

## SUMMARY RECORD OF THE WORKING PARTY OF SENIOR PUBLIC INTEGRITY OFFICIALS MEETING

30 September, 1 October 2015, OECD, PARIS



The biannual meeting of the Working Party of Senior Public Integrity Officials on 30 September-1 October focused on the update of the 1998 Recommendation on Improving Ethical Conduct in the Public Service. Over 70 delegates from more than 30 countries participated, including delegates from several institutions from Morocco and Tunisia. Discussions around the Recommendation were particularly open and lively in the roundtable sessions and were complemented by presentations from speakers who shared interesting developments in their countries in the plenary sessions. The meeting concluded with delegates calling upon the Secretariat to revise the draft Recommendation taking in the various comments.

**About the SPIO:** The Working Party aims to exchange first-hand experiences, good practices and lessons learned in designing and implementing integrity policies based on comparative analysis.

## Highlights

- High risk officials were identified as those working in public procurement, taxes, customs, property and land, and also within such sectors as health, the police and the judicial system.
- Fragmentation of integrity policies and responsibilities is a reality in many countries, while regulation, advancement of policies, or an informal exchange of expertise are restricted due to the autonomy of specific public officials or subnational governments.
- The balance between transparency, privacy and administrative costs of integrity regulations requires more debate.
- Countries identified the need for effective merit-based systems for high-level managers that promote adherence to integrity as an area in need of best practices.
- Best practices were provided by various innovative ICT tools that promote transparency and control by civil society, varying from asset declarations to road constructions.
- Delegates invited the OECD to work on behavioral economics and individual incentives. It is also an area where lessons can be learnt from the private sector.



## Introduction: Background note and draft Recommendation

OECD Recommendations are legally non-binding and are stated in clear language that encourages benchmarking and evidence-based exchange of experiences. The 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service [GOV/PGC/ETH(2015)1] was one of the first international standards on ethics management within the public sector. The OECD Council [C(2014)7] recognised the need for a new Recommendation that would reflect the current integrity challenges. Following this, meetings of SPIO in 2015 and 2016 will be focused on ensuring that the new Recommendation would accurately address the needs of countries in the 21<sup>st</sup> Century.

Following the discussions at the meeting, a Bureau consisting of several country representatives was established to support the work on the draft Recommendation through sharing of comments and views.



**Kieran Sheedy (Ireland)** presented the proposals for reform of the legal framework for Ethics in Public Office in Ireland. Brought on by scandal, the acknowledgement that the legal framework was fragmented over six laws and that real implementation and effect seemed lagging behind, the Irish government decided on a proposal for one legal framework for all public officials at all levels of the public administration. The proposal still allows for variation, as the requirements are proportional to the level of risks faced by public officials, with three types of regimes varying in the extent of obligatory reporting and public transparency of records. It also includes provisions for enforcement and sanctions, again proportional to the seriousness of the misconduct. As such, these reforms seem to embody many of the issues brought forward in

the draft Recommendation. In the debate, delegates brought forward such practical issues as the position of the proposed commission (which is independent), whether the differentiation in types of officials allows for flexibility to include lower level but high risks officials (yes), and the respect for rights of employees in case of sanctions (through procedural guarantees that following accepted rules of law).

**Terry Lamboo, OECD** outlined the current background note and draft Recommendation. In general, delegates welcomed the work done on the draft, but also provided the Secretariat with some important issues to follow up on.

This included:

- the style of the draft Recommendation which was seen as too detailed and prescriptive.
- the legal position of an OECD Recommendation which wasn't entirely clear, resulting in questions on benchmarking, reviews and the difference between principles and recommendations.
- items needing more attention, such as open government, the professional independence of public servants, or the balance between value based and compliance based policies with a preference for values based policies.
- the need to address the integrity of subnational levels of government was met with the warning that in many countries the national or federal government has no legal mandate to regulate or coordinate – integrity at – the subnational levels. It was also recognized that the integrity management by subnational levels, parliaments, justice, and health sector do require attention. It was made clear that these and other issues are challenging, but may not be impossible to solve if addressed in the right way. For example federal countries may use informal mechanisms to share insights and facilitate learning between levels of government.

## Promoting compliance and risks assessments



Delegates shared insights on effective conflict of interest policies for political officials, as well as experiences with disciplinary systems in countries. **David Ginocchi** of the **French High Authority for Transparency in Public Life** presented the work of the HATVP to control assets and prevent conflict of interest for the 10.000 political officials of all national and subnational levels of government and promote transparency in public life. He emphasized the importance of practical mechanisms for declarations of assets and interests, and for online publication (dependant on the level of the officials). Delegates' questions brought to the foreground the need for a balance between transparency, privacy, and administrative costs.

