

# Independent Reporting Mechanism

Albania Co-Creation Brief  
2022

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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 Albania’s 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. These recommendations are not binding, and this brief does not constitute an evaluation of a particular action plan. Its purpose is to inform the planning process for co-creation based on collective and country-specific IRM findings. This brief can be used as a resource as government and civil society determine the next action plan’s trajectory and content. National OGP stakeholders will determine the extent of incorporation of this brief’s recommendations.

The co-creation brief draws on the results of the research in prior [IRM reports for Albania](#) 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 guidelines for the assessment of OGP’s minimum requirements](#), 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 December 2022.

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## Section I: Action Plan Co-Creation Process

The OGP Criteria & Standards Subcommittee [placed Albania under a procedural review](#) in September 2021 for having acted contrary to OGP process during the co-creation of its past two action plans (2018-2020 and 2020-2022). The IRM found in its [2018-2020 Design Report](#) and [2020-2022 Action Plan Review](#) that Albania did not have a functioning Multi-Stakeholder Forum (MSF) and government had only limited engagement with civil society. The government did not provide reasoned responses to commitment proposals during the 2018-2020 action plan, and significant improvements could have been made on efforts to provide reasoned response during co-creation of the 2020-2022 plan.

To ensure Albania meets the updated *OGP Participation and Co-Creation Standards* during the co-creation of the sixth action plan, the IRM recommends:

1. Establish a dedicated and functioning MSF to oversee the OGP process;
2. Regularly update the national OGP website with documents and information related to Albania's OGP process;
3. Provide opportunities for civil society and public participation during development of the action plan; and
4. Publish and share feedback on how stakeholder contributions were considered during the co-creation process.

## RECOMMENDATIONS

### **Recommendation 1: Establish a dedicated and functioning multistakeholder forum to oversee the OGP process.**

Albania has lacked a dedicated space for multi-stakeholder dialogue during its past two OGP action plan cycles. In December 2021, a Prime Ministerial Order created a Multilateral Committee with the functions of a MSF for OGP. The formal mandate of the MSF and basic information relating to membership and how stakeholders are selected are publicly available. However, the first meeting of this MSF was held nearly a year after its creation, in November 2022.

The updated *OGP Participation and Co-Creation Standards* require countries to establish a space for ongoing multi-stakeholder dialogue around the OGP process. For the upcoming action plan, the Multilateral Committee should bring together government and nongovernment stakeholders to jointly discuss and prioritize commitments during co-creation and oversee implementation of the action plan. Nongovernment members should be selected through a fair and transparent process and have equal representation and decision-making powers as government members. The decision-making process and internal rules of procedure should be decided together by members of the MSF and also made public. Agendas and minutes of the MSF meetings should be publicly available in a timely manner and contain information on the content of discussions, decisions made, and a record of attendance. [Australia](#), [Norway](#), and [Romania](#) are examples of how to publish MSF mandates and compositions.

### **Recommendation 2: Regularly update the national OGP website with documents and information related to Albania's OGP process.**

Currently, Albania's OGP website [ogp.gov.al](http://ogp.gov.al) contains little information on the 2020-2022 action plan cycle and outdated information on previous action plan cycles. Links to documents relevant to co-creation are missing, and there is no information available on the website about implementation of the 2020-2022 action plan. Most recently the website contains information on the newly-established MSF.

Under *OGP Participation and Co-Creation Standards*, Albania is required to maintain a website with accessible and timely information on activities and progress on the OGP process. The website should remain public with no barriers to access. It should also have a repository with all relevant documents and information related to the development and implementation of the action plan. Information needs to be updated at least twice a year (though preferably more frequently during the action plan's development). These documents and information should be proactively published and updated on the [ogp.gov.al](http://ogp.gov.al) website.

The IRM [lists](#) recommended documents to publish on the repository to detail the action plan's development. Examples include notices for public consultations, rules of procedure for the OGP space (see Recommendation 1), meeting agendas and minutes, lists of participants, written proposals from stakeholders, and feedback on how input was considered (see Recommendation 5). [Australia](#) and [New Zealand](#) provide transparent documentation of the co-creation process. [Romania](#) and [Italy](#) provide examples of user-friendly national OGP websites.

### **Recommendation 3: Publish information in advance of co-creation, and provide opportunities for civil society and public participation during development of the action plan**

During Albania's 2020-2022 action plan co-creation, the government invited relevant civil society groups to participate in surveys on the government's pre-selected priority areas. It is not clear that information such as the co-creation timeline or opportunities for engagement was published in advance or provided to stakeholders. At later stages in the process, the government invited some civil society groups to comment on drafted commitments. Some groups said that institutions considered their input, while others noted they were already in longstanding conversations with public institutions before the start of the co-creation process.

