

April, 2015

How To Approach Open Government Partnership Action Planning For Bosnia And Herzegovina?

1. Introduction

On September 24, 2014, Bosnia and Herzegovina (BiH) became the 65th member of the multilateral initiative Open Government Partnership (OGP), which aims to encourage government institutions to become more transparent and accountable to their citizens. In that sense, the Open Government Partnership aims to promote the transparency of public administration, including the public in decision-making, creating mechanisms for calling governments to account and using new information and communication technologies for improving the transparency of government and cooperation between citizens and public institutions.¹

In order to meet these framework objectives, in accordance with the Partnership concept, governments and civil society in member countries should work together on the planning and implementation of ambitious reforms. Therefore, after a country joins the initiative, it is expected that, within a prescribed period, it will draft and submit an action plan for the implementation of reforms in the aforementioned areas to the OGP Support Unit. This refers to a two-year activity plan that defines the priorities for the country with regard to key areas of the OGP, which binds members to meet the objectives set by the Open Government Declaration.² BiH is expected to submit its action plan by the end of June 2015. According to the OGP calendar, it is expected that government institutions, in cooperation with civil society, draft the action plan between January and June 2015.³

It should be noted that, based on experiences during the first round of action plan drafting, the obligations that countries undertook under the OGP may be grouped in seven thematic areas:

1. Public participation – including citizens in the making of public policies
2. Integrity of government – fighting corruption and strengthening democratic institutions
3. Freedom of access to information – guaranteeing public access to government data
4. Fiscal transparency – assisting citizens in monitoring the spending of public money

¹ See: Analitika – Center for Social Research, *Zašto Bosna i Hercegovina treba pristupiti Partnerstvu za otvorenu vlast* [Why Bosnia and Herzegovina Should Join Open Government Partnership], Policy Memo (Sarajevo: Analitika – Center for Social Research, 2013).

² See: Analitika – Center for Social Research, *Partnerstvo za otvorenu vlast i akciono planiranje: pristup, izazovi i prakse* [Open Government Partnership and Action Planning: Approach, Challenges and Practice], Policy Memo (Sarajevo: Analitika – Center for Social Research, 2014).

³ Open Government Partnership (OGP), “OGP Timeline 2015–2018: Bosnia and Herzegovina” (OGP, 2014), [http://www.opengovpartnership.org/sites/default/files/attachments/OGP_ODD_BOS%20\(1\).pdf](http://www.opengovpartnership.org/sites/default/files/attachments/OGP_ODD_BOS%20(1).pdf) (Accessed on April 6, 2015).

5. Public service provision – providing services useful to citizens
6. Extractive resources transparency – ensuring that income from extractive resources is used for public benefit
7. Openness of data – digitalization and opening government data to the public in order to ensure transparency and access to information⁴

It is especially important to stress that work on action planning implies close cooperation between relevant public institutions and civil society organizations in defining priorities and activity plans. Strengthening the dialogue and cooperation between government and civil society is considered a key step in the drafting and implementation of the action plan, which is one of the main aims of the Partnership. Therefore, under the Partnership, governments are requested to, inter alia, submit reports on the quality of the dialogue and cooperation with civil society during the development and implementation of the action plan. Moreover, cooperation between government and civil society is also evaluated within the independent reporting mechanism on the drafting and implementation of the action plan.⁵

However, a serious problem with BiH is that months after the state formally joined the OGP, nothing has essentially been done in this area, so that in April 2015, just three months before the deadline for submission of the action plan, the action plan drafting process has not begun. Bearing in mind that the action plan should be prepared and submitted by the end of June 2015, the question arises whether it is possible to start the process of action planning in the remaining three months while undertaking wide consultations in accordance with the standards and principles of the Partnership. The second question is, how to conceptualize the consultation process during the drafting of the action plan in order to include as wide a circle of interested stakeholders as possible and get the best possible proposals?

2. OGP Consultation Standards and Global Practice

The Open Government Partnership implies establishing close cooperation between countries which have joined this initiative, but also a partnership between governments and civil society within those countries.⁶ In this regard, the OGP articulates⁷ seven principles for effective public consultation during the drafting and implementation of the action plan⁸:

⁴ See: Analitika – Center for Social Research, *Open Government Partnership and Action Planning*, p. 2; also see: Open Government Partnership (OGP), *What's in the New OGP National Action Plans? An Overview of Commitments from 35 OGP Countries* (OGP, 2014), p. 1.