**Natalia Nolan Flecha, OECD**, presented on effective mechanisms for compliance and enforcement through disciplinary regimes for public officials. The presentation was rooted in conclusions from the OECD's comparative *Integrity Review of Mexico's Administrative Disciplinary Regime for Federal Public Officials*, which is being carried out supporting the country's recent integrity reform process. Disciplinary systems necessarily vary between countries, but common principles are the autonomy of audit and sanctioning bodies to ensure effectiveness and fairness, timeliness of procedures and transparency of sanctions data. Representatives from Mexico (Juan Pulido) and Germany (Astrid Rosbeck) who partook in the review confirmed these insights.

**Nikolaos Douladiris, Special Inspector of Public Administration of Greece**, presented on disciplinary control over public servants in his country. He described key legal reforms that Greece has made to enhance the country's disciplinary regime. Mr. Douladiris also emphasized key principles of disciplinary procedures. An interesting element is that internal control bodies play a critical role not only in initiation of disciplinary procedures or making referrals, but also in monitoring disciplinary procedures. This includes collection of data on disciplinary actions.



### *Integrity policies as a balancing act*

The debates in the various roundtables and plenary sessions often linked to broader issues and to questions about the right approach to integrity. Concerns expressed are:

- Too many rules for civil servants could eventually **deter people from entering the civil service**.
- The obligations for timely reports on private interests may unnecessarily burden public servants at all levels, potentially deplete administrative resource and may act as a disincentive for individuals to join the public service.
- Greater transparency may not result in restoring public trust in the government, but erode it as the media focuses on incidents.
- Integrity rules are no longer efficient and adapted to their purpose, but are simply aimed at demonstrating to citizens that public officials are being held accountable.



## Highlights from the roundtables

For the first time, SPIO delegates participated in roundtable sessions that were moderated by country delegates and experts, alternating with the regular plenary sessions. This innovation was well received by the delegates who engaged in lively debates on eight specific subjects. Some shared insights are presented here.



### 1. Horizontal coordination

- **Fragmentation of policies** and responsibilities are often seen as a problem in states and may stem from a lack of cohesion in the goals of policies across the ministries.
- Fragmentation can be **confusing for citizens** regarding which authority they should address for voicing complaints and whistleblowing.

### 2. Vertical coordination; Integrating integrity and anti-corruption

- **Informal networks** of public officials might be more apt to dealing with the issue of vertical coordination than institutionalized mechanisms.
- The subnational level may have higher risks for integrity, but also brings **innovative ideas** of how to strengthen integrity and fight corruption.

### 3. Addressing the variety of public officials: at risk positions and sectors

- There is a broad consensus that **procurement officials** are a high risk category for corruption, especially procurement at local level and/or in high spending area such as infrastructure.
- To **identify “at risk” categories of public officials** risk analysis and perception surveys on corruption were brought forward as useful tools.

### 4. Effectiveness of autonomous bodies

- **External (autonomous) agencies** allow for greater transparency in the public sector and promote trust.
- Some countries have an (in)formal council in place for exchanging experiences and views between the various institutions.

### 5. Promoting an open ethical culture: codes of conduct and training

- **Codes of conducts require specificity**: not one size fits all solutions. A model code could set a bottom line which can be adjusted to specific risks of public organizations.
- Codes not only require clear language but can provide guidance through **clear examples** and an ongoing dialogue on its meaning and provisions.

### 6. The role of human resource management and a merit based public service

- A **merit based civil service management** is seen as a powerful preventive to corruption; promotion should be based on what you do, not who you know.
- Recruitment procedures, performance management, and rotation are generally present as preventive tools, but there are also concerns about political appointees.

### 7. Ensure that managers and supervisors act as role models

- Integrity issues should be a compulsory component of **managerial trainings** throughout their career, not only at the beginning of a contract.
- Only middle level management are generally subject to assessments, and despite the fact that at time power yields corruption, those at the top are often not subject to such assessments.

### 8. Promoting effective conditions for politicians to adhere to integrity

- As politicians are independent a **variety in solutions** to establish clear guidelines have been developed in countries; varying from no formal guidelines to independent commissions with the authority to enforce compliance.
- Citizens, the media and civil society organizations need to be involved to hold politicians accountable for their conduct.

