

Independent Reporting Mechanism (IRM) Progress Report 2014–2015: Bulgaria

Table of Contents

Executive Summary	2
I. National Participation in OGP	7
II. Process: Action Plan Development	10
III. Process: Consultation During Implementation	14
IV. Analysis of Action Plan Contents	15
1: Draft Normative Acts Consultation and Impact Assessment Mechanisms	20
2: Improved Civic Participation in Consultative Councils	26
3: Setting up a Council for Development of the Civil Society	29
4: Government Debt Transparency	32
5: Financial information accessibility	37
6: Transparency of Underground Resources Act	40
7: State Fees Reform	44
✪ 8: Improvements to Access to Information Act.....	49
9: Adherence to the Council of Europe Convention on Access to Official Documents ..	56
V. Process: Self-Assessment	59
VI. Country Context	62
VII. General Recommendations	68
VIII. Methodology and Sources	71
IX. Eligibility Requirements Annex	73

Stephan Anguelov, Independent Researcher
Second progress report



Executive Summary: Bulgaria

Independent Reporting Mechanism (IRM) Second Progress Report 2014–2015

The second Bulgarian action plan was part of a more inclusive design process in collaboration with civil society. Much of the action plan is focused on measures for increasing access to information and civic participation but often lacks specificity. Moving forward, the government should consider further involving Parliament and including local-level commitments in the action plan.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a review at the mid and end point of the national action plan for each OGP-participating country.

The Deputy Prime Minister for Coalition and Public Administration coordinates OGP activities in Bulgaria, while the Administration of the Council of Ministers is responsible for day-to-day OGP implementation. OGP financing is the responsibility of lead institutions in charge of the various commitments.

The Administration of the Council of Ministers is headed by the Prime Minister of Bulgaria, and as such, it is in a key position to design and implement open government policies.

OGP Process

Countries participating in the OGP follow a process for consultation during development of their OGP action plan and during implementation.

The government used a variety of channels to gather input on the content of the action plan, including online consultations and several in-person meetings. The government invited a variety of civil society and government stakeholders to the meetings. While stakeholders had ample opportunities for comments, some felt their opinions did not influence the resulting action plan, which was officially approved by the Council of Ministers in July 2014.

The government did not organize consultation with stakeholders during action plan implementation. Moving forward, the government is considering creating a platform for governance transparency and active inclusion of stakeholders, which would fulfil this role. The government did not provide information as to what this platform might look like.

The government published its self-assessment report on 30 September 2015. While the government provided the OGP-mandated comment period on the report, the public made no written comments.

At a glance

Member since:	2011
Number of commitments:	10
Number of milestones:	22

Level of Completion

Completed:	0 of 10
Substantial:	4 of 10
Limited:	5 of 10
Not started:	1 of 10

Timing

On schedule:	7 of 10
--------------	---------

Commitment emphasis:

Access to information:	8 of 10
Civic participation:	6 of 10
Accountability:	3 of 10
Tech & innovation for transparency & accountability:	4 of 10

Number of commitments that were:

Clearly relevant to an OGP value:	9 of 10
Of transformative potential impact:	1 of 10
Substantial or complete in implementation:	3 of 10

All three (👉):	1 of 10
----------------	---------

Commitment implementation

As part of OGP, countries are required to make commitments in a two-year action plan. The action plan contains nine commitments, comprising 22 milestones. The following tables summarise each commitment, its level of completion, its potential impact, and whether it falls within Bulgaria's planned schedule. The Bulgarian plan largely focused on improving transparency and procedures for public consultations. In the IRM report's assessment period Bulgaria completed none of its nine commitments.

The IRM methodology includes starred commitments. These commitments are measurable, clearly relevant to OGP values as written, of transformative potential impact, and substantially or completely implemented. The Bulgarian action plan contained three starred commitments: 1 (Draft normative acts consultation and impact assessment mechanism) and 8 (Improvements to the Access to Public Information Act). Note that the IRM updated the star criteria in early 2015 in order to raise the bar for model OGP commitments. In addition to the criteria listed above, the old criteria included commitments that have moderate potential impact. See (<http://bit.ly/1n6xNHB>) for more information.

Table 1: Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			TIMING
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	
<p>★ Commitment is measurable, clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented.</p>								
Cluster 1. Draft normative acts consultation and impact assessment mechanisms								
1.1. Normative acts amendments.								On schedule
5. SME test: introducing the obligation to conduct a SME (small and medium enterprise) test, draft methodology and form.								On schedule
2. Improved Civic Participation in Consultative Councils								On schedule
2.1. Publish consultative information: publishing information about activity of public councils.								On schedule
2.2. CSOs selection: develop clear rules for selection of CSO representatives to public councils								On schedule
3. Set up a Council for Development of the Civil Society								On schedule
4. Government Debt Transparency								Behind schedule
4.1. Implementation of the Debt Management Strategy 2012 – 2014								On schedule
4.2. Development, approval and implementation of the Debt management strategy 2015 – 2017								Behind schedule
4.3. Publish monthly bulletin on government debt								On schedule

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
	NONE	MINOR	MODERATE	EXTENSIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
<p>⊛ Commitment is measurable, clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented.</p>									
4.4. Publish annual review of government debt									On schedule
4.5. Publish official information about the consolidated debt and guarantees of “General government” sector									On schedule
5. Financial information accessibility									On schedule
5.1. Public information survey: carry out user survey of information published by the Ministry of Finance									On schedule
5.2. Develop a concept paper based on the result of the user survey in milestone 5.1					Unable to tell				N/A
5.3. Implementation of concept paper regarding measures to improve public information published on the Ministry of Finance website.									On schedule
6. Transparency of Underground Resources Act									Behind schedule
6.1. Adoption of amendments and supplementations to the Mineral Resources Act									Behind schedule
6.2. Mineral resources ordinance: Adoption of an Ordinance regarding control on mining mineral resources									Behind schedule
7. State Fees Reform: draft state fees act, draft specialised methodology for impact assessment on state fees, draft methodology for calculation of fees.									Behind schedule
⊛ 8. Improvements to Access to Public Information Act									On schedule
8.1. Broaden the scope and make obligation for publishing information more detailed.									On schedule
8.2. Strengthen coordination and control for law provisions enforcement									On schedule
8.3. Transpose EU directive on re-use of public sector information									On schedule
8.4. Technical guidelines preparation for the provision of public information in open format									On schedule
8.5. Prioritization of information in open format									On schedule
9. Start process for ratification of the Council of Europe Convention									On schedule

Table 2: Summary of Progress by Commitment

NAME OF COMMITMENT	SUMMARY
<p>☛ Commitment is measurable, clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented.</p>	
<p>1.1 Draft Normative Acts Consultation and Impact Assessment Mechanisms</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial 	<p>This commitment cluster entails amendments to the Law on Normative Acts (LNA). Both commitments are part of amendments that combined their implementation into the same bill. Commitment 1.1 calls for the extension of the minimum mandatory deadline for public consultation and was substantially implemented as amendments were introduced to parliament but not adopted, yet. Commitment 5 focused on introducing a mechanism for prior impact assessment on SMEs. The SME test requirement, methodology, and form were incorporated in the general framework for impact assessment, awaiting adoption by parliament. For that reason, the level of completion was found to be substantial. This commitment was deemed to have moderate potential impact, as the impact assessments would improve the legislative process by providing better foresight when developing new legislation. However, if the law is adopted, the new requirements would only be mandatory for the executive. Moving forward, government should consider adopting the proposed amendments to the LNA and creating similar requirements for MPs.</p>
<p>5. SME Test</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial 	
<p>2. Improve Civic Participation in Consultative Councils</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited 	<p>This commitment aims at increasing citizens' trust in government's consultative councils. The first milestone intends to publish information about the councils. The level of completion of this milestone is limited, as there is some information published but no control established or data available on timelines and completeness of this information. The second milestone intends to develop rules for selecting CSOs on the council. The IRM researcher found no evidence of implementation of this commitment. The potential impact of both milestones is minor. Publishing information about functioning of councils would not resolve deeper issues of ineffectiveness of said councils. Moving forward, the IRM researcher recommends further work on expanding transparency, accountability and participation in the councils.</p>
<p>3. Setting up a council for development of the civil society</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited 	<p>This commitment envisions setting up a Council for Development of Civil Society, which would require amendments to the Non-Profit Legal Entities Act. The Ministry of Justice organized two working groups on drafting these amendments and published the drafts for public comment. However, the Council of Ministers dropped the proposed amendments, and there is no indication on when they would be picked up again. If implemented, the commitment would be a major step forward in establishing a permanent and currently non-existent mechanism for cooperation between government and civil society. The IRM researcher recommends that the government resume work on establishing the Council.</p>

<p>4. Government debt transparency</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: None • Completion: Substantial 	<p>This commitment concerns making information about government debt publicly available. The Debt Management Strategy 2012–14, a document outlining policies the government should follow when issuing or paying debt, was substantially implemented, and the monthly debt bulletin and annual review of government debt was published. However, the 2015–17 Debt Strategy was not adopted during the IRM assessment period. Interviewed stakeholders pointed at flaws in debt information in the country, such as lack of analysis and delays in getting information released. These present areas for improvement moving forward.</p>
<p>5. Financial information accessibility</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: limited 	<p>The commitment intends to improve the quality of financial information released by the Ministry of Finance (MoF). MoF conducted a user survey on the accessibility of information released on its website. Based on the survey’s results, MoF developed a concept paper, which it did not make publicly available. While the commitment will make the information already published by the MoF more easily accessible, it does not make new information available, resulting in minor potential impact. MoF should publish information in an open data format on its website and include explanatory text on complex financial terminology to make the information more accessible to citizens.</p>
<p>6. Transparency of Underground Resources Act</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited 	<p>The first milestone aimed at amending the Underground Resources Act to improve transparency of the extractive industry. Milestone two aimed at adopting a bylaw about procedures to control permit issued and concessions contracts implementation but was not started. The commitment’s lack of clarity makes it difficult to assess its potential impact. The IRM researcher recommends the government continues work on expanding transparency and accountability of legal procedures on issuing extractive industries permits and of government’s control on ongoing concessions contracts.</p>
<p>7. State Fees Reform</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited 	<p>The commitment aimed at reforming state fees legislation, the legislation on calculating fees for all administrative services that are provided by central administration. The legislation was part of a set of reform as contained in the Public Administration Development Strategy, to be implemented in 2014. At the time of writing, the government had not adopted the draft legislation. New obligation to conduct impact assessment in the calculation of the fee could have a potentially transformative impact on transparency of the fees. Moving forward, government should consider making civic participation in the carrying out and drafting of impact assessment on proposed state fees mandatory.</p>

<p>8. Improvements to Access to Public Information Act</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Transformative • Completion: Substantial 	<p>This commitment focused on reforming the Access to Public Information Act (APIA). Government passed draft amendments to the APIA that added requirements for the publication of government-held information. These amendments also grant official status to the Open Data Portal. The commitment also aimed at publicly releasing 119 data sets as open data. The implementation of this commitment would require proactively publishing information from public bodies by introducing open data standards, with potentially transformative potential impact. Further work on this commitment would include the National Assembly adopting proposed amendments to the APIA as a final act.</p>
<p>9. Adherence to the Council of Europe Convention on Access to Official Documents</p> <ul style="list-style-type: none"> • OGP value relevance: Clear • Potential impact: Moderate • Completion: Not started 	<p>The government did not take any steps to ratify to the Convention on Access to Official Documents. Doing so would be an important step for developing access to information internationally, as the Convention still needs to be ratified by three Council of Europe member states to come into force. The government should consider taking the steps necessary to ratify to the convention.</p>

Recommendations

Bulgaria saw several changes in government during the design and implementation of the action plan. In that time, the country has also experienced public protests, particularly around proposed reforms in the security sector and the judiciary. High levels of corruption also remain an issue requiring government attention.

Based on the findings in the progress report, the IRM researcher made the following five specific, measurable, accountable, relevant, and time-bound (SMART) recommendations for improving the OGP process in Bulgaria.

Top Five SMART Recommendations
1. Government should consider the creation of a permanent dialogue mechanism around implementing the action plan. This mechanism would be comprised of civil society representatives, private sector, and government representatives in charge of OGP commitments and would meet at least every three months. The Administration of the Council of Ministers should provide support for this mechanism.
2. To ensure that everybody has equal access to legislation in force, the National Assembly should publish the consolidated versions of the laws and the other normative acts of the same or higher rank, which are in force. They should be available online and accessible for free. The electronic texts should have the same legal value as the print edition of the State Gazette.
3. To enhance civic participation in the legislative process, parliament and government should complete the reform of the legislation on normative acts by adopting currently proposed amendments. To this end, the Council of Ministers should adopt the respective bylaws relating to the methodology and practical guidance on impact assessments on draft and enacted legislation, as well as guidance on publishing information about the Public Consultations Portal. In addition, the National Assembly should adopt amendments to the Rules of Procedure of the National Assembly, which should detail obligations for members of parliament to carry out prior impact assessments of the draft legislation they initiate.
4. Local government can be brought in the OGP process by publishing citizen budgets—in an accessible format—in municipalities that have the resources and capacity to organize consultation, such as the municipalities of Sofia, Plovdiv, Varna and Burgas.
5. Effectiveness of citizen initiatives, especially for holding referenda, could be increased through amending the Law for Direct Participation of Citizens in Government and Local Government by: ensuring that citizens could support initiatives through an easily accessible online form; lowering the threshold for organizing a national referendum on citizen initiatives; lowering or dropping the participation threshold for adopting a proposal subject to a national referendum.

Eligibility Requirements: To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, visit: <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>.

Stephan Anguelov is a lawyer and researcher in Access to Information Programme, a non-governmental organization in Bulgaria. Stephan's line of work includes providing legal aid in access to information and related personal data protection cases, research and monitoring in the areas of transparency and accountability.

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

I. National Participation in OGP

The Administration of the Council of Ministers is responsible implementation of the action plan. Because of it is headed by the Prime Minister, the Council is well-suited for the task of implementing open government policies.

History of OGP participation

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In pursuit of these goals, OGP provides an international forum for dialogue and sharing among governments, civil society organizations, and the private sector, all of which contribute to a common pursuit of open government. OGP stakeholders include participating governments as well as civil society and private sector entities that support the principles and mission of OGP.

Bulgaria began its formal participation in September 2011 when Roumiana Bachvarova, Head of Cabinet of the Prime Minister, declared the government's intention to join the initiative.¹

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of (minimum) performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. Objective, third party indicators are used to determine the extent of country progress on each of the dimensions. See Section VIII: Eligibility Requirements for more details.

All OGP-participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Action Plans should set out governments' OGP commitments, which move government practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

The government undertook the process of developing the country's second national action plan from April through June 2014. The Council of Ministers adopted a final version of the document on 21 July 2014, the next day being the starting date for its implementation.² According to the OGP calendar, the action plan's implementation should continue until the end of June 2016, but a significant number of the commitments set their end dates to the end of 2016 or later. In 2015, the newly formed Bulgarian government decided to expand the action plan's scope. A draft of the new commitments to be added was made available for public consultation on 27 May 2015. The Council of Ministers adopted a final version of the action plan's additional commitments on 3 July 2015, the next day being the starting date for its implementation.³

Similarly to the government's self-assessment,⁴ this report covers the first 12 months of the action plan's implementation, from 22 July 2014 through 30 June 2015. The report does not cover the new commitments, adopted in July 2015, since their implementation is most often starting in June 2015 or later.

Basic institutional context

Due the frequent changes in the Bulgarian government during the development and implementation of the action plan, the responsibility for coordination of the OGP has fluctuated between different government bodies.

Initially, the Minister of Regional Development, Dessislava Terzieva, was in charge of the coordination and participation of Bulgaria in OGP. During the previous government's mandate, she had participated in drafting and implementing Bulgaria's first action plan as a senior civil servant in the Administration of the Council of Ministers. Minister Terzieva and a small staff organize the consultations and draft Bulgaria's second action plan. However, the government resigned on 24 July 2014, three days after officially adopting the document.

In August, the National Assembly—the legislative—was dissolved. An interim government took office with the main goal of organizing new parliamentary elections. The interim government affirmed its will to continue Bulgaria's efforts on the OGP action plan. Some commitments were being implemented by leading institutions, but the oversight and coordination function was left uncertain.

On 19 November 2014, the new Council of Ministers appointed the Deputy Prime Minister for Coalition Policy and Public Administration, Rumiana Bachvarova, to the coordination of Bulgaria in OGP.

Rumiana Bachvarova had led the process of Bulgaria joining OGP back in 2011, as then-head of cabinet of the prime minister. Day-to-day coordination and implementation of the action plan are entrusted to a small team of experts from the Administration of the Council of Ministers. The OGP team does not have a dedicated budget, but the financing needed for the implementation of the different commitments is taken in charge by the budgets of lead institutions for each of the commitments they oversee.

The Administration of the Council of Ministers is a part of the executive with a rank equal to a ministry. Because of its central role and because it is officially headed by the prime minister, it has a better political position than other ministries for designing and implementing horizontal policies such as open government.

Methodological note

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP-participating government. In Bulgaria, the IRM partnered with Stephan Anguelov, an independent researcher. Stephan Anguelov is also an in-house lawyer in Access to Information Programme (AIP), based in Sofia, Bulgaria. He also took measures to explain this situation to all stakeholders he reached out to. The IRM researcher reviewed the government's self-assessment report, gathered the views of civil society, and interviewed appropriate government officials and other stakeholders. OGP staff and a panel of experts reviewed the report.

This report follows on an earlier review of OGP performance, "Bulgaria Progress Report 2012–13," which covered the development of the first action plan as well as implementation from 1 July 2012 to 31 December 2013.

To gather the voices of multiple stakeholders, Stephan Anguelov used a series of interviews with participating CSOs as well as an online survey to gather views. A stakeholder forum was held in September 2015. The IRM researcher also reviewed two key documents prepared by the government: a report on Bulgaria's first action plan and the self-assessment published by the government in August 2015. Numerous references are made to these documents throughout this report.

1 "Bulgaria", Open Government Partnership, <http://bit.ly/1NyjqRq>.

2 "Bulgaria, Second Action Plan, 2014-16", "Action plans", "Bulgaria", Open Government Partnership, <http://bit.ly/1OpH8Fq>.

