

# LOBBYING IN EUROPE: HIDDEN INFLUENCE, PRIVILEGED ACCESS

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## METHODOLOGY NOTE AND ASSESSMENT QUESTIONNAIRE

### Introduction and Context

Transparency International's report *Money, Power and Politics* (2012) showed that in most European countries, the influence of lobbyists is shrouded in secrecy and a major cause for concern. When undertaken with integrity and transparency, lobbying is a legitimate avenue for interest groups to be involved in the deliberative process of law making. It is when lobbying is non-transparent and unregulated that problems arise. Corporate lobbying in particular raises concerns because it often involves companies with vast sums at their disposal developing close relationships with lawmakers and thus gaining undue and unfair influence in a country's politics and policies.<sup>1</sup>

A recent Eurobarometer report revealed that 81% of Europeans agree that overly close links between business and politics in their country has led to corruption and more than half believe that the only way to succeed in business in their country is through political connections.<sup>2</sup> This corroborates the data from TI's Global Corruption Barometer 2013, which found that in many European countries more than 50% of people believe that their country's government is to a large extent or entirely run by a few big interests.<sup>3</sup>

Against the background of the already available quantitative and qualitative data, and as part of a European Commission funded project, 19 of TI's European national chapters and partners researched and published a report on the situation with regard to lobbying and its regulation in their country.

The national reports aim to drill deeper into the national context to:

- Assess existing lobbying regulations, policies and practice at the national level
- Compile evidence about corruption risks and incidences related to lack of lobbying control, in particular through case studies
- Highlight best/promising practice examples found at national level
- Provide recommendations and solutions for decision-makers and interest representatives in the public and private sector

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<sup>1</sup> See TI (2012) <http://www.transparency.org/enis/report>

<sup>2</sup> See Eurobarometer (February 2014) Special Report on Corruption: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm)

<sup>3</sup> See TI (2013) <http://www.transparency.org/gcb2013/report>

The regional report 'Lobbying in Europe: Hidden Influence, Privileged Access' brings together the findings of those 19 national assessments carried out in 2014, examining the practice of lobbying and attempts to regulate it across Europe.

## Definitions

The definition of lobbying for this project is “**Any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organised group.**”<sup>4</sup>

'Lobbyists' can include not only professional lobbyists, but private sector representatives (in-house lobbyists), public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.<sup>5</sup>

## Research Framework

The research framework for the underlying national assessments was developed by Transparency International with reference to internationally recognised standards on the regulation of lobbying and prevention of undue influence. These standards include, amongst others, the OECD's "10 Principles for Transparency and Integrity in Lobbying"<sup>6</sup> and their 2014 progress report on the implementation of those principles,<sup>7</sup> the Venice Commission's Report on the Role of Extra-Institutional Actors in the Democratic System,<sup>8</sup> Transparency International's Open Governance Scorecard Standards,<sup>9</sup> the Sunlight Foundation's International Lobbying Disclosure Guidelines,<sup>10</sup> and Access Info Europe's Standards of Lobbying Disclosure.<sup>11</sup> Using these standards as a starting point, a methodology consisting of 65 indicator questions was developed. The methodology was refined in consultation with several of the above-mentioned organisations.

The 65 indicators correspond to three core dimensions and 10 sub-dimensions, which are considered to be a comprehensive approach to lobbying regulation. The three core dimensions are transparency, integrity and equality of access.

- The extent of **transparency** indicates how open decision-making is and to what extent the public can access information on who is lobbying public officials and representatives, on what issues, when and how they are being lobbied, how much is being spent in the process, and what the results of these lobbying efforts are.
- The level of **integrity** demonstrates how effectively countries ensure ethical conduct among public officials, representatives and lobbyists.
- The degree of **equality of access** shows how well a system allows for a plurality of voices in public decision-making and the contribution of ideas and evidence by a broad range of interests.

