

Background Paper

INVESTING IN TRUST: LEVERAGING INSTITUTIONS FOR INCLUSIVE POLICY MAKING



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Introduction

1. **The stakes are high for policy makers in OECD countries and beyond.** There are 15 million more people unemployed today in OECD countries than in 2008, when the economic crisis began, and weak prospects of economic growth will likely push unemployment levels even higher. At the same time, income inequality has reached its highest level in 30 years, rising even in traditionally egalitarian countries: the average income of the richest 10% of the population is now about 9 times that of the poorest 10% (OECD, 2011a). In addition, citizens see their social safety net and living standards shrink as reforms to achieve fiscal consolidation target reductions in health-care and education expenditure, the compensation of public employees or the pension system.

2. In this context, strengthening the **integrity and credibility of the policy making process**, as a fully institutionalised, transparent and inclusive mechanism that effectively aggregates preferences in pursue of the **public interest**, emerges as a priority for governments seeking to invest in trust. Strengthening policy making institutions makes also economic sense: growing experience shows how governance and political institutions, by determining the distribution of power in society, have a strong impact on the economic position of individuals.

3. A **policy making process conducive to trust** (i) secures the inclusiveness of the information available to decision makers, to ensure adequate participation of all actors with a stake in the policy problem at hand; (ii) safeguards the public interest and avoids capture, while effectively aggregating competing, but often legitimate interests; and (iii) is aligned with broader principles and high standards of behaviour.

4. **New and traditional policy tools** can be leveraged to effectively mitigate risks of undue influence or capture of the decision making process while rendering it more open and inclusive: citizen engagement, access to information and open government can be leveraged to render the policy making process more inclusive and informed. Effectively managing conflict of interest, high standards of conduct in the public sector, and adequate lobbying and political finance regulation, can be leveraged to limit undue influence and build safeguards to protect the public interest.

5. Investing in trust through institutional strengthening seats at the heart of the **OECD New Approaches to Economic Challenges Initiative (NAEC)** and stands as a priority in the **Secretary-General's Strategic Orientations** for 2013 and beyond. The PGC Symposium provides an opportunity for a first discussion of these issues. Subsequently, discussion during the OECD Week, during which trust will be prominently debated at the MCM and OECD Forum, will also help to frame future work in this area.

6. This report extends the discussion initiated by “Trust in Government: Assessing the evidence understanding the policies” ([GOV/PGC\(2013\)1](#)), by providing in depth analysis on the challenges in **maintaining trust in the policy making process**. The report outlines a framework of analysis that integrates, in a coordinated manner, existing and emerging policy tools for open, inclusive and clean policy making in order to pursue the broader public interest and also mitigate risks of undue influence.

7. Committee action: Delegates are invited to:

1. Comment on the proposed framework and share experiences, in particular on challenges and lessons learned; and
2. Provide guidance and directions for taking forward the agenda on open, inclusive and clean policy making.

TABLE OF CONTENTS

Introduction.....	2
I.INVESTING IN TRUST: LEVERAGING INSTITUTIONS FOR INCLUSIVE POLICY MAKING	
.....	5
Trust and the policy making process	5
Integrity, openness and a policy making process conducive to trust.....	6
II. LEVELLING THE PLAYING FIELD THROUGH INCLUSIVENESS: OPENNESS AND STAKEHOLDER ENGAGEMENT	9
Access to information: laying the foundation for open government.....	11
Public consultation: Engaging citizens for improved policies.....	15
Open Government: Towards a comprehensive framework	19
III. SAFEGUARDING INTEGRITY AND CURBING UNDUE INFLUENCE: ADDRESSING HIGH RISK AREAS	22
Managing conflict of interest: Safeguarding the public interest in decision-making	24
Mitigating the increasingly visible revolving door phenomenon	28
Benefiting from lobbyists’ input while maintaining a level playing field	29
Levelling the playing field among different stakeholders	30
Providing public availability of information on lobbying to allow scrutiny by stakeholders	30
Providing a coherent spectrum of strategies and practices to ensure compliance with rules on lobbying.	32
Financing Democracy: Squaring the circle of trust, transparency, and public interest in democratic societies.....	32
Balancing sources of funding to promote fair competition between political parties and candidates....	37
Setting limits on expenditures: Reducing the overall cost of election and the dependency of parties on private contributions.....	40
Promoting transparency and accountability of all actors in political financing	41
Strengthening monitoring and enforcement of political finance regulations	44
IV. TOWARDS DECISIVE POLICY ACTION	48
REFERENCES	50

Tables

Table 1. Policy levers for trust in the policy making process.....	7
Table 2. Breadth of central government freedom of information laws (2010).....	12
Table 3. Consequences for public officials for violations of the conflict-of-interest policy.....	25

Figures

Figure 1. What are OECD countries’ goals with investments in openness and engagement of citizens in the decision making process?.....	10
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Figure 2. Which goals are of highest priority to OECD governments when perusing open and inclusive policy-making?	10
Figure 3. Formal consultation processes used by central governments (2008)	17
Figure 4. Openness of the consultation process (2005 and 2008).....	17
Figure 5. What proportion of open and inclusive policy making initiatives is evaluated?	19
Figure 6. Confidence in national government and perception of corruption	22
Figure 7. Do countries measure the impact of their conflict-of-interest policies?.....	24
Figure 8. Level of disclosure of private interests and public availability of information in the three branches of government.....	27
Figure 9. Trust in government and trust in political parties in 23 European OECD countries (2012)	33
Figure 10. Provisions for direct public funding to political parties in OECD countries.....	38
Figure 11. Bans on private donations in OECD countries.....	39
Figure 12. Bans on misusing state resources	42
Figure 13. Disclosure of parties/candidates funding in OECD countries	44
Figure 14. Institution(s) receiving financial reports from political parties and/or candidates in 33 OECD countries.....	45

Boxes

Box 1. Openness, engagement and policy outcomes	9
Box 2. The access to information legislation Implementation Assessment Tool (IAT).....	13
Box 3. Eligibility conditions and access to information	14
Box 4. Access to information: from information to influencing policy decisions.....	15
Box 5. Open consultation.....	16
Box 6: Proactive participation in policy making	18
Box 7. The Open Government Partnership (OGP) Eligibility Criteria.....	21
Box 8. Integrity - a priority in the international agenda.....	23
Box 9. Managing post-employment conflict of interest: Good Practice Framework	29
Box 10. Canada's Registry of Lobbyists	31
Box 11. Summary of major trends and key challenges in regulating political finance in the past decade	36

I. INVESTING IN TRUST: LEVERAGING INSTITUTIONS FOR INCLUSIVE POLICY MAKING

Trust and the policy making process

8. Trust and confidence legitimise decisive and effective action by governments, and create the conditions to favour stakeholders buy-in. Without trust, experience shows that policy making becomes risk-averse. Furthermore, research suggests that a fall in political trust can affect social trust and reduce social cohesion, while trust among economic actors reduces transactions costs driven by asymmetric and costly information.

9. A solid foundation of trust for effective policy making matters particularly in the current context of economic recovery, where structural reforms involve difficult and unpopular choices and the confidence of citizens and markets is critical to reignite growth. Recognising this, building trust in institutions and in government is at the heart of the OECD New Approaches to Economic Challenges Initiative (NAEC) and stands as a priority in the Secretary-General's Strategic Orientations for 2013 and beyond, as a necessary anchor for national and sub-national governments to more effectively adopt and implement policies.

10. Part of the answer to reinforcing trust lies in good economic management – trust will increase when incomes rise and jobs are easier to find. Experience shows, however, that good economic policies cannot do the job alone. Trust in institutions is driven not only by the substance and outcomes of policies, but also by the **process of policy making**. The way policies are designed and implemented, and the compliance that policy makers show with broader principles and standards of behaviour, matters to trust.

11. Today, available data suggests that **trust in the policy making process is seriously eroded**. Evidence suggests a widespread sense that governments are not able to effectively regulate markets, that business exerts an undue influence over public policy and that distribution of burdens and rewards across society is skewed.

12. According to the 2013 Edelman Trust Barometer, 50% of respondents surveyed within 26 countries distrust government. Amongst the key factors mentioned by respondents to explain this distrust is “*corruption/fraud*” and “*wrong incentives driving policies*”. Together, these two factors explain 50% of the reasons for trusting government less.¹ Furthermore, corruption perception stands out as the most influential driver of trust in government, while changes in the perceived transparency of policy making are strongly correlated with changes in trust ([GOV/PGC\(2013\)1/ANN1](#)). These factors point to the urgency of addressing the **credibility of the formal institutions involved in policy making and strengthening the underlying institutional conditions shaping the policy making process**.

13. The nature of the policymaking process matters **also** for the quality of policies, and thus their outputs. Experience has shown that the socio economic impact of public policies is dependent on certain policy characteristics, such as predictability and adequate enforcement. In turn, these **characteristics are dependent on the credibility of the process of policy formulation and of the actors participating in it**. For example, institutionalized political parties, established on a programmatic approach, tend to be consistent and credible actors in the medium term, as they are associated with sustainable policies, medium term orientation and therefore, more prone to consensus building. Legislative institutions that are active discussion arenas facilitate the inclusion and aggregation of competing interests. An efficient civil service,

1 2013 Edelman Trust Barometer, www.slideshare.net/EdelmanInsights/global-deck-2013-edelman-trust-barometer-16086761.

driven by high standards of behaviour, is associated with better quality of policies and policy stability (Scartascini and Tommasi, 2012).

14. Furthermore, an institutionalised process of policy making is self-reinforcing: stakeholders “invest²” in legitimate avenues for political participation (rather than circumvent the system), there is a higher control of political representatives and better public policies are achieved. The opposite scenario is associated with the exploitation of informal avenues of political participation, higher corruption and lower quality of policies.³

Integrity, openness and a policy making process conducive to trust

15. There is significant variation in the way that public policy decisions are made in various country contexts, from the role of their legislature, to the nature of political parties. Nevertheless, across the different models, **the credibility of the formal institutions involved in policy making can shape stakeholder’s trust in the legitimacy and functioning of the decision making process.**

16. At its most essential stage, **investing in trust requires providing sufficient assurance as to the protection of the broader public interest when policy decisions are made and ensuring a level playing field for businesses and citizens in the policy making process.**

17. On this basis, a **policy making process conducive to trust** builds upon reliable, relevant information, provides a clear information exchange structure and effectively articulates behaviours and expectations of different actors, thus facilitating an engagement process that achieves credible compromises, aligned with the public interest and conducive to implementation. From this understanding, the following core elements can be identified:

- The Policy Making Process is informed: two aspects can be considered in this regard (i) the inclusiveness of the information available to decision makers, to ensure that it facilitates participation and representation of all the actors with a stake in the policy problem at hand; and (ii) the quality of the information available to decision makers, associated with mechanisms such as evaluation, and performance management.
- The Policy Making Process is aligned with the Public Interest: the ability of the policy making process to safeguard the public interest and avoid capture, while effectively aggregating competing, but often legitimate interests. The recognition and effective regulation of formal mechanisms to influence policy decision making, including lobbying or support to political parties can help strike the right institutional balance.
- The Policy Making Process is aligned with broader principles and high standards of behaviour: studies show that a crucial determinant of trust in government is whether government can be expected to take the right decisions and safeguard the public interest without the need for

2 By investing in legitimate avenues of political participation, stakeholders apply their time and financial resources to increase their capacity to achieve their goals in the future (IDB, 2006). It also implies an acceptance of the democratic process: they might be willing to accept losing, and continue participating in the institutional process, with the expectation of achieving better results. For further discussion, please see Przeworski (2005), Stein, Scartascini and Tommasi, editors (2010) or Scartascini and Tommasi (2012).

3 For example, the literature has found a positive correlation between institutional weakness in the policy making process, the proliferation of alternative negotiation arenas and policy capture, as measured by the favouritism in policy making of the Global Competitiveness Report. For further discussion, see Scartascini and Tommasi (2012).

scrutiny. Integrity tools and mechanisms, embedded within a solid integrity framework to prevent corruption and foster high standards of behaviour, are necessary to reinforce the credibility and legitimacy of the actors involved in policy decision making.

18. These core elements can help governments identify policy levers to influence the nature of the policy making process, in a manner consistent with their own specific institutional contexts. Citizen engagement, access to information and open government can be leveraged to render the policy making process more informed. Effective management of conflict of interest, high standards of behaviour in the public sector, and adequate lobbying and political finance regulation, can limit undue influence and provide safeguards to protect the public interest (Table 1).

Table 1. Policy levers for trust in the policy making process

Policy Objective	Guiding Elements	Policy Levers	
<ul style="list-style-type: none"> The Policy Making Process is well informed 	<ul style="list-style-type: none"> Inclusiveness of the information and views relevant to the specific policy problem available to decision makers; Quality and reliability of the information available; 	<ul style="list-style-type: none"> Access to Information Citizen engagement Open Government Ex ante and ex post evaluation, performance budgeting, regulatory impact assessment. 	<p>Openness and Citizen Engagement</p>
<ul style="list-style-type: none"> The Policy Making Process is aligned with the Public Interest 	<ul style="list-style-type: none"> Ability of the policy making process to safeguard the public interest and avoid capture, while effectively aggregating competing, but often legitimate interests. 	<ul style="list-style-type: none"> Transparency and Integrity in Lobbying Political Finance regulation 	<p>Safeguarding Integrity and Curbing Undue Influence</p>
<ul style="list-style-type: none"> The Policy Making Process is aligned with broader principles and standards of ethical behaviour 	<ul style="list-style-type: none"> Integrity framework, aimed at preventing corruption and fostering high standards of behaviour, thus reinforcing good policy making. 	<ul style="list-style-type: none"> Conflict of Interest management Codes of Conduct Transparency of the policy making process 	<p>Safeguarding Integrity and Curbing Undue Influence</p>

19. The next two chapters of the paper will discuss key policy levers to reinforce trust by levelling the playing field in the policy decision making process. The chapter on **openness and stakeholder engagement** discusses mechanisms that seek to level the playing field for policy making by opening it up with transparency, access to information and citizen engagement. The quality of the information available and used to inform decision making related to evaluation and performance management, merits an independent discussion, and thus is not part of this one.⁴

⁴ See, for example, [GOV/PGC\(2012\)1](#) on evidence based public governance.

20. The chapter on **safeguarding integrity and curbing undue influence** discusses mechanisms that safeguard the public interest and curb the undue influence of money and power in the policymaking process. In particular, attention is placed on high-risk policy fields at the intersection of the public and private sectors, including conflict of interest, pre and post public employment and lobbying. The role of money in politics, or the financing of the democratic process, which has remained on the sidelines of most accountability and transparency efforts thus far, is also considered. A final section provides inputs to guide policy action.

II. LEVELLING THE PLAYING FIELD THROUGH INCLUSIVENESS: OPENNESS AND STAKEHOLDER ENGAGEMENT

21. Citizen engagement, access to information and open government can be leveraged to render the policy making process more inclusive and informed and thus facilitate the design and implementation of policies that are closer to citizen's needs (Kim, Soonhee, 2010) (Kweit and Kweit, 2007) and are perceived to be fairer.

Box 1. Openness, engagement and policy outcomes

Openness and stakeholder engagement in the design and delivery of public policy and services can help governments better understand people's needs, leverage a wider pool of information and resources, improve compliance, contain costs and reduce the risk of conflict and delays downstream (Kim and Lee 2012; Levi 1998; Tyler 1998; Fard & Rostamy 2007). However, these are not the only benefits that openness and inclusion in policy making can bring. Other potential benefits include:

- Greater trust in government. Citizens generally judge governments in democratic societies on the basis of their policy performance (the positive outcomes resulting from their policy decisions), and their democratic performance (if the government's decision making process lives up to democratic processes). Open and inclusive policy making can contribute to reinforcing both in the eyes of the citizens (Esaiasson et al 2012; Traber 2013).
- Better policy outcomes at a lower cost. A more open and inclusive policy making can contribute to raising the quality of policy outcomes and ensure the better use of public funds, by designing policy measures based on the needs of the citizens. Involving citizens, businesses and civil society in the process also offers the potential to tap a broader reservoir of ideas and resources.
- Higher compliance with decisions reached (Levi and Stoker 2000). If people are part of the process of prioritising and deliberation, they are more likely to understand the stakes of reform and can help in ensuring that the decisions reached are perceived as legitimate. More open policy making can therefore contribute to raising compliance levels with decisions reached.
- Leverage knowledge and resources from beyond the public administration, which in turn, can facilitate the development of innovative solutions to policy problems.

