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Designing lobbying regulation in Latvia

Transparency International Latvia (Sabiedrība par atklātību – Delna) is a national chapter of the international coalition against corruption Transparency International. It is the leading watchdog organization in Latvia with the main aim of contributing to the formation of an open, just and democratic society, free from corruption in private and public sectors and interpersonal relationships.

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Content

Executive summary

This report outlines the importance of lobbying regulation, presents an overview of lobbying, and gives recommendations for the creation of interest representation regulation in Latvia. To do this, TI Latvia gathered empirical evidence on current lobbying practices in Latvia and assessed the attitudes of stakeholders through an anonymous online practitioner survey, interviews with public decision-makers at the national and local level, and regional focus group discussions with representatives from local NGOs and policymakers. Previous research on lobbying was consulted.

Section I - The importance of regulating lobbying

The Organisation for Security and Cooperation in Europe (OSCE) defines lobbying as "actions undertaken by individuals or groups with varying interests to influence public decision-making through communications with public officials"[1]. Consequently, "lobbyists", or interest representatives, are the persons and/or organisations who carry out such actions. Public decisions affected by lobbying include legislation, regulation, allocation of public resources, and policies and programmes across different areas.

While it can help decision-makers gain quality inputs to support their work and ensure that different voices are taken into account in the decision-making process, it can also be a way for powerful actors to influence public decisions in favour of their private interests, distorting the democratic process and leading to political corruption. In recent years, there is a growing trend for more lobbying regulation across the world. Common measures include definitions of lobbying and lobbyists, as well as of public officials and the public decision-making processes that the regulation would apply to. There is also acknowledgement of the need for a lobby register and for restrictions to public officials' employment after leaving the office, as well as for sanctions and oversight to ensure compliance.

For lobbying regulation to work effectively, a wider good governance framework is needed, which would include regulating decision-making processes that may be targeted by lobbyists and the persons lobbied. Self-regulation and ethical standards by interest representatives themselves would have a beneficial impact as well.

Section II - Lobbying in Latvia

- **Politics and public interest in Latvia**

Several surveys[2] show that low levels of political engagement and high distrust in public institutions, accompanied by the strong impression that public decision-making is carried out in favour of narrow interests, are currently the norm in Latvia. For many years now lobbying in Latvia in the public mind has been linked to corruption. This is in part because in the period between Latvia regaining its independence and joining the EU and NATO, lobbying was generally done by oligarchs and/or criminals,

[1] Organisation for Security and Cooperation in Europe (OSCE) (2016), *OSCE Handbook on Combating Corruption*
[2] European Commission (2020) Standard Eurobarometer 93 – *Public opinion in the European Union*

and in part because the last decade has witnessed several corruption cases that the media often connected to lobbying. Consequently, this negative impression of the practice has provided a disincentive for lobbyists to act transparently due to reputation risks and has complicated debates around regulation.

- **Lobbyists in Latvia**

The most prominent lobbyists are corporations and industry associations, partners of social dialogue, and NGOs. While some PR and law firms also provide professional lobbying services, these services do not make up their core activities.

- **Main targets of lobbying in Latvia**

TI Latvia's survey identified the Cabinet of Ministers and Saeima MPs as the main targets of lobbying, followed by subordinate institutions, mayors of municipalities and their deputies, municipal councillors, executive advisors, state- or municipal-owned enterprises, and independent institutions. The most frequent items targeted were draft legislation by the Parliament and regulations by the Cabinet of Ministers.

- **How is lobbying done in Latvia?**

The presentation of convincing arguments via a range of different communication channels constitutes the core of ethical lobbying practices in Latvia. TI Latvia's practitioner survey identified direct communication (phone conversations, letters, emails, newsletters and social media) as the favourite type of communication with public officials. Shadow lobbying and pseudo-lobbying are the most common types of unethical lobbying practices in Latvia. These are followed by disinformation lobbying and astroturfing.

- **Efforts to regulate lobbying in Latvia**

Unsuccessful attempts to regulate lobbying in Latvia have been carried out since 2008. In September 2019, a Working Group was set up and tasked with drafting lobbying regulation, which is to be voted on by the Parliament by the end of 2022. Various stakeholders, including TI Latvia, have participated in this group and this time there is a broader consensus on the need for lobbying regulation as well as genuine attempts from all sides to reach a fair compromise.

Section III - Current attitudes towards lobbying regulation in Latvia

- **Is there a demand for lobbying regulation in Latvia?**

Most participants in TI Latvia's expert survey noted that the influence of interest groups in decision-making processes is insufficiently regulated. At the same time, more practitioners were satisfied with the existing means for public participation in policymaking than were not.

- **Should corporate actors and NGOs be regulated in the same manner?**

There is general agreement among practitioners that commercial companies and NGOs should be regulated in the same manner. This was broadly deemed necessary to achieve the basic goals of the potential regulation and to level the playing field among interest groups. Some explained that NGOs

could also represent commercial interests and be backed by corporate funds and that unequal regulation might create ambiguity and loopholes. However, potential inequalities in financial and staff resources between some NGOs and corporations and the lower capacity of small organisations to cope with the administrative burden that the law might entail need to be considered when creating the regulation.

- **Should a register of interest representatives be created?**

The attitudes among practitioners towards the creation of a lobbying register were predominantly positive, with a relative majority of respondents indicating that such a register would be useful to them and would have a positive or partly positive impact on their activities. According to the respondents, a register would: increase transparency and clarity; improve public decision-makers' capacity to identify and involve relevant interest groups on specific matters; improve knowledge of or communication with other interest groups for purposes of cooperation and lead to better acknowledgment of potential opponents' arguments and to the possibility of compromise with them. NGO representatives stressed that they might benefit immensely from participation in such a register, as it would help them find future partners and/or form ad hoc alliances on different issues.

- **Should public officials disclose their lobbying interactions?**

Practitioners also generally indicated that public officials should be subject to proactive disclosure rules. National and sub-national legislators and executives should be required to publish documentation related to interaction with interest representatives, as well as their calendars and agendas with scheduled interactions with interest representatives.

- **Should sanctions be applied?**

Practitioners were split on the subject of sanctions for non-compliance. Some pointed out that high volumes of communication and work at the national level and a lack of resources and reliance on volunteer work at local civil society organisations might lead to unintentional mistakes. There was also concern that sanctions might hinder demand for lobbying from public officials, who often contact private sector actors to learn more about a specific issue or field of operation.

- **Is there potential for lobbying self-regulation?**

Respondents generally agreed that self-regulation by interest groups would be desirable. However, most indicated that their organisations currently lack a Code of Ethics. Among those that have one, only about a half include guidelines on how to engage with public officials in participation in decision-making processes. A relative majority agrees or tends to agree that firms should publish information on lobbying activities on their websites.

Section IV - Recommendations

1. The regulation should also apply to municipalities

The recent administrative reform means that fewer local politicians will have more power over larger populations, hence they will be more susceptible to pressure from interest groups. Furthermore, TI Latvia's findings show that municipal officials carry out wide-ranging communication with citizens or

interest groups. Proactive disclosure of local politicians and executive officials' calendars and agendas would help increase transparency. In addition, local and regional NGOs should be allowed to register as interest representatives, so that they can achieve more visibility and collaborate.

2. The regulation should include broad definitions of relevant terms

Since a wide range of actors in Latvia are engaged in lobbying, it is important that the draft law should have broad definitions of "interest representation" and "interest representative". Equally, it should also specify what is not to be considered interest representation and who is not an interest representative, include clear definitions of "public decision-making" and "public decision-maker", and contain a definition of "executive assistant" to identify officials or individuals who support the decision-making work of public officials on a regular basis and who can also be targeted by lobbying activities.

3. The draft law should include a list of interest representation activities and interactions that should be reported by interest representatives

The study shows, interest representatives in Latvia engage in a wide range of communications to influence the decisions of public officials. Consequently, the law should list, as a minimum, in-person and online meetings, formal interactions in decision-making processes, and the writing and/or commissioning of media articles and studies as such activities. It should also allow interest representatives to voluntarily report indirect communication activities like publication of policy papers and blog articles.

4. The draft law should envisage the development of a register of interest representatives

This should feature a digital reporting platform that makes it easy for representatives to report their interactions with public officials and an easily accessible public disclosure portal that allows stakeholders to easily examine interest representatives' activities. A public body with adequate resources and mandate to collect, manage and store the information and to maintain the public disclosure platform should be designated in charge.

5. Appropriate oversight and sanction mechanisms should be created

An independent oversight body should be designated in charge of managing lobbying registrations, monitoring compliance, following up on complaints and investigating anomalies. Equally, it should offer guidance to interest representatives and public officials regarding the application of the law, analyse trends, and raise public awareness of recent developments. Although sanctions should not be the core of the draft legislation, to ensure active compliance it should nevertheless hold interest representatives liable for failure to file reports and/or reporting false information.

6. The regulation should ensure proportionality of duties between interest representatives and public officials

TI Latvia recommends introducing the requirement for top-level decision-makers to proactively disclose information about their interactions with interest groups, introducing standards of conduct for such interactions, and amending legislation on conflict of interest to prevent cases of revolving doors and illicit lobbying.

7. Additional measures should be taken to improve legislative footprint and public participation mechanisms

Parliamentary Committees should be required to disclose legislative footprint related to their work using a single approach, making it available in open format on the National Open Data Portal. The Procedures for the Public Participation in the Development Planning Process and other relevant rules should be updated where necessary.

8. The effectiveness of the new legislation should be periodically reviewed

The draft law should include provisions for a periodic review of the effectiveness and impact of the new legislation, as well as its compliance with international standards and best practices.

Introduction

Regulation of lobbying – broadly defined as communications and interactions between interest groups and public officials for the purpose of influencing public decisions – has been considered an important element of contemporary democracies. As politics and policymaking have grown increasingly complex and information-intensive, there is a need to ensure not only that decision-makers have quality inputs to support their decisions, but also that different interest groups have equally fair access to elected representatives.

Lobbying in Latvia has historically been associated with political corruption and with attempts by powerful interest groups to sway political decisions to favour their private interests rather than the common good. Such negative perceptions have been fuelled by the use of the word by media when referring to high-end corruption cases or episodes of unethical influence. Exacerbating the problem, there is a widespread perception in Latvia that politicians and senior officials are not considering the public interest when making important decisions, and trust in public institutions is very low.

Attempts to regulate lobbying in Latvia have been made since 2008, but all of them have failed, partly due to disagreement among different stakeholders as well as ill-designed concept regulations deemed to be inadequate to capture the reality of lobbying in Latvia. In September 2019, the Saeima Committee on Internal Affairs, Anti-Corruption and Defence set up a Working Group composed of MPs, representatives from the private sector, professional lobbyists, and NGOs to draft a lobbying regulation that is suited to Latvia. Compared to previous attempts, there seems to be a genuine will this time to agree on a regulation that facilitates transparency of interest representation activities, as well as fair and equal participation in political decision-making.

Drawing from existing studies of lobbying in Latvia, as well as from a practitioner survey, interviews with policymakers and focus group discussions at the regional level, this report seeks to outline the main elements of the potential lobbying regulation and to provide inputs for the Working group in drafting legislation.

The first section provides a brief overview of the main concepts associated with lobbying, its role in modern democracies, key principles that should guide regulation, as well as elements that are commonly present in lobbying regulations across the world. The second section describes current understandings and practices of lobbying in Latvia and discusses previous attempts to regulate this field, including mistakes and lessons learned. The third section provides an overview of the results of the survey, interviews and focus group discussions assessing stakeholders' attitudes towards lobbying regulation.

In the last section, based on our assessment of the situation with lobbying in Latvia and the results of our consultations with stakeholders, we provide general practical recommendations concerning the main elements that a potential regulation of lobbying in Latvia should include, with an eye not only to the short-term timeframe for the drafting of the law, but also to how it could be expanded in the future.

Methodology

The main aim of this report is to formulate recommendations for the design of lobbying regulation in Latvia, by drawing on existing research material as well as empirical evidence. To achieve this aim, it seeks to:

- provide an overview of lobbying in Latvia
- assess efforts to-date to regulate lobbying in Latvia
- assess interest representatives and public officials' current lobbying practices and attitudes towards potential lobbying regulation.

The report was informed by a review of existing literature and research work on lobbying both in Latvia and at the international level, including research reports, opinion surveys, academic articles, international guidelines and standards. To gather empirical evidence on current lobbying practices in Latvia and stakeholders' attitudes towards potential lobbying regulation, TI Latvia carried out an anonymous online survey, interviews with public decision-makers at the national and local level, as well as three regional focus group discussions involving representatives from local NGOs and policymakers.

