



**EVALUATION of the DRAFT ACTION PLAN Partnership for Open  
Government Initiative 2016-2017**

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## INTRODUCTION

The Republic of Serbia's process of accession to the Partnership for Open Government - a multilateral initiative that aims to provide support to governments in areas such as transparency, cooperation with civil society, the fight against corruption and the use of new technologies in order to provide high quality services to citizens and business subjects - began in April 2013, after the intention to do so expressed even earlier, in March 2012 by the Ministry of culture, media and information society. The first action plan for the period 2014-2015 has been evaluated both by the relevant ministry, as well as by civil society organizations that were involved in its monitoring. The Government of the Republic of Serbia at the session held on 25 December 2014, on a proposal of the Ministry of State Administration and Local Government, the conclusion No 05. 021-16514 / 2014, adopted an action plan in order to implement the initiative for Open Government Partnership in the Republic of Serbia for 2014 and 2015, as the period of implementation of the Action Plan is determined by the period from 30<sup>th</sup> of June 2014 to 30<sup>th</sup> of June 2016. However, this process of adopting the second Action Plan was not a specific one because representatives of civil society involved in the process were present only during the developed of Draft Action Plan. These objections were put forward when the organizations were submitting comments on the draft Action Plan, and the problem has been recognized by the Independent Research Mechanism. Another major violation of the Open Government Partnership represents the non-inclusion of civil society in the implementation of the second Action Plan.

Ministry of State Administration and Local Government started activities in order to create the second Action Plan for the implementation of the Partnership for Open Government Initiative in the Republic of Serbia, for the period from 2016 to 2017. In order to achieve these activities ministry has established special inter-ministerial working group comprising of representatives of the state administration, services of the Government of the Republic of Serbia, the specialized agencies, independent state authorities, the National Assembly of the Republic of Serbia, Serbian Chamber of Commerce, as well as representatives of six civil society organizations. Working version of the Action Plan for the implementation of the Partnership for Open Government Initiative in the Republic of Serbia for the period 2016 to 2017 (hereinafter: Action Plan), has been done in accordance with the strategic orientations of the competent state authorities and the relevant proposals and suggestions submitted by civil society organizations. In drafting of the Action Plan, a larger number of representatives of civil society representatives were involved, than was the case in the preparation of the previous one, and there was a larger number of consultative meetings which discussed the proposed draft. Public consultations were held in the period from 1<sup>st</sup> to 22<sup>nd</sup> of August 2016.

In accordance with the principles of the Partnership for Open Government Initiative, the draft Action Plan was published two weeks before the start of the public consultation, in order to prepare the participants. The published draft version of the Action Plan is not final and is subject to changes by the competent authorities and members of the Special inter-ministerial working group for drafting the Action Plan. The process of collecting comments on the appropriate form takes place in the period from 1<sup>st</sup> to 22<sup>nd</sup> of August 2016, when the form of comments and form of proposing new

measures will be published on the website of the Office for Cooperation with civil society and the Ministry of State Administration and Local Government. The very process of adoption of the action plan and its implementation is delayed due to the parliamentary elections in the Republic of Serbia. According to the original plan, the action plan should have been adopted already in September 2016; however, the topic of this work is still the working version, which is subject to change.

When it comes to the process of drafting the action plan, in this cycle of creation there has been a significant improvement over the previous process of making, for 2014 and 2015. The process of preparing an action plan was officially launched in January 2016, with the establishment of a special inter-ministerial working group for drafting the second Action Plan for the period from 2016 to 2017, and the necessary participation of the Republic of Serbia in the Open Government Partnership Initiative. The process of collecting comments carried out in the period 1 - 22 August 2016, when the form is being published on the website of the Office for Cooperation with civil society and the Ministry of State Administration and Local Government. In accordance with the principles of the Partnership for Open Government Initiative, the draft Action Plan was published two weeks before the start of the public consultation, in order to prepare the participants. The published draft version of the Action Plan is not final and is subject to changes by the competent authorities and members of the Special inter-ministerial working group for drafting the Action Plan.

