

Independent Reporting Mechanism

Czech Republic
Co-Creation Brief 2022

Open
Government
Partnership



Independent
Reporting
Mechanism

Introduction

This brief from the OGP's Independent Reporting Mechanism (IRM) serves to support the co-creation process and design of the sixth action plan and to strengthen the quality, ambition, and feasibility of commitments. It provides an overview of the opportunities and challenges for open government in the country's context and presents recommendations. This brief does not constitute an evaluation of a particular action plan and its purpose is to inform the planning process for co-creation based on collective and country-specific IRM findings.

The co-creation brief draws on the results of the research in the prior [IRM reports for the Czech Republic](#), and draws recommendations from the data and conclusions of those reports. The Brief also draws on other sources such as [OGP National Handbook](#), [OGP Participation and Co-creation Standards](#), and IRM guidance on [online OGP repositories](#) and [the minimum threshold for "involve"](#), to ensure that recommendations provided are up-to-date in light of developments since those IRM reports were written, and to enrich the recommendations by drawing on comparative international experience in the design and implementation of OGP Action Plan commitments as well as other context-relevant practice in open government. The co-creation brief has been reviewed by IRM senior staff for consistency, accuracy, and with a view to maximizing the context-relevance and actionability of the recommendations. Where appropriate, the briefs are reviewed by external reviewers or members of the IRM International Experts Panel (IEP).

The IRM drafted this co-creation brief in March 2022.

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Section I: Action Plan Co-Creation Process

Snapshot of previous co-creation processes in Czech Republic

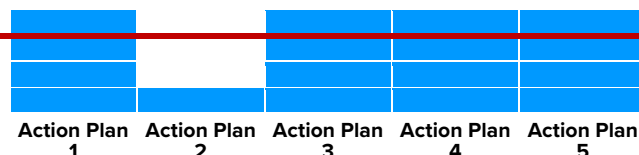
Iterative dialogue between civil society and government

Government provides reasoned response

Civil society could provide input

Civil society was informed of the plan

No consultation



The Czech Republic has demonstrated a consistent open government process over its past decade as an OGP member country. However, the IRM has found that Czech action plan commitments have become less ambitious in recent cycles, and less likely to be substantially completed by the end of their respective implementation periods. While the Ministry of Justice took leadership of the OGP process in 2017 and included promising commitments on whistleblower protection and publication of court decisions in the previous action plan, few other ministries made action plan commitments. As the Czech Republic co-creates its sixth action plan, opportunities must be made available to engage a broader range of stakeholders and institutions, and for their engagement to lead to ambitious commitments in diverse policy areas including whistleblower protection, fiscal transparency, recovery and resilience, lobbying transparency, and judicial reform. In order to provide space for an ambitious co-creation process, it could be beneficial to extend periods for public consultation and dialogue beyond those allocated in the current [timeline](#).

To strengthen the co-creation process, the IRM recommends the following:

1. Engage a broader range of government and nongovernment stakeholders in the co-creation process.
2. Develop commitments that go beyond preliminary activities to initiate ambitious lasting reforms.
3. Publish timely information on the co-creation process in accessible formats and language.

RECOMMENDATIONS

Recommendation 1: Engage a broader range of government and nongovernment stakeholders in the co-creation process

To bring fresh perspectives into the co-creation of the sixth action plan, the government point of contact (POC) could initiate meetings with a broad range of ministries outside of the Ministry of Justice. In the previous two action plans, effective participation by other ministries was limited by a lack of interest in the open government agenda. This restricted opportunities for including proposals in new policy areas, and for completing commitments that required cross-government action. The government could also improve the communication strategy and outreach to CSOs and groups outside the usual suspects, including thematic experts and potential beneficiaries of commitments.

Ahead of outreach meetings with new government and nongovernment stakeholders, the POC could prepare a memo summarizing the background of OGP in the Czech Republic to set the context. Since many of these stakeholders may be unfamiliar with OGP, it could be beneficial to extend periods for public consultation and dialogue beyond those allocated in the current [timeline](#). Proposals from civil society could also be used to demonstrate interest and persuade ministries to engage in the process and co-create commitments. There needs to be space for regular dialogue throughout co-creation to allow all parties to understand how the issues raised could be addressed in OGP action plans, before jointly developing concrete proposals for commitments. Groups that raise similar issues could be brought together in person or online to collaborate on commitment ideas. It may be useful to draw on [Slovakia's](#) or [Finland's](#) examples of diverse stakeholder involvement in the action plan. [Nigeria's](#) engagement strategy, in which the POC met with each ministry head to explain opportunities for engagement in the co-creation process, may also be worth considering as a way to engage other ministries.

