

San Salvador, May 5, 2021

Open Government Partnership
1100 13th Street, NW, Suite 800
Washington, DC, 20005
United States of America

**Subject: Communication from Salvadoran civil society to
the Open Government Partnership Steering Committee**

Steering Committee of the Open Government Partnership:

Since the Government of El Salvador joined OGP in 2011, all or most of the organizations that signed this letter, have been active civil society participants at the national level in the creation and promotion of an open government community in El Salvador. This includes providing oversight of OGP action plans, and developing a citizen observatory that monitored the fulfillment of each commitment of the action plans established by the Government within the framework of its obligations as an OGP member. We later withdrew because the Executive Branch promoted the creation and incorporation of a series of “facade” organizations that co-opted this space. On the other hand, all of our organizations are well recognized at the national level in matters of transparency, the fight against corruption and social oversight. Several of our organizations have worked in the co-creation of commitments, closely monitor the implementation of action plans, and regularly report on their progress or setbacks¹.

At the international level, it is worth mentioning that several of our organizations have participated in OGP regional and global meetings since its inception. We have attended civil society gatherings, as well as other national and international fora, and participated as speakers. In addition, José Marinero, president of one of the signatory organizations, was the country researcher for the Independent Reporting Mechanism (IRM) for several years. In other words, we are all organizations deeply involved in civil society activities to promote an open government agenda in El Salvador and specifically to monitor the implementation of OGP commitments.

The signatory organizations of this letter that currently constitute the core group of civil society for the Open Government Partnership in El Salvador are: the Salvadoran Foundation for National Development (FUNDE), chapter of Transparency International in El Salvador; the Salvadoran Foundation for Economic and Social Development (FUSADES), the Democracy Transparency Justice Foundation (DTJ), the Open Future (Futuro Abierto) youth organization and the Transparency, Comptroller and Data Association (TRACODA).

¹ For further information, see Fusades (2020). Report on the Legal and Institutional Situation for the second semester of 2020, available at http://fusades.org/publicaciones/Coyuntura_Legal_feb_2021.pdf [Consulted on 04.05.2021].

We are writing to the OGP Steering Committee to trigger the Rapid Response Protocol based on the serious violations of the constitutional and democratic order committed by the parliamentary group allied to the government during the plenary session of the new legislature on May 1, during which, without observing any of the rules established in the Constitution, nor the slightest foundations of due process, the deputies of the New Ideas Party and its allies removed 5 magistrates from the Constitutional Chamber of the Supreme Court of Justice of El Salvador and its 5 alternates. For legal and practical purposes this is a true constitutional court, as indicated in Article 183 of our Constitution: "*The Supreme Court of Justice through the Constitutional Chamber will be the only competent court to declare the unconstitutionality of laws, decrees and regulations, in their form and content, in a general and mandatory way.*" The Attorney General of the Republic was also removed in the same fashion, making news worldwide². This has caused citizens of this country to be very concerned about the political and legal instability that is being experienced, as well as eventual possible damages to the security and integrity of civil society organizations, which like ours, denounce the abuses committed on May 1 in the Legislative Assembly.

These events complement an unprecedented adverse climate in our recent history against the critical press and social oversight that have been taking place since the inauguration of President Bukele on June 1, 2019. Several acts of intimidation towards journalists from media outlets such as "El Faro" and "Gato Encerrado" have been verified to date. These consisted of tax harassment and intimidation attempts through money laundering investigations³, and in the theft of the work material from the journalist Julia Gavarrete⁴. Currently, 34 employees of the newspaper "El Faro" have precautionary measures recently adopted by the Inter-American Commission on Human Rights⁵. On the other hand, the Association of Journalists of El Salvador (APES), issued a statement yesterday, May 3, in which reports on more than 110 violations against press freedom, which occurred in the country in the recent months⁶, which represents a marked deterioration of a fundamental freedom for the existence of a healthy democracy.

In general, it can be stated that since the beginning of President Bukele's government, there has been a restriction of civic space that has been carried out through various acts of intimidation

² BBC editorial, "El Salvador: the new Legislative Assembly, akin to Bukele, dismisses the judges of the Constitutional and the attorney general", 02.05.2021, available at <https://www.bbc.com/mundo/noticias-america-latina-5695379905.04.2021> [Consulted on 04.04.2021]

³ Marroquín, David. "El Faro denounces fiscal harassment and takes refuge before the Constitutional Chamber", in ElSalvador.com of 09/15/2020, available at <https://www.elsalvador.com/noticias/nacional/ministro-de-hacienda-acoso-fiscal-el-faro/753574/2020/> [Consulted on 04.04.2021].

⁴ CPJ, "Journalist Julia Gavarrete's home robbed, laptop stolen in El Salvador", note of 07.22.2020, available at <https://cpj.org/2020/07/journalist-julia-gavarretes-home-robbed-laptop-stolen-in-el-salvador/> [Consulted on 04.05.2021].

⁵ IACHR- Press release dated February 4, 2021, "The IACHR grants precautionary measures in favor of 34 identified members of the El Faro Digital Newspaper of El Salvador" available at <http://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/023.asp#:~:text=Washington%2C%20D.C.%2D%20La%20Comisi%C3%B3n%20Interamericana,una%20situaci%C3%B3n%20de%20gravedad%20y> [Consulted on 04.05.2021].

