



OECD Public Governance Reviews

# Open Government Review of Romania





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# Foreword

Open government is defined by the OECD as “a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth”. This concept is based on the idea that citizens, civil society and other stakeholders should be enabled and empowered to oversee and take an active part in public decisions and actions. Open government policies and practices are today widely recognised as important avenues to reinforcing democracy and strengthening trust in public institutions. In this regard, the results of the OECD’s first Survey on Drivers of Trust in Public Institutions highlight that giving access to public information, providing opportunities to engage in the policymaking process, and responding to public feedback and demands can strongly affect the way citizens perceive their government. For example, the Survey shows that fewer than one-third of respondents feel the political system in their country allows them to have a say in government decision making. Evidence also shows that open government policies can help increase the responsiveness of public policies and services by considering stakeholders’ viewpoints and concerns, ultimately improving outcomes for citizens and the economy.

Romania has implemented a range of initiatives to promote open government in recent decades with notable positive results. As a member of the Steering Committee of the Open Government Partnership (OGP) from 2015 to 2021, Romania actively contributed to shaping an ambitious international open government agenda. Domestically, based on the provisions of the laws on access to public information and on decisional transparency in public administration, the government has implemented far-reaching reforms, including the creation of online platforms, such as the Unique Register of Transparency of Interests (RUTI), the Catalogue of Non-Governmental Organizations for Evidence, Consultation and Transparency (CONNECT), and the E-Consultation Platform (*e-consultare*). In 2020, Romania adhered to the Recommendation of the Council on Open Government (2017) (hereafter “the Recommendation”), the first and currently only internationally recognised legal instrument on open government, demonstrating the country’s commitment to the principles of transparency, integrity, accountability, and stakeholder participation.

Seeking to develop its first comprehensive Open Government Strategy, the government of Romania asked the OECD to identify the strengths and opportunities for improvement of its current efforts to promote open government. Using the Recommendation as a normative framework for evaluation and assessment, the OECD Open Government Review of Romania takes stock of past reform efforts, analyses progress made and remaining challenges, and suggests a path for Romania to successfully design, implement, monitor and evaluate a holistic and integrated policy agenda for open government. The Review is peer-driven and is based on over 25 interviews with governmental and non-public stakeholders; data collected through five questionnaires answered by the national government, non-public stakeholders and subnational governments; and extensive desk research conducted by the OECD Secretariat.

The Review finds that the recent adoption of Romania’s Recovery and Resilience Plan (RRP) within Next Generation EU and the ongoing Accession process to the OECD provide a unique window of opportunity to design and implement a more holistic open government agenda. Taken together, the RRP and the OECD Accession process could be a means for additional and more meaningful collaboration with citizens

and stakeholders, which can ultimately increase citizens' trust in government and reinforce democracy. Accordingly, the Review includes key actions for the country to consider in the short, medium, and long-term to take full advantage of the current momentum to strengthen the enabling environment for open government and implement more impactful reforms.

The Review was funded by the EEA/Norway grants and is part of the OECD's wider engagement with Romania to improve public governance. It should be read in conjunction with the *OECD Civic Space Scan of Romania*, as well as other ongoing OECD policy reviews in Romania, including the OECD Evaluation of the Romanian National Anti-Corruption Strategy 2016-2020, the OECD Digital Government Review, and the OECD Innovative Capacity Scan of Romania. Over the course of 2023, the OECD will support Romania in the implementation of the recommendations presented in this Review, thanks also to the support provided by the EEA/Norway grants.

The report was reviewed by the Working Party on Open Government on 18 May 2023. It was approved by the Public Governance Committee on 19 June 2023 and prepared for publication by the OECD Secretariat.



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This Review would not have been possible without the important contribution of the Peer Reviewers, who shared their extensive country-based knowledge and experience during the process, namely:

- Ms Doreen Grove, Head of Open Government, Government of Scotland
- Ms Clara Mapelli, Director General for Public Governance, Government of Spain
- Ms Valeria Lübbert Álvarez, Executive Secretary of the Commission for Public Integrity and Transparency.

This Review was prepared by the Public Governance Directorate (GOV) of the OECD led by Director Elsa Pilichowski, Deputy Director Janos Bertok and Acting Deputy Director Gillian Dorner. The report was drafted under the strategic direction of Carlos Santiso, Head of the Open and Innovative Government Division and the supervision of Alessandro Bellantoni, Head of the Open Government, Civic Space and Public Communications Unit in GOV who provided strategic comments and feedback on the front matter and all chapters. The process was led by David Goessmann, Policy Analyst / Project Co-ordinator with the support of Benedict Stefani, Junior Policy Analyst. David Goessmann also co-ordinated the drafting of the Review and drafted Chapter 1 (Assessment and Recommendations), Chapter 3 (Methodology), Chapter 6 (Taking a strategic approach to open government in Romania) and Chapter 7 (Monitoring and evaluating openness). Benedict Stefani drafted Chapter 2 (Setting the scene), Chapter 4 (Implementing the legal framework for open government) and Chapter 5 (Creating an enabling environment for an Open Government Strategy). Mauricio Mejia drafted Chapter 8 (Towards an open state in Romania). Emma

Cantera guided the drafting of Chapter 5 and Claire McEvoy, Marie Whelan and Alice Thomas provided comments throughout to foster alignment with the *OECD Civic Space Scan of Romania*. Joshua Yeremiyew provided administrative support throughout the Review. Meral Gedik and Adem Kocaman prepared the document for publication. The OECD team would also like to thank those OECD colleagues who provided comments: Carina Lindberg, Felipe Gonzalez-Zapata, Seong Ju Park, Alice Berggrun, Frederic Boehm, Misha Kaur, Heather Buisman, Simon Callewaert, Natalia Nolan Flecha and Andrea Uhrhammer.

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# Executive summary

Open government policies are more vital than ever to reinforce trust in public institutions in times of crisis, to strengthen democratic processes, and to improve the responsiveness of public policies and services. Romania has made important progress regarding open government. Nonetheless, there is a need to improve the implementation of relevant laws and policies and establish a more coherent vision for promoting a culture of openness across government and society. In this context, the OECD analysed Romania's open government policies to identify good practices and distil lessons for a potential Open Government Strategy.

## Key findings

- Romania has made important progress in implementing transparency obligations in recent years, including those in Law no. 544/2001 on free access to information of public interest. Nevertheless, barriers for citizens and stakeholders to access information and data persist. Sensitive information is rarely disclosed proactively, and information is not always published in a standardised and user-friendly way, and in formats that can be re-used.
- Romania is one of the few OECD Member and Partner countries to have a dedicated law on citizen and stakeholder participation (Law no. 52/2003). Nevertheless, participation is largely limited to public consultation on draft laws or regulations, implying that it takes place at a late stage of the policy cycle and with few spaces for in-depth interaction between decision makers and citizens and stakeholders.
- A range of high-level government policies and strategies include measures on openness, including the National Anticorruption Strategy, the Open Government Partnership (OGP) Action Plan and the recently adopted Recovery and Resilience Plan. However, these initiatives remain fragmented. Romania could develop a clearer vision for open government and a coherent whole-of-government policy agenda to bring citizens' voices into the policy cycle.
- A "citizen focus" is not yet part of the administrative culture of Romania. While there is legal compliance with open government policies and practices, public administrations could be more proactive in engaging stakeholders. Despite the General Secretariat of the Government's efforts to adopt guidelines and create training programmes, public officials and civil society stakeholders still have limited skills and knowledge on how to contribute to open government.
- Romania's participation in the OGP has led to positive results (e.g. creation of the *E-consultare* platform, etc.) and has allowed the government to start creating advanced governance frameworks for open government reforms (e.g. OGP Club). But buy-in into the OGP process is still limited across government and levels of ambition have varied over time. These measures must now be consolidated with greater buy-in from across the administration and with a view to making continual, ambitious progress.
- The clustering of competences relative to access to information, open data, civic space, and citizen participation under the General Secretariat of the Government is unique and could be better exploited. Co-ordination of open government reforms across government is limited and levels of political commitment to open government have varied over time.

- Romania already collects a wide range of information and data on open government policies and practices, mostly through monitoring of open government laws, regulations and policy documents (e.g. the OGP Action Plan). Adopting an Open Government Strategy would allow Romania to develop a holistic monitoring and evaluation scheme that is coupled with an Open Government Index and/or Open Government Maturity Model.
- Some local governments in Romania have pioneered practices to get closer to citizens and hear their views and inputs using innovative tools such as participatory budgets. The central government has taken steps to support subnational governments in their open government efforts. However, reaping the full benefits of collaboration among different levels of government and branches of the state (that is, achieving an “open state”) will require further efforts.

## Key recommendations

- Enable citizens to see, understand and monitor the decisions and activities of government, including by focusing on the quality, reusability and accessibility of information and by applying the provisions of the recently adopted Government Decision no. 830/2022.
- Consider reviewing Law no. 544/2001 on free access to information of public interest to offer an external review process in case of denied or unanswered ATI requests. Consider establishing a dedicated body to ensure oversight, supervision, monitoring and evaluation of Law no. 544/2001 with a clear mandate, sustained resources, an adequate level of independence, and enforcement capacity.
- Enable citizens and stakeholders to contribute to the activities and decisions of the government, including by promoting participation earlier in the policy cycle and by providing incentives for innovation and experimentation with new participatory methods and practices, such as representative deliberative participatory mechanisms.
- Move forward with the inclusive design of Romania’s first holistic and integrated Open Government Strategy to bring together fragmented open government initiatives and elevate open government approaches to the political level. In the Strategy, emphasise initiatives that foster citizen and civil society involvement in the policy cycle, as recommended in the *OECD Civic Space Scan of Romania*.
- Make the Open Government Directorate in the General Secretariat of the Government a centre of expertise for opening up government and ensure that it has the necessary means and resources to design and implement the Open Government Strategy.
- Increase monitoring and evaluation of open government reforms, including by reviewing ongoing monitoring exercises (e.g. for Law no. 52/2003 and Law no. 544/2001) and by creating an Open Government Index and/or Maturity Models.
- Build skills, awareness, and knowledge on open government within the public sector and in civil society, including by organising specific training and capacity-building activities for public officials from national and local governments and by including a general introductory course on open government in mandatory training requirements for public officials.
- Encourage the integration of subnational efforts in the national open government agenda by supporting stronger collaboration and co-ordination across levels of government through a permanent space for dialogue and by strategically using the OGP process and the upcoming Open Government Strategy to design a shared roadmap.
- Develop an Open Parliament agenda by building on existing transparency and participatory initiatives, and create positive synergies with other branches of the State by including joint commitments in the forthcoming National Open Government Strategy or future OGP Action Plans.

# 1 Assessment and recommendations

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This chapter provides an integrated overview of the assessment and the recommendations included in the OECD Open Government Review of Romania. It presents key information further developed in the following chapters and highlights the main recommendations for Romania to consider in the short, medium, and long term to strengthen policies and practices in terms of transparency, accountability and citizen and stakeholder participation and, ultimately, reinforce democracy and build citizens' trust in public institutions.

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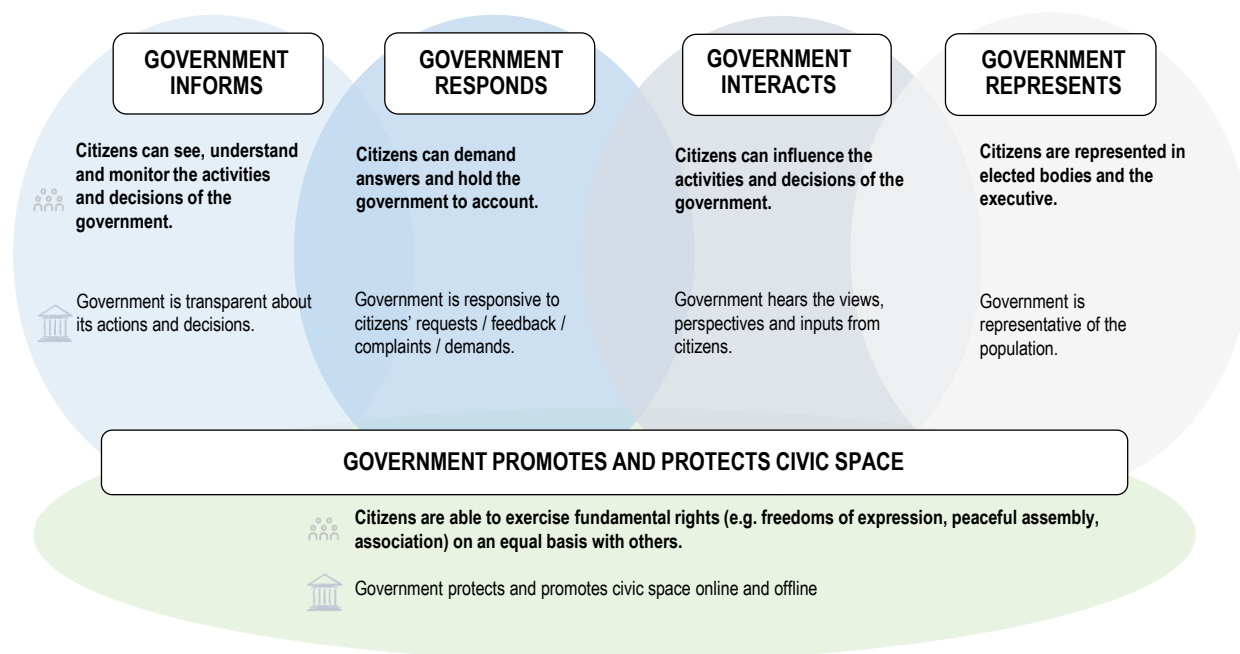
The OECD defines open government as “a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth” (OECD, 2017<sup>[1]</sup>). Romania has been creating laws, policies and frameworks that aim to open the government for more than two decades (Figure 1.3). The adoption of the country’s first access to information law in 2001 (Law no. 544/2001 on access to information of public interest) and the creation of a law on participation as early as 2003 (Law no. 52/2003 on decisional transparency in public administration) are testimony to this. The move towards increased openness experienced further impetus when Romania joined the European Union in 2007 and the Open Government Partnership (OGP) in 2011. Since then, an increasing number of initiatives aiming to foster citizens’ and stakeholders’ capacity to follow, understand, and monitor the actions and decisions of government and to actively shape them have been designed and implemented at all levels of the administration.

Today, islands of good practices in terms of open governance exist at all levels of the Romanian state and Romanian citizens enjoy more opportunities to access public information, find ways to have their voices heard and be actively involved in policy processes. Past achievements are reflected in Romania’s scores in existing international indicators in the field of open government. For example, in the Open Government dimension<sup>1</sup> of the Rule of Law Index, which assesses the “extent to which a government shares information, empowers people with tools to hold the government accountable, and fosters citizen participation in public policy deliberations”, Romania ranked 34<sup>th</sup> out of 140 countries in 2022, up three places from 2021 and above neighbouring countries such as Bulgaria and Hungary (World Justice Project, 2022<sup>[2]</sup>). This is also acknowledged by international actors, such as the OGP’s Independent Reporting Mechanism, which finds that Romania has made “significant progress” in some areas of open government such as open data, access to public officials’ asset declaration and budget transparency (OGP IRM, 2020<sup>[3]</sup>).

While Romania has certainly made progress in terms of open government, there still remain several areas for improvement. Important challenges have emerged throughout the review process, such as the prominence of compliance-based culture in the administration rather than a citizen-focused one and a general need to foster implementation and enforcement of the existing legal and regulatory framework. Further efforts are needed to increase the impacts of reforms across the whole state and create a lasting culture of open government that can reinforce Romania’s democracy and make it more robust. It is in this context that the government of Romania collaborated with the OECD to receive an in-depth assessment of current and past reform efforts, identify achievements and bottlenecks, and receive policy recommendations that are inspired by international good practices. In particular, Romania requested that the OECD “support[s] the development of a concrete roadmap to allow for a better co-ordination and implementation of open government initiatives”, and “assist[s] in the definition of indicators for the monitoring and data-driven evaluation of the impact of open government initiatives”.

The analysis in this report is based on the *Recommendation of the Council on Open Government* (hereafter the “Recommendation”) (OECD, 2017<sup>[1]</sup>) which was adopted in 2017 as the first and only internationally recognised legal instrument in the area and which Romania adhered to in 2020. The Recommendation contains ten provisions that guide countries in their quest for more transparent, accountable, and participatory governments. The assessment presented throughout the Review also reflects the *OECD Framework for Assessing the Openness of Governments* (OECD, 2020<sup>[4]</sup>), which clarifies the interplays between all the elements necessary for an open government culture of governance. Finally, the Open Government Review of Romania is the first to use the new *OECD Openness Spectrum*, which provides a cross-cutting conceptual framework of what an open government is, taking a citizen’s perspective (Figure 1.1). This Open Government Review should be read in conjuncture with the *Civic Space Review of Romania* (OECD, 2023<sup>[5]</sup>) which provides an in-depth assessment of the enabling environment for open government reforms in the country, with a focus on the protection of civic freedoms, press freedom, the role of civil society organisations, and citizen participation.

Figure 1.1. The OECD Openness Spectrum



Source: Author's own elaboration.

## Romania is a rapidly evolving democracy which faces several political and socio-economic challenges

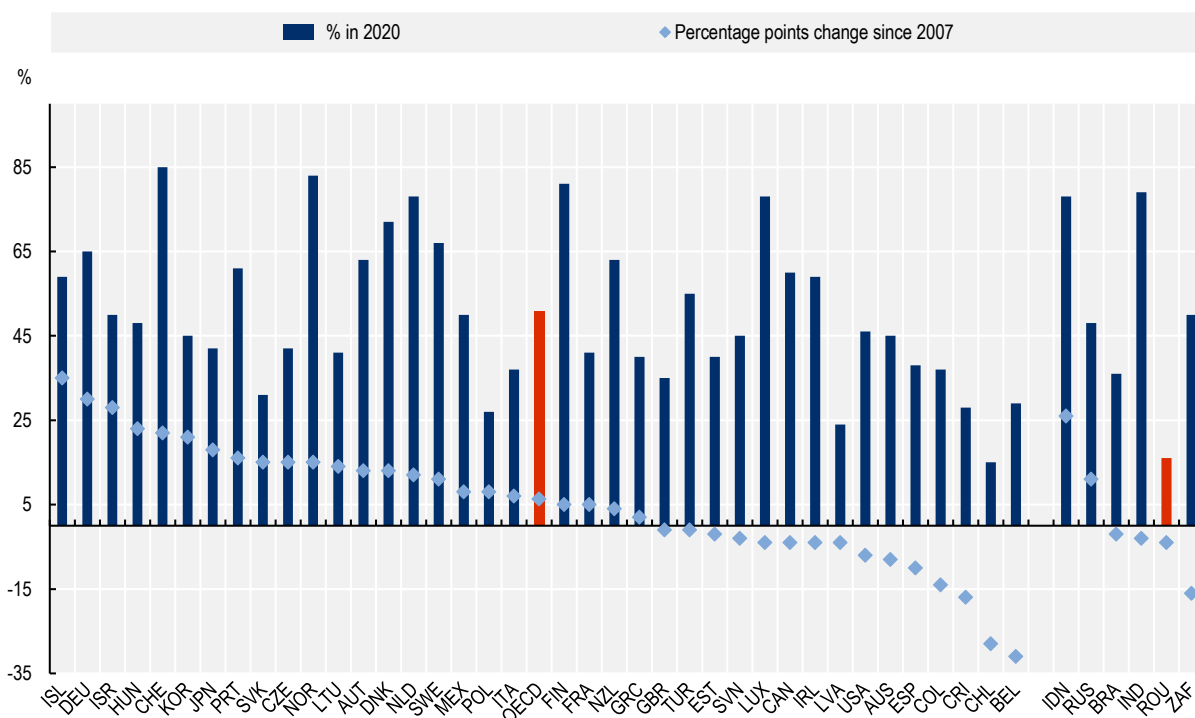
Romania became a representative democracy following the 1989 revolution. A decentralised unitary state with a strong centre-of-government, Romania has today well integrated into the international community and its standards. This is, among others, indicated by Romania's membership in the European Union since 2007 and its ongoing Accession process to the OECD which started in 2022.

Macro challenges faced by Romania that have impacted the country's open government agenda and that frame the assessment and recommendations provided in this Review include:

- Levels of trust in government in Romania have been very low for several years, similar to other countries in the region. The OECD's Government at a Glance 2021 found that confidence in the Romanian government fell from 20% in 2007 to 16% in 2020 (OECD, 2021<sup>[6]</sup>). By comparison, the average confidence rate in national government among OECD countries is 51%, with a 6.3 percentage points increase from 2007 (Ibid.).
- Levels of corruption in Romania remain relatively high (OECD, 2022<sup>[7]</sup>). For example, the country ranks 66<sup>th</sup> out of 180 countries in the *Corruption Perception Index 2021* (Transparency International, 2021<sup>[8]</sup>).
- Like in many OECD countries, civic space in Romania is under pressure. For example, CIVICUS ranks Romania's civic space as "Narrowed" in 2022 (CIVICUS, n.d.<sup>[9]</sup>).
- Political instability coupled with frequent changes of government in recent years have had an impact on the government's policy agenda. Changes in government have also resulted in high levels of turnover in the Romanian public sector (due to the abolition/creation of new Ministries, etc.) which, in turn, has meant that institutional memory is difficult to preserve, and that draft laws, strategies, and other policies are often stalled.

- The fact that Romania passes a relatively high number of emergency ordinances per year (Venice Commission, 2019<sup>[10]</sup>) has resulted in existing checks and balances in the law-making process being circumvented, especially the commitment to involve citizens and stakeholders.
- Like in all OECD Member countries, the recent COVID-19 health emergency has strongly affected policy processes in Romania, resulting, for example, in extensive use of emergency ordinances.
- Similarly to many of its OECD peers, Romania's public sector has a legalistic administrative culture and a public sector that generally focuses on compliance, which creates an environment that does not favour innovation, as also noted by the OECD's Interim Assessment Report on Strengthening the Innovative Capacity of the Government of Romania (OECD, 2023<sup>[11]</sup>).

**Figure 1.2. Confidence in national government across OECD Member and Partner countries and Romania (2007 and 2020)**



Source: OECD (2021<sup>[6]</sup>), *Government at a Glance 2021*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/1c258f55-en>.

## Key milestones for open government in Romania

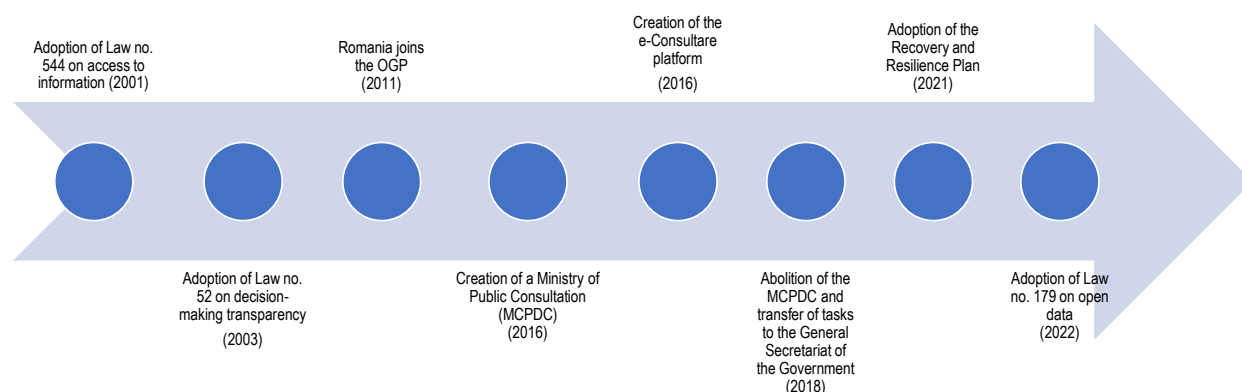
Elements of open government started appearing with the adoption of Romania's first democratic Constitution in 1991, which for example guaranteed that "[t]he right of the person to have access to any information of public interest may not be restricted" (Chapter II, Art. 31) and which established fundamental rights, such as citizens' right to petition (Article 51) and citizens' right of legislative initiative (Article 74). However, it was not until the beginning of the 2000s that a broader and more encompassing legal and regulatory framework for the different areas of open government was created. Notably, in 2001 and 2003, Romania adopted laws on access to information of public interest (Law no. 544/2001) and on decisional transparency in public administration (Law no. 52/2003). In 2011, the country further promulgated Law no. 62/2011 on social dialogue which regulates communication and the conclusion of agreements with social partners (which was replaced by Law no. 367/2022 on social dialogue in 2022).



The open government movement in Romania gained momentum in 2011/2012 when the country joined the Open Government Partnership (OGP). The participation in the OGP laid the foundation for a series of open government action plans that were designed in collaboration with civil society. Currently, Romania is in the process of implementing the 6<sup>th</sup> National Action Plan for the period of 2022-2024. The commitments made in the OGP action plans have been complemented with various strategic documents, such as National Anti-corruption Strategies.

Co-ordinated by a key centre of government institution in its early years (the Chancellery of the Prime Minister), the topic of open government gained further visibility when Romania appointed a Minister Delegate for Social Dialogue in 2012. From 2015 to 2018, a Ministry of Public Consultation and Civic/Social Dialogue existed in Romania.<sup>2</sup> Today, the majority of responsibilities related to open government are again located in the centre of government. The Open Government Directorate in the General Secretariat of Government (GSG) is, for example, responsible for the OGP process, as well as for developing and implementing policies in the areas of access to information, public consultation, and civil society development.

**Figure 1.3. Key milestones for open government in Romania**



Source: Author's own elaboration.

## Law and regulations on open government policies and practices are mostly aligned with OECD practice

Building on the 1991 Constitution, Romania has designed solid legal and regulatory frameworks for open government over the past decades, starting with the Law no. 544/2001 on free access to information of public interest. The country is also one of the few OECD Member and Partner countries to have a dedicated law on participation. Notably, Law no. 52/2003 on decisional transparency in public administration regulates the participation of citizens and stakeholders in policy- and law-making processes. In addition, Law no. 367/2022 on social dialogue regulates communication and the conclusion of agreements with “social partners” (trade unions or trade union organisations, employers or employers’ organisations, as well as representatives of public administration authorities) on matters of common interest, creating more permanent channels of participation that go beyond discussions on individual draft policies and laws. In recent years, the GSG has also put important efforts into preparing legislative documents to regulate the implementation of relevant open government laws, including most recently Government Decision no. 830/2022 and Government Decision no. 831/2022. Finally, Romania recently adopted a law on open data and the reuse of public sector information (179/2022), which has the potential to make a significant contribution to the agenda.

However, the implementation of existing laws and regulations is often not treated in a co-ordinated manner because Romania currently does not have a strategic and integrated approach to open government (Government of Romania, 2022<sup>[12]</sup>). Obligations imposed on public institutions through laws and subsequent government decisions are not always aligned with each other, leading to confusion and non-uniform implementation. This is exacerbated by the fact that many important laws, e.g. the Administrative Code (Emergency Ordinance no. 57/2019), have been passed by emergency ordinance,<sup>3</sup> which means that they have not been debated at length, hence with limited parliamentary oversight (Venice Commission, 2019<sup>[10]</sup>). Finally, some laws and regulations in the field are outdated. For example, Government Decision no. 26/2000 regarding associations and foundations dates back more than 20 years. In interviews, the government of Romania highlighted that the non-governmental sector had undergone major changes since then and that, as a result, the procedures for the establishment and administration of civil society organisations (CSOs), as well as the collaboration mechanisms between them and the state are today outdated. Moving forward, Romania could conduct an in-depth evaluation of its legal and regulatory framework for open government and compile a compendium of existing laws and regulations.

### **Romanian public officials and civil society stakeholders currently do not have a shared understanding of the concept of open government and of its benefits**

Evidence collected by the OECD shows that understandings of the concept of open government differ widely across Romania, as is the case in many OECD Member and Partner countries (OECD, forthcoming<sup>[13]</sup>). Many public servants associate being open mostly with publishing open government data and/or giving access to public information. The interactive side of open government (i.e. inclusive participation and interaction with citizens and stakeholders) is less frequently considered part of the concept. Moreover, while the evidence collected for this Review shows that all public institutions in Romania are already carrying out initiatives that aim to open the administration to citizens' inputs and scrutiny (most of them as part of the obligation to implement relevant laws and regulations), these efforts are usually not framed as part of a dedicated open government agenda.

In this regard, the upcoming process to design an Open Government Strategy provides an opportunity to mainstream the concept of open government and explain the different elements that open government implies. Romania could, for example, use the strategy process to co-create its first official definition of open government. Involving all key public and non-public stakeholders in this exercise can ensure buy-in and enlarge Romania's community of open government reformers.

### **Romanians today have better access to public information, but enforcement and implementation of the law need to be strengthened to foster standardisation, accessibility and re-usability of information**

According to the OECD (2016<sup>[14]</sup>), in the last years, thanks to reforms such as the creation of the *Memorandum on increasing transparency and standardising the publication of information of public interest*, compliance of line ministries with their obligations to proactively disclose information has increased. In line with the findings of the latest monitoring of the implementation of Law no. 544/2001, conducted by the General Secretariat of the Government of Romania, more and more information is being published on public institutions' websites – often in an open data format (Government of Romania, 2021<sup>[15]</sup>). The report also finds that most public institutions have now appointed a person with special attributions for the implementation of Law no. 544/2001 and there has been a steady increase in the availability of information points/virtual libraries (Government of Romania, 2021<sup>[15]</sup>). The recent adoption of Government Decision (GD) no. 830/2022, which, among other priorities, updates and standardises the

procedures for the proactive disclosure of information of public interest, is a further step in the right direction.

Beyond the positive developments regarding the implementation of the law, Romania has also made initial progress in key areas of government transparency. At the time of writing, Romania's open data portal already hosted more than 3 000 datasets from 118 different agencies and use by citizens was reportedly growing (OGP IRM, 2022<sup>[16]</sup>). Budget transparency has also seen improvements over time with Romania now ranking 25<sup>th</sup> (out of 117 ranked countries) in the Open Budget Index prepared by the International Budget Partnership (2021<sup>[17]</sup>), although scores have declined from a high point in 2017. Finally, according to the OECD (2022<sup>[18]</sup>), some progress has also been made in bringing Romania's Electronic System of Public Procurement (SEAP/SICAP) into line with the Open Contracting Data Standard and the creation of the Unique Register of Transparency of Interest (RUTI) has contributed to facilitating access to information on legal persons who interact with the central public administration.

While progress is notable, barriers for citizens and stakeholders to access information and data persist in Romania. The government's own *Evaluation of central and local public administrations' practices in the decision-making process and ensuring access to information of public interest* (Government of Romania, 2021<sup>[19]</sup>) for example finds that public institutions often display information in a "dysfunctional and unsystematised" way, thereby "creating the impression, where the data existed, that it was not published or that it was intentionally withheld away from the public eye". Evidence collected by the OECD through the fact-finding missions also confirms that public information is often not published in a standardised manner, rarely in simple language or illustrated through visualisations, and frequently in hardly accessible formats. This limits the use and re-use by citizens and stakeholders and increases the burden of access to information requests on both public officials and citizens. In particular, non-public stakeholders highlighted that sensitive types of information (e.g. those relating to budgeting or procurement data) are often published in formats in which the re-use of information is burdensome, such as PDF documents, and/or past the legally established deadlines (Funky citizens, 2022<sup>[20]</sup>).

In terms of public institutions' responses to access to information requests, the Romanian government's data also shows a generally positive trend (e.g. quicker responses, less denied requests, etc.). However, there are indications that the consistent application of exemptions, especially regarding personal data protection, can be improved (European Commission, 2021<sup>[21]</sup>; European Commission, 2022<sup>[22]</sup>). Further, interviews conducted for this Review revealed that formats of responses are not always adequate (e.g. scanned PDFs) and that challenges for appealing denied requests persist, including varying application of existing legislation by courts on concrete cases (Center for Public Innovation, 2017<sup>[23]</sup>).

The findings of the *Civic Space Review of Romania* (OECD, 2023<sup>[5]</sup>) further show that institutions commonly disregard the 10-day deadline for responding to access to information requests. While the law indicates that simple requests must be answered in 10 days, all answers must be provided no longer than 30 days after the request has been made, with many public bodies "exploit[ing] the ignorance of the applicant" by using this upper limit as their deadline (Balkans and Caucasus Transeuropa Observatory, 2017<sup>[24]</sup>). In this sense, there is a need to raise awareness among citizens and stakeholders on how to exercise this right, alongside dedicated efforts to ensure that accessibility and inclusion are prioritised, for example, through the use of simple language, providing clear guidelines on making requests, and offering support for marginalised groups and those with special needs.

Moving forward, Romania could use the momentum created by the recent adoption of Law no. 179/2022 regarding open data and the reuse of public sector information to introduce additional reforms to increase citizens' and stakeholders' ability to follow, understand and monitor the decisions and activities of government. This should, first of all, include fully implementing the provisions of Government Decision no. 830/2022, in particular those relating to enhancing the standardisation of information on public websites. Romania should further start putting a greater focus on the accessibility of information of public interest, including fostering the development and use of guidelines (e.g. regarding plain language). Finally,

opportunities arising from improved monitoring and evaluation of access to information requests could be exploited more. For example, frequently requested information could be released proactively, and user satisfaction be considered.

To further enhance reactive disclosure of information, Romania could consider creating a single portal to launch and process information requests (e.g. as part of the recommended Open Government Portal or as part of the existing National Electronic System (SEN), [www.e-guvernare.ro/en](http://www.e-guvernare.ro/en) which is managed by the Authority for the Digitalization). This portal should exploit synergies with existing portals in the area of transparency and open government, such as the open data portal. Romania should further ensure that all public institutions respect the deadlines for responding to requests that are set by law, for example by generalising online tracking systems for requests. In this regard, a register of documents such as the European Commission's Register of Commission Documents (europa.eu), supported by a document management system is essential for complying with deadlines of ATI requests. Over time, Romania could consider reviewing Law no. 544/2001 on access to information of public interest to offer an external review process in case of denied ATI requests. Finally, medium to long-term reforms may also include the establishment of a dedicated body to ensure independent oversight, supervision, monitoring, and evaluation of Law 544/2001 with a clear mandate, sustained resources, and enforcement capacity.

## **Citizen and stakeholder participation is often seen as a formality and levels of engagement are low**

A significant share of non-public stakeholders that responded to the *OECD Surveys on Open Government in Romania* saw positive developments in terms of participatory practices in the country, acknowledging that both the quality and the number of processes had increased in recent years. The government's monitoring of Law no. 52/2003 on decisional transparency in public administration also shows that some public institutions in Romania are making some progress in implementing the law, having for example established a person or structure responsible for the relationship with civil society. Digital tools, such as the e-consultation website, contact forms, and social media engagement, are slowly gaining importance in the public sector. In addition, according to the results of the *Civic Space Review of Romania* (OECD, 2023<sup>[5]</sup>), certain non-governmental initiatives such as the online petitions and campaigns platform *Declic* (<https://www.declic.ro/>) have galvanised support for numerous policy issues, including recent legal reforms with respect to citizens' voting age, amending the Criminal Code to ensure accountability for crimes and revising legislation on the judiciary in co-operation with civil society.

Despite this initial progress, evidence also shows that public institutions still widely see citizens and stakeholder participation as a formality, rather than a transformative new way of conducting public policy. As noted in an evaluation conducted by the General Secretariat of the Government, "most of the times, the initiative to launch a participatory process rests with public institutions and their predominant purpose is to fulfill a legal obligations" (Government of Romania, 2021<sup>[19]</sup>). The evaluation further noted that while the current normative framework establishes legal mechanisms capable of stimulating participation and establishing a solid collaborative relationship with civil society, the use of such mechanisms fails to make a real contribution to improving the quality of public decision-making (Government of Romania, 2021<sup>[19]</sup>). Participatory processes are in practice mostly conducted at later stages of the policy cycle and few spaces for real in-depth interaction between decision makers and citizens and stakeholders exist, as traditional forms of participation (e.g. online consultation) remain prevalent. Consultations typically take place online (OECD, 2022<sup>[18]</sup>) and deadlines for consultation are commonly set to the minimum length that is provided by the law (10 days). The *Civic Space Review of Romania* concludes that "the process of holding consultations is perceived as formalistic, with little focus on exploring additional, more innovative methods, uneven feedback mechanisms, and a limited understanding among public officials of the benefits of participation" (OECD, 2023<sup>[5]</sup>).

In addition, the inclusiveness of participatory processes is still limited in Romania. Processes are often dominated by the “usual suspects” with few efforts made to remove barriers and involve citizens and in particular, minorities, such as Roma. Both the present Review and the *Civic Space Review of Romania* note a general lack of emphasis on engaging citizens in policy processes and decision-making in Romania. While the General Secretariat has taken different initiatives to improve the consistency and quality of public consultations, including through the adoption of Government Decision no. 831/2022 which aims to standardise and streamline the procedure for participation and to create a uniform set of standards throughout the public administration, the government is not yet “equipped with the tools and skills to cope with the expansion and dynamics of Romania's associative environment” (Government of Romania, 2021<sub>[19]</sub>). The long-term effects of this approach, whereby the letter of the law is followed without achieving the actual purpose of the law, are an unwillingness of citizens and civil society to engage and a lack of trust in laws and law-making institutions (OECD, 2023<sub>[5]</sub>). Levels of involvement remain very low and some reports (e.g. (Council of Europe, 2019<sub>[25]</sub>)) have noted a general deterioration in the relations between CSOs and government officials. The *Civic Space Review of Romania* also notes a significant lack of trust between the public sector and the CSO sector (OECD, 2023<sub>[5]</sub>).

Moving forward, the Open Government Review and *Civic Space Review of Romania* (OECD, 2023<sub>[5]</sub>) identify opportunities for Romania to better enable citizens and stakeholders to take part in and influence the activities and decisions of the government. First of all, Romania should reduce its dependence on the use of emergency ordinances and could specify more narrow limits for avoiding participatory practices due to emergencies to ensure that parliamentary oversight and stakeholder and citizen consultation remain the norm. Strengthening citizens’ ability to get involved in public decision-making could also include fostering participation earlier in the policy cycle, including for example by creating mandatory pre-consultations for projects with a special impact (e.g. according to *ex ante* regulatory assessments of significant impacts) or which concern the spending of public funds, including at the conceptual stage, to gain feedback on citizens’ priorities and needs.

Romania could also start shifting the focus from consultation to engagement practices by fostering innovation and experimentation with new participatory methods and practices (e.g. representative deliberative processes, hackathons, participatory budgeting, etc.). This should also involve putting a larger focus on involving citizens – and not only organised stakeholders – in public decision-making. To further enhance the quality of participatory processes, the government could establish clear and binding standards and ensure the full implementation of existing regulations (most notably Government Decision no. 831/2022). In this regard, enhancing the quality of participation also requires that all public institutions provide feedback to participants and communicate the results of each participatory process they conduct, as mandated by Government Decision no. 831/2022 for certain types of processes. The government could further take measures to foster the inclusiveness of participatory processes, including by conducting targeted outreach activities to increase the involvement of a wider variety of stakeholders. Finally, Romania should pursue the dissemination and mainstreaming of the *e-consultare* platform, including by providing support and guidance to ensure all public institutions at the central level make use of this platform. This could be complemented by increased co-ordination between the *e-consultare* platform, and the different portals deployed at the local level – with a medium to long-term objective of increased harmonisation and integration of all digital tools for citizen participation in Romania.

## **The Romanian public administration still lacks an open government culture**

While efforts to foster public officials’ open government literacy have been made by the General Secretariat of the Government (e.g. through the adoption of guidelines and the provision of trainings), public officials and civil society stakeholders in Romania still lack an “open government culture”. Existing guidelines and trainings are not widely known and, as a consequence, rarely used.

As discussed above, public officials mostly implement open government policies and practices because there is a legal obligation to do so. Overall, there is limited innovative culture across the administration and few public institutions have tried to go beyond the legal requirements, mostly due to the lack of incentives and capacities. A report on *Strengthening the Innovative Capacity of the Government of Romania* prepared by the OECD Observatory of Public Sector Innovation (OPSI) noted that while there have been some positive attempts to change this, innovative initiatives and strategic directions are currently not being implemented consistently or in a comprehensive, long-term manner (OECD, 2023<sup>[11]</sup>). Like a number of other OECD Member and Partner countries, Romania faces challenges to attract and retain the right talent in government (in particular younger, more educated talent more inclined to commit to open government), as the principles of open government are not yet linked to the incentive structures for career management and progression in the civil service.

Moreover, human resources dedicated to open government practices and the required skills to implement them are still limited across the Romanian administration. In most public institutions, the number of staff in charge of implementing relevant open government initiatives is small and those responsible for implementing them often have responsibilities in other areas. In this regard, the General Secretariat of the Government's evaluation (Government of Romania, 2021<sup>[19]</sup>) finds that human resources need to be increased and that there is a need to move towards more encompassing structures in charge of relevant open government policies.

As a first step, Romania could consider including a dedicated course on open government in mandatory training requirements for public officials, including senior public officials. Further efforts could also be made to organise trainings and capacity-building activities for public officials responsible for interactions with civil society and the public. To provide a more permanent platform for learning and dialogue, Romania could build on the existing OGP Club and further develop it into a stable community of practice on open government, as done by peer countries such as Spain. Finally, the GSG could design an annual Open Government Award that rewards outstanding initiatives to incentivise reforms and innovations.

## **Due to the presence of numerous policies that aim to promote openness in Romania, better policy coherence is needed**

A wide range of government policies/strategies in Romania include policy initiatives that aim to promote openness. Notably, in addition to the OGP action plans, the recurring National Anti-corruption Strategies have traditionally been used as a platform to foster open government. Open government initiatives have further been promoted through policy tools such as the 2014-2020 Strategy for Consolidating the Public Administration and the National Strategy on the Digital Agenda. Importantly, fostering better access to information and bringing citizen's and stakeholders' voices into policy processes are also priorities of Romania's National Recovery and Resilience Plan and a key element of the current Government Programme.

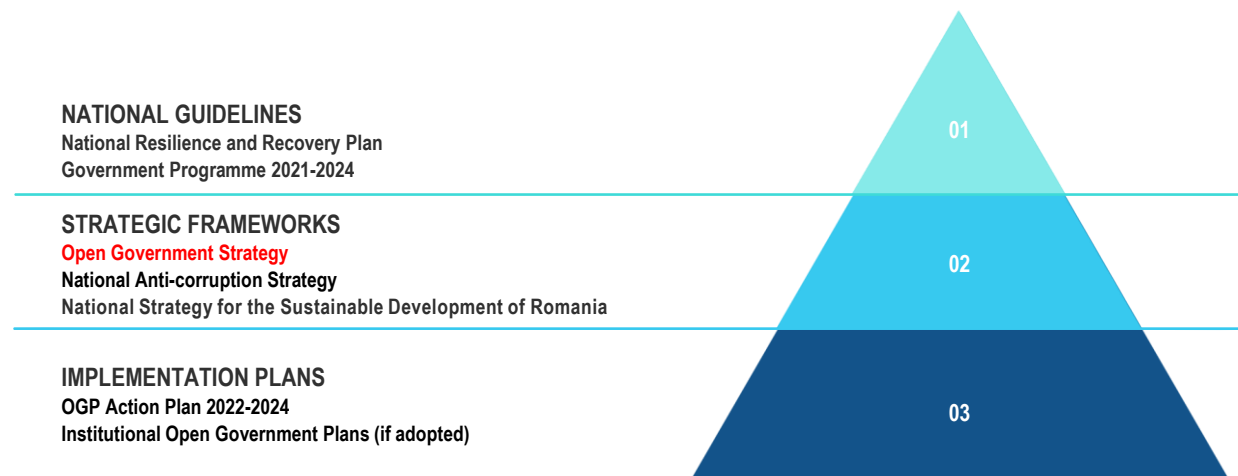
Evidence collected for this Review shows that initiatives that aim to foster open government principles are still designed and implemented in a scattered and isolated manner, without building the critical mass needed to create a full-fledged and shared government vision of openness. For the time being, no coherent whole-of-government policy agenda to promote openness exists in Romania. The lack of a strategic approach to promote the government-citizen nexus has resulted in an agenda that is characterised by high levels of fragmentation (e.g. information about participatory processes is published in different locations, there is no central portal to make access to information requests, etc.).

As committed to in target 407 of the Recovery and Resilience Plan, Romania should now move forward with the inclusive design of its first holistic and integrated Open Government Strategy<sup>4</sup> (with an integrated Civil Society Strategy).<sup>5</sup> Experience of other OECD Member and Partner countries shows that an Open Government Strategy can indeed be a useful tool to provide a clear vision to the agenda and bring open



government initiatives to the highest level of government, while also setting measurable objectives/targets for all public institutions in terms of open government.

**Figure 1.4. Romania’s Open Government Strategy embedded in the country’s wider policy framework**



Source: Author’s own elaboration.

## The OGP action plans could be reinforced and built on greater buy-in from across government

Through its six Open Government Partnership (OGP) action plans, Romania has adopted over 70 commitments most of which were developed and implemented in collaboration with civil society stakeholders. The implementation of the action plans has led to some positive results, such as the creation of online portals providing access to participatory processes at central government level ([E-Consultare platform](#)), or increased transparency in two major funding sources for local development (OGP IRM, 2023<sup>[26]</sup>; OGP IRM, 2022<sup>[16]</sup>). The action plans have also facilitated an initial push towards open government at local levels which resulted in municipalities such as Bucharest (sector 2), Iasi, Cluj, and Timisoara embarking upon dedicated open government agendas. Finally, the action plans have provided impetus for Romania to publish increasing amounts of open government data (e.g. budget and procurement data).

Despite this, Romania has not fully exploited the opportunities provided by the OGP process to achieve transformative outcomes. Buy-in into the process is still limited across government, civil society engagement is low (as noted by the OGP’s Independent Reporting Mechanism in its most recent report) (OGP IRM, 2020<sup>[3]</sup>) and existing governance mechanisms (e.g. Romania’s National Coordination Committee for OGP) remain relatively weak. Furthermore, the OGP process in Romania is mostly unfunded. As highlighted by the government (Government of Romania, 2022<sup>[12]</sup>), ministries have limited funds for the implementation of their OGP commitments and GSG’s budget for horizontal activities is small.

In line with recommendations provided by the OGP IRM (2022<sup>[16]</sup>), Romania could put additional emphasis on ensuring a more transparent and inclusive co-creation process. Citizen and stakeholder engagement should also be fostered during the implementation of the action plan, for example by designating civil society partners for specific commitments more frequently. Finally, as also recommended by the *Civic Space Review of Romania* (OECD, 2023<sup>[5]</sup>), the country could also use its future action plans to design more transformative and ambitious commitments that are implemented more rigorously.

## The General Secretariat of the Government is at the heart of Romania's open government ecosystem

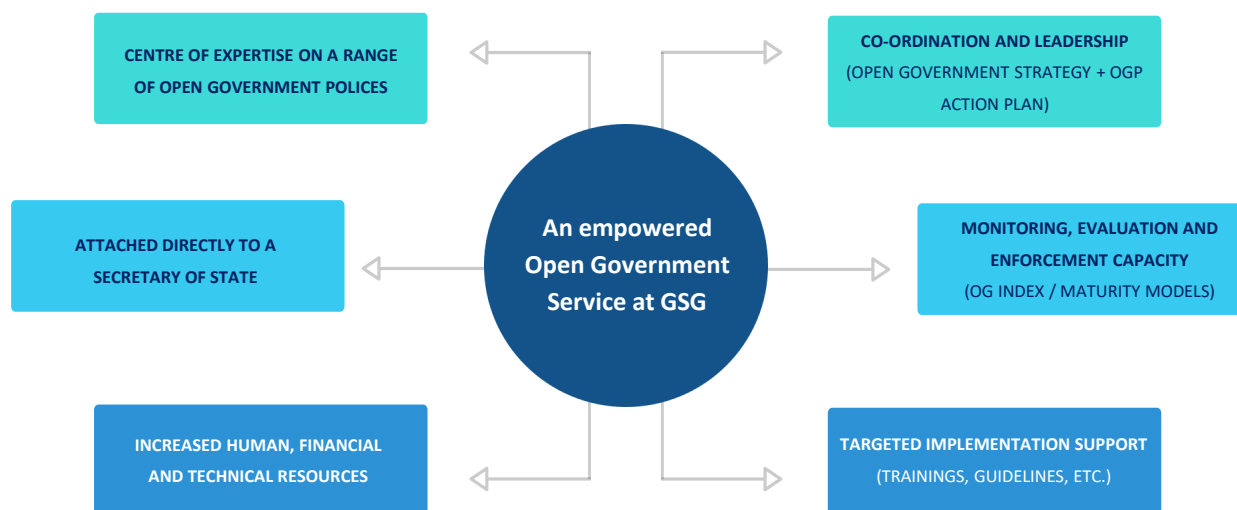
In 2015, Romania formed a Ministry for Public Consultation and Civic Dialogue (MPCCD) to ensure a coherent and systematic approach to public consultation and the government's relationship with civil society stakeholders. However, in 2018, the MPCCD was disbanded and its mandate was transferred to a newly created Directorate for Open Government in the General Secretariat of the Government (Council of Europe, 2019<sup>[25]</sup>)

The General Secretariat of the Government (GSG) – one of the two key Centre of Government institutions in Romania – is today at the heart of Romania's institutional architecture for open government, co-ordinating and overseeing many relevant open government policies (e.g. access to information, open data, participation, etc.). While the GSG's Open Government Directorate has experienced, well-trained, and dedicated staff working on these issues, the team remains small and understaffed, in contrast to the large portfolio it manages. Furthermore, political commitment to the open government agenda has varied over time. When the agenda was championed by a Secretary of State in the Prime Minister's Chancellery from 2013 to 2017, important steps forward were taken and Romania was, for example, part of the OGP Steering Committee. Currently, however, there is no senior government leader that promotes the agenda at the Cabinet level.

At the level of public institutions, Romanian legislation mandates the establishment of responsibilities in different fields of open government (e.g. OGP process, access to public information, answering petitions, open government data, etc.) but evidence collected through the OECD fact-finding missions and surveys shows that relevant offices rarely co-ordinate and skills and resources are often limited, as also acknowledged by the 2021 GSG evaluation (Government of Romania, 2021<sup>[19]</sup>).

The clustering of competences for different open government policies and practices under the GSG's Open Government Service provides a unique opportunity for Romania to develop more ambitious and integrated reforms. Moving forward, the Open Government Service could move towards becoming a Centre of Expertise on open government, monitoring policy implementation, transferring knowledge and providing targeted support to public institutions both at central and at local levels. In this regard, the eventual adoption of an Open Government Strategy may also require empowering the Open Government Service to create strong impacts. This may include providing it with additional human, financial and technical resources and attaching it to a Secretary of State to increase the political weight of the open government agenda. In the medium- to long-term, Romania could further consider creating Open Government Offices at the level of each public institution to foster co-ordination and coherence between different existing portfolios (e.g. relationship with civil society, access to information, OGP-process). Since the creation of new institutional structures can be cumbersome, Romania could alternatively focus on strengthening the framework of open government competences, fostering the co-ordination of existing resources for the implementation of Law no. 544/2001 and Law no. 52/2003 and creating incentives for building a more robust open government culture, as further discussed below.

**Figure 1.5. Empowering the Open Government Service of the General Secretariat of the Government**



Source: Author's own elaboration.

## Co-ordination and sharing of good practices remain a challenge in Romania

The government of Romania, led by the GSG, has created mechanisms to co-ordinate parts of the country's open government agenda, such as the National Coordination Committee for OGP which was established in 2016 to oversee and co-ordinate the OGP action plan. Moreover, in addition to having people in charge of the implementation of relevant laws, most Ministries have established both a senior public official and a technical public official responsible for the OGP process.

Despite these efforts, the Review finds that there is still limited co-ordination and sharing of experiences across the central government and across levels of government. Existing good practices often remain confined to specific institutions, including at the local level. As part of its efforts to design and implement its first holistic and integrated Open Government Strategy, Romania could consider creating a National Open Government Steering Committee to foster more permanent co-ordination of activities. Romania could further aim to revamp its National Coordination Committee for OGP by increasing participation from the highest level of government, by enlarging its mandate and inviting more local governments and civil society organisations to participate and work collaboratively with the central government.

## Digital government tools have enabled more impactful open government practices

In recent years, despite the constantly changing institutional architecture of digitalisation in Romania (which is discussed in the forthcoming *OECD Digital Government Review of Romania* (OECD, forthcoming<sup>[27]</sup>)), the country has increasingly used digital government tools to foster openness. Notably, the progressive creation of online platforms in different fields of open government (e.g. e-consultare, RUTI, CONECT, etc.) has the potential to make a significant contribution to open the government over time. Furthermore, at the level of public institutions, new tools for interacting with citizens have emerged. For example, the Ministry of Justice has included electronic contact forms on its websites that allow for the electronic submission of petitions or requests. Others, such as the Ministry of Development, Public Works and Administration give citizens the opportunity for real-time tracking of access to information requests, while some subnational

governments, such as the Câmpulung City Hall have created mobile applications for submitting complaints about community issues. However, progress in terms of using digital government tools to promote openness is hindered by the persisting digital divides.

Moving forward, as the digitalisation of the public sector progresses, Romania has an opportunity to integrate open government considerations into newly designed digital policies and services. Romania could further create an Open Government Portal to foster coherence throughout the different relevant websites (e.g. RUTI, CONECT, e-Consultare, local platforms, etc.) of the public sector. At the same time, due to the persisting digital divides (see also the *Civic Space Review of Romania* (2023<sup>[5]</sup>) and the OECD Digital Government Review of Romania (forthcoming<sup>[27]</sup>)), Romania should pay particular attention to secure omnichannel approaches as a means to foster the inclusion of all parts of the population (e.g. in rural areas, for elderly, minorities). An omnichannel approach can enable a more inclusive digital transformation, allowing online and mobile services to co-exist with face-to-face or over-the-phone service delivery (OECD, 2020<sup>[28]</sup>).

## Monitoring and evaluation of open government reforms is moving in the right direction

Open government is a vast and diversified field that is inherently difficult to monitor and evaluate in an aggregated way. Romania already collects a wide range of quality information and data on different open government policies and practices, mostly in the framework of the monitoring of the implementation of relevant open government laws and regulations and through the monitoring exercises conducted for different policy documents that are under implementation (e.g. the OGP action plan). In particular, the periodic monitoring of the implementation of Law no. 52/2003 on decisional transparency in public administration and Law no. 544/2001 on free access to public information is a good practice, as it provides the government with data to make better decisions. In addition, in 2021, the General Secretariat of the Government recently conducted an evaluation of central and local public administrations' practices in the decision-making process and in ensuring access to information of public interest which provides useful practical recommendations for reform, some of which are already being implemented (Government of Romania, 2021<sup>[19]</sup>).

In order to further scale up monitoring and evaluation efforts and build better indicators, Romania could strengthen its ongoing monitoring processes, for example by adding additional indicators to monitoring templates. In addition, the planned adoption of an Open Government Strategy marks an opportunity for Romania to develop an Open Government Index and/or Open Government Maturity Model that are coupled with metrics and indicators to monitor the implementation of its open government agenda and evaluate its broader impact. Finally, building on the 2021 evaluation mentioned above, Romania should consider conducting recurrent evaluations of the implementation of relevant laws and policies, including in further areas of open government (e.g. open government data, petitions, etc.).

## Romania is starting to move towards an open state agenda

Many subnational governments, in particular municipalities, in Romania are already implementing open government initiatives, often without labelling them as such. For example, municipalities are leading the way to a more innovative participation in Romania, by implementing participatory budgets and digital platforms to get closer to their citizens and hear their views and inputs throughout the policy cycle. In relation to this, two Romanian municipalities (Iasi and Timisoara) are going one step further and have adopted an OGP local action plan. However, the development and implementation of open government initiatives at the local level is very unevenly spread. Champions of open government can mainly be found in big urban areas and there is no generalised or systemic approach to promote open government at

subnational levels. For the time being, most subnational governments do not have a strategic document on open government.

The central government has taken first steps to support local governments in their open government efforts (e.g. through the [Guidelines Open Government Recommendations for the local level administration](#); the Network of Champions in the field of integrity; etc.). Notably, thanks to a commitment included in Romania's 2018-2020 OGP action plan, the Ministry for Development, Public Works, and Administration started designing a dedicated agenda on this.

As for the Romanian Parliament, neither of the two Chambers has embarked upon a dedicated Open Parliament agenda. While transparency initiatives are in place, such as broadcasting the plenary and some commission sessions on the Parliament's website (Council of Europe, 2019<sup>[25]</sup>), and consultation and petitions are mandatory, the legislature could increase the ambition and scope of these initiatives. Furthermore, the Parliament is currently not fully exploiting the potential of data, digital tools and innovation. Lastly, the Parliament does not have a vision or a strategical framework that brings together the scattered actions currently in implementation, and neither of the Chambers is currently involved in the national government's open government agenda.

The Review identifies opportunities to foster the move towards an open state, including by adopting a high-level political declaration/agreement on an open state, by increasing support from GSG to work with subnational authorities, by co-producing solutions with subnational authorities, by providing a permanent space (e.g. roundtable, forum, etc.) for collaboration and co-ordination between levels of government and across branches of the state and by strategically using the OGP process and the Open Government Strategy. Romania could further consider creating a dedicated agenda to increase the openness of the legislature ("Open Parliament") and improve the mechanisms for transparency and citizen participation in Parliament, for example by creating an open data platform and by modernising the Parliament's existing petitions platform.

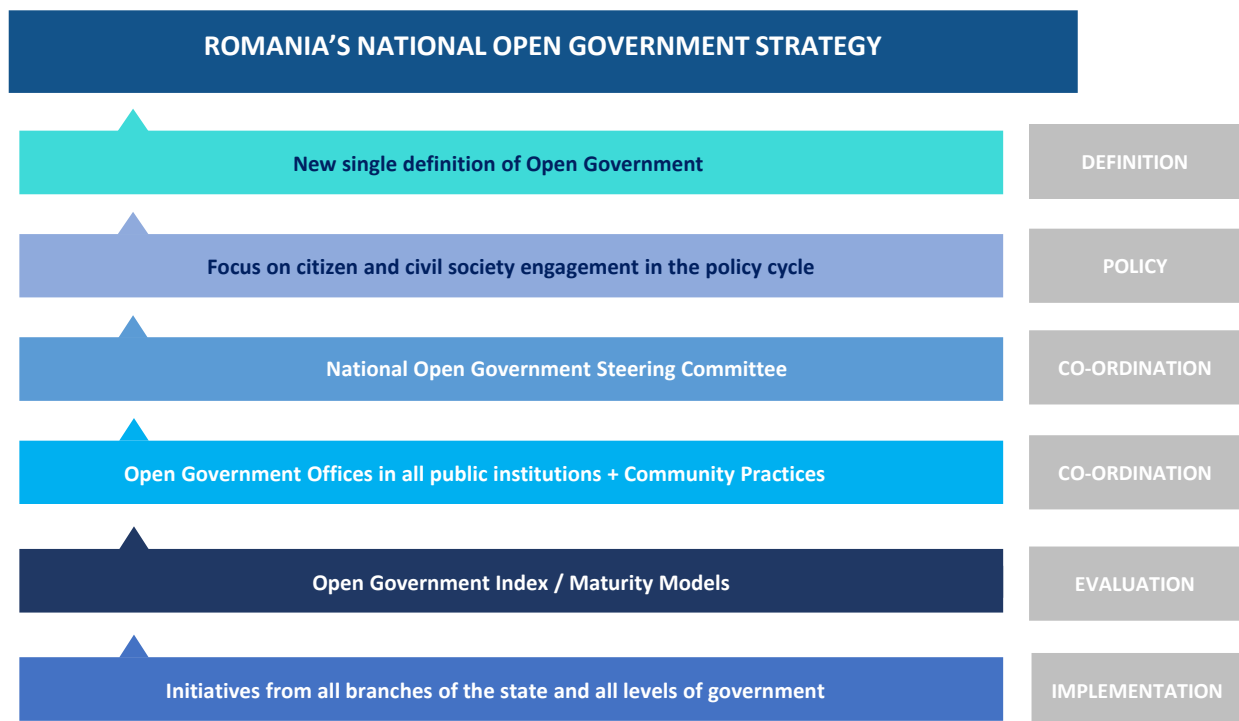
## **Romania currently has a unique window of opportunity to address existing challenges and move towards a more impactful open government agenda**

After many years of implementing open government reforms, Romania is now at a critical juncture. Most of the country's efforts to open the government in the past decade have focused on what could be called "OpenGov1.0", i.e. the establishment of the basic pre-requisites (e.g. adopting decrees to foster the implementation of the legal framework, creating portals, etc.).

Moving forward, Romania should focus more on mainstreaming the concept of open government, bringing the benefits of open government approaches to sectorial policy agendas (e.g. health, education, etc.) and creating lasting impacts through higher levels of collaboration with citizens and stakeholders, implementation and enforcement ("OpenGov 2.0"). Accordingly, the recent adoption of the Recovery and Resilience Plan (RRP), which includes a number of potentially impactful open government reforms, provides a unique window of opportunity. The RRP is coupled with significant financial resources and will guide Romania's policy agenda for the years to come.

The ongoing process of Romania to become a Member of the OECD reinforces the current momentum for government and civil society to regain trust, by providing further impetus and by giving a framework that allows for the adoption and implementation of crucial reforms. Taken together, the RRP and the OECD Accession process could be a means for additional and more meaningful collaboration with citizens and stakeholders, which can ultimately increase citizens' trust in government and reinforce democracy.

Figure 1.6. The key role of an Open Government Strategy



Source: Author's own elaboration.

## Key policy recommendations

1. **Foster a coherent understanding of the concept of open government across the government and mainstream its benefits across the public sector and society:**
  - Co-create a single official definition of the concept of open government and disseminate it widely.
2. **Make additional efforts to increase citizens' ability to see, understand and monitor the decisions and activities of government:**
  - Further enhance the standardisation of proactive disclosed information on government websites by fully applying the model laid out in GD no. 830/2022.
  - As part of the upcoming Open Government Strategy, design a dedicated policy to promote the publication of information and data in an open data format.
  - Start putting an increasing focus on the accessibility of information, including by fostering the development and use of guidelines to support public authorities (e.g. in the use of plain language) and by providing more trainings to relevant public officials.
  - Proactively disclose the most frequently requested information, such as those related to the use of public funds and the way the institution's duties are fulfilled.
  - Ensure that public institutions respect the deadlines for responding to access to information requests set out by law (e.g. through an online tracking system).
  - Review Law no. 544/2001 on access to information to offer an external review process in case of denied or not-responded ATI requests.
  - In this connection, consider establishing a dedicated body to ensure oversight, supervision, monitoring and evaluation of Law no. 544/2001 with a clear mandate, sustained resources, an



adequate level of independence, and enforcement capacity, in line with good practices in OECD Member countries. Among others, the dedicated body could complement the current procedure of contesting the refusal of public institutions to provide public information in Court, contributing to faster resolution of complaints and decongestion of the activity of the Courts.

**3. Enable and empower citizens and stakeholders to take part in and contribute to the activities and decisions of the government:**

- Foster participation early in the policy cycle by consistently involving citizens and non-public stakeholders in the decision making on available policy solutions to public challenges (e.g. pre-consultations). For example, consider mandating early consultations for projects with an elevated impact or that concern the spending of public funds.
- Adapt participatory processes, including type, format and communication, to the concrete policy question(s) at hand and to the main target audience in order to obtain more pertinent inputs.
- Put a specific focus on involving citizens (vs. organised stakeholders) in policy processes by providing access to a range of participatory processes and by providing skills and trainings to build the confidence and competence of public officials to understand the benefits of this way of working.
- Take measures to foster the inclusiveness of participatory processes, including by conducting targeted outreach activities to foster the involvement of a wider variety of stakeholders in policymaking.
- Shift the focus from formal written consultation to more participative engagement practices by fostering innovation and experimentation with new participatory methods and practices (e.g. representative deliberative processes, hackathons, participatory budgeting, etc.).
- Enhance the capacity of civil servants to implement existing legal rules and standards on public consultation (i.e. those established by Law no. 52/2003 and GD no. 831/2022) as well as to innovate and experiment with new participatory methods.
- Ensure that all public institutions provide feedback to participants and communicate the results of each participatory process they conduct (as mandated by GD no. 831/2022).
- Consider holding public debates and meetings online or in hybrid mode to allow as many interested parties as possible to participate and live stream them on the institutional website and/or social media platforms.
- Specify more narrow limits for skipping participatory practices due to emergencies and ensure that emergency ordinances are only used in exceptional cases so that parliamentary oversight and stakeholder and citizen consultation remain the norm (“crisis protocols”).
- Pursue the dissemination and mainstreaming of the *E-consultare* platform, and provide support and guidance to all relevant stakeholders, to ensure all public institutions make use of the centralised participation platform.

**4. Move forward with the design of Romania’s first holistic and integrated Open Government Strategy (as committed to in target 407 of the Recovery and Resilience Plan) to provide a clear vision of the agenda to open government and bring open government approaches to the Cabinet table (“scale-up”):**

- Put an emphasis on including initiatives that aim to foster citizen and civil society involvement in the policy cycle, as recommended in the *Civic Space Review of Romania*.
- Embed the Strategy in Romania’s existing policy framework and ensure full complementarity with the National Anti-corruption Strategy and the objectives of the Recovery and Resilience Plan.

- Design the strategy through an inclusive process by involving citizens and (non-)public stakeholders across government levels at all stages of its development and implementation.

**5. Strengthen the OGP process:**

- Put additional emphasis on ensuring a more inclusive co-creation process of the OGP action plans.
- Foster citizen and stakeholder engagement during the implementation of the action plan.
- Increase collaboration with civil society, academia and other non-governmental stakeholders.
- Promote a more active participation of subnational public authorities – as well as civil society representatives – throughout the OGP process as a way to increase co-ordination (and synergies) between the national and local agendas.
- Use future action plans to design more ambitious commitments, including on the protection and promotion of civic space.

**6. Further empower the Open Government Directorate in the General Secretariat of the Government to make it a centre of expertise for opening the government and ensure that it has the necessary means and resources to design and implement the Open Government Strategy:**

- Increase the human and financial resources of the Open Government Directorate and its Open Government Service to ensure a successful transformation towards a centre of expertise.
- Foster the Open Government Directorate's capacity to co-ordinate open government reforms across all levels of government, including by providing it with additional co-ordination tools (e.g. the National Open Government Steering Committee recommended below) and a stronger co-ordination mandate.
- Consider attaching the Open Government Directorate directly to a Secretary of State to generate stronger political leadership for the open government agenda.
- Increase the support that the Open Government Directorate at GSG provides to public authorities at the central level and beyond.

**7. Foster governance frameworks and mechanisms for an integrated open government agenda:**

- Create a National Open Government Steering Committee composed of relevant public and non-public stakeholders to steer the implementation of the open government agenda, including the recommended Open Government Strategy.
- Review the functioning of the existing Multi-stakeholder Forum to ensure high-level commitment and ongoing civil society engagement throughout the NAP cycle and consider making it a sub-group of the recommended Steering Committee.
- Create Open Government Offices at the level of each public institution to foster co-ordination and coherence between different existing portfolios (e.g. relationship with civil society, access to information, OGP-process).

**8. Build skills, awareness, and knowledge on open government within the public sector and in civil society:**

- Include a general introductory course on open government in mandatory training requirements for public officials, for example by reusing available material (e.g. provided by the OGP, other governments, etc.).
- Organise specific trainings and capacity-building activities for public officials from national and local governments that are responsible for interactions with civil society and the public (e.g. on how to conduct public consultations and other forms of participation; how to reach out to citizens and civil society stakeholders; etc.).

- Provide positive incentives by designing an annual Open Government Award to reward outstanding initiatives implemented by public officials and non-public stakeholders.
- Transform the OGP Club into a more encompassing Open Government Network/Community of Practice to foster an informal exchange of ideas and experiences.

**9. Foster monitoring and evaluation of open government reforms:**

- Review ongoing monitoring exercises (e.g. those for Law no. 52/2003 and Law no. 544/2001) to add additional elements on inclusiveness, accessibility etc. and put a greater focus on evaluations and lessons learnt.
- Proactively make monitoring results publicly available in a graphic format (e.g. on the recommended Open Government Portal).
- Design an Open Government Index and/or Maturity Model to set a baseline standard of what good practices looks like and allow for comparison between public institutions within a defined framework.

**10. Make full use of digital government tools to promote openness:**

- Create an Open Government Portal to foster coherence throughout the different relevant websites (e.g. RUTI, CONECT, e-Consultare, local platforms, etc.) of the public sector so as to not burden citizens with adapting to diverse user experiences and alternative online tools.
- Embrace an omnichannel approach to participatory processes to secure inclusiveness and foster a broader representation of societal groups in citizen and stakeholder participation practices.

**11. Foster the move towards an open state:**

- Provide a permanent space (e.g. roundtable, forum, etc.) for collaboration and co-ordination between levels of government and branches of the state. This mechanism could be part of the recommended National Open Government Steering Committee.
- Promote horizontal collaboration and exchange of experiences between subnational governments (i.e. Communes, Towns, Municipalities, Counties and local councils), including through the recommended community of practice, etc.
- Adopt a high-level political declaration/agreement on open state that is endorsed by representatives from central and subnational government, the Legislative, the Judiciary and independent public institutions to provide strong high-level support to the open government agenda.
- Strategically use the OGP process and the Open Government Strategy as a platform to foster the move towards an open state, including by designing actions and commitments from all levels of government and all branches of the state in them.

**12. Create a dedicated agenda to increase the openness of the legislature (“Open Parliament”):**

- Innovate and improve the mechanisms for transparency and citizen participation in Parliament, for example by creating an open data platform and by modernising the Parliament’s existing petitions platform.
- Adopt a policy roadmap to foster openness in the Legislature (e.g. Open Parliament action plan/strategy).
- Create a mandate for an Open Parliament Office and provide it with dedicated human and financial resources.

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## Notes

<sup>1</sup> which assesses the “extent to which a government shares information, empowers people with tools to hold the government accountable, and fosters citizen participation in public policy deliberations”.

<sup>2</sup> The Ministry of Public Consultation and Civic Dialogue was transformed into the Ministry of Public Consultation and Social Dialogue for the period of 2017-2018, taking attributions related to the relationship with unions and employers.

<sup>3</sup> In cases where an emergency or exceptional circumstances require immediate solutions to avoid prejudice to the public interest, Article 7 par. 13 of Law no. 52/2003, based on relevant provisions of the constitution, stipulates that the adoption of a draft act may take place, using a fast-track procedure without the need for public consultation (OECD, 2023<sup>[5]</sup>).

<sup>4</sup> The Recommendation of the Council on Open Government defines an Open Government Strategy as: “A document that defines the open government agenda of the central government and/or of any of its sub-national levels, as well as that of a single public institution or thematic area, and that includes key open government initiatives, together with short, medium and long-term goals and indicators”.

<sup>5</sup> The commitment to design a Civil Society Strategy is an integral part of the parallel ongoing *Civic Space Review of Romania*. In order not to create duplications and have a more holistic whole-of-government roadmap to foster the government’s relationship with citizens and civil society stakeholders, it was decided that the Civil Society Strategy would become part of the wider Open Government Strategy that is discussed throughout the present Open Government Review.

## **2 Setting the scene: The context and drivers for open government in Romania**

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This chapter provides an overview of the context and drivers that frame the implementation of open government policies and practices in Romania. It starts by introducing the history of open government reforms in the country. It further discusses key socio-economic and political challenges that have an impact on the country's open government agenda, such as persistent low levels of trust in government and the urban-rural divide.

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## Introduction

Open government is based on the idea that citizens and stakeholders should be enabled and given the opportunity to see, understand, contribute to, take, monitor, and evaluate public decisions and actions (OECD, forthcoming<sup>[1]</sup>). Open government policies and practices are today widely recognised as key contributors to strengthening public trust and to regaining trust in public institutions, as also noted in the OECD Declaration on Building Trust and Reinforcing Democracy (the “Luxembourg Declaration”) (OECD, 2022<sup>[2]</sup>).

Open government approaches are a means to support countries in dealing with complex domestic and global policy challenges, and support policy efficiency, effectiveness, and compliance (OECD, forthcoming<sup>[1]</sup>). In this regard, the results of the OECD’s first-ever comprehensive Trust Survey (OECD, 2022<sup>[3]</sup>) highlight that giving access to public information, providing opportunities to engage in the policymaking process and responding to public feedback and demands has an important impact on the way citizens perceive their government. In particular, the Trust report’s first recommendation is that governments should “connect and engage with citizens in policy design, delivery and reform”.

This chapter starts by introducing the OECD’s definition of open government and by highlighting Romania’s own understanding of the concept. It then provides a brief history of open government reforms in Romania before explaining key elements in terms of governance, economic development, etc., acknowledging that economic development, well-being, social inequalities, trust in government and democratic quality have an impact on a country’s open government agenda.

## Open government is an enabler for democratic consolidation

Open government is a wide concept that has seen increased levels of global attention following the creation of the Open Government Partnership in 2011. The Recommendation of the Council on Open Government (2017<sup>[4]</sup>) (hereafter the “Recommendation”), the first and only internationally recognised legal instrument in the area of open government (see Chapter 3 on Methodology), defines it as **“a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth”**.

As such, the OECD definition identifies two overarching objectives – fostering democracy and inclusive growth – as well as four open government principles to achieve them. The principles of open government – transparency, integrity, accountability and stakeholder participation – are in practice deeply related and intertwined. Conceptually, they can be defined as:

- **Transparency** is understood as the disclosure of relevant government data and information in a manner that is timely, accessible, understandable, and re-usable (OECD, forthcoming<sup>[5]</sup>).
- **Public sector integrity** refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests (OECD, 2020<sup>[6]</sup>).
- **Accountability** is a relationship referring to the responsibility and duty of government, public entities, public officials, and decision makers to provide transparent information on, and be responsible for, their actions, activities and performance. It also includes the right and responsibility of citizens and stakeholders to have access to this information and have the ability to question the government and to reward/sanction performance through electoral, institutional, administrative, and social channels (OECD, forthcoming<sup>[5]</sup>).
- **Citizen and stakeholder participation** includes all of the ways in which stakeholders<sup>1</sup> can be involved in the policy cycle and in service design and delivery through information, consultation and engagement (OECD, 2017<sup>[4]</sup>).

With the emergence of the global open government movement, for the first time, countries started seeing the open government principles as one integrated cluster and developing holistic approaches to promote all of them in synergy (OECD, 2020<sup>[7]</sup>).

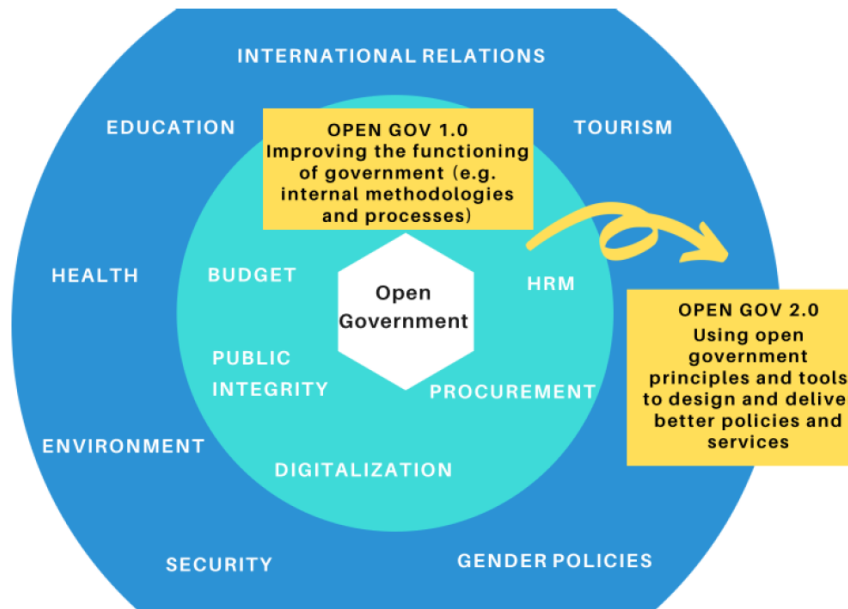
Open government constitutes a change of paradigm for governments, public administrations, civil servants, citizens, and stakeholders in general (Table 2.1). Open government touches upon the functioning and working methods of every institution and every individual public official and it has profound implications for the relationship between governments and citizens. The first generation of open government initiatives (OpenGov 1.0) focused mainly on improving the functioning of government as well as its core functions, cross-cutting systems, and internal processes (e.g. open contracting, open budgeting, etc.) (OECD, 2020<sup>[7]</sup>). In recent years, governments have started rethinking and reviewing their approaches and a new generation of initiatives has started to emerge (OpenGov 2.0). Second-generation open government initiatives apply open government approaches and tools to sector policies, including gender, environment, health, education, urban development, etc. Second-generation open government initiatives often also include a stronger focus on improving citizens' living conditions and other impact areas (OECD, 2020<sup>[7]</sup>).

**Table 2.1. Implications of the open government principles for citizens, stakeholders and the government**

Open Government Principle	What does this mean for citizens and stakeholders?	What does this mean for governments?
<b>Transparency</b>	Citizens and stakeholders have access to, understand and can (re-)use information and data the government creates and collects. If the government has not published relevant information or data pro-actively, citizens and stakeholders can request access from the government. Further, they can reuse government information and data for private matters and thereby contribute to societal development, for example by developing a business idea.	The government makes relevant information and data publicly available in an appropriate format and through sufficient channels to ensure that citizens and stakeholders can access, understand and (re-)use them. At a minimum, this includes information and data on all the decisions taken by public officials, their circumstances and the outcomes and impact they entail. The government can publish the data and information either proactively or reactively at the request of citizens and stakeholders.
<b>Integrity</b>	Elected and non-elected representatives of the state treat all citizens and stakeholders impartially, independent of their characteristics or status. This means that no individual or particular group – including public officials themselves – can gain any benefit from the exercise of governmental authority, which contradicts the political equality of each citizen.	Ensuring that elected and non-elected representatives of the state act impartially in the exercise of their authority, not discriminating between citizens based on their characteristics or status. This includes prioritising public interest over the interests of private individuals or particular groups, also in situations of discretion.
<b>Accountability</b>	Citizens and stakeholders have the rights and tools at their disposal to: (a) Demand justifications for government decisions, for example through a comprehensive access to information law that establishes an open-by-default principle (see also Transparency), and (b) Reward or sanction their government and related public bodies based on the performance evaluation citizen and stakeholders conduct. These include administrative and judicial complaint and appeal mechanisms and elections. Citizens and stakeholders can rely on mechanisms and institutions which the law determines as a protection against the abuse of authority to highlight and correct these infringements. This can include, among others, contestability of public authorities' decisions and protection for whistle-blowers.	The government satisfies citizens' and stakeholders' need for justification of government actions through providing related information and data in an appropriate manner. This can happen in anticipation or following a concrete request (see also Transparency). Further, the government reacts to the (dis-)approval of government actions – expressed through rewards or sanctions – by citizens and stakeholders in such a way that approval is optimised. Systems of checks and balances – between government entities as well as between government and citizens or stakeholders – monitoring and safeguarding the proper execution of authority throughout the policy cycle and in service delivery are maintained and strengthened.
<b>Citizen and Stakeholder Participation</b>	Citizens and stakeholders have the equal opportunity to influence public decision-making throughout the policy cycle and in service delivery between elections by sharing their perspectives and input with public authorities concerning all issues that affect them. In certain cases, such as direct or deliberative initiatives, citizens can be given the opportunity to take decisions directly, on behalf of the government.	Government collects contributions from citizens and stakeholders, considers and integrates them into public decision-making, and provides an account of this process. It provides opportunities and resources necessary for citizen and stakeholder participation and takes special efforts to ensure equal participation opportunities among all societal groups. Further, it supports freedom of expression and a strong, independent and active civil society as the basis of political participation.

Source: OECD (2021<sup>[8]</sup>), *OECD Handbook on Open Government for Peruvian Civil Servants*, <https://www.oecd.org/gov/open-government/guia-de-la-ocde-sobre-gobierno-abierto-para-funcionarios-publicos-peruanos.htm>.

Figure 2.1. From Open Government 1.0 to Open Government 2.0



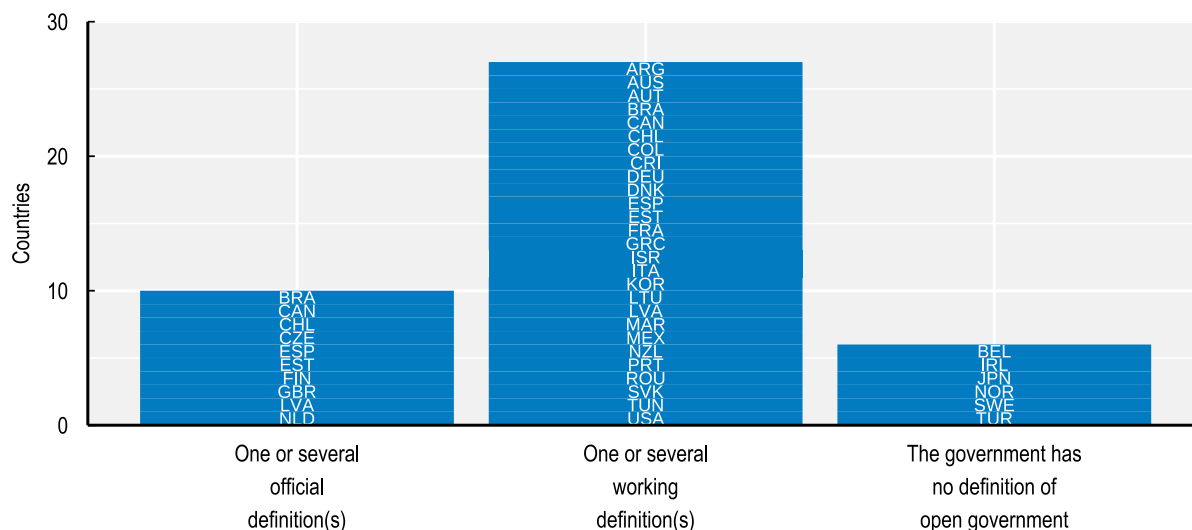
Source: OECD (2020<sup>[7]</sup>), *Taking an Integrated Approach to the Promotion of Transparency, Integrity, Accountability and Stakeholders' Participation: Towards an Open Government Strategy*, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020).

### ***Defining open government in Romania***

The establishment of a common understanding of the concept of open government is an essential first step in developing a strategic approach to open government. Defining what the concept entails – and what it does not – defines the scope of a country's open government agenda. Box 2.1 describes the benefits of a solid definition of open government.

According to the results of the 2020 OECD Survey on Open Government (OECD, 2021<sup>[9]</sup>), 30 (81.1%) out of the responding OECD Members and Adherents to the OECD Recommendation on Open Government had adopted either an official or a working definition of open government (Figure 2.2). Most of these definitions are inspired by the OECD's (61.3%) or the OGP's definition (67.7%). Existing definitions most commonly link open government with the concepts of transparency, accountability, and citizen participation (OECD, 2021<sup>[9]</sup>).

**Figure 2.2. Availability of definition(s) of open government in OECD countries and adherents to the OECD Recommendation on Open Government**



Note: N=37. Data for Denmark is preliminary.

Source: OECD (2021<sup>[9]</sup>), 2020 OECD Survey on Open Government.

### Box 2.1. The benefits of a solid definition of open government

The OECD Report on *Open Government: The Global Context and the Way Forward* explains why a solid definition of open government is crucial:

- It informs the public about the essential elements of open government, and the extent and limitations of the term.
- It facilitates common understanding and usage of the term, and aligns all stakeholders and policymakers towards the same goals.
- It facilitates robust analysis of the impacts of open government strategies and initiatives across different institutions and levels of government.
- It supports international comparisons of open government strategies and initiatives.

Source: OECD (2016<sup>[10]</sup>), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264268104-en>.

In Romania, the concept of open government is not officially defined (Government of Romania, 2022<sup>[11]</sup>).<sup>2</sup> The term was first introduced when the country joined the Open Government Partnership in 2011 and elements of a definition can be found in different OGP action plans. For example, the 2020-2022 NAP mentioned the goal “to become a more open, accountable and efficient government, by promoting government transparency, encouraging civic participation in public life, using the latest technologies within the public administration and fighting against corruption” (Government of Romania, 2020, p. 3<sup>[12]</sup>). The current 2022-2024 OGP action plan highlights that “open government is the key to maintaining a functioning democracy in a modern and inclusive society” and reaffirms the country’s “determination to promote, support and develop policies specific to an open government, in which transparency, digitalisation of the administration, the fight against corruption, civic participation, institutional inclusion and

accountability represent decisive values in the development, on democratic basis, of policies at the level of the government, by respecting the citizens' agenda". Hence, Romania also sees open government as an umbrella term that refers to a broad set of areas (Government of Romania, 2022<sup>[11]</sup>).

However, interviews conducted for this Review revealed that there is currently no uniform understanding of the concept in Romania. Open government is sometimes used synonymously with concepts such as transparency or open data (Government of Romania, 2022<sup>[11]</sup>). Further, the value and benefits of implementing open government initiatives were not always clear to interviewed public officials.

Similar conceptual ambiguity can be identified for the concept of citizen and stakeholder participation. Romania's main legislative piece on the subject (Law no. 52/2003 on decisional transparency in public administration) refers to participation as "decision-making transparency". While decisional transparency could be understood as the provision of information about decision-making, the law defines it as the "active participation of citizens in the administrative decision-making process and in the drafting of normative acts" (Art 1 (2) of Law no. 52/2003). The ambiguous usage of key open government terms can create confusion among public officials. While some interviewees associated participation with publishing information on draft laws, others understood it as being related to commenting on draft laws. This implies a different understanding of how active citizens are when "participating".

Moving forward, Romania could develop and mainstream an official definition of open government to address the limited understanding of the benefits of open government policies and practices across the public sector building on existing definitions in different areas of open government (see Box 2.2). To foster ownership, the definition should be developed through an inclusive process that brings together public and non-public stakeholders. For example, Romania could make use of the process to design the next OGP action plan or launch a discussion on a single definition as part of the process to design the forthcoming Open Government Strategy.

### Box 2.2. Examples of definitions in the area of open government in Romania

**Transparency:** "Representatives of institutions and public authorities ensure unrestricted access to information of public interest, transparency of the decision-making process and consultation of civil society within this process." Government of Romania, Government Decision no. 1 269/2021 on the approval of the National Anti-Corruption Strategy 2021-2025 and its related documents.

**Information of public interest:** "[I]nformation of public interest is understood any information that concerns the activities or results from the activities of a public authority or public institutions, regardless of the support or the form or the way of expressing the information." Parliament of Romania, Law no. 544/2001 on free access to information of public interest.

**Transparency in public decision-making:** "[P]ublic authorities and institutions have the obligation to inform and submit draft normative acts to public consultation and debate and to allow citizens access to the administrative decision-making process, as well as to the data and information of public interest" Government of Romania, Emergency Ordinance no. 57/2019 regarding the Administrative Code.

**Social dialogue:** "[T]he voluntary process through which the social partners inform themselves, consult and negotiate in order to establish agreements on issues of common interest." Parliament of Romania, Law no. 62/2011 on social dialogue.

**Impartiality:** "Public administration personnel have the obligation to exercise their legal duties, without subjectivity, regardless of their own beliefs or interests." Government of Romania, Emergency Ordinance no. 57/2019 regarding the Administrative Code.

## A brief history of open government in Romania

Elements of open government started appearing with the adoption of the Romania's first democratic constitution in 1991 which for example guaranteed that “[t]he right of the person to have access to any information of public interest may not be restricted” (Chapter II, Art. 31 of [The Constitution of Romania](#)) and which established fundamental rights and obligations, such as citizens' right to petition (Article 51) and citizens' right of legislative initiative (Article 74).

