

Independent Reporting Mechanism (IRM): Bosnia and Herzegovina Design Report 2019–2021

This report was prepared in collaboration with Elma Demir, independent researcher

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Bosnia and Herzegovina’s complex institutional set up and political system has affected its engagement in OGP since 2014. This first action plan was developed with civil society input and published in 2019. Commitments are related to ongoing projects rather than new initiatives, and include access to open data, public procurement transparency, public consultations and integrity plans in public institutions. Feedback on commitment proposals and greater collaboration between civil society and government in drafting commitments could improve the ambition of the action plan.

Executive Summary: Bosnia and Herzegovina

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Bosnia and Herzegovina joined OGP in 2014. Since, Bosnia and Herzegovina has not implemented any action plans. This report evaluates the design of Bosnia and Herzegovina’s first action plan.

General overview of action plan

The country’s complex, decentralized and asymmetrical political system and politically entrenched divisions on ethnic lines in a post-conflict situation make it difficult to find agreement amongst the different institutions, and has affected the co-creation process and ambition of the action plan. The plan includes many commitments that are relevant to OGP values. In the cases of some commitments, milestones are already in progress; while others build on wider government initiatives or plans, providing continuity – such as opening up datasets, streamlining integrity plans, and improving participation mechanisms with civil society.

The action plan development process stalled as the multistakeholder forum, created in 2016, was unable to properly function and take decisions. There were opportunities for civil society engagement at the start of the process and there was a short public consultation on the draft action plan. Most commitments in the final action plan are related to ongoing projects and larger initiatives of state-level institutions.

The action plan contains seven commitments. Particularly noteworthy commitments with moderate potential impact address public procurement transparency and involving civil society in improving participation in policy-making processes. Other commitments with minor potential impact address issues of open data, proactive transparency of BiH institutions, and for the first time, producing a budget for citizens. One commitment on streamlining the process of developing integrity plans is not relevant to OGP values.

Table 1. At a glance

Participating since:	2014
Action plan under review:	First
Report type:	Design Report
Number of commitments:	7

Action plan development

Is there a multistakeholder forum:	Yes
Level of public influence:	Involve
Acted contrary to OGP process:	No

Action plan design

Commitments relevant to OGP values:	6 (85%)
Transformative commitments:	0 (0%)
Potentially starred commitments:	0



Table 2. Noteworthy commitments

Commitment description	Moving forward	Status at the end of implementation cycle
<p>Commitment 1. Open Data on Public Procurement in BiH - Make publicly available all public procurement data in BiH which are collected through the public procurement portal.</p>	<p>Ensure that the data in the public procurement system is of high quality as well as open data. Consider how the information could be systematically used to detect, investigate and prosecute against fraud and the misuse of public funds.</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>
<p>Commitment 5. Involvement of civil society organizations in policy-making processes – Hold workshops to introduce the online consultation system and get recommendations on improving consultation processes.</p>	<p>Ensure outreach with wider civil society in the country. Ensure that recommendations on how to improve the consultation process are implemented and feedback is given to civil society about why certain recommendations might or might not be implemented.</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>
<p>Commitment 7. Drafting of the Budget for Citizens - Prepare, in collaboration with civil society, and publish a Budget for Citizens.</p>	<p>Implement a public awareness campaign on the finalized Budget for Citizens to reach a broad cross section of the public. Run workshops and consultations with citizens early on in the process of developing a budget to identify their priorities for public spending, which could influence public spending itself, or what parts of the budget for citizens to focus on, and provide feedback on this input.</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>

Recommendations

IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan. Please refer to Section V: General Recommendations for more details on each of the below recommendations.

Table 3. Five KEY IRM Recommendations

Create a comprehensive OGP repository website
Seek and publish feedback about consultation contributions and publish the reasoning behind the selection of commitments
Work with civil society to develop a state-level Open Data Strategy
Amend the Law on Free Access to Information to bring it into line with European transparency standards
Strengthen the public procurement monitoring system in BiH and ensure that cases of corruption are investigated and sanctioned.

ABOUT THE IRM

OGP's Independent Reporting Mechanism (IRM) assesses the development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

Elma Demir collaborated with the IRM to conduct desk research and interviews to inform the findings in this report. **Elma Demir** is independent researcher working on open government policies and social development. Earlier, she worked as researcher for the Goldsmiths University of London, Dartmouth College, the World Bank, the NATO HQ BiH, Parliamentary Assembly of Bosnia and Herzegovina, and has consulted many other international and local organizations.



I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments complete commitments. Civil society and government leaders use these evaluations to reflect on their own progress and determine if actions have impacted people's lives.

Bosnia and Herzegovina joined OGP in 2014. This report covers the development and design of the country's first action plan for 2019–2021.

The Independent Reporting Mechanism of OGP has partnered with Elma Demir to conduct this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology, please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

II. Open Government Context in Bosnia and Herzegovina

This is Bosnia and Herzegovina's (BiH) first open government action plan. The country's complex, decentralized and asymmetrical political system makes open government reform difficult. Although BiH has legislation on access to information, civil liberties, assets declarations and budget transparency, in practice, its administrative complexity limits public engagement in decision making, the exercise of rights, and oversight.

Bosnia and Herzegovina (BiH) is a complex and asymmetrically decentralized political system. There are four levels of governance that are largely autonomous and do not always follow a vertical power structure.¹ Below the state level is the entity level, which consists of the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska. In addition to the two entities, the Brcko District has its own institutional setup. The FBiH then has a federal structure consisting of 10 autonomous cantons that are then further divided into municipalities. Republika Srpska only has municipalities. The present situation is a direct consequence of the conflict that took place from 1992 to 1995. Since then, the international community, especially the European Union (EU), has supported many reform processes. Out of these, the most important for addressing open government are the Public Administration Reform and Anti-corruption Strategy. However, the lack of genuine support by the high-level political leadership and the recent political deadlock after the general elections in 2018 have slowed the pace of reforms.²

Overall, BiH meets the basic OGP eligibility criteria in Freedom of Information (FOI), budget transparency, civil liberties, and asset declarations of public officials. However, the country still has challenges in each of these areas.

Transparency, access to information and open data

In line with its decentralized political system, access to information in Bosnia and Herzegovina is regulated on the state and entity levels.³ Although the state-level Law on Free Access to Information (FOIA) has been in force since 2000 and scores a respectable 102 out of 150 points on the RTI Rating,⁴ its application in practice is mixed.

In particular, the administrative mechanisms for enforcement of the law are weak.⁵ Access to information is primarily granted when willingness at the top institutional leadership for such access exists.⁶ The analysis of BiH freedom of information laws by the Ombudsmen for Human Rights in Bosnia and Herzegovina – the independent oversight body – finds that various practices have been used that jeopardize the right to information, such as delays in the decision-making process for internal appeals; making decisions that do not contain all the elements prescribed by the law; meeting formal requirements but not granting the actual access to requested data; and not conducting relevant public interest tests when required.⁷

The Law on Protection of Personal Data in Bosnia and Herzegovina⁸ complicates the implementation of FOIA because some public authorities use it to withhold and close off access to their data.⁹ Civil society organizations have found such practices particularly problematic in the judiciary where courts and prosecutors' offices quickly started to anonymize all their indictments and judgments, including cases of high public relevance, such as those for organized crime, corruption, and war crimes.¹⁰ This practice has been stopped,¹¹ but access to judicial data remains restricted, complex, and costly.¹²

The FOIA is currently subject to a complete revision with the support of the European Union and is due to be put out to public consultation.¹³ Recommendations address the following: the lack of provisions regulating the proactive disclosure of information,¹⁴ the weak institutional monitoring framework for implementation, and deficiencies in the process of accessing information upon request.

The state-level and entity governments of BiH do not have open data policies. According to the 2016 Global Open Data Index, BiH scored 26%, placing it 58th out of 94 countries assessed.¹⁵ Information like statistics, procurement, government budgets, state- and entity-level laws, and draft legislation are available but not in open and machine-readable formats. Company registers; data on administrative

boundaries, water quality, government spending, and land ownership; and data on land ownership and geospatial data are not publicly available at all.¹⁶ Elections data are available online.¹⁷ In 2018, essential macroeconomic data were made open and published by the Central Bank of Bosnia and Herzegovina.¹⁸ The main prerequisites for opening data in BiH include better enforcement of the FOIA and proactive transparency at all levels of government; harmonization and standardization of public institutional registers; and strengthening capacities of institutions in data collection, management, and sharing.¹⁹ A recent example of a newly open public register is the Summarized e-Registry of Associations and Foundations in Bosnia and Herzegovina.²⁰

Efforts have been made in recent years to promote proactive disclosure of government-held information and data on the websites of public institutions. A government policy on proactive transparency²¹ was adopted by the state-level government in 2018. However, lower-level governments are not bound by this decision. Monitoring of implementation of this policy on the state level is part of commitment 6 of this action plan and could ensure public institutions publish their data.

In addition to the process of opening data to the public, civil society organizations emphasize the need to open data in standardized formats.²² Public institutions in BiH often publish data in different formats (usually pdfs) and using different methodologies.²³ Many institutions have not digitalized these processes.²⁴

During the COVID-19 crisis, data on the number of infected persons and deaths were regularly collected and reported through crisis management centers, which also created specialized epidemic websites.²⁵ In general, this information was reliable and regularly updated. However, information on measures taken and often-changing rules were shared in non-user-friendly formats.²⁶ Information on governmental practices is scattered across many different websites of state, entity, cantonal, and local governments causing public confusion and mistrust of public institutions.²⁷

The level of disinformation significantly increased during the COVID-19 crisis.²⁸ While the major sources of disinformation are anonymous websites and media, oftentimes elected officials spread the disinformation in their statements, and the disinformation content can be directly linked to ethno-nationalist and geopolitical political agendas.²⁹ Civil society organizations developed several specialized disinformation platforms based on their countrywide media monitoring.³⁰ There were reports of two entity governments having arrested around 10 people for sharing COVID-19-related disinformation, including cases of sharing social media posts.³¹ In late March 2020, Republika Srpska introduced a law with high monetary fines for such crimes but lifted it a month later.³² While the fines were introduced in response to the public health situation, journalists and the international community expressed concern that the law could lead to censorship.³³

Civil Liberties and Civic Space

Although the country's legislation guarantees rights to freedom of expression and freedom of association and assembly, in practice, various limitations intermittently threaten these civil liberties.³⁴ Countrywide protests in 2014 were eventually halted by police violence and arrests.³⁵ Afterward, the authorities started to use internal administrative procedures³⁶ to limit public gatherings and protests.³⁷ More recently, Republika Srpska (RS) authorities arrested organizers of protests and conducted interrogations of many "Justice for David" ³⁸ movement supporters.³⁹ Furthermore, RS police issued orders to forbid any assembly and protests about the unresolved murder of David Dragicevic.⁴⁰ After numerous attacks and arrests, the movement leader, Davor Dragicevic (father of David), fled the country, seeking political asylum in Austria.⁴¹

Authorities often request that demonstration organizers secure their own protection through private security companies instead of providing police protection as stipulated by law.⁴² LGBTQ+ rights movements in 2017 and 2019 received permits to hold marches and festivals due to international pressure but did not receive police protection despite prior festivals having faced serious physical attacks from religious extremists.⁴³

Public participation in decision-making processes is regulated by the law, and all levels of government incorporate some mechanisms for citizen engagement; however, these are by and large formal procedures that lack effective engagement.⁴⁴ Practices between different levels of government and institutions vary greatly.⁴⁵ Even when input from experts and civil society is requested, no feedback is provided for why it is or is not included in the draft legislative text.⁴⁶

According to the 2020 World Press Freedom Index, BiH has a “problematic” press freedom situation, although it scores better than its contemporaries in Southeastern Europe do.⁴⁷ Political pressure, intimidation, and attacks on journalists; inadequate working conditions; non-transparent ownership; and an underdeveloped market conducive to strengthening media clientelism are the main problems the media in BiH face.⁴⁸

Independent civil society organizations rely on foreign funding to support their activities, whereas large amounts of public funds indirectly fund ethno-nationalist political parties.⁴⁹ Most public-civic partnerships are ad hoc and project-related despite efforts to foster relationships between public authorities and civil society organizations.⁵⁰

Several cases of violations of human rights and the rule of the law in BiH were reported during the COVID-19 pandemic. Both entity governments adopted their own measures⁵¹ in response to the crisis, limiting freedom of movement and assembly until an unspecified date using emergency procedures.⁵² These measures included restrictions on movement; curfews (particularly for those over 65); the banning of social gatherings; immediate closure of schools, public facilities, and shopping malls; and the limiting of access to public services.⁵³ These rules were relaxed after the Constitutional Court of BiH issued a decision on the violation of citizens’ rights.⁵⁴ Violations of privacy took place in both entities too. The names of people in mandatory self-isolation were published in Federation of BiH. Such practice was halted after the Agency for the Protection of Privacy of Federation of BiH ruled that this was an infringement of rights. Republika Srpska authorities also violated privacy rights by publishing the names of people who were breaching isolation rules.⁵⁵ Despite this, citizens generally have supported the crisis management measures adopted to address the COVID-19 crisis.⁵⁶

Accountability and anticorruption

Bosnia and Herzegovina has a comprehensive anti-corruption legal framework in place.⁵⁷ However, the plethora of laws and institutions fragments the prosecution and enforcement of anti-corruption measures. Institutions and bodies at all levels of BiH are supposed to investigate and prosecute corruption, and an independent body, the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK), works on prevention, education, and coordination of anti-corruption activities. Corruption remains widespread, and those involved in such crimes are rarely processed or punished.⁵⁸ Transparency International’s Corruption Perceptions Index points to a continued increase in the perception of corruption in the country.⁵⁹ In 2019, the defendant in the only criminal case of corruption by the Prosecutor’s Office of Bosnia and Herzegovina was acquitted.⁶⁰ A larger number of prosecutions are processed at the cantonal and district level (and are largely minor corruption cases), although of the 97 corruption cases at all levels of BiH in 2019, 67.8% ended in suspended sentences.⁶¹

Implementation of the state Anti-Corruption Strategy⁶² that was developed to resolve inconsistency issues is falling behind schedule and remains incomplete.⁶³

Whistleblower protection exists on the state level and in the Republika Srpska entity.⁶⁴ These laws are not harmonized and create fully divergent protection mechanisms: On the state level, APIK is in charge of handling requests for whistleblower status and of taking measures to counter retaliation, whereas in Republika Srpska, such complaints are handled through the judicial system.⁶⁵ Implementation in practice of both laws has demonstrated many legal gaps resulting in incomplete protection of whistleblowers.⁶⁶ Most state institutions adhere to minimal standards the Law on Whistleblower Protection in Institutions of BiH stipulates, such as providing contacts for reporting corruption or publishing their internal rulebooks.⁶⁷

