Independent Reporting Mechanism

Estonia Co-Creation Brief 2023

Open Government Partnership

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Introduction

This brief from the OGP's Independent Reporting Mechanism (IRM) serves to support the co-creation process and design of Estonia's seventh 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 Estonia 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 November 2023.

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Section I: Action Plan Co-Creation Process

Estonia's recent co-creation processes have succeeded in meeting and, in some areas, surpassing the requirements under OGP's Co-Creation and Participation Standards. However, the recent action plan (2022-2024), while ambitious, was shaped more by the Government Office than non-governmental stakeholders. With the seventh action plan, the Government Office, the Civil Society Roundtable, and members of the multi-stakeholder forum (MSF) have an opportunity to design a co-creation process that allows for deeper discussions to identified problems and priority policy areas. Several recommendations in the IRM's 2021 Co-creation Brief for Estonia remain relevant.

For the seventh action plan's co-creation process, the IRM recommends the following:
- Engage new stakeholder groups to strengthen the legitimacy of the OGP process and broaden the themes and issues in action plans.
- Give civil society more opportunities to help identify the problems and priority areas that will be addressed in the action plan.
- Strengthen the MSF by giving civil society a co-chair role and encouraging participation from secretary-generals of ministries.

RECOMMENDATIONS

Recommendation 1: Engage new stakeholder groups to strengthen the legitimacy of the OGP process and broaden the themes and issues in action plans.

Most of the engagement in past co-creation processes has come from well-established civil society organizations (CSOs) focused on anti-corruption. For the seventh action plan, the Government Office and the MSF could proactively engage groups that have been absent or underrepresented in previous OGP processes to bring their perspectives and challenges into the action plan and to source commitment ideas on fostering inclusive decision-making. The Government Office and the MSF could partner with the Network of Estonian Nonprofit Organizations to identify priority communities that may face greater barriers to participation and involve the Civil Society Roundtable in these discussions.

As previous efforts to engage a more diverse range of groups have not always led to the adoption of topic-specific commitments, it may be helpful to allocate more time and resources for facilitating communication with new groups. This may require regular and in-depth dialogue throughout the process to allow new groups to understand how their priorities could be addressed in OGP action plans, before developing concrete proposals for commitments. For example, ahead of the first meetings, the Government Office could prepare a memo summarizing the background of OGP in Estonia to help set the context, as done by Finland. If the issues raised by new groups are included in the action plan, it will be important to establish a long-lasting dialogue throughout and beyond the action plan cycle, for example by involving new groups in the Civil Society Roundtable.

Recommendation 2: Give civil society more opportunities to help identify the problems and priority areas that will be addressed in the action plan.

The sixth action plan's co-creation process involved a brainstorming event with civil society and a campaign to crowdsource proposals. According to the Government Office, the co-creation process was designed to be sufficiently long, but the provision of more opportunities did not automatically yield active participation. The Government Office would like to see more

active partnership from the Civil Society Roundtable both in facilitating CSO input and making suggestions on how the co-creation process could be designed to increase CSO participation.

For the seventh action plan, the Government Office and the MSF could involve the Civil Society Roundtable in co-designing the co-creation process with the aim of adopting a more bottom-up approach. The process should allow for iterative dialogue where CSOs are more directly involved in identifying the problems and priorities to address in the action plan. Once there is a shared view of the priority issues, the Government Office and the CSO Roundtable could collect input from various groups, beyond the formal MSF structure and crowdsourcing ideas. To manage expectations, it may be useful to communicate priority topics early on so that stakeholders know what to expect and to bring government institutions into the process early on.

Recommendation 3: Strengthen the MSF by giving civil society a co-chair role and encouraging participation from secretary-generals of ministries.

Estonia's MSF generally serves its purpose of giving CSOs a voice in the OGP process. However, CSOs have noted that the MSF has been more focused on decision-making than discussion and debate. CSOs desire to have more substantial discussions in the MSF. For the seventh action plan, the MSF could dedicate more time to discussions around the proposed topics, beyond approving the commitments. Civil society could be given a co-chair role in the MSF, with rotating co-chairmanship between civil society and the government. This could help secure civil society buy-in during implementation and beyond to the next action plan.

Nominally, ministries should be represented in the MSF by secretary-generals, the highest administrative position in a ministry. In practice, not all secretary-generals attend the meetings and usually delegate participation to lower-ranking officials (advisors, department directors, and sometimes under-secretaries). Raising the level of participation of secretary-generals could raise the perceived importance of open government issues in ministries.

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

In the seventh action plan, Estonia could continue its long-term goal of widespread adoption of co-creative policy-making methods and the new digital co-creation tool. The government could support sustainable open government at the local level and continue to pursue digital governance transparency and data-driven analysis. Finally, Estonia could revisit past efforts to establish secure whistleblower channels, in support of the upcoming bill to transpose the EU Whistleblower Directive. The government and civil society could jointly select some of the ongoing reforms to be pursued as Open Gov Challenges, such as digital governance and public participation, or select a new reform for the Challenges, such as climate and environment.