The online practitioner survey was aimed at capturing the opinion of a broad range of Latvian practitioners, both at the national and local level, who are regularly engaged in interest representation activities. A total of 142 interest representatives replied to the survey, including 96 from NGOs, 11 from professional and business associations, 11 from private businesses, 7 from trade unions, 6 from law firms, 4 from professional PR firms, 3 from state and local public administration, 2 from higher education institutions, 1 from a think-tank and 1 from social services. The survey was also used to recruit participants to the regional focus group discussions (see below).

For explanatory and clarity purposes, some of the survey results will be expressed in percentages. However, it should be noted that such a survey is non-representative and therefore does not reflect the totality of interest representative opinions in Latvia.

To gather the opinion of public sector stakeholders, TI Latvia carried out a total of: i) 11 interviews with national level public officials, including advisors to ministers, heads of departments and administrative employees from the Parliament as well as Ministries of Economics, Transport and Agriculture; ii) 9 interviews with politicians and municipal administration employees in 8 municipalities (Valmiera, Rēzekne, Liepāja, Līvāni, Dobele, Bauska, Kuldīga, and Cēsis).

The focus groups brought together municipality officials and NGO representatives operating in these regions (total number: 27). The NGOs involved ranged from smaller, single-issue organizations to those aimed specifically at fostering regional cooperation between various stakeholders – other organizations and municipalities themselves. Commercial actors were represented through organizations (e.g., business associations) that serve as intermediary organizations between them and the public sector.

The territories represented in the focus group discussions and interviews aimed at municipalities included Daugavpils, Valmiera, Jelgava, Rēzekne, Liepāja, Jēkabpils municipality, Līvāni municipality, Ilūkste municipality, Dagda municipality, Balvi municipality, Viļaka municipality, Limbaži municipality, Gulbene municipality, Ozolnieki municipality, Dobele municipality, Bauska municipality, Kuldīga municipality, Cēsis municipality, Preiļi municipality, Alūksne municipality and Ape municipality.

1. The importance of regulating lobbying

Lobbying in a nutshell

On a general level, "lobbying" refers to "actions undertaken by individuals or groups with varying interests to influence public decision-making through communications with public officials".[3] It is an integral part of modern democracies. As government makes decisions about legal acts that affect society in different ways, a range of different interest groups will seek to affect them to ensure that their legitimate concerns are duly taken into consideration and protected. In turn, decision-makers will also seek contacts with interest groups to ensure effective implementation of their decisions.

There are three broad categories of public decisions that are usually affected by lobbying. These include: i) legislation, regulations, and their amendment; ii) allocation of public resources through procurement, investments, grants and subsidies; iii) policies and programmes across different areas.[4] Depending on the institutional framework of a specific country, power over these decisions will be distributed among parliaments, executives, local authorities, subordinated public agencies, independent authorities and other public actors.

Lobbyists, sometimes also referred to as "interest representatives", are any "persons and/or organisations whose activities include trying to influence legislation, regulation or other government decisions actions or policies, either on their own behalf or on behalf of groups or individuals who hire them."[5] These include persons and organisations from industry, business and trade associations, trade unions, private firms, civil society organisations (CSOs), PR agencies and professionals, think-tanks, law firms, and religious organisations.

More generally, interest groups seeking to influence public decisions may include – but are not necessarily limited to – those with economic interests (such as corporations and industry associations), professional interests (such as trade unions and associations of professionals), and civil society interests (such as NGOs advocating for environmental protection, human rights and/or anti-corruption). At the same time, it is possible that some groups simultaneously represent more than one type of interest.

Interest groups and their representatives use different methods to influence public decisions, including:

- direct communication in person in a variety of social settings (e.g., meetings, conferences, etc.) or through written letters, telephone conversations, email exchanges and social media
- preparation of draft laws and/or amendments to existing laws
- drafting and delivery of reports, policy papers and other communication outputs
- writing or commissioning of media articles and other media output to strengthen their own arguments
- participation in formal mechanisms of public participation in policymaking (e.g., public consultations, hearings, parliamentary committees, advisory boards, etc.)

[3] Organisation for Security and Cooperation in Europe (OSCE) (2016), *OSCE Handbook on Combating Corruption*
[4] Ibid.
[5] Ibid.

These activities can be carried out by lobbyists themselves or through professional lobbyists, who are hired to do the job on their behalf. With the growing complexity of modern politics and multi-level governance, Europe has witnessed an increasing professionalisation of the lobbying industry.[6] In some political settings, such as EU institutions, professional lobbyists have become an integral part of the decision-making process.

The two sides of lobbying and the need for regulation

Democracy is the institutional framework in which competition among different interest groups and their interactions with public decision-making take place. Citizens' trust in governments will largely depend on how fair such decision-making processes are perceived to be and how effective they are in ensuring that the common good, rather than narrow interests, is pursued. Thus, it is to the benefit of democracy that different interest groups in a society coexist peacefully, interact with each other and have equal access to public officials and decision-making processes.

Among scholars and practitioners, it is customary to make a distinction between a negative view and a positive view of lobbying. In the negative view, lobbying is seen as a way for well-resourced and powerful actors to sway public decisions in favour of their narrow interests, thus equating it with a form of political corruption which distorts the democratic process. In the positive view, lobbying is seen as fulfilling an essential role in modern democracies, where public decision-makers need interactions with lobbyists and interest groups to cope with the increasing complexity of politics and policymaking.[7]

To some extent, perceptions of lobbying in a society will depend on many factors, including the political and socio-economic context, the maturity of democracy, the degree of public participation in politics and so forth. As lobbying is a political fact happening anyway, whether it actually harms a democracy or brings benefits to it will mostly depend on the level of regulation and control around it, as well as on the ethical and integrity standards of interest group representatives and public officials.

When not adequately regulated, lobbying brings the risk of unethical behaviour and inappropriate interactions between powerful private (often commercial) interest groups and public officials, for example, through bribes and exchange of favours to amend legislation or award rich public contracts to select firms. This risk is exacerbated by the growing "revolving doors" phenomenon, which sees top-level decision-makers either become lobbyists or acquire well-paid positions in the private sector after leaving their position.[8]

Regulating lobbying will not eliminate the risks of political corruption, but if done in an adequate manner it can contribute to a healthy democracy, a vibrant public debate and a level playing field among interest groups. When carried out in an ethical manner, lobbying can improve information flows among interest representatives and public officials, contribute to a better understanding of the public interest and lead to more effective policy solutions to increasingly complex problems. To achieve such outcomes, it is important that countries design lobbying regulation around the key principles of liberal democracies.

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[6] Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan

[7] Bitonti A. (2018), "The Role of Lobbying in Modern Democracies: A Theoretical Framework", in Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan

[8] Organisation for Security and Cooperation in Europe (OSCE) (2016), *OSCE Handbook on Combating Corruption*

Lobbying regulation: key principles

In line with the two different views of lobbying outlined above, the main objective of regulations in this area is usually to fulfil two separate but connected needs: i) the need to restrict undue influence by narrow interests on public decision-making; and ii) the need to ensure equality of access to public decision-making and foster debate and information flows around it. These needs are usually achieved by following four principles:

- **Transparency**, which means allowing the public to monitor relevant decision-making processes and who influences them in what way. It is a precondition for the second principle, that is accountability.

- **Accountability**, which entails the necessity for public decision-makers, because of their special status, to justify their decisions in such a way that they can be held accountable in front of the public.

- **Fairness**, which means guaranteeing that different stakeholders have equal opportunities to participate in public decision-making processes and access politicians and institutions governing them

- **Openness**, which entails the proactive engagement of parties involved in and/or affected by a public decision, by establishing adequate channels of communication and mechanisms to allow them to participate.

At least in theory, lobbying regulation designed around these principles should increase the general confidence in the democratic decision-making process and institutions; and improve the quality of decisions overall.[9]

Lobbying regulation: key elements

Over the past decade, prompted by concerns over the democratic deficit and equality of access to public affairs, there has been a growing trend towards regulating lobbying across the world. Lobbying regulations have, for example, been introduced in Australia, Canada, France, Georgia, Germany, Ireland, Hungary, Lithuania, North Macedonia, Poland, Slovenia, Serbia, the United States and a handful of other countries. Regulations also exist for the European Parliament and the European Commission.[10]

Though it is not possible to apply the same regulation everywhere due to the variation of democratic systems, lobbying regulations across countries have tended to focus on one or more of the following measures:

[9] Bitonti A. (2018), "The Role of Lobbying in Modern Democracies: A Theoretical Framework", in Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan

[10] Organisation for Security and Cooperation in Europe (OSCE) (2016), *OSCE Handbook on Combating Corruption*

- **Definitions of lobbying and lobbyist**, which identify specific activities that ought to be considered lobbying and the types of actors to be considered lobbyists. While virtually all legislations in different countries cover corporations and/or professional lobbyists, some countries do not include civil society organisations.
- **Definitions of the public officials and the public decision-making processes** that are subject to the regulation, including legislative and executive branches of governments, and in some cases also the judiciary.
- **Lobbying register** – usually entails the registration of lobbyists in a country, disclosure of interests represented and/or actors acting on their behalf. Registration might be mandatory or voluntary. Information in the register might also include, but it is not limited to, lobbyists' interactions with public officials, information on lobbying expenditures, submitted amendments or legislative proposals. Alternatively, a system where public officials are responsible for reporting of lobbying contacts, or their agendas related to meetings with lobbyists, may also be implemented.
- **Restrictions to public officials' post-employment** (also called "cooling-off period") – usually designed to prohibit top-level officials to become lobbyists immediately after leaving their post. Restrictions might also include prohibitions for public officials to combine their office with lobbying-related functions.
- **Oversight and sanctions** – some country establish oversight authorities with the specific mandate of ensuring compliance with lobbying legislation and punish those who breach the rules.

While a comprehensive lobbying regulation usually includes all of the above elements, it can only work effectively if it is part of a wider good governance framework that includes other mechanisms to curb undue influence and corruption.[11] Among such mechanisms, the following are particularly important:

- **Regulation of decision-making processes that may be targeted by lobbyists.** This includes regulation of legislative, policy-making and regulatory process in the parliament, executive, local authorities, regulators and other institutions, including the judiciary. The aim of such regulations is to ensure clear and transparent process for the publication of drafts, consultation of stakeholders, mechanisms for their involvement and communication channels.

- **Regulation of the persons that are lobbied.** This refers to rules and regulations that apply to officials who may be the subject of lobbying to ensure that they make decisions in the public interest. They usually include, but are not limited to, codes of conduct, rules of procedure (which may also include obligation to disclose lobbying contacts), legislation on conflict of interest and financial disclosure, legislation on political financing.

Along with government regulation, it is not uncommon for lobbyists and interest groups to adopt self-regulation and ethical standards to guide their work and participation in public decision-making. Though their actual enforcement this will much depend on the integrity and genuine will of the actors adopting them, self-regulation and ethical standards can have a very positive impact on the overall effectiveness of lobbying regulation in a country.

[11] Ibid.

2. Lobbying in Latvia

Politics and the public interest in Latvia

More than 30 years after the regained independence and re-establishment of democracy, alienation from politics and low trust in public institutions among the most pressing concerns for Latvia's society. According to the latest Standard Eurobarometer Survey (summer 2020), trust in parliament, government and political parties in Latvia is among the lowest in the EU – only 6% trusted political parties (EU27: 23%), only 22% trusted the parliament (EU27: 36%) and only 32% trusted the government (EU27: 40%).[12]

This low trust has been accompanied by a strong impression that public decision-making is carried out in favour of narrow interests rather than for the common good. A 2020 survey carried out by SKDS and commissioned by the PR Agency Deep White revealed that 85% of Latvian respondents think that decision-making in favour of narrow interests in the state power structure is widespread. 80% of respondents believe that MPs, ministers and their assistants do not consider citizens' interests when they make decisions that affect them.[13]

Though such figures might have been influenced by a wider range of problems related to economic inequality, lack of social security or unemployment, they suggest a profound need for an improvement in transparency, accountability and participation in decision-making. Regulation of lobbying has often been seen as a potential solution to this problem. However, as we shall see in the following, the issue has been controversial due to the cultural understanding that has developed in connection with interest group influence in national politics.

Cultural understanding of lobbying in Latvia

Over the years, the cultural understanding of lobbying in Latvia has been linked to the forms which political corruption and the practices associated with it assumed since the country regained independence in 1991. Similar to many other countries, this has given way to the perception in Latvia that lobbying is an element of corruption and not a part of the normal political consultation process, contributing to prejudices and a distrustful attitude towards it.[14]

During the transition period, going roughly from the aftermath of the regaining of independence until the entrance of Latvia in the EU and NATO in 2004, lobbying was to a great extent done by oligarchs and/or criminals, who through bribes and trading in influence sought to sway the political decision-making process and managed to appropriate vast state resources being privatized after the collapse of the Soviet Union. According to a study by the World Bank, in 2000-03, Latvia, more than other Eastern European countries, showed signs of state capture through abuse of political influence, media and judicial power to influence laws.[15]

[12] European Commission (2020) Standard Eurobarometer 93 – *Public opinion in the European Union*
[13] Komunikācijas vadības aģentūra "Deep White" (2021), Sabiedriskās domas aptauja "Sabiedrības intereses vara gaitenos. Interešu Pārstāvības likuma novērtējums"
[14] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[15] Ibid.