3 "New commitments on the Second action plan of the Republic of Bulgaria on the Open Government Partnership initiative", "Open Government Partnership" section, "Portal for Public Consultations" – available in Bulgarian at - <http://bit.ly/1V5DV1T>.

4 "Bulgaria, Interim Self-Assessment Report, 2014-16", "Bulgaria", Open Government Partnership, <http://bit.ly/1MDVX4z>.

II. Process: Action Plan Development

Consultation on drafting Bulgaria’s second national action plan included a large and diverse group of stakeholders and offered multiple opportunities for them to express their opinions. However, the government failed to provide a clear timeline for the consultation period and sometimes relied on very short periods for gathering specific opinions.

Countries participating in OGP follow a set process for consultation during development of their OGP action plan. According to the OGP Articles of Governance, countries must:

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views; and make a summary of the public consultation and all individual written comment submissions available online
- Undertake OGP awareness-raising activities to enhance public participation in the consultation
- Consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is dealt with in the section “III: Consultation during implementation”:

- Countries are to identify a forum to enable regular multistakeholder consultation on OGP implementation—this can be an existing entity or a new one.

This is dealt with in the next section, but evidence for consultation both before and during implementation is included here and in Table 1 for ease of reference.

Table 1: Action Plan Consultation Process

Phase of Action Plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement?
During Development	Were timeline and process available prior to consultation?	No
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Was there advance notice of the consultation?	Yes
	How many days of advance notice were provided?	4
	Was this notice adequate?	No
	Did the government carry out awareness-raising activities?	No
	Were consultations held online?	Yes

	Links to online consultations.	http://bit.ly/1nZYLdN http://bit.ly/1lCtzWn
	Were in-person consultations held?	Yes
	Was a summary of comments provided?	Yes
	Links to summary of comments.	http://bit.ly/1Ab1JSt
	Were consultations open or invitation-only?	Open
	Place the consultations on the IAP2 spectrum. ¹	Collaborate
During Implementation	Was there a regular forum for consultation during implementation?	No
	Were consultations open or invitation-only?	N/A
	Place the consultations on the IAP2 spectrum.	N/A

Advance notice and awareness-raising

The Ministry of Regional Development, which led the consultation process,² used three channels of communication prior to the consultation on the draft action plan.

The first step was taken on 2 April 2014, when on the Open Government Partnership section of the government's Public Consultations Portal, the ministry invited all stakeholders to send proposals on measures and actions to be included in the second national action plan. The deadline was set to eight days later—10 April 2014.³

In addition, the Ministry of Regional Development sent an e-mail invitation on 7 April 2014 to 25 stakeholders for commitments proposals and for a meeting to discuss drafting of the second national action plan. The list of invitees included civil society organizations, national workers' and employers' organizations (unions), professional organizations, and other experts. The list includes members of several important consultative councils and regular participants in public consultations on different policies, many of whom have a clear voice on open government issues. The government did not make clear the criteria for the selection of the invitees. The meeting took place four days later, on 11 April.

After the early parliamentary elections and formation of a new government in the autumn of 2014, the new government decided to expand the action plan with commitments to be implemented in the second half of the plan's period, July 2015– July 2016. To the IRM researcher's knowledge, this initiative was started by an unofficial e-mail dated 25 February 2015 from Milena Nedeva, the new point of contact to OGP and adviser with the political office of Deputy Prime Minister Bachvarova. This e-mail was sent to around 20 NGOs and civil society activists working on different governance issues such as open data and civic hacking, transparency and accountability, civic participation, NGOs assistance, economy, local government reform, and so forth. This list included many of the participants in the initial action plan consultation, adding a couple of new names of popular open data and accountability activists. Previous participants who were not included are some business organizations, unions, and professional associations, most of them members of the National Council for Tripartite Cooperation on labour and related issues. Most of them did not take actively part in the previous consultation period. The adviser to the Deputy Prime Minister invited proposals for new commitments to be included in the action plan.

Depth and breadth of consultation

At the early stages of action plan development, the Ministry of Regional Development organized a public consultation involving a relatively large cluster of civil society and business organizations, who have a clear voice on different policies often related to open government. The minister of regional development organized two meetings in the capital, Sofia. The first meeting offered a discussion on what commitments the government should introduce in the action plan; and the second meeting was a discussion on the draft action plan proposed by the government.

The Ministry of Regional Development reached out to about 25 organizations and individuals. The list comprised a mix of the “usual suspects” of the civil society transparency, accountability, and citizen empowering organizations while including some “new” open data activists, civic hackers as well as adding business organizations and the national workers’ and employers’ organizations.

The first meeting was held on 11 April 2014. The Minister of Regional Development, who was responsible for the coordination and participation of Bulgaria in the Open Government Partnership, presided the forum. Despite the short notice between the time the invitation was sent and the date of the meeting, representatives of practically all of the 25 invited organizations and experts attended the meeting. The meeting provided stakeholders with the opportunity to express and discuss views on the action plan.

All attendees agreed on a short eight-day period, until 19 April 2014, for further opinions to be sent. This extension would allow the interagency working group, which was comprised of representatives of almost all government ministries and led by the Ministry of Regional Development, to finish the first draft of the national action plan before the second meeting with stakeholders. During the meeting, Minister Terzieva outlined a provisional timeline for further consultation, and a second meeting a couple of weeks later—in the beginning of May 2014—on discussing a draft of the national action plan.⁴ The Ministry of Regional Development did not meet this timeline. The draft action plan, along with the received written proposals, was communicated two months later.⁵

The second meeting was held on 23 June 2014. The ministry staff sent participants an invitation for it on 18 June 2014, along with the draft action plan. The government gave participants two days to send comments prior to the meeting.⁶ Minister Terzieva also invited to the forum participants of the interagency working group—the other ministries’ representatives. Thus, the meeting offered a platform of in-person discussion between virtually all stakeholders who participated in the action plan development process. Many of the government officials present at this meeting stated that the opinions of the CSOs participants were generally heard. Several amendments of the draft of the commitment on reforming the Access to Public Information Act were adopted as a result of that in-person discussion and of stakeholders’ written proposals. However, concerning the rest of the commitments, many of the CSO participants stated that at the meeting the government officials and experts provided some explanations on demands for more open government, but that did not lead to a change of the political decision on the draft action plan.

The draft of the second action plan, along with the eight written submissions received from the first period, were published online on the Public Consultations Portal and an online consultation was opened on 19 June 2014. The Ministry of Regional Development set no official end date to the consultation period.

The draft action plan was considered at a Council of Ministers’ session on 9 July 2014, and it was adopted on 21 July 2014.⁷ Since after the Council of Ministers’ session, the government’s official website announced that it “approved” the second national action

plan,⁸ the IRM researcher considers 9 July 2014 as the end of the public consultation period, as in it lasted 21 days.

The second public consultation produced 4 further written opinions from civil society, leading to a total of 12 written submissions from 9 participating organizations and individuals for both periods of consultation, and a small turnout in the online consultation (3 comments from 2 participants).

Government officials provided feedback on comments and proposals received from non-government participants in both periods of the consultation process verbally during the in-person meetings. According to stakeholders, this feedback did not cover all comments and proposals. A written summary and feedback on the received proposals was sent through e-mail by the government to many, but not all, of the participants in the consultation process on 22 July 2015 – one day after the adoption of the action plan. According to stakeholders, this feedback, although not detailed, showed clearly which CSO proposals were accepted, and which ones were rejected. This written feedback has not been published. Proposals that came from NGOs were included in the second national action plan but the government provided no public explanation on its choice amidst the proposed commitments.

On 27 May 2015, the government published a draft of the new commitments for public consultation on the Public Consultations Portal.⁹ The consultation's end was set for 24 days later—20 June 2015. Two short opinions were submitted and published in the “Comments” section of the draft.

The IRM researcher considers that the overall experience with the consultations, before the adoption of the action plan and additional commitments, had a positive— albeit limited—impact on raising awareness around OGP in Bulgaria. The government reached out to a relatively large and diverse group of stakeholders and through the in-person discussions and online consultations raised awareness on OGP values and process of the participants.

1 “IAP2 Spectrum of Political Participation”, *International Association for Public Participation*, available <http://bit.ly/1kMmIYC>

2 See news in the Public Consultations Portal in Bulgarian at <http://bit.ly/1r696pb>.

3 “Independent Reporting Mechanism Bulgaria: Report 2012 – 13”, Public Consultations Portal, available in Bulgarian at <http://bit.ly/1A92jA8>.

4 The IRM researcher attended the meeting. Also, the unpublished minutes of the meeting were sent to the author by Ms Vladima Popova, government contact person for OGP, Ministry of Regional Development— e-mail correspondence of 2 September 2014.

5 Draft of the second action plan of the Republic of Bulgaria for participation in the Open Government Partnership initiative, Public Consultations Portal, June 2014, available in Bulgarian at <http://bit.ly/1nZYLdN>.

6 Access to Information Programme from Vladima Popova, government contact person for OGP, Ministry of Regional Development; e-mail correspondence of 18 June 2014.

7 “Draft Second action plan of the Republic of Bulgaria for participation in the Open Government Partnership initiative”, Public Consultations Portal, July 2014, available in Bulgarian at - <http://bit.ly/1Ab1JSt>.

⁸ “The second action plan on the initiative “Open Government Partnership” focuses on a closer partnership between the administration and civil society”, News, Council of Ministers, 9 July 2014, available in Bulgarian at - <http://bit.ly/1pObQfK>.

⁹ “Proposals for new commitments on the Second action plan of the Republic of Bulgaria on the Open Government Partnership initiative” available in Bulgarian at <http://bit.ly/1OGbgwq>.

III. Process: Consultation During Implementation

The government did not organize a regular multi-stakeholder forum during implementation of the action plan. However, the government's self-assessment report mentions that such a forum might be created.

Regular multi-stakeholder consultation

Outside of the two phases of consultations on drafting the initial action plan and on expanding it with additional commitments, the government did not organize consultations with stakeholders on the implementation, as a whole. There was no regular multi-stakeholder forum.

The government's self-assessment in Section IIB, outlines the projected creation of a general platform for governance transparency and active inclusion of stakeholders in the process of formulating and implementing commitments related to OGP. The government also envisages a regular mechanism for cooperation with stakeholders. The government did not provide further details.

The consultation methods (i.e., meeting, online consultation) used during development of the action plan could also be employed with little cost for consultations on the action plan implementation.

Still, one of the main challenges for OGP in Bulgaria remains civic engagement. Further awareness raising and involvement is needed for the general public and possibly on the local level and concerning local government. The government platform mentioned in the self-assessment could be a positive step in providing an overview of the transparency policies and a forum for discussion. Still, the already-existing Portal for Public Consultations provides some thematic ordering of discussions on draft laws and draft strategic documents, but public participation in these discussions is usually low—rarely exceeding one or two short comments. The government could use more proactive methods for reaching out. These will be further discussed in the “General Recommendations” section of this report.

IV. Analysis of Action Plan Contents

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs. Action plans then set out governments' OGP commitments, which stretch practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

Commitments should be appropriate to each country's unique circumstances and policy interests. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core, open government values:

Access to Information

Commitments around access to information:

- Pertain to government-held information, as opposed to only information on government activities. As an example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;
- Are not restricted to data but pertain to all information. For example, releasing individual construction contracts and releasing data on a large set of construction contracts;
- May include information disclosures in open data and the systems that underpin the public disclosure of data;
- May cover both proactive and/or reactive releases of information;
- May cover both making data more available and/or improving the technological readability of information;
- May pertain to mechanisms to strengthen the right to information (such as ombudsman's offices or information tribunals);
- Must provide open access to information (it should not be privileged or internal only to government);
- Should promote transparency of government decision making and carrying out of basic functions;
- May seek to lower cost of obtaining information; and
- Should strive to meet the 5 Star for Open Data design (<http://5stardata.info/>).

Civic Participation

Commitments around civic participation may pertain to formal public participation or to broader civic participation. They should generally seek to "consult," "involve," "collaborate," or "empower," as explained by the International Association for Public Participation's Public Participation Spectrum (<http://bit.ly/1kMmlYC>).

Commitments addressing public participation:

- Must open up decision making to all interested members of the public; such forums are usually "top-down" in that they are created by government (or actors

empowered by government) to inform decision making throughout the policy cycle;

- Can include elements of access to information to ensure meaningful input of interested members of the public; and
- Often include the right to have your voice heard, but do not necessarily include the right to be a formal part of a decision-making process.

Alternately, commitments may address the broader operating environment that enables participation in civic space. Examples include but are not limited to:

- Reforms increasing freedoms of assembly, expression, petition, press, or association;
- Reforms on association, including trade union laws or NGO laws; and
- Reforms improving the transparency and process of formal democratic processes such as citizen proposals, elections, or petitions.

The following commitments are examples of commitments that would **not** be marked as clearly relevant to the broader term, civic participation:

- Commitments that assume participation will increase due to publication of information without specifying the mechanism for such participation (although this commitment would be marked as “access to information”);
- Commitments on decentralization that do not specify the mechanisms for enhanced public participation; and
- Commitments that define participation as inter-agency cooperation without a mechanism for public participation.

Commitments that may be marked of “unclear relevance” also include those mechanisms where participation is limited to government-selected organizations.

Public Accountability

Commitments improving accountability can include:

- Rules, regulations, and mechanisms that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments.

Consistent with the core goal of “Open Government,” to be counted as “clearly relevant,” such commitments must include a public-facing element, meaning that they are not purely internal systems of accountability. While such commitments may be laudable and may meet an OGP grand challenge, they do not, as articulated, meet the test of “clear relevance” due to their lack of openness. Where such internal-facing mechanisms are a key part of government strategy, it is recommended that governments include a public-facing element such as:

- Disclosure of non-sensitive metadata on institutional activities (following maximum disclosure principles);
- Citizen audits of performance; and
- Citizen-initiated appeals processes in cases of non-performance or abuse.

Strong commitments around accountability ascribe rights, duties, or consequences for actions of officials or institutions. Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress.

Examples of strong commitments include:

- Improving or establishing appeals processes for denial of access to information;
- Improving access to justice by making justice mechanisms cheaper, faster, or easier to use;
- Improving public scrutiny of justice mechanisms; and
- Creating public tracking systems for public complaints processes (such as case tracking software for police or anti-corruption hotlines).

A commitment that claims to improve accountability but assumes that merely providing information or data without explaining what mechanism or intervention will translate that information into consequences or change would **not** qualify as an accountability commitment. See <http://bit.ly/1oWPXdl> for further information.

Technology and Innovation for Openness and Accountability

OGP aims to enhance the use of technology and innovation to enable public involvement in government. Specifically, commitments that use technology and innovation should enhance openness and accountability by:

- Promoting new technologies that offer opportunities for information sharing, public participation, and collaboration;
- Making more information public in ways that enable people to both understand what their governments do and to influence decisions; and
- Working to reduce costs of using these technologies.

Additionally, commitments that will be marked as technology and innovation:

- May commit to a process of engaging civil society and the business community to identify effective practices and innovative approaches for leveraging new technologies to empower people and promote transparency in government;
- May commit to supporting the ability of governments and citizens to use technology for openness and accountability; and
- May support the use of technology by government employees and citizens alike.

Not all eGovernment reforms improve openness of government. When an eGovernment commitment is made, it needs to articulate how it enhances at least one of the following: access to information, public participation, or public accountability.

Key Variables

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year whenever possible. This report details each of the commitments the country included in its action plan and analyzes them for their first year of implementation.

All of the indicators and methods used in the IRM research can be found in the IRM Procedures Manual, available at (<http://www.opengovpartnership.org/about/about-irm>). One measure deserves further explanation due to its particular interest for readers and usefulness for encouraging a race to the top between OGP participating countries: the “starred commitment”. Starred commitments are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:

1. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have "medium" or "high" specificity.

2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of Access to Information, Civic Participation, or Public Accountability.
3. The commitment would have a "transformative" potential impact if completely implemented.
4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of "substantial" or "complete" implementation.

Based on these criteria, the Bulgaria action plan received three starred commitments.

Note that the IRM updated the star criteria in early 2015 to raise the bar for model OGP commitments. Under the old criteria, a commitment received a star if it was measurable, clearly relevant to OGP values as written, of moderate or transformative potential impact, and substantially or completely implemented.

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress-reporting process. For the full dataset for Bulgaria and all OGP participating countries, please consult the "OGP Explorer," which is available at: <http://www.opengovpartnership.org/explorer/>.

General overview of the commitments

The second Bulgarian OGP action plan combines seven clusters of commitments, many of which are ambitious. Most of the commitments focused on improving transparency and procedures for public consultations, but few included accountability mechanisms. Less than half of them addressed stakeholder priorities, while the rest reflected government priorities. The commitments are at different stages of implementation. There was no common theme for the action plan, but the various commitments could bring a number of improvements to open government in different areas.

In early 2015, the new administration decided to add new commitments to the action plan. The amendments were introduced in early July 2015, they add some accountability mechanisms, and they will be further assessed in the IRM's end-of-term report.

Clustering

The action plan's commitments are divided in seven clusters with a confusing numbering system, which sometimes gives the same number to different commitments. The IRM researcher used a different listing order and renumbered the commitments from "1" to "7" with each milestones under the commitment numbered as well.

The IRM researcher also re-clustered the commitments using the criteria "one law— one commitment." Some of the original groupings of commitments involve more than one legislative reform and thus different potential impacts and different stages of implementation progress inside a single commitment. This is why the first commitment, originally written "Close partnership between the administration and civil society," was divided into three different commitments: "1" concerning the Law on Normative Acts; "2" concerning the regulations on consultative councils; and "3" concerning the Non-Profit Legal Entities Act. The same method was applied to the last commitment of the action plan, written "Openness of the administration." It is now divided in two commitments: "8" concerning the Access to Public Information Act; and "9" concerning the CoE Convention on Access to Official Documents. Last, when separate commitments were being implemented through the amendments of a single law, they were combined. This is the case of commitment "1," which also encompassed the original commitment with a subheading: "Improved impact assessment of normative acts – introducing a SME [small and medium-sized enterprises] test." Now commitment 1 provides an assessment

of all the amendments to the Law on Normative Acts, which were included in the action plan.

1: Draft Normative Acts Consultation and Impact Assessment Mechanisms

Commitment text:

Commitment 1, Milestone 1:

Amendments to the Law on normative acts -proportional adjustment of the minimum mandatory deadline from 14 up to 30 days for organizing public consultation on draft normative acts in accordance with the significance of the problem, the stakeholders concerned and good European practices; improved transparency and procedure of discussing draft normative acts.