The regulation on conflicts of interest obliges elected public officials to declare their assets. While legislation in this instance is in place on the state and entity levels, its implementation remains weak.⁶⁸ At the state level, changes to the law in 2013 meant that conflict of interest regulation is now managed by a commission constituted of MPs rather than by the Central Election Commission. In general, many officeholders have diverse conflicts of interest and mix their official mandates with their party/personal agendas.⁶⁹ Several recent scandals involving high-ranking politicians and judicial officials have further jeopardized citizens' trust in public institutions.⁷⁰

The COVID-19 pandemic has led to several cases of corruption in procurement in BiH and has also highlighted the weakness of the judicial system to prosecute.⁷¹ The "Sreberna Malina" scandal is a prominent example in which a small fruit vegetable company from Srebrenica received a multimillion-dollar deal to import 100 Chinese ventilators to fight COVID-19, a price far higher than it should be for these machines.⁷² The misuse of public office, money laundering, and joint criminal enterprise were reported during an investigation by the state-level prosecutor's office.⁷³

Budget Transparency

All levels of government publish their annual budget plans and expenditure reports. However, in most instances, budget formats are not citizen friendly. According to the International Budget Partnership's 2019 Open Budget Survey, BiH scores 33 out of 100 related to budget transparency, 7 out of 100 for budget participation, and 52 out of 100 for budget oversight (at the state level).⁷⁴ This means the country publishes minimal budget information and with few opportunities for the public to engage in the budget process. The state legislature provides limited oversight during the budget cycle but has adequate audit oversight.⁷⁵ However, despite the audit oversight, identified public spending irregularities are rarely addressed by the public prosecutors' offices, and the supreme audit institutions do not have established communication channels with the public in general.⁷⁶

The lack of budget transparency is closely tied to inefficient fiscal policies and state influence on the economy. Public spending accounts for more than 40% of GDP.⁷⁷ Considering the earlier mentioned political and institutional complexity, extensive spending on public administration has been practiced in the past two decades. This issue has been a subject of criticism for decades by the international community, experts, and the civil society, all of which indicate that such framework is the basis for systematic corruption, as the political elites have been using public institutions not only to divert public resources for their political and personal benefit but also to employ a large number of people with political or family connections.⁷⁸

¹ See "Schematic overview of levels of governance in Bosnia and Herzegovina," Directorate for European Integration BiH, January 2012, <http://www.dei.gov.ba/dei/dokumenti/uskladjivanje/default.aspx?id=13859&langTag=bs-BA> ; Interview with Vladica Babic, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, 13 May 2020.

² After the general elections in 2018, it took 14 months for the winning parties – SNSD, SDA and HDZ BiH – to reach an agreement and form the Council of Ministers (CoM), the state-level government. Finally in December 2019, parties agreed to submit an Annual National Program to NATO instead of a "Reform Program" which was seen as a step towards the controversial issue of NATO membership. Zoran Tegeltija (from SNSD) was then elected as head of CoM. Aleksandar Brezar, "Nations in Transit 2020: Bosnia and Herzegovina," Freedom House, 2020, <https://freedomhouse.org/country/bosnia-and-herzegovina/nations-transit/2020> ; "Freedom in the World 2020: Bosnia and Herzegovina," Freedom House, 2020, <https://freedomhouse.org/country/bosnia-and-herzegovina/freedom-world/2020> ; "Freedom in the World 2019: Bosnia and Herzegovina," Freedom House, 2019, <https://freedomhouse.org/country/bosnia-and-herzegovina/freedom-world/2019> ;

³ The Law on Free Access to Information in Bosnia and Herzegovina (Official Gazette of BiH no. 28/00, 45/06, 102/09, 62/11 and 100/13); the Law on Free Access to Information of Republika Srpska (Official Gazette of RS no. 20/01); the Law on Free Access to Information in Federation of Bosnia and Herzegovina (Official Gazette of FBiH no. 32/01, 48/11); the Directive for implementation of the Law on Free Access to Information in Bosnia and Herzegovina (Official Gazette of Brcko District no. 36/04).

⁴ BiH is ranked as 36th country on the Right to Information Index (RTI), <https://www.rti-rating.org/country-data/>

⁵ "Special report on experiences in implementation of laws on free access to information in Bosnia and Herzegovina," Institution of Ombudsmen for Human Rights in Bosnia and Herzegovina, December 2019, https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2020020515415139bos.pdf ; pg. 5 of "Right to Access to Information in Bosnia and Herzegovina: Towards a More Efficient Institutional Framework," Association 'Analitika,' October 2015, http://www.analitika.ba/sites/default/files/publikacije/pravo_na_pristup_informacijama_-_brief_web-1.pdf

- ⁶ “Deviation from the Free Access to Information,” the Center for Investigative Journalism, 28 September 2015, <https://www.cin.ba/odstupanje-od-slobodnog-pristupa-informacijama/>; “Providing information is hard work for BiH institutions,” the Center for Investigative Journalism, 28 September 2017, <https://www.cin.ba/pruzanje-informacija-naporan-posao-za-bh-institucije/>
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- ⁸ Official Gazette of BiH no. 49/06, 76/11, <http://azlp.ba/propisi/Default.aspx?id=5&pageIndex=1&langTag=hr-HR>
- ⁹ Research on implementation of laws on free access to information: Management of public funds and their targeting towards end users in Bosnia and Herzegovina. Transparency International BiH, September 2018, <https://ti-bih.org/wp-content/uploads/2018/09/Istraživanje-2018-pdf.pdf>; “International day of freedom to access to information: BiH needs a new law,” Mediacentar, 28 September 2019, <https://media.ba/bs/vijesti-i-dogadaji-vijesti/medunarodni-dan-slobode-pristupa-informacijama-bih-potrebno-novi-zospi>
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- ¹³ Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; European Commission. Commission Staff Working Document: Analytical Report Accompanying the document. Communication from the Commission to the European Parliament and the Council Commission Opinion on Bosnia and Herzegovina’s application for membership of the European Union {COM(2019) 261 final}, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>
- ¹⁴, http://www.vijeceministara.gov.ba/home_right_docs/info/default.aspx?id=29703&langTag=bs-BA
- ¹⁵ Global Open Data Index 2016: Bosnia and Herzegovina, <https://index.okfn.org/place/>
- ¹⁶ Ibid.
- ¹⁷ <http://www.izbori.ba/Default.aspx?CategoryID=48&Lang=3&Mod=0>
- ¹⁸ <https://cbbh.ba/Content/Read/1133>
- ¹⁹ Alen Mrgud, Agency for Statistics BiH (30 April 2020); Darko Brkan, Association “Why not” (15 May 2020); Nermina Voloder, “Open Public Information in Bosnia and Herzegovina: From Idea to Implementation,” Association “Analitika,” https://www.analitika.ba/sites/default/files/publikacije/otvoreni_javni_podaci_u_bosni_i_hercegovini_od_ideje_do_realizacije.pdf; Milan Stojkov and others, “Open Government Data in Western Balkans: Assessment and Challenges,” Paper presented at the 6th International Conference on Information Society and Technology ICIST 2016, 2016, <https://pdfs.semanticscholar.org/0491/9342ddcb76af18b1d373f670e88c6ef17465.pdf>
- ²⁰ <http://zborniregistri.gov.ba/Home>
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- ²² Darko Brkan, Association “Why not” (15 May 2020); Interview with Zoran Ivancic, Foundation “Centre for Advocacy of Citizens’ Interests” (CPI), 13 May 2020.
- ²³ Interview with Alen Mrgud, Agency for Statistics BiH (30 April 2020); Interview with Darko Brkan, Association “Why not” (15 May 2020); Elvis Mujanovic, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), (04 June 2020)
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- ²⁵ Federation of BiH: https://covid-19.ba/dokumenti/vlada_fbih/; Republika Srpska: <https://koronavirusrpskoj.com/>
- ²⁶ Measures and rules in Federation of BiH: https://covid-19.ba/dokumenti/vlada_fbih/; Measures and rules in Republika Srpska: <https://koronavirusrpskoj.com/vladine-mjere/>
- ²⁷ „Opening governments in times of lockdown: Lessons learned for citizens-oriented administrations from the COVID-19 crisis in the Western Balkans,” European Policy Center, Weber Monitoring Tool, 08 June 2020, <http://www.par-monitor.org/posts/opening-governments-in-times-of-lockdown>; „The Western Balkans and the COVID-19: Effects on good governance, rule of law and civil society,” Think for Europe Network, 02 July 2020, <https://www.thinkforeurope.org/wp-content/uploads/2020/07/The-Western-Balkans-and-the-COVID-19-Effects-on-good-governance-rule-of-law-and-civil-society.pdf>
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III. Leadership and Multistakeholder Process

Bosnia and Herzegovina (BiH) joined the OGP in 2014. There was limited progress in adopting the action plan because some entity-level institutions failed to participate in multistakeholder forum meetings. BiH submitted its first action plan in 2019, after resolving issues related to the structure of the forum. Civil society participated in the action plan co-creation process. The action plan contains commitments, such as open procurement data, integrity plans, citizen budgets, and civic participation, that are related to already ongoing projects or initiatives.

3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in Bosnia and Herzegovina.

Two years after joining the OGP in 2014, the state-level government formed the Advisory Council for the Open Government Partnership Initiative. This formal multistakeholder body gathered representatives from two state-level institutions – Ministry of Justice BiH and the Public Administration Reform Coordinator’s Office of BiH (PARCO) – tasked to provide expert and administrative support to the multistakeholder body, and representatives of Federation of BiH, Republika Srpska and Brcko District alongside four representatives from civil society organizations.¹

The Ministry of Justice initiated and led the process of informing and inviting CSOs to join the multi-stakeholder body.² Based on selection criteria developed with civil society, an open call was published on the Ministry’s website to which eight organizations applied.³ Four were selected to join the Advisory Council considering their prior experiences and existing expertise on open government issues: Transparency International BiH, the Center for Investigative Journalism (CIN), the “Centre for Advocacy of Citizens’ Interests” (CPI) Foundation⁴, and the Association “Why Not”.⁵ Participation of civil society organizations in OGP was supported financially by European governments, the EU and private foundations.⁶

After holding only three meetings within two years,⁷ it was clear that the multistakeholder forum did not function effectively, as some entity government representatives failed to participate in developing and discussing proposals for the action plan.⁸ Consequently, Bosnia and Herzegovina did not deliver an action plan for three consecutive cycles, prompting the OGP Steering Committee to declare Bosnia and Herzegovina’s status in OGP as inactive.⁹

The Ministry of Justice and the PARCO addressed this problem by revising the structure of the multistakeholder forum. The Decision on the structure of the Advisory Council was amended, and entity-level representatives were taken out, whereas four representatives from state-level institutions remained in the Council, as they submitted commitments for the action plan: the Agency for the Prevention of Corruption and Coordination against Corruption of BiH, the Agency for Statistics BiH, the Agency for Public Procurement BiH, and the Ministry of Finance and Treasury BiH.¹⁰ In April 2019, the new multistakeholder forum revived the draft OGP action plan, which was then reviewed and approved by the state-level government.

Overall, the state-level political leadership has been supportive of OGP by adopting the necessary bylaws and their amendments for functioning of the multistakeholder body and by supporting incorporation of their activities in the action plan. The current commitments received high-level political support prior to their inclusion in OGP processes. At the time of writing this report, members of the Advisory Council from governmental institutions are civil servants (except one). Approvals from higher-ranked officials had to be sought in several instances, which has delayed decision-making.¹¹ Considering that the Advisory Council rules allow for two representatives per institution, it would be beneficial for the future work of this body to ensure combined participation of higher-ranked and mid-level officials.

Closely related to this issue is the inclusion of other levels of government in the multistakeholder forum and generally in OGP initiatives. Bosnia and Herzegovina is a highly decentralized country where policies and services that are of interest to citizens and to many CSOs are provided on entity, cantonal, and

local levels. In the meeting of the Advisory Council on 13 February 2020, its members expressed an interest to incorporate other levels of government and their initiatives – entity-level along with cities and municipalities – in OGP and the next action plan.¹² Considering the OGP's Local Program, the Advisory Council agreed to work on public and media promotion of OGP and invite other governmental entities to either join the Advisory Council or submit action plans separately.¹³

3.2 Action plan co-creation process

The process of submitting the first action plan for Bosnia and Herzegovina has been a lengthy process. Although the country joined the OGP in 2014, its first action plan was submitted in April 2019. The long delay and lack of a functioning multistakeholder forum stem from the complex and competitive political and institutional makeup of the country, which impairs decision-making.

Civil society organizations (CSOs) were engaged in OGP processes from early on. They were involved in formulation of the Decision on Establishment and the Rules of Procedures of the Advisory Council and its later amendments.¹⁴

The country's OGP website was developed in 2015 by civil society organizations,¹⁵ and the lead governmental institutions shared OGP-related information, calls, and materials on their websites and via email as well.¹⁶ Civil society interviewees felt that greater public visibility on open government themes could provide a basis for generating public opinion and pressure on political decision-makers to adhere to OGP and other similar reforms.¹⁷ In this instance, improvement of communication channels could be the first step. While the Ministry of Justice, the PARCO, and CSOs through their websites publish OGP-related news and materials, information is scattered and not easily visible.

Open events were held in 2015 to collect ideas from civil society and the public and to develop potential commitments. Civil society led three workshops that were open to anyone and included participation from government institutions. Each workshop was themed along the three open government pillars of transparency, participation, and integrity. Each workshop built upon the previous workshop and developed new commitment ideas.¹⁸ These events resulted in the identification of 16 issues and proposals for the action plan that civil society proposed.¹⁹ The proposed commitments were deemed politically ambitious and important for fostering public accountability in the country, such as through revising the Law on Free Access to Information, creating mechanisms for better cooperation between governments and the civil society organizations on all levels of government, and developing open data policies.²⁰

Based on these 16 proposals, the multistakeholder forum defined the four main topics for the action plan and invited institutional representatives to develop proposals on them. These included freedom of access to information, improving financial transparency; strengthening the integrity of institutions at all levels of government; and improving the cooperation of institutions at all levels of government with civil society.²¹ The four topic areas were determined at an Advisory Council workshop on 29–30 May 2018.²²

The lack of support for ambitious commitments from some lower-level governments in the multistakeholder forum stopped the action plan process from moving forward.²³ While the multistakeholder forum could not make formal decisions due to the lack of quorum, CSO members continued to meet with representatives of the Ministry of Justice and the PARCO to co-formulate solutions for commitments in the meantime.²⁴ This led to the action plan to only including commitments that are part of ongoing projects and larger initiatives of state-level institutions that have already submitted their proposals for the action plan.²⁵ This was to ensure that commitments will be implemented because they already have high-level political support and financial and human resources for them.²⁶ Out of seven commitments of the action plan, five are part of projects state institutions co-implemented in partnership with international development agencies and in some instances with the civil society organizations.²⁷

A draft action plan was put to official public consultation for two weeks in October 2018 on the state-level eKonsultacije portal.²⁸ This was not met with “wider or additional consultations” as required by the rules agreed to by the multistakeholder forum, such as workshops or other events.²⁹ However, the Advisory Council considered that involvement of CSO multistakeholder members was sufficient for the time being considering the aforementioned wider civil society involvement that took place in the 2015–2017 period.³⁰ The Ministry of Justice published a document on the two-week consultation stating that it had not received any comments on the BiH action plan.³¹

After changes to the institutional makeup of the Advisory Council in 2019 were agreed, its civil society and new public institution members decided,³² following the consultation, not to not consider new commitments and to just keep the seven commitments of ongoing projects and larger initiatives of state-level institutions.³³ The action plan was approved and adopted in April 2019. Civil society organizations recognized that adopting the seven draft commitments was necessary to overcome the long delay in adopting an action plan and reversing BiH’s inactive OGP status and to move forward with a more ambitious process and action plan next time.