Recommendation 2: Develop commitments that go beyond preliminary activities to initiate ambitious lasting reforms

To establish ambitious lasting reforms, it would be valuable for the Czech Republic to design commitments that go beyond preliminary activities. In the past, the potential impact of some commitments was limited by designing first steps toward policy reform (e.g., developing a methodology or running a consultation), without the crucial milestones that actually implement the reform. For example, in the previous action plan, a [commitment](#) aimed at developing a methodology for public authorities on how to include the public in decision making did not entail mandatory implementation or legislative change. Likewise, a [commitment](#) to run a consultation on creating a public-grants database did not plan for the actual introduction of such a register.

Commitments that combine preliminary activities with subsequent concrete policy reforms would be more likely to deliver substantial results. Results-oriented commitments focus on expected changes, describing the targeted behavior change rather than just intermediary outputs (e.g. go beyond ‘establish a website for election reporting’ to say ‘polling stations will report election outcomes within X time frame’). As the [OGP National Handbook](#) discusses, open government reforms that stretch the government beyond its current state of practice can significantly improve the status quo by strengthening transparency, accountability, and public participation in government.

Recommendation 3: Publish timely information on the co-creation process in accessible formats and language

Standard 3 of OGP’s [Participation and Co-Creation Standards](#) requires countries to publish the co-creation timeline and an overview of the opportunities for stakeholder participation at least two weeks before the action plan development process begins.

While the Czech Republic has already begun its co-creation process, it can continue to ensure that a timeline is published on the co-creation process in plain language that citizens can easily understand. Information on participation opportunities should be presented in a simple manner and accompanied with adequate background information (e.g., the scope of action plans, the national OGP priorities so far, and the criteria for selecting commitments to include). The POC could make information on the process more visible on the repository by pinning it to the top of the front page and using attractive visuals. It could also promote participation opportunities via online channels, such as government and CSO mailing lists and social media sites, as well as online media outlets. It may be useful to consult [Romania](#) and [the Netherlands](#)’ experiences publishing co-creation timelines.

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

Some areas of opportunity for the sixth action plan include whistleblower protection, fiscal transparency, recovery and resilience, lobbying transparency, and judicial reform.

AREA 1. Whistleblower Protection

With passage of the whistleblower protection legislation likely [delayed](#) to the second half of 2022, the Czech Republic could carry forward its commitment on whistleblower protection from the previous two action plans. The next action plan could focus on implementing the new law on whistleblower protection, which ultimately could help whistleblowers in the Czech Republic report wrongdoing or illegal activity in their place of work. Drawing on examples from other OGP members in the region, whistleblower protection has been a promising policy area in Estonia's, Italy's, Latvia's, and Spain's action plans.

In the Czech Republic, implementing the law could benefit from strengthening the role, independence, and financial footing of the government agency receiving whistleblowing complaints. It could also provide support against retaliation and ensure whistleblowers' confidentiality. Such measures could encourage whistleblowers to report wrongdoing without fear of reprisal. While previous action plans included commitments to raise awareness about whistleblowing, the next action plan could be more ambitious by requiring institutions and businesses to communicate openly with their workers about their whistleblowing policies. Media campaigns to raise awareness are still important in challenging the negative perceptions of the public toward whistleblowers.

Useful resources:

- OECD: [Whistleblower Protection](#)
- OGP: [Open Government Reforms Need to Protect Whistleblowers](#)
- Blueprint for Free Speech: [Safe or Sorry: Whistleblower Protection Laws in Europe Deliver Mixed Results](#)
- [Mapping the EU on Legal Whistleblower Protection](#)
- Related Commitments: Estonia ([2020–2022](#)), Italy ([2016–2018](#)), Latvia ([2017–2019](#)), and Spain ([2020–2024](#))
- Partners that can provide technical support: [Blueprint for Free Speech](#), [Transparency International Czech Republic](#), and the [OECD](#).

AREA 2. Public Participation in Fiscal Policy

In recent years, the Czech Republic has seen [limited opportunities](#) for public participation in budget formulation, approval, implementation, and audits. Inclusive public participation is crucial for improving fiscal governance. At the local level, since 2014, participatory budgeting has spread to a number of municipalities across the Czech Republic. Although participatory budgeting offers the opportunity to improve the efficiency of public service delivery and strengthen tax compliance, the quality of participatory budgeting practices has been [uneven](#). To date, the Czech Republic's action plans have not included commitments focused on fiscal openness.

In the next action plan, the Czech Republic could set goals for improving fiscal openness. The executive and parliament can expand mechanisms that engage civil society organizations and the public in budget formulation and approval. The Supreme Audit Office can establish formal mechanisms for the public to assist in developing its audit program and to contribute to relevant audit investigations. At the municipal level, the open government process is well positioned to facilitate expanding the allocation of resources to participatory budgeting, as well as the level of citizen participation in these processes.