<sup>4</sup> This definition draws heavily on the Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Principles for Transparency and Integrity in Lobbying, available at: [www.oecd.org/gov/fightingcorruptioninthepublicsector/oecdprinciplesfortransparencyandintegrityinlobbying.htm](http://www.oecd.org/gov/fightingcorruptioninthepublicsector/oecdprinciplesfortransparencyandintegrityinlobbying.htm) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society.

<sup>5</sup> See Transparency International (2012) Regional Policy Paper 'Lobbying in the European Union: Levelling the Playing Field', accessible online at [http://www.transparency.de/fileadmin/pdfs/Themen/Politik/ENIS\\_Regional\\_Policy\\_Paper\\_Lobbying.pdf](http://www.transparency.de/fileadmin/pdfs/Themen/Politik/ENIS_Regional_Policy_Paper_Lobbying.pdf)

<sup>6</sup> The OECD Principles for Transparency and Integrity in Lobbying, available at: [www.oecd.org/gov/fightingcorruptioninthepublicsector/oecdprinciplesfortransparencyandintegrityinlobbying.htm](http://www.oecd.org/gov/fightingcorruptioninthepublicsector/oecdprinciplesfortransparencyandintegrityinlobbying.htm).

<sup>7</sup> OECD, 2014.

<sup>8</sup> Council of Europe, *Report on the Role of Extra-Institutional Actors in the Democratic System (Lobbying) Adopted by the Venice Commission at its 94th Plenary Session (Venice, 8-9 March 2013)* (Strasbourg: Council of Europe, 2013).

<sup>9</sup> Transparency International, *Open Governance Standards* (Berlin: Transparency International, forthcoming).

<sup>10</sup> Sunlight Foundation, 2013.

<sup>11</sup> Access Info Europe, *Lobbying Transparency via Right to Information Laws* (Madrid: Access Info Europe, 2013).

The 10 sub-dimensions are outlined below.

<b>Table 1: Dimensions of a comprehensive lobbying regulation system</b>		
<b>Transparency</b>	<b>Integrity</b>	<b>Equality of access</b>
1. Access to public information, via freedom of information (FOI) regimes	5. Pre and post-employment restrictions to reduce risks associated with the revolving door between the public and private sector	9. Consultation and public participation mechanisms
2. Lobbyist registration systems	6. Codes of conduct for public sector employees	10. Expert/advisory group composition and policies
3. Oversight of registration system and sanctions for non-compliance	7. Codes of ethics for lobbyists	
4. Pro-active disclosure by public officials, including legislative footprint	8. Self-regulation by lobbyist associations	

## Assessment methodology

The in-country research was conducted from March to August 2014. It involved an initial desk review of legal and policy documents and existing secondary data. National researchers then carried out in-depth interviews with policy-makers, lobbyists and experts on lobbying in the country. In total, 161 interviews were conducted with a total of 180 interviewees across the 19 countries.

The research was primarily qualitative, but in order to give a quantitative evaluation of lobbying regulations at national and EU level, the researchers answered and scored the 65 indicator questions. In order to assess the EU level rules and regulations, Transparency International's Brussels-based EU liaison office applied the assessment element of the methodology to the European Commission, the European Parliament and the Council of the European Union.

A three-point scale was used to score the indicators, with a minimum score of 0 and a maximum score of 2. In order to calculate the overall scores for the country/EU institution and for each of the three dimensions – *transparency*, *integrity* and *equality of access* – a simple aggregation was performed. Specifically, a total score (as a percentage) was calculated for 10 sub-dimensions. A simple un-weighted average was then calculated to provide a score for each of the three dimensions. Similarly, the overall country/EU institution score is an un-weighted average of these three dimensions. No differential weighting was applied to individual indicators, sub-dimensions or to the core dimensions. The scores were reviewed and validated at international level by the research team at the Transparency International Secretariat in order to ensure cross-country comparability.