While the 16 civil society commitment proposals were not directly included as formulated in the action plan submitted to OGP, the thematic areas they address make up the majority of commitments that were actually included in the plan. For instance, some commitments in the plan relate to topics raised in the consultations on opening public procurement, improving public consultation and integrity plans, developing proactive transparency, and publishing citizen-friendly public budget information. However, their scope and potential impact alongside matters related to more effective implementation of the Law on Free Access to Information, open data policies, and publication of complete video recordings of government sessions have been left out. In this way, according to the most actively involved civil society representatives, the first BiH action plan focuses on preparatory steps for more ambitious measures in subsequent action plans.³⁴

Table 4: Level of Public Influence

The IRM has adapted the International Association for Public Participation’s (IAP2) “Spectrum of Participation” to apply to OGP.³⁵ This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

Level of public influence		During development of action plan
Empower	The government handed decision-making power to members of the public.	
Collaborate	There was iterative dialogue AND the public helped set the agenda.	
Involve³⁶	The government gave feedback on how public input were considered.	✓
Consult	The public could give inputs.	
Inform	The government provided the public with information on the action plan.	
No Consultation	No consultation	

OGP Participation and Co-Creation Standards

In 2017, OGP adopted OGP Participation and Co-Creation Standards to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

The following table provides an overview of Bosnia and Herzegovina’s performance implementing the Co-Creation and Participation Standards throughout the action plan development.

Key:

Green = Meets standard

Yellow = In progress (steps have been taken to meet this standard, but standard is not met)

Red = No evidence of action

Multistakeholder Forum	Status
1a. Forum established: The Advisory Council for the Open Government Partnership Initiative gathers relevant state-level institutions and CSOs in development and implementation of the action plan.	Green
1b. Regularity: The Advisory Council meets approximately twice a year. Its members expressed their commitment to meet more often in the future	Yellow
1c. Collaborative mandate development: Members of the Advisory Council jointly develop its remit, membership, and governance structure.	Green
1d. Mandate public: Some information and materials are available on the websites of coordinating institutions. ³⁷	Yellow
2a. Multistakeholder: The Advisory Council includes both governmental and nongovernment representatives	Green
2b. Parity: Formally, there are numerically fewer civil society members than institutional members of the multistakeholder forum. Civil society members felt that there was parity in practice, and minutes of meetings show there were equal numbers present at meetings of the multistakeholder forum. According to the Advisory Council Rulebook, CSO members can “veto” any decision and thus have equal decision-making power.	Green
2c. Transparent selection: The nongovernmental members of the Advisory Council are selected through a fair and transparent process. ³⁸	Green
2d. High-level government representation: The Advisory Council includes foremost mid-level representatives without decision-making authority from government. Only one member is an elected high ranking official.	Yellow
3a. Openness: In principle, the Advisory Council can accept input and representation on the action plan process from any civil society and other stakeholders outside the forum.	Green
3b. Remote participation: The Advisory Council can organize remote participation in at least some meetings and events. However, this did not happen during the co-creation process.	Red
3c. Minutes: Minutes of formal multistakeholder meetings are kept. The minutes of the first multistakeholder meeting was proactively published, but the rest are available on request. ³⁹	Yellow

Action Plan Development	
4a. Process transparency: Information on country-related OGP processes are published on institutional websites of some member organizations. However, information is scattered and not centrally organized.	Yellow
4b. Documentation in advance: The Advisory Council shares information about OGP to stakeholders to facilitate informed and prepared participation in all stages of the process. However, at many instances such information comes at short notice.	Yellow
4c. Awareness-raising: The Advisory Council conducts limited outreach and awareness-raising activities with relevant stakeholders to inform them of the OGP process. There are plans to foster promotional activities.	Yellow
4d. Communication channels: In some instances, the Advisory Council facilitated direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity.	Yellow
4e. Reasoned response: The Advisory Council has not published reasoning behind decisions or responses to public comments. In response to the public consultation, the Ministry of Justice published a document acknowledging that there were no comments received. Civil society members of the Advisory Council were active participants in all formal and informal meetings of this multistakeholder body, having participated in discussions and agreeing to the commitments in the action plan.	Yellow
5a. Repository: PARCO and the Ministry of Justice publish limited formal OGP related materials and information. However, the Foundation “Centre for Advocacy of Citizens’ Interests” (CPI) on behalf of the Advisory Council created the OGP website OGP.ba which documents the cocreation process.	Yellow

¹ Decision on establishment of the Advisory Council for the Open Government Partnership Initiative, (Official Gazette of BiH no. 94/16).

² The call was published on the Ministry of Justice website on 6 January 2017. “Information on activities to implement the Open Government Partnership Initiative, Conclusions of the 124th Session of the Council of Ministers BiH, 12 December 2017, http://www.vijeceministara.gov.ba/saopstenja/sjednice/zakljucci_sa_sjednica/default.aspx?id=27133&langTag=bs-BA

³ “Public call to civil society organizations for proposing their 4 (four) candidates and their deputies for members and alternate members of the Open Government Partnership Advisory Council”. Ministry of Justice of BiH, http://www.mpr.gov.ba/ministarstvo/dokumenti/javni%20poziv_Bos.pdf

⁴ Initially, the Association Center for Social Research “Analitika” was member of the Advisory Council but due to its inactivity, its representatives were substituted by members of the Foundation “Centre for Advocacy of Citizens’ Interests” (CPI).

⁵ “Members from civil society organizations elected to the Advisory Council for the Open Government Partnership Initiative,” CivilnoDrustvo.ba, 24 February 2017, <http://civilnodrustvo.ba/resursni-centar/novosti/nvo-vijesti/izabrani-cla...društva-u-savjetodavno-vijeće-inicijative-partnerstvo-za-otvorenu-vlast/> (website accessed 10 July 2019)

⁶ Embassy of the United Kingdom, the German Embassy, the Embassy of Netherlands, the Open Society Foundation, the European Union. News, <http://ogp.ba/novosti/> ; “Analysis of commitments from the action plan of the civil society organizations that are part of the OGP initiative,” Transparency International BiH, February 2016, <https://ti-bih.org/analiza-mjera-iz-akcionog-plana-organizacija-civilnog-drustva-koje-su-dio-ogp-inicijative/?lang=en> ; “Narrative report for 2015,” Foundation “Centre for Advocacy of Citizens’ Interests” (CPI), <https://www.cpi.ba/wp-content/uploads/2014/06/CPI-Godisnji-izvjestaj-2015-za-web-stranicu.pdf> ; “E-Newsletter: Public Procurement,” Transparency International BiH, September 2017, http://ogp.ba/wp-content/uploads/2017/11/Newsletter_OGP-I.pdf ; “Strengthening public institutions project,” GIZ, <https://www.giz.de/en/worldwide/31709.html>

⁷ Most members of the Advisory Council met also unofficially. However, these meetings were not formal as they did not have the necessary quorum as representatives from Republika Srpska and Brcko District did not attend these meetings. "Letter of Minister of Justice Josip Gruseba to Mr. Sanjay Pradhan of Open Government Partnership Initiative," Ministry of Justice BiH, Ref.no: 13-14-13-1137/17, Sarajevo, 18 December 2017.

⁸ Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018.

⁹ Resolution of the OGP Steering Committee regarding the status of the Government of Bosnia and Herzegovina's participation in OGP, Open Government Partnership, 5 December 2018, https://www.opengovpartnership.org/wp-content/uploads/2018/12/Bosnia-Herzegovina_SC-resolution_12052018.pdf

¹⁰ Decision on changes and amendments of the Decision on establishment of the Advisory Council for the Open Government Partnership Initiative, (Official Gazette of BiH no. 72/19).

¹¹ Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 29 April 2020

¹² Notes from the Meeting of the Advisory Council for the Open Government Partnership Initiative, Sarajevo, 13 February 2020.

¹³ Ibid.

¹⁴ Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; Minutes from the Inauguration Meeting of the Advisory Council for the Open Government Partnership Initiative, Public Administration Reform Coordinator's Office of BiH (PARCO), 06 June 2018; Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018; Minutes of the second meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 30 August 2018; Notes from the Meeting of the Advisory Council for the Open Government Partnership Initiative, Sarajevo, 13 February 2020.

¹⁵ <http://ogp.ba>

¹⁶ <http://parco.gov.ba/hr/ogp/> and

http://www.mpr.gov.ba/search/Default.aspx?q=partnerstvo&searchDepth=0&selectedCategory=0&contentType=0&langTag=bs-BA&template_id=117&pageIndex=1

¹⁷ Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 29 April 2020.

¹⁸ Open call to the second working meeting to define proposals for BiH action plans within the Open Government Partnership, OGP.ba, 15 August 2015, http://ogp.ba/akcioni_plan/poziv-na-drugi-radni-sastanak-za-definisani-loga-mjera-za-akcioni-plan-bih-u-okviru-partnerstva-za-otvorenu-vlast/ (website accessed 30 August 2019); Invitation to participate in identification of proposal of measures for action plan, OGP.ba, 10 July 2015, http://ogp.ba/akcioni_plan/pozivamo-vas-da-uzmete-ucesce-u-procesu-definisanja-prijedloga-mjera-za-akcioni-plan/ (website accessed 30 August 2019); The third set of proposals for BiH action plan agreed within the Open Government Partnership, 2016, <http://ogp.ba/novosti/usaglasen-treci-set-prijedloga-za-akcioni-plan-bih-u-okviru-partnerstva-za-otvorenu-vlast/> (website accessed 30 August 2019); Interview with Zoran Ivancic, Foundation "Centre for Advocacy of Citizens' Interests" (CPI), 13 May 2020.

¹⁹ "Action plan: Work plan for development of proposed commitments for the first action plan for Bosnia and Herzegovina as part of the Open Government Partnership," Open Government Partnership Bosnia and Herzegovina Website, September 2015, <http://ogp.ba/akcioni-plan/>

²⁰ "Analysis of commitments from the action plan of the civil society organizations that are part of the OGP initiative," Transparency International BiH, February 2016, <https://ti-bih.org/analiza-mjera-iz-akcionog-plana-organizacija-civilnog-drustva-koje-su-dio-ogp-inicijative/?lang=en>

²¹ Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018.

²² This information was provided by a member of PARCO during the pre-publication period.

²³ "Draft of the Action Plan of the Government of the Federation of Bosnia and Herzegovina for the Implementation of the Initiative "Open Government Partnership" for the 2018-2020 Period, Government of Federation of BiH, 30 August 2018, http://fbihvlada.gov.ba/bosanski/javni_poziv.php; Minutes from the Inauguration Meeting of the Advisory Council for the Open Government Partnership Initiative, Public Administration Reform Coordinator's Office of BiH (PARCO), 06 June 2018; Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018; Minutes of the second meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 30 August 2018; Notes from the Meeting of the Advisory Council for the Open Government Partnership Initiative, Sarajevo, 13 February 2020.

²⁴ Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; Minutes from the Inauguration Meeting of the Advisory Council for the Open Government Partnership Initiative, Public Administration Reform Coordinator's Office of BiH (PARCO), 06 June 2018; Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018; Minutes of the second meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 30 August 2018; Notes from the Meeting of the Advisory Council for the Open Government Partnership Initiative, Sarajevo, 13 February 2020.

²⁵ Ibid.

²⁶ Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 29 April 2020; Interview with Darko Brkan, Association "Why not," 15 May 2020.

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- ²⁷ Interview with Alen Mrgud, Agency for Statistics BiH (30 April 2020); Written correspondence with Dario Kihli and Belma Secibovic, Agency for Public Procurement BiH (6 May 2020); Interview with Elvis Mujanovic, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), (04 June 2020); Written correspondence with Halida Pasic and Igor Bevanda, Ministry of Finance and Treasury of BiH (12 May 2020); Interview with Vedrana Fazlagic and Mubera Begic, Public Administration Reform Coordinator's Office of BiH (PARCO) (29 April 2020); Interview with Vladica Babic, Agency for the Prevention of Corruption and Coordination against Corruption of BiH (13 May 2020).
- ²⁸ <https://ekonsultacije.gov.ba/legislativeactivities/documents/4267>;
- ²⁹ The Rules for Consultations in Drafting Legislation foresees two types of public consultations: minimal public consultations taking place through the state-level portal eKonsultacije and wider/additional public consultations. The Rulebook suggests wider consultations for policies that have significant social impact (Article 10. and 13.) and that are novel (Article 15.), which is the case of the BiH action plan for OGP. The Rules for Consultations in Drafting Legislation ("Official Gazette of BiH" No. 5/17). This regulation substituted earlier Rules and procedures ("Official Gazette of BiH" No. 80/04, 81/06).
- ³⁰ Interview with Goran Kucera, Ministry of Justice BiH, 10 June 2020.
- ³¹ <https://ekonsultacije.gov.ba/legislativeactivities/documents/4267>;
- ³² Interviews with Goran Kucera, Ministry of Justice BiH, 10 June 2020 and Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 29 April 2020; Interview with Darko Brkan, Association "Why not," 15 May 2020.
- ³³ Ibid.
- ³⁴ Interviews with Emsad Dizdarevic, Transparency International (28 April 2020) and Leila Bicakcic, Center for Investigative Journalism (CIN), (29 April 2020).
- ³⁵ "IAP2's Public Participation Spectrum" (IAP2, 2014), http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf.
- ³⁶ OGP's Articles of Governance also establish participation and co-creation requirements a country must meet in their action plan development and implementation to act according to OGP process. Based on these requirements, Bosnia and Herzegovina **did** not act contrary to OGP process during the development of the (2019-2021) action plan.
- ³⁷ The Foundation "Centre for Advocacy of Citizens' Interests" manages the OGP website on behalf of the multistakeholder forum: <http://ogp.ba>. PARCO has created an OGP related page on its official website (<http://parco.gov.ba/hr/ogp/>) where some news and materials are shared. The Ministry of Justice shared some OGP related news and materials on its website in its news section (http://www.mpr.gov.ba/search/Default.aspx?q=partnerstvo&searchDepth=0&selectedCategory=0&contentType=0&langTag=bs-BA&template_id=117&pageIndex=1). However, OGP information is scattered across these websites, plus minutes from some meetings are not available online.
- ³⁸ "Public call to civil society organizations for proposing their 4 (four) candidates and their deputies for members and alternate members of the Open Government Partnership Advisory Council". Ministry of Justice of BiH, http://www.mpr.gov.ba/ministarstvo/dokumenti/javni%20poziv_Bos.pdf
- ³⁹ PARCO has created an OGP related page on its official website (<http://parco.gov.ba/hr/ogp/>) where some news and materials are shared. The Ministry of Justice shared some OGP related news and materials on its website in its news section (http://www.mpr.gov.ba/search/Default.aspx?q=partnerstvo&searchDepth=0&selectedCategory=0&contentType=0&langTag=bs-BA&template_id=117&pageIndex=1).

