SAFEGUARDING SPACES FOR ACTION:

BALANCING LOBBY LAWS AND THE RIGHT TO PARTICIPATION

Briefing paper for discussion at the OGP Summit session:
"How can lobbying be regulated to ensure fairness, transparency and public participation"

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IMPACT OF LOBBY LAWS ON CIVIL SOCIETY

The adoption of lobbying laws across the OECD region has become a growing trend. While these laws are generally intended to strengthen accountability and safeguard the integrity of public decision-making, in practice some have narrowed the operational space of civil society organisations (CSOs) and limited their ability to participate meaningfully in policymaking. Reports from both national partners and international organisations warn that overly broad definitions risk classifying legitimate advocacy by CSOs as lobbying. This subjects them to burdensome registration, reporting and disclosure obligations that can harm reputations, divert resources away from core missions, and weaken their engagement with policymakers, stakeholders and the public.

In parallel, the foreign influence laws, which aim to enhance transparency and prevent undue interference, impose additional reporting requirements. These laws often risk framing CSOs as foreign-funded influencers rather than independent civic actors, creating negative perceptions that undermine their credibility and portray them negatively in the public. In addition, Slovakia in 2025 attempted to deploy the draft lobby law to restrict civil society advocacy, especially organisations working on human rights, democracy and the rule of law. Combined, the lobbying and foreign influence laws can create a chilling effect, discouraging organisations from engaging in policy debates, collaborating with government institutions, or mobilising communities on public issues. The cumulative outcome is a more restricted environment, eroding the right of civil society to participate in public life - a cornerstone of democratic governance.

Countries regulate lobbying for different reasons, including enhancing transparency, preventing corruption, aligning with international standards: (i) transparency enables people to understand decision-making processes and identify influence, fostering accountability and public trust; (ii) anti-corruption measures seek to eliminate conflicts of interest and maintain integrity in public policy; (iii) international standards such as, for example OECD, and compliance with its guidelines also encourage countries to establish lobbying regulations as signs of good governance and international cooperation.

While these objectives are legitimate, their practical implementation often extends regulations beyond professional lobbyists to civil society groups. This raises several challenges, some already visible in practice:

- **Conceptual problem:** CSOs exist to collectively represent their members or promote public objectives as exercise of their freedom of association. Equating such advocacy with professional lobbying mischaracterises their role and undermines their legitimacy.
- **Reputational problem:** The term “lobbyist” often carries negative connotations of self-interest or corruption. When applied to civil society groups it risks harming public trust, donor confidence and community standing.
- **Impact on small groups and marginalised voices:** Small and resource-limited organisations may lack the administrative capacity to comply with lobby requirements. Coupled with potential reputational risk such laws may reduce involvement of small groups in policymaking and silence critical marginalised voices.

- **Contradiction with the right to participation:** Overly broad lobbying laws can restrict access to decision-making, undermining inclusive civic engagement and privileging professional lobbyists over ordinary people.
- **Broad and unclear definitions:** Ambiguous definitions of lobbying increase the risk of sanctions. This creates uncertainty, discourages advocacy, particularly for smaller organisations.
- **Double obligations:** CSOs typically report publicly on income and expenditures as part of their annual tax or legal obligations. Additional reporting requirements under lobbying laws creates redundancy, increasing administrative burden and divers resources from core advocacy missions, especially for smaller groups.
- **Administrative burden:** Administrative requirements often include registration, reporting and public disclosure. CSOs may need to submit details on their identity, objectives, lobbying focus, funding sources and contacts with officials, with reports filed annually or after each activity and records retained for years. Such complex obligations increase compliance costs and require extensive record-keeping, diverting resources from core work.
- **Sanctions:** Non-compliance with lobby laws may lead to significant consequences, including fines, bans, or deregistration of CSOs. This threatens their sustainability, can destabilise or shut down advocacy efforts.

The accumulation of these requirements diminishes civil society participation, reduces the diversity of voices in policymaking, and weakens governments' accountability to its people. The broader societal effect is a narrowing of democratic space, as civil oversight and inclusive debate are undermined.

This briefer seeks to stimulate further discussion on how to best regulate lobbying whilst making sure it does not limit or negatively impact advocacy activities and the right to participation. It will highlight examples of more balanced approaches and propose issues for further consideration, with the aim to safeguard civil society space while ensuring transparency and accountability in decision-making.