The post-transition period saw the creation of the Corruption Prevention and Combating Bureau (KNAB) and amendments to legislation on political financing and conflict of interest that made it more difficult to carry out political corruption, and many of the methods used in the 1990s were exposed and criminalised. Despite such progress, Latvian citizens have continued to associate "lobbying" with political corruption, bribery and secret agreements. In 2014, 52% of surveyed Latvians viewed political decision-making under the influence of a lobbyist as corruption.[16]

Indeed, the past decade has seen several corruption cases coming to light, in which the **media** which has usually connected the word "lobbying" to attempts to influence laws through bribery and exchange of favours to create business opportunities or obtain public contracts. A relevant example is that of the former chairman of Latvia's State Railways, Uģis Magonis, who allegedly received a bribe of half-million euro by an Estonian businessman Oleg Ossinovski in connection with the purchase of old diesel locomotives from the company of the latter.[17]

Magonis, in his defense, told the court that he had received the money from Ossinovski not as a bribe or kickback, but as a reward for lobbying on behalf of his Estonian associate to the management of Russian Railways in a private capacity, even though he was chairman of Latvia's state-owned railway company at the time.[18] Both Magonis and Ossinovski were acquitted in spring 2021. However, it is not difficult to see how the exposure of such cases and the mentioning of lobbying therein can negatively influence the perception that people have of this practice.

As a result of such depiction of lobbying, different interest groups have attempted to either dissociate themselves from the concept or refer to it as an element of disturbance in politics. For example, even though civil society organisations in Latvian engage in lobbying activities, they prefer to refer to it as advocacy and representation of the public interest. Public officials, on their side, have used the word "lobbying" when they feel they are being approached and pressured by many third-party representatives through different methods, generating confusion and hindering the decision-making process.[19]

While the small size of Latvia's society and alienation from politics has given way to a domination of personalized relationships in political sphere, which carries a risk of undue influence of private interests in public affairs, the negative understanding of lobbying by the media, citizens and public officials have not only provided a disincentive for lobbyists to act transparently due to reputation risks but have also complicated debates around the regulation of lobbying activities.[20] As such, there is a need to bring some clarity on this topic, and to understand what could be done to contribute to cultural change.

Who lobbies in Latvia?

Based on existing empirical research, it is possible to provide a general overview of different societal actors involved in the influence of public decision-making. The most prominent include corporations and industry associations, partners of social dialogue and NGOs. There are also a few PR and law firms

[16] Kalniņš V. (2014), "Integrity in public life", in Rozenvalds J. (ed.) (2014), *How Democratic is Latvia?*, University of Latvia Advanced Social and Political Research Institute
[17] https://eng.lsm.lv/article/society/crime/former-rail-boss-magonis-and-estonian-businessman-ossinovski-acquitted-in-bribery-case.a389824/
[18] Ibid.
[19] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[20] Ibid.

which provide professional lobbying services, though these services are more an appendix to their normal operations rather than their core activity.

Corporations

Corporate lobbying in Latvia has usually involved firms operating in those sectors of the economy or areas of policy where there is extensive regulation, including construction, energy, finance, agriculture, alcohol and tobacco, healthcare and pharmacy, ICT/telecom, defence, waste management industry, ICT industry, food processing industry.[21] Corporations carry out lobbying not only by themselves, but also through industry associations and umbrella organisations representing different economic interests (see section on "non-governmental organisations" below).

Companies engaged in lobbying not only seek to influence legislation and regulations, but they also consult public institutions on large-scale public investments and participate in developing technical specifications for procurement tenders.[22] This is not only because being active in these areas provides a possibility to come closer to state money, but also because often public institutions lack knowledge on industry needs and expertise in developing technical documents and requirements for complex procurements and large-scale public works.

Usually in Latvia the most senior level of company management is directly involved in lobbying, as the activity requires good understanding of the political, economic and social situation, knowledge of the policy areas and connections with decision-makers. Furthermore, there is an evident phenomenon of revolving doors – in those sectors that strongly depend on relationships with public institutions, it is not unheard of for companies to hire former politicians or public administration officials or that the latter become lobbyists.[23]

Such close connections between business and politics are not seen favourably by Latvian citizens. The latest Eurobarometer on Citizens' Attitudes towards Corruption (Dec. 2019), as many as 79% of Latvian respondents believed that a too close relationship between business and politics leads to corruption.[24] This indicates a need for further transparency over the interactions between business actors and public officials and their implications on the shape of national laws and policies.

Partners of social dialogue

In Latvia, social partners include the Employers' confederation of Latvia (LDDK), which includes around 70 different industry employer organisations and the largest companies in the country, and the Free Trade Union of Latvia (LBAS), including over 20 industry trade unions. These actors regularly take part in important socio-economic decisions via institutionalized consultations.

Social dialogue in Latvia is regulated by the Law of Trade Unions, Law of Employer Organisations' and Employer Organisations' Unions, and the regulations of the National Tripartite Cooperation Council and its Sub-councils. The Rules of Procedure of the Cabinet of Ministers state that the opinions of the

[21] Krieviņš M. (2012), *Impact assessment of the new regulatory measures proposed by the Corruption Prevention and Combating Bureau on professional lobbying service providers in Latvia*, Stockholm School of Economics in Riga
[22] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[23] Ibid.
[24] European Commission (2019), Special Eurobarometer 502 – *Corruption*

above-mentioned social partners should be included in any legal act concerning employees and employer relations, social and economic issues.[25]

Within such a framework, interactions with public officials are normally transparent and made available to the public by social partners themselves. For example, the LDDK discloses information about lobbying in its Annual Report – description of results of organisation's strategic aims and outputs (e.g., opinion papers, proposals, comments), how many legal acts were reviewed and how many proposals and comments were considered. As such, separate channels of influence by social partners have assumed lesser importance.[26]

Non-governmental organisations (NGOs)

NGOs in Latvia act as important intermediaries between citizens and the state, which is crucial given the historically low level of political participation. NGO participation in public decision-making processes is ensured by the Memorandum of Cooperation with the Cabinet of Ministers, signed in 2005. Furthermore, the Parliament, ministries and other public institutions provide support and contact points for access to info to NGOs and most of them have specialists to coordinate NGO relations.

In a survey carried out by TI Latvia for this report, around 90% of respondents from NGOs think that communicating with public officials to influence public decisions and laws is important or very important to the activities of their organisation. This indicate that lobbying activities are part of NGOs' daily activities and that they are fundamental actor in the overall lobbying landscape in Latvia.

When talking about NGO lobbying in Latvia, it is important to recognise that the word "NGO", which in the public mind might have a positive connotation, only represents the legal form of an organisation and does not necessarily delineate social work. There are different types of NGOs in Latvia, and not all of them have equal lobbying capacity, expertise and access to decision-makers.

Big NGOs focused on economic-related issues, such as the Latvian Chamber of Commerce and Industry (LTRK), the Foreign Investors Council in Latvia (FICIL) or the Finance Latvian Association (FNA), or state governance, such as the Latvian Association of Local and Regional Governments (LPS) and the Latvian Association of big cities (LLPA), are usually more active, organised and influential in comparison to small civil society organisations.[27]

On the other hand, Small civil society organisations and advocacy groups, engaged for example in environmental protection, human rights and democratic participation have tended to see themselves not as lobbyists, but rather as organisations working in the public interest which use lobbying techniques to achieve results. According to study carried out by TI Latvia in 2014, small civil society organisations face some key obstacles, including lack of professionality, capacity and expertise in preparing arguments and little knowledge of the decision-making process.[28]

In addition, it should be noted the municipalities currently can become member organizations in larger NGOs (e.g., the LLPA), thus creating situations where public institutions and potential lobbyists merge to constitute a common entity. While focus group participants have claimed that this is a valuable

[25] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[26] Ibid.
[27] Ibid.
[28] Ibid.

communication format and enhances cooperation in the public interest it is not completely clear, that it cannot in principle be used for lobbying for private interests. The transparency of the internal workings of such organizations remains questionable.

Professional lobbyists

The lobbying industry is not big in Latvia, and lobbyists do not have an official status as an occupation. A few PR companies and law firms have indicated interest representation as one of their services. However, they have not considered this to be their core field of activity but rather a necessary supplement in the list of proposed services. Companies, both domestic and foreign that use lobbying firms come from sectors such as pharmaceutical industry, developers and building industry, retailers, waste management, ICT, NGOs, food processing.[29]

There are currently no estimates about the size of lobbying services market in Latvia, though a 2012 study found that these services usually constitute 15-20% of turnover of PR firms.[30] According to political scientist Valts Kalniņš, professional lobbying in Latvia will not develop into a major industry, because decision-makers are generally accessible to interest groups and individuals without professional assistance.[31]

Indeed, in TI Latvia's practitioner survey, only 1 in 10 respondents answered that they hired a PR firm to carry out their lobbying activities. This was also apparent in interviews carried out with public officials for this study, in which interactions with professional lobbyists were noted (if at all) as the exception rather than the rule.

Main targets of lobbying efforts

In previous studies on lobbying in Latvia, the Parliament and its Committees, as well as the Cabinet of Ministers, and especially those five or six key ministries connected with economy and business regulation, are mentioned as the most frequent targets of interest group influence.[32] This was confirmed by TI Latvia's survey carried out for this study. Out of 142 respondents, the Cabinet of Ministers (99) and Saeima MPs (95) were the most common answer, followed by subordinate institutions (60), municipalities' mayors and their deputies (59) and municipal councillors (57), executive advisors (30), state- or municipal-owned enterprises (28) and independent institutions (28).

In line with these results, draft legislation by the Parliament (104) and regulations by the Cabinet of Ministers (102) were indicated as the most frequent "items" targeted by lobbying efforts, closely followed by state policies, programmes and grants (93). Slightly less common were answers on municipalities' policies, programmes and grants (58), municipal regulations (51), state budget (45), municipalities' budget (41). Only 23 respondents indicated procurement requirements as target of their lobbying efforts, though this might be because most respondents came from the NGO sector.

[29] Krieviņš M. (2012), *Impact assessment of the new regulatory measures proposed by the Corruption Prevention and Combating Bureau on professional lobbying service providers in Latvia*, Stockholm School of Economics in Riga
[30] Ibid.
[31] Kalniņš V. (2018), "Latvia", in Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan
[32] Ibid.

As emerged with interviews with public officials carried out for this study, Saeima MPs and Committees can be targeted both in direct and indirect ways. For example, MP assistants and Saeima employees such as committee consultants, who in some cases serve as expert advisors to the committee leadership in charge of organizing consultations with lobbyists, could be regarded as potential lobbying intermediaries even if they themselves might not fall under the definition of a public official according to the law on Prevention of Conflict of Interest in Activities of Public Officials.

In interviews carried out for this study, some municipal officials claimed that there is no lobbying taking place in their municipality, because in their opinion all of it happens strictly on the national level. However, such statements should be taken with a grain of salt. Such answers might be informed by a negative view of lobbying, associated with bribes and undue influence. Furthermore, during interviews officials also referred to corporations lobbying for the approval of public projects involving their business.

In interviews for this study, municipality officials have also noted that currently illegitimate lobbying for public procurement requirements appears to be less prevalent than historically. Nevertheless, there are still instances of this occurring. Some officials have referred to instances where "professional lobbyists", or lawyers have visited municipalities offering to draw up procurement paperwork in a "correct way" so as to benefit specific private sector actors at the disadvantage of other.

How is lobbying done in Latvia?

Ethical lobbying

The core of ethical lobbying activities in Latvia is constituted by the formulation and putting forward of convincing arguments through a range of different communication channels, including written communication, participation to formal public consultation mechanisms and advisory boards, in-person meetings, commentaries and amendments to draft laws, and publication of communication outputs (e.g., media articles, policy papers, presentations, etc.).[33]

In TI Latvia's practitioner survey for this study, around 85% of respondents indicated direct communication such as phone conversations, letters, emails, newsletters and social media as their favourite type of communication with public officials. Indeed, a previous study by TI Latvia noted the emergence of the so-called "Twitter phenomenon", in which the popular social media platform is used to convey arguments and positions on public decisions and communicate directly with other stakeholders.[34]

While such practice indicates that in Latvia it's indeed easy to access decision-makers, which is a positive thing, there are also indications that it does not always have a positive impact. Previous studies have indicated that IGs might seek to achieve their policy goals by putting continuous and persistent pressure with decision-makers and constantly getting in touch with them.[35]

As second most popular option, around 75% of respondents indicated participation in formal consultative mechanisms, such as working groups, public consultations, group discussions, hearings and so on. In TI Latvia's opinion, this is a positive thing because it indicates that interest groups are

[33] Ibid.
[34] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[35] Ibid.

willing to use the means provided by the state to discuss public decision with other stakeholders and exchange information with them.