## COMMITMENTS

Draft Action Plan for 2016.-2017. 13 envisage the certain obligations, within the following themes: Public participation, access to information, open data, fights against corruption, fiscal transparency and public services. Bearing in mind the delay in relation to the target deadlines, and that it is still an unmatched draft, the question is when and to what extent it will succeed to be implemented. What is good in the action plan is a detailed description of the duties for of each of the actors responsible for implementation, the description of the current situation or problem that deals with the commitments, the main objective, the expected results and timeframe.

### 1. PUBLIC PARTICIPATION

**TOPIC:** Improving the consultative process with the civil society at the local level during the adoption of policy documents

**COMMITMENT 1:** Development of a model of job descriptions for workplace of officer in charge of cooperation with the civil society in local governance.

For the purposes of drafting the Strategy for creating an enabling environment for civil society development in the Republic of Serbia for the period 2016-2020, in 2015 a research was carried out

on the topic of cooperation of LGUs and NGOs in the process of adopting the regulations, within the 122 municipalities. Results of this study showed that in 2014, there was the total number of adopted acts (11,000 acts - budgets, strategic development plans, decisions, urban plans, statutes, etc.), A public hearing was held by only 3% acts. At the same time, those municipalities that have organized public hearings that included CSOs in the public debate did it mainly in the stage of preparing legislation, but not during the monitoring of their implementation and enforcement. The data indicates that the existence of organizational unit for cooperation with CSOs will create positive effect on the number of organized public discussions, as well as the degree of involvement of CSOs in the public debate. Average number of comments received, comments taken into consideration and accepted comments, were higher in municipalities that have an office for cooperation with NGOs, and frequently the direct notification of CSOs was conducted within the hearing in relation to the LGUs that do not have this type of office.

The data from this study clearly indicate the need for such a job that is systematized in the rulebooks on LGUs or the workplace which is part of the work that focuses on cooperation with civil society organizations, on the basis of pre-made model job descriptions for those persons. Public Administration Reform Strategy in the Republic of Serbia points to the need for improvement of principles, standards and measures for the cooperation of state and other bodies and organizations with CSOs in the decision making process, governing the issues and take positions of general interest. This is common to the case of work types that are not systematized in it, but the cooperation with CSOs was attached to some other working duties.

**MAIN OBJECTIVE:** To define the job description or a part of the workplace of the employee in charge of cooperation with civil society in local government.

It is planned that the obligation is completed in the 4th quarter of 2016. According to Guide for Open Government Partnership, this level is characterized as advanced, due to a greater involvement of citizens in the work of public servants.

**TOPIC:** Improving the consultative process with the civil society at the local level during the adoption of policy documents.

**COMMITMENT 2:** Organization of trainings for civil servants and officials of local governments regarding the implementation of the guidelines for the involvement of civil society in the process of adopting regulations.

It is planned to organize 5 trainings for representatives of public administration on the topic of importance and possible modalities of cooperation with-organizations of civil society in the process of creating and implementing regulations and other policy documents.

Training will be organized in cooperation with the Human Resources Management and local governments. Scheduled participants in training are public servants in the drafting of regulations and officials working on cooperation with civil society. Since the beginning of the training is planned for the first quarter of 2017, and the completion of training is planned for the third quarter of 2017, an evaluation of these commitments will be performed only after the completion of the

planned activities. According to Guide for Open Government Partnership, this level is characterized as advanced.

**TOPIC:** Improving the consultative process with the civil society at the local level during the adoption of policy documents

**COMMITMENT 3:** Organization of trainings for representatives of CSOs regarding the implementation of the Guidelines for the inclusion of civil society in the process of adopting regulations.

This is the current liability, and draft of the action plan is notably considering active involvement of civil society representatives. The aim is to improve the capacity of civil society organizations in cooperation with institutions of public administration and participation in the creation and implementation of policy documents.

Raising the capacity of CSOs to participate in the process of adopting regulations in connection with the implementation of the Guidelines for the inclusion of civil society in the process of adopting the regulations will contribute to a greater understanding of the role and importance of cooperation between public administrations with CSOs, which will contribute to greater involvement of citizens in the work of public administration and making quality regulations. This will contribute to greater transparency in the work of government, as well as responsibilities. After the guide for the application of OGP standards, this obligation falls within the advanced level of activity.