UNPACKING LOBBYING LAWS

Conceptual Considerations

Lobbying is generally understood as deliberate efforts to influence policymakers, legislators, or regulatory authorities in pursuit of specific goals. Unlike professional lobbying, the right to participation is explicitly protected under international law as part of the rights to freedom of association, expression and participation. It can be manifested in many forms, with aim to promote policy reform in the public interest and may involve some advocacy activities which target decision-makers with a view of informing them of specific opinions of community around a possible policy outcome. Advocacy can also cover wide range of activities such as raising awareness, educating citizens, organising campaigns and promoting policy reform. Distinguishing the two is essential: lobbying

requires targeted oversight due to its potential for concentrated influence, whereas advocacy represents a combination of different participatory engagements that should remain accessible and free from disproportionate compliance burdens.

Legal Scope

Several elements cumulatively characterise lobbying. At its core, it involves attempts to influence public officials - whether legislators or, increasingly, members of the executive branch. The scope of decisions targeted may range from shaping broad public policies to amending specific regulatory measures. For example, Poland's Law on Lobbying defines it as the attempt "to influence the legislative or regulatory actions of a Public Authority" (Article 2(1)). Similarly, Slovenia explicitly describes lobbying as "non-public influence on decisions" (Article 4, point 11), underlining the intent to illuminate activities typically carried out beyond public view.

An important question in defining lobbying is whether it entails only professional, paid activity or also extends to all attempts to influence decision-making. This is where right to participation of individuals and groups. Here, the distinction lies in purpose and beneficiaries:

- **Paid lobbying / private benefit**: Paid lobbying is a transactional activity driven by financial or regulatory gain for private interests. It typically involves businesses or other profit-seeking actors contracting lobbyists to secure favourable outcomes. Several jurisdictions, including Austria, Georgia and Poland, explicitly require a contract between the lobbyist and client, highlighting its commercial and private nature.
- **CSO participation / public benefit**: Civil society organisations, by contrast, operate on a not-for-profit basis and lobby in pursuit of societal goals. Their activities aim to advance the public interest, rather than to obtain direct financial returns for benefit of their members or beneficiaries. CSO advocacy engagements should therefore not fall under regimes designed for professional lobbyists. Even when supported by grants, such funding is distinguished from private lobbying fees, as it is tied to the exercise of participatory rights - such as those guaranteed under Article 25 of the International Covenant on Civil and Political Rights (ICCPR) - and serves a public benefit rather than private profit.

International and Regional Frameworks

At the international level, there is no single, universally accepted definition of lobbying. Different international institutions have developed their own standards, which directly affect civil society engagement and public participation.

UN institutions focus on safeguarding individuals' rights to participate in policymaking, without providing a specific definition of lobbying. Instead, they affirm that political participation is central to democracy and enshrined in Article 25 of the ICCPR, which guarantees every person "the right and opportunity," without discrimination or unreasonable restrictions, to take part in public affairs. They promote that political participation is a cornerstone of democracy, as it empowers people to engage in the governance process. This means that participation in public life and in policy-making must

be pursued continuously and without restriction, barring exceptions defined by international norms and standards (given that not all rights are absolute).

Among the first institutions to unpack the elements of lobbying is the OECD. In its definition, provided through the *Recommendation on Transparency and Integrity in Lobbying* (2010, updated 2024), the OECD offers a comprehensive definition encompassing most stakeholders engaged in policymaking, with limited exclusions (such as diplomats, private individuals, journalists and parties within regulated frameworks). The updated Recommendations expand coverage to new areas and clarify rules, generally requiring CSOs to comply with lobbying obligations - while the broader issue of public participation remains largely unaddressed.

The Council of Europe takes a similar approach, outlining principles for national lobbying regulation. Its Recommendation (CM/Rec (2017)2) of the Committee of Ministers on the legal regulation of lobbying activities in the context of public decision making defines lobbying *"as the promotion of specific interests through structured communication with public officials to influence decision-making, encompassing consultant and in-house lobbyists as well as organisations representing sectoral interests".* Lobbyists are defined as "any natural or legal persons who engage in lobbying", meaning that all entities, including CSOs, are considered lobbyists. Simultaneously, the Council of Europe also developed parallel Guidelines for Civil Participation in political decision making promoting the right to participation, advocating greater inclusion for individuals, groups and the public in such processes.