NGOs and public officials in the focus groups discussions and interviews for this study pointed out the relevance of formal consultation mechanisms. The main format for such cooperation on the municipal level is municipal commissions operating under the committee level. In addition to council member this format involves various stakeholders in the decision-making process. The procedures for selecting commission members vary from municipality to municipality and there are no uniform and adequate standards or common rules on how minutes should be made on the content of these meetings.

As a third most popular option, about 70% of respondents indicated in-person meetings, which along with direct written communication, form core part of the daily activities of interest group representatives. Meetings do not only include bi-lateral ones, but also interactions in broader social settings such as industry and NGO meetings. A 2013 survey by Burson Marsteller addressed to policymakers found that approximately 80% of respondents considered industry meetings to be the most effective means of conducting lobbying. The number of respondents stressing the importance of personal contacts was roughly similar.[36]

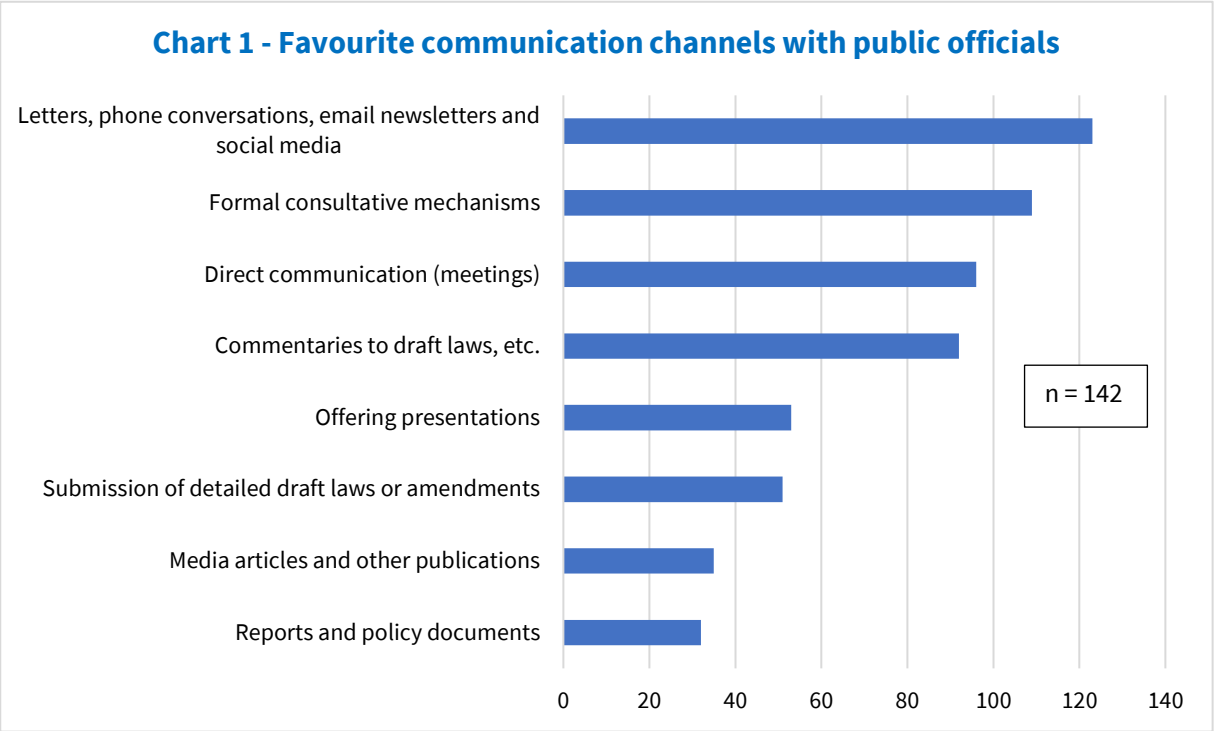
In the focus group discussions in municipalities, it was often mentioned that lobbying carried out by NGOs often takes the form of **"**brainstorming meetings**"** with public officials on how best to solve societal problems. Solutions for such problems as well as social care and organization of cultural events is often outsourced to NGOs in municipalities due to them carrying these out more efficiently.

With government restrictions due to the covid-19 pandemic, it is likely that such meetings are now taking place through online platforms such as Zoom, MS Teams and Google Meet. It is still too early to say whether the pandemic has permanently reduced the practice of visiting public officials at their offices or inviting them over, but attention will have to be paid to the impact this will have on the possibility of recording such meetings, at least regarding interactions involving high-level public officials.

Another common practice seems to be evaluations of draft laws and submission of amendments for consideration. Around 65% of respondents to TI Latvia's survey indicated this as one of their favourite communication channels. This underlines the importance of ensuring clarity and transparency of the legislative footprint (will be discussed in the next section).

Less popular communication channels included offering presentations and/or submitting detailed draft laws (around 40% of respondents) as well as publishing communication material such as media articles, reports and policy documents (around 25% of respondents), a practice which is probably restricted to those actors that have in-house resources to carry out research, legal analysis and/or secure media presence.

[36] Burson-Marsteller (2013) A Guide to Effective Lobbying in Europe The View of Policy-Makers https://issuu.com/burson-marsteller-emea/docs/european_lobbying_survey_2013



Answers to the expert survey and interviews for this study indicate that there is also a significant "demand" for lobbying. Around 65% of respondents to the practitioner survey answered they took part in 1 or more advisory boards, indicating that this might be the most common way in which public officials proactively seek to engage interest groups in the legislative and policy-making process.

At the national level the importance of advisory boards is broadly regarded as essential. Interviewed officials stress the merits of having few, but stable partners for cooperation, while stating that the risks of excluding smaller and less organized groups are low. They note that outside experts are invited to advisory board meetings on an ad-hoc basis when relevant. It is not uncommon for interest groups to be invited to join Saeima Committee meetings or working groups on legislative projects. Interviews with national level officials revealed that committee consultants have broad discretion in deciding who should be invited to these meetings which is potentially problematic.

Unethical lobbying

Along with legitimate lobbying practices, it has been widely acknowledged that the small size of Latvia's society and close links between business and politics can give rise to attempts to influence the public decision-making process unduly and unfairly through unethical practices. Though instances of such practices should be evaluated on a case-by-case basis, previous studies on lobbying in Latvia indicate that they fall into two main categories: shadow lobbying and pseudo-lobbying. In addition, "disinformation lobbying" and "astroturfing" are becoming increasingly concerning for public officials.

Shadow lobbying happens when groups or individuals who are interested in a certain legislative issue cooperate with specific public officials with whom they happen to have informal ties or previous contacts (e.g., leisure activities, work relationships, social settings, or even bribery, etc.), while trying to obstruct due disclosure about this activity or limit the opportunities of participation for other interested

parties. As a result of shadow lobbying, the electorate is not informed about the way various groups or individuals influence public decision-makers, thus distorting the decision-making process and creating situation of information asymmetry among different interest groups.[37]

Pseudo-lobbying – when the distinction between lobbyist and lobbied official is blurred – usually involves the use of political parties as vehicles for private interests rather than platforms of public interest. Lobbyists can also join political parties, but it is difficult to assess the extent to which they do so, given that political parties' members' lists are not accessible to the public.

In addition, political financing in Latvia has been used as a form of lobbying, with parties soliciting campaign donations in exchange for not amending legislation in certain areas.[38] It should be noted that corporate donations to political parties are not allowed in Latvia. While this makes it harder to identify business interest related donations it should not be assumed that these do not occur, as indicated by the fact that corporate CEOs often donate (or pay as membership fees) substantial sums of money. The disclosure system for information on political system finance could be regarded as counterintuitive and difficult to use even while providing more information than is available in most countries.

In interviews carried out for this study, some officials have expressed worries about the possible emergence of the so-called "disinformation lobbying", which usually involves domestic individual or organisations working on behalf of foreign actors to provide false information and/or promote their interests in dishonest ways by pretending to be other persons or organizations representing certain groups. Along with this, observers have warned of the phenomenon of "astroturfing" – the practice of using the status of NGO to or lobby on behalf of private or business interests.[39] It should, however, be noted that the presence of a registered NGO is a useful, but necessary pre-condition for this practice. Lobbyists can just as well use informal social movements for achieving their ends. Likewise, other lobbyists might try to discredit social movements, by calling them part of an astroturfing campaign.

Astroturfing practices in Latvia are often difficult to identify and prove, and this is exacerbated by the lack of clarity and data regarding NGOs fields of activities in Latvia. According to a recent report by the Latvian Civic Alliance, there were 24,367 associations and foundations registered in Latvia as of the end of 2020. However, no detailed and standardised data is collected on this, neither by the Enterprise Register nor by private corporate registers such as Lursoft or Firmas.lv.[40] The latter do collect some data on their economic classification or information about their field of activity but given that the provision of such information is not mandatory, it is missing for hundreds of organisations. Furthermore, according to the Latvia's Financial Intelligence Unit (FID), many NGOs failed to declare their beneficial owner, and this makes it even more difficult to understand by whom they are run and who benefits from their activities.[41] As such, in the context of lobbying regulation, more attention will have to be paid to this aspect.

[37] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[38] Kalniņš V. (2018), "Latvia", in Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan
[39] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[40] Latvijas Pilsoniskā Alianse & Providus, "Pētījums par pilsoniskās sabiedrības organizāciju sektoru Latvijā 2020-2024: Latvijas biedrību un nodibinājumu klasifikācijas problēmas un risinājumi"
[41] Finanšu izlūkošanas dienests (2019) – NACIONĀLAIS NILLTPF RISKU NOVĒRTĒŠANAS ZIŅOJUMS PAR 2017. - 2019. GADU

Efforts to regulate lobbying in Latvia

2008-2012 – The first attempts

Efforts to regulate lobbying in Latvia began in 2008. At that time, the KNAB Identified relevant problems concerning interest group influence on public decision-making, including little information about lobbyists' activities, disparity in interest groups' access to decision-makers and to information about the law-making process and difficulties in differentiating between lobbying and trading in influence (also known as "influence-peddling", it is the practice of using one's connections with persons in authority to obtain favours or preferential treatment).[42]

Based on these problems, the KNAB developed a concept note outlining three different approaches to regulating lobbying: i) development of dedicated lobbying legislation including definition of lobbying and lobbyists, basic principles of lobbying and register of lobbyists; ii) inclusion of lobbying principles in existing legislation related to submission and review of legislative or amendment proposals, and public register of lobbyists; iii) inclusion of basic lobbying principles in Codes of Ethics for public officials, who would be required to proactively disclose their interactions with lobbyists.[43]

All three proposals required financial expenditure and, as this was happening at the helm of the global financial crisis, the concept note was cancelled.

Following the first attempt, the Cabinet of Ministers reiterated the need to increase transparency over the activities of lobbyists in Latvia and, between 2009 and 2011, developed a concept note proposing to develop a special "Lobbying Disclosure Law". The law, drafted in mid-2012, would cover both legislative and executive branches, entailed disclosure of lobbyist agreement between professional lobbyists and their clients as well as obligation for public institutions to publish information on lobbying contacts in own dedicated registers.[44]

The draft law was strongly criticized by public institutions, NGOs and lobbyists for several reasons: i) it would apply only to professional lobbying firms, thus not covering the majority of actual lobbying actors (NGOs and social partners; ii) it determined areas of lobby groups' interests, but public procurement-related interests, though of primary importance, were not included; iii) state funding was not meant to be required, but in practice it entailed the creation and administration of 400 public registers, including hiring of new staff and improvement of IT systems, for an estimated cost of over €1 million per year.[45] As a result of these problems, the draft law failed to obtain political support and the process was terminated.

In parallel to the legislative process around the draft Lobbying Disclosure Law, professional lobbyists in Latvia began efforts to self-regulate. In 2012, five individuals and seven firms founded the Latvian Association of Lobbyists. Members represented a variety of professions (including lawyers, former politicians and PR people whose activities or experience consisted of lobbying on a commercial basis. The Association engaged in the drafting of the Lobbying Transparency Law, but since then it has not been active in the public sphere.[46]

[42] Alksne A. (2014), *Transparency of Lobbying in Latvia*, Transparency International Latvia
[43] Ibid.
[44] Ibid.
[45] Ibid.
[46] Ibid.

