How OGP Members Can Counter Covert Foreign Political Finance

This policy brief is part of a series by OGP and NDI analyzing openness and oversight measures that prevent or counter foreign covert influences.

Summary and Overview

Across regions, OGP members are under assault from foreign covert actors seeking to influence elections and shift public discourse. Opaque contributions to candidates and political parties, often channeled through proxies, are an instrument for interference in political and electoral processes. Openness and oversight of political finance can help detect and address the use of covert foreign political finance.[1]

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Written by:

Jorge Valladares and Kristen Sample[2]

> *"Covert foreign political finance is the funding of foreign political parties, candidates, campaigns, well-connected elites or politically influential groups, often through non-transparent structures designed to obfuscate ties to a nation state or its proxies."*

What is covert foreign political finance?

Money in politics is neither new, nor inherently malign. For as long as there have been politicians and political campaigns, there has been funding to cover their expenses. Money is essential for the functioning of political parties and election campaigns and "political finance" is understood as the financing of both.

There is as yet no global consensus on an optimal political finance model; countries around the world vary greatly in terms of the degree of regulation on key aspects including spending levels, donation limits and reporting procedures. However, one of the rare points of broad consensus is concern regarding the dangers of foreign-sponsored political finance. Currently 70 percent of nations[3] around the world ban foreign-interest donations to political parties.[4] In 1991, the United Nations General Assembly Resolution 46/130 calling on "all States to refrain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country" passed by a comfortable margin.[5]

There are numerous examples of legitimate and constructive forms of foreign political support transparently channeled as part of larger democratic aid programs. Support in these cases is typically in-kind and designed to enhance democracy by supporting collaborative projects between political parties in established democracies and political parties and movements in new and developing regimes.

For the purposes of this paper, the term "covert foreign political finance"[6] will be used to refer to a definition provided by Rudolph and Morley: "the funding of foreign political parties, candidates, campaigns, well-connected elites or politically influential groups, often through non-transparent structures designed to obfuscate ties to a nation state or its proxies." The types of campaigns targeted by covert foreign donors can include both elections and direct democracy processes such as referendums or initiatives.

Consistent with its opaque nature, covert foreign political finance is rarely channeled in the form of a direct bank transfer. Rudolph and Morley have identified three commonly used categories of in-kind contributions: (1) tangible benefits such as financial loans or expensive gifts, (2) media services like tailor-made social media manipulation, and (3) valuable information like opposition research.[7]

The reference to "non-transparent structures" is particularly important, as not all foreign support for political parties is inherently deleterious or subversive. Following is a distinction between democratically minded foreign support and covert foreign political finance.

Key differences between democratic political party assistance and covert foreign financing for parties and candidates[8]

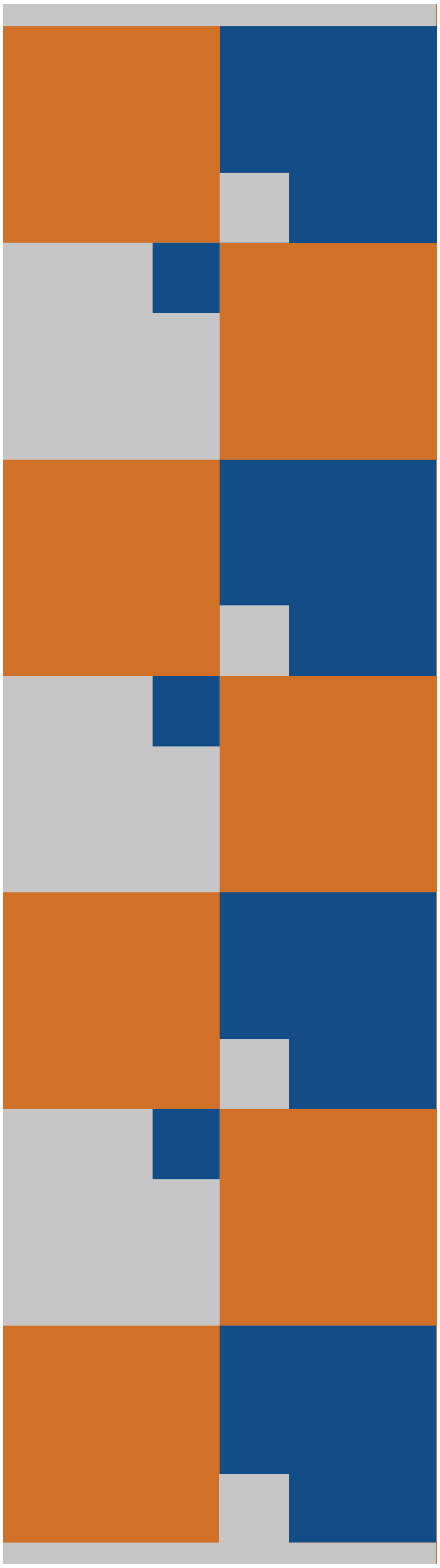
Characteristics of Democratic Political Party Assistance[9]	Characteristics of Covert Foreign Financing
✦ Support is open, accountable and guided by clear and transparent rules of engagement, with activities and recipients publicly disclosed in budgets and other reports.	✦ Support is seldom transparent and publicized. Programs are covert and subversive, mirroring regimes' modus operandi and are subject to control by intelligence agencies of the donating regime/country.
✦ Political party assistance is driven by democratic values. Programs are mid- to long-term, available to all sides of the political spectrum, meant to build institutional capacity for a level playing field and do not seek to determine election outcomes.	✦ Assistance is usually offered to a concrete political candidate, party or electoral coalition, serving the donor's foreign policy and national security interests, in order to influence election outcomes.
✦ Support is generally in-kind, such as training to party organizers and leaders, provision of apolitical elections monitors and other capacity-building assistance.	✦ Interference in democratic processes is unwelcome by citizens, often illegal and an illegitimate coercion/violation of national sovereignty.
✦ Political party assistance as part of international democracy support is used to help parties become more representative and inclusive in their conduct, outlook, and internal practices, as well as to support constructive interactions between parties. Programs often engage multiple parties.	✦ Support is offered to parties that are prone to engage in toxic polarization, chaos, undermine electoral integrity and lower public confidence in democratic systems.
✦ Policies restrict support to parties that do not show support for peaceful, democratic means to obtain power, the rule of law and strengthen democratic processes.	✦ Activities are not widely publicized. Significant material assistance is provided to an individual party, candidate or electoral coalition, including cash, using informal channels. Salaries, wages, fees and honoraria are paid on behalf of a candidate, political party or campaign committee by controlled entities (e.g., companies).
✦ Support emphasizes participatory processes and inclusion of traditionally marginalized groups, particularly women and youth.	✦ Support is directed at nondemocratic political parties, not committed to genuinely free, fair and competitive elections. Other means through which to attain political power can be supported (e.g., coup d'état).
	✦ Funding is used for a media message that specifically endorses or supports one candidate or political party.

> ***“The use of political finance corruption in pursuit of political or geopolitical objectives is a form of “strategic corruption” whereby foreign states weaponize graft as an instrument of national strategy. In these cases of foreign-sponsored political finance, the negative impacts are multiplied, affecting not only democratic governance, but also national security and sovereignty.”***

How does covert foreign political finance undermine democratic governance?

Political finance corruption (foreign- or domestically sponsored) is a particularly pernicious form of corruption because it damages the integrity and credibility of the electoral process. That is, corrupt support (financial or in-kind) to parties and candidates is intended to tilt the electoral playing field and influence the exercise of public authority. Once elected, these compromised individuals are more prone to privilege the interests of their financiers over the public interest and common good. Another way of looking at it is to consider that income from a bribe yields a personal benefit, while political finance corruption produces a *political* benefit for the recipient – one with wider repercussions to the political system.