At the beginning of the 2000s, a broad legal framework in different areas of open government was created. For example, Government Ordinance no. 26/2000 regarding associations and foundations established an obligation for public authorities to consult with legally established associations and foundations (Art. 51) (see also the *Civic Space Review of Romania* (2023<sup>[13]</sup>). The right of Romanian citizens to petition all Romanian public authorities was operationalised through Government Ordinance no. 27/2002 on the regulation of the activity of solving petitions. Romania reached a milestone for transparency with the adoption of the country's Law no. 544/2001 on free access to information of public interest in 2001. Participation in the form of consultations on draft normative acts was legally mandated through the adoption of Law no. 52/2003 on decisional transparency in public administration in 2003. Over the years, civil society participation in public decision-making was further entrenched through multiple laws, such as Law no. 367/2022 on social dialogue. Most recently, the country adopted its first Law no. 179/2022 on open data and re-use of public sector information (see Chapter 4 for a comprehensive overview of the legislative framework for open government in Romania).

Romania's open government agenda gained momentum in 2011 when the country joined the Open Government Partnership (OGP). The OGP process provided a basis for the adoption of action plans on open government topics. Over the years, Romania has implemented over 70 commitments as part of its OGP action plans. These commitments were developed (and at times implemented) in collaboration with civil society organisations, in accordance with the Open Government Partnership's Participation and Co-creation Standards (OGP, 2021<sup>[14]</sup>). As further highlighted throughout this Review, Romania has successfully used the OGP process to promote some important open government reforms, such as the creation of the *E-Consultare* platform and the establishment of a portal to provide access to legislation (<http://legislatie.just.ro>). At the time of writing, Romania is in the process of implementing the 6<sup>th</sup> National Action Plan for the period of 2022-2024.

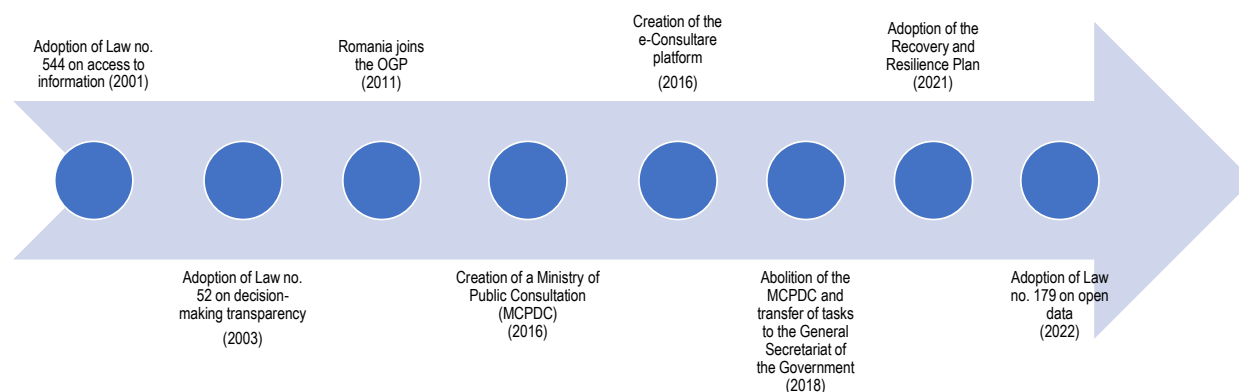
Other strategic policy documents, such as the consecutive National Anti-corruption Strategies (NAS) which Romania has elaborated since 2002, have also included relevant open government initiatives. Notably, Romania's NAS have contributed to widening the scope of information which Romanian public authorities and institutions must disclose proactively. Most recently, the 2021-2024 Government Programme highlighted transparency as one of its basic principles and included objectives relating to fostering transparency and citizens' access to information, including in areas such as budgeting and public procurement. The adoption of Romania's National Recovery and Resilience Plan (NRRP) underlined Romania's ambition to improve its strategic policy framework on open government by including a commitment to developing an Open Government Strategy (see Chapter 6 for a discussion of the policy framework and Romania's Open Government Strategy).

Institutionally, open government policies and practices first became visible when Romania appointed a Minister Delegate for Social Dialogue in 2012. During the following legislature, a Ministry of Public Consultation and Civic Dialogue existed from 2016 to 2018,<sup>3</sup> giving further prominence to the topic. Since the dissolution of this Ministry, the majority of responsibilities related to open government are located in the Open Government Directorate in the General Secretariat of Government (GSG). Organised into the Open Government Service and the Service for the Cooperation with the Associative Environment, this Directorate is responsible for the OGP process as well as developing and implementing policies in the areas of access to information, public consultation, and civil society development (see Chapter 5 for an



analysis of governance mechanisms that create an enabling environment for an Open Government Strategy) (Decision no. 1 465/2022).

**Figure 2.3. Key milestones for open government in Romania**



Source: Author's own elaboration.

## The context and drivers of open government in Romania

The political and socio-economic context that defines a country evidently also influences the design and implementation of open government strategies and initiatives (OECD, 2019<sup>[15]</sup>). For open government to develop its full potential, initiatives always need to be adapted to a country's specific circumstances. The overview presented here does not aim to be exhaustive. Rather, it provides a snapshot of the main topics that frame the space for open government in Romania.

**Table 2.2. Basic statistics of Romania**

Indicator	Romania	OECD average
<b>Land and people</b>		
Population (million)	19.3	
Population density per km	83.8	38.6
Life expectancy at birth (years, 2019)	75.5	80.2
Latest 5-year average growth (%)	-0.5	0.6
<b>Economy</b>		
Gross domestic product (GDP) in current prices (USD billion)	249	
Gross domestic product (GDP) per capita (thousand USD PPP)	31.9	46.3
Value added shared (% , OECD: 2019)		
Agriculture, forestry and fishing	4.9	2.7
Industry including construction	29.5	26.2
Services	66.2	71.1
<b>Labour Market, Skills and Innovation</b>		
Employment rate (aged 15 and over, %)	52.3	55.1
Unemployment rate, Labour Force Survey (aged 15 and over, %)	5.0	7.1
Tertiary educational attainment (aged 25-64, %)	18.7	39.0
<b>Society</b>		
Confidence in national government (% , 2021)	19	47.24
Income inequality (Gini coefficient, 2019, OECD: latest available)	0.339	0.318



Indicator	Romania	OECD average
Relative poverty rate (% , 2019, OECD: 2018)	17.0	11.7
Median disposable household income (thousand USD PPP, 2018, OECD: 2017)	11.9	25.4
Education outcomes (PISA score, 2018)		
Reading (2015, OECD: 2018)	428	485
Mathematics	430	487
Science	426	487
Share of women in parliament (%)	21.9	31.5
<b>Regulatory Governance (2021, 4 = max)</b>		
Regulatory Impact Assessment		
Primary laws	1.93	2.29
Subordinate regulations	1.85	2.11
Stakeholder engagement		
Primary laws	2.49	2.22
Subordinate regulations	2.41	2.14
<i>Ex post</i> evaluation		
Primary laws	0.06	1.14
Subordinate regulations	0.06	1.17

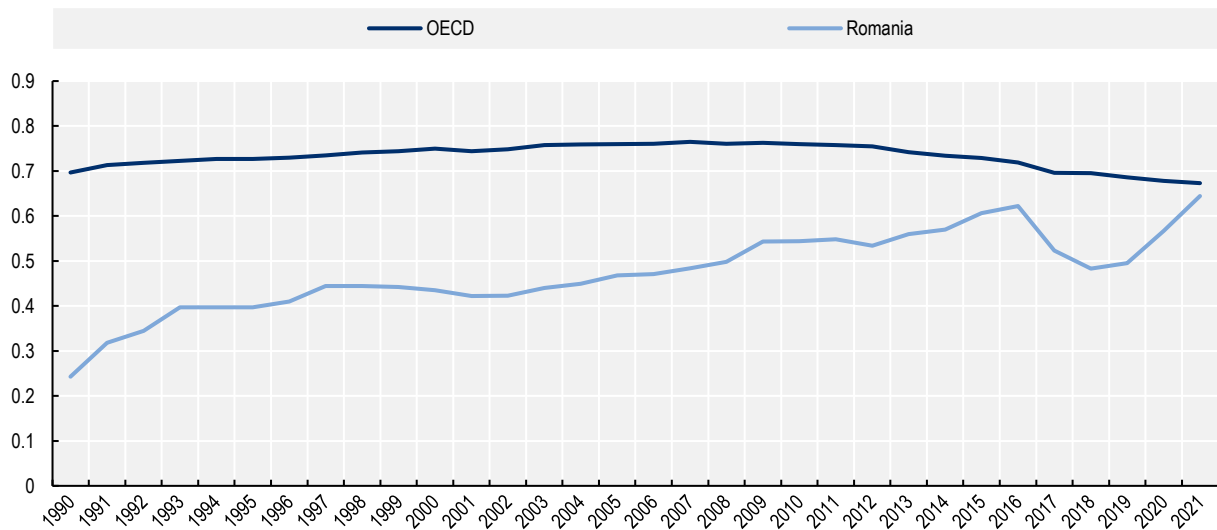
Source: Adapted from OECD (2022<sup>[16]</sup>), *OECD Economic Surveys: Romania 2022 (Overview)*; OECD (2021<sup>[17]</sup>), *Government at a Glance 2021*.

### ***A consolidating democracy***

The modern democratic state of Romania was established after the fall of the Ceaușescu regime in 1989. While formally a democracy, the early post-Ceausescu state continued to be captured by a small political and economic elite (Bertelsmann Stiftung, 2022<sup>[18]</sup>). Partly thanks to a series of structural reforms implemented with the support of the European Union (Bertelsmann Stiftung, 2022<sup>[18]</sup>), Romania's democracy started to mature and, for example, civil society gradually developed as a formalised group of stakeholders over the course of the 1990s (Bădescu, 2010<sup>[19]</sup>). The role of civil society in public life was further consolidated with Romania's accession to the European Union (Cuglesan, 2020<sup>[20]</sup>), which many CSOs remember as “a golden era” for collaboration between government and civil society (OECD, 2023<sup>[13]</sup>).

Overall, there has been a trend of democratisation in Romania, despite some drawbacks between 2016 and 2019 (Figure 2.4). The Nations in Transit Report 2022 categorises Romania as a “semi-consolidated democracy” with notable challenges persisting for example in the area of press freedom and the independence of media (Freedom House, 2022<sup>[21]</sup>). With 55.95 out of 100 points in the Democracy Score, Romania scores better than its neighbouring countries except for Bulgaria. A snapshot of Romania in several relevant indices in the area of democracy, open government and civic space can be found in Box 2.3.

**Figure 2.4. Romania's performance in the V-Dem Institute's Liberal Democracy Index, 1990-2021**



Note: V-Dem asks “To what extent is the ideal of liberal democracy achieved?” with scores ranging from low to high (0-1) with “0” being worst and “1” being best. According to V-Dem, the liberal principle of democracy “emphasises the importance of protecting individual and minority rights against the tyranny of the state and the tyranny of the majority. The liberal model takes a ~negative~ view of political power insofar as it judges the quality of democracy by the limits placed on government. This is achieved by constitutionally protected civil liberties, strong rule of law, an independent judiciary, and effective checks and balances that, together, limit the exercise of executive power. To make this a measure of liberal democracy, the index also takes the level of electoral democracy into account” (V-Dem Institute, 2021<sup>[22]</sup>).

Source: Taken from OECD (2023<sup>[13]</sup>), Civic Space Scan of Romania, based on V-Dem Institute (2021<sup>[22]</sup>), Liberal Democracy Index, Romania.

### Box 2.3. A snapshot of Romania in global rankings related to open government and civic space

**ERCAS Government Transparency Index 2021:** Romania scores 83 out of 100 points and places 13<sup>th</sup> among 128 countries.

**Open Budget Index 2021:** Romania achieves 63/100 regarding Budget Transparency, placing it 29<sup>th</sup> out of 120 countries. The country scores 7/100 in the area of public participation in budgeting and 43/100 in budget oversight.

**Global Right to Information Rating:** Romania ranks 67<sup>th</sup> out of 136 assessed countries with 85 out of 150 points.

**Freedom House:** Romania is rated “free” at 83/100 in the 2021 Freedom in the World Index.<sup>1</sup>

**V-Dem 2022:** Romania ranks 44<sup>th</sup> out of 179 countries in the 2022 V-Dem Liberal Democracy Index.

**Economist Intelligence Unit Democracy Index 2021:** Romania ranks 61<sup>st</sup> out of 167 countries assessed.

**United Nations E-Participation Index 2020:** Romania ranks 46<sup>th</sup> out of 193 places.

**Transparency International Corruption Perception Index 2021:** Romania scores 45/100, giving it a ranking of 66 out of 180 places.<sup>2</sup>

**World Justice Project Rule of Law Index:** Romania ranks 41<sup>st</sup> out of 139 countries.

**CIVICUS:** Romania ranks as “narrowed” by CIVICUS in 2022.

**Article 19 Freedom of Expression:** Romania ranks as “less restricted” at 44<sup>th</sup> out of 161 countries in 2021.<sup>3</sup>

**2021 Reporters Without Borders World Press Freedom Index:** Romania ranks 48<sup>th</sup> out of 180 countries, with a score of 75.09 out of 100.

1. Freedom House classifies countries as free, partly free, or not free.

2. Transparency International scores range from 0-100, with 100 being the best score.

3. Article 19 classifies countries as open, less restricted, restricted, highly restricted, and in crisis.

Source: From OECD (2023<sup>[13]</sup>), Civic Space Scan of Romania, based on ERCAS (2021<sup>[23]</sup>); International Budget Partnership (n.d.<sup>[24]</sup>); Access Info Europe and Centre for Law and Democracy (n.d.<sup>[25]</sup>); CIVICUS (n.d.<sup>[26]</sup>); Freedom House (2022<sup>[27]</sup>); World Justice Project (2021<sup>[28]</sup>); Article 19 (2021<sup>[29]</sup>); Reporters without Borders (2021<sup>[30]</sup>); V-Dem Institute (2022<sup>[31]</sup>); World Economic Forum (2019<sup>[32]</sup>); Transparency International (2021<sup>[33]</sup>); Economist Intelligence Unit (2021<sup>[34]</sup>); United Nations (2020<sup>[35]</sup>).

### A decentralised unitary state

Romania is a Republic and a unitary state (Art. 1, Constitution). Established through the union of the historical regions of Moldavia and Wallachia and declared independent in 1866, the current state of Romania is a unitary centralised state (Dobre, 2011<sup>[36]</sup>). Through the Treaty of Trianon in 1920, the third historical region of Romania – Transylvania – was integrated into the Romanian state and territory. The tradition of a unitary centralised state was preserved throughout pre-communist times and reinforced during the communist era (Ibid.).

Romania is a Parliamentary Republic with a semi-presidential regime. Both the Romanian President and the Romanian Parliament bicameral (consisting of the Chamber of Deputies (*Camera Deputatilor*) and the Senate (*Senatul*) are directly elected by the population. All legislative power rests with the central level, which also implements domestic and international policy, oversees the state budget, and upholds law and order (European Committee of the Regions, n.d.<sup>[37]</sup>).

Like in several countries of Central and Eastern Europe, developments towards increased regional and local autonomy took place in post-communist Romania, leading to the current decentralised unitary state model (OECD, 2019<sup>[38]</sup>). Today, the country’s state territory is divided into eight development regions (*regiuni de dezvoltare*), 41 counties (*judete*), and 3181 entities at the local level. The local authorities are

composed of 2 861 communes (*comune*), 217 towns (*orase*), and 103 municipalities (*municipii*) (European Committee of the Regions, n.d.<sup>[37]</sup>). The eight regions solely exist for statistical reasons, but do not possess any subnational forms of government (Regional Development in Romania Law no. 315/2004, (Dragoman, 2016<sup>[39]</sup>)). Among the 42 counties is the country's capital city, Bucharest, which has the status of a municipality with county rights. The municipality of Bucharest is in turn divided into six 'sectors', each having its own local government (Art. 100, Emergency Ordinance no. 57/2019 regarding the Administrative Code).

Counties are governed by a directly elected county council (*consiliul judetean*) and a county president that is appointed by the county council. In addition to these subnational governments established by county elections, the central-level government directly appoints a prefect for each county and the Municipality of Bucharest. These prefects serve as the representative of the central government at the subnational level (Art 123, Constitution) and have the right to control the legality of acts issued by the local authorities. Counties have their own competencies in the management of local airports and of the public and private domain of the County as well as of cultural institutions of County interest; administration of public health units of the County; Primary social services and specialised services for victims of domestic violence; Issuing of permits/authorisations; Medical care provided in some public health units (Article 22 of Framework Law no. 195/2006 on decentralisation, revised by GEO no. 42/2016).

Municipalities, towns, and communes are governed by a directly elected local council (*consiliul local*) and a directly elected mayor (*primarul*) who is the main budget co-ordinator and responsible for budget execution. Municipalities possess their own competences in a broad range of policy areas, covering infrastructure (e.g. water supplies, local roads), environment (e.g. waste management), local public health, social policy (e.g. child protection) and the management of local cultural heritage (Article 21 of the Framework Law no. 195/2006 on decentralisation, revised in February 2016, revised by GEO no. 42/2016). Further, within the limits defined by the central government, municipalities have fiscal authority regarding tax rates on land, buildings, and means of transport (Hegewald et al., 2018<sup>[40]</sup>). Chapter 8 on Open State provides more information on the responsibilities of the subnational level of government in Romania, and the open government agenda at the local level.

### ***A legalistic administrative culture and a public sector that shows relatively low levels of innovation/proactivity***

As the OECD Public Innovation Scan of Romania (OECD, 2022<sup>[41]</sup>) notes, the Romanian public sector has had a preference for stability of the status quo over new approaches, favouring continuity over change. According to the Scan, Romanian public servants highlighted complex procedures and legal frameworks and a management reluctant to risk.

Moreover, as the Scan notes, the intrinsic motivation of individual Romanian public servants to experiment and innovate for better outcomes for citizens is often not paired with extrinsic motivators, such as recognition for innovative work (OECD, 2022<sup>[41]</sup>). This can be linked, for example, with few career incentives and rewards for those who propose new, innovative ways, like in the public service in many OECD countries (OECD, 2022<sup>[41]</sup>).

Resistance to change was also named as one of the top challenges by public institutions in the OECD Survey on Open Government for Romanian public institutions. Notably, 10 out of 22 (45.5%) responding public institutions identified this as one of the three main challenges that their institution faced when designing and implementing policies that aim to open it to citizens' inputs and needs.

### ***Frequent changes in governments and short-term oriented decision-making***

At the time of writing, Romania had its tenth government in the past ten years in place (Freedom House, 2022<sup>[21]</sup>). While the Romanian party system used to consist of two large blocks that alternate in forming

the government, recent years have shown more combinations of different coalitions of government. This is in part also due to the emergence of several new political parties. The current coalitional agreement holds that the Prime Minister position is currently held by a member of the National Liberal party (PNL), while the Secretary General of the Government comes from the Social Democratic Party (PSD).

Frequent changes of government with an increasing number of different political parties was perceived as one of the main challenges by the government in the Background Report prepared for this Review (Government of Romania, 2022<sup>[11]</sup>). As the Background Report notes, the process of changing governments binds resources, leading to a focus on activities that require immediate implementation. In turn, this can delay the design and implementation of open government initiatives. Moreover, given changing political visions and priorities, initiatives already underway are sometimes discontinued. Related to restructurations following a government change is staff turnover in Ministries and other central-level institutions, leading to a decrease in institutional knowledge and a need to familiarise new staff with the topic (Government of Romania, 2022<sup>[11]</sup>).

Concerning Romania's centre of government more specifically, these observations are shared by the OECD's review of the centre of government (OECD, forthcoming<sup>[42]</sup>), noting varying institutional arrangements, set-ups, and mandates for its two core structures – the General Secretariat of the Government (GSG) and the Prime Minister's Chancellery (PMC). Such reforms are not considered as unusual since they also appear in other countries, but they pose the risk of generating “a loss of skills, waste of resources and short-term institutional memory in central government offices and stand as a major challenge when implementing long-term structural reforms” (Ibid.).

A matter related to frequent government changes is a tendency in Romania for short-term-oriented decision-making. As the OECD Review of the Centre of Government in Romania states, “urgency and political opportunity tend to take precedent over the formal strategic planning process” (OECD, forthcoming<sup>[42]</sup>). This is illustrated by the fact that – both prior to and following the COVID-19 pandemic – the Romanian government has struggled to complete the Annual Government Work Plan (AGWP). The Annual Working Plan of the Government (AWPG) forms an electronic database where line ministries register their planned legislative initiatives and their foreseen adoption date. While the AWPG contributes towards predictability, the yearly assessment reports show that about one-third of initiatives have been implemented by the ministries (OECD, forthcoming<sup>[42]</sup>).

Further affecting the predictability of decision-making is the relatively frequent use of Emergency Decrees which enables the government to pass normative acts through a fast-track procedure. According to Article 115 of the Romanian Constitution, the government can adopt emergency ordinances only in extraordinary circumstances, where regulation cannot be postponed and needs to motivate the urgency in their content (Official Gazette of Romania, 1991<sup>[43]</sup>). Law no. 52/2003 allows public institutions to adopt a draft act using a fast-track procedure without the need for public consultation if there is an emergency or exceptional circumstances which require immediate solutions. In practice, the number of such ordinances passed per year in Romania (around 100) indicates that this provision is interpreted quite broadly (Venice Commission, 2019<sup>[44]</sup>). This includes also controversial laws, such as Emergency Ordinance no. 16/2022 amending Law no. 52/2003 which specified that due to security challenges, the government can pass laws or ordinances through urgent procedures without parliamentary oversight and public consultations. The *Civic Space Review of Romania* highlights that civil society interviewees noted that the government continued to apply these provisions very frequently in 2022 (OECD, 2023<sup>[13]</sup>). This can have detrimental effects on the quality of legislation, separation of powers, and legal certainty (Venice Commission, 2019<sup>[44]</sup>), especially in light of not all draft emergency ordinances presenting substantiated reasons to justify extraordinary situations (European Commission, 2022<sup>[45]</sup>). As a positive step, in 2022, the Methodology on good practices for the development and substantiation of the Government emergency ordinance projects as a regulatory instrument was approved by Government Decision no. 1 173/2022.

### ***A country that is well-integrated into the international community***

Following the establishment of Romania as a democratic state, the country has taken successive steps of integration into the international community. Most notably, Romania has been a member of the European Union since 2007. Also, as one of the first countries in the region, Romania became a member of the Open Government Partnership in 2011 and is currently implementing its 6<sup>th</sup> OGP action plan. It is further part of the Open Contracting Partnership and the Community of Democracies. In 2022, Romania formally started the process to become a member of the OECD.

Romania has further signed and ratified numerous international conventions, treaties and declarations which complement the country's constitutional and legislative frameworks for open government (Table 2.3). For example, Romania has adhered to the 2017 OECD Recommendation on Open Government in 2020.

**Table 2.3. Overview of the most relevant conventions, treaties, and declarations in the area of open government signed/ratified by Romania**

Name of convention/treaty/declaration	Year of first adoption	Year of adoption/ratification by Romania
<a href="#">International Covenant on Civil and Political Rights (ICCPR) – Article 25</a>	1966	1968/1974
<a href="#">Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)</a>	1998	1998/2000
<a href="#">Warsaw Declaration</a>	2000	2000
<a href="#">United Nations Convention against Corruption</a>	2003	2003/2004
<a href="#">Open Government Declaration (OGP)</a>	2011	2011
<a href="#">Open Contracting Global Principles</a>	2014	NA
<a href="#">Declaration on the Fight Against Foreign Bribery – Towards a New Era of Enforcement</a>	2016	2016
<a href="#">Recommendation of the Council on Open Government</a>	2017	2020

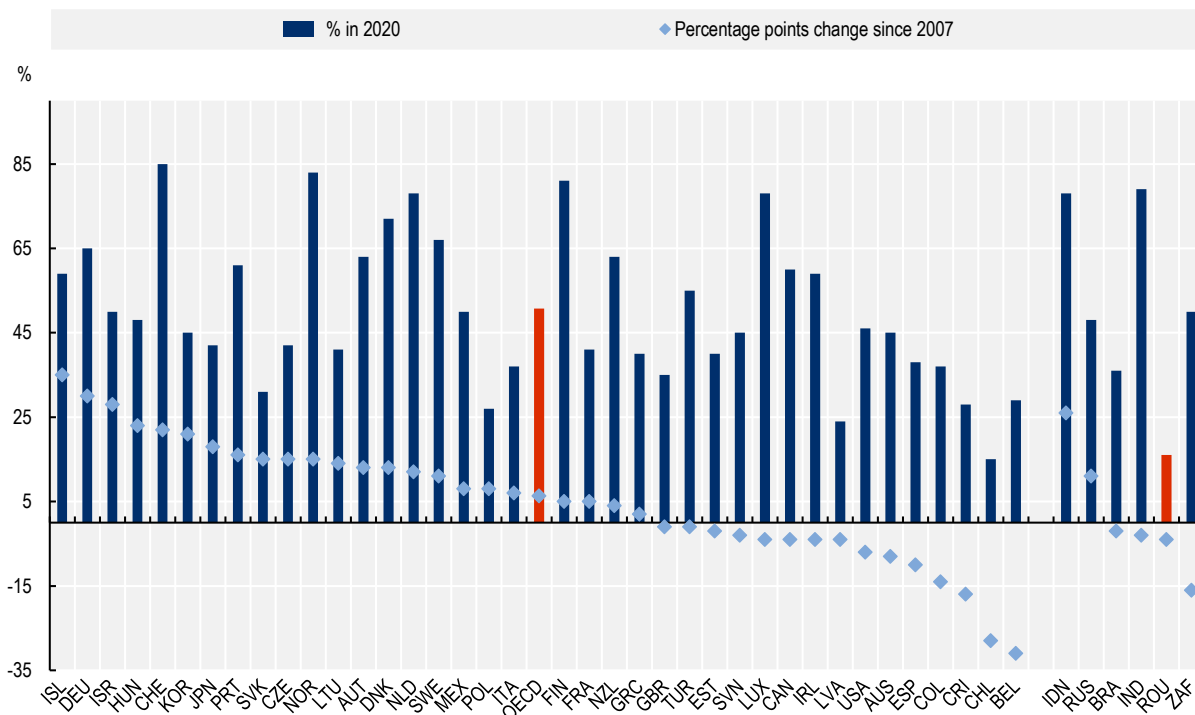
Source: Author's own elaboration, based on Government of Romania (2022<sub>[11]</sub>), Background Report prepared for the OECD Open Government Review of Romania.

### ***Trust in government is comparatively low***

Using data from the World Gallup Poll, the OECD's Government at a Glance 2021 (2021<sub>[17]</sub>) found that confidence in the Romanian government fell from 20% in 2007 to 16% in 2020. By comparison, the average confidence rate in national government among OECD countries is 51%, with a 6.3 percentage points increase from 2007 (Figure 1.2).

Low trust in public institutions is also linked to relatively low levels of public engagement. For example, Romania experiences relatively low turnout at the polls, with 31.8% voter turnout in the 2020 parliamentary elections and 51.2% in the 2019 presidential elections (International IDEA, 2022<sub>[46]</sub>). While a comparatively low and declining voter turnout can also be observed in surrounding countries such as Bulgaria and Moldova, EU countries, on average, had a 66.8% voter turnout in their most recent parliamentary elections and 56.39% in their presidential elections, for those with such a system (International IDEA, 2022<sub>[46]</sub>).

**Figure 2.5. Confidence in national government across OECD Member and Partner countries and Romania (2007 and 2020)**



Source: OECD (2021<sup>[17]</sup>), *Government at a Glance 2021*, OECD, Publishing, Paris, <https://dx.doi.org/10.1787/1c258f55-en>

Furthermore, a recent 2022 Special Eurobarometer on Corruption showed that 72% of respondents in Romania still considered corruption to be widespread in their country (as opposed to the EU average of 68%) and 46% of respondents feel personally affected by corruption in their daily lives (with an EU average of 24%) (European Commission, 2022<sup>[47]</sup>). Prominent corruption cases have produced large public debates in Romania, such as the prosecution of a previous party leader through the National Anti-Corruption Directorate (European Commission, 2021<sup>[48]</sup>; European Court of Human Rights, 2020<sup>[49]</sup>) or the adoption of the Anghel Saligny National Investment Program (Freedom House, 2022<sup>[21]</sup>).

In a recent analysis, the Council of Europe Group of States against Corruption (GRECO) found that Romania's compliance with their recommendations on reducing corruption remains "globally unsatisfactory" (Group of States against Corruption, 2021<sup>[50]</sup>). As the OECD notes, Romania has made some progress over the past decades in strengthening its public integrity system, but there is a "need to reinforce institutions, improve integrity and anti-corruption legislation, and mitigate corruption risks to promote a culture of integrity in the whole of government and society" (OECD, 2022<sup>[51]</sup>). Perceptions of a lack of government accountability have also affected trust and led to significant demonstrations (Lambru and Dobre, 2020<sup>[52]</sup>).

### ***Economic inequalities and poverty persist in parts of the country***

Since joining the European Union, Romania has had the highest rates of economic growth in the Union. In less than 20 years, the country reduced its gap in terms of gross domestic product (GDP) per capita to the OECD average by half, from close to 70% to around 35% today (OECD, 2022<sup>[3]</sup>). Since entering the European Union 15 years ago, the average net salary has increased 3.5 times.



Economic growth has helped reducing poverty and economic inequalities across Romania. While the population at risk of poverty was 50% in 2007, it fell to 30% in 2020 (OECD, 2022<sup>[3]</sup>). Nonetheless, Romania's National Strategy on Social Inclusion and Poverty Reduction for the Period 2022-2027 notes that Romania has consistently been among the countries with the highest proportion of people at risk of poverty or social exclusion within the European Union. Indeed, Romania's GDP per capita remains the second lowest in the European Union in 2021 (World Bank, n.d.<sup>[53]</sup>).

Moreover, considerable regional disparities persist and are higher than the OECD average (OECD, 2022<sup>[3]</sup>). Despite similar economic growth rates as indicated through GDP per capita, there continues to be a discrepancy between Bucharest/Ilfov and all other regions (OECD, n.d.<sup>[54]</sup>). Whereas the capital and other larger cities could attract high levels of investment that created better jobs, in vast rural areas people find it hard to make a living (Fina, Heider and Raț, 2021<sup>[55]</sup>). The most recent OECD Economic Outlook notes that while Bucharest and many secondary cities have become “hubs of prosperity and innovation”, “poverty remains widespread in rural areas” and that this has been aggravated by the COVID-19 crisis, particularly in marginalised communities.

### ***A changing population***

With almost 570 000 individuals, Romania has one of the largest Roma communities in Europe, accounting for 3.4% of the responding population.<sup>4</sup> Other relevant ethnic minority groups include Hungarians (6.0%), Ukrainians/Ruthenians and Germans (INSSE, 2022<sup>[56]</sup>).

Romania's population has been steadily decreasing for the past three decades. From a maximum of more than 23 million inhabitants in 1990, Romania currently has a population of approximately 19 million people (INSSE, 2022<sup>[56]</sup>). In comparison with OECD countries, Romania has a low population growth and population density growth in all regions but Bucharest (OECD, n.d.<sup>[54]</sup>). Since the last census in 2011, population has declined in 39 out of the 42 counties (including Bucharest) (INSSE, 2022<sup>[56]</sup>). One major reason for this development is the fact that Romania is one of the most important countries for emigration in Europe (Eurostat, n.d.<sup>[57]</sup>). A first wave of emigration appeared shortly after the fall of the communist regime in 1989. A second wave of emigration started with visa-free entry to the European Union in 2002. It is estimated that almost 1.9 million people have left the country permanently since Romania has joined the European Union.

Accordingly, the political system takes into account the existence of a large Romanian diaspora. The Constitution mandates that the State shall support the strengthening of links with Romanians living abroad. For parliamentary elections in particular, non-resident citizens have special representation, with four geographical districts assigned for non-resident Romanians, electing four deputies and two senators (Vintila and Soare, 2018<sup>[58]</sup>). A previous government even had a dedicated Ministry for Romanians living abroad. The current government has a Department for Romanians from Everywhere which is under the co-ordination of the Prime Minister. The department elaborates and applies the policy of the Romanian state in the field of relations with Romanians everywhere, and acts to strengthen ties with them and to preserve, develop and express their ethnic, cultural, linguistic and religious identity, in compliance with the legislation of the state of which they are citizens or residents, as well as in accordance with relevant international norms.

### ***The impact of the COVID-19 pandemic and of Russian aggression against Ukraine***

As in all countries, the global COVID-19 pandemic also created challenges for open government in Romania. In particular, during the state of emergency, public institutions had twice as much time to respond to requests for information of public interest and to petitions (Decree no. 195/2020 on the establishment of a state of emergency in Romania). Further, consultation periods on draft normative acts could be shortened. Moreover, there was a decrease in funding for civil society organisations in 2020, with financial

resources being redirected to support national/local measures, and civil society continues to be under financial pressure (see also the *Civic Space Review of Romania* (2023<sup>[13]</sup>)). At the same time, some positive developments occurred due to the COVID-19 pandemic, such as an increasing number of institutions that use online services for meetings, debates, and the provision of information (Government of Romania, 2022<sup>[11]</sup>) or the establishment of the *Official News* platform ([www.stiriofficiale.ro](http://www.stiriofficiale.ro)) in partnership with civil society.

Romania shares a border with Ukraine in the east of its territory. As of February 2022, it is estimated that 1.6 million refugees have arrived in Romania (UNICEF, 2022<sup>[59]</sup>). While the vast majority of them continued to move to other European countries, these refugees needed to be registered and provided basic supplies, such as food and medicine (UNHCR, 2022<sup>[60]</sup>). As interviewees from both civil society and government have noted, the arrival of such a high number of refugees in a short period has been unexpected and required fast reaction.

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- Parliament of Romania (2001), “Law no. 544/2001 on free access to information of public interest”, OFFICIAL MONITOR no. 663 of October 23, 2001,  
<https://legislatie.just.ro/Public/DetaliuDocument/31413>.

## Notes

<sup>1</sup> The Open Government Recommendation defines “stakeholders” as “any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector”.

<sup>2</sup> The Romanian government also employs the term “Open Governance”, which is used here as a synonym.

<sup>3</sup> In 2017, the Ministry changed its name to “Ministry of Public Consultation and *Social* Dialogue”, because it also took over the dialogue with trade unions and employers.

<sup>4</sup> Estimations of the share of Roma among the Romanian population vary across sources.



# **3 Methodology: The OECD approach to assessing open government reforms in Romania**

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This chapter provides an overview of the OECD approach to assessing open government in Member and Partner countries, based on the Recommendation of the Council on Open Government and the OECD Framework for Assessing the Openness of Governments. It then discusses the methodology followed by the present Open Government Review of Romania, including data collection methods, the peer review methodology and the structure of the document.

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## The OECD approach to assessing open government

The OECD has been at the forefront of evidence-based analysis of open government reforms in Member and Partner countries for many years. The longstanding work to support countries in the adoption and implementation of access to information legislation, as well as the creation of supporting materials, such as the first *OECD Handbook on Information, Consultation and Public Participation in Policy-Making* (OECD, 2001<sup>[1]</sup>) as early as in 2001 are a testimony to this. With the growth of the global open government movement since the creation of the Open Government Partnership in 2011, the OECD's work on open government and its principles got further impetus. Over the past decade, the OECD has established an ambitious programme to support Member and Partner countries that aim to foster open government through assessments and implementation assistance. Building on the OECD's broad definition of open government (see Chapter 2), the OECD's open government work has helped to move the global open government agenda to new frontiers by bringing a rigorous data-driven and evidence-based dimension to it.

Under the purview of the OECD Public Governance Committee, the OECD Working Party on Open Government, created in 2018, has been supporting countries around the world to strengthen their culture of open government by providing policy advice and recommendations on how to integrate its core principles of transparency, integrity, accountability and stakeholder participation into public sector reform efforts. Over the past decade, the OECD has conducted more than 20 Open Government Reviews and Scans in Member and Partner countries, in addition to producing standard-setting reports, such as *Open Government: The Global Context and the Way Forward* (OECD, 2016<sup>[2]</sup>), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave* (OECD, 2020<sup>[3]</sup>) and *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* (OECD, 2022<sup>[4]</sup>).

The analytical framework for the assessment of open government policies and practices in OECD Member and Partner countries is provided by the *Recommendation of the Council on Open Government* (OECD, 2017<sup>[5]</sup>) and specific assessment tools that are based on it, including the *OECD Framework for Assessing the Openness of Governments* (OECD, 2020<sup>[6]</sup>) and the *OECD Openness Spectrum*.

### **The OECD Recommendation on Open Government**

On 14 December 2017, the OECD Council adopted the Recommendation on Open Government (OECD, 2017<sup>[5]</sup>) (hereafter “the Recommendation”). The Recommendation presents the first and currently only international legal instrument in the field of open government. It provides governments at all levels with a comprehensive overview of the main tenets of open government strategies and initiatives to improve their implementation and impact on citizens' lives, recognising that the principles of open government (i.e. transparency, integrity, accountability and stakeholder participation) are progressively changing the relationship between public officials and citizens all over the world.

The Recommendation responded to a growing call from countries to acknowledge the role of open government as a catalyst for good governance, democracy, trust, and inclusive growth. As data collected by the OECD revealed a diversity of definitions, objectives and implementation methodologies used to characterise open government strategies and initiatives (OECD, 2016<sup>[2]</sup>), the Recommendation responded to the need for the identification of a clear, actionable, evidence-based, and internationally recognised understanding of what open government strategies and initiatives entail.

The Recommendation contains ten provisions that cover all relevant elements of open government reforms and guide countries in their quest for more transparent, accountable, and participatory government (Box 3.1).

### Box 3.1. The 10 provisions of the OECD Recommendation on Open Government

RECOMMENDS that Adherents develop, adopt and implement open government strategies and initiatives that promote the principles of transparency, integrity, accountability and stakeholder participation in designing and delivering public policies and services, in an open and inclusive manner.

To this end, Adherents should:

1. Take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders and to foster commitment from politicians, members of parliaments, senior public managers and public officials, to ensure successful implementation and prevent or overcome obstacles related to resistance to change.
2. Ensure the existence and implementation of the necessary open government legal and regulatory framework, including through the provision of supporting documents such as guidelines and manuals, while establishing adequate oversight mechanisms to ensure compliance.
3. Ensure the successful operationalisation and take-up of open government strategies and initiatives by: (i) Providing public officials with the mandate to design and implement successful open government strategies and initiatives, as well as the adequate human, financial, and technical resources, while promoting a supportive organisational culture; (ii) Promoting open government literacy in the administration, at all levels of government, and among stakeholders.
4. Co-ordinate, through the necessary institutional mechanisms, open government strategies and initiatives - horizontally and vertically - across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives.
5. Develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives by: (i) Identifying institutional actors to be in charge of collecting and disseminating up-to-date and reliable information and data in an open format; (ii) Developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders; and (iii) Fostering a culture of monitoring, evaluation and learning among public officials by increasing their capacity to regularly conduct exercises for these purposes in collaboration with relevant stakeholders.
6. Actively communicate on open government strategies and initiatives, as well as on their outputs, outcomes and impacts, in order to ensure that they are well-known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in.
7. Proactively make available clear, complete, timely, reliable and relevant public sector data and information that is free of cost, available in an open and non-proprietary machine-readable format, easy to find, understand, use and reuse, and disseminated through a multi-channel approach, to be prioritised in consultation with stakeholders.
8. Grant all stakeholders equal and fair opportunities to be informed and consulted and actively engage them in all phases of the policy cycle and service design and delivery. This should be done with adequate time and at minimal cost, while avoiding duplication to minimise consultation fatigue. Further, specific efforts should be dedicated to reaching out to the most relevant, vulnerable, underrepresented, or marginalised groups in society, while avoiding undue influence and policy capture.
9. Promote innovative ways to effectively engage with stakeholders to source ideas and co-create solutions and seize the opportunities provided by digital government tools, including through the use of open government data, to support the achievement of the objectives of open government

strategies and initiatives.

10. While recognising the roles, prerogatives, and overall independence of all concerned parties and according to their existing legal and institutional frameworks, explore the potential of moving from the concept of open government toward that of open state.

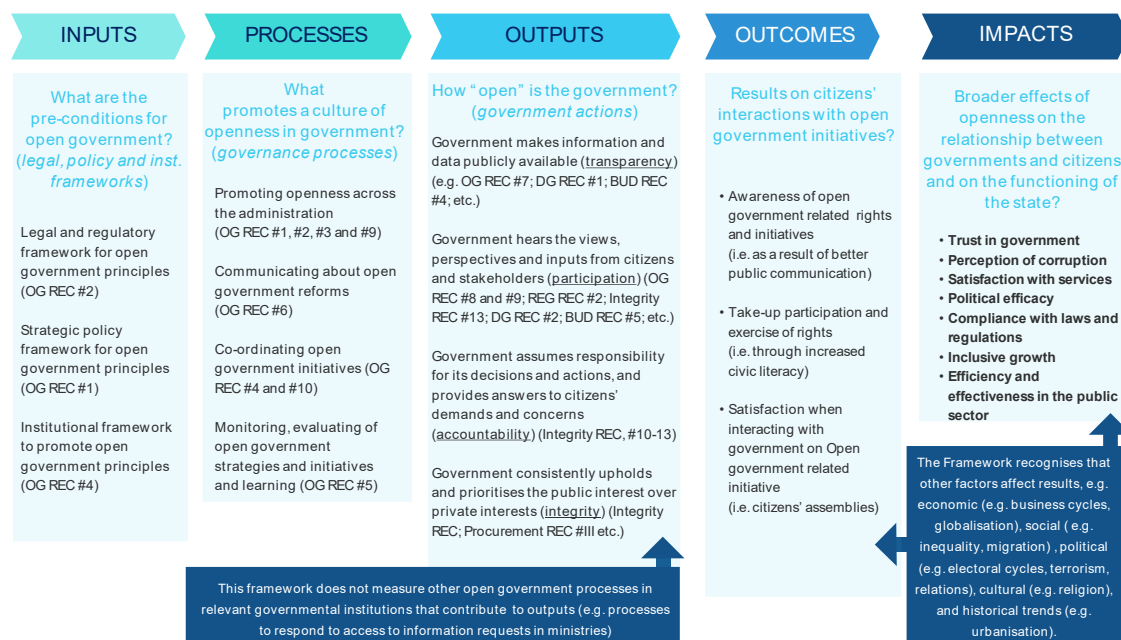
Source: OECD (2017<sup>[5]</sup>), “Recommendation of the Council on Open Government”, *OECD legal Instruments*, [OECD/LEGAL/0438](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438), OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

### The OECD Framework for Assessing the Openness of Government

As the global open government movement has become more mature in recent years, an increasingly loud call for performance indicators to measure their contribution to broader policy goals such as trust in government and, more generally, to socio-economic outcomes has evolved. In this connection, the Recommendation of the Council on Open Government recognises “the need for establishing a clear, actionable, evidence-based, internationally recognised and comparable framework for open government, as well as its related process, output, outcome and impact indicators taking into account the diverse institutional and legal settings of the Members and non-Members” (OECD, 2017<sup>[5]</sup>).

In response, the OECD Secretariat elaborated the *OECD Framework for Assessing the Openness of Governments* (OECD, 2020<sup>[6]</sup>), clarifying the interplays between all the elements necessary for an open government culture of governance and enabling a path towards the development of open government indicators. The result is a systematic overview of how the inputs of open government can lead to increased openness and in turn contribute to the achievement of broader policy goals, such as trust in government (Figure 3.1).

Figure 3.1. The OECD Framework for Assessing the Openness of Government



Source: OECD (2020<sup>[6]</sup>), *A Roadmap for Assessing the Impact of Open Government Reform*, OECD Working Paper; OECD (2017<sup>[5]</sup>), “Recommendation of the Council on Open Government”.

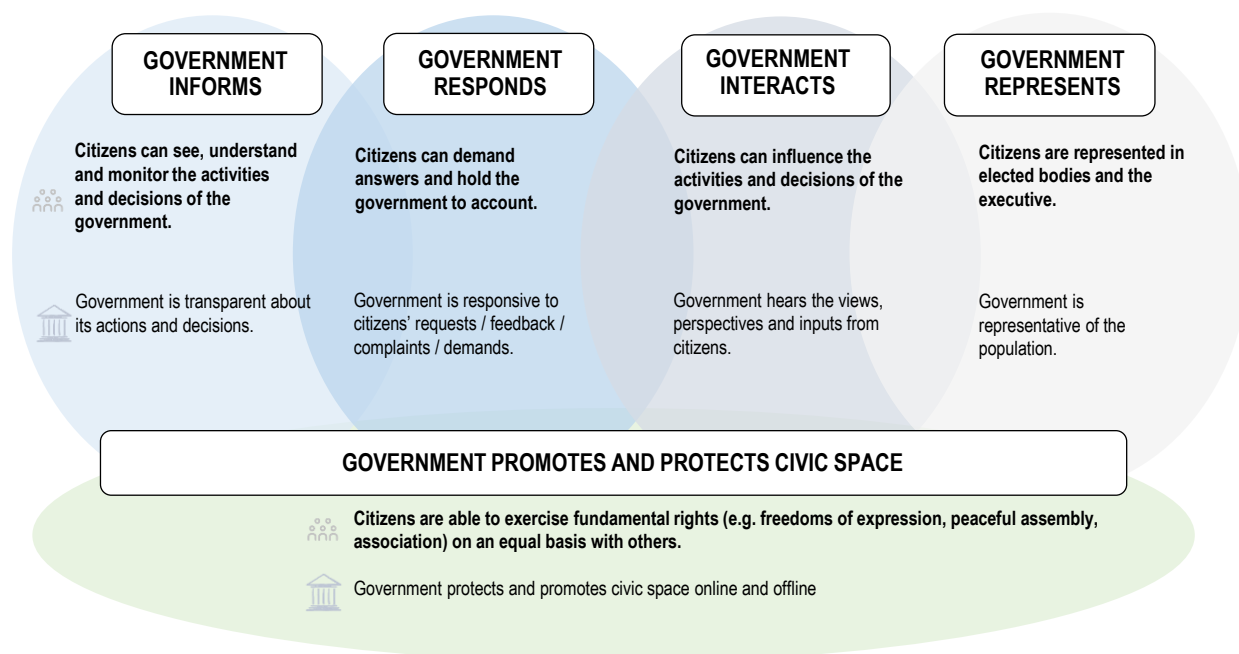
## The OECD Openness Spectrum

To further clarify the practical implications of the implementation of open government policies and practices (both from a government's and from a citizen's perspective) and to operationalise the OECD's definition of open government (see Chapter 3), the OECD elaborated an Openness Spectrum in 2022. The Spectrum is based on five mutually reinforcing dimensions. Taken together these dimensions reflect the full breadth and depth of the concept of open government:

- **“How government informs”** refers to the extent to which key information and data can be found, understood, used and re-used by citizens. It focuses on information that has a bearing on citizens trust in public institutions (e.g. budget information).
- **“How government responds”** refers to key mechanisms for citizens to trigger a response from governments, whether to request public information, demand answerability on a specific public problem, or suggest a policy priority (e.g. petitions).
- **“How government interacts”** refers to the actual interaction between governments and citizens in terms of availability, accessibility and impact of interaction mechanisms
- **“How government represents”** refers to the representativeness of government in terms of the diversity in the composition of elected bodies and the civil service (e.g. diversity by gender, age, etc.).
- **“How government protects”** refers to the extent to which governments protect and promote fundamental civic freedoms and political rights.

The five dimensions of the Openness Spectrum are aligned with pillar 2 on “participation, representation and openness” of the OECD's ongoing Reinforcing Democracy Initiative (OECD, 2022<sup>[7]</sup>) and will ultimately constitute the basis for the forthcoming OECD Open, Participatory and Representative Government Index.

Figure 3.2. The OECD Openness Spectrum



Source: Author's own elaboration.

## The framework, scope and structure of the OECD Open Government Review of Romania

OECD Open Government Reviews (OGRs) support national and subnational governments in their efforts to build more open, participatory and accountable governments that can restore citizens' trust and promote inclusive growth. OGRs are based on the ten provisions of the OECD Council Recommendation on Open Government (Box 3.1).

Open Government Reviews provide in-depth analyses of countries' open government policies and practices coupled with actionable recommendations to help embed the principles of open government in the policymaking cycle and to evaluate their impact. They usually cover multiple aspects of open government and benefit from different relevant areas of OECD work, including digital government, public sector innovation, public sector integrity, budgetary governance, territorial development, amongst others.

OGRs are developed in partnership with the requesting government and are tailored to its specific needs. Accordingly, OGRs are sensitive to the specific context, such as cultural, historical and legal specificities, and inclusive of all relevant actors outside and within government.

### Box 3.2. Examples of past OECD Open Government Reviews and Scans

#### Open Government Scan of Lebanon

Successive Lebanese governments have taken various steps to implement reforms based on the open government principles and aligned with the OECD Recommendation on Open Government. This Scan supports the government's efforts to build more transparent, participatory, and accountable institutions.

#### Open Government Review of Argentina

Argentina has undertaken an ambitious reform to move beyond open government to become an "open state". Based on extensive data gathered from all branches and levels of government, as well as civil society, this Review assesses the progress made to date and highlights good practices. It also provides guidance on how Argentina can better align its public sector reform with the Recommendation to achieve its vision.

#### Open Government in Biscay

This Review is the first OECD Open Government Review carried out in a subnational government of an OECD member country. It assesses the province of Biscay's initiatives regarding open government principles and how they impact the quality of public service delivery. This review has a focus on the implementation and the creation of a sound monitoring and evaluation system.

#### Open Government in Costa Rica

Costa Rica has been one of the first countries to involve the executive, legislative and judicial branches of the state in the design and implementation of its national open government agenda. This review supports the country in its efforts to build a more transparent, participatory, and accountable government as an essential element of its democracy. It includes a detailed and actionable set of recommendations to help the country achieve its goal of creating an open state.

Source: OECD (2020<sup>[8]</sup>), *Open Government Scan of Lebanon*; OECD (2019<sup>[9]</sup>), *Open Government in Argentina*; OECD (2019<sup>[10]</sup>), *Open Government in Biscay*; OECD (2016<sup>[11]</sup>), *Open Government in Costa Rica*.

## ***A brief history of the co-operation between Romania and the OECD***

Romania has been a longstanding partner of the OECD. The country has been co-operating with the OECD via thematic initiatives and a country-specific programme for many years. For example, Romania has been a participant of the OECD South East Europe regional programme since its inception in 2000 and became a Member of the OECD Development Centre in 2004 and acceded to the Nuclear Energy Agency in 2017. In recent years, Romania's co-operation with the OECD has continued to deepen and broaden, including through greater participation in statistical reporting systems and benchmarking exercises (e.g. PISA). In 2022, the OECD Council invited Romania to start an Accession process to the Organisation.

In the area of public governance, Romania has been involved in numerous projects and Working Parties for some years. Notably, in 2016 the OECD conducted a Public Governance Scan of Romania (OECD, 2016<sup>[12]</sup>) to receive an assessment in five priority areas, namely centre of government; strategic human resources management; budgetary governance; open government; and digital government.

To achieve a more coherent, structured approach to the country's public governance reform agenda, in 2021/2022, the Romanian government partnered with the OECD on the project *Capacity building in the field of public governance - a co-ordinated approach of the Centre of the Government of Romania*. The project, which is funded by the EEA/Norway grants, aims to develop public administration in five areas: co-ordination by the centre of government for SDGs, open government, digital government, public sector integrity and public sector innovation. The project aims at strengthening the capacity of public administration by providing an in-depth review of Romania's public central administration, followed by targeted implementation support to strengthen its capacity in a sustainable manner. The present OECD Open Government Review of Romania is an integral part of this project.

### **Box 3.3. The OECD Public Governance Scan of Romania (2016)**

The Government of Romania approached the OECD in the summer of 2016 to engage in a conversation on the country's public governance performance and reform agenda. Five priority areas were jointly selected to analyse, namely centre of government; strategic human resources management; budgetary governance; open government; and digital government.

The primary objectives of the Public Governance Scan were to: record ongoing reform efforts; identify priorities for the near future; support and foster a national debate on sound public governance (reform).

Addressing different public governance areas, Romania's Public Governance Scan identified specific challenges and priorities for each of the five areas. In addition, some cross-cutting challenges emerged from the Scan, notably:

- the importance of considering the approval of a strategy and a legal framework in support of a specific reform initiative not as the ultimate goal, but rather as the starting point to focus on actual implementation; such a focus would also require further increased attention for soft skills related to change management, etc.
- a gradual evolution towards evidence-based policymaking, including skills development in the area of policy formulation and policy evaluation
- a sustained effort to connect specific reform projects (often benefiting from external funding, such as EU structural funds or others) with a broader strategy of organisational and institutional development
- a logical approach to reform sequencing, optimising as such the use of the capacities and opportunities available on the ground; I appropriate institutional anchorage for organisations, coherent with their mandate and as such maximising their potential leverage



- a proactive engagement of Parliament to stimulate (political) ownership of the reform agenda and foster accountability.

In terms of open government, the Scan noted “Whereas Romania possesses of some of the key legal documents (such as a Law no. 544/2001 on free access to information of public interest), as is the case in most OECD countries, it does not have an integrated open government national strategy (which is the case for about half of the OECD member countries), nor does it have a tradition of evaluating open government initiatives (which is also the case for about half of the OECD member countries). It does however have an open government co-ordination mechanism, including civil society representation”.

Source: OECD (2016<sup>[12]</sup>), *Romania: Scan*, OECD Public Governance Reviews, OECD, Paris, <https://www.oecd.org/gov/public-governance-review-scan-romania.pdf>.

### ***The basis: Romania’s motivation to undergo an OECD Open Government Review***

At the request of the Romanian government, the *OECD Open Government Review of Romania* assists the country in the implementation of more ambitious and innovative open government policies and practices. As part of the motivation to undergo the present Review, the government stressed the need for a comparative assessment of Romania’s current open government agenda and of the progress that has been reached so far in its implementation (Government of Romania, 2022<sup>[13]</sup>). Based on this assessment, the Romanian government aims to develop a strategic framework for open government. The government considers strengthening the strategic framework for open government as essential to improve the quality of open government practices, especially in regards to policy co-ordination and to the involvement of non-governmental stakeholders in public decision-making (Government of Romania, 2022<sup>[13]</sup>). Furthermore, the Romanian government requested an evidence-based assessment of past and present open government reforms to define indicators that enable the monitoring and data-driven evaluation of the impact of open government initiatives.

### ***The scope of the OECD Open Government Review of Romania***

The Review puts a particular focus on policies and practices at the level of the central government, aiming to support it in adopting, co-ordinating, implementing and monitoring and evaluating a more strategic open government agenda. Notwithstanding the focus on the central level, an open-state approach remains highly relevant to this (and all) OECD Open Government Review(s).<sup>1</sup> All chapters take a holistic perspective on open government that – to the extent possible – includes all relevant public (and non-public) stakeholders. Therefore, the analyses make reference not only to the executive branch and its entities, but also Parliament, independent public institutions and others. Recognising that open government at the subnational/local level has its own dynamics, the Review further includes a dedicated chapter on Open State which highlights good practices from the local level, describes ways to foster the multi-level governance of open government and spotlights areas of opportunity for an Open Parliament.

#### *The complementarity with other ongoing OECD reviews*

Due to the ongoing *Civic Space Review of Romania* (OECD, 2023<sup>[14]</sup>), which is implemented in parallel, the present Review does not include a specific chapter on the protection and promotion of civic space. Rather, it includes cross-walks to the main findings of the Scan, whenever relevant. Ultimately, the Open Government Review and the *Civic Space Review of Romania* should be read in conjuncture as they provide an integrated assessment of the wider open government ecosystem in Romania. In particular, the *Civic Space Review of Romania*’s chapter on citizen and stakeholder participation (Chapter 6) has been co-drafted by two teams and should be seen as a key part of the present publication.

The Review further refers to the main findings and recommendations of other ongoing OECD policy reviews in Romania, including the OECD Digital Government Review, the OECD Innovation Scan and the OECD Integrity Review. For example, the Digital Government Review assists Romania in its digital transformation and covers issues related to open government data, while the Integrity Review discusses elements relating to asset disclosure, lobbying transparency, and whistle-blower protection which are also of relevance to the present Review.

### ***The methodology and evidence of this Review***

OECD Open Government Reviews are based on extensive data collection efforts and sharing of best practices from peer countries. They are presented to the OECD Working Party on Open Government and the OECD Public Governance Committee, thereby providing for peer review and contribution to endorsement of the recommendations by the OECD membership.

For the OGR of Romania, the OECD Secretariat benefitted from the following sources of evidence: extensive desktop research, the OECD peer review, questionnaires and surveys, as well as two fact-finding mission(s).

#### *The involvement of OECD peer reviewers*

OGRs involve peer reviewers from OECD Member and Partner countries that are experts in the field of open government. They share their experiences and enable a peer dialogue. Throughout the process, this Review benefitted from the input of peer reviewers from:

- **Chile:** Ms Valeria Lübbert Álvarez, Executive Secretary of the Commission for Public Integrity and Transparency, Government of Chile.
- **Scotland:** Ms Doreen Grove, Head of Open Government, Government of Scotland.
- **Spain:** Ms Clara Mapelli, Director General for Public Governance, Government of Spain.

The OECD Secretariat and the GSG selected the peer reviewers in close co-ordination. The selection was based on the experiences Chile, Scotland and Spain had with respect to their countries' open government agenda and the value added this experience presented to Romania. The concerned public officials kindly volunteered for their involvement.

The three peer reviewers were constantly engaged during the collection of evidence and the drafting of this Review. They actively participated during the interviews conducted during the fact-finding missions (see Interviews below) and provided feedback on findings and recommendations. With their comments, they enriched the present analysis from a practitioner's perspective.

#### *Questionnaires and surveys*

The present Review benefitted from the data collected through different Surveys. First, it reflects Romania's answers to the 2020 OECD Survey on Open Government – a questionnaire that monitors the implementation of the *OECD Recommendation of the Council on Open Government* and that was answered by over 50 countries. Secondly, the General Secretariat of the Government – based on a detailed qualitative questionnaire on open government policies and practices in Romania that was prepared by the OECD Secretariat – provided an extensive Background Report in March 2022. Additionally, three targeted surveys were sent out to different types of stakeholders (Table 3.1), namely:

- Public institutions that are part of the executive branch.
- Sub-national governments at both state and municipal levels.
- Non-public stakeholders (academics, civil society, private sector, etc.).

Table 3.1. Surveys conducted for the Open Government Review of Romania

Type of stakeholder	Data collection period	Responding institutions
Central government	April – May 2022	<ol style="list-style-type: none"> <li>1. Court of Accounts of Romania (Curtea de Conturi a României)</li> <li>2. Ministry for Family, Youth and Equal Opportunities (Ministerul Familiei, Tineretului si Egalitatii de Sanse)</li> <li>3. Ministry of Agriculture and Rural Development (Ministerul Agriculturii si Dezvoltarii Rurale)</li> <li>4. Ministry of Culture (Ministerul Culturii)</li> <li>5. Ministry of Defense (Ministerul Apararii Nationale)</li> <li>6. Ministry of Development, Public Works and Administration (Ministerul Dezvoltării, Lucrărilor Publice și Administrației)</li> <li>7. Ministry of Economy (Ministerul Economiei)</li> <li>8. Ministry of Education (Ministerul Educatiei)</li> <li>9. Ministry of Entrepreneurship and Tourism (Ministerul Antreprenoriatului si Turismului)</li> <li>10. Ministry of Environment (Ministerul Mediului, Apelor și Pădurilor)</li> <li>11. Ministry of Finance (Ministerul Finanțelor)</li> <li>12. Ministry of Health (Ministerul Sanatatii)</li> <li>13. Ministry of Interior (Ministerul Afacerilor Interne)</li> <li>14. Ministry of Justice (Ministerul Justiției)</li> <li>15. Ministry of Labor and Social Solidarity (Ministerul Muncii și Solidarității Sociale)</li> <li>16. Ministry of Research, Innovation and Digitization (Ministerul Cercetării, Inovării și Digitalizării)</li> <li>17. Ministry of Transport and Infrastructure (Ministerul Transporturilor si Infrastructurii)</li> <li>18. National Agency for Equal Opportunities for Women and Men (Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați)</li> <li>19. National Agency for Public Procurement (Agenția Națională pentru Achiziții Publice)</li> <li>20. National Institute of Statistics (Institutul National de Statistica)</li> <li>21. National Supervisory Authority for the Processing of Personal Data (Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal)</li> <li>22. Permanent Electoral Authority (Autoritatea Electorală Permanentă)</li> </ol>
Subnational government	April 2022	<ol style="list-style-type: none"> <li>1. Municipality of Arad</li> <li>2. Municipality of Bacau</li> <li>3. Municipality of Botosani</li> <li>4. Municipality of Brasov</li> <li>5. Municipality of Buzau</li> <li>6. Municipality of Calarasi</li> <li>7. Municipality of Campia Turzii</li> <li>8. Municipality of Campina</li> <li>9. Municipality of Craiova</li> <li>10. Municipality of Focsani</li> <li>11. Municipality of Galati</li> <li>12. Municipality of Hunedoara</li> <li>13. Municipality of Municipality</li> <li>14. Municipality of Piatra-Neamț</li> <li>15. Municipality of Ploiesti</li> <li>16. Municipality of Ramnicu Sarat</li> <li>17. Municipality of Ramnicu Valcea</li> <li>18. Municipality of Roman</li> <li>19. Municipality of Sibiu</li> <li>20. Municipality of Slatina</li> <li>21. Municipality of Slobozia</li> <li>22. Municipality of Suceava</li> <li>23. Municipality of Targoviste</li> <li>24. Municipality of Zalau</li> </ol>
Non-public stakeholders	April – May 2022	<ol style="list-style-type: none"> <li>1. Association for Liberty and Gender Equality (Asociația pentru Libertate și Egalitate de Gen)</li> <li>2. Babeș-Bolyai University</li> <li>3. Center for Independent Journalism (Centrul pentru Jurnalism Independent)</li> <li>4. Center for Public Innovation (Centrul pentru Inovare Publică)</li> </ol>

Type of stakeholder	Data collection period	Responding institutions
		<ol style="list-style-type: none"> <li>5. Centre for Education and Human Rights Association (Asociatia Centrul pentru Educatie si Drepturile Omului)</li> <li>6. CIVICA Association (Asociatia CIVICA)</li> <li>7. Făgăraş Research Institute (Institutul de Cercetare Făgăraş)</li> <li>8. H.appyClities</li> <li>9. Independent expert, Anse Info</li> <li>10. National Alliance of Romanian Student Organisations (Alianța Națională a Organizațiilor Studențești din România)</li> <li>11. National Trade Union Confederation (Confederația Națională Sindicală Cartel ALFA)</li> <li>12. Reality Check Association</li> <li>13. REPER Association for Management by Values (Asociația REPER pentru Management prin Valori)</li> <li>14. Roma Education Fund (Fondul pentru educația romilor)</li> <li>15. Romanian Business Leaders</li> <li>16. Romanian Federation of Community Foundations (Federatia Fundatiile Comunitare Din Romania)</li> <li>17. Save the Children Romania (Organizatia Salvati Copiii Romania)</li> <li>18. Smart City Association (Asociatia Smart City)</li> <li>19. The Future of Youth Association (Asociația Viitorul Tinerilor)</li> <li>20. Transparency International Romania</li> <li>21. University of Bucharest</li> </ol>

Source: Author's own elaboration.

### *Interviews and fact-finding missions*

As part of the Review-process, the OECD conducted two peer-driven fact-finding missions. The first mission took place from 4 to 8 July 2022 in Bucharest, while the second fact-finding mission was organised in a virtual setting and took place from 5 to 12 September 2022. All interviews were held under Chatham House rules. In total, the OECD conducted interviews with 30 stakeholders and with a length of 60-90 minutes each (Table 3.2).

**Table 3.2. Fact-finding mission and follow-up interviews**

Type of interviewee	Name of affiliated institution
Central government	<ol style="list-style-type: none"> <li>1. Authority for the Digitalization of Romania</li> <li>2. Chancellery of the Prime Minister</li> <li>3. Department for Information Technology and Digitalization, General Secretariat of the Government</li> <li>4. Department of Relations with Public Authorities and Civil Society, Presidential Administration</li> <li>5. Ministry of Development, Public Works and Administration</li> <li>6. Ministry of Finance</li> <li>7. Ministry of Justice</li> <li>8. National Agency of Civil Servants</li> <li>9. National Institute of Administration (INA)</li> <li>10. Officials in charge of participation in law-making selected Ministries: Ministry of Labor and Social Solidarity, the Ministry of Justice, the Ministry of Development, Public Works and Administration, the Ministry of Education, the Ministry of Research, Innovation and Digitization</li> <li>11. Open Government Service, General Secretariat of the Government</li> <li>12. Service for Cooperation Policies with Civil Society, General Secretariat of the Government</li> </ol>
Subnational government	<ol style="list-style-type: none"> <li>1. Alba Iulia Municipality</li> <li>2. Bucharest City Hall (Primarul General al Municipiului București)</li> <li>3. Bucharest, Sector 2, City Hall</li> <li>4. Cluj Municipality</li> <li>5. Iasi Municipality</li> </ol>

Type of interviewee	Name of affiliated institution
Other public stakeholders	6. Timisoara Municipality
	1. Ombudsman (Avocatul Poporului)
	2. Petitions and Hearings Department within the Registry and Archives Office, General Secretariat of the Chamber of Deputies
Non-public stakeholders	3. Public Relations Department in the Office for Public Information and Relations with Civil Society, General Secretariat of the Chamber of Deputies
	1. Academic, University of Bucharest, and member of OGP Steering Committee
	2. Funky Citizens
	3. Institute for Public Policy
	4. H.appy cities
	5. Romanian Business leaders
	6. Expert Forum Association
	7. Center for Public Innovation
	8. Academic, Babeş-Bolyai University, Cluj
9. Academic, Babeş-Bolyai University, Cluj	

Source: Author's own elaboration.

### ***The structure of the OECD Open Government Review of Romania***

This Review reflects all Provisions of the *OECD Recommendation of the Council on Open Government* through its different chapters.

- Chapter 1: *Assessment and Recommendations* provides an integrated overview of the main findings included in the Review. It presents key information further developed in the following chapters, and highlights the main recommendations for Romania to consider in the short, medium and long term to strengthen policies and practices in terms of transparency, accountability and citizen and stakeholder participation and, ultimately, reinforce democracy and build citizens' trust in public institutions.
- Chapter 2: *Setting the scene: The context and drivers for open government in Romania* provides an overview of the context and drivers that frame the implementation of open government policies and practices in Romania. It discusses socio-economic and political challenges, such as low levels of trust in government and frequent changes of government and presents the history of open government reforms in the country.
- Chapter 3: *Methodology: The OECD approach to open government reforms in Romania* provides an overview of the OECD approach to assessing open government in Member and Partner countries. It then discusses the methodology followed for the Open Government Review of Romania, including its framework, scope and structure.
- Chapter 4: *Implementing the legal framework for open government: Towards a more transparent and participatory government in Romania* discusses the main laws, regulations and international treaties underpinning open government reforms in Romania. In addition to outlining rights and obligations, it puts a particular focus on the implementation of the legislative framework in the areas of transparency and citizen/stakeholder participation.
- Chapter 5: *Creating an enabling environment for an Open Government Strategy in Romania* supports Romania in the creation of governance structures and mechanisms that are suitable for a holistic and integrated open government agenda and that can facilitate the successful implementation of the country's first holistic Open Government Strategy. The chapter starts by discussing Romania's current institutional framework and co-ordination mechanisms for open government. It then focuses on ways to build an open government culture in the Romanian administration and in society and discusses means to foster public communications around open government policies and practices.

- Chapter 6: *Taking a strategic approach to open government in Romania: Towards an Open Government Strategy* aims to support Romania in the process to design, implement, monitor, and evaluate its first holistic and integrated policy to foster the government-citizen nexus. Finding that there is a need for a more holistic and integrated approach to open government in Romania, the chapter provides targeted recommendations aiming to facilitate the preparation for the design and the process to draft an Open Government Strategy. It further discusses mechanisms that facilitate the operationalisation and implementation of the Strategy.
- Chapter 7: *Monitoring and evaluating openness: Towards stronger impact of open government reforms* provides an assessment of Romania's current efforts to monitor and evaluate open government policies and practices. The chapter provides recommendations to strengthen ongoing efforts and outlined an agenda to monitor and evaluate the upcoming Open Government Strategy, including through the design of an Open Government Index and/or an Open Government Maturity Model.
- Chapter 8: *Towards an Open State in Romania* analyses Romania's move towards an open state, i.e. the implementation and co-ordination of open government initiatives and strategies at all levels of government and in all branches of the state. It finds that some municipalities are championing open government at the subnational level, and that these efforts could be harnessed with a strategic framework and through additional support from the central level. The chapter also assesses the implementation of transparency and participatory initiatives in Parliament. It concludes with a roadmap to build an open state in Romania.

The chapters complement each other. While Chapters 4 and 5 mainly discuss existing inputs and processes for open government in Romania, Chapter 6 on the Open Government Strategy focuses on providing a roadmap moving forward. Chapter 7, in turn, outlines how a more integrated open government agenda could be monitored and evaluated, while Chapter 8 analyses how this agenda could involve the other branches of the state and all levels of government.

## Definitions of key terms used in this Review

Access to information (ATI)	Refers to the ability of an individual to seek, receive, impart, and use information effectively. In public administration, access to information refers to the existence of a robust system through which government information is made available to individuals and organisations.
Accountability	A relationship referring to the responsibility and duty of government, public entities, public officials, and decision makers to provide transparent information on, and be responsible for, their actions, activities and performance. It also includes the right and responsibility of citizens and stakeholders to have access to this information and have the ability to question the government and to reward/sanction performance through electoral, institutional, administrative, and social channels.
Central/Federal government	The central/federal government consists of all government units having a national sphere of competence, with the exception of social security units. The political authority of a country's central government extends over the entire territory of the country. The central government can impose taxes on all resident institutional units and on non-resident units engaged in economic activities within the country. Central/federal government typically is responsible for providing collective services for the benefit of the community as a whole, such as national defence, relations with other countries, public order and safety, and for regulating the social and economic system of the country. In addition, it may incur expenditure on the provision of services, such as education or health, primarily for the benefit of individual households, and it may make transfers to other institutional units, including other levels of government.
Citizen	The term is meant in the larger sense of 'an inhabitant of a particular place', which can be in reference to a village, town, city, region, state, or country depending on the context. It is not meant in the more restrictive sense of 'a legally recognised national of a state'. In this larger sense, it is equivalent to people.
Citizen and stakeholder participation	Includes all of the ways in which stakeholders can be involved in the policy cycle and in service design and delivery through information, consultation and engagement.
Civic space	The set of political, institutional and legal conditions necessary for citizens (see "citizen") and civil society to access information (see "access to information"), speak, associate, organise and participate in public life.
Civil Society Organization (CSO)	Encompasses all non-market and non-state organisations outside of the family in which people organise



	themselves to pursue shared interests in the public domain. In general, CSOs share a number of common characteristics: they are organised (i.e. they possess some institutional structure); they are separate from government; they are non-profit-distributing; they are self-governing; and they are voluntary, at least in part (i.e. they involve some meaningful degree of voluntary participation, either in the actual conduct of the agency's activities or in the management of its affairs). The term includes trade unions, charities, consumer groups, associations, non-governmental organisations (NGOs), foundations, and other groups. Government representatives, legislators, think tanks, academia and media are not CSOs.
Data	The term refers to recorded information stored in structured or unstructured formats, which may include text, images, sound, and video.
Effectiveness	The extent to which the activity's stated objectives have been met.
Efficiency	Achieving maximum output from a given level of resources used to carry out an activity.
Independent public institutions	Refers to institutions that are mandated by national laws to oversee their correct implementation, especially by the central/federal government. These are de-jure independent from other state/public institutions (meaning that they can conduct their mandates without undue regard for the views of other state/public institutions).
Levels of government	Refers to central and sub-national levels of government
Non-public stakeholder	Any interested and/or affected party (see "stakeholder") which is not from the government or any of its related public entities. Examples included in the survey are citizens, members of CSOs (see "CSOs"), journalists, citizens (see "citizen"), journalists, bloggers, members of political parties, members of the private sector or business associations, trade unionists, academics, human rights defenders, activists.
Open government	A culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth.
Open government agenda	The ensemble of open government strategies and initiatives in a country.
Open government initiatives	Actions undertaken by the government, or by a single public institution, to achieve specific objectives in the area of open government, ranging from the drafting of laws to the implementation of specific activities such as online consultations.
Open government literacy	The combination of awareness, knowledge, and skills that public officials and stakeholders require to engage successfully in open government strategies and initiatives;
Open Government Partnership (OGP)	An international partnership between governments and civil society to promote open government. Eligible national and subnational governments can become a member. More information is available here: <a href="http://www.opengovpartnership.org">www.opengovpartnership.org</a>
Open government policies	Strategic documents that aim to promote open government principles.
Open government principles/ principles of open government	Refers to the principles of transparency (see 'Transparency'), integrity (see 'public integrity'), accountability (see 'Accountability', and stakeholder participation (see 'Citizen and stakeholder participation').
Open government strategy	A document that defines the open government agenda of the central government and/or of any of its sub-national levels, as well as that of a single public institution or thematic area, and that includes key open government initiatives, together with short, medium and long-term goals and indicators.
Open state	When the executive, legislature, judiciary, independent public institutions, and all levels of government - recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks - collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth.
Policy cycle	The policy cycle includes 1) identifying policy priorities 2) drafting the actual policy document, 3) policy implementation; and 4) monitoring implementation and evaluation of the policy's impacts.
Policy document	Refers to a document that outlines decisions, plans, and actions that are undertaken to achieve specific goals. An explicit policy can achieve several things: it defines a vision for the future which in turn helps to establish targets and points of reference for the short and medium term. It outlines priorities and the expected roles of different stakeholders; and it builds consensus and informs people.
Public institutions	Refers to all legislative, executive, administrative, and judicial bodies, and their public officials whether appointed or elected, paid or unpaid, in a permanent or temporary position at the central and subnational levels of government. It can include public corporations, state-owned enterprises and public-private partnerships and their officials, as well as officials and entities that deliver public services (e.g. health, education and public transport), which can be contracted out or privately funded in some countries. Together, these institutions form the public sector.
Public sector integrity	The consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests
Public stakeholder	Any interested and/or affected party (see "stakeholder") from the government or any of its related public entities.
Stakeholders	Any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector.



Subnational government	<p>Includes both state and local governments.</p> <ul style="list-style-type: none"> <li>• State governments are institutional units exercising some of the functions of government at a level below that of central government (see also 'Central/Federal government') and above that of the governmental institutional units existing at a local level; they are institutional units whose fiscal, legislative and executive authority extends only over the individual "states" (often referred to as "provinces") into which the country as a whole may be divided.</li> <li>• Local government units are institutional units whose fiscal, legislative and executive authority extends over the smallest geographical areas distinguished for administrative and political purposes.</li> </ul>
Transparency	The disclosure of relevant government data and information in a manner that is timely, accessible, understandable, and re-usable.

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## Laws and regulations

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## Note

<sup>1</sup> The OECD defines an open state as “when the executive, legislature, judiciary, independent public institutions, and all levels of government - recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks - collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth” (OECD, 2017<sup>[5]</sup>).

# **4**

## **Implementing the legal framework for open government: Towards a more transparent and participatory government in Romania**

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This chapter discusses Romania's legal framework and its implementation in the open government areas of transparency and citizen and stakeholder participation. It finds that laws and regulations for access to information are mostly aligned with OECD practice. However, challenges in their implementation persist and more efforts are needed to bring practice in line with legal provisions, notably by establishing more effective appeal and oversight mechanisms. It further notes that while citizen and stakeholder participation takes place in all policy areas, it remains largely limited to written consultation on draft normative acts to fulfil legal requirements. The chapter provides recommendations to broaden the spectrum and make participatory processes more impactful.

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## Introduction

A solid legal and regulatory framework for open government is an essential pre-condition for successful reforms (OECD, 2019<sup>[1]</sup>). Evidence collected by the OECD suggests that the underlying legal and regulatory basis for open government in OECD Member and Partner Countries is usually very broad (OECD, forthcoming<sup>[2]</sup>). In most countries, it includes, among others, provisions and rights in the constitution, as well as in laws and regulations on access to information, stakeholder participation, anti-corruption, the protection of personal data and national archives, civic freedoms, digital government, open data, accountability and integrity, etc.

In Romania, since 1991, a great number of laws and regulations on open government policies and practices have been adopted. Most notably, Law no. 544/2001 on free access to information of public interest and Law no. 52/2003 on decisional transparency in public administration have a long history of implementation and are today very well-known across the administration.

Applying the OECD Openness Spectrum (see Chapter 3 on Methodology), this Chapter benchmarks Romania against Provision 2 of the OECD Recommendation on Open Government (OECD, 2017<sup>[3]</sup>) (Box 4.1), reviewing Romania's legal framework and its implementation in the area of transparency and access to information (ATI), as well as participation. It finds that while Romania has made progress in fostering access to information, significant implementation and enforcement gaps remain both in terms of proactive and reactive disclosure of information. In this regard, the Chapter provides recommendations to make Romania's ATI system more robust and foster effective implementation. The Chapter further highlights that citizen and stakeholder participation is largely limited to written consultation on draft normative acts. In conjunction with the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>), the Chapter offers recommendations on how to develop more impactful participatory processes throughout the policy cycle.

An analysis of Romania's legal framework in the area of digital government, including open data, can be found in the OECD Digital Government Review of Romania (OECD, forthcoming). The *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>) assesses Romania concerning its civic freedoms and rights and related legislation, and also includes a discussion of legislation on access to information, public consultations, and other forms of participation.

### Box 4.1. Relevant provisions from the Recommendation of the Council on Open Government

#### Provision 2

“Ensure the existence and implementation of the **necessary open government legal and regulatory framework**, including through the provision of supporting documents such as guidelines and manuals, while establishing adequate oversight mechanisms to ensure compliance”.

Source: OECD (2017<sup>[3]</sup>), “Recommendation of the Council on Open Government”, *OECD Legal Instruments*, [OECD/LEGAL/0438](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438), OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

## Open government principles and civic freedoms are protected by Romania's Constitution

The protection of open government principles, policies and practices at the constitutional level can provide public institutions and stakeholders with a clear mandate to promote open government reforms and it can create the necessary legal certainty and legitimacy for effective implementation of all subsequent legislation (OECD, 2022<sup>[5]</sup>).

Like the Constitutions of most OECD Member countries (see *Monitoring Report on the Implementation of the 2017 OECD Recommendation on Open Government* (forthcoming<sup>[6]</sup>)), the Romanian Constitution from 1991 explicitly recognises several rights relating to open government. In particular, Article 31 of the Constitution guarantees the right to information and mandates that “[t]he public authorities [...] shall be bound to provide correct information to the citizens in public affairs and matters of personal interest”. The right to information is also enshrined in the Constitution or has been recognised by high-level courts in 79% of responding OECD Member countries (OECD, 2022<sup>[7]</sup>). The Romanian Constitution further provides for the right of petition (Art. 51) and the right to legislative initiative (Art. 74) and it includes an obligation of co-operation between government and “social bodies” (Art. 102) and establishes the Economic and Social Council as an advisory body to government (Art. 141). Lastly, civic freedoms and rights underpinning open government are also part of the Romanian Constitution, such as Freedom of Expression (Art. 30), Freedom of Assembly (Art. 39) and the Right of Association (Art. 40) (Table 4.1).

**Table 4.1. The most relevant provisions on open government principles, policies and practices in Romania's Constitution from 1991**

Article #	Relevant open government principles, policies and practices	Article text
52	Accountability	<i>Right of a person aggrieved by a public authority</i>  <i>(1) Any person aggrieved in his/her legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his/her application within the lawful time limit, is entitled to the acknowledgement of his/her claimed right or legitimate interest, the annulment of the act and reparation for the damage.</i>
30, (1) – (2)	Civic space	<i>Freedom of expression</i>  <i>(1) Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable.</i>  <i>(2) Any censorship shall be prohibited. [...]</i>
39	Civic space	<i>Freedom of assembly</i>  <i>Public meetings, processions, demonstrations or any other assembly shall be free and may be organised and held only peacefully, without arms of any kind whatsoever.</i>
40, (1)	Civic space	<i>Right of association</i>  <i>(1) Citizens may freely associate into political parties, trade unions, employers' associations, and other forms of association.</i>
51, (1) – (4)	Participation	<i>Right of petition</i>  <i>(1) Citizens have the right to address the public authorities by petitions formulated only in the name of the signatories.</i>  <i>(2) Legally established organizations have the right to forward petitions, exclusively on behalf of the collective body they represent.</i>  <i>(3) The exercise of the right of petition shall be exempt from tax.</i>  <i>(4) The public authorities are bound to answer to petitions within the time limits and under the conditions established by law.</i>
74	Participation	<i>Legislative initiative</i>  <i>(1) A legislative initiative shall lie, as the case may be, with the Government, Deputies, Senators, or a number of at least 100,000 citizens entitled to vote. The citizens who exercise their right to a legislative initiative must belong to at least one quarter of the country's counties, while, in each of</i>

Article #	Relevant open government principles, policies and practices	Article text
		<p><i>those counties or the Municipality of Bucharest, at least 5,000 signatures should be registered in support of such initiative.</i></p> <p><i>(2) A legislative initiative of the citizens may not touch on matters concerning taxation, international affairs, amnesty or pardon. [...]</i></p>
102 (2)	Participation	<p>Obligatory co-operation between the government and “social bodies”</p> <p>[...]</p> <p><i>(2) In the exercise of its powers, the Government shall co-operate with the social bodies concerned. [...]</i></p>
141	Participation	<p>The Economic and Social Council</p> <p><i>The Economic and Social Council shall be an advisory body of the Parliament and Government, in the specialized fields stated by the organic law for its establishment, organization, and functioning.</i></p>
31, (1) – (2)	Transparency	<p>Right to information</p> <p><i>(1) A person's right of access to any information of public interest shall not be restricted.</i></p> <p><i>(2) The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest. [...]</i></p>

Note: For discussions on the articles relating to Civic Space, please see OECD (2023<sup>[41]</sup>), *Civic Space Review of Romania*.

Source: The Constitution of Romania, as amended, <https://www.presidency.ro/en/the-constitution-of-romania>. Author's own elaboration.

## Access to information in Romania: Towards effective implementation

Government transparency refers to “stakeholder access to, and use of, public information and data concerning the entire public decision-making process, including policies, initiatives, salaries, meeting agendas and minutes, budget allocations and spending” (OECD, 2022<sup>[5]</sup>). In turn, access to information (ATI) refers to the existence of a robust system through which government information is made available to individuals and organisations (OECD, 2021<sup>[8]</sup>).

Romania’s legal framework for transparency and access to public information is comprehensive, consisting of several laws and government decisions that were adopted over the past twenty years. In particular, the provision for access to information in Article 31 of the Romanian Constitution is operationalised through Law no. 544/2001 on free access to information of public interest. Under this law, “free and unrestricted access of the person to any information of public interest, defined as such by this law, constitutes one of the fundamental principles of relations between individuals and public authorities, in accordance with the Romanian Constitution and international documents ratified by the Romanian Parliament” (Art.1).

Law no. 544/2001, as the central piece of legislation, is complemented by several Government Decisions and Laws, which, for example, detail requirements to provide specific information in certain areas, such as the wealth of certain public officials (Law no. 176/2010) or surrounding procurement processes (Emergency Ordinance no. 34/2006), as well as other laws, such as the recently adopted Law no. 179/2022 on open government data. Together they contribute to citizens’ ability to see, understand, and monitor government’s action, as outlined in the *OECD Openness Spectrum*. A non-exhaustive overview of existing laws and regulations in the field of transparency can be found in Table 4.2.

The following section analyses Romania’s legal framework for access to information and its implementation against OECD standards and good practices. It finds that while Romania’s legal framework for access to information has improved, significant implementation and enforcement gaps remain both in terms of proactive and reactive disclosure of information. In this regard, the Chapter for example identifies

shortcomings in applying the legal provisions related to the usage of personal data protection to exempt access to information. The Chapter offers suggestions to improve and simplify related governance mechanisms and provides recommendations to make Romania's ATI system more robust and foster implementation.

**Table 4.2. A non-exhaustive overview of the most important laws and regulations on transparency and access to public information in Romania**

Law Number	Year	Name	Description
Law no. 544/2001	2001	On free access to information of public interest	Operationalizes the constitutional provision on Right to Information as a law and serves as the legal basis for access to information in Romania. Concerns both proactive and reactive disclosure of information. <a href="https://legislatie.just.ro/Public/DetaliuDocument/31413">https://legislatie.just.ro/Public/DetaliuDocument/31413</a>
Government Decision no. 123 of 7 February 2002	2002	For the approval of the Methodological Norms for the application of Law no. 544/2001 on free access to information of public interest	Through this Government Decision, the Methodological Norms that specify how Law no. 544/2001 shall be implemented are approved. In its version with subsequent amendments, the Methodological Norms provide the most relevant guidance for public officials on implementing Law no. 544/2001, including the exact contents that need to be disclosed as well as templates for communication with citizens and reporting to the GSG. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/256296#A7629270">https://legislatie.just.ro/Public/DetaliuDocumentAfis/256296#A7629270</a>
Law no. 251/2004	2004	On certain measures relating to goods received free of charge on the occasion of protocol actions in the exercise of their mandate or function	Requires certain public institutions to publish a list of gifts received on the website of the respective legal entity or in the Official Gazette of Romania at the end of each year. <a href="https://bit.ly/3yftOAB">https://bit.ly/3yftOAB</a>
Law no. 506 of 17 November 2004	2004	On the processing of personal data and the protection of privacy in the electronic communications sector	Regulates the collection and processing of personal data by Romanian public authorities with the aim of protecting citizens' privacy. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/214211">https://legislatie.just.ro/Public/DetaliuDocumentAfis/214211</a>
Emergency Ordinance no. 34 of 19 April 2006	2006	Regarding the awarding of public procurement contracts, public works concession contracts and service concession contracts	The main legislative piece on public procurement in Romania. Regulates, among others, the process for public procurement, including tendering types and award criteria, and measures for resolving appeals. Establishes an explicit public right to access procurement data and different measures to support transparency of public procurement. <a href="https://legislatie.just.ro/Public/DetaliuDocument/71663">https://legislatie.just.ro/Public/DetaliuDocument/71663</a>
Law no. 109/2007	2007	On the re-use of public sector information	Transposes the corresponding EU directive and first established the principles for open data publication and re-use in Romania. <a href="https://legislatie.just.ro/Public/DetaliuDocument/81689">https://legislatie.just.ro/Public/DetaliuDocument/81689</a>
Law no. 176/2010	2010	On integrity in the exercise of public office and dignity	Requires by certain public officials the declaration of wealth and interests and establishes the National Integrity Agency for oversight and sanctions. <a href="https://legislatie.just.ro/Public/DetaliuDocument/121924">https://legislatie.just.ro/Public/DetaliuDocument/121924</a>
	2016	Memorandum for increasing Transparency and Standardizing the display of information of public interest	While not applied anymore, this Memorandum has been the first essential step towards standardisation. It proposed to the ministries and other authorities of the central public administration as well as certain other institutions to display the minimum information in Law no. 544/2001 on access to information of public interest in a standardised manner (location and format). <a href="https://gov.ro/fisiere/stiri_fisiere/Memorandum_MCPDC.pdf">https://gov.ro/fisiere/stiri_fisiere/Memorandum_MCPDC.pdf</a>
Law no. 98/2016	2016	On public procurement	Regulates the way public procurement is carried out, including tendering and award procedures as well as the execution of public procurement contracts. <a href="https://legislatie.just.ro/Public/DetaliuDocument/178667">https://legislatie.just.ro/Public/DetaliuDocument/178667</a>
Government Decision no. 478/2016		For the modification and completion of the Methodological Norms for the application of Law no. 544/2001 regarding free access to information of public interest, approved by Government Decision no.	Represents an important intermediate "update" to the Methodological Norms of 2002. Among others, it specifies the interaction between public institutions and citizens during the ATI process, including the obligations for multi-channel disclosure of information, standardised forms to request information, costs and deadlines. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/179920">https://legislatie.just.ro/Public/DetaliuDocumentAfis/179920</a>



Law Number	Year	Name	Description
		123/2002	
Law no. 153/2017	2017	On the remuneration of staff paid from public funds	Among others, requires the annual disclosure of a list of all functions in the respective public authorities or institutions which fall into the category of paid staff by all public authorities and institutions. <a href="https://bit.ly/3yfEPId">https://bit.ly/3yfEPId</a>
O.U.G. no. 57/2019	2019	Regarding the Administrative Code	States a specific right to access to information for citizens when interacting with public institutions. Beneficiaries of public administration activities have the right to obtain information from public administration authorities and institutions. <a href="https://bit.ly/3vYsC37">https://bit.ly/3vYsC37</a>
Government Decision no. 1 269/2021	2021	On the approval of the National Anti-Corruption Strategy 2021-2025 and its related documents	In the form of Annex 4, this GD approved a general standard for publishing information of public interest as part of the National Anticorruption Strategy 2021-2025. It required public institutions to publish information in a standardised way on the websites of public institutions in Romania. It represented the updated and complemented form of the Memorandum "Increasing transparency and standardisation of information display of public interest" in 2016.
Law no. 179/2022	2022	On open data and re-use of public sector information	Regulates the re-use of information held by public institutions in an open format, including the right to request such information by any natural or legal person. It encourages public institutions to move towards an "open by default" principle and mandates the Romanian Authority for Digitalization as oversight institution. <a href="https://legislatie.just.ro/Public/DetaliuDocument/256414">https://legislatie.just.ro/Public/DetaliuDocument/256414</a>
Government Decision no. 830/2022	2022	For the modification and completion of the Methodological Norms for the application of Law no. 544/2001 regarding free access to information of public interest	This Government Decision is the latest and therefore most relevant modification of the Methodological Norms of 2002. Among others, it integrates obligations on which information needs to be published proactively from several laws and standardizes their display on public institutions' websites in Romania. <a href="https://legislatie.just.ro/Public/DetaliuDocument/256836">https://legislatie.just.ro/Public/DetaliuDocument/256836</a>

Note: The list does not claim to be exhaustive.