## 2. ACCESS TO INFORMATION

**THE THEME:** Improving access to information of public importance

**COMMITMENT 4:** Improvement of proactive transparency - Information Booklet

Based on the results of research conducted by the Belgrade Open School in two cycles, the first for the period from February to July 2015 and the second from March to May 2016, in the first cycle, none of the analyzed of a total of 165 informants (information booklets for public authorities) did not have a complete content required by law, even though only 4 out of 169 municipalities had an access to informant document. Moreover, the results of the second cycle of research have shown that informants on the municipal work usually lacks most sensitive information and that is, in 69% of cases, information on the local budget. Informants more often lack information on public procurement, published only by 16% of municipalities. Apart from them, they often lack data on state aid granted to various kinds of financial support to the public and other businesses. This information was available in 11% of cases. The journal should also include information about the services that authority gives to the interested parties, as well as the procedure for the provision of these services. The main objective of this measure is to improve access to information with the full implementation of the principle of proactive transparency through the establishment of a single application to enter data in the Information Booklet for public authorities.

The planned amendments to the Law on Free Access to Information of Public Importance - Article 39) would be directed to informants in order to open its data and proactive improvement of transparency and would include:

- 1) Creation of a unified information system for accessing, processing and presentation of the Directory
- 2) Amendments to the Guidelines in the direction of the segment of online editing platform that acts as an Information Booklet, along with an electronic document that currently exists.
- 3) Training of employees in state bodies in order to use a unified information system
- 4) Special applications (unified information system) to the public, the civil sector, the business sector and the media.

Given that the deadlines for commitments' implementation are first and second quarter of 2017, and that includes the implementation of staff training and the introduction of a single electronic informational system, it is uncertain whether these responsibilities will be able to be implemented within the timeframe. Using the OGP guide, this measure can be classified as advanced, if the obligation meets the projected timeframe limits.

**THE THEME:** Improving access to information of public importance

**COMMITMENT 5:** Changing the law on free access of information of public importance

It is planned that in the future law on free access to information of public interest includes the following provisions:

1. Ensuring effective control of the legality of public administration bodies and other entities of administrative inspection supervision for the violation of the right to access information of public importance, with respect to the principle of independence of the control body and the principles of good governance.
2. Identifying the obligation to be in the process of adopting regulations shall obtain the opinion of the Commissioner for Information of Public Importance and Personal Data Protection Act if it contains questions within the scope of this authority.
3. Improving the situation in the area of enforcement of decisions of the Commissioner for Information of Public Importance and Personal Data Protection;
4. Determining the height of fines in accordance with the Law on Misdemeanors and establishing a protective mechanism that will increase the achieved level of access to information.
5. Establishing the obligation of the authorities that are subject to this Act, to proactively publish information of public importance.

Deadlines for implementation of these measures, referring to the law to the Government for approval are scheduled for the fourth quarter of 2016. This measure can be classified as an initial, given that only provides for certain actions following the implementation of the initial measures.

### 3. OPEN DATA

**COMMITMENT 6:** Publication of the budget and report on budget execution at central and local level in machine-readable form

Publication of the budget and final accounts in machine readable format is fully consistent with the principles of open administration, within the proclaimed goals of the Partnership for Open Government Initiative. If the data is published in a machine-readable format, it would lead to improvement of data availability. Publication of the budget and final accounts at the central and local level in machine readable format would be a good signal and the first step to other state authorities to start publishing data in machine-readable format. If the data from the budget and final accounts at the central and local levels are published in machine-readable format, it would be a provided compensation of processing of these data. Through post-processing and visualization that will be created, it will also enable presentation of data in a format that is easier to understand. Therefore, this will encourage greater use of these data and traceability from the budget and final accounts in a simpler way. All this would lead to greater participation of citizens in control of budget spending. On the other hand, the publication of data in machine-readable format will enable easier development services and digital solutions for specific data or data sets from the budget and (or) the final accounts. This measure can be classified as advanced.

