

Independent Reporting Mechanism

Bosnia and Herzegovina
Co-Creation Brief 2024

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 Bosnia and Herzegovina’s third 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 [Bosnia and Herzegovina](#) 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 May 2024.

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Section I: Action Plan Co-Creation Process

During the co-creation process of [Bosnia and Herzegovina's second action plan \(2022-2024\)](#), the multi-stakeholder forum (MSF) was active and the government took civil society's feedback into account when designing the commitments. However, the MSF did not meet in 2022 while stakeholders waited for the government to approve the action plan, as the country was in political deadlock. Consequently, the IRM assessed Bosnia and Herzegovina as not meeting the minimum requirements of [OGP's Participation and Co-creation Standards](#) during the co-creation of the second action plan. For the third action plan, Bosnia and Herzegovina should meet all minimum requirements under these standards during the co-creation and implementation processes. To meet these requirements, the IRM recommends taking the following steps:

- Ensure the MSF meets at least every six months throughout the co-creation process and implementation periods.
- Update the OGP website at least twice a year with documentation to account for the co-creation and implementation of the action plan.
- Publish on the OGP website the co-creation timeline at least two weeks before the start of the action plan co-creation process.
- Centralize all feedback to stakeholders throughout the co-creation process.

RECOMMENDATIONS

Recommendation 1: Ensure the MSF meets at least every six months throughout the co-creation and implementation periods.

Bosnia and Herzegovina's MSF - the Advisory Council of the Open Government Partnership Initiative ("SV Initiative OGP") - met three times during the co-creation of the second action plan, between July and December 2021. However, it did not meet again until December 2022, while it was waiting for the Council of Ministers to approve the plan. OGP's Participation and Co-Creation Standards require the MSF to meet at least every six months throughout the action plan cycle (co-creation and implementation). During the third action plan, the Ministry of Justice should ensure that the MSF meets regularly throughout the co-creation process, including during political deadlock. The MSF should also continue to meet regularly during the implementation period.

Recommendation 2: Update the OGP website at least twice a year with evidence to account for the co-creation and implementation of the action plan.

During the co-creation process of the second action plan, the Ministry of Justice did not update [Bosnia and Herzegovina's OGP website](#) at least twice a year during the co-creation process, as required by OGP's Co-creation and Participation Standards (the website was last updated in April 2022 when the action plan was adopted in December 2022). For the third action plan, the Ministry of Justice should update the OGP website at least twice a year with evidence to account for the co-creation process. In particular, the Ministry of Justice should publish the co-creation timeline (standard 3), the input received from stakeholders on the action plan and the feedback on how these contributions were considered (standard 4). The Ministry of Justice should also continue to update the website at least twice a year after the action plan is adopted, with evidence to account for implementation of each commitment (standard 2).

Recommendation 3: Publish on the OGP website the co-creation timeline at least two weeks before the start of the co-creation process.

During the second action plan, the co-creation timeline was not made available two weeks before the start of the co-creation process, as required by OGP's Participation and Co-Creation Standards. For the third action plan, the Ministry of Justice should publish a co-creation timeline on Bosnia and Herzegovina's OGP webpage at least two weeks before the start of the co-creation process. The Ministry of Justice and the MSF could jointly decide on the co-creation timeline and the opportunities for stakeholder engagement, to ensure greater ownership of the OGP process.

Recommendation 4: Centralize all feedback to stakeholders throughout the co-creation process.

For the second action plan, the Ministry of Justice published the responses from the government to stakeholders' proposals in the minutes of the MSF's meetings. While this practice was sufficient to meet the minimum requirements for reasoned response under OGP's Participation and Co-Creation Standards, the Ministry of Justice could go further during the third action plan. This could entail centralizing all feedback in a single document with the government's response next to each individual proposal. The ministry could produce a table with explanations for the inclusion or rejection of each proposal, as done by the [Republic of Moldova](#) and [Malta](#). The ministry could also produce a summary of stakeholders' consultations, including how the MSF addressed public and CSO input, as done by [Finland](#).