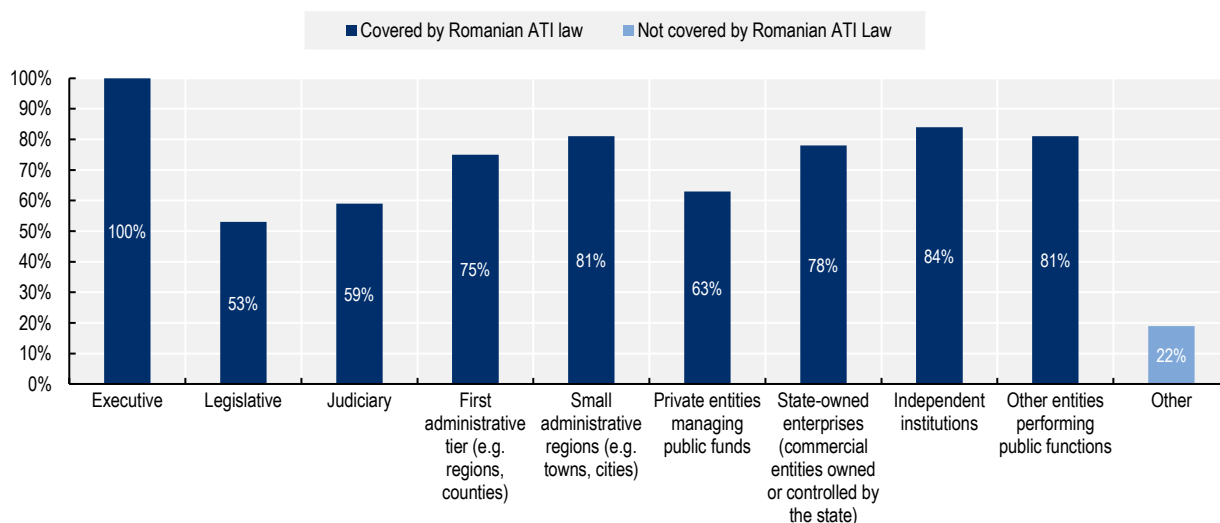
Source: Author's own elaboration, based on Government of Romania (2022<sup>[9]</sup>), Background Report prepared for the OECD Open Government Review of Romania.

### **Romania's access to information framework is encompassing**

In Romania, Law no. 544/2001 defines public information as "any information related to or resulting from the activities of a public authority or organisation, regardless of the medium, material form, or manner in which the information is conveyed". According to Article 19, information is defined as "all records held by a public body, regardless of the form in which the information is stored (document, tape, electronic recording and so on), its source (whether it was produced by the public body or some other body) and the date of production" (Article 19, 2016<sup>[10]</sup>). In their answers to the 2020 OECD Survey on Open Government, 76% of responding OECD countries also indicate that their ATI law applies to any material held by public authorities in any format (OECD, 2021<sup>[11]</sup>).

The scope of application of ATI laws indicates to which public institutions the law's provisions apply. The scope of Romania's ATI law is broad and in congruence with most OECD countries, since it applies to both regional (75% of OECD countries) and local levels of government (81% of OECD countries) (OECD, 2021<sup>[11]</sup>). Further, in line with most ATI laws across the OECD, the Romanian legislative framework covers public utilities operators, public enterprises, as well as political parties. Going beyond most legislative frameworks in OECD countries, the Romanian ATI legislation concerns also sports federations and non-governmental organisations that receive public funding (Art. 2, Law no. 544/2001) (Figure 4.1).

**Figure 4.1. Scope of application of ATI laws, 2020**



Note: N=32. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government.

At the time of writing, Costa Rica did not have an ATI law but an Executive Decree applying to the Executive branch, therefore the country was not included in this question.

Source: 2020 OECD Survey on Open Government.

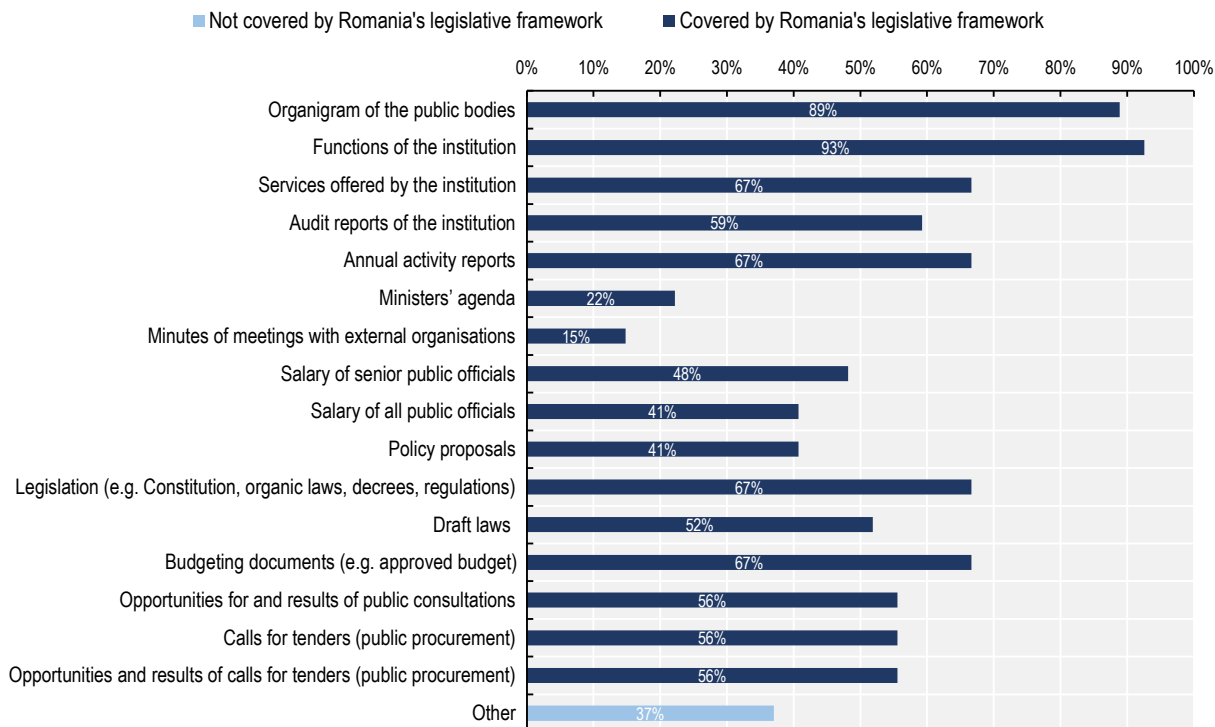
### ***Fostering the proactive disclosure of information***

Proactive disclosure refers to the act of regularly releasing information without the need for a request by citizens or stakeholders. It reduces the administrative burden for public officials handling and answering individual ATI requests, which can often be lengthy and costly (OECD, 2022<sup>[7]</sup>). Favouring proactive disclosure “encourages better information management, improves a public authority’s internal information flows, and thereby contributes to increased efficiency” (Darbishire, 2010<sup>[12]</sup>). Finally, it ensures timely access to public information for citizens as information is published as it becomes available and not upon request (OECD, 2016<sup>[13]</sup>).

Most ATI laws require the proactive disclosure of a minimum set of public information by each institution subject to the law (OECD, 2021<sup>[11]</sup>). The most commonly disclosed items stated in the law or other legal framework are those related to the institution itself: its functions (93% of responding OECD countries), the organigram (89% of responding OECD countries) and the services offered (67% of responding OECD countries). Other relevant documents required to be published regularly include legislations, budgeting documents, annual activity reports and audit reports. A smaller number of countries demand the proactive publication of the minutes of meetings with external organisations (15% of responding OECD countries) or the ministers’ agendas (22% of responding OECD countries).

Provisions in Romania’s ATI Law on proactive disclosure have evolved substantially over the years, most recently with the adoption of Government Decision 830/2022 (see Box 4.2). Proactive disclosure is mandatory for all public institutions at both the national and subnational level in Romania that fall under Law no. 544/2001 on Access to Information of Public Interest. The information that needs to be proactively disclosed is in line with most OECD countries. It covers 16 out of 17 categories surveyed by the OECD, including information regarding the institution itself, as well as information on procurement, budgeting and participation (Figure 4.2).<sup>1</sup>

**Figure 4.2. Information proactively disclosed by central/federal governments as stated in the law or any other legal framework, 2020**



Note: N=27. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government. Multiple selections possible. For Costa Rica, the information relates to the Executive Decree applying to the Executive branch. Information from Denmark, Greece, Japan, Korea, Latvia and Sweden is missing.

Source: 2020 OECD Survey on Open Government.

#### Box 4.2. The development of legal provisions for proactive disclosure of information in Romania

In Romania, proactive disclosure of information was first established by Law no. 544/2001 and was expanded through the Memorandum on Increasing Transparency and Standardizing the Display of Information of Public Interest (Government of Romania, 2016<sub>[14]</sub>). It was further institutionalised and standardised by Annex 4 of the National Anti-Corruption Strategy (Decision no. 1 269/2021) and Government Decision no. 830/2022, modifying the methodological norms for the application of Law no. 544/2001. The progressive consolidation of the legal framework for proactive disclosure of information has contributed to an increasing amount of information being proactively disclosed in recent years. For example, the Memorandum of the Government on increasing transparency and standardising the publishing of information of public interest (Government of Romania, 2016<sub>[14]</sub>) helped to increase compliance rates of line ministries substantially (OECD, 2016<sub>[15]</sub>).

Through the adoption of Government Decision (GD) no. 830/2022, substantial progress has been made regarding unification of the previously scattered legal framework on proactive disclosure of information, including by clarifying legal provisions for responsible public officials. Most importantly, GD no. 830/2022 mandates the up-to-date and exact content of proactively disclosed information, including specifications on the website structure and recommendations on their format. Moreover, the mandatory publication of institutional performance information, budget and procurement information is particularly

noteworthy given their relevance for the public interest as indicated by frequent requests on these topics (General Secretariat of the Government, 2021<sup>[16]</sup>).

Given that the adoption of GD 830/2022 is relatively recent, it is too early to assess its impact. However, over time it can contribute to fostering the *de facto* availability of relevant information and facilitate citizens' navigation when searching for it. Combined with the provisions on machine-readable formats, GD 830 has the potential to increase the relevance and uptake of proactively published data.

Source: Author's own elaboration.

### *Proactive disclosure has contributed to increasing transparency*

According to the monitoring reports by the General Secretariat of the Government, there is a positive development regarding the ex officio display of information by Romanian public institutions as an increasing amount of information is disclosed both at the central and local level (General Secretariat of the Government, 2021<sup>[16]</sup>; General Secretariat of the Government, 2021<sup>[17]</sup>).<sup>2</sup> A positive trend is also noticeable in key areas of transparency. At the time of writing, Romania's open data portal already hosted more than 3 000 datasets from 118 different agencies, and use by citizens was reportedly growing (<https://data.gov.ro/>).

Budget transparency has also seen improvements over time with Romania now ranking 29<sup>th</sup> (out of 117 ranked countries) in the Open Budget Index prepared by the International Budget Partnership (n.d.<sup>[18]</sup>), although scores have declined from a high point in 2017. Finally, according to the OECD (2022<sup>[19]</sup>), some progress has also been made in bringing Romania's Electronic System of Public Procurement (SEAP / SICAP) into line with the Open Contracting Data Standard and the creation of the Unique Register of Transparency of Interest (RUTI) has contributed to facilitate access to information on legal persons who interact with the authorities and institutions of the central public administration.

With the adoption of GD 830/2022, the proactive disclosure on institutional websites has been substantially standardised. Central and local public institutions falling under Law no. 544/2001 in Romania are now obliged to publish and keep updated<sup>3</sup> on the institutional website the information that was originally contained in multiple legislative acts<sup>4</sup> and covers five broad categories. Besides information about the institution, such as its organisation and function, and contact details, three categories relate to essential areas of open government: Information of public interest, decisional transparency (i.e. participation), and integrity (Table 4.3).

**Table 4.3. Information required to be disclosed proactively by Romanian public institutions**

Section	Information
<b>1</b>	<b>Section "About the institution"/"About us"/"Minister"/ "Presentation"</b>
	Legislation regarding the organisation and functioning of the public authority/institution, with a link to each normative act (available in electronic format) in the portal .just.ro.
	Lead (Information regarding persons with management positions, Management agenda)
	Organisation (Regulation of organisation and functioning, organisational chart, list of the institutions operating under the co-ordination or under the authority of the public entity, Corporate governance of public enterprises, Career information)
	Programmes and strategies
	Reports and studies (Annual activity report, Annual audit report, Progress report on national strategies, Ethic's advisor's report, etc.)
<b>2</b>	<b>Information of public interest section</b>
	Requesting information of public interest (References to relevant acts, Contact of responsible person, Request form, Method of contesting decision, List of documents of public interest produced, Annual reports on implementation of Law no. 544/2001)
	The information bulletin of information of public interest
	Budget (Budget from all funding sources and the budget of the structures under the authority, Budget execution, Salary and other compensations, Annual situation of non-reimbursable financing granted to non-profit natural or legal persons)

Section	Information
	Accounting balance sheets
	Public procurement (Annual programme of public procurement, Quarterly update accordingly regarding public procurement contracts and their execution with a value of more than EUR 5 000, Public procurement contracts with a value of over EUR 5 000, Documents regarding the execution of contracts)
	Standard forms
	Declarations of wealth and interests of the staff of the public authority/institution
	The joint commission
	Protection of personal data
<b>3</b>	<b>Decisional transparency</b>
	Draft normative acts under public consultation
	Form for the collection of proposals/opinions/recommendations
	Register for recording and analysing proposals, opinions or recommendations received,
	Public debates
	Interministerial consultations
	Draft normative acts for which suggestions can no longer be sent
	Draft normative acts adopted
	Public meetings/Announcements/Minutes
	The reports on the application of Law no. 52/2003
	The name and surname of the designated person responsible for the relationship with civil society and their contact details
	The register of associations, foundations and federations taken into account by the public authority/institution
<b>4</b>	<b>Contact</b>
	Contact details of the public authority/institution
	Press relations
	The operating schedule of the public authority/institution
	Schedule of hearings, specifying how to register for hearings and contact details for registration
	Petitions: email address/electronic form for electronic submission of petitions
<b>5</b>	<b>Institutional integrity</b>
	Code of ethics/deontology/conduct
	List of gifts received
	Mechanism for reporting violations of the law
	Declaration regarding the assumption of an organisational integrity agenda
	The institution's integrity plan
	A narrative report on the stage of implementation of the measures provided for both in the SNA and in the integrity plan that are the responsibility of each institution
	The situation of integrity incidents
	Relevant Studies/Research/Guidelines/Informative Materials

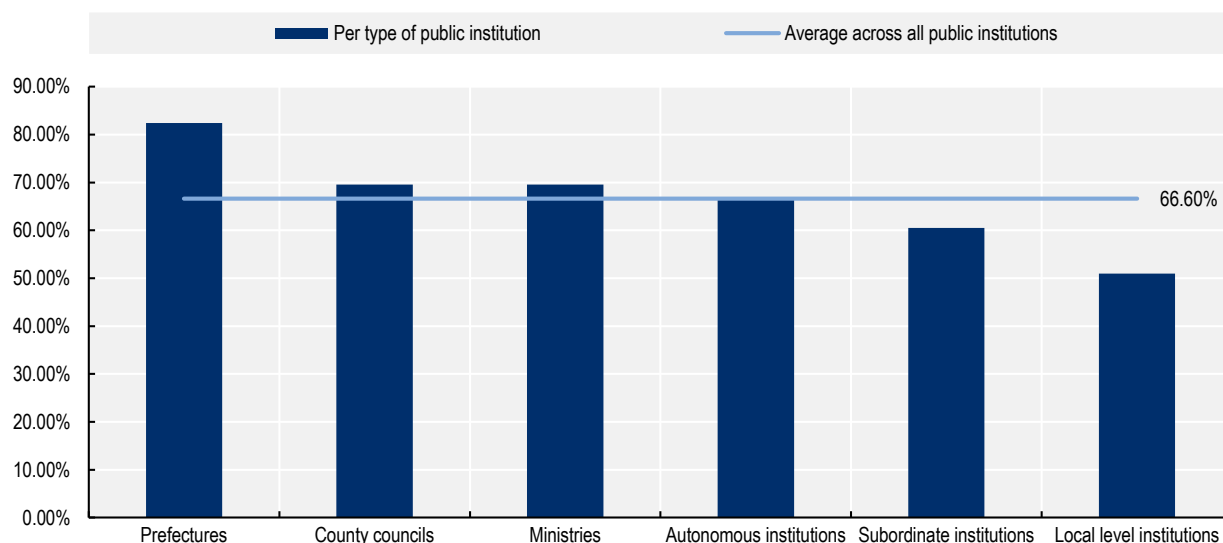
Note: Only (sub-)headlines and few elaborations for illustration are included here. For the full list, please consult the original document.

Source: Government of Romania, Appendix 1, METHODOLOGICAL RULES of 7 February 2002 of application of Law no. 544/2001 regarding free access to information of public interest, as amended, <https://legislatie.just.ro/Public/DetaliuDocumentAfis/256296#A7629270>.

As such, the legal requirements for proactive disclosure of information are encompassing. However, the existence of legislative provisions does not always lead to an improved level of transparency. As the GSG's most recent monitoring shows (General Secretariat of the Government, 2022<sup>[20]</sup>), substantial gaps in the implementation of the existing legal framework continue to exist. The average compliance rate across all public institutions is currently at 67%, meaning that two-thirds of the data that should be available is *de facto* available (General Secretariat of the Government, 2022<sup>[20]</sup>). Further, the findings indicate that there is a large variance across different types of institutions. While prefecture institutions show an overall compliance rate of more than 82%, the compliance rate for local-level institutions is only approximately 50% (Figure 4.3). Even within types of institutions, compliance rates differ. For example, Ministries display on average 70% of the information they are supposed to. However, while the Ministry of National Defence

publishes 92% of the required information proactively, the Ministry of Family, Youth and Equal Opportunities publishes only 44%.

**Figure 4.3. Compliance rate of Romanian public institutions with provisions of proactive disclosure**



Note: Displays the results of the most recent monitoring (June-July 2022) considering the legislative changes as present in the Annexes regarding the approval of the National Anti-corruption Strategy 2021-2025 and its related documents (Government of Romania, 2021<sub>[21]</sub>); and Government Decision no. 830/2022.

Source: Author's illustration based on General Secretariat of the Government (2022<sub>[20]</sub>), Transparency and participation in public administration: Centralizers related to the monitoring process regarding the degree of compliance of the central and local public administration authorities with the standards for the ex officio display of information of public interest, in the period June-July 2022, <https://sgg.gov.ro/1/transparenta-decisionala-monitorizare/>.

### *The location and format of proactive disclosure can be improved*

Where and how information is disseminated is a key component of any ATI law since it can make it easier for a variety of stakeholders to access it (OECD, 2022<sub>[7]</sub>). As OECD data shows, the majority of proactively revealed information is published on the websites of each ministry or institution, then on a central portal, or a combination of the two. Other modes of publication include official gazettes, which are typically used to publish information on budgeting or legislation (such as the constitution, organic laws, decrees, and regulations) (OECD, 2021<sub>[11]</sub>). To ensure that stakeholders with limited information and communication technology (ICT) skills or Internet access have the same opportunity to access and use public information, information should be disseminated through a multichannel approach (OECD, 2022<sub>[7]</sub>).

In Romania, the information contained in Table 4.3 must be published at least through three channels, including (a) the institution's website, (b) display at the headquarter of the concerned institution, or publication in the Official Gazette, or in mass media, or in own publications and (c) through consultation directly at the institution's headquarter the institution's website (Art. 11, Methodological Norms). In 2020, 95% of public institutions used at least two of these channels to proactively publish information (General Secretariat of the Government, 2021<sub>[17]</sub>), the most used channel being the display at the institution's premises (3 893 respondents, 40.23%) and the institution's website (3 591, 37.11%). 2 458 public entities from central and local level also have a virtual library/information point (58.57%) while 1 739 do not (41.43%) (General Secretariat of the Government, 2021<sub>[17]</sub>), indicating an overall positive trend towards easier access to information through integrated digital access points.

Further, there is a general provision that the information should be presented in an “accessible, standardised and concise form” as well as “usually [...] in an editable format (Art. 10, Methodological Norms). This is further specified in the information published on the institutional website (Annex 1 of Government Decision 830/2022):

- Legislation must be published with links to the Legislative Portal (<http://legislatie.just.ro>)
- Primarily text-based information needs to be in (editable) PDF, doc, .docx, .odt and other text formats. This includes programmes and strategies, reports and studies, draft normative acts as well as the ATI request form and other standard forms used by the institution in relationship with citizens (the forms can also be available in an online version);
- Primarily number-based information needs to be in .ods, .xml, .xls or .xlsx format. This includes information on the budget, the payment statement, the salary rights statement, the procurement plan, the investment plan, the centralizer of procurement contracts, and the annual statement of non-reimbursable financing granted to individuals or non-profit legal entities.

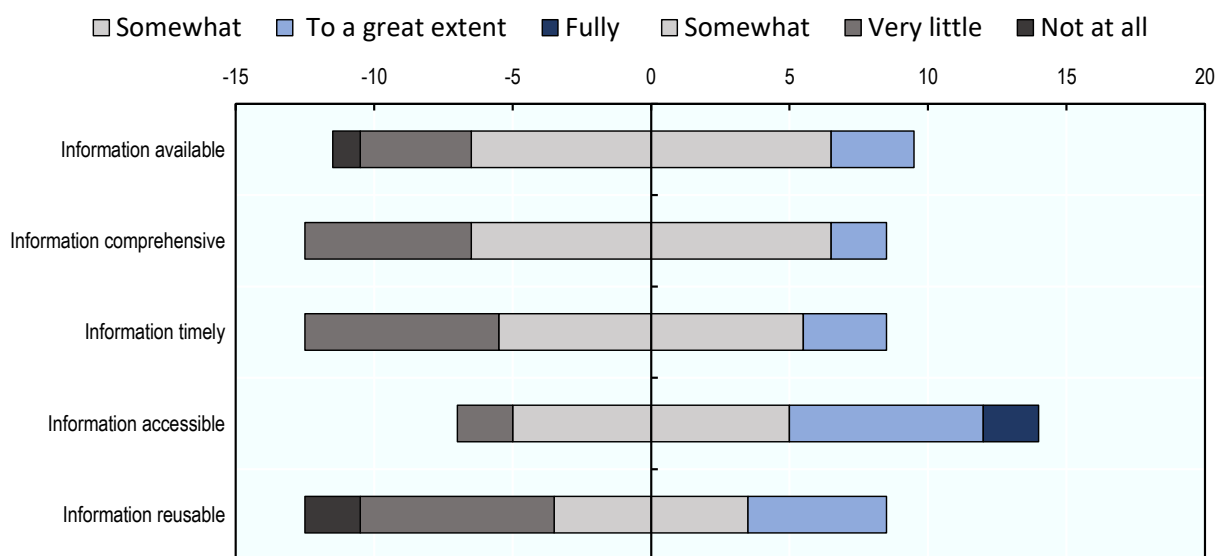
According to a GSG survey, the visibility of information on the institution’s website and the architecture of the website (both 37% of respondents) have been the main obstacles for users to locating information (General Secretariat of the Government, 2021<sub>[16]</sub>). Further, 80% of the information required to be proactively published in 2021 was available on public institution’s website in a non-editable format. Accordingly, the government’s own evaluation finds that the display of information is often conducted in a “dysfunctional and unsystematised” way, thereby “creating the impression, where the data existed, that it was not published or that it was intentionally withheld away from the public eye” (General Secretariat of the Government, 2021<sub>[16]</sub>)<sup>5</sup>.

Implementation challenges particularly at the local level were also pointed out by non-public stakeholders. For example, a report drafted by a non-governmental institution noted persistent challenges in relation to the proactive disclosure of budget information at the subnational level (Funky citizens, 2022<sub>[22]</sub>). Out of 109 municipalities, less than half (48) published their draft local budgets by the legal deadline in 2022. Also, the reusability of this type of information has been impacted by the format of publication: Almost 60% of draft budgets were published in a scanned PDF format, according to the same study, therefore making the processing of this information very resource intensive.

While these findings concern a period before the most recent legislative modification, evidence collected through the OECD Surveys and during the OECD fact-finding missions indicates that they seem to persist. Non-public stakeholders surveyed for this Review indicate that proactively disclosed information has deficits regarding all evaluated criteria of availability, comprehensiveness, timeliness, accessibility and reusability. With accessibility being the only criterion being rated as fully fulfilled by some respondents, 57 to 87% of respondents state that the other criteria are only somewhat, very little, or not at all fulfilled. In particular, reusability of proactively disclosed information seems to be of concern for the majority of respondents (Figure 4.4). Participants of interviews conducted for this Review highlighted that this is particularly the case for sensitive types of information, such as budgeting and procurement data.



**Figure 4.4. Non-public stakeholders' evaluation of proactive disclosure of information**



Note: N=21.

Source: OECD (2022), Survey among Romanian non-public stakeholders.

Holding regular meetings to discuss updates on proactive disclosure and carrying out frequent revisions of what must be published can avoid the risk of a 'tick-the-box' exercise of proactively disclosing information (OECD, 2022<sup>[7]</sup>). If the information made available is not in line with the minimum standards or if there are vast amounts disclosed in a format that is not comprehensible or usable by most stakeholders, then its availability may not have any effect. For the moment, few OECD countries have such measures in place: 12% hold regular meetings with citizens and stakeholders to gather their feedback and 38% carry out regular revisions (OECD, 2021<sup>[11]</sup>). Moving forward, Romania could consider consulting regularly with the users of proactively disclosed information to gather their feedback and improve disclosure.

Legal provisions on proactive disclosure of information in Romania are congruent with many OECD countries in terms of what information needs to be published, through which channels it should take place and in which formats. The monitoring efforts by the GSG provide valuable insights regarding the de facto proactive disclosure of information by Romanian public institutions. They show that, while proactive disclosure has improved over the years, notable gaps continue to exist between the legal requirements and the practice. This hinders proactive disclosure from developing its full potential. Since they concern also reactive disclosure of information, recommendations on ways in which Romania may be able to close these gaps are provided below under *Towards effective implementation of Romania's access to information framework*.

### ***Fostering the reactive disclosure of information in Romania***

Reactive disclosure of information refers to the right of citizens to request information that is not made publicly available (OECD, 2022<sup>[7]</sup>). Reactive disclosure has been an integral part of Romania's agenda to improve transparency since the adoption of Law no. 544/2001 and the corresponding Methodological Rules. As the below analysis shows, the legal framework for reactive disclosure in Romania is overall well developed. Further, according to the latest available numbers (2017 – 2020), reactive disclosure has seen an overall positive development, at least in some regard. For example, in 2020, 99.5% of requests were granted and 87% within the time limit of 10 days according to self-reporting of public institutions (General Secretariat of the Government, 2021<sup>[17]</sup>). While this does not allow for conclusions about the quality of the

information, it indicates an overall high level of responsiveness. Nonetheless, challenges persist, notably concerning the efficiency and effectiveness of the process, the appropriate use of legal deadlines including their extensions as well as of exemptions.

### *Public information can be requested by any person in Romania*

Ensuring inclusive and equitable access to information for all citizens and stakeholders is key for the exercise of the right to access information. In principle, any person regardless of age, gender, sexual orientation, religious belief, legal status and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector, should be able to make a request for information (OECD, 2017<sup>[3]</sup>).

Accordingly, 82% of responding OECD countries have ATI laws that stipulate that anyone can file a request for information. This is also the case for Romania where, “any person has the right to request and obtain from public authorities and institutions information of public interest” (Art. 6, Law no. 544/2001).

Citizens have different reasons to contact a public authority and an access to information request may not always be appropriate, for example, if a citizen would like to provide feedback on a public service. In the past, messages addressed to public institutions that did not fall into the ATI framework were not processed except for a response that the matter is not in the scope of the law. Simplifying this requirement, GD no. 830/2022 introduced that all those requests that do not fall under Law no. 544/2001 are being treated as petitions. This is a promising legal modification as it can ensure increased responsiveness by public institutions.

### *Ensuring the anonymity of requesters*

Protecting the identity of those filing an access to information request is important to avoid the risk of profiling citizens or stakeholders and governments acting on biases when responding to them, especially in countries where stakeholders and citizens are not protected from or are afraid of reprisals (OECD, 2022<sup>[7]</sup>). While 75% of OECD respondents to the 2020 OECD Survey on Open Government did not allow for anonymous requests, in 25% of respondents, the legislative framework explicitly protects the integrity and privacy of individuals and parties that file a request for information (OECD, 2021<sup>[11]</sup>).

Romania’s ATI framework currently requires the information request to include name, surname and signature of the applicant, as well as the address to which the response is requested. Interviews with public officials indicate that, in practice, the requester’s information is often not subject to verification and therefore even fake identification normally does not prevent the authority from answering an ATI request. Aligning the legal framework to the practice would reduce legal uncertainty. Further, anonymity would be crucial against the background of Strategic Lawsuits Against Public Participation (SLAPPs) against journalists that have been occurring in recent years, as identified by the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>). Romania could, hence, consider legally mandating only requesting the minimum amount of information needed for the public official handling the request to be able to find the information and share it with the requester, as done by countries such as Australia, Brazil, Finland, Ireland, Mexico and Sweden (OECD, 2022<sup>[7]</sup>).

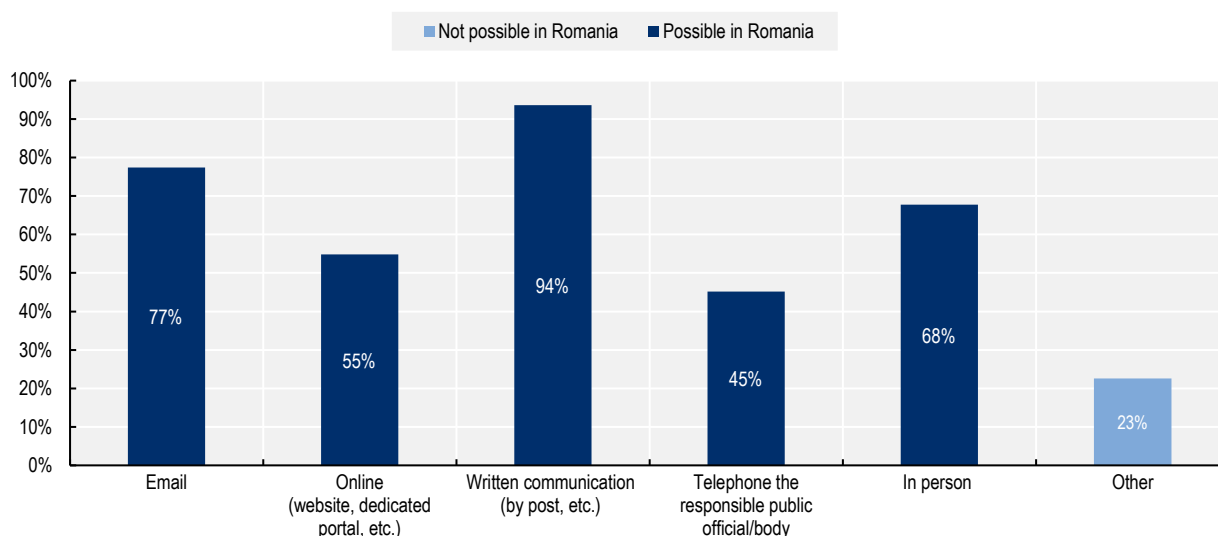
### *Increasing the efficiency and effectiveness of the ATI request process*

The interaction between the public institution and the information requester throughout the access to information process should be as simple as possible. One option is to provide citizens with multiple channels for requesting information. In most countries, requests can be made by post (94% of responding OECD countries) and in person (68% of responding OECD countries). Most countries also allow requests by email (77% of responding OECD countries) or online (on each ministry’s website or a dedicated portal) (55% of responding OECD countries).

In Romania, the request can be made verbally, which includes in-person, or in written form, either electronically or on paper (Art. 6 and Art. 7(3), Law no. 544/2001) (Figure 4.5). In 2020, the preferred way of making requests for information of public interest was verbally (725 537 requests, 65.27%), followed by electronic (336 418, 30.26%) and paper (49 637, 4.47%) (General Secretariat of the Government, 2021<sup>[17]</sup>).

In addition, offering standardised forms can facilitate communication throughout the ATI process. In Romania, public institutions are obliged to publish an electronic version of the standardised request form on their website (GD 830) which citizens can use to request information via email (Art. 15, methodological norms 2002). A corresponding form must also be provided to citizens if they wish to appeal an authority's decision to deny access (Annexes 5 and 6, Methodological Norms). Public institutions may also offer interactive online forms, but an OECD review of Ministry's websites shows that at least at a central level most of them seem to rely on email exchanges with attachments. Further, there are two standardised response forms available to public institutions that need to be used for responding either to a request or to a complaint (Annex 7 and 8, Methodological Norms). These forms are templates with a body of text where only specific information needs to be inserted, depending on the case. In a first step to facilitate communication for both public institutions and citizens, Romania could consider using online contact forms more widely, mainstreaming the use of the forms that are already present on the websites of the Ministry of Justice (Ministry of Justice, n.d.<sup>[23]</sup>) or the GSG (General Secretariat of the Government, n.d.<sup>[24]</sup>).

**Figure 4.5. Means to make a request for information by law, 2020**



Note: N=31. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government. Denmark and the United States did not respond to this question.

Source: 2020 OECD Survey on Open Government.

The ability to inquire about the status of a request is also key to allowing citizens and civil society actors to monitor its progress. It makes it easier for requesters to detect unjustified delays and unjustified information denials. While nearly half of OECD countries (41%) allow requests to be consulted throughout the process in practice, this is currently not the case in Romania. An exception is the Ministry of Development, Public Works and Administration's electronic register that allows tracking the status of both petitions and requests (MDLPA, n.d.<sup>[25]</sup>). In interviews conducted for this Review, both public institutions and civil society expressed the expectation that such a practice, including a corresponding tool, would considerably improve the process. Romania may wish to establish a central platform that allows citizens to take each step of the process and monitor its progress (e.g. as part of the recommended Open Government Portal or as part of the existing National Electronic System (SEN), [www.e-guvernare.ro/en](http://www.e-guvernare.ro/en) which is managed by the Authority

for the Digitalization). This portal should exploit synergies with existing portals in the area of transparency and open government, such as the open data portal. Such a platform could serve not only for submitting the request, but also for receiving a note confirming that the public institutions have received the request, as it is legally mandated in Romania (Art. 20, GD 123 on Methodological Norms 2002) and 39% of OECD countries (OECD, 2021<sup>[11]</sup>). This platform could also provide the requester with updates and decisions on the request, as well as the information itself.

Lastly, if the information that was requested is provided, it should be as useful as possible for the requester. In Romania, public institutions have to provide the information in an editable format, if it is available in such format and requested by the applicant (Art. 15(4), Methodological Norms). In practice, interviewees noted that the information is often provided in the form of scanned PDF files which can make further processing cumbersome.

### Box 4.3. The Fala.br platform in Brazil

To ease the process of requesting information, Brazil created Fala.br, an innovative platform that combines the federal *ouvidorias* and the Citizen Information Service obligations. It allows citizens to request information and make complaints or claims against any federal body, express satisfaction or dissatisfaction with a service or programme, and provide suggestions for improving or simplifying public services. Importantly, users can also follow the progress of their request and file an internal appeal in case of non-conformity with the response. In addition, Fala allows the government to provide up-to-date statistics on requests. Overall, by centralising ATI requests into a single system, the Fala platform has significantly simplified the process for citizens, stakeholders and federal government institutions when making or processing an ATI request.

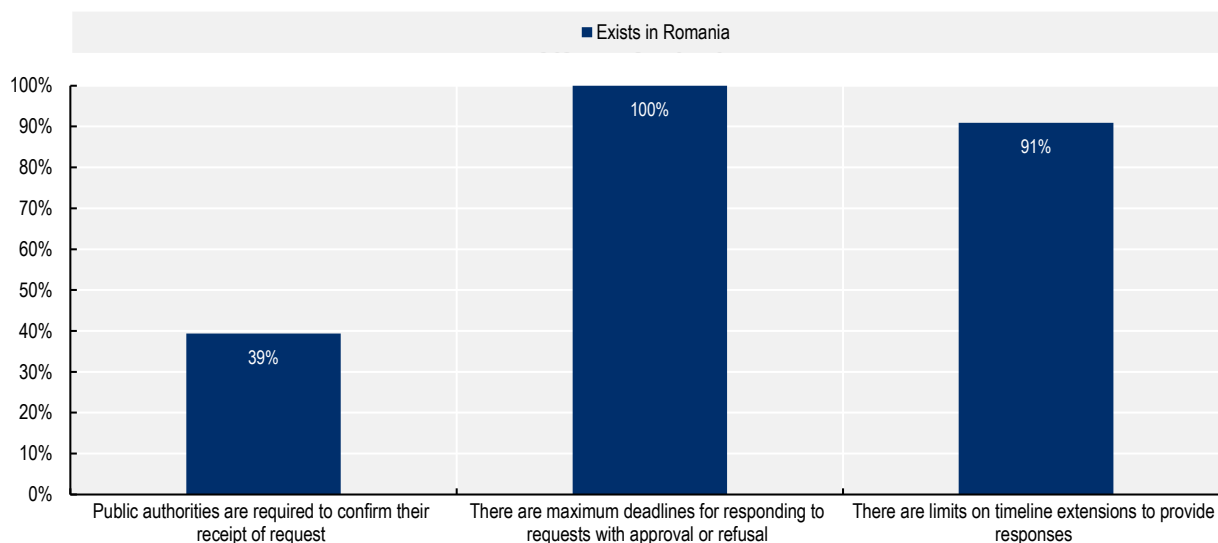
Source: From OECD (2022<sup>[7]</sup>), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, based on Government of Brazil (n.d.<sup>[26]</sup>), *Fala.BR – Plataforma Integrada de Ouvidoria e Acesso à Informação*, <https://falabr.cgu.gov.br/publico/Manifestacao/SelecionarTipoManifestacao.aspx?ReturnUrl=%2f>.

### *Responding timely to access to information requests*

Having clear timeliness standards that are respected is crucial as it provides certainty and transparency to requesters on how and for how long the process for their request will last. Long time limits for the provision of information can deprive the requester of their interest, for example, if the information is urgently needed. There are maximum deadlines for responding to requests with approval or refusal, with an average of 21 working days in OECD countries. Most countries (91% of responding OECD countries) have also established limits on timeline extensions on responses, with an average of 19 days (OECD, 2022<sup>[7]</sup>).

Overall, Romania's legal framework concerning timeliness of access to information is broadly in line with OECD practice (Figure 4.6). It requires public authorities and institutions to respond in writing to a request for information of public interest within 10 days. This can be extended to 30 days, depending on the difficulty, complexity, volume of documentary work and urgency of the request. Verbal requests for information by journalists need to be communicated within 24 hours (Art. 8 (5), Law no. 544/2001). Like in 39% of OECD countries (OECD, 2021<sup>[11]</sup>), the public institution is legally required to confirm the receipt of the request (Art. 20, GD no. 123/2002). A refusal needs to be communicated within 5 days (Art. 7, Law no. 544/2001).

**Figure 4.6. Existence of a specific number of days to respond to a request at different stages of the information request process, 2020**



Note: N=33. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government.

Source: 2020 OECD Survey on Open Government.

However, insufficient adherence to the legally stipulated deadlines appears to be an issue in practice. This is despite self-reporting of public institutions stating that 87% of requests are handled within ten days in 2020 (General Secretariat of the Government, 2021<sup>[17]</sup>). Parts of the challenges relate to the COVID-19 crisis that led to the introduction of emergency measures affecting access to information. As was the case for many countries, the *Romanian Decree regarding the establishment of the state of emergency* in 2020 doubled the legal deadlines for resolving access to information requests (Official Gazette of Romania, 2020<sup>[27]</sup>). Despite the emergency decree no longer being in place, delays in responding to ATI requests persist, according to interviewees. As it is pointed out by the European Union Commission's Rule of Law Report, "insufficient and inconsistent responsiveness of authorities to freedom of information requests represent an ongoing problem, including on urgent decisions taken on e.g. the COVID-19 pandemic or the Ukrainian refugees crisis" (European Commission, 2022<sup>[28]</sup>). As the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>) notes, public institutions tend to apply the upper limit of 30 days response deadline independent of the complexity, volume etc. of the request.

Romania should further ensure that all public institutions respect the deadlines for responding to requests that are set by law. In a first step, Romania could consider specifying more concretely and/or more narrowly the conditions for applying the extended response deadline. Digital tools can play an important role to improve implementation, for example by generalising online tracking systems for requests. In this regard, a register of documents such as the European Commission's Register of Commission Documents (europa.eu), supported by a document management system is essential for complying with deadlines of ATI requests. Moreover, the consistent application of appropriate deadlines could be improved through better institutional oversight and enforcement as discussed below.

While times of crisis require setting priorities for available resources, the impression of arbitrary decision-making should be avoided to not risk eroding public trust in government. In this regard, Romania may want to consider establishing a protocol for access to information in times of crisis, as done for example by Mexico City in Mexico (Box 4.4).

#### Box 4.4. The Mexico City Protocol to Access Information in Times of Crisis

Following an earthquake in 2019 and the COVID-19 pandemic in 2020, the government of Mexico City decided to create a protocol to access information and transparency in times of crisis. In sum, it outlines the minimum actions for transparency in emergency situations, by bodies subject to the ATI law, by oversight bodies, and by people and communities in each of the stages of a risk situation: prevention, reaction and recovery. These actions can include digitising documents, identifying which information should be published and disseminated during the emergency situation and how to monitor and evaluate emergency ATI actions.

To create the Protocol, the government conducted an open and participative process.

- First, it carried out six co-creation tables with multiple stakeholders to co-design a preliminary draft of ideas, proposals and definitions to be included in the protocol.
- Second, in collaboration with the National Centre of Disaster Prevention and external specialists on risk management, the content for the Protocol was elaborated. For this stage, three co-creation tables with multiple stakeholders were encouraged to revise the content in a collaborative way and agree on a final document.
- Third, once the Protocol was launched, a toolkit was co-elaborated with stakeholders to help different actors implement the Protocol.

It is written in plain language and reflects the different needs of all sectors of society. It is also adaptable to any crisis context and provides recommendations to avoid the circulation of fake news during a crisis.

Source: From OECD (2022<sup>[7]</sup>), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, based on INAI (2020<sup>[29]</sup>), *Información de Iberoamérica para hacer frente a los desafíos derivados por la emergencia sanitaria provocada por el Covid-19* [Information from Ibero-America to face the challenges derived from the health emergency caused by Covid-19]; INFOCDMX (2021<sup>[30]</sup>), *Protocolo de Apertura y Transparencia ante el Reiso: Prevención, Reacción y Recuperación* [Opening Protocol and Transparency Before Risk: Prevention, Reaction and Recovery].

#### *Making appropriate use of exemptions to disclosing government information*

Countries can have legitimate reasons to exempt some information from being disclosed. For example, the information in question could pose a threat to national security or international relations, or could expose the personal data of an individual or violate their privacy. That said, exceptions must be well-defined and concrete to prevent an excess of discretion for each public official in ways that could limit public access to information (OECD, 2022<sup>[7]</sup>).

In Romania, exceptions from public information concern the following types of information (Art 12., Law no. 544):

- classified information regarding defence, safety and public order
- classified information regarding deliberations of authorities and concerning economic and political interests
- information affecting intellectual or property rights or fair market competition
- personal data, unless it affects the ability to exercise public functions (Art. 14(1))
- information affecting the success of investigations or risking harm to sources
- information affecting a fair trial.

However, information that favours or hides the violation of the law by a public authority or institution is always of public interest (Art. 13).

The abovementioned exceptions to access to information in Romania are broadly in line with practice in OECD countries (OECD, 2022<sup>[7]</sup>). In Romania, 35% of denied requests were rejected because they concerned information exempted by law in 2020<sup>6</sup> (General Secretariat of the Government, 2021<sup>[17]</sup>). Challenges arise from the fact that the Romanian law is not concrete enough and therefore can lead to diverging interpretations by central authorities and even courts. Specifically, civil society highlighted that personal data protection is being used as a fig leaf to not publish information of public interest (Interviews, (European Commission, 2021<sup>[31]</sup>; European Commission, 2022<sup>[28]</sup>). These observations appear to persist despite a provision that was introduced by Government Decision no. 478/2016 amending the Methodological Norms for the application of Law no. 544/2001 stating that: “In the situation where the requested public information is on a document that contains both information to which access is free and information exempted from free access, the requested public information will be communicated, after the anonymisation of the exempted information” (GD no. 123/2002 para (2<sup>^</sup>1) of art. 22).

While the legislative framework tries to take account of potential challenges arising from conflicts between access to information and personal data protection through the abovementioned provision, challenges persist in practice. The law only states that the concerned public institution needs to evaluate these circumstances, without referring to applicable standards (Art. 21 and 22).

Public interest tests and harm tests present two common ways to exempt information while ensuring that any exceptions employed are proportionate and necessary (OECD, 2022<sup>[7]</sup>). According to the harm test, the publication is only withheld when there is a real risk of harm to a protected interest, whether it be for an individual, the national defence, commercial interests, or others. The public interest test requires public officials to determine whether withholding information that could assist the public interest is justified compared to the harm that disclosure would cause to the protected interest or individual. (Open Society Justice Initiative, n.d.<sup>[32]</sup>). A mandatory public interest override, which can force disclosure of information that is in the public interest, such as information on human rights abuses, corruption or crimes against humanity, is also an important standard in ATI laws.

As it is the case in 97% of OECD countries (OECD, 2021<sup>[11]</sup>), in Romania, public officials need to provide a justification for denying access to information (Art. 7, Law no. 544/2001). Having such a requirement in place is valuable as it can deter public officials from refusing a request easily and encourages them instead to verify that the exception is legitimate or seek advice from an oversight body on whether the exception is plausible. However, in the case of Romania, the exact exemption that is applied to deny access to information is not part of the standardised response form, therefore keeping the reasoning for the public institution’s decision vague. Half of the non-public stakeholders surveyed (50%) indicate that they found the justification provided in case of denial to be very little or not at all based on valid reasons (OECD Survey among non-public stakeholders). Hence, Romania could make the justifications for denying access to information more concrete by revising the standard response form for an access to information request provided in Annex 7 of the Methodological Norms (Law no. 544/2001). Furthermore, the effect of a justification requirement is substantially weakened in the absence of an external oversight body, as it is the case in Romania.

### *Establishing a more solid appeals process*

In the event of access to information being limited by a public body, effective appeals processes are necessary to resolve conflicts. In Romania, there are two appeal processes available. Firstly, if a request for information is denied, the requester can communicate a grievance to the same body to which they originally made the request (Art. 21, Law no. 544). According to 2020 data from public institutions’ self-reporting, 768 administrative complaints were received in 2020 under Law no. 544/2001, out of which 406 were resolved favourably (52.86%) and 328 rejected (42.71%) (General Secretariat of the Government, 2021<sup>[17]</sup>). If rejected, the person can file a complaint with the administrative litigation section of a responsible court (Art. 22, Law no. 544). A total of 726 appeals in court were registered with 22% (160



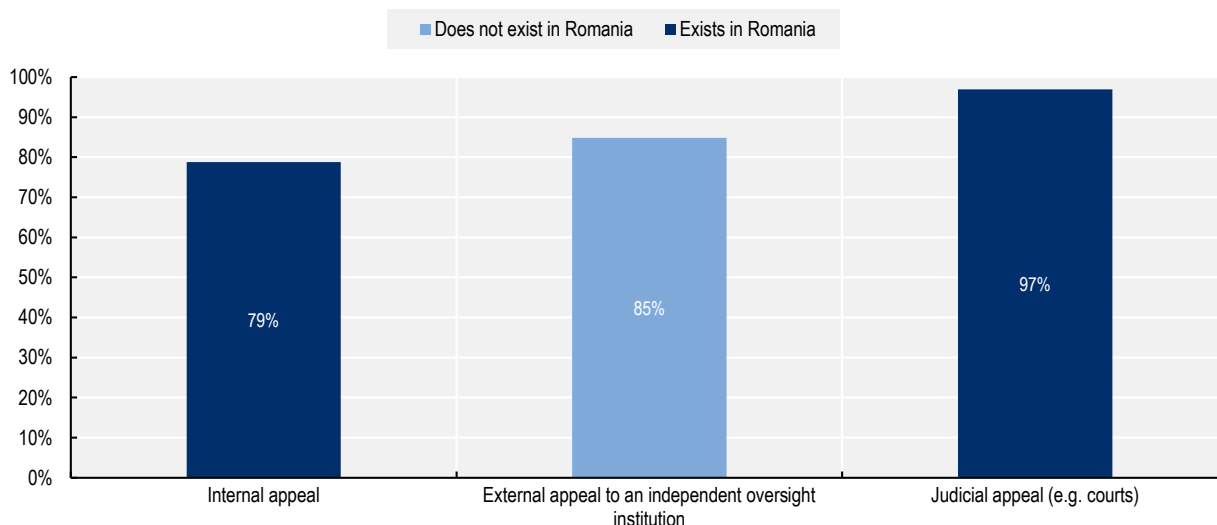
decisions) resolved favourably and 20.1% (146) rejected. Most cases (57.85%) were still pending in court (General Secretariat of the Government, 2021<sup>[16]</sup>).

Challenging the rejection of access to information in court requires considerable resources. Especially, private citizens that do not have the institutional support of a civil society organisation may be deterred to insist on a judicial review. Representatives of civil society organisations that were interviewed for this Review further emphasised that even if they successfully challenged in court, the information is usually outdated and therefore useless at the end of the process. These statements appear plausible against the state of overall efficiency for administrative cases in Romania. As the 2022 EU Rule of Law Report mentions, the overall efficiency decreased considerably for administrative cases in 2020 with the disposition time in the first instance having increased from 138 days to 609 days and pending cases in courts having doubled (European Commission, 2022<sup>[28]</sup>). While this development needs to be understood against the background of the COVID-19 pandemic, it shows that Romanian courts are not always able to provide timely clarifications regarding the implementation of access to information legislation.

In addition, while systematic assessments are difficult, there are indications that courts show diverging applications of the law when deciding on appeals to denied access to information. A 2017 report by a CSO found that “that the interpretation of the courts is non-unitary and discriminatory” (Center for Public Innovation, 2017<sup>[33]</sup>). The analysis, based on decisions by the Romanian Courts of Appeal regarding cases concerning Law no. 544/2001 spanning six years, finds inconsistencies in multiple areas. For example, annexes to building permits were considered by some Courts to be of public interest, and by others as confidential information.

In contrast to 85% of OECD countries (OECD, 2021<sup>[11]</sup>), in Romania, there is currently no external appeal process available. In an external appeal process, the requester can submit his/her appeal to an independent oversight institution (e.g. an information commission, ombudsman). Establishing an external appeal process in addition to the existing appeal processes could substantially contribute to resolving conflicts concerning withheld information. The third party that the appeal is addressed to has more independence than the public institution that withheld the information. At the same time, the process would not be as resource intensive as a judicial appeal. To make the external appeal process effective, information on the grounds for the process should be available. Further, the process should be free of charge, subject to clear timelines, and there should not be a need for legal representation (OECD, 2022<sup>[7]</sup>).

**Figure 4.7. Mechanisms in place for appeals in the event of a denied ATI request, 2020**



Note: N=33. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government.  
 Source: 2020 OECD Survey on Open Government.

#### Box 4.5. External appeal processes in Canada and the United Kingdom

**Canada** has a more substantial process than most as the Office of Principle Interest makes recommendations on which exceptions (including both exemptions and exclusions) could be applied to the records requested. These recommendations are reviewed by the Access to Information and Privacy Office within the department, and the information within the records is severed and withheld based on a final determination by the head of the institution or his/her delegate. Once the requester receives the response, the requester may submit a complaint to the Office of the Information Commissioner (OIC), who, during the investigation, may require further justification from the institution as to why the information in question was withheld. If the OIC believes the information was withheld in error or without sufficient justification, the Information Commissioner may order the institution to release the information.

The **United Kingdom** provides a good practice in terms of its appeal processes. The country has internal, external, and judicial appeals processes in place. If information is denied, the requester can first appeal to the organisation that holds the information and ask to review the initial decision. If not satisfied with the response, the requester can turn to the responsible Information Commissioner (Scotland or the rest of the United Kingdom), depending on the organisation. Thereafter, the complainant can appeal to a First Tier Tribunal (also called General Regulatory Chamber) which is a court that is responsible for handling appeals against decisions made by government regulatory bodies. All three types of appeal procedures satisfy the conditions of being accessible without legal representation, subject to clear timelines, free of charge, and information on the process and the grounds being available. The United Kingdom also has a dedicated webpage entitled “If your request is turned down” to provide specific instructions to requesters on the next steps that they can take to submit an appeal.

Source: OECD (2021), 2020 Survey on Open Government; OECD (2022<sup>[7]</sup>), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*.

#### *The deterring effect of sanctions*

Establishing sanctions for public officials who fail to meet the obligations outlined in ATI laws is essential. The lack of sanctions can create perverse incentives, resulting in breaches of an ATI law, such as overly-broad application of exemptions. It can also be the source of weak enforcement of the law (OECD, 2022<sup>[7]</sup>).

Romania’s legal framework for ATI mentions that disciplinary sanctions can be taken against a public official who fails to comply with his/her obligations (Art. 21, Law no. 544/2001; Art. 35, Methodological Norms 2002). As for all disciplinary offences, these sanctions can include (Art. 492 (3), GEO no. 57/2019 regarding the Administrative Code):

- written reprimand;
- reduction of salary rights by 5-20% for a period of up to 3 months;
- reduction of salary rights by 10-15% for a period of up to one year;
- suspension of the right to promotion for a period of one to 3 years;
- demotion to a lower-level public position, for a period of up to one year, with the corresponding decrease in salary;
- dismissal from public office.

The application of sanctions is based on the suggestions of an “analysis commission” within the concerned public authority.

## ***Towards effective implementation of Romania's access to information framework***

### *Improving the inclusiveness of access to information*

For certain under-represented demographics, such as people from low socio-economic backgrounds, youth, and people with disabilities, among others, exercising their rights to access information can be especially challenging. This concerns both reactive and proactive disclosure of information. For example, citizens need to be able to understand the information that is provided proactively on government websites, and they should also be able to request information independent of their own financial means.

Ensuring that access to information requests is free of charge is one of the most important ways to reduce related obstacles. Access to public information is generally free of cost in Romania. If the public administration in question is asked to reproduce information (Art. 9(1), Law no. 544/2001), requesters can only be subject to the cost of copying services (Art. 18, Methodological norms). This is in line with practice in 82% of OECD countries (OECD, 2021<sup>[11]</sup>). In the OECD Survey on Open Government for Non-Public Stakeholders, almost two-thirds (64%) of non-public stakeholders asserted that, based on their own experience, public institutions respect these limitations of the costs fully or to a great extent.

In addition, simple language, meaning writing that is as clear and concise as possible and is appropriate for as broad a target audience as possible, is essential in making information on ATI accessible for everyone (OECD, 2022<sup>[7]</sup>). As the OECD Civic Space Report finds (OECD, 2022<sup>[7]</sup>), some countries, including the United States, have introduced legislation on simple language in public administration, such as the Plain Writing Act (Government of the United States, 2010<sup>[34]</sup>). Others, like the Ministry of Social Development in New Zealand, have introduced checklists for public officials in plain language (Government of New Zealand, n.d.<sup>[35]</sup>). There are currently no binding or non-binding provisions on plain language in Romania<sup>7</sup>. To foster inclusiveness, Romania could consider complementing the websites of Romanian public institutions and authorities with guidance on the ATI process beyond legislation that is complex to read. Additionally, Romania could compile guidance to public officials on how to write in plain language when disclosing information and communicating with citizens.

In Romania, public institutions at the subnational level need to display proactively disclosed information also in a minority's language, if an ethnic minority represents at least 20% of the population (Art. 12, Methodological Rules). For the time being, there is no obligation in this regard for public institutions at the central level. Moving forward, the essential government information disclosed by central public institutions could be provided in the most common minority languages, such as Hungarian and Romani.

Since the adoption of Emergency Ordinance no. 112/2018, public institutions are required to take efforts towards websites that are accessible by "making them easily identifiable, functional, understandable and stable" for everyone, specifically including persons with disabilities. To help public institutions improve accessibility of government websites, the Ministry of Public Consultation and Social Dialogue developed a guide addressed to public institutions (Ministry of Public Consultation and Social Dialogue, 2017<sup>[36]</sup>). Stating that access to information is a fundamental citizens' right, this technical guide helps public officials to design their institutional websites in accordance with the Web Content Accessibility Guidelines (WCAG) 2.0 as a common standard to ensure that people with disabilities can understand, navigate and interact with these websites effectively. However, according to a survey conducted in 2021, 60% of the responding institutions do not have tools to facilitate access for persons with special needs (General Secretariat of the Government, 2021<sup>[16]</sup>). Romania should consider dedicating additional resources to support public officials in overcoming these challenges. Further, in line with almost half of OECD countries (44%) (OECD, 2021<sup>[11]</sup>), Romania could consider providing additional support for requesters with special needs.

#### Box 4.6. Accessible and inclusive public communication: Panorama of practices from OECD countries

Designed in collaboration with the French Government Information Service (SIG), this Panorama aims to provide an initial overview of the legal frameworks and guidelines, practices and tools used to increase the accessibility of public communication in OECD member countries, with a particular focus on persons with a disability. It covers trends, successes and challenges related to governance, audience insights and engagement, digital tools and processes, awareness-raising and training, as well as evaluation of accessibility and inclusion in public communication.

It finds that public officials can seize a number of opportunities to improve accessibility initiatives by:

- Setting explicit principles with flexible deployment, backed by high-level commitment.
- Engaging target audiences, and listening and adapting more systematically to their needs and behaviours.
- Ensuring the accessibility of communications by design, from the outset.
- Raising awareness and educating to enable the extension of accessible communication measures and initiatives to the whole of society, including through the collaboration of public organisations with the private sector, civil society and the media, which are key partners in promoting accessibility.
- Evaluating the accessibility of public communication beyond websites and applications.

Source: Cazenave and Bellantoni (2022<sup>[37]</sup>), “Accessible and inclusive public communication: Panorama of practices from OECD countries”, *OECD Working Papers on Public Governance*, No. 54, OECD Publishing, Paris, <https://doi.org/10.1787/222b62d9-en>.

#### *Monitoring and evaluating for more effective disclosure*

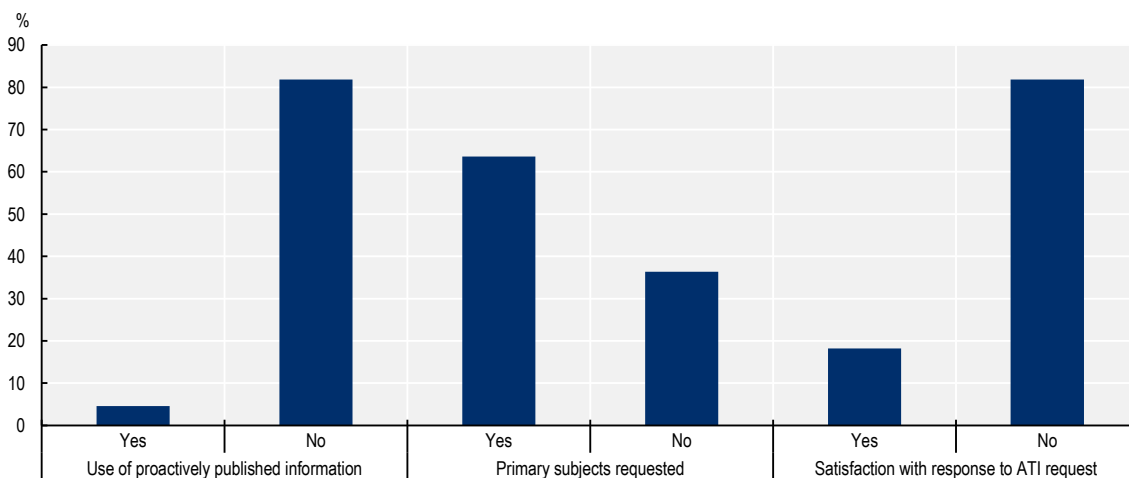
The lack of strong monitoring and evaluation mechanisms is a major challenge in implementing ATI laws (OECD, 2022<sup>[7]</sup>) (for a more extensive discussion of the way Romania monitor and evaluates ATI, see Chapter 7 on Monitoring and Evaluation). For ATI in particular, robust data on the number of requests, the topics requested, the average response time, and the reasons for denial/refusal, among others, can allow countries to identify specific needs for information and bottlenecks of implementation. Using these insights to improve processes of pro- and reactive disclosure can help ease the administrative burden of ATI requests, saving time and resources for the public administration in the future. For example, 40% of OECD countries that responded to the 2020 OECD Survey on Open Government, like Australia, Lithuania, Portugal and Tunisia, require public institutions to proactively publish information that has been repeatedly requested with a positive decision taken on its disclosure (OECD, 2022<sup>[7]</sup>).

In Romania, while almost all requests to access to information are decided favourably for the applicant (General Secretariat of the Government, 2021<sup>[17]</sup>) and requests concern similar topics (General Secretariat of the Government, 2021<sup>[16]</sup>), the processing of requests and the referral of requests to other public institutions continue to bind valuable resources in the Romanian administration. Romanian public officials recognise that the standardised proactive disclosure of frequently requested information would lead to a decrease in the number of requests (37.8% of public institutions) and would have a considerable impact on their workload (33.3% of public institutions) (General Secretariat of the Government, 2021<sup>[16]</sup>).

The most recent modification of the Methodological Norms in the form of GD 830/2022 provides an entry point for more targeted interventions as it explicitly allows public institutions to proactively release information that has been requested frequently (Art. 22(4), Methodological Norms). For the moment, however, this remains only an option, not an obligation. Furthermore, the thresholds and procedures, including alternative ways of data collection, remain unclear.

As can be seen in Figure 4.8, Romanian public institutions have taken first steps towards collecting relevant information for monitoring purposes since almost two-thirds (63.6%) of surveyed institutions collect information on which primary subjects are requested. However, for the time being, the vast majority (78%) does not collect information on the satisfaction with the response to ATI requests and almost no public institution (5%) collects data on how citizens use the information that is proactively published (OECD, 2022<sup>[38]</sup>).

**Figure 4.8. Types of user data for access to information collected by Romanian public institutions**



Note: N=22.

Source: OECD (2022), Survey on Open Government among Romanian Public Institutions.

To make disclosure of information more efficient and effective, Romania could make it mandatory to collect suitable information. Starting from the topics that are frequently requested, data collection could also cover how and where the published information is used. Data collection methods should also include qualitative approaches, such as focus groups or workshops, to allow public institutions to get a better sense of what would be needed to make proactive disclosure more meaningful for civil society in public decision-making. These efforts should be complemented by corresponding trainings on the collection and analysis of generated data.

#### Box 4.7. Australia's Statement of Principles

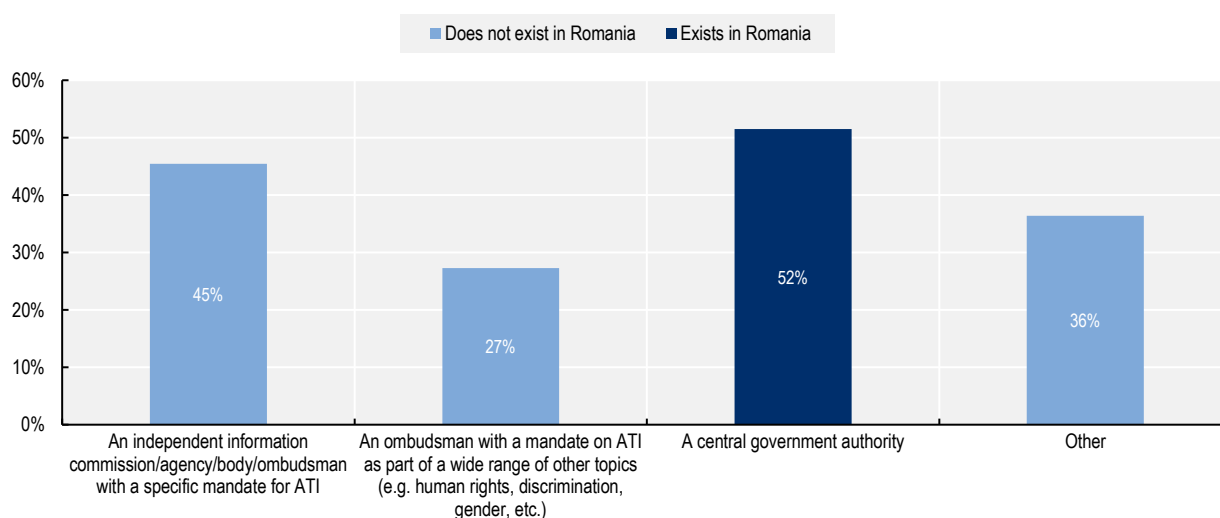
Australia's Statement of Principles to support proactive disclosure of government-held information offers an insight into the type of information that countries can proactively publish. The statement encourages all Australian governments (Commonwealth, state, territory, and local) and public institutions to commit to being Open by Design by building a culture of transparency and by prioritising, promoting and resourcing proactive disclosure. The principles recognise that "information held by government and public institutions is a public resource and, to the greatest extent possible, should be published promptly and proactively at the lowest reasonable cost, without the need for a formal access request", and that "a culture of transparency within government is everyone's responsibility requiring action by all public sector leaders and officers to encourage and support the proactive disclosure of information". Among the instruments to foster Open by Design, the statement outlines that public bodies should regularly review requests and analyse trends with a view to maximising proactive disclosure of similar documents and encourages them to install proactive disclosure mechanisms whenever they create any new institutions or processes.

Source: Office of the Australian Information Commissioner, (2021<sup>[39]</sup>), Statement of Principles to Support Proactive Disclosure of Government-held Information, <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/statement-of-principles-to-support-proactive-disclosure-of-government-held-information>.

### Strengthening institutional oversight

An important factor in the implementation of ATI laws is the existence of institutional arrangements for coordination and oversight of their application across the public sector (OECD, 2022<sup>[7]</sup>). They can be an independent information commission (or agency or other body) with a mandate purely to oversee the implementation of ATI laws or they could be a body like an ombudsman with an ATI mandate as part of a wider remit (e.g. human rights, discrimination or gender). *The Protection and Promotion of Civic Space: The Global Context and the Way Forward* (OECD, 2022<sup>[7]</sup>) report finds that most OECD countries have an ATI oversight body, which can be one or a combination of the following: an information commission/agency/body or ombudsman with a specific mandate for ATI (45% of OECD countries), an ombudsman with a broader mandate (27% of OECD countries), or a central government authority (52% of OECD countries) (OECD, 2022<sup>[7]</sup>).

**Figure 4.9. Bodies responsible for the enforcement, monitoring and/or promotion of ATI laws, 2020**



Note: N=33. Percentages relate to OECD countries that provided data in the OECD Survey on Open Government.

Source: 2020 OECD Survey on Open Government.

In Romania, there is no independent ATI oversight body to contribute to the enforcement of legal provisions, i.e. to ensure that the public institutions' practices adhere to the standards prescribed by the law. Moreover, only citizens can initiate the above-mentioned review process through which sanctions can ultimately be applied. It is questionable whether these isolated cases, even if growing in number, can sustainably secure a uniform application of legal provisions across the whole of the public administration.

The General Secretariat of Government, a central government authority, has a limited role in monitoring the implementation of access to information legislation. Public institutions are required to send annual reports on the implementation of Law no. 544/2001 to the GSG (Art. 27, Methodological Rules of February 7, 2002). Using a standardised model, this report contains information about the type of information provided, the reason why certain answers were not sent within the legal deadline, and others. However, the GSG's oversight functions fall short of being fully effective as there is no possibility for the GSG to verify the accuracy and completeness of the public institutions' self-reporting. Beyond these reports, the GSG performs monitoring of the proactive disclosure of information by reviewing public institutions' websites. Specifically, the GSG checks whether all the information legally required to be proactively disclosed (Appendix 1, GD830) is available and provides scores of compliance (see also Chapter 7 for more details). In both cases, it remains unclear which actions the GSG can take based on its findings to ensure that public institutions that perform poorly in the implementation of the legislative framework improve in the future.

To improve oversight and enforcement of ATI, Romania could therefore consider establishing a dedicated ATI oversight body to ensure supervision, monitoring and evaluation of the ATI law. This oversight body would require sufficient resources and capacity as well as an adequate level of independence to ensure the protection of access to information. Such an oversight body would bring several advantages for the implementation of the legal framework: It would have a higher credibility than the institution withholding the institution, it would enforce access to information provisions in a less bureaucratic and resource-intensive way compared to the judicial appeal, and it would relieve the judicial system.

Using the momentum of the recently enacted EU Open Data Directive and the adoption of Romania's first Law no. 179/2022 regarding open data and the re-use of public sector information, the oversight body could for example become the Romanian Authority for Digitalisation (ADR). The ADR was solely tasked with the digitalisation of government. However, in the framework of the recently adopted open data law (Law no. 179/2022), the Authority for Digitalisation is tasked with solving complaints by persons who consider their rights injured in relation to open data and public sector information reuse. This complaints process presents an intermediate step before the complainant can address the courts. Overseeing in addition the implementation of the access to information framework could therefore present an opportunity to exploit synergies.

Alternatively, if the oversight body shall be situated outside the central government, the National Authority for the Supervision of Personal Data Processing (ANSPDCP) would be another alternative. As an autonomous public authority with general competences in the field of personal data protection (Law no. 129/2018), the ANSPDCP guarantees respect for private life and the protection of personal data. In particular, as specified in Article 10, the Authority is tasked with monitoring compliance with the GDPR and applying sanctions and corrective measures to public authorities or private data operators violating the GDPR (US Library of Congress, 2021<sup>[40]</sup>). Several OECD countries have expanded the portfolio of the data protection oversight institution to also include access to information given the substantial complementarities between the topics, such as the Chilean Council for Transparency (Box 4.8).

#### **Box 4.8. The Chilean Council for Transparency**

The Council for Transparency (CPLT) is an autonomous oversight body. Its main task is to ensure proper compliance of public institutions and authorities with the Law on Transparency in Public Function and Access to State Administration Information (2008). This includes promoting and disseminating the principle of transparency and the right of access to information as an accountability tool as well as applying corresponding sanctions in the event of non-compliance. At the same time, the Council is mandated to support compliance with the Personal Data Protection Law.

The Council for Transparency is managed by a board of four Directors appointed by the President of the Republic, with prior agreement of the Senate, adopted by two-thirds of its members in office. This Board of Directors is responsible for the strategic direction and administration of the Council for Transparency. The presidency of the board of directors is rotating and is exercised by one of its directors for a period of 18 months.

In its work, the Council is supported by the Civil Society Council (COSOC) which is a forum that allows for citizen participation. The COSOC is an advisory body. It is involved in the design, implementation and evaluation of policies in the area of competence of the Council for Transparency and is based on a dedicated Citizen Participation Policy of the Council for Transparency.

Source: Consejo para la Transparencia (CPLT) (n.d.<sup>[41]</sup>), Consejo para la Transparencia website; Consejo de la Sociedad Civil (COSOC) (n.d.<sup>[42]</sup>), Consejo de la Sociedad Civil website; Consejo para la Transparencia (2020<sup>[43]</sup>), Ejecuta acuerdo del Consejo Directivo sobre política de participación ciudadana y deja sin efecto resolución exenta N°7, de 2013.



### *Empowering public officials responsible for ATI*

In several OECD countries, the ATI laws require the establishment of an information office or officer responsible for ensuring the implementation of the legal framework within public institutions. 50% of responding OECD countries stipulate the establishment of an office/r in their ATI law. This officer is commonly mandated to guarantee various aspects of proactive and reactive disclosure of information (OECD, 2021<sup>[11]</sup>). While several countries may not directly include these provisions in the law, data shows that they have established similar positions in practice.

In line with this practice, Law no. 544/2001 requires each public institution in Romania to establish a dedicated ATI office or to assign the responsibility to designated person(s) (Art. 4). In addition, the Romanian law also foresees a designated public official for public communication about information of public interest in the form of a spokesperson for media representatives (Art. 16). For central government institutions, the law prescribes respectively one public information and press relations office (Art. 6, Methodological Norms 2002). The public information office is responsible for receiving, co-ordinating and responding to ATI requests as well as documenting them. In addition, the public information office is in charge of the public institution's proactive disclosure of information and of the public institution's reporting on access to information (Chapter IV, Methodological norms 2002). The press relations office, on the other hand, is responsible to provide journalists with information of public interest and to facilitate their take-up, for example by granting journalists accreditation and inviting them to press briefings (Chapter V, Methodological norms 2002). According to the government's monitoring, in 2020, all public institutions had a dedicated officer or office in charge of the implementation of Law no. 544/2001 (General Secretariat of the Government, 2021<sup>[17]</sup>).

While all public institutions have a designated officer or office for access to information, there is a need to ensure the necessary human resources within public institutions and to provide them with necessary tools and support. While responsibilities are clearly assigned, the whole access to information portfolio tends to be administered by only one person per institution, which is the case in almost half (45.5%) of public institutions, and is noted as a continuous problem of insufficient human resources by the government (General Secretariat of the Government, 2021<sup>[16]</sup>). In addition, almost half of the public institutions (48.9%) noted the lack of digital tools that can support their performance for ATI (General Secretariat of the Government, 2021<sup>[16]</sup>). Specifically, an integrated platform for access to information could be beneficial both for proactive and reactive disclosure of information. It could provide a means for public officials that simplifies the tracking of requests, communication and collecting information for monitoring and evaluation. Providing central access to proactively disclosed information could also reduce the burden of requests that are produced because citizens cannot find the information. Such a platform can be part of an overarching open government platform, which brings together the main practices and tools in the field of open government as recommended in Chapter 5.

Moreover, there is very limited exchange between public officials responsible for ATI across public institutions. Despite repeated recommendations in the government's own monitoring reports (General Secretariat of the Government, 2021<sup>[17]</sup>), there is no network of transparency specialists at the level of the public institutions. Supporting peer learning among public officials responsible for access to information could be encouraged. Learning from the experience of other public officials with similar problems through a dedicated network could be an important step forward to improve literacy while reducing the burden on the General Secretariat of the Government which is currently the only institution providing relevant training in the area.

In addition, further assistance by the GSG and the National Institute for Public Administration in the form of trainings and updated guidelines can contribute to developing the needed literacy among public officials for implementing the legislative provisions (see also Chapter 5). As the Government's own evaluation states the "training of persons responsible for the application of Law no. 544/2001 remains a constant need" (General Secretariat of the Government, 2021<sup>[17]</sup>). While 90% (20) of responding institutions at the

central level have received advice from the GSG and 63% (14) have participated in trainings offered by the GSG (OECD Survey among public institutions), the offer has limited capacities due to GSG's own restrained resources. Although access to such courses is considered as useful or very useful by all public institutions, dedicated courses are provided by only one-third of all institutions that were surveyed by the GSG in 2021 (General Secretariat of the Government, 2021<sup>[16]</sup>).

## Increasing the impact of citizen and stakeholder participation in Romania

Citizen and stakeholder participation is at the very heart of the concept of open government. The participation of the governed in the ruling exercise is a fundamental value of modern democratic societies (OECD, 2022<sup>[5]</sup>). Even though for many people participation in democratic life still starts and ends at the ballot box, increasingly, citizens across the OECD are using other forms of participation to express their political preferences and engage in public life (OECD, 2022<sup>[5]</sup>). As democracy has evolved and adapted to newly emerging needs and challenges, citizens have started taking a more central and active role at all stages of the public decision-making process (OECD, forthcoming<sup>[44]</sup>).

The OECD Recommendation of the Council on Open Government (OECD, 2017<sup>[3]</sup>) defines stakeholder participation as “all the ways in which stakeholders can be involved in the policy cycle and in service design and delivery” and distinguishes between three levels of participation, which differ according to the level of involvement and impact associated, namely: information<sup>8</sup>, consultation<sup>9</sup> and engagement<sup>10</sup>. Provision 8 of the Recommendation provides further guidance to involve citizens and stakeholders:

*grant all stakeholders equal and fair opportunities to be informed and consulted and actively engage them in all phases of the policy-cycle and service design and delivery. This should be done with adequate time and at minimal cost, while avoiding duplication to minimise consultation fatigue. Further, specific efforts should be dedicated to reaching out to the most relevant, vulnerable, underrepresented, or marginalised groups in society, while avoiding undue influence and policy capture;*

The participation of citizens and/or stakeholders are both equally important, however, they should not be treated in the same manner (OECD, 2022<sup>[5]</sup>; OECD, 2022<sup>[45]</sup>). Both types of public can enrich the decisions, policies and services of the government, but they do not require the same conditions to participate and typically do not produce the same type of inputs (OECD, 2022<sup>[45]</sup>). For example, stakeholders can often provide more specific expertise and more specific inputs than the broader public, and they can represent specific sectors of society through mechanisms such as advisory bodies or expert panels. Stakeholders are often driven by specific interests linked to the group they represent, or the values they are supposed to embody. Citizens can provide a general understanding of the needs of the population, support legitimacy and trust in decisions, and enhance representation and inclusion (OECD, 2020<sup>[46]</sup>).

In Romania, participation is regulated through several laws and government decisions (Table 4.4). The country is one of the few OECD Member and Partner countries to have a dedicated law on participation. Notably, Law no. 52/2003 on decisional transparency in public administration regulates the participation of citizens and stakeholders in policy- and law-making processes. The law aims to increase the level of responsiveness of the public administration towards citizens; actively involve citizens in the administrative decision-making process and in the drafting of normative acts; and increase the level of transparency of the entire public administration. In addition, other legislation establishes permanent structures within public authorities and institutions for consultation with legally established organisations in civil society. For example, Law no. 367/2022 on social dialogue regulates communication and the conclusion of agreements between “social partners” (trade unions or trade union organisations, employers or employers’ organisations, as well as representatives of public administration authorities) on matters of common interest, creating more permanent channels of participation (see Box 4.9 for a description of the main types of participation at central government level in Romania<sup>11</sup>).

### Box 4.9. Main participatory processes in Romania

#### Consultation on draft normative acts

Romania is one of the few OECD countries that has a specialised law in place obliging government to consult with citizens and stakeholders across all policy areas. Law no. 52/2003 on decisional transparency in public administration in public administration and its related Methodological Norms demand that central government authorities, such as ministries, but also local administrations, such as municipal governments, notify the public of any intention to develop a draft normative act and to consult on the draft text. There are only few exceptions when this is not necessary, for example in the area of defence, or when it would involve information that would infringe fair competition or personal data rights. An announcement on the draft law needs to be made at least 30 days before the final draft is endorsed by the competent public authority. Based on the draft act as well as obligatory background documents, all citizens and legal persons can submit their written suggestions and opinions during a period of at least 10 calendar days. In addition, following the announcement of the intention to draft a normative act, public authorities are obliged to organise a public debate, if this is requested by a legally established association or another public authority. Public authorities also have the opportunity to organise public meetings where issues of public interest are debated. These public meetings can be held on any topic that the public authority wishes to gain input on by citizens and other interested stakeholders, also in an early stage of the policy-making cycle.

#### Social dialogue commissions and consultative bodies

There are different permanent mechanisms for consultation with civil society organisations. According to the Administrative Code (Emergency Ordinance no. 57/2019), Government can establish consultative bodies to solve problems within its competence (Art 24.). Further, most government institutions as well as Parliament, the Presidential Administration, the People's Advocate and other autonomous bodies have to create a "structure for the relationship with the associative environment". Through this structure, these institutions need to consult with the representatives of the associations and foundations that operate in their sphere of competence regarding joint programmes and activities (Art. 51, Ordinance no. 26/2000). Ultimately, the institution in question can decide on the exact set-up of these offices as well as the consultative bodies, including their purpose and functioning.

The creation of the Economic and Social Council, which serves as an advisory body for the Romanian parliament and administration, is another way to get more frequent input and dialogue with regard to draft normative acts (Law no. 248/2013). This council is autonomous and was specifically created to achieve the tripartite conversation between employers' organisations, unions, and representatives of non-governmental organisations and civil society foundations at the national level. Its main task is to review draft normative acts before they are adopted and sent to Parliament.

Lastly, most ministries at the central level as well as governing bodies at the level of the counties and the municipality of Bucharest need to draw up consultative social dialogue commissions. These commissions consist of representatives of the central or local public administration, representatives of employers' organisations and nationally representative trade union organisations (Law no. 62/2011). They serve as a permanent platform of exchange and discussion as well as a mechanism of consultation on legislative or other initiatives of economic-social nature.

Source: Author's own elaboration.

Good practices in terms of participation exist at all levels of government in Romania. A significant share of non-public stakeholders that responded to the *OECD Survey on Open Government among non-public stakeholders in Romania* sees positive developments in terms of participatory practices in the country, acknowledging that both the quality and the number of processes have increased in recent years. The government's monitoring of Law no. 52/2003 on decisional transparency in public administration also shows that some public institutions in Romania are making some progress in implementing the law, having for example established a person or structure responsible for the relationship with civil society. Digital tools, such as the *E-Consultare* website (Government of Romania, n.d.<sup>[47]</sup>), contact forms, and social media engagement, are slowly gaining importance in the public sector.

Despite this, public institutions still widely see citizen and stakeholder participation as a formality, rather than a transformative new way of conducting public policy. Interviewees for the present Review highlighted that few spaces for in-depth interaction between decision makers, and citizens and stakeholders exist. As noted in an evaluation conducted by the General Secretariat of the Government in 2021, “most of the time, the initiative to launch a participatory process rests with public institutions and their predominant purpose is to fulfil legal obligations” (Government of Romania, 2021<sup>[48]</sup>). The evaluation highlights that participatory processes are mostly conducted at later stages of the policy cycle (Government of Romania, 2021<sup>[48]</sup>). The evaluation further noted that, while the current normative framework establishes legal mechanisms capable of stimulating participation and establishing a solid collaborative relationship with civil society, the use of such mechanisms fails to make a real contribution to improving the quality of public decision making (Government of Romania, 2021<sup>[48]</sup>). This was also confirmed by government stakeholders interviewed during the OECD fact-finding mission for the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>).

Consultations typically take place online and deadlines for consultation are commonly set to the minimum length of 10 days that is provided by the law (OECD, 2023<sup>[4]</sup>). In addition, both the present Review and the *Civic Space Review of Romania* find that participatory processes in Romania are still not fully inclusive. Processes are often dominated by the “usual suspects” with few efforts made to remove barriers and involve citizens (rather than stakeholders) and minorities, such as Roma. Draft laws are often posted online for ten days and little outreach takes place to these groups. The *Civic Space Review of Romania* concludes that “the process of holding consultations is perceived as formalistic, with little focus on exploring additional, more innovative methods, uneven feedback mechanisms, and a limited understanding among public officials of the benefits of participation” (OECD, 2023<sup>[4]</sup>).

While the General Secretariat has taken different initiatives to improve the consistency and quality of participatory practices, including through the adoption of Government Decision no. 831/2022 which aims to standardise and streamline the procedure for participation and to create a uniform set of standards throughout the public administration, the government is not yet “equipped with the tools and skills to cope with the expansion and dynamics of Romania’s associative environment” (Government of Romania, 2021<sup>[48]</sup>). Levels of involvement remain low and some reports (e.g. (Council of Europe, 2019<sup>[49]</sup>)) have noted a general deterioration in the relations between CSOs and government officials, as well as some consultation fatigue.

This section assesses citizen and stakeholder participation in Romania. It builds on the analysis provided in the chapter on “Citizen and stakeholder participation in Romania” which is part of the OECD *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>), adding a particular emphasis on individual citizens’ ability to participate. The recommendations provided here are fully aligned with those provided in the *Civic Space Review of Romania*.

**Table 4.4. An overview of Romania's most important laws and regulations on citizen and stakeholder participation**

Law Number	Year	Name	Description
Law no. 189/1999	1999	On the exercise of legislative initiative by citizens	Details the procedure and conditions for initiating and submitting a draft bill by citizens. <a href="https://legislatie.just.ro/Public/DetaliuDocument/20219">https://legislatie.just.ro/Public/DetaliuDocument/20219</a>
Government Ordinance no. 26/2000	2000	On associations and foundations	Establishes the framework for the association and organisation of associations and foundations as well as their link with the government. Within the central and local public administration authorities, it is mandatory to create "structures for the relationship with the associative environment". Through these structures, authorities have to consult with the representatives of the associations and foundations that carry out their activity in their sphere of competence to establish joint programmes or activities (art. 51). <a href="https://legislatie.just.ro/Public/DetaliuDocument/20740">https://legislatie.just.ro/Public/DetaliuDocument/20740</a>
Law no. 3/2000	2000	On the organisation and conduct of the referendum	Details the procedure for initiating and organising a referendum, which may be held based on a proposal to revise the Constitution, removing the president from office, and matters of national or local interest <a href="https://legislatie.just.ro/Public/DetaliuDocument/21139">https://legislatie.just.ro/Public/DetaliuDocument/21139</a>
Government Ordinance No. 27/2002	2002	On the Regulation of the Activity of Solving Petitions	Establishes the procedures and necessary institutional responsibilities regarding citizens' right to address any Romanian public institution concerning suggestions or complaints. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/196568">https://legislatie.just.ro/Public/DetaliuDocumentAfis/196568</a>
Law no. 52/2003	2003	Regarding the decisional transparency in the public administration	Represents the central piece of legal framework for consultation of citizens and other non-public stakeholders in the development of draft normative acts, including through public debates. Further, establishes the opportunity for public institutions to hold public meetings on primary matters of public interest. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/251987">https://legislatie.just.ro/Public/DetaliuDocumentAfis/251987</a>
Law no. 248/2013	2013	On the Organisation and Functioning of the Economic and Social Council	Creates the Economic and Social Council. The Council is a public institution of national interest, established for the purpose of realising tripartite dialogue at the national level between employers' organisations, trade unions and representatives of non-governmental associations and foundations of civil society. It has to be consulted on draft normative acts in certain policy areas. <a href="https://legislatie.just.ro/Public/DetaliuDocument/150073">https://legislatie.just.ro/Public/DetaliuDocument/150073</a>
Emergency Ordinance no. 57/2019	2019	Regarding the Administrative Code	Regulates the general framework for the organisation and operation of public administration authorities and institutions. Among others, it obliges public authorities and institutions to inform about and submit draft normative acts to public consultation and debate and to allow citizens access to the administrative decision-making process (Art. 8). Further, the Government can establish consultative bodies to solve problems within its competence (Art 24.). At the local level, mayors can decide to hold citizens' assemblies (Art. 248). <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/215925">https://legislatie.just.ro/Public/DetaliuDocumentAfis/215925</a>
Government Decision no. 831/2022	2022	For the approval of the methodological norms for the application of Law no. 52/2003 on decisional transparency in public administration	Specifies and details the legislative provisions of Law no. 52/2003 with the aim to standardise the procedures of participation in the law-making process. <a href="https://legislatie.just.ro/Public/DetaliuDocumentAfis/256872">https://legislatie.just.ro/Public/DetaliuDocumentAfis/256872</a>
Law no. 367/2022	2022	On Social Dialogue	Regulates regular communication and the conclusion of agreements with so-called "social partners" on matters of common interest. It establishes the obligations of consultation with the social partners, both through the social dialogue commissions set up at the level of each ministry, and through the tripartite National Tripartite Council for Social Dialogue regarding issues related to trade unions and employers. <a href="https://legislatie.just.ro/Public/DetaliuDocument/262989">https://legislatie.just.ro/Public/DetaliuDocument/262989</a>

Source: Author's own elaboration.

