

Independent Reporting Mechanism

Serbia Co-Creation Brief
2022

Open
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Partnership



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Mechanism

Introduction

This brief from the OGP's Independent Reporting Mechanism (IRM) serves to support the co-creation process and design of Serbia's fifth 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 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 Serbia](#) 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](#), 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

Over recent action plan cycles, Serbia has succeeded in meeting the minimum requirements for engaging stakeholders and documenting its co-creation processes.

COVID-19 pandemic restrictions on in-person events meant the last co-creation process was largely conducted online. However, the development of the action plan included a broader range of civil society organizations (CSOs) than in previous consultation processes and considered more diverse issues than in the past. Some civil society noted that some commitments were watered down without proper justification to modifications, and the IRM has noted in previous cycles that action plan commitments could be more ambitious.

Serbia's fifth action plan offers the country an opportunity to deepen engagement across civil society and increase the ambition of commitments, while continuing to meet OGP's updated Co-Creation and Participation Standards. With those aims in mind, the IRM provides the following recommendations:

1. Establish a functioning Multi-Stakeholder Forum (MSF) that is balanced, transparent, and accountable.
2. Ensure participation opportunities and a timeline for co-creation are available at least two weeks in advance.
3. Build reasoned response into all stages of the co-creation process beyond the formal public consultation.
4. Ensure a functioning and updated OGP repository.

RECOMMENDATIONS

Recommendation 1: Establish a functioning Multi-Stakeholder Forum (MSF) that has balanced representation and is transparent and accountable

Before preparing previous action plans, the Ministry of State Administration and Local Self-Government (MPALSG) forms a special interministerial working group that functions as the OGP MSF forum. It consists of representatives of state administration bodies, local self-government units, other organizations, and representatives of nine CSOs, which are selected through a public call, in cooperation with the Ministry and the Office for Cooperation with Civil Society. Over the course of the last action plan cycle, stakeholders have noted that institutional representatives of the MSF miss meetings more often or do not always provide reasoned arguments to CSO commitment proposals.

As required by the updated OGP Participation and Co-Creation Standards, the basic rules of participation, including the process and criteria for selecting members and the decision-making process should be publicly available. All members of the MSF should be aware of the responsibility to cooperate and ensure the MSF functions effectively to oversee the action plan cycle. Civil society stakeholders should have an equal voice in decision-making as government stakeholders. The MSF should meet regularly during co-creation and implementation of the action plan to ensure oversight of progress. Information on the basic rules, composition and minutes of meetings should be made available on the national OGP repository, in a timely manner. [Australia](#), [Latvia](#), and [Romania](#) have created MSFs and publish their mandates and compositions.

Serbia could consider developing a more formal or institutional MSF, should this ensure (pro)active participation from institutions as well as civil society organizations. For example, the Slovak Republic has recently moved from an informal MSF to a formal one.

Recommendation 2: Ensure participation opportunities and a timeline for co-creation are available at least two weeks in advance

The MPALSG [published an article](#) on the national OGP website to launch the co-creation of Serbia's previous action plan. While the post gave interested citizens and CSOs immediate information about how to get involved, it is not clear that it gave enough time for citizens to organize.

To meet the updated OGP Participation and Co-Creation Standards, the MPALSG should publish a timeline of participation opportunities, at least two weeks in advance, on the relevant national OGP website and inform stakeholders (see Recommendation 4 about improving Serbia's national OGP website and repository). [Romania](#) publishes such a timeline in advance of its OGP process beginning.

Ahead of consultation meetings, the MPALSG could prepare a memo summarizing the background of OGP in Serbia to give context (see an [example from Finland](#)).

Recommendation 3: Build reasoned response into all stages of the co-creation process beyond the formal public consultation

During the co-creation process, the MPALSG [published a report](#) on the feedback collected from the public consultation process, along with the conclusions reached about them from consultative meetings. However, the [2020-2022 IRM Action Plan Review](#) noted that some CSO representatives felt that the agencies in charge of implementing possible commitments watered down the proposals without properly justifying the modifications.

The updated OGP Participation and Co-Creation Standards require that reasoned response be provided during the development of the action plan. To encourage greater accountability and trust between civil society and government institutions, it would be beneficial for government institutions to inform stakeholders early on in the drafting process about which suggestions are to be taken forward for further deliberation and why and which suggestions are not and why. As well as through formal channels, such as public consultations, this feedback process could be more ambitiously applied so that information is shared earlier or on a rolling basis, for example, in MSF meetings, as commitments are being drafted. This would support civil society to encourage greater ambition and for institutions to be accountable. Such discussions could be captured in minutes of meetings of the MSF and published online. For example, [Canada's What We Heard](#) report explains (in a user-friendly manner) why suggestions were or were not incorporated into the action plan. [Estonia](#), [Finland](#), and [Ukraine](#) give comment-by-comment feedback on proposals and suggestions from public and interdepartmental consultations.