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's circumstances and challenges. OGP commitments should also be relevant to OGP values detailed in the *OGP Articles of Governance and Open Government Declaration* signed by all OGP-participating countries.¹ Indicators and methods used in the IRM research can be found in the IRM Procedures Manual.² A summary of key indicators the IRM assesses can be found in the Annex of this report.

General Overview of the Commitments

This action plan was designed around four themes that were identified in the Advisory Council by its members as the core areas of action for the country:

- Freedom of access to information;
- Improving financial transparency;
- Strengthening the integrity of institutions at all levels of government;
- Improving the cooperation of institutions at all levels of government with civil society.³

The themes were developed out of the proposals suggested by civil society during the action plan co-creation process. Commitments in the action plan, however, only reflect parts of ongoing reform processes in the country, particularly the Public Administration Reform and the Anti-corruption Strategy. Although commitments are already part of reform processes, they present a basis for more substantial reforms in the future. Only state-level institutions are due to implement the commitments. The plan includes commitments to make the public procurement portal publish data according to open contracting standards to releasing statistics as open data, increasing institutional transparency, and streamlining the development of integrity plans. More ambitious commitments relate to developing a citizens' budget for the first time along with collecting and implementing recommendations from civil society on how to improve public participation in decision-making processes.

¹ "Open Government Partnership: Articles of Governance" (OGP, 17 Jun. 2019), <https://www.opengovpartnership.org/articles-of-governance/>.

² "IRM Procedures Manual" (OGP), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

³ Minutes of the first meeting of the Advisory Council for the Open Government Partnership Initiative, Ministry of Justice BiH, 20 June 2018.

I. Open Data on Public Procurement in BiH

Main Objective

“Make publicly available all public procurement data in BiH which are collected through the public procurement portal www.ejn.gov.ba. The data will show how public funds are spent by contracting authorities at all levels of government in BiH. Data will be available in machine-readable JSON format, for data to be used for web and mobile application development for various purposes, and in Excel, for manual processing by interested individuals and organizations such as civil society organizations, journalists, academics, companies.”

“Open data on public procurement will enable transparent insight into the way of implementation of public procurement procedures, and the value of contracts awarded which will enable easier work of administrative inspection, audit office of the financial operations, if necessary, prosecutors and other law enforcement authorities, which will affect the reduction of corruption in this area.”

Milestones

“I.1. Analysis of the existing positive legislation, establishing the necessary activities on the drafting and the necessary amendments to the bylaws, as well as the adoption of the same.

I.2. Implementation of OCS standards at the technical level.

I.3. Development of open data modules as an extension of the public procurement portal (www.ejn.gov.ba). The aim is to provide data infrastructure for conducting analysis and development of applications and information services in the field of public procurement in BiH.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Access to Information
Potential impact:	Moderate

Commitment Analysis

The main aim of this commitment is to incorporate the Open Contracting Data Standard (OCDS) into the state-level public procurement online platform to improve the readability and usability of *all* procurement data including low-value procurements. This product of the Open Contracting Partnership is maintained using the JSON Schema.¹ The commitment also entails analysis and amendments to regulations and necessary bylaws to adopt the open standards.

The commitment is relevant to OGP value of access to information, as its implementation would lead to an increase in the amount and would improve the quality of public procurement data available to the public.

Currently all public authorities in BiH are obliged to conduct their procurement calls and selection of bidders through the state-level public procurement platform www.ejn.gov.ba.² Procurements handled through direct contracts, which are contracts of low financial value below 6,000.00 KM (USD3,460.00), are the exception to this rule. Some estimates say these contracts constitute 16% to 40% of the entire public procurement in BiH.³ Direct contracts have been subject of various fraud schemes, and civil society organizations have voiced their calls to address this issue.⁴

According to the 2016 Global Open Data Index, procurement data on the platform are free of charge to access and are current.⁵ However, the platform does not allow machine-readable data to be downloaded to third parties in bulk, or under open license.⁶ Since 2017, the public has been able to access and search procurement contracts in their different phases according to type and several other categories (by contractor, dates, place, etc.) via the platform.⁷ Public procurement data are available in PDF format to the public, and the Agency for Public Procurement of BiH can provide data upon access-to-information request in other formats if such data are available. In addition, the agency conducts monitoring of procurement procedures published in its annual monitoring reports.⁸ However, such data are presented in a summarized manner, and reports are not available from 2018 onward.⁹

The procurement platform updated features in 2018, offering additional features such as notifications to enable better tracking of the procurement processes and increased functionality for contracting authorities and bidders.¹⁰ More updates are planned. These modifications will not directly address the existing public procurement problems. The Audit Office of BiH identified in a 2018 report that 85% of public procurement contracts tendered by BiH institutions are not managed according to the provisions of the Law on Public Procurement, either due to deviations in the process, noncompliance with contractual obligations, or a lack of information about the implementation of the contract.¹¹ The latest EU progress report evaluates the existing administrative capacities of the Agency for Public Procurement of BiH as insufficient to initiate, implement, and monitor public procurement reform in all sectors, adding that the agency's monitoring role needs to be strengthened for it to address its potential weaknesses and irregularities in procurement procedures.¹² A similar assessment of the monitoring capacities of the agency was made in 2016 by a think tank Analitika, suggesting that the agency's monitoring does not include systematic monitoring of phenomena and trends in public procurement, which would be relevant for the adoption of public policies in this area.¹³

The potential impact of this commitment is moderate. The availability of open procurement data including those under 6,000.00 KM (USD 3,460.00) in machine-readable formats could enable interested parties to analyze procurement patterns¹⁴ but also could be relevant for authorities to investigate fraud and misuse of public funds more easily.¹⁵ The high level of public spending in BiH as a percentage of GDP also points toward this having at least a moderate impact. The commitment is not clear, however, how it will incorporate low-value contracts into the system or how it will guarantee data quality. It is also not clear that the commitment and milestones alone will address the serious problems and unresolved issues in the public procurement process. To have transformative impact, the commitment could indicate the provision of additional resources and investigative powers that would ensure the information is used to systematically detect, investigate, and prosecute fraud and the misuse of public funds.

¹ https://standard.open-contracting.org/latest/en/getting_started/building_blocks/

² Sanjin Hamidicevic "Public Procurement Guide in Bosnia and Herzegovina," Centre for Security Studies, http://css.ba/wp-content/uploads/2017/05/Vodic_JN_ACroSS.pdf

³ "Analysis on Implementation of the Public Procurement Law in BiH," Agency for Public Procurement BiH, 17 April 2017, <https://www.ekonsultacije.gov.ba/legislationactivities/downloaddocument?documentId=2115> ; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 08 July 2020; Transparency International BiH, November 2018, <https://unijauprs.org/wp-content/uploads/2019/05/Monitoring-javnih-nabavki.pdf>

⁴ Aleksandar Draganic and Bojan Kovacevic, "Integrity of contracting authorities in public procurement: Ex Post monitoring," Agency for Enterprise Development EDA, February 2018, https://osfbih.org.ba/images/Progs/00-16/LP/LPPubs/Integritet_ugovornih_organ_a_2017.pdf ; "Public procurement monitoring in Bosnia and Herzegovina," Transparency International BiH, November 2018, <https://unijauprs.org/wp-content/uploads/2019/05/Monitoring-javnih-nabavki.pdf>

⁵ Global Open Data Index: Bosnia and Herzegovina: <https://index.okfn.org/place/ba/procurement/>

⁶ Ibid.

⁷ For complete list of publicly available data see: "Commissioning of open data on awarded contracts in public procurement procedures," Agency for Public Procurement of BiH, 4 December 2017, <https://www.ejn.gov.ba> (News).

⁸ Reports, Agency for Public Procurement of BiH, <https://www.javnabavke.gov.ba/bs-Latn-BA/reports>

⁹ Analyses and reports are published in the News section on the Agency's website and not under Publications in past few years. The state-level government was not established for a long time after the general elections in 2018 and official reports of state institutions have not yet been adopted.

¹⁰ "New functionalities in the system on which the Public Procurement Agency of BiH is continuously working," Agency for Public Procurement of BiH, 20 November 2018, <https://www.ejn.gov.ba> (News).

¹¹ Ivan Kutlesa, "Analysis of e-procurement system in Bosnia and Herzegovina," Association "Analitika", 2016, https://www.analitika.ba/sites/default/files/publikacije/analiza_sistema_e-nabavki_u_bosni_i_hercegovini_web.pdf; "Performance Audit Report: Management of the Process of Implementation of Public Procurement Contracts in BiH Institutions," Audit Office of BiH Institutions, November 2018, <http://www.revizija.gov.ba/Content/OpenAttachment?id=cbf4a734-5609-4f29-ae5-79ad50248e01&langTag=bs> ;

¹² European Commission. Commission Staff Working Document: Analytical Report Accompanying the document. Communication from the Commission to the European Parliament and the Council Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union {COM(2019) 261 final}, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>

¹³ "Recommendations for improving the public procurement system in Bosnia and Herzegovina," Policy memo, Association Analitika, June 2016, <https://www.analitika.ba/bs/publikacije/preporuke-za-unapredenje-sistema-javnih-nabavki-u-bosni-i-hercegovini>

¹⁴ Written correspondence with Dario Kihli and Belma Secibovic, Agency for Public Procurement BiH, 6 May 2020.

¹⁵ "Open public procurement in BiH: Situation and perspectives in the light of international standards," Transparency International BiH, October 2015, http://ogp.ba/wp-content/uploads/2016/06/Otvorene_javne_nabavke_Stanje_i_perspektive_u_svijetu_medjunarodnih_standarda.pdf

2. Development of a web platform for online drafting of integrity plans in institutions

Main Objective

“Getting acquainted with risk situations that can contribute to undermining institutional integrity and suggesting how to avoid said situations in the future. In April 2018, the Agency prepared and published the draft Guidelines for drafting and implementation of integrity plans in BiH institutions, thus initiating the second cycle of drafting integrity plans. In order to facilitate the institutions accessing the creation of the document and at the same time modernize the self-assessment process that is being done in this way, access to the creation of a web application for online drafting of integrity plans will make this process quicker and easier. People who will be in charge of drafting integrity plans will undergo the necessary training by employees of the Agency.

- Web platform created and installed in BiH institutions, coordinators trained to use platforms. The second cycle of drafting integrity plans in BiH institutions has been successfully completed.”

“In a single document (electronic format document), the institution will have a complete list of risks threatening to undermine the integrity of the institution and propose measures to minimize defined risks. Realizing the proposed measures to improve integrity in practice strengthens the confidence of citizens and the general public in the work of public institutions.

Given that the integrity plan is a preventive anti-corruption mechanism whose purpose is not to solve individual cases of corruption but establishing mechanisms that will influence the reduction of the risk of corruption and other irregularities in all areas of functioning of the institution, by electronic drafting and by the publication of this document of public institutions will affect solving the problem of corruption in society.”

Milestones

“2.1. Creating a Web Platform.

2.2. Creating and publishing manuals for web platform use, training of coordinators, test phase of web application.

2.3. Installing a software in institutions of BiH, on-line drafting of integrity plans.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Public Accountability
Potential impact:	None

Commitment Analysis

The commitment aims to support development and adoption of the second phase of integrity plans in all institutions in the country through a web platform, which should facilitate and speed up this process. The integrity plan is a preventive internal mechanism based on the results of an institution’s self-assessment of the risks of corruption, corrupt acts, and other forms of irregularities and unethical and unprofessional behavior. It does not resolve individual cases of corruption.¹

The Anti-Corruption Strategy of Bosnia and Herzegovina 2015–2019 and its accompanying Action Plan² outline development and adoption of four-year integrity plans in all public institutions at all levels of government in the country. So far, a majority of public institutions in the country have developed their integrity plans, including the judiciary.³ However, during this process, legal gaps were noticed, such as ambiguities in definitions and missing information,⁴ and in 2018, the new rules on development and implementation of integrity plans were adopted.⁵ Considering the need to improve the existing procedure and the expiration date of already existing integrity plans, the second phase of development of integrity plans is foreseen. For this purpose, the commitment aims to implement a software application that should facilitate and harmonize this process across institutions. It would guide public officials and civil servants in all phases of integrity plan development as formulated by the rules: Phase 1) Adoption of decision on developing the integrity plan and development of a workplan of the working group for the development of the integrity plan; Phase 2) Risk identification, risk factor analysis, and risk intensity assessment, which includes deployment of a survey among all employees in the institution; Phase 3) Propose measures to improve integrity, prepare a report on the state of integrity in the institution, and draft the integrity plan; and Phase 4) Adoption of the integrity plan, monitoring of its implementation and submission of an annual report to the agency and other relevant authorities.⁶ The guidance and accompanying materials have been developed already but would be transitioned onto the software to make the whole process automated.

Institutions are obliged to publish their four-year integrity plans on their websites after they are adopted and report annually on their implementation to the agency.⁷ This does not always happen, and the software solution in this commitment does not address this nor enable individuals to see whether institutions have published the plans on their websites.

Through phase 2, public institutions raise awareness of corrupt behavior and potential risks, formalize anti-corruption procedures, and openly commit to a set of internally defined measures that should mitigate potential risks and foster good governance practices. Compared with the earlier approach, this process aims to engage all employees of the institution through the survey but does not entail engagement with the public.⁸ The software aims to assist the agency and institutions in harmonizing the process across different levels of governments and automate the monitoring and reporting tasks.⁹

Implementation of this commitment is primarily related to the OGP value of public accountability because it seeks to streamline the process of this anti-corruption mechanism. The commitment is coded as having no potential impact because it will only streamline and harmonize the process of developing integrity plans across public institutions rather than change the process at all.¹⁰ It is not clear how the plans would be used to raise awareness of corruption risks inside institutions or improve anti-corruption mechanisms, reducing potential impact. Furthermore, while the information in the reports is part of extensive annual institutional reports, the absence of requirements to publish the integrity reports themselves makes the whole process obscure to the public and thus limits potential impact.¹¹ To have minor or even moderate impact, implementation needs to mandate the publishing of these Integrity Plans and provide mechanisms that give citizens and civil society organizations the opportunity to provide input and feedback.