### ***Applying a more impactful set of participatory mechanisms at all stages of the policy cycle***

With few exceptions, such as the Educated Romania project (Presidency of Romania, n.d.<sup>[50]</sup>), participation at the level of Romania's central government is often limited to written consultation on draft normative acts (OECD, 2023<sup>[4]</sup>). Annual reports from public authorities on the implementation of Law no. 52/2003, for example, indicate that public meetings on specific policy issues do not occur frequently. There is limited space for an in-depth exchange of perspectives on the policy issue. Instead, participation mainly focuses on testing ideas already developed through consultations on written text. As a result, citizens and stakeholders cannot provide early advice and have limited influence on the agenda-setting and conception stages of law- and policymaking. Moreover, these written consultations usually take place online, which excludes digitally disconnected persons.

In fact, Romania's legislative framework allows public institutions to apply a more diverse set of participatory mechanisms, including at an earlier stage of the policy cycle. Law no. 52/2003 on decisional transparency in public administration enables public institutions to hold public meetings on matters that a given public authority identifies as being within its competence and of public interest. In addition, the Methodological Norms of Law no. 52/2003 make explicit that the law does not intend to limit public entities' capacity "to establish additional activities to facilitate citizens' access to the processes of drafting normative acts and administrative decision-making" (Article 1, par 2).

Moving forward, Romania could consider exploiting these opportunities more by engaging citizens and stakeholders earlier in the policy cycle. Projects expected to have a high impact could include pre-consultations as part of their design process to give all interested stakeholders the chance to contribute to the project's development from the very beginning. Further, Romania could consider making additional efforts at adapting participatory processes, including type, format and communication, to the concrete policy question(s) at hand and to the main target audience in order to obtain more pertinent inputs (see also Box 4.10).

To increase meaningful interactions in person, Romania could also consider reviewing Article 7(9) of Law no. 52/2003 or Art. 7(1) of the corresponding Methodological Norms on the Application of Law no. 52/2003, both relating to the triggering of public debates on draft normative acts. Currently, only legally established associations or another public institution can request public debates. Alternatively, the competent public institution can launch a public debate at its own initiative. In an effort to reduce the barriers to public debates to take place, the legal framework could be revised to broaden the scope of actors that can request a public debate, including individual citizens or groups of them.

#### **Box 4.10. Citizen and stakeholder participation in the German Federal Ministry of Environment**

The Federal Ministry of the Environment, Nature Conservation and Nuclear Safety (BMU) – Germany's ministry for environmental issues – has become a pioneer in the country's efforts to involve citizens and stakeholders in the development of environmental policy programmes and strategies at the national level.

In 2012, the Ministry created a specialised unit on citizen participation. Typically, the processes organised by this unit are a mixture of in-person deliberation and online consultation. During the deliberative process, citizens come together in small groups and are introduced to the topic by experts on the subject matter. On this basis, participants discuss the problem and try to develop suggestions and recommendations. To increase outreach, the BMU organises these events multiple times and at several locations throughout Germany. Alternatively, citizens can provide input through online consultations on the Ministry's website.



The BMU ensures the inclusion of diverse interests and preferences in their participatory processes by reaching out to randomly dialled telephone numbers and contacts from resident registration offices, thus aiming for a representative group of citizens. Besides selection processes that aim for a representative sample of participating citizens, there are also certain selection processes for which citizens can apply to bring in their expertise. The results of these participation processes are condensed into so-called “citizen recommendations” (“Bürgerratschläge”) addressed to the BMU. The participants stay informed about how their input is being integrated as recommendations into policy papers and strategies through feedback papers. They are also notified in case these recommendations lead to political follow-up processes.

Source: BMU (n.d.<sub>[51]</sub>), Beteiligung, <https://www.bmu.de/themen/bildung-beteiligung/beteiligung>.

### ***Improving standards and procedures for engaging citizens***

In its 2021 evaluation, the General Secretariat of the Government identified the need to improve the overall legal and procedural framework for participatory processes and the lack of a uniform application of Law no. 52/2003 as key challenges to rendering participation more effective (Government of Romania, 2021<sub>[48]</sub>). In this regard, the *Civic Space Review of Romania* (OECD, 2023<sub>[41]</sub>) identifies three focus areas to improve standards and procedures for engaging citizens. First, Romania needs to provide more complete and clear communication surrounding public consultations. This includes the provision of information regarding the circumstances, scope and aims of draft acts in accessible language, as also required by Annex 1 of the recently adopted Methodological Norms for the Application of Law no. 52/2003 (adopted through an Annex of Government Decision no. 831/2022). Going beyond the standard form provided in the Methodological Norms, public institutions could also outline the type of information sought and highlight key questions that may be up for debate. Further, Romania could focus on conveying the content in a simpler and user-friendly manner.

Secondly, the *Civic Space Review of Romania* identifies a need to increase the participation of citizens and non-public stakeholders (and underrepresented groups in particular) in participatory processes. Data collected by the GSG indicates that public debates were attended by less than 10 legal and natural persons in 53.3% of responding public institutions. As a first step, public institutions could be mandated to conduct public meetings and debates in a hybrid format, eliminating challenges related to travelling to the institution's headquarters. Further, there is a perception among CSOs representing vulnerable, discriminated or other excluded groups, notably the Roma community, persons with disabilities and lesbian, gay, bisexual, transgender and intersex (LGBTI) groups, of not having equal access to all ministries or other public authorities Romania could conduct targeted outreach to these groups to involve them in public decision-making (OECD, 2023<sub>[41]</sub>). Depending on the target group, this could imply adjusting communication accordingly, for example by using all national languages. Romania could consider actively seeking to engage underrepresented groups in discussions on draft laws and policies that affect them. The CONECT platform (<https://conect.gov.ro/1/>) containing a voluntary register of civil society organisations as well as the national register of NGOs (<https://www.just.ro/registru-national-ong/>) can be important tools for public institutions to identify the right institutions to reach out to.

Thirdly, a culture of closing the feedback loop needs to be nurtured in Romanian public institutions. While the Methodological Norms established new requirements and guidance in this regard, ministries' annual reports on implementing Law no. 52/2003 indicate that only in some cases reasons are provided when recommendations are rejected (OECD, 2023<sub>[41]</sub>). According to the Government's own evaluation, only a third of the public authorities surveyed (33%) confirmed that they had a register to record feedback received during public consultations, while the remaining 67% did not (Government of Romania, 2021<sub>[48]</sub>). In this regard, the interviews conducted with CSOs for the *Civic Space Review of Romania* found that responsible



authorities have sent draft acts to parliament that were modified after consultations were concluded (OECD, 2023<sup>[4]</sup>).

The recent adoption of the Methodological Norms for the Application of Law no. 52/2003 (through an Annex of Government Decision no. 831/2022) constitutes an important step towards improved application of the legal framework across the Romanian public administration. In addition to clarifying the responsibilities of public institutions and public officials, the Methodological Norms provide further detail on the different steps that are necessary for running a consultation with non-public stakeholders, including by focusing on organising, conducting and recording consultation events. They further provide guidance on communication about consultation proceedings. Notably, they mandate that all public institutions provide feedback to participants and communicate the results of each participatory process they conduct. Overall, Government Decision no. 831/2002 is exhaustive, including seven annexes with templates for public consultation, meeting and debate announcements, for collecting, analysing and providing feedback to input received, and for the contents of annual reports. The proper implementation of these new provisions will be key to improve consultations on draft normative acts. To fulfil the requirements of the Methodological Norms, public officials will have to devote more time and attention to planning and implementing participatory processes.

#### **Box 4.11. OECD Citizen Participation Guidelines**

The OECD Citizen Participation Guidelines (2022) are intended to support the implementation of Provisions 8 and 9 of the OECD Recommendation of the Council on Open Government. They are aimed at any individual or organisation interested in designing, planning, and implementing a citizen participation process. The guidelines walk the reader through ten steps to design, plan, and implement a citizen participation process, and detail eight different methods that can be used to involve citizens in policymaking, illustrated with good practice examples.

The eight participation methods described are:

- Open Meeting and Town Hall Meeting
- Public Consultation
- Open innovation methods: Crowdsourcing, Hackathons, and Public Challenges
- Civic Monitoring
- Participatory Budgeting
- Representative Deliberative Process

Their content is based on evidence collected by the OECD over the years and various OECD publications, as well as existing resources from academia and other organisations regarding the intrinsic and instrumental benefits of citizen participation in policymaking.

As part of the document, the OECD suggests eight guiding principles that help ensure the quality of these participatory processes: purpose, accountability, transparency, inclusiveness and accessibility, integrity, privacy, information, and evaluation.

Source: OECD (2022<sup>[45]</sup>), *OECD Guidelines for Citizen Participation Processes*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/f765caf6-en>.

## **Building capacity to improve participatory processes**

Involving citizens and stakeholders requires a specific set of skills, such as communication skills. Public officials responsible for implementing participatory practices need to have the knowledge and expertise to successfully design and implement them. However, according to the 2021 GSG evaluation, the government is not yet “equipped with the tools and skills to cope with the expansion and dynamics of Romania’s associative environment” (Government of Romania, 2021<sup>[48]</sup>). According to the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>), a lack of understanding of the benefits of participatory processes and the lack of their effectiveness has also led to a general lack of CSO interest in engaging with public officials and, in some cases, mistrust and hostile attitudes between officials and CSO representatives.

In Romania, numerous manuals and guidelines on how to conduct citizen participation are available (see also Chapter 5). For example, the Romanian government has elaborated *A Guide to Innovative Approaches to Citizen Engagement in the Decision-making Process*, based on a collaboration with the OECD Observatory of Public Sector Innovation (OPSI) (General Secretariat of the Government, 2021<sup>[52]</sup>) which contains proposals for enhancing citizen participation. However, Interviews conducted for this Review indicate that the uptake of existing guiding material remains limited. Several interviewees from the central and subnational levels were not aware of the existence of these guidelines.

Furthermore, there are currently no trainings for public officials on how to conduct meaningful participation processes. Within the area of interaction with the public, the National Institute for Administration’s (INA) offer is limited to trainings in Social Media; Communication and Public Relations; Communication in Crisis Situations; and Negotiation, and Personal Data Protection (INA, n.d.<sup>[53]</sup>). The General Secretariat of the Government only provides practical support on the implementation of Law no. 52/2003 but does not run any dedicated trainings. Moving forward, public officials in charge of relations with the associative environment and the implementation of Law no. 52/2003 could receive regular training on how to design and implement participatory processes. These trainings could be designed and delivered by the INA in collaboration with the General Secretariat of the Government. Equipped with additional human and financial resources, as recommended in Chapter 5, the General Secretariat of the Government could move towards becoming a centre of expertise on open government and provide ad-hoc support to public institutions, similar to the Centre of Citizen Participation in France (Box 4.12).

### **Box 4.12. Centre of Citizen Participation in France**

The Inter-Ministerial Directorate for Public Transformation (DITP) is the public institution in charge of the open government and participation agendas in France. In 2019, it created the Centre of Citizen Participation (*Centre de la Participation Citoyenne*) as a Centre of Expertise, a physical space and a community of practice for all public servants.

- **A Centre of Expertise:** The DITP provides public officials and civil society with technical support and guidance to implement participatory processes. Public officials have access to knowledge resources, examples and templates to organise participatory mechanisms as well as ready-to-use digital tools. As part of this Centre, the DITP has dedicated teams to support the organisation of participatory processes by other public institutions as well as to train public officials and interested stakeholders.
- **A digital platform for participation:** The DITP has established a centralised platform for participatory opportunities at the national level. The platform allows citizens to easily find opportunities and monitor the impact of their participation. It also allows public authorities to provide feedback and communicate about their participatory opportunities in a simple and harmonised platform.
- **A physical space:** The Centre of Citizen Participation is a physical space open to public

institutions, civil society and citizens. Public authorities can use this space to organise meetings or any other activity with citizens and stakeholders.

- **A community of practice:** the DITP has put in place a digital hub to group the communities of practice related to open government and State modernisation. With more than 50 communities, the hub allows all public officials to discover and join the communities that interest them, according to topics of interest (participation, digital services, collective intelligence, design thinking etc.) or a geographical area.

Source: Author's own elaboration based on interviews with the Inter-Ministerial Directorate for Public Transformation (DITP).

### ***Innovating for more effective citizen participation***

Many OECD countries have been embracing innovative ways of engaging citizens over recent years by applying mechanisms such as citizens' assemblies, juries, panels and other representative deliberative processes<sup>12</sup> that aim to better understand individuals' priorities and concerns (OECD, 2020<sup>[46]</sup>). Evidence shows that these processes have helped public authorities make difficult decisions on a wide range of policy issues, especially those affected by political stalemates (OECD, 2020<sup>[46]</sup>).

In Romania, public bodies remain hesitant to move beyond established practices and experiment with new participatory methods. According to a GSG evaluation, only 18% of the surveyed public authorities indicated that they had taken steps to implement innovative practices to stimulate participation (Government of Romania, 2021<sup>[48]</sup>). While innovative participatory processes such as the youth participatory budgeting in Cluj-Napoca or the platform created by the Ministry of Health to measure the satisfaction of patients and compliance with their rights exist, they are often not shared across government.

Moving forward, Romania could consider providing additional incentives for public institutions to innovate. For example, as part of the Open Government Award that is suggested in Chapter 5, Romania could reward institutions that have conducted innovative participatory processes. In this regard, an example from civil society in Romania is the Resource Centre for Public Participation's Public Participation Awards Gala which highlights "the most interesting advocacy or public consultation initiatives" (CeRe, n.d.<sup>[54]</sup>). An international example is the yearly competition "Excellent! – Competition for exemplary citizen participation" (Ausgezeichnet! – Wettbewerb für vorbildliche Bürgerbeteiligung) that is run by the German Federal Ministry for Environment. Other incentives for public officials to innovate could stem from making open government and innovation part of public officials' hiring and career development criteria, for example through appropriate competency frameworks (see also Chapter 5 and the forthcoming OECD Innovation Scan of Romania).

Romania could further use its next OGP action plan to add commitments related to innovative participatory practices (e.g. a citizen assembly on a societal issue or future planning). To financially support innovation, Romania could also establish a pilot programme that provides seed funding for innovative approaches, such as deliberative assemblies and co-creation. Lastly, to enable peer learning among public institutions, Romania could establish a sub-group on citizen and stakeholder participation as part of the recommended cross-governmental community of practice on open government (see Chapter 5).

### Box 4.13. Representative deliberative participation

There are two elements that make representative deliberative processes quite from other methods of citizen participation.

- **Random selection of participants through a civic lottery.** To be able to organise deep and substantial deliberation, the group of citizens participating in it must be relatively small, usually ranging from 15 to 100 participants. Randomly selecting citizens, stratified based on criteria such as age, gender, location, and socio-economic background, has the benefit of capturing the diversity of views, perspectives, and lived experiences of different members of society and ensuring broad representativeness of that community. Even though it is a smaller group of participants than some other participatory processes, it is designed to ensure inclusiveness and capture the views of those harder-to-reach communities and voices. See more details about this recruitment method in the Civic lottery section of these Guidelines.
- **Deliberation.** Deliberation involves dialogue and debate, but also implies a careful consideration of a range of different arguments and opinions in a respectful way. It requires accurate and relevant information and adequate time, so that those deliberating can go into the core of the issue and find common ground

Source: OECD (2020<sup>[46]</sup>), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*, OECD Publishing, Paris, <https://doi.org/10.1787/339306da-en>.

### ***Facilitate citizen participation through an updated online platform***

Many OECD countries have established dedicated platforms for citizen and stakeholder participation in recent years (OECD, 2021<sup>[8]</sup>). The use of digital platforms for participation can lead to higher levels of involvement and can be an efficient way to receive and process a high amount of citizen inputs in a systematic manner.

In Romania, information about proposed legislation and other significant policy issues has traditionally been disseminated through institution-specific portals, i.e. the websites of individual ministries and other public institutions (see also Table 6.3 in *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>)). In 2016, the Romanian government created a new online consultation platform called *E-Consultare* (<http://e-consultare.gov.ro/>), which was re-launched in a new version in 2019 (for an overview of all relevant online platforms, please see Chapter 5). The platform contains data on draft acts initiated by ministries and other public institutions at the central level and it includes a contact form for citizens and stakeholders to provide inputs. Between March 2019 and January 2023, 7 325 draft normative acts were published through the *E-Consultare* platform, 72 of which were discussed in public debates. Moreover, 1 041 suggestions or proposals were submitted via the platform (General Secretariat of the Government, 2023<sup>[55]</sup>).

However, according to the government, the platform still suffers from a non-uniform use by public institutions as the announcement of consultation opportunities has long been not mandatory (General Secretariat of the Government, 2021<sup>[56]</sup>). The website itself currently has very limited functionalities. While relevant albeit limited information is being provided, the participation itself is only possible by sending suggestions via a contact form. There is no opportunity to interact with the draft act directly or to see other participants' input. Moreover, as the website is updated manually by the General Secretariat of the Government, there is a risk of inaccurate information. To counter these challenges and to facilitate online participation, the GSG is aiming to improve the technical functionalities of the platform to transform it into a "one-stop" portal for citizen and stakeholder participation at the level of the central government. This

would entail using *E-Consultare* as the main platform to run digital consultations on draft normative acts (Government of Romania, 2022<sup>[9]</sup>).

With the adoption of Government Decision no. 831/2002, initial steps in this regard were made through the introduction of legal requirements for public institutions to use the platform. As of June 2022, all public institutions under the scope of Law no. 52/2003 have to publish the announcement on the planned elaboration of a draft normative act as well as an announcement related to public meetings on the platform (Article 6 of Government Decision no. 831/2022). Additionally, all public institutions have to upload their annual reports on the implementation of Law no. 52/2003 to the platform by April 30 each year (Art. 11). Furthermore, the platform will evolve to include information on the implementation of legislation on access to information by also publishing public institutions' annual reports on Law no. 544/2001 (Art. I and III, Government Decision no. 830), thereby making it a central place to consult information on the implementation of the most relevant legislation on transparency and participation in Romania. The technical implementation of these provisions is still ongoing. Additional planned modifications include the possibility for individual public bodies to upload draft acts subject to consultation, thus eliminating the current practice of General Secretariat staff adding the information (Government of Romania, 2022<sup>[9]</sup>).

Romania's move towards a "one-stop" shop participation portal has the potential to harmonise practices among public institutions, facilitate more interactions with citizens and stakeholders, and simplify access to participatory opportunities. However, the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>) finds that most public and non-public stakeholders are not yet familiar with the platform. To raise awareness, the government could mandate the inclusion of links to the *E-consultare* platform on all institutional websites. These efforts should be complemented by guidance on how to operate and use the platform, for example through a manual for public officials on how to use the platform as well as by dedicated human, financial and technical resources.

Moreover, the technical implementation of the GSG's ambitious plans to upgrade the *E-Consultare* platform will be crucial and will require adequate financial and human resources also for the continuous maintenance of the platform. When implementing reforms to improve the portal, Romania could engage with users from the public and non-public spheres to ensure that the platform meets their demands. In addition, it could take inspiration from already existing websites which have proven to be impactful, such as the city of Madrid's Decide Madrid platform. The corresponding software is offered through the CONSUL project as open source (Box 4.14) and is already being used by some Romanian municipalities, for example in Timișoara (Townhall of Timisoara, n.d.<sup>[57]</sup>).

Finally, the integration of information on the implementation of Law no. 544/2001 on free access to information already hints towards a more comprehensive use of this platform beyond participation. In the medium term, *E-consultare* could become the central platform to also exercise the right of access to information and the right to petition, thereby making it the first central-level platform integrating all essential open government areas online in one place. As further discussed in Chapter 5, this "open government portal" could help in mapping and navigating to other, already existing central portals in related areas, such as RUTI on lobbying activities and SEAP on public procurement.

#### Box 4.14. Decide Madrid and the CONSUL software

Following the decline of trust in public institutions propelled by a series of corruption scandals in Spain, the Madrid City Council developed the CONSUL software and launched it in Madrid under the name Decide Madrid in 2015. Decide Madrid is the official open governance platform serving as a one-stop shop for all official open governance processes in the municipality, including issues of transparency, open data and participation. The platform has many distinct areas for participation – namely, through its features providing spaces for debates, citizen proposals and participatory budgeting.

The platform follows a very user-friendly approach, notably through its citizen proposals module by submitting, supporting and voting initiatives. Decide Madrid allows citizens to propose new local laws through a simple questionnaire. Subsequently, other local residents (aged 16+) are able to support their favourite proposals and prioritise the most interesting and relevant proposals. Proposals that receive support from at least 1% of the population are sent to the final voting phase. Finally, registered users can contribute to the debate on the select initiatives, vote for or against motions and provide additional comments.

Other channels of participation in the platform include:

- Consultations: The government may submit important issues to consultations, as it has been the case in Madrid for the redevelopment of the main square of the city, building a pedestrian-friendly space on the main road or the redevelopment of 10 different squares of the city.
- Crowd-law: All the main regulations are published on the platform. Citizens can select sentences or paragraphs and make comments, as well as to support other comments.
- Participatory budgeting: Each year citizens of Madrid decide how to spend a part of the municipal budget. Citizens propose, select and vote on the most interesting projects.
- Debates: There is an open space for citizen debates, where citizens create and prioritise the most interesting issues, defining their own city agenda. This is used as a space for citizen engagement and community building, as well as for citizen interviews with politicians.

The platform benefits from its open-source code, making it free for any government, or CSO, to make use of it and propose improvements. As of now, the software is being used in 35 countries by 135 institutions and serving 90 million citizens.

Source: OECD (2015<sup>[58]</sup>), Consul Project; Decide Madrid (2022<sup>[59]</sup>), Descubre la plataforma de participación ciudadana del Ayuntamiento de Madrid; Consul Democracy (n.d.<sup>[60]</sup>), Consul Democracy website.

### **Ensuring the appropriate use of fast-track procedures**

According to Article 115 of the Romanian Constitution, the government may adopt emergency ordinances only in extraordinary circumstances, where regulation cannot be postponed and needs to motivate the urgency in their content. Law no. 52/2003 allows public institutions to adopt a draft act using a fast-track procedure without the need for public consultation if there is an emergency or exceptional circumstances which require immediate solutions. In practice, the number of such ordinances passed per year in Romania (around 100) indicates that this provision is interpreted quite broadly (Venice Commission, 2019<sup>[61]</sup>). In 2022, the Romanian government adopted 192 emergency ordinances which constitute 10.7% of normative acts that can be issued directly by the executive<sup>13</sup>. This includes also controversial laws, such as Emergency Ordinance no. 16/2022 amending Law no. 52/2003 which specified that due to security challenges the government can pass laws or ordinances through urgent procedures without parliamentary oversight and public consultations (see also the *Civic Space Review of Romania* (OECD, 2023<sup>[4]</sup>)). This

can have detrimental effects on the quality of legislation, separation of powers, and legal certainty (Venice Commission, 2019<sup>[61]</sup>), especially in light of not all draft emergency ordinances presenting substantiated reasons to justify extraordinary situations (European Commission, 2022<sup>[28]</sup>).

In a positive development to remedy these effects, Annex 6 of Decision no. 1 173/2022 on government procedures for the elaboration, approval and presentation of draft normative acts and public documents clarifies the circumstances in which emergency ordinances may be adopted, the manner in which their impact will be assessed, and the procedures for their preparation and approval, based on existing legislation and the case law of the Constitutional Court. As such, it presents important guidance on what the legislative framework requires, including through its application by the Constitutional Court, and may improve the practice.

Emergency situations may require fast-track procedures that omit consultation procedures. However, Romania continues to lack a clear definition of what an emergency constitutes (OECD, 2023<sup>[4]</sup>). Consequently, Romania could envisage further reforms to foster parliamentary oversight and ensure that stakeholder and citizen consultation remain the norm. This could include defining more narrow criteria for instances where the use of emergency ordinances is legitimate, by including criteria in both the Constitution and Law no. 52/2003. As a mechanism to facilitate implementation, this could also involve establishing a crisis protocol that defines priorities in the case of an emergency and steps to be taken.

## Conclusion

Citizens' ability to see, understand and monitor the decisions and actions of the government and their ability to actively contribute to them lies at the heart of the concept of open government. In Romania, since 1991, a great number of laws and regulations on open government principles, policies and practices have been adopted. Most notably, Law no. 544/2001 on free access to information of public interest and Law no. 52/2003 on decisional transparency in public administration have a long history of implementation that has led to some positive outcomes, as further discussed above.

The forthcoming creation of Romania's first Open Government Strategy provides a unique momentum for Romania to renew the government's relationship with citizens and civil society stakeholders and put an even greater emphasis on the implementation and enforcement of measures that aim to inform non-public stakeholders and engage with them. Putting the open government principles at the centre of all government actions and decisions will ultimately enable Romania to make Romania's democracy more robust and foster citizens' trust in the institutions of the State.



## Policy recommendations

1. **Make additional efforts to increase citizens' ability to see, understand and monitor the decisions and activities of government. Foster the proactive disclosure of information by focusing on increasing compliance with the requirements laid out in Government Decision no. 830/2022 concerning the types of information to be disclosed, as well as their accessibility and reusability.**
  - Pay particular attention to potentially sensitive information, such as those relating to institutional performance, budgeting, and procurement.
  - Proactively disclose the most frequently requested information, such as those related to the use of public funds and the way the institution's duties are fulfilled.
2. **Enhance the reactive disclosure of information.**
  - Legally ensure the anonymity of requesters and only request them to provide the minimum amount of information needed.
  - Increase the efficiency and effectiveness of the ATI request process.
    - Use online contact forms more widely
    - Provide information in editable/reusable format
    - In the medium term, communicate via a central platform for ATI requests, which would also give the opportunity to introduce the status tracking of requests.
  - Improve the timeliness of responses to access to information.
    - Specify more concretely and/or more narrowly the conditions for applying the extended response deadline.
    - Explore the usage of digital tools that can support implementation, such as digital register of documents for improved information management.
    - Ensure the consistent application of appropriate deadlines through better institutional oversight and enforcement.
    - Establish a protocol for access to information in times of crisis.
  - Make appropriate use of exemptions to disclosing information.
    - Establish public interest tests and harm tests.
    - Make the justifications for denying access to information more concrete by revising the standard response form for an access to information request provided in Annex 7 of the Methodological Norms of February 7, 2002, on the application of Law no. 544/2001 regarding free access to information of public interest (Government Decision no. 123/2002).
  - Review Law no. 544/2001 to complement existing appeal processes with an external appeal process to resolve conflicts concerning withheld information. In order to make this process effective, ensure that:
    - Information on the grounds for the process is available
    - The process is free of charge and subject to clear timelines
    - There is no need for legal representation.
3. **Increase the effective implementation of legal provisions on proactive and reactive disclosure of information.**
  - Foster the inclusiveness of the ATI process.
    - Complement the websites of Romanian public institutions and authorities with guidance on the ATI process to inform citizens about their rights in easy language.

- Compile guidance for public officials on how to write in plain language when disclosing information and communicating with citizens.
  - Disclose essential government information at the central level in the most common minority languages, such as Hungarian and Romani.
  - Dedicate additional resources to help public officials in designing websites in accordance with the Web Content Accessibility Guidelines (WCAG) 2.0.
  - Improve monitoring and evaluation of access to information (see also Chapter 7).
    - Make it mandatory to collect data and information on reactive disclosure. This could include topics that are frequently requested as well as how and where the published information is used.
    - Regularly consult with the users of proactively disclosed information to gather their feedback, improve disclosure, and make it more meaningful for civil society.
  - Establish a dedicated ATI oversight body to ensure supervision, monitoring and evaluation of the ATI law.
    - Ensure that the oversight body has a clear mandate, sustained resources and capacity, an adequate level of independence, and enforcement capacity.
    - The oversight body’s mandate could include verifying that the requirement for justifications in case of denied requests and for legal response deadlines are applied correctly.
  - Empower public officials responsible for ATI.
    - Dedicate increased human resources to the ATI portfolio in public institutions.
    - Provide a digital tool that facilitates the management of ATI requests and the publication of information for ATI officers. For example, a website on ATI could provide an interface designated for public officials.
    - Establish a network of specialists on transparency among public institutions, for example based on the network of public officials on open data.
    - Increase the amount of trainings offered on ATI by the GSG and the National Institute for Public Administration. Among others, these could cover which metrics to consider and which data to collect to monitor and evaluate ATI processes.
- 4. Enable and empower citizens and stakeholders to take part in and contribute to the activities and decisions of the government. Apply a more impactful set of participatory mechanisms at all stages of the policy cycle.**
- Foster participation early in the policy cycle by consistently and strategically involving citizens and non-public stakeholders in the decision on available policy solutions to public challenges.
    - Include pre-consultations on projects expected to have a high impact to give all interested stakeholders the chance to contribute to the project’s development from the very beginning.
  - Adapt participatory processes, including type, format and communication, to the concrete policy question(s) at hand and to the main target audience in order to obtain more pertinent inputs.
  - Revise Article 7(9) of Law no. 52/2003 or Art. 7(1) of the corresponding Methodological Norms to broaden the scope of actors that can request a public debate, including individual citizens or groups of them.
- 5. Improve standards and procedures for involving citizens.**
- Put a focus on implementing the requirements set out by Government Decision no. 831/2022:
    - Provide more complete and clear communication surrounding public consultations, such as information regarding the circumstances, scope and aims of draft acts in accessible language.

- Ensure that all public institutions provide feedback to participants and communicate the results of each participatory process they conduct (as mandated by GD no. 831).
  - Consider holding public debates and meetings online or in hybrid mode to allow as many interested parties as possible to participate and live stream them on the institutional website and/or social media platforms.
  - Put a specific focus on involving citizens (vs. organised stakeholders) in policy processes
    - Take measures to foster the inclusiveness of participatory processes, including by conducting targeted outreach activities to foster the involvement of a wider variety of stakeholders in policy-making.
  - **Built confidence and competence of public officials to understand the benefits of regular and consistent public participation** Raise awareness among public officials about existing guidance (e.g. the *Guide to Innovative Approaches to Citizen Engagement in the Decision-making Process*) to increase its uptake.
  - Organise regular trainings for relevant public officials on how to design and implement participatory processes. These trainings could be designed and delivered by the National Institute of Administration in collaboration with the General Secretariat of the Government.
    - Make the General Secretariat of the Government a centre of expertise on open government that provides ad-hoc support, including on participatory processes, to public institutions, similar to the Centre of Citizen Participation in France (see also Chapter 5).
- 6. Shift the focus from formal written consultation to more participative engagement practices by fostering innovation and experimentation with new participatory methods and practices (e.g. representative deliberative processes, hackathons, participatory budgeting, etc.).**
- Organise an Open Government Award (see Chapter 5) to provide additional incentives for public officials to be innovative.
  - Use a commitment in an upcoming OGP action plan to design and implement an innovative participatory practice (e.g. deliberation) to provide an example and inspiration for future processes.
  - Establish a pilot programme for innovative approaches that provides seed funding and assistance for public institutions that wish to experiment with participatory processes.
  - Establish a sub-group on citizen and stakeholder participation as part of the recommended cross-governmental community of practice on open government (see Chapter 5).
- 7. Update the E-Consultare platform to facilitate increased citizen participation.**
- Continue the transformation of the E-Consultare platform into a “one-stop” portal for citizen and stakeholder participation.
    - Dedicate sufficient financial and human resources to the current update and future maintenance of the website and engage with future users of the platform to ensure it meets their demands.
  - Embed the E-Consultare platform more into institutional websites and provide support and guidance to all relevant stakeholders to enhance the dissemination and mainstreaming of the platform.
  - Further extend the functionalities of the E-Consultare platform to make it a fully-fledged Open Government Portal (“Open Government Portal”) (see also Chapter 5).
    - Include the possibility for citizens to access information, participate in public decision-making and bring forward their petitions.
    - Map and link all relevant and already existing portals related to open government, such as the RUTI.

## 8. Ensure the appropriate use of fast-track legislative procedures.

- Specify more narrow limits for skipping participatory practices due to emergencies and ensure that emergency ordinances are only used in exceptional cases so that parliamentary oversight and stakeholder and citizen consultation remain the norm (“crisis protocols”).

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## Notes

<sup>1</sup> This Review looks at information on Government only. Challenges related to the transparency of other institutions in the Romanian democracy, in particular financing of political parties and media ownership, are discussed elsewhere (European Commission, 2022<sup>[28]</sup>; OECD, 2022<sup>[7]</sup>).

<sup>2</sup> For more information, including methodology, see also chapter 7 on monitoring and evaluation.

<sup>3</sup> The law specifies for certain kinds of information how often it needs to be updated. For example, information on the budget execution needs to be updated monthly while information on public procurement contracts above EUR 5 000 should be updated quarterly (Annex 1, Methodological Norms). Further, there is an annual revision of the information in the information bulletin required by Art. 5(2), Law no. 544/2001. For all information, the date of last update needs to be displayed (Art. 26 of Methodological Norms (2002)).

<sup>4</sup> Among them are: Art. 5(1), Law no. 544/2001, Government Decision no. 1 269/2021 on the approval of the National Anti-Corruption Strategy 2021-2025 and its related documents; Government Decision no. 901/2015 on the approval of the National Strategy in the field of public procurement; Government Emergency Ordinance no. 34/2006 on the award of public procurement contracts, public works concession contracts and service concession contracts.

<sup>5</sup> A summary of self-reported data by public authorities states that 75.05% of them have published at least some information in open data format in 2020 (General Secretariat of the Government, 2021<sup>[17]</sup>), but it remains unclear to what extent.

<sup>6</sup> Most frequently (39.9% of rejected requests), the requests are denied for other reasons. These include besides obvious reasons for refusal, such as insults, those requests that cannot be understood, those concerning general questions, those asking for the opinion of the institution or the leader regarding various topical issues, among others (Government of Romania, 2022<sup>[9]</sup>). With the adoption of GD 830/2022, many of these requests will be treated as petitions, implying that the requester will receive a more elaborate answer than the notification of rejection.

<sup>7</sup> Nonetheless, certain public institutions have started putting a focus on accessible language. For example, the National Institute of Statistics’ communication strategy states that “[i]n an increasingly technological era, any national asset, such as the case of official statistics, must be adapted to a language accessible to all environments interested” (INSSE, 2018<sup>[62]</sup>).

<sup>8</sup> Defined as an initial level of participation characterised by a one-way relationship in which the government produces and delivers information to the public. It covers both on-demand provision of information and “proactive” measures by the government to disseminate information (OECD, 2017<sup>[3]</sup>).

<sup>9</sup> Defined as “a more advanced level of participation that entails a two-way relationship in which stakeholders provide feedback to the government and vice-versa. It is based on the prior definition of the

issue for which views are being sought and requires the provision of relevant information, in addition to feedback on the outcomes of the process” (OECD, 2017<sup>[3]</sup>).

<sup>10</sup> Defined as “when stakeholders are given the opportunity and the necessary resources (e.g. information, data and digital tools) to collaborate during all phases of the policy-cycle and in the service design and delivery” (OECD, 2017<sup>[3]</sup>).

<sup>11</sup> The focus here lays on the central government level. Additional forms of participation, such as periodic meetings with citizens at local level as required by the Administrative Code, are beyond the scope of this Review.

<sup>12</sup> A representative deliberative process is a process in which a broadly representative body of people weighs evidence, deliberates to find common ground, and develops detailed recommendations on policy issues for public authorities (OECD, 2020<sup>[46]</sup>). Common examples of one-off processes are citizens’ assemblies, juries, and panels.

<sup>13</sup> According to Article 108 of the Romanian Constitution and Article 37 of GEO no. 57/2019 on the Administrative Code, the Government adopts decisions, ordinances and emergency ordinances. In 2022, the Romanian Government adopted: 1556 decisions, 37 ordinances and 192 emergency ordinances. In 2022, the Romanian Parliament passed 385 laws. The share of emergency ordinances among all normative acts – including laws passed by Parliament – was 8.6% in 2022.



# **5 Creating an enabling environment for an Open Government Strategy in Romania**

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This chapter supports Romania in the creation of governance structures and mechanisms that are suitable for a holistic and integrated open government agenda and that can facilitate the successful implementation of the country's first holistic Open Government Strategy. The chapter starts by discussing Romania's current institutional framework and co-ordination mechanisms for open government. It then focuses on ways to build an open government culture in the Romanian administration and in society and discusses means to foster public communications around open government policies and practices.

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## Introduction

In most countries, the enabling environment for open government is the result of a combination of different layers of laws, policies, and institutions, coupled with diverse implementation modalities, practices and processes (OECD, 2022<sup>[1]</sup>). This is largely because, traditionally, public policies that aim to foster the open government principles of transparency, accountability, integrity, and stakeholder participation have been treated as separate policy agendas (OECD, 2022<sup>[1]</sup>). Integrated open government agendas aim to further empower these existing agendas by putting them under one common umbrella, allowing them to achieve more and better outcomes for citizens (OECD, forthcoming<sup>[2]</sup>).

An Open Government Strategy (OGS) is the cornerstone of any country's integrated open government agenda. However, for Open Government Strategies not to remain “on paper” and lead to tangible gains for citizens and stakeholders, countries need to pay particular attention to the frameworks and mechanisms that enable their implementation. In fact, the design of an Open Government Strategy provides a unique momentum to review and upgrade their existing governance arrangements to make them more suitable for a holistic approach to open government.

In line with the *OECD Framework for Assessing the Openness of Government* (OECD, 2020<sup>[3]</sup>) this chapter focuses on the key “inputs” and “processes” for open government in Romania, i.e. the measures the government takes to steer the government towards more openness in practice. As such, the chapter assesses Romania against Provisions 3, 4, and 6 of the Recommendation of the Council on Open Government (Box 4.1). It finds that the Strategy process provides an opportunity to strengthen the institutional framework for open government, including by empowering the Open Government Service in the General Secretariat of the Government to reflect its increased levels of responsibilities. It further highlights the need to create more encompassing mechanisms to co-ordinate the implementation of the OGS across government and with non-public stakeholders. The chapter also identifies opportunities to use the OGS as a tool to make additional efforts to foster open government literacy, including by creating a dedicated community of practice in the field. Finally, the chapter highlights that the adoption of the Open Government Strategy will require more far-reaching public communications, including for example the creation of an integrated Open Government Portal.

Taken together, the recommendations provide in this chapter support Romania in the creation of an integrated open government ecosystem that can enable the successful implementation of the country's first holistic Open Government Strategy. Throughout, this chapter provides policy advice based on Romania's responses to the 2020 OECD Survey on Open Government (OECD, 2021<sup>[4]</sup>) (hereafter “OECD Survey”) and draws on experience from OECD Member and Partner Countries to illustrate good practices in this field.



### Box 5.1. Relevant Provisions of the Recommendation of the Council on Open Government

#### Provision 3

“Ensure the successful operationalisation and take-up of open government strategies and initiatives by:

- (i) **Providing public officials with the mandate** to design and implement successful open government strategies and initiatives, as well as the **adequate human, financial, and technical resources**, while promoting a supportive organisational culture;
- (ii) Promoting **open government literacy** in the administration, at all levels of government, and among stakeholders”.

#### Provision 4

“Coordinate, through the necessary **institutional mechanisms**, open government strategies and initiatives - horizontally and vertically - across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives”.

#### Provision 6

“Actively **communicate on open government strategies and initiatives**, as well as on their outputs, outcomes and impacts, in order to ensure that they are well-known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in”.

Source: OECD (2017<sup>[5]</sup>), “Recommendation of the Council on Open Government”, *OECD Legal Instruments*, [OECD/LEGAL/0438](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438), OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

## Strengthening the institutional framework for open government to enable successful strategy-implementation

Given the breadth of strategies and initiatives that relate to the promotion of openness, responsibilities and mandates for designing, co-ordinating and implementing different open government policies are usually spread across a number of public institutions in OECD Member and Partner Countries (OECD, forthcoming<sup>[2]</sup>). This fragmentation of responsibilities is common across the OECD, and it creates a strong need for effective co-ordination between institutions.

In Romania, in contrast to many OECD Member and Partner countries, most key responsibilities for open government policies are concentrated under the General Secretariat of the Government (and its Open Government Service) (Table 5.1).

**Table 5.1. Overview of key institutional responsibilities for open government policies and practices in Romania**

Responsibility	Name of the institution(s)/secretariat(s)/ directorate(s) in charge	Specific attributions of the institution(s)
Co-ordinating the OGP process across government	General Secretariat of the Government, in particular, the Open Government Services and the National Contact Point for OGP, as well as the National Coordination Committee	The co-ordination of the co-creation, implementation and monitoring of the National Action Plans.
Co-ordinating open data initiatives across government	GSG through the Department for Information Technology and Digitalization (in terms of implementation) and the Authority for the Digitalization of Romania (in terms of transposing EU legislation)	GSG – management of the national open data portal and co-ordination of the publication of open data at the level of public administration
Fostering transparency of government institutions	GSG through the Open Government Service	Monitoring, drafting annual reports and recommendations and civil servants trainings
Overseeing the implementation of the access to public information law	GSG through the Open Government Service	Monitoring, drafting annual reports and recommendations and civil servants trainings
Protecting and promoting civic space as well as civil society organisations <sup>1</sup>	GSG through the Open Government Service and the Service for Cooperation Policies with the Civil Society	Assists NGOs in the development of their operational capacity, develops strategies for the financing of NGOs, and supports programmes initiated by NGOs. Contributes to governmental strategies relating to this subject
Fostering citizen and stakeholder participation at the national level	According to the provisions of Law no. 52/2003 all public authorities, from both the central and local levels, must implement stakeholder participation actions in the decision-making process	Informing, consulting and fostering public participation in all public interest matters and in all legislative projects
Fostering citizen and stakeholder participation at the sub-national level	According to the provisions of Law no. 52/2003 all public authorities, from both the central and local levels, must implement stakeholder participation actions in the decision-making process	Informing, consulting and fostering public participation in all public interest matters and in all legislative projects
Fostering citizen and stakeholder participation in thematic areas (environment, health, public services, etc.)	According to the provisions of Law no. 52/2003 all public authorities, from both the central and local levels, must implement stakeholder participation actions in the decision-making process	Informing, consulting and fostering public participation in all public interest matters and in all legislative projects
Overseeing integrity of public authorities and institutions	Ministry of Justice and the National Integrity Agency	Drafting national strategies, co-ordinate and monitor the implementation of strategies
Fostering an open budget (transparency and participation in fiscal decisions)	Ministry of Finance	There are no specific provisions on open budgeting, but the ministry is in charge of developing the national strategies on this issue
Fostering open contracting (transparency and participation in public procurement)	The Authority for the Digitalisation of Romania (ADR) and the National Public Procurement Agency (ANAP)	ADR – management of the national portal for public procurement ANAP – drafting policies, overseeing the functioning of the national public procurement system, providing assistance on public procurement for public bodies
Fostering vertical accountability (social auditing or control)	-	
Co-ordinating the public innovation agenda of the National government	Ministry of Research, Innovation and Digitalization + General Secretariat of the Government	Drafts and implements innovative strategies and policies

1. While the GSG is mainly responsible for certain aspects in this area, multiple other actors share the responsibilities concerning the protection and promotion of civic space as well as of civil society organisations.

Source: Author's own elaboration based on Government of Romania (2022<sup>[6]</sup>), Background Report prepared for the OECD Open Government Review of Romania (unpublished working paper).

## ***Empowering the Open Government Service in the General Secretariat of the Government***

In 2012, Romania appointed a Minister Delegate for Social Dialogue, followed by the creation of a Ministry of Public Consultation and Civic Dialogue in 2016 (Government of Romania, 2022<sup>[6]</sup>). While the co-ordination of the OGP action plan has always been the responsibility of the General Secretariat of the Government (GSG), the Ministry had responsibilities in different areas of open government, including public consultation, transparency and access to information, social dialogue, as well as the development of associations and foundations (Government of Romania, 2022<sup>[6]</sup>). However, the Ministry of Public Consultation and Social Dialogue was abolished in 2018 due to a change of government and a subsequent restructuring of Ministries' portfolios and its responsibilities were transferred to the General Secretariat of the Government (GSG). As outlined in Government Decision no. 137/2020, the GSG has today a very broad set of responsibilities in the field of open government (Box 5.2).

### **Box 5.2. The responsibilities of the General Secretariat of the Government in the areas of open government, transparency and access to information of public interest, public consultation and increasing the operational capacity of non-governmental organisations**

- a) identifies, develops and promotes public policies and normative acts in the fields of open governance, public consultation, transparency, access to information of public interest, development of non-governmental organisations;
- b) conducts bilateral relations with ministries and institutions with powers in the fields of open governance, public consultation, transparency, access to information of public interest, social dialogue, development of non-governmental organisations from other states;
- c) contributes to increasing the Government's capacity to implement public policies for an open, participatory, responsible and efficient governance, including the relationship with legally established non-governmental organisations, citizens and social partners;
- d) contributes to increasing the capacity of public authorities and institutions to apply the provisions of the legislation on free access to information of public interest;
- e) monitors and evaluates the application by public authorities and institutions of the legal provisions on free access to information of public interest in the public administration;
- f) elaborates on annual reports on the implementation by the central public administration of legislation on free access to information of public interest, providing recommendations for improving legislation and practices in the field;
- g) contributes to increasing the capacity of public authorities and institutions to apply the provisions of the legislation on transparency of decision-making;
- h) monitors and evaluates the application by public authorities and institutions of the legal provisions on decision transparency;
- i) prepares summaries on the annual reports on the implementation by the central government of the legislation on transparency of decision-making, providing recommendations for improving legislation and practices in the field;
- j) conducts the dialogue framework between the Government and non-governmental organisations, on the public policy priorities assumed by the Government;
- k) co-ordinate government strategies on non-governmental organisations, increase its capacity to contribute ideas and expertise to the public policy process and contribute to continuous communication with citizens, including for the European synchronisation of co-operation policies and strategies with

civil society organisations and citizens;

l) provides support and collaborates with the relevant ministries, under the conditions of the law, regarding the activity of structures within ministries, with responsibilities related to public policies for an open, participatory, responsible and efficient governance, including those with responsibilities regarding the relationship with non-governmental organisations and citizens;

m) elaborates and approves, as appropriate, the procedures for proposing civil society representatives in national and international public structures, in accordance with the law;

n) develop strategies for the financing of non-governmental organisations by central and local public authorities from public funds;

o) supports, in accordance with the law, the implementation of programmes or activities initiated by legally established non-governmental organisations;

p) supports, in accordance with the law, the increase of the operational capacity of legally established non-governmental organisations;

q) provides the secretariat of the Interministerial Committee for the Coordination of Romania's Relations with the Organisation for Economic Cooperation and Development (OCDE);

r) co-ordinates and monitors the implementation of the National Action Plan within the Open Government Partnership, ensuring the Secretariat of the National Coordination Committee together with the person designated National Contact Point;

s) provides the secretariat of the advisory bodies set up at the level of the Government and the General Secretariat of the Government, and may allocate, in accordance with the legal provisions in force, funds related to the current expenses for the meetings of the advisory bodies and the expenses necessary for the payment of transport and accommodation for members of advisory bodies who are not domiciled in Bucharest;

ş) co-ordinates the publication and update of information on the decision transparency portal [www.e-consultare.gov.ro](http://www.e-consultare.gov.ro), on the Single Register of Interest Transparency Portal, [www.ruti.gov.ro](http://www.ruti.gov.ro), as well as on the portal on encouraging the development of non-governmental organisations Catalogue of non-governmental organisations for record, consultation and transparency CONECT [www.conect.gov.ro](http://www.conect.gov.ro);

t) co-operates with governmental organisations and entities in the country and abroad with similar roles or tasks in the fields of open governance, transparency, public consultations and relations with civil society, ensuring participation in events and working groups in these fields

t) co-ordinates the realisation and implementation of the Open Government Partnership, being the national point of contact for it. In this sense, it has the following attributions:

- co-ordinating the adoption, implementation and evaluation of the National Action Plan within the Open Government Partnership
- co-ordinating and monitoring the implementation of the specific commitments assumed through the National Action Plan, by the responsible ministries and agencies
- ensuring the co-ordination of the multi-party forum "National Coordination Committee" according to the standards of the Partnership for an Open Government
- Romania's representation within the international initiative Partnership for Open Government.

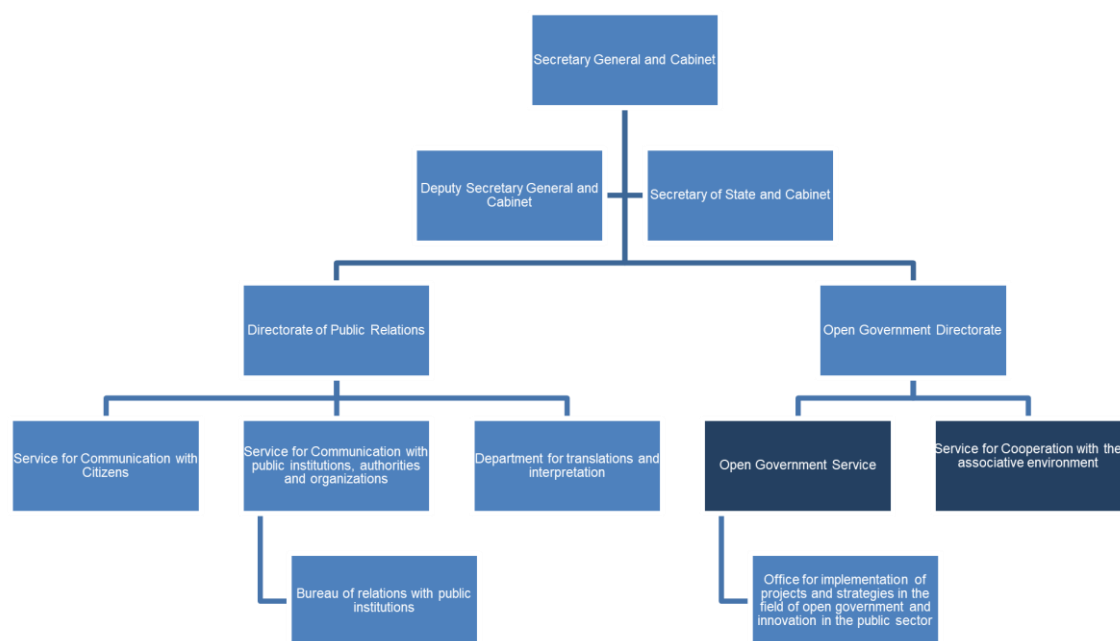
u) administers and maintains the national open data portal [www.data.gov.ro](http://www.data.gov.ro) and contributes to the publication and reuse of open data.

Source: Government of Romania (2020), Decision no.137/2020 on the organisation, functioning and attributions of the GSG.

These responsibilities are carried out by the GSG's Open Government Directorate which is in turn organised into two services: The Open Government Service and the Service for Cooperation with the Associative Environment (Decision no. 1 465/2022). The Open Government Service's portfolio includes the development and implementation of policy in the fields of open government, transparency and access to information, public consultation, innovation in public administration and the development of the operational capacity of associations and foundations (Government Decision no. 137/2020). This includes elaborating and promoting suitable public policies and normative acts, as well as developing bilateral relations with ministries and institutions in these areas. Further, the Open Government Service is mandated to build capacities in public authorities and provide support during the implementation of relevant laws and policies. Lastly, the Service is responsible for administering several government portals (*E-consultare*, RUTI, CONECT; see also the section on open government portals below). The Open Government Service currently consists of 11 employees, both civil servants and contract officials. Most of the employees have been part of the Service for many years, and previously worked in the Ministry of Consultation and Social Dialogue (Government of Romania, 2022<sup>[6]</sup>). Evidence collected during the OECD fact-finding mission revealed that the OGS has a very well-trained, dedicated and experienced staff working on open government.

Romania has had a structure responsible for the government's relationship with civil society stakeholders (often called "*associative environment*" in the Romanian context) since 2001 (General Secretariat of the Government, n.d.<sup>[7]</sup>). Today, GSG's Service for Cooperation Policies with the Associate Environment is mainly responsible for the government's relationship with civil society stakeholders (see also the *Civic Space Review of Romania* (OECD, 2023<sup>[8]</sup>)). It facilitates the creation of institutional mechanisms for consultation and co-operation with the associative environment (colleges, interministerial committees, working groups) and supports initiatives of civil society stakeholders that aim to enhance representation in the design and implementation of government policies. This Service also facilitates the creation of institutional mechanisms for consultation and co-operation with the associative environment.

**Figure 5.1. Organigramme of the relevant offices for Open Government within the General Secretariat of the Government of Romania**



Source: Adapted from General Secretariat of the Government (n.d.<sup>[9]</sup>), Organigramme of the General Secretariat of the Government, <https://sgg.gov.ro/1/wp-content/uploads/2022/12/Structura-organizatorica-a-SGG.pdf>.

The clustering of responsibilities for different open government policies under the GSG represents an opportunity to foster a smooth design and implementation of Romania's first Open Government Strategy. However, some changes to the structure and additional resources may be needed for the Open Government Service to be able to lead a successful OGS process. To successfully co-ordinate and lead the Strategy-process, the Open Government Service could become a centre of expertise on open government. As a centre of expertise, its role will be to promote an open government culture across the whole national government and provide support and advice to public institutions at all levels in the implementation of different kinds of open government initiatives. Moving towards the creation of a centre of expertise on open government may also include the development of an open government index or maturity model (see Chapter 7), the creation of additional trainings and toolkits, as well as the establishment of a community of practice, as further discussed below. The Open Government Service's extended role will further require increased human, technical and financial resources, including, for example, additional staff to provide targeted technical support to public institutions, as well as additional technical / IT resources.

Furthermore, open government, as a transversal and transformational policy agenda, requires high-level leadership (OECD, 2022<sup>[10]</sup>). As further discussed in Chapter 6, it is only through commitment from the most senior levels of government that a change towards an open government culture can be achieved. As a means of highlighting the importance of a particular policy file, many OECD Member and Partner countries have identified institutional champions that lead reform efforts across the whole government. To elevate the profile of the open government file, the government of Romania could consider reviewing its positioning within GSG. For example, the Open Government Service could be attached directly to a Secretary of State. Putting the open government file at this level would reinforce accountability structures and provide more leverage to the Open Government Service to push for the implementation of ambitious reforms.

## Improving co-ordination and mainstreaming open government policies and practices across the whole state

Constructive dialogue between public and non-public stakeholders is essential for open government (OECD, 2022<sup>[1]</sup>). In this regard, Provision 4 of the Recommendation of the Council on Open Government (2017<sup>[5]</sup>) highlights the importance of effective horizontal and vertical co-ordination of open government policies “through the necessary institutional mechanisms (...) to ensure that they are aligned with and contribute to all relevant socioeconomic objectives”. Along similar lines, the OECD Policy Framework on Sound Public Governance underlines the need to foster co-ordination and address fragmentation across institutions of major policy initiatives and priorities (OECD, 2020<sup>[11]</sup>).

The government of Romania, led by the GSG, has created mechanisms to co-ordinate parts of the country's open government agenda, including the *National Coordination Committee for OGP* which was first established in 2016 to oversee and co-ordinate the OGP action plan. Moreover, in addition to having people in charge of the implementation of key open government laws (such as Law no. 544/2001 on free access to information), most Ministries have mandated both a senior and a technical public official with responsibilities for the OGP process.

Despite these efforts, good practices often remain “confined” in specific institutions and are not mainstreamed. Co-ordination and collaboration across the public sector and with non-public stakeholders will become even more important once Romania's Open Government Strategy will have been adopted. As the OECD report on *Enhancing Policy Coherence and Coordination in Romania* states, “mechanisms for interministerial co-ordination on cross-cutting issues could be diversified and supported by appropriate tools to increase their effectiveness in promoting policy coherence” (OECD, forthcoming<sup>[12]</sup>). Ultimately, each public institution has to be involved in the implementation of the Strategy.

## ***Upgrading the National Coordination Committee for the implementation of the Open Government Partnership***

Romania's multi-stakeholder forum, the *National Coordination Committee for the implementation of the Open Government Partnership* (the "CNC"), was first created in 2016 to co-ordinate the development, implementation, and monitoring and evaluation of the country's OGP action plans. Since then, while the Committee broadly maintained the same format with changing members, it has at times been discontinued. For example, according to the OGP's Independent Report Mechanism, during the co-creation period of the fifth action plan (February to August 2020), Romania did not maintain an active multi-stakeholder forum (OGP IRM, 2022<sup>[13]</sup>).

Data collected through the 2020 OECD Survey on Open Government shows that 81.8% of Adherents that are part of OGP (27 out of 33) have established a multi-stakeholder forum (MSF) that involves non-public stakeholders (SOG). Civil society organisations are the most common non-public stakeholders that are represented in the MSF (92.3%), followed by academia (69.2%) and private sector/business organisations (34.6%) (OECD, forthcoming<sup>[2]</sup>). In line with practice in OECD Member and Partner countries (see (OECD, forthcoming<sup>[2]</sup>)), at the time of writing, Romania's CNC included representatives from the GSG and the ministries implementing OGP action plan commitments, as well as an equal number of representatives from civil society.<sup>1</sup> In 2022, the representatives of civil society were selected for the first time by the previous CNC civil society members.

According to the Organization and Operation Regulation (Decision no. 1/2021), "representation shall be provided at the level of secretary of state and substitute members from among the technical staff" and the technical secretariat related to the process of co-ordinating the implementation of the Open Government Partnership is provided by the Open Government Service and the OGP Contact Point. The expenses related to the organisation and operation of the Committee are provided from the budget of the General Secretariat of the Government. In line with practice in OECD Member and Partner countries that are part of the OGP (see (OECD, forthcoming<sup>[2]</sup>)), Romania's Committee has a minimum of four meetings per year. Additional meetings can be organised at the proposal of at least 2/3 of the total members. Meeting agendas and the decisions taken are published on the ogp.gov.ro website.

Usually, MSFs have a broad set of responsibilities as regards the OGP process. In OGP countries that have adhered to the OECD Open Government Recommendation, the most important responsibilities include monitoring the implementation of the action plan (88.9%), overseeing the co-creation process (77.8%), and setting directions for the action plan process (85.2%). Only 7.4% of MSFs are currently involved in mobilising financial resources for the action plan process (OECD, forthcoming<sup>[2]</sup>). In Romania, the Committee's functioning and responsibilities are regulated by the *Memorandum regarding the establishment of the National Committee for Coordination of the Partnership for Open Government in Romania* (Government of Romania, 2020<sup>[14]</sup>) and the *Organization and Operation Regulation* (General Secretariat of the Government, 2022<sup>[15]</sup>). These documents foresee that the CNC's duties include co-ordinating the development and implementation of national action plans, as well as monitoring and evaluating them.

Recognising the usefulness of the MSF as a general platform for dialogue with non-public stakeholders, 30.8% of Adherents' MSFs (8 out of 26) in Adhering countries that are part of the OGP have started taking over responsibilities for the wider open government agenda (OECD, forthcoming<sup>[2]</sup>). For example, the Czech Republic's Working Commission for Open Government and State Administration Transparency has a broad mandate to support integrity. As a permanent advisory body to the government and chaired by the Minister of Justice, it evaluates anti-corruption measures, monitors their implementation and proposes measures to reduce corruption risks, including by fostering transparency of the public administration (OECD, forthcoming<sup>[2]</sup>). The responsibilities of Romania's CNC are, however, limited to the OGP process. For the moment, it is not involved in co-ordinating other open government initiatives. Moving forward, Romania could consider extending the CNC's portfolio and using it to co-create, co-ordinate and monitor



and evaluate the forthcoming Open Government Strategy. This would also require enlarging the participation of different types of stakeholders (both public and non-public) and increasing the level of representation from the highest level of government. In particular, a close co-ordination between the GSG and the Prime Minister Chancellery (PMC) within the framework of the CNC could be useful to ensure that both centre-of-government institutions pull into the same direction, and that the committee has the political support needed to fully deliver on its mandate (see also Box 5.3 and OECD (forthcoming<sup>[12]</sup>)). Opportunities to exploit synergies exist in particular given the PMC's competencies in the field of consultation, institutional dialogue, civic dialogue and in the relationship with civil society (Art. 3(1), Decision no. 832/2022).

### Box 5.3. The dual structure of the Centre of Government in Romania

The General Secretariat of the Government (GSG) and the Prime Minister's Chancellery (PMC), the two main institutions of the Romanian Government Offices, have had varied institutional arrangements, setups, and mandates in recent years. Both organisations participated in interministerial co-ordination up until January 2017. The PMC offered policy knowledge while the GSG concentrated on formal co-ordination. In January 2017, Prime Minister Grindeanu disbanded the PMC and transferred its duties to the GSG.

Throughout succeeding administrations, particularly those of Prime Ministers Tudose and Dăncilă, the PMC was re-established as a structure without legal personality and was predominantly made up of scientific advisors and sector specialists. Under the Orban administration, the Chancellery's staff was gradually reduced to six. This changed in 2021 when the Chancellery of the Prime Ministers was established as a structure with legal personality that was funded from the General Secretariat of the Government budget. Most recently, the Prime Minister's Chancellery's new duties, structure, and operations were established by Government Decision no. 832/2022. In the field of consultation, institutional dialogue, civic dialogue and in the relationship with civil society, this includes to:

- identify and organise consultations with institutional and social actors in order to complete the government agenda
- ensures the dialogue framework between the prime minister and civil society, the associative structures of the local public administration, employer and trade union organisations, other professional associations
- analyses the proposals of the associative and business environment, in order to determine the directions of strategic action
- facilitates and monitors inter-ministerial and inter-institutional collaboration and communication at the level of government structures
- participates in interministerial councils and committees, established according to legal provisions, and organises working groups on certain fields of interest or for the management of current problems
- ensures, in its field of activity, the relationship with the ministries, as well as the other specialised bodies of the central public administration.

Albeit difficult to apply in practice, stakeholders engaged for the report on the Romanian centre of government frequently reported their understanding of the division of responsibilities between the PMC and the GSG as broadly “political v. technical” delineation, in which the PMC would be the “political” arm of the centre of government, and the GSG would be the “technical arm”.

Source: OECD (forthcoming<sup>[12]</sup>), *Enhancing Policy Coherence and Co-ordination in Romania*; Government of Romania, Decision no. 832/2022 regarding the establishment of the duties, organisation and operation of the Chancellery of the Prime Minister.

Alternatively, Romania could consider creating a National Open Government Steering Committee (OGSC) to co-ordinate and oversee the Strategy-process. According to Article 9(1) of the Methodology on Romanian government strategies “depending on the field to be regulated by the draft strategy, interministerial structures may be established” to co-ordinate Strategy implementation (Government of Romania, 2022<sup>[6]</sup>). As stated by the OECD Report on Enhancing policy coherence and co-ordination in Romania (forthcoming<sup>[12]</sup>):

*Inter-ministerial committees can truly embody the multidimensional nature and resulting importance of for cross-government coordination of the issue at hand, and often seem to be an ideal forum to align policies, facilitate cross-sectoral arbitration and exchange of good practices. The creation of these entities can also signal high level leadership and political will if they are chaired by the Head of Government, or if participation at ministerial level is mandatory.*

The OGSC could involve non-public stakeholders and be presided by the Open Government Service. In addition, it could supervise working groups consisting of public institutions and civil society organisations, academic and private sector representatives and focus on the implementation of specific (thematic) areas of the Strategy. As such, the OGSC would become the main co-ordination mechanism for the new, integrated open government approach, co-ordinating all policies and practices that fall under the realm of the concept of open government. Under this model, the OGSC could integrate the existing CNC as a sub-committee.

While such an inter-ministerial committee can bring substantial benefits, its concrete implementation needs to be designed carefully. Inter-ministerial committees sometimes overlap in scope and exist with varying functions, which can prevent a clear and sustainable role in political decision-making (OECD, forthcoming<sup>[12]</sup>). Further, it can put excessive additional burden upon line ministry staff (Ibid.). Under the GSG’s leadership, it should therefore be ensured that line ministries have the capacity to meaningfully engage during these committee meetings, that there is no substantial overlap between committees covering similar issue areas, and that inter-ministerial committee findings, opinions and decisions are integrated within the broader decision-making process and the Government Meeting (Ibid.). If Romania decides to establish such an inter-ministerial committee, close collaboration with the Prime Minister Chancellery would be pivotal given the PMC’s mandate as a facilitator in inter-ministerial and inter-institutional collaboration (Decision no. 832/2022). Fully co-ordinating with the PMC can therefore be key to ensure effective implementation of the OGSC.

The OGSC could meet twice a year at the Ministerial level and frequently at the level of senior public officials (e.g. Secretaries of State, Directors). The OGSC’s Ministerial meetings would serve to set the agenda and discuss progress in implementing Romania’s Open Government Strategy, while the more regular meetings at the level of senior public officials could have the following tasks (among others):

- Ensure co-ordination and alignment between ongoing policies in the areas of transparency, accountability and citizen and stakeholder participation.
- Lead the design and implementation of the Open Government Strategy.
- Provide direction to and co-ordinating the implementation of Romania’s Open Government Strategy.
- Provide a forum for dialogue and exchange of good practices between institutions.
- Review Institutional Open Government Plans (see Chapter 6).
- Monitor and evaluate the implementation of the Open Government Strategy and of the OGP Action Plan.
- Promote Romania’s open government agenda nationally and internationally; and
- Foster the creation of an open government culture in the Romanian public sector.

The creation of the OGSC could be institutionalised through the Government Decision that will adopt the forthcoming National Open Government Strategy (see Chapter 6).

### ***Strengthening mandates and capacities at the level of each public institution***

For the Strategy to be effectively implemented by the whole of government, all public institutions need to be involved. Romanian legislation mandates that public institutions at the central level establish people/offices with responsibilities in different fields of open government. The following responsibilities are mandated by law or exist in practice:

- **OGP process:** Since 2018, within each ministry, persons responsible for the implementation of the OGP process both at the decision-making level (secretary of state, secretary general) and at the technical level have been appointed. In theory, these people should co-ordinate all open government-related activities within their institutions (access to information, open data, participation, Open Government Partnership commitments etc.). However, evidence collected during the OECD fact-finding missions showed that this is rarely the case.
- **Access to information** (see also Chapter 4): Law no. 544/2001 asks each public institution in Romania to establish a dedicated ATI office or to assign the responsibility to designated person(s). In addition, at least one public official needs to be in the role of a spokesperson to ensure access to information of public interest for media representatives (Art. 16 of Law no. 544/2001). For central government institutions, the law prescribes respectively one office in charge of public information and one press relations office (Art. 6, Methodological Norms 2002). The public information office is responsible for receiving, co-ordinating and responding to ATI requests, as well as documenting them. It is also in charge of the public institution's proactive disclosure of information and of its reporting on access to information (Chapter IV, Methodological norms 2002). The press relations office, on the other hand, is responsible for providing journalists with information of public interest and for facilitating the take-up of information, for example by granting journalists accreditation and inviting them to press briefings (Chapter V, Methodological norms 2002). According to the government's monitoring, in 2020, all public institutions had dedicated officers or offices in charge of the implementation of Law no. 544/2001 (General Secretariat of the Government, 2021<sup>[16]</sup>).
- **Open data:** Article 12(4) of the recently adopted Law no. 179/2022 regarding open data and the reuse of public sector information stipulates that "public entities will designate persons responsible for data access and reuse and will develop and implement internal working procedures, dedicated to data collection".
- **Participation and relationship with civil society:** Law no. 52/2003 mandates the establishment of a person responsible for receiving proposals, suggestions and opinions on draft normative acts prepared by the institution to which he/she belongs and to invite and organise public debates and meetings (art. 7 para. (7) and art. 8 para. (2)) of Law no. 52/2003.

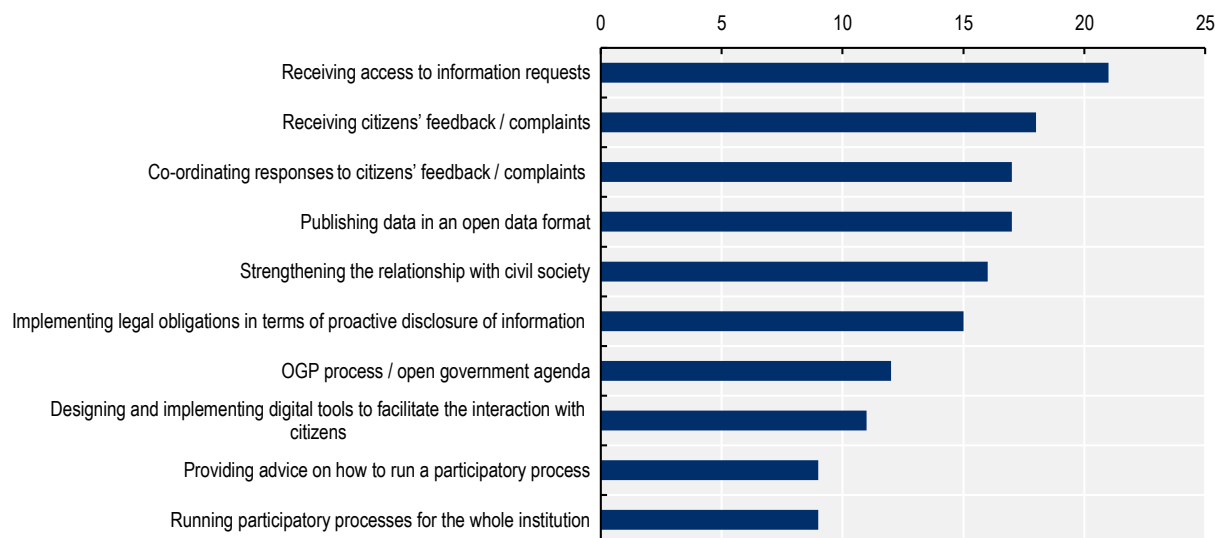
In addition, authorities under the scope of Ordinance no. 26/2000 have to create "structures for the relationship with the associative environment". Through these structures, they consult with representatives of associations and foundations that operate in their sphere of competence to establish joint programmes or activities (Art. 51; see also Chapter 4). According to an evaluation conducted by the General Secretariat of the Government in 2021 (General Secretariat of the Government, 2021<sup>[17]</sup>), 73.3% of the institutions that answered had in fact established a person responsible for the relationship with civil society, while 20% had a structure for the relationship with civil society (i.e. more than one person).

- **Resolutions of petitions:** Article 6(1) of Ordinance no. 27/2002 regarding the regulation of the petition settlement activity stipulates that "public authorities and institutions (...) are obliged to organise a separate department for relations with the public, which will receive, register, deal with

the petitions and send the answers to the petitioners”. In case the petition is misdirected, the department needs to forward the petition to the competent authority.

The data collected through the *OECD Open Government Survey for Romanian Public Institutions* confirmed that most public institutions have established institutional responsibilities for different open government-related tasks (Figure 5.2).

**Figure 5.2. Public institutions having a person/office in charge of elements of open government**



Note: N=22.

Source: OECD (2022), *Open Government Survey for Romanian Public Institutions*.

However, evidence collected by the OECD and by the General Secretariat of the Government (General Secretariat of the Government, 2021<sub>[17]</sub>) also shows that, in most public institutions, the number of staff in charge of implementing relevant open government policies and practices is small and those responsible for implementing them often have responsibilities in other areas. The General Secretariat of the Government's evaluation (General Secretariat of the Government, 2021<sub>[17]</sub>) finds that human resources need to be increased and that there needs to be a move towards more encompassing structures (i.e. offices) in charge of relevant open government policies (rather than having a single public official deal with them). Moreover, the results of the OECD fact-finding missions showed that relevant offices rarely co-ordinate and that processes are often not mature enough to be sustained independent of personnel.

To streamline responsibilities and as a means to foster the successful implementation of the upcoming Open Government Strategy, Romania could consider creating dedicated Open Government Offices at the level of each individual public institution. Ideally headed by a senior civil servant, the institutional Open Government Offices would bring together the existing people/offices in charge of the OGP process, access to information, open government data, decisional transparency in public administration and relationship with civil society, as well as resolutions of petitions in order to foster synergies between the different areas and ensure a harmonious implementation of the Strategy. The Open Government Offices could be the public institution's focal point for the implementation of the Strategy. This may include the co-ordination of the public institution's public policy units responsible for monitoring and evaluation at the level of each institution involved in the strategy (Art. 21, Regulation of 14 July 2005).

In this regard, Spain has created Transparency and Open Government Information Units within all ministries at the central level. These Open Government Offices are representing their Institution in both

the *Open Government Interministerial Group for the co-ordination of Open Government initiatives* in the central government administration, as well as in the *Open Government Sector Commission* (see Box 5.4).

#### **Box 5.4. Horizontal and vertical co-ordination on Open Government in Spain**

Given the strong decentralised nature of decision-making in Spain, many open government initiatives are designed and implemented by a variety of actors at both national and subnational levels. This requires two co-ordination mechanisms: one horizontal between Ministries and one vertical between different levels of government.

##### **The Open Government Interministerial Group**

The Open Government inter-ministerial group is the primary body for horizontal co-ordination. It is a working group on Open Government initiatives in the General State Administration. Under the co-ordination of the General Director of Public Governance, the Transparency and Open Government Information Units from all Ministries participate. These units are specialised in a variety of functions in the area of transparency and access to information, such as receiving and processing access to information requests and ensuring the availability of the most frequently requested information on the institution's website. Coming together in this working group plays a paramount role in promoting the commitments included in the Open government Action plan as well as in raising awareness on communication initiatives, such as the Open Government Week.

##### **The Open Government Sector Commission**

The Open Government Sector Commission is a space for co-ordination, collaboration and debate between the different public administrations across the level of government. It further serves the exchange of experiences and the development and monitoring of joint initiatives in the field of Open Government. The Sector Commission was established on 6 March 2017, at a meeting held between representatives of the General State Administration, the Autonomous Administrations and Local Entities, through the Spanish Federation of Municipalities and Provinces (FEMP). It is a collegiate body for inter-administrative co-operation of a technical nature, for the establishment of measures, strategies, objectives and guidelines on Open Government, which can submit its proposals to the Public Administration Sector Conference.

Source: Government of Spain (2023), Law no. 19/2013 on transparency, access to information and good governance throughout the General State Administration; Government of Spain (n.d.<sup>[18]</sup>), "Grupo interministerial de Gobierno Abierto"; Government of Spain (n.d.<sup>[19]</sup>), "Comisión Sectorial de Gobierno Abierto".

## **Building open government literacy to foster strategy-implementation**

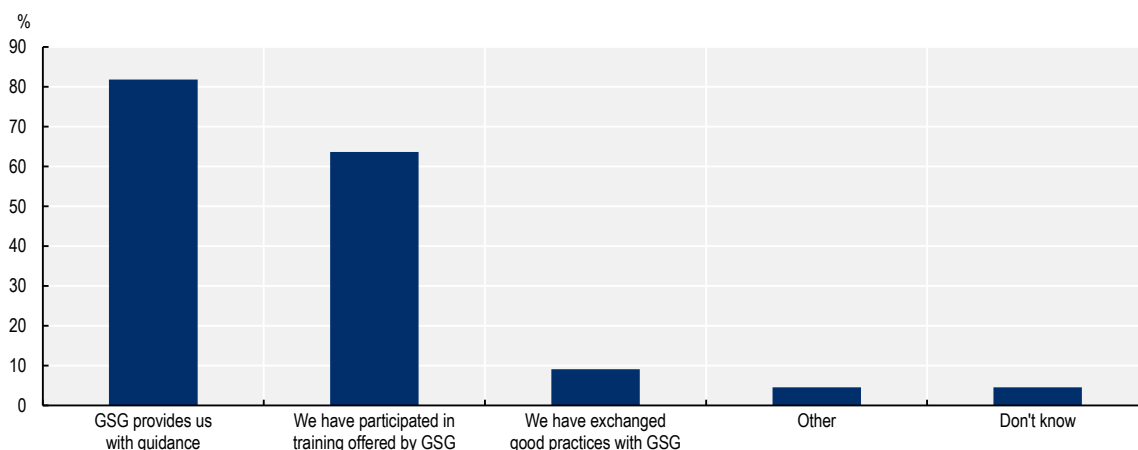
The successful implementation of an Open Government Strategy requires that a country's entire public sector moves towards an open government culture and that citizens and non-public stakeholders are empowered, active, and engaged, and have agency and efficacy to take part in decision-making. Accordingly, Provision 3 of the Recommendation of the Council on Open Government (OECD, 2017<sup>[5]</sup>) invites countries to promote "open government literacy<sup>2</sup> in the administration, at all levels of government and among stakeholders".

The OECD Recommendation on Public Service Leadership and Capability (2019<sup>[20]</sup>) underlines the importance of investing in public service capability to develop an effective and trusted public service. This can be achieved through the identification of needed skills and competencies, attracting, retaining and

recruiting employees that have these required qualifications in a transparent and merit-based system, as well as by developing these required qualifications through a culture of learning in public service (OECD, 2019<sup>[20]</sup>).

First efforts to foster public officials' open government literacy have been made by the General Secretariat of the Government and the results of the OECD Survey on Open Government for Romanian Public Institutions show that a large number of responding public institutions have indeed received guidance from the GSG (82% of respondents) or have participated in trainings offered by it (64%) (Figure 5.3).

**Figure 5.3. Most public institutions have received support from the General Secretariat of the Government**



Note: N=22. Multiple selections possible.

Source: OECD (2022), Survey on Open Government for Romanian Public Institutions.

Nevertheless, public officials and civil society stakeholders in Romania still lack a citizen focus and an “open government culture”. Human resources dedicated to and skills in terms of open government remain limited across the Romanian administration. Public officials mostly implement open government policies and practices because there is a legal obligation to do so. Few public institutions have dared to open beyond the legal requirements, mostly due to the lack of skills and capacities.

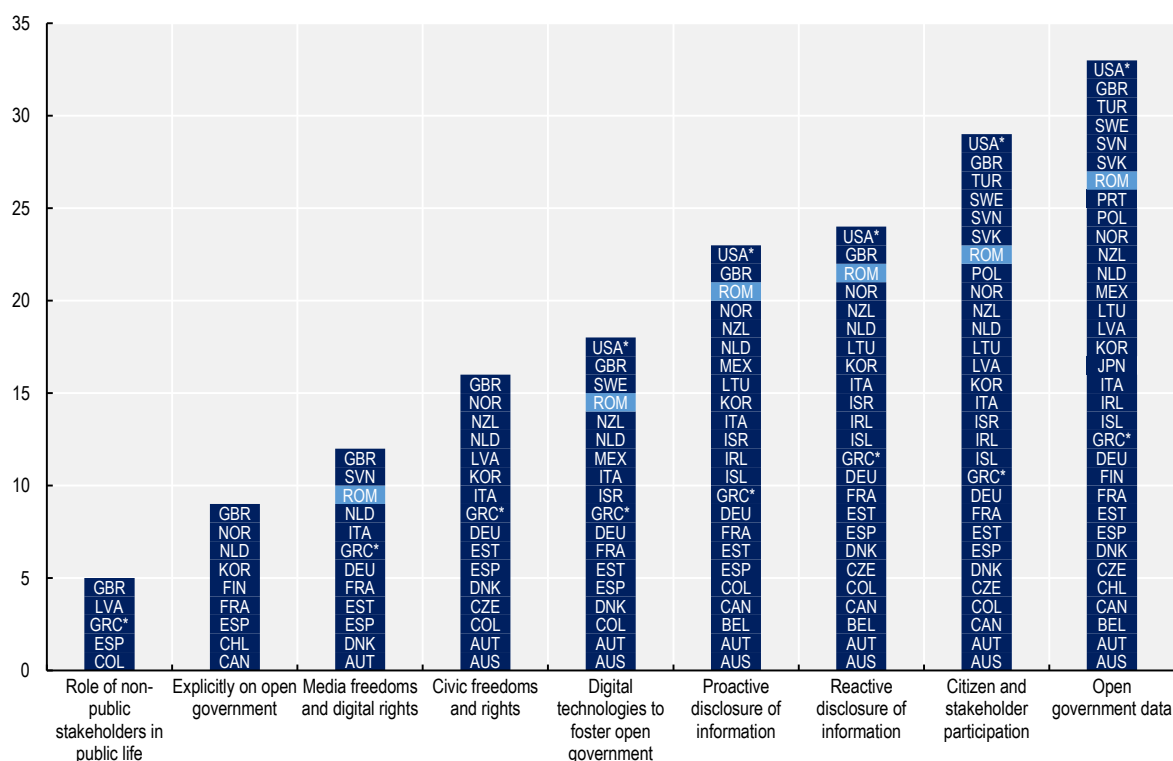
To move towards a truly open government culture and enable the implementation of its Open Government Strategy, Romania should put further emphasis on building skills, awareness and knowledge of open government in all parts of the administration and in society.

### ***Streamlining and mainstreaming existing guidelines and toolkits on open government policies and practices***

To raise awareness, create buy-in and build their staff's and civil society's open government literacy, most governments across the OECD membership have elaborated guidelines, toolkits and manuals on open government policies and practices (OECD, forthcoming<sup>[2]</sup>). According to the results of the 2020 OECD Survey on Open Government (OECD, 2021<sup>[4]</sup>), 33 out of 35 OECD countries (94%) had guidelines on open government data, and 29 OECD countries (83%) had guidelines on citizen and stakeholder participation. Twenty-four OECD countries (69%) had guidelines on reactive disclosure of information, and 23 (66%) on proactive disclosure. However, only nine OECD countries (26%) had guidelines that explicitly focused on the concept of open government (Figure 5.4).



Figure 5.4. Manuals and toolkits in OECD countries and Romania



Note: N=35. Multiple selections possible.

\*Data for Greece and the United States are preliminary.

Source: OECD (2021<sup>[4]</sup>), Survey on Open Government.

### Box 5.5. Guidelines from Funky Citizens on transparency in budgeting and public procurement

#### On budget transparency

Having identified the lack of budget transparency in Romania as a persisting problem, this guide addresses NGOs to make them understand what to look out for in the budgeting of Romanian public authorities. At the same time, it can also serve as a tool for public authorities to understand their duties and how to fulfil their obligations better. Besides a section on how to develop an advocacy strategy and how to work with local public authorities, the guide covers the main legislative framework on the topic. Further, it explains step by step the circular process of public budgeting from the preliminary draft budget to the audit report and how to assess its openness through the lenses of transparency, public participation, and budgetary oversight.

#### On public procurement

This guide follows a very similar approach and structure to Funky Citizen's guide on budget transparency. It is equally primarily targeting NGOs, including through a dedicated section on advocacy strategies and how to work with local public administrations, but is also useful for public officials who would like to increase their knowledge on the topic. The guide summarises the main elements of the legal framework of public procurement. It then explains how to evaluate the transparency of public procurement going through each step of the process from the initial preparation of documents over the tendering process to the signing of the contract.

Source: Funky Citizens (2020<sup>[21]</sup>), Budget transparency, <https://funky.org/wp-content/uploads/2020/12/Ghid-de-transparenta-in-bugete-Funky-Citizens.pdf>; Funky Citizens (2020<sup>[22]</sup>), Public procurement, <https://funky.org/wp-content/uploads/2020/12/Ghid-in-transparenta-achizitiilor-publice-Funky-Citizens.pdf>.



