Independent Reporting Mechanism (IRM) Progress Report 2014–15: Ukraine

Dmytro Kotliar, Independent Researcher

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Executive Summary: Ukraine

Independent Reporting Mechanism (IRM) Progress Report 2014-2015

Ukraine's action plan included diverse commitments focusing on access to public information, civic engagement, e-governance, and prevention of corruption. Despite a difficult political situation, Ukraine has made significant progress in passing important laws aimed at opening up the government and improving accountability. The next action plan can include more concrete steps to ensure effective enforcement of passed laws and target other areas such as public contracting and asset disclosure verification.

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. Ukraine has participated since 2011. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each OGP participating country. This report covers the period from December 2014 through September 2015.

The Government Secretariat is the leading institution responsible for development and implementation of the OGP national action plan. The secretariat is headed by the Minister of Government and is responsible for providing technical, legal, and logistical support to the Cabinet of Ministers, prime minister, and vice prime ministers.

The OGP Coordination Council, established in June 2012, is the main coordination mechanism at the national level. The council currently includes 39 members, including 11 officials from various public agencies, as well as civil society and independent experts. In June 2015, the Coordination Council established six working groups allowing a more dynamic management of the OGP process.

OGP PROCESS

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

The consultation process on the second national action plan of Ukraine was participatory and inclusive. The government invited a broad range of civil society organisations (CSOs) and experts both from the capital and the regions. Business representatives were not involved. Despite hasty organisation, the consultation process was a useful exercise reflecting diversity of stakeholder views. The final version of the action plan reflected on the recommendations of civil society as well as the decisions made at the multi-stakeholder forum.

To inform the public about action plan implementation, the government instructed public agencies to disseminate information and promote the action plan. During implementation, the OGP Coordination Council's meetings were held intermittently, with no pre-set schedule or regularity. Meetings of the council are open to the public with prior registration and are broadcasted live online. Minutes of the meetings are published online. Civil society takes active part in the Coordination Council meetings.

The government published the self-assessment report in September 2015.

At a glance

Member since: 2011
Number of commitments: 26

Level of Completion:

Completed:	6 (23%)
Substantial:	11 (42%)
Limited:	7 (27%)
Not started:	2 (8%)

Timing:

On schedule:	5 (19%)
Ahead of schedule:	5 (19%)

Commitment Emphasis:

Access to information:	13 (50%)
Civic participation:	11 (42%)
Public accountability:	11 (42%)
Tech & innovation for transparency & accountability:	9 (35%)

Number of Commitments that were:

Clearly relevant to an OGP value:	21 (81%)
Of transformative potential impact:	7 (27%)
Substantially or completely implemented:	17 (65%)
All three (✪):	3 (12%)

COMMITMENT IMPLEMENTATION

As part of OGP participation, countries make commitments in a two-year action plan. The Ukrainian action plan contains 26 commitments. The following tables summarise for each commitment the level of completion, potential impact, whether it falls within Ukraine's planned schedule, and the key next steps for the commitment in future OGP action plans. The IRM clustered commitments into thematic groupings.

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. Ukraine's action plan contains three starred commitments: 5.3 (Access to communist archives), 7 (Supervisory mechanism on the right to information), and 6 (Draft law on open data). 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. Under the old criteria, Ukraine would have received seven additional starred commitments (commitments 1, 8, 9, 18, 20, 21, and 22). See (http://www.opengovpartnership.org/node/5919) for more information.

Table 1: Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT IS MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
Theme 1: Create enabling environment for civil society engagement in public policies									
1. Improve government rules on CSO involvement	█	█	█		█	█	█	█	**Ahead** of Schedule
4. Public participation law	█	█	█		█	█			**Behind** Schedule
2. Financing of charities	█	█	█		█				Behind
3. Not-for-profit status for CSOs	█	█	█		█				Behind
Theme 2: Ensure access to public information									
5.1 Establish rules on processing official information	█	█			█	█	█		Behind
5.2 Access to urban planning documents	█	█	█		█	█	█		Behind
5.3 Access to communist-era archives	█	█	█	█	█	█	█	█	**On** Schedule
7. Supervisory mechanism for the right to information	█	█	█	█	█	█	█	█	Ahead
8. Compliance with EITI	█	█	█		█	█			On
Theme 3: Prevent and combat corruption									
9. Monitoring of infrastructure projects	█	█	█		█	█	█		Behind
10. Adopt regional anti-corruption programmes	█	█			█	█			Behind
11. Corruption risk assessment methodology	█	█			█	█	█		Behind
12. Asset disclosure on a single web portal	█	█			█	█	█		On
Theme 4: Administrative and social service provision									
13. Law on administrative procedure	█	█	█		█	█			Behind
14. Law on streamlining payment of administrative fees	█	█			█	█			Behind
16. Draft law on decentralisation of administrative services	█	█			█	█	█		On
15. Administrative services portal	█				█	█	█		Behind
17. Draft law on social services	█	█	█		█	█			Behind
Theme 5: E-governance technologies to develop e-democracy									
18. E-government laws	█	█	█		█	█	█		On
19. Electronic readiness assessment	█				█	█	█		Behind
6: Draft law on open data	█	█	█	█	█	█	█	█	Ahead
20. Government regulations on open data	█	█	█		█	█	█		Behind
21. Electronic democracy development roadmap	█	█	█		█	█	█		Behind
23. E-petitions	█	█			█	█	█	█	Behind
22. Open budget initiatives	█	█	█		█	█	█	█	Ahead
24. E-governance training for local government	█	█			█	█	█	█	Ahead

Table 2: Summary of Progress by Commitment

NAME OF COMMITMENT	SUMMARY OF RESULTS
✪ COMMITMENT IS MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	
Theme 1: Create enabling environment for civil society engagement in public policies	
1. Improve government rules on CSO involvement • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete **4. Public participation law** • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	This commitment aims to improve civil society participation in the public policy development and implementation by streamlining existing formal procedures. The commitment was fully implemented. The government has adopted several regulations related to public consultations, functioning of public councils to the executive authorities, and public examination of executive bodies. Civil society organisations (CSOs) note that the Ministry of Justice developed draft legislation in an open and inclusive manner and the adopted norms significantly improve procedures for civil society participation. To ensure genuine engagement of civil society in the decision making process, the government should evaluate how the authorities follow the revised procedures and what obstacles remain for proper enforcement. The government plan to conduct training of public officials on the relevant procedures is a welcome step. The second commitment aims to develop a draft law on public participation—a major step towards improving citizen engagement in decision making. While the initial proposal concerned regulation of public participation in the development and implementation of state policy and local issues, the Ministry of Justice narrowed the focus of the draft to public consultations. The working group, including CSOs, held wide public consultations and collected and published best practices and international standards applied to this area. Apart from these efforts, the work on the draft is still in its initial stage. The ministry will need to step up its efforts to finalise the draft law. While narrowing down the scope of the law makes implementation realistic, the question remains on how far-reaching the law can be to address the need for civil society participation beyond the policy formation process.
2. Financing of charities • OGP value relevance: Clear • Potential impact: Moderate • Completion: Not started **3. Not-for-profit status for CSOs** • OGP value relevance: Clear • Potential impact: Moderate • Completion: Not started	The commitment provides for development of legislative amendments that would allow charities to receive public funding for projects related to the provision of social services or other activities in the public interest. While not transformative, CSOs viewed this commitment as important to improve their operational environment. Out of concern for requiring additional budgetary allocations, the Ministry of Finance objected to the implementation of this commitment. In June 2015, the vice prime minister who chairs the OGP Coordination Council formally instructed the ministry to hold negotiations with the CSOs who had a different understanding of the requirements of implementation. No proper consultation has been held. To simplify currently cumbersome registration procedures for NGOs and other civic associations, the commitment would streamline relevant procedures for obtaining non-profit status. This would be done by introducing the one-stop-shop principle—an NGO would apply to the Ministry of Justice which would then arrange registration with the tax authorities. The government submitted the new draft law on state registration of legal entities in the parliament in June 2015. The draft law, adopted in July 2015 in the first reading, fails to address the main target of creating a one-stop registration procedure for civic organisations, however, while it does so for individual entrepreneurs. CSOs noted that the Ministry of Justice did not open the process of drafting the law to public consultations. The government will have to address the lack of dialogue with civil society and take additional efforts to find common ground to implement these commitments as initially planned. Similar measures included in the next action plan should focus on evaluation of the operational environment for CSOs in terms of taxation and sources of funding in a comprehensive way and contain clear commitments on improving the environment.