Sources:

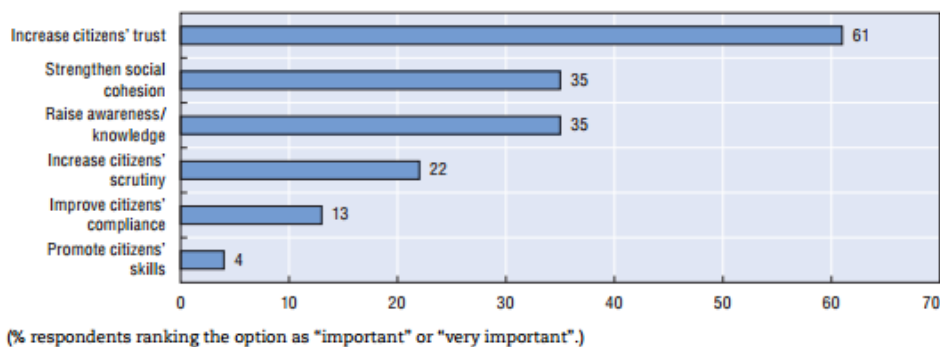
Kim, S. and Lee, J. (2012), 'E-participation, transparency and trust in local government' *Public Administration Review*, 72(6): 819-828.
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22. Policy-makers in OECD countries and beyond broadly agree that facilitating participation of citizens might enhance democratic engagement, build trust in government and harness productive forms of responsibility, including in the delivery of public services. Accordingly, they have put in place a number of mechanisms that facilitate fair and equitable access to information and services for all stakeholders and leverage the opportunities for citizen’s engagement in the policy making process.

23. Examples of mechanisms that have been implemented across OECD countries include access to information (or freedom of information) laws, policy enquiry commissions, high-level social partnerships, public consultations and referenda and more recently, two-way citizen engagement mechanisms driven by new, user-friendly information and communication technologies (ICTs).

24. At the heart of these efforts, governments have predominantly in mind the goal to increase the trust of the citizens (61%). In addition, governments see the value of investing in open and inclusive decision making as a means to increase transparency and accountability (52%) followed by improved effectiveness and efficiency (39% each) of government.

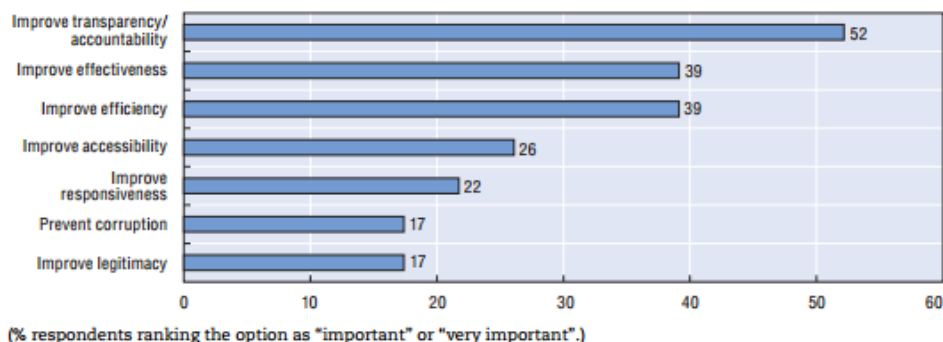
Figure 1. What are OECD countries’ goals with investments in openness and engagement of citizens in the decision making process?



% respondents, n=25 countries

Source: OECD (2009), *Focus on citizens: Public engagement for better policy and services*, Paris, OECD Publishing.

Figure 2. Which goals are of highest priority to OECD governments when perusing open and inclusive policy-making?



(% respondents, n=25 countries)

Source: OECD (2009), *Focus on citizens: Public engagement for better policy and services*. Paris, OECD Publishing.

25. Available literature suggests that government efforts to provide more opportunities for citizen participation and input into policy decision making represent an important strategy for improving trust in

government. For example, Knack and Zak (2003) point out that “the ability of civil society to exercise accountability on governments (through) civil liberties, including a free and independent media, can inhibit self-seeking or incompetent behaviour by government official”. This, in their opinion, can offer a plausible explanation for these disparate results in governance outcomes, a hypothesis that they test empirically, concluding that the ability of civil society to exercise accountability is one of the public policies that can be leveraged to increase trust.

26. Likewise, Traber (2013) finds that “public interest groups report higher satisfaction with the policy outcome, the more they participate”. To the same extent, Esaiasson et al. (2012) use a randomised field experiment to reproduce the decision-making process in large-scale democracies. Empirical support for ideas about legitimacy enhancing decision-making arrangements were tested, including participatory constitution-making, personal involvement in the decision-making process, and fairness in the implementation of arrangements. Esaiasson et al. find that “personal involvement is the main factor generating legitimacy beliefs”. Finally, Hibbing and Theiss-Morse (2001) emphasise the importance of governmental procedure for citizens, noting that the process in which governments create policies is just as important for citizens as the policy itself. Taken together, these findings suggest that the process of citizen and stakeholder engagement in policy decisions can help legitimate resulting policies, in turn increasing citizen buy-in and overall trust in government.

Access to information: laying the foundation for open government

27. Access to Information or Freedom of Information laws (FOI) are a fundamental pillar of open and inclusive government and recognition of a basic democratic principle: that government represents the people, and acts on their behalf, and thus its actions must be open to scrutiny. But the potential of access to information goes beyond its recognition as a basic democratic right (Abramovich, V. And C. Curtis, 2000): access to the information that the government generates, acquires, obtains, or processes is indispensable if citizens are to be given the necessary tools to make their participation in public affairs well-argued and relevant. (Stiglitz, J., 1999)

28. For this to happen, comprehensive regulation provides the ground, followed by adequate implementation that considers the relevance and “usability” of the information provided *vis a vis* its potential users.

29. The regulation and implementation of the right to access to information has advanced significantly in the past decade. Today, most OECD countries have a stand-alone FOI law or the right to access information is embedded within other laws or regulations.⁵ However, OECD governments are struggling to fully institutionalise openness and inclusiveness through access to information. In part, this is due to regulatory and implementation challenges related to their scope (e.g. entities subject to the law), and to the extent and nature of information disclosed (e.g. active or passive, exceptions).

30. For example, regarding Access to Information Laws, in most OECD countries their reach extends vertically to all levels of government but only half of them extend horizontally to all branches of central government (executive, legislative and judicial) while the inclusion of private entities managing public funds, such as those contracted by the government to provide services to citizens, remains uneven (Table 1). (OECD, 2011a).

5 Good practice highlights stand alone access to information laws as key instruments to advance transparency and openness. Countries like Spain or Luxembourg are currently drafting access to information laws, in addition to complementary existing regulations.

Table 2. Breadth of central government freedom of information laws (2010)

Level of government	Total OECD countries	
Central	31	Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.
Sub-national	25	Austria, Belgium, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Korea, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine and United Kingdom.
Branches of power at the central level		
Executive	31	Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.
Legislative	16	Belgium, Chile, Estonia, Finland, Hungary, Ireland, Israel, Italy, Korea, Mexico, Poland, Russian Federation, Slovak Republic, Slovenia, Sweden, Turkey, Ukraine and United Kingdom.
Judicial	16	Australia, Belgium, Chile, Estonia, Finland, France, Hungary, Israel, Italy, Korea, Mexico, Norway, Poland, Russian Federation, Slovak Republic, Slovenia, Sweden and Ukraine.
Private entities managing public funds	18	Australia, Belgium, Czech Republic, Estonia, Finland, France, Hungary, Iceland, Italy, Korea, Netherlands, Poland, Portugal, Slovak Republic, Sweden, Switzerland, Turkey, Ukraine and United Kingdom.

Source: OECD 2010 Open Government Survey

Notes: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Data are not available for Germany and Greece. Luxembourg is currently drafting a law on access to information and is not included in the table. The Russian Federation and Ukraine are not included in the totals.

The Italian FOI law applies only to administrative acts and does not refer to legislative acts. According to the Italian system, all legislative acts are published on the *Gazzetta Ufficiale* (freely available on-line). Also preliminary legislative acts, as well judgments and judicial acts, are available on line.

31. Regarding disclosure, FOI in all OECD countries presumes a principle of maximum disclosure of information, i.e. the information held by the state is in principle available to the public. Proactive disclosure (i.e. that information must be publicly available prior to public request) is required by FOI laws for certain categories of information in over 70% of countries.⁶

32. However, FOI laws also contain a list of exemptions that may be applied to justify withholding certain information from disclosure. Exceptions must be clearly demarcated and defined in accordance with the public interest that is being protected, and an adequate balance with the protection of the overall right to know, considered and protected in the regulation. For example, class tests outline certain categories

⁶ The principle of proactive disclosure is instrumental in achieving greater transparency and openness in government. Proactive disclosure ensures that information seekers get immediate access to public information and avoid the costs of filing a request or engaging in administrative procedures, while also reducing the burden for public administrations complying with FOI requests.

wherein information disclosure can be denied (i.e. national security, international relations and personal data). Further, harm tests enable the government to deny a request for information on the basis that disclosure would cause potential prejudice, for example, to an individual or harm to the defence of the state. While certain kinds of information may be exempt from disclosure, mechanisms such as public interest tests (testing if the public benefits of the information outweigh any harm that may be caused by disclosing it) can help assess whether the exemption is beneficial. Nonetheless, only nine countries have public interest tests supersede exemption (OECD 2011b). Exemptions to FOI laws also demonstrate the often fine line between privacy measures and the “right to know”. Indeed, there remains a need to balance privacy and national security issues with information disclosure laws while ensuring exemptions are not used as a blanket measure to prevent transparency. The functioning of different OECD countries’ FOI exemption institutions, including whether harm, class or public interest tests are legislated and enforced, can help shed light on which models are most efficient and effective and why.

33. Adequate and effective regulation of the right to access information is a critical first step to facilitate openness and stakeholder engagement in the policy making process. But it is not sufficient. Ensuring effective and transparent implementation of the legal framework is essential to safeguard the principles and objectives of the legislation. Indeed, many countries’ agencies are struggling to fully and effectively implement the laws, and presently there are few objective means of analysing and addressing this problem.

Box 2. The access to information legislation Implementation Assessment Tool (IAT)

The IAT is being elaborated by the Carter Center in cooperation with other international civil society organizations, the IAT aims at providing a better assessment of the extent to which the public administration is able to respond to information requests and provides an implementation roadmap.

The IAT assesses the specific activities/inputs that public administrations have engaged in to further implementation of the law. It does not seek to provide a comparative index across countries, but rather to guide implementation strategies by:

- Establishing a comprehensive set of access to information implementation benchmarks;
- Identifying the extent to which a ministry/agency has implemented its law;
- Providing a roadmap for improvements; and
- Contributing to scholarship on implementation and to the understanding of implementation successes and challenges.

Source: Carter Center.

34. When assessing the application of the OECD 2011 guiding Principles for Information, Consultation and Active participation in policy making, countries reported mixed progress. While more than half of the countries (58%) reported the most progress had been made in establishing the rights to access to information, consultation and public participation, the biggest challenges were related to resources, time and lack of evaluation (OECD, 2009). According to research carried out by the Open Society Institute (2006), based on a sample of 14 representative countries from around the world, the demands for information made in European countries were satisfied in an estimated 42 percent of cases, whereas this figure fell to 28 percent in Latin America.

35. In addition, eligibility conditions to access information, including adequate protection of privacy and integrity of those filing the request, and the easiness of response, including through online facilitation, remains uneven (Box 3). When information is not proactively disclosed, the possibility for individuals to exercise their right to information depends on (among other factors) the ease of filing requests and individual protection granted to those requesting information. Narrow eligibility conditions to file a request, long response times or unjustifiably high fees are a few factors that can limit or undermine the right to know and require built in measures in the regulatory framework to adequately protect the purpose of the law.

Box 3. Eligibility conditions and access to information

Some countries have enacted strong provisions to protect the privacy and integrity of parties and individuals requesting information. In 2010, FOI laws in seven countries contained a provision to allow anonymity for the requestors. In Canada, the identity of the requestor is protected by federal law. Other countries, such as Australia, Ireland, the Czech Republic, Mexico, the United Kingdom and the United States, provide de facto anonymity because they do not require requestors to provide proof of identity. Likewise, FOI laws in six countries in 2010 provide protection from retaliation by public officials, whereas in other countries this may be included under separate laws governing whistleblower protection.

In the large majority of OECD countries (71%), there are no restrictions stated in FOI laws on which legal person can file a request for information. However, certain restrictions apply in some countries. France, Italy, Portugal and Turkey allow only individuals above the legal age or their representatives to file a request. In Italy, Korea and Turkey, requestors must provide personal information (e.g. proof of citizenship or residency, social security identity, identity card or photo identification) in order to file a request. In Spain, only national citizens or permanent residents can file requests and the requestor must provide a proof of legitimate interest in the issue.

Almost all countries have established standards for timely responses to requests for information in their laws or in related legal documents, usually within 20 working days or less. However, requestors are able to track online the progress of an information request in only 26% of countries (Chile, Estonia, Korea, Mexico, the Slovak Republic, Spain, Switzerland and the United States). In addition, all OECD countries, with the exception of Iceland and Poland, apply fees at one or more stages of the information request process, although several countries, like Australia or Finland, waive the fee when information is sent electronically and others have established caps (Austria, Finland, France, Italy, Norway and Portugal).

Source: OECD (2011c), Government at a Glance 2011, OECD Publishing, Paris.

36. The development of new and user friendly technologies has facilitated bridging this gap by providing new opportunities for proactive disclosure of information by governments. The Observatory of Public Expenditure in Brazil, the United States government recovery.org webpage or the United Kingdom departmental spending report, under the data.gov.uk web page, are good examples of this.

37. Still, the availability of information is an essential albeit insufficient step. It is the attributes of the information disclosed, including its relevance vis a vis the concerns of stake holders and its usability make the difference regarding the actual use of information to influence policy decisions (Jagwanth, 2007). Simply providing information does not by itself give users the opportunity to exercise accountability or participate in public processes. First, data is often disseminated in a way that makes it difficult for average citizens and even civil society or the media to understand, for example if it is presented as aggregated reports or in highly technical language, while information quality is another aspect that has not yet been resolved by the sanction of FOI laws (Baena Olabe and Kahn, 2012). Second, stakeholders must have the capacity, and the necessary incentives, to use the information (Baena Olabe and Vieyra, 2011).

38. The OECD will continue supporting countries achieve full and effective implementation of access to information while providing further guidance to address emerging gaps, including transparency at

the sector level. The attention to these aspects, which represent the supply and demand of information, is essential to enable the full potential of access to information vis a vis participation in public decision making, and should inform second generation access to information reforms (Box 4).

Box 4. Access to information: from information to influencing policy decisions

First generation transparency policies aim at opening up official records or improving public access to information, given that this is a universal value or right. Their best-known expression is found in access to information laws. For first generation transparency policies, citizen participation in government management is, moreover, a fundamental value in a modern democracy (Dahl, 2002).

Second-generation transparency policies, also referred to as targeted transparency, seek the disclosure of **specific information to achieve a specific aim**, for example, to influence a particular public policy or to reduce a risk that affects the quality of a certain public service, such as education or healthcare. Second generation transparency requires the identification of a clear policy objective to be achieved through the use of the information disclosed, as well as the specifying the dynamics, capacities and incentives of both users of information and disclosers.

At the international level, examples include the Extractive Industries Transparency Initiative (EITI), or the Construction Sector Transparency Initiative (CoST). Through EITI, participating countries and private enterprises voluntarily commit to publishing information and statistics about the revenues resulting from activities in these industries, which is thereafter verified by an independent audit. This information can be useful for diverse actors and used for different policy making purposes, for example i) improving the countries' institutional capacity for monitoring their extractive industry sectors; ii) helping private enterprises in risk management and decision making about investments, based on greater information; and iii) allowing civil society and the communications media to gain better awareness and exercise improved monitoring of the sector.