¹ Guidebook on the Rules for developing and implementing an integrity plan for institutions in Bosnia and Herzegovina, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, April 2018, http://apik.ba/zakoni-i-drugi-akti/Plan_integriteta/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

² The Council of Ministers, September 2014, <http://apik.ba/zakoni-i-drugi-akti/strategije/default.aspx?id=412&langTag=bs-BA>

³ Third Monitoring Report on the Implementation of the Strategy for Fight Against Corruption 2015-2019 and the Action Plan for Implementation of the Strategy for Fight Against Corruption 2015-2019, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, October 2018, <http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1932&langTag=bs-BA>

⁴ Ibid.

⁵ Guidebook on the Rules for developing and implementing an integrity plan for institutions in Bosnia and Herzegovina, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, April 2018, http://apik.ba/zakoni-i-drugi-akti/Plan_integriteta/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Interview with Vladica Babic, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, 13 May 2020.

¹⁰ Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 08 July 2020

¹¹ Such information is part of extensive annual institutional reports developed by the Agency to be adopted by the Council of Ministers of BiH: http://apik.ba/izvjestaji/izvjestaji-agencije/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1 ; See for example “Third Monitoring Report on the Implementation of the Strategy for Fight Against Corruption 2015-2019 and the Action Plan for Implementation of the Strategy for Fight Against Corruption 2015-2019,” Agency for the Prevention of Corruption and Coordination against Corruption of BiH, October 2018, <http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1932&langTag=bs-BA>

3. Development of online training modules for civil servants in the process of drafting and implementing integrity plans

Main Objective

“Creating and distributing a survey that will be compulsory for civil servants employed in BiH institutions in order to determine the state of the personal integrity of civil servants. Based on the conducted survey, analysis is to be made of the existing state of integrity in the civil service. The Agency, in cooperation with NGO INFOHOUSE, initiates activities on the development of online education aimed at improving the knowledge of civil servants regarding the drafting of integrity plans in institutions in BiH as well as on the issue of strengthening ethics and professional integrity. Creation as well as the publication of online modules on the official site of the Agency.”

“Training is designed to improve and develop institutional capacities, improve the role of employees in state institutions, contribute to the prevention, monitoring and detection of corruptive behaviors.”

Milestones

“3.1. Designing and making a survey for civil servants.

3.2. Distribution of the survey to the civil servants.

3.3. Analysis and publication of collected data.

3.4. Preparation of materials needed for education.

3.5. Preparing moodle for education.

3.6. Publication of moodle on the official website of the Agency and sending notices to civil servants about the possibility of attending the said education.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	No
Potential impact:	None

Commitment Analysis

The aim of this commitment is to support the integrity self-assessment processes of individual civil servants. It complements the aims of commitment 2 by providing a learning module on development of integrity plans through an online platform.

Education on integrity plans is an integral part of anti-corruption training of civil servants working in public institutions. These trainings are implemented by the state and entity agencies for civil service in cooperation with the Agency for the Prevention of Corruption and Coordination against Corruption of BiH (APCCC). Aside from integrity plans, these trainings cover themes such as anti-corruption regulation, conflict of interest, whistleblower protection, and other related subjects. In addition to these trainings, the APCCC organized an extensive number of workshops in the 2015–2017 period for civil servants of institutions at all levels of government.¹ Therefore, most civil servants in the country are acquainted with the integrity plan framework and have received some form of training on it. Some

training workshops were held in cooperation with the civil society organizations ACCOUNT and Association Analitika.²

Through the support of the USAID and in cooperation with Foundation INFOHOUSE, the moodle, an online training platform for civil servants on integrity plans, was developed and open as of February 2019.³ The training entails four parts. The first part consists of one single document wherein the anti-corruption legislation for all levels of government is listed. This list, however, only includes lists of laws and not actual sections or parts directly relevant to civil servants. The second part includes various text documents which serve as guides, such as the 'Guidebook on the rules for developing and implementing an integrity plan for institutions in Bosnia and Herzegovina'.⁴ The third section includes samples of integrity questionnaires for different types of institutions. Finally, in the fourth section, an online test is available. If the course is fully completed, an online certificate is issued for the course participant. In addition to these, the supplementary course materials include two short videos from civil society on integrity plans and a web forum, although not a single post has been made by the time of writing.⁵ Considering the predominantly textual information in the course materials, participants could benefit from more interactive course features, particularly visuals.

The commitment has limited relevance to the OGP values, as it entails an internal governmental education program for public officials on integrity plans. The milestones do not include the actual realization and monitoring of online trainings. Furthermore, the commitment language is particularly vague around deliverables, as it implies realization of a survey and online training platform without clear indication of their scope, design, and expected audience. In fact, the moodle has been online since February 2019, and some trainings were already completed before the plan was adopted. The platform and agency reports do not provide statistical data on the number of participants in the online course. Finally, the lack of potential impact is an accurate assessment because extensive education workshops on integrity plans have been organized for civil servants over several years without any noticeable changes having occurred in institutional practices in the recent period.⁶

Moving forward, implementation of the commitment would benefit from set targets on the number of officials who undergo the online training. The training materials and statistical information on the number of public officials who have used the moodle, possibly disaggregated by institution, could be made publicly available.

¹ Third Monitoring Report on the Implementation of the Strategy for Fight Against Corruption 2015-2019 and the Action Plan for Implementation of the Strategy for Fight Against Corruption 2015-2019, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, October 2018, <http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1932&langTag=bs-BA>

² Ibid.

³ Online courses of the Agency are available here: <http://obuke.apik.ba/course> To access the course materials one must sign up by creating a username and password. "Online anti-corruption education is available to employees of public institutions in BiH," Agency for the Prevention of Corruption and Coordination against Corruption of BiH, 27 February 2020, <http://apik.ba/aktuelnosti/saopcenja-za-javnost/default.aspx?id=1918&langTag=bs-BA> (website accessed: 29 June 2020).

⁴ Agency for the Prevention of Corruption and Coordination against Corruption of BiH, April 2018, http://apik.ba/zakoni-i-drugi-akti/Plan_integriteta/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

⁵ Moodle course "Integrity plans," Agency for the Prevention of Corruption and Coordination against Corruption of BiH, <http://obuke.apik.ba/course> (website accessed: 29 June 2020).

⁶ Srdjan Blagovcanin "The Rule of the Cartel," Transparency International BiH, 25 June 2020, <https://ti-bih.org/publikacije-istrazivanja/?lang=en> ; "Corruption becoming official policy in Bosnia, Transparency International warns," NI, 23 January 2020, <http://ba.n1info.com/English/NEWS/a405680/Corruption-becoming-official-policy-in-Bosnia-Transparency-International-warns.html> ; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 08 July 2020

4. Increase availability, openness and use of official statistical data

Main Objective

“Through the activities of the Agency for Statistics of BiH, we plan to increase the availability, openness and use of official statistical data in a way that all the data published by the Agency will be free, in a machine-readable form under the open license and constantly available at www.bhas.gov.ba consistent with the five-star implementation scheme. In addition to the above-mentioned activities and high-quality promotion that includes events and the development of educational materials, we want to boost the use of data and the development of innovative solutions.”

“By opening data from different areas (gender, criminality, culture and art, education, social protection, population, labor market, national accounts, prices, foreign trade, construction, industry, investment, business statistics, tourism, agriculture, forestry, environment, energy, traffic, communications, etc.) we are encouraging the service improvement, economic growth, technological development and transparency.

In order to achieve this, it is necessary to improve the data infrastructure, overcoming the legal and organizational barriers and establish a sustainable and up-to-date open source information system on permanent web links. In order to make the most of the information we have available, we need active interaction with the users in order to understand their needs on one hand and to provide education to the users with the aim of making proper use of data and strengthening their skills.

Data opening improves their quality by influencing the methodology of collecting and computing through user reactions. Data users are business entities and their associations, state bodies and bodies of local self-government units, cultural, educational and scientific institutions as well as the wider public, and therefore it is important to have timely available, high quality, accurate, objective and independent quantitative information required for quality estimates and decisions.

Due to the broad spectrum of different users, for the purposes of education, it is necessary to produce various educational tools in the form of short animated films, brochures, presentations and infographics, with the aim of encouraging the development of innovative solutions, organizing competitions with symbolic prizes (eg. the most interesting application created on open data).”

Milestones

“4.1. Establish user-friendly interactive web portal bhas.gov.ba;

4.2. Creating data sets from different areas and publishing under Open License in accordance with the five-star implementation scheme;

4.3. Creating educational tools, interaction with users, and promotional events.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Access to Information
Potential impact:	Minor

Commitment Analysis

Through implementation of the proposed commitment, the Agency for Statistics of BiH aims to foster the use of its statistics and data in the policy development and decision-making processes through provision of data in user-friendly formats, interactive tools, and educational and promotional activities. In particular, the agency plans to reformat its website to make it more interactive and to provide data under open access licenses.

This commitment has clear relevance to the OGP value of access to information because more datasets will be available in open formats. The action plan states that it is relevant to civic participation, but it has not been given this coding here, as it appears that users are invited as recipients of data but that there are no provisions for them to help shape the implementation of the commitment, such as consultations to establish which datasets to make a priority for publication.

The agency implemented part of its planned activities before the action plan was adopted.¹ It redesigned its website (milestone 4.1) and its statistical outputs in line with the EU standards in the geographical area of dissemination. It reorganized the manner in which the data are published by using more user-friendly formats for non-experts and experts, adding the time series datasets and custom creation of tables in most statistical categories and is providing methodological explanations in a clearer manner. In addition, a special website on the 2013 census has been made public with diverse interactive tools.² At the time of publishing the action plan, the website did not publish statistics on the number of people accessing the website, although this is included in the plans.³

The commitment is not clear about which datasets, or the criteria used to select thematic areas of datasets, are to be reformatted. According to the latest European Commission report on the BiH's progress, statistics in BiH "are only to some extent timely, relevant and reliable."⁴ The report identified data relating to business, tourism, industry, construction, and services are not available or not collected.⁵ In particular, the EU highlights that the use of administrative data is not sufficient.⁶ These and other missing statistics alongside inadequate data collection methodologies hinder the use of statistics in policy development. On the other hand, the agency is negotiating with the Ministry of Security BiH to share and publish migration statistics. This data are quite important for various policy planning purposes and for meeting the EU standards and requirements. In general, the collection of administrative data requires large-scale communication and collaboration work with many public institutions, as these would need to develop appropriate data registers and methodologies.

The Agency of Statistics' main challenge relates to the lack of coordination among different levels of government so that it can unite, process, and disseminate the statistical data countrywide.⁷ Entities do not always collect and disseminate data in line with EU standards and do not always provide the full set of statistical data as stipulated by the state Law on Statistics of BiH⁸ and instead insist on collection and publication of certain data only on their own websites. Data at the local/municipal level are often not available.

In terms of formats, the statistical data on the old website were published in PDF format. On the new website, data will be available in Excel but also in PDF format in statistical periodicals and announcements. In addition to being able to download data in machine-readable format (Excel), users will be able to custom generate time-series and data tables directly on the website.⁹ Finally, data on the new website will be organized and linked to meet the Five-Star Linked Open Data Ranking.¹⁰ The agency plans to define and implement accessibility rules similar to the UK's Open Government License¹¹ for Public Sector Information.¹²

The milestone to create educational tools and promotional events to interact with users of data continues work the agency is already doing. Through implementation of this commitment, the agency aims to expand its audience, and it participates in diverse conferences and workshops organized by other institutions and has presented on its work and products.¹³ In addition, the agency has started to

publish visuals and infographics on its Facebook website to draw public attention to different datasets. At the time of the writing of the report (date accessed 08 July 2020), the agency had 942 followers and 923 likes of its page.¹⁴ The agency has redeveloped its approach to communication with media by planning to organize relevant thematic press conferences rather than presenting its monthly statistical updates. For example, in February 2020, the agency presented a specialized thematic statistical report on gender in diverse sectors.¹⁵

The commitment is expected to have minor impact because datasets will be made open in new user-friendly formats, and there will be efforts to reach out to data users. The commitment could lead to greater public awareness about reliable statistics and open data. Civil society also finds that opening of public registers and various administrative data is crucial to fostering social accountability and transparency.¹⁶ The commitment does not have greater impact because it is unclear what datasets will be given priority for publishing, and there are no targets for growth in reuse of the data or information given on how the quality of the data will be achieved or maintained.

To have greater impact, institutions could address improving the relationship among different statistical agencies in BiH or targeting major datasets that are of public interest and that could have significant impact and publish them under and Open License in public registers. Substantial involvement of citizens and targeted stakeholders through some form of online or in-person consultations could make the commitment relevant to the civic participation and improve the relevance of datasets to users.

¹ While 4.1. milestone has been implemented and most activities under the milestone 4.2. *Creating data sets from different areas and publishing under Open License in accordance with the five-star implementation scheme*, the Agency held only few of activities under milestone 4.3. *Creating educational tools, interaction with users, and promotional events*. The Agency plans to organize diverse networking events and tools in the forthcoming period.

² Interview with Alen Mrgud, Agency for Statistics BiH (30 April 2020).

³ Interview with Alen Mrgud, Agency for Statistics BiH (10 July 2020).

⁴ European Commission. Commission Staff Working Document: Analytical Report Accompanying the document. Communication from the Commission to the European Parliament and the Council

Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union {COM(2019) 261 final}, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>

⁵ Ibid.

⁶ Ibid.

⁷ The Agency is authorized to conduct fieldwork in Brcko District.

⁸ European Commission. Commission Staff Working Document: Analytical Report Accompanying the document. Communication from the Commission to the European Parliament and the Council

Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union {COM(2019) 261 final}, 29 May 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>

⁹ Ibid.

¹⁰ <https://www.ontotext.com/knowledgehub/fundamentals/five-star-linked-open-data/>

¹¹ <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

¹² Interview with Alen Mrgud, Agency for Statistics BiH (10 July 2020).

¹³ Interview with Alen Mrgud, Agency for Statistics BiH (30 April 2020). See: "Free access to information day," News, Agency of Statistics of BiH, 28 September 2018, <http://bhas.gov.ba/News/Read/9/>; Workshop on proactive transparency in public administration, News, Agency of Statistics of BiH, 22 February 2019, <http://bhas.gov.ba/News/Read/16/>; Conference - Digitization of BiH society, News, Agency of Statistics of BiH, 21 March 2019, <http://bhas.gov.ba/News/Read/17/>; Workshop on proactive transparency for FBiH, RS and BDBiH institutions, News, Agency of Statistics of BiH, 30 October 2019, <http://bhas.gov.ba/News/Read/25/>; Conference on Open Government in Bosnia and Herzegovina, News, Agency of Statistics of BiH, 12 February 2020, <http://bhas.gov.ba/News/Read/32/>.