The resulting scores allow a comparison of attempts to promote open and ethical lobbying and of the quality of safeguards against undue influence at the national and EU levels. The regional analysis in this report draws mainly on the 19 national assessment findings and the EU level assessment. Additional secondary sources from Transparency International and other organisations were also drawn upon where relevant.

## Data Collection Questionnaire

### TRANSPARENCY

#### Access to Public Information

**1. To what extent is there a comprehensive access to information law that guarantees the public's right to information and access to government data?**

0 - No law exists

1- Law exists but with inadequacies

2 – Comprehensive law in place

**2. In practice, to what extent do citizens have reasonable access to information on public sector activities and government data?**

0 - In practice, citizens face major problems in accessing information and/or frequent violations of the law

1- In practice, access is not always straightforward/citizens often face obstacles to access

2 – In practice, it is easy for citizens to access to information on public sector activities and government data

**3. Do access to information laws apply to lobbying data?**

0 - No law exists/Law does not apply to lobbying data

1- Some but not all lobbying data accessible under access to information laws

2 – Access to information laws cover lobbying data

#### Lobbyist Registration Systems

**4. To what extent does the law clearly and unambiguously define 'lobbyists' to capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics?**

0 – No definition/Wholly inadequate definition covering a small proportion of lobbyists

1 – Partially but inadequately/too narrowly/too broadly defined

2 – The law clearly and unambiguously defines lobbyists to include professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Check all categories covered by law:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics

Other, please specify \_\_\_\_\_

**5. To what extent does the law/regulation define ‘lobbying targets’ in a sufficiently broad manner to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions?**

0 – Lobbying targets are not defined in law/ Wholly inadequate definition covering a small proportion of lobbying targets

1 – Lobbying targets are inadequately defined in law (including some but not all of the above-mentioned targets)

2 – Lobbying targets are broadly and adequately defined in law to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions

Check all categories covered by law:

- National Legislators
- Subnational Legislators
- National Executive
- Subnational Executives
- Executive Advisors
- High-level public officials
- Regulatory bodies
- Private bodies performing public functions
- Other, please specify \_\_\_\_\_

**6. To what extent is the term ‘lobbying’/‘lobbying activities’ clearly and unambiguously defined in law/regulation to include any contact (written or oral communication, including electronic communication) with lobbying targets (see above) for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position?**

0 – No definition/Wholly inadequate definition covering a small proportion of lobbying activity

1 – Partially but inadequately/too narrowly defined

2 – Definition is clear and unambiguous and is comparable to the following international standard<sup>12</sup>: any contact (written or oral communication, including electronic communication) with lobbying targets for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position.

**7. Is there a lobbyist register in the country?<sup>13</sup>**

0 - No register exists

1- Voluntary register exists/A register for a particular institution exists but does not apply to all lobbying activity

2 – A mandatory register exists

<sup>12</sup> See Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying (2014, forthcoming) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society

<sup>13</sup> These questions refer in the main to a public lobbyist registry which would apply to a broad range of lobbying targets across a range of public institutions (see Definition questions for ‘best practice’ scope of institutions and targets that should be covered by a registry). Where individual institutions have adopted their own registries, these should be assessed using the framework but the narrative should explicitly state the limitations in scope of the institutions covered. Furthermore, in such cases, scoring should be discussed with TI-S, as there are comparability issues to consider.

**8. Where a register exists, to what extent does it capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics in the country?**

0 – Wholly inadequate scope covering only a small proportion of lobbyists

1 – Register captures many of the categories of lobbyists mentioned above but there are still some gaps

2 – The register clearly captures professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Check all categories covered by register:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics
- Other, please specify \_\_\_\_\_

**9. To what extent are lobbyists required to register in a timely (within 10 days of beginning of lobbying activity) manner?**

0 - No compulsory registration

1 - Lobbyists required to register, but with significant time lag (more than 10 days)