**THE THEME:** The development of open data portal

**COMMITMENT 7:** Improvement of Open Data Portal

Open data Portal for publishing information on the work of public administration enhances the transparency of public information and the ability to develop applications that potentially have new jobs in addition to helping economic development and the development of small and medium enterprises. Open data that are accessible and comprehensible will ensure public participation in the administration, and the ability of technological innovation, applications and services of great benefit. Open data portals result in savings in the budget administrations since the opening of the data reduces the need to use budgetary resources for the development of services and applications over open data sets.

Open Data Portal is a software solution to be prepared in accordance with accepted technology standards for such portals. It will publish open data sets of public authority, links to sub-portal of open data as well as the visualization and the ability to search. This will allow the use of data for analysis and making conclusions based on large data sets (big data).

Directorate of e-government is monitoring the annual evaluation of the web presentation of state administration for more than ten years. The evaluation included the sites of organs of the Autonomous Province of Vojvodina and local government initiative to open the data is on the rise in Serbia, but still the concept of open data, and the positive effects it can have, is not sufficiently recognized by the state institutions. Some progress has been made (assessment of readiness for the opening of the data in the Republic of Serbia), Working Group was established for open data and launched an initiative to create a legal framework for open data and reuse in the public administration. The Guidelines are recognized as one of the mechanisms for encouraging initiatives to open data. In this sense, there is a constant work to improve the Guidelines. At the same time work has been started of writing the Electronic Government Act. Currently, plans and implementation of the budget are not published in machine-readable format, and some local governments do not even publish their budgets. This commitment will be classified as advanced, because this measure builds on the initial measures.

**THE THEME:** Establishment of conditions in order to introduce the concept of open data by law of the Law on Electronic Administration

**COMMITMENT 8:** Improving the Guidelines for the assessment of web presentations and raising the level of by-law

The obligation includes the amendment of the Guidelines and Criteria for the assessment of the work relating to the disclosure of information of public interest, including the budget, in an open format. This will include the obligations and the way to enter data of public interest, using the platform for automated input and generating information booklets, if disclosure of informants in several formats is readable for humans, but also in open and machine readable format. This Information will include the plan and execution. This measure will define other aspects of web presentations, such as the structure of the web presentations of state organs and the establishment Meta-register, which defines the data that will be kept in the official records and meta-register open data and publication of all parts of the internet presentation that relate to information of public importance in the open format.

If this commitment is implemented, it will be able to be qualified as advanced.

#### **4. INTEGRITY OF GOVERNMENT**

**THE THEME:** Fight against corruption

**COMMITMENT 9:** Introduction of online applications which will be available to the public information on the spending of public funds by public authorities (all direct and indirect budget users)

With the introduction of this commitment, it clearly contributes to all the proclaimed principles of the Partnership for Open Government - transparency and public participation. The changes mentioned in the regulations should provide regular public hearings in the process of preparation



of laws and their adoption in emergency procedure only in cases where specific reasons creates the necessity of such treatment.

Application of these applications will enable citizens to monitor all transactions conducted by public authorities - subject, amount and according to which entity (legal or natural person). The data will be updated on a daily basis. According to the criteria guides for Open Government, this commitment falls under advanced level, especially because of the commissioning application provides for the 4th quarter of 2017.

**COMMITMENT 10:** Improvement of the institute of public hearings on draft legislation

Failure to hold public hearings and adoption of the law in an emergency procedure adversely affect participation and transparency, on the other hand also enacted laws, as a rule, have some defects and carry with them a certain corruption risks. The reasons for the urgency procedure should be clearly and specifically mentioned in the explanation of the law, in accordance with prescribed criteria.

Creating legal conditions for organizing public hearings for all laws in the process of their adoption, unless the legislation is conditioned by urgent and immediate need to edit certain issues in the procedure provided for the adoption of the law in an emergency procedure or in other justified cases (e.g. The laws ratifying international agreements, minor legislative changes with "technical" nature which do not directly affect the prescribed manner closer to the exercise of rights, obligations and legal interests of citizens, businesses and other entities).