Table 2 cont'd

Theme 2: Ensure access to public information	
5.1 Establish rules on processing official information • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	This commitment aims to establish government regulations on the processing of official information with restricted access, in line with the Law on Access to Public Information. The government was instructed by the law passed in March 2014 to adopt relevant regulations by 19 October 2014, but it has failed to do so on time. The State Archive prepared several versions of the text and published them for public consultations, but the regulations have not yet been adopted. Civil society and the ombudsman office criticised the draft as it did not incorporate the harm and public interest tests used by the law for situations where access to information is restricted. The latest draft document was submitted to the government in August 2015. Meanwhile, a group of MPs introduced new draft amendments to the law and, if they are adopted, the government will have to again revise its regulation. The IRM researcher recommends that the government adopt the regulations in line with the law. Once they are adopted, the government, jointly with the CSOs and the ombudsman, could organise training for public officials on the application of the new regulations.
5.2. Access to urban planning documents • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited	This commitment sets an ambitious goal of ensuring free public access to urban planning documentation, which had previously not been publicly available due to reasons of containing classified information. To achieve this, the Ministry of Regional Development issued recommendations to the regional authorities concerning implementation of the Law on Regulation of the Urban Planning Activity. Out of more than 20,000 cities' and dwellings' urban planning documents, only about 1,800 plans have been published on-line. CSOs interviewed were not satisfied with the government efforts. Implementation suffered from the lack of coordination amongst the relevant public agencies and a shortage of technical expertise and funding. The government also has limited powers to ensure full implementation, as disclosure of urban plans is the competence of autonomous local self-government authorities. To move forward with the implementation in the next action plan, this commitment could be broken down into several stand-alone tasks, each requiring involvement of a different set of stakeholders.
✪5.3 Access to communist-era archives • OGP value relevance: Clear • Potential impact: Transformative • Completion: Complete	The government set an ambitious goal to draft a law, in cooperation with civil society, allowing the opening up of communist-era archives, which were closed for decades. In the beginning of April 2015, the government submitted the draft law to the parliament and it was adopted in a few days. The Law on Access to Archives of Repressive Bodies of the Communist Totalitarian Regime of 1917-1991 mandates that security and law enforcement agencies transfer relevant historical files to a special state archive to be set up by the Ukrainian Institute for Remembrance. The archive will cover information about the struggle for Ukraine's independence in the 20th century, political persecutions and human rights violations carried out by Soviet repressive bodies, World War II events, and technological catastrophes. Providing unhindered access to this information allows public examination of documented crimes, represents a break from the totalitarian past, and enforces the right to truth.
✪7. Supervisory mechanism for the right to information • OGP value relevance: Clear • Potential impact: Transformative • Completion: Complete	Enforcement of the access to information right in Ukraine requires putting in place an effective state oversight mechanism. While Ukraine has had an access to information law, without such a body its implementation has been weak. From October 2014 to April 2015, a working group at the ombudsman's office developed draft amendments to the Law on Access to Public Information. The draft was submitted to the parliament and was endorsed by the relevant parliamentary committee, currently awaiting the first reading. The draft law defines the ombudsman as an oversight authority for access to information and gives it powers including issuing binding decisions on the disclosure of requested information or addressing any other violation of the access to information legislation. The IRM researcher recommends swift adoption of the draft law and ensuring its implementation. The law would give significant additional responsibilities to the ombudsman office, which should be matched with commensurate resources.

8. Compliance with EITI • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	This commitment builds on the previous OGP action plan where the government pledged to ensure implementation of the Extractive Industries Transparency Initiative (EITI) in Ukraine. This is an important commitment that could help to prevent embezzlement of revenues received from the extractive industry. Following Ukraine's acceptance as an EITI candidate country in October 2013, the national multi-stakeholder group (MSG) developed terms for Ukraine's first EITI report to include oil and gas sectors and scheduled it to be prepared by the end of 2015. The government made substantial progress on this commitment. It selected the national secretariat for the MSG through an open competition and approved implementation plans for the two EU directives. MSG selected an independent administrator for the EITI report development, and in June 2015, the parliament adopted the draft law prepared by the MSG, harmonizing national legislation with the EITI Standards. However, it is discouraging that the publication of the EITI report has been postponed from October 2015 to January 2016, effectively delaying achievement of the compliance status.
Theme 3: Prevent and combat corruption	
9. Monitoring of infrastructure projects • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	This commitment aims to involve non-governmental stakeholders in monitoring design and implementation of infrastructure projects. The Ministry of Infrastructure developed draft regulations in the beginning of 2015. They envision setting up special panels that could review the budget and design of the projects as well as the disbursement and use of public funds. If fulfilled, this commitment could significantly increase transparency of the infrastructure projects, detect irregularities, and help prevent corruption. Following criticism from the CSOs, the draft has been returned to the ministry for revision. It is recommended that the special panels are given sufficient power in the regulations and that they are adopted without further delay. In the follow-up, the government should also ensure that all public bodies quickly adopt by-laws to establish special panels in an open and participatory manner.
10. Adopt regional anti-corruption programmes • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	This commitment, originating in the previous action plan, aims to create—with the participation of civil society—regional programmes for preventing and combatting corruption. These programmes often do not represent a genuine commitment on behalf of the local authorities. This diminishes their potential impact. While the government has reported that anti-corruption programmes were adopted in 13 regions and nine draft programmes were published for public consultation, CSOs note that there are very few new anti-corruption programmes. Some stakeholders also doubt whether this commitment should have been included in the action plan as it is too extensive and requires coordination that the OGP implementing mechanism is not able to provide. It is recommended that the government provides guidance to the sub-national governments on the methodology for developing such programmes. The government could consider linking evaluation of the local state administrations with development of the programmes in a participatory manner.
11. Corruption risk assessment methodology • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	The commitment provided for development of a corruption risk assessment methodology with the involvement of civil society. The Ministry of Justice developed detailed guidelines on corruption risk evaluation and management in public institutions. Additionally, another methodology for assessment of corruption risks and development of anti-corruption action plans was developed in the framework of a USAID-funded project. There has been no evidence of civil society involvement in the development of either of the documents. The IRM researcher recommends the government review its methodology in view of the alternative one prepared by the donor-funded project, test it, and use the results to update the method. The future National Agency for Corruption Prevention could approve the fine-tuned methodology applicable to all public bodies.