2 – Lobbyists required to register within 10 days of beginning lobbying activity

**10. To what extent are lobbyists required to report regularly on their lobbying activities and expenditures in a timely manner (max real-time - min quarterly)?**

0 – No requirement to report/Reporting less often than annually

1 – Reporting requirement less often than quarterly but more often than annually

2 - Realtime - Quarterly reporting required

**11. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant personal and employment information: name of the organization (if applicable); address and contact information; names of all active lobbyists working on behalf of the organization (if applicable)?**

0 - No information required to be publicly disclosed by lobbyists

1 - Only basic information required to be publicly disclosed

2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name (of individual or organisation)
- Address and contact details
- Names of all active lobbyists working on behalf of organisation
- Other

**12. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on lobbying objectives and clients: name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied?**

- 0 - No information required to be publicly disclosed by lobbyists
- 1 - Only basic information required to be publicly disclosed
- 2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name of the persons or organizations paying for the lobbying activities
- Names of the lobbyists' clients
- Specific subject matter lobbied
- Specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts sought

**13. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on who they are lobbying and what they are advocating: name and title of the public representative or public body with whom the lobbyist engaged and the date and type of such engagement as well as any information and/or supporting documentation communicated to policymakers?**

- 0 – No requirement to report
- 1 – Only basic information required to be publicly disclosed
- 2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- The name of the public representative or public body with whom the lobbyist engaged
- Date of engagement
- Type of engagement (personal visit, accepted invitation to event, official hearing)
- Supporting documentation communicated to policymakers

**14. To what extent are lobbyists and organizations that lobby required to publicly disclose lobbying expenditures, including spending on efforts to support lobbying, loans, sponsorships, retainers, or the purchase of tickets for fundraising events?**

- 0 - No information on expenditures required to be publicly disclosed by lobbyists
- 1 - Only basic information on expenditures required to be publicly disclosed
- 2 - Sufficient information on expenditures required to be publicly disclosed

**15. To what extent are lobbyists and organizations that lobby required to publicly disclose political donations to parties and candidates?**

- 0 - No requirement for public disclosure of political donations
- 1 - Insufficient requirements for public disclosure of political donations
- 2 - Sufficient information on political donations required to be publicly disclosed

**16. To what extent are lobbyists required to publicly disclose 'in kind' contributions: In-kind contributions may include advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office?**

- 0 - No information on 'in-kind' contributions required to be publicly disclosed by lobbyists
- 1 - Insufficient information on 'in-kind' contributions required to be publicly disclosed by lobbyists
- 2 - Sufficient information on 'in-kind' contributions required to be publicly disclosed

**17. Is information disclosed by lobbyists publicly available online in a searchable machine-readable open-data format?**

- 0 - Information not available online
- 1 - Information available online but not in a searchable machine-readable open-data format (eg. Hand-written and scanned documents used)
- 2 - Information publicly available online in a searchable machine-readable open-data format

**18. To what extent do the lobbyists register and provide sufficient/timely information in line with legislative obligations?**

- 0 - Little or no compliance with legal obligations
- 1 - Some lobbyists comply but there are many cases of non-compliance
- 2 - Broad compliance with legal obligations

#### [Oversight of registration system and sanctions for non-compliance](#)

**19. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing registration of lobbyists, offering guidance to individuals and organisations, monitoring returns, and investigating apparent breaches or anomalies (this includes powers to investigate complaints made but also to instigate investigations even where no complaint has been lodged)?**

- 0 - No oversight entity exists
- 1 - Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight
- 2 - A fully mandated and resourced oversight entity is in place

**20. To what extent is there a pro-active verification mechanism to audit disclosures and reports and detect anomalies?**

- 0 - No verification mechanism exists
- 1 - Verification exists but is inadequate
- 2 - Adequate verification mechanism exists

