

Independent Reporting Mechanism

France Co-Creation Brief
2023

Open
Government
Partnership



Independent
Reporting
Mechanism

Introduction

This brief from the Open Government Partnership’s (OGP’s) Independent Reporting Mechanism (IRM) serves to support the co-creation process and design of France’s fourth action plan and to strengthen the quality, ambition, and feasibility of commitments. It provides an overview of the opportunities for and challenges of open government in the country’s context and presents recommendations. These recommendations are suggestions, 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 is intended to 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 France](#) 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 [the assessment of OGP’s minimum requirements](#) and [the minimum threshold for “involve.”](#) These sources ensure that recommendations are up-to-date, in light of developments since the IRM reports were written. They also enrich the recommendations by drawing on comparative international experience in the design and implementation of OGP action plan commitments and other context-relevant practices 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.

The IRM drafted this co-creation brief in February 2023.

Table of Contents

Section I: Action Plan Co-Creation Process	2
Section II: Action Plan Design	4



Section I: Action Plan Co-Creation Process

In 2022, the Open Government Partnership (OGP) [informed](#) the Government of France that it was found acting contrary to OGP process. The Independent Reporting Mechanism (IRM) had assessed it did not meet the OGP minimum requirement for public influence during co-creation of the 2021–2023 action plan.

Although some meetings took place during the early stages of co-creation of the 2021–2023 action plan, they did not provide sufficient opportunity for detailed discussion on suggestions from civil society. There was no evidence of reasoned response or feedback to the contributions of the public and civil society during the action plan. The structure of a Multi-Stakeholder Forum (MSF) could also be strengthened to design and oversee the process of developing the action plan.

To avoid any future review by the Criteria and Standards Subcommittee of the OGP Steering Committee, the Government of France has started making efforts to meet the minimum requirements set forth in the OGP Participation and Co-Creation Standards. To build on these efforts, IRM recommends the following:

- Establish an MSF or space for ongoing dialogue and collaboration between government and civil society.
- Provide inclusive and informed opportunities for public participation during co-creation of the action plan.
- Publish and share written feedback on how stakeholder contributions and proposals were considered during the co-creation of the action plan.
- Work together to define the scope of the action plan and collaborate more closely to develop relevant, verifiable, and ambitious commitments.

RECOMMENDATIONS

Recommendation 1: Establish an MSF or space for ongoing dialogue and collaboration between government and civil society.

The Forum Open d'Etat has operated as France's MSF for government to exchange regularly with civil society on the OGP process. The government coordinates the Forum Open d'Etat, which is open to participants from government agencies and civil society. However, it does not have a formal membership or structure and was not involved in drafting commitments for the latest action plan. It would not fulfill the minimum requirements of an MSF according to the updated OGP Participation and Co-creation Standards.

[OGP Participation and Co-creation Standards](#) require countries establish a space for ongoing multi-stakeholder dialogue around the OGP process. For the upcoming action plan, the Interministerial Directorate for Public Transformation should identify or establish a specific MSF where government and nongovernment stakeholders come together to discuss, prioritize, and draft commitments during the co-creation of the action plan. It should have formal rules, such as a mandate, membership selection process, and decision-making and accountability mechanisms, that are made public. Nongovernment MSF members should be selected in a transparent manner and have equal representation and decision-making powers as government members. Nongovernment stakeholders should be selected through a fair and transparent process led by civil society members themselves. [Australia](#) and the [Czech Republic](#) are good examples of how to publish MSF mandates and compositions. [Italy](#) recently reimaged its MSF along the lines of the minimum requirements of OGP, while maintaining regular communication and engagement with the wider OGP community.

Recommendation 2: Provide inclusive and informed opportunities for public participation during co-creation of the action plan.

There were at least ten thematic workshops as part of the two Forum Open d'Etat events in the early stages of co-creating the previous action plan. In addition to those events, there was a hackathon on health data (branded as an OGP event even though it had limited impact on the final action plan), several online events, and a final debriefing in November.