12. Asset disclosure on a single web portal • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited	The government has committed to set up an e-declarations system with a single web portal for publication of all public officials' asset declarations, ensuring unprecedented public access to information on public officials' wealth. The anti-corruption legislation of Ukraine requires all public officials to file annually during their term of office, as well as upon entering and leaving public office, a declaration of their and their close relatives' assets, income, expenses, and financial liabilities. The new e-declarations system would include the declarations of about 700,000-1,000,000 officials. Once the portal is functioning, it will help in detecting unjustified wealth and conflicts of interest. The web portal has not been set up, but the Ministry of Justice, with the help of donors, has launched a tender to select a contractor to develop the e-declarations software. The government needs to set the schedule for launching the e-declarations system, test the software, and conduct relevant training for public officials.
Theme 4: Administrative and social service provision	
13. Law on administrative procedure • OGP value relevance: Clear • Potential impact: Transformative • Completion: Limited	Adoption of the Code of Administrative Procedure (later named the Law on Administrative Procedure) has been a long-standing government commitment. It could have a transformative potential impact as the law is essential for ensuring legal certainty, setting clear rules of administrative decision making, and limiting administrative discretion that fosters corruption. The Ministry of Justice prepared the draft law, taking into account international practice and recommendations. The draft was submitted to the government in January 2015, but was returned to the ministry for revision in March 2015. In August, the ministry re-submitted the draft law to the government, but it was again returned to the ministry, giving rise to suspicions that the government might be deliberately delaying its adoption. The IRM researcher recommends the government be transparent about its approach to the draft law and approve it without any further delay.
14. Draft law on streamlining payment of administrative fees • OGP value relevance: Unclear • Potential impact: Minor • Completion: Limited	This commitment aims to draft the law to streamline fees for administrative services. The law has not been passed due to disputes over which body decides on the fees. Experts from civil society criticised the draft as they considered that the list of administrative services does not have to be established by the law and should rather be kept flexible and can be published in the Register of Administrative Services. Overall, the government fell short of implementing this commitment, as the provisions of the draft law effectively remove regulation of this issue from the law. While the commitment is an incremental step in the right direction to ensure legal certainty and reduce corruption risks, it did not relate to any OGP values. The second commitment provided for development of a draft law on the decentralisation of powers concerning the provision of administrative services. These would include registration of residence, civil status, and property as well as issuing of identity documents. The government prepared and submitted to the parliament draft laws to decentralise a range of administrative services, covering most, but not all, of the services envisaged. All draft laws submitted to the parliament were adopted in the first reading in July 2015. They delegate the provision of a range of services to local self-government bodies starting from 1 January 2016. In Ukraine, where administrative services have been highly centralised, it is generally perceived that decentralisation is crucial for reducing corruption and ensuring better public services. While CSOs agree, they criticise the introduction of service centres under the Ministry of Interior, as they could duplicate the unified Administrative Service Centres that have been set up in most of the regions. CSOs recommend the government develop, in consultation with civil society, draft laws necessary to decentralise remaining administrative services covered by the commitment and not included in the draft laws pending in the parliament.
16. Draft law on decentralisation of administrative services • OGP value relevance: Unclear • Potential impact: Transformative • Completion: Substantial	

15. Administrative services portal • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	This commitment aimed to launch the online portal with information on administrative services. The portal (http://poslugy.gov.ua) launched in September 2015 includes information on services provided by central executive authorities and other public agencies. Although the Ministry of Economic Development has been looking into ways to simplify and digitise additional information to be uploaded, the portal still lacks information about a range of services. The government notes that, due to the shortage of funds, the current functionalities of the portal could not be expanded. This commitment lacks ambition as the portal falls short of actual delivery of any of the listed services. The IRM researcher recommends completing the web portal with missing information and extending its scope to deliver online services.
17. Draft law on social services • OGP value relevance: Unclear • Potential impact: Moderate • Completion: Substantial	The government committed to revise the Law on Social Services to improve the quality of social service provisions and revise the criteria for qualifying recipients, thus aligning the legislation to EU standards. The Ministry of Social Policy developed draft amendments to the law which were submitted to the parliament in September 2015. While important for government efforts to reform the social system in Ukraine, this commitment does not contain elements that could further OGP values of access to information, civic participation, or public accountability. If the government decides to target this area in the next action plan, it should include elements of access to information, civic participation, or public accountability.
Theme 5: E-governance technologies to develop e-democracy	
18. E-governance laws • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	This commitment listed a number of legislative acts to be amended but was poorly worded with too many different elements. Out of the four proposed legal amendments, the government dropped two, as they were found to be already in compliance with EU legislation or no longer relevant. Major progress was achieved through the adoption of the law allowing e-petitions (July 2015). The new e-petitions provisions have already proved to be effective. The president of Ukraine's office launched the first web resource to collect e-petitions. In addition, the Ministry of Justice developed a new draft law on Electronic Trust Services (e-signatures and verification) based on a number of public consultations and submitted it to the parliament in August 2015. The IRM researcher recommends the government further promote adoption of the Law on Electronic Trust Services and start receiving petitions online. The government and other stakeholders should promote and support the widest use of the platform for local e-petitions.
19. Electronic readiness assessment • OGP value relevance: Unclear • Potential impact: None • Completion: Substantial	The e-readiness assessment aims to provide a snapshot of e-governance on the national and regional level and to assist in introducing ICT in public administration. While the assessment can help with the analysis of e-governance needs, its relevance to the OGP values is unclear and does not imply any major potential impact. The E-Governance Agency created an interactive system for the assessment allowing collection, structuring, storing, and processing of data. The agency has started preparation of the assessment itself. The government should carry out a new assessment using the interactive tool. It is also recommended to extend the assessment to local government and public agencies that are not part of the executive branch nor belong to other branches of power.