**Table 5.2. Available toolkits, manuals and guidelines on open government policies and practices in Romania**

Name of toolkit / manual / guideline	Provided by	Relevant open government policy or practice	Primary target audience(s)	Brief description	Web link
System procedure regarding the ex officio communication of information of public interest in a standardised and open format and ensuring the decisional transparency	GSG (2019)	Proactive disclosure of information	Central and local government civil servants	Details the way in which public officials need to carry out their responsibilities under, among others, Law no. 544/2002 and Law no. 52/2003 to fulfil transparency requirements.	<a href="https://sgg.gov.ro/ne/wp-content/uploads/2019/04/Procedura-sistem.pdf">https://sgg.gov.ro/ne/wp-content/uploads/2019/04/Procedura-sistem.pdf</a>
Guidelines regarding the system procedure for the standardised communication of public interest information	GSG (2019)	Proactive disclosure of information	Central and local government civil servants	Explanatory guide on the system procedure above that provides more details.	<a href="https://sgg.gov.ro/ne/wp-content/uploads/2019/04/GhidProceduraSistem_formatat_A4_12.10-1.pdf">https://sgg.gov.ro/ne/wp-content/uploads/2019/04/GhidProceduraSistem_formatat_A4_12.10-1.pdf</a>
A practical guide to sustainable measures that support transparent and integrity-based local government	Ministry for Public Consultation and Civil Dialogue (2016)	Reactive disclosure of information	Local government civil servants	Elaborates on local government's obligations in the framework of the national anti-corruption strategy and access to information legislation.	<a href="https://issuu.com/mcpdc/docs/v8_ghid_practic">https://issuu.com/mcpdc/docs/v8_ghid_practic</a>
Methodology for publishing open data	GSG (2019)	Open government data	Central and local government civil servants	Covers legal and technical aspects of open government data as well as how to integrate data into the national open data portal.	<a href="https://data.gov.ro/uploads/page_images/2020-09-14-105456.958150Metedologie-date-deschisefeb2019.pdf">https://data.gov.ro/uploads/page_images/2020-09-14-105456.958150Metedologie-date-deschisefeb2019.pdf</a>
Technical guide for use for standardising the functionality of central and local public administration sites - testing applicability at the public administration level	GSG (2019)	Use of digital technologies to foster open government principles	Central and local government civil servants	A technical step-by-step guide as a complement to the <i>Procedure for the ex officio communication of information of interest standardised and open format and ensuring transparency in decision-making</i> .	<a href="https://sgg.gov.ro/1/wp-content/uploads/2021/09/ghid-identitate-vizuala_SIPOCA35_v2.pdf">https://sgg.gov.ro/1/wp-content/uploads/2021/09/ghid-identitate-vizuala_SIPOCA35_v2.pdf</a>
Practical guide for the application of Law no. 52/2003 regarding the decisional transparency in the public administration	Ministry for Public Consultation and Civil Dialogue (2016)	Citizen and stakeholder participation	Central and local government civil servants	Aims to improve the implementation of Law no. 52/2003 concerning public meetings and consultations to increase the legitimacy of the public decision-making process.	<a href="https://www.edu.ro/sites/default/files/f%C8%99iere/Minister/2016/Transparenta/2016/ghid-revizuit-20160530-final.pdf">https://www.edu.ro/sites/default/files/f%C8%99iere/Minister/2016/Transparenta/2016/ghid-revizuit-20160530-final.pdf</a>
Guidance for the application of General Regulation on Data Protection intended for operators	ANSPDCP (n.d.)	Media freedoms and digital rights	Central and local government civil servants	Short guide that explains the GDPR and its application in the Romanian context.	<a href="https://www.dataprotection.ro/servlet/ViewDocument?id=1425">https://www.dataprotection.ro/servlet/ViewDocument?id=1425</a>
Open Government Recommendations for the local level administration	MDLPA and GSG (2017), with the input of SmartCity Association and Centre for Public Innovation	Open government.	Local government civil servants	Explains what open government constitutes at the local level and the OGP local programme.	<a href="http://ogp.gov.ro/nou/wp-content/uploads/2017/06/Recomandari-Parteneriatul-pentru-Guvernare-Deschisala-nivel-local_final.pdf">http://ogp.gov.ro/nou/wp-content/uploads/2017/06/Recomandari-Parteneriatul-pentru-Guvernare-Deschisala-nivel-local_final.pdf</a>
Improving the process of	GSG (2019)	Transparency	Central and	Public policy document in	<a href="https://sgg.gov.ro/1/w">https://sgg.gov.ro/1/w</a>

Name of toolkit / manual / guideline	Provided by	Relevant open government policy or practice	Primary target audience(s)	Brief description	Web link
ensuring institutional transparency at the level of central and local public administration			local government civil servants	the framework of the Programme on Operational Capacity of Public Administration 2014-2020 that explains the current situation in Romania regarding transparency and how to improve it.	<a href="https://sgg.gov.ro/1/wp-content/uploads/2019/12/Document-de-politica-publica.pdf">p-content/uploads/2019/12/Document-de-politica-publica.pdf</a>
Good practice handbook for promoting a proactive approach to the principles of transparent, open and participatory governance	GSG (2019)	Open government	Central and local government civil servants	Explains civil participation, standards to make it effective and the standards in Romania as well as good practice examples.	<a href="https://sgg.gov.ro/1/wp-content/uploads/2019/04/Manual-de-bune-practici.pdf?fbclid=IwAR0H-aeevZAWEvZy122NQQlpRibCmUj8d1cBTg6ngf26y3ePkLJD6Z6lokq">https://sgg.gov.ro/1/wp-content/uploads/2019/04/Manual-de-bune-practici.pdf?fbclid=IwAR0H-aeevZAWEvZy122NQQlpRibCmUj8d1cBTg6ngf26y3ePkLJD6Z6lokq</a>
Guide to the innovative approach to citizen involvement in decision-making	GSG (2021)	Participation	Central and local government civil servants	Covers innovation in public participation and how to apply it in the Romanian context, including a step-by-step guide on how to run a participatory process.	<a href="https://sgg.gov.ro/1/wp-content/uploads/2021/11/Ghid-final-12.11.2021.pdf">https://sgg.gov.ro/1/wp-content/uploads/2021/11/Ghid-final-12.11.2021.pdf</a>
Guide on the transparency of granting non-reimbursable financing from public funds according to Law no. 350/2005	GSG (2021)	Transparency	Central and local government civil servants	Guide prepared by the General Secretariat of the Government, in collaboration with the civil society,	<a href="https://bit.ly/3vQ5pQc">https://bit.ly/3vQ5pQc</a>
Guide on optimising the partnership between public authorities and the associative environment for volunteering	GSG (n.d.)	Citizen and stakeholder participation	Central and local government civil servants	Instrument to facilitate the uniform application of the provisions in force on volunteering in Romania,	<a href="https://sgg.gov.ro/1/wp-content/uploads/GHID_FINAL.pdf">https://sgg.gov.ro/1/wp-content/uploads/GHID_FINAL.pdf</a>
Manual of good practices regarding the partnership between local public administration authorities and non-governmental organisations active in the field of volunteering	GSG (2021)	Citizen and stakeholder participation	Central and local government civil servants	Presentation of good practices in the collaboration between the public administration and the non-governmental sector in the field of volunteering	<a href="https://sgg.gov.ro/1/wp-content/uploads/2016/04/Manualul-de-bune-practici.pdf">https://sgg.gov.ro/1/wp-content/uploads/2016/04/Manualul-de-bune-practici.pdf</a>
Guide for the implementation of the Local Volunteering Strategy	GSG (n.d.)	Citizen and stakeholder participation	Local government civil servants	It synthesises existing resources in order to support volunteering in order to serve the actors at the level of local administrations in the implementation of local development strategies, regarding volunteering.	<a href="https://sgg.gov.ro/1/wp-content/uploads/2022/12/Indrumar-pentru-implementarea-Strategiei-Locale-de-Voluntariat.pdf">https://sgg.gov.ro/1/wp-content/uploads/2022/12/Indrumar-pentru-implementarea-Strategiei-Locale-de-Voluntariat.pdf</a>
GUIDE – How do you start an NGO in 2021?	GSG (2021)	Civic space	Civil society	Description of the chronological procedural steps for the establishment of an NGO.	<a href="https://conect.gov.ro/1/wp-content/uploads/2021/05/Ghid-de-infiintare-ONG-Cum-infiintezi-un-ONG-in-2021.pdf">https://conect.gov.ro/1/wp-content/uploads/2021/05/Ghid-de-infiintare-ONG-Cum-infiintezi-un-ONG-in-2021.pdf</a>

Source: Author's own elaboration, based on (Government of Romania, 2022<sup>[6]</sup>).

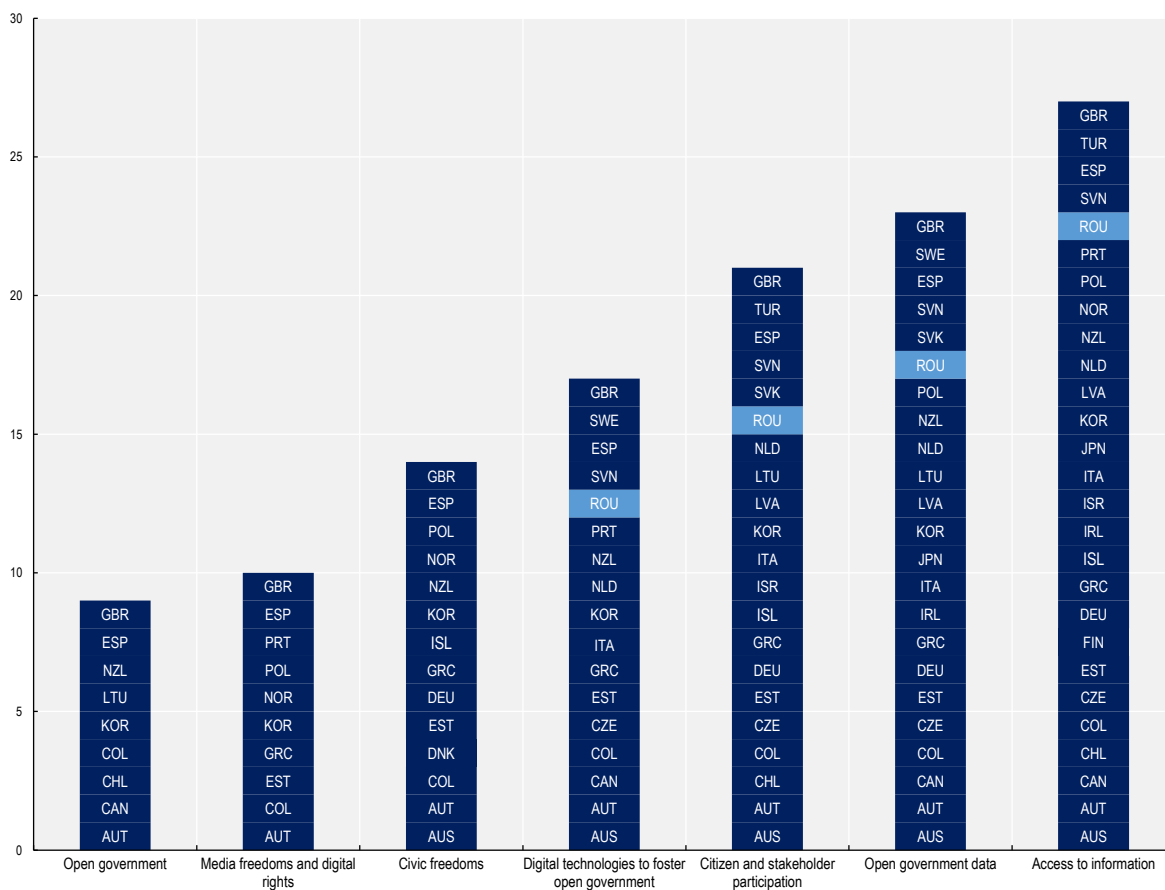
The number of guidelines and toolkits in different areas of open government in Romania is impressive. Many of them are of high quality and provide useful recommendations on ways to foster openness. However, evidence collected by the OECD shows that many of the existing guidelines are not widely known and, as a consequence, rarely used. The design of the Open Government Strategy provides an opportunity for Romania to review the existing guiding material and evaluate if it is still adequate. A review could allow discarding of guiding material that is outdated or no longer relevant (due to the adoption of more recent GDs, etc.). In addition, to facilitate accessibility and use, Romania could create a compendium of available resources (which could be based on Table 5.2) and include it in the Open Government Portal.

In addition, the Open Government Strategy could be coupled with the development of a holistic (online) Open Government Toolkit made available free of charge to all public servants. The Toolkit could provide an overview of concrete actions that any public official can take to foster interactions with citizens and increase his/her institution's openness. Similarly, the Open Government Service could lead to the development of an Open Government Toolkit for citizens, explaining their rights and providing an overview of avenues for collaboration with public institutions.

### ***Providing trainings and capacity-buildings on open government policies and practices***

The provision of trainings, information sessions and capacity-building events is another way of ensuring that public officials and non-public stakeholders embody open government principles and increase their levels of open government literacy (OECD, 2021<sup>[23]</sup>). According to the results of the 2020 OECD Survey on Open Government (OECD, 2021<sup>[41]</sup>), most governments across the OECD propose specific trainings on different open government policies and practices to their staff. For example, 27 out of 35 OECD countries surveyed (77%) provide training on access to information, and 23 (66%) on open government data. Seventeen of the OECD countries (49%) have training on citizen and stakeholder participation. Nine OECD countries (26%) have training on open government as an integrated concept (e.g. explaining what open government means).

Figure 5.5. Trainings on open government policies and practices in Romania and the OECD



Note: N=35. Multiple selections possible. \*Data for the United States are preliminary.

Source: OECD (2021<sup>[4]</sup>), Survey on Open Government.

Romania is mostly aligned with OECD practice, also offering trainings in some of these areas (Figure 5.5). In particular, the Open Government Service conducts information sessions and trainings in its area of competence (e.g. on the Open Government Partnership, the GSG's guide on innovation on participation, the use of the RUTI platform and on access to information, the relationship with civil society and the efficiency of the structures intended for this field). In addition, the Ministry of Justice conducts information and training sessions for staff engaged in implementing the National Anticorruption Strategy (Government of Romania, 2022<sup>[6]</sup>). However, while these trainings are very relevant, the GSG's resources are limited and insufficient to cater for the whole of the Romanian public administration.

The National Institute for Public Administration (INA), under the authority of the Ministry of Public Works, Development and Administration, is tasked with training the staff of both central and local public administrations (National Institute for Public Administration, 2022<sup>[24]</sup>). However, the catalogue of the Institute does not include any trainings on open government and citizen participation, and very few trainings on other relevant areas of open government. For example, open data is part of a course on "communication and public relations". Other courses cover the administrative code and relate to transparency and participation in decision-making (National Institute for Public Administration, 2022<sup>[24]</sup>).

**Table 5.3. An overview of the most relevant trainings on open government policies and practices in Romania**

Name of training / course	Relevant open government document	Institution offering the training	Description	Web link
Open Data	Law no. 109/2007, transposing EU PSI Directives	General Secretariat of the Government	In 2018, the GSG has provided training sessions on open data to central and local public servants. Among the topics were the context, legislation, portal use and re-use of open government data. The corresponding guidelines and course materials have been in use since then.	<a href="https://data.gov.ro/pages/resources">https://data.gov.ro/pages/resources</a> .
Information session - "Innovative practices in ensuring access to information of public interest" 2022	Law no. 544/2001 Law no. 52/2003 Ordinance no. 26/2000	General Secretariat of the Government	These workshops were held as part of the commitment to "Coordinate the management of innovative processes to streamline participation in public administration decisions" undertaken by SGG in the National Action Plan 2020-2022 of the Open Government Partnership (OGP). They consisted of six sessions each addressing a different target audience.	<a href="https://sgg.gov.ro/1/guvernare-deschisa-2/">https://sgg.gov.ro/1/guvernare-deschisa-2/</a>
Information sessions for the use of RUTI	RUTI Memorandum	General Secretariat of the Government	For the correct use of the RUTI platform, the General Secretariat of the Government (SGG), through the Open Government Service (SGD), organised in 2021, on the Webex Communications platforms, Zoom Communications, 16 online training sessions addressed to the persons responsible for managing the related RUTI accounts of dignitaries.	
Information sessions on Innovation in public participation	Guide for the innovative approach to citizen involvement in the decision-making process	General Secretariat of the Government	In February 2022, the GSG held three information sessions with representatives of 38 central and local public administration institutions (ministries and county councils) and 8 non-governmental organisations on the presentation of the principles of innovation and the need to assimilate new methods and practices regarding the development of participatory processes.	
Information sessions on non-reimbursable financing from public funds	The guide regarding the transparency of the granting of non-reimbursable financing from public funds according to Law no. 350/2005 The CONECT platform	General Secretariat of the Government	In February 2022, the General Secretariat of the Government (SGG), through the Open Government Service, organised two information sessions with representatives of 38 central and local public administration institutions (ministries and county councils) and 8 non-governmental organisations on how to use the support tools created by the General Secretariat of the Government to contribute to the efficiency of the procedures for granting non-reimbursable financing from public funds.	
Communication and Public Relations	Open Data	National Institute for Administration	Covers aspects of public relations, such as the identification of target audiences and the development of a public relations strategy. One subtopic is open data.	<a href="https://ina.gov.ro/comunicare-informare-promovare-transparenta/">https://ina.gov.ro/comunicare-informare-promovare-transparenta/</a>
Administrative Code – Public Office	Administrative Code, Integrity	National Institute for Administration	Teaches public officials' duties in the context of the Administrative Code and European legislation, including the rules of professional conduct and conflicts of interest.	<a href="https://ina.gov.ro/drept-legislatie-norme-proceduri/">https://ina.gov.ro/drept-legislatie-norme-proceduri/</a>
E-Government for Public Administration	Digital tools for open government	National Institute for Administration	In the framework of E-government, this course also discusses personal data protection and e-democracy.	<a href="https://ina.gov.ro/tehnologia-informatiei-si-comunicarii/">https://ina.gov.ro/tehnologia-informatiei-si-comunicarii/</a>

Source: Author's own elaboration based on Government of Romania (2022<sup>[6]</sup>).

The GSG's evaluation from 2021 notes that “specialisation courses or trainings, important elements in ensuring a qualitative activity in the provision of information of public interest, are provided by only 33.3% of the responding institutions, although access to such courses is considered as very useful by 66.7% of them and 33.3% useful” (General Secretariat of the Government, 2021<sup>[17]</sup>). In a positive step, within Target 407 of the RRP, the GSG will run until 2026 with the support of national experts a series of courses, dedicated both to staff from public institutions and to the associative environment (including unions and employers), that will cover topics such as: increasing administrative capacity and digitising civil society structures, access to information of public interest and decisional transparency in public administration, and implementing the principles of open government (Government of Romania, 2022<sup>[6]</sup>). Moving forward, Romania could foster co-ordination between the GSG and the National Institute for Public Administration to ensure that trainings on open government policies and practices find their way into core curricula for public officials. As part of the efforts to create an enabling environment for the implementation of the Open Government Strategy, Romania could further consider including a dedicated course on open government in mandatory training requirements for public officials, including for senior public officials. Further efforts could also be made to make resources for trainings and capacity-building activities for public officials more accessible, for example via virtual libraries and Massive Online Open Courses. Good practices from Argentina and Brazil can provide inspiration (Box 5.6).

### **Box 5.6. Empowering public officials through virtual learning**

#### **The Virtual School of Government in Brazil**

For civil servants or citizens seeking training in the Brazilian public service, the Virtual School of Government (*Escola Virtual de Governo*) offers a unified course catalogue from the main government schools and Public Administration training centres. It contains 501 freely accessible courses and structures them into 49 blocks for which a certification can be earned. Certifications in the area of open government include how to operate the +Brasil platform on fiscal government data, simple language, and transformation of the public service towards being more digital, transparent and open, among others. It is an opportunity for public officials to continue their training process independently. Upon successfully completing the set of courses that make up each of the certifications, the public official has access to the certificate with the total workload of the chosen certification and can signal his improved competencies.

#### **MOOCs on Open Government in Argentina**

Two courses that are part of Argentina's Federal Open Government Program are available on Argentina's Virtual Learning Platform. One of them is the Introduction to the open government approach, which provides a first understanding of the different conceptualisations of open government and the context in which they emerge. The Methodology course for the design of open government projects, on the other hand, offers methodological tools for the preparation of projects, emphasising the stages and elements that must be present in their design to achieve a successful implementation. These courses are open to the entire community, virtual and at any time, so that the participants can manage their schedules at their convenience.

Source: Government of Brazil (n.d.<sup>[25]</sup>), “Meet the School”, <https://www.escolavirtual.gov.br/conheca-a-escola>; Government of Argentina (n.d.<sup>[26]</sup>), “Guía inicial de gobierno abierto”, <https://www.argentina.gob.ar/jefatura/innovacion-publica/servicios-y-pais-digital/gobierno-abierto/recursos-utiles>.

Romania could further consider creating a single training catalogue that lists all trainings on open government policies and practices that are offered by different public institutions. This training catalogue could be included in the recommended one-stop-shop Open Government Portal (see below). Finally, in order to stimulate more ambitious reforms and provide incentives to public officials and non-public stakeholders to implement the Open Government Strategy, Romania could consider creating an annual Open Government Award. A prize could be awarded to public officials and non-public stakeholders (e.g. citizens, civil society organisations, academics, etc.) that have significantly enhanced the openness of the state through their actions. The Award could be handed out by the GSG and could include recognition of good practices at the subnational level of government and in the other branches of the state, similar to the previously existing Network of Champions in the field of Integrity (Box 5.7). Alternatively, a focus on open government principles could be promoted in the framework of existing competitions, such as the annual competition on best practices in public administration organised by the National Agency for Civil Servants (ANFP, n.d.<sup>[27]</sup>).

### Box 5.7. Network of Champions in the field of integrity in Romania

The Ministry for Development, Public Works and Administration (MDLPA) organised in 2019 and 2020 the competition "Network of Champions in the field of integrity". This competition was an opportunity for local public administrations to present their most innovative and impactful initiatives on open government. During its initial round in 2019, 10 out of 29 projects were awarded this title by the evaluation commission consisting of representatives from the Ministry of Regional Development and Public Administration, the General Secretariat of the Government and the National Agency of Civil Servants. Winning projects included the smart city project of Alba Iulia, an interactive map of Arad for citizen reports and the online platform for the participatory budgeting process in Suceava. Together with the other projects, they could be presented at the 2019 "Smart City Expo World Congress". In the second edition in 2020, 6 out of 25 proposals were distinguished, among them the first "smart" school in the countryside in Ciugud.

Source: Government of Romania (n.d.<sup>[28]</sup>), REȚEAUA CAMPIONILOR ÎN DOMENIUL INTEGRITĂȚII, <https://www.mdlpa.ro/uploads/articole/attachments/5daee67bd041497028948.doc>; Background report.

Romania could further develop dedicated educational resources on open government. These could introduce the concept of open government to citizens in simple language. One example in this regard are the materials provided by Spain for teachers (Box 5.8). Moreover, while trainings for public officials are common practice in OECD countries nowadays, data from the 2020 OECD Survey on Open Government shows that governments make fewer efforts to foster the open government literacy of non-public stakeholders (OECD, forthcoming<sup>[21]</sup>). For example, only half of OECD countries that responded to the Survey provide some sort of training related to open government for non-public stakeholders. Most commonly, these trainings cover open government data as well as access to information. Similarly, in Romania, the government currently does not provide dedicated support to non-public stakeholders to improve their open government literacy (OECD, 2021<sup>[41]</sup>). Moreover, guidelines and manuals in the area, while also relevant for non-public stakeholders, are primarily addressed by public officials. Civil society organisations' own efforts to develop resources are scattered and their uptake is limited (see also (OECD, 2023<sup>[8]</sup>)).



### Box 5.8. Education on open government for civil society in Spain

In Spain, education in Open Government is a commitment that began in the third OGP National Action Plan 2017-2019. The objective is to develop civic and social skills of pupils, students and teachers, for the future exercise of a more democratic citizenship. The expectation is that the future citizenry will be more committed, will demand more transparent and upright public administrations and will exercise a more responsible, collaborative and participatory civic attitude in public affairs.

The project is aimed at teachers and students of all educational stages and consists of:

- **Open Government Education Guides:** The Open Government Education Guides include theoretical and practical aspects of Open Government. They have been published in collaboration between the National Institute of Educational Technologies and Teacher Training, INTEF (Ministry of Education and Vocational Training) and the General Directorate of Public Governance (Ministry of Territorial Policy and Public Function). The educational guides are also presented in an accessible and easy-to-read mode to ensure that people with reading and/or comprehension difficulties can read and understand them.
- **Teacher training:** The MOOC (massive open online course) of "Education in Open Government" provides fundamental knowledge about Open Government and its pillars: transparency and accountability, public integrity, citizen participation and collaboration. The MOOC videos can be consulted on the INTEF YouTube space. The MOOC is especially recommended for teachers and the main objective is to train them to transfer the principles, experiences and values of Open Government to their students. Its online format allows participants flexibility and to obtain useful resources for putting educational projects into practice in their schools. These training experiences have been organised by the INTEF, in collaboration with the General Directorate of Public Governance, and have been aimed at a broad profile of people interested in education and Open Government.
- **Educational projects at all school levels:** Since 2017, various didactic projects have been developed in educational centres in Spain and abroad.

Source: Government of Spain (n.d.<sup>[29]</sup>), "Educación en Gobierno Abierto"; Government of Spain (2018<sup>[30]</sup>), "Educación en Gobierno Abierto (2ª edición)"; YouTube channel (17 December 2022), "MOOC Educación en Gobierno Abierto", #EduGobAbierto.

### **Promoting open government policies and practices in public officials' competency frameworks**

In 2017, the [OECD Report Skills for a High Performing Civil Service](#) (2017<sup>[31]</sup>) introduces a framework for skills needed by today's public officials. One of the four pillars of this framework focuses on service delivery and citizen engagement as "public officials work directly with citizens and users of government services. New skills are required for public officials to effectively engage citizens, crowdsource ideas and co-create better services" (OECD, 2017, p. 9<sup>[31]</sup>). As OECD data shows, 25 out of 30 OECD countries (83%) allude to central themes of open government in their competency frameworks. Public values/integrity is most commonly present (83%), followed by communication and engagement skills (respectively 73%) (OECD, 2021<sup>[4]</sup>).

In Romania, the National Agency of Public Servants (ANFP) under the Ministry of Development, Public Works and Administration (MDLPA) is the public institution of the central government that is responsible for the management of civil servants. Its tasks include elaborating competency frameworks. It provides

assistance to public institutions' human resources departments to apply the legislation and to monitor and control its application.

In collaboration with the World Bank (National Agency of Civil Servants, n.d.<sup>[32]</sup>), the ANFP recently established new competency frameworks for different levels of public officials, as well as specialised job profiles (Government of Romania, 2020<sup>[33]</sup>). The general competency frameworks refer to *integrity* and *citizen orientation* under the category of *social responsibility*. In particular, the competency of citizen orientation presents an essential cornerstone of open government as it asks to take “into account the needs and the interests of citizens”, as well as to “work effectively with citizens, partners and stakeholders”.

The adoption and implementation of the competency frameworks will be essential to entrench a culture that is centred on collaborating with and serving citizens in the Romanian civil service. The competency frameworks should be applied widely, including by using them when hiring new public officials, and when evaluating existing public officials' performance, thereby making open government values fundamental for career development.

### ***Creating a community of practice on open government to foster informal sharing of information and experiences***

Some countries across the OECD, such as Spain, have started creating communities of practice on open government policies to exchange good practices and facilitate the sharing of resources and experiences (OECD, 2022<sup>[1]</sup>). A community of practice can be defined as a group of people that “share a concern or a passion for something they do and learn how to do it better as they interact regularly” (Lave and Wenger, 1991<sup>[34]</sup>).

In Romania, the Network of Stewards on OGP/Open Government - composed of the OGP co-ordinators within all ministries – aims to co-ordinate open government activities, maintain dialogue with the GSG, share good practices and challenges and raise awareness and participate in international or regional open government events (Government of Romania, 2022<sup>[6]</sup>). Further, there exists a network of public officials on open data in ministries. This network is maintained, updated and expanded regularly by the GSG, at both central and local levels, and all members are regularly invited to open data webinars, information sessions or consultations and kept up to date on new developments. There are open data-appointed stewards in all ministries and many agencies from the central level, as well as an increasing number from the local level, many of which are part of this network. At local level, there is also a network of public officials in charge of civil society relations.

In addition, the General Secretariat of the Government created the “OGP Club” to mainstream open government topics across the government. The OGP Club brings together public and non-public stakeholders to discuss open government issues. During 2021-2022, five OGP Clubs were held on topics such as anti-corruption, digitalisation and the need to move towards an open government culture (Government of Romania, 2022<sup>[6]</sup>). Moreover, the GSG regularly organises working meetings that bring together representatives from government and civil society. For example, over the course of 2021, it organised multiple blocks of meetings concerning two of Romania's OGP Action Plan commitments on access to information and participation. These were attended by 35-45 institutions each.

As part of the process to implement the Open Government Strategy and in order to create a more permanent platform for learning and dialogue, Romania could build on the existing Network of Stewards and the OGP Club to create a stable community of practice on open government. The community of practice could bring together public officials from all branches of the state and all levels of government that are interested in open government topics and/or have participated in trainings on open government policies and practices. The community could be animated by the GSG through a dedicated online space. In addition to being a platform for dialogue, learning and sharing of good practices, the community could provide GSG with an effective informal co-ordination tool. In an ideal case, the community of practice would also involve

non-public stakeholders such as civil society leaders as well as representatives from academia, the private sector, and trade unions (see Box 5.9).

### **Box 5.9. Examples of communities of practice in Spain and the United States**

#### **Spain's Community of Practice on Participation**

At the meeting of the Participation Working Group of Spain's Open Government Forum on 2 March 2021, it was decided to create a community of practice that would take advantage of the experience of all the actors, and of the promoters of the numerous initiatives that are being developed in the country's fourth Open Government Plan regarding citizen participation in public affairs. The community includes representatives of the three levels of public administrations, civil society (with the presence of organisations with solvency in terms of participation) and some international ones (specifically from Colombia, Mexico, Italy and the participation of the OECD). It has three subject domains: processes of participation, experimentation for the discovery of innovative forms of participation, and platforms including the use of digital tools for implementation. The primary objective of this Community lies in the design and exchange of practical elements and, when possible, the co-creation of experiences that help implement, within the sphere of responsibility of each sector or agency, specific issues to facilitate citizen participation in the scope of its powers. The community is supported by the General Directorate of Public Governance at the central government level.

#### **The Argentina Abierta Forum**

Argentina Abierta is an innovative conference convened by the national Government Secretariat of Modernisation that aims to foster the exchange of good practices and encourage discussion on issues related to transparency, accountability, new technologies, public innovation and open data. The conference brings together students, journalists, public officials, entrepreneurs and civil society organisations. The Federal Council for Modernisation and Innovation in Public Management (COFEMOD) participates actively in the meetings. Over the years, Argentina Abierta has won national and international recognition as a platform to foster collaboration across branches of power and levels of government, and it has allowed the national government to involve new actors in the open government agenda.

#### **US OpenGov Community of Practice**

The United States Government established a series of communities of practices across the Federal Government to collaborate and share resources on different policy areas. The Open Government Community of Practice is a digital space and a network where civil servants across the government can discuss open government-related initiatives and practices. The Open Government community consists of government employees and civil society members working in the field of Open Government to share best practices to promote transparency, participation, and collaboration, and advocate for opening government information. These type of communities allow for a continuous exchange of information, peer learning, it supports co-ordination and collaboration across government.

Source: [https://transparencia.gob.es/transparencia/transparencia\\_Home/index/Gobierno-abierto/Comunidad-de-Practica-Participacion.html](https://transparencia.gob.es/transparencia/transparencia_Home/index/Gobierno-abierto/Comunidad-de-Practica-Participacion.html); US General Services Administration (2022), *OpenGov Community*, <https://digital.gov/communities/open-gov/>.

## Strengthening public communications on open government through an integrated open government portal

Provision 6 of the OECD Recommendation on Open Government stipulates that countries should “actively communicate on open government strategies and initiatives, as well as on their outputs, outcomes and impacts, in order to ensure that they are well-known within and outside government, to favour their uptake, as well as to stimulate stakeholder buy-in” (OECD, 2017<sup>[5]</sup>). Public communication is a key lever of government that can be deployed both internally (across and within public entities) and externally (with the broader public) and serve as a tool for policy implementation and service design and delivery. It implies a two-way relationship that allows understanding, listening and responding to citizens (OECD, 2021<sup>[35]</sup>). Effective public communication remains one of the main challenges that OECD Member and Partner countries face in implementing successful open government reforms (OECD, forthcoming<sup>[2]</sup>).

Websites and portals are among the most common tools used by OECD Members and Partner countries to communicate about open government reforms<sup>3</sup> (OECD, 2022<sup>[1]</sup>) (OECD, 2021<sup>[23]</sup>). Most importantly, websites and portals can serve to publicise relevant information and engage with a broad variety of audiences, circumventing possible time or distance constraints (OECD, 2022<sup>[1]</sup>). Generally, one can differentiate between government-wide portals and institution or policy-specific websites (OECD, 2021<sup>[23]</sup>). Government-wide portals centralise information and interaction channels across the government. They have the advantage of facilitating the identification of relevant websites and thereby reducing searching costs for information or services. On the other hand, institution or policy-specific portals are more easily adapted to specific circumstances and therefore may have a better fit for the website’s objectives (OECD, 2021<sup>[23]</sup>).

Over the past years, Romania has established multiple portals and websites on open government policies and practices. The most important government-wide of them at the level of the Romanian national government include:

- The **government website** (<https://gov.ro/ro/>) introduces the structures, competences and activities of the Prime Minister and her Cabinet. This includes the Prime Minister’s Agenda as well as introductions of all Ministers and strategic documents, such as the Government Programme.
- The **E-Consultare platform** (<https://e-consultare.gov.ro>), administered by the GSG, contains information on draft normative acts initiated by the public administration and facilitates the sending of proposals directly to the initiating institutions. It also displays information on upcoming public debates, specifying the date, time, location and topic. Users can participate in public consultations, by sending recommendations through a contact form and can subscribe to the weekly newsletter containing the list of the latest draft regulations under public consultation. This portal is further discussed in Chapter 4.
- The **OGP website** (<https://ogp.gov.ro/nou/>) provides information about Romania’s OGP process and (partly) the government’s wider open government agenda. For example, the website provides access to past and present action plans and IRM-report. It also includes the regulations of Romania’s National Co-ordinating Committee (CNC) and describes its functioning. Interested stakeholders can further access information on the legal framework for open government and explore the OGP local programme.
- The **Single Register of Transparency of Interests (RUTI)** (<http://ruti.gov.ro/>) was established through the *Memorandum for increasing Transparency and Standardizing the display of information of public interest* in 2016 and its procedures recently updated through GSG Order no. 1056/2022. RUTI constitutes a catalogue of meetings between decision makers and specialised groups. The platform displays information on legal persons who interact with the institutions of the central public administration and local public administration (prefects, presidents of county councils, mayors). Public officials are encouraged to create an account and publish a record of

their meetings with representatives of interest groups (OECD, 2022<sup>[36]</sup>). While both public officials and civil society stakeholders that were interviewed for this Review were generally positive about the RUTI platform, uptake could be further enhanced. For the moment, RUTI only brings together 633 decision makers and 253 specialised interest groups.

- The **Catalogue of Non-Governmental Organizations for Evidence, Consultation and Transparency** (CONNECT) (<https://conect.gov.ro/1/>) is a tool managed by the General Secretariat of the Government that aims to promote the activities of registered CSOs and help improve their volunteering work. Its targeted users that are members of civil society and officials in public institutions that deal with civil society relations and participation. Overall, this platform aims to be a primary “source of information on active and relevant associations and foundations in Romania”. CSOs can register on the platform by filling in an online form and signing an agreement wherein they permit their data entered on the platform to be made public and to be used by representatives of public authorities at the central and local levels. The website also provides information on pending calls for CSO projects (see also the *Civic Space Review of Romania* for further information (OECD, 2023<sup>[8]</sup>)).
- The **national open data portal** (<https://data.gov.ro/>), managed by the General Secretariat of the Government, ensures the co-ordination of the process of opening public data in Romania. The portal constitutes the central access point for open data sets published by Romanian public institutions and the point of contact in the relationship with the pan-European open data portal (europeandataportal.eu). At the time of writing, the portal included more than 3000 data sets from 118 different institutions.

In addition to these whole of government portals, all public institutions now have sections on access to information (Law no. 544/2001) and on participation (Law no. 52/2003) on their own websites. Some institutions also provide electronic forms for the transmission of proposals to improve the normative acts launched in public consultation, extending the advertising channels of public consultations on social networks to encourage citizen participation.

**Table 5.4. An overview of the most important portals and websites on open government policies and practices in Romania**

Name	Key functions	Co-ordinating public institution	Weblink
Government website	Offering an overview of the government, including the Prime Minister's agenda and Ministers' portfolio, as well as the main strategic documents.	Government of Romania	<a href="https://gov.ro/ro/">https://gov.ro/ro/</a>
Single Register of Transparency of Interests (RUTI)	Provides a unique catalogue of meetings between decision makers and specialised groups.	General Secretariat of the Government	<a href="http://ruti.gov.ro/">http://ruti.gov.ro/</a>
E-Consultation Platform	Contains information on draft normative acts initiated by the public administration and facilitates direct interaction between citizens and stakeholders and the initiating institutions.	General Secretariat of the Government	<a href="http://e-consultare.gov.ro/w/">http://e-consultare.gov.ro/w/</a>
Catalogue of Non-Governmental Organizations for Evidence, Consultation and Transparency (CONNECT)	Encourages the development of non-governmental organisations, public participation and volunteering	General Secretariat of the Government	<a href="http://conect.gov.ro/">http://conect.gov.ro/</a>
Legislative Portal	Provides access to all existing laws and regulations in Romania.	Ministry of Justice	<a href="http://legislatie.just.ro">http://legislatie.just.ro</a>
Open Data Portal	Provides a central access point for open datasets delivered by public institutions, helping the public to find, download and use information generated and held by administrative structures	General Secretariat of the Government	<a href="https://data.gov.ro/">https://data.gov.ro/</a>

Name	Key functions	Co-ordinating public institution	Weblink
<b>Budget transparency portal</b>	Displays financial reports of public entities in Romania.	Ministry of Finance	<a href="https://mfinante.gov.ro/transparenta-bugetara">https://mfinante.gov.ro/transparenta-bugetara</a> .
<b>Electoral transparency</b>	Provides real-time information from the day of the vote, includes statistics on the age and gender of voters, as well as the percentages of voters by county, commune, region and polling station.	Permanent Electoral Authority	<a href="http://www.prezenta.roaep.ro">www.prezenta.roaep.ro</a>
<b>Electronic Public Procurement System (SEAP)</b>	Ensures transparency in the public procurement process and procedures. By law, all public authorities are required to register with SEAP and publish notices of intent, participation, and award for their own procurement procedures.	Romanian Digitization Agency (ADR)	<a href="https://www.e-licitatie.ro/pub">https://www.e-licitatie.ro/pub</a>
<b>Asset and wealth declarations</b>	Provides access to the asset and interest declarations of civil servants.	National Integrity Agency (ANI)	<a href="http://declaratii.integritate.eu">http://declaratii.integritate.eu</a>

Source: Author's own elaboration.

Interviews conducted for this OECD Open Government Review confirmed that citizens and stakeholders sometimes face challenges in identifying the most relevant portal for their particular needs and that the complex interplay between the different portals is not always clear. To simplify the current complex architecture of websites and portals and provide better accessibility, Romania could create an integrated Open Government Portal as a one-stop-shop for all open government-related websites. Such an initiative would not aim to delete or replace any of the existing portals, which already fulfil many important functions. Instead, it would gather all of them – semantically and structurally – under a coherent open government narrative that is aligned with the integrated open government agenda that the Open Government Strategy will promote. The creation of an Open Government Portal could also provide an opportunity to implement recommended actions, such as the establishment of a single access point for access to information requests and the tracking of submitted requests (see Chapter 4).

The current transformation of the *E-consultare* platform already points in the direction of an Open Government Portal and this dynamic could be exploited further. In the medium term, *E-consultare* could become the central platform to also exercise the right of access to information and the right to petition, thereby making it the first central-level platform integrating all essential open government areas in one place. This Open Government Portal could help in mapping and navigating to other, already existing central portals in related areas, such as RUTI on lobbying activities and SEAP on public procurement.

### Box 5.10. Canada's Open Government Portal

The Government of Canada's website on open government provides content about a wide range of open government topics in an easily accessible manner. The start page is divided into three sections. The first section allows users to directly search for data and information that has been disclosed either proactively or as a result of an Access to Information request. Alternatively, resources on how to request information and background material on this topic can be consulted. The second section contains four themes which structure open government content:

- About Open Government: Canada's involvement in the OGP process, open government initiatives across Canada, FAQs on open government, the Open Government Licence, and other background material;
- Open data: Open government data in the open data portal, instructions on their use, helpful tools and inspirational use cases;
- Open information: Information from digital government records in the open information portal, request summaries of access to information requests, grouped information on government

expenditure, public procurement, regulatory plans, government service performance and others;

- Open dialogue: Participation in government decision-making, principles and guidelines for engagement, consultation data, space for interaction with other actors from the open government community in the Public Engagement Community of Practice

The third section at the bottom of the page features the latest news on everything related to open government.

Source: OECD (2022<sup>[11]</sup>), *Open Government Review of Brazil: Towards an Integrated Open Government Agenda*; Government of Canada (2022<sup>[37]</sup>) *Open Government website*, <https://open.canada.ca/en>.

## Conclusions

The design and implementation of Romania's first Open Government Strategy will put the country's open government agenda on a new level and contribute to further integrating policies and practices in different areas of open government under one holistic umbrella. Assessing Romania against Provisions 3, 4 and 6 of the OECD Recommendation on Open Government, it finds that Romania possesses already has relevant governance structures for open government in place. However, for the Strategy not to remain "on paper", some reforms to the existing governance frameworks for open government in Romania may be warranted.

In particular, the current clustering of competences under the General Secretariat of Government presents a unique opportunity to establish the GSG as the central actor of an Open Government Strategy. The Open Government Service would need to be empowered through a corresponding mandate and sufficient resources that reflect its expanded responsibilities. To ensure successful implementation of the Strategy, co-ordination mechanisms across government and including non-public stakeholders need to be strengthened beyond the existing National Coordination Committee on Open Government. While there exists an impressive number of guidelines, more trainings across the whole of the government would be needed to improve open government literacy, in particular regarding participatory processes. To make full use of digital technologies for increased impact of the Strategy, an Open Government Portal that enhances and combines the various existing portals can improve the communication with citizens and civil society. The recommendations made in this chapter assist Romania in building a comprehensive open government ecosystem that can support the implementation of the nation's first all-encompassing open government strategy.



## Policy recommendations

- 1. Empower the Open Government Directorate of the General Secretariat of the Government.**
  - Transform the Open Government Directorate into a Centre of Expertise on Open Government that promotes an open government culture across the whole national government and provides support and advice to public institutions at all levels in the implementation of different kinds of open government initiatives
  - Provide the Directorate with increased human, technical and financial resources to successfully fulfil its new role, including the co-ordination of the Strategy-process.
  - Attach the Open Government Service directly to a Secretary of State to secure high-level political commitment and accountability for open government reforms.
- 2. Improve the co-ordination and mainstreaming of open government policies and practices across the whole state.**
  - Extend the National Coordination Committee's (CNC) portfolio and use it to co-create, co-ordinate and monitor and evaluate the forthcoming Open Government Strategy **or** establish a new National Open Government Steering Committee for the same purpose and integrate the existing CNC as a sub-committee to continue co-ordinating the OGP process.
  - Enlarge the participation of different types of stakeholders (both public and non-public) in co-ordination mechanisms and increase the level of representation from the highest level of government, including by collaborating closely with the Chancellery of the Prime Minister.
- 3. Create dedicated Open Government Offices at the level of each individual public institution** that bring together the existing people/offices in charge of the OGP process, access to information, open government data, decisional transparency in public administration and relationship with civil society, as well as resolutions of petitions in order to foster synergies across topics.
  - Make Open Government Offices the public institutions' focal points for the implementation of the Strategy.
- 4. Increase the effectiveness of guiding material on open government topics.**
  - Review existing guiding material and create a compendium of available resources, for example in an envisaged Open Government Portal.
  - Develop a holistic (online) Open Government Toolkit made available to all public servants.
  - Develop an Open Government Toolkit for citizens, explaining their rights and providing an overview of avenues for collaboration with public institutions.
- 5. Extend and streamline trainings on open government.**
  - In collaboration with the National Institute for Public Administration, develop an integrated course on open government policies and practices and consider making it a mandatory training requirement for public officials, including for senior public officials.
  - Enhance the free and easy access to trainings on open government by providing them, for example, in a virtual library or in the format of Massive Online Open Courses, like in Brazil.
  - Create a single training catalogue that lists all trainings on open government policies and practices that are offered by different public institutions.
- 6. Establish an annual Open Government Award** to reward public officials and non-public stakeholders (e.g. citizens, civil society organisations, academics, etc.) that have significantly enhanced the openness of the state through their actions.
- 7. Continue the application of the recently adopted competency frameworks for public officials** to make open government values fundamental for career development and entrench a culture of open government in the public sector.

8. Build on the existing Network of Stewards and the OGP Club to **create a stable community of practice on open government** that brings together public officials from all branches of the state and all levels of government that are interested in open government topics and/or have participated in trainings on open government policies and practices
9. **Create an integrated Open Government Portal** as a one-stop-shop for all open government-related websites (see also Chapter 4). The Open Government Portal could gather all current websites on topics of open government (e.g. the Transparency of Interests *Register (RUTI)*) – semantically and structurally – under a coherent open government narrative that is aligned with the forthcoming Open Government Strategy.
  - Consider using an expanded version of the E-Consultare platform as the Open Government Portal.

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## Notes

<sup>1</sup> Public stakeholders: General Secretariat of the Government; Ministry of Culture; Ministry of Energy; Ministry of Development, Public Works and Administration; The National Agency for the Administration of Undisposed Assets; National Agency for Natural Protected Areas; National Agency for Equal Opportunities for Women and Men.

Members present from civil society: Romanian Quantitative Studies Association; Foundation for the Development of Civil Society; Expert Forum; Smart City Timisoara Association; CIVICA Iași Association.

<sup>2</sup> The Recommendation of the Council on Open Government (OECD, 2017<sup>[5]</sup>) defines open government literacy as “the combination of awareness, knowledge, and skills that public officials and stakeholders require to engage successfully in open government strategies and initiatives.”

<sup>3</sup> Recognising that public communication is a wide field, this section focuses only on the use of portals and websites as communication tools.



# 6 Taking a strategic approach to open government in Romania: Towards an Open Government Strategy

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This chapter aims to support Romania in the process to design, implement, monitor, and evaluate its first holistic government policy to foster the government-citizen nexus. The chapter starts by analysing the space for an Open Government Strategy in Romania, the chapter finds that there is a need for a more holistic and integrated approach to open government in the country. It then provides targeted recommendations aiming to facilitate the preparation for the design and the process to draft an integrated Open Government Strategy. This chapter builds on the findings of the *Civic Space Review of Romania* which is conducted in parallel to the presented Open Government Review.

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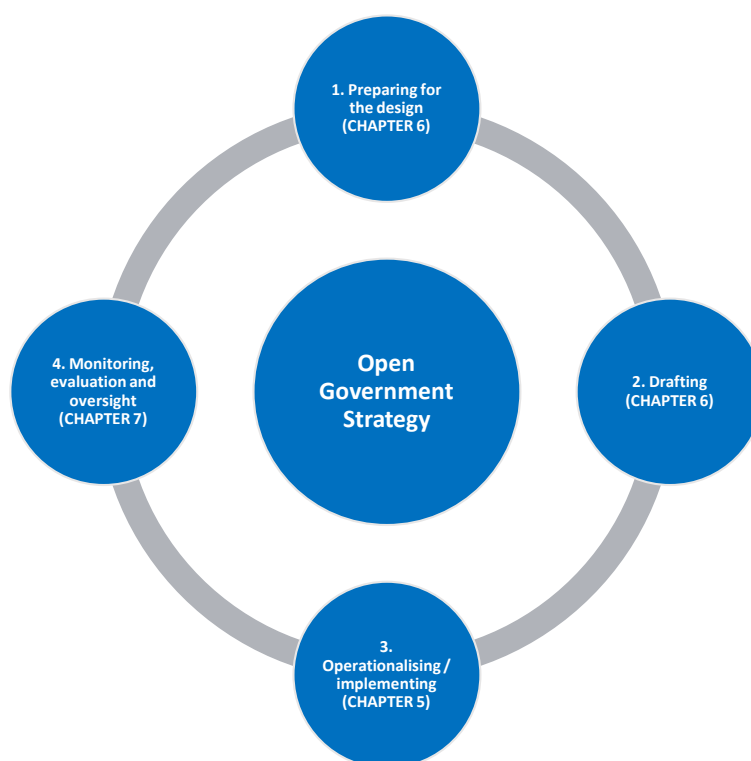
## Introduction

As a sign of the importance they attribute to the open government principles of transparency, accountability, integrity and stakeholder participation, all OECD Member and Partner countries are today designing and implementing an increasing number of initiatives to foster their capacity to inform, respond to and interact with citizens and stakeholders in all parts of their public administration and in a wide range of policy areas (OECD, forthcoming<sup>[1]</sup>). However, evidence collected through the more than 20 OECD Open Government Reviews and Scans conducted over the past decade (OECD, 2019<sup>[2]</sup>; OECD, 2022<sup>[3]</sup>) also shows that, in most countries, strategies and initiatives that aim to foster the open government principles are still designed and implemented in a scattered and isolated manner, without building the critical mass needed to create a full-fledged and shared government vision of openness and without being linked to broader national policy objectives. In order to address this challenge, over the past years, an increasing number of OECD Member and Partner countries, including Argentina, Colombia, Finland and Italy, have started taking a more strategic approach to improving the government-citizen nexus and designing holistic Open Government Strategies as an integrated whole-of-government roadmap for their open government agendas (OECD, forthcoming<sup>[1]</sup>).

The Government of Romania has already advanced reforms to open the government through several strategic policy documents, including the Government Programme, the recurring OGP action plans, and the National Anticorruption Strategies. Recognising that there is a need for a more strategic approach to the promotion of the principles of open government and, in particular, highlighting the need for a clearer vision and a better “business case” for open government reforms, Romania included the design of the country’s first fully-fledged Open Government Strategy in its National Recovery and Resilience Plan (NRRP) (Government of Romania, 2021<sup>[4]</sup>). In particular, reform 1.1 entitled “Improving the predictability and efficiency of decision-making processes (...)” under Component 14 on “Good governance” includes an explicit reference to the design of an Open Government Strategy. The inclusion of an explicit reference to an Open Government Strategy in the NRRP which will guide policymaking in Romania for the years to come represents a unique opportunity for Romania to change the tide and design a transformative Strategy.

Assessing Romania against Provision 1 of the Recommendation of the Council on Open Government (OECD, 2017<sup>[5]</sup>) which stipulates that adherents should “take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders” and taking into account the mandate provided by the NRRP, this chapter of the OECD Open Government Review aims to support Romania in the process to design, implement and monitor and evaluate its first holistic Open Government Strategy. The chapter recognises that an Open Government Strategy is not an end but rather a tool to foster a better and more constructive relationship between the government and the citizens it serves. In this regard, the preparation for the design of the strategy and the process to draft the strategy are as important as the resulting policy document itself. Accordingly, after analysing the space for an Open Government Strategy (OGS) and discussing the existing policy framework for open government in Romania, this chapter provides recommendations to support the country in preparing for the design of its OGS, for example by discussing ways to foster political commitment to the Strategy process. The chapter also provides targeted recommendations on the drafting process itself, including by proposing different models of Open Government Strategies that Romania could consider. This chapter should be read in conjunction with Chapter 6 of the present Review which discusses mechanisms that facilitate the operationalisation and implementation of the Strategy and with Chapter 7 which focuses to its monitoring, evaluation and oversight in order to ensure results over time.

**Figure 6.1. Steps to design and implement an Open Government Strategy**



Source: Author's own elaboration.

The chapter takes into consideration Romania's ongoing process to design a country-owned strategy for engaging civil society in decision making and a related implementation roadmap, which is underpinned by the findings of the *Civic Space Review of Romania* (OECD, 2023<sup>[6]</sup>). The overarching open government strategy will thus include a dedicated component on engaging civil society in public decision making, which is being developed in parallel by the government.<sup>1</sup> Finally, the advice contained in this chapter takes into account the Romanian government's own *Methodology on the Development, implementation, monitoring, evaluation and updating of government strategies* (Decision no. 379/2022).

## What is an Open Government Strategy?

The Recommendation of the Council on Open Government (OECD, 2017<sup>[5]</sup>) defines an Open Government Strategy as:

*"A document that defines the open government agenda of the central government and/or of any of its sub-national levels, as well as that of a single public institution or thematic area, and that includes key open government initiatives, together with short, medium and long-term goals and indicators".*

An Open Government Strategy presents a whole-of-government roadmap for a government's policy agenda to create a stronger and more productive relationship with citizens and stakeholders. It provides an umbrella policy framework that can align all strategies and initiatives that are linked to the promotion of openness and bring them together under a coherent medium- to long-term narrative (OECD, 2020<sup>[7]</sup>). As such, it differs from an action plan (such as the OGP action plan) in many ways (Table 6.1).

**Table 6.1. The difference between a “strategy” and an “action plan”**

Strategy (or “policy”)	Action Plan (or “implementation roadmap”)
Translates high-level government commitments into policy objectives and implementation priorities	Makes a strategy operational
Provides a strategic implementation framework	Relies on the strategic framework to define concrete activities
Applies to the whole-of-government or an entire sector	Applies to specified institutional actors
Outlines the vision and high-level objectives	Includes targeted commitments and initiatives aimed at contributing to high-level objectives
Outlines major initiatives and projects	Translates major initiatives and projects into concrete implementation steps
Gives guideline to achieve objectives	Includes short-term deliverables
Allocates resources	Delineates how to use resources
Foresees governance arrangements	Includes a progress reporting structure and a measurable timeline
Timeframe: medium to long term (4-15 years)	Timeframe: usually 1-2 years
Outlines strategic KPIs and high-level indicators	Contributes to data collection for high-level indicators

Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders’ participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

Recognising the benefits of having such an umbrella policy framework for open government in place, an increasing number of OECD Member and Partner Countries have started designing and/or implementing Federal/Central Open Government Strategies (Box 6.1). More detailed information on existing country practice can be found in the OECD paper *Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholder participation: Towards an Open Government Strategy* (2020<sup>[7]</sup>).

### Box 6.1. Existing Open Government Strategies in OECD Member and Partner countries

- **Costa Rica** presented its first National Open Government Strategy in 2015. The stated aim of the OGS was to achieve the goal of an open, transparent and efficient government to fight against corruption. The strategy, which was declared “of public interest” by means of a decree, connected the country’s OGP Action Plan with the National Development Plan 2014-18 (OECD, 2016<sup>[8]</sup>).
- **Finland** adopted its first integrated long-term policy framework for open government - the Open Government Strategy 2030 – in 2019. Pursuing the vision that “open government is a key resource in Finnish society” and that it “builds trust, security and confidence in the future among citizens”, the Strategy has four priorities, each with a number of concrete and measurable objectives. The four priorities are: 1) Open government reinforces dialogue in society; 2) Open government promotes everyone’s right to understand and be understood; 3) Leadership and competence ensure that everyone has the opportunity to participate; and 4) Finland actively promotes open government on the international level.
- In 2021, **Colombia** adopted Policy guidelines for the implementation of an open state model. The policy guidelines will be applied over a period of four years and include more than 40 lines of action linked to fostering the open government principles in all branches of the state and at all levels of government.
- **Argentina** adopted a Strategic Plan on Open Government in 2020, following an inclusive consultation process. Valid for the period 2020-2023, the Strategic Plan provides a comprehensive policy that defines specific objectives, actions and products in terms of transparency, open data and information, citizen participation, innovation and accountability.
- Other Adherents, including **Canada, Italy, Tunisia, and Morocco** are currently in the process of designing their first Open Government Strategies.

Source: OECD (forthcoming<sup>[11]</sup>), Report on the Implementation of the 2017 OECD Recommendation on Open Government.

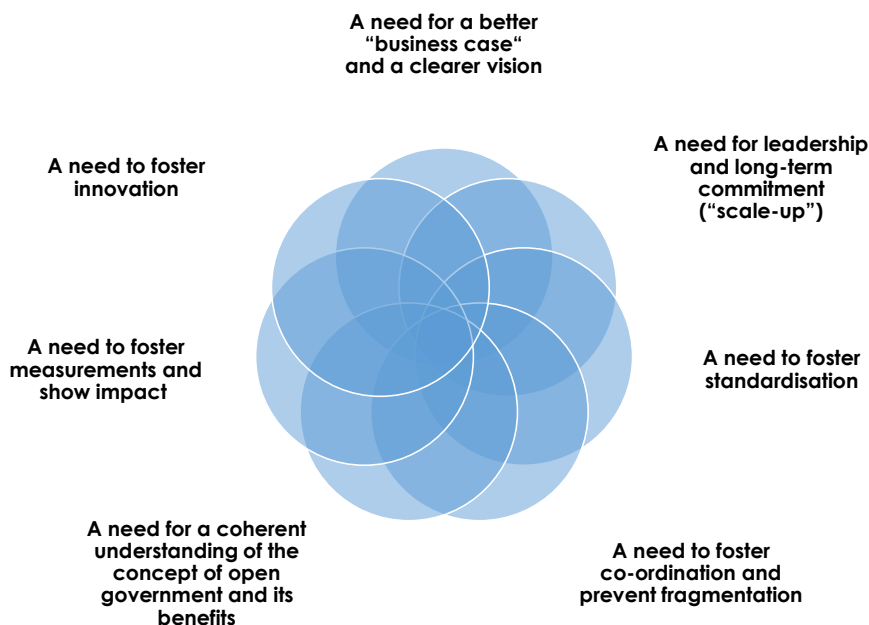
## The space for an Open Government Strategy in Romania

Designing a new government strategy is of course no guarantee for success by itself. As part of the review process, the OECD Secretariat therefore first assessed if – given the particularities of the Romanian context – the development of an Open Government Strategy would be an adequate way to address existing challenges or if, to the contrary, there would be other policy options that would allow Romania to achieve its objectives. The main findings of the present Open Government Review and of the *Civic Space Review of Romania* (OECD, 2023<sup>[6]</sup>) confirm that there is indeed a clear need to foster a better and more constructive relationship with citizens and civil society stakeholders (see also Chapters 4 and 6 of the *Civic Space Review of Romania*). Romanians continue to have very low levels of trust in public institutions and the country is characterised by relatively low levels of engagement overall (see also Chapter 2 of the present Review). An Open Government Strategy that is co-designed with all relevant stakeholders can be a tool to outline an ambitious agenda to foster the government-citizen/stakeholder nexus. In particular, Figure 6.2 presents some of the key challenges that are identified by the two Reviews and that could be (partly) addressed through an Open Government Strategy, notably:

- **The need for a coherent understanding of the concept of open government and its benefits across the Romanian state** (see also Chapter 4). Public officials and civil society stakeholders in Romania would benefit from a coherent understanding of the values and benefits of open government policies and practices. An Open Government Strategy can be a way to mainstream the concept and create stakeholder buy-in and awareness.
- **The need for a better business case and a clearer vision.** Open government reforms are currently mostly implemented as part of legal requirements and not seen as core to achieving public institutions' mandates. An Open Government Strategy can set a clear vision for the agenda and give a purpose to the agenda to open the government.
- **The need for leadership and long-term commitment (“scale-up”).** The open government agenda has been heavily dependent on individual people. An Open Government Strategy can give long-term sustainability to the open government agenda and be a tool to increase buy-in from top-level leadership.
- **The need to foster standardisation.** In a legalistic administrative culture, standards and legal provisions are key to promote change. An Open Government Strategy can act as an effective governance tool and allow the government to institutionalise policies and practices that aim to foster open government.
- **The need to foster co-ordination and prevent fragmentation.** Open government initiatives in Romania are implemented in a scattered manner and do not always “add-up”. An Open Government Strategy can foster whole-of-government policy coherence and promote integration.
- **The need to foster measurements and show impact** (see also Chapter 7). Just like its peers across the OECD, the Romanian government is still not able to demonstrate the impact that reforms that aim to promote open government are having. Functioning also as a tool for data collection and public accountability, an Open Government Strategy can foster the evidence-based and allow the government to justify investments in open government.
- **The need to foster innovation.** According to the findings from the OECD Surveys, Romania's public sector is currently characterised by a strong resistance to change and low levels of proactivity/innovation. Acting as a soft policy tool, an Open Government Strategy can foster innovative approaches and show a way to move beyond compliance.

The analysis conducted for this Review could feed into the public policy proposal that the General Secretariat of the Government will have to design, in line with Government Decision 523/2016 for the modification and completion of the Regulation on the procedures for the development, monitoring and evaluation of public policies at the central level, approved by Government Decision 775/2005.

**Figure 6.2. The case for an Open Government Strategy in Romania**



Source: Author's own elaboration.

### ***Romania's National Recovery and Resilience Plan provides a clear mandate to design the Open Government Strategy***

The Recovery and Resilience Facility is an instrument of the European Union that aims to mitigate the economic and social impact of the coronavirus pandemic and make European economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transitions. The Facility allows the European Commission to raise funds to help Member States implement reforms and investments that are in line with the European Union's priorities and that address the challenges identified in country-specific recommendations under the European Semester framework of economic and social policy co-ordination. To access the funds, all EU Members have designed Recovery and Resilience Plans.

Romania's National Recovery and Resilience Plan (NRRP) which was designed over the course of 2021 makes explicit reference to an Open Government Strategy. As such, it provides the foundation for the Romanian government's ambition to design the OGS. It is therefore in the NRRP that the strategy could primarily be anchored. In particular, the good governance axis (component 14) of Romania's NRRP includes an important focus on open government policies and practices. Notably, it includes a commitment to "enhance the quality of public consultations and developing civil society involvement in the decision-making process by strengthening the legislative and procedural framework for the co-ordination and effective implementation of open government initiatives". This commitment also includes an explicit reference to an Open Government Strategy which shall result in "a 20% increase in the number of draft legislative acts subject to public consultation and involvement of stakeholders at central level by 30 June

2026" (target 407), among others. According to the timetable assumed in the PR, the strategy will be developed and adopted by March 2024. In implementing its NRRP, Romania should pay particular attention to ensuring transparency and accountability and could take note of the good practice principles recently developed by the OECD (Box 6.2).

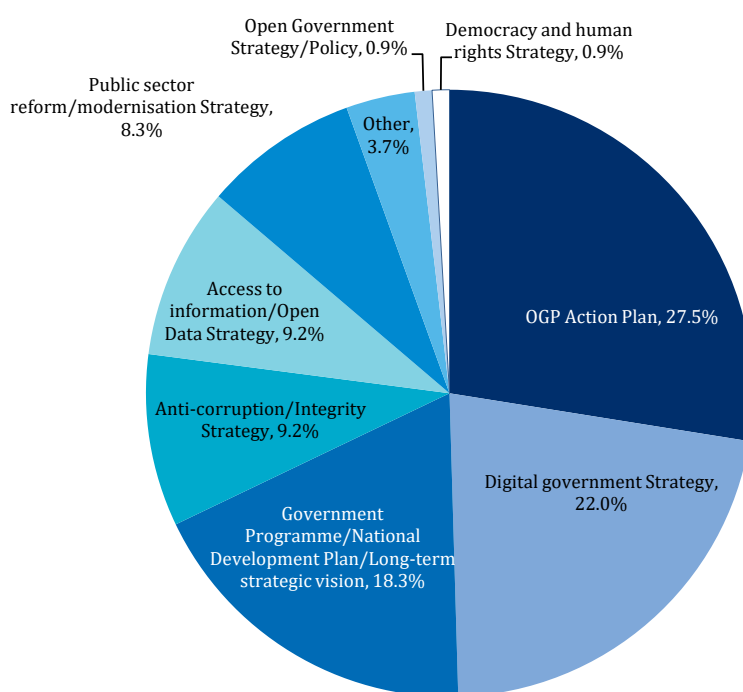
### **Box 6.2. Towards good practice principles for government transparency in the use of recovery funds**

The OECD recently published a policy paper, developed in collaboration with the European Ombudsman, which provides guidance to governments on ensuring transparency and accountability in the use of COVID-19 recovery funds. With a specific focus on the funding provided through the European Union's Recovery and Resilience Facility (RRF), the paper identifies ways for local, national and EU administrations to promote access to information, enhance public communication, and strengthen citizen and stakeholder participation and oversight in the implementation phases of recovery funding. Finally, it highlights the role of regional, national and supranational organisations (such as the aforementioned European Ombudsman) in fostering the open government principles of transparency, accountability, and stakeholder participation throughout the public decision-making and spending cycle, within the remits of their respective mandates.

Source: OECD (2022<sup>[9]</sup>), "Towards good practice principles for government transparency in the use of recovery funds", *OECD Public Governance Policy Papers*, No. 24, OECD Publishing, Paris, <https://doi.org/10.1787/0d0f2c90-en>.

### ***Romania's current policy framework for open government***

According to the results of the 2020 OECD Survey on Open Government (OECD, 2021<sup>[10]</sup>), the policy frameworks for the promotion of openness in OECD Member and Partner Countries are usually very diverse, reflecting the breadth of initiatives that are related to the promotion of openness (OECD, forthcoming). As visible from Figure 6.3, the main policy documents for open government in OECD Member and Partner countries usually include the OGP action plans; whole-of-government policy documents outlining the government agenda (e.g. National Development Plans); public sector reform and modernisation strategies; as well as policy documents focusing on one or more of the open government principles (e.g. Access to Information/Open Data Strategies, Integrity Strategy) (OECD, 2022).

**Figure 6.3. Main policy documents on open government in OECD countries and Romania**

Note: Includes 109 policy documents by 32 OECD countries and Romania.

Source: OECD (2021<sub>[10]</sub>), 2020 OECD Survey on Open Government.

In Romania, the 2021-2024 Government Programme highlights transparency as one of its basic principles and includes numerous objectives relating to fostering transparency and citizens' access to information, including in areas such as budgeting and public procurement. For example, the Programme highlights that the government will put a focus on "the execution of legal obligations (on access to information) by all central and local public authorities through a more intensive monitoring and control activity, including the sanctioning of those who do not comply with the law". The Programme further includes a number of objectives and commitments to consult citizens and stakeholders in policymaking, including on decentralisation and civil service reform, among others. Various other policy documents include initiatives that aim to foster the government-citizen nexus, including the National Anticorruption Strategy, and, of course, the OGP action plan.

#### *The National Anticorruption Strategy includes a focus on open government*

Since 2001, Romania has been adopting National Anticorruption Strategies which have traditionally included open government policies and practices both as fundamental values and priority objectives. For example, the National Anticorruption Strategies 2016-2020, approved by Government Decision 583/2016 highlighted open government as the guiding approach and included "Developing a culture of transparency for an open government at the central and local level" as its first general objective. The initiatives included in the Strategy led, among others, to the development of the Single Register of Transparency of Interests (RUTI), the [transparenta.gov.ro](https://www.transparenta.gov.ro) platform and the [consultare.gov.ro](https://www.consultare.gov.ro) platform (see also Chapter 5).

The current National Anticorruption Strategy (NAS) 2021-2025 includes transparency (defined as "the representatives of public institutions and authorities shall ensure free access to information of public interest, the transparency of the decision-making process and the consultation of the civil society during this process") as one of its four implementation pillars. It includes a specific objective of "Extending the culture of transparency for an open government in public administration" (objective no. 3.2.) (Box 6.3). The



Strategy further includes a wide range of commitments to foster citizen and stakeholder participation. For example, specific objective 4.7 on “Increasing integrity, reducing vulnerabilities and the risk of corruption in the activity of the members of Parliament” aims to improve the transparency of the legislative process, including “by further developing the rules on public debates, consultations and hearings, including criteria for a limited number of circumstances where in camera meetings can be held, and ensuring their implementation in practice”.

### Box 6.3. The open government axis of Romania’s 2021-2025 Anticorruption Strategy

1. Monitoring and evaluating the application by the central and local public administration of the general standard for publishing information of public interest provided in Annex no. 4; (Annex 4 shall also include the following indicators: annual publication of the European funds attracted by each central institution and highlighting this on the institution's website; publishing contract execution documents on the contracting authority's website: quality and compliance statements, minutes of receipt, payment orders);
2. Amending the legal framework in order to ensure the uniform application of the general standard for the ex-officio publication of public interest information at the level of central and local public authorities;
3. Ensuring the operational and legal framework for the use of the platform E-consultare - centralised catalogue for the publication of draft laws for public consultation purposes;
4. Developing the CONECT platform (Catalogue of Non-Governmental Organisations for Evidence, Consultation and Transparency) to support the proper takeover by the public administration authorities of the specialisation at the level of civil society; 52
5. Strengthening and extending the Single Register of Transparency of Interests (RUTI) platform at the level of the Romanian Parliament and local public administration, as well as by raising awareness of the importance of the principles of integrity and transparency and integrity in decision-making processes.
6. Updating the single record of non-profit legal entities with public utility status and supporting the initiating authorities in order to monitor and assess the application of the provisions of GO no. 26/2000 regarding the public utility status.

Source: (Government of Romania, 2021<sup>[11]</sup>)

### *The recurrent OGP action plans are key short-term policy levers to foster openness*

As in many OECD Member Countries, Romania’s National Action Plan on Open Government (the “OGP action plan”) currently constitutes one of the main policy documents that the country implements to promote open government.<sup>2</sup> The OGP action plan constitutes an action-oriented series of priority initiatives focusing mainly on short-term policy issues. Romania joined the OGP in 2011 and has made 75 open government commitments as part of its five action plans to date:

- 18 commitments in the first action plan (2012-2014)
- 11 commitments in the second plan (2014-2016)
- 18 commitments in the second action plan (2016-2018)
- 18 commitments in the third action plan (2018-2020)
- 12 commitments in the fifth plan (2020-2022)
- 10 commitments in the sixth plan (2022-2024).

These commitments were developed (and at times implemented)<sup>3</sup> in collaboration with over 60 civil society organisations, in accordance with the Open Government Partnership's Participation and Co-creation Standards (OGP, 2021<sub>[12]</sub>). Each of the action plans was adopted following a participatory process, which included online consultations, public debates, working groups on specific areas, both with civil society and with public institutions from the central level.

Like in all OGP member countries, due to its focus on implementation and its two-year length, Romania's OGP action plan is composed of a series of priority initiatives focusing on short-term policy issues. For example, the OGP action plans have traditionally been used by Romania as tools to implement key initiatives included in the NAS. For example, commitment no. 1 on the "Unification of practices regarding public consultation processes" from Romania's 2018-2020 action plan was directly linked to a specific commitment of the NAS. At the same time, certain objectives assumed by the General Secretariat of the Government in the National Anti-corruption Strategy 2021-2025 have their origin in previous commitments included in the OGP Plans (e.g. the monitoring and evaluation of the application by the central and local public administration of the general standard for publishing information of public interest).

Over the past decade, Romania has successfully used the OGP process to promote important open government reforms, such as the creation of the *E-Consultare* platform and the establishment of a portal to provide access to legislation (<http://legislatie.just.ro>). However, according to information collected during the OECD fact-finding missions and through the OECD Surveys on Open Government, the OGP process in Romania also faces several challenges: notably, frequent changes in government and reorganisations, excessive use of temporary leadership positions and a lack of political support have constituted stumbling blocks to the successful implementation of commitments. Moreover, the number of ministries that are active and promote OGP is limited. Last but not least, the OGP process is not funded. All initiatives, events and projects initiated under the OGP are funded from public institutions' own resources, which hinders the successful achievement of all proposed objectives. The limited impact of the OGP process was also mentioned by non-governmental stakeholders' answers to an OECD Survey conducted for this Review. When asked "In your opinion, on a scale from 1 to 10, how impactful has Romania's Open Government Partnership (OGP) process been in opening the government?", the average score given was 5.3.

Romania's current sixth action plan which was designed over the course of 2022 outlines that "open governance is the key to maintaining a functioning democracy in a modern and inclusive society". The action plan explicitly reaffirms its complementarity with other national strategies with similar objectives, such as the National Anti-Corruption Strategy 2021-2025, the National Strategy for the Sustainable Development of Romania 2030, the Strategy on Social Inclusion and Poverty Reduction 2015-2020, and the National Strategy in the field of Youth Policy 2021-2027. The action plan features 10 commitments related to civic space, public participation & consultation, digitalisation, gender inclusion and equality, open data, transparency, justice and integrity (Box 6.4).

#### Box 6.4. The 10 commitments included in Romania's 5<sup>th</sup> OGP action plan (2022-2024)

1. Standardisation of administrative procedures regarding the recognition of public utility status
2. Pilot programme - Transparency of the participatory budgeting process
3. Increasing the degree of transparency, debureaucratisation and integrity of decentralised services of the Ministry of Culture
4. The development of an integrated national IT system for recording debts arising from crimes
5. Responsible management of protected natural areas
6. Increasing transparency regarding allocations from national investment funds
7. Publishing open datasets
8. Balanced participation of women and men in the decision-making process in public and political life
9. Ensuring access to justice for victims of domestic violence and gender-based violence
10. Preparation of Romania's accession to the Extractive Industries Transparency Initiative/EITI (Extractive Industries Transparency Initiative)

Source: Government of Romania (2022<sup>[13]</sup>), Romania 2022-2024 National Action Plan, [https://www.opengovpartnership.org/wp-content/uploads/2022/07/Romania\\_Action-Plan\\_2022-2024\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2022/07/Romania_Action-Plan_2022-2024_EN.pdf)

#### **What kind of policy instrument is an Open Government Strategy in the Romanian context?**

Each country has its own policymaking tradition and strategies/policies therefore differ widely. To foster standardisation and create a common framework, Romania, through Government Decision 379/2022, adopted a mandatory *Methodology for the development, implementation, monitoring, evaluation and updating of government strategies* (hereafter referred to as “the Methodology on Romanian Government Strategies”). The Methodology builds on Government Decision 775/2005 for the approval of the Regulation on the procedures for the development, monitoring and evaluation of public policies at the central level and Government Decision 523/2016 for the modification and completion of the Regulation on the procedures for the development, monitoring and evaluation of public policies at the central level, approved by Government Decision 775/2005.

The Methodology on Romanian Government Strategies includes four chapters, each of which contains relevant guidance and mandatory provisions that each strategy that is developed by a Romanian public institution needs to follow:

- **Chapter I General provisions**, for example, defines a government strategy as a “public policy document initiated and applicable at government level that defines the vision, priorities, objectives, actions, resources and associated performance indicators, as the case may be, regarding a certain field of activity, in the medium and long term” (Article 4) and outlines that the “General Secretariat of the Government, co-ordinates at the national level the process of developing government strategies” (Article 3).
- **Chapter II The objectives and principles of the methodology and the structure of the government strategy** establishes general principles applicable to the development of any Romanian government strategy, such as the “principle of participation” and the “principle of transparency” and includes a minimum structure for government strategies (see Box 6.5).

- **Chapter III Working groups/interministerial structures and co-ordination of their activity** establishes that “within each initiating institution, a working group is established that is responsible for the process of identifying the options that will result in obtaining technical solutions for public policy issues in the field of competence, with the process of elaboration, consultation, approval and finalisation of the draft government strategy, as well as with the implementation, monitoring and evaluation of the implementation and results of the strategy, co-ordinated by the general secretary or another designated person” (Article 8(1). It further outlines that “depending on the field to be regulated by the draft strategy, interministerial structures may be established” (Article 9(1)).
- **Chapter IV Monitoring, evaluation and updating of government strategies** which, for example, establishes that “each strategy includes a chapter for monitoring and evaluating the achievement of results, which establishes criteria for measuring the evolution of indicators” (Article 14(1)).

While outlining key steps to be taken based on best international practice in the field, the advice contained in this chapter considers the Romanian government’s own Methodology noting that the Open Government Strategy will need to be designed respecting the framework provided by Romanian legislation.

## Preparing for the design of an Open Government Strategy

Designing and implementing an Open Government Strategy is an ambitious undertaking that has to be planned well from the outset. In fact, the process to design the Strategy is as important as the resulting Strategy itself. For example, the Open Government Strategy needs to be underpinned by evidence and a clear business case and buy-in has to be ensured from the very beginning of the process to ultimately ensure successful implementation. Inspired by the principles that Romanian public institutions have to follow when developing a government strategy (Box 6.5), this section provides contextual recommendations that Romania could consider prior to starting the design of its Open Government Strategy.

### Box 6.5. Principles to be followed in the development of a Romanian government strategy

According to the Methodology (Article 6), the strategy development process should be based on the following principles:

- the principle of participation** – refers to the consultation processes in the development of strategies, involving central and/or local public administration authorities, non-governmental organisations, social partners, professional associations, representatives of the private sector, as appropriate;
- the principle of responsibility** – represents the assumption by the initiators of an explicit set of results within a defined budget allocation in a specified period of time;
- the principle of substantiation** – represents the use of concrete, factual data in the documentation and analysis processes that precede the development of strategies;
- the principle of sustainability** – represents the set of actions and decisions of the initiators regarding public policies that contribute to the achievement of the objectives of the 2030 Agenda for sustainable development;
- the principle of predictability** – represents the set of actions and decisions of the initiators regarding public policies and budgetary allocations established in the medium-term budgetary framework and which contribute to the implementation of strategic objectives and the achievement of assumed results;
- the principle of transparency** – it represents the prior information of citizens on issues that are of public interest, in their consultation regarding the draft strategies aimed at the public interest, as well as

their active participation in the decision-making process, in the development of strategies, such as and ensuring their access to the relevant information regarding the allocation and spending of public resources to achieve the planned results, according to the provisions of art. 5 and art. 7 para. (1) and (2) of Law no. 52/2003 on decisional transparency in public administration, republished, with subsequent amendments.

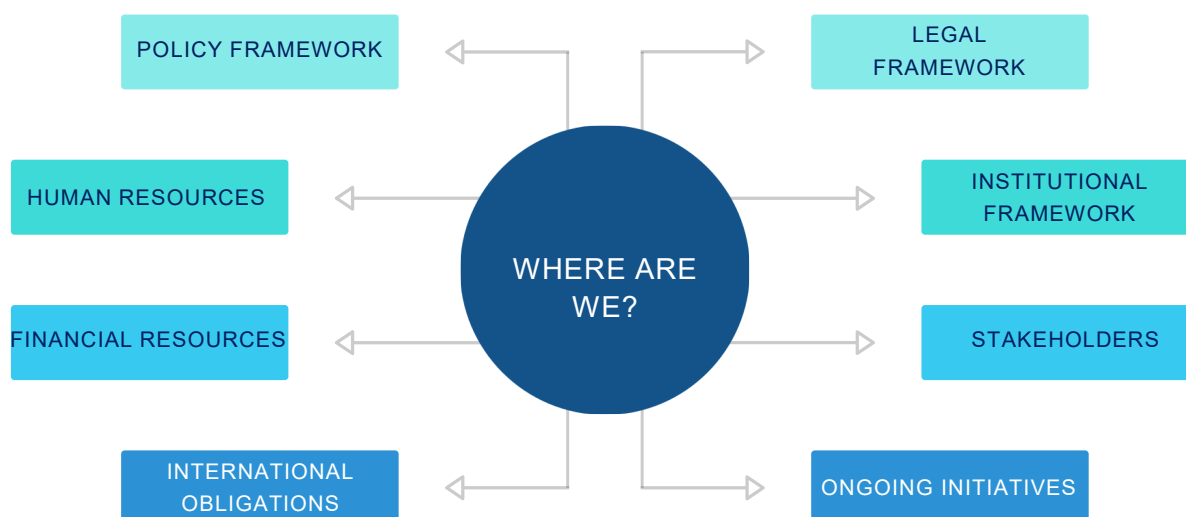
Source: Government of Romania, Methodology on the Development, implementation, monitoring, evaluation and updating of government strategies approved by Decision no. 379 of March 23, 2022, <https://legislatie.just.ro/Public/DetaliuDocument/253159>.

### ***Assessing the current situation and looking back and ahead***

Before moving forward, it is essential to look back and analyse past experiences. Romania's Open Government Strategy should therefore be based on a thorough assessment that maps efforts to date, discusses achievements and highlights challenges ahead (OECD, 2020<sup>[7]</sup>). This initial and fundamental step provides both the government and non-public stakeholders with the necessary information and data to make better decisions (OECD, 2020<sup>[7]</sup>). The assessment should analyse what kind of initiatives to foster the government-citizen/stakeholder nexus have already been implemented (and with which results) and include the government's own assessment of the levels of openness of the public sector at the time of drafting. To the extent possible, the analysis should also include forecasting and the analysis of data and evidence of the impact of previous open government reform efforts.

Based on the findings and recommendations of the present Review, an open government assessment will facilitate Romania's effort to draft sections "a) introduction" and "d) analysis of the context and definition of the problems" of the Strategy, as outlined in the Methodology on Romanian government strategies. The assessment can also feed into the establishment of a robust monitoring and evaluation system (section "j) monitoring and evaluation procedures") since it can provide the basis for an initial benchmarking, leading to the development of realistic intermediate targets and outcomes. Past monitoring and evaluation reports, such as the one on the practices in the decision-making process and in ensuring access to information that was conducted by the General Secretariat of the Government in 2021 (Government of Romania, 2021<sup>[14]</sup>), as well as the present *OECD Open Government Review* and the *Civic Space Review of Romania* can provide a basis for Romania's own assessment.

**Figure 6.4. Key elements of an open government assessment**



Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### ***Preparing a clear roadmap for the design of the Strategy***

Forward planning allows governments to improve transparency, predictability and co-ordination of policy processes (OECD, 2022<sup>[15]</sup>).<sup>4</sup> Prior to launching the drafting of its Open Government Strategy, the General Secretariat of the Government as the main co-ordinating entity should therefore establish a clear roadmap and ensure that this roadmap is well-communicated across government and the wider society. This roadmap could include elements such as:

- An overview of key steps and milestones for the development of the Strategy (e.g. planned launching date; intermediary steps that are foreseen; etc.), coupled with a clear timetable;
- A citizen and stakeholder participation plan, including an analysis of interested public/non-public stakeholders, including sub-national governments, as well as a plan on how to reach out to them (see below).
- A communication plan.

According to information received from the Romanian government, and according to the timetable that the government assumed in the National Recovery and Resilience Plan, the strategy will be developed and adopted by March 2024, which allows for sufficient forward planning.

### ***Ensuring political commitment and raising awareness***

As stipulated by Provision 1 of the OECD Recommendation on Open Government,<sup>5</sup> political commitment is a prerequisite for the successful implementation of open government reforms. In addition to the support that is needed to initiate the design process of an Open Government Strategy, there needs to be a long-term high-level commitment in order to sustain the momentum for reform during the implementation phase.

Ensuring this kind of long-term commitment requires, for example, creating buy-in and identifying political champions (OECD, 2022<sup>[3]</sup>). The General Secretariat of the Government, as the main initiator of the Strategy process, could start by informing and actively involving the most senior leadership of the government, including the Prime Minister and the Secretary General of the Government in the preparatory phase of the Strategy and personally invest them in the process. While the GSG remains in charge of leading the co-ordination of the Strategy, the recent restructuring of Romania's centre-of-government provides new opportunities for an effective tandem approach for open government that combines the GSG's expertise and the Prime Minister's Chancellery's political weight. Since its restructuring in June 2022 (Decision no. 832/2022), a dual structure of the Romanian centre of government has become apparent that includes a "political v. technical" delineation. In that setting, the PMC is often perceived to be the "political" arm of the centre of government, and the GSG as the "technical arm" (OECD, forthcoming<sup>[16]</sup>). The Strategy clearly needs the commitment of both to be successful and its elaboration appears timely: As noted by the OECD's report on Romania's centre-of-government, "having political heavyweights and gravitas at the Romanian chancellery could present an opportunity to probe and challenge line ministries effectively on prime ministerial priority areas, especially when it comes to cross-cutting issues" (OECD, forthcoming<sup>[16]</sup>). Interviews conducted for this Review showed that there is already awareness and willingness on the PMC's side to engage in the design of the Open Government Strategy.

Efforts to ensure commitment may also involve reaching out to and informing all Cabinet Ministers and Deputy-Ministers from the very beginning to foster whole-of-government buy-in and ensure that they lead the process to implement the Strategy in their institutions. In particular, dedicated efforts should be made to fully involve the Ministry of Finance in the preparation and drafting of the Open Government Strategy in order to ensure full alignment with the budget cycle.

Ultimately, decision-makers, public officials at a technical level and non-public stakeholders need to be aware of the upcoming Strategy and its ambitions. Romania could therefore design a dedicated communications campaign/plan to reach out to all relevant stakeholders, defining adequate ways to reach



each of them (by applying different tools). The OECD-OPG Guide on “Communicating Open Government” provides useful insights on ways to adequately communicate around an open government agenda (Box 6.6).

### **Box 6.6. The “Communicating Open Government: A How-to Guide” developed jointly by the OECD and OGP**

This publication was developed jointly by the OECD and the Open Government Partnership and provides a step-by-step process for developing a communications plan for an open government strategy or initiative. It highlights the following key steps:

- Setting objectives
- Setting targets and milestones
- Setting responsibilities
- Monitoring and evaluation
- Identifying audiences

The guide also contains insights about communication tools and their use for open government reforms, as well as guidance on how to partner within and beyond public administrations for effective communication.

The publication targets public officials in charge of steering and implementing strategies and initiatives in the field of open government, as well as communication officers in public institutions that are looking to play a bigger role in this context. The guide is also a useful tool for anyone interested in making governments more open, including journalists and civil society.

Source: OECD/OGP (2018<sup>[17]</sup>), *Communicating Open Government: A How-to Guide*, <https://www.oecd.org/gov/Open-Government-Guide.pdf>.

### ***Deciding on the adequate time horizon for the Strategy***

Strategies can have different time horizons, which vary according to a country’s specific needs and institutional culture (OECD, 2019<sup>[21]</sup>). In most cases, the implementation horizon of whole-of-government policies ranges from one to two electoral cycles/government terms. In light of the adoption of the Agenda 2030 and the Sustainable Development Goals (SDGs), some countries elaborated longer-term policies (e.g. Finland’s Open Government Strategy which was adopted in 2019 has a horizon until 2030). Longer-term policies (i.e. more than one electoral cycle) usually focus on providing a vision and high-level objectives, while shorter-term policies (one electoral cycle or less) commonly include more concrete initiatives.

In Romania, many existing government strategies, such as the National Anti-Corruption Strategy (NAS), foresee a 4-year timeframe for implementation. For example, the current NAS is being implemented over the period from 2021 to 2025, while the previous NAS was valid for 2016-2020. Other strategies such as Romania’s previous Strategy for Consolidating the Public Administration had a longer timeframe (2014-2020). As part of the preparation for its Open Government Strategy, the Government of Romania, in consultation with all relevant stakeholders, should decide which timeframe it considers most adequate for this specific policy document. The selection of the timeframe will also depend on the model that Romania ultimately decides to select (see below).



### **Conducting a stakeholder mapping and involving all relevant stakeholders from both the central and local levels**

A mapping of stakeholders (possibly as part of the open government assessment that is discussed above) can allow the government to determine “who” key stakeholders are and “how” interested and influential they are (OECD, 2020<sup>[7]</sup>). A mapping exercise can allow Romania to develop a solid understanding of stakeholders’ roles, responsibilities and limitations to contribute to the design and implementation of OGS and foster a move beyond involving the “usual suspects” (OECD, 2022<sup>[15]</sup>). A systematic stakeholder analysis usually consists of three stages: 1) Identifying groups of stakeholders; 2) Analysing and sorting stakeholders; and 3) Foreseeing specific measures to ensure an inclusive process (OECD, 2020<sup>[7]</sup>).

In Romania, the mapping could be led by the team in the General Secretariat of the Government. The Ministry of Development, Public Works and Administration could be a partner contributing to the process at the local level.

Based on the results of the stakeholder mapping and in a true open government spirit, Romania could then involve all key institutions from within and outside of the government (including civil society leaders, parliamentarians, local governments, political parties and younger generations of decision-makers, etc.) in the design of the Strategy. In this regard, the process to design an OGS can present a unique momentum to broaden the “open government community” in and out of government, build up long-term expertise and create ownership.

At a minimum, citizens and stakeholders should be involved prior to starting the drafting of the strategy (to jointly decide on priorities) and have the opportunity to comment on the draft document. In an ideal case, participation would go beyond consultation and give a more active role to citizens and stakeholders, including during the drafting process (e.g. by using co-creation mechanisms, etc.). Specific measures could further be foreseen to reach beyond the usual suspect and involve subnational governments in the process (e.g. regional meetings during the preparatory phase).

#### **Box 6.7. Citizen and stakeholder participation in the design of the Strategic Framework Czech Republic 2030**

Public consultations on the initial proposals started in May 2015. Hundreds of experts were involved in drafting the document, which was then consulted with more than a hundred civil society, private, and academic organisations and institutions. The participatory process involved six roundtables (world café format), a digital consultation, a presentation of the draft in both chambers of the Parliament and discussions at the GCSD. Nine expert committees of the GCSD provided significant support in this process. The final version of the Czech Republic 2030 was adopted by the Government in April 2017.

The drafting of the Implementation plan started in February 2017 through a broad participatory process (consisting of 8 round tables/world cafes in regions and discussing in GCSD committees) to ensure the engagement of all relevant actors in the discussion on its form, then it was also adopted in the fall of 2018. A similar approach was applied in 2021, when the second Implementation plan was drafted, although the structure of the discussions had to be rearranged for the new online environment because of COVID-19 restrictions.

Source: Government of the Czech Republic (2017<sup>[18]</sup>), Strategic Framework Czech Republic 2030, [https://www.vlada.cz/assets/ppov/udrzitelny-rozvoj/projekt-OPZ/Strategic\\_Framework\\_CZ2030.pdf](https://www.vlada.cz/assets/ppov/udrzitelny-rozvoj/projekt-OPZ/Strategic_Framework_CZ2030.pdf).

### **Identifying model policies to learn from**

As part of the preparation for the development of the Strategy, the GSG team should select existing Romanian government strategies (e.g. the National Anti-corruption Strategy) and existing Open Government Strategies from across OECD Member and Partner countries that it wishes to take inspiration from (see Box 6.8 for an example from Argentina). This exercise could include peer-to-peer exchanges to learn from colleagues' experiences, avoid common mistakes and replicate good practices.

#### **Box 6.8. Argentina's Strategic Plan on Open Government**

Argentina's Strategic Plan for Open Government was adopted in 2019 following the recommendations of the OECD Open Government Review of Argentina. Covering the period of 2020-2023, the Plan was designed through a highly participatory process which includes workshops, online consultations, etc. with agencies of the Executive, Legislative and Judicial branches, provinces, municipalities, academia and civil society organisations.

The Plan itself is 69-pages long and it includes definitions, vision/mission statement, objectives, background (e.g. legal analysis, historical elements), a methodological section, etc. It clusters initiatives under five strategic axes:

1. National Open Government
2. Federal Open Government
3. Open State
4. International Open Government
5. Open Government Ecosystem.

Source: Government of Argentina (2019<sup>[19]</sup>), Strategic Plan on Open Government 2020-2023, <https://nube.innovacion.gob.ar/s/ojc9nbPWR7qpPxp>.