In the same year, the Association adopted a Code of Ethics for Lobbyists, which required that members of the Association, when communicating with public officials, would have to disclose their identity, that of their client and the goals of the lobbying service. It also contained norms on the provision of true information, non-disclosure of confidential information and prohibition to deceive, but did not envisage any sanctions for contravening them. At present, the Code cannot be found anywhere on the internet.[47]

2014-19: Indirect regulation of lobbying

Following the termination of the legislative project on lobbying, the government instructed the KNAB and the Ministry of Justice to develop solutions to ensure lobbying transparency and disclosure of information on public decision-making through existing laws rather than pushing for a new legislative proposal. This led to a third concept note which suggested to introduce definitions of lobbying and lobbyists in Rules of Procedures and Codes of Ethics, as well as improvement of the transparency of the legislative footprint.

At the time of the writing of this report, a number of Ministries introduced internal rules for interactions between civil servants and lobbyists, sometimes including the duty to publish contacts on website of institution. However, there is no uniform disclosure practice and enforcement remains limited. In interviews for this study, public officials seemed to be unaware of their existence. Furthermore, it was stated that proving their transgression would be too difficult and that actual enforcement mostly depends on the good will of the individual public official.

Concerning the improvement of the legislative footprint, new rules have been proposed for the legislative process, which would specify how Members of Parliament should engage with lobbyists and other third parties who seek to influence the legislative process. These rules, however, are still pending and are not currently adopted, thus preventing Latvia from implementing the recommendations put forward in the 4th GRECO evaluation round.

In interviews conducted for this study, public officials often cited providing information on consultations in legislative proposal annotations as a near exhaustive solution to the issue of lobbying regulation, stating that this information should be sufficient to ensure transparency on lobbyists' role and contribution in decision-making processes. However, some officials also expressed doubts about whether full information on consultations is provided in some instances such as drafting of national positions of Latvia on EU matters. These documents, however, are not available to the general public.

Though the new rules represent a step forward, there are still relevant loopholes preventing them to function as an effective measure to regulate lobbying. One of the main issues is that at present there is no standard model for Parliamentary Committees to disclose information on meetings, participants and the way in which MPs voted in Committee sessions. In addition to this, there is very limited information availability on the activities of working groups organized by said committees. Another issue observed by TI Latvia is that MPs tend to supplement the draft legal acts with additional initiatives, the source of which is not always clarified and is not available in the annotation. This makes it more difficult to track the overall development of the law and the sources used for it.

[47] Kalniņš V. (2018), "Latvia", in Bitonti A. & Harris P. (eds.) (2018), *Lobbying in Europe – Public Affairs and the Lobbying industry in 28 EU Countries*, London: Palgrave Macmillan

Progress in other areas relevant to political integrity

Apart from these initiatives, in the past five years there have also been efforts to regulate other core areas of political integrity to prevent of undue influence in decision-making, which might have an indirect impact on the regulation on lobbying, including amendments to legislation on political financing, conflict of interest, public procurement and beneficial ownership.

In 2019, the political financing model has been significantly changed with the aim of reducing political parties' dependence on private donors to carry out their functions. The amount of public funding provided to political parties obtaining more than 2% in Parliamentary elections was increased six-fold and strict limits were imposed on donations from private individuals.[48] This might make it more difficult to carry out pseudo-lobbying through political parties, but the impact is limited by the fact that party members' lists are not available to the public and thus it is not possible to see if any lobbyist has joined political parties. It should also be noted that these improvements have a direct impact only on the public side of money in politics. The magnitude of potential illegal financing of the political system remains unclear.

In 2019, the Parliament also amended the Law on Prevention of Conflict of Interest, introducing a ban for MPs to take up paid positions in NGOs, foundations and social enterprises. The law is expected to reduce potential conflict of interest and the possibility of MPs acting as lobbyists while still on their post, but loopholes remain. In a recent report, TI Latvia emphasised the need for the introduction of a mechanism to declare private interests as soon as they arise and for improving user-friendliness of the portal where public officials' interest and assets are disclosed.[49] The necessity for reporting of possible conflicts of interest as they arise has among other things been stressed in the 5th GRECO evaluation round.[50]

Furthermore, as part of a larger drive to tackle money laundering and prevent the abuse of legal entities and in compliance with the 5th Anti-Money Laundering Directives, the government introduced an obligation for all legal entities in Latvia to disclose their ultimate beneficial owners and set up a public register, in which this information is available for free and in machine-readable format.[51] This is expected to make it easier to identify potential cases of astroturfing and/or indirect political financing campaigns coordinated by powerful corporate actors. However, though Latvia is one of the few countries in the world to have effectively adopted this practice, declaration of beneficial owners by NGOs is still problematic.

In addition, in 2017-2020, the Procurement Monitoring Bureau and the Central Finance and Contracting Agency progressively increased data availability on public procurement tenders, awards and contracts, by setting up a centralised public procurement register[52] and a new e-procurement platform.[53] Though corruption in this area is still a relevant problem, the level of transparency is higher compared to ten years ago, and to some extent it should allow to identify potential illicit lobbying by private companies on procurement requirements.

[48] Transparency International Latvia (2020), "Integrity Watch LV: Shining a Light on the Link Between Business and Politics in Latvia"
[49] Ibid.
[50] https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16808cdc91
[51] https://data.gov.lv/dati/lv/organization/ur
[52] https://info.iub.gov.lv/lv/visual
[53] https://www.eis.gov.lv/EIS/

The Saeima Working Group: 2019-present

In September 2019, the Saeima Committee on Defence, Corruption and Internal Affairs set up a Working Group tasked with drafting regulation on lobbying in Latvia, to be presented and voted by the Parliament by the end of the legislature in 2022.[54] Stakeholders from the public and private sector and civil society, including TI Latvia, have actively participated in the Working Group and, unlike previous attempts, this time TI Latvia could observe a broader consensus among stakeholders on the need for lobbying regulation as well as genuine attempts from all sides to reach a fair compromise.

In January 2021, the Committee published a document outlining number of basic principles that will serve as input for the draft law, expected to be made available for extensive public consultation in late 2021.[55] According to the document, the main aim should be to foster fair interest representation and facilitate information flows among interest groups rather than to restrict lobbying activities. Furthermore, to the extent possible, lobbying transparency should be achieved by improving transparency of legislative footprint and adapting Codes of Ethics and Rules of Procedures for public officials.

it should be noted that the word “lobbying” or “lobbyist” does not appear anywhere in official documents related to the draft legislative process. Lobbying is rather re-labelled as “interest representation”. This is to avoid any conflicts or reputational issues associated with the cultural understanding of lobbying in Latvia. Though the substance of the matter does not change, it indicates a willingness to emphasise the positive aspects of lobbying.

Other relevant principles that underpinning the law will be: i) a definition of “interest representative” that is broad enough to include all the main interest groups, including NGOs; and ii) a centralised register of interest representatives, where they would have to disclose their area of activity, clients, targets of lobbying and interactions with public decision-makers. Moreover, the document states that the law should entail low administrative burden for involved parties and should not carry additional costs on the State Budget.

At the end of February 2021, TI Latvia sent a letter to the Saeima Committee providing its comments on all the above principles and emphasising the need for legislation to effectively incorporate international lobbying standards and best practices.[56] The letter also provided indications on specific details concerning the scope of the law, the definition of lobbying and lobbyists, the set-up of the lobbyist register, the nature of sanctions, oversight and complementary legislation.

In the months leading up to the writing of this report, TI Latvia carried out an in-depth consultation with main interest groups, based on an expert survey, interviews with public decision-makers and three focus groups at the regional level. The results of these consultations, reported in the next section, have allowed us to get a more nuanced picture of the attitude of different actors to legislation and identify potential ways to implement the law in a way that increases lobbying transparency while entailing low administrative burden.

[54] http://aizsardziba.saeima.lv/darba-grupa-lob%C4%93%C5%A1anas-atkl%C4%81t%C4%ABbas-likuma-izstr%C4%81dei
[55] Ibid.
[56] https://interesuaizstaviba.lv/wp-content/uploads/2021/03/Lobesanas-likums_Delnas-komentari_26-02-2021.pdf

3. Attitudes towards lobbying regulation in Latvia

When approaching the issue of regulating lobbying in Latvia, in light of the considerations outlined in the previous section, it is necessary to understand how much transparency could be achieved with existing means and what could be the added value of a specific lobbying legislation. There are obviously trade-offs associated with choosing one model or another. A minimal or light regulation would arguably be easier to adopt and implement and it would carry little administrative burden and costs, but it may not be sufficient to make a significant leap forward in terms of transparency. On the other hand, strong and compulsory regulations could prompt a more clear-cut divide between lobbyists who work legally and those who prefer to operate in secrecy, therefore it is hard to say if regulatory changes would lead to greater transparency.

In anticipation of the broad public consultation that is expected to take place if and when the draft law will be published later this year, TI Latvia has carried out consultation with a wide range of stakeholders to assess their attitudes towards regulation of lobbying and towards some specific elements of the law outlined in the principles published by the Working Group.

Is there a demand for lobbying regulation in Latvia?

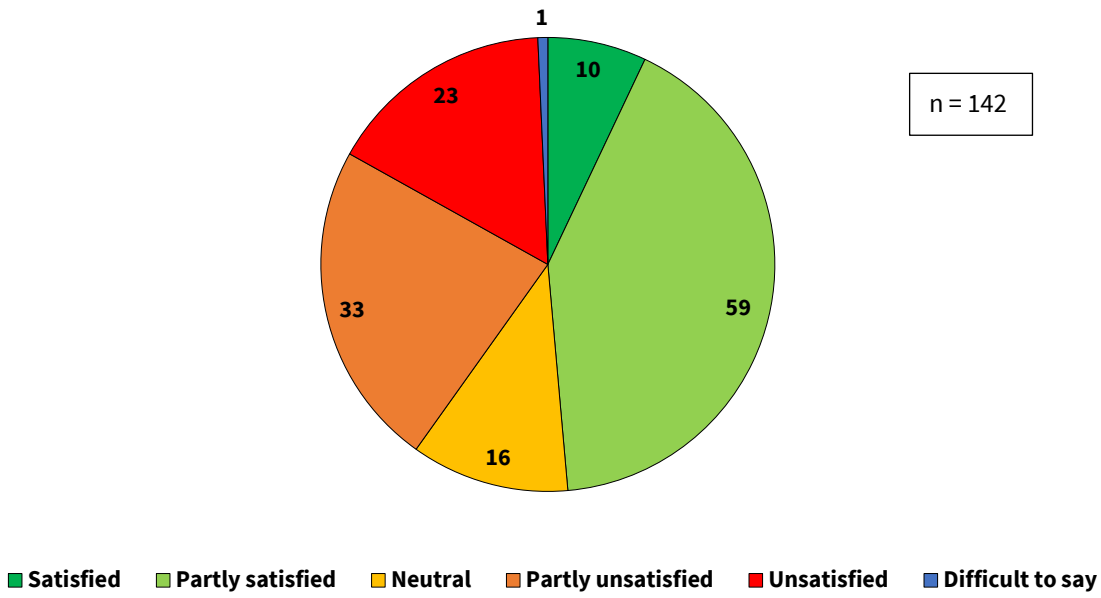
There are indications that the public opinion is in favour of a specific lobbying legislation. In a SKDS survey commissioned by the PR agency Deep White and published in January 2021, 74% of respondents said that it is necessary to adopt a new law establishing in which ways it is allowed to influence decision-makers.[57] However, such results should be taken with caution. It should be noted that the question is posed in fairly general terms, and it is not clear what the awareness level of survey respondents in regard to existing levels of transparency and participatory mechanisms in public decision-making is.

In TI Latvia's expert survey carried out for this study, around 60% of respondents answered that interest group influence in decision-making processes is not sufficiently regulated, 30% answered that "it is difficult to say" and less than 10% answered that it is sufficiently regulated. At the same time, a higher proportion of respondents (around 50%) expressed satisfaction with existing means for public participation in policymaking in Latvia than those who do not (around 40%).

Overall, this indicates that in the public mind and in the opinion of experts, a higher level of regulation on interest groups' activities to influence decision-making would be desirable. At the same time, at least among practitioners, there seems to be satisfaction with current means for public participation in political and policy decision-making processes. In the opinion of TI Latvia, this is a positive signal. It indicates that the law might have some effect in complementing what is already working well. A potential lobbying regulation should seek to build on this.

[57] Komunikācijas vadības aģentūra "Deep White" (2021), Sabiedriskās domas aptauja "Sabiedrības intereses vara gaitenos. Interešu Pārstāvības likuma novērtējums"

Chart 2 - Satisfaction with public participation mechanisms in policymaking



Should corporate actors and NGOs be regulated in the same manner?