The Venice Commission, while referencing OECD definitions, adds thresholds to exclude some forms of participatory democracy- such as parliamentary petitions or individual discussions with representatives- from lobbying regulations. It clarifies that:

> "(a) lobbying is carried out by an *"extra-institutional" actor, i.e. an entity or person who is not, in doing so, exerting public authority or fulfilling a constitutional mandate.* This criterion can exclude or include the activities of the same person or entity depending on the context.
>
> (b) *lobbying* ***usually involves the lobbyists receiving directly or indirectly consideration for their services to attempt to influence political decisions,*** *i.e. pursuing this activity on a "professional" basis.*"

The above discussion leads to the conclusion that: (i) there is no common international standard on lobbying; (ii) a conflict exists between defining a professional lobbying and right of public participation in policy-making (as primarily protected by UN instruments), and (iii) that civil society faces pressures that limit its capacity, resources and potential to engage in policy-making and advocate effectively for the rights of its beneficiaries, stakeholders and target groups.

The Open Government Partnership (OGP), which is founded on principles of civic participation, transparency and inclusion, must grapple with these tensions and help demonstrate that transparency and anti-corruption objectives can coexist with strong frameworks for robust civic space. Specifically, OGP in its National Handbook also addresses the lobby issue: it recognises the value of transparency through public lobbyist registries, while stressing that lobby obligations must not restrict civil society's participation. The Open Government Guidebook (2024), in its Anti-Corruption section, recommends that lobbying legislation should include "de facto lobbyists" in disclosure requirements. This broadens the scope beyond professional lobbyists or paid advocacy

firms to cover organisations that, while not traditionally labelled as lobbyists, actively seek to influence policy, such as charities, NGOs, think tanks and religious groups. Crucially, the Guidebook emphasises that these reforms must include safeguards to prevent disclosure requirements from being misused to restrict civil rights and freedoms.

The OGP needs to ensure that all its recommendations are fully aligned and to maintain ongoing dialogue with all stakeholders, particularly governments, regarding the balance between anti-corruption measures and the promotion of public participation.

National Practices

National approaches to regulating CSOs under lobbying laws vary widely.

First, there are countries which explicitly **include CSOs within the scope of lobbying laws**, requiring them to register and comply with reporting obligations. In some of these countries, there may be exclusions for **activities generally recognised as advocacy**, such as media engagements, campaigns, or participation in policy discussions. Countries such as, Croatia, Czechia and Cyprus exemplify this approach. However, these do not exempt civil society from the lobby law obligations and therefore they are de-facto subject to the law.

Second, **either explicitly exclude CSOs or if they don't mention CSOs then they exclude their advocacy activities from lobbying regulations** (including Lithuania, Latvia, Slovenia, Austria, Australia and North Macedonia). In these countries, CSOs engaged in policy advocacy are not required to register as lobbyists or comply with lobbying. These exclusions support the protection and promotion of public participation and related freedoms.

Third, CSOs are **indirectly excluded from lobbying regulations because they either do not meet registration thresholds or because they qualify for specific exemptions** (Austria, Ireland, Finland, Germany). These counties also consider the diversity of the sector, in terms of size, activities, scope and therefore attempt to balance the requirements for lobbying whilst preserving participation in policy making.

PRACTICES TO BALANCE NEED FOR LOBBY REGULATION BUT PROTECT RIGHT TO PARTICIPATION

As we saw from above, lobbying laws in some countries include **exemptions to safeguard public participation**, allowing individuals and CSOs to engage in advocacy without being classified as professional lobbyists. These exemptions allow individuals and CSOs to engage in advocacy without being classified as professional lobbyists. Typically, they cover activities such as submitting comments on draft legislation, signing petitions, participating in civic initiatives, or contributing expertise in public consultations, debates, or advisory groups. These examples show that governments can promote transparency and accountability through lobbying laws while integrating safeguards, agreed with the CSOs, that enable civil society to freely participate in public discourse and policymaking. This

balanced approach supports democratic governance by fostering inclusiveness and protecting fundamental freedoms. Still, ongoing dialogue with civil society is essential to ensure that there is alignment between laws regulating lobbying and other laws which impact public participation and engagement, and be in continuous conversations with the sector to measure impact and ensure the law enables, rather than hinders, democratic engagement.

