legislative process, with a view to increasing the transparency over lobbying activities.

Spain

The Government of Spain recently adopted its IV Open Government Plan (2020-2024). Reinforcing public integrity is one of the primary objectives and line of action of this Plan and, as a result, a bill regulating lobbying activities and establishing a register of lobbyists is expected to be adopted in 2022.

Slovak Republic

The Slovakian Anti-Corruption Policy of the Slovak Republic for 2019-2023 includes an objective to introduce an “effective legal framework for regulating lobbying”.

Source: Latvia: <https://likumi.lv/ta/en/en/id/312544-fourth-national-open-government-partnership-action-plan-of-latvia>; Luxembourg: Agreement of the Governing Coalition 2018-2023 <https://gouvernement.lu/fr/publications/accord-coalition/2018-2023.html>. ; Spain: information provided by the delegates of the SPIO; Slovak Republic: Anti-Corruption Policy of the Slovak Republic for 2019-2023, provided by the delegates of the SPIO.

The Recommendation has also informed the Council of Europe Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making (Council of Europe, 2017^[11]). Similarly, business representatives as well as non-governmental organisations have built on the Recommendation in their efforts related to lobbying. Academics have also used the Recommendation to establish standards to measure the robustness of lobbying regulations (Chari et al., 2019^[12]).

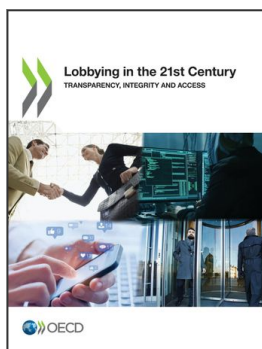
Lastly, the Recommendation has also been successfully disseminated to non-Adherents. In particular:

- Whenever the Secretariat conducts reviews of integrity systems (“Integrity Reviews”) in OECD Member and non-Member countries, the Recommendation constitutes the key reference for the chapter on ensuring transparency and integrity in public decision-making processes (e.g. Argentina, Thailand; Slovak Republic);
- One non-Member, Peru, adhered to the Recommendation, and this report includes findings on its implementation in Peru. Other countries, such as Kazakhstan, has requested adherence to the Recommendation.

The dissemination activities developed by Adherents and the OECD Secretariat under the auspices of the SPIO have been important in explaining the rationale and the value of the Recommendation to key actors – namely governments, lobbyists and legislators – from Adherents and non-Adherents and in increasing their understanding of the various pillars of the Recommendation.

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