Section II: Action Plan Design

AREAS OF OPPORTUNITY FOR COMMITMENTS

In December 2022, the European Council officially granted EU candidacy status to Bosnia and Herzegovina and, in March 2024, the European Commission recommended opening membership talks for Bosnia and Herzegovina. Bosnia and Herzegovina could use its third OGP action plan to implement the priorities set out in the Commission's Opinion and bring the country closer to the EU acquis in key areas of reform. Possible areas for consideration in the action plan include increasing the transparency of public procurement, asset declarations, beneficial ownership, and the judicial sector, as well as improving public participation in policy-making. Bosnia and Herzegovina could submit its most ambitious commitments as [Open Gov Challenges](#).

AREA 1. Public procurement transparency

Bosnia and Herzegovina has included commitments in its first two action plans to publish all public procurement data collected through the [e-procurement system](#) in open data format. These commitments [saw limited completion](#) due to lack of funding and legislative support for reform. In its 2023 report, the European Commission [found](#) that Bosnia and Herzegovina made limited progress in the area of public procurement with the adoption of certain bylaws but the legislation needs to be further aligned with the EU acquis. For the third action plan, the Public Procurement Agency could continue to develop the e-procurement system by publishing data in the Open Contracting Data Standard. The agency could address the gaps in the system identified in the European Commission's report, such as making sure that all contracting authorities publish procurement reports and existing tender documents are made available. Bosnia and Herzegovina could also amend the Public Procurement Act to mandate government institutions disclose information on ongoing tenders (as opposed to information on past procurement tenders only). Lastly, Transparency International Bosnia and

Herzegovina (TI BiH) [recommends](#) ensuring that records on implemented contracts are published on the e-procurement system, as this information best shows the actual costs and quality of works, services, and procured products.

Useful resources:

- OGP: [Three Factors to Ambitiously Implement Open Procurement Reforms](#);
- Transparency International (TI): [Recommendations on Open Contracting for OGP Action Plans; guide](#) to curbing corruption in procurement;
- Open Contracting Partnership: [guidance on implementing the OCDS](#), and [global principles for both disclosure and participation in public procurement](#);
- OECD: [Public Procurement Toolbox](#), including a [checklist](#) for implementing their transparency principles and country case studies.
- Mongolia ([2021-2023](#)), New Zealand ([2022-2024](#)), North Macedonia ([2021-2023](#)) and the UK ([2021-2023](#)) are working on this policy area;
- Partners that can provide technical support: [Open Contracting Partnership](#)

AREA 2. Asset declarations transparency and verification

The Group of States Against Corruption (GRECO) [notes](#) that public officials' asset declarations in Bosnia and Herzegovina are now publicly accessible on the Central Election Commission's website. However, GRECO found an absence of mechanisms to effectively verify the declarations. Moreover, the European Commission [reported](#) that out of about 600 state-level officials required to submit their financial reports for verification in 2022, only 212 submitted them, and no proceedings for failure to submit declarations or inaccuracies were initiated. In the third action plan, Bosnia and Herzegovina could pursue commitments to carry out adequate verifications and publish all asset declarations (including imposing effective sanctions in cases of non-compliance). Moreover, in September 2023, Bosnia and Herzegovina amended the Law on the High Judicial and Prosecutorial Council (HJPC) with the aim of establishing a system to verify the asset declarations of judges, prosecutors, and HJPC members. In the third action plan, Bosnia and Herzegovina could build on this momentum by committing to increase the transparency and accuracy of asset declarations of judges, prosecutors, and HJPC members.