*Source : Fung et All. (2007)
Baena and Vieyra (2011)*

Public consultation: Engaging citizens for improved policies

39. Public consultation involves actively seeking the opinions of interested and affected groups at any stage of regulatory development, from problem identification to evaluation of existing regulation. The purpose is double fold: consultation facilitates information gathering to achieve better regulatory quality, while stakeholder participation facilitates feedback on the design and effects of regulation (Box 5) (OECD, 2009). In OECD reviews of regulatory practice, evidence emerged that users support smart regulation, not necessarily deregulation, and that through consultation and collaboration in development of regulations citizens are interested in promoting sustainable goals, like high social welfare and environmental performance standards (OECD 2011b).

Box 5. Open consultation

The Australian Government hosted the Australia 2020 Summit over the weekend of 18-19 April 2008. More than 1000 Australians responded to an invitation from the Prime Minister and gathered in Canberra with the purpose of discussing the agenda for the nation. This gathering of 1000 Australians was part of a broader national conversation held in the lead-up to the summit. The summit was supplemented by a national Youth Summit held at Parliament House in Canberra on 12 and 13 April 2008, summits at more than 500 school summits across the country, and 8800 public submissions before the main summit. The need to have a greater focus on the citizen in the delivery of government services was considered a priority at the 2020 Summit.

In Korea, the e-participation program Oasis provides well-organized and systematic opportunities to participate in government processes. Since October 2006, the Oasis has provided citizens with an opportunity to submit their ideas and suggestions on proposed specific policies via policy forums in the Web portal. It provides e-participants an opportunity to propose new ideas that may contribute to enhancing government effectiveness and resolving community issues related to any public policy and programs in the SMG and governance issues in the city of Seoul. Since 2006, 50,896 members have joined the Oasis (as of February 2011). Until February 2011, they had made 122,211 proposals and comments on Seoul government policies, projects, and practices.

Source: Commonwealth of Australia (2008). Australia 2020 Summit: Final Report. Department of the Prime Minister and Cabinet: Barton. Available at: http://apo.org.au/sites/default/files/2020_summit_report_full.pdf.

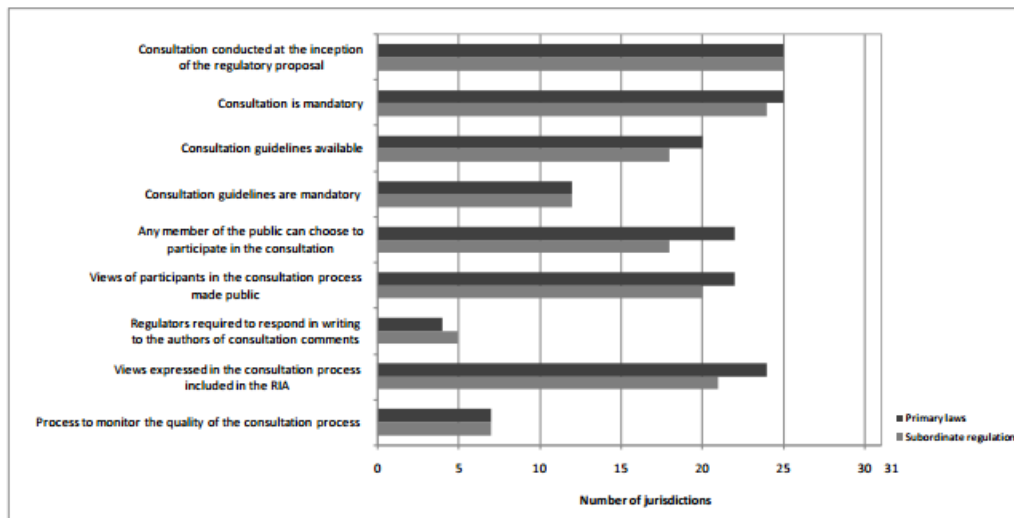
Source: OECD (2001)

40. While processes differ widely across countries with respect to the timing, availability of guidelines and the degree of openness, public consultation is well established in OECD countries in the development of new primary laws and subordinate regulations.⁷ The majority of consultation processes take place at the inception of regulatory proposals, which in many countries is mandatory, particularly for primary laws.

41. In addition, consultations in the budget process enables citizens to engage directly or indirectly in a specific public management process linked to decision making. In participatory budget processes, citizens participate in the process of budgeting either through open forums, public hearings, or sending opinions via the mail or internet. Consultation or participation in the budgetary process is part of a wider initiative towards fiscal transparency. Improving transparency in the budget process can help build the credibility, and thus, support, of decisions involving the allocation of public funds.

7 In addition, constitutional provisions for referenda are found in several OECD Member countries (e.g. France, Luxembourg, Switzerland). The results of referenda may be binding under certain conditions or consultative in nature, although the results clearly have tremendous moral weight and impact on decision-making by government. An example of a non-binding referendum is the case of Sweden where 82.6% of the population share their views on adopting the euro as the currency of Sweden. 53.5% voted no, and the Swedish krona was kept as the currency of Sweden.

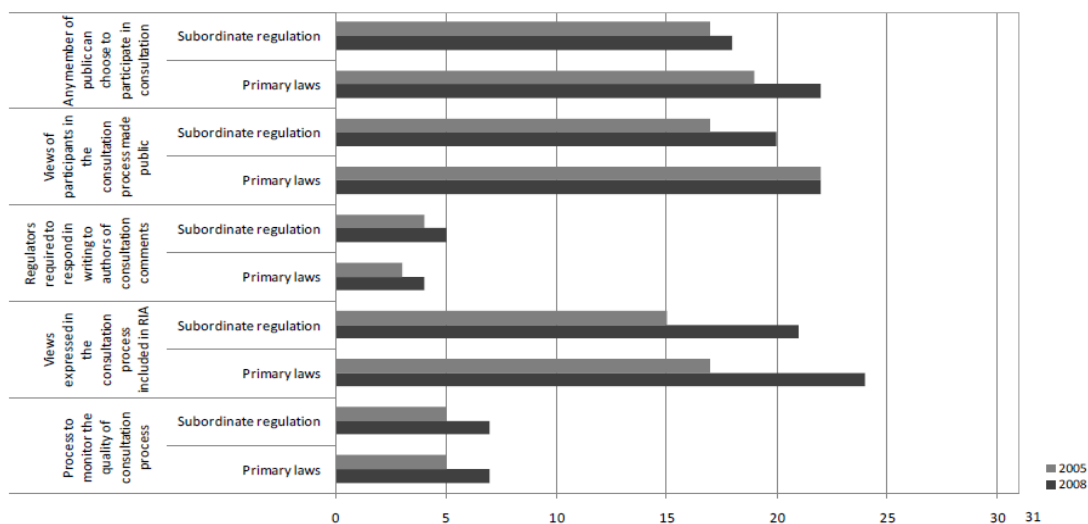
Figure 3. Formal consultation processes used by central governments (2008)



Source: OECD (2009) Indicators of regulatory management systems: 2009 report. OECD Publishing: Paris. p.41
 Notes: The data is presented for the 30 OECD member countries and the European Union.

42. Countries report to have increased the transparency of their consultation processes: the majority of OECD member countries publish the views of participants in the consultation process and include expressed views in regulatory impact assessments, particularly in the case of primary laws. A very limited number of countries (e.g. Korea, Mexico, Poland and Switzerland) require written responses to the authors of consultation comments for primary laws (OECD, 2009).

Figure 4. Openness of the consultation process (2005 and 2008)



Source: OECD (2009) Indicators of regulatory management systems: 2009 report. OECD Publishing: Paris. p.42
 Notes: Data for 2005 and 2008 are presented for the 30 OECD member countries and the European Union.

43. In addition, citizens in OECD countries are not only asked by governments to participate and share their feedback on policy proposals but can also actively initiate and participate policy making (Box 6). This can for example be done through popular legislative initiatives and citizen-initiated referenda. In the European Union, there are national citizens' initiatives in Austria, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the Netherlands. However, they differ considerably in scope and procedure.⁸

Box 6: Proactive participation in policy making

- The European citizens' initiative allows EU citizens to participate directly in the development of EU policies by calling on the European Commission to make a legislative proposal. A citizens' initiative has to be backed by at least one million EU citizens, coming from at least 7 of the member states with a minimum number of signatories (1 million). The Commission will adopt a formal response spelling out what action it will propose, if any, and the reasons for doing or not doing so, but it is not obliged to propose legislation as a result of the initiative.
- In Finland, crowd-sourcing is being leveraged to create new laws. Launched in 2012, the initiative allows registered voters to come up with new laws. Upon securing 50,000 signatures from their fellow citizens in support of their initiative within six months, the Eduskunta (the Finnish Parliament) votes on the proposal. The crowd-sourced law-making system is online through Open Ministry.
- In Switzerland, citizens can request changes to the constitution by collecting 100,000 signatures of eligible voters within a period of 18 months. Their proposals may take the form of a general proposition or a fully-drafted constitutional text, which cannot be modified by either the parliament or the government

Sources : <http://ec.europa.eu/citizens-initiative/public/basic-facts>

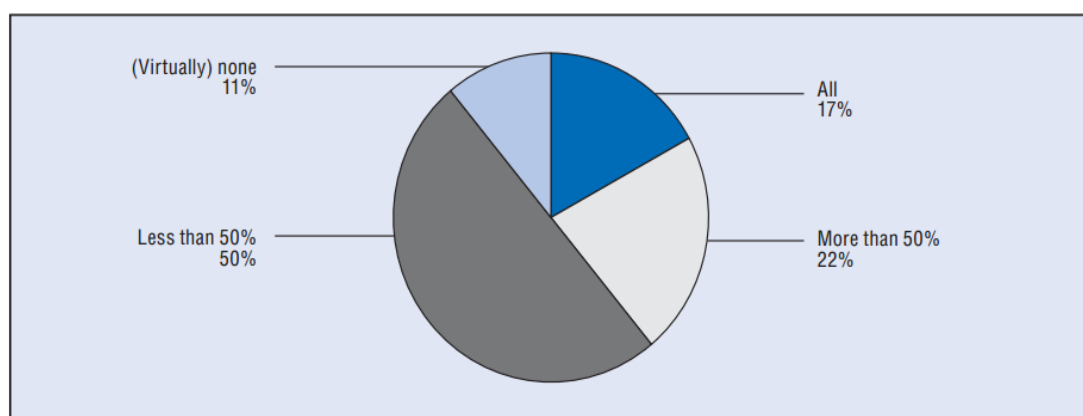
www.avoiminministerio.fi/

44. The implementation gap on consultation processes remains to be closed. All countries report a routine reliance on consultation with selected groups and advisory groups, and the extent to which any member of the public can participate in a consultation process is still limited. While we can observe an increasing trend to engage the public for consultation and comment (e.g. in 2008, 68% of OECD countries organised public meetings for consultations on primary laws) consultation guidelines are not always available, and have a mandatory nature in a limited number of countries (Figure 4 above). Further, the practice of consultations on regulations or impact assessments varies often between ministries, and may be late and/or not cover all relevant stakeholders (OECD 2011b).

45. In addition, while the value of participation is beyond doubt, more work, and more opportunities for the exchange of practical experience is required, not only to identify and learn from successful and not successful experiences, but to better assess their impact on stated objectives and broader policy goals.

8 <http://ec.europa.eu/citizens-initiative/public/faq#q2>.

Figure 5. What proportion of open and inclusive policy making initiatives is evaluated?



% respondents, n = 18 countries

Source: OECD (2009).

46. For example, in Mexico, civil society have used the 2002 Access to Information law to obtain information that has helped identify poor or ineffective policies, wasteful or abusive public spending, or corruption.⁹ In Iceland, after the 2008 crisis, citizens were actively taking part in drafting the new (crowd-sourced) constitutional bill of Iceland (Gylfason, 2012). The United States federal government launched in 2009 a citizen oriented monitoring tool to accompany the execution of the American Recovery and Reinvestment Act (www.recovery.gov) and facilitate (i) greater accountability and transparency and (ii) reporting of suspected fraud, waste, or abuse related to stimulus funds. From February 2009 to December 31, 2012, the Inspector General has reported 4,210 complaints of wrongdoing associated with Recovery funds to the Recovery Board. 2,114 of these have triggered open investigations.¹⁰

47. The OECD will support countries in assessing participatory policy making initiatives, in order to help inform the design of cost effective and useful initiatives, provide guidance to address the implementation gap and assess their impact on broader goals, including trust. In addition, it will help orient an additional gap in trust that hampers full institutionalization of open and inclusive policy making: when asked to indicate the main reasons to why citizens do not want to participate in policymaking, the second most common reason reported by governments was citizens' low levels of trust in how governments would use their input (OECD, 2009).

Open Government: Towards a comprehensive framework

48. In the 2005 PGC Ministerial Meeting, open government was defined as the transparency of government actions, the accessibility of government services and information, and the responsiveness of government to new ideas, demands and needs (OECD, 2005). While it can be argued that Open Government is in fact the result of the use of the available consultation and information tools described earlier, this would be an incomplete rendering of the concept of Open Government.

49. Open Government seeks to fundamentally transform the way in which government operates. The objective of open government policies and frameworks is to adopt a systematic approach to promoting

9 www.freedominfo.org/2009/03/mexico-success-stories.

10 www.recovery.gov/Accountability/Pages/investigations.aspx.

transparency, openness and participation within the public sector, rather than ad hoc initiatives by specific public entities. To do so, open government policies and frameworks not only leverage all available tools but create new ones, with the inestimable help of new technology that empowers citizens like never before.

50. Open government can thus be understood as a comprehensive and transformative government effort seeking to promote an overarching framework of openness.¹¹ While open government legal and policy frameworks – including implementation, strategies and processes – tend to vary between countries’ needs, technologies, and cultures (Linders et al. 2012), open government can be broadly characterised by government initiatives which: (i) strengthen the public debate to create ownership, empower change, generate trust and provide better services through feedback from society (OECD, 2011b); and (ii) demonstrate results for the purpose of being accountable, fostering a culture of transparency and building trust. In short, the most common aims of open government are accountability, trust and collaboration (Linders et al. 2012).

51. A critical driver in the trend towards open government initiatives has been the explosion of new and easily accessible technologies. For example, ICTs such as the internet, social media and Web 2.0 applications have made government information easily accessible and user-friendly, reducing the time and cost previously associated with such information (Baena and Khan 2012).

52. In addition, open government strategies often include open government data initiatives, which facilitate the free and proactive release of large volumes of information held in government databases in formats and under conditions that permit re-use. Open Government Data supporters claim that putting such data into the public domain not only contributes to increase government openness, but also can stimulate the economy by allowing the possibility for third parties (e.g. individuals, private enterprises, civil society organisations) to create new products and services using public data. OGD can also lead to more public accountability by making existing data easier to analyse, process and combine, thus allowing a new level of public scrutiny, (OECD, 2013, forthcoming).

53. However, it is important to underline that open government and open government data can each exist without the other: a government can be open, in the sense of being transparent, even if it does not embrace new technology and a government can provide open data and still remain deeply opaque and unaccountable (Robinson, Yu, 2012). As a result, it is important that OGD initiatives be not relegated to the realm of technical projects, but be embedded in the broader discussions and strategies that aim to foster openness and inclusiveness of governments to regain the desired public trust (OECD, 2013, forthcoming).

54. Open government initiatives are an increasing reality for both OECD countries and non-members. Not only are countries moving forward with the implementation of open government policies, but these efforts have resulted in an international movement, the Open Government Partnership in which 19 OECD member countries have country commitments (Box 7).

11 For example, the United States’ 2009 Open Government Directive was designed to implement “principles of transparency, participation and collaboration” throughout the new administration to “create and institutionalize a culture of open government, [and] . . . create an enabling policy framework for open government”. www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf.

Box 7. The Open Government Partnership (OGP) Eligibility Criteria

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government in four key areas, as measured by objective indicators and validated by independent experts. Any government can join OGP at any time once they have demonstrated that they meet these minimum criteria:

- **Fiscal Transparency:** The timely publication of essential budget documents forms the basic building blocks of budget accountability and an open budget system.
- **Access to Information:** An access to information law that guarantees the public's right to information and access to government data is essential to the spirit and practice of open government.
- **Asset Disclosure of Elected or Senior Public Officials:** Rules that require public disclosure of income and assets for elected and senior public officials are essential to anti-corruption and open, accountable government.
- **Citizen Engagement:** Open Government requires openness to citizen participation and engagement in policymaking and governance, including basic protections for civil liberties.

Source : www.opengovpartnership.org/eligibility.