✪6. **Draft law on open data** • OGP value relevance: Clear • Potential impact: Transformative • Completion: Complete	These two commitments aimed to develop the legal framework for public access to information held by public authorities in an open data form in machine-readable formats. The commitment to develop the Law on Access to Public Information in Open Data Form is fully completed. The draft law was developed and submitted to the parliament in February 2015, and the parliament passed the law on 9 April 2015. After the swift passage of the law, the government started work on the regulations in May 2015 and finished with the adoption of the government regulations on 21 October 2015. The government regulations define the minimum list of datasets (more than 300) to be disclosed by various public agencies (not only those subordinated to the government, but also the parliament, judiciary, and the national bank) on their websites and on the government open data web portal. They also outline the procedure for the publication of open data and the requirements for the data formats.
20. Government regulations on open data • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	To ensure swift implementation of the open data law and relevant regulations, the government should: 1) launch a central open data portal; 2) assign a clear coordination and monitoring role to one agency (e.g., the State Agency on E-Governance); and 3) provide guidelines and recommendations to agencies to maintain open data standards (including the "open data by default" principle). The next OGP action plan should include the commitment on the proper operation of the portal and a plan to populate it with high-value datasets.
21. Electronic democracy development roadmap • OGP value relevance: Clear • Potential impact: Moderate • Completion: Substantial	To promote better citizen participation, this commitment envisioned development of proposals on realising the potential of e-democracy tools. The E-Governance Agency prepared an outline of the proposals and submitted them to the government in May 2015. Nonetheless, CSOs interviewed criticised the government for not holding public consultations on the document. To advance the goal of e-democracy, the government should develop a more concrete roadmap for e-democracy and have civil society lead in the process, which in itself could become an experiment in e-democracy. It is also important to raise awareness and inform the public about the concept of e-democracy and the possibilities it brings.
23. E-petitions • OGP value relevance: Clear • Potential impact: Minor • Completion: Limited	The second commitment would enable submission of e-petitions based on the government regulation (This differs from commitment 18 which pertains to the law.) However, the commitment lacked a legal basis because the law did not authorise the government to develop such regulations. Even with the amended Law on Petitions, the government still lacks the mandate to adopt regulations. The government needs to update its 1997 regulations on records management with regard to petitions and approve the procedure for considering e-petitions.
22. Open budget initiatives • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	This commitment envisaged creation of a web portal on public expenditures, implementation of the "Open City" platform in 15 administrative territorial units, and five pilot initiatives on public awareness-raising. Implementation exceeded targets. A new law (February 2015) on the openness of public funds requires publication of expenditure data, including real-time treasury transactions, in a single web portal. In September, the government launched a test version of the portal. Another website, "Price of the State," run by an NGO now provides data visualisation on budget revenues and expenses. The Open City website which allows citizens to report problems of local infrastructure, started functioning in 18 cities. Local authorities adopted special rules for engaging the public in the budgetary process and reporting on budget execution. Moving forward, it is recommended to roll out open budget and citizen participation in budget development platforms to as many municipalities as possible. CSOs recommend similar transparency portal approaches for publicly-owned enterprises and for the use of foreign technical assistance.

| 24. E-government training for local government

• OGP value relevance: Unclear
• Potential impact: Minor
• Completion: Complete | This commitment would develop a distance learning course on e-governance and train the members of local councils. The Ministry of Culture developed and distributed a course entitled, "Basics of E-Governance," sending a CD-ROM to all regional and district libraries as well as sub-national state administrations. The course is also accessible for public use on the web portal of the Ukrainian Association of Libraries. In addition, the ministry conducted 303 trainings for more than 2,300 participants. While this commitment is a positive step in raising awareness of local government officials on e-governance, it is not relevant for OGP values of increased access to information or civic participation. Future trainings for local government officials should include these elements. |

RECOMMENDATIONS

Ukraine has made significant advancements in creating a solid legal basis for improving access to information, corruption prevention mechanisms, and civic participation in government decision making. However, there is a need for effective implementation of laws passed during the second action plan cycle. In addition, more could be done to increase the focus of future commitments towards the OGP value of public accountability, particularly in the areas of public contracting and natural resource extraction. Based on the challenges and findings identified in this report, this section presents the principal recommendations.

TOP FIVE RECOMMENDATIONS
1. Renew high-level political involvement in OGP through the government's renewed commitment to the OGP process on the highest political level, giving better visibility to the OGP and its commitments.
2. **Ensure an effective collaboration** with civil society during implementation of each of the commitments and involve private sector representatives in the OGP process.
3. **Reform the OGP coordination mechanism** by ensuring better operational management of the initiative and sharing responsibility for the initiative's management with civil society actors. Ensure ownership from the implementing agencies through a formal process for coordination and collaboration.
4. **Narrow the scope of the action plan and prioritise commitments** in the next action plan. For each section, the action plan could include one to two ambitious commitments and provide a short roadmap for their implementation. Such commitments could be the most transformative ones that require clear partnerships with civil society.
5. **Focus on ambitious, feasible priorities**, such as enforcing the system of electronic disclosure and verification of asset declarations of public officials, further disclosure and integration of various public registers through online and open data access, moving the entire public procurement cycle to the electronic platform, and developing a roadmap for e-democracy in Ukraine.

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, see Section IX on eligibility requirements at the end of this report or visit: http://www.opengovpartnership.org/how-it-works/eligibility-criteria.

Dmytro Kotliar is an independent expert specialising in open government and anti-corruption.

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 (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

Open Government Partnership

I. National participation in OGP

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. OGP provides an international forum for dialogue and sharing amongst governments, civil society organisations, and the private sector, all of which contribute to a common pursuit of open government.

Ukraine began its formal participation in September 2011, when President Viktor Yanukovych declared the government's intention to participate in the initiative.

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 IX: 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 on-going reforms, or initiate action in an entirely new area.

Ukraine developed its national action plan from November 2011 through March 2012. The government adopted the plan in April 2012, and the effective period of implementation of the action plan was officially July 2012 through May 2014.

The Ukrainian Government started development of the second national action plan in December 2013 and adopted it on 26 November 2014 with the effective period from December 2014 to December 2015 (the end date that was provided in the action plan).[1] The beginning of the drafting process was delayed due to events of the Euromaidan in the beginning of 2014, which resulted in a change of government. Also, the government delayed adoption of the new action plan, the draft of which was ready in June 2014.

Basic institutional context

The Government Secretariat is the leading institution responsible for supporting the development and implementation of the national action plan and self-assessment reports. The secretariat is not attached to any ministry and is a separate organisation responsible for providing technical, expert, legal, and logistical support to the Cabinet of Ministers, prime minister, and vice prime ministers. The Minister of the Government (minister without portfolio) is in charge of the secretariat. Its role, while being mainly organisational, is essential for effective implementation of the OGP. However, due to the lack of any direct enforcement powers over other government institutions, as well as an insufficient number of staff who are also responsible for other activities not related to the OGP, the secretariat has limited influence.

In June 2012, to coordinate OGP implementation efforts, the Government of Ukraine established the OGP Implementation Coordination Council. The composition of the council, including its chairperson, changed a number of times. It now includes 39 members, including 11 officials representing various public agencies. Other members

are civil society representatives and independent experts. Membership is based on the "invitation-only" principle; although, according to the government, all organisations that were active in the process were invited to the council.

The work of the Coordination Council has been intermittent. This can be explained by the lack of political leadership for the OGP process in Ukraine and frequent changes in the government. After each change of the government, it took time to establish a new composition of the council and re-launch its work. This affected implementation of the initiative.

Political events in Ukraine had significant impact on the OGP process in the country. The mass protests from the end of 2013 to the beginning of 2014, called the Euromaidan, resulted in the overthrow of the then government and president and the replacement of a large number of public officials. This was also one of the reasons for the late development of the second national action plan that started in April and ended in November 2014 when the government officially adopted the second action plan.

The OGP process was lukewarm in the first half of 2015, but revived in June 2015 when civil society and the government, with the support of donors, organised a national forum on OGP implementation in Ukraine and then held a Coordination Council meeting. This renewed stakeholders' commitment to the process. In June 2015, the Coordination Council established six working groups for each of the five chapters of the second national action plan and one to support the Coordination Council and liaise with the OGP Steering Committee and Support Unit. It also set up a "Small Coordination Council" consisting of the chairs of the working groups. This allowed a more proactive and dynamic management of the initiative.

Methodological note

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP participating government. As noted above, in Ukraine, the IRM partnered with Mr. Dmytro Kotlyar, independent expert. Mr. Kotlyar 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—"Ukraine Progress Report 2012-2013"—and covers the development of the second action plan as well as implementation from 1 December 2014 to 30 September 2015.