Proponent explanation of the reasons for the urgency procedure is referred to in Article 167 of the Rules of Procedure of the National Assembly. Given that this obligation provides for amendments to the Law on State Administration and the Rules of Procedure of the Government in respect of the compulsory holding a public hearing in the preparation of the law, this measure can be characterized as advanced, if they comply within the time-frame for its implementation.

## 5. FISCAL TRANSPARENCY

**THE THEME:** Improvement of procedures for conducting public competition for the allocation of public funds at all levels, including the evaluation issues and remedies.

**COMMITMENT 11:** Creating a uniform methodology of planning, monitoring of implementation and assessment of the performance of implemented programs and projects of civil society and monitoring of expenditure of allocated funds.

Data collected through the annual summary report on the spending of budgetary funds to support program activities, which are provided and paid to associations and other civil society organizations from the budget of the Republic of Serbia, indicated insufficient practice of using cross method of monitoring the implementation of supported projects and programs. The data also

indicated that the main way of monitoring the implementation of programs and projects are reviewing final financial and narrative reports, while monitoring visits to associations are represented in the fewest number of cases.

By strengthening the system of fiscal responsibility and informing the general public about the projects and programs of civil society organizations financed from the budget of the Republic of Serbia, it will encourage and develop integrity and accountability in the work of state institutions, strengthening public confidence in the work of state institutions, but also in the work of civil society organizations.

The adoption of methodological guidelines for developing a plan for monitoring and evaluation of approved programs and projects, introduces the obligation of a unified approach to public administration bodies in the planning, monitoring and evaluation of the implementation of approved programs and projects of CSOs. This commitment certainly can be classified as advanced, provided that the methodological instructions had to be used for direct donations and forms of assistance to CSOs (grants without call for proposals at the level of local government).

**THE THEME:** Improvement of procedures for conducting public calls for proposals for the allocation of public funds at all levels, including the evaluation issues.

**COMMITMENT 12:** Amendments to the Decree on the Means of encouraging programs or missing part of funds for financing programs of public interest implemented by CSOs.

The main objective of this measure is to strengthen the system of fiscal transparency and accountability, as well as informing the general public about the projects and programs of civil society organizations financed from the budget of Republic of Serbia.

Rate includes amendments to the Regulation on the means of encouraging programs or missing part of funds, for financing programs of public interest implemented by CSOs, including establishment of the obligation of the publication of the report on the results of supported programs and projects of CSOs and defining the content and form of the report on the evaluation of the competition cycle. This commitment can be characterized as intermediate.

## 6. PUBLIC SERVICES

**THE THEME:** Improvement of the legal framework in the field of e-business

**COMMITMENT 13:** Adoption of the Law on Electronic Document, electronic identification and services of confidence in electronic commerce

Existing laws do not regulate certain segments of the use of electronic data, electronic means of communication and electronic data processing within the performance of individuals and legal

entities, including public authorities (electronic commerce), which further creates the impression that it cannot provide a process of verifying the identity of the legal or physical persons; EID and guarantee the credibility of certain data, which all affect the openness of government administration.

Adoption of the law will allow easier and faster access to information and services provided by government bodies, all in the service of effective, transparent and accountable work of state administration and providing better public services tailored to the needs of citizens and businesses, with the use of open standards and applications that are widely used among citizens and facilitating the smooth flow of information, on the level of the entire state administration (interoperability). Given that the implementation of these measures is provided by the 4Q 2016, it remains to do further work on the adoption of an action plan, considering a very small period of time.

## **CONCLUSION**

Given that in the preparation of this draft action plan a greater participation of civil society is noted, and that consultations are still ongoing, we can say that the work of relevant ministries is being done correctly (MDULS). Also, compared with the previous action plan, the current is more in line with the principles of the Partnership for Open Government Initiative, because it shows a greater participation of the public, and the proposed measures and solutions are a qualitative step forward. The main objection is that the adoption and implementation of the proposed action plan requires a longer period of time, and it was a draft version of which the final content will definitely be changed.