The use of political finance corruption in pursuit of political or geopolitical objectives is a form of “strategic corruption” whereby foreign states weaponize graft as an instrument of national strategy.[10] In these cases of foreign-sponsored political finance, the negative impacts are multiplied, affecting not only democratic governance, but also national security and sovereignty. Their covert political finance aims to induce politicians to adopt policy decisions that favor the foreign patron over the public interest. Compromised politicians may also seek to influence public opinion in ways that enhance the image of the foreign donor. This form of covert influence corrodes the quality of cornerstone institutions – including parties, the legislature and election commission – and erodes citizen confidence in democratic processes.



How is covert foreign political finance channeled to parties and candidates?

Unlike the funding provided in support of democratic development, the foreign states providing covert political finance generally attempt to hide their contributions. Foreign governments may cloak their support through individuals acting as **straw donors**, **corporate vehicles** or **nonprofit organizations**. Examples of recent cases include:

- In 2015, Senator Sam Dastyari from New South Wales, Australia received an illegal donation[11] – in the form of a shopping bag full of money (US$100,000) from Huang Xiangmo, a Chinese billionaire linked to the Chinese Communist Party (CCP). It was later revealed that the senator had parroted CCP talking points on the South China Sea and lobbied the foreign office not to meet with pro-democracy Chinese activists.[12]
- In Madagascar in 2018, a covert operation allegedly approved by Russian President Putin provided multiple candidates with funding and advertising support.[13]
- In 2018, Lev Parnas and Igor Fruman received funding from pro-Kremlin sources to influence U.S. elections and obscured the money through straw donations and a Delaware shell company. Funds provided were used to influence midterm elections and to buy access to U.S. politicians and lawyers, including as part of an effort to find information that would damage Joe Biden's bid for the presidency.[14]
- Iran has a long history of furthering its own geopolitical aims through the provision of financing and other material support to an extensive network of political allies, often backed by armed wings, in Iraq, Lebanon and other countries.[15]

> *"Absent transparency, key democratic stakeholders – including governments, election commissions, legislatures, political parties, the media, civil society and the voting public – are unable to detect, track or act to stem the flows of foreign-sponsored finance."*

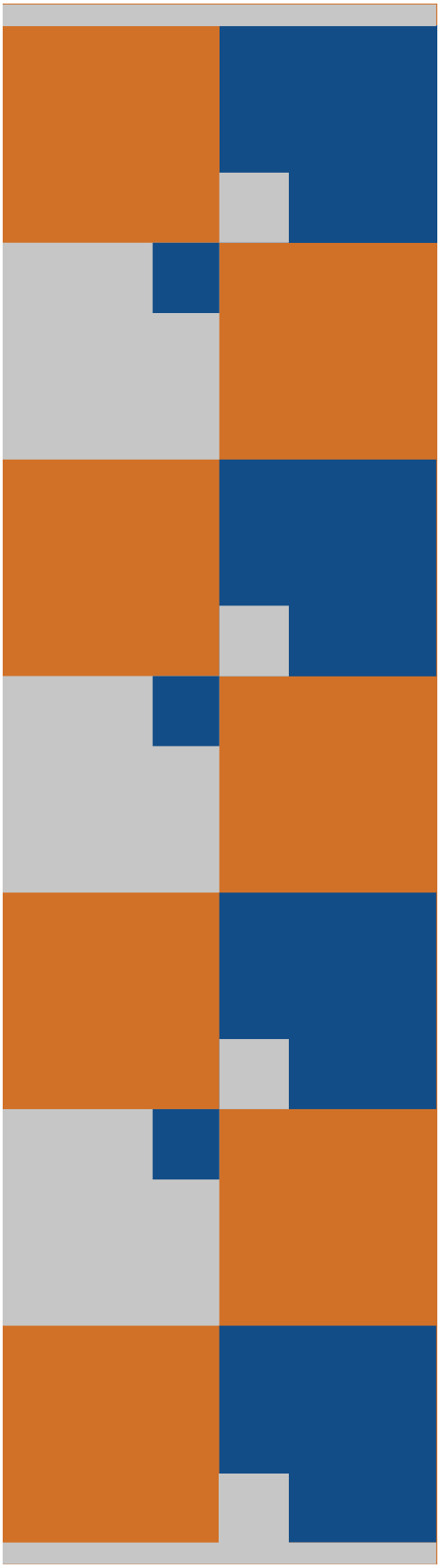
The case for openness and oversight

Political financing schemes to subvert a country's democratic process exploit vulnerabilities in the law and practice of money in politics. Though a majority of countries have bans in place against foreign donations to political parties and candidates, these bans tend to be riddled with loopholes and can only be monitored and enforced to the extent that information regarding donor identity is transparent.

Political finance disclosure rules have spread over the last two decades. Since countries committed to political finance transparency by adopting the United Nations Convention against Corruption (UNCAC) in 2003, the number of countries that require political parties to report on their finances has more than doubled to 140, while 114 countries require candidates to report.[16] Although 70 percent of countries impose some ban on foreign donations, 37 percent have no prohibitions on anonymous donations to candidates, making it impossible to detect or stave off foreign-sponsored political finance intended to influence elections.[17]

In order to be effective, political finance transparency regulations should first be well-designed. In many cases, the regulations fall short because they fail to take into account the opaque conduits used by foreign actors.[18] In other cases, regulations have not kept pace with technologies such as cryptocurrencies or online advertising.

Moreover, effective regulations require impartial, well-mandated and resourced agencies to implement them and train parties and other groups on how to comply and provide oversight. A 2021 survey of political finance law and practice in 109 countries by the Global Data Barometer found that while nine in 10 countries legally mandate political finance transparency, less than a third of them require open, machine-readable formats for reporting (that is, it can be processed and verified by the public).[19] The agencies in charge of implementing these rules often lack strong mandates as well as the financial and human resources to translate the letter of the law into actual practice that upholds open government standards. In fact, analysis of the same survey reveals that strong legal mandates correlate with higher levels of disclosure, suggesting that robust oversight provides an incentive for compliance.[20]



Notwithstanding the challenges listed above, transparency – effectively designed and consistently implemented – represents a critical countermeasure to covert foreign political finance. Absent transparency, key democratic stakeholders – including governments, election commissions, legislatures, political parties, the media, civil society and the voting public – are unable to detect, track or act to stem the flows of foreign-sponsored finance. Furthermore, transparency is the gateway regulation without which many other reforms – such as anonymity bans and donation and expenditure caps – are impossible. Finally, as transparency enjoys broad public consensus and is already codified in the majority of countries, the challenge is enhancing existing regulations and closing the implementation gap – rather than creating something wholly new.

What international standards apply to covert foreign political finance?

The right to information is well-established in international human rights law. Access to information, and integrity more broadly, as it pertains to political finance is less developed, but also grounded in international obligations such as the following:

United Nations General Assembly Resolution 46/130, art. 6 (December 1991)