55. The extent to which its full potential is leveraged will depend on the extent and the way in which countries seek to implement this broad concept. In this regard, it is important to note that, already, the label “Open Government” has been stretched in recent years, and used in cases where public sector use of technologies refer to “politically neutral public sector disclosures [of data] that are easy to reuse, even if they have nothing to do with public accountability” (Robinson and Yu, 2013). The OECD will support countries in addressing the need for a unified framework for understanding and defining the scope of open government, while facilitating adequate integration of open data initiatives and the policies of open government.

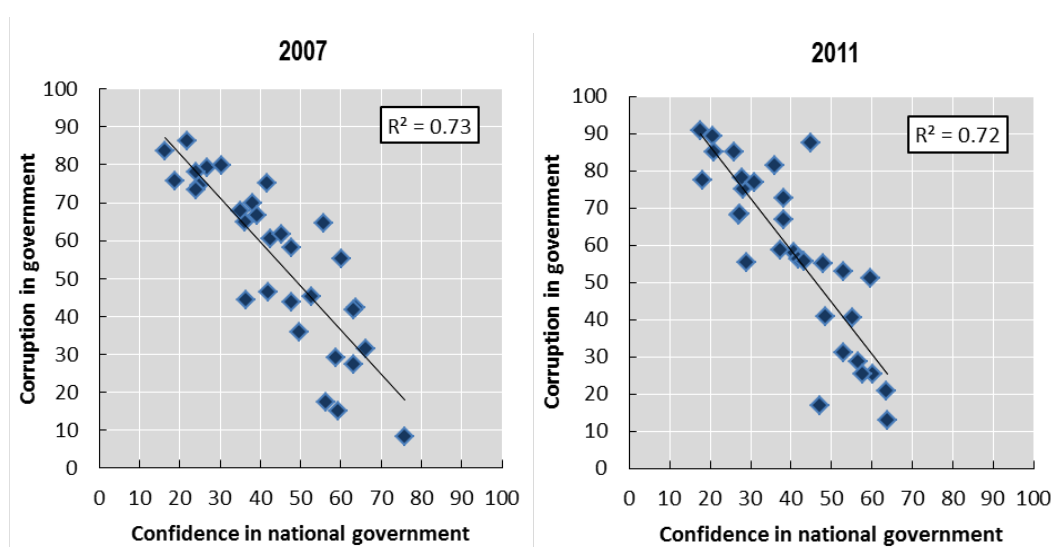
56. In addition, more work is needed to address the “lack of best-practice models from which to draw lessons, aspirations, and guidance” and the need to “evaluate current initiatives to identify patterns for success, lessons learned, and pitfalls to avoid” (Linders et al. 2012 p.10; Lee and Kwak 2011). Indeed, hard evidence on the impact of openness on government performance and/or public value creation is still very limited (OECD, 2012a). Moreover, the cost and benefits of open government need to be further evaluated: providing data in an easily understandable, technologically accessible format can be costly for governments, especially in times of fiscal constraints, while its impact on idea and possibility searching in the context of policy making needs to be further assessed (OECD 2012a).

57. Further OECD work on documenting and assessing new developments in open government and conducting impact assessments would help inform implementation efforts by countries with evidence based good practice while facilitating progress measurement that emanates from a common understanding.

III. SAFEGUARDING INTEGRITY AND CURBING UNDUE INFLUENCE: ADDRESSING HIGH RISK AREAS

58. Comparative evidence shows a positive correlation between institutional weakness in the policy making process, the proliferation of alternative negotiation arenas and policy capture, as measured by the favouritism in policy making of the Global Competitiveness Report (GCR).¹² Other available data supports the argument further: trust in politicians, both from the business community and citizens, is highly correlated with perceived institutional weakness, in particular corruption or diversion of public funds (Figure 6).

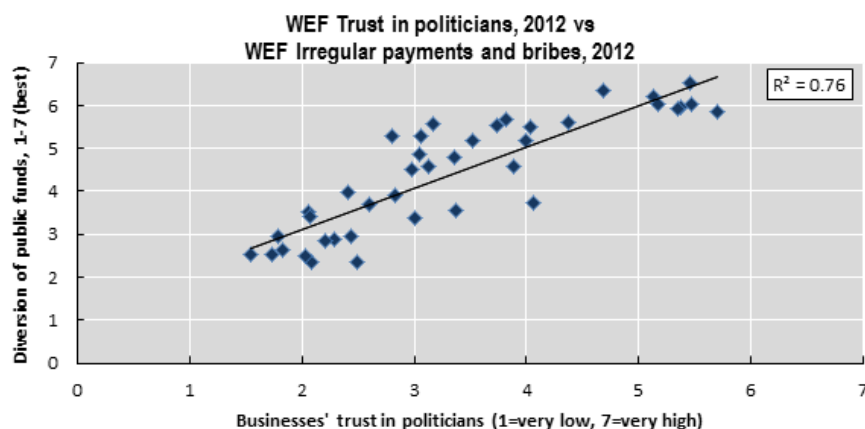
Figure 6. Confidence in national government and perception of corruption



Note¹³: Perception of Corruption: % of “yes” to question “is corruption widespread throughout the government in your country, or not?” Confidence in national government: % of respondents who answered ‘yes’ to the question: “in this country, do you have confidence in National government?” Source: Gallup World Poll 2007 and 2011.

12 Other studies support the argument. For example, while the public interest clearly should be aligned with financial development promoting policies, studies have shown that “financial development (should be) higher in those countries in which interest groups might have a lower incentive to block its development and where the government has less need to abuse the financial system in order to finance its operations”. <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=35373958>

13 2006 data instead of 2007 for Austria, Finland, France, Ireland, Norway, Portugal, Slovak Republic, Slovenia and Switzerland. 2010 data instead of 2011 for Chile, Israel, Japan, and Brazil. 2009 data instead of 2011 for Switzerland. 2008 data instead of 2011 for Iceland and Norway.



59. The current context has raised the stakes for decisive government action to safeguard integrity, as citizens show concerns over undue influence on policy making playing an important role at the onset of the economic crisis. Embedding the policy making process with mechanisms that safeguard the public interest and curb the undue influence of money and power is essential to restore a sense of fairness in policy making. Consequently, governments are expected to proactively address high-risk areas at the intersection of the public and private sectors, including lobbying, conflict of interest in public decision making, and the influence of vested interests exercised through political financing.

Box 8. Integrity - a priority in the international agenda

Integrity is a key element of the G20 and G8 agenda today, with governments focusing on greater transparency and accountability in the economy, government and society. The United Kingdom, as G8 president, has outlined the need to create an equal and open global economy based on clearly shaped rules, fairness and openness: "We need more transparency on how governments and, yes, companies operate".

US President Barak Obama has made integrity and openness a continuous theme in his recent state of the union address, addressing issues such as campaign finance disclosure, earmarks, lobbying reform and transparent taxation. Most recently, Spanish Prime Minister, Mariano Rajoy, has put transparency in political finance on the national agenda, with other integrity measures, noting in his state of the nation address that new laws on the control of political parties' financial activity will be proposed to the Parliament.

Sources: www.number10.gov.uk/news/prime-minister-david-camerons-speech-to-the-world-economic-forum-in-davos/
www.whitehouse.gov/state-of-the-union-2013 and <http://sunlightfoundation.com/blog/2011/01/26/transparency-in-the-sotu/>
www.euronews.com/2013/02/21/rajoy-s-state-of-the-nation-holds-no-surprises/.

60. Investing in a more inclusive and fairer policy making mechanism could also serve stakeholders hoping that by doing so, they will increase their legitimacy for future influence. For example, businesses can work with and within the formal policy making processes, by using engagement mechanisms with government, channelling (in a transparent and legally complying manner) support to political parties aligned with their interest or developing transparent lobby activities, rather than resorting to corruption, undue influence or informal negotiations (Dal Bó et al., 2006). In turn, by working with and within the system, the conditions for a level playing field are further reinforced.

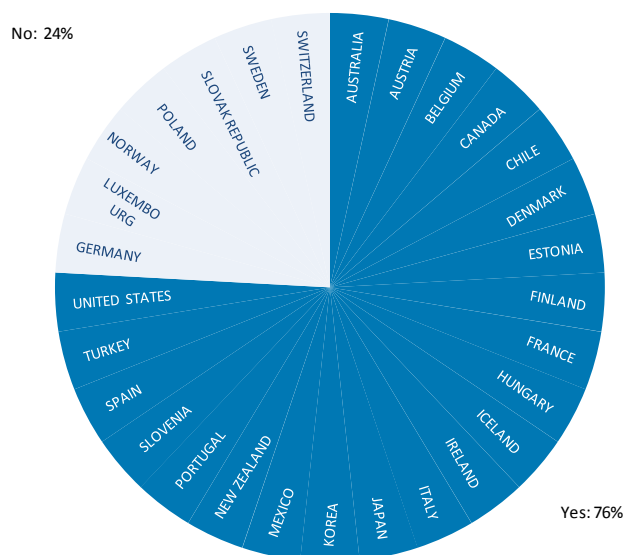
Managing conflict of interest: Safeguarding the public interest in decision-making

61. Growing expectations of transparent, open and fair public decision-making from an increasingly well-informed society and business community put pressure on governments to ensure that official decisions are not improperly affected by self-interest, so that the integrity of markets and fair business competition is supported, and illicit practices are excluded. Ensuring that the integrity of government decision-making is not compromised by public officials' private interests is therefore essential.

62. Defining an effective policy approach to dealing with conflict of interest in line with the 2003 OECD Guidelines for Managing Conflict of Interest in the Public Servicer has been high in the agenda of OECD countries. A survey conducted by the OECD in 2012 shows that the vast majority of OECD countries have indeed policies to manage conflict of interest. They also built supporting institutional framework through setting up a central function responsible for the development and maintenance of the conflict-of-interest policies, rules or procedures. However, the existence of a central function varies by branch of government (76% of OECD countries have a central function for the executive, 72% for the legislature, and 68% for the judiciary). In the implementation, the primary target in most OECD countries is to raise awareness and understanding of the policies. For example, in 97% of OECD countries, the conflict-of-interest policy is disseminated to public officials taking office and/or when they take on a new post. Similarly, 76% of the OECD countries provide training to increase knowledge of public officials through examples of real-life conflict-of-interest situations and how they were addressed.

63. Despite important progress achieved in the last decade, a number of challenges remain and effectively managing conflict of interest has proven elusive. Only 24% of OECD countries employ diagnostic tools, such as surveys, statistical data, and cost-benefit analysis, to measure the impact of the policy, rules and procedures on the effectiveness of conflict-of-interest management (Figure 7).

Figure 7. Do countries measure the impact of their conflict-of-interest policies?



Source: OECD Survey on Conflict of Interest (2012).

Note: Data is missing for the Czech Republic, Greece, Israel, the Netherlands and the United Kingdom.

64. Measuring compliance also remains a challenge. In the majority of OECD countries, disciplinary, administrative, civil or criminal sanctions are foreseen in the event of a conflict-of-interest violation (Table 3). Yet, data on how the sanctions are applied is not available.

Table 3. Consequences for public officials for violations of the conflict of-interest policy

	Public official not resolving a conflict of interest when it arises	Public official accepting or holding prohibited private interest (e.g. gift or outside employment)	Public official not reporting known conflict of interest of co-worker	Managers not resolving or managing conflict of interest of staff
Australia	●	●	●	●
Austria	●	●	◐	●
Belgium	●	●	●	●
Canada	●	●	×	●
Chile	●	●	●	●
Denmark	○	○	○	○
Egypt	●	●	●	●
Estonia	●	●	●	●
Finland	◐	◐	×	◐
France	×	●	×	×
Germany	×	●	×	×
Hungary	●	●	●	●
Iceland	●	●	●	●
Ireland	●	●	●	×
Italy	●	●	×	●
Japan	◐	◐	◐	◐
Korea	●	●	○	○
Luxembourg	●	●	●	●
Mexico	●	●	●	●
New Zealand	●	●	●	●
Norway	●	●	×	●
Poland	●	●	●	●
Portugal	●	●	×	●
Slovak Republic	●	●	●	×
Slovenia	●	●	×	○
Spain	●	●	●	●
Sweden	●	●	×	×
Switzerland	●	●	●	●
Turkey	●	●	○	●
Ukraine	○	●	×	●
United States	●	●	●	●

● Personal consequences

◐ Depending on the situation or the category of public official, the violation can either have or not have personal consequences

○ No personal consequences

× Not applicable (e.g. not considered a violation)

Austria Public official not reporting known conflict of interest of co-worker: Depending on the concrete violation, it can either have disciplinary/administrative or criminal sanctions, or not be considered a violation

Japan In Japan, there are no personal consequences for ministers. To "Public official not reporting known conflict of interest of co-worker", there are only personal consequences for judges.

Ireland A failure on the part of a manager to resolve a conflict of interest on the part of a member of staff would not generally be included as a violation of the conflict of interest policies themselves. On a broader management and personnel management level it could potentially be considered a failure on the part of a manager not to adequately deal with an issue of which he/she was aware and ought to have dealt with in their role as a manager as a matter of course. Such a failure would be a matter to be dealt with under personnel policies rather than conflict of interest policies.

Source: OECD Survey on Conflict of Interest (2012)

Note: Data is missing for the Czech Republic, Greece, Israel, the Netherlands and the United Kingdom.

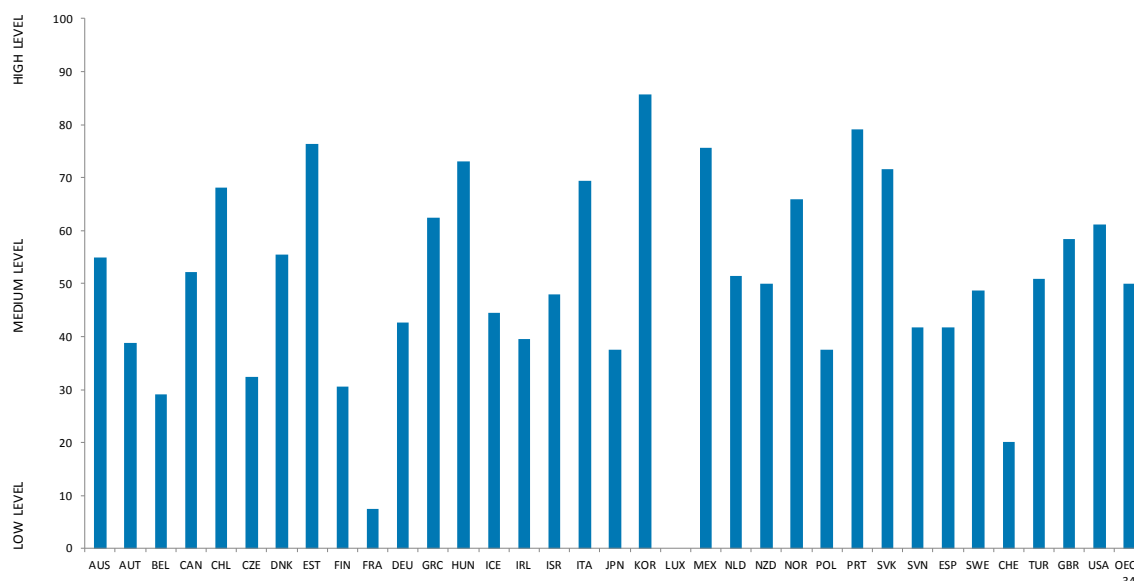
65. A crucial tool for identifying potential conflict-of-interest situations is disclosure of private interests by public officials. Disclosure is a common practice in OECD countries to manage conflict of interest, particularly for elected officials in the legislature. This has been also recognised by the G20 High Level Principles on Asset Disclosure by Public Officials. In the past decade, countries have invested in improving disclosure in order to increase transparency in the public decision making process. Yet in the majority of the OECD countries, information on disclosures by decision makers in the three branches of government is only partially made available to the public. On average in the 34 OECD countries only about half of the information related to private interests is disclosed and made publicly available (Figure 8). Across the OECD, only Finland, France and the United States have a higher level of disclosure by decision makers in the executive branch than by the legislatures. When analysing the level of public availability of disclosed information, it is however essential to keep in mind that certain countries assign a high level of importance to privacy concerns.