Useful resources:

- TI: [Recommendations on asset and interest declarations for OGP Action Plans](#);
- OGP: [Broken Links report, Asset Disclosure chapter](#)
- World Bank: [Using Asset Disclosure for Identifying Politically Exposed Persons](#)
- Ukraine ([2014-2016](#)), North Macedonia ([2021-2023](#)) are working on the policy area;
- Partners that can provide support: Transparency International, [Global Integrity](#)

AREA 3. Beneficial ownership transparency

Bosnia and Herzegovina's second action plan included a commitment to raise awareness about beneficial ownership transparency among civil society organizations (CSOs). However, the country still [lacks](#) a register of beneficial owners and remains at risk of being listed by the Financial Action Task Force as a jurisdiction under increased monitoring for anti-money laundering deficiencies. For the third action plan, Bosnia and Herzegovina could take steps to put in place a register of beneficial owners, [in line with the EU's 6th Anti-Money Laundering Directive \(AMLD\)](#), including provisions for access to this information based on demonstrating legitimate interest. Additional steps could include putting in place measures to verify the

accuracy of the information in the register and adopting the Beneficial Ownership Data Standard (BODS).

Useful resources:

- OGP: [Beneficial Ownership](#), [Beneficial Ownership Fact Sheet](#), [Beneficial Ownership Leadership Group](#);
- Open Ownership: [Beneficial Ownership Data Standard](#)
- IMF: [Unmasking Control: A Guide to Beneficial Ownership Transparency](#)
- Related commitments: Albania ([2020-2022](#)), Armenia ([2018-2020](#)), and Lithuania ([2021-2023](#)).
- Partners that can provide technical support: [Transparency International](#), [Financial Action Task Force](#), [G20 Anti-Corruption Working Group](#), and [Open Ownership](#)

AREA 4. Judicial transparency and independence

The European Commission's 2023 [report](#) for Bosnia and Herzegovina found that inconsistencies and overly broad discretion persist in applying the rules on appointment, disciplinary responsibility, career advancement, and conflict of interest of judges and prosecutors. In the third action plan, Bosnia and Herzegovina could ensure that justice institutions are independent, transparent, responsive to the public, and inclusive. This could involve publishing information on the qualifications, examination standards, and the selection process for judges and prosecutors, if recruitment occurs via nomination and appointment. Bosnia and Herzegovina could also commit to develop strong complaint mechanisms and disciplinary procedures for judicial officials. TI BiH [recommends](#) increasing the transparency of disciplinary procedures by the HJPC and the publication of information during the disciplinary process. Lastly, Bosnia and Herzegovina could ensure its electronic case management system that randomly assigns judges to cases is fully operable.

Useful resources:

- [OGP's Justice Policy Series, Part II: Open Justice](#), in particular 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 5. Public participation in policy-making

The European Commission's 2023 report [found](#) Bosnia and Herzegovina's e-consultation platform underutilized and not in use at entity or cantonal level, where most legislation of public interest is developed. Moreover, the Council of Ministers still needs to enact its charter on cooperation with CSOs. For the third action plan, Bosnia and Herzegovina could institutionalize how the government engages the public and CSOs in policy-making. At the national level, Bosnia and Herzegovina could redesign the e-consultation portal to improve its functionality and enhance its participatory capacity, as is being carried out in [Montenegro](#) and the [Republic of Moldova](#). The country could also standardize how governments at the entity and canton levels use the e-consultation portal. This could involve developing guidance for government agencies on how to conduct consultations, as [Italy](#) and [New Zealand](#) have done. Moreover, the ministries could provide detailed feedback on how public suggestions influenced the final drafts of laws.

Useful resources:

Bosnia and Herzegovina Co-Creation Brief 2024

- European Commission: [Recommendations from December 2023 on promoting the engagement and effective participation of citizens and CSOs in public policy-making processes](#);
- OECD: [Guidelines for citizen participation processes \(September 2022\)](#);
- European Center for Not-for-profit Law: [Overview of civil participation in decision-making in Council of Europe member states](#);
- Council of Europe: [Code of Good Practice for Civil Participation in the Decision-Making Process](#).