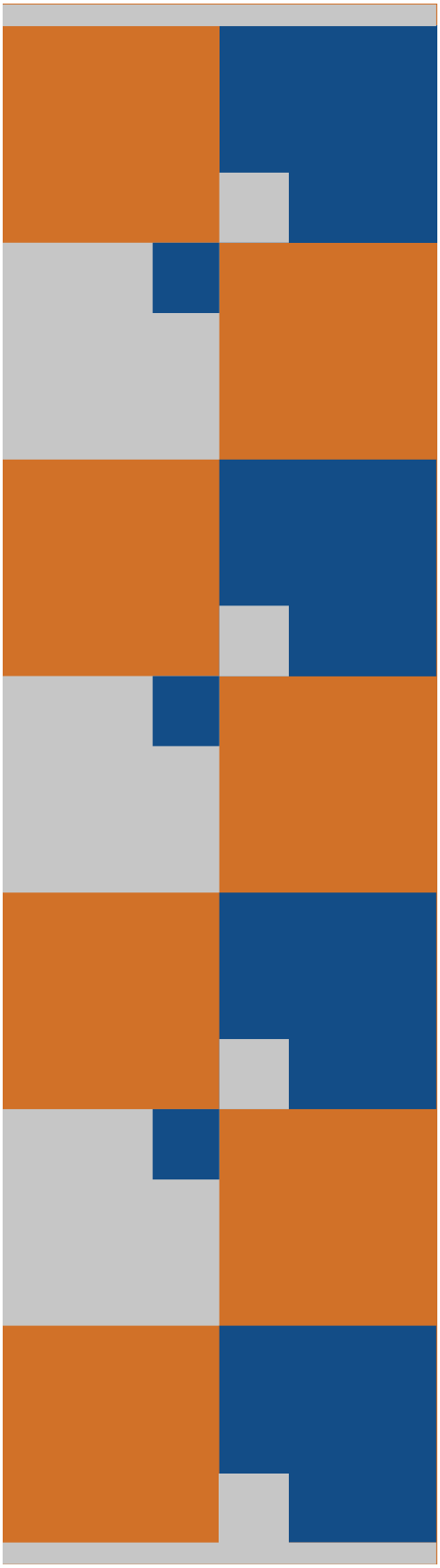
Strongly appeals to all States to refrain from financing or providing, directly or indirectly, any other form of overt or covert support for political parties or groups and from taking actions to undermine the electoral processes in any country.

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions-Organization for Economic Cooperation and Development (OECD) arts. 1.1, 7 and 8.1 (November 1997)

1.1 Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.

7. Each Party which has made bribery of its own public official a predicate offence for the purpose of the application of its money laundering legislation shall do so on the same terms for the bribery of a foreign public official, without regard to the place where the bribery occurred.

8.1 In order to combat bribery of foreign public officials effectively, each Party shall take such measures as may be necessary, within the framework of its laws and regulations regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of bribing foreign public officials or of hiding such bribery."



UN Convention against Corruption (UNCAC), arts. 7.3, 16.1-2 (2003)

Each State Party shall also consider taking appropriate legislative and administrative measures ... to enhance transparency in the funding of candidatures for elected public office.

Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official [...], directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States, art. 12.3 (2002)

Any foreign donations, inclusive of those from foreign physical and legal entities, for candidates, political parties (coalitions), participating in elections, or to other public unions and organisations, which directly or indirectly, or in another manner relate to or are under a direct influence or control of the candidate, political party (coalition), and facilitate or contribute to accomplishment of goals of the political party (coalition) are not allowed.

African Union Convention on Preventing and Combating Corruption, art. 10 (2003)

Funding of Political Parties. Each State Party shall adopt legislative and other measures to:

- Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and
- Incorporate the principle of transparency into the funding of political parties

Annex 1 includes additional examples of international standards relevant to covert foreign political finance.

> ***“The choice of tools and their calibration should be exercised with caution, such that they target foreign funding which is opaque and directed at subversively influencing an election result, rather than the democratically minded support that is carried out openly and inclusive of parties across the political spectrum.”***

What types of openness and oversight measures could be adopted to counter covert foreign political finance?

As outlined above, detecting and countering covert foreign political finance requires making information open and sharing it. Putting in practice the principles enshrined in the Open Government Declaration,[21] OGP countries can immediately embark on concrete steps toward enhanced transparency and oversight to safeguard their politics against covert foreign political finance.

Safeguards to prevent political manipulation

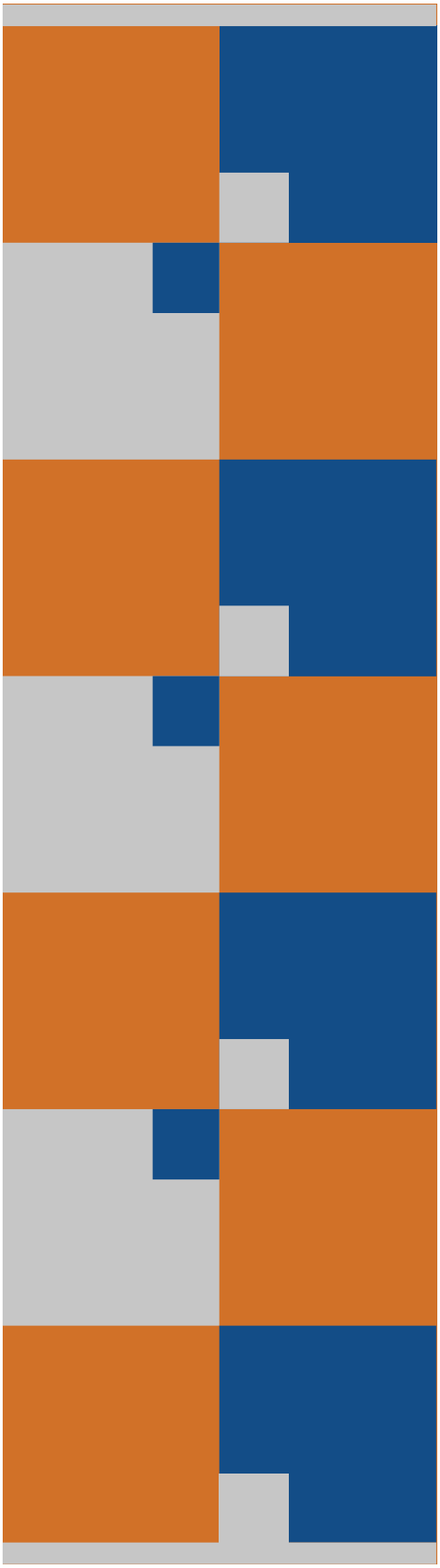
The measures included in this brief represent a menu of options for consideration by OGP members. While these options meet the high standards enshrined in the Open Government Declaration, each should be submitted to careful – and democratic – deliberation and weighed against the political culture and practice in the country. It is particularly essential to abstain from any measures that might be manipulated by nondemocratic actors to unfairly disadvantage their political opponents or inflict harm on civil society, independent media and political organizations.[22] Furthermore, regulations that are impossible to implement and enforce, or that place unrealistic burdens on political parties and oversight agencies, should be avoided.

Following are a series of potential commitments that OGP action plans could adopt to bolster political finance integrity in general.[23]

Commitments that address both domestic- and foreign-sponsored corruption:

Ban anonymous donations

- Legislatures should ban anonymous donations. The legislation and oversight agencies should ensure that financial reporting forms and disclosure platforms provide for the identification of monetary or in-kind donors, so they can be verified. The legislation should facilitate or mandate the use of dedicated bank accounts for making and receiving monetary contributions to allow traceability of sources. Where full identification of donors of small donations is not possible or desirable, legislatures should set a limit to the aggregate allowable amount of income whose source is not identified.[24]



- Governments should establish public, centralized beneficial ownership (BO) registers of legal entities and arrangements based on the recommendations of OGP's Beneficial Ownership Leadership Group. Political donations and expenditures from companies with anonymous owners should be prohibited. Until BO registers are operational, political finance oversight agencies could require political parties, candidates and third parties to collect and report beneficial ownership information of the legal entities from which they receive donations, or from whose expenditures they benefit. Oversight agencies should then make this information available to the public.
- Oversight agencies should prohibit contributions of cryptocurrency and other crypto-assets that are not public, or have an open ledger (i.e., that do not provide information about the identity of the person originating the transaction), or are unsupported by a central bank.[25] Legislatures should ensure only cryptocurrencies that allow for immutable and open transaction records according to international standards are permitted as political finance contributions. Largely unregulated today, cryptocurrency is an increasing source of political finance. Its borderless, decentralized and opaque nature lends itself to use by foreign illiberal actors.