While there are multiple potential approaches to co-creation, OGP's [Participation and Co-creation Standards](#) set out three minimum requirements: (1) that the co-creation timeline and overview of the opportunities for stakeholders to participate is made publicly available at least two weeks before the start of the action plan development process, (2) that there are outreach activities with stakeholders to raise awareness of OGP and opportunities to get involved in the development of the action plan, and (3) that there is a mechanism to gather inputs from a range of stakeholders during an appropriate period of time.

Government and civil society in France, such as members of the MSF, need to agree on a co-creation timeline outlining clear roles, expectations, and the stages of the co-creation process for developing the OGP action plan. This timeline, along with information on the methodology and decision-making process to facilitate the participation of interested stakeholders, should be published at least two weeks before the start of the process for developing the action plan.

The co-creation process needs to consider steps that raise awareness, ensure participation of diverse stakeholders (e.g., the public, experts, government agencies, donors, underrepresented groups, minorities, grassroots organizations, private sector), gather inputs, process information, build commitment proposals, get final approvals, and finalize the decision-making process. Opportunities for engagement may include thematic working tables led by experts from government and civil society, online discussions, surveys, and face-to-face or online meetings (particularly to capture input from voices outside the capital). The co-creation for Finland's 2019–2023 action plan (see [appendices](#)) and Latvia's 2019–2021 action plan (see [design report](#)) may provide ideas on activities to consider, including surveys, workshops, and thematic working groups where stakeholders jointly prioritize problems to address and formulate commitments.

Recommendation 3: Publish and share written feedback on how stakeholder contributions and proposals were considered during the co-creation of the action plan.

During the co-creation of the 2021–2023 action plan, there was no evidence of a reasoned response from the French government to civil society input. Some civil society organisations reported in interviews that public institutions rejected some of their proposals shared at meetings at the start of co-creation. As there was no opportunity for civil society to provide comments on draft commitments or on a draft action plan, there was no reasoned response to input at the end stages of co-creation.

The French government (or MSF) should document and report or publish written feedback to stakeholders regarding how their contributions were considered during the development of the action plan. This minimum requirement of OGP's [Participation and Co-creation Standards](#) could include using a specific mechanism to collect input on draft commitments and provide written feedback. It also includes publishing contributions and responses, with justifications for inclusion or omission, on the country's OGP website. Were France to ensure structured opportunities to collect comments on a draft action plan, it would be better equipped to provide reasoned response and feedback to the contributions of the public and civil society. In [Spain](#), public institutions published detailed responses to each proposal from civil society during the development of its 2020–2024 action plan. [Estonia](#) published the results of public and interdepartmental consultations during the development of its 2018–2020 plan. [Finland](#) published a summary of stakeholder consultations for its 2019–2023 action plan.

Recommendation 4: Work together to define the scope of the action plan and collaborate more closely to develop relevant, verifiable, and ambitious commitments.

France's 2021–2023 action plan contains 59 commitments. The IRM assessment was only able to identify one commitment with substantial potential for results. Although the 2021–2023 action plan addresses multiple topics, the commitments often lack specific actions (milestones) or clear outcomes. This leads to the plan being assessed as having lower overall potential for results compared with previous action plans. Some commitments were directly taken from existing strategies and roadmaps, but there was a lack of meaningful dialogue with civil society to amend them (or even discuss, further define, or specify proposals) during co-creation. Several commitments are related to broader, more ambitious projects but do not reflect the full potential of reforms in the policy area because they are drafted too vaguely or too narrowly.

The government or MSF could proactively maintain dialogue with civil society, consider their proposals, and develop fewer but more ambitious commitments that meet both government and civil society priorities. The MSF could take a more active role in prioritizing and selecting commitments that are verifiable and relevant to open government. Better interministerial coordination by the lead ministry could ensure consistency and quality of commitments while not discouraging interested stakeholders. It should be sure to include relevant agencies.

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

Some areas of opportunity for France's next action plan could include procurement transparency and open contracting, enhancing citizen deliberation and engagement in policy-making and law-making, political integrity and conflicts of interest, and increasing lobbying transparency.