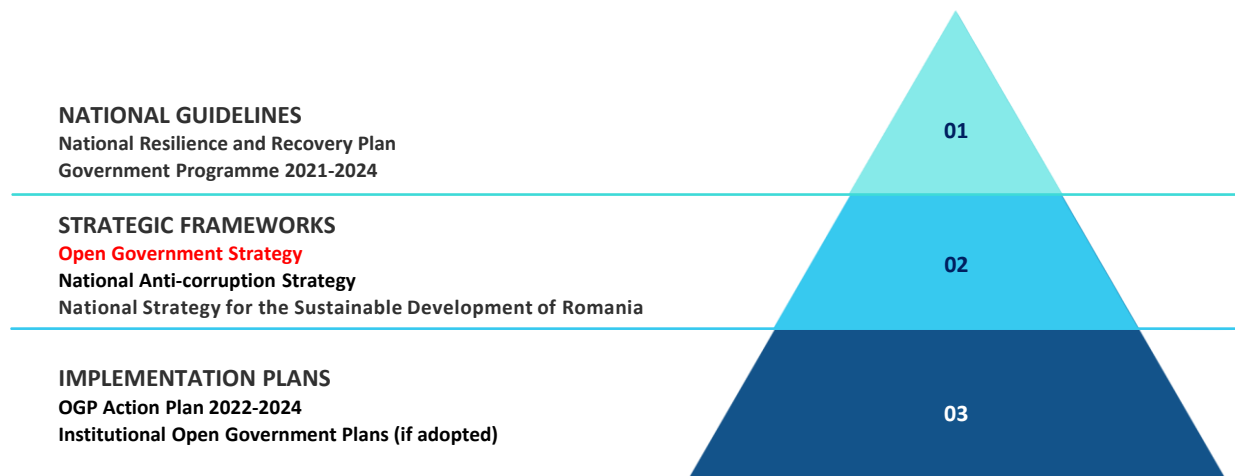
### **Embedding the Strategy in Romania's existing policy framework**

Given its cross-cutting ambition, Romania's future Open Government Strategy needs to be fully embedded in the existing policy frameworks (see above). The Open Government Strategy needs to bring added value to what already exists. Ultimately, the OGS can only be successful if it considers all present and envisioned policies and strategies and provides a framework for a more coherent and ambitious implementation of open government reform. This also includes fully integrating the OGS into the policy framework provided by Romania's membership in the European Union (EU). By providing a wider context and a vision coupled with concrete measurable objectives for the wider open government agenda, the Open Government Strategy can function as the overarching umbrella to all initiatives that aim to promote open government in Romania.

Anchored in the National Recovery and Resilience Plan and in the current Government Programme, the OGS should be clearly linked with the National Anticorruption Strategy 2021-2025. As discussed above, the NAS includes numerous open government initiatives. It will be important for the OGS to build on these and not create overlaps/duplications. Finally, the OGS should also provide an umbrella to all future OGP action plans that Romania will design, providing them with a clear vision and ensuring their coherence over time. By setting a clear vision and objectives for the process to open the government to citizens' inputs

and scrutiny, the Strategy can contribute to increasing the ambition, relevance and impact of the OGP commitments.

**Figure 6.5. Romania’s Open Government Strategy embedded in the country’s wider policy framework**



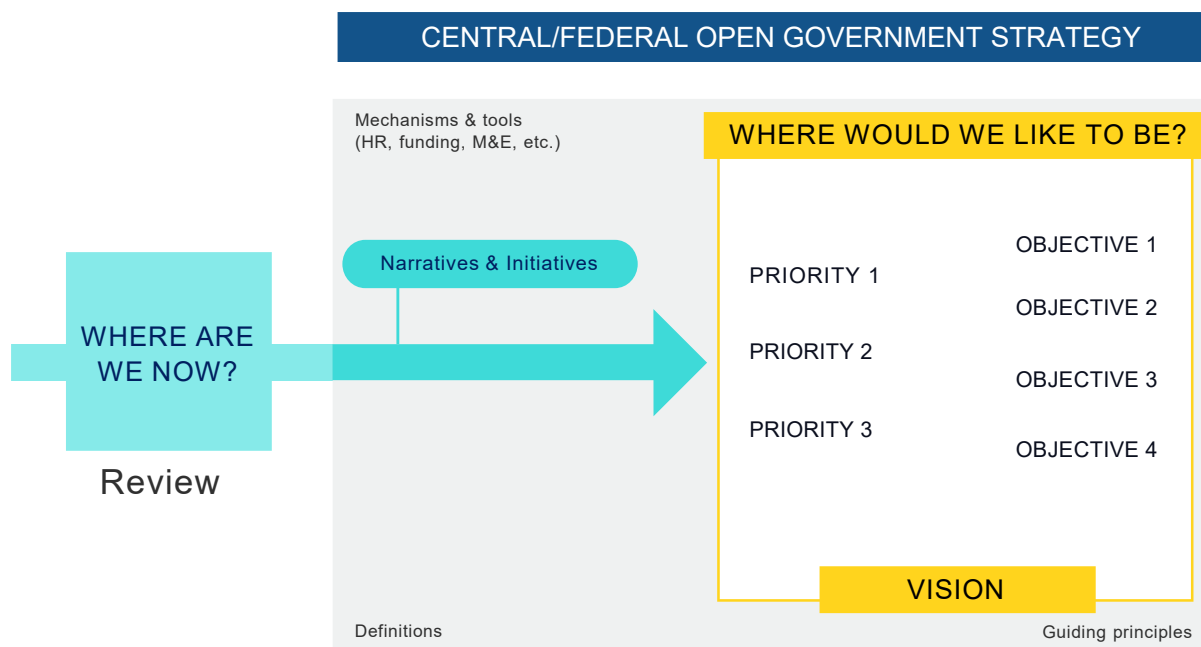
Source: Author’s own elaboration.

## Drafting an Open Government Strategy: What elements to include?

An inclusive and rigorous drafting process is fundamental for a successful Open Government Strategy, as it can help set a clear vision and select objectives that are meaningful to both citizens and stakeholders, prioritise and sequence actions, and provide the necessary evidence for the interventions that are most cost-effective and likely to have the greatest impact.

Based on the abovementioned OECD paper (OECD, 2020<sup>[71]</sup>), this section presents general elements that are common to most policy documents and existing Open Government Strategies and that Romania could also consider including in its Open Government Strategy (Figure 6.6). First, any Open Government Strategy should have a clear and compelling vision that is based on a thorough review of the status quo of open government in a country. The vision and the review help countries establish priorities and define objectives for their OGS. The narrative and the inclusion of concrete open government initiatives then link the review with the stated vision and with priorities and objectives. To ensure that all institutions involved in the design and implementation of the strategy share common understandings, it is fundamental to also include definitions of key concepts and principles.

Figure 6.6. Key elements to be included in an Open Government Strategy (OGS)



Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

As mentioned above, Romania has developed a *Methodology for the development, implementation, monitoring, evaluation and updating of government strategies* which includes a minimum structure that any Romanian government strategy should have (Decision no. 379/2022). The Romanian Methodology is very much aligned with the OECD's template for Open Government Strategies. In addition to also mandating the inclusion of elements such as a vision and objectives, it requires that Romanian government strategies include expected results, indicators and monitoring and evaluation mechanisms (for this, see also Chapter 7 of the present Review). Whenever relevant, references to the Romanian minimum structure are made throughout this section.

### Box 6.9. Minimum structure of Romanian government strategies as mandated by the Methodology for the development, implementation, monitoring, evaluation and updating of government strategies (Article 7)

(1) A government strategy is developed in the form of a structure that must include at least the following sections:

- a) **introduction** - arguing the need to develop the strategy, mentioning the implementation period, describing the way of working and presenting the institutions involved
- b) **the vision** - presents a desirable, long-term evolution of the field that is the object of the strategy; this is implemented by achieving general and specific objectives
- c) **the existing priorities, policies and legal framework** - identification of the governmental or European priorities, policies and strategies in force, as well as the existing legislation in the field of the strategy, which influences the respective strategy and are found in close correlation with the general priorities of the Government
- d) **analysis of the context and definition of the problems** - analysis of the current situation and identification of the current problems that justify the need to develop the strategy
- e) **general and specific objectives** - the objectives of the strategy by which the identified problems are solved. The objectives represent the targets that the Government undertakes to achieve by initiating measures in a certain field of public policy
- f) **programmes** - the directions of action that will support the achievement of objectives and the implementation of the strategy, ensuring consistency with the programmes included in PSI
- g) **expected results** - presenting the expected effects of the strategies and related results in a quantifiable manner, describing the economic, social, environmental and cultural changes, including the contribution to sustainable development objectives, as a result of the impact of the strategy implementation
- h) **indicators** - the presentation of the indicators on the basis of which the evolution of the implementation of the strategy will be measured, with reference to the targeted national sustainable development indicators, as the case may be
- i) **monitoring and evaluation procedures** - presentation of how the implementation and impact of the strategy will be monitored and evaluated
- j) **the responsible institutions** - the institutions involved, responsible for their tasks
- k) **budgetary implications and sources of financing** - estimation of the necessary financial resources and identification of the sources of financing necessary for the implementation of the actions of the strategy
- l) **the implications on the legal framework** - the description of the impact of the strategy on the normative acts in force and the proposal of changes or the adoption of new normative acts for the implementation of the measures provided for in the strategy.

(2) The strategies are accompanied by an annex containing an action plan - broken down by actions, responsible institutions, implementation periods, expected results and monitoring indicators and evaluation stages.

Source: Government of Romania, Methodology on the Development, implementation, monitoring, evaluation and updating of government strategies approved by Decision no. 379 of March 23, 2022, <https://legislatie.just.ro/Public/DetaliuDocument/253159>.

## The drafting process

### *Involving all key stakeholders in drafting*

In addition to involving citizens and stakeholders in the preparation of the Strategy, Romania could consider involving them more directly in the drafting process. This could, for example, include workshops with public and non-public stakeholders to jointly define key elements of the OGS, such as the vision and the objectives, as well as co-production workshops to decide on initiatives. In this regard, the experience Romania gathered through the co-creation process that is part of the OGP action plan cycle can provide useful elements that could be adapted to the Strategy process. In any case, Romania needs to ensure that the feedback loop is closed at all stages and that those responsible for drafting report back on the way inputs are incorporated (i.e. explain what was taken on board and what not, and why not). In practical terms, the Strategy could for example jointly be written by a group of public and non-public stakeholders (led by GSG). This core group could organise the abovementioned co-creation workshops and continuously report back to the public.

### **Box 6.10. Citizen and stakeholder participation in drafting Argentina's Strategic Plan on Open Government**

In 2020, the National Directorate of Open Government spearheaded a participatory elaboration of the Open Government Strategic Plan (2020-2023) bringing together diverse actors from the public and private sectors, academia, and civil society organisations.

From September to November, they held four workshops (three on open government and one on open data) with more than a hundred representatives from all three government branches, provinces, municipalities, academia, and CSOs to develop a shared diagnosis about the state of open government in Argentina.

In parallel to the process of elaborating the Strategic Plan, the directorate, along with other government actors, led the participatory design of the Federal Open Government Programme, a commitment of the Fourth National Open Government Action Plan. As part of this, three participatory instances were carried out between April-December 2020, which, in turn, were integrated into the diagnosis of the Strategic Plan:

- During April and May, they conducted in-depth interviews with over 20 key stakeholders from provincial and municipal governments, CSOs and academic institutions. A workshop was also facilitated with six CSOs involved in the open government and institutional strengthening agenda.
- A survey was carried out between July-September and was answered by more than 550 representatives of provincial and municipal governments, civil society, and academia.
- From November-December, a public consultation open to the public was implemented in which 4 144 unique visits were registered, 1 400 users entered the platform, and 130 contributions were received.

Source: Government of Argentina (2019<sup>[19]</sup>), Plan Estratégico de Gobierno Abierto 2020-2023, <https://nube.innovacion.gob.ar/s/ojc9nbPWR7qpPxp>

### *Having the Strategy peer-reviewed*

Once drafted, the Strategy should be peer reviewed, including by non-public stakeholders, the legal counsel, etc. in order to ensure that it both respects the legal framework in place and responds to the needs of different groups of stakeholders. The peer review may even involve sending the draft OGS to the open government co-ordinators of other countries (e.g. the peer reviewers involved in this Open Government Review) to get an external perspective.

Additionally, as done by countries such as Argentina (see Box 6.8), Romania should submit the draft to public consultation in order to allow public and non-public stakeholders that were not part of the drafting process to provide their comments. Dedicated communication/outreach activities should be conducted to ensure that all stakeholders are aware of the consultation. Finally, as also recommended in Chapter 4, Romania should provide feedback to all those that participated in the consultation of the OGS (e.g. through a summary report).

### *Writing in plain language*

Plain language refers to writing clearly, concisely, and in a way that precisely communicates a message to the intended audience. As such, plain language initiatives have become an important part of countries' efforts to open their governments and administrations, aiming to make it easier for any citizen from any background to see, understand and get involved in policy processes. In order to foster accessibility, to the extent possible, Romania's Open Government Strategy should be drafted in plain language, avoiding complex legal terminologies, etc.

### *Incorporating a regular review into the Strategy to ensure sustainability over time*

Depending on the time horizon that the Government of Romania decides to select for its OGS, it may be warranted for the country to include a regular review of priorities, initiatives and budgeting/spending in the Strategy itself. Such a review can help navigate changes in government and ensure that the Strategy remains relevant over time. The review should be systematic and based on the information retrieved through the strategy's robust monitoring and evaluation system (see Chapter 7). A regular review will be particularly relevant should Romania decide to make the OGS a long-term policy roadmap (i.e. more than one electoral mandate).

## **Elements to include in the Strategy**

### *Adding a telling subtitle*

As mentioned in Chapter 2, open government initiatives do not have to be named as such in order to be impactful. In some countries and contexts, the term open government and its implications often remain unclear or underutilised beyond the open government community. Nevertheless, the policies and practices that open government promotes (i.e. a government that gives access to government information, provides opportunities to engage in the policymaking process, and responds to public feedback and demands) are key to citizens' trust in institutions (OECD, 2022<sup>[20]</sup>).

Chapter 4 shows that the concept of open government and its benefits are still partly unknown in Romania. Therefore, in order to make the Strategy more tangible for citizens, Romania could consider putting a larger focus on the policies and practices that are part of an open government approach and add a telling subtitle such as "getting closer to citizens" or "communicating better with citizens" to its title.



### *Including an introduction and a foreword*

Literally, all policy documents include introductory statements and considerations. In Romania, the Methodology for Romanian government strategies (Decision no. 379/2022) requires public policies to include an introduction (element a) – see Box 6.9). The introduction usually links the policy document with the country's broader policy agenda and other government priorities and provides public institutions and external stakeholders with a common understanding of why this strategy has been developed. To the extent possible, it should be written in plain language to ensure that all citizens and stakeholders easily understand it and see the rationale for developing the OGS.

The introductory sections of Romania's OGS could also include a foreword signed by a high-level government representative and/or a civil society leader to enhance its effectiveness/ownership and demonstrate that this is supported at the highest levels of government. The foreword could for example be written by the Prime Minister or the Secretary General of the Government of Romania.

### *Defining a clear vision*

The Open Government Strategy will be the key tool to set a vision for Romania's open government agenda in the next years. A vision constitutes a clear statement of what the government and stakeholders aim to achieve through the implementation of open government reforms (OECD, 2020<sup>[7]</sup>). It constitutes a shared long-term expectation of outcomes and of how these outcomes can contribute to broader governmental and societal objectives. As such, the vision guides the process to design objectives and of initiatives which build the substantive part of the OGS. The clearer the vision, the more compelling it will be.

According to the OECD (2020<sup>[7]</sup>), a vision should be ambitious, bold, inspiring and realisable in a realistic time horizon at the same time. While the vision can be created within the government, involving other stakeholders (including non-public stakeholders) in its definition can ensure shared ownership of the strategy beyond government, and foster links with broader objectives and priorities.

### *Including key definitions*

As discussed in Chapter 2, different stakeholders in Romania have different understandings of the concept of open government. To clarify expectations and foster coherent implementation, the OGS therefore needs to include definitions of key concepts, such as open government and open state, as well as of key principles, including transparency, accountability, integrity, and stakeholders participation. To the extent possible, these definitions should be co-created with all relevant stakeholders. Clearly outlined definitions can:

- Inform stakeholders about the essential elements of open government, including the extent and limitations of key concepts.
- Provide guidance to policymakers and ensure that all government institutions share a similar understanding of what is meant by certain terminology.
- Facilitate a robust analysis of the impact of open government initiatives across different institutions and levels of government (OECD, 2020<sup>[7]</sup>).

### *Establishing clear priorities*

Achieving a change towards an open government culture takes time and requires sustained long-term effort and commitment. Not all objectives can be pursued and not all initiatives can be implemented at once, as government resources and capacities are limited. For example, reforms in certain key open government areas (e.g. citizen participation) may over time require the adaptation of new laws and regulations or the creation of new institutions, which can be time-consuming and cost-intensive.

It will therefore be important for Romania to be selective and set clear priorities from the very beginning (which means making compromises). Whenever possible, priorities should be established jointly with all relevant stakeholders (both from within government and from civil society). Romania could consider using the existing co-ordination spaces or any newly created spaces (see below) to discuss priorities with all interested stakeholders. Once established, priorities should then be communicated to the wider public to manage expectations.

### *Defining objectives*

The Strategy's objectives translate the vision into targets. According to OECD research (OECD, 2020<sup>[7]</sup>), the objectives included in an OGS should be:

- Measurable, achievable and relevant;
- evidence-based;
- ambitious without over-committing the government or creating unrealistic expectations; and
- budget responsible.

Setting clear objectives is a key step to enable monitoring, evaluation and learning. In this regard, Romania could consider mixing whole-of-government objectives (i.e. those that aim at changing the culture of government in general) with more specific objectives (e.g. those that aim to foster change in a specific sector/policy area) (OECD, 2023<sup>[21]</sup>). In the process of defining strategic objectives, citizen and stakeholder participation is fundamental to help the government prioritise and make choices. Objectives included in the OGS should further contribute to and be clearly linked with broader government objectives and priorities, as outlined in the Government Programme and the NRRP.

While objectives need to be achievable in general, it is unlikely that they are equally achievable for all public institutions. For example, some public institutions may have advanced in certain areas previously and therefore have a default “starting advantage”. While not leaving any public institution behind, the objectives –in selected priority areas – should be ambitious enough to give certain institutions the possibility to champion the agenda and push boundaries.

### *Ways to cluster actions/initiatives in an Open Government Strategy*

The open government initiatives that are included in the Open Government Strategy are the concrete means to reach the identified objectives and ultimately move towards the vision. Given that open government is a wide field, before designing initiatives, it can be useful to define clusters/activity streams to which initiatives will contribute to (OECD, 2020<sup>[7]</sup>).

Clustering can be done in different ways, including through a principle-based, sectorial, open state or target-audience approach (OECD, 2020<sup>[7]</sup>). These approaches are not exclusive and can be matched (e.g. a principle-based approach can be coupled with a target-audience approach). Clustering should always reflect specific priorities and take into account budgetary and human resource limitations (OECD, 2020<sup>[7]</sup>). In the specific case of Romania, the Open Government Strategy will build on the findings of the *Civic Space Review of Romania* (OECD, 2023<sup>[6]</sup>) and will fully integrate the proposed Civil Society Engagement Strategy, something which needs to be reflected in the clustering.

### **Taking a principle-based approach**

It is commonly accepted that open government includes initiatives that aim to promote the principles of transparency, accountability, integrity and citizen and stakeholder participation. Hence, some countries across the OECD have taken the four principles of open government as a basis to structure and cluster their policy documents in the area.

While keeping a similar basic clustering methodology, other countries have added different/additional dimensions to their definitions of open government. For example, the United States' Open Government Directive from 2009 was structured around the three axes of transparency, participation and collaboration. Along similar lines, Spain's 2017-2019 OGP Action Plan had the five following axes: collaboration, participation, transparency, accountability and training.

When taking a principle-based approach the main challenge stems from the fact that the four principles of open government are, in practice, intrinsically related and that the distinctions between them are not always clear (OECD, 2020<sup>[7]</sup>). Indeed, the most successful initiatives take a holistic open government approach, i.e. they incorporate elements of and contribute to each of the principles (e.g. an open data portal can contribute to making the government more transparent while also increasing citizen participation through the use of data. The increased use of data may in turn foster accountability and integrity; etc.).

**Figure 6.7. Example of a principle-based approach to an Open Government Strategy**

Clustering initiatives and actions – Taking a principle-based approach



Source: OECD (2020<sup>[7]</sup>), *Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy*, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### Taking a sectorial approach

Countries can also take a sectorial approach to the clustering of initiatives in their Open Government Strategies, or they can enrich a principle-based/functional approach with a sectorial approach. The open government assessment may for example identify important opportunities for open government approaches in policymaking and service delivery in the environment or education sectors. In that case, it can be useful to include concrete sectorial open government measures into the strategy (e.g. design the new climate change strategy through a participatory approach; create an open data portal for the education sector; etc.).

Taking a sectorial perspective has important advantages (Boehm, 2014<sup>[22]</sup>; Campos and Pradhan, 2007<sup>[23]</sup>; OECD, 2015<sup>[24]</sup>):

- Broad approaches do not always take into account the specificities of open government in all sectors. A thorough understanding of how a given sector works, its processes and actors, may however be required to design effective initiatives.

- Promoting open government in sectors can translate into more concrete goals and results that directly affect people’s well-being. Fostering openness in a sector can create positive spill-overs to other sectors, as citizens and stakeholders start recovering trust in their government and ask for more reforms.
- There may be windows of political opportunity making reforms at the sector level more feasible (Matsheza, 2012<sup>[25]</sup>).
- A sectorial approach can be a tool to ensure full buy-in from concerned sectors from the outset.

While a sectorial approach bears great transformative potential, initiatives should always be bound together by a common narrative and shared objectives (e.g. all sector-specific open data initiatives should contribute to the OGS’ overall open data objectives) (OECD, 2020<sup>[7]</sup>). For a sectorial approach to work in practice, it is of key importance that all actors share a common understanding of open government and of its benefits. In addition, a sectorial approach usually needs to be complemented with elements of a principal-based or target-audience approach, as some open government initiatives necessarily concern more than one sector or the whole-of-government.

**Figure 6.8. Example of a sectorial approach**

Clustering initiatives and actions – Taking a sectorial approach



Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders’ participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### Taking a tool-based approach

Some countries have structured their open government agendas by organising initiatives around specific tools that can foster openness such as open data, public sector innovation, or access to information frameworks. This kind of approach can be used to empower communities that contribute to the broader open government agenda (e.g. the open data movement; the access to information community; the civic space movement; etc.). When taking a tool-based approach, it is particularly important to ensure that there is a strong common narrative and that all initiatives contribute to shared objectives. Usually, tool-based approaches therefore complement principle-based and sectorial approaches.

**Table 6.2. Examples of open government tools**

Open government principles	Tools
Transparency	<ul style="list-style-type: none"> <li>• Access to information portals</li> <li>• Physical tools (service windows)</li> <li>• National open data portals and sectoral open data portals (contracting, budget, procurement, etc.)</li> <li>• Websites and mobile applications</li> <li>• Open-source software</li> <li>• Algorithmic transparency</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>• Citizen audit applications (fix my street, follow the money, etc.)</li> <li>• Citizen feedback mechanisms (surveys, apps, letter boxes, etc.)</li> <li>• Public hearings (town hall meetings, virtual/physical hearings, etc.)</li> </ul>
Stakeholders' participation	<ul style="list-style-type: none"> <li>• Online tools (consultation platforms, e-vote, e-petitions, etc.)</li> <li>• Hackathons</li> <li>• Physical meetings</li> <li>• Local councils</li> <li>• Public consultations</li> <li>• Deliberative practices</li> </ul>

Note: It is recognised that open government tools usually contribute to more than one of the open government principles.

Source: OECD (2020<sub>[7]</sub>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

**Figure 6.9. Taking a tool-based approach to an Open Government Strategy**

Clustering initiatives and actions – Taking a tool-based approach



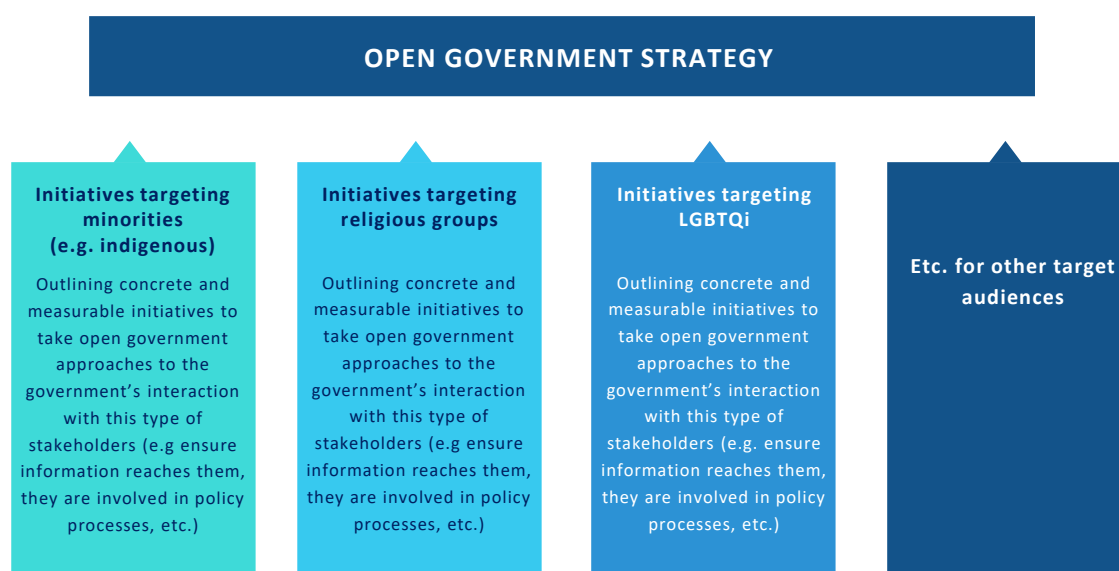
Source: OECD (2020<sub>[7]</sub>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### Taking a target audience approach

In some cases it may be advisable to design clusters of initiatives to be included in the OGS according to their target audience. In particular, governments may wish to include streams of activities targeting specific groups of stakeholders (e.g. CSOs, women, LGBTQI, minorities, etc.). For example, a government may wish to strengthen interactions with youth organisations through their inclusion in the agenda-setting and elaboration of major government policies (e.g. education, environment, health, etc.).

**Figure 6.10. Example of a target-audience approach**

Clustering initiatives and actions – Taking a target-audience approach



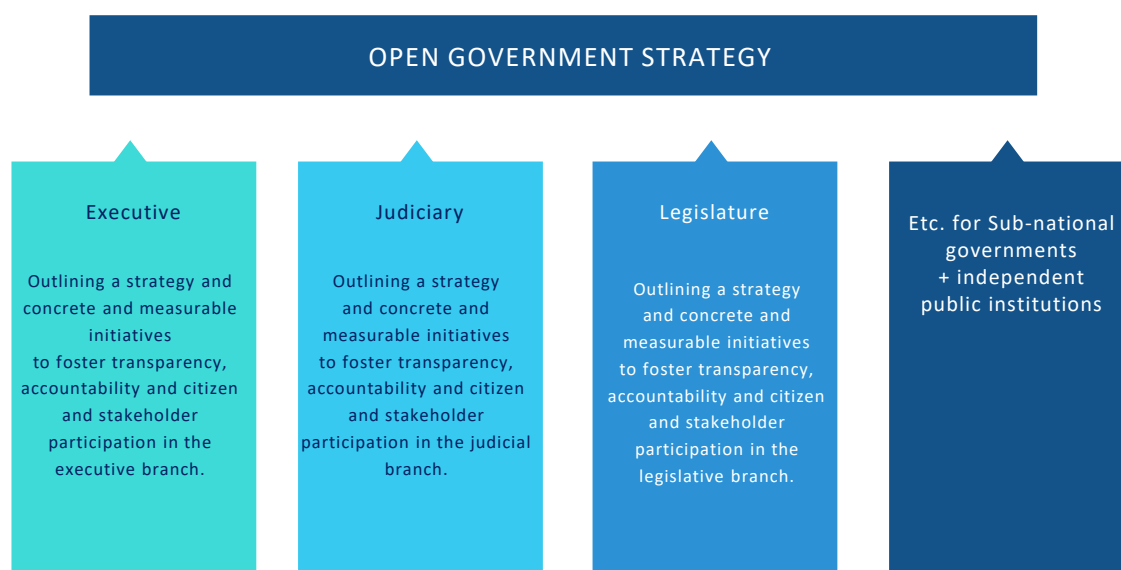
Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1

### Taking an open-state approach

An OGS can even include an open state perspective. Depending on each country's specific legal context, the strategy may, for instance, include clusters of initiatives to be implemented by each of the branches of power and of independent public institutions and/or a cluster of initiatives targeting the subnational level(s) of government/initiatives to be implemented by subnational governments.

**Figure 6.11. Example of an Open State approach to an OGS**

Clustering initiatives and actions – Taking an open state approach



Source: OECD (2020<sub>[7]</sub>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### *Ways to design open government initiatives*

No matter which clustering approach Romania ultimately selects (if any), in order to make the link to day-to-day policymaking, the Open Government Strategy needs to define practical ways to achieve its stated vision and the shared objectives (OECD, 2020<sub>[7]</sub>; OECD, 2023<sub>[21]</sub>). Initiatives/actions outline the steps that the government aims to take to implement the OGS.

Box 6.11 details the characteristics of successful open government initiatives while Figure 6.6 above shows the key role of initiatives in building the bridge between the initial assessment and the country's vision and objectives (OECD, 2020<sub>[7]</sub>). Initiatives can either be "general" or "detailed and concrete" (OECD, 2020<sub>[7]</sub>). While general initiatives (e.g. develop standards, tools and resources to support a new spirit of participation across government) have to be complemented with actions plans that outline concrete steps to implement them, detailed and concrete initiatives which often follow a sectorial approach (e.g. involve citizens in the design of a new youth strategy through the use of a targeted mobile application) do not necessarily need to rely on additional action plans to be implemented as they are usually already coupled with clear milestones and timelines (OECD, 2020<sub>[7]</sub>).



### **Box 6.11. Characteristics of successful open government initiatives/actions**

When developing new open government initiatives or incorporating existing initiatives into the whole-of-government Open Government Strategy, certain key features of successful open government initiatives should be considered. In an ideal case, initiatives should be:

#### **Aligned with the overall vision and the objectives of the strategy**

The purpose of the open government initiatives is to give substance to the Open Government Strategy. The initiatives, therefore, have to be coherent with the strategy's intended vision and its objectives/priorities.

#### **Built on pre-existing work**

Open government initiatives to be included in the whole-of-government Open Government Strategy do not have to be new. Initiatives that are already in place can also be assimilated into the new Strategy, which in turn legitimises, rationalises and strengthens them by providing them with a powerful narrative and a broader framework. A Whole-of-government Open Government Strategy can make those initiatives that are already in place more coherent and stronger by working together under the same coherent narrative and methodological setting.

#### **Linked to other national strategies**

Linking open government initiatives to other national strategies can make them more feasible and successful. For example, an open data/transparency initiative can be part of the OGS as well as the national anti-corruption strategy. Along similar lines, an indigenous consultation initiative can be in the OGS and in the local development strategy.

#### **Linked to resources**

Developing and implementing an Open Government Strategy may involve reforming laws and institutions, developing new skills, new technologies and platforms etc., all of which require human and financial resources. Adequate funding is therefore vital for an efficient and sustainable implementation of open government reforms. The Whole-of-government Strategy should ensure that funding is as transparent and as consistent as possible. Costs should be assessed realistically and wherever possible integrated into the national budget.

#### **Anchored by the open government approach**

Initiatives should, whenever possible, be designed in collaboration with different stakeholders and foster collaboration between civil society and public bodies.

#### **Communicated both internally and externally**

Communicating about open government initiatives can help expand their impact. Internally, this helps build coalitions and strengthen commitment to this cause across the public sector, including among senior-level executives. Externally, citizens and CSOs who are more aware of such initiatives, and who understand them better are more likely to participate in such efforts.

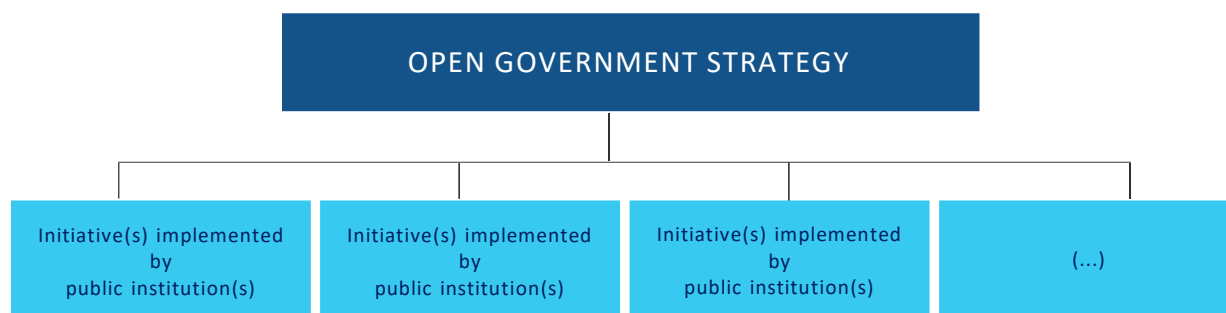
Source: Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

There are different ways to integrate initiatives into Romania's Open Government Strategy.

### Model 1: All initiatives are included in the Open Government Strategy

In this approach, Romania's Open Government Strategy defines the overall vision, sets objectives and specifies all initiatives that are going to be implemented by public institutions over the implementation period (designing what could be referred to as a "master open government action plan"). This model is closest to the one proposed by the OGP Action Plan. The model has the disadvantage that it can never cover the entire open government agenda of a country and many ongoing initiatives will be excluded. It may therefore be most suited to countries that are not members of the OGP and that aim to initiate an open government agenda.

**Figure 6.12. Including all initiatives in the Open Government Strategy**



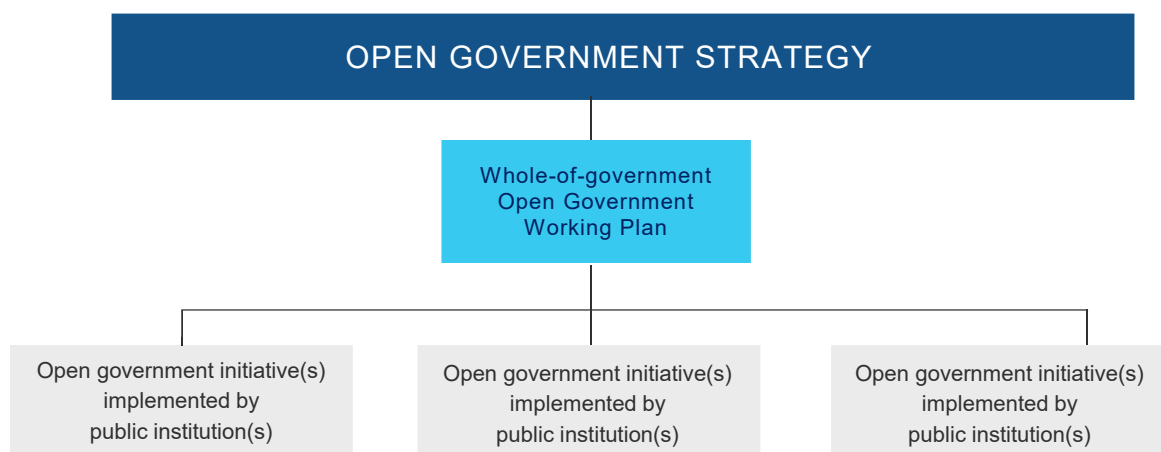
Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### Model 2: The suggested National Open Government Committee periodically defines a whole-of-government working/action plan to implement the strategy

In this approach, the strategy provides the narrative, sets the vision and details the objectives while initiatives are designed periodically (in most cases annually or biannually) along the implementation process by means of a whole-of-government open government working plan. The definition of initiatives is centralised by a single institution or by a Steering Committee which involves all key stakeholders (e.g. the suggested National Open Government Committee, in the case of Romania, see Chapter 3). In some cases, the whole-of-government working plan may be adopted by decree or another legal document.

Countries that participate in the OGP can also use their OGP Action Plan to implement specific targeted commitments (which should of course also be aligned with the strategy's objectives) while the whole-of-government open government working plan defines additional initiatives and priorities that affect the whole-of-government. Initiatives that conform to the working plans should be broad enough to be implemented by a variety of institutions. In this model, the strategy usually takes a medium to long-term perspective.

**Figure 6.13. Defining a whole-of-government open government working/action plan**

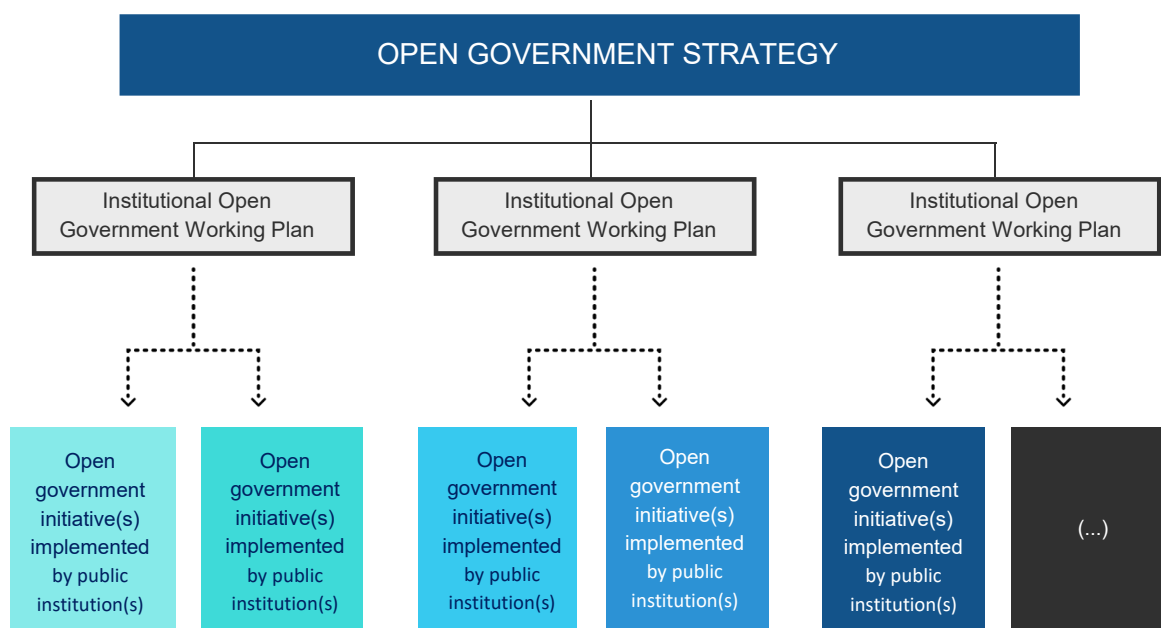


Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

### Model 3: Each institution defines its own open government working plan

In this approach, the Open Government Strategy foresees that all public institutions elaborate their own open government working/action plans to achieve the commonly agreed vision and objectives. The resulting institutional open government working plan is an official document. Institutions have autonomy to decide initiatives that they are going to implement initiatives that contribute to the vision and objectives of the OGS. Oversight/steering could be provided by the Open Government Steering Committee (see Chapter 4) which would make sure that the individual institutions' working plans are consistent. Under this scenario, OGP participants can use their action plans for targeted key initiatives that they wish to give national and international visibility to.

**Figure 6.14. Defining independent open government working plans for each institution**



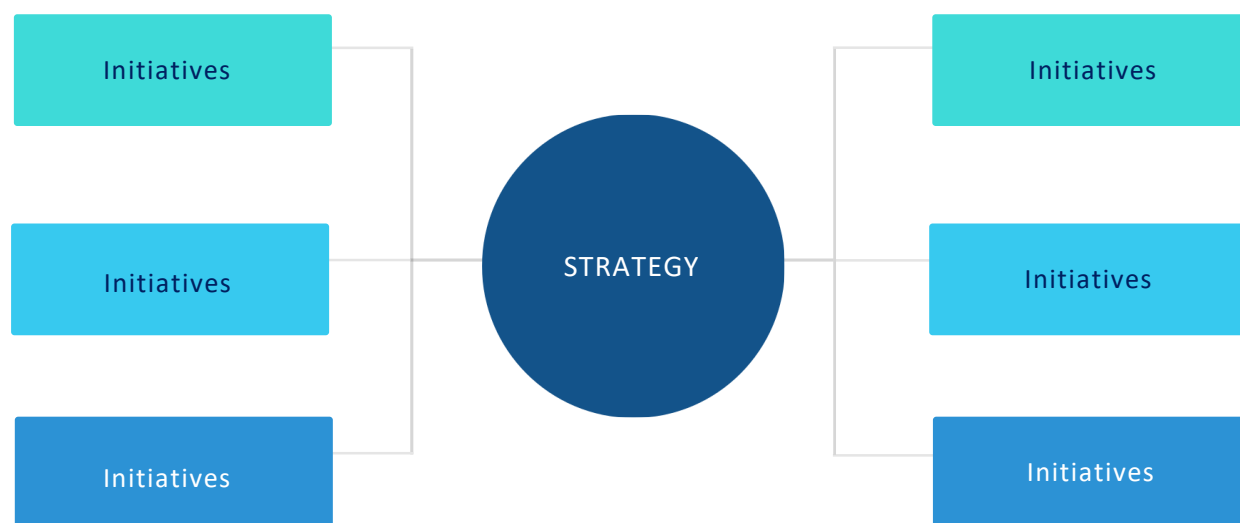
Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

#### **Model 4: Institutions define initiatives that contribute to the achievement of the strategy's objectives at their own pace**

In this scenario, the whole-of-government Open Government Strategy's vision and its objectives function as a general guideline that public institutions follow at their own pace. Each individual institution designs and implements its own open government initiatives without developing an institutional action/working plan.

This model grants a high level of autonomy to public institutions and is best applied in those countries that have a mature open government agenda. The main role of the co-ordinating institution is to raise awareness, support institutions in the elaboration of their own open government initiatives and monitor the achievement of the objectives of the overall policy.

**Figure 6.15. Defining initiatives at different paces**



Source: OECD (2020<sup>[7]</sup>), Taking an integrated approach to the promotion of transparency, integrity, accountability and stakeholders' participation: Towards an Open Government Strategy, Internal paper presented to the Working Party on Open Government, GOV/PGC/OG(2020)4/REV1.

#### ***Adopting the Strategy***

Once designed, the Open Government Strategy will need to be formally adopted for public institutions to begin implementing it. In the Romanian context, and as foreseen by the Methodology for Romanian government strategies (Decision no. 379/2022), the Strategy will in all likelihood be adopted by Government Decision.

Rather than taking the adoption by Government Decision as a simple formality, Romania could consider using it as a moment to raise awareness and organise a widespread communication campaign around its adoption. This may involve high-level events involving all different kinds of stakeholders, including from Parliament, subnational governments, civic society and other non-state actors.

#### ***Making the Strategy budget responsible***

Failure to implement the Strategy may lead to adverse effects such as lower levels of trust in government. Therefore, each initiative that will be included in the Strategy, as well as the Strategy as a whole need to have a dedicated budget. Some reforms that will be required may for example need the purchasing of new IT systems (which can be costly) or the contracting of external facilitators (e.g. a deliberative process), while others can be implemented at minimal costs. In any case, each initiative should be assigned a dedicated budget (e.g. on an annual basis).

### ***Creating a dedicated online portal for the Strategy***

In order to foster monitoring and enhance communication around the Strategy, Romania could consider creating a dedicated online portal for it (e.g. as part of the suggested Open Government Portal, see Chapter 5). In addition to showcasing the Strategy and its implementation plans, the portal could for example also include a dashboard that allows stakeholders to track Strategy-implementation on a continuous basis (see also Chapter 7). The portal could further be used as a platform for peer exchange between implementing institutions.

## **Conclusion**

In most OECD Member and Partner countries, including in Romania, the enabling environment for open government is the result of a combination of different layers of laws, policies and institutions, coupled with very diverse implementation modalities and practices (OECD, 2023<sup>[21]</sup>). This is due to the fact that, traditionally, public policies that aim to foster the open government principles of transparency, accountability, integrity, and stakeholder participation and related policies and practices have most commonly been treated through separate policy agendas, each with their own (often well-established) policies, governance processes and mechanisms (OECD, 2023<sup>[21]</sup>). The concept of open government invites countries to put all policies that aim to foster government-citizen/stakeholder relationships under one common umbrella to foster synergies and achieve more coherent and better outcomes for citizens. Recognising the benefits of integrated open government agendas, an increasing number of OECD Member and Partner countries started designing and implementing holistic and integrated Open Government Strategies in recent years.

The recent adoption of Romania's National Recovery and Resilience Plan provides a unique momentum for Romania to bring its open government agenda to the next level. Joining a growing community of pioneering countries, including Canada, Colombia, Finland and Italy, Romania should move forward with the design of its first integrated and holistic policy on fostering the government-citizen nexus, building on the ongoing discussions on the civil society strategy. This chapter finds that Romania's first Open Government Strategy has the potential to fundamentally transform the relationship between the government and the citizens it serves, provided it is well prepared, designed, drafted, implemented and monitored and evaluated. The chapter provides recommendations that are inspired by international good practices and that outline a clear roadmap for a successful strategy process. Over the course of 2023, the OECD will support Romania in their implementation.

## Policy recommendations

1. **Move forward with the design of Romania’s first holistic and integrated Open Government Strategy (as committed to in milestone 407 of the Recovery and Resilience Plan) to create a clear vision of the agenda to open government and bring open government approaches to the political level (“scale-up”).**
2. **Prepare for the design of the Open Government Strategy.**
  - Using the results of the present Open Government Review, conduct an assessment of the status quo of open government in Romania to analyse what kind of initiatives to foster the government-citizen/stakeholder nexus have already been implemented (and with which results).
  - Establish a clear roadmap for the design of the Strategy and ensure that this roadmap is well-communicated across government and the wider society.
  - Design a dedicated communications campaign/plan to inform all relevant stakeholders about the Strategy, defining adequate ways to reach each of them.
  - Ensure political commitment to the Strategy process, including by informing and actively involving the most senior government leadership of the government in the preparatory phase and by personally investing them in the process.
  - Fully involve the Ministry of Finance in the preparation and drafting of the Open Government Strategy to ensure full alignment with the budget cycle.
  - Decide on the adequate time horizon for the Strategy.
  - Conduct a stakeholder mapping. The mapping could be led by the team in the General Secretariat of the Government in partnership with the Ministry of Development, Public Works and Administration.
  - Involve all key institutions from within and outside of the government (including civil society leaders, parliamentarians, local governments, political parties, and younger generations of decision-makers, etc.) in the preparation of the Strategy.
  - Foresee specific measures to reach beyond the usual suspect.
  - Fully involve subnational governments in the process (e.g. regional meetings during the preparatory phase).
  - Identifying model policies to learn from, including Romanian government strategies and existing Open Government Strategies from OECD Member and Partner countries.
  - Fully embed the Strategy in Romania’s existing policy framework.
    - Anchor the Strategy in the National Recovery and Resilience Plan and in the current Government Programme.
    - Clearly link the Strategy with the National Anticorruption Strategy 2021-2025.
    - Use the Strategy to provide an umbrella to all future OGP action plans that Romania will design, giving them a clear and coherent vision and ensuring their coherence over time.
3. **Draft the Open Government Strategy.**

### The process:

- Involve all relevant stakeholders in the drafting process, including through co-creation workshops with public and non-public stakeholders to jointly define key elements of the OGS, such as the vision and the objectives, as well as co-production workshops to decide on initiatives.

- Close the feedback loop at all stages of the process and ensure that those responsible for drafting report back on the way inputs are incorporated.
- Have the draft Strategy peer reviewed, including by non-public stakeholders, the legal counsel, etc. to ensure that it both respects the legal framework in place and responds to the needs of different groups of stakeholders.
- To the extent possible, draft the Strategy in plain language to make it easier for any citizen from any background to see, understand and get involved in the process.
- Include a regular review of priorities, initiatives, and budgeting/spending in the Strategy to help navigate changes in government and ensure that the Strategy remains relevant over time.
- Use the adoption of the Strategy (by Government Decision) as a moment to raise awareness and organise a widespread communication campaign. This may involve high-level events involving all different kinds of stakeholders, including from Parliament, subnational governments, civic society, and other non-state actors.
- Create a dedicated online portal for the Strategy (e.g. as part of the suggested Open Government Portal, see Chapter 5) to foster monitoring and enhance communication. In addition to showcasing the Strategy and its implementation plans, the portal could also include a dashboard that allows stakeholders to track Strategy-implementation on a continuous basis (see also Chapter 7).

#### Elements to include:

- Add a telling **subtitle** such as “getting closer to citizens” or “communicating better with citizens” to the Strategy’s title in order to make it more tangible for citizens.
- Include an **introduction** to ensure that all citizens and stakeholders easily understand the Strategy and see the rationale for developing it.
- Include a **foreword** signed by a high-level government representative and/or a civil society leader to enhance ownership and demonstrate that this is supported at the highest levels of government.
- Define an ambitious, bold, inspiring and realisable **vision** for the Strategy, possibly by co-creating it with relevant stakeholders.
- Include **definitions of key concepts**, such as open government and open state, as well as of key principles, including transparency, accountability, integrity, and participation to clarify expectations and foster coherent implementation. To the extent possible, these definitions should be co-created with all relevant stakeholders.
- Be selective and set clear **priorities** from the beginning. Whenever possible, priorities should be established jointly with all relevant stakeholders, for example by using existing co-ordination spaces or any newly created spaces. Once established, communicate priorities to the wider public to manage expectations.
- Set **objectives** that are measurable, achievable, and relevant; evidence-based; ambitious without over-committing the government or creating unrealistic expectations; and budget responsible.
- Define **clusters/activity streams** to which initiatives included in the Strategy will contribute to.
- Define **initiatives/actions** to achieve the stated vision and the shared objectives of the Strategy.
  - Put an emphasis on including initiatives that aim to foster citizen and civil society involvement in the policy cycle, as recommended in the *Civic Space Review of Romania*.
- Ensure that each initiative that will be included in the Strategy, as well as the Strategy as a whole are fully funded.



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## Notes

<sup>1</sup> As part of its motivation to request the *Civic Space Review of Romania*, the government of Romania had identified the need to streamline civic engagement “in order to make a real contribution to improving the predictability and adequacy of public policymaking processes”. It also identified the need to ensure the necessary conditions for a “robust civil society that can promote the rule of law”. To respond to these challenges, the *OECD Observatory for Civic Space* is currently supporting the development of a strategy and implementation roadmap for civil society involvement in decision-making in Romania. First workshops involving preliminary discussions on how to design such a strategy and implementation roadmap took place in September 2022. One of the key findings of these workshops and the present Review is that the strategy and implementation roadmap for civil society involvement in decision-making cannot operate in isolation. Rather, they have to become an integral part of the wider Open Government Strategy in order to be successful.

<sup>2</sup> 29 out of the 38 OECD Member countries are members of the OGP.

<sup>3</sup> In its assessment of Romania’s fifth action plan, the OGP’s Independent Reporting Mechanism (IRM) recommended ensuring better stakeholder engagement during implementation and highlighted that future action plans could benefit from greater dialogue with civil society during co-creation on which topics to prioritise and on the overall direction of OGP in Romania.

<sup>4</sup> The OECD’s “Strengthening the Innovative Capacity of the Government of Romania: Interim Assessment Report” (OECD, 2022<sup>[26]</sup>) provides an in-depth assessment of innovative capacity in Romania and includes recommendations to better embed forward planning (including through strategic foresight, etc.) in policy processes.

<sup>5</sup> Provision 1 of the Recommendation of the Council on Open Government stipulate that Adherents “take measures, in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders and to foster commitment from politicians, members of parliaments, senior public managers and public officials, to ensure successful implementation and prevent or overcome obstacles related to resistance to change”.



# **7**

## **Monitoring and evaluating openness: Towards stronger impact of open government reforms**

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This chapter provides recommendations to support the Government of Romania in enhancing the measurements of the impact that open government reforms are having. In addition to providing recommendations on ways to strengthen ongoing monitoring exercises in different areas of open government, the chapter assists Romania in the creation of an integrated monitoring and evaluation system for the forthcoming Open Government Strategy. It proposes tools to track the implementation of the Strategy and suggests the development of an Open Government Index and/or Open Government Maturity Models.

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## Introduction

Solid monitoring and evaluation (M&E)<sup>1</sup> mechanisms can help to ensure that policies are achieving the intended goals, contribute to the identification of implementation barriers, and orient policy choices by building on past experiences (OECD, 2019<sub>[1]</sub>). M&E is also instrumental in initiating changes and communicating policy results in a timely and accessible manner. Given their multidimensional and cross-cutting nature, open government reforms are inherently difficult to monitor and evaluate (OECD, 2020<sub>[2]</sub>): They commonly involve initiatives in a variety of areas (e.g. citizen participation, access to information, open government data, etc.), and requires the involvement of multiple public and non-public stakeholders from the different levels of government (OECD, 2019<sub>[1]</sub>). In its consideration of the overall relevance of M&E, the Recommendation of the Council on Open Government (OECD, 2017<sub>[3]</sub>) accords substantial importance to the monitoring and evaluation of open government strategies and initiatives (Box 7.1).

The creation of more solid M&E systems and the establishment of indicators to measure the impact of open government reforms is a challenge that is shared between all OECD Member and Partner countries. Data collected through the 2020 OECD Survey on Open Government (OECD, 2021<sub>[4]</sub>) shows that – for the time being – most countries only monitor the implementation of their OGP action plans and collect limited data and evidence on the broader effects of open government initiatives (OECD, forthcoming<sub>[5]</sub>). Evaluations are mostly conducted on an ad hoc basis, if at all, and few countries have established holistic measurements to assess the outputs, outcomes, and impacts of their open government agendas (OECD, forthcoming<sub>[5]</sub>).

As part of its process to move towards a more integrated open government agenda and design the country's first holistic and integrated Open Government Strategy, Romania also committed to foster the evidence base and develop better measurements in the field of open government. In fact, building stronger indicators and fostering the evidence base for open government is one of the overarching objectives of the ongoing collaboration between Romanian and the OECD as part of the EEA/Norway grants project (see also Chapter 3 on the Methodology).

Building upon Provision 5 of the Recommendation of the Council on Open Government (OECD, 2017<sub>[3]</sub>), this chapter assesses existing measurements in the area of open government in Romania. It finds that Romania has already developed a number of mechanisms to monitor the implementation of different open government policies and practices (e.g. through the monitoring of Law no. 544/2001 on free access to information of public interest) and that the monitoring system of the OGP action plan is relatively established. However, like most OECD Member countries, Romania still lacks a clearer understanding of the wider effects that open government reforms have. The chapter therefore provides recommendations to support the government of Romania in enhancing measurements of openness across the public sector and assist the country in the creation of a monitoring and evaluation system that is suitable to an integrated open government agenda, including by proposing the development of an Open Government Index and/or Open Government Maturity Models.

The chapter benchmarks Romania against OECD practice based on the findings of the 2020 OECD Survey on Open Government (OECD, 2021<sub>[4]</sub>), and refers to Romanian administrative data and data from the different Surveys the OECD Secretariat conducted in the country.

### Box 7.1. Provision 5 of the Recommendation of the Council on Open Government

“Develop and implement monitoring, evaluation and learning mechanisms for open government strategies and initiatives by:

- (i) Identifying institutional actors to be in charge of collecting and disseminating up-to-date and reliable information and data in an open format
- (ii) Developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders; and
- (iii) Fostering a culture of monitoring, evaluation and learning among public officials by increasing their capacity to regularly conduct exercises for these purposes in collaboration with relevant stakeholders”.

Source: OECD (2017<sup>[3]</sup>), “Recommendation of the Council on Open Government”, *OECD Legal Instruments*, [OECD/LEGAL/0438](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438), OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

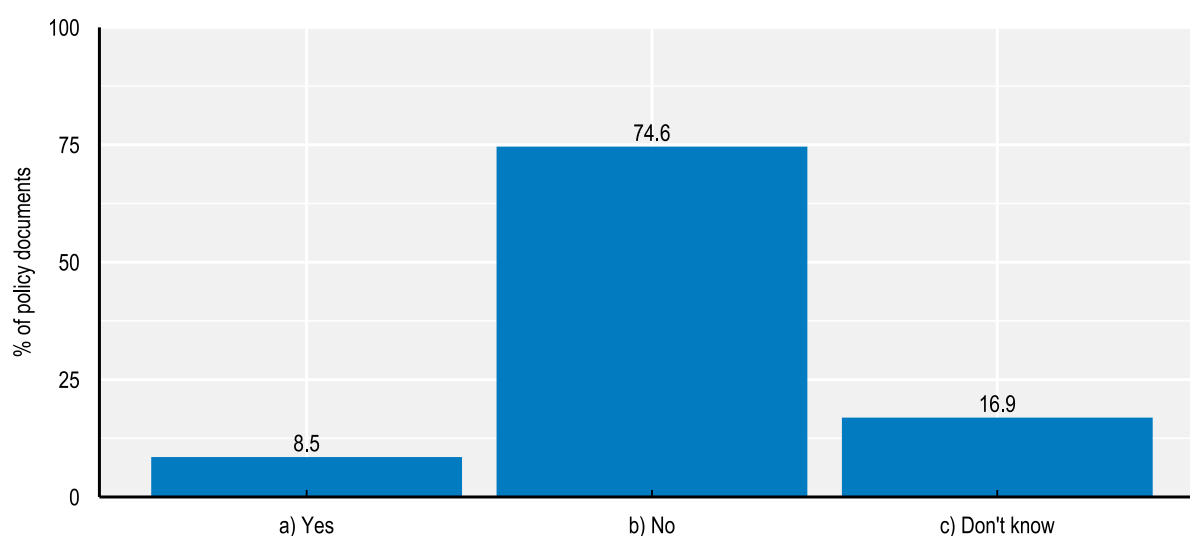
### ***Romania shares the challenge of improving monitoring and evaluation of open government reforms with many OECD countries***

While OECD Member and Partner countries have made significant progress in fostering the monitoring of open government policies and practices, holistic evaluations are still rarely conducted. Indeed, data from the 2020 OECD Survey on Open Government (OECD, 2021<sup>[4]</sup>) shows that most of the main policy documents on open government that Adherents<sup>2</sup> to the OECD Recommendation on Open Government (hereinafter “Adherents” or “Adhering countries”) have designed have a monitoring system attached to them. Out of 123 open government policy documents that were submitted, 106 (86.2%) are monitored throughout their implementation and the monitoring can be publicly followed in two-thirds of these cases (67%, 71 policy documents).

Adhering countries also employ different monitoring tools and mechanisms focusing on specific open government principles, policies and practices, such as access to information, open government data and public sector integrity (OECD, forthcoming<sup>[5]</sup>). For example, most countries are well aware of public institutions’ and/or subnational governments’ degree of compliance with their existing access to information legislation (i.e. what percentage of institutions proactively publish the information that is required by the law etc.).

On the contrary, evaluating the impacts of open government reforms is a relatively new area of interest among policymakers and researchers (OECD, 2019<sup>[1]</sup>). Few OECD Member and Partner countries have conducted holistic assessments to understand the effects that open government reforms have had on citizens’ trust in public institutions, fighting corruption, economic growth, political efficacy, etc. (see Box 7.2 for an example of an evaluation from Canada). Respondents to the 2020 OECD Survey on Open Government report that a process evaluation was conducted for 21.5% of 121 open government policy documents, while impact evaluations were performed for only 8.47% of 118 policy documents (10) (Figure 7.1).



**Figure 7.1. Share of open government policy documents with impact evaluation**

Note: N=37 for 118 policy documents.

Source: OECD (2021<sup>[4]</sup>), 2020 OECD Survey on Open Government.

### Box 7.2. The Evaluation of the Open Government Programme in Canada

In 2021, the Internal Audit and Evaluation Bureau for the Performance Measurement and Evaluation Committee of the Government of Canada prepared an Evaluation of the Open Government Programme. The Evaluation assessed the relevance and effectiveness of the Open Government Programme, covering fiscal years 2016-2017 to 2018-19. Among other findings, it highlighted that “there is a need for a strong vision of open government in the Government of Canada”. As its primary action to implement these recommendations made in the Evaluation, the Treasury Board Secretariat decided to design a Federal Open Government Strategy (OGS) as the main guiding document on open government for the federal government.

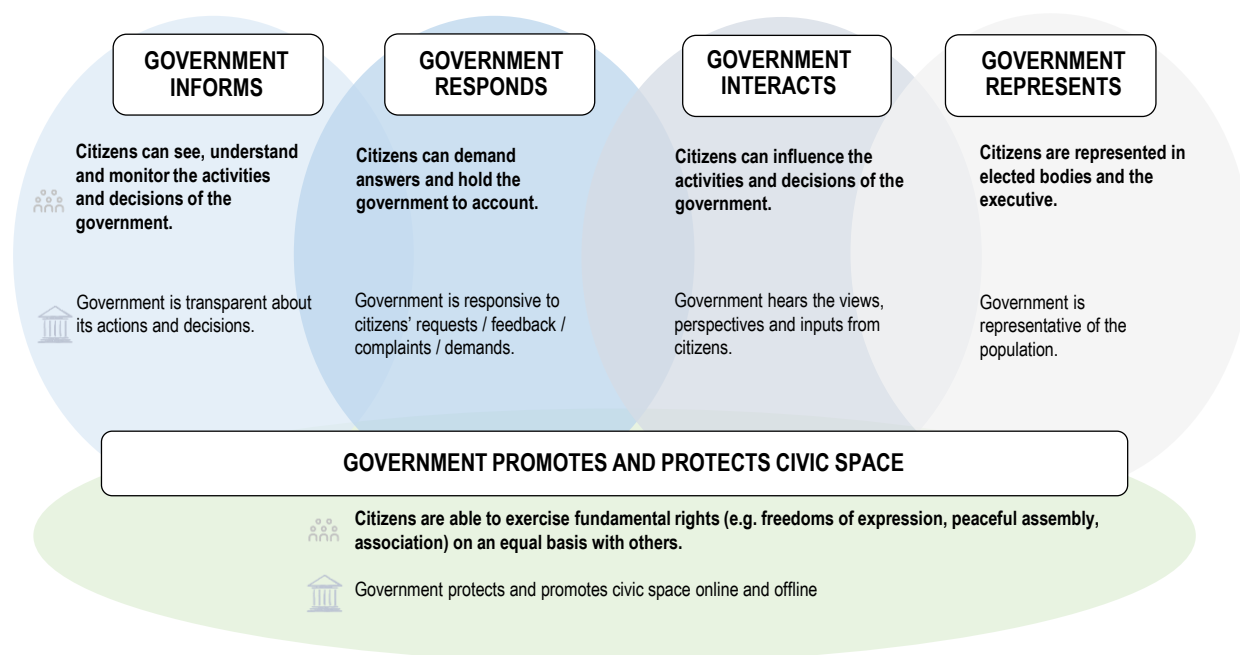
Source: OECD (2023<sup>[6]</sup>), *Open Government Scan of Canada: Designing and Implementing an Open Government Strategy*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/1290a7ef-en>.

### Fostering the evidence-base: Available data on openness in Romania

In Romania, like in most OECD countries, there is currently no integrated system to monitor, evaluate or collect data on open government at the level of the national government or at the level of individual public institutions. However, different tools and mechanisms monitoring specific open government principles, policies and practices, such as access to information and participatory practices, exist. In line with its institutional mandate, the General Secretariat of the Government of Romania is the key public institution when it comes to monitoring and evaluating the implementation of most open government initiatives (Box 7.3).

Taking the dimensions of the *OECD Openness Spectrum* as a basis (see also Chapter 3 on Methodology), this section assesses the way Romania currently monitors and evaluates the implementation of open government policies and practices. Given the parallel *Civic Space Review of Romania* (OECD, 2023<sup>[7]</sup>) and other ongoing OECD Policy Reviews, the section focuses on the way government informs (dimension 1), responds to (dimension 2) and interacts with (dimension 3) citizens and stakeholders, leaving out the way it represents (dimension 4) and protects and promotes civic space (dimension 5).

**Figure 7.2. The OECD Openness Spectrum**



Source: Author's own elaboration.

### Box 7.3. The role of the General Secretariat of the Government in monitoring and evaluation of open government principles, policies, and practices

According to its mandate, the General Secretariat of the Government:

- monitors and evaluates the application by public authorities and institutions of the legal provisions regarding free access to information of public interest in the public administration.
- monitors and evaluates the application by public authorities and institutions of the legal provisions regarding decisional transparency in public administration.
- elaborates summaries regarding the annual reports regarding the implementation by the central public administration of the legislation on free access to information of public interest, offering recommendations for improving the legislation and practices in the field;
- elaborates summaries of the annual reports regarding the implementation by the central administration of the legislation on decisional transparency in public administration, offering recommendations for improving the legislation and practices in the field.

Source: Government of Romania (2020), Art. 3 point 5, Decision no.137/2020 on the organisation, functioning and attributions of the GSG.

## Monitoring and evaluating Romania's OGP action plans

The monitoring and evaluation of the implementation of countries' Open Government Partnership (OGP) action plans usually takes place through the OGP's monitoring mechanisms, consisting of the reports prepared by the independent reporting mechanism (IRM) and self-assessment reports prepared by the government (Box 7.4) (OECD, 2022<sup>[8]</sup>). An independent expert from the OGP's IRM usually carries out three evaluations of each OGP action plan: the first in the design phase, the second in the middle of the implementation period and the last at the end of the implementation period.

While both the IRM reports and the self-assessment reports provide useful inputs about countries' OGP processes, they do not (and do not aim to) allow for the monitoring and evaluation of countries' whole open government agenda, as they only focus on elements relating to the action plan itself (e.g. How inclusive was the co-creation process? What is the transformative potential of the commitments?, etc.) (OECD, 2022<sup>[8]</sup>).

### Box 7.4. OGP country self-assessment and independent reporting

**Self-assessment report(s):** Self-assessment reports are a key element of the Open Government Partnership accountability mechanism. They document the overall progress of the action plan based on the information in the repository/dashboard. They must highlight opportunities and gaps to further improve the delivery of the action plan. While it is only expected for countries to develop one self-assessment report at the end of the implementation of the action plan, some countries prepare a yearly self-assessment report and invite the public to comment and provide feedback on the content of the report. The report needs to be published on the country's OGP website and can be published on the OGP website, including the comments and how the comments were addressed.

**Independent reporting mechanism:** The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries. The IRM produces the following for each country participating in OGP: a Co-Creation Brief; an Action Plan Review; and a Results Report. IRM products follow a regular timeline with production running parallel to the OGP action plan cycle.

Source: OGP (2022<sup>[9]</sup>), OGP NATIONAL HANDBOOK Rules + Guidance for Participants, <https://www.opengovpartnership.org/wp-content/uploads/2022/03/OGP-National-Handbook-2022.pdf>; OGP (n.d.<sup>[10]</sup>), INDEPENDENT REPORTING MECHANISM Products and Process, <https://www.opengovpartnership.org/irm-products-and-process/> (accessed January 2023).

As a basis for drafting the self-assessment reports, the General Secretariat of the Government – as the institution co-ordinating Romania's participation in the OGP – monitors the commitments included in the action plans. Public institutions that are responsible for commitments have to report on the implementation status every six months. The data collected by the GSG is then centralised and published on Romania's OGP website (ogp.gov.ro). Currently, the tracking of commitments is done through an Excel sheet, which can make tracking complex for citizens and stakeholders. As done by OECD Member and Partner countries such as Argentina and Brazil (Box 7.5), Romania could take full advantage of digital tools to create a more user-friendly online system to track the implementation of commitments (e.g. a traffic light system). In addition to continuing the monitoring of the process of each of the action plan commitments through process indicators (which are included in the action plan itself and usually relate to key milestones, such as dates, for each of the commitments), Romania could further consider starting to evaluate the impact of its OGP action plans based on pre-established results indicators (which could be based on the "expected results" sections of each of the commitments).

### Box 7.5. Monitoring OGP action plan implementation in Brazil and Argentina

- In Brazil, the co-ordinator of each commitment included in the OGP action plan needs to prepare an Execution Status Report (CSR) every two months. In addition, monitoring meetings take place for every commitment every three months and a general meeting with all commitment co-ordinators is organised every six months. These monitoring meetings may also involve civil society stakeholders. The CGU's Open Government Portal serves as the main mechanism to display the information collected through the monitoring meetings and the CSRs. For each commitment, the Portal provides information on associated milestones; the percentage of execution of each milestone; commitment-related information and documents; as well as the minutes of the monitoring meetings of each commitment.
- In Argentina, the public institutions responsible for implementing each commitment have to report progress to the SGM's Undersecretariat of Public Innovation and Open Government (UOG). SGM tracks progress through a dedicated dashboard and reports on a weekly basis to the Government Secretary of Modernisation for each OGP commitment. Finally, the Government Secretary of Modernisation reports to the President on the degree of progress of a number of major commitments. In addition, the UOG holds closed meetings with the institutions responsible for each commitment every two to six months. The government also holds open meetings within the framework of the National Open Government Roundtable with representatives of CSOs.

Source: OECD (forthcoming<sup>[5]</sup>), Report on the Implementation of the 2017 OECD Recommendation on Open Government.

In line with practice in OECD countries that are part of the OGP, Romania's multi-stakeholder forum – the National Coordination Committee (CNC) of the OGP (see Chapter 5) – also plays a role in the monitoring process. During the meetings of the CNC, which take place at least four times a year, commitments-leads are asked to present the main achievements and bottleneck of each commitment. Issues are further discussed in the working groups that are dedicated to each commitment, which meet more frequently.

As in several other OECD Member and Partner countries, the monitoring of Romania's OGP action plan contributes to other monitoring efforts conducted by the government (Figure 7.3). Notably, the monitoring of Romania's OGP action plan is directly linked with the monitoring activities conducted for the National Anticorruption Strategy (NAS). Joint monitoring activities are facilitated by the fact that the Open Government Service of the General Secretariat of the Government has established a *Technical Secretariat of the Working Group for the implementation of the National Anticorruption Strategy 2021-2025* which has the following responsibilities:

- It provides guidance and support to the teams within the GSG, to the subordinate authorities of the GSG or to authorities that are under the co-ordination of the GSG, which have the responsibility to implement initiatives included in the NAS;
- It performs annual monitoring of the GSG's initiatives included in the NAS, centralising the information and reporting to the Ministry of Justice (co-ordinating authority of the NAS at the national level).

### Box 7.6. Monitoring the National Anti-Corruption Strategy (2016-2020)

As an OECD assessment (OECD, 2022<sup>[11]</sup>) points out, Romania’s National Anti-Corruption Strategy (NAS) 2016-2020 was monitored through self-assessment reports from public institutions, thematic missions, background surveys and studies, systematic evaluation of integrity incidents and period reports issued by international observers, especially by the Group of States against Corruption (GRECO) and the European Union (EU). In particular, the on-site visits by the Ministry of Justice – so-called “thematic missions” – played an essential role in the monitoring process, as they allowed for the involvement of all relevant stakeholders. All the information gathered through these multiple channels was compiled in annual monitoring reports which served as the main tool to evaluate the main achievements and challenges that had been encountered during the implementation of the strategy.

Overall, the monitoring and evaluation of the NAS presents a mixed picture regarding its effectiveness (OECD, 2022<sup>[11]</sup>). On the one hand, while providing valuable information, the monitoring reports are not systematic enough, mostly due to the absence of action plans with pre-defined indicators and targets in the strategy. Consequently, activities could not be adapted to changing circumstances based on available evidence. On the other hand, the use of novel and “out of the box” tools for reporting and the involvement of civil society were able to compensate for an insufficiently systematic approach to monitoring. Key to these very novel tools were the thematic missions. In the format of multi-stakeholder visits, the findings of thematic missions were discussed by the co-operation platforms and are usually published on the website of the institution in question as well as on the NAS portal. In addition, the Technical Secretariat conducted reviews of thematic missions and based on these reviews developed guidance materials, including on topics such as conflict of interest and revolving doors.

Source: OECD (2022<sup>[11]</sup>), Evaluation of the Romanian National Anti-corruption Strategy 2016-2020, <https://search.oecd.org/gov/ethics/evaluation-romanian-national-anti-corruption-strategy-2016-2020.pdf>

**Figure 7.3. Does the monitoring of the OGP Action plan contribute to/feed into the monitoring of any of the following government policies?**



Note: N=23. Multiple selections possible.  
 Source: OECD (2021<sup>[4]</sup>), 2020 OECD Survey on Open Government.

The OGP action plan has also been strategically used by the Romanian government as a means to promote more holistic evaluations of open government reforms. Notably, in 2021, based on the commitment to “Coordinating the management of innovative processes for the efficiency of participation in public administration decisions” assumed by the General Secretariat of the Government in Romania’s 2020-2022 OGP action plan, the Romanian government conducted an *Analysis regarding the assessment of central and local public administration practices in the decision-making process and ensuring access to information of public interest* (Box 7.7). The evaluation provides a number of recommendations to foster transparency and participation in Romania many of which are aligned with those presented in this OECD Open Government Review.

### **Box 7.7. Evaluation of central and local public administrations’ practices in the decision-making process and in ensuring access to information of public interest**

The evaluation starts by noting that “although the present normative framework establishes a series of legal mechanisms capable of stimulating participation and establishing a solid collaborative relationship with civil society, most of the time, the use of these mechanisms fails to make a real contribution to improving the quality of public decisions”.

The analysis aims to present a snapshot of the moment on how civil society and the administration interact and what the prospects are based on which the quality of citizens’ participation in public life can be increased, by streamlining bureaucratic mechanisms with the help of innovative approaches in the fields of decisional transparency in public administration and access to public information. At the same time, the purpose of the analysis was to identify the ways in which the administration can increase the level of participation of citizens in public life and the capacity of institutions to take over the recommendations received from civil society, the dynamism of the administration’s activity in the field of providing public information, both on request and ex officio, by adopting a pro-active approach through innovative means.

In order to evaluate the practices of the central and local public administration in the decision-making process and ensure access to information of public interest, the questionnaire method was used, thus two questionnaires were developed, one each for public institutions and civil society, through which the issues of decision-making transparency, access to information of public interest and innovation in the public sector were addressed. The questionnaire addressed to public institutions registered a total number of 45 responses out of a possible 60 (35 out of a possible 41 responses submitted by the council counties and 10 out of 19 possible answers sent by ministries). The questionnaire addressed to the non-governmental sector recorded a total of 70 responses (49 responses from organisations operating at local level and 21 responses from organisations operating at the national level).

Source: Government of Romania (2021<sup>[12]</sup>), Evaluation of central and local public administrations’ practices in the decision-making process and in ensuring access to information of public interest, [https://ogp.gov.ro/nou/panorama/coordonarea-gestionarii-proceselor-inovative-pentru-eficientizarea-participarii-la-deciziile-administratiei-publice/?psp\\_download=1](https://ogp.gov.ro/nou/panorama/coordonarea-gestionarii-proceselor-inovative-pentru-eficientizarea-participarii-la-deciziile-administratiei-publice/?psp_download=1).

## **Monitoring and evaluating the way government informs citizens and stakeholders in Romania**

To take part in public decision-making citizens and stakeholders need to have full access to public information and data. Accordingly, the *OECD Openness Spectrum* (Figure 3.2) highlights citizens’ ability to see, understand and monitor the activities and decisions of the government as one of the core dimensions of open governance (“government informs”).

In Romania, relevant data on the way government informs citizens and stakeholders are currently mostly collected through the mandatory monitoring of the implementation of the country's access to information law (Law no. 544/2001). In addition to producing a periodic report on the activities they conducted during the year (as mandated by art. 5(3) of Law no. 544/2001), public authorities have the obligation to proactively publish an annual evaluation report on the implementation of Law no. 544/2001 (as mandated by art. 27 of Government Decision no. 123/2002 which states that “(1) *Each institution or public authority will annually prepare, through the information and public relations structures, a report on access to information of public interest, which will include (...)*”). The form that this annual evaluation report should take was first detailed in Annex 10 of Government Decision no. 123/2002 and subsequently updated through Annex 2 of Government Decision no. 830/2022 which provided a new standardised structure for the evaluation reports submitted by public institutions.

In their annual evaluation reports, public authorities are required to provide both factual information relating to the implementation of the law (e.g. number of staff in charge of the application of the law, number of requests received, etc.) and give opinions/evaluations (e.g. if resources foreseen for the implementation of the law are sufficient, etc.) (see Table 7.1 for the reporting template).

**Table 7.1. Model Evaluation Report on the implementation of Law no. 544/2001**

<b>1. RESOURCES AND PROCESS</b>	
How do you assess the human resources available for the activity of providing information of public interest?	
You appreciate that the material resources available for the activity of providing information of public interest are:	
How do you appreciate the collaboration with the specialised departments within your institution in providing access to information of public interest:	
<b>2. RESULT</b>	
<b>A. OFFICIALLY PUBLISHED INFORMATION</b>	
How do you assess the institution's activity?	
How do you assess the human resources available for the activity of providing information of public interest?	
You appreciate that the material resources available for the activity of providing information of public interest are:	
How do you appreciate the collaboration with the specialised departments within your institution in providing access to information of public interest:	
Your institution has displayed the information/documents communicated ex officio, according to art. 5 of Law no. 544/2001, with subsequent amendments and additions?	
Do you think that the display of information was sufficiently visible for those interested?	
Has your institution published additional data sets ex officio, compared to the minimum ones provided by law?	
What are the solutions for increasing the visibility of published information that your institution has applied?	
Is the information published in an open format?	
What are the internal measures you intend to apply to publish as many datasets as possible in open format?	
<b>B. INFORMATION PROVIDED ON REQUEST</b>	
Total number of requests for information of public interest	
Depending on the applicant	From individuals
	From legal entities
According to the method of addressing	On paper
	On electronic support
	Verbal
Breakdown by fields of	a) Use of public money (contracts, investments, expenses, etc.)



interest	b) The manner of fulfilling the duties of the public institution	
	c) Normative acts, regulations	
	d) The activity of the institution's leaders	
	e) Information regarding the application of Law no. 544/2001, with subsequent amendments and additions	
	Other	no. mention
Number of requests resolved favourably		
Response time	Redirected to other institutions	
	Resolved favourably within 10 days	
	Resolved favourably within 30 days	
	Overdue requests	
Mode of communication	Electronic communication	
	Communication in paper format	
	Verbal communication	
Divided by fields of interest	Use of public money (contracts, investments, expenses)	
	The manner of fulfilling the duties of the public institution	
	Normative acts, regulations	
	The activity of the leaders of the institution	
	Information regarding the application of Law no. 544/2001, with subsequent amendments and additions	
	Other	no. mention
Mention the main reasons why certain answers were not sent within the legal term		
What measures were taken to solve this problem?		
Number of rejected requests		
Reason for rejection	Excepted, according to the law	
	Nonexistent information	
	Other reasons	no. mention
Rejected requests divided by fields of interest	Use of public money (contracts, investments, expenses, etc.)	
	The manner of fulfilling the duties of the public institution	
	Normative acts, regulations	
	The activity of the leaders of the institution	
	Information regarding the application of Law no. 544/2001, with subsequent amendments and additions	
	Other	no. mention
No. of administrative complaints to the public institution based on Law no. 544/2001, with subsequent amendments and additions	Favourably resolved	
	rejected	
	In process of resolution	
Total		
No. of complaints in court against the institution based	Favourably resolved	

on Law no. 544/2001, with subsequent amendments and additions	rejected
	In process of resolution
Total	
Costs	Operating totals of the compartment
	Amounts collected from the copying service
	The cost of the copying service (lei/page)
	What is the document that is the basis for establishing the consideration for the copying service?
Increasing the efficiency of access to information of public interest	Own the virtual library/information point
	The points you consider necessary to be improved at the level of your institution to increase the efficiency of the process of ensuring access to information of public interest:
	The measures taken to improve the process of ensuring access to information of public interest

Note: Translated from Romanian into English.

Source: Annex 2 of Government Decision no. 830/2022.

In application of its mandate (Box 7.3), the General Secretariat of the Government annually analyses the implementation of Law no. 544/2001 on access to information of public interest. Based on the reports submitted by public institutions from all levels of government, the GSG compiles synthesis reports, which are published on its institutional website (both as a .DOC and as a .PDF) (General Secretariat of the Government, 2021<sub>[13]</sub>; General Secretariat of the Government, 2022<sub>[14]</sub>). The most recent synthesis report is based on the data submitted by 2 777 authorities, including 18 ministries (including the General Secretariat of Government), 40 institutions of the prefect, 250 authorities/institutions subordinate to ministries and 2 469 local public authorities (General Secretariat of the Government, 2022<sub>[14]</sub>)<sup>3</sup>. In addition to introductory considerations (e.g. explanation of the methodology) and conclusions and recommendations, the synthesis reports follow the same structure and include sections on:

- a. Information regarding the person responsible for the implementation of Law no. 544/2001 at the level of the reporting public authority/institution;
- b. Assessment of the activity;
- c. Available resources (human and material);
- d. Collaboration with specialised departments;
- e. Place of display of official information/documents;
- f. Information published in open format/proposed measures;
- g. The total number of requests for information of public interest, broken down by: applicant, the method of addressing, areas of interest;
- h. The number of requests resolved favourably, broken down by: response time, mode of communication, areas of interest;
- i. The number of rejected requests, broken down by reason for rejection and areas of interest;
- j. Administrative complaints to the public institution based on Law no. 544/2001 broken down by method of settlement;
- k. Complaints in court against the public institution based on Law no. 544/2001, broken down according to the method of settlement;
- l. Increasing the efficiency of access to information of public interest – the existence of the library virtual/information point

In a separate monitoring exercise, the GSG also assesses the *de facto* publication of the different classes of information that are mandatory to be proactively published according to Article 5(1) of Law no. 544/2001 and to subsequent regulations (e.g. Government Decision no. 830/2022). The compliance data for ministries, institutions subordinated/co-ordinated/under the authority of ministries, autonomous institutions, prefect institutions, county councils, as well as town halls and municipalities is available in the form of separate excel-sheets on GSG's website. While the information is useful and provide interesting insights as to the degree of implementation of proactive disclosure obligations, the methodology for collecting the data is not explained on the website. In fact, according to the information received from the government of Romania, the GSG manually checks each public authorities' website and informs them about information that is not displayed or updated.

Since 2021, each entity is assessed according to 25 indicators, which are extracted from Annex 4 of Government Decision no. 1 269/2021 (approving the National Anti-Corruption Strategy). Each of the 25 indicators values 4 percentage points. Accordingly, in case a public institution fully complies with the standard and displays all information required in an adequate format, it has a degree of compliance of 100% (25 x 4=100). In a positive trend, the list of indicators that is used by the GSG to assess the proactive disclosure of information by public institutions also includes an indicator relating to the accessibility of the website for people with disabilities (e.g. the GSG assesses if the webpage allows to increase or decrease the font, transform the text into an audio file; etc.).

**Table 7.2. List of indicators assessed by the GSG in terms of proactive disclosure of information**

1.	Legislation regarding the organisation and functioning of the institution
2.	Management, with the publication of related CVs for dignitaries
3.	Management agenda
4.	Regulation of organisation and functioning
5.	Organisation chart (along with the maximum number of positions)
6.	List and contact details of institutions operating under/co-ordination/under authority
7.	Career – the announcements of positions put out for competition
8.	Programmes and strategies
9.	The name of the person responsible for receiving requests based on Law no. 544/2001, contact details, request and complaint forms
10.	The budget from all funding sources (current year)
11.	Payments situation in open format (budget execution), updated with a monthly frequency
12.	The situation of salary rights on positions and other rights/benefits
13.	Half-yearly accounting balance sheets (current year)
14.	The annual situation of non-refundable financing granted to individuals or legal entities without patrimonial purpose
15.	Annual public procurement programme (current year)
16.	Public procurement centraliser + EUR 5 000, quarterly update
17.	Public procurement contracts + EUR 5 000
18.	Contract execution documents
19.	Declarations of assets and interests
20.	Annual activity report (previous year)
21.	Annual report regarding the application of Law no. 544/2001 (previous year)
22.	Display of the Decision-making Transparency section, including the Annual Report on the application of Law no. 52/2003 (previous year)
23.	Institutional integrity
24.	Contact (contact details, operating programmes and audiences, petition e-mail address)
25.	Accessible website for people with disabilities

Source: General Secretariat of the Government based on Annex 4 of Government of Romania (2021), Decision no. 1 269 from December 17, 2021, regarding the approval of the National Anti-corruption Strategy 2021-2025 and its related documents.

In addition to the monitoring exercises that are conducted by the government itself, some non-public stakeholders have also monitored and evaluated the way government informs them. For example, the CSO Funky Citizens drafted a report on budget transparency in local authorities which applied the methodology of the Open Budget Partnership to the Romanian case (Box 7.8) and the Center for Public Innovation conducted a civil society assessment of the implementation of Law no. 544/2001 in 2017 (Center for Public Innovation, 2017<sup>[15]</sup>). The latter analysed decisions given over the years 2011-2016 by the Romanian Courts of Appeal regarding the use of Law no. 544/2001.

### **Box 7.8. Funky Citizens' report on open budgeting at the local level (2022)**

The Report looked at the process of drawing up and approving the local budgets of 109 municipalities in Romania (including the six sectors of the Capital). The Report analysed the extent to which they comply with the criteria of the legislation on local public finances related to the transparency of this process and to what extent Romanian municipalities managed to take steps towards modern international standards in public finance and to adopt measures to make their budgets open (publication format, budgets for citizens or organised public debates). Overall, the report finds that improvements can be seen compared to 2021, but that implementation of existing legal provisions remains a challenge. For example, only roughly 68% of municipalities adopted their budgets by the legal deadline. Concerning other indicators of budget openness, such as the availability of relevant budget information or the opportunity for consultations with citizens on budget drafts, the report sees improvements on a low level. While there was only one municipality that fulfilled eight out of ten criteria in 2021, there are now five: Alexandria, Brasov, Deva, Hunedoara and Pitesti. At the same time, almost one-third (30.2%) of municipalities fulfil four criteria or less in 2022. In this regard, the report particularly highlights challenges related to inaccessible and not reusable information, for example through “hidden” PDFs on the website or information being divided in such a way that it cannot be analysed easily.

Source: Funky citizens (2022<sup>[16]</sup>), Transparency of Municipal Budgets, <https://funky.org/wp-content/uploads/2022/05/2022-Analiza-Transparenta-bugetelor-de-municipii-Funky-Citizens.pdf>.

The Romanian government is to be commended for regularly collecting comparable and relevant data and statistics on the implementation of the country's transparency laws and regulations. Moving forward, Romania could make efforts to further strengthen ongoing monitoring exercises and data collections by adding additional indicators and reviewing methodologies for monitoring. For example, Romania could consider making further revisions to the template of the monitoring reports that public authorities have to submit annually to report on their implementation of Law no. 544/2001 on free access to information of public interest. For the time being, public institutions' own monitoring focuses mostly on compliance with certain provisions of the law, but it does not assess the quality of processes, for example regarding their inclusiveness. Hence, Romania could consider adding specific questions on those dimensions to the monitoring template.

As part of the monitoring process of Law no. 544/2001, Romania could further consider asking entities to self-report on the information that they proactively publish, rather than manually scanning each institution's website. This could, for example, be done by including indicators relating to each different type of information to be published proactively in the monitoring template, including relevant sub-indicators relating to the format of the information, the location of the information on the website, measures taken to foster accessibility and re-use; etc. Using the revised version of the monitoring template could be made mandatory by including it in an annex of a forthcoming Government Decision (e.g. the one that will approve the Open Government Strategy), as done for previous templates. Reducing the required resources for monitoring, the GSG team could periodically conduct random sample assessments to verify the information that has been submitted by public institutions, rather than scanning ministries' websites.

Romania could further benefit from reviewing how the government reports back on the findings of its monitoring exercises, including the format and content of the synthesis report that the GSG prepares annually to report on the implementation of Law no. 544/2001. In its present form, the synthesis report does not integrate the data that GSG collects on the compliance with proactive disclosure measures (which is published in separate Excel sheets, as mentioned above). Over time, the synthesis report could be enlarged to become a monitoring reporting of Romania's whole transparency agenda and include information on the *de facto* proactive disclosure of relevant types of information. The report could further elaborate on the methodological approach in more detail to ensure that the results are comprehensible.