**21. In practice, to what extent are anomalies detected and followed up on by the oversight body?**

- 0 - Little or no detection of anomalies
- 1 - In general, the oversight body is somewhat active in following up on anomalies detected
- 2 - In general, the oversight body is active in following up on anomalies detected

**22. In practice, to what extent are anomalies detected and reported by others (e.g. investigative journalists) followed up on by the oversight body?**

- 0 - Little or no detection of anomalies



- 1 - In general, the oversight body is somewhat active in following up on anomalies detected and reported by others
- 2 - In general, the oversight body is active in following up on anomalies detected and reported by others

**23. To what extent does the law provide for penalties for knowingly filing a false lobbying registration return or failure to file a return?**

- 0 - No penalties exists
- 1 - Penalties exist but they are inadequate
- 2 - Adequate penalties exist in law

**24. To what extent are penalties for knowingly filing a false return or failure to file a lobbying registration return implemented in practice?**

- 0 - Never
- 1 - Sometimes
- 2 - Always

**25. To what extent are oversight bodies required to publicly disclose the names of all individuals or organizations found to have violated lobbying rules or regulations?**

- 0 - No requirement to publicly disclose names of those who violate rules
- 1 - Disclosure of names of those who violate rules is at the discretion of the oversight body
- 2 - Mandatory disclosure of names of those who violate rules and details of the violation

**26. To what extent are the names of all individuals or organizations found to have violated lobbying rules or regulations published in practice?**

- 0 - Never
- 1 - Sometimes
- 2 - Always

**Pro-active disclosure by public officials, including legislative footprint**

**27. To what extent does the law require the publication of a 'Legislative Footprint' (document that details the time, event, person, and subject of legislators' and senior public officials'<sup>14</sup> contact with a stakeholder) as an annex to all legislative records?**

- 0 - No legislative footprint foreseen in law
- 1 - Piecemeal requirements to indicate who has sought to influence legislative or policy making processes in place
- 2 - The law requires publication of a legislative footprint as an annex to all legislative records

**28. In practice, do legislators/public officials publish a legislative footprint including details of the time, person, and subject of contacts with stakeholders?**

- 0 - No information on contacts publicly disclosed by legislators/public officials
- 1 - Some but insufficient information on contacts publicly disclosed by legislators/public officials
- 2 - Sufficient details of legislators' contact with stakeholders published

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<sup>14</sup> Generally senior public officials are considered as those in management positions with decision-making authority.

**29. To what extent are senior public officials required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?**

- 0 - No requirement to make documentation related to meetings public
- 1 - Piecemeal requirements to make documentation related to meetings public
- 2 - The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

**30. To what extent are public representatives (national and subnational legislators) required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?**

- 0 - No requirement to make documentation related to meetings public
- 1 - Piecemeal requirements to make documentation related to meetings public
- 2 - The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

## INTEGRITY

### Post-employment and Pre-employment Restrictions

**31. To what extent does the law provide proportionate moratoria or 'cooling off periods' before former members of parliament, senior public servants, ministers and advisers can work as lobbyists?**

- 0 - No cooling off period in place
- 1 - Less than 2 year cooling off period in place
- 2 - Cooling off period of at least 2 years in place

**32. To what extent do 'cooling off periods' for those who wish to work as lobbyists apply to former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers?**

- 0 - No cooling off period in place
- 1 - Cooling off period is in place but does not apply to all categories above
- 2 - Cooling off period applies to all categories above

Tick categories covered:

- Former members of parliament (national)
- Former members of parliament (sub-national)
- Former members of national Executive
- Former members of subnational Executives
- Advisors
- Senior Public Servants
- Senior staff of regulatory bodies
- Other

**33. In practice to what extent do former members of parliament, senior public servants, members of the executive and advisers move easily and directly into the lobbying sector?**

0 - There have been a significant number of cases of former members of parliament, senior public servants, ministers, ministerial advisers moving directly into the lobbying sector

1 - There have been a number of cases of former members of parliament, senior public servants, ministers, ministerial advisers to moving directly into the lobbying sector