¹⁴ <https://www.facebook.com/BHAS.BIH/>

¹⁵ "Women and men in 2019," Agency for Statistics BiH, 07 February 2020, <http://bhas.gov.ba/News/Read/30>

¹⁶ Interview with Darko Brkan, Association "Why not," 15 May 2020.; Interview with Zoran Ivancic, Foundation "Centre for Advocacy of Citizens' Interests" (CPI), 13 May 2020.; Interview with Leila Bicakcic, Center for Investigative Journalism (CIN), 08 July 2020.

5. Involvement of civil society organizations in policy-making processes

Main Objective

“To hold eight workshops for civil society organizations to present the Rules on Consultation in Drafting Legal Provisions ("Official Gazette of BiH" No. 5/17) and the possibilities of active participation in the process of creating regulations and other acts under the competence of the Council of Ministers of BiH. Web platform eKonsultacije would be presented at the workshop and the way in which civil society organizations can register and actively participate in the process of drafting regulations and other documents by sending their suggestions and comments.”

“By fulfilling this obligation, we want to motivate civil society organizations to participate more actively in the policy-making processes of the Council of Ministers of BiH in order to improve quality of regulations at the Council of Ministers level with their suggestions and comments.”

Milestones

“5.1. In cooperation with the CSO, determine the location of the workshops;

5.2. Prepare and publish a call for workshops;

5.3. To hold workshops in eight BiH cities;

5.4. Make Recommendations for improving the public consultation process based on proposals by civil society organizations;

5.5. Implement recommendations in order to create a more quality legislative and legal framework for inclusion of CSOs in policy-making processes.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Civic Participation
Potential impact:	Moderate

Commitment Analysis

This commitment aims to foster wider and more substantial involvement of civil society organizations (CSOs) in state-level public consultations by holding informative workshops for them on public consultations across the country. In addition to increasing understanding of the consultation procedures, the Ministry of Justice aims to gather feedback on how to improve public consultation policies and use it as a basis for the state-level legislative revisions.

The commitment is relevant to OGP values, as it seeks to prepare the ground for greater civic participation in state-level decision-making processes.

This will be the first time that informative workshops will take place to explain public consultations.

There are two kinds of public consultation at the state level as defined by the Rules on Consultation in Drafting Legal Provisions; “minimal” – that are posted and receive comments via the online platform eKonsultacije¹ and “wider/additional” consultation such as through workshops and invitations for expert reports and similar and is recommended for issues of higher economic, environmental, social, and public interest.²

Since 2017, the majority of state-level institutions use the eKonsultacije platform to conduct the obligatory minimal public consultation for regulations and policies. Their annual legislative plans, strategic documents, and early drafts of laws are also subjected to public consultations. Interested individuals and CSOs can register on the platform as well and express interest in specific institutions. Through this system, contacts are forwarded to institutions, so they can invite interested parties when they organize public consultations. Institutions are obliged to look at comments and feedback during public consultations and provide justification as to why something was included or excluded. However, due to limited capacity, public consultations are not carried out systematically, and responses to comments and feedback are not often detailed.³

There are limited examples of “wider” public consultation since the platform was developed because of political and institutional deadlock surrounding the general election in 2018 and the subsequent delay in establishing a government. However, there has been substantial participation in some legislative drafts that were open to “wider” public consultation (such as more than 200 public comments on amending the Law on Free Access to Information). However, in this case, no action has been taken to amend the Law on Free Access to Information since changes were proposed in 2011.

Implementing recommendations from these workshops that improve the framework of public consultations could address multiple issues that limit the effective involvement of the public and the civil society organizations (CSOs) in decision-making. Interviews with the Ministry of Justice recognized the remoteness and complexity of state-level policies being an obstacle to civic involvement,⁴ and international studies have highlighted that institutions stick to formal consultations without actual inclusion of CSOs’ feedback and comments in legislative drafts.⁵

The number of public consultations and the extent of institutional interest in participation in state-level decision-making policies have been increasing over the years. According to the report of the Ministry of Justice of BiH – the institution in charge of monitoring the implementation of public consultation activities by the state-level institutions – 56 state-level institutions are using the eKonsultacije platform for their consultation work in 2018.⁶ In the same year, institutions conducted a total of 281 minimal consultations in drafting legal regulations and other acts and published 234 reports on conducted consultations,⁷ whereas 15 “wider” consultations were held.⁸

However, the number of submitted proposals and comments in the consultation process is quite small given that most public institutions do not receive any suggestions or comments during their consultation process. “Minimal” consultation processes must not be shorter than 15 days and no less than 30 days for “wider” public consultations. In the most recent survey the Ministry of Justice conducted in 2019, out of 56 institutions that responded to their questionnaire, only 17 indicated that they received suggestions and comments during their public consultations, whereas only one (1) institution rated the received input as good, 15 as satisfactory, and one (1) as not good. Although the eKonsultacije platform had 2,370 registered users as of December 2019, which is 494 more users than in December 2018, the majority of users are not active.⁹

The commitment would have a moderate impact if implemented. It should increase the number of CSOs using the eKonsultacije platform and participation in public consultations, although it doesn’t commit to how many CSOs it wishes to engage with in workshops. Implementation of milestones 5.4 and 5.5 on making and implementing civil society recommendations on participation could be particularly important for long-term civic participation. The recommendations could further highlight known obstacles to civic participation as explained above and, in particular, that substantial and detailed feedback to consultations explain where and how public input is considered and incorporated, or not, into policies and legislation. Providing detailed feedback could also aid legislative reforms by making it harder to block the passage of changes of draft laws at a later time.¹⁰ Such a change could present a big step from formal inclusion in decision-making procedures toward more participation in decision-making processes in the country. However, the commitment has quite a limited time frame for implementation of recommendations, which usually takes an extended amount of time for official adoption, beyond the scope of the action plan.

¹ <https://ekonsultacije.gov.ba>

² The Rules for Consultations in Drafting Legislation ("Official Gazette of BiH" No. 5/17). This regulation substituted earlier Rules and procedures ("Official Gazette of BiH" No. 80/04, 81/06).

³ "Bosnia and Herzegovina 2018 Report," European Commission, SWD(2018) 155 final, 17 April 2018, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-bosnia-and-herzegovina-report.pdf> ; Lejla Ramic, "Regulatory Impact Assessment in Bosnia and Herzegovina - Reality or Myth?" Initiative for Monitoring of EU Integrations in BiH, January 2019, <https://eu-monitoring.ba/procjena-ucinaka-propisa-u-bosni-i-hercegovini-stvarnost-ili-mit/> ; Nermina Voloder, "Challenges of regulatory impact assessment in Bosnia and Herzegovina," POLICYhub, 27 April 2017, <http://www.policyhub.net/bs/politike-i-standardi/206> ; Fatima Mahmutcehajic and Vedad Silajdzic, "Better regulation in Bosnia and Herzegovina: A central plank for the rule of law," Paper in Conference Proceedings, 9th International Conference of the School of Economics and Business, 12 October 2018, <http://www.efsa.unsa.ba/ices2018/sites/default/files/ICES2018%20Conference%20Proceedings%20final%20version%20%282%29.pdf> ; Dario Sijah, "Will BiH harmonize the Law on Public Procurement with EU legislation by June?" Istinomjer, 5 February 2020, <https://istinomjer.ba/da-li-ce-bih-do-juna-uskladiti-zakon-o-javnim-nabavkama-sa-eu-legislativom/> ; "Application of Uniform Rules for Drafting Legal Regulations in BiH Institutions," News: Council of Ministers of BiH, 7 August 2020, http://vijeceministara.gov.ba/stalna_tijela/generalni_sekretarijat/default.aspx?id=28281&pageIndex=1&langTag=bs-BA

⁴ Interview with Nedžad Selman and Goran Kucera, Ministry of Justice BiH (14 February 2020).

⁵ See also "Local and regional democracy in Bosnia and Herzegovina," Council of Europe, Report CG37(2019)18final, 31 October 2019, <https://rm.coe.int/local-and-regional-democracy-in-bosnia-and-herzegovina-monitoring-comm/168098072a> ; "Policy Paper Participation in Bosnia and Herzegovina," HTSPE Limited, 2009, <http://civilnodrustvo.ba/media/45730/policy-paper-participation-of-civil-cociety-in-policy-dialogue-in-bih.pdf> ; Saša Gavrić, Damir Banović, Mariña Barreiro, "The Political System of Bosnia and Herzegovina: Institutions – Actors – Processes," Sarajevo Open Center (SOC), 2013, https://soc.ba/site/wp-content/uploads/2013/07/POLITICAL-SYSTEM-OF-BIH_FINAL_web1.pdf ;

⁶ Report on the Implementation of the Rules for Consultation in the Development of Legal Regulations for 2019, the Ministry of Justice of BiH, February 2020 (draft version).

⁷ Report on the Implementation of the Rules for Consultation in the Development of Legal Regulations for 2019, the Ministry of Justice of BiH, February 2020 (draft version)

⁸ Report on the Implementation of the Rules for Consultation in the Development of Legal Regulations for 2018, the Ministry of Justice of BiH, January 2019,

http://www.mpr.gov.ba/web_dokumenti/lzvjestaj_o_provodjenju_Pravila_za_konsultacije_za_2018.godinu_BOS.pdf

⁹ Report on the Implementation of the Rules for Consultation in the Development of Legal Regulations for 2019, the Ministry of Justice of BiH, February 2020 (draft version).

¹⁰ "Bosnia and Herzegovina 2018 Report," European Commission, SWD(2018) 155 final, 17 April 2018, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-bosnia-and-herzegovina-report.pdf> ; Lejla Ramic, "Regulatory Impact Assessment in Bosnia and Herzegovina - Reality or Myth?" Initiative for Monitoring of EU Integrations in BiH, January 2019, <https://eu-monitoring.ba/procjena-ucinaka-propisa-u-bosni-i-hercegovini-stvarnost-ili-mit/> ; Nermina Voloder, "Challenges of regulatory impact assessment in Bosnia and Herzegovina," POLICYhub, 27 April 2017, <http://www.policyhub.net/bs/politike-i-standardi/206> ; Fatima Mahmutcehajic and Vedad Silajdzic, "Better regulation in Bosnia and Herzegovina: A central plank for the rule of law," Paper in Conference Proceedings, 9th International Conference of the School of Economics and Business, 12 October 2018, <http://www.efsa.unsa.ba/ices2018/sites/default/files/ICES2018%20Conference%20Proceedings%20final%20version%20%282%29.pdf> ; Dario Sijah, "Will BiH harmonize the Law on Public Procurement with EU legislation by June?" Istinomjer, 5 February 2020, <https://istinomjer.ba/da-li-ce-bih-do-juna-uskladiti-zakon-o-javnim-nabavkama-sa-eu-legislativom/> ; "Application of Uniform Rules for Drafting Legal Regulations in BiH Institutions," News: Council of Ministers of BiH, 7 August 2020, http://vijeceministara.gov.ba/stalna_tijela/generalni_sekretarijat/default.aspx?id=28281&pageIndex=1&langTag=bs-BA

6. Improving transparency in BiH institutions

Main Objective

“Proactive disclosure of information will provide transparent insight into the work of institutions and decisions made on behalf of citizens. Access to information is thereby made easier for citizens, where the application on a prescribed form, the knowledge of the legal framework, the waiting or possible payment of access fees are replaced by a proactive approach to the institution and the disclosure of information prior to requesting them. Also, the proactive disclosure of information ensures that the information the institution possesses is accessible to everyone, and not just to applicants. Unless they have the right information, citizens are not able to exercise their rights and access to services provided by the public sector. Access to information is part of the basic tools for monitoring the work of elected officials, as well as for ensuring greater accountability for spending taxpayers money.”

“The obligation will directly address the above problem, with the aim of increasing the degree of proactive transparency through the following measures:

- advocacy and promotion of proactive publication of information within the civil service
- promotion of proactive publication aimed at the management of institutions
- capacity building of civil servants in the area of proactive transparency
- customer satisfaction survey on proactive transparency
- measuring and tracking progress in the area of proactive transparency.”

Milestones

“6.1. After the Council of Ministers of BiH adopts the information on the Policy proactive transparency and Standards of proactive transparency of the PARCO and obliges all institutions on the implementation of the conclusion, the degree of fulfilment of standards of proactive transparency in the institutions of BiH is increased.

6.2. Capacities of civil servants and heads of institutions of proactive transparency are increased.

6.3. A mechanism for measuring and researching proactive transparency has been established.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina’s action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Access to Information
Potential impact:	Minor

Commitment Analysis

This commitment aims to increase access to information through proactive publication by institutions. It seeks to mandate proactive transparency to institutions through a decision by the Council of Ministers, followed up with training and monitoring to ensure implementation.

The Audit Office of Institutions of BiH has continually raised the lack of transparency of state institutions in its reports.¹ In particular, in its performance audit report on transparency from 2015, auditors found that state institutions only partially publish information of public interest and that their practices largely differ without a standardized approach to proactive transparency.² A civil society analysis from 2016³ found that the average proactive transparency level from the 68 websites of 40 state institutions was

34.8%.⁴ A survey carried out in June/July 2019 showed that 63.46% of public institutions fulfill the proactive transparency standards the Council of Ministers put forward.⁵

Although the responsibility of public authorities to proactively disclose information is mentioned in different pieces of legislation, an explicit obligation was not provided for any level of government. To address this issue, in 2015 PARCO developed⁶ the *Policy on Proactive Transparency in Public Administration* alongside its *Standards* in collaboration with four other state-level institutions⁷ and a group of civil society organizations.⁸

Milestone 6.1. was fulfilled by December 2018, as the Council of Ministers had adopted the Policy and Standards⁹ obliging all its ministries and agencies to regularly update documents and information published on their official websites.¹⁰ These Standards contain 38 types of information that should be published proactively that includes information on budgets, public procurement, strategic documents, operational and organizational information, and information related to freedom of information.^{11,12}

Although the obligation to publish 38 types of information exists, it is not clear whether there is a systematic method to collecting and publishing the datasets across institutions.¹³ In this instance, adoption of common methodologies for collecting and publishing data for public registers is necessary for effective proactive transparency.

Milestone 6.2 entails the creation of capacity-building opportunities. The public discourse on proactive transparency commenced in 2014 after the civil society organizations, with the support of the international community, organized a few conferences on the topic to generate public awareness on the issue and call for better institutional practices. Following these events, PARCO alongside several other state-level agencies¹⁴ and civil society organizations¹⁵ joined a project supported by the German development agency – the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) – through which several meetings and workshops on proactive transparency were held. Through the 6.2 milestone, PARCO aims to continue this capacity-raising work among civil servants and public officials.