In addition, the General Secretariat of the Government could move beyond publishing PDF/excel reports and start publicly (and graphically) displaying the results of the monitoring exercises on its website. For example, in Canada, the Open Government Portal includes a dedicated section providing statistics on the Access to Information and Privacy Acts, including data on requests received during the identified period; requests completed or carried forward to the next period; etc. which is easy to understand and access.

Finally, the government of Romania could make additional efforts to collect data and metrics on citizens' and stakeholders' demand for and use of proactively and reactively disclosed information and data. This could include collecting and analysing traffic data on public institutions' websites where information is published and offering direct feedback channels to the information disclosed, for example by asking for a quick rating when the user has downloaded information or data. Such data is essential for generating a system that is centred on the actual needs and experiences of citizens and society more broadly.

### ***Monitoring and evaluating the way government responds to citizens and stakeholders in Romania***

Accountability is a key part of an open government and is recognised by the OECD definition as one of the open government principles. In line with the *OECD Openness Spectrum*, an open government has to be reactive to citizens' and stakeholders' requests, feedback, complaints and demands. Accordingly, the dimension "how government responds" focuses on key mechanisms for citizens to trigger a response from governments, by requesting public information, demanding answerability on a specific public problem, or suggesting a policy priority (e.g. petitions).

As in most OECD Member and Partner countries, in Romania, data on the way government responds to citizens and stakeholders is collected in a scattered and non-exhaustive manner. There are currently no in-depth centralised analyses of the practices in the field, mostly because there are only few legal provisions in this regard. It is only in the case of access to information requests that the legal framework requires the centralisation at the national level of activity reports. Most complaint and feedback mechanisms (such as petitions) do not provide for such a mechanism.

Romania collects extensive data and information on reactive disclosure of information both at the central and subnational levels through the annual monitoring reports that public institutions submit to report on the implementation of Law no. 544/2001. The synthesis report prepared by GSG (see above) includes data on:

- The total number of requests for information of public interest (broken down by: applicant, the method of addressing, areas of interest);
- The number of requests resolved favourably (broken down by: response time, mode of communication, areas of interest);
- The number of rejected requests, broken down by reason for rejection and areas of interest;
- Administrative complaints to the public institution based on Law no. 544/2001 broken down by method of settlement; as well as

- Complaints in court against the public institution based on Law no. 544/2001 (broken down according to the method of settlement).

The report shows relatively high levels of compliance with existing legislation. For example, the report highlights that most requests are resolved favourably within 10 days and finds that both pending and rejected court cases have a declining trend.

In terms of petitions (as foreseen by Art. 51 of the Constitution and Government Order no. 27/2002), there is currently limited data that is available, as standardised reporting on the implementation of the Government Ordinance no. 27/2002 on the regulation of the activity of solving petitions to a central authority is not mandatory. Although the Government Decision stipulates that public authorities and institutions should analyse their own activity of resolving petitions every six months and prepare a report, there is no obligation as to the model and the publication of these reports, leading to a non-uniform practice across the state. For example, the Ministry of Health has not published any report on its website, while the Constitutional Court publishes annual reports (for example, (Constitutional Court of Romania, 2022<sup>[17]</sup>)), and the Ministry of Education publishes reports for each county in the form of a scanned PDF on the county's school inspectorate website every six months (School Inspectorate of the County Botosani, 2021<sup>[18]</sup>)<sup>4</sup>.

Finally, another relevant source of data and information on the way Romania responds to citizens and stakeholders is the Annual report of the People's Advocate. The report, which is presented to the joint sitting of the two Chambers of the Parliament, provides ample data on complaint and feedback mechanisms. For 2021, the People's Advocate reports the following volume of activities: 1835 audiences, 12692 petition, 199 recommendations, 8392 phone calls, 193 inquiries, 1984 ex officio referrals, 4 special reports, 3 points of view sent to the Constitutional Court, 4 actions in administrative litigation, 1 objection of unconstitutionality, 2 appeals in the interest of the law, 79 MNP visits, and 10 direct exceptions of unconstitutionality.

### **Box 7.9. Structure of the annual report of Romania's People's Advocate**

The People's Advocate's annual activity report is divided into ten chapters, each of which reports on the specific activities of the institution:

- Chapter 1: The field of human rights, equal opportunities between men and women, religious cults and minorities
- Chapter 2: The field of family, youth rights, pensioners, people with disabilities
- Chapter 3: Defence, protection and promotion of children's rights
- Chapter 4: Army, justice, police, penitential
- Chapter 5: Property, labour, social protection, taxes and fees
- Chapter 6: The field of prevention of torture in places of detention
- Chapter 7: The activity of the territorial offices of the institution of the people's advocate
- Chapter 8: Constitutional litigation service, appeal in the interest of the law, administrative and legal litigation, analysis of normative acts, external relations and communication
- Chapter 9: Human resources, materials and budgeting
- Chapter 10: Audit and risk management.

Source: People's Advocate (2022<sup>[19]</sup>), Annual Activity Report 2021, <https://avp.ro/wp-content/uploads/2022/01/RAPORT-2021.pdf>.

Romania already collects some relevant data on the way the government responds to citizens' and stakeholders' requests and demands but the country lacks a strategic approach to the subject, resulting in a lack of data on the effectiveness of existing practices. Moving forward and to build a better basis for an eventual Open Government Index and/or Maturity model (see below), the country could aim to conduct new and strengthen ongoing monitoring processes. For example, as regards the monitoring of reactive disclosure of information, the GSG is dependent on the self-reporting of public authorities. While the GSG has taken important steps to standardise reporting across the administration, this process is time-consuming and potentially prone to errors. For example, depending on the (digital) infrastructure in place of a given public institution, numbers may need to be compiled and transferred manually. To counter this challenge, Romania could consider diversifying its data collection approach. Similar to current practice for proactive disclosure, the GSG (potentially in collaboration with an independent public institution or a civil society organisation) could simulate citizens' requests to access to information to test the procedure in practice and gather relevant data.

In addition, the reports currently compiled by public institutions focus largely on the minimum aspects of the ATI process that are easily quantifiable, such as the number of requests, subjects requested, response time, etc. – see Table 7.1 above. While these data points can represent important process indicators, they do not tap into other relevant factors of the interaction between public authority and the requester that are less easily quantifiable, for example, whether plain language was employed; whether the format of the response was adequate; etc.

Moreover, Romania could consider adding relevant indicators on the implementation of the provision of Government Decision no. 830/2022 to proactively publish information that is frequently requested. For example, these indicators could capture how many times a certain information needs to be requested before it is included in the institution's proactive disclosure scheme. Lastly, Romania could consider starting to collect data on citizens' satisfaction with the process and the responses received to access to information requests. One example in this regard is Brazil, which displays user satisfaction data in its publicly accessible access to information dashboard (*panel*). Cross-cutting these recommendations is the issue of feasibility, given the limited resources that the GSG as the institution overseeing the monitoring has. As has been noted in Chapter 5, there is currently no central portal for access to information in Romania. In addition to improving accessibility and transparency for citizens, such a portal could substantially facilitate the collection of relevant information for the GSG. For example, it could make the reporting by public institutions on delays in responding to requests unnecessary, if response time is tracked automatically.

In addition, the government of Romania could collect better data on the implementation of the right to petition. The related Government Ordinance no. 27/2002 is one of the few legally mandated accountability channels that apply to all public authorities in Romania. However, it is currently difficult to meaningfully monitor whether this direct feedback channel is leading to tangible results. Improving the monitoring of petitions may require reviewing Government Ordinance no. 27/2002 to mandate the publication of monitoring reports by public institutions in a standardised format and as well as their centralisation to be able to produce a comparative report. Ideally, the burden of data collection would be reduced by using available electronic means that can collect data automatically. For the moment, most public authorities receive petitions via a designated email address. Incorporating standardised contact forms on public authorities' websites and adding a section for petitions on the *E-consultare* platform (see Chapter 4) could be ways forward to streamline the data collection process while reducing the risks of inaccurate data. Similar to the monitoring of Law no. 544/2001 and Law no. 52/2003, the General Secretariat of the Government through its Open Government Service could be the entity overseeing and analysing these monitoring efforts by public institutions.



## **Monitoring and evaluating the way the government interacts with citizens and stakeholders in Romania**

The participation of citizens and stakeholders in public decision-making is at the heart of the concept of open government. Accordingly, the *OECD Openness Spectrum* stipulates that “government interacts” when citizens and stakeholders are able to influence its activities and decisions. This requires a government that is open to hearing the views, perspectives and inputs of citizens.

In Romania, the General Secretariat of the Government currently monitors the implementation of Law no. 52/2003 on decisional transparency in public administration on an annual basis. According to Art. 13 of Law no. 52/2003, all public authorities are obliged to compile and make public an annual report on the implementation of the law. As mandated by the law and by Government Decision no. 478/2016, the annual reports have to be published on the authority’s own website, displayed at its headquarters in a space accessible to the public or presented in a public meeting.

The data from public institutions at all levels is collected by GSG and compiled into an internal (not publicly available) Excel file. At the time of writing in Fall 2022, no annual synthesis report on the implementation of Law no. 52/2003 had yet been compiled, an exercise that was conducted for the first in January 2023 when a summary report on the application of Law no. 52/2003 was published<sup>5</sup> presenting the situation of the year 2021. To further standardise reporting practices, the Open Governance Service at GSG recently created an updated model annual report on decision-making transparency for public institutions which was also included in Government Decision no. 831/2022 (updating Annex 10 of Government Decision no. 478/2016). Among other elements, Government Decision no. 831/2022 aims at standardising and optimising the data collection procedures to facilitate the synthesis analysis. Notably, it mandates that public institutions have to submit their annual reports through the *E-Consultare platform* (30 April of each year) (see also Chapter 4). In general terms, the progressive use of the *E-Consultare platform* will potentially provide the government with more in-depth data and information on participatory practices.

**Table 7.3. The latest model annual report on decisional transparency in public administration according to Government Decision (GD) no. 831/2022**

INDICATOR	ANSWER
<b>A. THE PROCESS OF DRAFTING NORMATIVE ACTS</b>	
1. The number of draft normative acts adopted	
2. The number of draft normative acts that have been publicly announced	
Of these, the following were publicly announced:	
a) on your own website	
b) by display at the company’s premises	
c) through the mass media	
3. The number of requests received for the provision of information related to draft normative acts	
a) natural persons	
b) business associations or other legally constituted associations	
3.1. The number of interested associations, foundations and federations taken into account according to <a href="#">Art. 52 of Government Ordinance no. 26/2000</a> regarding associations and foundations, approved with amendments and additions by <a href="#">Law no. 246/2005</a> , with subsequent amendments and additions	
4. The number of projects sent to natural persons who submitted a request to receive information about the draft normative act	
5. The number of projects submitted to business associations and other legally constituted associations	
6. The number of persons responsible for the relationship with civil society who have been designated	
6.1. Clarifications regarding the method of appointment and the eventual accumulation of duties	
6.2. Clarifications regarding the establishment of the structure for the relationship with the associative environment according to the provisions of <a href="#">Art. 51 of Government Ordinance no. 26/2000</a> , approved with amendments and additions by <a href="#">Law no. 246/2005</a> , with subsequent amendments and additions	
7. Total number of referrals received	
7.1. Among these, what is the share of recommendations received in electronic/on-line format	

INDICATOR	ANSWER
8. The total number of recommendations included in the draft normative acts	
8.1. The total number of communications of written justifications with the reasons for the rejection of some recommendations	
8.2. The number of draft normative acts for which recommendations were accepted	
8.3. The number of draft normative acts for which no recommendation was accepted	
9. The total number of public debate meetings organised	
9.1. Of these, how many were organised at the initiative:	
a) legally constituted associations	
b) to some public authorities	
c) on his own initiative	
10. Number of draft normative acts adopted without mandatory public consultation (they were adopted in the emergency procedure or contain exempted information)	
10.1. The number of draft normative acts publicly announced and not adopted	
11. The number of improved versions of draft normative acts that have been published	
12. The number of final adopted versions of the normative acts that have been published	
<b>B. THE DECISION-MAKING PROCESS</b>	
1. Total number of public meetings (established by the public institution)	
2. The number of public meetings announced by:	
a) display at own premises	
b) publication on the own website	
c) mass media	
3. Estimated number of people who actually participated in the public meetings (officials excluded)	
4. The number of public meetings held in the presence of the media	
5. The total number of observations and recommendations expressed during the public meetings	
6. The total number of recommendations included in the decisions taken	
7. The number of meetings that were not public, with the motivation of restricting access:	
a) excepted information	
b) secret ballot	
c) other reasons (which?)	
8. The total number of minutes of public meetings	
9. The number of minutes (minutes) made public	
<b>C. CASES IN WHICH THE PUBLIC AUTHORITY WAS SUED</b>	
1. The number of legal actions for non-compliance with the legal provisions on decision-making transparency filed with the public administration:	
a) solved in favour of the plaintiff	
b) resolved favourably to the institution	
c) pending resolution	
<b>D. STANDARDISED DISPLAY</b>	
1. Specify whether there is a "Decision-making transparency" section on the website of the authority/institution (yes/no)	
2. Specify whether all the information and documents provided for by Law no. 52/2003 on decisional transparency in public administration, republished, with subsequent amendments	
<b>E. APPRECIATION OF THE ACTIVITY</b>	
1. Rate your own activity: satisfactory/good/very good	
2. Assess available resources	
3. Evaluate collaboration with specialised departments	
<b>F. OWN ASSESSMENT OF THE PARTNERSHIP WITH CITIZENS AND THEIR LEGALLY CONSTITUTED ASSOCIATIONS</b>	
1. Rate the partnership with citizens and their legally established associations: satisfactory/good/very good	
2. The difficulties encountered in the process of organising the public consultation	
3. The points considered necessary to be improved at the level of the authority/institution to increase the efficiency of public consultations	
4. Measures taken to improve the public consultation process	
<b>G. NAME AND SURNAME OF THE DESIGNATED PERSON RESPONSIBLE FOR THE RELATIONSHIP WITH CIVIL SOCIETY AT THE LEVEL OF THE AUTHORITY OR INSTITUTION</b>	

Note: Translated from Romanian into English.

Source: Government of Romania (2022), Government Decision no. 831/2022.

Thanks to the existence of Law no. 52/2003, Romania regularly collects data on the implementation of participatory processes at the central/federal level of government, which should be highlighted as a good practice. Moving forward, Romania could further review the monitoring of the implementation of Law no. 52/2003, a process that started with the adoption of Government Decision no. 831/2022 mentioned above, to collect broader and deeper information and data. This may include further reviewing the standard model for monitoring the implementation of Law no. 52/2003 to request that public institutions provide additional types of information. For example, institutions could be asked to provide information on the length of consultations of draft normative acts. Other valuable information could relate to the degree of inclusiveness, for example by tapping into the type of stakeholders that participated and measures that public institutions undertook to foster inclusive participation.

Based on the individual reports submitted by public institutions on an annual basis, Romania could produce an aggregated annual report on the implementation of Law no. 52/2003 to inform both public and non-public stakeholders about the government's wider participation agenda. Making full use of the power of digital technologies, the government could consider stimulating peer pressure by publishing (and graphically displaying) the results of the monitoring of the implementation of Law no. 52/2003 on the Open Government Portal (beyond publishing them in separate Excel files). This could also be done as part of the Open Government Index and/or Maturity Models that are discussed below.

Moreover, diversifying the data collection method could substantially improve the data's accuracy and validity. To reduce error-prone and resource-intensive self-reporting, some of the aspects currently evaluated through the questionnaires could be integrated into the *E-consultare* platform, making the collection of information automatic. Other questions that are currently part of the self-reporting template may be more suitable for interviews and focus groups (e.g. categories E) and F) – see Table 7.3). Qualitative data collection methods that enable a more in-depth sharing of knowledge may provide more useful insights for the GSG.

In addition, data and information could be collected directly from the participants of the participatory processes. For consultations that are conducted online, information could be collected through feedback channels on the *E-consultare* platform. In addition, further items could be added to the self-reporting template, thereby requiring public institutions to start collecting such information. Since this would imply an additional level of complexity for public institutions, the GSG could provide additional guidance to them on the way the reports answering the GSG questionnaire should be compiled internally (e.g. methodological guidelines).

Finally, in the medium to long term, Romania could aim at collecting data on the wider spectrum of participatory practices implemented at all levels of government (beyond those mandated by Law no. 52/2003). This could include gathering information on participatory budgeting, deliberative processes and hackathons, among others. Questions about these practices could for example be included as voluntary in the self-reporting template that public institutions have to submit on the implementation of Law no. 52/2003.

## **The way forward: Establishing a robust monitoring and evaluation system for open government in Romania**

Romania has already established numerous relevant input and process indicators in different areas of open government. In particular, the GSG regularly collects a wide range of information and data on the implementation of open government legislations and regulations. The government's decision to move forward with the design of an Open Government Strategy will provide an opportunity to further vamp up monitoring efforts and start the move towards measurements of outcomes and impacts.

As also mandated by the *Methodology for the development, implementation, monitoring, evaluation and updating of government strategies* (Decision no. 379/2022), Romania has to specify provisions for monitoring and evaluation in the Open Government Strategy itself. As Art. 14 of Decision no. 379/2022 points out, “[e]ach strategy includes a chapter for monitoring and evaluating the achievement of results, which establishes criteria for measuring the evolution of indicators” and article 7 i) explains that the strategy should include a “presentation of how the implementation and impact of the strategy will be monitored and evaluated”. Hence, the Strategy will need to include a specific part dedicated to the foreseen monitoring and evaluation system.

This section discusses the ways the government of Romania could monitor and evaluate the implementation of its first holistic Open Government Strategy and presents tools, such as an Open Government Index and Open Government Maturity Models that can complement the Strategy and further strengthen the evidence base for open government in Romania.

### ***Foreseeing a sound monitoring and evaluation system for the Open Government Strategy***

The specific mechanisms for monitoring and evaluation always need to be adapted to the context of the policy issue and the strategy which is formulated in response. In the case of Romania’s Open Government Strategy, different levels of monitoring and evaluation are possible:

- **M&E of the whole-of-government:** The Open Government Strategy represents a unique opportunity to establish a monitoring and evaluation system that encompasses all public institutions at the central government level. This system would track the implementation of all the initiatives that are planned under the umbrella of this strategy.
- **M&E of individual public authorities:** In addition, each public institution could have its system for M&E in place that corresponds to the respective institution’s own open government agenda. Such an M&E system could be integrated into the monitoring and evaluation of institutional strategic plans (Government of Romania, 2022<sup>[20]</sup>). Given the decentralised nature, this system could easily cover more public authorities, including Ministries’ subordinate agencies as well as subnational governments.

#### **Box 7.10. Institutional plans for Open Government in the United States of America**

The 2009 Open Government Directive aims to promote openness in the form of increased transparency, participation and collaboration. It required all US executive departments and agencies to take four steps: 1) Publish Government Information Online; 2) Improve the Quality of Government Information; 3) Create and Institutionalise a Culture of Open Government; 4) Create an Enabling Policy Framework for Open Government. Besides, the Directive described the modalities for formulating and publishing institutional Open Government Plans. Open Government Plans had to be published every two years and were made available on the White House’s website. Information about the current state of each entities’ openness and public progress tracking of the respective Open Government Plan was provided.

Source: OMB (2009<sup>[21]</sup>), “Open Government Directive”, Executive Office of The President, Office of Management and Budget, [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/memoranda\\_2010/m10-06.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf).

Several steps in setting up the M&E process for the Open Government Strategy are indispensable (Box 7.11). First, a national standard for open government needs to be established. Establishing this standard implies asking the question of which attributes (e.g. policies and practices) indicate that an institution or government is open. Each public institution should then adapt this national standard to its own

context. Ideally, the standard should also be incorporated into the government's and institution's broader performance management agenda.

Secondly, the established standard and intermediate outputs need to be measured and corresponding indicators need to be selected. This requires establishing indicators that can assess if a government or public institution is open and corresponds to the requirement of “the presentation of the indicators on the basis of which the evolution of the implementation of the strategy will be measured, with reference to the targeted national sustainable development indicators, as the case may be” (Article 7h, Decision no. 379/2022). Having defined indicators allows, first, for an initial assessment of the status quo, and it is indispensable for setting specific and realistic targets. The same logic of selecting indicators also applies to the implementation – or process – of the open government initiatives that are part of the strategy. The information and data on processes and results need to be collected continuously.

### Box 7.11. A roadmap towards a solid M&E system

- Develop your national open government standards and/or adapt national standards to institutional standards by:
  - By clarifying what open government means as a concept and how the concept translates into your work regime.
  - By communicating about these standards internally and externally.
- Establish a monitoring and evaluation routine for each open government initiative (and, potentially, your open government strategy) that includes at least the following steps:
  - Formulate outcomes and goals
  - Select process and outcome indicators to monitor
  - Gather information on the status quo
  - Set specific targets to reach and dates for reaching them
  - Regularly collect data to assess whether the targets are being met
  - Analyse the data and information and report the results
  - Use the results for future policies

Source: Adapted from Kusek and Rist (2004<sup>[22]</sup>), *Ten Steps to a Results-Based Monitoring and Evaluation System*, World Bank, [https://www.oecd.org/dac/peer-reviews/World%20bank%202004%2010\\_Steps\\_to\\_a\\_Results\\_Based\\_ME\\_System.pdf](https://www.oecd.org/dac/peer-reviews/World%20bank%202004%2010_Steps_to_a_Results_Based_ME_System.pdf).

### *Establishing a logic model for the Open Government Strategy*

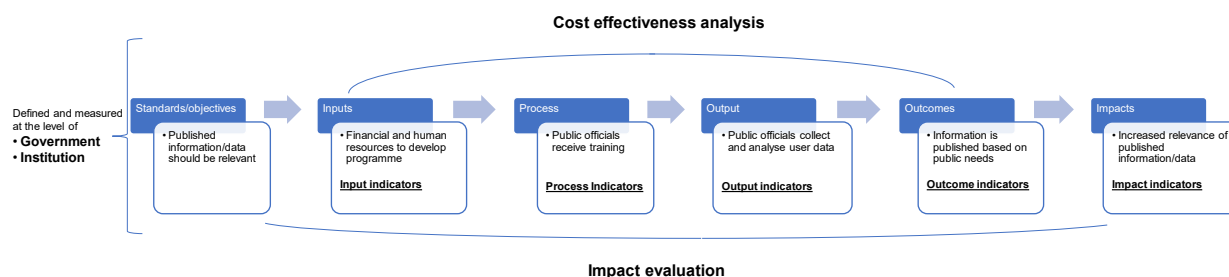
An Open Government Strategy co-ordinates many different actors through a multiplicity of initiatives. Accordingly, the M&E framework for the Open Government Strategy, which is the result of the abovementioned steps, should reflect this complexity through a logic model which shows how each planned initiative contributes to the broader objectives of the strategy. Figure 7.4 illustrates such an approach.

For example, the OGS could include the objective that all information that is proactively published by public institutions has to be relevant to the public. In this regard, the Strategy could include an initiative relating to a capacity-building programme, which aims to increase the relevance of published information. Accordingly, all the elements of the Monitoring and Evaluation Framework of that initiative can be defined both at the whole of the government and at the level of each public institution. This includes:

- The standards and objectives derived from the Open Government Strategy, such as the relevance of information published by government institutions.
- The inputs needed to set up and run the initiative, such as financial and human resources to develop the training programme, measured by input indicators.
- The process of implementing the initiative, such as public officials taking part in the training programme, measured by process indicators.
- The outputs of the initiative, such as public officials applying the skills they have learned and collecting and analysing user data, measured by output indicators.
- The outcome of the initiative, such as information being published based on user needs, measured by outcome indicators.
- The impacts of the initiative, i.e. having contributed to the goal of increased relevance of published information, measured through impact indicators that have also served to establish the baseline and the target of the objective in relation to the formulated standard.

Lastly, the process is concluded by analysing the information and data that has been gathered against the objectives of the strategy and by reporting on its findings. Based on such a logic model for the initiatives included in the Open Government Strategy, multiple types of evaluation will be available to the Romanian government, namely process evaluation, outcome evaluation and impact evaluation.<sup>6</sup> These three types of evaluation, even if named differently, are also required by the legal provisions on evaluating strategies (Art. 22, Regulation of July 14, 2005).

**Figure 7.4. An example logic model for the evaluation of an Open Government Strategy**



Source: Author's own elaboration based on OECD (2020<sub>[23]</sub>), *Improving Governance with Policy Evaluation: Lessons From Country Experiences*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/89b1577d-en>.

### **Assigning clear responsibilities for monitoring and evaluation**

Given its role as the main co-ordinating entity of Romania's open government agenda and its experience in monitoring different open government policies and practices, the General Secretariat of the Government would be in an ideal position to co-ordinate the monitoring of the Open Government Strategy. The strategy could provide a mandate to the Open Government Service to develop an annual M&E plan for the Open Government Strategy, fulfilling the mandate of periodic assessments (Art. 21, Regulation of July 14, 2005), and to produce monitoring and evaluation reports (Art. 11i), j), Decision no. 379/2022 based on the required periodic monitoring reports by all involved institutions (Art 21, Regulation of July 14, 2005).

The National Open Government Committee, recommended in Chapter 4, could serve as an interministerial platform to follow up and discuss progress on the strategic goals in a systematic manner (Art.9 (1), Decision no. 379/2022). For example, the National Open Government Committee could have a subcommittee on monitoring and evaluation that brings together the responsible officials from the working groups in public authorities, as required by Decision no. 379/2022 (Art. 8(1)).

An approach that has proven to be successful in the Romanian context is to have so-called ‘peer-reviewers’. For example, in the framework of the National Anti-corruption Strategy, public institutions were reviewed by other institutions that had the same obligations. Such an approach does not only reduce the burden on a single monitoring body but can also increase ownership of the strategy across the public sector, steer healthy competition and foster peer exchange. Romania could consider establishing a similar peer reviewer system for the Open Government Strategy.

### ***Fostering accountability through a collaborative approach to M&E***

Systems for monitoring and evaluation can greatly benefit from the inputs of citizens, civil society, academia and other non-governmental stakeholders. Stakeholder participation can for example support the identification of the indicators to use for measuring the implementation of the open government initiative included in the strategy. Relevant legislation in Romania explicitly allows for the involvement of “private, non-governmental, academic and higher education organisations” during monitoring and evaluation activities (Art. 21, Regulation of July 14, 2005).

Further, during the implementation of the Open Government Strategy, Romania could consider integrating non-public stakeholders as members of a review board examining a particular public institution, as done through multi-stakeholder missions in the framework of the National Anti-Corruption Strategy. These on-site visits called “thematic missions” were used to gather evidence on-site and to discuss them through meetings of the mixed working groups (“co-operation platforms”). Feedback from involved stakeholders, including civil society, has been very positive regarding the value of this activity for monitoring the progress of the NAS.

To enable the broader public to participate in monitoring activities, the Strategy could further foresee the creation of a publicly available tracking system. The tracking system could be modelled on those that some OECD Member and Partner countries have established for their OGP action plans (see Box 7.5 above) and include key process and output indicators.

### ***Providing training and guidance material to secure standards of M&E***

The National Open Government Strategy will serve as an orientation for the open government agendas of all individual public institutions and subnational governments. It is therefore pivotal for its success to ensure that the process of monitoring and evaluating open government initiatives across all public institutions is consistently of a high standard.

As lined out by the Methodology (Decision no. 379/2022), the GSG’s Policy and Priorities Coordination Directorate provides methodological guidance on all stages of the strategy, including the monitoring and evaluation (Article 12). In particular, trainings on data collection and analysis for all staff involved in monitoring and evaluating the strategy will become increasingly important. Currently, the National Institute for Administration offers a course on ‘Public Policies’ that includes monitoring and evaluation as one out of eight topics and is taught to civil servants at the management level, civil servants working on contract management and execution, as well as other interested (and paying) civil servants. In addition, INA offers a course on ‘Public Institution Strategy’ which teaches related content to the same audience (National Institute for Administration, n.d.<sup>[24]</sup>).

Currently, there are different pieces of legislation regulating strategies and public policies in Romania, including their monitoring and evaluation (Decision no. 379/2022; Regulation of July 14, 2005; and Decision no. 443/2022). For example, these legislations provide a structure to the mandatory evaluation reports (Annex 2, Regulation of July 14, 2005). However, they remain relatively high-level and provide little concrete guidance on monitoring and evaluation. Moving forward, the Romanian government could consider establishing guiding materials in the forms of manuals or toolkits that are more practical, as done for example by Peru (see Box 7.12)



### Box 7.12. Ensuring standards of M&E across the public administration in Peru

The Peruvian National Center for Strategic Planning (‘Centro Nacional de Planeamiento Estratégico’ – CEPLAN) as Peru’s leading body of the National Strategic Planning System guides Peruvian entities in monitoring and evaluation of their policies. In that respect, it has published:

- The **Guide on monitoring and evaluation** introduces the concepts of monitoring and evaluation. It helps public officials understand what these processes encompass, what their value is and how to comply with standards of models for process and impact evaluation.
- The **Guide for the establishment of indicators** helps public institutions in operationalising and measuring processes and outcomes. It defines indicators and their usage *ex ante* and *ex post* of a policy intervention and assists in developing indicators, including their verification and placement in the results chain.

Source: National Center for Strategic Planning (2021<sup>[25]</sup>), *Guide for monitoring and evaluation of national policies and Sinaplan plans*; National Center for Strategic Planning (2021<sup>[26]</sup>), *Guide for the development of national policy indicators and strategic plans*.

### Building an Open Government Index to foster M&E

Romania could consider using the Strategy process and the momentum it provides to build the country’s first holistic Open Government Index (“OGI”). OECD experience from different areas of public governance shows that, by putting a publicly available lens on a specific policy, an Index can be one of the most effective ways to stimulate reforms, while at the same time ensuring higher levels of compliance with the legal and regulatory framework.

An Open Government Index would draw from the efforts of monitoring and evaluating the Open Government Strategy. For example, the Index could focus on institution-level outcomes that are part of the strategy’s monitoring and evaluation framework and rank public institutions along corresponding dimensions. As such, an Open Government Index can serve as a tool for setting baseline indicators against which the success of the Open Government Strategy is benchmarked at the end of its implementation (see Box 7.13). To amplify its impact, the Index could be coupled with the Open Government Award suggested in Chapter 5 to recognise institutions and public servants that have made significant contributions to the open government agenda.

### Box 7.13. Mexico’s baseline indicators on open government

Mexico’s Open Government Metrics were developed by the Centre for Economic Research and Teaching (CIDE), and were based on an initiative of the National Institute for Transparency, Access to Information and Personal Data Protection (INAI). The metrics are designed as a baseline to measure the current state of the National System of Transparency, Access to Information and Protection of Personal Data (SNT) and open government policies more generally. Aiming to be an “x-ray of the starting point of the open government policy of the Mexican State” at the national and subnational level, its focus goes beyond measuring compliance with regulations, and aims to capture performance information on the outcomes of open government policies from the perspective of both government and citizens.

The metrics start with an operational definition of open government structured around two dimensions: transparency and public participation. Each dimension is approached from two perspectives:

government and citizens.		
	Transparency dimension	Public participation dimension
Government-perspective	Does the government make public information about its decisions and actions? To what extent is this done? What is the quality of this information?	In what ways can citizens have an impact on public decisions?
Citizen-perspective	How feasible is it for a citizen to obtain timely and relevant information in order to make decisions?	Can citizens activate a mechanism that allows them to influence public decisions?

The CIDE team developed an Open Government Index, consisting of measurements of transparency and participation from the perspective of both government and citizens. The construction of these indexes involved the analysis of existing regulations, a review of government websites, and user simulations, including information requests. The Metrics survey included a sample of 908 governmental bodies at the national and subnational level; 754 portals were reviewed and 3 635 requests for information were sent. The resulting Open Government Index of Mexico was 0.39 (on a scale of 0 to 1). The index showed that the transparency dimension has a much higher value (0.50) than the participation dimension (0.28).

Source: INAI (2017<sup>[27]</sup>), Resultados Edición 2017, <http://eventos.inai.org.mx/metricasqa/index.php/descargables> (accessed 11 January 2019).

Romania will require considerable human and financial resources to build and run an Open Government Index. In addition to the specific expertise that is needed to set up the Index, multiple data points over time are needed to assess openness. This requires continuous maintenance and, potentially, updates of the methodology. The institutionalisation of the Index may require the creation of a dedicated team within GSG that collects and compiles the data and makes it available. The GSG could also consider partnering with an independent public institution (e.g. the Ombudsman) or a civil society/academic institution to build and maintain the Index.

Given the multidimensionality of the concept of open government, Romania's Open Government Index would need to be a composite indicator, provided that an overall score of openness is desired. If the Index goes hand in hand with the strategy, the definitions and objectives of the strategy can serve as the basis for the theoretical framework of the Index.<sup>7</sup> The data for the Index could be collected in different ways. For example, Romania could use:

- Administrative data collected specifically for M&E purposes (e.g. the data the GSG currently collects on the implementation of Law no. 544/2001).
- Conduct mystery shopper exercises to assess the *de facto* implementation of open government practices (e.g. by partnering with an independent public institution or an academic/civil society organisation). This may involve submitting policy proposals and/or access to information requests to all public entities.
- Already existing quantitative data, for example from academic databases such as the [digiwhist](#) (Open Government Institute, n.d.<sup>[28]</sup>) databases on public procurement contracts.
- Survey data, for example from public opinion polls and participant questionnaires such as from the [European Social Survey](#).
- Public consultations with stakeholders, illustrated for example by the “[What we heard](#)” publication on the Canadian Open Government Partnership process (Treasury Board of Canada Secretariat, 2018<sup>[29]</sup>).
- Insights from focus groups, such as in the early stages of the Madrid City Observatory.

- In-depth interviews with experts, for example through inviting and questioning academics in the field.

The *Handbook on Constructing Composite Indicators: Methodology and User Guide* developed jointly by the OECD and the European Union can provide further guidance (Box 7.14).

#### Box 7.14. Ten steps towards developing a composite indicator

- Develop a theoretical framework for a clear understanding of the multidimensional phenomenon of open government and the selection of variables.
- Select/collect data corresponding to the variables according to analytical soundness, measurability, coverage and relevance.
- Impute missing data to gain a sufficiently complete dataset.
- Conduct multivariate analysis to assess the suitability of the dataset and provide the groundwork for subsequent methodological choices.
- Perform normalisation to render all the variables included comparable.
- Weight and aggregate the variables along the theoretical framework while respecting data properties.
- Conduct uncertainty and sensitivity analysis to assess the robustness of the composite indicator against previously made methodological choices.
- Analyse at a granular level what is driving the results for a given public institution or dimension to develop data-driven narratives.
- Perform cross-validation with similar (composite) indicators to assess linkages and validity.
- Visualise the results in a clear and accurate manner to enhance interpretability.

Source: Adapted from OECD/European Union/EC-JRC (2008<sup>[30]</sup>), *Handbook on Constructing Composite Indicators: Methodology and User Guide*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264043466-en>.

#### ***Building Romania's first open government maturity models***

A maturity model is a reference instrument for assessing an entity's transition towards a given objective during a given period (OECD, 2022<sup>[81]</sup>). It includes a sequence of levels or stages that draws a path from an initial, basic state to maturity. Maturity models typically imply a self-assessment of a public institution. As such, they can be a tool to mainstream the principles and objectives that are included in the Open Government Strategy in a decentralised way. They are increasingly being developed in different areas of public governance, including in the field of open government, as they can (OECD, 2022<sup>[81]</sup>):

- Set a baseline standard of what good practices in the field of open government look like;
- Allow public institutions to assess their levels of openness at a given point in time and identify where they are situated in relation to national good practice;
- Allow building a coherent and flexible trajectory towards high levels of maturity, adaptable to the situation of each public institution;
- Show the stages of this progression and the necessary achievements that at each stage are useful and consolidate the passage into the subsequent stages;
- Help structure a monitoring and evaluation methodology;
- Allow for comparison between public institutions within a defined framework.

Given Romania's already quite advanced monitoring agenda, the country could be the first country to couple its Open Government Strategy with the design of an Open Government Maturity Model. The maturity model could serve as a diagnostic tool. For example, a maturity model may aim at assessing a public institution's readiness to foster transparency. The corresponding maturity model could enable the public institution to periodically review its strategic plan according to the objectives and criteria defined in the strategy. Besides helping the public institution to assess its development over time, it can provide immediate guidance on how to move to the next maturity stage. In addition, such a self-assessment would enable public institutions to signal progress and challenges to the GSG, which in turn can facilitate more targeted interventions through its Open Government Service.

Given its decentralised nature, this tool's scope of application can be large. Further, different actors, including civil society, can use the maturity models if there is sufficient available data, thereby adding another level of assessment and oversight. If the public institutions allow their maturity scores to be collected, these scores can feed into a database that can allow comparisons between institutions and could feed into central monitoring and evaluation efforts. Moreover, Romania could incentivise all public institutions to publicly disclose their maturity levels/scores based on their own assessment to foster comparison and generate a "race to the top".

As a first step, Romania would have to decide on the maturity model's exact purpose, target group and coverage (for example, public institutions at the national level, subnational governments, certain departments etc.). It would then have to define a suitable theoretical framework, including the different maturity dimensions and stages. The theoretical framework could build on the conceptualisation and the objectives formulated in the Open Government Strategy. In the next step, the maturity stages need to be translated into verifiable criteria that allow for assessment and placement. Each of the maturity stages can be coupled with advice on improvement measures.

The effectiveness of maturity models in serving their purpose is highly dependent on their application. Therefore, user-centred design is essential: the engagement of all relevant public and non-public stakeholders can substantially improve uptake. In addition, the maturity model should be complemented with extensive guidance for users to ensure that criteria are assessed correctly. Maturity models can be made more accessible and user-friendly by designing a digital interface (e.g. an app) specifically for this purpose.

### **Box 7.15. OECD Public Sector Integrity Maturity Models**

The OECD Public Sector Integrity Maturity Models allow a government (national or subnational) or a public sector organisation to assess the elements of their integrity systems, and identify where they are situated in relation to good practice across four categories: nascent, emerging, established and leading. The maturity models can be used by political and executive leadership, government officials, public sector integrity practitioners, business and civil society.

The public integrity maturity models are a complement to the Recommendation of the Council on Public Integrity and the OECD Public Integrity Handbook. They can also be used in conjunction with the forthcoming Public Integrity Indicators, to provide a qualitative, subjective assessment of public integrity.

Source: OECD (n.d.<sup>[31]</sup>), OECD Public Integrity Maturity Models, <https://www.oecd.org/governance/ethics/public-integrity-maturity-models.htm> (accessed on 13 November 2022).

## Conclusions

Open government is a wide field that is inherently difficult to monitor and evaluate. For the time being, no OECD Member or Partner country has managed to design a holistic agenda to measure the impact of its open government agenda. Assessing Romania against Provision 5 of the Recommendation of the Council on Open Government, this chapter finds that the country already collects a wide range of information and data on the implementation of relevant open government laws. In particular, Romania has at its disposal a solid basis of process indicators for the implementation of its laws on free access to information and decisional transparency in public administration. In addition, Romania gathers data on the implementation of different policy documents, notably the OGP action plan.

The chapter first recommends ways for Romania to strengthen ongoing monitoring and evaluation processes. It suggests improvements to existing data collection methods, for example by reviewing reporting templates. It further highlights the need to diversify the approach to collect data for monitoring purposes. To reduce the burden of data collection, improve data quality, and provide opportunities to showcase implementation, it suggests technical solutions to update the existing *E-consultare* platform.

In addition, the chapter highlights the unique opportunities that come with the design of the forthcoming Open Government Strategy and recommends the development of an integrated framework for its monitoring and evaluation. In particular, it highlights the need to set measurable objectives paired with an initial benchmarking assessment to enable meaningful evaluation of progress and outcomes of the Strategy. In this regard, the chapter proposes that Romania could couple the M&E of the open government strategy with the design of an Open Government Index and/or an Open Government Maturity Model. An Open Government Index could allow the government to continuously assess and rank public institutions according to their levels of openness, while a maturity model can stimulate comparison on a voluntary basis.

## Policy recommendations

- 1. Enhance the monitoring and evaluation of Romania's Open Government Partnership action plan.**
  - Take full advantage of digital tools to create a user-friendly online system to allow citizens and stakeholders to track the implementation of OGP commitments (e.g. a traffic light system).
  - Start evaluating systematically the impact of commitments in the OGP action plans based on a corresponding framework for monitoring and evaluation that includes outcome indicators.
- 2. Foster monitoring and evaluation of the way government informs citizens and stakeholders.**
  - Strengthen ongoing monitoring exercises and data collections by adding additional indicators and reviewing methodologies for monitoring, including by making further revisions to the template of the monitoring reports that public authorities have to submit annually to report on their implementation of Law no. 544/2001 on free access to information of public interest (e.g. on quality of processes).
  - As part of the monitoring process of Law no. 544/2001, ask entities to self-report on the information that they proactively publish (rather than manually scanning each institution's website), for example by including indicators relating to each different type of information to be published proactively in the monitoring template.
  - Make using the revised version of the monitoring template mandatory by including it in an annex of a forthcoming Government Decision (e.g. the one that will approve the Open Government Strategy).

- Periodically conduct random sample assessments to verify the information that has been submitted by public institutions, rather than scanning ministries' websites.
  - Review the format and content of the synthesis report that the GSG prepares annually to report on the implementation of Law no. 544/2001, including by integrating the data that GSG collects on compliance with proactive disclosure measures.
  - Enlarge the synthesis report for it to become a monitoring report of Romania's whole transparency agenda and include information on the *de facto* proactive disclosure of relevant types of information.
  - Move beyond publishing PDF/excel reports and start publicly (and graphically) displaying the results of the monitoring exercises on a website.
  - Collect data and metrics on citizens' and stakeholders' demand for and use of proactively and reactively disclosed information and data, including by collecting and analysing traffic data on public institutions' websites and by offering direct feedback channels to the information disclosed.
- 3. Foster monitoring and evaluation of the way government responds to citizens and stakeholders by building a strategic approach and by conducting new and strengthening ongoing monitoring processes.**
- Review the collection of data on the reactive disclosure of information, including the reports compiled by public institutions.
    - Consider diversifying the data collection approach, including simulating citizens' requests to access to information to test the procedure in practice and gather relevant data.
    - Enlarge the focus beyond the minimum aspects of the ATI process to tap into other relevant factors of the interaction between public authority and the requester, for example, whether plain language was employed; whether the format of the response was adequate; etc.
    - Add relevant indicators on the implementation of the provision of Government Decision no. 830/2022 to proactively publish information that is frequently requested. For example, these indicators could capture how many times a certain information needs to be requested before it is included in the institution's proactive disclosure scheme.
    - Start collecting data on citizens' satisfaction with the process and the responses received to access to information requests.
    - Create a central portal for access to information to enhance accessibility and transparency for citizens and facilitate the collection of relevant information for the GSG.
  - Collect better data on the implementation of the right to petition to monitor whether this direct feedback channel is leading to tangible results.
    - Review Government Ordinance 27/2002 to mandate the publication of monitoring reports by public institutions in a standardised format and as well as the centralisation of corresponding data to be able to produce a comparative report.
    - Reduce the burden of data collection by using available electronic means, for example by incorporating standardised contact forms on public authorities' websites and by adding a section for petitions on the E-consultare platform.
    - Mandate the General Secretariat of the Government through its Open Government Directorate as the entity overseeing and analysing these monitoring efforts.
- 4. Enhance the monitoring and evaluation of the way government interacts with citizens and stakeholders.**
- Further review the monitoring of the implementation of Law no. 52/2003 to collect broader and more detailed information and data.

- Review the standard model for monitoring the implementation of Law no. 52/2003 to request that public institutions provide additional types of information, including on the length of consultations of draft normative acts and the degree of inclusiveness (e.g. types of stakeholders that participated).
  - Produce an aggregated annual report on the implementation of Law no. 52/2003 to inform both public and non-public stakeholders about the government’s implementation of participatory practices.
  - Stimulate peer pressure by publishing (and graphically displaying) the results of the monitoring of the implementation of Law no. 52/2003 on a future Open Government Portal.
  - Diversify the data collection method to improve the data’s accuracy and validity, including by reducing error-prone and resource-intensive self-reporting (e.g. by making the collection of information automatic through the *E-consultare* platform).
  - Collect information directly from the participants of participatory processes (e.g. through feedback channels on the *E-consultare* platform).
  - Provide additional guidance to public institutions on the way the reports answering the questionnaire should be compiled (e.g. methodological guidelines).
  - Collect data on the wider spectrum of participatory practices implemented at all levels of government (beyond those mandated by Law no. 52/2003), including information on participatory budgeting, hackathons, etc., for example by including questions about these practices in the self-reporting template that public institutions have to submit on the implementation of Law no. 52/2003.
- 5. Establish a robust monitoring and evaluation system for the Open Government Strategy.**
- Establish a national standard for open government and invite public institutions to adapt this national standard to their own context.
    - Incorporate the national standard into the government’s and institution’s broader performance management agenda.
  - Create a logic model which shows how each planned initiative of the Strategy contributes to its broader objectives.
  - Provide a mandate to the Open Government Directorate in GSG to develop an annual M&E plan for the Open Government Strategy.
  - Use the National Open Government Committee, recommended in Chapter 5, as an interministerial platform to follow up and discuss progress on the strategic goals in a systematic manner, including by creating a subcommittee on monitoring and evaluation that brings together the responsible officials from the working groups in public authorities.
  - Establish a peer reviewer system for the Open Government Strategy (as done for example for the National Anti-corruption Strategy) to reduce the burden on a single monitoring body, increase ownership of the strategy across the public sector, steer healthy competition and foster peer exchange.
  - Include non-public stakeholders as members of a review board examining the implementation of the Strategy in a particular public institution (as done through thematic multi-stakeholder missions in the framework of the National Anti-Corruption Strategy).
  - Create a publicly available tracking system to enable the broader public to participate in monitoring activities.
  - Provide trainings on data collection and analysis for all staff involved in monitoring and evaluating the Strategy and establish guiding materials in the forms of practical manuals or toolkits.



- Consider using the Strategy and the momentum it provides to build Romania's first holistic **Open Government Index**, putting a publicly available lens on open government issues, stimulating reforms, and ensuring compliance.
  - Use the Index as a tool to set baseline indicators against which the success of the Open Government Strategy is benchmarked at the end of its implementation.
  - Use the definitions and objectives that will be included in the Strategy (see Chapter 6) as the basis for the theoretical framework of the Index.
  - Create a dedicated team within GSG that collects and compiles the data and makes it available.
  - Consider partnering with an independent public institution (e.g. the Ombudsman) or a civil society/academic institution to build and maintain the Index.
- Build Romania's first **open government maturity model** to allow public institutions to self-assess their levels of openness.
  - Decide on the maturity model's exact purpose, target group and coverage.
  - Define a suitable theoretical framework, including the different maturity dimensions and stages, building on the conceptualisation and the objectives formulated in the Open Government Strategy.
  - Translate the maturity stages into verifiable criteria that allow for assessment and placement.
  - Engage all relevant public and non-public stakeholders in the design of the maturity model to increase uptake.
  - Complement the maturity model with extensive guidance for users to ensure that criteria are assessed correctly.
  - Designing a digital interface (e.g. an app) to make the maturity model more accessible and user-friendly.
  - Provide guidance on how to move to the next maturity stage and enable public institutions to signal progress and challenges to the GSG, which can facilitate more targeted interventions.
  - Once established, incentivise all public institutions to publicly disclose their maturity levels/scores based on their own assessment to foster comparison and generate a "race to the top".

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## Notes

<sup>1</sup> Monitoring refers to the systematic collection of performance data to assess the progress and achievement of policy objectives against set targets and to identify and lift implementation bottlenecks. Policy evaluation refers to the structured and objective assessment of the design, implementation and/or results of a future, ongoing or completed public intervention (OECD, 2020<sup>[23]</sup>). Monitoring and evaluation encompass the collection and analysis of information and data concerning a strategy’s inputs, activities, outputs, outcomes, and impact.

<sup>2</sup> Countries that have adhered to the Recommendation of the Council on Open Government include all OECD Member countries, as well as Argentina, Brazil, Morocco, Tunisia and Romania.

<sup>3</sup> The synthesis report for the year 2021 was published too late to be fully taken into account for the draft of this Review.

<sup>4</sup> These are just indications, getting a clear overview of the practices across all Ministries and public authorities was not possible.

<sup>5</sup> The report can be consulted on: [https://sgg.gov.ro/1/wp-content/uploads/2023/01/SINTEZA-ANUALA\\_2021-LEGEA-52\\_2003.pdf](https://sgg.gov.ro/1/wp-content/uploads/2023/01/SINTEZA-ANUALA_2021-LEGEA-52_2003.pdf).

<sup>6</sup> When considering the 'success' of the open government strategy, one considers broadly three types of evaluation: process and impact evaluation. Process evaluation refers to the examination of the implementation, i.e. whether the strategy has been properly executed, and uses the previously established process indicators to provide information on how the initiative has been delivered. An outcome evaluation sheds light on the extent to which the benefits of the initiative outweigh their costs, i.e. it analyses the initiative's efficiency. Impact evaluation, on the other hand, describes the analysis of its outcomes. This means evaluating whether the strategy has led to the desired results given its implementation (OECD, 2020<sup>[23]</sup>).

<sup>7</sup> In one basic scenario, used here for illustration, the Strategy aims to foster the implementation of existing legislation and guidelines in the area of open government with open government consisting of two areas: transparency as defined by Law no. 544/2001 and participation as defined by Law no. 52/2003. Having defined compliance with those provisions as the desired outcome, the Index could assign scores to public institutions in the areas of transparency and participation depending on their practice. For example, one point could be assigned for each type of information that a public institution proactively publishes as required by Law no. 544/2001. Going beyond assessment of availability, the Index could also provide higher scores to public institutions if they provide this information in a machine-readable format and thereby improve reusability, as recommended in GSG guidelines.





# 8

## **Towards an open state in Romania: Expanding the benefits of an open government across the state**

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This chapter analyses Romania's move towards an open state, i.e. the implementation and co-ordination of open government initiatives and strategies at all levels of government and in all branches of the state. It finds that some municipalities are championing open government at the subnational level, and that these efforts could be harnessed with a strategic framework and through additional support from the central level. The chapter also assesses the implementation of transparency and participatory initiatives in Parliament. It concludes with a roadmap to build an open state in Romania.

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## Introduction

As detailed in the previous chapters of this Review, open government - based on the idea that citizens should be enabled to understand, influence, monitor and evaluate public decisions and actions - touches upon every single aspect of public governance. For many years, the global open government movement has focused mainly on open government reforms carried out and implemented at the level of central/federal governments (OECD, 2019<sup>[1]</sup>). However, the principles of open government – transparency, accountability, integrity, and stakeholder participation – are relevant for any public institution from any branch of the State and from any level of government (OECD, 2016<sup>[2]</sup>). In addition, citizens expect the same level of transparency, accountability, and participation from all branches of the state and all levels of government (OECD, 2020<sup>[3]</sup>). Recognising the transformative potential of the open government principles, a growing number of countries start to move progressively from silos of open government towards an integrated open state approach. Over the past years, the OECD has gathered evidence and good practices from its member countries that point to different paths to build an open state (OECD, 2019<sup>[1]</sup>; OECD, 2022<sup>[4]</sup>). Member countries such as Costa Rica have signed high-level declarations on open state, others such as Colombia have adopted open state policies, and many countries like Spain have built multi-level co-ordination bodies to foster a move towards an open state.

At the national level, Romania has implemented a series of initiatives and strategies to make public administration more open, but currently, the country has not developed or pursued an open state agenda. This means that even if open government practices exist outside the central government, those are not being embedded in a co-ordinated effort at the national level. This chapter focuses on identifying the good practices implemented by subnational authorities and in the legislative branch, and provides recommendations to improve their reach and impact, and suggests a roadmap for Romania to build an open state. This chapter finds that Romania could take advantage of the co-creation process of the future OGP Action Plan, and the forthcoming National Open Government Strategy (see Chapter 6) to build an open state in Romania.

In accordance with the Provisions of the Recommendation of the Council on Open Government (OECD, 2017<sup>[5]</sup>) (hereafter the “Recommendation”, and based on evidence collected over the years, this chapter suggests that Romania pursues a twofold approach to build an open state. On one side, Romania should encourage the implementation of the open government principles in every public institution at all levels of government. Nevertheless, this chapter focuses on the subnational level (Municipalities and Counties), and in the Parliament. Acknowledging the particularities of the different state actors, it provides recommendations to adapt and implement the open government principles to the specific context of the subnational level, and the legislative branch. In addition, Romania could build a co-ordinated and coherent framework for an open state approach.

This chapter suggests a roadmap which includes fostering high-level commitment, designing an implementation roadmap, and creating a mechanism for multilevel governance of open government initiatives and strategies across the state.

### ***The OECD approach to an open state***

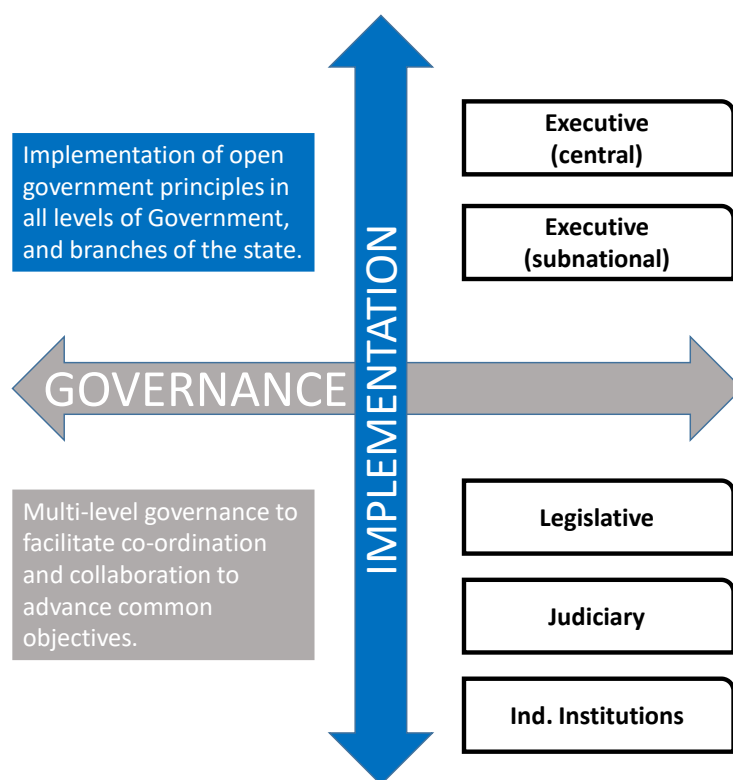
The OECD Recommendation on Open Government includes the first international definition of an open state:

*When the executive, legislature, judiciary, independent public institutions, and all levels of government – recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks – collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth (OECD, 2017<sup>[5]</sup>).*

Adherents to the Recommendation<sup>1</sup> recognise that open government strategies and initiatives are a shared responsibility of all branches and levels of government, and that therefore the provisions of the Recommendation are relevant to all of them (OECD, 2017<sup>[5]</sup>). Provision 10 of the Recommendation<sup>2</sup> further highlights the importance of respecting each of the branches and institutions' respective roles and independence according to the legal framework of the country. An open-state approach should not bypass or alter the equilibrium between branches of the state; it should rather aim at creating synergies to reach a common objective.

The Recommendation understands the creation of an open state as a twofold approach. On one side, it highlights the importance of multilevel governance of open government initiatives and strategies across the state. This includes efforts to co-ordinate the efforts implemented by the central/federal level, the subnational level, the legislature, the judiciary, and independent institutions to ensure collaboration and efficiency in moving towards a common objective. On the other side, the Recommendation aims at supporting the implementation of the open government principles in every public institution and at every level of government. Acknowledging the particularities of the different state actors, it suggests implementing adapted open government initiatives and strategies at the subnational level, the legislature, the judiciary and independent institutions.

**Figure 8.1. OECD's approach to open state is two-fold**



Source: Author's own elaboration based on (OECD, 2017<sup>[5]</sup>) "Recommendation of the Council on Open Government", [OECD/LEGAL/0438](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438), OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

The OECD introduced the concept of an open state for the first time in the Open Government Review of Costa Rica (2016<sup>[2]</sup>), and since then, it has supported countries such as Colombia, Argentina, and Brazil in pursuing integrated open state agenda. In parallel, international organisations such as the Economic Commission for Latin America and the Caribbean (ECLAC), researchers,<sup>3</sup> and civil society organisations have contributed to the development of a common understanding of an open state. The Ibero-American

Charter, for example, identifies the need for a broader understanding that actively incorporates the different branches of the State and levels of government in Ibero-American countries (CLAD, 2016<sup>[6]</sup>).

### ***The rationale for an open state***

The necessity to involve the central and sub-national levels of government, the legislature, the judicial branch, and independent institutions in a whole-of-state effort to foster openness is motivated by several reasons:

- **For open government to be impactful and sustainable, countries need to implement its principles in a co-ordinated and holistic approach across the whole state.** For example, the executive power needs the legislature to establish the normative framework for open government. At the same time, the Legislature needs the Judiciary and the Independent Public Institutions to ensure that the legal framework on open government is duly implemented.
- **Citizens expect the same level of transparency, accountability, integrity, and opportunities for participation from all branches of the state and levels of government.** Citizens interact with and have similar expectations of their local authorities, their representatives in Parliament or the judges in the courts.
- **Open government implies a cultural change; it requires transforming the entire system of decision-making across government, at all levels of government and in all branches of the state.** The change towards an open government culture is not exclusive to the executive branch and requires a change in every institution and every individual public official.
- **Open government aims to transform the relationship between governments and their citizens.** In this sense, the executive branch is not the only branch that interacts with citizens and stakeholders. Other public authorities such as sub-national governments or the Legislature often have more direct and constant relationships with citizens and stakeholders.
- **For open government to build trust and strengthen democracy, all public institutions that are part of the State need to embrace and implement the principles of an open government.** Democracy and trust are not limited to the executive branch. Citizens and stakeholders can experience different levels of trust towards different branches of the state. Only a collective effort across the State will ensure a sustainable increase in trust and stronger democratic institutions.

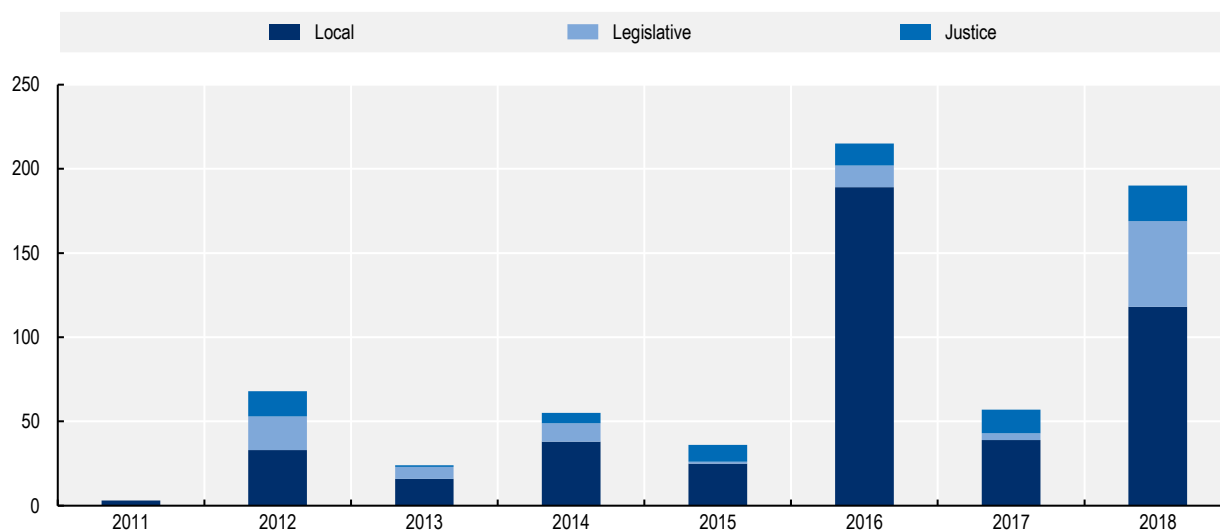
The need to shift towards an open state approach is also closely linked to the challenges identified in the Sustainable Development Goals (SDGs) set out by the United Nations in September 2015 (United Nations, 2019<sup>[7]</sup>). In particular, SDG Goal 16 encourages countries to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” Sub-goal 16.7 makes direct reference to a whole-of-state approach regarding open government and invites countries to “ensure responsive, inclusive, participatory and representative decision-making at all levels.”

The United Nations 2030 Agenda urges countries to implement a new public governance framework based on co-operation between different levels of government and branches of the state (Naciones Unidas, 2015<sup>[8]</sup>). This vision is directly linked to the concept and principles of institutional co-operation that drive the OECD’s understanding of an open state.

### ***The move towards an open state is a reality, but few countries are taking a co-ordinated and integrated approach***

According to data collected by the Open Government Partnership (OGP), between 2011 and 2018, the National Action Plans of OGP members included 461 commitments focusing on the subnational level of government, 107 on the Legislature and 80 about the Judiciary (OGP, 2018<sup>[9]</sup>). The number of open state commitments has been gradually increasing, with a growing interest in commitments from the subnational level of government (Figure 8.2).

**Figure 8.2. Open State commitments in OGP Action Plans**



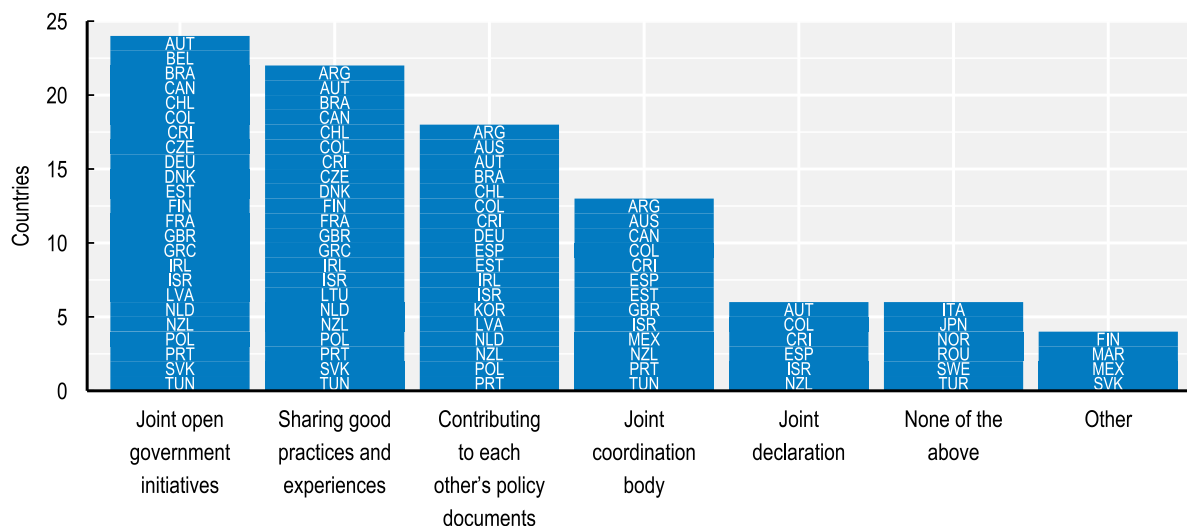
Note: Data refers to OGP Action Plans by 35 OECD countries that are part of OGP.

Source: OGP (2018<sup>[9]</sup>), OGP Explorer, <https://www.opengovpartnership.org/explorer/all-data.html>.

According to the results of the 2020 OECD Survey on Open Government, 64.9% (24) of Adherents to the OECD Recommendation already implement joint open government initiatives, while 59.5% (22) share good practices and experience between branches of the state and levels of government, and 48.6% (18) contribute to each other's policy documents (Figure 8.3). A detailed analysis of answers collected by the OECD highlights certain trends:

- Most of the joint initiatives are happening in the context of the OGP process (e.g. OGP events involving different branches of the state in France or subnational commitments in the national OGP Action Plans, as is the case of Spain).
- Usually, the initiatives reported are related to a specific principle of open government (e.g. transparency) but are not labelled as open state or open government initiatives. This is the case for example for the national open data platforms reported as joint open state initiatives by Belgium and Greece.

**Figure 8.3. Joint initiatives to promote the open government principles undertaken by the different branches of the state and/or the different levels of government**



Note: N=37. Multiple selections possible.

Source: OECD (2021<sup>[10]</sup>), 2020 Survey on Open Government.

The increase in collaboration across levels of government and branches of the state is a positive trend. However, only a small number of OECD countries are moving towards a fully co-ordinated, structured, and integrated open-state approach. Rather, actions are taken in a scattered and isolated way.

### Open government at the subnational level in Romania

As noted by Oszlak (2014<sup>[11]</sup>), the executive power (both central/federal and subnational) focuses on ensuring the delivery and implementation of policies and services that respond to the present time. The central/federal government usually concentrates on specific responsibilities such as fiscal management, security, and foreign affairs. Following years of decentralisation, subnational governments have gained new responsibilities and powers through the transfer of regulatory capacities, budgetary resources and decision-making from the central/federal level (UCLG, 2018<sup>[12]</sup>). Today, many subnational governments are responsible for the delivery of basic services such as water and transport, and others accumulate further responsibilities such as planning, commercial licensing, management of land, taxation, public budgets, education, and in some cases health. For more information on the responsibilities and prerogatives of the subnational authorities in Romania, please refer to Box 8.1.

### Box 8.1. Responsibilities of the subnational level of government in Romania

Under the Constitution of Romania of 1991 and the Framework Law no. 195/2006 on decentralisation, local public administration is based on the principles of decentralisation, local autonomy and deconcentration of public services. Law no.195/2006 was repealed by Emergency Ordinance on Administrative Code 57/2019 which introduced the above-mentioned principles in the administrative code. Romania is a unitary state composed of communes (*comune*), towns (*orase*), municipalities (*municipii*)<sup>1</sup> and counties (*judete*). The administrative division follows a two-layer logic between local and regional. There are also as state territorial administration 42 prefectures (including Bucharest prefecture) and 8 administrative regions for regional development purposes.

The local authorities are composed of 2 861 communes (*comune*), 217 towns (*orase*), and 103 municipalities (*municipii*). Their competences include:

- housing
- local police
- urban planning
- waste management
- public health
- transport infrastructure and urban transport planning
- water supply and sewage system
- district heating
- pre-school, primary, secondary, vocational and technical education
- local heritage administration
- administration of parks and open green public areas.

The regional authorities are composed of 41 counties (*judete*), and their competences include:

- regional development
- economic, environmental and social development
- management of public services
- urban planning and landscaping
- water supply
- sewerage
- public transport
- public health
- transport infrastructure
- social assistance
- education
- co-operation between local and national authorities.

1. According to the Romanian Explanatory Dictionary, a commune (*comuna*) is a basic administrative-economic unit, made up of one or more villages and led by a mayor; a town (*oras*) is a complex form of human settlement, having multiple building facilities, usually with administrative, industrial, commercial, political and cultural functions; and a municipality (*municipiu*) is a large town, having a significant economic, social, political and cultural role.

Source: Council of European Municipalities and Regions (2021<sub>[13]</sub>), *Territorial, Governance, Powers and Reforms in Europe: Romania*, <https://terri.cemr.eu/en/country-profiles/romania.html>.



This section discusses the implementation of the open government principles at the subnational level of government in Romania, in particular in municipalities (*municipii*). It finds that larger urban areas are already implementing a wide range of initiatives that aim at making public decisions more transparent and participatory but are usually not labelled as open government. In addition, evidence collected by the OECD shows a lack of systemic or co-ordinated approach, as these initiatives are being implemented in isolation. This section provides subnational authorities with different paths to move from isolated practices to a co-ordinated and coherent agenda, that contributes to the national open government agenda, and that delivers its strategic objectives such as building trust and changing the relationship between citizens and the state. The evidence of this section is based on desk research, the OECD Survey on Open Government for Romanian Municipalities, which gathered answers from 25 municipalities across the country, and a series of fact-finding interviews.

***The subnational level –and municipalities in particular– can create meaningful and impactful opportunities for citizens to participate in public decisions and services***

Subnational governments are a vital piece in the mechanisms of public governance. The subnational level is closer to the people, both in terms of decision-making and in the provision of basic services, so interactions between government and citizens are more direct and recurrent at this level. Usually, the subnational level is the first, and frequently the only, contact point between citizens and the administration (UCLG, 2018<sup>[12]</sup>). The subnational level also tends to be more agile and responsive, allowing it to innovate more easily (OECD, 2021<sup>[14]</sup>). The European Charter of Local Self-Government recognises that the right of citizens to participate in the conduct of public affairs can be most directly exercised at the local level (Council of Europe, 1985<sup>[15]</sup>).

According to the Organization of American States (OAS), the concept of making subnational governments more open is driven by a desire for greater legitimacy and better management of public affairs through interaction with citizens. The essence of open government at the subnational level involves "exploiting the comparative advantages of its proximity to citizens to deepen interaction and improve the management of local administrations" (OAS, 2014<sup>[16]</sup>). For United Cities and Local Governments (UCLG) subnational governments are a natural space for advancing open government, mainly because of the following reasons (2018<sup>[17]</sup>):

- Many innovations and open government reforms occur at the local and regional level, because that is where governments can collaborate with citizens more directly.
- They are level of government closest to people and often they are the first (and frequently the only) point of access to government.
- They have a wider knowledge of their territories and are the entities that directly connect national and global strategies with local realities, and with the citizens.
- They are in charge of the provision of a large part of public services and are key to define the development and creation of the main public policies.
- Citizen participation is greater at the local level and so citizens can assume a key role in the co-creation and implementation of solutions.
- They have become laboratories to promote open innovation and collaborative work between citizens and governments and have important potential to improve the quality of the public sector and democracy and renew trust.

To answer the growing interest from subnational governments to be part of the open government agenda, the Open Government Partnership created a dedicated cohort and methodology to support them in the implementation of open government initiatives and strategies (Box 8.2).

### Box 8.2. The Open Government Partnership (OGP) Local programme

The Open Government Partnership (OGP) was founded in 2011 by eight governments and nine leading global civil society organisations, with the aim of setting up a unique multilateral platform to co-ordinate and catalyse efforts to transform how public institutions serve citizens, working together to promote a responsible, responsive and inclusive governance model. Today 76 national governments and 106 subnational governments are active members, who have made and implemented over 5 000 specific commitments to enhance open government around the world (OGP, 2018<sup>[9]</sup>).

In 2016, the OGP introduced a pilot programme expanding the process to include subnational governments acting independently of their national governments, based on the OGP's *theory of change* linked to multi-stakeholder co-creation processes and two-year action plans. As of August 2022, 122 local jurisdictions had joined the OGP Local programme (among which 43 were from OECD countries), which now includes a new strategy for the vertical co-ordination of subnational actions with work at the central/national level, and the development of a knowledge, learning and skill-building platform for local actors.

#### Useful websites and official information about OGP Local

- [OGP Local News](#)
- [List of OGP Local Members](#)
- [The OGP Local Handbook](#): This handbook contains the rules for joining and participating in OGP Local. It applies to local jurisdictions that have been accepted as members of OGP Local.

Source: OGP (2022<sup>[18]</sup>), OGP local, <https://www.opengovpartnership.org/ogp-local/> (accessed on 8 August 2022).

Among the subnational level, cities are one of the most dynamic and important administrative units. They have a significant role to play in most of the complex challenges the world is facing from pandemics, democratic crises to climate change. For example, in the context of the COVID-19 crisis, cities were the most affected areas by the pandemic and at the same time, cities were and will remain an essential players in the front-line processes for the recovery and resilience-building (OECD, 2020<sup>[19]</sup>). Cities and their bordering regions are leading the innovation race towards more impactful and meaningful ways to reconnect citizens and public authorities. For example, many innovations linked to improving public services, citizen participation and integrity have emerged at the city level. Examples include the participatory budgets of Porto Alegre (Brazil), the digital participation platform Decidim of Barcelona (Spain), the more than 400 representative deliberative processes at the local level gathered by the OECD (2021<sup>[20]</sup>), co-governance and innovation laboratories like in Bologna, and the open data portals of cities like London (United Kingdom).

Involvement at the subnational level is essential to make open government the overarching culture across the public sector and among all public officials. Therefore, subnational governments are not only an ally, but also a key player in the effective construction of an open state. However, a simple copy of the open government model applied at the central/federal level will not work at the subnational level: it is necessary to build a specific approach to openness, designed for different levels of government (whether state, regional/departmental or local/municipal).

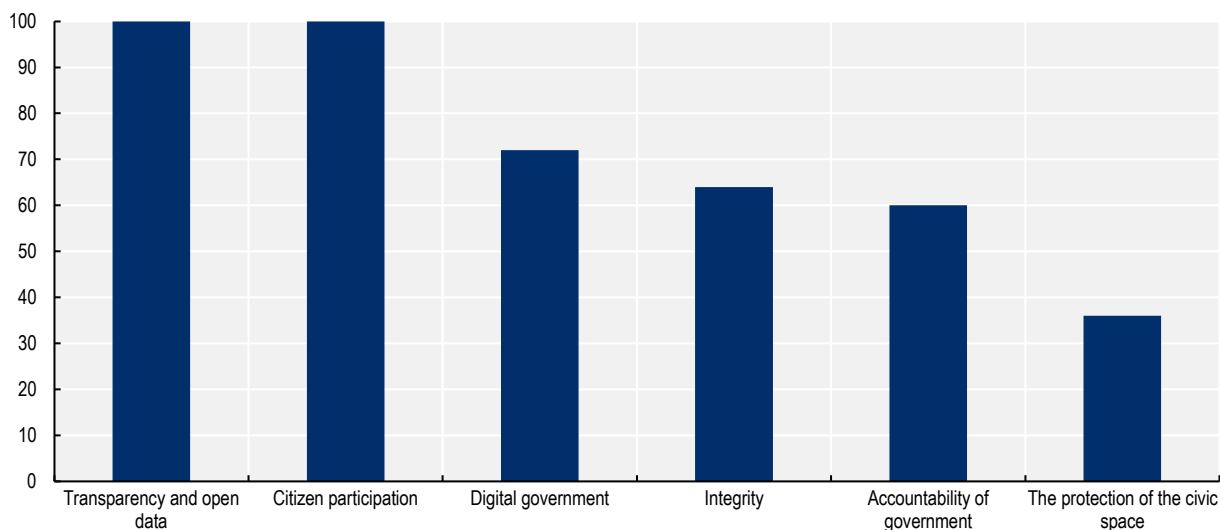
### **Romanian subnational governments are implementing open government initiatives without labelling them as such**

In Romania, there are 3 181 local governments (including communes, towns, and municipalities) and 42 regional governments (see Box 8.1 for more information). Open government principles are anchored in existing legislations affecting the subnational level, including:

- Laws regarding administration organisation (e.g. Government Emergency Ordinance no. 57/2019 regarding the Administrative Code, the legal provisions regarding local public administration are provided in art. 75 of the Administrative Code, and the Government Decision no. 635/2022 on the consultation procedure of the associative structures of the local public administration authorities when drafting normative acts).
- Laws regarding the implementation of transparency obligations (e.g. Law 544/2001 on free access to information of public interest, or Law 52/2003 on decisional transparency in public administration).
- Laws opening spaces for citizen participation (e.g. Law no. 273/2006 on local public finance and Law no. 52/2003 on decisional transparency).

In addition, evidence gathered by the OECD, shows that there is a general awareness of the concept of open government among subnational authorities. According to the responses to the *OECD Survey on Open Government for Romanian Municipalities* (hereinafter “the OECD Survey”), 84% of respondents were familiar with the concept of open government. The Survey also shows that their understanding of open government is close to the OECD definition, as all (100%) respondents associate the pillars of transparency and participation, and 60% of respondents include the concept of accountability. However, only 36% associate the protection of the civic space with an open government. To support a harmonised understanding of open government, the General Secretariat of the Government (GSG) jointly with the Ministry of Regional Development and Public Administration (MDLPA) and the Centre for Public Innovation and SmartCity developed the Guide on Open Government for Subnational Authorities, in which it suggests a definition of open government that is based on transparency, participation and accountability<sup>4</sup> (Government of Romania, 2019<sub>[21]</sub>). Even if there is large uptake of the OECD definition of open government, efforts could be made to better integrate pillars of accountability and the protection of the civic space as part of the Romanian understanding of an open government.

**Figure 8.4. Understanding of the concept of open government among Romanian municipalities**

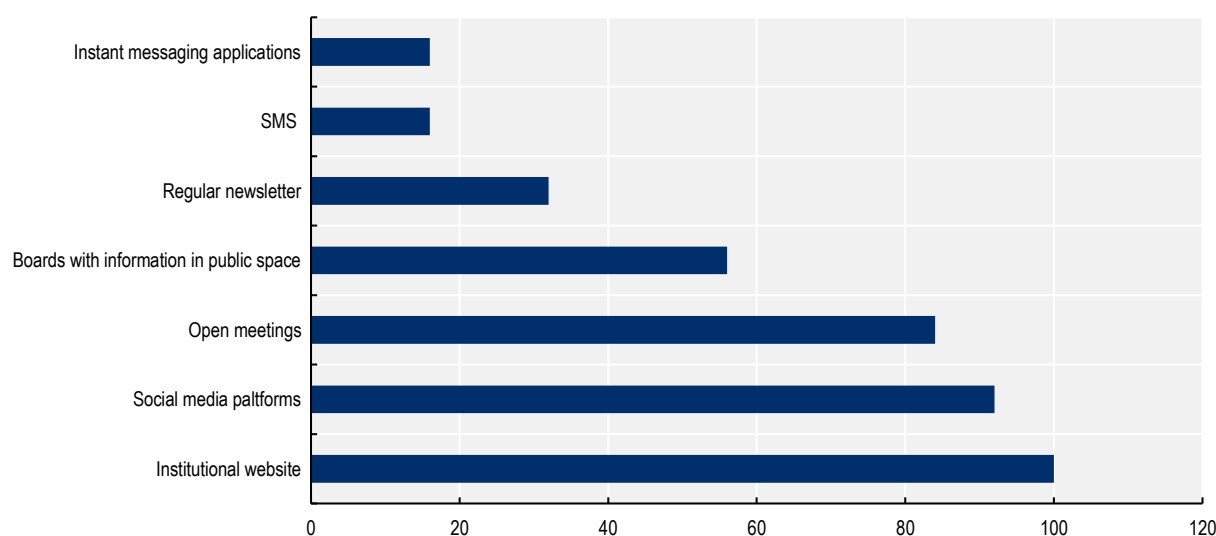


Note: Respondents were asked to select among different options, the topics they associate with the concept of open government, N= 25.  
Source: OECD Survey on Open Government for Romanian Municipalities.

These findings are confirmed by subnational governments' practical implementation of the open government concept. Evidence gathered by the OECD points to a diversity of practices in the areas of transparency, accountability, and participation that are being implemented by municipalities. For example, data collected through the OECD Survey demonstrates that municipal authorities are using different mechanisms to inform citizens about public decisions and services. All respondents declared using the institutional website, followed by 92% that communicate through social media platforms, 84% through in-person open meetings, 56% via boards with information in public space, and 32% through regular newsletters (see Figure 8.5).

Regarding the implementation of access to information obligations, according to the July 2022 monitoring exercise of the General Secretariat of the Government, there is an average of 70% of compliance among counties (*judete*). However, a lower degree of compliance can be observed at the level of municipalities (*municipii*), where it reached on average 51% in 2022 (Government of Romania, 2022<sup>[22]</sup>).

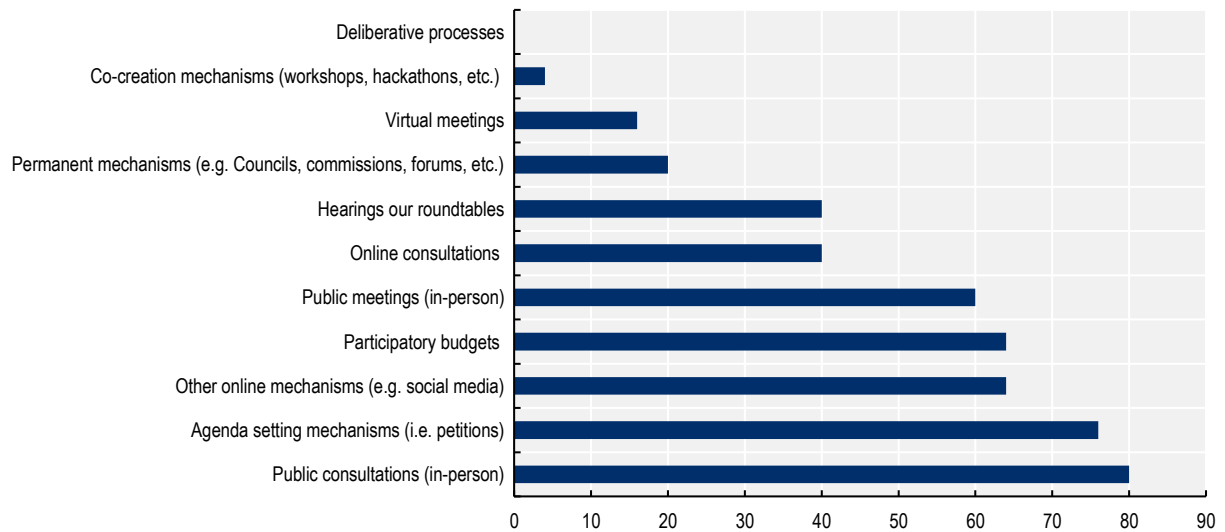
**Figure 8.5. Communication channels between citizens and Romanian Municipalities**



Note: N=25, multiple selections possible.

Source: OECD Survey on Open Government for Romanian Municipalities.

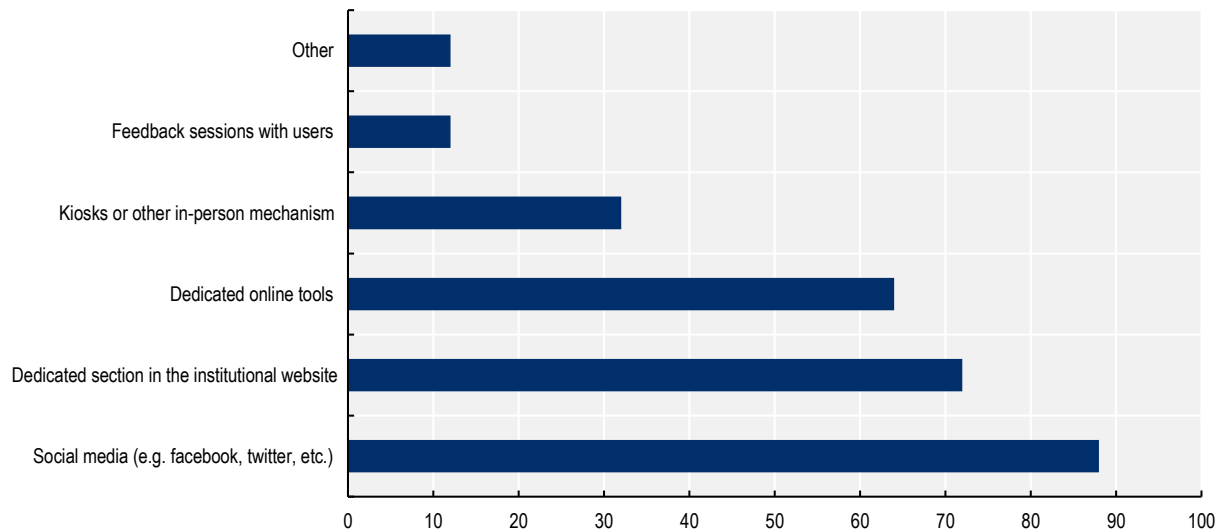
When it comes to interacting with citizens and stakeholders, as shown in Figure 8.6, public in-person consultations are the most common way to interact with citizens (used by 80% of respondents), followed by agenda-setting mechanisms (76%), participatory budgets (64%) and public meetings (60%). A more detailed analysis of Romania's participatory agenda both at the national and subnational levels is included in Chapter 4 of the present Review and in Chapter 6 of the *Civic Space Review of Romania* (OECD, 2023<sup>[23]</sup>). As for many OECD countries, urban areas in Romania are leading the way in terms of innovative approaches to citizen participation. For example, the city hall of Cluj Napoca (see Box 8.3) led the implementation of participatory budgets at the local level in Romania, a practice that has spread to more than 20 municipalities across the country (Participatory Budgeting Atlas, 2021<sup>[24]</sup>).

**Figure 8.6. Diversity of mechanisms for citizens to interact with Romanian Municipalities**

Note: N=25, multiple selections possible.

Source: OECD Survey on Open Government for Romanian Public Institutions at the Subnational Level.

Similarly, public authorities use different mechanisms to gather citizens' feedback on the delivery of public services at the municipal level. Most of those mechanisms are based on online tools, with social media being the most common approach (used by 88% of respondents), followed by a section in the institutional website (72%), a dedicated online tool (64%) and the use of kiosks (32%) (Figure 8.7).

**Figure 8.7. Diversity of mechanisms used by Romanian Municipalities to receive feedback on public service delivery**

Note: N=25, multiple selections possible.

Source: OECD Survey on Open Government for Romanian Municipalities.

### Box 8.3. Good practice in terms of open government implemented in Romanian Municipalities

#### Participatory budgeting in the municipality of Suceava

The municipality of Suceava's e-portal ([https://eportal.primariasv.ro/dm\\_suceava/servicii.nsf](https://eportal.primariasv.ro/dm_suceava/servicii.nsf)) allows citizens to submit electronic petitions and take part in participatory budgeting processes. The platform website states that the participatory budget serves as a “framework of a partnership relationship between the public administration and the citizens, in order to actively involve them, through ideas, suggestions, proposals, to improve the quality of life at the level of the local community”. Citizens can submit any projects of local interest via the website (Suceava City Hall, n.d.<sup>[25]</sup>).

#### Digital platforms in the municipality of Timișoara

The municipality of Timișoara has developed a series of digital platforms to increase transparency and participation. Decidem Timișoara (<https://decidem.primariatm.ro/>), through which citizens can organise themselves democratically by presenting proposals, participating in meetings and debates, encouraging discussions on the decision-making process, making decisions through various forms of voting and by monitoring the implementation of decisions (Timișoara City Hall, n.d.<sup>[26]</sup>). Timisoara published its first Data Portal (<https://data.primariatm.ro>) in March 2021 with 30 datasets (health, education, culture, infrastructure, environment, mobility, etc.). In addition, more targeted platforms have allowed Timisoara to better inform citizens during the COVID-19 pandemic (<https://covid19.primariatm.ro>) or help connect citizens with Ukrainian refugees to facilitate support and emergency housing (<https://timisoarapentruucraina.ro>).

Source: Suceava City Hall (n.d.<sup>[25]</sup>), *ePortal*; Timișoara City Hall (n.d.<sup>[26]</sup>), *Decidem Timișoara*; Iași City Hall (n.d.<sup>[27]</sup>), *Collaborative Solutions Platform*; Com'ON Cluj-Napoca (n.d.<sup>[28]</sup>), “About”.

Certainly, Romania has champions of open government among its subnational authorities, but as for many other OECD countries, important differences between urban areas and rural areas persist. The evidence collected by the OECD shows a disparity in the implementation of such practices between municipalities (*municipii*), where most of these practices occur, and less urbanised areas in communes (*comune*) or towns (*orase*). For example, according to the Participatory Budget Atlas (2021<sup>[24]</sup>), participatory budgets are mostly implemented at the level of large urban areas. In addition, innovative use of digital technologies to better inform (transparency) and connect with citizens (participation) are mostly being implemented by large cities such as Bucharest, Alba Iulia, Timisoara, Cluj Napoca and Iași, and to lesser extent by smaller municipalities or towns.