Exemptions for Public Benefit and Advocacy Activities:

- ***Lithuania*** *(2020 amendment) exempts all public benefit CSOs as well as religious communities and other associations collaborating with state institutions on issues such as education, culture, social welfare, family, and protection of human dignity. CSOs working for public interests can advocate and participate in legislative processes without restrictions.*
- ***Slovenia*** *excludes actions by individuals, informal groups, or interest groups when influencing decisions on systemic issues like the rule of law, democracy and protection of human rights. This approach prioritises public-interest advocacy while keeping it free from administrative burdens.*

Exemptions Based on Organisational structure or size:

- ***Austria, Finland, Ireland and Scotland*** *exempts small and grassroots lobbying by CSOs. In Austria, associations without employees primarily active as interest representatives are fully excluded under the Transparency Act for Lobbying and Interest Representation (2013). This ensures that small or volunteer-led organisations can engage in policy discussions without formal obligations. Similar approaches exist in Ireland and Scotland.*

  In Austria, grassroots lobbying by CSOs is exempt under the Transparency Act for Lobbying and Interest Representation (2013). Associations without employees primarily active as interest representatives are fully excluded, ensuring that small or volunteer-led organisations can contribute to policy discussions without regulatory constraints. In Finland, small-scale advocacy involving up to five contacts per year and unorganised civil activities or constituency associations are exempt from the Transparency Register. In Germany, CSOs are only required to register if lobbying is regular, permanent, commercial for third parties, or involves over 50 contacts in three months. Similarly, Ireland's 2015 Regulation on Lobbying Act excludes organisations with fewer than ten employees. In Scotland, communications by small organisations or those not conducted for payment are not considered lobbying.

Exemptions for Charitable and Member-Based Organisations:

- ***Australia*** *(2008 Lobbying Code of Conduct) specifies that charitable, religious and non-profit organisations established to represent their members' interests are not considered lobbyists, allowing civil society to participate in policymaking at all levels and across issues of interest.*

Exemptions for Associations and Foundations in general:

- ***North Macedonia*** *(2021) explicitly excludes associations and foundations from its lobbying law. These entities are not required to register or comply with additional obligations when engaging in advocacy or participating in policymaking, highlighting the clear distinction between professional lobbying and civil society engagement.*

RECOMMENDATIONS FOR FURTHER DISCUSSION OR CONSIDERATION

1. Protecting civic space and encouraging public participation while combatting anti-corruption

As this briefer aims to instigate discussion at the OGP Summit – we start by looking at the role of OGP in this area. OGP promotes a balanced approach that addresses the need for robust anti-corruption measures while safeguarding civic space and enabling meaningful public participation.

The OGP's definition of accountability emphasises that public institutions must justify their actions, respond to criticisms and requirements, and take responsibility for failures to meet legal or policy commitments. OGP further promotes the disclosure of lobbyist identities, the subjects of lobbying activities and intended outcomes, the ultimate beneficiaries, targeted institutions, and the nature and frequency of lobbying interactions.

Importantly, while the OGP generally supports unrestricted public participation and the active roles of civil society in policymaking, advocacy, and lobbying, it must critically reconsider its stance on disclosure requirements for "de facto lobbyists," which include charities, CSOs, think tanks, and similar organisations. This reconsideration is vital to ensure that transparency measures do not unintentionally restrict civic freedoms or limit civil society's ability to engage effectively.

2. The dual risks of excluding/including CSOs from lobbying laws: addressing misuse and ensuring accountability

Further, we need to carefully consider two critical concerns raised in debates around lobby laws when proposing an exclusion of CSOs: (i) the challenge of clearly distinguishing corporate interest groups from other CSOs, such as human rights organisations; and (ii) the potential risk that corporate interests may exploit civil society organisational forms as a cover to evade lobbying transparency requirements.