Responsible Institution: Ministry of Justice and Administration of the Council of Ministers

Supporting institutions: Not specified

Start date: 01 July 2014

End date: 31 December 2016

Commitment 5:

1. Act for Amendments and Supplementations to normative acts introducing the obligation to conduct a **SME test**

2. Draft Methodology for SME test

3. Form for SME test

Responsible Institution: Administration of the Council of Ministers, Ministry of Justice, and Ministry of Economy and Energy

Supporting institutions: Not specified

Start date: 01 January 2014

End date: 31 December 2015

Editorial note: This cluster combines commitment 4.1 “Close Partnership Between the Administration and the Civil Society,” milestone 1 (commitment 1.1 in the table below) and commitment 4.2 “Improving Public Services and Legislative Framework – Improved impact assessment of normative acts-introducing a SME test” (commitment 5 in the table below). The Bulgarian version of the action plan introduces additional text for commitment 1.1 and adds “improved transparency and procedure of discussing draft normative acts”

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
1.1. Normative acts amendments				✓	✓	✓	✓	✓			✓				✓	
5. SME test				✓	✓	✓					✓				✓	

What happened?

These commitments entail amendments to the Law on Normative Acts (LNA). The LNA is the law detailing the Bulgarian Constitution's rules on the preparation (i.e., the drafting, the issuance, the implementation), of primary and secondary legislation (known as "normative acts" in Bulgaria). The primary normative acts are the laws and codes adopted by parliament. The secondary normative acts are regulations, ordinances and instructions adopted by the Council of Ministers, or by local government in some cases.

These commitments pre-date the OGP action plan and are included in a number of non-binding policy documents. They are a part of a group of commitments extensively detailed in the Public Administration Development Strategy for 2014–20.¹ The strategy, plan, and road map pertaining to it are, like the OGP action plan, non-legally binding policy documents. The plan and road map outline the government's plans for financing the implementation of commitments. Such a projected financing scheme does not exist for the OGP action plan.

The working group that drafted the amendments to the LNA was formed in May 2015 under the Administration of the Council of Ministers and included 16 representatives of government bodies and 5 of NGOs. It prepared a single draft of amendments and combined the implementation of both commitments in that bill.

In a move toward improved transparency and stronger public consultation with the proposed amendments, the Administration of the Council of Ministers published a series of additional documents on the Portal for Public Consultations and provided a longer-than-usual consultation period of 20 days.²

The government introduced the amendments to the Law on Normative Acts to the National Assembly (parliament) on 1 September 2015, after the period of implementation assessed by this report. At the writing of this report, the National Assembly has not adopted them, yet.³

Commitment 1.1 concerns the extension of the minimum mandatory deadline for public consultation and an overall improvement of the transparency and procedure on public consultation of draft legislation. The government in implementing this commitment also included the introduction of legislation impact assessments. Through formulating clear texts of the amendments and introducing them in parliament, which would lead to a future vote on adoption, this commitment saw substantial but not full completion.

Currently, the minimum mandatory period for online public consultations on draft normative acts is 14 days.⁴ The draft amendments to the law propose to extend it to 30 days. The period could be shorter in some cases, but not less than 14 days.

The second part of the first commitment is broadly worded and focuses on an overall improvement of the transparency and procedure on public consultation of draft legislation. The government and most of the stakeholders interviewed agreed on three topics that are essential in this field.

First, it introduces a mechanism of mandatory impact assessment of legislation, forming the cornerstone of the reform. This continues a commitment from the first action plan, the implementation of which was started but not completed. Impact assessments are designed as a research tool with a detailed methodology on the expected social, economic, environmental, and other outcomes of the laws or of the higher-level bylaws, prepared by all central government bodies. Impact assessments should be drafted by the respective bodies that propose new normative acts or assess already enacted legislation. Draft legislation is already accompanied by "motives reports," which provide

a short explanation of the intended reform. The difference between the newly proposed **prior impact assessments** and the already existing motives reports is that impact assessments would be established under a clear and detailed methodology, which should guarantee that they take into account all necessary elements for the assessment of future effects of a proposed legislation. In addition, prior impact assessments provide for civic participation not only on draft legislation but also when carrying out prior impact assessments. Also, a reference of compatibility with the European Convention on Human Rights (ECHR) and its relevant case law will have to be established by the Ministry of Justice and published before the public consultation on any draft legislation. This reference of compatibility limit the cases of new legislation that potentially violates the ECHR. If the impact assessment, the motives report, and the reference of compatibility with the ECHR are not annexed, the draft legislation should not be considered. In other words, if adopted it could be annulled in some cases. In addition, **ex post impact assessment of legislation** will have to be carried out at the most five years after the adoption of the respective normative act. Ivanka Ivanova from Open Society Institute (OSI) Sofia and other stakeholders voiced concerns on the potential effectiveness of this mechanism, especially in relation to the unclear indication of who is responsible for carrying out ex post assessments.⁵

The draft law also provides for a **coordination mechanism** on prior impact assessments by Administration of the Council of Ministers. This coordination will encompass a major part of the draft normative acts, but not all. Further, the mechanism is not about control but about nonmandatory coordination. Svetla Kostadinova, executive director of the Institute for Market Economics, considers that the unit dedicated to coordination should be public and act as a contact point for civil society in order to promote and support participation in carrying out impact assessments.⁶

The proposed amendments to the LNA provide a few important exceptions to the scope of the reform. All drafts of budget legislation and draft amendments to the Constitution will not be subject to any mandatory impact assessment, motives reports, references of compatibility with the ECHR, nor to public consultations. Several of the interviewed stakeholders and government officials were critical towards these texts. Luben Panov, executive director of Bulgarian Center of Not-for-Profit Law (BCNL),⁷ and Atanas Slavov, adviser to the political cabinet of the Minister of Justice,⁸ claim that the types of legislation excluded from these procedures have strong potential impact on all citizens. Especially concerning the budget laws, there should be a wider public debate, because the state budget in fact determines the priorities of the government.

Second, the proposed amendments provide that all draft legislation and pertinent documents should be published on the Public Consultations Portal.⁹ There is already a practice of publishing most of the drafts, proposed by central executive bodies, on the Portal, but so far this is not a legal obligation. The new requirement comes as an addition to the requirement of publication on the respective bodies' websites. Also, the Council of Ministers will have to publish on the Portal its legislative and operative program, outlining the laws and bylaws that the government plans to propose, to adopt, or to amend in a six months period.

Third, the respective executive bodies, including local government bodies, after the end of the public consultation period on draft normative acts will have to prepare and publish feedback on all submitted proposals with justification for those they rejected. This practice has been extremely rare so far. The currently relevant version of the bill, which was modified between the public consultation and the introduction in parliament, fixes the deadline for publication of the feedback at the "day of adoption, respectively the issuing of the normative act." Stakeholders (Luben Panov from BCNL and Ivanka Ivanova from OSI Sofia) voiced concerns on this latest version of the requirement on feedback. If it is published on the day of the adoption/issuing of the act, it would have

little importance, since stakeholders would not be able to submit further comments or opinions.

Commitment 5 focused on introducing a mechanism for prior impact assessment on small and medium enterprises (SMEs), called an SME test.

It relates to an unimplemented commitment (from the previous action plan) on carrying out impact assessments on legislation that have considerable influence on the business environment. The current commitment builds upon the old one not only by planning a one-time action but also by projecting a framework for carrying out SME tests on all future draft legislation under its scope.

Jeljaz Enev, director of “Economic Promotion Policies” directorate for the Ministry of Economy, and Milka Andreeva, a chief expert in the same directorate, explained that the **first milestone** (a draft legal obligation) was implemented after a consensus emerged in the working group. The consensus was to incorporate the SME test in the general framework of impact assessment of legislation through a specific reference on SMEs in the definition of the mechanism.¹⁰ Practically, all other stakeholders interviewed, consider that the SME test is a fragment of the whole impact assessment framework and should not be separated in an entirely different procedure. In the IRM researcher’s opinion, this commitment is implemented by including the SME test in the overall procedure on impact assessment of draft legislation. Thus, its state of completion is substantial as the state of completion of the other draft amendments to the LNA.

The last two milestones of the commitment, the methodology for the SME test and the form for SME test were also incorporated into the general framework of impact assessment. The Council of Ministers adopted a new Guide on Legislation Impact Assessment on 25 July 2014, four days after adopting the second OGP action plan. The SME test is a part of the assessment on economic impact, and the guide provides for specific SME test form in Annexes 3 and 4. The Guide also elaborates an important layer of civic participation. It includes both informal and formal public consultations as elements of the carrying out and drafting of legislation impact assessments.¹¹

If the amendments to the Law on Normative Act are adopted by parliament, the guide will not become automatically mandatory. Formally, new secondary legislation will have to be adopted. Nevertheless, Ministry of Economy experts and government officials—Kalina Konstantinova and Milena Nedeva—who led the process of drafting the amendments stated that the methodology for SME test and the form, laid down in the guide, are satisfying the current standards and will be reproduced in the future secondary legislation.¹² For this reason, the IRM researcher considers the level of completion of both milestones substantial.

Did it matter?

The potential impact of the combined commitment is transformative, because of the introduction of impact assessments, which should completely reorganize both the preparation of future bills and the adoption of the numerous future bylaws by the executive. The implementation of the general framework of impact assessments was not clearly laid down in the OGP action plan. But on the one hand, even the introduction of a SME test would have had a similar profound impact; on the other hand, the government that implemented the commitment has concentrated on impact assessments as the cornerstone of the amendments, since the beginning of reform. Stakeholders highlighted the importance of introducing the concept of impact assessment in the legal framework in order to build both the capacity of the administration to carry out its new obligations and the actual process of thorough analysis of the effects of draft legislation, which involves real cooperation with civil society.

According to the interviewed government officials, carrying out impact assessments would fundamentally improve the legislative process in providing better foresight when developing new legislation. This should result in limiting the number of amendments to primary legislation.

Regarding the extension of the mandatory public consultation period from 14 to 30 days, some stakeholders pointed out that it is a good first step, but this period should be even longer.

Luben Panov from BCNL stressed the lack of a definition for the concept of “public consultations” in the LNA. According to him, these consultations, now limited to publishing stakeholders’ written opinions online, should include more proactive methods such as focus groups, in-person interviews, and so forth, which are already included by the government in its non-legally binding Public Consultations Standards.¹³

All stakeholders also stressed the limits of the reform, which only concerns rulemaking by the executive when more than two-thirds of the introduced bills are initiated by members of parliament.¹⁴ The procedure of drafting and proposing new legislation by members of parliament is regulated by the Rules of Procedure of the National Assembly and not by the Law on Normative Acts.¹⁵ When introducing draft legislation, members of parliament will not be bound by mandatory procedures of public consultation or of carrying out of impact assessments. According to Ivanka Ivanova, new draft laws that should be introduced in parliament by the government are often being introduced by members of parliament in order to avoid the procedural requirements that bind the executive. The reform of the LNA, if adopted, would introduce further procedural requirements for the bodies of the executive and thus would provide a further stimulus for such a practice of avoidance of these procedural requirements.

All stakeholders consider that analogical procedural requirements, especially on carrying out prior impact assessments, should be included as mandatory in the parliament’s Rules of Procedure.

Moving forward

The IRM researcher recommends further work on implementing the commitment. The National Assembly should adopt the proposed amendments to the LNA. Further, the National Assembly represented by its president, vice presidents, and the heads of parliamentary groups could be directly involved in the OGP process. Should the government and parliament decide to include a follow-up commitment in the third national action plan, they should consider the following proposed measures in a two-year span:

- Adoption of the respective bylaws that relate to the methodology and practical guidance on carrying out impact assessments on draft and enacted legislation, as well as on publishing information on the Public Consultations Portal.
- Adoption of amendments to the Rules of Procedure of the National Assembly, which should detail firm obligations for members of parliament to carry out prior impact assessments of the draft legislation they initiate.
- Developing the capacity of executive bodies and the administration of the National Assembly to carry out impact assessments on draft and enacted legislation through dedicated trainings and support. Similar future measures are set out in the government’s self-assessment (p. 25).
- Developing the capacity of executive bodies to carry out public consultations using proactive methods through dedicated trainings and through mapping civil

society for potential stakeholders on different themes. Similar future measures are set out in the government's self-assessment (pp. 41 and 42).

-
- 1 "Public Administration Development Strategy (2014 – 2020)", Action Plan for its Implementation (2014 – 2015), Road Map for its Implementation (2015 – 2020), Public Consultations Portal, available in Bulgarian at <http://bit.ly/1BedcTz>
 - 2 "Draft Law for amending the Law on Normative Acts", published for public consultation along with a series of additional documents, Public Consultations Portal, available in Bulgarian at <http://bit.ly/1VKUMIE>
 - 3 Information on the draft law, National Assembly of the Republic of Bulgaria, available in Bulgarian at <http://bit.ly/20tgMpq>
 - 4 "Law on Normative Acts", Lex.bg, available in unofficial publication a Bulgarian at <http://bit.ly/1WQjGly>
 - 5 Ivanka Ivanova, program director of the Legal Program, Open Society Institute Sofia (OSIS), in-person interview, OSIS office, Sofia, 28 September 2015.
 - 6 Svetla Kostadionova, executive director of the Institute for Market Economics (IME), in-person interview, IME office, Sofia, 23 September 2015.
 - 7 Luben Panov, executive director of the NGO Bulgarian Center for Not-for-Profit Law (BCNL), in-person interview, BCNL office, Sofia, 16 September 2015.
 - 8 Atanas Slavov, adviser to the political cabinet of the Ministers of Justice, in-person interview, Ministry of Justice building, Sofia, 18 September 2015.
 - 9 Public Consultations Portal, <http://bit.ly/1OZ7jyN>
 - 10 Jeljaz Enev, director and Milka Andreeva, chief expert of "Economic Promotion Policies" Directorate of the Ministry of Economy, in-person interview, Ministry of Economy building, Sofia, 24 September 2015.
 - 11 "Guide on Legislation Impact Assessment", adopted by decision 549 of 25 July 2014 of the Council of Ministers, Public Consultations Portal, Sofia, 28 July 2015, available in Bulgarian at <http://bit.ly/1BTWJUJ>
 - 12 Milena Nedeva and Kalina Konstantinova, advisers to the political cabinet of the Deputy Prime Minister in charge of coalition policy and public administration, in-person interview, Sofia, 17 September 2015
 - 13 Council of Ministers of the Republic of Bulgaria, "Public Consultations Standards", Public Consultations Portal, 2009. Available in Bulgarian at <http://bit.ly/1je83Xc>
 - 14 National Center for the Study of Public Opinion, "Survey of the Legislative Activity of the 43rd National Assembly", *Evrovesti* 28 (2015), p. 6. Available in Bulgarian at <http://bit.ly/1Scs0Kh>
 - 15 "Rules of Procedure of the National Assembly", National Assembly, available in Bulgarian at <http://bit.ly/1XiydFX>

2: Improved Civic Participation in Consultative Councils

Commitment text:

Commitment 1, Milestone 2:

Improved procedure for participation of citizens and citizens' organisations taking part in public consultations:

- **Publishing online information** about composition of the councils, notices of convocation, agendas, minutes, information about decisions made at meetings and their implementation; regular public reports on councils' activities. (The information will be published on web portal on consultative councils www.saveti.government.bg).
- Developing clear **rules, procedures and criteria for selection / nomination of representatives of citizens' organisations** to consultative and public councils

Responsible Institution: Administration of the Council of Ministers, Central Administration

Supporting institutions: Central Administration

Start date: 01 July 2014

End date: 31 December 2016

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
OVERALL			✓		✓	✓		✓		✓				✓		
2.1. Publishing consultative information			✓		✓			✓		✓				✓		
2.2. CSOs selection			✓			✓				✓			✓			

What happened?

With this commitment, the government aims at increasing citizens' trust in its consultative councils. This is to be done by two sets of actions: increasing transparency and accountability of the councils, and ensuring the legitimacy of the civil society representatives.

The Bulgarian government uses consultative councils for coordination and cooperation on national policies between administrations, civil society, and the private sector. Such councils may be established by every head of ministry, state, or executive agency— in other words all central administration institutions. This commitment is limited to the councils set by the central executive bodies, as the lead implementing institutions are the Administration of the Council of ministers and central administration, meaning the

other ministries, state, and executive agencies. The councils set by the judiciary and local government are not encompassed.

The first milestone saw limited implementation. It is covered by several legal provisions of the 2012 government Regulation on the organization and activity of a consultative council, establishing obligations for the respective council and its secretariat to proactively publish information on the Portal on Consultative Councils.¹ Thus, its implementation would amount to compliance with the law and would not bring a normative change in the policy field. As the government's self-assessment indicates, this is a commitment that was adopted on proposal of the first IRM progress report. It is an "ongoing commitment."

However, the government has not specified a particular schedule for implementation inside the action plan implementation period, nor has it specified particular goals to be achieved. The Portal itself does not indicate the publication date of the different documents, nor does it have an indication whether the information for a specific council is up to date. The reader could find evidence that in some cases the published documents are recently published, because they indicate their date of adoption. Such documents could be found in a few councils' profiles, but not in all. Thus, measuring this commitment's implementation is difficult, if not impossible. Furthermore, government officials stated that updating the information on each council in the Portal on Consultative Councils is an obligation of the respective council's secretariat. There is no centralised control or data on timeliness and completeness of the published information. Instead, the Administration of the Council of Ministers has a practice to invite once a year through a letter the respective secretariats to update their councils' profiles in the Portal.² The IRM researcher did not find any specific evidence of implementing this milestone in a way that would change the usual administrative practice.

The government has taken a step towards reducing the number of consultative councils. In a non-legally binding decision from 17 April 2015, the Council for the Administrative Reform adopted a plan to optimize and actualize the national level consultative councils. The plan, based on several different criteria, identified 16 councils that should be closed, 9 of which don't function or are unnecessary. The analysis was published on the Portal in the Council for the Administrative Reform's profile, "library" section.³ The IRM researcher considers that this action is not directed at implementing the commitment on publishing information about the consultative councils' activities, but it does have important repercussions. It provides information on which councils are not working and for what reasons. Thus, publishing the analysis on consultative councils amounts to a limited implementation of the commitment.