⁵ Open Government Partnership (OGP), *Guidance for national OGP dialogue* (OGP, 2014), <http://www.opengovpartnership.org/sites/default/files/attachments/Additional%20Guidance%20Consultation%202014.pdf> (Accessed on April 10, 2015).

⁶ Analitika – Center for Social Research, *Open Government Partnership and Action Planning*, pp. 2–3.

⁷ Open Government Partnership (OGP), “Open Government Partnership: Articles of Governance,” (OGP, June 2012), (Updated March 2014), http://www.opengovpartnership.org/sites/default/files/attachments/OGP%20ArticlesGov%20March%2019%202014_1.pdf (Accessed on April 10, 2015).

⁸ Standards taken from: OGP, *Guidance for national OGP dialogue*.

1. Countries are expected to make available (online at a minimum) details of their public consultation process prior to consultation.
2. It is necessary to invite citizens and civil society organizations with sufficient forewarning and give them time to join the public consultation process.
3. Countries should undertake awareness-raising campaigns aimed at enhancing public participation in the consultation.
4. It is necessary to consult through a variety of mechanisms, including online platforms and in-person meetings with interested parties.
5. Countries are to consult widely with the public, including civil society organizations and the private sector.
6. It is necessary to make available online information on the results of the consultation process, including all comments submitted in writing.
7. Finally, countries should establish an adequate forum for regular consultation with multiple stakeholders on the implementation of obligations undertaken as set out by the action plan. This may be an existing forum or cooperation mechanism, or a new one established with the purpose of consultation as part of the OGP process.

States that have joined the OGP action planning process have used various consultation techniques, adapted to their specificities and administrative capacities. Some have aimed to include the widest possible circle of stakeholders in the action planning process, through standing commissions, thematic workshops and other means of consultation.⁹ So, for instance, in Georgia, during wide public consultation, 19 meetings were held in 15 cities, with 700 participants drawn from public institutions of different levels of government, civil society representatives, political parties, universities, students, etc. Simultaneously, local media reported on the consultation process.¹⁰ Honduras established an Interagency Committee, which led the consultation process, using various mechanisms such as social media, a special OGP website, public events and campaigns. The result of such a wide consultation process was the participation of 1,072 representatives of key sectors of society, who made a significant contribution to the drafting of the action plan for Honduras.¹¹ Mexico had a somewhat different, narrower approach: nine thematic working groups consisting of civil society representatives, experts and government representatives were formed.¹² In Sierra Leone, besides consultations within the country, Sierra Leoneans who live in other countries were also included in the action planning process.¹³ In the United Kingdom, consultations were done in cooperation with the OGP United Kingdom (UK) Civil Society Network, which ensured the significant contribution of the civil society to the contents of the action plan.¹⁴ The Croatian Government established the National OGP Council whose 19 members are representatives of various sectors of society, including civil society organizations, government, the academic community, media associations, local government, etc., with the Council for

⁹ OGP, *What's in the New OGP National Action Plans*, p. 4.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 5.

Civil Society Development naming civil sector representatives for the body which led the OGP action planning process in Croatia. The process lasted seven months, from January to July 2012 and most participants were satisfied with its quality and inclusiveness.¹⁵

The experiences of these countries show that it is necessary and useful to include civil society experts and representatives of other interested parties in the action plan drafting process. Including the greatest possible number of stakeholders could significantly contribute to the quality of defined priorities, aims and activities under the action plan.

3. Next Steps for BiH in Action Planning

When it comes to BiH, existing rules that regulate public consultation procedures at the state level give a solid base for starting wide public consultations with different stakeholders before a formal adoption of the action plan. Thereby, various formats of consultation could be used (online, meetings, working groups), and the consultation process itself may last as long as it is necessary to enable access to all interested parties, in accordance with available resources.¹⁶

However, bearing in mind the OGP standards and principles, as well as other countries' experiences, it would be necessary to create a unique mechanism for developing a (preliminary) draft action plan and for public consultation during the adoption of the action plan, consisting of the following components:

- *Coordinating or advisory body for the drafting and implementation of the OGP action plan:* Firstly, following Croatia's example, the formation of a type of advisory body consisting of representatives of various sectors of society, such as public institutions from different levels of government, a number of representatives of civil society organizations, experts and the academic community, should be included. While choosing the members of the coordinating body, the expertise and prior engagement of those organizations and institutions in the areas relevant to the drafting of the action plan should be considered. This body would lead and oversee the process of the development and implementation of the action plan.