2 - Former members of parliament, senior public servants, ministers, ministerial advisers rarely move directly into the lobbying sector, usually respecting a cooling off period

**34. To what extent does the law require former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers to receive permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?<sup>15</sup>**

0 - No permission required

1 - Insufficient Restrictions (Insufficient coverage)

2 - Permission required and applies to all above-mentioned categories

**35. In practice, to what extent do former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers seek permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?**

0 - Never

1 - Sometimes

2 - Always

**36. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing post and pre-employment restrictions, offering guidance to individuals and organisations, and investigating apparent breaches or anomalies?**

0 - No oversight entity exists

1 - Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight

2 - A fully mandated and well-resourced oversight entity is in place

#### Codes of conduct for public sector employees

**37. To what extent is ethical/responsible lobbying addressed in public sector codes of conduct (e.g. do they specify standards on how public officials should conduct their communication with interest groups, specify a duty of documentation of contacts, duty to report unregistered or unlawful lobbying to superiors?)**

0 - No code of conduct exists for public officials and/or codes of conduct do not reflect ethical lobbying guidelines

1 - Codes of conduct address ethical lobbying in a piecemeal or insufficient manner

2 - Codes of conduct comprehensively address ethical lobbying

**38. To what extent do public sector codes of conduct specify standards on how public officials should deal with conflicts of interest issues?**

0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect conflict of interest issues

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<sup>15</sup> A good source of information for this indicator is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p.59-62

- 1 - Codes of conduct address conflict of interest issues in a piecemeal or insufficient manner
- 2 - Codes of conduct comprehensively address conflict of interest issues

**39. To what extent do public sector codes of conduct specify standards on how public officials should deal with gifts and hospitality issues?**

- 0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect gifts and hospitality issues
- 1 - Codes of conduct address reflect gifts and hospitality issues in a piecemeal or insufficient manner
- 2 - Codes of conduct comprehensively address reflect gifts and hospitality issues

**40. To what extent do public sector codes of conduct deal comprehensively with interest and asset declaration issues?**

- 0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect asset declaration issues
- 1 - Codes of conduct address asset declaration issues in a piecemeal or insufficient manner
- 2 - Codes of conduct comprehensively address asset declaration issues

**41. To what extent is there a complaint mechanism allowing any public official or citizen to report violations of the public sector code of conduct?**

- 0 - No complaints mechanism exists
- 1 - Complaints mechanism exists but is limited in scope
- 2 - Robust complaints mechanism exists

**42. To what extent are there training and awareness-raising programmes for public officials on integrity issues, including lobbying rules and guidelines?**

- 0 - No training/awareness-raising programmes exist on integrity issues
- 1 - Piecemeal and irregular approach to training/awareness-raising on integrity issues
- 2 - Comprehensive and regular training/awareness-raising on integrity issues

[Codes of ethics for lobbyists](#)

**43. To what extent is there a statutory code of conduct for lobbyists including clear sanctions for failure to adhere to lobbying regulations?**

- 0 - No code of conduct exists
- 1 - Code of conduct exists but it is inadequate
- 2 - Statutory code of conduct including sanctions exists

**44. In practice, to what extent are sanctions applied for failure to adhere to lobbying regulations?**

- 0 - Sanctions rarely/never applied
- 1 - Sanctions applied, but inconsistently
- 2 - Sanctions consistently applied

**45. To what extent does the law and/or the lobbyists' code of conduct require disclosure regarding and provide restrictions on lobbyists being hired to fill a regulatory, financial decision-making or advisory post in government?**

- 0 - No disclosure requirements or restrictions in place

- 1 - Insufficient Restrictions and disclosure requirements (e.g. lobbyist must deregister but no further restrictions)
- 2 - Sufficient disclosure requirements and restrictions in place (e.g. potential veto of appointment and/or restriction in types of decisions the employee would be involved in making)