## Views from civil society



Representing academic insight, **Nicholas Charron** from the **Copenhagen Business School** presented research on Quality of Government within EU member states and research of the European research group ANTICORRP. A merit-based access to the civil service, professionalization of public officials, transparency and reduced red tape, seem to be effective. But overall he stressed the need for more robust data to come to evidence-based policies. In response to his critical remarks on the effectiveness of whistleblowing legislation, Mr. Charron stressed that, in practice, whistleblower protection is dependent on wider cultural hindrances to come forward with a report, despite good laws. Supportive to the work of the OECD was the conclusion from data analyses that seemed to indicate the existence of regional learning where low performing countries or regions can learn from high performing neighbouring countries or regions (e.g. Estonia and Finland, North-Italy and Austria).

**José Maria Marin** from **Transparency International** reflected on the draft Recommendation. The need to address implementation weaknesses, the focus on politicians and on the subnational levels are, according to TI, important issues. He also gave some suggestions, including the need to instil common values through civic education, open government and inclusive policies, and collaboration between the public and private sectors and civil society in the fight against corruption. In addition, he drew attention to the new UN sustainable development goals, in particular no. 16 on bribery and corruption. In the following discussion, attention was drawn to the role of the media in exposing corruption, but that whether this is taken on in a responsible way varies per country.



## Transparency and interaction with society

**Camilo Enciso Vanegas**, Secretary to the independent **Secretaría de Transparencia of Colombia** clearly explained that effective policies for the integrity of the public sector, the private sector and civil society depend upon and reinforce each. He presented Colombian views on creating a culture of integrity through several innovative initiatives to combat corruption in the public and private sector by involving citizens. Some examples of ICT-tools that disrupt corruption are:

- the pilot project Rondando la via (rolling the road) in which construction companies film the entire road that they have built,
- the Elefantos Blancos (white elephants) project provides an internet application for citizens to upload photos and films of public building projects that were never completed.



In addition youth are actively involved: they are taught about civic responsibilities through playing chess and through the introduction of a student comptroller for the student boards.

In the debate these projects were received as an inspiration of what might work, and their scope and implementation were explored.

Norway was one of the initiators of the **Open Government Partnership**, an international initiative with now over 60 countries are challenged to further transparency, access to information, data and the decision making process through new actions and innovations. **Terje Dyrstad** gave a presentation on how this impacted Norwegian policies, moving from plans that provided an overview of the current situation to plans that are actually forward looking and should result in new actions. One important lesson he shared was to mobilize those that are willing to reform in order to make a change.



Finally **Yukihiko Hamada, OECD**, gave a presentation on policy-making in the public interest that underlines OECD's work on trust and inclusive growth. Risks for policy capture are curbed through various measures, including those that promote transparency and accountability (such as a Freedom of Information Act), foster a culture of integrity (conflict of interest policies, whistleblower protection, etc.), ensure compliance (awareness raising, sanctions, etc.), promote stakeholder engagement (through public consultation) and develop a level playing field by maintaining fair competition (through Independent competition authorities).

## Advancing with the Integrity Programme

In the last session **Julio Bacio Terracino, Deputy Head of the Public Sector Integrity Division at the OECD**, provided an update on the Integrity work programme and how to proceed with the update of the recommendation.

The proposal for a flagship publication on integrity was outlined. This would provide support and a continuation of the Recommendation and can be used as a tool to guide countries in designing and implementing the Recommendation. It would benchmark the Recommendations and identify trends and emerging challenges. Delegates are invited to express their ideas and opinions on this flagship publication.

Delegates invited the OECD to work on behavioural economics and individual incentives and underlined the importance of this as an issue that has been missing so far. It is also an area where lessons can be learnt from the private sector.

In the second part of the session, delegates discussed key issues they are concerned with. A sectoral approach and vertical coordination are areas where the Recommendation cannot be a tick-the-box exercise and countries need to be provided flexibility. Delegates also made clear that the current draft gave the impression that it will be followed by a mandatory country monitoring mechanism of countries progress. The OECD secretariat clarified that this is not the case and that this will be clarified in the next draft. The recommendation is an aspirational appeal, guiding towards future actions and reforms by countries. The OECD evaluates all new or updated Recommendations also to check if these are still relevant instruments and useful for countries as a guidance.

The secretariat thanks the delegates for their comments during the plenary sessions and round tables and also looks forward to the written comments. The comment of delegates will be taken into consideration and result in a revision of the draft recommendation on which the delegates will be consulted.