⁶ APES statement of May 3, 2021 released through its twitter account <https://twitter.com/apeselsalvador/status/1389349023539150852/photo/1> [Accessed 04.05.2021].

against journalists, but also against citizens or civil society organizations that carry out social oversight activities. Currently, any person who dares to criticize the actions of the executive branch in social media, is immediately blocked by the official in question, despite the fact that the administrative contentious courts have declared this practice illegal⁷. These individuals are subjected to massive harassment from public officials, members of the ruling party or trolls (bots) who are engaged in carrying out these harassment and intimidation activities on a massive scale⁸. During the citizens' protests that were organized on Sunday May 2, there was a visible presence of government employees who were filming or taking photos of the protesters as a way of intimidation.

Similarly, there have been concrete setbacks in access to public information since the President appointed new commissioners for the Institute for Access to Public Information since 2020; some were to fill vacancies generated by the cessation of functions of some of the commissioners, but others were through arbitrary acts, as in the case of the recent removal of commissioner Liduvina Escobar⁹ who had become the spokesperson and whistleblower of all the irregularities and setbacks that the commissioners appointed by the President of the republic were carrying out¹⁰.

As shown by the events described above: attacks by the executive branch, the President of the republic or the deputies of his party who respond directly to the orders of the President against democratic institutions and journalists, and actions like dismantling of the Institute for Access to Public Information, restriction of civic space, and of freedom of expression violate the most fundamental values of OGP and warrant a response from OGP's highest authorities. It is easy to see the President's position on these issues in the large amounts of messages that he publishes daily on his Twitter account¹¹,

Finally, it is necessary to mention that all the processes related to the commitments in El Salvador's 2018-2020 OGP National Action Plan have stopped and there is no interest from the current government to continue participating actively in this international partnership. First, President Bukele dissolved the Secretariat for Citizen Participation, Transparency and Anti-Corruption and placed all issues related to transparency under the Legal Secretary of the Presidency. Second, since the expiration of the action plan in 2020, there has been no interest from the government to develop

⁷ Administrative Litigation Chamber, Case 00089-18-ST-COPC-CAM of 07.22.2019, available at <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/1/2010-2019/2019/07/DF34F.PDF> [Consulted on 04.05.2021].

⁸ Specifically, we can mention the cases of citizen Erika Saldaña, former collaborator of the Constitutional Chamber, and of journalists Mariana Belloso and Karen Fernández, who received more than 700 messages with high violent content. See, for example, APES, "Periodista de Focos TV receives digital harassment", note of 07/15/2019, available at <https://apes.org.sv/alertas/periodista-de-focos-tv-recibe-acoso-digital/> [Consulted on 05.04.2021]

⁹ Henríquez, A. and another, "Bukele orders dismissal of IAIP commissioner, Liduvina Escobar", in La Prensa Gráfica online on 04.23.2021, available at <https://www.laprensagrafica.com/elsalvador/Bukele-pide-destitucion-de-la-comisionada-del-IAIP-Liduvina-Escobar-20210423-0030.html> [Accessed 04.05.2021].

¹⁰ Promoter Group of the Law on Access to Public Information, Communiqué of 11/10/2020, available at <http://fusades.org/content/comunicado-nuevos-comisionados-del-laip-promueven-retrocesos-en-el-accesos-a-la-informacion> [Consulted on 04.05.2021]

¹¹ @NayibBukele

a new plan or any other action that shows interest in continuing the OGP processes. Moreover, through a request for access to public information made to the Press Secretariat of the Presidency of the Republic, it was known at the beginning of 2021 that, allegedly, the government was following up on 2 commitments of the expired action plan, but it was not indicated how¹², nor was there any mention of the intent to co-create a new plan. Attempts by civil society to contact the Legal Secretary of the Presidency of the Republic or whoever he wishes to delegate to promote the open government agenda in El Salvador have been in vain and we have not obtained any type of response.

Based on all of the above, on behalf of our organizations, the signatories unanimously and urgently request the OGP Steering Committee to:

1) Direct its attention to what is happening in El Salvador and activate the Rapid Response Protocol so OGP can make a statement regarding the attack on OGP's values and about the serious consequences that the recent actions of the Executive Branch and the official legislative coalition in the Legislative Assembly, constituted by the deputies of the New Ideas Party and their allies can have on the democratic and constitutional order.

2) Given the seriousness of what is happening and the accelerated deterioration of democratic values and guarantees of the fundamental rights of the population, we also ask the OGP Steering Committee to request a meeting with the Legal Secretary of the Presidency of the Republic of El Salvador, Dr. Conan Castro Ramírez, who is the OGP Ministerial point of contact.

3) We also request the CEO of OGP, Sanjay Pradhan, and the Steering Committee Co-chairs including the Governments of the Republic of Korea and Italy, and María Barón and Aidan Eyakuze, to issue and broadcast a public statement requesting to the Government of El Salvador to cease its actions to dismantle democratic institutions in the country, its attacks on civic space and reestablish the values of OGP and a democratic government.

As organizations committed to the fight against corruption and the promotion of the open government agenda, we appreciate the attention given to our request and are available for any additional information request. Finally, we take the opportunity to express to the members of the OGP Steering Committee the assurances of our highest consideration.

Sincerely,

Lilliam Arrieta de Carsana - Salvadoran Foundation for Economic and Social Development (Fusades)

Jessica Estrada - National Foundation for Development-Salvadoran Chapter of Transparency International (FUNDE)

Xenia Hernández and José Marinero - Fundación Democracia Transparencia Justicia (DTJ)

Nicolás Noyola - Open Future (Futuro Abierto)

Carlos Palomo - Transparency, Comptroller and Data Association (TRACODA)

¹² Resolution UAIP-013-2021 of the Access to Information Unit of the Presidency of the Republic of 01.20.2021.