Ensure full identification of donors and vendors in political finance reporting

- Oversight agencies should ensure that both reporting formats and public disclosure systems provide for comprehensive identification (with unique identifiers that observe common international standards) of the sources of income of political parties, candidates and, where applicable, third parties pursuing electoral outcomes at all levels – as well as of the vendors against which expenditures are incurred. These formats must capture the exact or estimated value of each contribution (depending on if it is monetary or in-kind), transaction dates and other supporting documentation. Oversight agencies should provide guidance and assistance in estimating the value of in-kind contributions. Likewise, oversight agencies must ensure that both reporting formats and disclosure systems provide for itemized spending of political parties, candidates and third parties.
- All data thus reported and collected ought to be accessible online so that it is easily located, downloadable, comparable and searchable in a user-friendly, timely and free-of-charge manner by the public.

Develop and deploy appropriate technologies

- Oversight agencies should adopt digital solutions for the reporting and disclosure of the financial reports by political parties, candidates and third parties pursuing electoral outcomes at both national and subnational levels. Digital solutions should include standardized forms which require validation, ensuring that data is structured, verified and interoperable between datasets (such as company registers, asset disclosure data and public procurement data). Their use should be compulsory so that information meets international open data standards thus becoming open by default, accessible, timely and interoperable with financial data held by other agencies and relevant to detect illicit flows. Such digital solutions should be developed in consultation with the concerned users from political parties, the government and civil society.

Reinforce due diligence and oversight

- Political parties, candidates, their committees and third parties should be liable for conducting basic anti-money laundering due diligence measures. When institutional capacities to conduct such minimal checks are insufficient, it should be possible to make referrals to the oversight agency. Among the minimum internal or external controls are the obligations for political parties, candidates and third parties to: manage cash flows through dedicated bank accounts, both for income and expenditures (or at least over certain thresholds); collect essential identification information of individual donors and their beneficial owners above reasonable thresholds and performing checks before accepting the donation; as well as perform essential bookkeeping. Reforms to this end should be matched with meaningful financial and human resources investments for political parties and oversight agencies.
- Political parties, candidates and third parties should disclose the loans, credits and debts acquired with the purpose to finance their political activities. The law should outline unambiguous conditions for acquiring them, so that credits granted at advantageous conditions, to be repaid over excessively long periods and written off by the creditor or any third-party individual, should be treated as forms of donations. Furthermore, reporting formats and disclosure systems should provide for the same level of detail of all loans, credits and other debts received or incurred, similar to other sources of income, including unique identifiers.

> ***Legislatures should integrate a more robust role for parliamentary oversight into legal frameworks, including: monitoring and assessing risks, providing strategic direction for legislative reforms, supporting enforcement agencies and state clearly that to address this challenge one would need political and technical solutions, combined with international collaboration. Foreign operations are complex, and transparency may not lead to accountability unless parliaments and regulators can penetrate these deals and stay current on complex financial innovations.***

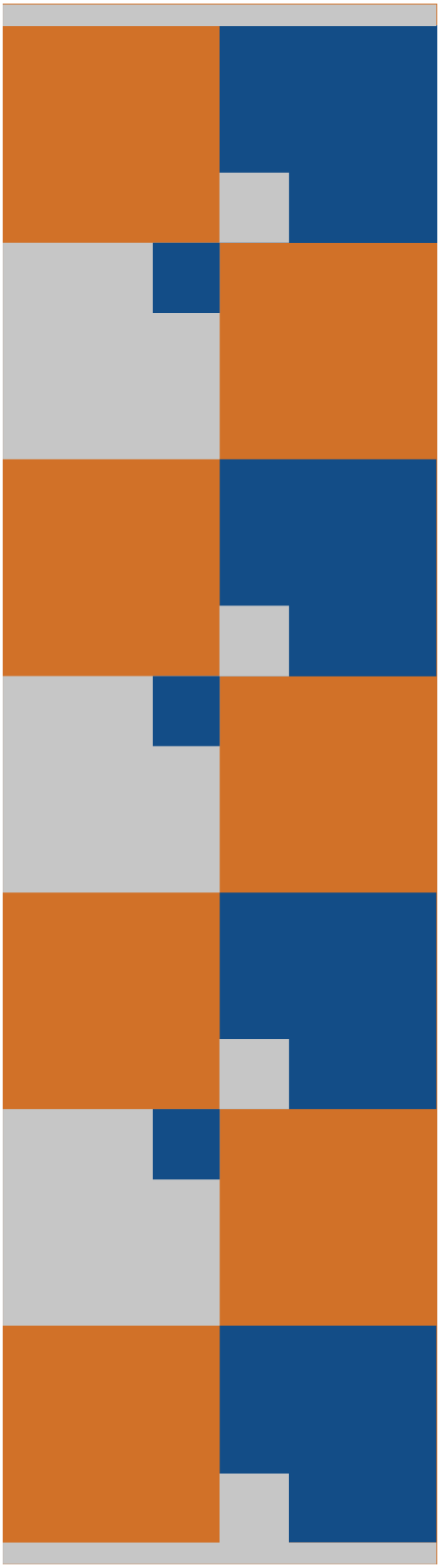
- Oversight agencies should strengthen their auditing capacities with professionalized staff, supported with appropriate technology and resources, so that verification and audit of financial information submitted by political parties, candidates and third parties pursuing political outcomes is conducted in compliance with international accounting and auditing standards.

Reduce dependence on large donations from private sources

- Legislatures should explore expanding or recalibrating direct public financing to political parties or candidates. One option is to use subsidies to create incentives to seek smaller contributions from a larger number of voters (e.g., tying them to matching-fund or tax-deductibility schemes); thus, making candidates less vulnerable to cooptation through foreign donations, loans or in-kind services.
- Explore options for reducing the costs of campaigning as a means of limiting vulnerability to shadowy private sources. Consider placing quotas or temporal limits on the amount of privately contracted broadcast and online advertisements, which tend to be a primary driver of campaign costs.

In addition to the general transparency good practices outlined above, countering covert foreign political finance also requires reforms that are tailored specifically to address the "*foreign*" nature of this threat. The choice of tools and their calibration should be exercised with caution, such that they target foreign funding which is opaque and directed at subversively influencing an election result, rather than the democratically minded support that is carried out openly and inclusive of parties across the political spectrum.

The emerging consensus on a set of options for governments to shore up political finance systems against covert foreign political finance include: 1) bring legal definitions up to date, 2) close off loopholes that render bans and limits ineffective, 3) step up compliance with disclosure obligations, and 4) foster interagency and cross-border information sharing.



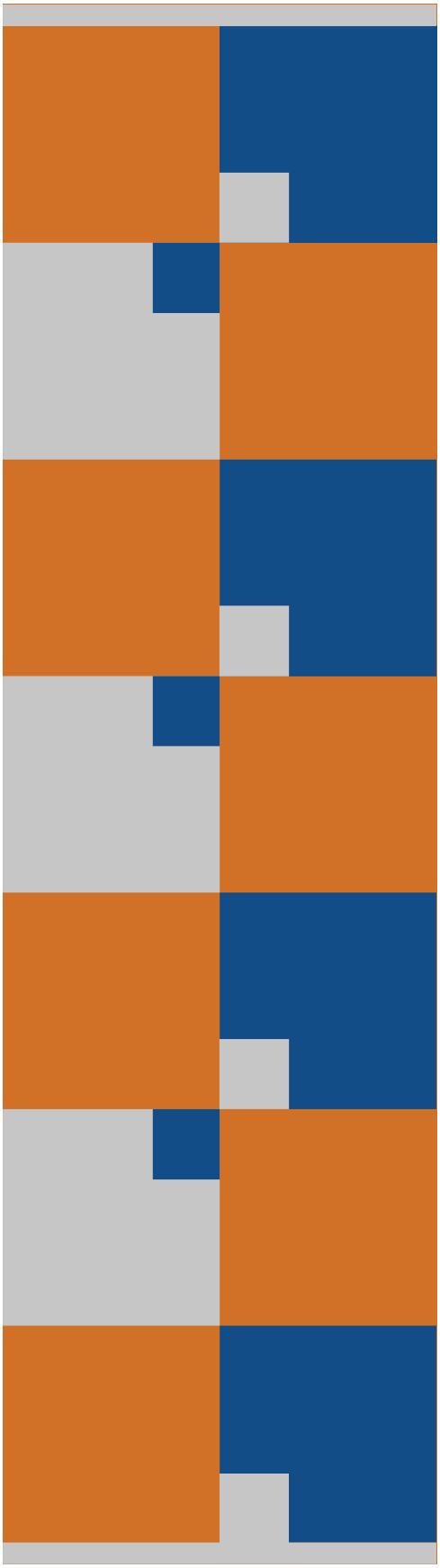
Commitments designed specifically for foreign-sponsored covert political finance

Promote public awareness and deliberation

- Governments and/or legislatures should create commissions of study aimed at understanding the nature of the threat to inform subsequent reforms. These commissions should involve a diverse plurality of voices from politics and society, generate some evidence to inform their deliberations and report on findings and conclusions in plain language to the wider public. This will help focus debates and set goals for legal reform.