**46. To what extent does the law and/or codes of conduct prohibit simultaneous employment as a lobbyist and a public official?**

- 0 - No mention of prohibition of simultaneous employment as a lobbyist and a public official
- 1 - Law/Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official
- 2 - Law/Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

**47. To what extent is there a complaint mechanism allowing any policy-maker or citizen to report violations of the lobbying regulations?**

- 0 - No complaints mechanism exists
- 1 - Complaints mechanism exists but is limited in scope
- 2 - Comprehensive complaints mechanism exists

**Self-regulation by lobbyist associations**

**48. To what extent are there self-regulatory code(s) of ethics managed by professional association(s) for lobbyists or by companies themselves?\***

- 0 - No code of ethics exists
- 1 - Code of ethics exists but it is inadequate
- 2 - Code of ethics including sanctions exists

**49. To what extent do existing self-regulatory codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations?\***<sup>16</sup>

- 0 - Codes do not provide any behavioural principles that steer lobbyists away from unethical situations
- 1 - Codes mention behavioural principles but are vague and/or incomplete
- 2 - Codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations

Check all categories covered by codes:

- Requiring honesty and accuracy of information provided to public officials
- Requiring early disclosure to public officials of the identity of client and interests being represented
- Refraining from using information obtained in violation of the law
- Refraining from encouraging public officials to violate the law
- Banning gifts above a de minimis value, fees, employment or any other compensation from a lobbyist to a public official.
- Requiring speedy disclosure of any conflict of interest and management of such conflicts of interest or recusal
- Making ethics training a condition of membership in the association.
- Establishing a reasonably independent mechanism for monitoring and enforcing compliance to the ethics code.

<sup>16</sup> This indicator question is based on OECD (2009) Lobbyists, government and public trust: Promoting integrity by self-regulation, p.33 <http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/pgc%282009%299>

Others, please specify \_\_\_\_\_

**50. To what extent do existing self-regulatory codes require lobbyists to publicly disclose the identity of who they are representing and what they are lobbying for?\***

- 0 - No information required to be publicly disclosed by lobbyists
- 1 - Only basic information required to be publicly disclosed and/or the information is not public
- 2 - Sufficient information required to be publicly disclosed (name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied)

**51. To what extent do existing self-regulatory codes prohibit simultaneous employment as a lobbyist and a public official?\***

- 0 - No mention of prohibition of simultaneous employment as a lobbyist and a public official
- 1 - Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official
- 2 - Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

**52. To what extent is there a complaint mechanism allowing any member or non-member of the association to report violations of the lobbying code of ethics?\***

- 0 - No complaints mechanism exists
- 1 - Complaints mechanism exists but is limited in scope
- 2 - Robust complaints mechanism exists

**53. To what extent are there reasonably independent mechanisms for the monitoring and enforcement of compliance with the ethics code(s)?\***

- 0 - No monitoring and enforcement mechanisms exists
- 1 - The monitoring mechanism exists but is not independent, or is limited in scope
- 2 - A robust and reasonably independent monitoring and enforcement mechanism exists

## EQUALITY OF ACCESS

### Consultation and public participation mechanisms

**54. To what extent is the Parliament required by law to allow citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input?**

- 0 - The legal framework does not consider the provision of input to the legislative process.
- 1 - The legal framework allows for citizens and the public (corporations, civic organizations) to provide input to parliament, but it does not make any provisions regarding equal access, sufficient notice and time to receive this input
- 2 - Parliament is required by law to allow the citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input.

**55. To what extent does the legal framework lay out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting**

**information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies?**

0 - There are no procedures and rules for participation in policy discussions and decision making processes, or they are ad hoc to each policy and decision making process.

1 - There are some provisions for making public the means of participation in policy, but they are not specific, or they are relegated to policy directives.

2 - Yes, there is a specific regulatory framework that clearly lays out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies.