For example, the Council of Europe Group of States against Corruption (GRECO) criticised Lithuania's lobbying law for exempting "public benefit" CSOs, noting that this creates loopholes allowing actors outside the regulatory scope to exert influence undetected. GRECO warned that such public benefit organisations might be instrumentalised by corporate interests to obscure lobbying activities.

However, evidence shows these cases of misuse remain relatively rare and do not justify overly strict regulation of CSOs. Such instances highlight abusive tactics by certain political and corporate actors rather than flaws within CSOs themselves. Therefore, the focus should be on strengthening accountability and ethical conduct among those seeking to manipulate the lobbying system, rather than broadly categorising CSOs as lobbyists and unduly restricting their essential role as advocates for the public interest. In addition, examples of balanced regulation can also address such concerns.

3. Need for navigating the balance and ensuring equitable access in decision-making

In general, the OECD recommendations do not explicitly incorporate the provisions of the UN documents regarding public participation. The OECD recognises that a diverse range of stakeholders should have a fair and equitable opportunity to engage in public decision-making. However, this principle of equitable opportunity should not imply uniform treatment for all actors, but rather tailored approach that reflects the distinct nature, operations, interests, and available resources of each. CSOs and businesses, for instance, differ fundamentally in their missions, e.g., public versus private and interests, non-profit vs profit, and in their capacities, particularly when comparing large multinational corporations to smaller grassroots groups or advocacy groups standing up for public causes. It is unreasonable to expect these diverse entities to have identical rights and obligations; hence a more nuanced regulatory approach is required.

Regulatory frameworks should focus on those being lobbied, primarily elected public representatives who bear the chief responsibility for ensuring transparency and accountability. This focus does not diminish the importance of good governance within CSOs themselves; indeed, such governance should be actively promoted through framework laws governing CSOs and through mechanisms of self-regulation.

4. Risk-based regulatory model on lobbying

When drafting lobbying laws, it is essential to avoid a one-size-fits-all approach that broadly classifies grassroots groups and CSOs as "de facto lobbyists." Such blanket measures often fail to consider the necessity and proportionality of regulations and may end up disrupting legitimate civil society activities. Instead, lobbying laws concerning CSOs should be guided by evidence-based risk analysis and implement tailored measures that address identified risks without hindering legitimate advocacy. This approach aligns with evolving practices of intergovernmental bodies, such as the Financial Action Task Force (FATF), which has moved from blanket counter-terrorism financing recommendations toward a more targeted, risk-based regulatory model.

5. The right to participation, freedom of association and freedom of expression are fundamental principles that underpin democratic governance

It is essential to recognise that whilst international human rights law imposes binding obligations regarding the right to participate in public affairs, as well as their rights to freedom of association and expression, it does not provide prescriptive or binding standards specifically on lobbying regulation. Therefore, any lobbying law must ensure compliance with these fundamental human rights frameworks.

While governments have legitimate interests in promoting transparency, such objectives must remain in compliance with the fundamental rights to association and participation. Transparency itself is not a standalone right but a goal that must align with rights protected under international law. The obligation lies with the state to ensure information is provided transparently and proactively, rather than imposing an unnecessary burden on individuals or groups. Moreover, the state must guarantee a level playing field for all

interests and ensure that public officials act in service of society's collective interests, rather than favouring particular groups.

6. Careful regulatory design is therefore crucial to balance transparency with the protection of participatory rights

Exemptions in lobby laws for advocacy activities, expert consultations, public petitions, debates, and grassroots mobilisations can preserve civic space while maintaining necessary oversight of professional lobbying. By clearly distinguishing lobbying from advocacy, states can prevent the mischaracterisation of public-interest CSOs, protect their operational capacity, and ensure that marginalised or underrepresented groups retain meaningful access to policymaking processes. Conversely, poorly targeted or overly broad legislation – such as expansive lobbying definitions or foreign influence laws – can be weaponised to burden, stigmatise, or criminalise civil society. Preserving these distinctions enables governments to uphold transparency and accountability without undermining the essential role of civil society in fostering inclusive, participatory and democratic governance.

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Author: Emina Nuredinoska

With support from: Katerina Hadzi-Miceva Evans and Ivana Rosenzweigova

European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law (ECNL)
Riviervismarkt 5, 2513AM, The Hague, Netherlands
www.ecnl.org