In addition to interviews, views of the stakeholders were collected during the Coordination Council's meeting held on 25 September 2015, in which the council discussed the self-assessment report based on progress updates from government representatives and NGOs. The IRM researcher also reviewed the self-assessment report published by the government in September 2015.[2]

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[1] http://bit.ly/1iImWBg.
[2] http://bit.ly/1O2rrlX.

II. Action plan development

The consultation process of the new national action plan was hastily organised and not properly announced. It proved to be a useful exercise, however, that included regional consultations and online collaboration on the draft document. In general, the process was inclusive and sufficiently broad. It allowed meaningful contribution of the nongovernmental stakeholders to the development of the action plan.

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 Section III: "Consultation during implementation."

Countries are to identify a forum to enable regular multi-stakeholder 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?	Yes
	Provide any links to the timeline.	
	Was there advance notice of the consultation?	No
	How many days of advance notice were provided?	0
	Was this notice adequate?	No
	Did the government carry out awareness-raising activities?	Yes
	Were consultations held online?	Yes
	Provide any links to online consultations.	http://bit.ly/17NIPcC
	Were in-person consultations held?	Yes
	Was a summary of comments provided?	Yes
	Provide any links to summary of comments.	http://bit.ly/17NIPcC
	Were consultations open or invitation-only?	Open
	Place the consultations on the IAP2 spectrum.[1]	Involve
During	Was there a regular forum for consultation during	Yes

Implementation	implementation?	
	Were consultations open or invitation-only?	Invitation-only
	Place the consultations on the IAP2 spectrum.	Collaborate

Advance notice and awareness-raising

Starting in December 2013 the Government's Secretariat and various executive authorities, together with members of the Coordination Council, had collected proposals on the draft new action plan. In April 2014, to streamline the process, the government established a working group composed of selected NGOs and government representatives. The working group drafted the OGP national action plan that was then proposed for public consultations. The initial draft national action plan was based on suggestions of the working group members only. There was no public call for proposals to the national action plan or for participation in the working group.

The government launched public consultations on the draft OGP national action plan on 26 May 2014 and set the deadline for submission of comments for 10 June 2014. Consultations started immediately from the day of announcement. A call for public comments was published on the government's website and distributed by NGOs on their websites and through email lists.[2]

Overall, the Government of Ukraine did not make the details of the public consultation process and timeline available prior to the consultation. Awareness-raising was limited to announcing public consultation events in the regions just before the relevant event was held.

Depth and breadth of consultation

The government invited a broad range of NGOs and civil society experts to participate in the consultations during development of the national action plan, including regional NGOs. NGOs working in different areas (anti-corruption, access to information, urban planning, civil society development, administrative services, etc.) and of different types (think tanks, watchdogs, advocacy) took part in the consultations. This allowed hearing and taking into account a diversity of views. However, business representatives were not involved in the process and did not provide their input.

While being hastily organised and not properly announced, the consultations process was a useful exercise that for the first time included regional presentations and discussions of the draft national action plan as well as the possibility of commenting online on the draft document, with all the comments then made public on the internet.[3]

The government, with the support of the United Nations Development Program (UNDP) and civil society, organised several regional discussions to receive feedback on the initial draft national action plan (in Lviv on 3 June, Dnipropetrovsk on 5 June, Kherson on 6 June, and Kyiv on 16 June). Regional consultations were announced several days in advance on the government's web portal and through NGOs.

Representatives of 15 regions provided input through about 150 comments.[4] The UNDP office in Ukraine supported consultations, including regional events. During the final discussion in Kyiv held on 16 June 2014,[5] NGOs and UNDP presented the feedback obtained during regional discussions and online consultations, including the use of an illustrative infographic.[6] More than 80 percent of those who took part in the discussion of the draft national action plan supported the main areas of the OGP implementation proposed in the draft plan. (Measures on anti-corruption and administrative services received the highest support, 90 and 85 percent respectively.)[7]

Civil society initially criticised the process for being closed to new input as the original draft national action plan was prepared by a limited circle of experts and government representatives. During the final public consultations event held in Kyiv on 16 June 2014, it became clear that the document did not reflect a number of proposals submitted by NGOs and experts. NGO representatives and civil society experts provided significant additional input during the Kyiv event and immediately afterwards, and the working group took it into account in the final document, which was then proposed for the government's approval. This underlined the mistake made in the drafting process, namely that the government did not solicit public input in an open manner from the very beginning of the process.

To conclude, taking into account the whole exercise of consultations and the national action plan drafting, the process was inclusive and sufficiently broad. It allowed meaningful contribution of nongovernmental stakeholders. The proactive position of NGOs and the significant empowerment of civil society after the 2014 Euromaidan events played a major role in this accomplishment.

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[1] "IAP2 Spectrum of Political Participation," *International Association for Public Participation*, http://bit.ly/1kMmlYC.
[2] Announcement of public consultations on the draft national action plan available at: http://bit.ly/RTftS7, http://bit.ly/1juMhiG, http://bit.ly/1RdUhzU.
[3] http://bit.ly/1KIHe7j.
[4] Summary of on-line consultations available at: http://bit.ly/1JAkzGq.
[5] Information on public consultations in Kyiv on 16 June 2014 available at: http://bit.ly/1PLKFeG, http://bit.ly/1h7GE8g.
[6] Infographic on public consultations available at: http://bit.ly/1O5TXVu.
[7] "Introductory to the OGP National Action Plan for 2014-2015," http://bit.ly/1iImWBg.

III. Action plan implementation

The Government of Ukraine committed to the implementation of the national action plan and set up a multi-stakeholder forum—a dedicated Coordination Council for OGP Initiative Implementation in Ukraine—the majority of which is composed of civil society representatives. The council's activity has been sporadic; its composition was revised several times. The council provided a useful platform for civil society involvement in the OGP process. The government adopted special measures to raise awareness and promote OGP implementation in Ukraine.

As part of their participation in OGP, governments commit to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one. This section summarises that information for Ukraine.

Regular multi-stakeholder consultation

The government used the previously established dedicated forum for multi-stakeholder consultations on OGP implementation—the Coordination Council for OGP Initiative Implementation in Ukraine. It was formally set up by a government resolution in 2012 and then revised three times, including twice between 2014 and 2015. In 2014 to 2015, the Minister of the Government and the vice prime minister served as chairpersons of the council. The latest composition was determined in May 2015 and included 39 members with 11 officials representing various public agencies and civil society representatives comprising the rest of the composition. The Coordination Council is in charge of overseeing development of the OGP action plans and their implementation.

The council's meetings were held intermittently, with no pre-set schedule or regularity of the meetings. High-level officials sitting on the council often failed to take part and had to be replaced with their deputies or lower level officials.

The council focused its activities mainly around deadlines determined by Ukraine's commitments under the OGP process—around the time when it had to launch preparation and then endorse the new action plan or review the self-assessment report.

Meetings of the council are open to the public with prior registration. They are usually held without strict security measures. The council's meetings are broadcast live on the internet.[1] Minutes of the council's meetings are published online as well.[2] The IRM researcher attended several meetings of the council as an observer and was invited to introduce the IRM process at one of the meetings.