AREA 1. Open contracting and procurement transparency

France's previous action plans have contained commitments on opening up the public procurement process. Most recently, in its 2021–2023 action plan, this has included lowering the threshold for making public contract data transparent and available to the public.

While this continues to be an important area for France to continue progress, France could build upon its commitment to the [Open Contracting Declaration](#) to further advance transparency, citizen participation, and accountability in the public procurement processes. A new commitment could look at making procurement data more accessible or further opening up and publishing more procurement data in relation to specific topic areas of public interest, such as procurement of medicine (particularly after the height of the COVID-19 pandemic) and the upcoming Olympic Games (especially since the Olympics will sit in the middle of the next action plan cycle).

Future commitments could improve public monitoring of and engagement in procurement process, like [Dozorro](#) in Ukraine or [OpenCoesione](#) in Italy. Accountability mechanisms could be set up to enable reporting of suspected abuse or corruption of procurement with transparent investigations. Occitanie and Bretagne have developed public platforms to monitor public procurement, models that could be replicated locally throughout France and at a national level to strengthen transparency, accountability, and participation in the contracting process.

Useful resources:

- [Open Contracting Partnership's Open Contracting Data Standard](#)
- OGP's [guidance and recommendations on open contracting and public procurement](#)
- Finland ([2017–2019](#)), Germany ([2021–2023](#)), Lithuania ([2021–2023](#)), and Ukraine ([2016–2018](#)) are working on this policy area
- OpenStories about [OpenCoesione](#) and [Dozorro](#)
- Partners that can provide technical support: [Open Contracting Partnership](#), [Transparency International France](#), [DeCoMap \(University of Avignon\)](#).

AREA 2. Citizen deliberation and engagement in policy-making and law-making

France's 2021–2023 action plan included an overarching theme of participation in public policy and multiple commitments around improving public participation (e.g., training local officials to run 10–20 “emblematic,” local-level citizen participation projects, supporting citizen-led public interest initiatives and involving citizens more in the work of France's Supreme Audit Institution). The [Convention Citoyenne pour le Climat](#) and the recent [Conseil de la Réfondation](#) also demonstrate efforts to reimagine citizen engagement in French democracy, outside the scope of the Open Government Partnership (OGP) process.

France's next action plan could include commitment(s) around improving citizen engagement, with a much clearer expectation that such processes enhance citizen influence on policy-making. Some institutions, such as the Interministerial Directorate for Public Transformation and Supreme Audit Institution, could build on projects and processes that they already run, in collaboration with citizens. For example, expanding the work of local innovation labs to incorporate citizens' proposals for how to engage actively in policy-making. Institutions that participated in the previous action plan for the first time, such as the Ministry of Education, could develop commitments related to engaging civil society in specific policy-making processes.

Commitments could look at citizen engagement in law-making. The National Advisory Commission on Human Rights [has expressed concern](#) about the regular use of accelerated procedures for the adoption of laws. In addition to ensuring such procedures are used only in strict emergencies, the next action plan could commit to incorporating citizen engagement in the development of legislation that directly impacts public freedoms and human rights.

More ambitious commitments could introduce deliberative forms of public engagement. The Organization for Economic Co-operation and Development has outlined [ways to institutionalize deliberative democracy](#), including giving citizens the right to demand a deliberative process, requiring deliberation before certain kinds of policy decisions, sequencing deliberative processes throughout the policy cycle, or connecting deliberation to parliamentary committees. Civil society has also called for [deliberative processes on democratic reform](#), which the co-creation process could consider.

Useful resources:

- OGP: [Five Tips for Weaving Citizen Participation into the Fabric of Government, Embedding Citizen Participation in Government \(Discussion Notes\)](#)
- OECD: [Guidelines for Citizen Participation Processes](#)
- Scotland (2021–2025), Australia (2016–2018), and UK (2019–2021) are working on this policy area
- Partners that can provide technical support: [Démocratie Ouverte](#), [OECD](#)

AREA 3. Political integrity and conflicts of interest

France has included commitments in previous action plans in relation to political integrity and conflicts of interest rules. Through its 2015–2017 action plan, France successfully introduced ethics advisers and a definition of conflict of interest for civil servants. Since then, the IRM has recommended France continue to take action to enhance ethics and integrity in public service.