Update legal definitions

- Legislators should clarify the definition of "foreign" persons by tying it to the right to vote. Under this concept, nationals eligible to vote – or to register to vote – living abroad could also make contributions. The definition of foreign legal persons should follow well-defined thresholds of foreign ownership or control – and similar criteria (e.g., tax jurisdiction) – over which they will be deemed as foreign, therefore not allowed to donate to political parties, candidates or third parties, nor incur expenses in the pursuit of political outcomes. Subsidiaries, foreign branches and majority-owned subsidiaries of foreign parent companies should be considered foreign.
- Legislators should broaden the definition of "in-kind" contributions or donations to ensure intangible, difficult-to-value, uncertain or perceived benefits (such as advertising, opposition research, datasets, etc.) are subject to the same eligibility, limits and reporting and disclosure conditions as monetary contributions.
- Legislatures should exercise the utmost caution in considering any foreign influence registration systems that may prove disproportionate to threats of foreign interference, establish burdens or restrictions that infringe upon civic freedoms in the country or are outside the purview of democratic oversight actors.[26]
- Legislators should establish freezing or "cooling" periods for outgoing or part-time political officeholders to prevent them from acting on behalf of or receiving remuneration from foreign government-linked agencies or entities beyond their term in office.



Close loopholes

- Legislatures should ensure that disclosure regimes are broadly defined to include the full range of in-kind contributions and third parties such as companies, nonprofits, human intermediaries and other conduits. Restrictions should not be imposed on the income of civil society organizations pursuing broader political and social advocacy goals that do not involve supporting, coordinating or endorsing candidates, political parties or their committees.
- Governments and legislatures should work to integrate political finance law and business integrity international standards – in particular for multinational companies, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (and related instruments), the G20 Principles of Corporate Governance or the Financial Accountability Transparency and Integrity (FACTI) panel recommendations. Among the standards to integrate are transparency requirements for executive, shareholder or stakeholder involvement in political donations; internal controls and compliance policies to prevent foreign bribery or parent-company liability for failure to prevent it; and CEO certification – mostly if companies are owned or controlled by a foreign government or a proxy, among others.
- Legislatures should update definitions of political or election advertising to the online era. Any type of political advertising paid for by foreign sponsors should be banned. Print or broadcast media outlets as well as online platforms or search engines should be mandated to label every political ad as such, identifying the political process at which it aims; the political parties and candidates to which the ad is connected; the identification information of the sponsor; and the targeting methods and amplification techniques used for their transmission. All platforms should be required to provide information on the aggregated spending by political party, candidate or sponsor as well as the imprint of each ad through ad-libraries updated in real time.

About NDI

NDI is a non-profit, non-partisan, non-governmental organization that works in partnership around the world to strengthen and safeguard democratic institutions, processes, norms and values to secure a better quality of life for all. NDI envisions a world where democracy and freedom prevail, with dignity for all.

About OGP

In 2011, government leaders and civil society advocates came together to create a unique partnership — one that combines these powerful forces to promote accountable, responsive and inclusive governance. Seventy-seven countries and a growing number of local governments — representing more than two billion people — along with thousands of civil society organizations are members of the Open Government Partnership (OGP). For questions or to set up interviews please contact communications@opengovpartnership.org.

About TI

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. With more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality. For more information, please visit www.transparency.org.

Enhance oversight and information sharing

- Legislatures should integrate a more robust role for parliamentary oversight into legal frameworks, including: monitoring and assessing risks, providing strategic direction for legislative reforms, supporting enforcement agencies and state clearly that to address this challenge one would need political and technical solutions, combined with international collaboration. Foreign operations are complex, and transparency may not lead to accountability unless parliaments and regulators can penetrate these deals and stay current on complex financial innovations.
- Legislatures and governments should sustain investments in oversight agencies and strengthen their mandates and capacities, with sufficient investments of financial and human resources to automate reporting, disclosure and verification and audit. The technology and data standard should be interoperable across countries and across resource allocation data (e.g., public procurement) and political engagement (e.g., campaign finance). Interagency information sharing should be fostered to detect foreign political finance risks by cross-referencing both political engagement and resource allocation data (e.g., beneficial ownership, real estate, lobbying, public contracting, interest and liabilities of public officials and other government-held data). Not least, cross-border collaborations should be created and sustained over time through instruments such as the International Treaty on Exchange of Data for the Verification of Asset Declarations or transnational task-force initiatives to stop illicit financial flows from entering into politics, conduct joint investigations and coordinate rapid response mechanisms to counter broader threats of covert foreign interference.
- Governments should commit to interagency, cross-border information sharing and cooperation mechanisms such that political finance information can be contrasted against domestic and foreign registries including beneficial ownership, real estate, lobbying, public contracting, interest and liabilities of public officials, etc. To further enhance information exchange, countries should become a party to the International Treaty on Exchange of Data for the Verification of Asset Declarations or collaborate with transnational task-force initiatives to stop illicit financial flows from entering into politics.

Relevant OGP Action Plan commitment

The following is a commitment example from an OGP Member.

Croatia: Transparency of political party and election financing (HR0028)

"Croatia has been working on increasing the transparency of political party and election financing through commitments in their second and third action plans. Using the information provided in the database of election campaign reports, developed by the State Election Commission as their OGP commitment, two civil society organizations that are members of the Croatian Multi-Stakeholder Forum developed a searchable database of contributions and expenses reported by parties and complement this information with their own analysis of key observed trends and issues. The database allows search and comparison of donors, campaign expenses, media discounts and social media campaign expenses."

GONG's searchable database:

Naziv obveznika: Search | Naziv primatelja: Search | Naziv društvene mreže: Search