In June 2015, the Coordination Council established six working groups for each of the five chapters of the second national action plan, and an additional one to support the Coordination Council and ensure cooperation with the OGP Steering Committee and Support Unit. The council also set up a "Small Coordination Council" consisting of the chairs of the working groups. This allowed a more proactive and dynamic management of the initiative.

The Government's Secretariat supports and organises the council's work. The responsible unit is the Department for Cooperation with Civil Society. It also informs the public about the OGP process in Ukraine through a dedicated website (http://ogp.gov.ua) run by the State Agency for E-Governance and government web portal, "Civil Society and Authorities" (http://civic.kmu.gov.ua). The former has not been kept up-to-date;[3] rather the most up-to-date information is available at the government's website.

To raise awareness on OGP implementation in Ukraine, the government adopted by a separate decision a list of measures to inform the public about the national action plan implementation.[4] It included instructions to the public agencies on dissemination of OGP-related information and promotion of the action plan. For example, it instructed the Ministry of Foreign Affairs to organise a public presentation of the national action plan in Ukraine and abroad, other ministries to organise presentations from officials to the media and press events on the topic and to publish relevant information on official websites, and the regional state administrations to conduct awareness-raising in the regions.

Civil society stakeholders mentioned that often the OGP process in Ukraine is missing the "partnership" component in the implementation of some of the commitments. Civil society actors are often not involved in the process of monitoring implementation, even if their voices are heard during OGP consultations.

According to civil society stakeholders, the OGP Coordination Council was mainly ineffective during the reporting period. It is large in size and has formal membership. Setting up a small coordination council and working groups under each action plan section significantly improved its functioning.

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[1] See a recording of the latest Council's meeting: https://www.youtube.com/watch?v=9RTlENfDtEE.

[2] See, for instance: http://bit.ly/1KQjQTo.

[3] The website http://ogp.gov.ua was last updated in May 2015 and some sections continued to be even more obsolete by the end of September 2015. For example, the website included information on the previous composition of the Coordination Council.

[4] http://bit.ly/1LZRAxi.

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;
- 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 into decisions;

- 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;
- 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 decentralisation that do not specify the mechanisms for enhanced public participation;
- 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 organisations.

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;
- 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;
- 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;
- 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;
- May support the use of technology by government employees and citizens alike.

Not all e-government reforms improve openness of government. When an e-government 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 indicators

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 that Ukraine included in its action plan and analyses them for the first year of implementation.

While most indicators used to evaluate each commitment are self-explanatory, a number deserve further explanation.

1. Specificity: The IRM researcher first assesses the level of specificity and measurability with which each commitment or action was framed. The options are:
    - High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)
    - Medium (Commitment language describes activity that is objectively verifiable, but does not contain clearly measurable milestones or deliverables)
    - Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)
    - None (Commitment language contains no verifiable deliverables or milestones)
2. Relevance: The IRM researcher evaluated each commitment for its relevance to OGP values and OGP grand challenges.
    - OGP values: To identify OGP commitments with unclear relationships to OGP values, the IRM researcher made a judgment from a close reading of the commitment's text. This judgment reveals commitments that can better articulate a clear link to fundamental issues of openness.

3. Potential impact: The IRM researcher evaluated each commitment for how ambitious commitments were with respect to new or pre-existing activities that stretch government practice beyond an existing baseline.
   - To contribute to a broad definition of ambition, the IRM researcher judged how potentially transformative each commitment might be in the policy area. This is based on the IRM researcher's findings and experience as a public policy expert. In order to assess potential impact, the IRM researcher identifies the policy problem, establishes a baseline performance level at the outset of the action plan and assesses the degree to which the commitment, if implemented, would impact performance and tackle the policy problem.

All of the indicators and method used in the IRM research can be found in the IRM Procedures Manual, available at (http://www.opengovpartnership.org/about/about-irm).

Finally, one indicator is of particular interest to readers and useful for encouraging a race to the top between OGP-participating countries: the starred commitment. Starred commitments are considered to be 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 Ukraine action plan contained three starred commitments, namely:
   - Commitment 5.3: Access to communist archives
   - Commitment 7: Supervisory mechanism on the right to information
   - Commitment 6: Draft law on open data

Note that the IRM updated the star criteria in early 2015 in order 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, had moderate or transformative impact, and was substantially or completely implemented.

Based on these old criteria, the Ukraine action plan would have received an additional seven starred commitments:

   - Commitment 1: Improve government rules on CSO involvement
   - Commitment 8: Compliance with EITI
   - Commitment 9: Monitoring of infrastructure projects
   - Commitment 18: E-governance laws
   - Commitment 20: Develop government regulations on open data
   - Commitment 21: Electronic democracy development roadmap
   - Commitment 22: Open budget initiatives

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 Ukraine, and all OGP-participating countries, see the OGP Explorer.[1]

General overview of the commitments

The government and civil society jointly developed the second national action plan. Civil society played a major role in shaping the action plan. A number of NGOs were involved in its development. Each of them represented different areas and interests. This reflected the national action plan's content that covers five distinctive topics: enabling environment for civil society organisations and public participation in policy development, access to information, corruption prevention, public services, and e-governance and e-democracy. Measures included in the action plan represent advocacy priorities of different civil society groups. The government representatives amended the final wording of the measures to make them more feasible, but also less ambitious.

Overall, the national action plan includes 26 commitments covering a very broad range of issues. Measures differ from simple ones (e.g., preparing proposals on changes in government regulations concerning public engagement in the policy development) to complex (e.g., development of regional anti-corruption programmes or reaching compliance with the Extractive Industries Transparency Initiative). The large number of commitments and their complexity dilute the focus of the action plan and scatter implementation efforts.

Most of the action plan measures (19) are of normative nature—they provide for development and/or adoption of various legal acts—including 14 draft laws.

The distinctive feature of the second national action plan is its structure, which includes not only public agencies responsible for implementation of each specific measure and relevant deadlines, but also names nongovernmental partners that should be involved in implementation of each of the measures. Such nongovernmental partners include those from civil society, donor, and international organisations. This is an indication of genuine partnership in the OGP process, where all stakeholders commit to engage in the implementation efforts. This is the first occurrence of the section "Partners" appearing in the governmental action plan.

Clustering

The IRM researcher clustered some of the commitments to better structure the report and combine measures that are related and can be better dealt with in one context. For example, measures in Chapter 1 of the national action plan were clustered into two commitments: 1) Law and regulations on public participation in policy making and 2) Enabling environment for civil society organisations. Commitments related to open data regulations were clustered together as well.

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[1] The OGP Explorer provides the OGP community—civil society, academics, governments, and journalists—with easy access to the wealth of data that OGP has collected. It is available at: http://www.opengovpartnership.org/explorer/landing.

Theme 1. Create enabling environment for civil society engagement in public policies

Commitment Text:

1. Improve government rules on CSO involvement

1. Preparing and submitting to the Cabinet of Ministers of Ukraine proposals on amending the Cabinet of Ministers resolutions that govern the procedure of interaction with civil society institutions as regards public consultations, establishment and operation of public councils under executive authorities, facilitation of public expert evaluations of executive authorities' activities

Expected result: relevant resolution adopted by the Cabinet of Ministers of Ukraine

4. Public Participation Law

4. Developing and submitting to the Cabinet of Ministers of Ukraine in due course of a draft law on public participation in state policy making and implementation as well as in addressing local-level issues

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Editorial Note: The IRM researcher grouped these two commitments together because both are about public participation in policy making.