Under [OGP Participation and Co-Creation Standards](#), the government or MSF should also publish a timeline and overview of participation opportunities at least two weeks before the start of the co-creation. This could be published on the national OGP website and government should also proactively inform stakeholders.

There should also be opportunities for nongovernment stakeholders (outside and inside the MSF) to propose and discuss potential commitments. If Albania conducts surveys again, the surveys should be carried out to help decide priority areas, rather than seek validation for government-led priorities. Later opportunities for engagement should allow space for civil society to propose commitments, have those considered, and, in the spirit of co-creation, be actively involved in the drafting of commitments. Broader engagement strategies like public consultations could also be considered once a draft action plan is co-created.

[Romania](#) publishes a timeline in advance of its OGP processes. The co-creation for Finland's 2019–2023 action plan (see [appendix](#)) and Latvia's 2019–2021 action plan (see [design report](#)) may provide ideas on activities to consider, including workshops and thematic working groups where stakeholders jointly prioritize problems to address and formulate commitments.

### **Recommendation 4: Publish and share feedback on how stakeholder contributions were considered during the co-creation process**

The Albanian government has not always provided summaries of how stakeholder comments contributed to the action plans during co-creation processes. In an annex of the 2020–2022 action plan, the government explained the outcomes of its consultations, what comments it received, and how this influenced the final action plan. However, the annex was not always clear how the government incorporated comments (or why not) into the final commitments.

[OGP Participation and Co-Creation Standards](#) require members to document and report back on how stakeholder contributions were considered during co-creation. The government or the MSF should publish an overview of all proposals and comments that emerged during co-creation on Albania's national OGP website alongside feedback explaining where changes were made to the action plan because of the comments and the reasons why other comments were not incorporated. Contributors should receive feedback before the end of the co-creation process and should be informed that their input is public (with exceptions for well-justified cases). For maximum transparency, feedback could be presented in a structured format, such as a table with proposals alongside their justifications for inclusion or exclusion.

Albania could follow the format that [Estonia](#) used in its 2018–2020 action plan to publish results from public and interdepartmental consultations, or [Finland's summary](#) of the stakeholder consultations for its 2019–2023 action plan. Another option comes from [Ukraine](#), which published comment-by-comment feedback in a table for its 2020–2022 action plan.

## Section II: Action Plan Design

### AREAS OF OPPORTUNITY FOR COMMITMENTS

Albania's sixth action plan corresponds with the start of negotiations on its EU integration process. The action plan could advance key reforms in alignment with the EU *acquis*, as well as recommendations from the European Commission, the Group of States Against Corruption (GRECO), and past IRM reports. Albania could pursue commitments around public procurement transparency, public participation in policy-making, and judicial transparency and accountability.

#### AREA 1. Judicial transparency and accountability

Albania continues to undergo comprehensive justice reform, including the vetting of judges and prosecutors for proficiency, asset verification, and links to organized criminal networks. As of September 2021, 62 percent of the files processed have resulted in dismissals and terminations largely due to resignations by those being assessed. Albania could use the forthcoming action plan to ensure that judicial reforms are carried out transparently, particularly around the vetting of judges and prosecutors. Information on the vetting and selection processes of new judges and judicial staff could be published on the Ministry of Justice website, as a follow-up to the [commitment](#) from the 2020-2022 action plan to update it. Albania could also publish information on necessary qualifications and examination standards, if applicable, or if recruitment occurs via nomination and appointment. The [procedure](#) should be fully transparent in revealing candidates' qualifications alongside other publicly-announced candidates. Argentina, for example, has begun [publishing](#) information on selection processes, complaint mechanisms, and disciplinary procedures for judicial officials. Also, the Slovak Republic [established](#) a committee to oversee the selection of heads of courts, judges, and judicial staff, and published detailed information on candidates and selection processes.

As well as vetting, Albania could address recommendations from the European Commission to roll-out a new integrated case management system and ensure its inter-operability across the entire justice system. Several OGP members have used their action plans to implement online case management systems, including [Costa Rica](#) and [Kenya](#). Albania could also further improve the transparency around court performance through periodic monitoring and reporting. Information could include how many cases judicial officials are assigned, how quickly they process the cases on their docket, how many cases they complete in a year, how they decide cases, and how frequently their rulings are overturned on appeal. For example, North Macedonia's Judicial Council has [committed](#) to standardize court reports and ensure they provide quantitative and qualitative information on court performance.

Finally, to address controversies around the new Judicial Map which reduced the number of courts of first instance in the country, and which has [raised questions](#) about the accessibility of justice services, Albania could publish information on how these changes impact service availability for residents where courts have been closed and what the options are for access under the new Judicial Map.