66. Although the disclosure of private interests by decision makers is common practice in OECD countries, the actions taken following the collection of disclosure forms to monitor and ensure compliance varies extensively between countries. Three quarters of the OECD countries verify that disclosure forms were submitted in time, and 54% of countries regularly review the completeness of forms submitted. However, only 39% of countries perform internal audits to analyse the accuracy of submitted information. In Ireland, Italy, Switzerland and Turkey, no actions are taken following the collection of the disclosure forms. However - with the exception of Turkey - these countries make most of the disclosed information publically available. This makes it possible for the citizens themselves to scrutinize the information submitted by public officials. In terms of enforcement, only five countries –Estonia, Italy, Japan, Korea and Slovenia– collect data on the number of sanctions that have been applied for violations of disclosure requirements. There is no information in other OECD countries on whether sanctions have been applied consistently across the public sector.

67. Overall, the remaining challenge to the majority of OECD countries is to effectively identify and mitigate potential risks of undue influence in the form of conflict of interest in the public decision making process. The OECD could support countries' efforts by providing a better understanding of what measures have been effective in OECD countries to identify and manage conflict of interest, particularly at the implementation stage of the policies. In this regard, ensuring that timely advice is provided to those officials looking for support remains a gap in many OECD countries. Measuring the impact-of-conflict of interest policies, in particular collecting data on the compliance with the policy (e.g. breaches, application of sanctions) remains a challenge.

68. Disclosure of private interests by public officials is a key component of an effective conflict-of-interest policy. However, administration of the disclosures is often considered a bureaucratic exercise. A thorough analysis of these processes could identify more effective and cost efficient use of the disclosure process and publication of information to restore citizens' trust in government decision-making. How to use effectively the information disclosed (e.g. benefiting from the potential of technologies) remains a challenge in most countries in the three branches of government. The OECD could identify and share lessons learned of implementing disclosure requirements and what measures proved effective in managing conflict of interest.

Figure 8. Level of disclosure of private interests and public availability of information in the three branches of government



Source: OECD Survey on Conflict of Interest (2012) ¹⁴

Note: Data for the Czech Republic, Greece, Israel, the Netherlands, and the United Kingdom are from 2010. Note: In Luxembourg there is no disclosure of private interests by public officials.

14

Data reflect practices in member countries. In the United States, the prosecutorial function is the Executive Branch. Senior officials in the Department of Justice are required to file publicly available financial disclosure reports under the same requirements as all other Executive Branch employees. Lower level federal prosecutors have a separate, non-public, conflict of interest reporting system. In Luxembourg, there are no requirements for the disclosure of private interests.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Norway: Data regarding judges exclude lay judges and judges in conciliation boards.

Paid outside positions: In Austria and Belgium for all positions and in Iceland and Switzerland for judges, any tenured civil servant is subject to the binding decision of the government in the case that an outside paid position may result in a conflict of interest. In Denmark, outside positions for judges can only be held (and must be disclosed) if these positions are reserved for judges by law or if permitted to by a special board. In Estonia, paid outside positions are prohibited by law for the Prime Minister, Ministers, judges and prosecutors, with the exceptions of research and teaching which should be disclosed.

Previous employment: In Estonia, no regulation requires members of the executive and legislature to publish information about previous employment; however in practice this information is proactively published.

Assets, liabilities, amounts and sources of income, and gifts: In Iceland, the Prime Minister is only required to disclose loans that have been written off or changed to their benefit. In Ireland, Parliamentarians' salaries and allowances are publicly available. In addition, all parliamentarians including office holders must disclose their personal interests, i.e. income from other sources (i.e. outside paid positions), shares, directorships, land, gifts, below cost supply of a service or travel, consultancy work, and any interest in a public contract in annual statements of interests under the Ethics Acts. These interests are publicly available on the Registers of Members' Interests. In Mexico, gifts must be declared if they amount to equal or greater value of 10 times the minimum wage. Information on public servants is published online if authorised by the public servants. In practice, about 66% of public servants make the information publicly available.

69. As comparative evidence shows, only a minority of member countries audit disclosed information by decision makers and collect data on sanctions applied for non-compliance, although, it is key to understand how effectively and consistently the sanctions are applied. Moreover, the level of disclosure and public availability of the information remains at a medium level in OECD countries. A better understanding of the reasons behind the different levels and the impact that this has on managing conflict of interest would be highly informative to OECD countries. Similarly important is to understand how the privacy concerns can be integrated into an effective disclosure system in various country contexts.

Mitigating the increasingly visible revolving door phenomenon

70. Increased movement of employees between the public and private sectors, often called the “revolving door” phenomenon, has raised concerns over pre-and post-public employment and its negative effects on trust in the public sector. This practice has been considerably increased in the last decade. Certain sectors are more exposed to the ‘revolving door’, for example, experience shows that the banking and financial sectors have close relationships with government and regulatory agencies. Findings have shown that a majority of banks and security firms have retained former members of government or regulatory agencies, or have had members of staff or executives move into government or regulatory posts (OECD, 2009c).

71. Issues of impropriety (i.e. the misuse of “insider information”, position and contacts) have led more and more countries to review and modernise measures for effectively preventing and managing conflict of interest in pre- and post-public employment. For example, a “cooling-off” period exists in many OECD countries, where public officials must limit their interaction with their former organization for a given length of time (on average between 1 and 2 years).

72. Many countries have established a two-tiered system: there are general requirements for civil servants and a more stringent regime for top level public officials, including decision makers such as ministers and legislators. This is the case, for example, in Canada where for public servants one year is the general time limit, while for ministers a two-year period is applied. A specific five-year ban on lobbying was also introduced for ministers, ministerial staffers and senior public servants. Similarly, Norway established two sets of post-employment guidelines for politicians and public servants, including temporary disqualification (a ban for up to six months after leaving office on employment by an organisation outside the public service that has or can have contact with the employee’s sphere of responsibilities as a civil servant or politician) and abstinence (a ban for up to one year after leaving office, for an employee to become involved in cases or areas that involve the employee’s spheres of responsibilities as a civil servant or politician).

73. Experience shows that each country’s pre- and post-public employment system needs to match the particular problems they face and anticipate emerging issues. For this reason, in 2010 the OECD developed Guiding Principles on Post-Public Employment that were approved by the Public Governance Committee as a reference point for policy-makers. The Principles address: (i) problems arising primarily while officials are still working in government; (ii) problems arising primarily after public officials have left government; (iii) duties of current officials in dealing with former public officials; and (iv) responsibilities of organisations that employ former public officials (OECD 2010).

74. Furthermore, the OECD has also developed a Post-Public Employment Good Practice Framework (Box 9), which provides a range of measures that could be considered for comprehensive, effective and transparent implementation of the principles.

Box 9. Managing post-employment conflict of interest: Good Practice Framework

1. The post-public employment system contains the instrument(s) needed to deal effectively with its current and anticipated post-public employment problems and emerging concerns.
2. The post-public employment instrument(s) is (are) linked, where feasible, with instrument(s) dealing with conflict of interest in the public sector and with the overall values and integrity framework.
3. The post-public employment system covers all of the entities for which post-public employment is a real or potential problem, and meets the distinctive needs of each entity.
4. The post-public employment system covers all of the important risk areas for post-public employment conflict of interest.
5. The restrictions, in particular the length of time limits imposed on the activities of former public officials, are proportionate to the gravity of the post-public employment conflict of interest threat that the officials pose.
6. The restrictions and prohibitions contained in the post-public employment system are effectively communicated to all affected parties.
7. The authorities, procedures and criteria for making approval decisions in individual post-public employment cases, as well as for appeals against these decisions, are transparent and effective.
8. The enforcement sanctions for post-public employment offences are clear and proportional, and are timely, consistently and equitably applied.
9. The effectiveness of the policies and practices contained in each post-public employment system is assessed regularly and, where appropriate, is updated and adjusted to emerging concerns.

Source: OECD 2010.

75. OECD countries are well aware of the challenge. In the 2012 OECD survey on conflict of interest, they highlighted that pre- and post-public employment is a principal emerging area of concern and remains a challenge. Indeed, recent news from several OECD capitals have made visible revolving door cases which raised concerns about the decision making process. Such doubts could also contribute to further eroding citizens' trust in government.

76. While arrangements exist in many OECD countries, governments have recognised that there are still many gaps at the implementation level. It is therefore necessary to conduct further analysis to identify good practices in the implementation of pre- and post-public employment regulation policies, particularly on key practical issues, such as compliance mechanisms, how to monitor effectively the rules in place, compensation schemes during the cooling-off period, concrete ways to effectively prevent the leakage of confidential information and whether a sectoral approach provides advantages to effectively mitigating revolving-door risks. The OECD, having pioneered work on revolving doors and being considered an informed voice in the policy discussion regarding pre- and post-public employment, is well-placed to continue providing member countries the necessary support in this area.

Benefiting from lobbyists' input while maintaining a level playing field

77. Lobbying has been further gaining space in public life in the past few years. The number of lobbyists and their annual spending is increasing around the world. Over 5 000 lobbyists are registered at

the European Commission and Parliament common registry and there are an estimated 15 000 lobbyists active in Brussels. In the United States lobbying spending more than doubled between 1998 and 2012, increasing from USD 1.44 billion to USD 3.30 billion.

78. Private interests seeking to influence government decisions, legislation or the award of contracts is part of the policy-making process in modern democracies. Lobbying is often explicitly recognised as legitimate and essential, given the complexity of modern government decision making and the wide impact of government today. Lobbyists can indeed bring in invaluable information and data that can enable more informed decision making and result in more effective public policies.

79. Yet, there are concerns in many societies that lobbying gives special advantages to “vocal vested interests” and that negotiations carried on behind closed doors can override the “wishes of the whole community” in public decision making. These tendencies were considered a major threat to public trust at the OECD Ministerial meeting on Strengthening Trust in Government: What Role for Government in the 21st Century? (OECD 2006). Moreover, allegations are often made that lobbying borders too frequently on influence trafficking. This is potentially damaging trust in the integrity of democratic institutions.

80. The risks are indeed real. Informed voices have argued that recent economic crises were caused, partly, by the influence of specific interests on government decision-making. For example, an IMF working paper published in 2009 links intensive lobbying by the financial, insurance and real estate industries in the United States with high-risk lending practices (Igan *et al.* 2009). The paper concludes that “the prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives behind better.” Today, when in many countries regulations are revised and structural adjustments are discussed the risks and distrust remain.

81. In view of the downside risks of lobbying and the impressive mobilisation of private resources, public pressure is rising worldwide to put lobbying regulations on the political agenda. As a response, countries are increasingly opting for regulating lobbying. Recent lobbying regulation in Austria, Estonia, the Netherlands and Slovenia, or ongoing debates on regulating lobbying in Brazil, Ireland, Italy, Portugal, Russian Federation, Spain and the United Kingdom show the demand for good practices. Transparency, integrity and fairness in the decision-making process are crucial to safeguard the public interest and promote a level playing field for all stakeholders who want to take part in policy making.

82. In order to help address these concerns, OECD countries adopted in 2010 the Recommendation on Principles for Transparency and Integrity in Lobbying as guidance to decision-makers on how to promote good governance in lobbying. OECD experience shows that the following are key elements and simultaneously challenging areas for an effective lobbying regulation (OECD 2009d):

Levelling the playing field among different stakeholders

83. Identifying a clear, robust and comprehensive definition of ‘lobbying’ and ‘lobbyists’ can help avoid misinterpretation and prevent loopholes. Those groups who receive compensation for carrying out lobbying activities, such as consultant lobbyist and in-house lobbyists, should primarily be targeted by regulations and guidelines. However, countries that have put in place regulations still struggle to level the playing field among those stakeholders seeking to influence the public decision making process. Non-profit entities, such as Trade Unions or religious organisations, as well as lawyers are among those exceptions that would create an uneven playing field.

Providing public availability of information on lobbying to allow scrutiny by stakeholders

84. Disclosure of lobbying activities provides sufficient and pertinent information on key aspects of lobbying activities to enable scrutiny. Core disclosure requirements elicit information on in-house and

consultant lobbyists, capture the objective of lobbying activity, identify its beneficiaries, in particular the ordering party, and point to those public offices that are its targets. In a survey among lobbyists in Europe conducted by the OECD, 76% of lobbyists surveyed agreed that transparency was necessary to alleviate actual or perceived problems of influence-peddling. Moreover, a majority of lobbyists even agreed that their campaign contributions made to political parties or candidates should be publicly disclosed (OECD, 2012b). Transparency and disclosure of lobbying information has also raised concerns in recent years about how to strike a balance with considerations of legitimate exemptions to transparency, in particular the need to preserve confidential information in the public interest or to protect market-sensitive information when necessary.

85. Furthermore, to adequately serve the public interest, disclosure on lobbying activities and lobbyists should be stored in a publicly available register and should be updated in a timely manner in order to provide accurate information that allows effective analysis by public officials, citizens and businesses. For example, the Canadian Registry of Lobbyists uses an online platform to make lobbyists' activities with federal public office holders available on the Internet (Box 10).

Box 10. Canada's Registry of Lobbyists

The Registry of Lobbyists is the core tool of lobbying transparency in Canada. Registry information collected under the Lobbyist Registration Act and the Lobbyists Registration Regulations is a matter of public record so that information about who is being paid to communicate with federal public office holders is available. Accessible over the Internet (www.ocl-cal.gr.ca), the Registry is well-known and heavily used by lobbyists, journalists, public office holders, citizens and others.

Anyone may search the Registry for information and produce reports from their own computer. Users can search and retrieve information on:

- who lobbies for which firms, corporations, organisations or associations;
- the parent and subsidiary companies or corporations that may benefit from the lobbying;
- the organisational members of coalition groups;
- the activities that corporations and associations engage in (a general description);
- the government of Canada departments or agencies being contacted;
- the names or descriptions of the specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts being sought; and
- the positions former public office holders have held with the government of Canada.

Users can also produce their own summary reports on registered lobbyists, as well as copies of individual registration forms, directly from the Registry. It is also possible to access a list of recent registrations that includes all new registrations, amendments and terminations processed within the previous 30 days. Users who search and retrieve the data directly from their own computers may do so free of charge.

Source: Office of the Commissioner of Lobbying of Canada, the Registry of Lobbyists.

86. However, whether disclosing information in a registry should be mandatory or voluntary for lobbyists is still subject to debate. While in some countries registration is mandatory to be able to lobby (e.g. Canada, Estonia, Poland, United States) in other remains voluntary and lobbyists that register are

awarded certain privileges (e.g. France, Germany). Further analysis needs to be conducted on the considerations and rationale behind the scheme put in place, including cultural and contextual particularly to each country.

Providing a coherent spectrum of strategies and practices to ensure compliance with rules on lobbying

87. To ensure compliance, and to deter and detect breaches, countries are expected to design and apply a coherent spectrum of strategies and mechanisms, including properly resourced monitoring and enforcement. Experiences show how important are the mechanisms to raise awareness of expected rules and standards; enhance skills and understanding of how to apply them; and verify disclosures on lobbying and public complaints. Compliance and enforcement, however, remains a challenge in most countries that have regulated lobbying practices. A report by the American Bar Association (2011) has raised concerns on the effectiveness of regulation and the decreasing compliance and enforcement in the United States, which is considered to have one of the most stringent, sophisticated and long standing lobbying regulations in the world.

88. Evidently, effectively regulating lobbying practices to ensure a level playing field in informing and influencing public decision making is still a challenge. OECD countries experience shows that regulating lobbying is heavily context specific. Countries with low levels of trust in government or where lobbying has become a high-financed profession have favoured government regulation, while countries with higher levels of trust opted for self-regulation by lobbyists' associations. Yet, relying solely on self-regulation is decreasing, mostly due to the renewed concerns regarding compliance with self-regulation.

89. Overall, several challenges remain on how to design a cost-effective mechanism to increase integrity and transparency in lobbying practices. In the last three years, the OECD has provided support to several countries to put in place or reform their lobbying regulations. According to this experience and as stated above two elements have proven particularly challenging: (i) levelling the playing field amongst the key actors and different stakeholders in terms of coverage and transparency requirements; and (ii) ensuring compliance, in particular effectively enforcing the regulation.

90. Developing a better understanding of lobbying practices and the ways to effectively address associated risks would greatly contribute to ensuring that lobbying brings valuable information and data to enable more informed decision-making and result in more effective public policies. In addition, as discussed earlier, these efforts should be complemented by closing the knowledge and implementation gap regarding openness and participation, so as to facilitate a truly inclusive policy making process.