Recommendation 4: Ensure a functioning and updated OGP repository

Documents from the OGP process have been published on both the MPALSG website and on the [national OGP website](#), but the two are not synchronized. The OGP website has been maintained by civil society and largely contains relevant documents in relation to co-creation and implementation of action plan cycles and meetings of the MSF. However, the national OGP website has not been updated since the end of the 2020-2022 co-creation process. Instead, the [e-consultation portal](#) has more recently operated as the repository for Serbia's 2020-2022 action plan.

OGP's updated Participation and Co-Creation Standards require that members provide open, accessible, and timely information about activities and progress on their participation in OGP. To provide clarity to stakeholders and the public, Serbia's OGP-related websites should be consolidated, clearly signposted and archived where it is no longer relevant. For the next action plan cycle, stakeholders should ensure that access to documents related to the OGP process, including, at a minimum, information and evidence of the co-creation process and of the implementation of commitments, is publicly available and easily accessible. This information should be maintained and regularly updated (at least twice a year). [North Macedonia](#) regularly updates its OGP website and portal. [Romania](#) and [Italy](#) both maintain user-friendly OGP websites and repositories.

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

Serbia's next action plan could address multiple recommendations from the Group of States against Corruption (GRECO) and the European Commission. It could include commitments on improving integrity and anti-corruption, introducing a legislative footprint and lobbying regulation, building on previous public participation efforts, as well as developing measures on budget transparency, public procurement transparency, and media ownership transparency.

AREA 1. Improve measures that enhance integrity and prevent corruption in government

Serbian OGP action plans have previously contained specific commitments that address anti-corruption measures, such as whistleblowing. However, few commitments in recent plans have tackled anti-corruption at the national level. Currently, Serbia does not have an anti-corruption strategy with a whole-of-government approach. The [European Commission has stated](#) that there is a clear need for an anti-corruption strategy encompassing prevention of corruption, accompanied by a credible action plan. Also, the legal framework on whistle-blower protection has yet to be aligned with the new EU acquis. [GRECO's fifth round evaluation report](#) has identified various deficiencies in Serbian anti-corruption efforts, recommending Serbian authorities conduct integrity checks (such as conflict of interests) before senior public officials and representatives join government. Other recommendations include making public all strategic documents on preventing corruption and the recommendations of the Agency for the Prevention of Corruption, as well as expanding the remit of the law on Prevention of Corruption.

The next OGP action plan could commit to making integrity checks publicly available online before government positions are taken. Linked to this and all anti-corruption efforts, the Agency for the Prevention of Corruption needs to have appropriate resources, capacity and powers to carry out its role effectively.

The next action plan could also include a commitment, in collaboration with civil society, to prepare, adopt, and start implementing a new anti-corruption strategy, an action plan, and an effective coordination mechanism. This could address cross-government anti-corruption issues and oversee the operationalization of measures that prevent and sanction corruption in government. Also, the legal framework on whistle-blower protection could also be updated to align with the new EU acquis.

Useful resources:

- [OGP Actions to Tackle Corruption](#);
- [OECD Recommendation on Public Integrity](#);
- Jamaica ([2021–2023](#)), Romania ([2016–2018](#)), and the UK ([2016–2018](#)) have worked on this policy area;
- Partners that can provide technical support: [Transparency Serbia](#).

AREA 2. Improve lobbying legislation and enforce the publishing of legislative footprints

Serbia's Law on Lobbying has been in force since August 2019, regulating influence on the decision-making process by directly interested persons or professional lobbyists. However, [according to Transparency Serbia](#), the law does not ensure full transparency of relevant information. Relevant public officials are not obliged to publish their formal engagements with lobbyists, and there is no duty to even record informal interactions. [GRECO's fifth round evaluation report](#) also noted only five lobbying interactions have been declared by public officials in top executive functions since the entry into force of the law.

With this in mind, [GRECO's report](#) has recommended extending the definition of lobbying to cover formal and informal interactions with lobbyists and that all such interactions (including names and subject matters discussed) be made public. Transparency Serbia has also suggested changes to the Law on Lobbying to address these loopholes. The next action plan could commit to producing a study on the implementation of the law with a view to developing

recommendations for the government to address. A public register of lobbyists could be developed where such interactions are recorded, although this may require further changes in the law. In the meantime, future commitments could ensure that public officials subject to the law are adequately informed about their obligations through training. An action plan could introduce open agendas of public officials, whereby officials' calendar of meetings and minutes of meetings are made publicly available. The [UK Government publishes information about meetings with third parties](#) regularly.

Furthermore, there is a legal duty in Serbia to produce a legislative footprint during the process of developing legislation. However, this is frequently not prepared and often does not contain relevant information on the lobbyists consulted. The next action plan could seek to ensure that legislative footprints contain detail on lobbying and are published, through better guidance for officials, clearer rules, and training.