Naziv obveznika	Naziv primatelja	OIB	Broj troškova	Svrha troška	Troškovi ukupno	Tržišna vrijednost	N
ANTO ĐAPIĆ	GRAD OSIJEK	30050049642	1	ostale zakupnine i najamnine	2,400.00 kn	0.00 kn	
ANTO ĐAPIĆ	GRAD OSIJEK	30050049642	1	Ostali troškovi	240.00 kn	0.00 kn	
ANTO ĐAPIĆ	SAVJETNIK DOO	70790844219	1	ostale nespomenute usluge	1,600.00 kn	0.00 kn	
ANTO ĐAPIĆ	Zagrebačka Banka d.d.	92963223473	9	bankarske usluge i usluge platnog prometa	93.00 kn	0.00 kn	
DALIJA OREŠKOVIĆ	GRAD RIJEKA		1	ostale zakupnine i najamnine	1,560.00 kn	0.00 kn	
DALIJA OREŠKOVIĆ	GRAD ZAGREB		1	ostale zakupnine i najamnine	1,200.00 kn	0.00 kn	
DALIJA OREŠKOVIĆ	Hrvatska pošta d.d.	87311810356	1	usluge pošte	794.80 kn	0.00 kn	
DALIJA OREŠKOVIĆ	Jurica Glalešić	59626854549	1	društvene mreže	986.00 kn	0.00 kn	Fa
DALIJA OREŠKOVIĆ	Kopi Spektar, obrt za fotokopiranje i druge usluge	84269705191	1	grafičke i tiskarske usluge	1,750.00 kn	0.00 kn	
DALIJA OREŠKOVIĆ	Narodne novine d.d.	64546066176	1	uredski materijal	67.30 kn	0.00 kn	
DALIJA OREŠKOVIĆ	Nula Osam d.o.o.	58748946454	1	grafičke i tiskarske usluge	2,320.00 kn	0.00 kn	
DALIJA OREŠKOVIĆ	Start	45079433291	1	društvene mreže	3,050.00 kn	0.00 kn	Fa
DALIJA OREŠKOVIĆ	Start	45079433291	1	društvene mreže	6,704.59 kn	0.00 kn	Fa
DALIJA OREŠKOVIĆ	Start	45079433291	1	društvene mreže	4,310.00 kn	0.00 kn	G
DARIO JURIČAN	ARS KOPIJA D.O.O.	76506138139	4	grafičke i tiskarske usluge	6,532.82 kn	0.00 kn	
DARIO JURIČAN	ATL MEDIA VL.MAJA GROS	15796405122	1	društvene mreže	4,506.02 kn	0.00 kn	Fa
DARIO JURIČAN	ATL MEDIA VL.MAJA GROS	15796405122	2	ostale nespomenute usluge	37,197.23 kn	0.00 kn	
DARIO JURIČAN	DOMINION D.O.O.	14426038690	1	grafičke i tiskarske usluge	758.75 kn	0.00 kn	
DARIO JURIČAN	DOMINION D.O.O.	14426038690	1	ostale nespomenute usluge	1,137.50 kn	0.00 kn	
DARIO JURIČAN	FAVORY D.O.O.	31134262074	1	reprezentacija	3,983.75 kn	0.00 kn	
DARIO JURIČAN	GEO-LOK D.O.O.	38811087207	1	billboard, beck light, bigboard, city light, španmaster, street light i dr.	2,500.00 kn	2,500.00 kn	
DARIO JURIČAN	GRAD RIJEKA	54382731928	1	ostale zakupnine i najamnine	20.00 kn	0.00 kn	
DARIO JURIČAN	GRAD SPLIT	78755598868	1	ostale zakupnine i najamnine	300.00 kn	0.00 kn	
DARIO JURIČAN	GRAD ZAGREB	61817894937	2	ostale zakupnine i najamnine	3,400.00 kn	0.00 kn	
DARIO JURIČAN	HRVATSKA POŠTANSKA BANKA d.d.	87939104217	14	bankarske usluge i usluge platnog prometa	89.00 kn	0.00 kn	
DARIO JURIČAN	INDEX PROMOCIJA D.O.O.	37502434016	1	oglašavanje na elektroničkim portalima	200,000.00 kn	200,000.00 kn	
DARIO JURIČAN	IZA MIKROFONA J.D.O.O.	41506701952	1	ostale nespomenute usluge	1,000.00 kn	0.00 kn	
DARIO JURIČAN	JAVNI BILJEŽNIK TIHANA SUDAR	22580555077	1	ostale nespomenute usluge	47.50 kn	0.00 kn	
Total			**1753**		**16,971,240.36 kn**	**374,167.02 kn**	

Additional relevant OGP commitments

Country	Commitment
Australia AU0017 AU0011	✦ To investigate options for enhancing the timeliness and the accessibility of relevant information through enhancing the electoral funding and disclosure scheme. ✦ To enhance integrity and confidence in Australia's electoral system. To investigate the conduct of the 2016 election, use of technology in elections and the framework of donations to political parties and other political entities.
Canada CA0069	✦ To strengthen democratic institutions in Canada through modernized election laws. ✦ To strengthen international capacity to identify and respond to evolving threats to democracy. ✦ To support a healthy and reliable news ecosystem in Canada. ✦ To champion diversity of content and quality and transparency of information online
Chile CL0006	✦ To increase transparency in financing regular political activities, elections and referendums.
Croatia HR0028	✦ To assess the system of financing of political parties.
El Salvador IRM Progress Report	✦ To promote a law on political parties to regulate election campaigning.
Georgia GE0008	✦ To ensure transparency in political parties' finances.
Latvia LV0026	✦ To assess the system of financing of political parties.
Mongolia MD0042	✦ To improve law on political parties to make the financing and spending more responsible, accountable and transparent.
Netherlands NL0039	✦ To increase and improve the transparency of the funding of decentralised and local political parties. ✦ To improve the quality and transparency of local governance.
Panama PA0009	✦ Detailed publication of the use of public financing resources for political parties and independent candidates.
Romania RO0056	✦ Publishing in an open format the information provided by political parties on their sources of financing and expenditures, as provisioned by law.
Serbia RS0002	✦ To amend the law on financing political activities in order to clearly define and delineate the responsibilities of Anti-corruption Agency, State Audit Institution and other bodies involved in the control of political activities, and to precisely determine the mechanisms for transparency in financing the political subjects. ✦ To submit the Draft Law to the government for consideration and formulation of the Bill.
Sri Lanka LK0020	✦ Strengthen the anti-corruption framework to increase constructive public participation.

Annex 1: Additional international standards and recommendations pertaining to covert foreign political finance

OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, Annex II – Good Practice Guidance on Internal Controls, Ethics and Compliance (2009)

A) Good Practice Guidance for Companies.

Companies should consider, inter alia, the following good practices for ensuring effective internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting foreign bribery: (...)

5. Ethics and compliance programmes or measures designed to prevent and detect foreign bribery, applicable to all directors, officers and employees, and applicable to all entities over which a company has effective control, including subsidiaries, on, inter alia, the following areas: (...) **iv) political contributions;** (...).\

The Council of Europe Committee of Ministers Recommendation, 4 Article 7 (2003)

States should specifically limit, prohibit or otherwise regulate donations from foreign donors.\

Furthermore, it was recommended that,

Rules concerning donations to political parties, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party" and that "States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.

Venice Commission, *Guidelines and Report on the Financing of Political Parties*, para 6 (2001)

[...] Donations from foreign States or enterprises must however be prohibited. This prohibition should not prevent financial donations from nationals living abroad.

OECD Guidelines for Multinational Enterprises – Section VII (2011)

VII. Combating Bribery, Bribe Solicitation and Extortion.

Enterprises should not, directly or indirectly, offer, promise, give or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Enterprises should also resist the solicitation of bribes and extortion. In particular, enterprises should (...):

7. Not make illegal contributions to candidates for public office or to political parties or to other political organisations. Political contributions should fully comply with public disclosure requirements and should be reported to senior management.

Global Network of Domestic Election Monitors, *Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations*, para 5 (2010)

5. Non-partisan election observation and monitoring organizations **should be transparent about their funding and must not accept funding from any source or upon any condition that creates a conflict of interest** that would hinder the organization from conducting its monitoring activities in a nondiscriminatory, impartial, accurate and timely manner. No one should be allowed to be a non-partisan citizen election observer or monitor unless she or he is free from any political, economic or other conflicts of interest that would hinder that person from conducting her or his election observation and monitoring activities in a nondiscriminatory, impartial, accurate and timely manner.

***Declaration of Principles for International Election Observation*, n. 5 (2005)**

(...) International election observation missions should not accept funding or infrastructural support from the government whose elections are being observed, as it may raise a significant conflict of interest and undermine confidence in the integrity of the mission's findings. International election observation delegations should be prepared to disclose the sources of their funding upon appropriate and reasonable requests.

Venice Commission, Opinion No. 366/2006 on *The Prohibition of Financial Contributions to Political Parties from Foreign Sources*, para. 33 (2006)

[T]he prohibition of contributions from foreign political parties [...] may be considered necessary in a democratic society, for example, if financing from foreign sources:

- is used to pursue aims not compatible with the Constitution and the laws of the country (for example, the foreign political party advocates discrimination and violations of human rights);
- undermines the fairness or integrity of political competition or leads to distortions of the electoral process or poses a threat to national territorial integrity;
- is part of international obligations of the State;
- inhibits responsive democratic development.