AREA 1. Civic engagement and co-creation in policy-making

Estonia has worked in several action plans to make policy-making more participatory by developing a government-wide digital tool for legislative drafting and co-creation. Recent action plans also involved developing a toolbox of co-creation methods to serve as a resource for policy makers. In the sixth action plan, the government has created a roadmap for adoption of co-creative policy-making methods at the central and local government levels.

Estonia could use the next action plan to implement the roadmap through direct engagement of key public institutions and CSOs. As the goal is to make the digital tool mandatory for all government institutions, the action plan could cover civil service training and capacity building to ensure a smooth transition and wide uptake. The government could scale up use of the co-creation toolbox by ministries' public engagement coordinators and by municipal governments. This could include providing practical guidelines and tailor-made support to civil servants and municipal governments in implementing co-creation methods. The Government Office could also invite ministries, agencies, and local governments to propose commitments to implement concrete parts of the roadmap during the seventh action plan.

Useful resources:
- OGP's recommendations on commitments around inclusion;
- OECD: Guidelines for Citizen Participation Processes;

AREA 2. Open government at the local level

The government's approach to local-level open government has mostly been project-based, such as funding open government action plans in pilot municipalities. In the next action plan, the government could pursue a holistic and sustainable approach for fostering open government in municipalities, without directly interfering in local decision-making autonomy. The government could facilitate experience-sharing among municipalities that have implemented successful open government reforms during past action plans. The government could work with the Association of Estonian Cities and Municipalities to improve local-level e-democracy and help municipalities develop digital participation and co-creation tools. It may be useful to continue supporting the development of local public officials' skills related to open government and co-creation. Finally, the action plan could systematize the next steps on implementing the new open government roadmap through trainings, peer exchanges, and encouraging local governments to work on specific aspects of the roadmap.

Other activities could build on the successes from previous action plans. For example, the Ministry of Finance could use the "Minuomavalitsus" dashboard to encourage a race to the top for municipalities in key areas of open government, such as political transparency, access to information, civic participation, etc. Additionally, the Ministry of Justice could support expanding voluntary lobbying reporting to municipalities. This could entail helping municipal governments develop their own transparency regulations, good practices, and reporting templates for lobbying.

Useful resources:
- Morocco and the Philippines are implementing commitments on access to information at the local level.
- OGP Local: commitments taken by members of the OGP Local initiative could provide ideas for open government reforms to promote among Estonian municipalities.

AREA 3. Digital governance and artificial intelligence

In Estonia, government institutions are encouraged to publish information about their algorithmic systems on a central website dedicated to artificial intelligence (AI) and release the source code on a national repository. The sixth action plan includes a commitment to develop a digital tool that will perform automated analysis of the data that can inform policy and the preparation of government memoranda.

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In the next action plan, this tool could be used as a good example of how to build information systems in a transparent and participatory way, with the aim to help people understand how the system uses data and algorithms. For example, IT solutions like Bürokratt (a virtual assistant for citizens to interact with the state on their smart devices) could follow best practices (or raise the bar) of algorithmic transparency and explainable AI. It could be useful to engage researchers and experts on ethical AI to discuss ways of ensuring the transparency and public understandability of the models and algorithms used for automated data analysis. The government could develop a mechanism for CSOs and the public to raise concerns about government decisions that were informed by data analysis and AI. Estonia could also establish requirements and mechanisms for engaging affected people in algorithmic impact assessments and creating forums for citizens to discuss algorithm-enabled decisions.

Useful resources:
- OGP: Actions for Transparent and Accountable Digital Governance;
- OGP: Strengthening Democracy and Protecting Civic Rights in the Digital Era.

AREA 4. Whistleblower protection

Estonia included a commitment in the fifth action plan to create digital reporting channels for whistleblowers, as part of the transposition of the EU Whistleblower Directive. This commitment was not implemented because the Parliament did not adopt the national whistleblower regulation during that action plan. In August 2023, the government approved a draft bill to transpose the EU Directive. The proposal would establish a framework for receipt of reports on breaches of EU laws, for the provision of follow-up and for the protection of the whistleblower.

If the Parliament adopts the bill, Estonia could revisit the earlier commitment to set up digital channels in different kinds of organizations for reporting wrongdoings and unethical behavior. In line with the 2021-2025 anti-corruption action plan, the Ministry of Justice could allocate resources to raising public awareness of the role and rights of whistleblowers, creating guidelines for implementing whistleblowing channels, training public officials on handline whistleblower reports, and encouraging individuals to report cases of unlawful or unethical behavior. Other commitments could involve regularly monitoring and assessing the results of reporting channels and publishing data on whistleblower cases (to the extent that privacy requirements permit). The 2021-2025 anti-corruption action plan calls for analyzing the implementation of the regulation in Estonia by 2025. Lastly, the Ministry of Justice could work to foster the enforcement of the whistleblower regulation and promote use of reporting solutions among municipalities.

Useful resources:
- OGP: Open Government Reforms Need to Protect Whistleblowers;
- OECD: Whistleblower Protection.

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