The second milestone focuses on "developing clear rules, procedures and criteria for selection / nomination of representatives of citizens' organisations to consultative and public councils." The IRM researcher did not find any evidence of implementation of this commitment. The government has not specified what the legal nature of these rules would be. Thus, the procedure for developing and adopting them is unclear, though still measurable if a concrete result was reached. Some, but not all of the already-existing consultative councils have rules on selecting their nongovernment members. The establishment of common, clear, and specific rules could further ensure the equal and just possibility for civic participation.

Did it matter?

The IRM researcher considers that the potential impact of implementing both milestones is minor.

The Bulgarian School of Politics “Dimitry Panitza” carried out a study on consultative councils in October 2014, which describes several problems. “At the moment, in practice, most consultative councils in Bulgaria do not function effectively. Among the main problems are an insufficient number of meetings, lack of feedback on proposals from civil society, using the councils to confirm the legitimacy of already established policies, insufficient rights for representatives of civil society and extrinsic functions of the councils. A major common disadvantage of all consultative councils is the lack of clear rules, procedures and policies on communication and consultation with the civil sector.”⁴ Other civil society stakeholders agreed on practically all the points outlined by this analysis. As mentioned above, the government has also recognized that some councils are not functioning and has taken some measures on reducing the number of consultative bodies.

According to Svetla Kostadinova, executive director of the Institute for Market Economics, publishing online adequate and timely information on consultative councils in the Portal is a first step with a minor impact, because it will provide the minimum necessary information for civil society to engage in the respective councils’ activities. However, the information would not resolve all the other issues, which add to the lack of effectiveness of this form of public participation in Bulgaria.⁵ Other stakeholders agree.

According to Luben Panov, director of the Bulgarian Center for Not-for-Profit Law, the lack of clear common rules on appointing civil society representatives in consultative councils is a problem, though a minor one. It is the whole policy field of public consultations that needs to be developed not only through consultative councils but also through focus groups and other methods of reaching out to the public.⁶

Moving forward

The IRM researcher recommends expanding transparency, accountability, and public participation in consultative councils. Some of the following proposals are based on the recommendations drafted by the Bulgarian School of Politics.⁷ Should the government decide to include a follow-up commitment in the third national action plan, it should consider clarifying the procedures and implementing both existing milestones as well as the following proposed measures in a two-year span:

- Adoption of common rules for the formation and functioning of consultative councils. The rules can be provided in a special law or in amendments to the Administration Act.
- Introduction of clear rules with precise deadlines for getting feedback on proposals submitted through the councils.
- Introduction of a clear and regular monitoring mechanism on the publishing of information by consultative councils, according to the existing standards and on the functioning of the consultative councils.

3: Setting up a Council for Development of the Civil Society

Commitment 1, Milestone 3

Amendments to the Non-profit Legal Entities Act - setting up a Council for Development of the Civil Society in pursuance of the Strategy Supporting the Development of Citizens' Organisations in Bulgaria for the period 2012-2015.

Responsible Institution: Administration of the Council of Ministers, Ministry of Justice

Supporting institutions: Not specified

Start date: 01 December 2012

End date: 31 December 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
				✓		✓					✓			✓		

What happened?

This commitment is aimed at setting up a Council for Development of the Civil Society, which could deeply reform the Bulgarian nongovernmental sector. The creation of the Council is part of the pre-existing Strategy Supporting the Development of Citizens' Organizations in Bulgaria for the period 2012–15, which is a non-legally binding policy document aimed at improving the environment for the creation, existence and operation of civil society organizations (CSOs).⁸ Fostering such organizations is generally considered a way of stimulating civic participation in the country's social and political life, focused on specific activities or causes. The Strategy and particularly the action plan annexed to it provide for the establishment of the Council, through amendments to the Non-Profit Legal Entities Act, which is the law regulating the "birth and life" of CSOs. The Strategy provides that the CSO Council would be responsible for achieving the Strategy's goals. The body should adopt the annual action plan for implementing the Strategy, including the financial part. The Council would be a part of a new mechanism of state financing for CSOs; it would overview and evaluate this activity. For this reason, its composition and functioning should be defined in the Non-Profit Legal Entities Act. The Council would also serve as an interface between NGOs and the administrations, central and local. Such an institution does not yet exist in Bulgaria.

This commitment was introduced as a continuation of the commitment in Bulgaria's first action plan on adopting a strategy for NGO development, which the IRM's first progress report had proposed. However, stakeholders pointed out that it was unclear why the government decided to support only the establishment of a Council for Development of the Civil Society in the second action plan. The Council is only a part of the general framework of the strategy, which also includes a special fund for financing NGOs and a series of other measures for stimulating civic participation.⁹

As the government's self-assessment indicates, the reform was extensively discussed by civil society and public institutions in the period between September 2014 and October

2015. The Ministry of Justice, the leading institution on the implementation, organized two working groups on drafting the amendments to the Non-profit Legal Entities Act. This resulted in the Ministry publishing two consecutive drafts of the amendments for public consultation – one in December 2014¹⁰ and one in June 2015.¹¹ The drafts received more than 20 official statements and opinions from NGOs and citizens, many of these incorporated proposals from other stakeholders. A number of these proposals were taken into account in the second, more-refined version of the draft amendments.

Both drafts proposed the establishment of a Council for Development of the Civil Society along with a state fund that would concentrate on providing state financing for civil society organizations and initiatives, under the council's guidance. However, in October 2015, after the period of public consultation, the Council of Ministers dropped the amendments concerning the Council and the fund.¹²

The IRM researcher did not find any evidence of government plans to continue the reform on establishing a Council for Development of the Civil Society, but he did not find any official government statement on withdrawal of the reform, either. For these reasons, and despite the considerable amount of work done by both civil society and government experts, the IRM researcher considers the implementation of this commitment limited.

Did it matter?

The commitment was set out to establish a general mechanism for civic participation that would contribute to increasing public integrity. The IRM researcher considers that its ambition was moderate; if implemented, it would have been a major step forward in establishing a permanent, somewhat-powerful mechanism for interaction and cooperation between government and civil society. An equivalent mechanism does not exist currently.

Luben Panov, an NGO environment expert and representative, closely participated both in the drafting of the strategy and of the amendments to the law. Panov emphasized the council's projected role as an interface between civil society and public institutions. The council would be an additional and alternative mechanism for access to decision makers by NGOs, building understanding on the issues and reality seen from different perspectives on both sides. According to Panov, the council is an important instrument but not sufficient for transforming the whole policy field without establishing a fund for civil society. The regulation and establishment of state-sponsored funding for civil society is crucial. It is especially important for organizations and initiatives outside the capital city of Sofia, where such organizations are less able to develop different activities because of a general scarcity of funding.

It should be noted that there is a lack of consensus in civil society. Svetla Kostadinova, director of the Institute for Market Economics, stated concerns about the need of a council on civil society and a special fund. She noted that there are a lot of instances of dysfunctional councils, and other means of communication and consultations with public institutions could be more reliable. The Institute for Market Economics also does not support the establishment of a dedicated state fund for NGOs. They note that the efforts and time necessary for organizing the fund's work would probably be too high.¹³

Moving forward

The IRM researcher recommends further work on implementing the Strategy Supporting the Development of Citizens' Organizations from 2012. If the government decides to include a follow-up commitment in the third national action plan, it should consider building a clear consensus between political actors and with civil society organizations.

In the IRM researcher's opinion, the idea of establishing a council and a state fund for CSOs should not be dropped altogether. Should the government decide to establish such institutions, the work on the legislative framework should be based on what is already achieved in the mentioned drafts.

1 "Regulation on the Organization and Activity of a Council under Article 21, par. 1 of the Administration Act", adopted by a Decree of the Council of Ministers of 15.06.2012, Consultative Councils Portal, Articles 13, 20, 24 and Chapter 8 "Activity Publicity", Article 28, available at <http://bit.ly/1qO21NX>

2 Ivan Nikolov, expert in "Economic and Social Policy" Directorate of the Administration of the Council of Ministers, in-person interview, Council of Ministers building, Sofia, 29 September 2015

3 Administration of the Council of Ministers, "Analysis on optimizing and actualizing the national level consultative councils", adopted by decision of the Council for the Administrative Reform on 17 April 2015, Portal on Consultative Councils, available in Bulgaria at - <http://bit.ly/1NpX0Fl>

4 Bulgarian School of Politics "Dimitry Panitza", "Study on the existing consultative councils and internet forms for civic participation in Bulgaria", Bulgarian School of Politics "Dimitry Panitza", New Bulgarian University, Sofia, October 2014, available in Bulgaria at - <http://bit.ly/1hXpwCK>

5 Svetla Kostadionova, executive director of the Institute for Market Economics (IME), in-person interview, IME office, Sofia, 23 September 2015

6 Luben Panov, executive director of the NGO Bulgarian Center for Not-for-Profit Law (BCNL), in-person interview, BCNL office, Sofia, 16 September 2015

7 Bulgarian School of Politics "Dimitry Panitza", "Models for the constitution and functioning of consultative bodies in Bulgaria with proposal for changes in the existing practice", Bulgarian School of Politics "Dimitry Panitza", New Bulgarian University, October 2014, Sofia, available in Bulgaria at <http://bit.ly/1W7CFfn>

8 "Strategy supporting the development of civil society organizations in the Republic of Bulgaria for the period 2012-2015", adopted by Protocol no. 33.23 of the Council of Ministers on 05 September 2012, Public Consultations Portal, available in Bulgarian at <http://bit.ly/1m3tVWB>

9 Luben Panov, executive director of the NGO Bulgarian Center for Not-for-Profit Law (BCNL), in-person interview, BCNL office, Sofia, 16 September 2015

10 "Draft Law for amending the Non-profit Legal Entities Act", Public Consultations Portal, 5 December 2014, available in Bulgarian at <http://bit.ly/1NJVo6W>

11 "Draft Law for amending the Non-profit Legal Entities Act", Public Consultations Portal, 5 June 2015, available in Bulgarian at <http://bit.ly/1X6qrnG>

12 "Draft Law for amending the Non-profit Legal Entities Act", National Assembly, 7 October 2015, available in Bulgarian at <http://www.parliament.bg/bg/bills/ID/15570/>

13 Svetla Kostadionova, executive director of the Institute for Market Economics (IME), in-person interview, IME office, Sofia, 23 September 2015.

4: Government Debt Transparency

Commitment text:

Commitment 2

1. *Implementation of the Government Debt Management Strategy for the period 2012-2014*

Start date: 1 January 2012

End date: 31 December 2014

2. *Developing, approval by the Council of Ministers and implementation of a Government Debt Management Strategy for the period 2015 - 2017*

Start date: 01 December 2014

End date: 01 December 2017

3. *Publishing a bulletin on Government Debt on the web site of the Ministry of Finance*

Start date: Monthly

End date: Not specified

4. *Publishing an Annual Review of Government Debt on the web site of the Ministry of Finance*

Start date: Yearly

End date: Not specified

5. *Publishing the official information about the consolidated debt and guarantees on the State governance section on the web site of the Ministry of Finance*

Start date: 1 January 2014

End date: Quarterly/Annually

Responsible Institution: Ministry of Finance

Supporting institutions: None

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
OVERALL			✓		✓				✓						✓	
4.1. Debt management strategy implementation 2012–14		✓			✓				✓							✓
4.2. Debt management strategy 2015–17		✓			✓				✓			✓				
4.3 Publish debt bulletin			✓		✓				✓							✓

4.4. Government debt review publication				✓	✓					✓							✓
4.5. Consolidated debt and guarantees publication				✓	✓					✓							✓

What happened?

This commitment concerned publicly available information about government debt. The Ministry of Finance is a flagbearer of proactive transparency in the Bulgarian government, in view of the large amounts of information it publishes on its website. In 2013, government and parliament gave a strong impetus to the transparency and accountability of government debt management by passing a legislative reform. This reform was the adoption of a new Public Finance Act, which also amended the Government Debt Act.¹

The new legislation specifies important types of financial information to be published, including information on government debt management. However, prior to the passage of the Act, the Ministry of Finance was already regularly publishing information on Bulgaria's debt, including the respective debt management strategies, on its website in Bulgarian and English, a rare feature among government agencies. The Ministry of Finance suggested including a commitment on government debt transparency in the second OGP national action plan as a way of "promoting and informing the public of these good and modern practices."²

Milestone 4.1 which provides for the implementation of the Government Debt Management Strategy is continuing a commitment in Bulgaria's first OGP action plan on the adoption of the strategy. The Government Debt Act provides that the Council of Ministers on proposal of the Minister of Finance adopts a debt management strategy every three years³ and the Public Finance Act adds that the strategy should be updated annually. The 2012–14 Strategy aims at continuing and promoting the predictability of government debt policies, and of debt issuance policy in particular.⁴ The strategy is a policy document outlining the middle-term aims of the government and the actions to be taken, it does not provide for a specific enforcement mechanism, and it does not have any legal value. It is in itself information aimed primarily at the international and European financial institutions and markets. The strategy could be construed as a commitment to transparency toward the public in general, as it outlines the policy that the government would follow when issuing or paying debt. There was generally regular online publication of information on issuance policy, issue calendars, data on conducted auctions, and bonds issued on the international capital markets.⁵

Milestone 4.2 was entitled "Government Debt Management Strategy for the period 2015 – 2017." In June 2015, at the end of the IRM assessment period under consideration, six months after the beginning of the strategy's projected implementation period, the Council of Ministers had not yet adopted the strategy and the Ministry of Finance had not yet published a draft of the document.

Milestones 4.3–4.5 are not encompassed by the strategy itself. These milestones have also been government practice for some time:

- The monthly online publication of the Government Debt Bulletin is a tradition the Ministry of Finance follows since October 2000, according to its website.⁶

- The Annual Review of Government Debt has been regularly published since 1999.⁷ The last issue of the Annual Review of Government Debt covers 2013. Due to the budget reporting procedure, the issue for 2014 is expected to be published on 30 September 2015. The IRM researcher did not find any evidence suggesting that the usual procedure would not be followed, so he considers the commitment to be completed.
- Under article 36 of the Public Finance Act and under EU legislation, it is an obligation to publish official information about the consolidated debt of the “General Government” sector on the Ministry of Finance’s website. It was implemented before the adoption of the OGP action plan.⁸ Information on state governance guarantees of the “General Government” sector was also published before the adoption of the OGP action plan.⁹ At the end of the first year of implementation (June 2015), the available table on the Ministry of Finance’s website that was dedicated to the consolidated debt covered the first quarter of 2015. And the dedicated table on guarantees covers up to the end of 2013. Nevertheless, the monthly Government Debt Bulletin provides up-to-date information on both these categories, which is why the IRM researcher considers the commitment completion as substantial.

At the end of the first year of implementation assessed by this report, all the government debt related information mentioned in milestones 4.3–4.5 was regularly published and up-to-date.

Did it matter?

Debt management strategy: One of the recommendations in the IRM Bulgaria Progress Report 2012–13 was to continue monitoring the implementation of the Government Debt Management Strategy. The government, nevertheless, failed to specify in the second OGP action plan how implementing the existing strategy and adopting a new one would promote and achieve the goals of further opening the government to its citizens; therefore, the potential impact has been assessed as none. While the 2012–14 strategy clearly sets the goal of promoting transparency on debt issuance policy, there is no draft of the future 2015–17 strategy. However, the IRM researcher assumes the new strategy will serve the same goals.

Civil society respondents versed in economics and in monitoring of Bulgaria’s actions on debt management pointed to a lack of reasons given by government in the past for canceled debt auctions and sometimes insufficient and untimely publication of information on conducted debt auctions. Data on cancelled auctions is not, strictly speaking, covered by the 2012–14 debt management strategy, but according to these respondents, it is important for establishing the predictability of government actions on issuing new debt.¹⁰

Monthly government debt bulletin: As stated earlier, this is also an existing practice and does not go beyond “business as usual.” Stakeholders have some critiques on the monthly and annual publications on government debt (more information below).

Annual review of government debt: The interviewed team members of Institute for Market Economics (IME) pointed out that, while being an important source of information and a basis for timely analysis, the monthly bulletin and the annual review are difficult to work with. For one, they are not published in a machine-readable format, which forces readers to extract data by recopying by hand. For another, narrative parts under data tables often do not provide the context of the numbers and the government’s actions behind them.

Consolidated debt and guarantees: Data on the consolidated debt and on the guarantees is published in tables in a machine-readable, though not open data, format

that is easier to work with. The Ministry of Finance was publishing this information in the same way before the adoption of the second OGP national action plan; consequently, this commitment maintains the status quo.

The IME respondents pointed at several systemic flaws in the overall government debt management policy. There is a lack of information on management of the fiscal reserve, where the incoming funds on all new debt are initially attributed. It is not specifically clear how this money is actually distributed and managed between the funds part of the fiscal reserve and then distributed to other government bodies. There is also a lack of analysis of the consolidated information on the municipalities' debts, which form their own budgets as independent actors and contract their own debts. Municipalities' budgets are part of the consolidated fiscal framework and receive financing from the state budget. It is important for the public and markets to have a consolidated analysis of the information on local government debts. This is information that the Ministry of Finance (MoF) receives on a monthly basis but does not provide a specific analysis on. The MoF also does not provide consolidated information on specific budget items.

Other NGO researchers indicated a systemic flaw, the untimely and late publishing of budget information as a whole.¹¹

Moving forward

The IRM researcher recommends further work on expanding transparency and accountability in government debt management. Should the Ministry of Finance decide to include a follow-up commitment in the third national action plan, it should consider implementing the following proposed measures in a two-year span:

- Publish all government debt-related information in three to five working days after its creation or receipt by the Ministry;
- Publish all government debt-related information, including data tables, in an open, machine readable format, ready for reuse by all users;
- Publish timely information along with clear explanations on all government debt issuance actions, including on cancelled auctions. Maintain a full history on these processes available on the Ministry's website.

1 "Public Finance Act", Ministry of Finance, available in English at <http://bit.ly/1SMFvDR>

2 Experts from "Government Debt and Financial Markets" Directorate in the Ministry of Finance, in-person interview, Ministry of Finance building, Sofia, 23 July 2015.

3 "Government Debt Act", Ministry of Finance, available in English at <http://bit.ly/1OSNGL7>

4 "Government Debt Management Strategy 2012 – 2014", Ministry of Finance, page 33, available in English at <http://bit.ly/1PIOrha>

5 "Government Securities Market" Section, Ministry of Finance, available in English at <http://bit.ly/1TqmnLa>

6 "Government Debt Monthly Bulletin", Ministry of Finance, available in English at <http://bit.ly/1KIoIKt>, the English version regularly published since December 2006, available at <http://bit.ly/1nRZPHr>.