Report of the Global Commission on Elections, Democracy and Security, Recommendation N. 8 (2012)

High-level international and regional attention should be directed and appropriate measures taken to address the growing threat to democracy that is posed by the financing of political campaigns, parties and candidates by transnational organized crime.

European Parliament, *Special Committee on Foreign Interference in all Democratic Processes in the European Union, including Disinformation*, Report on foreign interference in all democratic processes in the European Union, including disinformation, paras. 88, 117 (2022)

88. Calls on the Member States to close in particular all the following loopholes when further harmonising national regulations, and to implement a ban on foreign donations (...).

117. Calls on the Member States to consider the establishment of a foreign influence registration scheme and the creation of a government-managed register of declared activities undertaken for, or on behalf of, a foreign state (...).

Venice Commission, *Guidelines on Political Party Regulation*, Second Edition, para 220 (Adopted 2020)

Donations from foreign sources to political parties may be prohibited by domestic legislation. This is consistent with Article 7 of CoE Committee of Ministers Recommendation (2003)4, on common rules against corruption in the funding of political parties and electoral campaigns207, which provides that "States should specifically limit, prohibit or otherwise regulate donations from foreign donors." This restriction aims to avoid undue influence by foreign interests, including foreign governments, in domestic political affairs, and strengthens the independence of political parties. Also, here, it is important to consider possible loopholes, such as loans. Additionally, donations made by foreign companies through national subsidiaries need to be examined closely, and legislation should provide guidance on whether to count such donations as foreign funding or not.

Parliamentary Assembly of the Council of Europe, art. 11, Resolution 2390 (2021)

The Assembly believes that Member States should seriously consider the risk posed by inappropriate or illicit foreign financial interference and recognise the potential interconnection with disinformation and cyberattacks. Consequently, it calls on Member States to review their regulations governing financial contributions to political parties and electoral campaigns from foreign sources, including the enforcement of such regulations.

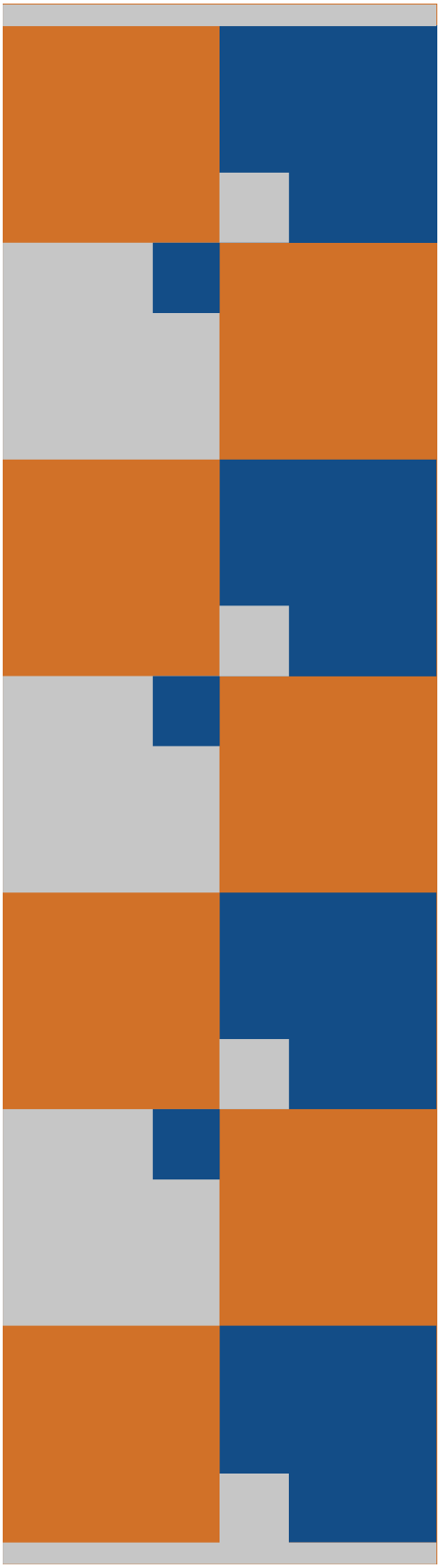
The Financial Action Task Force (FTAF) International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, Recommendation 24 (2012-2022)

24. Transparency and beneficial ownership of legal persons. Countries should assess the risks of misuse of legal persons for money laundering or terrorist financing, and take measures to prevent their misuse. **Countries should ensure that there is adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons that can be obtained or accessed rapidly and efficiently by competent authorities, through either a register of beneficial ownership or an alternative mechanism.** Countries should not permit legal persons to issue new bearer shares or bearer share warrants, and take measures to prevent the misuse of existing bearer shares and bearer share warrants. Countries should take effective measures to ensure that nominee shareholders and directors are not misused for money laundering or terrorist financing. Countries should consider facilitating access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

Notes

Colophon

Design and layout: Pamelyn L. Burke



Endnotes

1 Political Integrity in the Open Government Partnership (working title), (Open Government Partnership, (forthcoming) 2022).

2 The authors thank Josh Rudolph, Jon Vrushi and Marcin Walecki for their valuable inputs.

3 "1. Is There a Ban on Donations from Foreign Interests to Political Parties?," International IDEA Political Finance Database, n.d., https://www.idea.int/data-tools/question-view/527.

4 Even among those countries that do not have an outright ban, many – including Germany, Spain and New Zealand – have regulations in place that limit the amount that a foreign entity can contribute. See Jorge Valladares, "Australia Reviews Regulation of Foreign Donations," International IDEA News, February 28, 2017, https://www.idea.int/news-media/news/australia-reviews-regulation-foreign-donations.

5 102 in favor; 40 against; and 13 abstaining: UN General Assembly, "UN General Assembly Resolution 46/130 (December 1991)," Jewish Virtual Library, n.d., https://www.jewishvirtuallibrary.org/un-general-assembly-resolution-46-130-december-1991. For more on international obligations, see: Domenico Tuccinardi et al., International Obligations for Elections: Guidelines for Legal Frameworks (International IDEA, 2016), https://www.idea.int/sites/default/files/publications/international-obligations-for-elections.pdf.

6 Josh Rudolph and Thomas Morley, Covert Foreign Money: Financial Loopholes Exploited by Authoritarians to Fund Political Interference in Democracies (Alliance for Securing Democracy, August 2020), https://securingdemocracy.gmfus.org/wp-content/uploads/2020/08/ASD-Covert-Foreign-Money.pdf.

7 Ibid.

8 Developed by Marcin Walecki.

9 OECD, Accountability and Democratic Governance: Orientations and Principles for Development (OECD Publishing, September 15, 2014), https://doi.org/10.1787/9789264183636-en.

10 Philip Zelikow et al., "The Rise of Strategic Corruption: How States Weaponize Graft," Foreign Affairs, August 6, 2020, https://www.foreignaffairs.com/articles/united-states/2020-06-09/rise-strategic-corruption. For an overview on related definitions, see: Mathias Bak, Illicit Finance and National Security (CMI and Transparency International, December 6, 2021), https://knowledgehub.transparency.org/assets/uploads/helpdesk/Illicit-finance-and-national-security_2021.pdf.

11 "Chinese Billionaire Allegedly Made Illegal Political Donation in Australia: Watchdog," The Straits Times, February 28, 2022, https://www.straitstimes.com/asia/australianz/chinese-billionaire-allegedly-made-illegal-political-donation-in-australia-watchdog.

12 Amy Remeikis, "Sam Dastyari Quits as Labor Senator over China Connections," The Guardian, December 11, 2017, https://www.theguardian.com/australia-news/2017/dec/12/sam-dastyari-quits-labor-senator-china-connections.