The final milestone (6.3) aims to ensure that proactive transparency implementation is effectively assessed. Institutions are obliged to provide information on meeting the proactive transparency standards to the Public Administration Reform Coordinator's Office (PARCO).¹⁶ These reports are not public but are used by the PARCO to assess implementation. They are also used to develop a public report that PARCO prepares and sends to the BiH Cabinet of Ministers.¹⁷ In June 2018, PARCO developed an online survey for state-level institutions as the mechanism for measuring implementation of the 38 proactive transparency standards.¹⁸ This document was submitted to the Council of Ministers for consideration; however, it was never adopted despite several reminders from this institution to the state-level government. At the time of writing this report (May 2020), PARCO has asked state-level institutions to appoint a contact person to complete the survey. PARCO plans to conduct the survey again and analyze the level of proactive transparency and the change that has occurred since the Policy and Standards have been developed and promoted.¹⁹

Overall, this commitment has a minor potential impact. This commitment is a step in the right direction, as the obligation and monitoring of proactive transparency measures could make a difference in increasing the amount of information available to the public. However, the lack of detail in the formats and presentation of the data limits its overall impact. The lack of criteria or targets for raising capacity of civil servants and public officials also limits overall impact.

¹ "Results-based management through plans and reports of BiH Council of Ministers institutions," "Efficiency of FIPA in attracting foreign investments in BiH," "Preconditions for efficient work of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption," "Distribution and the use of current reserve funds," etc. www.revizija.gov.ba

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- ² “Performance Audit Report: Transparency of BiH Institutions,” the Audit Office of BiH Institutions, August 2015, <http://www.revizija.gov.ba/Content/OpenAttachment?Id=6d14c739-777f-4a2d-9da4-3fd11adbb664&langTag=bs>
- ³ Earlier studies have similar findings: “Openness of governments and parliaments in BiH: official websites of institutions as an effective tool for providing information,” Transparency International BiH, 2014, <http://www.cci.ba/pubs/1/2/1/1.html> ; “Perceptions on Public Administration of Bosnia and Herzegovina,” Transparency International BiH, 2015, <https://ti-bih.org/percepcija-javne-uprave-bosna-i-hercegovina-2014-septembar-2014-3/> ; “Research results: Availability of information on official web-presentations of public bodies of Bosnia and Herzegovina,” Association “Analitika,” 2014, http://analitika.ba/sites/default/files/publikacije/javni_organ_i_proaktivno_objavlivanje_informacija_-_web_24mart2015.pdf
- ⁴ “Survey results on proactive transparency of public institutions in Bosnia and Herzegovina,” Association “Analitika,” September 2016, <http://analitika.ba/bs/publikacije/rezultati-istraganja-o-proaktivnoj-transparentnosti-javnih-institucija-u-bosni-i>
- ⁵ The survey included 74 institutions, out of which 44 answered all 38 questions. “News: Progress in meeting the standards of proactive transparency,” Public Administration Reform Coordinator’s Office (PARCO), 23 August 2019, <http://parco.gov.ba/hr/2019/08/23/napredak-u-ispunivanju-standarda-proaktivne-transparentnosti/> ; “News: Four institutions of the BiH Council of Ministers have met all standards of proactive transparency,” Public Administration Reform Coordinator’s Office (PARCO), 22 August 2019, <http://parco.gov.ba/hr/2019/08/22/cetiri-institucije-vijeca-ministara-bih-ispunile-sve-standard-e-proaktivne-transparentnosti/>
- ⁶ Supported by the German development agency - the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).
- ⁷ the Agency for Higher Education and Quality Assurance of BiH, the Agency of Statistics of BiH, the Directorate for European Integrations (DEI), the Information Service of the General Secretariat of the Council of Ministers of BiH, the Agency for Civil Service of BiH, and the Agency for Prevention of Corruption and Coordination of Fight Against Corruption of BiH.
- ⁸ Transparency International, Association “Analitika,” and Center for Investigative Journalism (CIN).
- ⁹ “Policy and Standards of Proactive Transparency in Public Administration in BiH,” Council of Ministers of BiH, December 2018, http://www.vijeceministara.gov.ba/home_right_docs/info/default.aspx?id=29703&langTag=hr-HR
- ¹⁰ The Policy and Standards have been adopted on 3 December 2018, while the OGP action plan for BiH was adopted on 4 April 2019. The adoption of the aforementioned Policy and Standards has been incorporated in the OGP action plan because these materials were submitted approximately at the same time to the Council of Ministers BiH but adopted at different times. Interview with Vedrana Fazlagić and Mubera Begić, Public Administration Reform Coordinator’s Office of BiH (PARCO), 29 April 2020.
- ¹¹ “Conclusion no.14 from the 160th Session of the Council of Ministers of BiH: Information on activities in the field of promoting proactive transparency and the need to adopt the Policy on proactive transparency and Standards and the Proposal for a proactive transparency policy and standards in public administration in Bosnia and Herzegovina,” the Council of Ministers of BiH, 3 December 2018, http://www.savjetministara.gov.ba/saopstenja/sjednice/zakljucci_sa_sjednica/default.aspx?id=29686&langTag=hr-HR
- ¹² “Bosnia and Herzegovina 2018 Report,” European Commission, SWD(2018) 155 final, 17 April 2018, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-bosnia-and-herzegovina-report.pdf> ; Lejla Ramić, “Regulatory Impact Assessment in Bosnia and Herzegovina - Reality or Myth?” Initiative for Monitoring of EU Integrations in BiH, January 2019, <https://eu-monitoring.ba/procjena-ucinaka-propisa-u-bosni-i-hercegovini-stvarnost-ili-mit/> ; Nermina Voloder, “Challenges of regulatory impact assessment in Bosnia and Herzegovina,” POLICYhub, 27 April 2017, <http://www.policyhub.net/bs/politike-i-standardi/206> ; Fatima Mahmutćehajić and Vedad Silajdžić, “Better regulation in Bosnia and Herzegovina: A central plank for the rule of law,” Paper in Conference Proceedings, 9th International Conference of the School of Economics and Business, 12 October 2018, <http://www.efsa.unsa.ba/ices2018/sites/default/files/ICES2018%20Conference%20Proceedings%20final%20version%20%282%29.pdf> ; Dario Sijah, “Will BiH harmonize the Law on Public Procurement with EU legislation by June?” Istinomjer, 5 February 2020, <https://istinomjer.ba/da-li-ce-bih-do-juna-uskladiti-zakon-o-javnim-nabavkama-sa-eu-legislativom/> ; “Application of Uniform Rules for Drafting Legal Regulations in BiH Institutions,” News: Council of Ministers of BiH, 7 August 2020, http://vijeceministara.gov.ba/stalna_tijela/generalni_sekretarijat/default.aspx?id=28281&pageIndex=1&langTag=bs-BA
- ¹³ Interview with Darko Brkan, Association “Why not,” 15 May 2020.
- ¹⁴ The Agency for Higher Education and Quality Assurance of BiH, the Agency of Statistics of BiH, the Directorate for European Integrations (DEI), the Information Service of the General Secretariat of the Council of Ministers of BiH, the Agency for Civil Service of BiH, and the Agency for Prevention of Corruption and Coordination of Fight Against Corruption of BiH.
- ¹⁵ Center for Investigative Journalism (CIN), Transparency International BiH and Association “Analitika”.
- ¹⁶ “Conclusion no.14 from the 160th Session of the Council of Ministers of BiH: Information on activities in the field of promoting proactive transparency and the need to adopt the Policy on proactive transparency and Standards and the Proposal for a proactive transparency policy and standards in public administration in Bosnia and Herzegovina,” the Council of Ministers of BiH, 3 December 2018, http://www.savjetministara.gov.ba/saopstenja/sjednice/zakljucci_sa_sjednica/default.aspx?id=29686&langTag=hr-HR
- ¹⁷ The IRM received this information from PARCO during the pre-publication period for this report.
- ¹⁸ Information on completed online survey on implementation of Policy and Standards on proactive transparency, Public Administration Reform Coordinator’s Office (PARCO), August 2018.
- ¹⁹ Interview with Vedrana Fazlagić and Mubera Begić, Public Administration Reform Coordinator’s Office of BiH (PARCO), 29 April 2020.

7. Drafting of the budget for citizens

Main Objective

“The regular preparation and publication of the Budget for Citizens is a reflection of the best international practices and trends in the field of public finance transparency. Given that the state level of government has not had significant activities and initiatives in this field until now, by introducing the practice of compiling and publishing the Budget for Citizens, it is expected a strengthening of citizens' awareness and public accountability, as well as a much better rating of BiH institutions on the international scale budget transparency, measured primarily by the Budget Transparency Index, which will result in increased trust among citizens, donors and civil society organizations.”

Milestones

“7.1. In cooperation with the NGO, we will identify the interests and needs of the beneficiary/target group, consider and process the collected information, then work out, write, design and publish the Budget for Citizens and distribute it to citizens through a web site and in a printed form.

7.2. Preparation of guidelines for the preparation of the Budget for Citizens for BiH Institutions and provision of education to institutions in connection with drafting the Budget for Citizens.”

Editorial Note: For the complete text of this commitment, please see Bosnia and Herzegovina's action plan at <https://www.opengovpartnership.org/documents/bosnia-and-herzegovina-action-plan-2019-2021/>.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Yes Access to Information Civic participation
Potential impact:	Moderate

Commitment Analysis

The purpose of commitment 7 is to prepare and publish budget information in a user-friendly format for the general public. This publication will entail budgetary information of state-level institutions.¹

The commitment is relevant to OGP value access to information, as it will improve access to budgetary information of state-level institutions. While budget information in BiH is publicly available, it is not published in a citizen-friendly manner so that the general public understands how public money is to be spent.² So far, budgets that can be understood by citizens have been adopted in several cities, including Tuzla, Zenica, Bijelinja, and Banja Luka.³ The Foundation “Centre for Advocacy of Citizens' Interests” (CPI) created a special website on public spending with infographics for all levels of government.⁴

The International Budget Partnership reports in its 2019 Open Budget Index that BiH has not produced a state-level citizens' budget (nor has it produced a state-level citizens' budget at any time the IBP has surveyed for this). IBP recommends that BiH “Produce and publish the Citizens Budget and Mid-Year Review online.”⁵

The commitment also is relevant to civic participation because of the proposed engagement with civil society to identify and determine the information to be contained in a budget for citizens. However, it doesn't aim to introduce specific measures for civic participation in budget formulation, adoption, or implementation, which are currently nonexistent in BiH. The IBP Open Budget Index 2019 scores BiH just 7 out of 100 on its participation criteria. The IBP recommends developing mechanisms to engage

the public during budget formulation and to actively engage with vulnerable and underrepresented groups.⁶

Currently, the Ministry in cooperation with its partners – the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the civil society organization EDA Banja Luka – are implementing several preparatory activities that should ensure deployment of a user-friendly and usable budget for citizens, one based on the actual needs. For this purpose, workshops,⁷ surveys,⁸ interviews, and other types of analyses are planned with different types of stakeholders.⁹

The proposed commitment has a moderate potential for impact on public accessibility of budget information.¹⁰ The foreseen collaborative nature for developing a budget for citizens could ensure that relevant and understandable information is published. This will increase transparency of state-level spending and accessibility to such information for citizens. However, the commitment lacks the sort of public outreach component that could ensure wide public uptake and larger numbers of the population accessing and using budget information. Ensuring wide dissemination of the citizens' budget publication and organization of targeted promotional events would help the publication reach the general public but also specific civil society groups that should benefit from the newly available budgetary information for their advocacy purposes.

A transformational commitment could seek to use the budget for citizens as a way to engage citizens in the development of the state budget itself, helping identify citizen priorities and provide feedback before the budget is formally adopted. This commitment could also seek to introduce mechanisms for participatory budgeting at the state, entity, or local levels of government.

¹ Each level of government develops and passes its own annual budget.

² Anida Šabanović and Ana Bukovac – Vuletić, "National PAR Monitor: Bosnia and Herzegovina 2017-2018," Foreign Policy Initiative BH, November 2018, http://weber-cep.s3.amazonaws.com/data/attachment_799/weber_par_monitor_2017-2018.pdf

³ Budget for Citizens: The City of Tuzla, http://grad.tuzla.ba/wp-content/uploads/2014/11/Budzet_za_gradjane_2019.pdf and

<http://grad.tuzla.ba/category/tuzla-institucionalno/budzet-za-gradane/> ; Budget for Citizens: The City of Zenica,

<http://www.zenica.ba/gradska-uprava/budzet/budzet-za-gradane/> ; Budget for Citizens: The City of Bijeljina,

<https://www.alvrs.com/v1/media/djcatalog/Bijeljina.pdf> ; Budget for Citizens: The City of Banja Luka,

<http://www.banjaluka.rs.ba/бУДЖЕТ-ЗА-ГРАЂАНЕ-САЗНАЈТЕ-КАКО-СЕ-п/?fbclid=IwAR2jUZhXwcyaaZRyGXKCl03MCnEKISzyQfu8EEo9JescbLrF-KMGR8BwKFw>

⁴ <http://javnefinansije.cpi.ba/budzetski-korisnici/bosna-i-hercegovina.html>

⁵ Open Budget Survey 2019: Bosnia and Herzegovina, International Budget Partnership,

<https://www.internationalbudget.org/open-budget-survey/country-results/2019/bosnia-and-herzegovina>

⁶ Open Budget Survey 2019: Bosnia and Herzegovina, International Budget Partnership,

<https://www.internationalbudget.org/open-budget-survey/country-results/2019/bosnia-and-herzegovina>

⁷ "Project on preparations for drafting the Budget for citizens, Ministry of Finance and Treasury of BiH, 29 May 2020,

https://www.mft.gov.ba/bos/index.php?option=com_content&view=article&id=1027:projekat-o-pripremama-za-izradu-budzeta-za-gradane&catid=46&Itemid=100002

⁸ https://docs.google.com/forms/d/1N6yL--4r-TdDPHzSONCXTZHGDLIcgaHz8e86l43UziU/viewform?edit_requested=true

⁹ Written correspondence with Halida Pasic and Igor Bevanda, Ministry of Finance and Treasury of BiH, 12 May 2020.

¹⁰ Aleksandar Draganic, "Through Budget for citizens to open government," Transparency International BiH, September 2015, <https://ti-bih.org/budzetom-za-gradjane-do-otvorene-vlasti-septembar-2015/>

V. General Recommendations

This section aims to inform the development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Five Key Recommendations

Recommendations for the next action plan's development process	
1	Create a comprehensive OGP repository website
2	Seek and publish feedback about consultation contributions and publish the reasoning behind the selection of commitments

Create a comprehensive OGP repository website

Ensure timely and proactive publication of Advisory Council documents, such as its minutes of meetings, the action plan, decisions of the multistakeholder forum, and feedback from consultations on a single repository on the OGP website. Currently, OGP-related information is scattered and published across three different websites, which makes it difficult to understand the process and limits accessibility. The OGP.ba website created by civil society is currently not accessible. A repository needs to be maintained and regularly updated.