Useful resources:

- [International Standards for Lobbying Regulation](#);
- [OECD Council Recommendation: Principles for Transparency and Integrity in Lobbying](#);
- [Common Challenges in Lobbying Transparency: Lessons from Europe](#);
- [Transparency International: Recommendations on lobbying for OGP action plans](#);
- Estonia ([2020–2022](#)), Finland ([2019–2023](#)), Latvia ([2019–2021](#)), and Ireland ([2014–2016](#)) are working on this policy area;
- Partners that can provide technical support: [Transparency Serbia](#).

AREA 3. Improve compliance with participation rules and the quality of engagement

Despite existing rules, [GRECO's fifth round evaluation report](#) states that, in practice, Serbian government bills too often proceed to the National Assembly without public consultation. A new e-consultations platform was set up in December 2021. Even so, according to the [European Commission Serbia 2022 Report](#), civil society continues to report that the time given for public consultations is too short or that their comments on draft laws are not properly considered nor followed up. The report states that the government does not systematically publish the results of public consultations, nor explanations on the acceptance or rejection of comments received. Furthermore, there is no central body in charge of quality control.

The next OGP action plan could address these deficiencies. While GRECO recommends laws emanating from the Serbian government be systematically submitted for public consultations, this could be further facilitated i, through training and guidance to public officials, on how best to implement public consultation measures and, in particular, on how to provide reasoned response to inputs. In collaboration with civil society, the training could focus on ensuring that government feedback contains necessary detail for stakeholders, supporting accountability and transparency—which would mean reporting on all the input received during consultations, with clear information on responses and reasons behind acceptance/rejection. A more ambitious commitment could give the Public Policy Secretariat a role in oversight and quality control, as well as powers to ensure a minimum level of quality is maintained. This secretariat could also serve as a centre for participation, which can help institutions to develop innovative or ambitious consultation processes that aid policy and legislative development before being drafted and processed by Parliament.

On top of these measures to train officials, the next action plan could ensure institutions actively raise awareness about the engagement opportunities of the portal, both in general and for specific policies, and how to provide input.

Useful resources:

- [OGP blog: Five Tips For Weaving Citizen Participation Into The Fabric of Government](#);
- [OECD: Innovative Citizen Participation and New Democratic Institutions](#);
- France ([2018–2020](#)), Spain ([2020–2024](#)), and the UK ([2019–2021](#)) are working on this policy area;
- Partners that can provide technical support: [ECNL](#), [OECD](#).

AREA 4. Improve budget transparency and participation in the budgetary process

Previous Serbian OGP action plans have included [commitments](#) to improving state budget openness. However, Serbia has not progressed on budget transparency in recent years, according to the *European Commission Serbia 2022 Report*. The International Budget Partnership's 2021 Open Budget Survey shows that Serbia has insufficient budget transparency, and there are few opportunities for public participation in the budget process.

To address these deficiencies, the Ministry of Finance could commit to ensuring budget road maps, prebudget statements, and mid-year reports are produced and published online and in a timely manner. In terms of participation, the Parliamentary Committee for finance, budget of the Republic, and control of spending of public resources, has recently organized public hearings with invited civil society on budget law proposals. Building on these positive developments, the Ministry of Finance could pilot mechanisms to engage the public during budget formulation and to monitor budget implementation. The Ministry could actively engage with vulnerable and underrepresented communities, directly or through civil society organizations representing them. Serbia's State Audit Institution could commit to establishing formal mechanisms for the public to assist in developing an audit program and to contribute to relevant investigations.

Useful resources:

- [OGP: Fiscal Openness](#);
- [OECD Budget Transparency, Global Initiative for Fiscal Transparency high-level principles on fiscal transparency, participation, and accountability](#);
- [International Budget Partnership Open Budget Index 2021](#);
- North Macedonia ([2018–2020](#)), Scotland ([2021–2022](#)), and Uruguay ([2018–2020](#)) are working on this policy area;
- Partners that can provide technical support: [International Budget Partnership](#), [Global Initiative for Fiscal Transparency](#), [Transparency Serbia](#).

AREA 5. Continue efforts to enhance media ownership transparency

Commitments 11 and 12 of Serbia's 2020–2022 action plan intend to make improvements to the Law on Public Information and Media. However, they were not completed by the end of the action plan cycle. The *European Commission Serbia 2022 Report* noted delays to amending the law and implementing a media strategy.

As part of the next action plan, Serbia could continue to address the ongoing shortcomings. This could include implementing a media strategy and action plan without further delay, in a transparent, efficient, and inclusive manner, respecting the letter and spirit of the objectives of that strategy and focusing as a matter of priority on: ensuring transparent and equitable co-funding for media content serving the public interest and increased transparency in media ownership and advertising.

Useful resources:

- [Council of Europe Recommendation CM/Rec\(2018\)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership](#);
- Croatia ([2020–2022](#)) is working on this policy area;
- Partners that can provide technical support: [BIRN](#), [Civic Initiatives](#), [Independent Journalists' Association of Serbia](#), [Transparency Serbia](#).