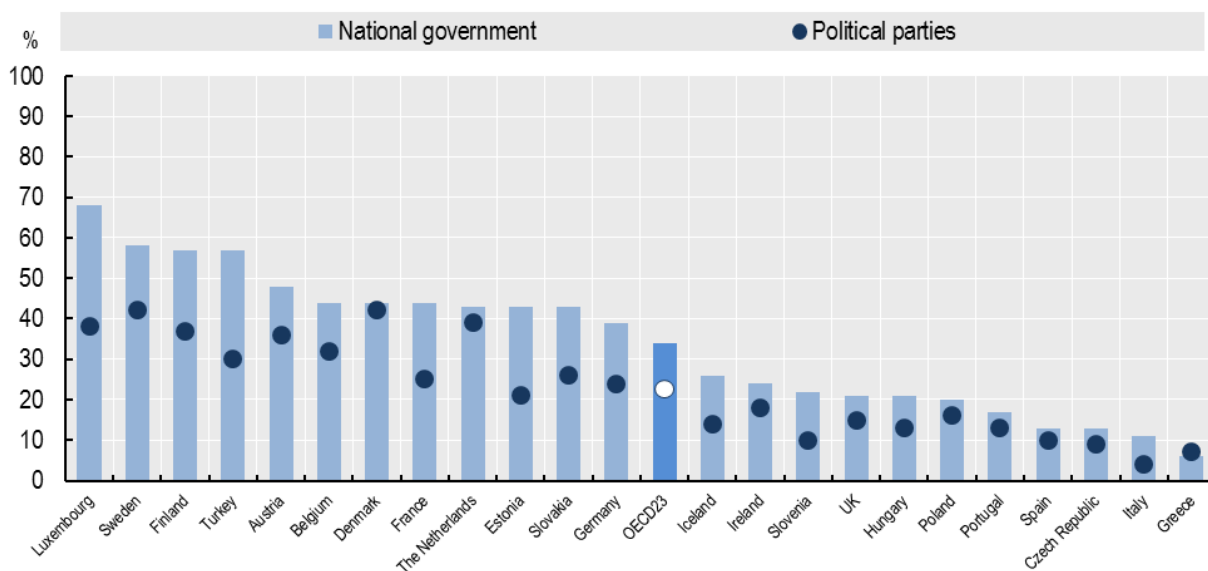
91. The OECD is currently conducting a comparative study to identify lessons learned in the implementation of the OECD Principles for Transparency and Integrity in Lobbying in recent years. This will provide additional insights on how to restore citizens' trust in the public decision making process.

Financing Democracy: Squaring the circle of trust, transparency, and public interest in democratic societies

92. Money is a necessary component of the democratic processes, enabling elections for representation and facilitating democratic competition. However, in the absence of adequate and effective regulation, money in politics can also undermine democracy itself. Unequal access to funding for instance, can jeopardize the fairness of the electoral process and distort the playing field between political parties or candidates. Important donations on the other hand can endanger the independence of political parties and candidates as they might be expected to "return the favour" when they take office. Tied with intensive lobbying, money in politics can even facilitate capture of decisions.

93. The distrust between citizens and their political parties is alarming. According to the Transparency International Europe Barometer 2010/11, almost 50 % of respondents view their political parties as corrupt or extremely corrupt (except in Switzerland, Norway, Netherlands, and Denmark where this percentage is under 30%). Available time series data show a sustained decrease of trust in political parties across European members of the OECD between 2005 and 2012 (Figure 9).

Figure 9. Trust in government and trust in political parties in 23 European OECD countries (2012)



Source: Eurobarometer

Note: Trust in national government: % of “tend to trust” answers to the question: I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it? National government.

Trust in political parties: % of “tend to trust” answers to the question: I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it? Political parties

94. Political parties, as organised and functioning mediators between the various interests and ideologies in a society, are key components of the representation structure in vigorous democracies and functioning governments. Financial resources allow them to exist, develop and fulfil their enabling role.

95. The nature of this representative process places it at the heart of policy decision making: political finance is influenced by – and has influence on - relations between parties, politicians, businesses and the electorate fairly conducted electoral procedures help to legitimise government and contribute to effective and fair policy decisions by curbing the influence of powerful vested interests. However, the risks associated with money’s undue influence on democratic processes reverse this scenario, undermining trust in government, unbalancing political competition and capturing policy decisions away from the public interest.

96. Recognising the risks, Governments called for developing instruments to promote transparency and fairness of political finance over a decade ago and adopted The Council of Europe 2003 Recommendation on Common Rules against Corruption in the Funding of Political Parties and Electoral

Campaigns¹⁵ (hereinafter, the 2003 Recommendation), the Venice Commission 2001 Guidelines on the Financing of Political Parties¹⁶ and the 2004 United Nations Convention against Corruption (UNCAC)¹⁷ to lay down key principles to be taken into account when regulating political finance.

97. These instruments have proven invaluable to provide an initial common ground for addressing the reality of money in politics. The risks and consequences of money in politics, however, have considerably evolved in the past years. For example, the Council of Europe 2003 Recommendation, similarly to the 2001 Venice Commission Guidelines, do not address risks of undue influence in political finance that emerged in the past decade, such as membership fees and loans, third party financing, valuing in-kind contributions, etc. The UNCAC, the global anti-corruption framework, leaves the regulation of political finance to the discretion of State Parties, whereby they are invited to “consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidatures for elected public officials and, where applicable, the funding of political parties” (Art. 7).

98. In addition, the nature and scope of regulations and their implementation has been uneven across countries. The Third Evaluation Round of the Group of States against Corruption (GRECO)¹⁸ pointed to institutional weaknesses that undermine enforcement of existing regulations, such as under declaration of contributions or expenditures or inadequate capacity of electoral management bodies. In addition, it helped identify new emerging risks that benefit from loopholes in existing regulations, including third party financing, in kind contributions or gaps to override controls (e.g. fractioning large contributions in small donations) and the opportunity to deepen transparency and disclosure as a tool to leverage enforcement. Moreover, as a result, the thematic review of the GRECO Third Evaluation Round, called “for a more general discussion that highlights the interdependence of these different problems”¹⁹ through a comprehensive approach.

99. The analysis of available international data and country efforts of designing and implementing political financing regulations in the past decade could provide governments a better understanding of the constraints to effective political financing regulations as well as lessons learned from good practices.

100. Despite regulations introduced by OECD countries in the past decade, undue influence, and even corruption, associated to political finance is still a serious issue in established and emerging democracies. In a context of economic recovery, this perception is a threat to efforts to rebuild trust in governments’ capacity to pursue the public interest. In recent years, a number of examples (e.g. Spain, France) highlight the need to reassess the effectiveness of existing regulations in enforcing a system that is capable of containing money’s undue influence.

101. Other drivers also suggest that the time is ripe to reconsider the role and relevance of money in politics, in particular (i) changes in the way candidates and parties communicate with the electorate, and (ii) increased campaign costs:

15 <https://wcd.coe.int/ViewDoc.jsp?id=2183> (accessed on 27 March 2013).

16 2001 Guidelines and Report on the Financing of Political Parties, Venice Commission [www.venice.coe.int/webforms/documents/?pdf=CDL-INF\(2001\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(2001)008-e) (accessed on 27 March 2013).

17 United Nation Convention against Corruption, www.unodc.org/unodc/en/treaties/CAC/.

18 Group of States against corruption (GRECO) Third Round Evaluations were launched in 2007 it focus on two themes the incrimination of corruption and transparency of party funding, they can be found on www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp (accessed on 27 March 2013).

19 GRECO, Fighting Corruption, Political Funding, Thematic Review of GRECO’s Third Evaluation Round.

i. The last years have witnessed an important change in the way candidates and parties communicate with the electorate: money has increased its relevance because of the way the process of electoral competition is currently organised. Internet and social media, in addition to television and radio, are increasingly the means through which most citizens in developed and emerging countries experience an election campaign and, in many cases, the only moment in which most citizens engage with the political process. A study in the US found that more spending on media advertising during campaigns is also correlated with more votes to both incumbents and challengers (Stratmann, 2009). Although this may be considered a negative trend of transforming voters into consumers, for each political rally or face to face encounter with a candidate a citizen attends, the voter experiences many more countless numbers of social media advertising as well as TV or radio spots.

ii. Political parties and candidates now rely less on unpaid volunteers knocking on voters' doors distributing leaflets and more on electronic channels of communication transforming the media in a powerful and essential component of campaigns (Scammel, 1999). This is one important drive for increased campaign costs. Given the changes in the channels used to communicate with the electorate, other types of specialists – beyond political advisors and campaigns treasurers – are now required during and after electoral periods. This is another reason for cost increases: professional paid services such as those offered by private political marketing consultancies. The team of marketing specialists behind the successful 2006 presidential campaign of the Workers' Party in Brazil, after a damaging affair in 2005, became highly sought professionals across Latin America and Lusophone Africa (Globalpost, 2012).

102. The legitimate need of financing the democratic process can become tainted by risks that threat to undermine the same purposes for which it exists: (i) to legitimate government and elected officials as representatives of society, (ii) promote informed voting and enable participation in the democratic process and (iii) inform policy decision making in a way that different interests are aggregated effectively in pursue of the public interest. Amongst the key risks raised by unregulated political finance are the unfairness of political competition and inequalities in accessing the electorate because of lack of financial resources, state capture by vested interest and undue influence, privileged access to state resources (e.g. using official functions for electoral gains).

Box 11. Summary of major trends and key challenges in regulating political finance in the past decade

A) Balancing sources of funding to promote fair competition:

- 1. Increasing public funding** to promote a level playing field between political parties and reduce their dependence on private funding. While different institutional models have been adopted by OECD countries to manage the allocation of direct and indirect public funds, the purpose is to give parties equal access to financial and non-financial state support. This support could either be a direct transfer, access to specific state services (e.g. airtime in state media, transport, and government property) and tax exemptions. Almost all OECD countries provide public funding to their parties or candidates, however they face a growing challenge in adequately valuing these in-kind contributions and ensuring a level playing field between parties in this regard;
- 2. Regulating private funding** to avoid prejudice to the activities of political parties and ensure the independence of political parties. Certain types of private contributions have been banned in most OECD countries including donations from a) foreign states or companies, b) public authorities including state-owned enterprises, and c) anonymous sources. Regulating private funding remains however a very complex matter as it generates controversial debates on the policy objective that should prevail (e.g. freedom of speech versus protecting the public interest).

B) Setting limits on expenditures to reduce the dependency of parties on private contributions: Setting spending limits for parties or candidates during electoral campaigns contributes to reducing the overall cost of election thus limiting risks of undue influence which result from strong dependency on private contributions. However new ways to circumvent regulations emerged as regulatory loopholes were not addressed (e.g. using membership fees to conceal donations, or rely heavily on loans and consequently on credit institutions)

C) Promoting transparency and accountability of all actors in political financing:

- 1. Addressing privileged access to State resources** by elected officials. State resources can be used by incumbent parties to fund their electoral campaigns, it can also be used by elected officials, once in office, to “return the favor” or retaliate against private contributors. A growing number of countries introduced in their political finance regulations bans and limits on the use of different types of state resources. However a comprehensive approach to limiting privileged access to state resources is yet to be defined by countries.
- 2. Promoting transparency in political parties and candidates accounts** by keeping records of donations and campaign expenditures and disclosing them to specific monitoring authorities and to the wider public.

D) Strengthening monitoring and enforcement of political finance regulations:

- 1. Establishing a single independent supervisory body** to ensure the enforcement of political finance regulation. Although there is no one-size-fits all model, international standards recognised the need for parties and candidates to disclose their expenditure and income related to electoral campaign to an independent entity. Experiences in OECD countries show that this entity needs to be given the necessary financial and human resources to effectively undertake its mission. Additionally its independence from the executive and legislative branches needs to be secured to avoid risks of conflict of interest.
- 2. In the absence of independent supervisory body**, countries are invited, at the least, to have their accounts certified by independent experts. In parallel, political parties in OECD countries are increasingly strengthening **internal audits** within the parties to promote good management of funds and limit risks.
- 3. Defining effective, proportional and dissuasive sanctions.** Experiences show that countries need to ensure the right balance in sanctioning infringements to political finance regulations to ensure that sanctions are proportionate and dissuasive.

Balancing sources of funding to promote fair competition between political parties and candidates

103. A key element of a vibrant democratic system is the effective participation of political parties/candidates in the electoral process. Fair and equitable access to the necessary funding is pivotal to effectively engage them in the electoral processes. From this perspective, the 2003 Council of Europe Recommendation recognised the right of both “state and citizens to support political parties”. However, the States “should ensure that any support from State or/and citizens should not endanger the independence of political parties”. Similar principles are applicable to donations from legal entities or entities connected to parties.

104. From this perspective, political funding regulations in OECD countries were designed to provide an adequate balance between public and private funding. This balance ultimately aiming at promoting a level playing field for all political representatives of citizens and ensure the independence of political parties/candidates from undue influence.

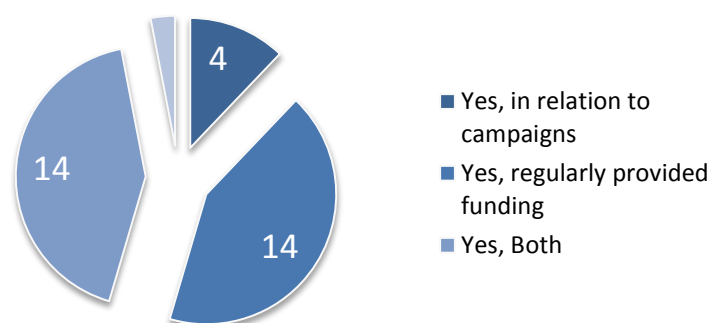
Public funding: providing an initial level playing field

105. Public funding was provided to political parties to promote their institutionalisation in democratic regimes as they benefit from the necessary financial support to conduct their daily activities and engage in elections. Furthermore, direct and indirect public funding to political representatives of citizens allows them to have fair and equitable access in competing for citizens’ votes. At various extents all OECD countries provide public funding to political parties/candidates, with the exception of Switzerland (Figure 10).

106. As elections were becoming increasingly expensive and complex, public funding provided leverage to parties/candidates to become less dependent from private funding and limit risks of corruption and undue influence from vested interest linked to these donations. Depending on whether countries have a party-centred system (e.g. Spain) or a candidate-centred system (e.g. Unites States), public funding is provided to political parties or to candidates to enable their participation in elections. This funding represents more than half of parties’ resources in some OECD countries. In Sweden, for example, public funding constitutes up to 70% of political parties resources, in Denmark the share of public funding of the total income of political parties represented in elected bodies is on average as high as 75%, in Italy it reaches 80% of party’s financial resources, and in Spain it amounts to some 80% to 95% of the revenues of political parties with representation in Parliament.²⁰ Public funding has proven useful to support the institutionalisation of parties and to facilitate an initial level playing field.

107. Public finding however “*should be limited to reasonable contributions*” as stressed by the Council of Europe Recommendation. In fact, a high level of public support can jeopardize the independence of parties. In Turkey, for instance, the Third Evaluation Round proposes the authorities to rebalance public and private funding.

Figure 10. Provisions for direct public funding to political parties in OECD countries



Source: Based on International IDEA. 2012. Political Finance Database (www.idea.int/political-finance). Stockholm, Sweden.

108. To avoid an excessive growth of small political parties seeking public funding, most OECD countries have established clear criteria for receiving public funding. These criteria are based on either the percentage of votes received (e.g. Turkey, Germany, Sweden) or the seats won in an elected body (e.g. United Kingdom, Finland, Netherlands).

109. Similarly to all state resources, public funding provided to parties is tied to stronger rules and controls to ensure that they are provided fairly to all stakeholders. These controls have been increasingly strengthened after political scandals showcasing major irregularities in party funding. In Italy, for instance, public funding regulation was limited to reimbursement of actual campaign expenditures, rather than campaign expenditures and routine party activities, as it used to be prior to 1993.²¹ This has, however, led to scenarios in which candidates rely solely on private funding to avoid tighter controls.²²

110. Finding the adequate balance between lowering the barriers to enter into the political arena and ensuring effective competition remains a challenge, particularly in light of the increasing costs of election campaigns.

Emerging challenge: adequately valuing in-kind contributions

111. The media plays an important role in conveying parties/candidates/ messages to the biggest electorate possible. It is an instrumental lever for parties/candidates to access power. To ensure a level playing field for parties in accessing to the media, 22 OECD countries subsidises access to media as part of the indirect public funding to parties/candidates in order to avoid that parties/candidates use in-kind contribution for circumventing regulations on private funding. Indirect public funding can vary in form, it ranges from tax exemptions, printing and distribution of materials to free use of government properties (e.g. airtime in state media) or support to parliamentarians. However adequately valuing the cost of these contributions and ensure that all parties have equal access to them remains an important challenge. In particular the challenge lies in ensuring that incumbent politicians do not benefit more from such indirect support as they have privileged access to power and state resources. This is further discussed below.