Seek and publish feedback about consultation contributions and reasoning for selection of commitments

The Ministry of Justice published a document with an acknowledgement that there were no contributions to the public consultation. The Ministry of Justice could have made efforts to hold a wider consultation that would have ensured generation of comments to the action plan. As has been noted, BiH public institutions need to carry out more meaningful consultations beyond the minimum legal standards. Even though commitment 5 seeks to address this issue by finding out what would make it easier for civil society to participate, the next action plan could be a process that could demonstrably benefit from such wider/additional consultation. The co-creation process would benefit from ensuring wider geographical reach, outside of the capital city, as part of consultations with citizens. The reasoning behind the selection of commitments in the action plan, including justifications for commitment proposals not adopted, needs to be published according to OGP's Co-Creation and Participation Standards. This was not done in the previous co-creation process.

Ensure parity of members in the multistakeholder forum in terms of their affiliation and gender

On the basis of the decision on its establishment and later amendments, the Advisory Council includes representatives of eight institutions and four civil society organizations (CSOs). In terms of gender, women constitute 25% and men constitute 75% of those leading the work of the Advisory Council. During the next action plan's development process, the multistakeholder forum could ensure parity of CSOs and government representatives as well as gender equality.

Recommendations for the next action plan's design	
1	Work with civil society to develop a state-level Open Data Strategy
2	Amend the Law on Free Access to Information to bring it into line with European transparency standards
3	Strengthen the public procurement monitoring system in BiH and ensure that cases of corruption are investigated and sanctioned.

Work with civil society to develop a state-level Open Data Strategy

Currently, the country does not have any open data policies. Detailed analytical reviews of the open data availability, norms, datasets, capacities, and regulation should be the first step toward generating public awareness and interest for opening of government data. The Advisory Council could propose commitments in this area and work with interested civil society organizations and governmental institutions to develop a state-level Open Data Strategy and instigate the opening of public registers and other administrative data, going beyond commitment 4 in the current Action Plan. Civil society organizations made a recommendation related to open data during the 2015–2017 OGP consultation phase, but the first BiH action plan did not sufficiently capture that proposal.

Amend the Law on Free Access to Information to bring it in line with European transparency standards

The Law on Free Access to Information plays a central role in BiH's open government framework. It is related to many other policies as well as several commitments of the current action plan. The law has been the subject of a redrafting process for several years, which involved participation of international and local experts, civil society organizations, and many relevant public authorities. Recommendations for improvement have included addressing the lack of provisions regulating the proactive disclosure of information,¹ the weak institutional monitoring framework for implementation, and deficiencies in the process of accessing information upon request. Another core weakness in the law is the fact that the oversight body can only make recommendations rather than binding decisions. Additionally, there are no sanctions for those who contravene the Act, nor are there protections for those who disclose information in response to requests in good faith. Furthermore, the Strategic Framework for Public Administration Reform in BiH 2018–2022 foresees measures to improve the monitoring of the Law. BiH has yet to adopt such amendments, which would go a long way in strengthening the legal framework on accessing information. At the same time, there needs to be financial and political support for this as it is implemented in practice.

Strengthen the public procurement monitoring system in BiH and ensure that cases of corruption are investigated and sanctioned.

Although the 2016–2020 state-level public procurement strategy has been adopted, its realization is not complete. Public spending in Bosnia and Herzegovina is high and significantly affects the economy. Civil society organizations and the international community have continually raised concerns over corruption and misuse of public funds through procurement. In fact, the recent corruption scandals related to the misuse of public procurement during the COVID-19 showcase the need for effective law enforcement and monitoring of public procurement procedures. The "Sreberna Malina" scandal is a prominent example: A small fruit vegetable company received a multimillion-dollar deal to import 100 Chinese ventilators to fight COVID-19, a price far higher than the market price for these machines.² Only 80 respirators were delivered, and the misuse of public office, money laundering, and a joint criminal enterprise were reported during an investigation by the prosecutor's office.³

The current action plan commits to improving transparency and accessibility of procurement data. However, to ensure an effective procurement system, measures are needed to strengthen monitoring and sanctions to prevent and tackle public procurement corruption. A working group that includes a wide range of stakeholders, including civil society organizations, could help establish the main weaknesses and suggest improvements. The next action plan could commit to ensuring the facilitation of inter-sectoral collaboration and development of institutional mechanisms to address the deficiencies in monitoring and investigation of public procurement corruption. Focus could be placed on

procurement in the health sector and in particular relating to COVID-19, wherein emergency aid and assistance from the IMF and European Commission is expected. The measures taken should also be adapted at entity and lower levels of government in Bosnia and Herzegovina.

In the next action plan, ensure greater impact on participatory policy making and budgeting by building on current action plan commitments.

The next action plan could provide a larger scope that includes much greater ambition, particularly for participation in policy making (commitments 5), and a budget for citizens (commitment 7). Building on these initiatives, the next action plan could commit to a potentially more meaningful change for civic participation in BiH.

Building on commitment 5 on involving CSOs in policy-making processes, the next action plan could aim to ensure that engagement is introduced early and often. Stakeholder engagement could begin at the pre-drafting or scoping phase (green paper phase), not only at the later stage when a draft law or policy is under consideration. There could be a commitment to ensure proper time allocation for consultations and detailed feedback to be made mandatory as well.

For commitment 7 on a budget for citizens, the next action plan could build on this by extending civil society and citizen engagement to the formulation of the budget itself. This could be done early on in a way that identifies citizen priorities for spending or taxes and could also incorporate an opportunity for citizen feedback and input into a draft budget before it is finally adopted. A commitment could ensure evaluations are conducted that specifically address the impact of the budget on different social groups (such as women, rural communities, LGBTQIA+ people, disabled groups, etc.).

¹, http://www.vijeceministara.gov.ba/home_right_docs/info/default.aspx?id=29703&langTag=bs-BA

² Aida Djugum, Edib Bajrovic, and Andy Heil. "How Did A Bosnian Raspberry Farm Get A State Contract To Acquire 100 Ventilators?" Radio Free Europe, 5 May 2020, <https://www.rferl.org/a/bosnia-ventilators-scandal-covid-19-raspberry-farm-multimillion-deal-procurement/30594315.html>

³ "Court report released: Solak and Hodzic are suspected of money laundering and numerous abuses," Centralna.ba, 11 May 2020, <https://centralna.ba/objavljen-izvjestaj-suda-solak-i-hodzic-se-sumnjice-za-pranje-novca-i-brojne-zloupotrebe/>

VI. Methodology and Sources

IRM reports are written in collaboration with researchers for each OGP-participating country. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in Bosnia and Herzegovina's OGP repository (or online tracker), website, findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations.

Each IRM researcher conducts stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reserves the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.¹

Interviews and stakeholder input

The preparation of this report involved observations and participation in the OGP-related conferences and meetings organized in the country. Aside secondary literature, researcher reviewed all OGP related materials, such as minutes, calls and conclusions from the meetings of the Advisory Council for the Open Government Partnership Initiative, along with other official materials related to implementation of commitments in the action plan. Most documents are directly cited in the report where relevant.

Researcher participated as observer in the following events (chronologically in reversed order):

Meeting of the Advisory Council for the Open Government Partnership Initiative, 14 May 2020
Members of the Advisory Council shared information on their activities and discussed their joint OGP promotion efforts in the near future. The status of OGP website was discussed as well as impact of the COVID-19 epidemic on implementation of commitments.

Meeting of the Advisory Council for the Open Government Partnership Initiative, 13 February 2020
Members of the Advisory Council shared information on their activities and discussed their joint OGP promotion efforts in the near future. The status of OGP website was discussed as well as potential joint projects and collaborations.

Open Government Conference, Sarajevo, 12 February 2020
This conference gathered all OGP stakeholders in the country and presented the OGP processes and information on the status of implementation of commitments. Conference included a special session on the LGBTQ rights and open government.

Launching the Open Government Partnership in Bosnia and Herzegovina: An (Im)Possible Mission?, Association "Analitika," 23 November 2016
Review of OGP process and accomplishments in different countries across the world and discussion on the OGP actin plan creation in Bosnia and Herzegovina and the main challenges to this process.
Researcher also presented at the conference on the OGP review process and the IRM methodology.

Conference Partnership for the Open Government “OGP from Vision to Action,” Transparency International BiH, 21 June 2016

Participants discussed the experiences and results of the countries from the region that are members of the OGP Initiative, as well as the results of the work of OCDs and institutions in BiH in fulfilling their commitments, and the results of the process of defining the proposed measures for the first BiH action plan. Researcher also presented at the conference on the OGP review process, the IRM methodology and the open data and government needs in the country.

In addition, researcher held meetings and interviews, in person or online with members of the Advisory Council (in alphabetical order):

Alen Mrgud, Agency for Statistics BiH, 30 April 2020 and 10 July 2020

The meeting discussion and written correspondence revolved around the 4th commitment of the action plan and elaboration on implemented and forthcoming milestones/activities. In addition, various statistical issues were discussed and explained alongside potential policy needs.

Dario Kihli and Belma Secibovic, Agency for Public Procurement BiH, 6 May 2020

Through written correspondence researcher inquired about particular activities the Agency is implementing and asked for additional clarifications.

Darko Brkan, Association “Why not,” 15 May 2020

The online meeting revolved around discussion on the role and involvement of the civil society in the OGP process in BiH. Researcher also discussed her initial findings and asked for insights from interviewee and positions on several issues. In addition, dissemination and public outreach were addressed, as was the possibility for researcher to present the report at the forthcoming POINT conference 2020.

Elvis Mujanovic, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), 04 June 2020

Mr. Mujanovic is GIZ Advisor/Implementing Manager for the section “Improvement of Transparency and Accountability” and has collaborated with several BiH state-level institutions on implementation of their commitments. Furthermore, Mr. Mujanovic has been following OGP and the BiH Advisory Council since its establishment. The interview revolved around the GIZ support to BiH in the field of Mr. Mujanovic’s expertise.

Emsad Dizdarevic, Transparency International, 28 April 2020

The meeting focused on the OCD involvement in the OGP processes, in development of the action plan and implementation of specific commitments. The relevance of certain commitments for the overall democratic processes was touched upon as well, as was the work of TI in governmental working groups.

Goran Kucera, Ministry of Justice BiH, 10 June 2020 and 16 June 2020

Through a phone conversation, researcher clarified several issues regarding the co-creation process.

Halida Pasic and Igor Bevanda, Ministry of Finance and Treasury of BiH, 12 May 2020

Through written correspondence researcher inquired about particular activities the Ministry is implementing and asked for additional clarifications.

Leila Bicakcic, Center for Investigative Journalism (CIN), 29 April 2020 and 08 July 2020

Aside the role and engagement of the civil society in OGP in BiH, during this online meeting, the ongoing reform processes were discussed along with the planned activities of the Advisory Council in area of media and public outreach. In addition, researcher discussed the design of BiH commitments and their potential impact.

Nedžad Selman and Goran Kucera, Ministry of Justice BiH, 14 February 2020

Goran Kucera and Nedžad Selman act as OGP contacts point in BiH and have taken the lead role in managing OGP processes in the country and coordinating these efforts with other institutions in BiH. During the meeting, the following issues were discussed: the multistakeholder body creation from its initial stages to the newest developments, the political challenges encountered during their work and how they overcame them, and the future plans for OGP in Bosnia and Herzegovina. In addition, the newest developments in preparation of the novel Law on Free Access to Information were examined as along with challenges to active inclusion of the public in decision-making processes.

Mirsad Buljevic, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), 10 June 2020
Mr. Buljevic is in charge of leading GIZ projects on public procurement in BiH and has worked with the Agency for Public Procurement of BiH on implementation of their projects, including the commitment no 1 of BiH action plan. The discussion revolved around the measures in this commitment and the COVID-19 corruption scandal in BiH.

Vedrana Fazlagić and Mubera Begić, Public Administration Reform Coordinator's Office of BiH (PARCO), 29 April 2020

Interviewees elaborated on specific questions of researcher on implementation of the commitment they are in charge on behalf of their organization. The M&E methods and the civic engagement activities were described alongside the future plans of PARCO in the area of proactive transparency and open data.

Vildan Hadžihasanović, Ministry of Justice BiH, 14 October 2019

This meeting served as a basis for the update on the recent OGP developments in the country and the work of the Ministry of Justice on implementation of its commitment in the action plan.

Vladica Babić, Agency for the Prevention of Corruption and Coordination against Corruption of BiH, 13 May 2020

Interview presented work of the Agency in relation to OGP Action plan and the status of implementation of two commitments and elaborated on the challenges in the process of implementation and collaboration with the civil society. In addition, interviewee and researcher discussed the institutional complexity in the country and its impact on corruption.

Zoran Ivancić, Foundation "Centre for Advocacy of Citizens' Interests" (CPI), 13 May 2020

Researcher discussed her initial findings and asked for insights from interviewee and positions on several issues, in particular, those related to the status of the civil society in the country, the visibility of OGP, and its relation to other good governance reform processes.

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

Current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Juanita Olaya

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researchers. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org

¹ IRM Procedures Manual, V.3: <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

Annex I. Commitment Indicators

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.¹ The indicators and method used in the IRM research can be found in the IRM Procedures Manual.² A summary of key indicators the IRM assesses is below:

- **Verifiability:**
 - Not specific enough to verify: Do the written objectives and proposed actions lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment?
 - Specific enough to verify: Are the written objectives and proposed actions sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine relevance are:
 - Access to Information: Will the government disclose more information or improve the quality of the information disclosed to the public?
 - Civic Participation: Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
 - Public Accountability: Will the government create or improve public-facing opportunities to hold officials answerable for their actions?
- **Potential impact:** This variable assesses the potential impact of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
 - Identify the social, economic, political, or environmental problem;
 - Establish the status quo at the outset of the action plan; and
 - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the country's IRM Implementation Report.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the country's IRM Implementation Report.

What makes a results-oriented commitment?

A results-oriented commitment has more potential to be ambitious and be implemented. It clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem rather than describing an administrative issue or tool? (E.g., "Misallocation of welfare funds" is more helpful than "lacking a website.")
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan? (E.g., "26% of judicial corruption complaints are not processed currently.")
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation? (E.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")

Starred commitments

One measure, the “starred commitment” (★), deserves further explanation due to its interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria.

- Potential star: the commitment’s design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **substantial** or **complete** implementation.

These variables are assessed at the end of the action plan cycle in the country’s IRM Implementation Report.

¹ “Open Government Partnership: Articles of Governance” (OGP, 17 Jun. 2019), <https://www.opengovpartnership.org/articles-of-governance/>.

² “IRM Procedures Manual” (OGP), <https://www.opengovpartnership.org/documents/irm-procedures-manual>.