Next, we turn to the question of whether in the opinion of practitioners a potential lobbying regulation should apply in equal manner to corporations and NGOs. This has been an issue of contention among different stakeholders in the past. As mentioned above, the law drafted in 2012 failed to obtain political support because the definition of "lobbyist" was too narrow and would not cover the majority of actual interest representatives in Latvia. At the same time, exactly because the 2012 draft law provided a definition of "lobbyist", NGOs refused to be labelled as such.

In TI Latvia's practitioner survey, the relative majority of respondents (50%) believe that commercial companies and NGOs should be regulated in the same manner, while a lower proportion (about 30%) replied that it is difficult to say, and 20% think that they should not. This indicates that there is broad agreement on the matter, and it might also be due to the fact that subjects would be defined as "interest representatives" rather than lobbyists. 103 out of 142 respondents also provided an explanation for their answer, which allows us the explore the main motivations behind these answers.

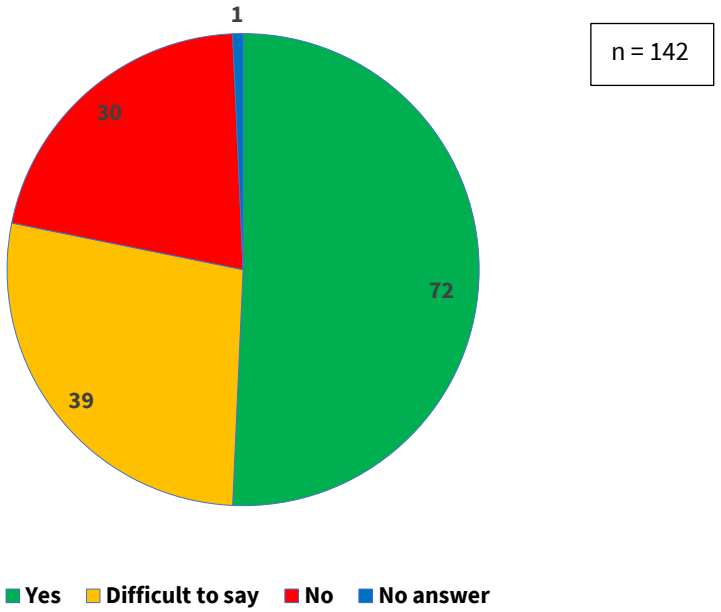
Among those replied that the law should apply equally, the most common explanations are that this is necessary to achieve the basic goals of the potential regulation and to level the playing field among interest groups. Several respondents mentioned the fact, already mentioned in the previous section, that NGOs can also represent commercial interests and be backed by corporate funds. Unequal regulation would be likely to create ambiguity and loopholes. At the same time, some respondents warned that attention should be paid to existing inequality in resources and access to politicians.

Among those who replied that the law should not applied in the same manner to NGOs and corporation, a majority pointed out the problems of inequality in financial and staff resources between the private sector and civil society, and the lower capacity of small organisation to cope with the administrative burden that the prospective law might bring about. This was also stressed as a potential problem in focus groups discussions at the regional level. Regional NGO representatives expressed hopes that

more stringent regulations might not apply to them, but only national level lobbyists and for-profit activities.

These results indicate that there is general agreement that the prospective law should apply to all subjects carrying out interest representatives, though due attention should be paid to potential inequalities in resources and capacity to comply with new regulations. While it is necessary to identify in which situations do corporations exactly enjoy an advantage in terms of resources, the main problem seems to be that of the potential administrative burden.

Chart 3 - Should corporations and NGOs be regulated in the same manner?



Should a register of interest representatives be created?

One of the core elements of the potential new regulation would be the setting up of a register of interest representatives. As such, in our practitioner survey we sought to assess current attitudes towards the creation of such register, its potential impact over the activities of organisations as well as specific content that such register might feature.

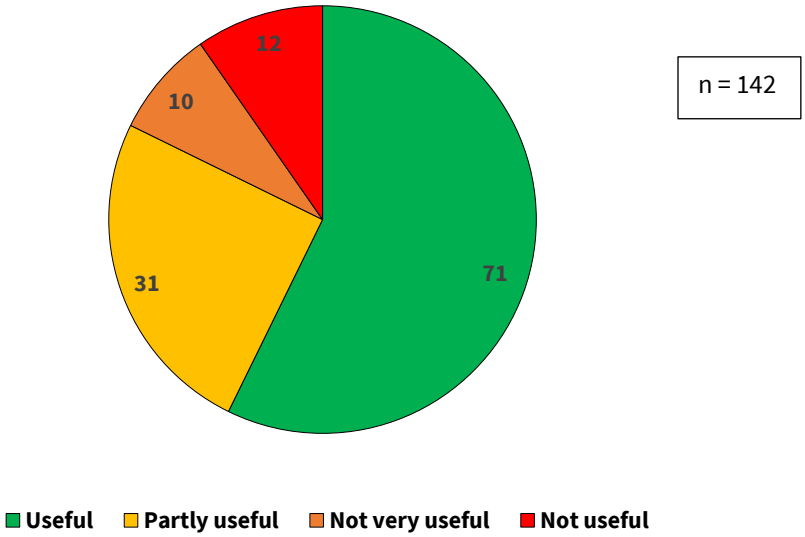
General attitudes to creation of register and potential impact

There seems to be widespread agreement over the importance of increased transparency over interest representatives' objectives and goals. Over 80% of respondents believe that it would be important or very important to make public the policy advice provided by interest groups to public decision-makers. Moreover, a relative majority of respondents (50%) think that a lobbying register would be useful to

their activities compared to those who think that it would only be partly useful (20%). Less than 10% of respondents think it would not be useful.

Concerning the potential impact of the register on the activities of interest representatives, a relative majority of respondents (around 50%) think that it would have a positive or partly positive impact on their activities. 30% of respondents were neutral on the matter and less than 10% of respondents think it would have a negative impact. 110 out of 142 respondents also provided written answers to this question, which allows us to explore the main motives behind their answers.

Chart 4 - Usefulness of interest representation register



Among those who answered that the register would have a positive or partly positive impact on their activities, two main motives emerged. Most of respondents argued that a register would bring more transparency and clarity, as it would provide an overview of the interest representation "market", and it would allow to distinguish between organisation whose work is genuine from those whose work is not. Some survey respondents also pointed out that such register could also improve public decision-makers' capacity to identify and involve relevant interest groups on specific matters.

Another crucial benefit pointed out by respondents is the possibility for better knowledge of or communication with other interest groups for purposes of cooperation as well as better acknowledgment of potential opponents' arguments and possibility of compromise with them. In regional focus groups discussions on the potential benefits of a public register of interest representatives, NGO representatives repeatedly stressed that they might benefit immensely from participation in such register, which would give them much needed aid in finding future partners and/or form ad hoc alliances on determinate issues.

A third popular motivation for the positive impact of the register related to organisations' internal goals and administration. Several respondents argued that the register would help improve their visibility in terms of policy advice given and/or work done (including among NGOs' own members) and it would also allow them to clarify their objectives and tactics and pursue a better targeting of audience. In many

cases statements about potential improvements on the quality of work came with the warning that expected benefits will mostly depend on the potential administrative burden imposed by the register.

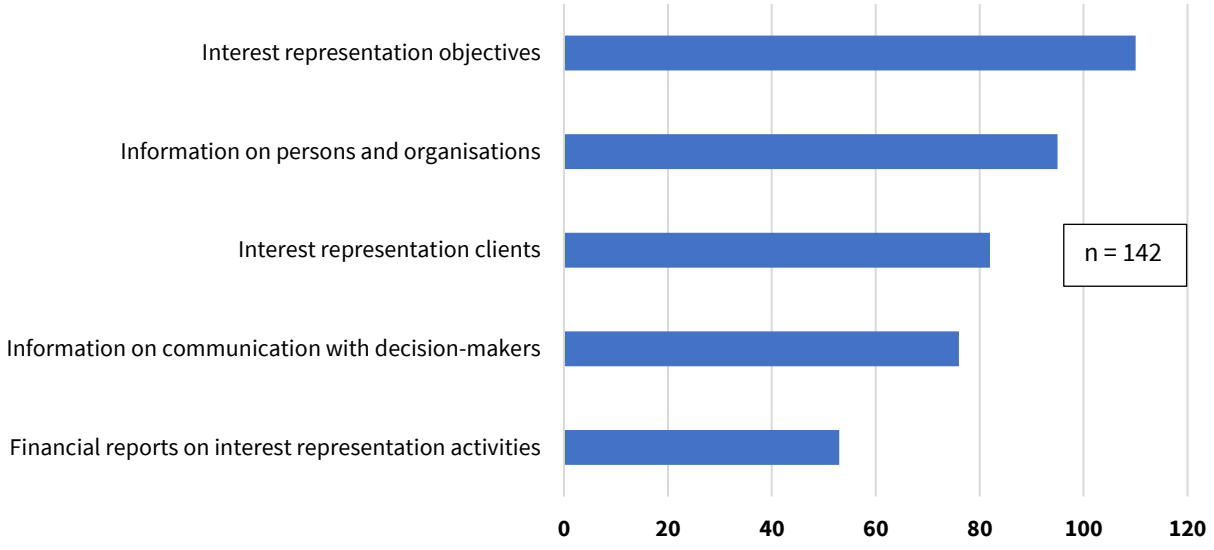
Among those who answered that the register would have a negative impact, the most common reason was that it would allow for unwanted interpretations and speculations on their activities by the media, or even possible deliberate mud-throwing by opponents. Some respondents also warned that the usefulness of such register might be undermined by organisations or individual with demagogic or non-constructive opinions. These arguments, along with the possibility that the register could become a box-ticking exercise, was also common "caveats" pointed out by those who argued for a positive impact.

Arguments about potential negative impacts on organisations' competitivity were much less common but present. In interviews with municipal officials for this study, respondents stated that businesses might be unwilling to publish information on their plans for activities in a specific municipality. The main argument is that often such plans consist of preliminary drafts and might not result in actual activities, but their publication would nevertheless result in embarrassment and negative reputation. Other municipal officials warned that publication might harm commercial or state secrets.

Opinions on the scope of the information in the register

When provided a list of different pieces of information and asked about of them should be included in a potential register, the most popular option selected by survey respondents was "interest representation objectives" (around 80%), followed by "information about persons and organisations" (around 65%), "interest representation clients" (around 60%), "communication with public officials" (around 50%)", and "financial reports" (around 40%). This suggests that there is widespread agreement on the fact that a potential register should include at least information on interest representatives, their objectives and who they represent.

Chart 5 - Content of the interest representation register



These opinions were also reflected in regional focus group discussions organised for this study, in which both civil society representatives and municipal officials expressed dismay for the fact that often it is too complicated to find out who exactly NGOs represent. As such, in the opinion of participants, it would be helpful if any future register or database included such information. There was some divergence regarding whether all members (both organisations and persons) of an NGO should be listed on the register, which would complicate accurate compiling and might raise privacy concerns.

During interviews, municipal officials also emphasised that it would be very helpful if the register included information about the needs of business operating in a specific municipality, as it is often a daunting task to locate these stakeholders about relevant matters involving them and/or potential advertisement of procurements. Some of them also stated that it would be helpful to their work if there existed some sort of "social network" for lobbying activities.

Support for inclusion of information on communication with public officials was somehow lower, and this might be due to the fact that, at present, it is not clear what it is exactly meant by "communication" and what kind of reporting this would entail in practice. In the document published at the of January 2021, the Working Group refers to "interest representation" as "any direct and indirect communication with public officials with the purpose of influencing decision-making"; however, there is no further specification on this issue that could serve as a guidance.

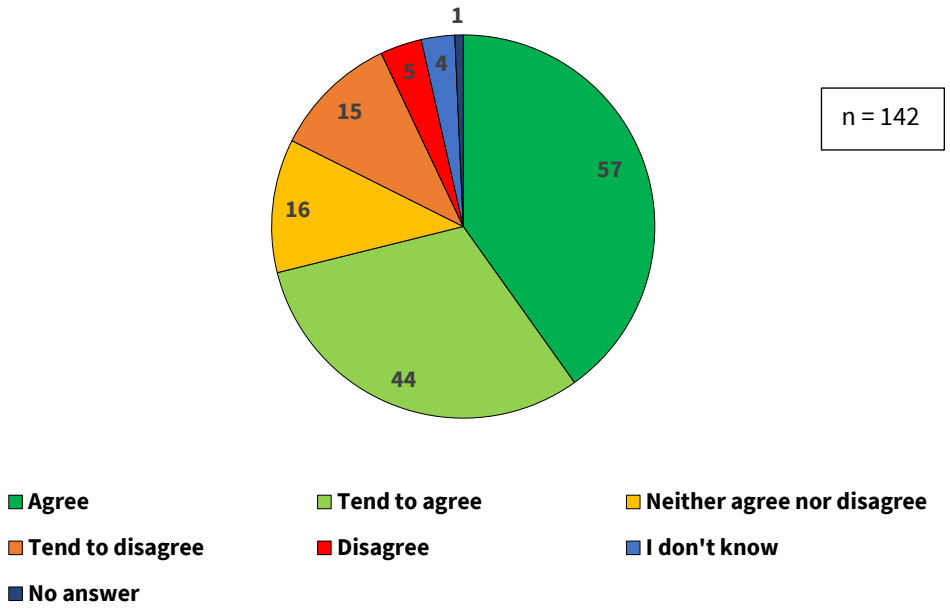
In the letter sent to the Saeima Committee in response to the public consultation on the document, TI Latvia emphasised the need to clarify this issue and to specify, in any future law, what it is exactly meant by direct and indirect communication, in a way that makes it easier for both interest representatives and public officials to understand when lobbying is happening and what kind of activities could be easily identified and reported. We elaborate on this further in the last section on conclusion and recommendations.