7 "Annual Review of Government Debt", Ministry of Finance, available in English at <http://www.minfin.bg/en/statistics/2#2014>

8 "Consolidated debt of "General Government" sector", Ministry of Finance, available in English at <http://bit.ly/1Jjr0hn>

9 “Guaranteed debt of “General Government” sector”, Ministry of Finance, available in English at <http://bit.ly/23wwbYu>

10 Desislava Nikolova, chief researcher, Macroeconomics, Public Finance and Kaloyan Staykov, researcher, Finance, Public Finance, Macroeconomics from the Institute for Market Economics (IME), in-person interview, IME office, Sofia, 10 September 2015.

11 Latchezar Bogdanov, Industry Watch Bulgaria, “България изостава по прозрачност на бюджета заради бавна информация” (“Bulgaria is lagging in budget transparency because of slow information”), Capital newspaper – online edition – available in Bulgarian at <http://bit.ly/1K1uEzA>

5: Financial information accessibility

Commitment text:

Commitment 3

1. Carry -out a survey among users of the accessibility, intelligibility and comprehension of the public information published by the Ministry of Finance

Start date: 1 September 2014

End date: 31 December 2014

2. Developing a concept paper for enhancing the accessibility, intelligibility and comprehension of the public information published by the Ministry of Finance

Start date: 1 January 2015

End date: 31 May 2015

3. Implementation of concept paper measures for increasing the accessibility, intelligibility and comprehension of the public information published by the Ministry of Finance

Start date: 1 June 2015

End date: 31 January 2016

Responsible Institution: Ministry of Finance

Supporting institutions: Not specified

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
OVERALL			✓		✓	✓		✓		✓				✓		
5.1. Public Information Survey			✓			✓				✓						✓
5.2. Concept Paper			✓		✓					✓		Unable to tell from government and civil society responses				
5.3 Implement concept paper			✓		✓			✓		✓		✓				

What happened?

The commitment intends to improve the quality of financial information released by the Ministry of Finance's (MoF), which should reach a wider range of citizens. The

commitment is new and resulted in a complete overhaul of the Ministry's website, as the self-assessment indicates.

Milestone 5.1 was completed. The survey among users was conducted online at the beginning of January 2015 on the MoF website and was aimed at collecting feedback and proposals from the users for improvement of the official site.¹ The survey was still ongoing as of July 2015, though some of its results are published. There is no information available on the date to which these results are relevant or on how many respondents participated. The available information only provides percentages of responses to the different closed questions. Despite the fact that the survey includes open questions, there are no published responses providing comments and proposals in free text.²

Milestone 5.2 an initial concept paper in the form of a technical assignment on reforming the institution's website, was drafted in November 2014, according to an expert from the MoF. The final version of the paper purportedly took into consideration comments and proposals by citizens and NGOs, according to the ministry's expert.³ This document was not published, since the ministry considers it an internal document. In the absence of a copy of the document, the level of completion of this milestone was unclear. The IRM researcher does not see any legal impediment to publishing or discussing the document.

Milestone 5.3 aimed to take on the measures in the concept paper. The new MoF's website was launched on 8 July 2015, after the period of implementation under review in this report, and was therefore coded as "not started" for the implementation period under consideration (1 July 2014–30 June 2015). The new website features a user-friendly design including a new navigation menus and a new mobile version. In addition, new and important information previously hidden in the site pages is now published on the landing page. A separate section, "Draft New Legislation," allows easy access to public consultations, making it easier for users to submit their comments and proposals.⁴ Existing legislation is systematized in a new section "Legal Framework," where users can search for documents by type.⁵

A new "Open Governance" section was also created with data of the daily budget payments. According to the ministry's publication, data in open format from the Central Municipal Debt Register is expected to be uploaded in this section.⁶

The commitment did obtain the goal of improving public services through the refurbishing the ministry's website, which traditionally provides a number of important sets of information and services to the citizens and business. The new version of the website, however, was launched after this report's assessment period, therefore, the commitment's implementation for that period is limited.

Did it matter?

The commitment set an ambitious goal of making the information published by the MoF more accessible to citizens. The institution, even before implementing the commitment, was publishing important amounts of information and for that reason the IRM researcher considers the commitment's ambition to be minor.

Stakeholders interviewed who regularly use the ministry's site for their work, stated that the website failed to achieve the goals set in the commitment's text. The new ministry's site was more of a facelift than a real reform. They also criticized how the citizen survey was carried out, which should have been better promoted and possibly carried out on a centralized level—the Public Consultation Portal—as well. The IME team members suggested that the ministry develop and publish in the respective sections more general explanatory texts on the different and complex financial

procedures and terminology, in order to make the published information more accessible to the regular citizen.⁷

Moving forward

The IRM researcher recommends further expanding the Ministry of Finance's transparency through its website. Should the Ministry of Finance decide to include a follow-up commitment in the third national action plan, it should consider implementing, after a thorough public consultation, the following proposed measures in a two-year span:

- Publishing information in open data formats. The ministry should indicate which specific data sets of already-published information it will publish as open data and set a clear timeline. Metadata, the relevant explanatory information, and a clear schedule for updating should be published alongside the data sets.
- The ministry should develop and publish in the respective sections of the website more general explanatory texts on the different and complex financial procedures and terminology in order to make the published information more accessible to the average citizen.

1 "Survey on assessing the accessibility and comprehension of the information on the website of the Ministry of Finance", Ministry of Finance, available in Bulgarian at <http://bit.ly/1RPJIGM>

2 Results of the survey, Ministry of Finance, available in Bulgarian at <http://bit.ly/1UtW7hB>

3 An expert from the Ministry of Finance, in-person interview and e-mail correspondance, July 2015.

4 Section "Draft New Legislation", Ministry of Finance, available in Bulgarian at <http://bit.ly/1E60Hzi>

5 Section "Legal Framework", Ministry of Finance, also available in English at <http://bit.ly/1PDO8tU>

6 Section "Open Governance", Ministry of Finance, available in Bulgarian at <http://bit.ly/1NE5IC4>

7 Desislava Nikolova, chief researcher, Macroeconomics, Public Finance and Kaloyan Staykov, researcher, Finance, Public Finance, Macroeconomics from the Institute for Market Economics (IME), in-person interview, IME office, Sofia, 10 September 2015.

6: Transparency of Underground Resources Act

Commitment 6:

1. Adoption of Amendments and Supplementations to the Mineral Resources Act

Start date: 1 January 2012

End date: 31 December 2014

2. Adoption of an Ordinance on the scope and the procedure for exercising and approval of the control results over the granted permits for prospecting and exploration or exploration only, and granted concessions for mining mineral resources

Start date: 1 January 2014

End date: 31 December 2015

Responsible Institution: Ministry of Energy

Supporting institutions: Not specified

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
OVERALL		✓			✓	✓	✓			✓				✓		
6.1. Mineral Resources Act amendment		✓			✓	✓	✓			✓					✓	
6.2. Mineral resources ordinance		✓			✓					✓			✓			

What happened?

This commitment's aim is to reform the extractive industries sector, and it was formulated and implemented through two different visions. The government that drafted the action plan prepared a bill aimed at a more thorough reform, organized around transferring the control on underground resources primarily to the Ministry of Economy and Energy (now Ministry of Energy), whereas the current government, which implemented the commitment, chose a more minimalistic approach in its bill that was eventually adopted. It decided to keep the control where it was—in the Ministry of Finance, the Public Financial Inspection Agency, and the Bulgarian National Audit Office. This choice led the implementing government to focus more narrowly on reforming the extractive industries waste management legislation, which was a matter made urgent in order to comply with European Union legislation.

The wording of the commitment is unclear. The English version of the second Bulgarian action plan, as well as the self-assessment, uses the term “mineral” in translating the name of the law as Mineral Resources Act. This translation does not render full account of the act's actual scope, which encompasses non-minerals, such as oil and natural gas.¹

To convey the fullest meaning of the Bulgarian term in English, the IRM researcher will use its literal translation, “underground,” as in “Underground Resources Act”.

Reform in the Bulgarian extracting and mining sector has been carried out for several years. On 12 December 2013, the Council of Ministers introduced in parliament a bill of amendments to the Underground Resources Act (URA).² With the proposed amendments, the government aimed to correct the 2008 implementation of EU Directive 2006/21/EC on the management of waste from extractive industries.³ The 42nd National Assembly approved the bill at first reading but did not finish the legislative procedure before dissolving on 6 August 2014, and the draft law was left pending. On 19 May 2015, the Council of Ministers introduced a draft law amending the URA in parliament.⁴ The 43rd National Assembly adopted the law, and it entered into force on 24 July 2015, the day of its publication in the State Gazette.

Milestone 6.1 aimed at amending the Underground Resources Act. The amendment entered into force at the end of July 2015, after the period of implementation assessed by this report. Therefore, the level of completion as of June 2015 was substantial. Ivelina Mihailova, a senior expert in the Ministry of Energy, identified four new provisions of the law that implement the OGP commitment. They cover requirements on transparency and civic participation in all periods of the procedure on granting permits, exploiting, and managing extractive industries waste facilities.⁵ The Ministry of Energy should now publish on its webpage the following:

- Information on applications for waste management permits and the organization of public consultations
 - This information should include contacts for information and for sending opinions, questions, and comments; the time schedule for this correspondence; the possible decisions to be taken; and conditions for public participation in issuing permits. When making the decision, the organizing body should consider opinions and comments received in this period.
- A new public register of the operators and issued permits on extractive waste management
- A list of closed extractive industries waste facilities, including the abandoned ones, which cause serious negative environmental impacts or are likely to become a serious threat to human health or the environment
- A list of all events affecting the stability of extractive industries waste facilities and that had an impact on the environment

The amendments to the URA were adopted and entered into force. This is why, following the commitment’s language, it is considered complete, albeit behind schedule. Still, the ministry’s website shows little implementation of the four legal provisions; the IRM researcher only found four permits, issued in a previous period,⁶ and practically no information on the other three legal requirements. This could be because there have been no new procedures since the adoption of the law, or because the ministry is still building the necessary registers and lists.

Milestone 6.2. With this milestone, the government aimed at adopting a bylaw detailing the procedures of control on issuing permits for exploration of underground resources, and control on the concessions for exploitation of natural resources. This milestone was not started during the period of implementation assessed.

The government expert explained that the idea for a bylaw was initiated by the previous parliamentary-elected government, but it was not further detailed before the government's resignation—the current government decided to abandon it. In the expert's opinion, a more thorough analysis should be carried out before adopting a new bylaw.

Did it matter?

Because of the lack of clarity of the commitment's text, it is difficult to measure the potential impact of this commitment, which makes the potential impact minor. The commitment's milestones, as they are interpreted by the IRM researcher, would have improved transparency in the procedures for issuing waste facilities permits and in the overall government control on extractive industries. The commitment would also provide a framework for public consultations and accountability on issuing waste facilities permits, but not in the overall government control on extractive industries. The commitment does not seem to directly tackle transparency or civic participation in the cases of issuing prospecting and exploration permits, either.

Andrey Kovatchev, an expert from the environmental NGO Balkani Wildlife Society, criticized the government's approach in implementation as being too formalistic and too literal with the EU directive's text, which is not that clear in itself. The directive should be used as a framework, and the government should have gone further in drafting the text of the amendments to the URA. The law does not provide detailed procedures for participation—it only copies the framework provisions of the directive and the Aarhus convention.⁷ The stakeholder noted that the newly established public registers and list to be published are not detailed either. The law does not provide information on the format of publishing of these registers and lists, and it is unclear where exactly they will be published and whether the data would be easily accessible for the public. The URA should more clearly set the standards for publishing information and truly use the tools of e-government. The procedures' periods are too short, and in the NGO expert's opinion, the government did too little to actively seek the public's opinion in discussing the draft amendments. In conclusion, the implementation of these provisions would lead to improvement of transparency, but not enough.⁸

Moving forward

The IRM researcher recommends further expanding transparency, accountability, and civic participation in the legal procedures on issuing permits for the different regulated activities in extractive industries and in the government's control on ongoing concessions contracts. The future specific measures to be taken by the government are a subject of different policy choices that the administration should consult actively and openly with civil society and business. If the government decides to follow up on this commitment, it should concentrate on a more specific and measurable wording of the commitment. This would be a necessary basis for engaging stakeholder participation.

1 "Underground Resources Act", Lex.bg, available in unofficial publication in Bulgarian at <http://bit.ly/1SmqUh4>

2 "Draft law for amending the Underground Resources Act", National Assembly, available in Bulgarian at <http://bit.ly/23wNzfG>

3 "Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC - Statement by the European Parliament, the Council and the Commission", EUR-Lex, available at <http://bit.ly/1s8HqXm>

4 Draft law on amending the Underground Resources Act, National Assembly, available in Bulgarian at <http://bit.ly/1P005ZN>

5 Ivelina Mihailova, senior inspector in the “Natural Resources and Concession Contracts” Directorate of the Ministry of Energy, in-person interview, Ministry of Energy building, Sofia, 23 July 2015.

6 “Mining waste” Section, Ministry of Energy, available in Bulgaria at <http://http://bit.ly/1RY7Za3>

7 “UNECE Convention on access to information, public participation in decision-making and access to justice in environmental matters, done at Aarhus, Denmark, on 25 June 1998”, *UNECE*, available at - <http://bit.ly/1QiMrGC>. Bulgaria is party to the Convention. The Convention is also part of EU legislation and mandatory for all EU member-states – the “Aarhus package”, *European commission*, available at <http://bit.ly/1RAYIEM>

8 Andrey Kovatchev, expert from Balkani Wildlife Society, in-person interview, Sofia, 25 September 2015.

7: State Fees Reform

Commitment 8

1. Draft State Fees Act
2. Draft Specialised Methodology for Impact Assessment on introduction and change of state fees
3. Draft Methodology for calculation of fees
4. Draft Uniform Tariff of Fees

Responsible Institution: Administration of the Council of Ministers

Supporting institutions: Ministry of Finance, Ministry of Economy and Energy with the participation of civil society

Start date: 1 March 2013

End date: 30 September 2014

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
				✓	✓	✓						✓		✓		

What happened?

The government has been preparing a reform on state fees legislation in Bulgaria for several years. The state fees law regulates the establishment and calculation of fees for all administrative services provided by central administration. It is only encompassing the “state fees” framework as opposed to the “local fees,” which are governed by a different legislation. The 1951 State Fees Act was adopted under Bulgaria’s totalitarian regime and under the Constitution abolished in 1991,¹ and an impact assessment of the act was published by the government in 2009.² The same year, the World Bank published a report on “Reforming the regime on state fees” in Bulgaria.³ Both of these documents identified a number of serious problems and recommended the adoption of a new government policy on state fees, including specific measures on increasing transparency and public participation.

In 2011, the Administration of the Council of Ministers started a costly three-year project aimed at building a new efficient fees policy, based on clear rules.⁴ The project is primarily funded by one of the EU’s structural and investment funds. One of the project’s specific outcomes was drafting a concept paper on a new fees policy in 2013.⁵ This concept paper outlines the major principles of reform and the measures to be taken.

In 2014, the reforms package, outlined in the concept paper, was included in the Plan for Implementation of the Public Administration Development Strategy for 2014–15⁶ and Bulgaria’s national action plan. The government sees this reform as the adoption of a new State Fees Act along with new related bylaws.

The deadline for implementing the commitment was set at 2014, and the EU project on state fees reform was finalized on 8 September 2014. The IRM researcher considers that the whole package of draft primary and secondary legislation and other documents were available by that time, since they bear the project logos. However, the Administration of the Council of Ministers delayed the publication and mandatory public consultation for almost a year. The draft State Fees Act was published at the time of writing of this report and the government's self-assessment—on 13 August 2015. Public consultation on the Public Consultation Portal was organized solely on the bill, but not on the draft secondary legislation, and lasted 13 days—one day short of the mandatory 14 days period.⁷ The draft law and all other pertaining documents are also published on the Consultative Councils Portal on a date that the IRM researcher could not verify, but it is probably the same date as in the former Portal, without an indication of a closed period for consultation. In other words, all opinions received before the official adoption of the draft(s) by the Council of Ministers should be considered.⁸ By the time of writing this report, the government had not adopted the drafts and the bill was not yet introduced in parliament.

For this reason, the IRM researcher considers the completion of the commitment as limited. During the consultation period, no opinions or comments were posted on the Public Consultations Portal, and the IRM researcher was unable to find stakeholders willing to comment on the state fees reform.

Did it matter?

As explained above, the concept of the state fees reform was ready when the government drafted the OGP action plan, and it was implemented in the subsequent drafts. The government originated the idea of adding a commitment on the state fees reform in the action plan, the experts of the Administration of the Council of Ministers confirmed.⁹ So far, the drafts are at an “initial” stage of discussion, since they are not introduced in parliament. For this reason, the IRM researcher considers that to assess the potential impact of the commitment, in terms of OGP values, is to assess the drafts themselves. It would be superficial to assess the commitment and drafts separately. Such a distinction could be operated once the drafts are adopted or discarded by parliament and the government, respectively.

The **draft State Fees Act, first milestone** of the commitment, would be the basis of the new policy. The government experts indicated five elements relate to open government:

- It provides a clear common framework for state fees.
- The draft law provides for the creation and publication of specific impact assessments on state fees. All draft laws or bylaws that provide for new or updated tariffs should be accompanied by such an impact assessment created under the common methodology. The impact assessment should be published for public consultation together with the draft legislation providing for new tariffs on the respective institution's website. The impact assessment should detail the calculation and reasoning behind the draft state fees.
- A new unit on state fees, part of the Administration of the Council of Ministers should coordinate and monitor the implementation of the policy. This unit will issue statements on the prepared impact assessments on draft new or updated tariffs and organize public consultations and discussions with stakeholders. In the IRM researcher's opinion, this last function on organizing public consultations or discussions aims to improve civic participation. However, it is not clearly outlined by the draft law. There is no definition of what such a consultation or discussion should be what form it should take, or when such

consultations or discussions should be organized. There is no mechanism for actively identifying stakeholders.