¹⁵ Aida Bagić, *Independent Reporting Mechanism Croatia: Progress Report 2012–13* (Open Government Partnership, 2013), <http://www.opengovpartnership.org/country/croatia> (Accessed on April 10, 2015).

¹⁶ See, e.g., "Pravila za konsultacije u izradi pravnih propisa u institucijama Bosne i Hercegovine" [Rules for Consultation in the Development of Legal Acts in the Institutions of BiH], *Official Gazette of BiH* 81/06. The key parameters are as follows: Consultation at a minimum implies the publication of the preliminary draft of a legal act on the internet, enabling the submission of public comment on the internet and calling for interested parties to join the consultation process; in the case of acts and other policies which may have a significant impact on the public, consultation may include publishing information in the media, organizing public meetings with interested parties, forming working groups and the like, in order to include as wide a circle of relevant stakeholders and experts as possible; in the case of acts of particular importance to the public, government institutions must foresee a deadline of at least 30 days for submission of written comments; finally, when deciding on the specific form of consultation, the relevant institution takes into account time constraints, capacities and needs of interested parties, as well as the complexity of the topic, or the subject of consultation.

- *Expert working groups:* In accordance with specific areas, which should be covered by the action plan, it would be necessary to form expert working groups that would also be comprised of civil society experts. Working groups would define priorities, aims and activities with respect to their areas of interest, which would be integrated in the preliminary draft of the action plan. Expert working groups may also act within the coordinating/advisory body, as specialized subgroups composed of council members, but additional experts may be invited to join the groups if necessary.
- *Online consultations:* After expert working groups have devised the preliminary draft of the action plan, it should be published on the website of the Council of Ministers. It is necessary to enable online submission of public comment and recommendations to such a document.
- *Consultations in the form of country-wide meetings:* It is necessary to organize a series of meetings in different parts of the country, where the action plan and defined priorities would be discussed in the form of public debate with relevant stakeholders in the field, such as local government and local non-governmental organizations.
- *Timeline:* Given that the greatest possible number of stakeholders from different levels of government and different types of organizations need to be included in the action plan drafting and consultation process, it is necessary to provide enough time for such consultations. Taking into account all of the parameters important for action plan drafting, we can say that the process of developing the preliminary draft of the action plan and the consultation process should not take less than two months and optimally, they should last approximately six months in total. In any case, after the expert team devises the preliminary draft of the action plan, the public consultation process itself should not last less than 30 days.
- *Information campaign:* From the very beginning of the action plan drafting process, it is necessary to launch a public information campaign so that stakeholders may be acquainted with the consultation process and the contents of the preliminary draft of the action plan on time in order to be able to substantially contribute to the consultation process.

4. Instead of a Conclusion

Taking into account that significant time has already been lost, as well as the fact that meaningful consultation on the OGP action plan drafting for BiH would require more time and energy of key stakeholders, it is necessary to finally start the process. Regardless of all the limitations, enough time must be provided for the development of a quality preliminary draft of the action plan with the participation of, inter alia, experts from civil society, the private sector and the academic community, followed by wide public consultation about such an action plan. A hasty action plan, which does not match the realistic capacities of public institutions, the needs of citizens and interests of relevant stakeholders and which is not based on a more serious analysis of the situation and expert recommendations, is a recipe for failure in implementation. Therefore, such an approach should be avoided at all costs.

This publication is the result of the project “Advocacy for Open Government: Supporting the Right to Know in South East Europe,” which is being implemented in six Western Balkans countries: Albania, Bosnia and Herzegovina, Montenegro, Macedonia, Serbia and Kosovo.



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This publication is funded by the European Union and the Open Society Fund Bosnia and Herzegovina.



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