Should public officials disclose their lobbying interactions?

In debates about potential regulation on lobbying in Latvia, disclosure by public officials about their interactions with lobbyists, supported by clear rules of conduct in these interactions, has often been pointed out as the main way through which increased transparency in public decision-making could be achieved through existing legislation. This would require amendment to existing Rules of Procedure and Codes of Conduct in public institutions. As such, we sought to gather practitioners' opinion on this matter to understand whether some consensus about this option exists.

Around 70% of survey respondents agree or tend to agree that national and sub-national legislators and executives should be required to publish documentation related to interaction with interest representatives. An even higher proportion (around 80%) agree or tend to agree that national and sub-national legislators and executives should be required to publish their calendars and agendas with scheduled interactions with interest representatives. These answers indicate that there is widespread agreement among practitioners with the idea that public officials should be subject to proactive disclosure rules.

Chart 6 - Disclosure of public officials' meetings



Interviews carried out for this study shed some light over the opinion of public officials themselves on this matter. In the opinion of most interviewed public officials, publishing calendars and agendas would make sense, but mostly for the executive branches of institutions, meaning ministers and state secretaries at the national level, and mayor and executive directors at the municipality level. Interviewees also agreed that publishing calendars might make sense also for MPs and members of municipal councils, but that this should be done on a voluntary basis.

Indeed, as mentioned in the previous section, the rules of procedures and codes of ethics of some ministries do entail disclosure of and rules on public officials' meetings with interest representatives. Some municipalities have also adopted similar measures, though municipal officials pointed out that codes of ethics very often deal only with conduct of administrative employees rather than with members of the council. The same public officials expressed plan to expand the scope of these documents after the upcoming municipal elections and once the administrative reform has been implemented.

Attention was raised also on potential problems in reporting. For example, officials in ministries noted that in some cases meetings with foreign business representatives, even though beyond any doubt could be seen as lobbying, could not be disclosed due to connection to potential investments in critical infrastructure and thus affecting matters of national security and trade secrets. In any case, there was widespread belief that reporting contacts as they happen is unnecessary as all relevant consultations are disclosed in annotations of legislative proposals and other relevant documents.

In regional focus group discussions, the issue of reporting unintentional meetings was repeatedly raised, especially in the case of small municipalities, where it is not uncommon that the mayor, directors or members of the council bump into interest representatives while walking on the street. According to participants, the main problem here would be to establish what would deserve to be reported and what not. The fact that government restrictions due to the covid-19 pandemic have

moved conversation online also compounds the problem, given that meetings in this case do not take place in institutional venues.

Should sanction be applied to lobbyists and officials?

The document published by the Saeima Working Group at the end of January states clearly that, given that the objective of the new regulation would be that of facilitating interest representation rather than restricting lobbying activities, sanctions should not be a focus of the draft law. In TI Latvia's practitioner survey, opinion on this issue seem to be partially split. Roughly half of respondents agree or tend to agree that there should be fines for non-compliance, around 30% do not or tend not to agree and 15% remained neutral.

Interviews with public officials helped to clarify what potential problems might arise with sanctions. Interviewees mostly agreed that some sort of sanctions should be envisaged to foster compliance and deter transgressions and foster; however, they also warned that the high volume of communication and workload (especially at the national level) might lead to mistakes even if lobbying interactions to be reported were clearly defined in the law. One elderly official even noted that the threat of such sanctions might motivate her to pursue early retirement.

Potential sanctions might also hinder current demand for lobbying from public officials, who often contact private sector actors to gain more knowledge about a specific issue or field of operation. Some interviewees stated that if the new law entailed additional paperwork or threat of punishment, officials might refrain from contacting interest representatives, with negative repercussions on the quality of public decision-making and public officials' expertise.

Such worries are not limited to the public sector. Regional NGO representatives expressed great dismay at the idea of facing potential sanctions for "just working in the public interest at great personal cost". Moreover, the fact that in many cases local civil society organisations are underfunded, lack resources and relying on volunteer/activist work, might result in unintentional mistakes when complying with the law and as such, the threat of sanctions would deal a substantial blow to their activities as well as motivation to carry them out.

Is there potential for lobbying self-regulation in Latvia?

In a study by the Saeima Analytical Service carried out to inform the work of the Working Group, self-regulation by interest groups is mentioned as a potential pathway to regulate lobbying activities without introducing new legislation or imposing burden on the public administration, or as a way to strengthen potential regulation by fostering compliance and integrity from the lobbying "supply-side".[58] As seen above, some attempts to self-regulation in Latvia were made by professional lobbyists in the context of the 2012 draft law, though since then there have been no more efforts in this specific area.

[58] Valtenbergs V., Kalniņš V., Grumolte-Lehre I. and Beizītere I. (2019), "Lobēšanas normatīvais regulējums un problemātika Latvijā un Eiropā", Latvijas Republikas Saeima

In interviews for this study, public officials noted that self-regulation of interest groups would be desirable. This was often seen as taking the form of organization consolidation into larger associations that would have more formalized internal mechanisms for achieving compromises amongst its members and then communicating this to officials in a more professional manner.

In our survey, we sought to assess what is the current potential for self-regulation by asking practitioners about the existence of Codes of Ethics in their organisations and whether they cover political engagement. The results suggest that more efforts should be done in this regard. More respondents (67) indicated that they do not have a Code of Ethics in their organisation compared to those who do (64). Among those that have a Code of Ethics, roughly half (34) indicated that they also include guidelines on how to engage with public officials in participation to decision-making processes.

At the same time, survey responses indicate a general desirability for private actors to disclose information about their political engagement. A relative majority of respondents (around 50%) agree or tend to agree that firms should publish information on lobbying activities in their webpages. 25% of respondents do not agree or tend not to agree with the statement.

There seems to be little potential at present for lobbying self-regulation in Latvia. Nevertheless, it is possible that if and when a new regulation will be adopted, interest groups will take steps in this regard. In the meanwhile, to strengthen the overall legislative framework in this regard, the government might consider amending legislation on corporate non-financial reporting to also include information on corporate political activities.

4. Recommendations for the design of lobbying regulation in Latvia

In drafting the document, TI Latvia considered and sought to balance three main considerations: i) the desirability of regulation of interest representation activities for Latvia's democracy; ii) the need for the law to be enforceable and to deliver in practice; and iii) the intention to follow a principle of proportionality concerning obligations of decision-makers and interest representatives.

The recommendations consider both basic principles of the law on which members of the Working Group have agreed so far, as well as recommendations set forth by the Committee of Ministers of the Council of Europe and the "International Standards for Lobbying Regulation", developed by Transparency International and other leading global NGOs.[59]

Regulatory scope – should regulation also apply to municipalities?

It is customary that lobbying legislation covers the Parliament and the Executive as institutions making the most important decisions affecting a country. Indeed, this is the direction taken by the Saeima Working Group so far. Nevertheless, the decision to expand the coverage of the law to include also local authorities, and especially municipalities' executive boards and councils should be considered carefully.

In 2020, Latvia adopted a major reform of local government, reducing the number of municipalities from 119 to 42 and the number of elected representatives from 1614 to 743. While on the one hand the reform is aimed at improving effectiveness and efficiency of the work of local authorities and savings in public resources, on the other hand it also means that fewer local politicians will have more decision-making power over larger swaths of population. As such, they will inevitably be more susceptible to pressure from interest groups.

While it is clear that municipalities deal with policy issues that are different than those at the national level it is not obvious that they should not be covered by the new regulation, despite some focus group participants considered this as a given. During the focus group discussions and interviews with officials, it emerged that municipal official as well as employees in many cases carry out wide ranging and high-volume communication with citizens or interest groups.

It is too early to understand whether and in which way lobbying at the local level will be affected by the local administration reform. However, based on the results of this study, some steps could be taken to increase transparency of local decision-making in practice. The interactions of politicians and executive officials in municipalities with lobbyist could be made more transparent with proactive disclosure of their calendars and agendas. At the same time, local and regional NGOs should be allowed to register as interest representatives, so that they have the possibility to achieve more visibility and collaborate.

[59] Transparency International, Open Knowledge Foundation, Sunlight Foundation, Access !nfo (2015), *International Standards for Lobbying Regulation*, https://lobbyingtransparency.net/

Definitions

The draft law should include a broad definition of "interest representation", referring to "any direct or indirect communication with public decision-makers or their executive assistants to affect public decision-making processes", and a broad definition of "interest representative" as "any natural or legal person which engages in interest representation activities whether for private, public or collective ends, whether for compensation or without".

Definitions in the law will be crucial for its effectiveness. According to the "International Standards for Lobbying Regulation", the law should clearly and unambiguously define, what is interest representation, who is to be considered an interest representative, who are the target of interest representation activities, and what are the targets of interest representation activities.

The broad definitions of "interest representation" and "interest representative" outlined above would fit the Latvian context, where a wide range of organisations, including private companies and in-house lobbyists, NGOs, social partners, trade unions, industry associations, PR consultancies, think-tanks and law firms engage in a number of different lobbying activities. This is also in line with the opinion of the Saeima Working Group.

The draft law should specify what is not to be considered as interest representation and who is not an interest representative, in order to avoid unwanted or unneeded exceptions while also providing them where necessary as a minimum regarding private citizen interactions.

As indicated in the International Standards, the definition of "interest representation" should exclude interactions of individual citizens with public officials concerning their private affairs, or occasional civic participation carried out in one's own name. Exceptions could be made where an individual's economic interests are of sufficient size or importance to potentially compromise public interest, though this would require additional specifications to ascertain such cases.

The draft law should include a clear definition of "public decision-making" that specifies the decision-making processes that are subject to the law, covering as a minimum: i) "the creation and amendment of legislation or any other regulatory measures; ii) the development, modification and implementation of public policies, strategies and programmes; iii) the awarding of government contracts and/or grants, administrative decisions and any other public budget and spending decisions.

The draft law should include a definition of "public decision-maker" as any individual with decision-making power, who is elected, appointed or employed within: i) the executive

or legislative branches of power at the national, sub-national or supra-national levels; ii) within independent public bodies that adopt external legal acts; iii) within private bodies performing public functions; and iv) within public international organisations based or operational in the country.

The draft law should include a definition of "executive assistant", identifying officials or individuals, such as assistants or advisors, who support the decision-making work of public officials on a regular basis and who can also be targeted by lobbying activities.

The definitions outlined above should make it easier for stakeholders to understand which decision-making processes and public officials will be subject to the law, thus allowing for an easier identification and reporting of occurrence of interest representation activities.

Concerning the definition of "public decision-maker", the definition provided for "state officials" in the law on the Prevention of Conflict of interest could in theory also be applied to this regulation to avoid the creation of multiple similar categories. However, in the context of the new law this definition might have to be expanded to include executive assistants or exclude those state officials who are not engaged in the decision-making processes identified by the law. Whether and to what extent these definitions should also cover the judiciary must be further explored.

It is important that the draft law identifies executive assistants to public decision-makers such as advisors or assistants. Even though these actors do not directly make decisions, their closeness to public officials and important role in supporting their decisions make them susceptible of lobbying activities. Regulating these actors would also prevent potential circumvention of the regulation, as lobbyist might target executive assistants to avoid potential reporting obligation while still influencing decision-making processes.

Interest representation activities and interactions subjected to reporting

The draft law should include a list of specific interest representation activities that should be subjected to reporting by interest representatives, including, as a minimum, in-person and online meetings; ii) formal interactions in decision-making processes; as well as iii) the writing and commissioning of media articles and studies. The law should also allow Interest representatives to voluntarily report indirect communication activities such as publication of policy papers or blog articles

As we have seen above, interest representatives in Latvia carry out a broad range of communication activities and interact in many different ways with public officials to influence their decisions, including through meetings, calls, messages, as well as participation in formal public consultation mechanisms. The growing use of social media, messaging apps and video-conferencing platforms, which has also been the standard during the pandemic, adds a further layer of complexity.