Useful resources:

- OGP: [Fiscal Openness Fact Sheet](#)
- Open Budget Survey 2019: [Czech Republic](#)
- OGP: [Participatory Budgeting: Does Evidence Match Enthusiasm?](#)
- Related Commitments: Madrid, Spain ([2017](#)), Paris, France ([2017](#))

AREA 3. Open Recovery and Resilience Plan

The EU COVID Recovery Fund has allocated CZK 180 billion to the Czech Republic. Preparation of the national Recovery and Resilience Plan incorporated a wide range of stakeholder consultations. However, social partners, local government representatives, and NGOs did not perceive these consultations as offering a [sufficient degree of involvement](#). During implementation, the Committee of the Recovery and Resilience Plan is to involve social partners and key stakeholders in monitoring progress. Drawing on the examples of other OGP member countries in the region, open recovery and resilience has been a promising area in Portugal's, France's, and Italy's recent action plans.

For implementing the Recovery and Resilience Plan, the next action plan could outline measures for greater spending transparency and citizen participation in oversight. Data on spending must be made available online in a timely manner, in open and machine-readable formats like the Open Contracting Data Standard, and with sufficient detail to ensure proactive transparency and civic monitoring. Social partners, local authorities, and the public should be actively involved in oversight of intended investments and reforms. An inclusive communication strategy can maximize opportunities for public monitoring. Public monitoring mechanisms should also enable citizen feedback to report irregularities to the appropriate authorities. Given the unprecedented size and scale of the fund, it is [crucial](#) to embed open government values in recovery spending to ensure that it meets its intended goals and reaches its full potential.

Useful resources:

- OGP: [Getting Recovery Right: Three ideas to open up EU RRF spending](#)
- OGP: [A Guide to Open Government and the Coronavirus: Fiscal Openness](#)
- Related Commitments: Portugal ([2021–2023](#)), France ([2021–2023](#)), Italy ([2021–2023](#))
- Partners that can provide technical support: [Open Spending EU Coalition](#), [Global Initiative for Fiscal Transparency](#) (GIFT), [International Budget Partnership](#), [Oxfam International](#), [Participatory Budgeting Project](#)

AREA 4. Lobbying Transparency

The Czech Republic [does not require](#) public officials and institutions to make their engagement with lobbyists public. This feeds into a lack of transparency on who is lobbying, and the specific pieces of legislation, proposals, regulations, or decisions targeted by lobbying activities. As a result, risks arise for undue influence, unfair competition, and regulatory capture. Unregulated lobbying can erode public trust, allowing powerful groups with privileged access to further their interests at the expense of public interests. Although lobbying transparency has not been included in previous Czech Republic action plans, this has been [one of the most ambitious](#) policy areas for other OGP members in Europe.

The next action plan could establish a mandatory open data public register of meetings between lobbyists and public officials. Over [twenty countries](#) already maintain these types of registers. The Czech Republic could also create open, equitable, and responsive channels for public consultation and introduce mandatory codes of conduct for officials and lobbyists, with sanctions for noncompliance.

Useful resources:

- OGP: [Common Challenges in Lobbying Transparency: Lessons from Europe](#)
- Transparency International: [Recommendations on Lobbying for OGP Action Plans](#)
- [International Standards for Lobbying Regulation](#)
- Related Commitments: Ireland ([2014–2016](#)), Latvia ([2019–2021](#)), Madrid, Spain ([2017](#))

AREA 5. Judicial Reform

The Czech Republic's previous action plans have introduced impactful commitments to the justice sector. The Ministry of Justice developed anonymization software for lower courts, [began publishing](#) final district court decisions on civil law issues, and aimed to [expand publication](#) of court decision beyond civil law issues. Building on this progress, the next action plan could continue to contribute to national judicial reform efforts.

The OGP process could bolster initiatives on strengthened prosecutorial independence, full implementation of the e-file system, or collecting and publishing relevant judicial information on intimate partner violence. Prosecutorial independence has seen improvements in past years, but there is still a need to introduce stronger safeguards from political interference. System-wide [introduction of the e-file system](#) would contribute to the digitalization and accessibility of courts. Transparency and [access to judicial information](#) on cases of intimate partner violence could be coupled with an initiative to monitor and improve justice sector responses. These open justice efforts could draw on examples from Colombia, Moldova, and the Slovak Republic.

Useful resources:

- OGP: [Justice Policy Series](#)
- European Commission: [2021 Rule of Law Report](#)
- European Institute for Gender Equality: [Data collection on intimate partner violence by the police and justice sectors: Czech Republic](#)
- Related Commitments: Colombia ([2017-2019](#)), Moldova ([2018–2020](#)), and the Slovak Republic ([2015–2017](#))
- Partners that can provide technical support: [Fair and Just Prosecution](#), [Global Judicial Integrity Network](#), [International Association of Prosecutors](#), and [Taskforce on Justice](#)