21 GRECO, Third Evaluation Round, p.25 paragraph. 132.

22 In the United States 2012 presidential elections, for instance, both final candidates relied exclusively on private funding. US Federal electoral management board.

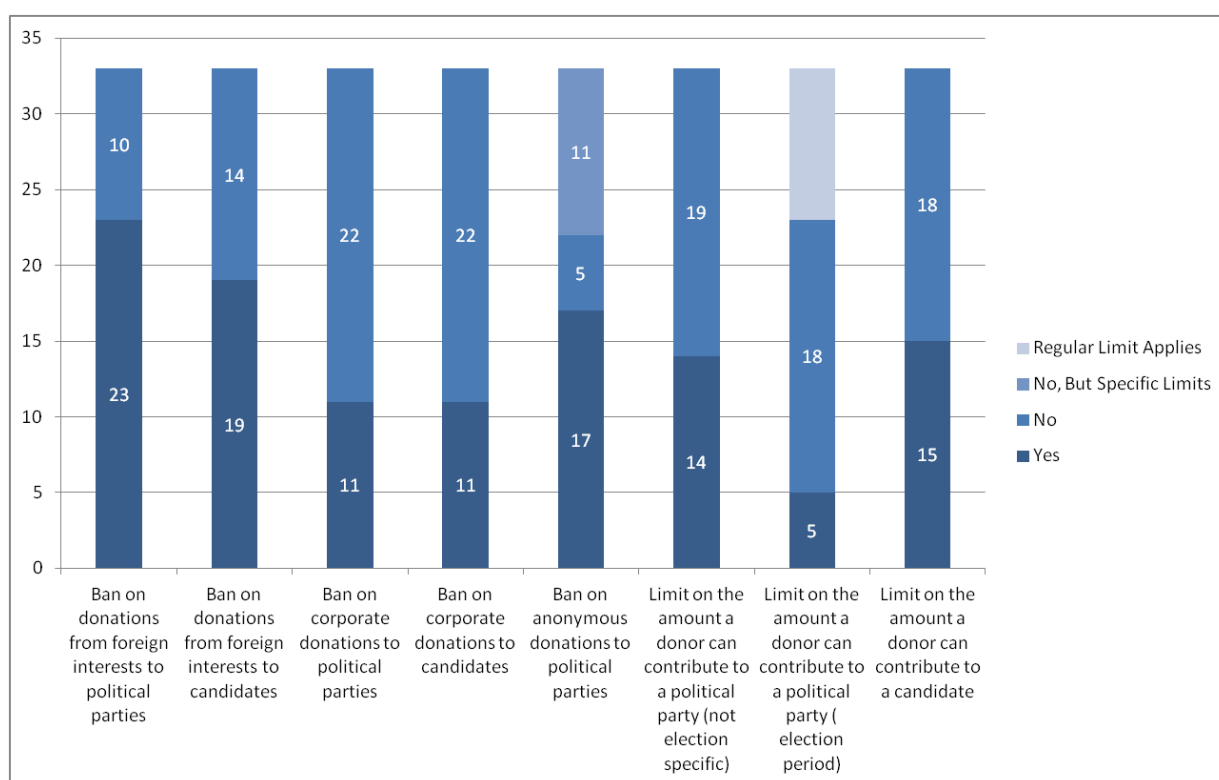
Private funding: channelling legitimate support while addressing risks of undue influence

112. Political parties also rely on private funding to finance their activities. In countries, where important public funding is provided, private funding is used as game changer: private funding helps to make a difference and benefit from more resources to target the largest electorate possible. As for the others, it is the main sources of campaign funding and risks associated with private contributions cannot be disregarded. Private funding can vary in form; it can be membership fees, intra-party contributions, corporate/citizens' donations or candidates' own resources.

113. Private funding indicates a minimum support from the society at large to the political party and is recognised as a fundamental right of parties by most countries. Regulations on these contributions, however, have been imposed by governments to avoid risks of corruption and undue influence. Members' countries of the Council of Europe through the 2003 Recommendation recognised a set of common principles that should guide private funding regulations, namely: a) avoid conflicts of interest, b) ensure transparency of donations and avoid secret donations, c) avoid prejudice to the activities of political parties, d) ensure the independence of political parties.

114. The most common measures adopted in OECD most countries with regards to regulating private funding is banning private donations from foreign states or companies. According to available data (Figure 11) 70 per cent of 33 OECD countries surveyed (23 countries) ban such donations to parties, while 58 per cent ban foreign donations to candidates (19 countries). 11 OECD countries also bans corporate donations to parties/and candidates.

Figure 11. Bans on private donations in OECD countries



Source: Based on International IDEA. 2012. Political Finance Database (<http://www.idea.int/political-finance>). Stockholm, Sweden.

115. In practice, however, and as recent examples show, private donations are difficult to regulate. New accountability loopholes emerge almost continuously, while opposing arguments are defended vigorously (e.g. freedom of speech versus protecting the public interest).

Setting limits on expenditures: Reducing the overall cost of election and the dependency of parties on private contributions

116. As regulating private funding remains a challenge, governments have tried, for the past decade, to address parties and candidates dependency on this type of funding thus limiting risks of undue influence tied to private contributions. From this perspective, several OECD countries established spending limits for elections. The goals of these limits were to reduce the overall cost of elections and the risk of dependency of candidates/parties on contributor, thus complementing the bans and limits on private funding. Eighteen OECD countries have introduced spending limits for candidates and sixteen established similar limits for parties (IDEA, 2012).

117. The case of the United States is an exception in this matter. The U.S. Supreme Court has ruled that spending limits are unconstitutional as it conflicts with the First Amendment of the U.S. Constitution, which protects freedom of speech (2010 Citizens United vs. Federal Election Commission). This ruling has raised many debates on how to reconcile political equality and political liberty. International standards, such as the Council of Europe Recommendation, has recognized the necessity of establishing spending limits to support a political level-playing field and limit undue influence of private interests.

118. Setting expenditures limits or bans on private funding remains, however, one of the most complex issues in the area of political finance regulations as it involves reconciling individual and collective rights. However, both approaches seek to strengthen the democratic process: protecting the right of individuals to support particular political platforms can be reconcile with the imperative of addressing the risk of undue influence and political corruption. Both approaches seek to strengthen the democratic process.

New risk areas are emerging such as membership fees and loans

119. Regulators of political finance in OECD countries still face many challenges in curbing risks of money in politics. In fact, as new regulations emerge, new ways are found to circumvent regulations. Membership fees to parties are, for instance, can also be used to circumvent limits on private donations. In France, for instance, there is no limitation of membership fees. The French authorities recognised the problem, however, could not change the situation as regulating membership fees would infringe the constitutional principle of political parties' freedom of organisation (Article 4 of the Constitution). Aware of such risks, some countries introduced mandatory transparency requirements in relation to membership fees. In Estonia, for example, the 2010 reform of political financing regulations, obliged parties to register donations and membership fees separately and to publish them in a public register maintained by the parties on their websites. This public register must include the name and personal identification of the party member paying the fee as well as the amount of the fee and date of payment.

120. Other emerging risk simply not covered by regulations are the loans granted to parties/candidates or sponsorships. Countries defined their own model for regulating this source of funding. In Spain, for instance, the high indebtedness of parties was recognised by the Third Evaluation Round of GRECO as a challenge to the independence of parties' vis-à-vis credit institutions. The Spanish Court of Audit (also a main institution responsible for the control of party funding, but with non-binding recommendations) had already highlighted this risk to parties in particular as it observed many irregularities in the management of

the loans granted to parties.²³ Turkey on the other hand has simply forbidden parties from borrowing money or taking loans. In Italy, while taking loans is not forbidden, all candidates to the national parliament and regional councils need to include their debts incurred for campaigning in the accounting report and elections statement that they need to provide to the board of Comptrollers.

121. A comprehensive approach to regulating political finance that adequately addresses risks and vulnerabilities according to different funding sources and at different stages in the process would prove useful to identify country specific measures to strengthen regulation.

Promoting transparency and accountability of all actors in political financing

122. Experience suggests that promoting the transparency and accountability of all actors involved in political finance will allow having a comprehensive view of the potential risks and close the existing regulatory gaps OECD countries political finance models vary between party-centred systems (most regulations target political parties financing) and candidate-centred models (regulations focuses on candidates campaigning funding). Irrespective of countries models, regulation seems however limited in scope. In those countries where regulations focuses on party financing, regulations often does not include local branches of parties, or affiliated groups to parties (e.g. Austria, France, and Italy). While in countries with more candidate –centred model, the potential financial or in-kind support of political parties to which they are affiliated remains unregulated (e.g. Norway).

123. In both systems, and as shown by the Third Evaluation rounds of GRECO, third party financing²⁴ remains an unregulated matter (e.g. Sweden, United Kingdom, and United States) and a new way to circumvent regulations.

Privileged access to State resources

124. As discussed earlier, state resources can also be used to fund elections or to secure some sort of “reimbursement” of donations to corporations. From this perspective, OECD countries thus introduced bans on the access to state resources and the way there are used in elections. Eighteen OECD countries introduced a ban on using state resources in favour or against parties/candidates, while 27 OECD countries banned state resources to be given to parties outside of regulated public funding.

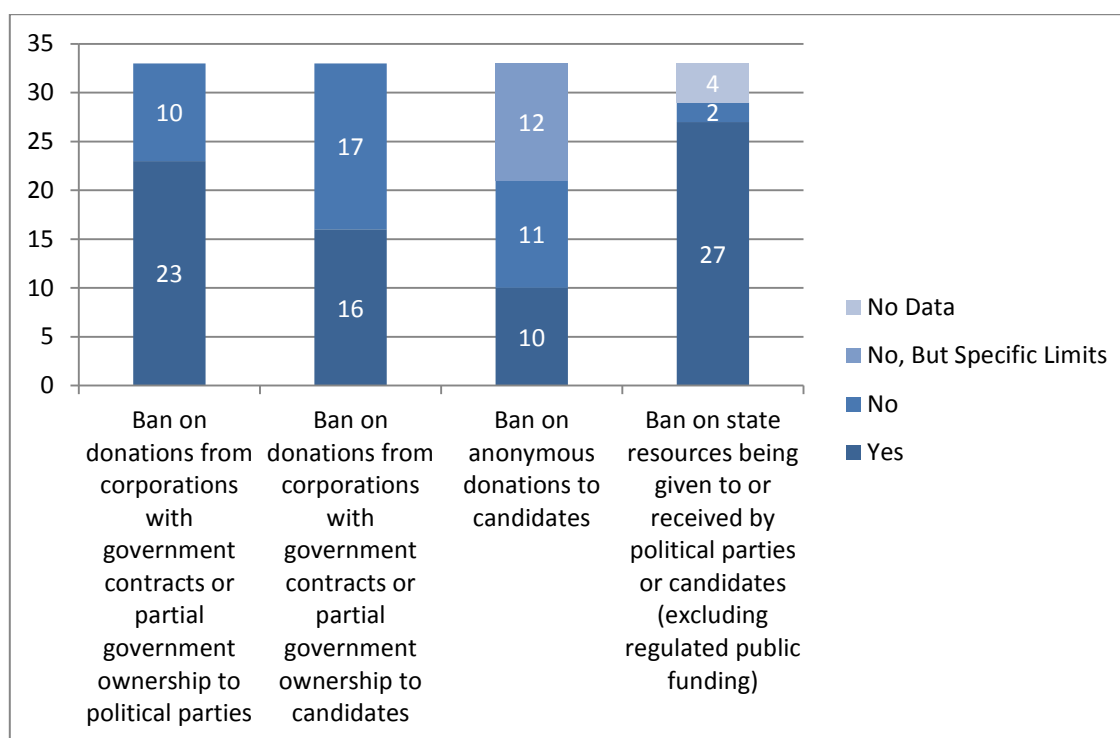
125. Access to public procurement, for instance, was used by elected officials in the past decade to “return favours” for corporations that made important contributions to their campaign or to exclude corporations that supported the opponent as means of retaliation. Major reforms were consequently introduced to the procurement regulations aimed at limiting the political interference in the process. From this perspective, the Council of Europe Recommendation prohibits donations from public authorities or state-owned enterprises and donations from corporations that provided goods, services and public works for the government (Article 5). In the United States, for instance, it is prohibited for contractor that provides goods and/or services to the federal Government or any affiliated department or agency to make any contribution to any political party, political action committee or candidate in connection with a federal election.

23 Recommendation i. “GRECO recommended to take appropriate measures to ensure that loans granted to political parties are not used to circumvent political financing regulations”(Paragraph 74).

24 The International Foundation for Electoral Systems defines Third-Party Contributions & Expenditures as “The Goods or services paid or expenditures incurred on behalf of a candidate or political party by a separate, unconnected entity”.

126. As shown in Figure 12, 23 OECD countries ban donations to political parties by corporations with government contracts or partial government ownership, and 16 OECD countries ban these types of donation to candidates. However some discrepancies can still be observed in the application of this principle: in countries that ban these types of donations to parties for instance there is not necessarily a similar restriction applied to candidates (e.g. Germany, Hungary, Spain). Other countries choose not to include these types of restrictions in the political financing regulations but rather in other related regulations per se thus disconnecting the monitoring of these practices from the overall monitoring of political finance regulations.

Figure 12. Bans on misusing state resources



Increasing transparency of donations and expenditures of parties/candidates: levers to promote enforcement and informed voting?

127. Irrespective of the political financing model chosen by countries, international instruments, such as the Council of Europe Recommendation or the United Nations Convention against Corruption recognise the importance of keeping records of election campaigns expenditure as well as keeping books and accounts of political parties and their affiliated entities. In fact, improving the disclosure of donations and expenditures supports enforcement. The recent GRECO Thematic Review of the Third Evaluation Round, stressed that “a system that fails to ensure that sources of income and accounts are properly disclosed makes it much harder to monitor the application of the law and impose necessary sanctions”. Institutionalising transparency and accountability for effective regulation of political finance will be a critical entry point to consolidate public decision-making process. Evidence shows that disclosure of political accounts is a necessary condition for holding political actors accountable and reducing political corruption. In Brazil, for instance, the disclosure of anti-corruption audits of municipal expenditures of federally-transferred funds reduced the incumbent mayor likelihood of re-election by approximately 20% when it revealed corrupt practices in the use of these funds (Ferraz & Finan 2008). Disclosing information on party/candidate financing to the general public has emerged as a trend in OECD countries at the beginning of the year 2000 and is being included in regulations to promote public scrutiny, oversight and

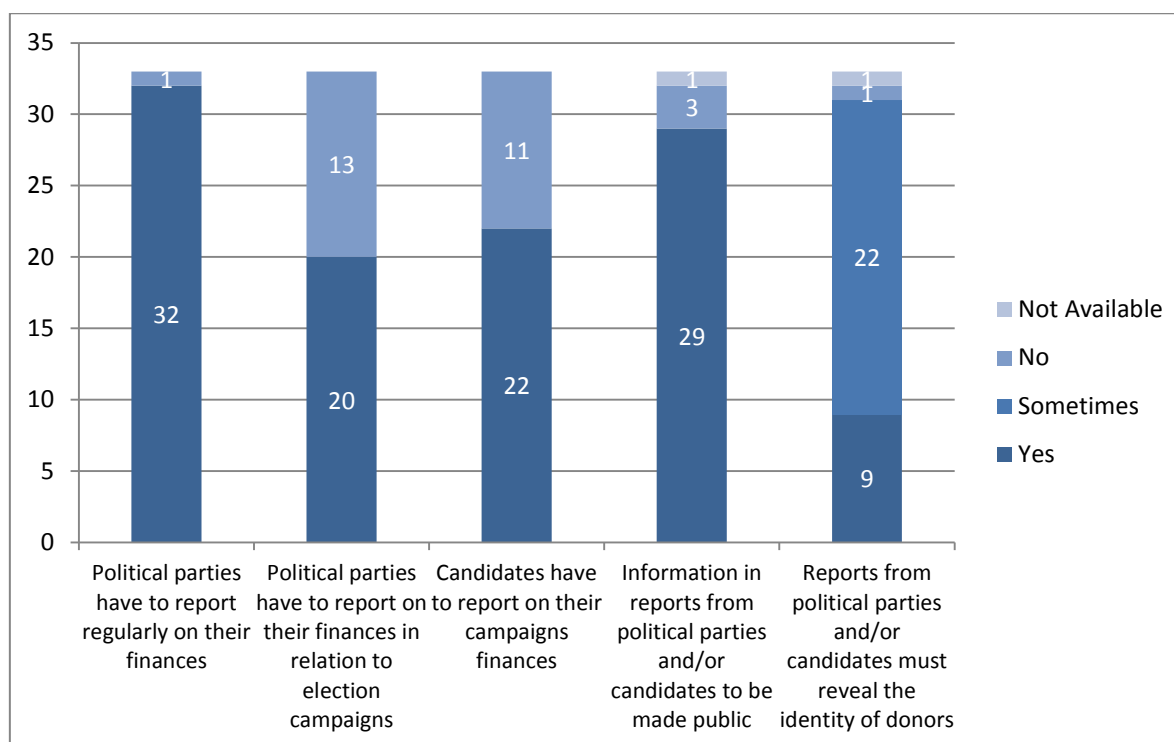
informed voting by citizens. Transparency, in political finance supports various objectives such as i) promoting informed voting through disclosure of timely and easily understandable information on sources and types of funding; and ii) monitoring of activities of elected officials to ensure that they are not subject to undue influence which was tied with the donations they received. Consequently, transparency in political finance can be leveraged as a tool by governments seeking to restore trust in the integrity of the public decision making process.