With [recent debates](#) in France around the use of consultancy firms and election campaign finances, the next action plan could seek to address ethics and conflict-of-interest issues through the implementation of greater or improved transparency and accountability. This might include giving more power to the National Commission on Electoral Financing to proactively investigate spending by political campaigns or proactively publishing information over the course of campaigning (in real time), rather than after a campaign has ended. Ireland's [Electoral Reform Bill](#) aimed to introduce stricter transparency and accountability requirements during electoral campaign periods, particularly in relation to online campaigning. [Spain](#) is currently assessing its preventive systems of public integrity to improve and strengthen them for highest-ranking officials and civil servants. Other ethics and conflict-of-interest questions could be addressed by making transparent the declarations of public officials, particularly top executive-level public officials. [Group of States against Corruption \(GRECO\) recommendations](#)

on this have highlighted that France could consider increasing the transparency of declarations of close advisers to ministers and the President of the Republic.

Useful resources:

- Transparency International: [Recommendations on Asset and Interest Declarations for OGP Action Plans](#)
- World Bank: [Using Asset Disclosure for Identifying Politically Exposed Persons](#)
- Ukraine (2014–2016) and Spain (2020–2024) are working in this policy area
- Partners that can provide support: [Transparency International France](#), [Anticor](#) and [Observatoire de l’Ethique Publique](#).

AREA 4. Lobbying Transparency and Regulation

France has introduced ambitious commitments on lobbying transparency and regulation in previous OGP action plans. These have focused on developing a database of declarations by interest representative and improving public access to this information. The register now contains over 29,000 lobbying activities and is updated annually. The data is publicly available in an open data format and the register’s source code has been available since 2020.

However, significant concerns remain regarding applying lobbying transparency rules to all types of lobbying actors (including at senior executive levels of government) and the definition of lobbyist, which only includes entities, not individuals. The [GRECO recommendation](#) that authorities need to require persons with top executive functions to publish, at regular intervals, a list of lobbyists they have met and the subjects they discussed, remains unaddressed. That public officials do not have to report their meetings with interest representatives was also highlighted in [IRM’s Design Report](#) on the 2018–2020 action plan. Addressing this issue in the next action plan could enhance the transparency of the decision-making process at the highest level and any influences exerted on it by third parties.

The last IRM Design Report highlighted the limitations to the legal framework (on definitions of lobbying activities and lobbyists), primarily that lobbyists only need to update the register once a year and some organizations (e.g., religious organizations or associations of elected representatives), do not have to register at all. Providing a broader definition of lobbying and requiring regular updating of lobbying activities in the register would give a more transparent picture of lobbying activities in France, as information would be published closer to real time.

A [2022 EU Rule of Law Report](#) states that while the High Authority for Transparency in Public Life had a staff of 67 officers and a budget of EUR 9 million for 2022, it lacks the human resources to properly verify the accuracy of the information registered in the lobby register, and technical resources (e.g., software used to check asset and lobbying declaration) are insufficient. Actions that might help manage the workload of the High Authority, including increased resourcing rather than reducing responsibilities, could be considered in the next action plan.

Useful resources:

- OGP (blog): [Common Challenges in Lobbying Transparency](#)
- OECD: [Lobbying in the 21st Century: Transparency, Integrity and Access, Principles for Transparency and Integrity in Lobbying](#)
- Transparency International: [Recommendations on Lobbying for OGP Action Plans](#)
- [International Standards for Lobbying Regulation](#)
- Estonia (2020–2022), Finland (2019–2023), Ireland (2014–2016), and Latvia (2019–2021) are working on this policy area.
- Partners that can provide technical support: [Transparency International France](#)