- The institutions collecting state fees should publish annual reports on the incomes from state fees in their annual financial reports.
- The Ministry of Finance should publish annually a report on all incomes from state fees collected by executive bodies. In the IRM researcher's opinion, the publication of these two categories of reports will not significantly change current practice. Traditionally, the report on the annual state budget, prepared by the Ministry of Finance, provides data on the overall income from state fees and on the specific incomes from state fees collected by executive bodies (e.g., the 2014 report).

The commitment's **second milestone** focused on establishing a draft specialized methodology for impact assessment on introduction and change of existing state fees. The government published a draft for such a methodology, along with the rest of the documents of the reform package. This methodology's aim is to determine the reasonable amount of a certain proposed fee from the economic, financial, and social impact it would have. The methodology should become legally binding in virtue of the law, after it is adopted as a bylaw by the Council of Ministers. The published version of the draft State Fees Act does not provide a clear timeline for adopting the secondary legislation, including the draft methodology, but the government's experts stated that the version to be introduced in parliament sets the deadline at six months after adopting the law. The government's experts also noted that this specialized methodology is drafted in a way that it should be easily implemented by different administrations. The methodology purportedly complies with the general framework on impact assessment, set by the reform of the Law on Normative Acts (Commitment 1.1). In the IRM researcher's opinion, the draft methodology falls short of providing a firm participatory element in drafting the future impact assessments, unlike the existing standard on legislation impact assessment. The current 2014 Guide on Legislation Impact Assessment includes both informal and formal public consultations as elements of carrying out and drafting legislation impact, which the specialized methodology for impact assessment of state fees lacks. Still, this difference could be of small impact, since both types of assessments would be documents drafted by the administration and serve as a basis for the formal public consultation of the draft fees or other legislation.

The commitment's **third milestone** focused on establishing a draft methodology for calculating fees. When publishing the reform package drafts, the government opted for a more specific heading of the document—methodology for determining fees on a cost-based principle, which does not modify the text's purpose. Under the draft law, this document should be adopted by the Council of Ministers. The document's purpose is to provide the method for implementing the cost-based principle in determining future state fees or updating existing ones. The government experts interviewed for this report pointed out that the biggest interest for citizens and business was to know how states fees are formulated. This methodology tackles the problem. The IRM researcher considers that this methodology, if adopted by the Council of Ministers, should provide a clear standard on the calculation of state fees on a cost-based principle. It would be made available for public consultation along with the draft legislation on new or updated fees.

The commitment's **fourth milestone** focused on establishing a draft uniform tariff of fees. The government published a draft for such a uniform tariff along with the rest of the documents of the reform package. The document lists four administrative services of technical nature: the issuance of a duplicate, a copy or a transcript of a document, and

the certification of a document. If the tariff is adopted, citizens will pay the same fees for these administrative services in all central government bodies. The IRM researcher considers this as a small first step in the policy field, since a significant number of other state fees are unaffected by this milestone. The draft law offers the possibility for adopting similar uniform tariffs and further work should be done in implementing this possibility.

The draft State Fees Act, however, provides the government with an opportunity to change state fees without an impact assessment and without following the cost-based principle. This would be the case when the state budget law for the respective year provides for a coefficient of state fees modification. The government's experts explained that this is an opportunity for indexing state fees with the inflation. Also, impact assessments will be drafted only on new tariffs or when updating older tariffs. In the government experts' opinion, it would take the Council of Ministers around three years after the law enters into force to review all existing tariffs under the new procedures.

In sum, the IRM researcher considers that implementing the commitment could have a transformative effect on the state fees policy field. The transparency operated by the carrying out and publishing of impact assessments, which outline the calculation of proposed fees, is the cornerstone of opening government in this reform. These documents would allow citizens and business to have clear data, and thus the possibility for controlling in detail the government's reasoning. This leverage could be effectively used during the mandatory public consultation period.

The government could use the momentum and also consider raising the standard of determining new fees in local government. The Local Taxes and Fees Act does not provide for carrying out impact assessments or using a common methodology for calculation when determining new fees or updating older fees.¹⁰

The reform failed to tackle another problem— the additional bank fees. In the IRM researcher's experience, this seemingly small detail has been regularly identified by citizens as a problem when paying fees. Very often the public institutions do not have a pay office and only accept payments of fees through bank transfers. The banks collect fees for this service, which are sometimes superior or equal to the state fees themselves, as would be the case with the fees in the proposed uniform tariff. In the era of e-government, the State Fees Act should provide and guarantee an opportunity for citizens to avoid intermediaries when paying fees.

Moving forward

The IRM researcher recommends further work on implementing the commitment.

If the government decides to include a follow-up commitment in the third national action plan, it should consider implementing, after a thorough public consultation, the following proposed measures in a two-year span:

- Making civic participation mandatory in carrying out and drafting impact assessments on proposed state fees. This could be done through the secondary legislation.
- Introducing impact assessments and civic participation in determining fees in the field of local government, through amendments of the Local Taxes and Fees Act.

1 "State Fees Act", Lex.bg, unofficial version available in Bulgarian at <http://bit.ly/1QKZIIY>

-
- 2 “Ex post Impact Assessment of the State Fees Act”, Public Consultations Portal, available in Bulgarian at <http://bit.ly/ZytadQ>
- 3 World Bank. 2009. Bulgaria - Reforming the regime of states fees. Better regulation series; volume no. 4. Washington, DC: World Bank, available at <http://bit.ly/1VvpfFm>
- 4 “Fees policy in line with social relations - a condition for good governance”, project no. K11-13-1/27.04.2011, funded by the ESF under Operational Programme “Administrative capacity”, Unified Management Information System for the EU Structural Instruments in Bulgaria, available at <http://bit.ly/1rbMQ08>
- 5 “Concept paper on a new fees policy in Bulgaria”, Consultative Councils Portal, available in Bulgarian at <http://bit.ly/ZytB7W>
- 6 “Plan for Implementation of the Public Administration Development Strategy for 2014 – 2015”, Public Consultations Portal, item 2.2.23, available in Bulgarian at <http://bit.ly/1BedcTz>
- 7 “Draft State Fees Act”, Public Consultations Portal, available in Bulgaria at <http://bit.ly/1kAMpNR>
- 8 “Fees policy in accordance with social relations – a condition for better governance”, Consultative Councils Portal, left column, available in Bulgaria at <http://bit.ly/1MDwlBy>. All discussed here documents and drafts of the state fees reform package are published in that section.
- 9 Ivet Baeva, chief expert, Daniela Bozhilova, chief expert and Marieta Nemska, director of the “Economic and Social Policy” Directorate at the Administration of the Council of Ministers, in-person interview, Council of Ministers, Sofia, 23 September 2015.
- 10 “Local Taxes and Fees Act”, Lex.bg, unofficial version available in Bulgarian at <http://bit.ly/1HzDgjj>

✦ 8: Improvements to Access to Information Act

Commitment 7, milestones 1 through 3

1. Amendments and supplementations to the Access to Public Information Act.

These amendments are targeted at:

Improvement of the openness of and facilitation of access to public information through:

- Broadening the scope and making the obligation for publishing **information more detailed**
- Strengthening coordination and control **for law provisions enforcement**
- **Transposing the Directive 2013/37/EU** amending Directive 2003/98/EC on re-use of public sector information - amendments and future actions envisaged

Start date: 1 January 2014

End date: 31 July 2015

2. Preparation of technical guidelines for the provision of public information held by institutions in an open format

Start date: 1 January 2014

End date: 31 December 2015

3. Prioritising the information in an open format (registers, reports, etc.) - report on prioritised registers, reports, statistics, etc., which can be provided in an open format

Start date: 1 January 2015

End date: 31 December 2015

Responsible Institution: Administration of the Council of Ministers, Ministry of Transport, Information Technology and Communications and all other administrations

Supporting institutions: Not specified

[emphasis added]

Note: This is a starred commitment, because it is measurable, clearly relevant to OGP values as written, of transformative potential impact, and was substantially or completely implemented.

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
OVERALL				✓	✓		✓	✓				✓			✓	
8.1. More detailed access to information				✓	✓			✓				✓			✓	
8.2. Law provision enforcement			✓		✓			✓				✓	✓			

8.3. Transposing EU directive				✓	✓		✓	✓				✓			✓	
8.4. Technical guidelines preparation				✓	✓		✓	✓				✓		✓		
8.5. Open format prioritization			✓		✓			✓				✓			✓	

What happened?

This commitment focused on reforming the Access to Public Information Act (APIA).¹ The government in collaboration with civil society made important steps in improving the overall system of access to information, re-use of public sector information, and upgrading the proactive publication through developing a general framework, including open data.

For the ease of analysis, the commitment is separated in two parts: the first one is focused on the legislative amendments and measures on open data; the second part (the next commitment in this report) concerns Bulgaria joining the Council of Europe Convention on Access to Official Documents.

The Ministry of Transport, Information Technology, and Communications (MTITC) is responsible for implementing the EU directive on the re-use of public sector information. The Administration of the Council of Ministers headed the development of the new Open Data Portal and Public Information Platform. In July 2014, MTITC formed a multi-stakeholder working group on drafting the APIA amendments. The draft law was written in active collaboration between the government and CSOs. Access to Information Programme’s representatives, based on their unique experience on implementing the law, provided a number of proposals and participated in the formulation of a high number of the amendments.² The government published the draft amendments for public consultation in late October 2014.³ The consultation lasted for almost a month—twice as long as usual. During the consultation, an unusually high number of comments and proposals were submitted. The government introduced an amended bill in parliament in late April 2015, which was approved at first reading in October 2015.⁴

At the end of the review period (June 2015), the draft bill had been submitted to parliament awaiting final approval. For this reason the IRM researcher considers that the commitment’s level of completion is substantial.

The **first milestone** focuses on “broadening the scope and making the obligation for publishing information more detailed.” The milestone was substantially implemented through drafting amendments and new provisions in the APIA, which focused on additional requirements for publishing up-to-date information. It builds on a not implemented commitment in the first Bulgarian action plan. The milestone was proposed by civil society during the action plan consultation process, who were demanding to expand the list of information to be published online by public bodies.⁵ The government opted for a somewhat abstract and broad formulation of the commitment, proposed by Access to Information Programme (AIP) in June 2014.⁶

Some of the provisions that carry a strong potential for improvement are those focusing on the proactive publication of the texts of general administrative acts, related notifications, and periods for participation in the respective public consultations. The

draft also requires the publication of a list of information categories that should be published online and the available formats. Another important novelty is that all public sector organizations are required to annually plan the gradual publication of information in an open format. The central government would do the annual planning on the amount and types of open data to be released, and public sector organizations would need to comply. Nonetheless, individual organizations could also publish more data according to their own plans.

The draft amendments grant an official status to the Open Data Portal.⁷ The Portal was built *pro bono* in 2014 by Obshtestvo.bg, a volunteers CSO.⁸ After its creation, the Council of Ministers started administrating the Portal and led the publishing of an important number of data sets by individual institutions. All public sector organizations should also publish on the Portal the data sets they are required to publish on their own website as open data under the APIA.

The draft also provides for the creation of an Access to Public Information Platform, which would allow for sending access to information requests. All executive bodies should publish on the Platform the responses to requests, along with their official decisions. The government has yet to create the Platform and elaborate the procedural rules for its functioning.

The **second milestone** focused on strengthening coordination and control for law provisions enforcement. The measure is clearly aimed at tackling several areas of weak enforcement of the law such as: the pro-active disclosure of information; the lack of consistently applied sanctions; the lack of general oversight.⁹ While this milestone is objectively verifiable, the deliverables are not clearly set. Thus, its specificity is medium.

The overall level of completion of this milestone is limited. In implementing the commitment, the government and working group members agreed on several small steps in improving the coordination on APIA's implementation. The government would annually plan opening data and data sets, such as public registers, affecting all public sector organizations. However, these data sets do not encompass the other types of proactively published information and thus would not have an effect on the whole field. First, the data sets would allow coordination in the setting of common goals on open data by the government while still providing incentives for separate planning. This would provide the incentive for those public institutions who are open data champions to advance at a faster pace than the central government's agenda. Second, the data sets would allow some coordination through the setting of common goals on open data by the government.

Another innovation in the draft amendments of the APIA are the new administrative sanctions for violating the requirements on proactive publication, for failure to respond to a request for re-use, or for failure to provide public sector information for re-use. Similar administrative sanctions already exist for other violations of the APIA, but they are virtually never applied. Only the future will tell whether the new sanctions will be effective.

The commitment's **third milestone** focuses on introducing the new European Union (EU) directive amending the re-use system in national law until mid-2015.¹⁰ The EU directive's text provides clear standards. Thus, the language of this milestone points at clear deliverables, and the IRM researcher considers its specificity as high. According to stakeholders, the amendments would fully implement the EU directive. It's completion is substantial, because the amendments await for adoption in parliament.

The Bulgarian legislators had adopted an approach in differentiating the re-use of public sector information and access to public information in two different procedures. The re-use regime was not frequently applied, and there is no data or assessment on its

implementation since 2008. Thus, it is difficult to assess the potential impact of the new APIA amendments in this field. The draft APIA amendments on re-use of public sector information offer several improvements:

- Public sector organization should provide information for re-use in open format, when possible.
- All public sector information should be also maintained in an electronic form (i.e., online).
- It should be reliable to send a request for information through e-mail and to receive the official response and information through e-mail.
- Information for re-use should be provided only under licences, compliant to the official standards to be set.
- The new fees for re-use should be set in a transparent way and, in principle, should not exceed the material costs incurred.
- The respective bodies should publish annual reports on the applications for re-use of public sector information.
- The Council of Ministers should also publish every three years a special report on re-use.

The information that would be published should set the basis for a primary assessing of the practices on the re-use system and for a comparison with the access to information system.

The **fourth milestone** was aimed at preparing technical guidelines that could establish a clear, formal, open standard. It also aimed to provide specific legal obligations on the information to be published in open format, in machine-readable format, on the rules on updating the data sets, on the requirements on metadata, and so forth. Such technical guidelines are traditionally part of the secondary legislation. Thus, the milestone's specificity is high. The level of completion of the milestone is limited. The CSO representative Teodora Gandova explained that the government consulted with three NGOs on a draft of the technical guidelines in May 2015. The NGOs were NGO Links, the Institute for Public Environment Development and Obsthestvo.bg.¹¹ The government officials and experts—Kalina Cherneva, Nusha Ivanova, and Iskren Ivanov—explained that draft technical guidelines were distributed to the public sector organizations currently publishing data on the Open Data Portal. The government has not published them, as they still are unofficial, but they should be officially adopted and published after the adoption of the amendments to the APIA.¹²

The **fifth milestone** focuses on determining which data sets held by public bodies should be published as open data in priority. The action plan identified one clear deliverable—the report published in 2015. But the form and process of the prioritisation itself were unclear. Consequently, the language specificity of the milestone is medium. The milestone's completion is substantial at this stage.

The prioritisation was started in February 2015 by the Council of Ministers, which listed 119 data sets.¹³ In mid July 2015, after the period of assessment, the Administration of the Council of Ministers created a section in the Public Consultations Portal dedicated to the government's open data policy. It published the schedule for opening the 119 data sets and the progress report.¹⁴ The report provides an exhaustive list of the information that has been published on the Open Data Portal and of the data sets that are being delayed. Most of these data sets are very important both in quantity and in quality sources of information for citizens and business. Their inclusion in the prioritisation list alone shows the ambition that the government puts in its open data efforts. Meanwhile, most of the data sets in the list are already published in different institutions' websites. Their publication is not new, and their open format is the novelty.

Did it matter?

In general, the implementation of the commitment could clearly transform the proactive publication of information from public bodies, through introducing open data standards and increasing the volume and types of published information. For this reason, the IRM researcher considers that the potential impact of the commitment as a whole is transformative, even though the coordination and control on the law's implementation should receive further attention.

The commitment milestones cover some of the recommendations from the first IRM progress report 2012–13. Most of the milestones implementing this commitment are new. Transposing, in national legislation, the 2013 EU directive on re-use was a pre-existing requirement. However, the discussions around the introduction of the directive, which were conducted as part of the action plan implementation, led the government to undertake new commitments on improving the entire APIA regime.

According to the government experts, the amendments to the APIA focusing on open data have the potential of changing the paradigm in the whole field of access to information held by public bodies. Citizens would not need to ask for data but will already have the data published. The introduction of open data would also be transformative, because when people realize that they could easily do analysis and visualizations of the published data, their interest in the information would drastically increase.

According to Teodora Gandova from NGO Links, the proposed amendments to the APIA are good steps in maximizing access to information, in general. The future Access to Information Platform is an important tool, as it would allow a large number of requests and provided public information to be found at one place. It would give a better picture on the problems that interest people. The amendments that have the biggest potential impact are the provisions on open data and on open format, which have the potential to improve public services, enhance the integrity and efficient management of resources, and increase transparency. Still, the government should be clearer in its open data policy, especially concerning the criteria for prioritizing information to be published in open format. The government should also take measures to survey and analyze the results of the policy.

According to Gergana Jouleva and Alexander Kashumov from AIP, the implementation of the commitment in general accomplished the reasonably achievable. Most of the milestones met their goals at this stage. The main problem of the law remains the system of coordination and control, even though some improvements were made. This is also acknowledged by the Global Right to Information Rating¹⁵ which puts Bulgaria at place 42 out of 102 countries, because of the unsatisfying level of procedures provided by the law on appeals, sanctions, and promotional measures, even though the law is largely and successfully implemented, according to experts. Another drawback in implementing the commitment are the unclear criteria applied when the 119 data sets were determined by the government to be published as open data in priority. Even so, the stakeholders consider that further amendments to the APIA are not needed at this stage. The government should create the capacity to implement the currently discussed amendments to the law, and special attention should be dedicated to the system of monitoring (inspections) and sanctions. In addition, the capacity of civil servants responsible for the implementation of the APIA should be developed, and a thorough analysis of the documentation management systems of public bodies should be carried out, because of the use of many different types of official documents, which sometimes vary between institutions.

Moving forward

The IRM researcher recommends further work on implementing the commitment. The National Assembly should adopt the proposed amendments to the APIA as a final act. The government should make further efforts in consulting with stakeholders

- on the criteria for prioritization of information to be published as open data;
- on the technical guidelines that should officially be established; and
- on the other relevant secondary legislation in general.

These are all commitments under the current action plan.

If adopted, the amendments of the APIA and the further secondary legislation would need some time to be implemented in order to be possible to evaluate their impact and efficiency. For this reason, the IRM researcher refrains from making recommendations for further commitments in the next OGP action plan.