Lead institution: Ministry of Justice

Supporting institution(s): United Nations Development Programme (UNDP), unspecified NGOs and international organisations (commitment 1); Ministry of Regional Development, State Agency for E-Governance, Administration of the State Service for Special Communications and Information Protection, NGO "Ukrainian Independent Centre for Political Research," UNDP, non-specified NGOs and international organisations (commitment 4)

Start date: Not specified   **End date:** May 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
1. Improve government rules on CSO involvement				✔		✔	✔				✔					✔
4. Law on public pParticipation				✔		✔	✔				✔			✔		

Editorial note: Under the old criteria of starred commitments, commitment one would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

Both commitments aimed to improve civil society participation in the public policy development and implementation by establishing new or refining existing formal procedures.

1. Improving government rules on CSO involvement

The government has adopted several regulations on civil society organisations' (CSOs') involvement in the policy making process. They include "Procedure for Consultations with the Public on Policy Development and Implementation" and "Model Regulations on Public Councils to the Executive Authorities" (both adopted in November 2010 by Resolution No. 996 and amended in 2011 and 2014),[1] as well as "Procedure for Facilitating Public Examination of the Executive Authorities" (adopted in November 2008 by Resolution No. 978 and amended in 2009).[2] For a long time, CSOs advocated for revision of the above regulations to streamline them and make them more effective. The first OGP action plan included a similar commitment with a deadline for implementation of November 2012.[3]

The first commitment was fully implemented. The government enacted relevant amendments in its own regulations in April 2015. According to the self-assessment report, the Ministry of Justice set up a working group to develop amendments and held public consultations on the draft proposals in December 2014. Draft amendments were published on the website of the Ministry of Justice and the government web portal "Civil Society and Authorities."

The main improvements in the procedures include:

- A specified list of issues for which public consultations are mandatory;
- Clarification of forms of public consultations;
- Revised principles for forming civic councils to the public authorities, establishing a limit on the number of civic councils' members, the requirement for civic councils' members to have experience in the area relevant for the public authority at which the council has been instituted, clear conditions for terminating civic councils, streamlining of their functions, etc;
- civic councils to the public authorities with the ability to conduct public examination of authorities, defined grounds for refusal to conduct public examinations, specified requirements for expert conclusions, etc.

CSO representatives confirmed that the ministry developed the draft amendments in an open and inclusive manner and that they, in general, are positive and significantly improve relevant procedures. The only contentious issue was the limit for the number of members in a civic council. The government set the limit at 35 persons who are selected by the NGOs participating in the constituent meeting of the council. The previous principle was that the constituent meeting decided itself on the membership and this usually resulted in the councils comprising more than 100 people, because everyone who attended was included. In practice, this led to inefficiency of the councils and their poor operation. Therefore, the interlocutor believed that the established limit was reasonable.[4]

4. Public Participation Law

The government's plan for many years included the development of the law on public participation in policy formulation and implementation. For instance, the previous OGP action plan adopted in 2012 provided for adoption of the relevant draft law.[5] The latter

was submitted to the parliament back in 2009 and passed the first reading in October 2009, but was never considered in the final reading and expired since then. The draft law had a limited scope and was restricted to the local self-government.

Little progress was achieved to implement this commitment under the second national action plan. According to the self-assessment by the government, the Ministry of Justice set up a working group to develop the draft law. The group came up with proposals on the scope and main directions of the draft law.[6] The working group included representatives of the CSOs and, in March 2015, the Government's Secretariat and the Ministry of Justice held public consultations on the topic. The Ministry of Justice, together with the Organisation for Security and Cooperation in Europe (OSCE) Project Coordinator's Office and the Government's Secretariat, organised six regional discussions in June and September 2015.[7] The working group prepared a compendium of best practices and international standards in this area, and it was published on the government's website.[8] Comments to the proposals on the draft law were also solicited through an online form.[9]

While the initial measure concerned regulation of public participation in the development and implementation of state policy and solving local issues, the Ministry of Justice focused on development of the draft law "on public consultations." This narrows down the scope of the regulation, but makes it more tangible and realistic.

Did it matter?

These two commitments have been inherited from the previous OGP action plan. The first commitment aimed to streamline existing procedures on civil society participation, carrying a minor potential impact. The wording of the second commitment does not make it clear what the final result will be and what potential impact it can lead to.

Civil society took an active part in the implementation of the commitments and contributed to the revision of existing procedures for government agencies' interaction with the public—procedures for public consultations and public examination as well as activities of civic councils.

It is too early to assess their impact, as the regulation has not been tested in practice. The government used changes in the rules to also re-launch the work of the civic councils that were discredited by collaboration with the previous government, which was overthrown during the Euromaidan events. The new regulations addressed the deficiency of the previous ones that allowed the hijacking of civic participation structures by fake or government-affiliated NGOs and undermined their watchdog function. At the same time, there is still a question of how useful the existing procedures are (e.g., public examination of executive authorities) and how much they will be used. The revision of the public participation procedures would have benefited from an independent analysis of the previous practices.

In the opinion of the CSO representative, amendments with regard to public examination of executive authorities were mainly technical. The procedure itself is quite effective and, when used by the CSOs, can result in positive changes in policies and the operation of the relevant authorities. The Government Secretariat maintains and regularly updates the online list of completed public examinations including their results (expert conclusions), feedback from the authorities, and actions taken in response to the expert conclusions.[10] A CSO representative recognised this as a commendable effort.[11]

More substantive changes were noted with regard to the civic council regulations. Civic councils can be an important instrument of public engagement, but also depend on the civic activity and ability for self-organisation within the civil society. There remains a high level of distrust of civil society among public authorities. At the same time, the

interviewed CSO representative believed that more substantial reforms should be implemented. He proposed to separate two functions that should be dealt with by two distinctive bodies: 1) an expert panel for the public authorities to provide expert advice and recommendations—such a panel could be set up by the decision of the head of the public agency—and 2) a civic council with unlimited participation to provide broader public opinion and also exercise a watchdog function.[12]

As for the public consultations under the government regulations, the main concern is their poor enforcement. The public authorities fail to follow relevant procedures, publish on-time draft legal acts, and conduct meaningful consultations.[13]

The second commitment (the Law on Public Participation) was revised in the process of its implementation and was narrowed down to the development of the law on public consultations. It is yet to be seen how ambitious the new law will be as the working group under the Ministry of Justice has so far developed only draft proposals on the possible law. The government failed to implement the commitment within the established timeline and the work on the draft is still in its initial stages.

Moving forward

The IRM researcher recommends assessing the effectiveness of the procedures for public consultations and public examination of state authorities under the revised government regulations. In the past, such procedures usually had a formal nature and did not allow genuine civil society engagement in the decision making process. The government should evaluate how the authorities follow the revised procedures, how civil society makes use of them, and what the obstacles are for proper enforcement and effective civil society engagement. The government plan to conduct a training of public officials on the relevant procedures, as stated in the self-assessment report, is also welcome.