**56. To what extent does the legal framework explicitly require public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes?**

0- There are no provisions regarding the consultation of groups and stakeholders affected by policy.

1- Some provisions regarding the equal participation of affected groups exist, but they are not specific, or they are relegated to policy directives.

2- The legal framework explicitly requires public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes.

**57. In practice, which of the following forms of public participation are routinely used?<sup>17</sup>**

- Informal consultation with selected groups
- Broad circulation of proposals for comment
- Public notice and calling for comment
- Public meeting
- Posting proposals online
- Advisory/Expert Groups
- Preparatory Public Commission/committee
- Others, please specify \_\_\_\_\_

**58. In practice, to what extent are consultations open to participation from any member of the public?**

0 - Consultations are rarely/never open to any member of the public

1 - Consultations are sometimes but not always open to any member of the public

2 - Consultations are generally open to any member of the public

**59. In practice, to what extent are the views of participants in the consultation process made public?**

0 - The views of participants in the consultation process are rarely/never made public

1 - The views of participants in the consultation process are sometimes but not always made public

2 - The views of participants in the consultation process are always made public

**60. To what extent does the legal framework explicitly require public authorities to provide a detailed justification on why and how various submissions have or have not been taken into account in policy and decision-making processes after consultation?**

<sup>17</sup> The indicator questions 56-58 draw heavily on the OECD 2014 report Lobbyists, Government and Public Trust, Vol. 3 <http://www.oecd.org/governance/lobbyists-governments-and-public-trust-volume-3-9789264214224-en.htm>

- 0 - There are no provisions requiring public authorities to explain whether and how they have considered participation, or there is no participation provided for.
- 1 - There are some provisions requiring public authorities to explain whether and how they have considered submissions, but they are not specific, or they are relegated to policy directives.
- 2 - The law explicitly requires public authorities to provide a detailed justification on why and how submissions have or have not been taken into account in policy and decision-making processes after consultation.

#### Advisory/Expert Group Composition and policies<sup>18</sup>

##### **61. To what extent is there a legal obligation to have a balanced composition (between private sector and civil society representatives) of advisory/expert groups?**

- 0 - No requirement to have balanced composition
- 2 - The law requires meaningful balanced composition between private sector and civil society representatives

##### **62. In practice, to what extent is there a balanced composition (between private sector and civil society representatives) of advisory/expert groups?**

- 0 - Advisory groups are generally biased towards particular interests
- 1 - Advisory groups are sometimes balanced, sometimes not
- 2 - There is a meaningful balance between private sector and civil society representatives on advisory groups

##### **63. To what extent are lobbyists prohibited from sitting on advisory/expert groups in a personal capacity?**

- 0 - Lobbyists can freely sit on advisory groups in a personal capacity
- 2 - Lobbyists are prohibited from sitting on advisory/expert groups in a personal capacity

##### **64. To what extent are corporate executives prohibited from sitting on advisory groups in a personal capacity?**

- 0 - Corporate executives can freely sit on advisory groups in a personal capacity
- 2 - Corporate executives are prohibited from sitting on advisory/expert groups in a personal capacity

##### **65. With regard to advisory/expert groups, to what extent is membership information, agendas, minutes and participants' submissions required to be made public?**

- 0 - Information not publicly available
- 1 - Information available, but only on request
- 2 - Information publicly available online or in print form



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<sup>18</sup> Following the OECD definition, here an advisory or expert group refers to any committee, board, commission, council, conference, panel, task force or any subcommittee set up by government (executive, legislative or judicial branch) or any of its subgroups to provide it with advice, expertise or recommendations. In some countries, advisory groups will be regulated differently depending on which sector/institution is concerned. If this is the case, we suggest the focus should be on *parliamentary* advisory group involved in the process of legislating. The indicator questions draw on the OECD 2014 report <http://www.oecd.org/governance/lobbyists-governments-and-public-trust-volume-3-9789264214224-en.htm>