1 “Access to Public Information Act”, Access to Information Programme, available in an unofficial English version at <http://bit.ly/1sebjW4>

2 Gergana Jouleva, executive director and Alexander Kashumov, head of the legal team of Access to Information Programme, in-person discussion, Soho, Sofia, 25 September 2015 and in-person comments..

3 Public consultation on the Draft law on amending the Access to Public Information Act, Public Consultations Portal, October – November 2014, available in Bulgarian at <http://bit.ly/15DB0Wk>

4 “Draft law for amending the Access to Public Information Act”, National Assembly, 29 April 2015, available in Bulgarian at <http://bit.ly/1WS4AN3>

5 Written statements by the Institute for Market Economy, the Institute for Public Environment Development, NGO Links, Obshtestvo.bg, Access to Information Programme, Tzvetelina Yordanova and Boyan Yurukov on the draft of the second Bulgarian OGP action plan, “Open Government Partnership” section, Public Consultation Portal, June and July 2014, available in Bulgarian at <http://bit.ly/1nZYLdN> and <http://bit.ly/1Ab1JSt>

6 Proposals from Access to Information Programme, Second Bulgarian OGP Action Plan, “Open Government Partnership” section, Public Consultations Portal, July 2014, available in Bulgarian at <http://bit.ly/1NDF6we>

7 Open Data Portal of the Republic of Bulgaria, <http://bit.ly/1RRb6UP>

8 Obshtestvo.bg Foundation, <http://bit.ly/1QLmnox>

9 “Concept Paper on Amendments to the Access to Public Information Legislation”, Access to Information Programme, 2015, Sofia, available in English at <http://bit.ly/1MFVEY1>

10 “Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information”, EUR-Lex, available at <http://bit.ly/1obvJIq>

11 Teodora Gandova, chair of the board of “NGO Links”, in-person discussion, Soho, Sofia, 25 September 2015 and e-mail correspondence.

12 Kalina Cherneva, adviser in the political cabinet of the Deputy Prime Minister for Public Administration and Coalition Policy, Nusha Ivanova, expert and Iskren Ivanov, expert in the “Modernisation of the Administration” Directorate on the Administration of the Council of Ministers, in-person interview, Council of Ministers building, Sofia 8 September 2015.

13 “Decision no. 103 of the Council of Ministers of 17 February 2015 Adopting the list of data sets in priority areas to be published in open format”, Information system for legal information of the Council of Ministers, 2015, available in Bulgarian at <http://bit.ly/1kzWUBO>

14 “Open Data”, “Publications” section, Public Consultations Portal, 16 July 2015, available in Bulgarian at <http://bit.ly/1kZub96>

15 Bulgaria, Global Right to Information Rating, available at <http://bit.ly/1QMaSg1>

9: Adherence to the Council of Europe Convention on Access to Official Documents

Commitment 7 milestone 4

Starting the procedure for adherence to the Council of Europe Convention on Access to Official Documents

Responsible Institution: Administration of the Council of Ministers, Ministry of Transport, Information Technology and Communications and all other administrations

Supporting institutions: None

Start date: 1 January 2014

End date: 31 December 2016

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
			✓		✓						✓		✓			

What happened?

The government adopted this commitment as a result of the public discussion on drafting Bulgaria's second OGP action plan. The proposal to include the ratification of the Council of Europe Convention on Access to Official Documents as part of the action plan came from Access to Information Programme.¹ Convention is not yet in force; for this to happen, three more countries need to ratify it.²

To begin the process of adhering to the convention, countries must follow a series of steps, as highlighted in Council of Europe official documents.³ According to the government official and experts Kalina Cherneva, Nusha Ivanova, and Iskren Ivanov, no measures on the implementation have been taken so far.⁴ Still, the government has not officially withdrawn the commitment. Thus, the IRM researcher considers its level of completion not started.

Did it matter?

The commitment is new. The IRM researcher did not find evidence of any prior engagement on the part of Bulgarian government to ratify or to consider ratifying the Council of Europe Convention on Access to Official Documents.

According to the stakeholders who originally proposed a commitment on the ratification of the convention, there are still no clear reasons that the commitment is not implemented or that the convention has not been ratified. The efforts on implementing the commitment should continue. The stakeholders have established that the Bulgarian legislation is compliant to the convention, in general.⁵ However, adopting the

international standard could lead to several improvements in the Bulgarian regime of access to information:

- Applying the overriding public interest of disclosure test in all cases. This would lead to including in the scope of the test all cases where the provision of classified information is sought.
- The public authority shall help the applicant, as far as reasonably possible, to identify the requested official document. There is no such provision in the Bulgarian APIA so far.
- Applicants for access to official documents could stay anonymous. There is no such option under the APIA, which requires that applicants indicate their three names. This, however, is not an obligation under the convention but an option for state parties to choose.⁶

The potential impact of a ratification of the convention could be moderate for two reasons. First, if Bulgaria ratifies the international document, it will have a significant impact internationally in giving an impetus to develop the right of access to information. Second, if Bulgaria and two other Council of Europe states ratify the convention, it will enter into force. The impact would be transformative on the international level, as this would be the first Council of Europe standard directly dedicated to access to official documents. This would provide another layer of guarantees of the right of access to information for the citizens of Bulgaria and the other states parties to the treaty. But, on the internal level the entry into force of the convention would lead to minor improvements in the access to information regime.

In conclusion, the IRM researcher considers that the potential impact of the commitment is moderate, because of the international importance of a possible ratification, but also because of the uncertain entry into force of the convention.

Moving forward

The IRM researcher recommends further work on implementing the commitment. The government should put more efforts in the consideration of the ratification. The government should clearly declare its position, provide the reasons for it, and discuss it with stakeholders. The period for the commitment's implementation is not over.

If the government carries out these actions fully until July 2016, the IRM researcher considers that no future steps will be required.

1 Proposals from Access to Information Programme, Second Bulgarian OGP Action Plan, "Open Government Partnership" section, Public Consultations Portal, July 2014, available in Bulgarian at <http://bit.ly/1NDF6we>

2 "Council of Europe Convention on Access to Official Documents", CETS No. 205, Chart of signatures and ratifications, Council of Europe, available at <http://bit.ly/1MoxVKK>

3 Appendix 2 (Item 1.2d), Council of Europe Convention on Access to Official Documents, *Adopted by the Committee of Ministers on 27 November 2008 at the 1042bis meeting of the Ministers' Deputies*, Council of Europe, <http://bit.ly/1P24Bsk>

4 Kalina Cherneva, adviser in the political cabinet of the Deputy Prime Minister for Public Administration and Coalition Policy, Nusha Ivanova, expert and Iskren Ivanov, expert in the "Modernisation of the Administration" Directorate on the Administration of the Council of Ministers, in-person interview, Council of Ministers building, Sofia 8 September 2015.

5 Gergana Jouleva, executive director and Alexander Kashumov, head of the legal team of Access to Information Programme, in-person discussion, Soho, Sofia, 25 September 2015.

6 “Analysis of the conformity of the Bulgarian legislation on access to public information and the Convention on Access to Official Documents, adopted by the Committee of Ministers of the Council of Europe on 27 November 2008”, Access to Information Programme, Sofia, available in Bulgarian at <http://bit.ly/1MVzP75>

V. Process: Self-Assessment

The government published its self-assessment timely on 30 September 2015. While the report provides a realistic outlook on the problems of the OGP process in Bulgaria, it sometimes lacks specificity. The consultation process on the self-assessment suffered from low civil society involvement, which is a challenge for the OGP process in Bulgaria, in general.

Table 2: Self-assessment checklist

Was the annual progress report published?	Yes
Was it done according to schedule?	Yes
Is the report available in the administrative language(s)?	Yes
Is the report available in English?	Yes
Did the government provide a two-week public comment period on draft self-assessment reports?	Yes
Were any public comments received?	No
Is the report deposited in the OGP portal?	Yes
Did the self-assessment report include review of consultation efforts during action plan development?	Yes
Did the self-assessment report include review of consultation efforts during action plan implementation?	Yes
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	Yes
Did the report cover all of the commitments?	Yes
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	No
Did the report respond to the IRM key recommendations (2015+ only)?	Yes

In early July 2015, the government published a schedule for carrying out the self-assessment in Bulgarian in the “Open Government Partnership” section of the Public Consultations Portal.¹ The government self-assessment was published for public consultation on the portal on 24 August 2015. The deadline for submitting comments and opinions was set at 7 September 2015 — 14 days later. No comments or opinions were received through the Portal.² A final version of the self-assessment was published

on the OGP website both in Bulgarian and in English before the due date of 30 September 2015.³

The self-assessment provides structured reviews of the consultations carried out during the action plan development and its implementation. It outlines the challenges of these processes and the measures the government intends to undertake in order to address them. The document suggests but fails to clearly indicate that no official or structured consultations were carried out on the implementation of the action plan as a whole. There is also a review of the public consultation on the self-assessment itself, which does not clearly indicate whether comments were received through channels other than the portal, and if so, how they were taken into account when drafting the final version.

The self-assessment provides a structured and detailed overview of all commitments, following the action plans list. It fails to provide a narrative of the implementation only for the last milestone in the entire list, “Starting the procedure for Bulgaria’s accession to the Convention on Access to Official Documents of the Council of Europe.” This might be because the government took no action on this commitment. The self-assessment mends some of the action plan’s deficiencies in clearly indicating the contact details and positions of the respective government officials and experts responsible for the implementation of each commitment. On some but not all of the commitments, the self-assessment also clearly indicates the stakeholders from civil society involved during the implementation. The document provides end dates limited to the year for the completion of the commitment’s implementation, but they do not correspond to the action plan. They probably indicate the government’s current intentions for the implementation.

In the report’s conclusions, the government outlines several points, which in the IRM researcher’s opinion summarize the main challenges of the OGP process in Bulgaria, such as deficiencies in communication progress on opening government, or the lack of consultation on opening government.

The government further outlines its plans to create a network for partnership with different stakeholders and the reasons for amending the action plan and formulating new commitments for the second part of its implementation.

Follow-up on Previous IRM Recommendations (2015 +)

The self-assessment includes a section on the recommendations formulated at the end of the IRM’s first progress report 2012–13. The review does not provide a full account of the actions taken on all the recommendations but clearly indicates which recommendations were adopted in Bulgaria’s second action plan. Some attention was paid to the level of commitment specificity, but more work needs to be done. The specific recommendations adopted as commitments are the following:

- 1. Implementing the NGO Development Strategy and establishment of an internal independent funding mechanism for CSOs.**

This was translated in the action plan’s third commitment on “Setting up a Council for Development of the Civil Society”. As explained above, this commitment did not include the establishment of an independent funding mechanism.

- 2. Publication of more information about the operation of the consultative councils within the different public institutions.**

This was translated in the action plan's second commitment on "Improved civic participation in consultative councils." The commitment was divided in two milestones with unclear texts.

However, a number of commitments in the current action plan could be read as follow-ups of Bulgaria's first action plan or of the IRM's first progress report individual recommendations, as detailed in the assessments of each of them. In the IRM researcher's opinion, this fact is an evidence of a certain continuity and effectiveness of the OGP process, not necessarily on the central coordination level but on the level of individual specific policies and government bodies.

1 "Schedule for carrying out of the interim self-assessment and for publishing the self-assessment report on the implementation of Bulgaria's commitments provided for in the Second Action Plan for the initiative "Open Government Partnership", "Open Government Partnership" section, Public Consultations Portal, 09 July 2015, available in Bulgarian at <http://bit.ly/1Yp4SvO>

2 "Interim Self-Assessment Report on the Implementation of the Commitments set out in the Second Action Plan of Bulgaria on the initiative "Open Government Partnership", "Public Consultations" section, Public Consultations Portal, available in Bulgarian at <http://bit.ly/1Kcld5>.

3 "Bulgaria, Interim Self-Assessment Report, 2014-16", "Bulgaria", Open Government Partnership, available at <http://bit.ly/1T9xkyK>.

VI. Country Context

This section places the action plan commitments in the broader national context of open government. The reform of the judiciary, perceived high levels of corruption, attempts at reform of the electoral system and of the rules on referenda are discussed in this section.

The instability and massive civic protests, which characterized Bulgarian politics during the first OGP action plan period 2012–13, influenced the drafting and implementation of the current action plan. The government, which organized the drafting and adoption of the second action plan, resigned just a few days after its adoption in July 2014. An interim government took office and initiated discussions with different stakeholders in several areas related to open government, most notably on the judiciary reform (see below).

In October 2014, the parliamentary elections resulted in a new highly fragmented National Assembly comprising eight different parliamentary groups, with no one having an absolute majority of seats. In early November 2014, a coalition government was formed with the support of four parliamentary groups. As a result, the parliament often struggles at gathering a majority on different issues, since each parliamentary group has its own legislative priorities and political program. This affected government's action and the implementation of action plan commitments, many of which involve a legislative reform. This also led to multiple initiatives that were not part of the action plan but are related to opening government or to major reforms, which would have a direct impact on citizens. In the following paragraph, the IRM researcher chose several topics of interest, but the listing is not exhaustive:

The reform that is receiving the largest public attention, sparking tensions and protests is the reform of the judiciary. Many actors and parts of the public in Bulgaria consider it the principal means of public accountability and a major key towards effectively fighting corruption and organized crime. Multiple discussion forums were organized, and multiple analyses and opinions were published by the Ministry of Justice, CSOs, legal experts, academia, media, and politicians. International and European actors such as different bodies of the Council of Europe and the European Commission, mainly through the Mechanism for Cooperation and Verification for Bulgaria and Romania, have voiced opinions and recommendations on multiple occasions. Some of the most discussed topics include the guarantees for further independence, integrity, and reliable control on judges, as well as on prosecutors and investigating magistrates. The main object of reform is the Supreme Judicial Council (SJC), the judiciary's governing body, which is according to experts too strongly influenced by the Prosecutor General and by external political or economic factors. The first step of the reform would be to separate the SJC into two chambers—one for judges, the members of which should be predominantly elected by all judges in the country, and one for prosecutors and investigative magistrates, where the majority of the members should be elected by parliament. The idea behind this division is that judges would be more independent if they were controlled mainly by other judges. Conversely, the prosecution, which is now seen as ineffective and strongly influenced by external factors, should become more accountable, if controlled by elected officials. Members of parliament introduced amendments to the Constitution in that direction in July 2015.¹ The procedure on amending the Constitution is ongoing and further amendments are being proposed in parliament. Once a version is finally adopted, the government and parliament should proceed to amend the Judiciary Act and other relevant legislation.

Bulgarian citizens have a traditionally low level of trust in institutions, especially in parliament. This is probably related to problems of corruption or the alleged “controlled vote”: this refers to allegations that, during elections, large groups of people vote in certain ways not according to their political opinions, but under undue financial or other influence. The efforts aimed at increasing trust and civic participation through a referendum on the electoral system suffered a major blow. In June 2015, the Bulgarian President initiated a national referendum on three questions, aimed at tackling the problems of low trust in parliament, the alleged “controlled vote,” and easing the possibility to vote abroad. The initiative was supported by a petition that gathered the support of more than half a million citizens. This petition was also a second attempt to organize a national referendum on the same questions. In late July 2015, the ruling coalition, most of which declared support for the organization of a referendum, failed to gather a majority in parliament, and the future referendum lost its two more-important questions. The 43rd National Assembly modified the text and decided that a national referendum would be held along with the municipal elections in late October 2015, but only on the last question—introduction of e-voting.²

Concurrently in late July 2015, parliament failed to ease the procedure for initiating referenda by citizens and thus provide realistic means for citizens’ legislative initiatives. This reform also had to tackle the low trust of citizens in the institutions and especially in the legislative. Its idea was to make citizens feel that they could truly participate in rulemaking. Six bills on amending the Law for Direct Participation of Citizens in Government and Local Government (the law on referenda) were introduced by members of parliament. A large group of CSOs, led by the Balkan Assist Association, also issued a statement of proposals.³ All proposed different measures mainly focused on lowering the threshold for holding referenda on citizen petitions, on lowering threshold for the results from referenda to become binding, on introducing e-petitions, and so forth. The National Assembly adopted amendments to the law,⁴ but they were considered too short of an actual reform and “[failed] to improve the civic participation environment”.⁵

The Bulgarian government has also taken another step in implementing open data and open source, which does not strictly fall in the scope of the commitments on the OGP action plan but should have a direct effect in opening government. This step took form in the “Preliminary conditions on admissibility of e-government projects.” These projects will be funded by Operative Program “Good governance” 2014–20, a part of the EU structural and investment funds for Bulgaria. This would be the main source of financing for e-government in Bulgaria for the next five years. Under the preliminary conditions, all future e-government projects should comply with the official open data standards and also provide an online interface for open free public access to documents, information, and data in open machine-readable format. The future projects should also allow for integration with the Open Data Portal. Further, the contractors on these projects are required to transfer the copyright and related transferable rights to the respective public body that is the contracting authority. The future e-government projects should publish on the Internet their source code as open code from day one of development. And whenever financially justified, they should base the development on existing open source software.⁶ In the IRM researcher’s opinion, if implemented, these requirements would allow for some further unification on the open data efforts, for financial optimization of the e-government efforts, and for the possibility of actual citizen control based on the transparency of the projects’ executions in the so far often murky scene of e-government in Bulgaria.

In the summer and autumn of 2015, the government worked on amendments to the Electronic Governance Act. The draft proposes the establishment of a government agency dedicated to e-government and of a government company, which should provide

technical assistance on e-government projects or already-implemented functionalities.⁷ The future agency would have a function on coordination and control of handling and publishing electronic documents by government bodies, as well as on e-government in general.⁸

In May 2015, the government also published for public consultation a new Electronic Identification Act.⁹ This bill is another part of the e-government efforts. It should provide an opportunity for citizens to acquire an identification tool that would allow them access to certain public services online. Some of the challenges for its implementation are related to determining future providers of e-identification and to the integration of e-identification in online public services.

A major problem of the Bulgarian political and social environment are the relatively stagnating and high levels of corruption and of the perceptions of corruption. The 2014 Transparency International (TI) Corruption Perceptions Index ranks Bulgaria 69 of the 175 included countries. Bulgaria shares the last place in that ranking among the EU member-states. TI's Bulgaria chapter observes that "[t]he results of the Index over the last decade confirm that there has been stagnation in the fight against corruption. Frequent and inconsistent changes in the legal framework cannot give an adequate answer to the problem. These findings are confirmed by other comparative studies that show that despite efforts in some sectors, there is no common vision and consistency in fighting corruption. Ultimately, this reflects a failure to achieve results in the fight against systemic corruption".¹⁰ The current government formulated a commitment that should tackle this problem in the amendments to the action plan, which will be assessed in the end report. But, in the IRM researcher's opinion, further efforts are needed on tackling corruption in general.