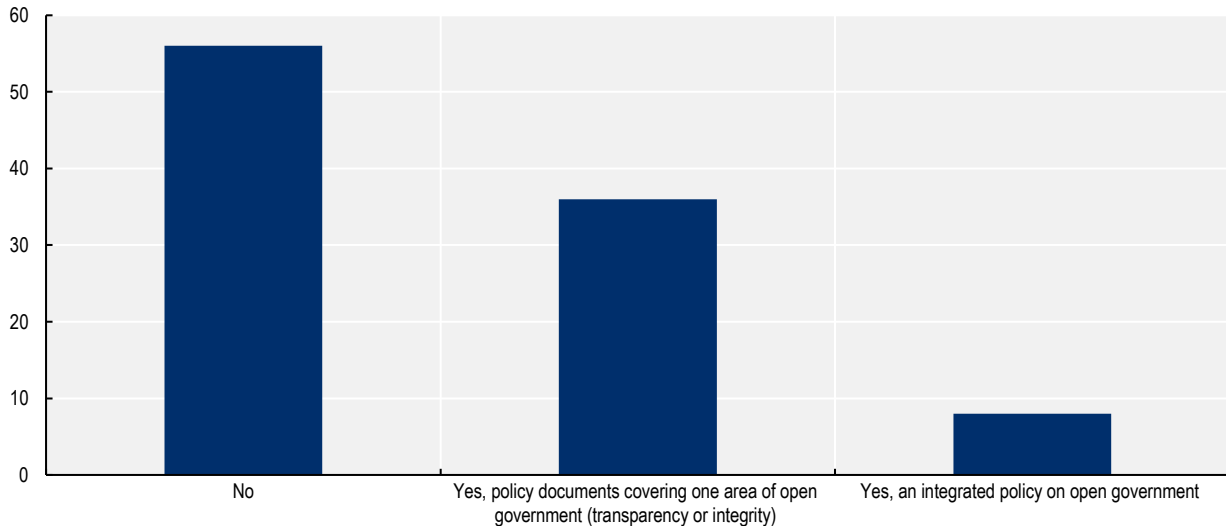
The efforts from GSG in raising awareness and supporting the subnational level towards more open government, should reflect this disparity, and focus too on bringing communes (*comune*), towns (*orase*) and counties (*judete*) on board. GSG has taken steps in this regard, mainly by including a commitment in the OGP National Action Plan 2022 – 2024 which seeks to increase the number of local authorities implementing a participatory budget through guidelines, trainings, and peer-learning (Government of Romania, 2022<sup>[29]</sup>). Concrete support from GSG could facilitate the development of open government initiatives at the subnational level, for example, GSG could develop and facilitate ready-to-use digital platforms to set up a participatory budget or a consultation, or provide dedicated funding for communes (*comune*) or towns (*orase*) that wish to experiment with participatory approaches. In the medium to long term, this suggested top-down support should move towards mutual learning and support between the two levels of government in advancing open government in Romania.

*Romania is currently lacking a systemic and integrated approach to open government at the subnational government*

As detailed in this chapter, Romanian municipalities are undertaking efforts to implement open government initiatives and strategies. In particular, the implementation of access to information, the existence of several channels of communication between citizens and government, the availability of multiple mechanisms for citizens and stakeholders to participate and to provide feedback to public authorities.

However, such practices are being implemented in isolation, meaning that are not part of a broader agenda to foster open government or transform the public sector. In fact, the majority of municipalities that participated in the OECD Survey do not have a strategic approach to open government. 56% of respondents do not have any policy or strategic document in place to promote open government, 36% have adopted a document covering transparency or integrity, and only 8% have an integrated policy to foster open government (Figure 8.8).

**Figure 8.8. Adoption of strategic policy documents on open government in Romanian Municipalities**



Note: N=25, multiple selections possible.

Source: OECD Survey on Open Government for Romanian Municipalities.

Creating a strategic framework for open government can allow to move on from a mosaic of initiatives to a co-ordinated and integrated approach, enhancing the impact of the open government agenda (OECD, 2020<sup>[30]</sup>). The differences between open government initiatives and strategies, as defined by the OECD Recommendation (2017), are shown in Box 8.4, and Chapter 6 provides a more detailed discussion on Romania's forthcoming Open Government Strategy.



#### Box 8.4. Differences between open government initiatives and strategies

**Open government initiatives:** Actions undertaken by the government, or by a single public institution, to achieve specific objectives in the area of open government, ranging from the drafting of laws to the implementation of specific activities such as online consultations.

**Open government strategy (OGS):** A document that defines the open government agenda of the central government and/or of any of its subnational levels, or that of a single public institution or thematic area. It includes key open government initiatives, together with short-, medium- and long-term goals and indicators.

Source: OECD (2017<sup>[5]</sup>), "Recommendation of the Council on Open Government", *OECD Legal Instruments*, OECD, Paris, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438>.

Subnational authorities can follow different paths to move from isolated practices to a co-ordinated and coherent open government agenda. Romania's subnational authorities can develop their strategic open government frameworks in diverse ways but should aim at enhancing the coherence of open government initiatives and their impact. Given the many differences between counties and the diverse nature of communes, towns and municipalities, each entity should develop its strategic documents in line with its own specific circumstances. Strategies must address specific needs in terms of public policy objectives, alignment with government macroeconomic goals, responding to the priorities of the current administration, competences, budgets, available resources, etc.

##### 1. Adopting a policy document dedicated to open government (e.g. Strategy, Roadmap, Action Plan):

Two Romanian municipalities (Timisoara and Iasi) are taking steps towards an integrated agenda following the adoption of their own OGP Local Action Plan (see Box 8.5). These documents allow to create a momentum around open government, and to build an ecosystem of public and non-public stakeholders, however, the commitment-based action plan remains a mosaic of practices and does not support a long-term transformation of the public sector (Chapter 6 provides a more detailed discussion on this matter). If subnational governments opt to adopt a dedicated policy document on open government, it should look at the medium to long term, and include a whole-of-government approach (in comparison to the commitment-based action plan). These policy documents should be aligned with the forthcoming National Open Government Strategy to foster synergies and coherence. The General Secretariat of the Government (GSG) published the [Guidelines Open Government Recommendations for the local level administration](#), which provides detailed guidance on how to design and implement a policy document on open government at the subnational level. However, as detailed in the following section, its reach and uptake remain limited. The *OECD Guide to Designing and Implementing Territorial Open Government Strategies in Colombia* could serve as additional inspiration (2021<sup>[14]</sup>).

### Box 8.5. OGP Local Action Plans in Romania

#### Municipality of Timisoara

As part of its Open Government Partnership (OGP) Local Program membership, Timisoara adopted its first Open Government Local Action Plan (PLA) in 2022 which includes a long-term vision, and a series of commitments to achieve it.

- Vision: “Timișoara, as an inspiration for other local communities, is the city where public administration and civil society together create opportunities for any citizen to be involved in public decisions on quality of life and community development. The main goal of open government is to improve citizen’s quality of life.” (Timisoara Municipality, 2022<sup>[31]</sup>)
- Timisoara counts on high-level support from the Mayor, and established the Participatory Governance and Neighborhood Management Department as the institutional arrangement to support the implementation of its PLA.
- The open government values and principles are integrated into the Mayor’s Government Program.

#### Municipality of Iași

As part of its Open Government Partnership (OGP) Local Program membership, Iași adopted its first Open Government Local Action Plan (PLA) in 2019, including three main priority areas:

- Transparent governance in the Iași Municipality is a whole-of-municipality effort to promote an open government in different policy areas.
- Clean city is a project to involve citizens and stakeholders in climate policies in Iași.
- Design4Community is a mechanism to co-create solutions for public issues and promote a culture of citizen participation in the Municipality. This commitment evolved into <https://solutiicolaborative.ro> – a platform that allows citizens to define most pressing issues and suggest collaborative solutions.

Source: Municipality of Timisoara (2022<sup>[31]</sup>), Open Government Local Action Plan 2022–2024; Municipality of Iași (2019<sup>[32]</sup>), Open Government Action Plan 2019–2021.

## 2. Integrating open government initiatives in policy instruments covering broader public sector reform (e.g. Regional Development Strategy):

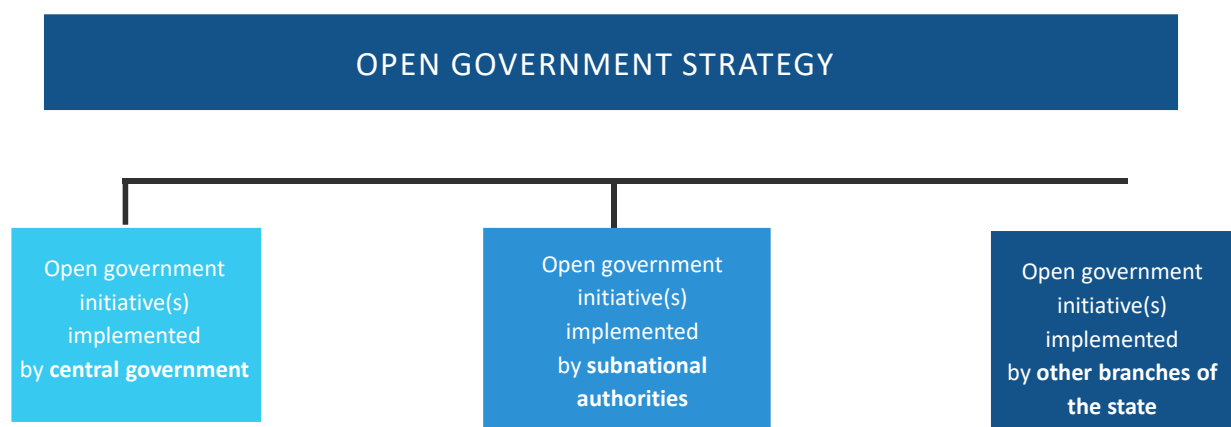
As part of the European Union regional policy (also known as cohesion policy),<sup>5</sup> European regions and cities have to develop plans and strategies to allocate European funds. In this context, Romanian Development Regions have to design and implement a series of strategies including local territorial development strategies, and integrated urban plans for the programming period. For the current period (2021 – 2027), the European Commission has set five policy objectives to guide this policy instrument, among which: “Europe closer to citizens by fostering the sustainable and integrated development of all types of territories”. This represents an opportunity for Romanian regions to include an open government axis in the forthcoming strategies. OECD countries can provide inspiration to Romanian subnational authorities on how to integrate open government initiatives into instruments covering broader policy issues. For example, in Colombia, subnational authorities have integrated open government initiatives into their Departmental and Territorial Development Plans. For example, this is the case of the [Antioquia 2020-2023 Development Plan](#), which includes a component on transparency and integrity aimed at improving the Department’s Open Government Index score and contributing to building an open government culture, or the [Bogotá District Development Plan 2020 - 2024](#), which includes open government elements in one

transversal axis, 4 milestones and 6 concrete goals. In this sense, Romanian subnational authorities could build on existing policy instruments such as the Regional Development Plans, to develop a medium-long term vision for open government, and include ongoing initiatives to promote co-ordination and coherence.

### 3. Contributing/Adhering to the forthcoming National Open Government Strategy led by GSG:

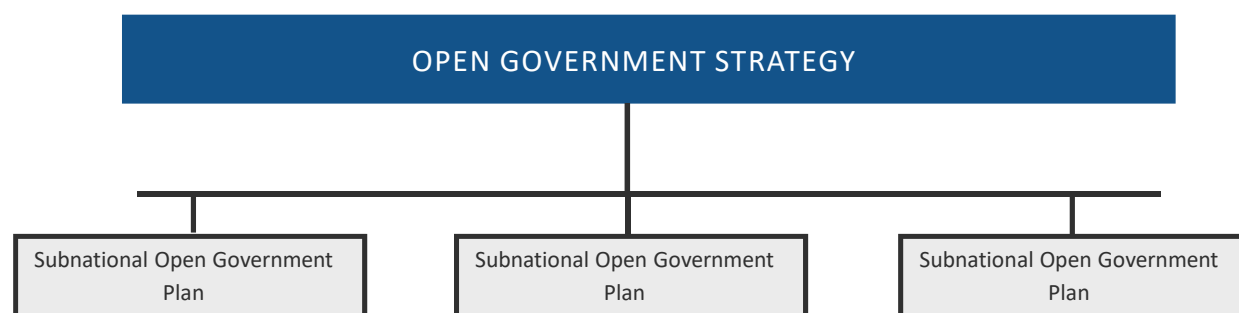
Chapter 6 of this Review suggests that Romania adopts an Open Government Strategy (OGS) to move towards an integrated, long-term open government agenda. Subnational authorities could join GSG's effort by contributing to the co-creation process of the OGS (Figure 8.9), or by adhering to it and adapting its content to their particular local context (Figure 8.10). In addition to providing a framework, this option could foster vertical co-ordination and support the construction of an open state. Apart from ensuring subnational efforts are not happening in isolation, co-ordination with the central level means greater support, the exchange of good practices, better use of resources, etc. Co-ordinating central and subnational strategic documents contributes to the construction of an open state by ensuring the open government agendas of both levels are more coherent and in tune with each other.

**Figure 8.9. Suggested contribution of subnational authorities to Romania's Open Government Strategy**



Source: Author's own elaboration.

**Figure 8.10. Adoption of subnational plans based on Romania's Open Government Strategy**



Source: Author's own elaboration.

*The subnational level is currently not integrated into the national open government agenda*

The Romanian Government through the Ministry of Development, Public Works and Administration (MDLPA) and the General Secretariat of the Government (GSG) has undertaken several efforts to promote open government at the subnational level. Romania's 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> OGP National Action Plan (NAP) included specific commitments to open government at the local level, aiming at increasing the involvement of subnational authorities in the national OGP Process and providing support to subnational authorities to develop more initiatives to foster transparency and citizen participation (OGP, 2018<sup>[331]</sup>) (Government of Romania, 2022<sup>[29]</sup>). For example, a commitment included in Romania's third NAP consisted of training for 111 local authorities and led to the publication of GSG's [Guidelines Open Government Recommendations for the local level administration](#) which included a series of tools for subnational governments to design their own open government agenda. The Guide included a suggested *Declaration on Open Government at Local Level* that could serve as the political support for the open government agenda, as well as a roadmap for each interested local authority to design and adopt their own action plan on open government (see Box 8.6).

In addition, GSG has undertaken efforts to raise awareness about the concept of open state through for example an essay contest for students on the topic "*Open State: Romania's development perspectives for the expansion of open government*" (General Secretariat of the Government, 2020<sup>[20]</sup>).

### **Box 8.6. Romania's Guide to foster open government at the subnational level**

In 2017, the Government of Romania (Ministry of Development, Public Works and Administration and the General Secretariat of the Government), in partnership with, the Centre for Public Innovation and Smart City Timisoara, developed a Guide for subnational authorities to develop their own open government plan. This document includes a template document (*Declaration*) to be endorsed by high-level authorities as a way to secure commitment and political buy-in to the concept of open government. In addition, it provides practical guidance to design a strategic framework (action plan) covering the areas of transparency, participation, and accountability. The Guide further suggests a 150 days roadmap to design, and adopt a local action plan on open government, and to establish a co-ordination mechanism to follow up its implementation.

#### **Declaration on Open Government at the local level:**

We are committed to respecting and promoting the following principles of open government:

- I. Promoting transparency through publication of information of public interest and related datasets
- II. Respecting and encouraging citizen participation
- III. Collaboration with members of the community (citizens, non-governmental organisations academia, private sector) and other public authorities or institutions
- IV. Sharing the experience gained
- V. Providing a procedural framework for the implementation of actions necessary to comply with the principles of open government.

Source: Government of Romania (2019<sup>[21]</sup>), Guidelines Open Government Recommendations for the local level administration, [https://ogp.gov.ro/nou/wp-content/uploads/2019/07/Recomandari-Parteneriatul-pentru-Guvernare-Deschisa-la-nivel-local\\_mai19.pdf](https://ogp.gov.ro/nou/wp-content/uploads/2019/07/Recomandari-Parteneriatul-pentru-Guvernare-Deschisa-la-nivel-local_mai19.pdf).

However, the Guide developed by GSG did not achieve its expected outcome, and the majority of the abovementioned activities did not continue after 2020, mainly because of lack of sufficient resources in the central government (human and financial). Evidence collected by the OECD during its fact-finding missions to Romania shows that many subnational authorities are not aware of (and thus not using) the Guide on Open Government for Subnational Authorities; and only two municipalities followed the suggested roadmap to establish a Local Action Plan (Box 8.5). Romania could follow Argentina's path in the integration of the subnational level in their Federal Open Government Programme (Box 8.7).

### Box 8.7. Argentina's Federal Open Government Programme

Based on the recommendations of the OECD Open Government Review of Argentina (2016), the Federal government develop an initiative to foster the articulation between the Provinces, Municipalities, and the Federal level. The Programme was co-constructed with the participation of representatives of subnational governments, the open government lead in the central government, the Ministry in charge of subnational entities, and civil society organisations.

Through the Programme, the central government provides capacity building, and support for implementation of actions to foster transparency, accountability, open data, innovation, and citizen participation in subnational governments. The Programme is built around three components:

1. Training on open government: A three-week course covering the basics of open government, the concepts, concrete case studies, as well as the open government agenda in Argentina. In the 2021 edition, more than 770 representatives from subnational governments, academia and civil society participated.
2. Methodology and tools: A hands-on course providing concrete tools and methods to design and implement open government projects.
3. Implementation support: the Federal government supports up to 50 projects from subnational governments that aim at building an open government culture.

Source: Government of Argentina (2022<sup>[34]</sup>), Federal Open Government Programme, <https://www.argentina.gob.ar/jefatura/innovacion-publica/servicios-y-pais-digital/gobierno-abierto/programa-federal-de-gobierno>.

An additional challenge identified by the OECD is the lack of articulation between the subnational and the central levels of government when it comes to open government. Only 24% of respondents to the OECD Survey have participated in the central government's open government agenda. Nevertheless, evidence collected by the OECD shows that there is a willingness from the subnational level to be involved more regularly in Romania's Open Government Partnership (OGP) process, as 52% of respondents declared an interest to be part of the National OGP Process in future occasions. On this matter, it is important to highlight existing efforts from the General Secretariat of Government (GSG) in inviting subnational authorities to participate in the National OGP Process. For example, in the co-creation process of the 2020-2022 and 2022-2024 National Action Plans, GSG organised sessions with subnational authorities to raise awareness and present the co-creation process, which resulted in joint commitments between GSG/MDLPA and local authorities in the current OGP Action Plan (Government of Romania, 2022<sup>[29]</sup>). However, evidence from interviews conducted by the OECD as part of its fact-finding missions suggests that the following challenges are limiting the participation of subnational authorities in the open government agenda led by GSG:

- Lack of awareness or understanding among subnational authorities of the OGP process and its methodology.

- Subnational authorities do not have sufficient time and/or resources (human and financial) to participate in the OGP process.
- Absence of a dedicated office/officer in charge of open government topics at the subnational level, and lack of clear mandate on who should be part of the co-creation process.
- Lack of sufficient human and financial resources in the GSG to effectively communicate and involve the subnational level in the open government agenda (see also Chapter 5).

This challenge is also reflected in the use of digital tools for open government. As discussed in Chapters 4 and 5, the central government deployed the e-consultare platform as centralised platform for citizen and stakeholder consultations. However, several subnational governments have also developed their own digital platforms mainly for participatory budgeting and consultations (see for example Box 8.3). The Romanian government could increase the co-ordination between the e-consultare platform, and the different portals deployed at the local level – with a medium to long-term objective of increased harmonisation and integration of all digital tools for citizen participation in Romania.

In addition, building on the recommendations of Chapter 4 of this Review, and on the recommendations provided by the Open Government Partnership’s Independent Reporting Mechanism (2021<sup>[35]</sup>), Romania could strengthen its capacity-building efforts on open government to reach additional public authorities at the subnational level. In that sense, the General Secretariat of the Government or the National Institute for Administration (INA) could organise further trainings for subnational authorities and increase the dissemination of existing support materials like the Guide on Open Government for Subnational Authorities and the Guide for an innovative approach to citizens’ involvement in decision-making developed by GSG. In addition, the central government could increase the spaces of interaction with subnational levels to increase awareness of the OGP Process, and GSG’s open government agenda. For example, the Government of Spain organizes regular meetings, and set up a community of practice between authorities at the central and local levels to discuss open government practices and citizen participation initiatives.

To build incentives for subnational authorities, the Ministry of Public Works, Development and Administration created an award to recognise champions in the field of integrity which was awarded to 14 subnational governments<sup>6</sup> between 2019 and 2020 (Ziarul Unirea, 2019<sup>[36]</sup>). Most of the awarded projects correspond to open government initiatives, for example, Suceava City Hall’s online portal for participatory budget or Brăila City Hall’s project on transparency of the public and private land auction procedure (Ziarul Unirea, 2019<sup>[36]</sup>). Romania could continue this practice, and frame it as “Open Government at the Local Level - Best Practice Award” to create incentives for subnational authorities. Evidence shows the impact that positive incentives can have to motivate public authorities in designing and implementing open government initiatives and practices. OECD member and partner countries such as Spain and Brazil have put in place awards to recognise good practices in the area of open government and celebrate civil servants’ commitment.

*The central government could exploit synergies with strategic actors at the local level*

Romania has a solid network of organisations that bring together key actors of the subnational ecosystem. These organisations usually take the form of non-governmental organisations, associations, or unions, and they have the objective of representing groups of public authorities at the subnational level. For example, the National Union of County Councils of Romania (UNCJR) is a “non-governmental organisation, which brings together the County Councils of Romania, UNCJR represents the interests of County Councils considering their common interests, in the relation with the Parliament as well as with the Government” (UNCJR, 2010<sup>[37]</sup>). Similar bodies are the Association of Communes from Romania, the Association of Romanian Cities, and the Association of Municipalities from Romania.<sup>7</sup> Another set of bodies that could be involved are the Regional Development Councils and Agencies, which are responsible for co-ordinating the development for each region by managing the preparation of regional development programmes,

proposing priority areas for intervention, financing, and identifying opportunities, in addition to other activities (European Association of Development Agencies, 2018<sup>[38]</sup>).

These organisations provide a platform with a multiplier effect. They can support the dissemination of important information, increase the reach, and support the organisation of activities such as trainings or co-creation workshops. In this sense, in an effort to communicate with subnational authorities and engage them in a more continuous dialogue, the General Secretariat of the Government could build strategic partnerships with these organisations. In addition, these actors could support GSG's efforts to involve subnational authorities in the national open government agenda, whether in future OGP action plans or the forthcoming National Open Government Strategy. GSG could get inspiration from Romania's National Anticorruption Strategy 2021 – 2025 led by the Ministry of Justice, which involves actors such as the Association of Communes in the co-operation mechanisms put in place to support the implementation and uptake of the Strategy at the local level (see Box 8.8).

### **Box 8.8. Governance mechanisms of Romania's National Anticorruption Strategy**

Romania's National Anticorruption Strategy (SNA) 2021 – 2025 was developed following an extensive consultation process with the public sector, but also with civil society and the business environment in Romania. The Strategy recognises that it requires a co-ordinated actions from institutions across the state, and in order to do so, it builds on the existing National Integrity Council (see Box 8.16) and a network of bodies to foster co-ordination and collaboration (co-operation platforms):

- the platform of independent authorities and anti-corruption institutions
- the platform of the central public administration
- the platform of the local public administration
- business environment platform
- civil society platform
- the platforms will be convened every six months or whenever needed.

The objectives of the collaboration platforms are:

- identifying the progress made in the implementation of the Strategy
- identifying and correcting practical problems arising in the application of anti-corruption policies and rules
- increasing the degree of knowledge, understanding and implementation of measures to prevent corruption, in the public and private sector
- creating annual monitoring reports
- supporting the implementation of SNA by public authorities and institutions
- documenting and disseminating identified good anti-corruption practices
- carrying out research and studies
- exchange experience and best practices with the relevant public institutions from the perspective of SNA implementation.

Source: Government of Romania (2021<sup>[39]</sup>), About the National Anticorruption Strategy.



## Transparency and participation in the Romanian Parliament: towards an open parliament

Citizens interact constantly with all branches and levels of government. Therefore, efforts to increase openness should go beyond the central government and include all other actors as well. The Legislative branch is the cornerstone of representative democracies, as its members have the mandate to represent and voice the needs and concerns of their constituencies. In most countries, the existence of two Chambers allows for different types of representation, in some countries the lower chamber (e.g. Chamber of Deputies) is reserved for popular representation, and the upper chamber (e.g. Senate) ensures a territorial representation. Parliaments have the triple role of representation, law-making and accountability. Parliamentarians can propose, discuss, amend, and vote legislation – including in key areas such as the budgeting. In addition, the Parliament has the institutional responsibility of ensuring oversight of the executive government. The legislative branch can monitor, control, and in some cases dissolve the government in place. The powers and responsibilities of Parliament are usually described in the Constitution and detailed in internal regulations.

The Romanian Parliament is bicameral and consists of the Chamber of Deputies (*Camera Deputatilor*) and the Senate (*Senatul*). The composition and prerogatives of the Parliament are detailed in the Romanian Constitution (Chapter I on Parliament), which establishes that “*the Parliament is the supreme representative body of the Romanian people and the only legislative authority of the country*” (Government of Romania, 1991<sup>[40]</sup>). Additional details are provided by legislations and internal regulations adopted by the Chamber of Deputies and the Senate.

**Table 8.1. Information about the Romanian Parliament**

	Number of elected members	Term (in years)	Mode of election	Percentage of women	Average age of elected members
Chamber of Deputies (Lower Chamber)	330	4	Universal direct vote and quotas assigned to ethnic minorities	19%	44.75
Senate (Upper Chamber)	136	4	Universal direct vote	18%	49.72

Source: Author’s own elaboration based on International Parliamentary Union (2022<sup>[41]</sup>), Global data on national parliaments – Romania, [https://data.ipu.org/node/140/basic-information?chamber\\_id=13510](https://data.ipu.org/node/140/basic-information?chamber_id=13510).

This section discusses the ongoing efforts of the Chamber of Deputies and the Senate in Romania in opening the Legislature’s work to the public through transparency and participatory initiatives. It finds that the Parliament is already implementing a series of initiatives to move towards an open parliament, mainly through the provision of legislative information, public consultations, and petitions. However, the section also finds areas of opportunity to increase the impact of such initiatives, and points to two specific actions the Parliament could take to move from scattered initiatives to a strategic approach to open parliament: improving the existing mechanisms and adopting a strategic framework to move from isolated actions to an open parliament.

### ***An Open Parliament can be a catalyst for the national open government agenda***

Parliaments have a double role to play in building an open state: adopting an open parliament agenda and supporting other branches of the state in their own reforms. Beyond its constitutional role, Parliament can strengthen the democratic system through different means. Legislation is essential to protect the civic space, secure freedoms, and liberties, and ensure an equal basis for everyone to participate in public life. Parliament has a key role to play in creating an enabling environment and providing protection to civil

society organisations, the media, journalists, and activists. In addition, the legislative branch can support the participation of citizens in the legislative process beyond the ballot box, through different mechanisms such as petitions, consultations and or public hearings. In sum, the Parliament is not only a core element in the democratic system, but it can also play a role in strengthening it by adopting an open parliament agenda.

The OECD understands open parliament as the implementation and the promotion by Parliament (the institution) and its elected members (individuals) of strategies and initiatives to make the legislative work more transparent, participatory, accountable, and protected from undue influence. Concretely, Parliaments can adopt frameworks to foster openness in their work (strategies, action plans, roadmaps), and implement a series of concrete mechanisms such as:

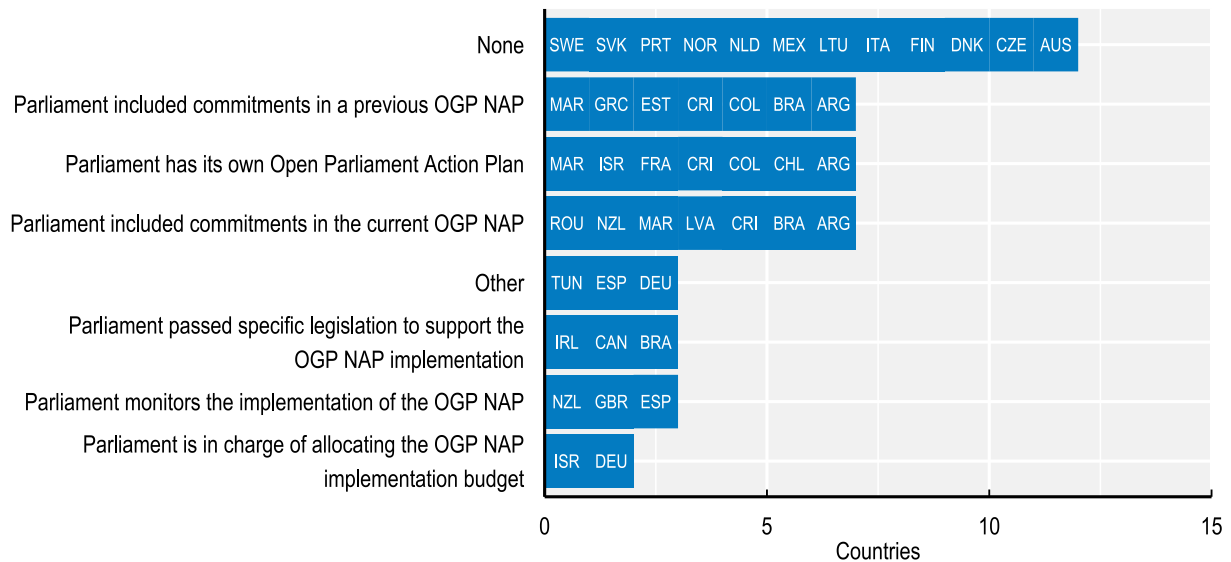
- **Transparency:** information about parliament's roles and functions, and information generated throughout the legislative process, including draft legislation and amendments, votes, the parliamentary agenda and schedule, open data platform, etc.
- **Participation:** petitions, consultation, access and participation in hearings or committees, open meetings with citizens, deliberative committees, etc.
- **Accountability:** feedback mechanisms, revocation of mandate.
- **Integrity:** lobby register, code of conduct, publication of asset declaration and conflict of interests of elected members, etc.

The OECD Recommendation on Open Government (2017) and the Declaration of Parliamentary Openness<sup>8</sup> provide a blueprint for legislative institutions in the move towards an open parliament.

Legislative institutions can also advance the open government agenda of other branches of the state by:

- Adopting legislation in support of transparency, accountability, integrity and citizen and stakeholder participation. For example, parliaments are necessary to meet the Open Government Partnership's eligibility criteria which require a country to have access to information law in place (OGP, 2018<sub>[42]</sub>).
- Ensuring the protection of the civic space, through legislation and support to civil society organisations, the media, journalists, and activists.
- Secure financial resources for open government initiatives and strategies through the amendment and adoption of the national budget.
- Providing sustainability to the open government agenda through political support and institutional buy-in.
- Improving the accountability of the open government agenda, by ensuring monitoring and evaluation of the government's commitments through hearings or enquiries (OGP, 2018<sub>[42]</sub>).

According to the results of the 2020 OECD Survey on Open Government (2021<sub>[10]</sub>), in the majority of countries, there is a limited collaboration between the legislative and the central level of government in relation to the OGP Action Plan (Figure 8.11), and only a small number of Parliaments in OECD countries are actively contributing to their countries' OGP processes by including commitments (19.3%) like in Romania, or by passing specific legislation to support the implementation (9.6%). The situation is similar when it comes to the design and monitoring of other main policy documents on open government. Across Adhering countries, legislative institutions were consulted in only 19.4% of the policy documents, and the judiciary in 21.8%. As for the monitoring of the main policy documents on open government, the Legislative is involved in 7.7% of the policy documents submitted to the 2020 OECD Survey on Open Government.

**Figure 8.11. Parliamentary involvement in OGP National Action Plans (NAPs)**

Note: N=31. Multiple selections possible.

Source: OECD (2021<sup>[10]</sup>), 2020 Survey on Open Government.

### *Legislation is key to advance open government reforms*

As noted by the OGP (2018<sup>[42]</sup>), as law-making institutions, Parliaments can help create the conditions for open government. The legislative branch can translate concepts into concrete action, and by doing so, it is instrumental in putting open government principles into practice. For example, transparency needs freedom of information and open data legislation to be operational. Asset disclosure or lobby registration are normative acts that translate the principle of integrity into concrete actions. Laws on petitions or public consultations can establish standards to implement the right of citizens to participate in public decisions. Indeed, according to the OGP (2018<sup>[42]</sup>), 23% of commitments in National Action Plans require legislative action to be effectively implemented.

Besides their role as enablers, Parliaments can anchor open government reforms in the long term. Legislation can institutionalise the principles of open government, and protect their implementation from short termism, or political transitions. In addition, securing funding through budget lines, and political buy-in can support a change of culture both at the institutional and individual level in Parliament, as well as in other branches of the state.

### *Parliamentarians can build bridges between national and local levels – as ambassadors of openness*

Through its members, the Parliament can increase the visibility of the open government agenda, create political buy-in, and build bridges with other levels of government and non-governmental stakeholders. Elected members of Parliament are in constant contact with citizens, and different non-governmental stakeholders (such as the media, journalists, civil society organisations, and private sector representatives) and have a direct link with the subnational level through their constituencies. These interactions can create opportunities to disseminate the concept of open government (or its pillars), raise awareness of current actions, and build support for more ambitious reforms. Their constant interaction with subnational authorities is also an opportunity to better integrate the different agendas and contribute to a co-ordinated approach to open government across the state, thus moving towards an open state.

To increase the political buy-in from elected members, the Legislature should communicate and provide capacity-building opportunities for both parliamentarians, and their staff. In addition, national open government co-ordinators, such as the General Secretariat of the Government in Romania, should use high-level events to invite parliamentarians as an opportunity to build bridges between different branches of the state.

***The Romanian Parliament is implementing transparency and participatory practices but a strategic approach to openness is missing***

The legislative work can offer diverse opportunities for citizens and stakeholders to better understand the decisions, and to be part of those. For example, information about the legislative activities, the agendas of elected members, and information about the administration of Parliament (expenses, salaries, lobby register, etc.) can help increase trust towards the institution. In addition, information about the legislative process (draft legislation, expert advice on the topic, discussions in Plenary, amendments, and vote record) allows citizens to understand the legislative process and to participate through different mechanisms, such as:

- Open meetings or participatory hearings to be informed and express their needs to parliamentarians.
- Petitions or citizen initiatives to voice concerns and set the agenda of Parliament.
- Co-drafting tools and consultations to influence and shape the law-making process.
- Deliberative processes to provide informed recommendations to parliamentarians on specific policy issues.
- Revocation of mandate or complaints mechanisms to make elected members accountable.

The Romanian Parliament has implemented different initiatives that aim at increasing transparency of the legislative work and provide opportunities for citizens and stakeholders to participate.

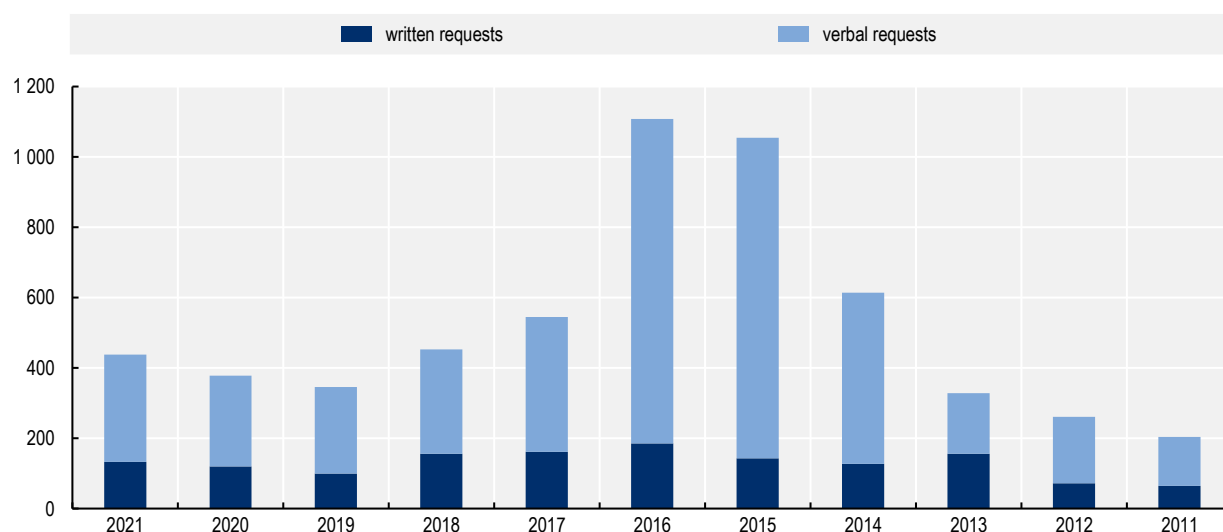
*The Parliament publishes information regularly, but more innovative approaches could be tested*

The Romanian Chamber of Deputies and Senate have to comply with the national access to information requirements as per Law no. 544/2001 on free access to information of public interest. In that matter, both Chambers regularly publish relevant information for the public to better understand the legislative work, to monitor the activities of elected members of parliament, and to be able to participate in the legislative work, including:

- The agendas of plenary and committee meetings.
- Draft legislations.
- Results of votes in plenary.
- Record of votes in plenary (nominal) to increase accountability of elected members. The publication of this information was part of a civil society campaign led by the Institute for Public Policies (2018<sup>[43]</sup>).
- Information about the budget (as approved by the legislature). This information is important for the public to follow policy priorities, budget allocations, and to understand the fiscal situation of the country. According to the International Budget Partnership (2021<sup>[44]</sup>), Romania is performing well when it comes to the publication of budget-related information by Parliament and ranks 29 out of 120 countries. It takes into account the publication of documents such as the pre-budget statement, the budget proposal, and audit reports. Romania publishes all the recommended documents, except for the Citizens Budget (a simplified, easy-to-read version of the budget) and does not publish the pre-budget on time (International Budget Partnership, 2021<sup>[44]</sup>).

The Romanian Parliament has undertaken efforts in increasing transparency of its activities, by proactively publishing information and by answering citizens' requests to access information. For example, according to the self-assessment reports of the Senate, the majority of the requests are submitted verbally through the different in-person mechanisms, and on average the rate of positive response to the requests is of 85%. The category of information that is more frequently requested is about the elected members, including their voting record, expenses, and attendance in Plenary (Romanian Senate, 2022<sup>[45]</sup>).

**Figure 8.12. Access to information requests in the Romanian Senate (2021-2011)**



Source: Author's own elaboration based on (Romanian Senate, 2022<sup>[45]</sup>) Access to Information Reports, <https://www.senat.ro/AfisareListaFisiere.aspx?Pagina=c0103416-ed45-479c-ad30-239462ab974b>.

However, the Parliament could improve the accessibility and user experience to find, and access relevant information. For example, in both Chambers, OECD research shows that it is difficult to find the information regarding the nominal votes of the elected members and the budget of the institution. On this matter, the Chamber of Deputies has launched a pilot platform to ease the access to information for citizens. The [#eCdep platform](#) is a one-stop-shop entry to access information regarding public meetings of the Chamber of Deputies, accreditation of journalists, public consultations, and petitions among others.

Furthermore, the Parliament could make use of public communication to better inform the public about its activities, increase the uptake of information and disseminate opportunities to participate. Both Chambers in Romania publish weekly newsletters with information about recent legislative activity such as the status of legislations, the agenda, and opportunities for citizens to participate. The Senate uses a more interactive format, with a dedicated webpage "InfoSenate",<sup>9</sup> making navigation more user-friendly. The Parliament also makes regular use of social networks such as Twitter to communicate about the daily activities of both Chambers. To continue improving its communication efforts, the Romanian Parliament could diversify the formats and channels, to appeal to a broader public. For example, the Brazilian Chamber of Deputies uses diverse formats including videos, infographics, and plain text (no jargon or technical vocabulary) to explain legislative procedures (see Box 8.9).

## The Parliament is not leveraging the power of data to increase transparency and participation

As part of their activities and tasks, Parliaments – as all other public institutions - generate, collect, access, share and use different types of data. Some of these are particularly significant as a resource for increased transparency, access to public information, citizen and stakeholder participation, and public sector accountability. When data is shared in open and machine-readable formats (Open Government Data, OGD), it can help the public better understand what public institutions do and how well they perform, and to hold them accountable for wrongdoing or unachieved results (Ubaldi, 2013<sup>[46]</sup>). Currently, the Romanian Parliament is not publishing information in an open data format – which limits the impact of the information and reduces opportunities for collaboration.

The Romanian Parliament could get inspiration from international good practices (see Box 8.9) and publish information in an open data format, in addition to the information currently published in PDF format. This could increase the re-use of public information such as vote records, or the amendments adopted by parliamentarians and promote more active participation of the public. For example, publishing the Senate's budget is a good practice, however, the fact that the budget is currently only available as a PDF reduces its usability by third parties. The creation of an open data portal (a one-stop-shop gathering all the datasets published by the Parliament) as in Canada and Scotland – or the integration into Romania's national open data portal ([data.gov.ro](http://data.gov.ro)) could ease the access and usability of this data by the public. For example, in France, to increase transparency and accountability, a civil society organisation used the data published by the French National Assembly to create a monitoring tool ([nosdeputes.fr](http://nosdeputes.fr)) for citizens to keep track of the votes and the presence of their representatives.

### Box 8.9. Access to information and use of data for parliamentary openness

#### Brazil – use of plain language and infographics to inform about the legislative process

The Brazilian Chamber of Deputies uses a diversity of formats and channels to communicate about the functioning of Parliament, the legislative process, and to inform about specific legislations. For example, in [describing the law making process](#), the Chamber uses infographics, videos, plain language, and an interactive questionnaire for the public to test their knowledge. To [inform about a specific legislation](#), which can support an informed participation, the Chamber publishes a simplified description of the draft legislation, with context about the policy issue, the suggested approach, and international best practices. In addition, this note is complemented by a podcast, a radio interview, and comprehensive campaign on social media. As a step further, the **Brazilian Chamber of Deputies** launched a mobile application ([Infoleg](#)) to help the public follow the legislative process, a similar interface is available for the UK Parliament (<https://now.parliament.uk/>).

#### Open data portals to increase the use of legislative information

Several Parliaments around the world are using data and digital tools to increase the impact of public information. The [House of Commons in Canada](#) publishes data about all paper and electronic petitions for the current Parliament. In its open data portal, the [Chamber of Deputies in Argentina](#) publishes, among other datasets, information about the institutions' budget and expenses. The [Scottish Parliament's open data portal](#) includes information on core parliamentary business like motions and questions, details of upcoming business in committees and the chamber, petitions and information on bills, and details about members including their contact details and their Register of Interests.

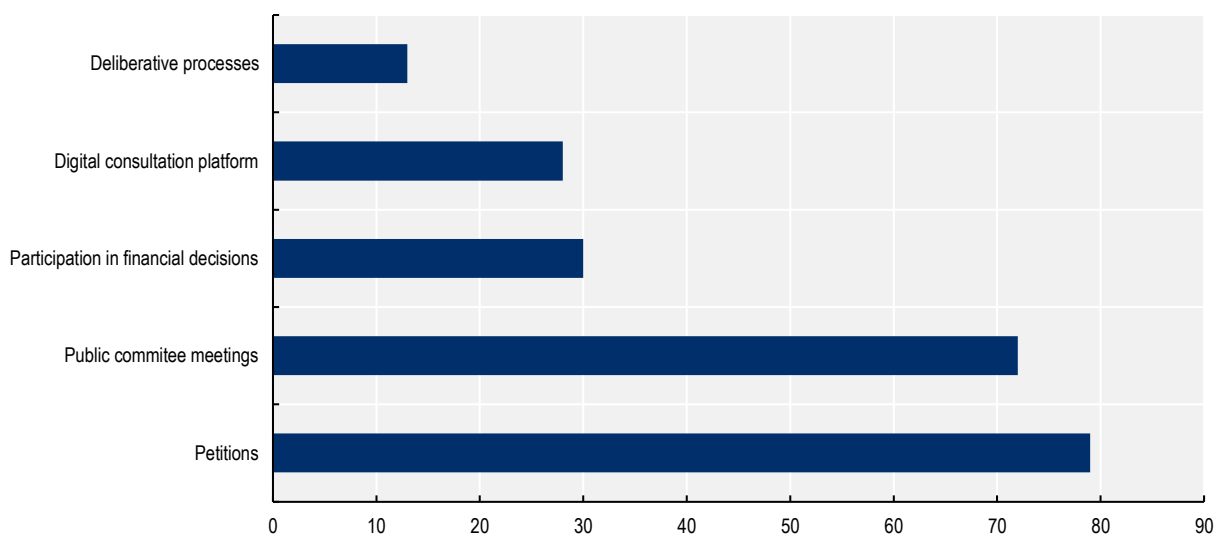
Source: Brazilian Chamber of Deputies (2021<sup>[47]</sup>), Understand the Legislative Process, <https://www.camara.leg.br/entenda-o-processo-legislativo/>.

*The Romanian Parliament involve citizens through consultation and petitions – but these mechanisms could be improved to increase their impact*

The Romanian Parliament offers different opportunities to involve citizens and stakeholders to interact with elected members, set priorities, and comment on legislation. The three main instruments for citizens and stakeholders to participate are petitions, consultations, and hearings.

According to the Inter-Parliamentary Union (2022<sup>[48]</sup>), petitions are the most widespread tool for citizen and stakeholder participation in Parliament, with 79% of the Global Parliamentary Report Survey respondents stating that they have a petition process. 72% of parliaments used committee meetings for stakeholders to provide inputs, followed by 30% that involved the public in budget decisions (see Figure 8.13). Fewer Parliaments are using more innovative approaches, such as digital platforms for consultation (28%) and deliberative processes (13%).

**Figure 8.13. Participatory opportunities in Parliaments according to the 2022 Global Parliamentary Report**



Source: Author's own elaboration based on IPU (2022<sup>[48]</sup>), *Global Parliamentary Report*, <https://www.ipu.org/our-impact/democracy-and-strong-parliaments/setting-standards/global-parliamentary-report/global-parliamentary-report-2022-public-engagement-in-work>.

In Romania, citizens and stakeholders can participate in the legislative work mainly by addressing petitions, participating in hearings, and providing inputs through consultations. The right to petition is guaranteed by the Romanian Constitution (Article 51) and detailed by the Government Ordinance 27/2002, and the internal regulations of both chambers. Citizens can address, individually or in association with other persons, petitions to the Romanian Parliament in relation to subjects that concern them directly and that are related to the fields of activity of the parliamentary institution. Also, any company, organisation or association can exercise its right to address petitions (Romanian Chamber of Deputies, 2015<sup>[49]</sup>). Petitions can be submitted in person, by post, by e-mail or through an electronic format available only for the Chamber of Deputies.

Implementing the right to petition is a positive development, however, certain elements of the process could be improved to increase the impact of this right. First, as noted by the OECD Guidelines for Citizen Participation Processes (OECD, 2022<sup>[50]</sup>), prior to involving citizens, public authorities should state and clearly communicate the rules to participate and the expected impact. The Romanian Parliament could increase the information and communication around the petition process, and the outcome that citizens



can expect. The regulation of the Chamber of Deputies foresees that the Petitions and Hearings Department within the Registry and Archive Office compiles the record of petitions as well as the responses received and prepares annual reports for the General Secretary of the Chamber of Deputies (Romanian Chamber of Deputies, 2015<sup>[49]</sup>). This information is not public and could be beneficial to increase accountability on this process and have metrics to evaluate and improve the process. As highlighted in Chapter 7, this is part of the efforts that Romania could take to increase monitoring and evaluation of its open government agenda.

Furthermore, in a majority of Parliaments, the public (beyond the petitioner) can access the existing petitions and their outcome (IPU, 2022<sup>[48]</sup>). This supports transparency in the process, and awareness of the already submitted petitions. In Romania, there is no record of the petitions received by the Chambers, and the answers provided by the Committee or the Chamber are not filed. In certain cases, Parliaments allow for petitions to be openly discussed and supported by other citizens. For example, in the United Kingdom, petitions can be signed by other citizens, and if a petition gets 10 000 signatures it gets a public response, and with 100 000 signatures it is discussed in Parliament (see Box 8.10 for more examples). Romania could take inspiration of these practices to increase the impact of its petition system. Finally, publishing information and data about the petitions received and their outcome.

### Box 8.10. Petitions in the United Kingdom and Ireland

#### United Kingdom – Chamber of Commons

The UK Parliament has a dedicated website for its petitions ([petition.parliament.uk](http://petition.parliament.uk)) where citizens can learn about the procedure, submit their petitions, search and consult among all the petitions received, and support a petition. In addition, the Parliament publishes the status of the petitions, and the answer given. The system of petitions in the United Kingdom establishes thresholds that define the outcome of the petitions:

- If the petition gets 10 000 signatures, the Government responds
- If the petition gets 100 000 signatures, the petition is considered for debate in Parliament.

The Parliament has a dedicated Committee in charge of reviewing and following up on the petitions. The Petitions Committee is formed by 11 Members of Parliament.

#### Ireland – Houses of the Oireachtas

In Ireland, the petitions system gives citizens an opportunity to interact with the parliamentary system on matters of general public concern or interest. Members of the public may submit petitions to the Joint Committee on Public Petitions, and only one signature is needed to submit a petition. The Committee reviews the petitions received, can seek oral or written evidence from relevant Government Departments and other bodies and agencies. The Committee has the power to invite Ministers to attend meetings and answer questions about the petition and may also invite the petitioner to speak on the matter. In addition, the Parliament has a [dedicated website](#) for citizens to get information about the submission of a petition, review other petitions, and follow the answer given by the Committee.

Source: House of Commons (n.d.<sup>[51]</sup>), "Petitions"; Houses of the Oireachtas (n.d.<sup>[52]</sup>), "Public petitions".

Like most Parliaments around the world, the Romanian Parliament also involves citizens and stakeholders through public consultations.<sup>10</sup> Public consultations are used to either gather ideas, feedback, inputs or opinions about a regulation, a policy question, or a draft proposal (legislation, strategy, etc.). Public consultations can be used to involve both citizens and/or stakeholders. When involving stakeholders (such as civil society organisations), public authorities can send targeted invitations, but when public consultations are open to the broader public, organisers need to prepare a robust communication strategy to ensure high levels of participation and to reach a diverse range of participants (OECD, 2023<sup>[23]</sup>).

Both Chambers allow citizens and stakeholders to provide inputs to draft legislations in writing by post, fax, email, in-person, and by filling out an online form (Romanian Chamber of Deputies, 2015<sup>[49]</sup>). In the Senate, the public can see the inputs filled by other citizens or stakeholders, however, this function is not available in the Chamber of Deputies. Both Chambers are not providing feedback on the use of the inputs received or the impact that the consultation had in the final adopted text. Furthermore, accessibility of both online processes could be enhanced, for example by creating a direct access that is easily identifiable on the main page of the website. The Romanian Parliament could update its online procedure for consultations by taking inspiration from good practices collected by the OECD such as the E-democracia platform implemented by the Brazilian Chamber of Deputies (Box 8.11) or the *Leyes Abiertas* platform in the Argentinean Chamber of Deputies. In both cases, every input received is public, and receives an answer which states if the proposal has been integrated or not, and why. To bridge the digital divide and increase inclusion of online consultations, the Romanian Parliament could put in place in-person mechanisms such as workshops, or open meetings at the local level to gather inputs.

In terms of areas covered by consultations, the Romanian Parliament could expand these participatory mechanisms to involve citizens and stakeholders in budget decisions. As pointed out by the International Budget Partnership (2021<sup>[44]</sup>), Romania only scores 7 out of a maximum of 100 points when it comes to participation in the budget cycle, mainly because there are no opportunities for citizens and stakeholder to influence how the budget is decided in Parliament.

Lastly, the public can interact with parliamentarians through hearings or audiences in their constituencies. According to Law no. 96/2006 regarding the Statute of deputies and senators, parliamentarians are mandated to organise public hearings in their constituencies to discuss current issues or receive proposals from citizens. However, there is almost no information about the outcome of such meetings, nor sufficient communication prior to the hearings to ensure diversity among participants.

### Box 8.11. Using digital tools for citizen participation in Parliament

#### An integrated digital ecosystem for participation in the Brazilian Chamber of Deputies

The Brazilian Chamber of Deputies has an interesting approach to the use of digital tools for transparency, accountability and participation. Developed through a collaborative approach (in the Hacker Lab -a permanent hackathon where tech communities and public officials can collaborate and create digital solutions for legislative problems), the Parliament has built a digital platform to foster citizen participation. Similar approaches can be found in [Argentina](#) and Chile.

The [E-Democracia platform](#) is an integrated digital ecosystem that allows citizens to interact with parliamentarians through different mechanisms:

- The Interactive Hearings (*Audiências interativas*) allows the public to follow in real-time the sessions held in Parliament, whether the plenary or the committees and to submit questions to the parliamentarians.
- The WikiLegis tool allows parliamentarians to consult and co-write the legislation with citizens and stakeholders in real time.
- The Participatory Agenda (*Pauta Participativa*) enables citizens to suggest topics to discuss and prioritise elements in the Chamber's agenda.

#### A virtual Parliament in Colombia

The Colombian Senate developed the mobile app “Mi Senado” (my senate), as an effort to increase participation in the legislative work. Through the app, users can connect with senators, check for their

attendance rate, and vote on the agenda and bills of the day, which in turn is displayed in the plenary for senators to consider when voting.

Source: Brazilian Chamber of Deputies (2021<sup>[53]</sup>), E-democracia platform (website accessed on 19 December 2021); Colombian Senate (n.d.<sup>[54]</sup>), “Mi Senado”.

Other innovative approaches are also being implemented by several Parliaments across the OECD to make the legislative work more open to citizens and stakeholders. As highlighted by the 2022 Global Parliamentary Report (2022<sup>[48]</sup>), 13% of Parliaments that responded to IPU’s survey<sup>11</sup> are using representative deliberative processes, where a broadly representative body of people weighs evidence, deliberates to find common ground, and develops detailed recommendations on policy issues for public authorities (OECD, 2021<sup>[14]</sup>). As shown in Box 8.12, these practices have for example been implemented in Belgium and the United Kingdom.

### **Box 8.12. Public deliberation to involve the public in legislative institutions**

#### **Mixing citizens and elected members in deliberative committees – Brussels Region Parliament (Belgium)**

Deliberative Committees are the first mixed committees, comprised of 45 randomly selected citizens and 15 elected members of Parliament (MP) - from the relevant Parliamentary Committee to the topic to be discussed. A Committee can be called in two ways: either MPs decide that a citizen contribution to a certain public issue could be valuable, or the initiative comes from citizens, as a citizen suggestion through a digital platform. The recommendations of the Deliberative Committees are then voted on both by the citizens and the MPs and the accepted ones have to be discussed in the Plenary of the Parliament with the rest of the elected members.

#### **Public deliberation and civic lottery in parliamentary committee inquiries – Scottish Parliament (United Kingdom)**

In 2017, the Commission on Parliamentary Reform published a set of recommendations on how to better involve citizens in the legislative work, and concluded that “as part of moving towards a more participative approach to scrutiny, the Committee Engagement Unit should pilot deliberative approaches”. In 2019, the Scottish Parliament implemented two pilots to experiment with the use of deliberative processes in parliamentary committee inquiries: the Citizens’ Jury on Land Management and the Natural Environment and the Citizens’ Panels on the Future of Primary Care. The Health & Sport Committee received recommendations from three citizens’ panels on primary care, and the Environment, Climate Change and Land Reform Committee received inputs on land management and natural environment from a citizens’ jury. In the two cases, a small group of randomly selected citizens received information about the policy issues from diverse sources, engaged in facilitated deliberation, and developed collective recommendations.

Source: Cesnulaityte (2021<sup>[55]</sup>), *Deliberative Committees: When parliament and citizens work together*, Elstub and Carrick (2020<sup>[56]</sup>), *Comparing Mini-Publics in the Scottish Parliament*.

*The legislative does not have a strategic approach to open government*

As shown above, the Romanian Parliament is already implementing a series of initiatives to make the legislative work more transparent and participatory. These initiatives could become part of a co-ordinated and strategic agenda to make the Romanian Parliament more open to the public. By connecting the dots between the initiatives that are currently implemented in isolation, both Chambers could create synergies, and foster the move towards an open parliament. As discussed in this chapter (see Section “Romania is currently lacking a systemic and integrated approach to open government at the subnational government”), public authorities can adopt policy documents to agree on a common vision for the institution, set clear objectives, and commit to tangible and measurable actions that will gradually build a culture of open government. In the case of the Legislature, these strategic frameworks can take the form of an action plan, a roadmap or a strategy that sets the vision for an open parliament, including the existing actions to foster transparency, participation, accountability, and integrity, as well as seizing the areas of opportunities to improve. ParlAmericas (2019<sup>[57]</sup>) define an open parliament action plan as “a mechanism through which a parliament commits to advancing openness and strengthening representation and oversight, in collaboration with civil society”. It further highlights that “a co-creation process allows parliament and civil society to identify priorities to implement, and to monitor and evaluate progress towards these commitments”.

Moving forward, Romania’s Parliament could define a strategic framework to ensure a co-ordinated action across the institution. More and more Parliaments in OECD Member and Partner countries are adopting strategic frameworks on open parliament. For example, in Argentina, the Parliament of the Province of Cordoba (2022<sup>[58]</sup>) adopted a very ambitious Open Parliament Strategy<sup>12</sup> that includes:

- A vision: “The Legislature of Cordoba will develop its Open Parliament approach based on the pillars of transparency, innovation and articulation with society”.
- Four strategic axes: Legislative openness (access to information, and accountability mechanisms), Collaboration and citizen participation, Institutional strengthening (collaboration with other actors of the state), and Digital transformation (strategic use of digital tools and innovation methods).
- Tangible actions: to implement the vision and the strategic axis, the Strategy includes 3 concrete commitments, and a series of recommendations to improve existing initiatives.

Other Parliament can also offer inspiration, in particular, the Chilean Parliament which launched its open parliament agenda in 2013 and has published three Action Plans since then (see Box 8.13 for more information). Another option for Parliaments is to include commitments for their own institution in the Open Government Partnership’s National Action Plan.<sup>13</sup> This is the case for example in Estonia. In the country’s 2018-2020 Action Plan, the National Parliament (Riigikogu) included a commitment to increase legislative transparency (OGP, 2018<sup>[59]</sup>).

### Box 8.13. Open Parliament Plans in OECD countries

#### National Congress – Colombia

In 2015, the Colombian Congress (including the Chamber of Deputies and the Senate), with support from the Secretary of Transparency (Presidency of the Republic), signed the Declaration for an Open and transparent Parliament which established 14 commitments around three strategic objectives: integrity, participation, and transparency. Since then, the Congress has co-constructed six action plans with civil society representatives. In the latest action plan 2021–2022, the Congress includes five strategic areas (transparency, participation, accountability, integrity and use of digital tools and data), and 29 concrete activities. As part of its open parliament action plan, the Congress foresees to increase the use of plain language and infographics to better communicate about the legislative work, and increase awareness and skills of staff and elected members through trainings on citizen participation. The open parliament agenda is co-ordinated at the level of the Presidency of the Senate and the Chamber of Deputies.

#### National Assembly – France

In France, the Chamber of Deputies (National Assembly) published its [first open parliament action plan](#) in 2018 building on recommendations made by an internal working group on the renewal of democratic institutions. The Action plan includes four areas of action (reform the parliament with citizens and civil society, promote transparency and openness, increase citizen participation, and better communicate the legislative action) and 17 commitments. The action plan was co-ordinated and implemented by the Presidency of the Chamber, and supported by an-hoc working group on “Digital democracy and new ways of citizen participation”.

#### National Congress – Chile

The [National Congress in Chile](#) is a champion of open parliament, and has been very active since 2012, being the first parliament to adopt an action plan. To increase its impact, the Congress decided to integrate its commitments into the National Open Government Action Plan led by the executive branch. The co-creation process includes a series of workshops in the different regions of the country with the participation of civil society and representatives from other branches of the state, and a digital consultation for the public to provide inputs. The open parliament action plans are co-ordinated by a bi-cameral working group on transparency.

Source: Colombian Senate (2021<sup>[60]</sup>), Sexto Plan de Acción Congreso Abierto y Transparente Legislatura 2021-2022; French National Assembly (2018<sup>[61]</sup>), Ouverture, transparence et participation citoyenne – premier plan d'action de l'Assemblée nationale; Chilean Congress (2019<sup>[62]</sup>), Plan de Acción de Parlamento Abierto 2019-2020.

In addition to establishing a strategic framework, the move towards an open parliament requires institutional stewardship and a proper mandate to implement initiatives that foster transparency, participation, accountability, and integrity at the level of the Parliament. In Romania, both a political and an institutional body could be identified or created to provide political support and institutional leadership to the process. The distinction between the two types of bodies is important to ensure political representation and buy-in whilst ensuring sustainability beyond political cycles. The political body can be an existing or new standing parliamentary committee, a special ad-hoc committee, or a cross-party working group. The institutional body should be led by civil servants and could be located in an office in the Office of the President, the General Secretariat or, the office in charge of public relations or institutional reform.

**Table 8.2. Suggested composition of the institutional and political bodies for Open Parliament**

	<b>Composition</b>	<b>Mandate</b>
Political body	<ul style="list-style-type: none"> <li>• Elected members of Parliament.</li> <li>• Multi-partisan representation.</li> <li>• Representation from all chambers (if body is bicameral).</li> </ul>	<ul style="list-style-type: none"> <li>• Provide political support to the process and the strategic framework</li> <li>• Serve as champions of parliamentary openness reforms.</li> <li>• Mainstream open parliament values across parties</li> <li>• Connect open parliament with their constituencies</li> <li>• Monitor the implementation of the action plan adopted.</li> <li>• Secure budget for open parliament process</li> </ul>
Institutional office	<ul style="list-style-type: none"> <li>• Civil servants or parliamentarian staff</li> <li>• Experts on topics related to open parliament</li> </ul>	<ul style="list-style-type: none"> <li>• Administrative secretariat to the process</li> <li>• Ensure sustainability beyond political cycles</li> <li>• Provide expertise and technical support</li> </ul>

Source: Authors' own elaboration based on ParlAmericas (2019<sup>[57]</sup>), *Executive Summary: Guide to Develop Open Parliament Action Plans*, [http://www.parlAmericas.org/uploads/documents/Exec%20Summary\\_ENG\\_May2019-online.pdf](http://www.parlAmericas.org/uploads/documents/Exec%20Summary_ENG_May2019-online.pdf).

In the case of Romania, the political body could be part of the Commission on Public Administration (present in both Chambers), or in a new ad-hoc body in charge of the open parliament agenda. The institutional body could be placed in the current Public Relations Office (Senate) and Directorate for Communications and Public Relations (Chamber of Deputies) which currently oversees the petitions, the access to information requests, and other attributions that could be part of an open parliament such as the educational programmes for young people. To increase the visibility and support of the agenda, the institutional office could be placed in the General Secretariat. Romania has a particular institutional setting, with an additional body in charge of ensuring co-ordination and coherence among the two Chambers. The Legislative Council could also play the institutional mandate to oversee the open parliament agenda if the decision is to have a joint action between the two Chambers. Romania could get inspiration from international good practices on this matter (Box 8.14). For example, the **United Kingdom's Commission on Digital Democracy** has the mandate to identify how the UK Parliament can advance towards digital transformation. The Parliament also counts on an [actionable digital strategy](#) and has a [team](#) in charge of bringing it to life.

### **Box 8.14. Institutional mandates for open parliament**

#### **Scotland: Citizen Participation and Public Petitions Committee**

The Scottish Parliament established a dedicated Committee to oversee the actions towards greater citizen involvement in the legislative work. The Citizen Participation and Public Petitions Committee was established in June 2021, and focuses on:

- all public petitions submitted to the Parliament and determines if they meet the rules
- deciding what actions should be taken for all public petitions which meet the rules
- reviewing the operation of the public petitions system
- any other forms of public engagement the committee decides to undertake.

The Committee has gradually increased its scope to go beyond petitions and cover more areas related to citizen participation, including deliberative democracy and consultations.



### **Chile: Bicameral group on transparency**

The Chilean Congress opted to create a joint office between the Senate and the Chamber of Deputies to oversee the transparency and open parliament agenda. The bicameral group is composed of an equal number of deputies and senators and staff, and is in charge of developing and implementing the open parliament commitments included in the national OGP Action plan, as well as other activities to foster transparency and participation in both chambers of the Congress.

Source: Scottish Parliament (2022<sup>[63]</sup>), Citizen Participation and Public Petitions Committee Report.

## **Conclusion: A roadmap to build an open state in Romania**

The move towards an open state is based on the articulation and the co-ordination of the initiatives and strategies implemented by all the actors across the state. This chapter discusses the open government agendas at the subnational level and in the Parliament in Romania, and provides recommendations on how to better advance transparent, participatory, and accountable institutions. Beyond the implementation of the principles of open government in all state institutions, it is important to ensure a co-ordinated and coherent approach among all state actors.

When defining an open state, the OECD Recommendation on Open Government (2017<sup>[5]</sup>) invites adherents to promote collaboration, synergies, and sharing of good practices among all state actors to promote transparency, integrity, accountability, and citizen and stakeholder participation, in support of democracy and inclusive growth. This section provides a roadmap to Romania to move from isolated open government agendas to an integrated whole-of-state effort.

### ***Commitment and roadmap for implementation are the building blocks of an open state***

Political support for a joint agenda from all the actors involved in building an open state is needed to secure commitment and facilitate co-operation among institutions. This support can be secured through different means, depending on the political and institutional context of every country. It usually takes the form of a document that is endorsed by all the actors involved. This document should cover certain elements, namely:

- A common understanding of the concept of open state, and the objectives this agenda should pursue.
- Commitment to undertaking joint efforts among different state actors in building an open state.
- Clear mandate to the institutions involved in the open state agenda, and when possible, the appointment of a body in each institution that will serve as point of contact.
- Creation or appointment to an existent body to ensure co-ordination of the actions listed in the document.
- A list of common commitments that set the direction of the open state agenda.

Concretely, countries can adopt different types of high-level documents. No particular value is given to any of the above-listed options.

- **An Open State Declaration or Agreement** is a high-level document signed and endorsed by public institutions from different branches of the state, which can include the executive's central and subnational governments, the legislative branch, the judiciary, and independent institutions. Declarations or Agreements are usually short documents that state an intention to establish further collaboration, and provide a mandate to the institutions represented in the document. Usually,



these documents are complemented by an action plan, or a roadmap that translates the high-level commitment into concrete actions. This type of document was adopted in Costa Rica, Colombia, and Honduras (see Box 8.15).

- **An institutional endorsement from different actors to existing policy or strategic documents** in the area of open government such as the National OGP action plan, as done by countries like Spain and Chile. This endorsement can take the form of a preface, or an introduction to the Action Plan signed by representatives of different branches of the state. For example, in Spain, the fourth OGP Action Plan 2020-2024 was endorsed by the Ministry of Territorial Administration and Public Management, by 19 subnational governments, and by the Federation of Spanish Provinces and Municipalities.

In the case of Romania, a high-level document (Declaration or Action Plan) could be endorsed by the President, the Prime Minister, or the General Secretary of the Government. Support from both the Prime Minister's Chancellery and GSG could give this document both political support and technical expertise. In addition, it could be endorsed by intermediary bodies representing the subnational level of government such as the Association of Romanian Municipalities. Finally, it is important that other branches of the state are involved, such as the Presidents of the two Chambers of Parliament, the High Council of the Judiciary, and independent institutions such as the Court of Accounts. This document could include a joint commitment to implement initiatives and strategies aiming at making public institutions more transparent, accountable, and participatory, as well as a list of common actions.

In addition, this high-level document could be translated into action by the suggested National Open Government Strategy (see Chapter 6 for more information) and by future OGP action plans that include commitments from other branches of the state as done in countries such as Chile, Spain, or Colombia.

### Box 8.15. Open State Declarations

- **Costa Rica** was the Open State pioneer in the region. The 2015 *Declaration for the Creation of an Open State*, signed by the President of the Republic, the President of the Legislative Assembly, the President of the Supreme Court of Justice and the President of the Supreme Court of Elections, formed the basis of the 2017 Framework Agreement to promote an Open State in the Republic of Costa Rica between the Executive Branch, the Legislative Branch, the Judiciary and the Supreme Court of Elections. The Framework establishes policies for building an Open State through joint commitments to ensuring transparency, access to information, citizen participation and the fight against corruption in the four branches of the State. It was the first agreement in the world on Open State, and it was developed using a multi-sector process with substantial technical support from the OECD.
- **Colombia's** Commitment Declaration for an Open State was signed by representatives of every branch of the State in 2017. Guided by this Declaration, institutions, including national electoral and supervisory bodies, are developing approaches to their work and structure based on the pillars of transparency and accountability, to prevent corruption and guarantee rights. At the same time, systematic efforts have been made to include subnational levels of government in this process.

Source: OECD (2016<sup>[64]</sup>), *Open Government in Costa Rica*; OECD (2019<sup>[65]</sup>), *OECD Public Governance Scan Colombia*; OECD (2019<sup>[66]</sup>), *Open Government in Argentina*; Ramírez-Alujas, Álvaro (2020<sup>[67]</sup>), *El estado del Estado abierto en América Latina: avances, alcances y perspectivas*.

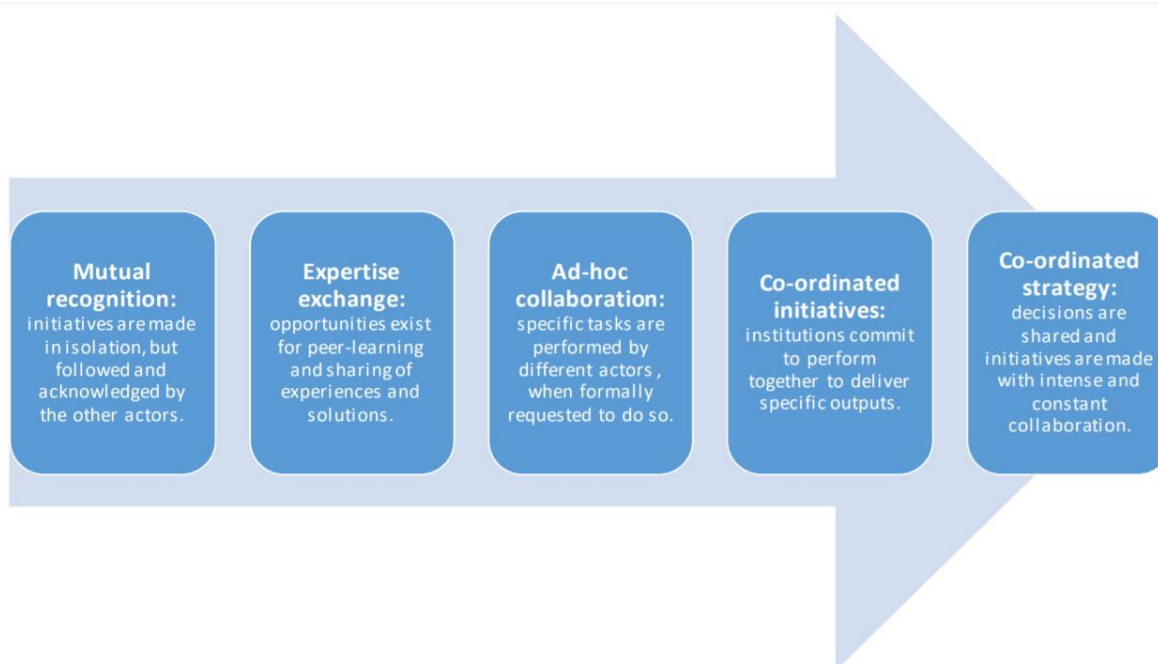
## Multilevel governance and co-operation among State actors

While the different branches of the state are and must be independent of each other, in a country with an open state approach the whole of society works together to develop a common understanding and a commitment to greater openness (OECD, 2016<sup>[68]</sup>) (OECD, 2021<sup>[14]</sup>). The different branches of state and levels of government can collaborate in a number of ways as part of their efforts to create an open state. The OECD (2019<sup>[1]</sup>) recognises that each actor can and should independently implement its own open government agenda. However, the full potential of an open-state approach can only be realised by joining forces and working together. An open-state approach, therefore, involves collaboration on various levels:

- **Horizontally:** between separate branches and public institutions (e.g. between the judiciary and the legislative).
- **Vertically:** between levels of government (e.g. between the central/federal government and local governments).
- **Internally:** between institutions that are part of the same branch (e.g. all the ministries of the executive branch and the chambers of the legislative branch).

Different branches and levels of government can interact in several ways. These range from mutual recognition – in which the different institutions recognise each other’s efforts and push their own agendas, to a joined strategy, in which decisions are shared and initiatives are made in constant synergy (see Figure 8.14).

**Figure 8.14. Levels of collaboration among state actors in an open-state approach**



Source: OECD (2019<sup>[66]</sup>), *Open Government in Argentina*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/1988ccef-en>.

*Vertical and horizontal co-ordination and collaboration between levels of government and branches of the state can be the first step towards an open state*

As discussed in this chapter, the subnational level of government is currently implementing several initiatives to foster an open government. However, these actions are not co-ordinated vertically, with the national agenda led by the General Secretariat of the Government, as Romania does not have any formal or informal mechanism to co-ordinate open government reforms among central and subnational authorities. Moreover, this space could also include the Prime Minister's Chancellery (PMC), and actors from other branches of the state (parliament and independent institutions) to foster a national co-ordination on open government.

The forthcoming National Open Government Strategy offers an opportunity to set up a mechanism where both levels of government and other branches of the state can share experiences, collaborate on joint actions, and co-ordinate the different agendas to ensure coherence and avoid overlaps. Romania could follow the lead of OECD countries that have successfully established similar co-ordination mechanisms. For example:

- **Colombia:** The OGP Process in Colombia is co-ordinated by the **Open State Committee**, which involves the open government co-ordinator at the central level (Secretary of Transparency), other public institutions at the central level (Ministry of Environment), champions of open government at the subnational level (Municipality of Santiago de Cali), Independent institutions (High Court of State), and civil society representatives. In addition to overseeing the OGP Process, the Open State Committee is in charge of promoting a common understanding and objective at the national level, ensuring communication across the state on issues such as transparency and participation, and foster the involvement of actors beyond the central government. The Committee was instrumental in the co-creation process of Colombia's Policy on Open State (Alianza Gobierno Abierto Colombia, n.d.<sup>[69]</sup>).
- **Spain:** The **Open Government Forum** is a mechanism to create a permanent dialogue between public authorities at the central level, including Ministries (8 representatives), and subnational authorities including autonomous governments (19), and local authorities (4). This space is also open to the participation of civil society (20), and academia (12). Among its responsibilities, the Forum is in charge of organising the Open Government Week and agreeing on common positions of the Spanish public administration regarding open government topics, such as participation<sup>14</sup> and inclusive communication (Government of Spain, 2020<sup>[70]</sup>). The Forum was created in 2018 by a ministerial order and is organised in Plenary and working groups which can focus on specific topics such as open government literacy.
- **Argentina:** The **Open Government and Innovation Commission** is part of a broader multi-governance mechanism covering several areas of the public administration (Federal Council of Public Management - *COFEFUP*) bringing together actors from the Federal level, the provinces, and the municipal level. The Commission covers the topics of open government (transparency, collaboration, participation, integrity) and public sector innovation – with roundtables focusing on more specific topics (citizen participation, open data, and integrity). The Commission is in charge of dialogue and learning among peers, and establishing long-term objectives, medium-term priorities, and short-term activities to promote an open government across the public sector.

Romania could follow these examples and set up a mechanism to promote collaboration and co-ordination on open government between levels of government, and branches of the state. As suggested in Chapter 3, as part of the forthcoming Open Government Strategy, Romania could create the National Open Government Committee building on the existing National OGP Coordination Committee which was established in 2016 to oversee and co-ordinate the OGP action plan. This mechanism could include the participation of the central government (GSG, PMC, OGP points of contact, and other public institutions such as Agencies or specific Ministries), subnational authorities (counties and municipalities), the

Parliament, and independent institutions such as the High Courts of Accounts. To increase subnational representation and facilitate co-ordination among subnational authorities, this body could include intermediaries such as the National Union of County Councils, or the Association of Romanian Municipalities. For example, the National Integrity Council was established through Law no. 144/2007, adopted by the Romanian Parliament, (Box 8.16) including the local public administration co-operation platforms (Box 8.8) as a mechanism to support the implementation of Romania's National Anti-corruption Strategy at the subnational level which includes the participation of the Association of Romanian Communes, the Association of Romanian Cities and Municipalities, the National Union of County Councils, the Ministry of Justice, the Ministry of Regional Development and Public Administration, representatives from municipalities and counties councils.

### **Box 8.16. Romania's National Integrity Council**

The National Integrity Council, is the representative body, under parliamentary control, which fulfils the following duties:

- proposes to the Senate the appointment and dismissal of the president and vice-president of the National Agency for Integrity
- approves by decision the regulation of the Council meetings
- analyses the information and reports presented by the Agency's president regarding its activity, quarterly or whenever requested by the Council, through its president
- formulates recommendations regarding the Agency's strategy and activity regarding the activity of verifying assets and conflicts of interest
- analyses the annual audit report provided in Art. 33; h) submits to the Senate, annually and whenever it deems necessary, a report on the Agency's activity; i) any other duties provided by law.

The Council is appointed by the Senate and consists of a number of members:

- one member designated by each parliamentary group in the Senate, plus the group of national minorities in the Chamber of Deputies
- a representative of the Ministry of Justice and Civil Liberties and a representative of the Ministry of Public Finance
- a representative of the National Union of County Councils from Romania
- a representative of the Association of Municipalities in Romania
- a representative of the Romanian Cities Association
- a representative of the Association of Municipalities in Romania
- a representative of the National Agency of Civil Servants
- a representative appointed by the legally established civil society organisations, with activity in the field of human, legal or economic-financial rights
- the President of the Council is elected from among its members, by the secret vote of at least half plus one of the members, within 5 days from the date of the meeting to establish the Council.

Source: Government of Romania (2007), Law no. 144 on the National Agency of Integrity.

This space could also allow for mutual learning among subnational authorities, providing informal spaces where public authorities can share experiences, learn from peers, and mutualise resources. For example:

- **Spain:** In 2021, the Open Government Forum established the **Community of Practice (CoP) on citizen participation** as a space for mutual learning and resource sharing. This CoP involves the three layers of the administration (national, regional, and municipal), as well as representatives from civil society, and international peers (OECD, Colombia, Italy and Mexico) (Government of Spain, 2020<sup>[71]</sup>).

Finally, these spaces can facilitate capacity building and the creation of shared resources on open government such as Toolboxes or Guides. This is particularly relevant to help small municipalities or public authorities with limited resources, and to promote a coherent approach to open government through guides or methodological support.

- **Mexico:** The National Institute for Access to Information (co-ordinating the open government agenda at the Federal level) developed the Open Government Toolbox for Municipalities to support uptake, and provide practical guidance to local authorities on the matter. The Toolbox includes a mapping of good practices, methodologies to develop and implement open government initiatives, and tools to facilitate implementation.
- **Brazil:** The Comptroller General of the Union (co-ordinating the open government agenda at the Federal level) provides support to subnational authorities through capacity building, webinars, and technical assistance. Through the Time Program,<sup>15</sup> the federal government assists subnational authorities in the development, implementation and monitoring of action plans with tangible objectives to foster awareness and capacities on transparency, integrity and participation.

## Policy recommendations

1. **Strengthen the support that the central government (notably the General Secretariat of the Government, the Prime Minister’s Chancellery, and the Ministry of Development, Public Works and Administration) provides to subnational authorities to increase the implementation of open government initiatives.**
  - Promote the concept of open government, in particular in less urbanised areas such as communes and towns, through awareness-raising activities (events, communications, etc.) and practical support (guidelines, handbooks, etc.).
  - Provide support to facilitate the development of open government initiatives at the subnational level, through ready-to-use digital platforms, or by allocating dedicated funding for communes (*comune*), towns (*orase*) or counties (*judete*).
  - Develop courses and trainings targeting subnational authorities to provide them with knowledge on ways to design and implement open government initiatives. This could be done by the General Secretariat of the Government or the National Institute for Administration.
  - Reinstate the awards put in place by the Ministry of Public Works, Development and Administration in 2019 and expand its reach by framing it as “Open Government at the Local Level - Best Practice Award” to create incentives for subnational authorities and celebrate civil servants’ commitment. This award could be part of the broader Open Government Award, recommended in Chapter 5.
  - Increase the human and financial resources in the GSG to effectively communicate and involve the subnational level in the open government agenda (see also Chapter 5).
2. **Encourage collaboration and peer learning among subnational authorities.**
  - Create dedicated spaces for subnational authorities to share good practices, learnings and collaborate on open government policies and practices. This can take the form of a community of practice with regular meetings like in Spain, or digital spaces like in France.
  - Exploit synergies with strategic actors at the local level such as the National Union of County Councils of Romania, the Association of Communes from Romania, the Association of Romanian Cities, and the Association of Municipalities from Romania.
3. **Move from isolated practices to an integrated approach to open government at the subnational level.**
  - Promote the design and adoption of dedicated policy documents on open government at the subnational level. Each entity should develop its strategic documents in line with its own specific circumstances, and could follow any of the three options suggested in this chapter:
    - Adopting a policy document dedicated to open government (e.g. Strategy, Roadmap, Action Plan).
    - Integrating open government initiatives in policy instruments covering broader public sector reform (e.g. Regional Development Strategy).
    - Contributing/adhering to the forthcoming National Open Government Strategy led by GSG.
  - Continue promoting the use of GSG’s *Guidelines Open Government Recommendations for the local level administration* and the *Guide on Open Government for Subnational Authorities* which include a series of tools for subnational governments to design their own open government agendas.
  - Further integrate the subnational level in the national OGP, by expanding the latest efforts to involve a greater number of subnational authorities in the co-creation and implementation phases, through shared commitments, or by inviting them to participate in meetings and events.
  - Increase co-ordination between the OGP Action plans at the local and national level.

**4. Foster the move towards an open state in Romania, by securing political commitment, developing a roadmap of implementation, and promoting multilevel governance.**

- Adopt a high-level political document on open state that is endorsed by representatives from all the levels and branches of the state. This document could include a joint commitment to implement initiatives and strategies aiming at making public institutions more transparent, accountable, and participatory, as well as a list of common actions.
- Transform the high-level commitments into a measurable roadmap for implementation as part of the suggested National Open Government Strategy (see Chapter 6 for more information) or future OGP action plans that include commitments from all branches of the state as done in countries such as Chile, Spain, or Colombia.
- Create a permanent space (e.g. roundtable, forum, etc.) for collaboration and co-ordination between levels of government and branches of the state. This mechanism could be part of the recommended National Open Government Steering Committee (see Chapter 5).

**5. Create a dedicated agenda to increase the openness of the legislature (“Open Parliament”).**

- Increase awareness and political buy-in from elected members to the open government agenda by further communicating and providing capacity-building opportunities for both parliamentarians, and their staff.
- Create additional synergies between Parliament and other branches of the state by including joint commitments in the forthcoming National Open Government Strategy, or future OGP Action Plans.
- Invite representatives of Parliament to be part of the suggested National Open Government Committee.
- Innovate and improve the mechanisms for transparency and access to information in Parliament by increasing accessibility and creating an open data platform.
- Make use of public communications and increase the diversity of formats and channels to better inform the public about the Parliament’s activities, increase the uptake of information and disseminate opportunities to participate.
- Increase the impact of participatory practices, for example by modernising the Parliament’s existing petitions platform or ensuring both Chambers provide feedback on the use of the inputs received through public consultations.
- Promote the use of more impactful and innovative participatory practices such as representative deliberative processes or hackathons.
- Adopt a policy roadmap to foster openness in the Legislature (e.g. Open Parliament action plan/strategy).
- Create a mandate for an Open Parliament Office and provide it with dedicated human and financial resources. In the case of Romania, this Office could be placed in the current Public Relations Office (Senate) and Directorate for Communications and Public Relations (Chamber of Deputies) – or at the level of the Legislative Council.



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## Notes

<sup>1</sup> As of 2022, the Recommendation has been signed by all OECD member countries and Brazil, Romania, Peru and Argentina.

<sup>2</sup> Provision 10 of the OECD Recommendation on Open Government: “while recognising the roles, prerogatives, and overall independence of all concerned parties and according to their existing legal and institutional frameworks, explore the potential of moving from the concept of open government toward that of open state.”

<sup>3</sup> For more information about academic literature on open state, the reader can consult the work by Oscar Oszlak.

<sup>4</sup> In the context of an open government, the OECD understands accountability as “a relationship referring to the responsibility and duty of government, public entities, public officials, and decision makers to provide transparent information on, and be responsible for, their actions, activities and performance. It also includes the right and responsibility of citizens and stakeholders to have access to this information and have the ability to question the government and to reward/sanction performance through electoral, institutional, administrative, and social channels.”

<sup>5</sup> Romania will receive EUR 31.5 billion for the period 2021 – 2027 as part the European Union Regional Policy, for more information: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_4662](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_4662).

<sup>6</sup> City Halls of Alba Iulia, Arad, Iasi, Suceava, Ciugud, Giurgiu, Roman, Braila and Cluj-Napoca, Bucharest III, Ramnicu Sarat and Calarasi and County Councils of Giurgiu, Vrancea.

<sup>7</sup> This OECD acknowledges the complex interplay between these actors; however, a detailed analysis of these interactions goes beyond the scope of this Review.

<sup>8</sup> Since its launch in 2012, the *Declaration on Parliamentary Openness* has been formally endorsed by the Organization for Security and Co-operation in Europe (OSCE)'s Parliamentary Assembly, the Commonwealth Parliamentary Association (CPA), and the First Summit of Legislative Presidents of the Americas organised by the Organization of American States (OAS). It has also been endorsed by a number of national and subnational legislatures and parliamentarians. Access the Declaration here: <https://openingparliament.org/declaration/>.

<sup>9</sup> [https://www.senat.ro/infosenat/Home\\_NewsLetter.aspx](https://www.senat.ro/infosenat/Home_NewsLetter.aspx).

<sup>10</sup> The OECD understands public consultation as a two-way relationship in which citizens provide feedback to a public institution (such as comments, perceptions, information, advice, experiences, and ideas) (see also Chapter 4).

<sup>11</sup> The survey is the basis of the 2022 Global Parliamentary Report. The survey was sent out to IPU Member parliaments in the summer of 2020. Responses were received from 63 parliaments representing 69 parliamentary chambers. These included 27 submissions from Europe, 13 from North Africa and Sub-Saharan Africa, 13 from Asia and the Pacific, 10 from the Americas and 6 from the Middle East.

<sup>12</sup> The Open Parliament Strategy 2022-2023 for the Legislature of Cordoba (Argentina) is accessible here: <https://legislaturacba.gob.ar/wp-content/uploads/2022/09/Open-Parliament-Action-Plan-INGLES-ESPA%C3%91OL.pdf>.

<sup>13</sup> Useful guidance is provided by the Open Government Partnership on how to integrate open parliament commitments in the National OGP Action Plan: <https://www.opengovpartnership.org/documents/guidance-for-ogp-parliamentary-action-plans-2022/>.

<sup>14</sup> See for example the common position of the Spanish public administration prepared by the Forum on citizen participation: [https://transparencia.gob.es/transparencia/dam/jcr:3e2692b0-cf50-4307-8f8f-ab2ed08fd511/Posici%C3%B3n\\_com%C3%BAn\\_vdef.pdf](https://transparencia.gob.es/transparencia/dam/jcr:3e2692b0-cf50-4307-8f8f-ab2ed08fd511/Posici%C3%B3n_com%C3%BAn_vdef.pdf).

<sup>15</sup> The Time Program is detailed in Chapter 4 of the OECD Open Government Review of Brazil (OECD, 2022<sup>[72]</sup>).

## OECD Public Governance Reviews

# Open Government Review of Romania

The *Open Government Review* provides an evidence-based assessment of the country's open government agenda against the ten provisions of the OECD Recommendation of the Council on Open Government. The review takes stock of past reform efforts and provides guidance for Romania in designing, implementing, monitoring, and evaluating an integrated policy agenda to improve the relationship between government and citizens and the way they interact. In particular, this review highlights areas of opportunity for Romania regarding transparency, citizen and stakeholder participation, and creating an open state. Moreover, it outlines steps towards the design of the country's first open government strategy, including an improved system of monitoring and evaluation.

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