13 Michael Schwirtz and Gaelle Borgia, "How Russia Meddles Abroad for Profit: Cash, Trolls and a Cult Leader," The New York Times, November 11, 2019, https://www.nytimes.com/2019/11/11/world/africa/russia-madagascar-election.html.

14 Josh Rudolph and Thomas Morley, Covert Foreign Money: Financial Loopholes Exploited by Authoritarians to Fund Political Interference in Democracies (Alliance for Securing Democracy, August 2020), https://securingdemocracy.gmfus.org/wp-content/uploads/2020/08/ASD-Covert-Foreign-Money.pdf.

15 Andrew Hanna and Garrett Nada, "Iran's Roster of Influence Abroad," Wilson Center, March 24, 2020, https://www.wilsoncenter.org/article/irans-roster-political-influence-abroad-0.

16 Magnus Ohman, Political Finance Regulations around the World: An Overview of the International IDEA Database (International IDEA, 2012), https://www.idea.int/sites/default/files/publications/political-finance-regulations-around-the-world.pdf.

17 "8. Is There a Ban on Anonymous Donations to Candidates?," International IDEA Political Financial Database, n.d., https://www.idea.int/data-tools/question-view/539.

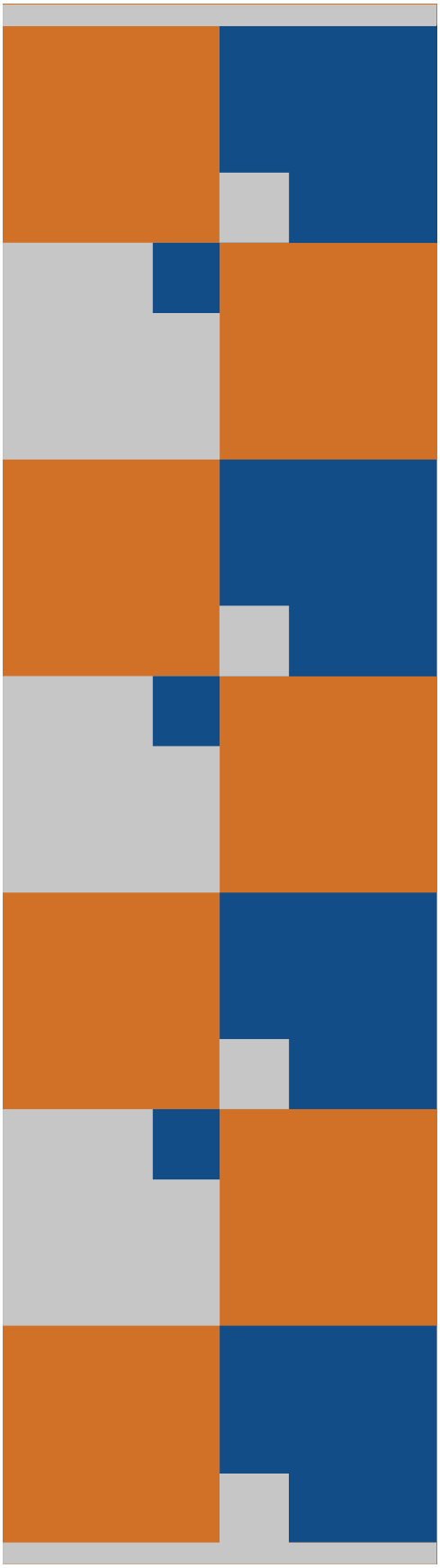
18 This is the case, for instance, with third parties that make expenditures to pursue electoral outcomes. Most countries do not mandate third parties to report their income or expenditure (103 out of 148 surveyed by the International IDEA Political Finance Database). See: "Do Third Parties Have to Report on Election Campaign Finances?," International IDEA Political Financial Database, accessed May 24, 2022, https://www.idea.int/data-tools/question-view/284606. Countries with regulations often lack precision about i) types of "purpose" subject to reporting (e.g., an electoral result for or against a candidate, or the profile of specific issues in debate); ii) the type of relationship they have with candidates; or iii) the type of election or referendum they take part in. For an overview, see: Magnus Ohman and Lisa Klein, Note on Third Party Regulations in the OSCE Region (Warsaw: Organization for Security and Co-operation in Europe, May 19, 2020), https://www.osce.org/odihr/452731.

19 "Political Integrity," Global Data Barometer, n.d., https://globaldatabarometer.org/module/political-integrity/.

20 Jon Vrushi and Jorge Valladares, "Building a Greater Understanding of Political Integrity Data Infrastructures," Global Data Barometer, May 23, 2022, https://globaldatabarometer.org/2022/05/building-a-greater-understanding-of-political-integrity-data-infrastructures/.

21 "Open Government Declaration," Open Government Partnership, n.d., https://www.opengovpartnership.org/process/joining-ogp/open-government-declaration/.

22 Civil society organizations (CSOs) should be able to seek foreign funding and to advocate for policies, in keeping with their respective missions. Disclosure obligations should be no more burdensome than that on the private sector and should be based on even, transparent application of the law. Such CSOs should be protected from retaliation, stigmatization and arbitrary enforcement. This includes being labeled and punished as foreign agents. In that spirit, Transparency International called on governments at the 2021 Summit for Democracy to ensure that "legislation regulating



nonprofit organizations does not restrict the capacity of civil society human rights defenders (HRDs) to operate. In accordance with the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR), the UN Declaration on Human Rights Defenders and (...) as implied in UNCAC Article 13 (...), governments should ensure – de jure and de facto – that civil society organizations have the operational and physical freedom to carry out their work, including public advocacy and awareness-raising, initiating litigation and exposing allegations of corruption." See: Addressing Corruption as a Driver of Democratic Decline: Positions Towards Summit for Democracy 2021 (Transparency International, November 17, 2021), https://www.transparency.org/en/publications/summit-for-democracy-2021-addressing-corruption-democratic-declin, 15.

23 Many of these recommendations draw from and elaborate on prior work by Transparency International (see: Addressing Corruption as a Driver of Democratic Decline: Positions Towards Summit for Democracy 2021 (Transparency International, November 17, 2021), https://www.transparency.org/en/publications/summit-for-democracy-2021-addressing-corruption-democratic-declin) and Rudolph and Morley (see: Josh Rudolph and Thomas Morley, Covert Foreign Money: Financial Loopholes Exploited by Authoritarians to Fund Political Interference in Democracies (Alliance for Securing Democracy, August 2020), https://securingdemocracy.gmfus.org/wp-content/uploads/2020/08/ASD-Covert-Foreign-Money.pdf). They also draw on a literature review conducted by Marcin Walecki as well as on discussions convened by the National Democratic Institute and the Open Government Partnership, both in the course of the 'Leveraging Transparency to Counter Foreign Illiberal Influence' initiative during 2021 and early 2022. Furthermore, recommendations are informed by policy briefs, including: Lucas Armin and Jose María Marin, Recommendations on Political Financing for OGP Action Plans (Transparency International, 2020); and Political Finance Transparency (OGP and International IDEA, March 2019), https://www.idea.int/sites/default/files/publications/political-finance-transparency.pdf.

24 Capping anonymous donations at the aggregate rather than individual level is a recommendation contained in: Guidelines on Political Party Regulation (Strasbourg: Venice Commission and OSCE/ODHIR, December 14, 2020), https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)032-e.

25 Catalina Uribe Burcher, Cryptocurrencies and Political Finance (International IDEA, 2019), https://www.idea.int/sites/default/files/publications/cryptocurrrencies-and-political-finance.pdf.

26 Alex Runswick, "Consultation on Legislation to Counter State Threats (Hostile State Activity)," Transparency International UK, July 22, 2021, https://www.transparency.org.uk/sites/default/files/pdf/publications/TI%20UK%20State%20threats%20consultation%20respoonse%20FINAL2.pdf.