The media environment is also in crisis, according to a number of stakeholders. The Bulgarian Helsinki Committee's "Human Rights in Bulgaria in 2014" report summarizes the following:

2014... continued the erosion of freedom of expression in Bulgaria. The main problems in the area remained the censorship and various forms of pressure on media and journalists, heavy self-censorship, strong economic and political dependence of the media, opaque ownership and financing, media concentration, failure to comply with basic ethical rules of journalism and ineffective media self-regulation. Hate speech towards ethnic, religious and sexual minorities continued to be strong in some media. The distinction between editorial and paid content, including election campaigning, often continue to be unclear, especially in the print media. The varying political situation once again led to sudden changes in the "course" of some media.¹¹

Particularly alarming are several cases where the Financial Supervision Commission demanded journalists to disclose their sources and subsequently sanctioned several media through exorbitant fines for "market manipulations." Local and international stakeholders qualified these measures as a form of censorship.

Stakeholder priorities

Based on the level of civic participation in the implementation of the action plan commitments, there are three outstanding areas of interest for stakeholders.

- First, interviewed stakeholders paid significant attention to the amendments of the Law on Normative Acts, where the main topics were centered on the general improvement of public consultations and on the introduction of impact assessment procedures on draft and existing legislation (the first commitment).
- Second, an important level of CSOs' involvement and government efforts were witnessed on the preparation of amendments to the Non-profit Legal Entities Act and especially on establishing a Council for Development of the Civil Society

together or separately with a fund for supporting civil society (third commitment). The low level of implementation means that further efforts are needed in that area.

- Third, a significant interest was shown in amending the Access to Public Information Act, which involves the introduction of open data standards and the general improvement of the access to information and re-use of public sector information rules.

Based on interviews, online surveys, different citizen initiatives, and unaddressed comments and proposals on drafting the action plan, a number of summarized themes could be outlined as stakeholder priorities, because they were common to at least several stakeholders. Comments have been most often formulated as proposals or recommendations. The IRM researcher will keep that form for the ease of presentation.

Transparency and access to information

- The state should publish official consolidated texts of the laws and other normative acts in force. The editions service "State Gazette" of the National Assembly (or another administrative structure) should start publishing the consolidated versions of the normative acts in force. Access to these should be free and available online. The electronic texts should have the same legal value as the print edition of the State Gazette.¹²
- More efforts are needed in raising transparency for EU-funded projects. Stakeholders indicated the need to publish all analyses, functional analyses, documents, and results that public bodies have received or achieved under EU projects, which were aimed at improving state administration. A special attention is focused on the results of the Operative Programs "Administrative Capacity" and "Technical Assistance."
- More efforts are needed in raising financial transparency both at the central and local levels.
 - Public bodies need to regularly and comprehensively publish data in an understandable language for government spending in all public areas. This involves the publishing of financial narrative reports.
 - Stakeholders also identified two particular areas of high interest. The first was the monthly publication of detailed information on the consolidated expenditures of the state, following the functional breakdown of the Unified Budget Classification—by functions, by groups, and by activities. The second was the monthly publication of detailed information on the fiscal reserve, with a comprehensive breakdown of the fiscal reserve funds and accounts.
- More efforts are needed in reforming, regularly updating, and making more accessible public registers. A special attention is focused on the Register of the Administrative Structures (the "Administrative Register"), the Cadastre, the Property Register, and so forth.
- More efforts are needed in the implementation of e-government and open data standards. The prioritization of information to be published as open data and e-services to be developed should be subject to stronger public consultations. There is also a need of capacity building for public bodies in the area of e-government and on their obligations under the Access to Public Information Act,

which introduces new standards on open data, re-use of public sector information, and so forth.

Accountability and integrity

- More efforts are needed to improve the accountability reports of public bodies. Stakeholders have outlined a lack of clear methodologies on establishing both the administration's annual activities reports (under Article 63 of the Administration Act) and the judiciary bodies' annual reports, especially from the Office of the General Prosecutor's. Often the published annual reports provide incomparable data between years, and the criteria for drafting the annual reports of a single body frequently varies. More efforts are needed in establishing correlations, based on clear criteria between the set goals and the achieved results. There is also a necessity for detailed reporting on the funds expended for achieving the respective results.
- More efforts are needed in raising the integrity and trust in the government, especially Parliament, and the judiciary. A special attention is focused on the role of the Prosecutor General.

Public participation

- Public consultations standards need to be raised in order to include proactive methods for engaging in dialog with the public. This also involves upgrading the capacity of public bodies to organize public consultations on the one hand, and building a culture of public consultations in Bulgarian citizenry on the other. The channel of consultative councils could be limited in favor of establishing multi-stakeholder platforms and networks for consultations. Raised public consultations standards need to be applied not only for draft normative acts but also for draft general administrative acts and some specific individual administrative acts, which have a potential impact on the environment, city planning, public health, and so forth..
- Another side of these efforts is to guarantee the effectiveness of citizen petitions and initiatives, for example, through amending the Law for Direct Participation of Citizens in Government and Local Government.
- A number of stakeholders stressed the need to implement the government Strategy Supporting the Development of Civil Society Organizations from 2012, which has not been implemented so far. It focuses on the establishment of a Council for Development of the Civil Society together with a state fund for supporting civil society.

A large number of stakeholders also stressed the need of information and awareness-raising campaigns on OGP and on the citizens' role in the OGP process.

Scope of action plan in relation to national context

The scope of the action plan reflects mostly the consultations on its drafting, some commitments from the previous action plan, and some government priorities in the area of administrative reform. It failed to tackle major accountability and integrity problems in the government, in the judiciary, and in public spending. Some of these were addressed by the plan's subsequent amendments, which will be assessed in the end report.

The government OGP team—then under the minister of Regional Development—probably relied mainly on the organized public consultations in order to determine the stakeholders' priorities. But, the majority of comments and proposals received focused

in a limited number of areas: public consultations on draft legislation, support for civil society, and access to information and open data. An anonymous respondent of the online survey carried out by the IRM researcher characterized this consultation process as “*pro forma* consultations, during which a number of proposals are given but are chosen mostly those that can easily be implemented by the administration and respectively—can be reported as completed.” This critical view is not shared by all stakeholders, some of whom stressed that the feasibility of proposals is an important factor for building cooperation. However, the IRM researcher considers that it touches on two problems: low expectations for cooperation on the part of at least some stakeholders, and limited involvement from civil society.

If the government take steps to improve its next action plan in terms of quality of the commitments, it should concentrate on improving the quality of civic participation.

1 “Bill amending the Constitution of the Republic of Bulgaria”, “Bills” section, National Assembly, 24 July 2015, available in Bulgarian at <http://bit.ly/1nTFYr8>

2 “Decision for holding a national referendum”, “Decisions” section, National Assembly, 28 July 2015, available in Bulgarian at <http://bit.ly/1m1LNBq>. For further details see Mediapool at <http://bit.ly/1kREoFa>

3 “Statement from the Balkan Assist Association and the participants in Regional and National citizen panels “What should change in the country’s governance?””, National Assembly, available in Bulgarian at <http://bit.ly/1XoBXpe>.

4 “Bill amending the Law for Direct Participation of Citizens in Government and Local Government”, “Bills” section, National Assembly, adopted on 21 July 2015, available in Bulgarian at <http://bit.ly/1ZZ2Hhw>

5 Anna Gencheva, “Law for direct participation of citizens ... or – of the parties?”, Civic Participation Forum blog, 26 June 2015, available at <http://bit.ly/1QGgtVR>.

6 “Preliminary conditions on admissibility of e-government projects”, “Operative Program “Good governance” 2014 – 2020” section, EU Structural Funds Portal, available in Bulgarian at <http://bit.ly/1Sy0Nl8>

7 “Draft law amending the Electronic Governance Act”, “Public Consultations” section, Public Consultations Portal, available in Bulgarian at <http://bit.ly/1LtapPh>.

8 Bozhidar Bozhanov, “Electronic Identification Act – clarifications”, BLOGodarya, available in Bulgarian at <http://bit.ly/1QxvYNQ>

9 “Electronic Identification Act” (draft), “Public Consultations” section, Public Consultations Portal, 27 March 2015, available in Bulgarian at <http://bit.ly/1Oqohb4>

10 “Corruption Perceptions Index 2014”, Transparency International, “Research” section, Transparency International Bulgaria, available in Bulgarian at <http://bit.ly/1QFXHhq>

11 “Human Rights in Bulgaria 2014”, Bulgarian Helsinki Committee, ISSN 2367-6930, pages 35 – 40, available in Bulgarian at <http://bit.ly/1MQWhuw>

12 “Call for reform of the citizens access to the laws of the Republic of Bulgaria”, initiative started by IME and supported by 16 major CSOs, Institute for Market Economics, available in Bulgarian at <http://bit.ly/1IgrbKZ>.

VII. General Recommendations

This section recommends general next steps for Bulgaria's OGP process in general, rather than for specific commitments. These recommendations come from the commitment evaluations above, stakeholder consultations, and the IRM researcher's analysis of the process of developing and implementing the second action plan.

Crosscutting recommendations

OGP in Bulgaria is still not well known. Government experts and civil society representatives working in areas related to open government are not fully aware of the process and the opportunities it provides. Bulgarian OGP efforts need strong awareness-raising campaigns and further involvement of state institutions in order to help to develop citizen engagement.

1. Improving civic participation in drafting and implementing the next action plan

The government could use more proactive methods for reaching out, which do not necessarily demand many resources:

- starting the consultations on the third action plan early in 2016
- providing and publishing a clear schedule at the start
- providing several draft commitments from its current priorities in order to initiate dialogue
- actively mapping and inviting CSOs
- improving awareness-raising efforts through its existing online channels—the institutions' websites and the Public Consultations Portal— and through traditional media
- cooperating more actively with major NGO actors and organizers, who have developed CSOs and general public audiences, even before the start of the consultations, in order to spread the invitation to all stakeholders to participate.

The government announced plans, through the self-assessment, to create a permanent dialogue mechanism in the form of a network for partnership. This effort should be carried out, but the projected network should not become the only channel for reaching out to citizens.

2. Improving the specificity of commitments

The lack of specificity is a recurring problem. In the action plan, the government coded all commitments as relevant to the OGP values of transparency, accountability, or civic participation. However, the government didn't explain why they are coded as such. A number of commitments have unclear projected deliverables. In order to raise stakeholders' trust and involvement in the OGP process, the specificity of the next action plan commitments should be higher both in terms of OGP values and in terms of deliverables. This means that the action plan should explain how implementing the commitment would improve transparency, accountability, or civic participation, and it should define the steps to be taken towards these ends. Even though the outcomes could not be entirely predicted, the commitments should be more focused on the actions and

measure to be taken. The government has addressed some of these problems in the action plan's amendments.

3. Involving the National Assembly in the OGP process

Several commitments suffered or could suffer from a lack of consolidated political will for their implementation. The self-assessment also outlines a possible problem of delays and changes in parliament when discussing the draft State Fees Act. In order to address these challenges, the National Assembly should be further and truly involved in the OGP process. Representatives of its presidency and of the parliamentary groups should be part of the consultations and drafting of the next action plan and should help carry out its implementation.

4. Involving municipalities in the OGP process

Further involvement of local government is also a way of bringing OGP closer to citizens and regional stakeholders. The government should make efforts to engage municipalities to participate in the process and form their own commitments. This could be started by targeting several big municipalities like Sofia, Plovdiv, Varna, Burgas, Ruse, Pleven, Blagoevgrad, Kardzhali, and Dobrich, which have the resources and capacity to organize local consultations. All or some of these cities could introduce, as pilot projects, citizen budgeting and stronger cooperation with their citizens on deciding important urban projects, or on their investment programs.

5. Improving financial transparency. The Ministry of Finance could consider:

- Publishing consolidated specific data on the municipalities' debts by budget lines/items.
- Creating and publishing analysis of the information on consolidated municipalities' debts.
- Publishing timely and specific information on the following: the management of funds in the fiscal reserve; the current balance of its funds and accounts; the movement and origin of funds in the fiscal reserve; and when funds are distributed to external accounts.

Top SMART recommendations

Beginning in 2014, all OGP IRM reports should include five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments.

Top Five 'SMART Recommendations
1. Government should consider the creation of a permanent dialogue mechanism around implementing the action plan. This mechanism would be comprised of civil society representatives, private sector, and government representatives in charge of OGP commitments and would meet at least every three months. The Administration of the Council of Ministers should provide support for this mechanism.
2. To ensure that everybody has equal access to the legislation in force, the National

Assembly should publish the consolidated versions of the laws and the other normative acts of the same or higher rank, which are in force. Access to these should be free. Access should be available online. The electronic texts should have the same legal value as the print edition of the State Gazette.

3. To enhance civic participation in the legislative process, government should complete the reform of the legislation on normative acts by adopting currently proposed amendments. To this end, the Council of Ministers should adopt the respective bylaws relating to the methodology and practical guidance on impact assessments on draft and enacted legislation, as well as guidance on publishing information about the Public Consultations Portal. In addition, the National Assembly should adopt amendments to the Rules of Procedure of the National Assembly, which should detail obligations for members of parliament to carry out prior impact assessments of the draft legislation they initiate.

4. Local government can be brought in the OGP process by publishing citizen budgets—in an accessible format—in municipalities that have the resources and capacity to organize consultation, such as the municipalities of Sofia, Plovdiv, Varna and Burgas.

5. Effectiveness of citizen initiatives, especially for holding referenda, could be increased through amending the Law for Direct Participation of Citizens in Government and Local Government by: ensuring that citizens could support initiatives through an easily accessible online form; lowering the threshold for organizing a national referendum on citizen initiatives; lowering or dropping the participation threshold for adopting a proposal subject to a national referendum.

VIII. Methodology and Sources

As a complement to the government self-assessment report, well-respected governance researchers, preferably from each OGP participating country, write an independent IRM assessment report.

These experts use a common OGP independent report questionnaire and guidelines,¹ based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organisations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section.) In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

Interviews and focus groups

Each national researcher will carry out at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the “usual suspects” list of invitees already participating in existing processes. Supplementary means may be needed to gather the inputs of stakeholders in a more meaningful way (e.g., online surveys, written responses, follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment or accessible online.

Between late July and the end of September 2015, the IRM researcher carried out 13 meetings with 26 government officials, experts, and CSOs representatives. Each such meeting has been referred to in the footnotes under the respective commitment. An information-gathering event with multiple stakeholders was organized, but due to low attendance, it was considered as a meeting and included in the statistics above. The interviewees from government are the officials and experts most closely working on or leading the implementation of each of the respective action plan commitments. The CSOs representatives were chosen either for their direct participation in the consultations on formulating the action plan commitments and for their work on the implementation of certain commitments, or for their expertise on the specific theme or themes covered by a certain commitment.

The IRM researcher also relied on a series of informal interviews and meetings since the earliest stages of the action plan implementation, which provided fruitful insights on the development of the commitments and gave leads for his desk research.

Document library

The IRM uses publicly accessible online libraries as a repository for the information gathered throughout the course of the research process. All the original documents, as well as several documents cited within this report, are available for viewing and comments in the IRM Online Library (<http://bit.ly/1TSwmak>).

Survey-based data

The IRM researcher created an online survey focused on the drafting and implementation of Bulgaria's second OGP action plan (<https://goo.gl/mLrcFB>). The survey was launched through a publication in the Open Government Partnership section in the Public Consultations Portal (<http://bit.ly/1N8AHAS>) and popularized through social media and personal e-mails to a significant number of stakeholders, many of whom were not in the "usual suspects" list of invitees already participating in the OGP process. Between 27 July 2015 and 1 October 2015, the survey was completed by 16 respondents. The responses have been summarized as parts of the "stakeholder priorities" subsection of this report. Two general conclusions flow from the survey's responses: the action plan's text was not easily accessible to citizens who were not closely involved with OGP; the predominant part of respondents felt the need for further awareness raising and information on the OGP process.

About the Independent Reporting Mechanism

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel:

- Yamini Aiyar
- Debbie Budlender
- Jonathan Fox
- Rosemary McGee
- Gerardo Munck
- Liliane Corrêa de Oliveira Klaus
- Hazel Feigenblatt
- Hille Hinsberg
- Anuradha Joshi
- Ernesto Velasco-Sánchez

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org

1 Full research guidance can be found in the IRM Procedures Manual, available at <http://www.opengovpartnership.org/about/about-irm>

IX. Eligibility Requirements Annex

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.¹ When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

Criteria	2011	Current	Change	Explanation
Budget transparency ²	2	4	↑	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information ³	4	4	No change	4 = Access to information (ATI) Law 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration ⁴	4	4	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (8.82) ⁵	4 (8.24) ⁶	No change	<i>EIU Citizen Engagement Index</i> raw score: 1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total / Possible (Percent)	14/16 (88%)	16/16 (100%)	↑	75% of possible points to be eligible

¹ For more information, see <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>

² For more information, see Table 1 in <http://internationalbudget.org/what-we-do/open-budget-survey/>. For up-to-date assessments, see <http://www.obstracker.org/>

³ The two databases used are Constitutional Provisions at <http://www.right2info.org/constitutional-protections> and Laws and draft laws <http://www.right2info.org/access-to-information-laws>

⁴ Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," (Tuck School of Business Working Paper 2009-60, 2009): [://bit.ly/19nDEfK](http://bit.ly/19nDEfK); Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (OECD, 2009). [://bit.ly/13vGtqS](http://bit.ly/13vGtqS); Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009). [://bit.ly/1clokyf](http://bit.ly/1clokyf); For

more recent information, see <http://publicofficialsfinancialdisclosure.worldbank.org>. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and *de facto* public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at <http://bit.ly/1EjLJ4Y>

⁵ Economist Intelligence Unit, "Democracy Index 2010: Democracy in Retreat" (London: Economist, 2010). Available at: [://bit.ly/eLC1rE](http://bit.ly/eLC1rE)

⁶ Economist Intelligence Unit, "Democracy Index 2014: Democracy and its Discontents" (London: Economist, 2014). Available at: <http://bit.ly/18kEzCt>