It would arguably be overly ambitious to try to regulate any single way in which communications between public officials and interest representatives take place, or at least to do so in the first draft of the legislation. At the same time, as mentioned in the previous sections, practitioners emphasised the

desirability that the law allows to keep track of other interest groups' activities in legislative and other decision-making processes and their policy advice to public officials.

Direct communication and interactions	• Meetings (in-person and online) • Email exchanges, social media, phone conversations
Formal interactions	• Participation in the work of legislative and executive bodies • Participation in formal public consultation mechanisms • Submission of evaluations and proposals for draft laws and amendments • Participation in advisory boards
Indirect communication	• Reports, policy papers, web articles and other communication outputs • Media articles or other media outputs

TI Latvia could identify three main group of activities that might be impacted by the law

In the case of direct communication, it would be unrealistic to try to regulate exchanges through email, social media chats, and phone conversations, given that these can take place several times within a day with multiple actors and thus would be hard to keep a tab on them. However, meetings, at least those related to the public decision-making processes mentioned above, would arguably be easier to identify and report. This is the standard practice in most of the other countries that have adopted regulation on lobbying. Given the wide range of circumstances in which public officials and lobbyists can meet, including online, it will be up to the law subject's integrity to understand when a lobbying meeting is happening and report it.

Based on the findings of this study, formal interactions, including participation in the work of executive, legislative and policy-making bodies, public consultation mechanisms and advisory boards are those that would be more valuable to consider for reporting, given the need in Latvia to ensure better tracking of activities of different interest representatives across different decision-making processes. Reported information on these interactions would be a useful complement to information already collected by decision-making bodies in the process. When possible, the compilation of information already collected by institutions should be automated.

Indirect communication is also an important component of the public debate in Latvia and a way for many interest representatives to interact in decision-making processes. While some of these activities, for example blog articles or social media posts, should be considered in the overall context of the legislation, subjecting them to mandatory reporting might result in excessive administrative burden and ambiguity. At the same time, the law and its enforcing mechanisms should not prevent interest representatives to report these activities if they wish too (see recommendations on the public register).

On the other hand, it would be desirable that interest representatives are required to report the the writing and commissioning of articles and other communication outputs in mass-media and newspapers as well as of any policy-related study or research output. This is because more resourceful

interest representatives might have easier access to mass-media and newspapers, or higher internal capacity to carry out research activities. Moreover, in some cases, policy outputs might be financed by national or foreign donors.

Register of interest representatives and transparency of decision-making

The draft law should envisage the development of an innovative register of interest representatives, featuring: i) a digital reporting platform that makes it easy for interest representatives to report their interactions and communications with public officials and upload related documents; ii) a public disclosure portal that allows stakeholders to easily explore and track interest representatives' activities. Such portal should be easily accessible and allow for the download of data in machine-readable format.

The draft law should also designate a public body with adequate resources and mandate to collect, manage and store the information and to maintain the public disclosure platform.

The register of interest representatives is arguably the most important element of the draft legislation, and the main driver of transparency, fairness and accountability. At the same time, as emerged from this study, practitioners are of the opinion that such register should aim at minimal administrative burden and allow stakeholders for ease of registration and reporting. This is also the position of the Saeima Working group.

Online reporting platform

The online reporting platform should allow users to easily submit information. To a large extent, this will depend on how clearly identifiable the items to report are according to the definitions of the law. As mentioned in the previous section, meetings and formal interactions would be the easiest activities to track and report by both interest representatives and decision-makers. As such, these should be the ones subject to regulation. At the same time, the platform should also allow for voluntary submission of indirect communication output that are related to the decision-making process at hand.

Registration by interest representative should be mandatory for all organisations, as well as their employees and/or representatives, in order to engage in the specific decision-making processes identified by the law or communicating with designated public officials to influence their decisions over those processes. For example, registration could be required in order to attend Saeima Committee sessions, join advisory boards or participate in consultations in state grants and public investments.

Basic information to be disclosed by individuals and organisations could include name, address and contact details of an organisation and interest representatives working on its behalf, subject matters and objectives of interest representation activities, and participation in advisory boards. Reporting on meetings could include name of the public officials engaged, date of engagement, initiator of the engagement and specific decision-making process and/or item (e.g., draft laws, regulations, etc.).

Regarding formal interactions, reporting could include the type of interaction (e.g., participation in legislative work, public consultation meetings, etc.), date of interaction and related legislative item or policy output. The platform should also allow for uploading of documents outlining any potential

amendments or legislative proposals submitted for consideration. At the same time, it should be possible to voluntarily report indirect communication outputs such as policy papers or research reports.

While end-users should be engaged in the design process, possible technical solutions for user identification, data validation and data entry could include, for example, use of electronic IDs and signatures for official documents, buttons for uploading electronic files and intuitive data-entry fields. Some of these solutions are already in place for reporting on political donations and on beneficial ownership information.

In line with the International Standards, while registration should take place before any activity is carried out, activities should be reported in the register on a periodic basis, ideally every week. This would allow for meaningful analysis and intervention from other parties.

Public disclosure portal

The public disclosure website or portal should allow users to easily explore information about interest representatives and their activities. In a similar vein to social media, such portal could include, for example: i) profile pages for organisation and individuals, including information and statistics on interest representation activities; ii) features for tagging and linking persons, subject matters and legislative items.

A register designed in this way would not only ensure transparency and accountability, but it would also provide an incentive for active compliance, as obliged entities would be provided with a useful tool to increase their visibility, gain insights on theirs and others' activities, and debate legislative project. In addition, it has also the potential of discouraging non-registration, as the comprehensive reporting of opinions and positions on decision-making processes might increasingly become a precondition for success.

Accessibility

With regard to accessibility, the information related to disclosure of activities and reporting should be made available online through a single website, free of charge and downloadable as open data. In addition, a unique identifier should be assigned to each lobbyist and organisation registered, so that it is easier to cross-check information with other government databases. For individuals, the unique identifier could be the person code; for organisations, it could be the company registration number.

Responsible body and funding

The management of the public register should be given to a public body with sufficient resources and mandate to ensure its effective operation. TI Latvia generally supports the Working Group's idea to designate the Enterprise Register as a responsible body for the register of interest representatives, given its current task of maintaining several other public registers. At the same time, this decision will have to consider the purposes of the register beyond that of storing information as well as potential additional burden in terms of verification of the accuracy of the submitted information.

When considering the creation of a register of interest representative, the apparent insistence that any reform should come at no cost on the state budget is problematic**.** Firstly, if the regulation entails mandatory elements that must be overseen and enforced, this will inevitably lead to increased costs in terms of public administration and capacity. Secondly, the creation of an innovative register that allows

not only to scrutinize lobbying activities but also to be informative and useful to stakeholders would necessarily entail some investment in terms of IT solutions and data management.

Oversight and sanctions

The draft law should designate an independent and well-resourced oversight body in charge of managing lobbying registrations, monitoring compliance (including proactive verification of submitted information), following up on complaints and investigating apparent breaches and anomalies. Such body should also offer annual guidance and training to interest representatives and public officials on the application of the law, analyse trends and report on their findings, raise awareness among the public and the profession on recent developments.

This will be crucial to ensure that there is sufficient support in the implementation of the law. However, which public body could be assigned an oversight role or the decision of creating a new body altogether should, however, be adequately considered. The KNAB might be suited for such a role, given that it is already fulfilling similar functions with regard to the implementation of legislation on political financing and conflict of interest. Oversight and investigation over interest representation activities would also allow the Bureau to have a more comprehensive overview of the channels of potential undue influence in public decision-making and thus better monitor political corruption risks. On the other hand, associating oversight of interest representation activities with the KNAB might in turn result with the direct association of the new law with anti-corruption and thus foster a negative perception of lobbying, which is not desirable Latvia's case.

The law should envisage the setting-up of a well-publicised complaint mechanism or reporting channel that allows anyone to report violations either openly, confidentially or anonymously and to be informed on the specific outcome of the complaint, subject to any privacy limitations.

This is particularly important to prevent the phenomenon of "shadow lobbying" and ensure that all stakeholders play by the same rules. Such reporting mechanisms could take example by the existing ones available for reporting violations of rules on political financing and conflict of interest.

The draft law should hold interest representatives liable for failure to file reports and/or reporting false information and subject such violations to effective, proportionate and dissuasive sanctions.

TI Latvia fully agrees with the Saeima Working Group's opinion that sanctions should not be the core element of the draft legislation. Nevertheless, some form of liability for violation of the law should be in place to ensure active compliance. Sanctions could include warnings, administrative fines, (temporary) de-registration for interest representatives and disciplinary proceedings for the public officials who are subject to disciplinary liability. To avoid any undesired effect on interest representatives' participation in public life, such measures could be introduced after a "trial period", in

which stakeholders would be allowed to get acquainted with the new rules and embed reporting in their daily practice.

Complementary measures for public officials

There should be proportionality of duties between interest representatives and public officials, whilst also avoiding possible confusion about particular roles in the disclosure process. To achieve this, TI Latvia recommends to: i) introduce, either in the new legislation or in existing one, the requirement for top-level decision-makers (e.g., MPs, ministers, heads of autonomous institutions, mayors) to proactively disclose information about their interactions with interest groups, ii) introduce standards of conduct for such interactions; and iii) amend legislation on conflict of interest to tackle possible cases of revolving doors and illicit lobbying.

Public officials' disclosures

The Parliament, either in the framework of the draft law or by amending existing legislation, should introduce the requirement for public decision-makers to proactively publish i) their **calendars** with information on scheduled meetings; and ii) **summaries of meetings and interactions** with third parties related to the decision-making processes defined by the law, including any background documentation and preparatory analyses received.

All this information could be either provided on the website of the public institution to which interest representatives belong, or through dedicate profiles for public officials in the interest representation "disclosure website" described in the previous section. This would not only help to provide a more comprehensive picture of decision-making processes and their participants, but it would also avoid the need to create several different registers for different public institutions, which was one of the main problems of previous draft laws and concepts. In addition, it would also allow for cross-checking reporting on meetings between public officials and interest representatives and spot potential inaccuracies in the data or breaches to the law.

Rules of conduct

Existing **Codes of Ethics pertaining to public decision-makers defined by the law should be amended to include**: i) a **duty to keep a true and detailed record of their meetings** with interest representatives; ii) a **duty to treat all lobbying parties in an equally fair way**; and iii) **duty to urge unregistered lobbyists to register**, provide general advice on how to do so and iv) **report any violations of the regulation** to their superiors or relevant bodies.

Public officials should also be subject to clear and enforceable standards of conduct related to their interactions with interest representatives in the public decision-making process. Considering the observed general weak enforcement of Codes of Ethics in Latvia, these provisions might also be included in the draft law.

Restrictions to public officials' activities and interests

The **Parliament should amend the Law on Prevention of Conflict of Interest** to: i) **introduce a specific obligation for former public officials to observe a two-year cooling-off period** before they can take up positions as interest representatives targeting their former institutions and/or prior duties; and ii) include a **prohibition for public officials to gain income from individuals or organisations whose interest representation activities have targeted the public body where the official works.**

These measures would be a useful complement to existing legislation on conflict of interest and would help mitigate the risk of undue influence through of the practice of revolving doors or promise of favour or future jobs.

Additional measures to improve legislative footprint and public participation mechanisms

The Saeima's Rules of Procedure should be amended to **require Parliamentary Committees to disclose legislative footprint related to their work, including meeting minutes and participants using a single approach**. Such data should be available in open format in the National Open Data Portal.

The Cabinet regulation on **Procedures for the Public Participation in the Development Planning Process as well as any other relevant rules should include** i) an **obligation for public authorities to strive for a balanced composition of advisory/expert groups representing a diversity of interests and views**; ii) a **requirement for advisory/expert group members to disclose their interests and affiliations** relevant to the items under consideration; and iii) an **obligation to publish information on advisory/expert groups' membership, agendas and meeting minutes**.

TI Latvia agrees with and welcomes the Working Group's proposition to improve the existing legislative footprint and procedures for public participation and increase their transparency both in State Administration and municipalities. TI Latvia suggests that mechanisms should be identified to make such procedures as transparent as possible, in a way that the public is allowed to scrutinize who has taken part in them and in what way they influenced the process.

Periodic review of the legislation

The draft law should include provisions for a periodic review of the effectiveness and impact of the new legislation, as well as its compliance with international standards and best practices.

An in-depth initial review could be carried out one year after the law has entered into force, and further reviews should consider possible changes in the national context as well as general developments in the field. To the extent possible, such reviews should involve international organisations and experts (e.g., OECD, OSCE), to guarantee objectivity.

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