128. Elected officials from OECD countries, recognised that furthering transparency in political finance is needed and that the OECD could play an instrumental role in this area, during the OECD High-Level Parliamentary Seminar “Better Policies for Inclusive Growth and Integrity”, held on 4 October 2012 in Paris.

129. When analysing closely the recommendations of the Third Evaluation Round with regards to transparency of accounts and donations, the GRECO’s Evaluations Teams (GET), provide concrete indications of how to promote transparency of accounts and donations. The GET’s highlighted in various Evaluation reports the need for countries to define: (i) the period covered by the accounts (e.g. non election period accounts vs. campaign expenditures); (ii) the scope of entities that should keep books and records of their funding (i.e. political parties, affiliated entities); (iii) the content of accounts (i.e. income and expenditures); and (iv) the identity of donors above a certain threshold.

130. These considerations aimed primarily to ensure that funds are not channelled through entities that are not subject to reporting requirements or that loopholes in accounting requirements allow for some funds to remain unreported. In fact, although most OECD countries require some sort of financial reporting for parties/candidates, not all require reporting from both parties and candidates, for instance, which could allow for illicit funds to be given to parties or candidates with no traceability of these funds. This issue seems to be particularly relevant as non-OECD countries appear to be more advanced with regards to reporting candidates’ campaign finances. In fact, 22 out of 33 OECD countries surveyed require candidates to report on their campaigns finances, in surveyed non-OECD countries this percentage reaches 87%.

Figure 13. Disclosure of parties/candidates funding in OECD countries



Source: International IDEA Political Finance Database (2012). (www.idea.int/political-finance). Stockholm, Sweden

131. Additionally to the conditions mentioned above, these accounts should be i) consolidated in a standardised format that should be used by all political parties/candidates, ii) submitted to an independent authority in an adequate time frame to allow this authority in order to effectively control them, and iii) make these reports available to the public.

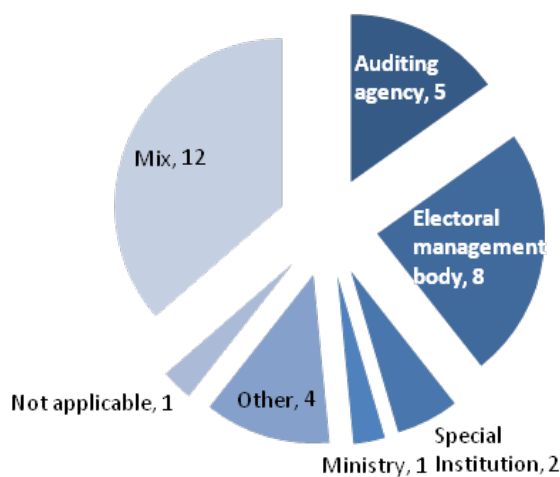
132. This last point is of crucial importance to promote informed voting and public scrutiny by citizens. This particularly important as some OECD countries (e.g. Austria, Sweden, Switzerland and Turkey) do not require parties or candidates to make their accounts available to the public. Countries that make their accounts available to the public do not, however, always ensure that these are provided in an easily understandable and accessible manner to allow for monitoring of political finance by citizens (e.g. Spain). The timeframe in which these accounts are released also matters: often, it happens long after the elections, thereby losing its value as a monitoring and enforcement tool, as well as its potential contribution to informed voting. Even when irregularities are found, elected officials might already in office and can benefit from immunities provided by their new functions.

Strengthening monitoring and enforcement of political finance regulations

133. Monitoring and enforcing political financing regulations is crucial to ensure their successful implementation. Institutional arrangements to enforce political finance regulations vary in form and scope. For example, in some member countries (e.g. France, United States), a dedicated supervisory body was established to monitor political financing and ensure high-level compliance with regulations. In other countries (e.g. Belgium, the Netherlands) a combination of bodies fulfil this monitoring, investigation and sanctioning functions (see Figure 14). Dedicated electoral management bodies, as well as anti-corruption commissions, supreme audit institutions or judiciary bodies may play such a role. Moreover, Parliaments

(e.g. in Germany), constitutional courts (e.g. in Turkey) and even ministries (e.g. in Finland) could have responsibility for monitoring and enforcing political financing regulations.

Figure 14. Institution(s) receiving financial reports from political parties and/or candidates in 33 OECD countries



Source: Based on International IDEA. 2012. Political Finance Database (www.idea.int/political-finance). Stockholm, Sweden.

Establishing a single independent supervisory body

134. Despite the variety of institutional arrangements, the following factors are considered critical for a proper functioning of supervisory bodies: a) independent appointment of its members (independence from both political parties and the executive at the same time), b) ensure security of tenure to members of this body, c) independent budget, d) specialised personnel in fighting against illegal funding of political parties/candidates.

135. Although there is no one-size-fits all model, the Third GRECO Evaluation Round recommended to establish a single independent supervisory body to ensure effective enforcement (for example, in the case of Belgium, where a federal and four regional control commissions oversee political finance) , minimise the risk of conflict of interest and facilitate adequate coordination and sharing of information between relevant actors and across countries to map and mitigate the risks of money in politics.

136. The need to ensure independence of the monitoring and enforcement bodies was highlighted as a challenge by the Third Evaluation Rounds, in particular the independence from both political parties and the executive and the need to avoid risks of conflict of interest. For example, in Finland, the entity entrusted with regulating and monitoring political financing is the election unit of the Ministry of Justice, part of the executive. The same reasoning is applied to the relationship of enforcement authorities with the Parliament, where conflict of interest risks can emerge. Some countries (e.g. Czech Republic, Estonia, Greece) entrust Parliamentary committee to oversee political financing. The GRECO Evaluation Round recommended them to consider another institutional arrangement which promotes further independency of the supervisory body from political parties.

Internal auditing and independent auditing: promoting accountability within political parties

137. In the absence of independent supervisory body of political financing, it is recommended that countries consider at the minimum “proper auditing of political financing accounts’ by independent auditors if no other means of supervision exists” (GRECO, 2012). Independent audit is a growing practice in OECD countries (e.g. Norway) to promote the accountability of parties for the funds they use for their activities or to participate in elections. In addition, and to demonstrate their integrity, parties in OECD countries have been promoting internal auditing (e.g. Austria) within their structure. However, the challenge remains in ensuring the independence of internal auditor or certified experts vis-à-vis the political party remains a challenge (e.g. in Germany or the Czech Republic, the internal auditor can be a member of the party). From this perspective, common standards for internal control procedures could provide further clarity to internal auditors and parties members on the acceptable practices related to political funding.

Effective, proportional and dissuasive sanctions

138. Recent country evaluations showed that OECD countries still struggle with striking the right balance in sanctioning infringements of political finance regulations. According to the 2003 Council of Europe Recommendations, controls need to be effective, proportionate and dissuasive.

139. Individual country experiences show that sanctions can vary in nature including financial, administrative, criminal and electoral. However, GRECO Evaluations demonstrate that sanctions remain i) weak (e.g. in France, the maximum fine that can be applied is of 3 750 EUR), ii) insufficiently flexible (e.g. in Norway, for the most serious breaches the only sanction applied is the cessation of public funding but there is no other sanctions for minor breach of regulations), iii) limited in scope (principally focus on electoral campaign funding and do not cover the entire scope of political financing), iv) not applied, sanctions are then insufficiently dissuasive (e.g. France, Estonia, UK) thus undermining the whole system of supervising political financing.

140. In light of the above, a comprehensive, pro-active and timely approach to monitoring, enforcement and sanction remains a core challenge in the prevention of undue influence of money in politics. In many cases the responsibilities of monitoring and supervising breaches to political financing regulations are rather diluted amongst different institution, thereby raising concerns over effective coordination, information sharing and responsiveness. At the same time, the monitoring scope varies, (e.g. Iceland or Turkey, where the financing of the presidential elections are not subject to control) and is focused on political parties and elections, and thus, not providing a comprehensive approach to the risks of undue influence throughout the political finance cycle (including the time in office). In addition, preventing tools and mechanisms can be further leveraged by supervisory bodies, to both establish better controls on political finance in order to continuously promote transparency and integrity in political finance.

141. To fulfil these responsibilities, supervisory bodies need to have the adequate human and financial resources to develop specialized competencies. From this perspective, the 2013 Council of Europe Recommendation called for promoting “specialization of the judiciary, police or other personnel in the fight against illegal funding of political finance and electoral campaigns” (Article 15).

142. The discussion above illustrates the extent to which political finance regulations vary across countries, in accordance to their institutional arrangements and socio economic context. No one system is best. Much of the debate thus far has focused on the merits or weaknesses of different approaches (e.g. sources of funding or spending limits), rather than on the overall objective of the regulation. Yet, regardless of the particular mechanisms chosen, countries face similar risks when addressing money in

politics. However, available data shows the challenge to reconcile the reality of money in politics with the need for effective regulation that meet societies' expectations of transparency and integrity in public life.

143. In the context of the New Approaches to Economic Challenges, the Secretary-General's Strategic Orientations Citizens underlines that citizens expect governments to provide assurances that the decision-making processes effectively pursue the public interest and are protected from undue influence. The OECD, with its experience in governance, integrity and transparency, is well placed to look at these aspects of the financing of political campaigns and its impact on the agenda setting and the decision-making processes. In line with the Strategic Orientations, the OECD will identify good practices and lessons learned to provide comparative evidence and guidance for developing effective transparency and accountability frameworks in the realm of political finance that, while taking into account different socio-political and administrative contexts. Further work to identify and build consensus around a common understanding of the objectives pursued with political finance and critical building blocks would help inform and assess individual institutional arrangements *vis-a-vis* such objectives, focusing on the what rather than the how.

144. In addition, irrespective of the regulations introduced, experience shows the limit of looking at political finance from a silo perspective, isolating events (e.g. campaigns) without looking at it as dynamic process whose effects can be felt before, during and after campaigns. The OECD will work to promote a preventive approach to political finance regulation that addresses understanding the problem of money in politics in its complexity. In this regard, a risk-based approach tailored to the different regulatory contexts would allow a more targeted assessment of risk and vulnerabilities according to different funding sources and at different stages, and would facilitate the identification of tailored preventive measures aligned with the realities of differing arrangements, actors and functions of government.

IV. TOWARDS DECISIVE POLICY ACTION

145. The economic crisis sparked a debate on the role of governance failures in the crisis, a debate furthered with increasing demands for the state to commit to safeguarding the public interest and enhancing transparency. At the heart of these demands, lies a perception of diminishing trust in government. Efforts to ensure inclusiveness and a level playing field in decision making by embedding the policy making process with greater openness and transparency and safeguards against undue influence, would send a clear signal of a government's commitment to invest in trust while also having a positive impact on the quality of the policy decisions made.

146. In the context of the OECD's New Approaches to Economic Challenges strategy and in line with the Secretary-General's Strategic Orientations and the Program of Work and Budget of the Public Governance Committee, the OECD will support countries address the current knowledge and implementation gaps to effectively mitigate risks of undue influence in the public decision making process. This activity will benefit from previous work on public sector integrity – especially on conflict of interest, lobbying and political finance – and on openness and engagement (e.g. transparency, regulatory consultation and participatory processes).

147. A better understanding of what measures have been effective in OECD countries to identify and manage conflict of interest remains a challenge. Providing countries with comparative evidence, in particular data on the impact of conflict-of-interest policies and effectiveness of implementation measures, could guide the policy debate. Moreover, the OECD could support countries address emerging areas of concern, such as pre- and post-public employment conflict of interest.

148. Developing comparative knowledge of lobbying regulations, emerging good practices and new challenges to effectively address associated risks will be the focus of the report to Council on progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying. In addition to deepening knowledge on these policy drivers, available data shows the pressing need to reconcile the reality of money in politics with the societies' expectations of transparency and integrity in public life. Starting with the identification of the approaches and key features of designing and implementing current regulatory models, the OECD will identify good practices and lessons learned to provide comparative evidence and guidance for developing an effective framework for transparency and accountability in the realm of political finance, applicable to different socio-political and administrative contexts.

149. Maximising the benefit of open government as a tool for inclusive policy making requires more efforts, including stronger conceptual underpinnings, better understanding of supporting institutional arrangements, consistent application in practice and impact assessment. Progress in this area is a necessary match to the development of social media, so that citizens learn that exposing their complaints, suggestions and ideas to public services and their representatives is worthwhile and effective, while governments assess better the cost and benefits of openness and stakeholder engagement.

150. In the context of the OECD Report on Levelling the playing field in policy making, the policy levers discussed in this paper will be further refined and integrated, in order to better understand their contribution to strengthen trust in the policy making process. The report will systematise knowledge in areas that have been already explored by the OECD, in particular on lobbying, conflict of interest and consultation and will close the remaining gaps in others, like political financing, parliamentary work, audit and social media. The report, and the activities conducive to it, will aim for better implementation and enforcement of regulatory frameworks to curb undue influence while understanding the interaction of key policy levers (e.g. open government, conflict of interest, lobbying and political finance) with each other

and with the policy making process. In addition, the report will take into consideration the particularities of different levels of government (e.g. sub-national) and sectors (e.g. financial sector). The report will build upon the results of the following activities:

- Report to the Council on progress made in implementing the 2010 OECD Recommendation on Integrity and Transparency in Lobbying.
- Report on open government for inclusive and responsive policy making, with a view to deepen existing work on conceptual, methodological and implementation issues, including the drivers of open government, impact assessment and indicators. Further work with the Open Government Partnership will also contribute to promote openness and transparency for effective governance.
- Review of the Guiding Principles for Open and Inclusive Policy Making, based on identified good practices for enhanced citizen engagement, and provide countries with guidance for the design and implementation of general and sector specific open government policies.
- Report on financing democracy, to support a comprehensive preventive approach to regulating political finance, taking stock of different regulatory and institutional models and the risks associated with each, assessing the role of key drivers (e.g. technology, including social media, and the increasing influence of television and media) and developing guidance on how to build an effective framework that, in particular, leverages transparency as a key tool for enforcement, accountability and informed voting.
- Further work on performance indicators of the integrity framework, with a view to contribute to a better understanding of the policy drivers of trust.

151. To ensure adequate coordination and complementarity of these efforts at the international level, the OECD will strengthen on-going partnerships with key actors involved in this policy agenda, including the Council of Europe and the Open Government Partnership. In addition, given the cross cutting nature of the policy making process, the analytical work will inform policy discussions with relevant OECD policy communities, on a demand driven basis, including the Centre of Government network, the Regulatory Policy Committee, the Territorial Development Policy Committee, the Public Sector Integrity Network and those sector-specific networks that emerge as particularly relevant from the analytical work.

152. Across all activities, a key anchoring element will be to ensure a dynamic approach to these policy levers that allows a better understanding of their interaction and complementarity in order to achieve a common purpose: an inclusive policy making conducive to trust.

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