Useful Resources:

- [OGP's Justice Policy Series, Part II: Open Justice](#), in particular Recommendations and Resources on [Court Modernization](#) and [Judicial Officers Appointments & Accountability](#)
- [Argentina](#), [Costa Rica](#), [Kenya](#), [Slovak Republic](#), and [North Macedonia](#) are working on this policy area
- Partners that can provide technical support: [Global Judicial Integrity Network](#)

#### AREA 2. Public procurement transparency

Albania adopted a new law on public procurement in 2020, bringing the country's legal framework closer in line with EU Directives. The Public Procurement Agency (PPA) has a mandatory [e-procurement platform](#) where it publishes a list of companies that have committed irregularities during procurement. However, in practice, companies implicated in corruption are not always effectively prohibited in procurement bidding. In addition, public procurement officials are often perceived to [favor](#) well-connected companies and individuals. Freedom

House's Freedom in the World 2022 report assesses Albania's public procurement processes to be "[frequently opaque](#)".

Albania can use the forthcoming action plan to improve the availability and usability of data on the PPA's e-procurement system, such as ensuring all contracts are available in the Open Contracting Data Standard (OCDS). Lithuania, for example, is [opening](#) all of its historical procurement data using OCDS. The action plan could also address [recommendations from the European Commission](#) to improve the capacity of contracting authorities to manage public procurement processes, particularly in monitoring of contract implementation. Furthermore, the new public procurement law provides the possibility to file a complaint to the contracting authority and the Public Procurement Commission (PPC). In light of the ongoing corruption risks and conflicts of interest in public procurement, Albania could commit to developing an electronic database for PPC decisions around the complaints it receives, as recommended by the European Commission.

Albania can also continue to increase the transparency around public-private partnerships (PPPs) and concessions. [During the 2016-2018 action plan](#), the Concession Treatment Agency launched a public [registry](#) with information on concessions. However, the European Commission has noted that the technical skills and capacity to design and assess concessions and PPPs require further development. For the forthcoming action plan, Albania could ensure that all contracts are published to the register and ensure the data on each concession is available in open format in accordance with OCDS. Albania could also link the concessions registry to the PPC's complaint process mentioned above.

Useful resources:

- OGP's [Open Contracting Factsheet](#)
- [Recommendations on Open Contracting for OGP National Action Plans](#)
- [Italy](#), [Lithuania](#), and [France](#) are working on this policy area
- Partners that can provide technical support: [Open Contracting Partnership](#), [Transparency International](#)

### AREA 3a. Public participation in policy-making – improving consultation processes

The 2014 Law on public consultations sets the procedural norms for transparency and public participation in decision-making. While the law is generally in line with European standards, the European Commission [notes](#) that consultations often remain "artificial exercises" and the scope of the law needs to be extended to government decisions. According to GRECO, [civil society remain concerned](#) that parts of relevant draft secondary legislation are not always published and do not undergo a public consultation process. Moreover, GRECO notes that the legal deadline for consultations on draft legislation is not always respected. A portal for public consultation on draft legislation was [created](#) in 2015 and was [interlinked](#) to the e-Albania portal during the 2016-2018 action plan. Although this commitment created some opportunities for stakeholders to influence policy-making, certain barriers (such as registering with e-Albania) limit its usability.

Albania could use the forthcoming action plan to address GRECO's recommendations to make the consultation process for draft primary and secondary legislation more effective for interested stakeholders. In line with IRM recommendations from the [2018-2020 Design Report](#), the government could institutionalize the practice of consulting on draft bylaws and providing adequate timeframes for consultations. The government could ensure implementation of the clear rules to guide consultations [that are established](#), and provide feedback on citizens' inputs. Beyond increasing the number of legal acts going under public consultation, the European Commission [recommends](#) strengthening the quality of these consultations. The government and civil society could therefore use the next action plan to launch a public awareness-raising campaign using traditional and social media to promote the consultation portal among civil society and citizens.

Useful resources:

- [OECD Background Document on Public Consultation](#)

- [OGP Deliberation Series](#)
- [Croatia](#), [Romania](#), [Slovakia](#), and [Serbia](#) are working on this policy area
- Partners that can provide technical support: [Democratic Society](#), [European Movement Albania](#)

### **AREA 3b. Public participation in policy-making – engaging civil society**

The European Commission notes that the National Council for Civil Society (established in 2015) remains weak and should be reformed to provide for appropriate representation of Albanian civil society. Albania could use the next action plan to expand representation on the council and ensure more structured consultations on important draft legislation. Efforts could be made to include youth and minority groups, as well as groups focused on environmental issues and reconstruction and urbanization projects. Albania could further systematize the work of the National Council for EU Integration, a forum designed to incorporate civil society in the process of Albania's EU integration.

Useful resources:

- [OECD Background Document on Public Consultation](#)
- [OGP Deliberation Series](#)
- [Croatia](#), [Romania](#), [Slovakia](#), and [Serbia](#) are working on this policy area
- Partners that can provide technical support: [Democratic Society](#), [European Movement Albania](#)