With regard to the second commitment concerning elaboration of the draft law on public participation, the IRM researcher recommends stepping up relevant work that is already behind schedule. One specific issue to be reviewed is the scope of the future law and whether the current proposal of limiting it to public consultations is ambitious enough and is adequate for the state of civil society's development in Ukraine. This exercise could benefit from additional input developed under another OGP commitment related to the e-democracy road map. The researcher also recommends aligning the draft proposal with other existing procedures for public consultations in different laws, so as not to duplicate and to avoid overlap—in particular those provided for in the Law on Principles of State Regulatory Policy in the Economic Area and the Law on Public Access to Information. It is also important to analyse the reasons behind poor enforcement of the current regulations on the public consultations and what tools should be included in the draft law to address this problem.

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[1] http://bit.ly/1O5tjMt.

[2] http://bit.ly/1Vo6McH.

[3] http://bit.ly/1KPpNjs.

[4] Maksym Latsyba, NGO Ukrainian Independent Center for Political Research, interview with the IRM researcher, 29 September 2015.

[5] http://bit.ly/1KPpNjs.

[6] http://bit.ly/1PLk7dx.

[7] See information about public discussion at: http://bit.ly/1MXtsRL.

[8] http://bit.ly/1JA1eVI.

[9] http://bit.ly/1P3AZ0U.

[10] http://bit.ly/1Vpee7v.

[11] Maksym Latsyba, NGO Ukrainian Independent Center for Political Research, interview with the IRM researcher, 29 September 2015.

[12] Ibid.

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[13] Ibid.

2. Financing of charities

3. Obtaining not-for-profit status for CSOs

Commitment Text:

2. Developing and submitting to the Cabinet of Ministers of Ukraine in due course of the draft laws on amending the Law of Ukraine on Charitable Activities and Charities and the Budget Code of Ukraine in order to allow charitable organisations to receive financial support for performing state policy tasks and providing social services

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

3. Regulating the issue of granting civic associations the non-profit organisation status by means of entering a civic association in the Register of Non-profit Institutions and Organisations on the "one-stop shop" basis, with regulating document processing deadlines, defining grounds for denial of such a status, and envisaging free on-line access to the Register, in particular through the development and submission to the Cabinet of Ministers of Ukraine in due course of a draft Law of Ukraine on Amending the Law of Ukraine on Civic Associations and the Law on State Registration of Legal Entities and Individual Entrepreneurs, and other legislative acts as required.

Expected result: relevant draft laws endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Editorial Note: The IRM researcher grouped these two commitments together because they both are about creating an enabling environment for civil society organisations.

Lead institution: Ministry of Finance (commitment 2), State Registration Service (commitment 3)

Supporting institution(s): Ministry of Social Policy, Ministry of Culture, Ministry of Justice, NGO Ukrainian Independent Centre for Political Research, unspecified NGOs and international organisations (commitment 2); Ministry of Justice, Ministry of Finance, State Fiscal Service, NGO "Ukrainian Independent Centre for Political Research", United Nations Development Programme (UNDP), non-specified NGOs and international organisations (commitment 3)

Start date: Not specified **End date:** 31 March 2015 (commitment 2); 30 April 2015 (commitment 3)

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
2. Extending scope of financing and activities of charities				✔		✔					✔		✔			

3. Obtaining not-for-profit status for CSOs		✔		✔	✔					✔		✔			

What happened?

2. Extending scope of financing and activities of charities

The commitment provides for the development of legislative amendments that would allow charities to receive public financing for certain types of activities—participating in policy making and providing social services—and to receive financial support from the state and local budgets. The Budgetary Code[1] provides for the possibility of budgetary funding of civic organisations for people with disabilities, veterans, youth, and children, but not charities, which have a distinctive legal status. This measure was supposed to extend the scope of the regulation and include charities in the list of entities that can obtain budgetary financing for certain projects. This would assist charity organisations in receiving additional funding for their activities, notably for projects related to providing public services or other tasks in the public interest.

After adoption of the OGP action plan, the Ministry of Finance objected to this measure and *de facto* refused to implement it. The ministry was concerned that the measure, if implemented, would require additional budgetary allocations. From the discussions in the OGP Coordination Council, it became clear that the civil society representatives and the Ministry of Finance had different understandings of the measure. The council decided that the ministry's officials should meet with the civil society representatives and discuss a possible solution. In June 2015, the vice prime minister who chairs the Coordination Council issued a formal instruction to the ministry to hold negotiations with the civil society representatives, but the ministry failed to do so. The issue remains unresolved and the implementation of the measure has not started.

3. Obtaining by CSOs of "not-for-profit" status

The current procedure for obtaining a non-profit tax status by NGOs and other civic associations is cumbersome and time consuming. An NGO has first to register as a legal entity with the Ministry of Justice and then apply to the Fiscal Service for obtaining the non-profit status. The Fiscal Service often rejects such applications due to problems with the statutory documents of NGOs, which then have to come back to the Ministry of Justice for amendment. The commitment aims to streamline relevant procedures and introduce the one-stop-shop principle for obtaining the relevant status, namely that the applicant NGO would apply to the Ministry of Justice which would then arrange registration with the tax authorities.

The government reported that it submitted the new draft law on state registration of legal entities to the parliament in June 2015, and that it was adopted in the first reading in July 2015.[2] The draft law, however, fails to address the issue that the OGP measure targeted. There is no one-stop procedure for civic organisations to obtain their registration as a legal person and as being eligible for a non-profit tax status. Meanwhile, the draft law includes similar procedures for individual entrepreneurs who will be able to obtain their state registration along with the special tax status. The civil society representative noted that the Ministry of Justice, which drafted the new law, did not open it for public consultations.[3]

In parallel, the Ministry of Finance has developed draft regulations on the registration of non-profit organisations, which also did not address this commitment and which were criticised by civil society.[4]

Did it matter?

None of the two commitments provide for a transformative reform in the respective areas, but both are important for improving the operational environment for civil society organisations. Implementation of both commitments demonstrated serious challenges, mainly due to the position adopted by the Ministry of Finance. It showed that the government did not really "own" and accept these two OGP commitments and was reluctant to follow up on their implementation. It also showed that there are bigger issues related to the financing and taxation of civil society organisations, related in particular to the regulations in the Tax Code of Ukraine.

Moving forward

With regard to both commitments, the government has yet to start their implementation. The immediate first step would be to hold public consultations between the relevant ministries and civil society to discuss implementation of these commitments in view of the changing legal framework. The government will have to address the lack of dialogue with the civil society in this regard and take additional efforts to find common ground and implement the commitments as soon as possible.

The IRM researcher recommends that if relevant measures are included in the next action plan, they are focused on evaluation of the operational environment for CSOs in terms of taxation and sources of funding in a comprehensive way, and contain clear commitments on improving the environment.

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[1] "Budgetary Code of Ukraine," Article 87, http://bit.ly/1O7zjnV.
[2] "Draft Law # 2983," http://bit.ly/1YOkGtf.
[3] Maksym Latsyba, NGO Ukrainian Independent Center for Political Research, interview with the IRM researcher, 29 September 2015.
[4] Ibid. This was also the point of view of other civil society representatives expressed during the OGP Coordination Council meetings.

Theme 2. Ensure access to public information

5.1 Establishing rules on processing official information

Commitment Text:

5.1. Ensuring citizens' unhindered access to public information by means of: preparing and submitting to the Cabinet of Ministers of Ukraine in due course a draft resolution on approval of the procedure for recording, storing and using documents and other physical information media containing official information collected during operational and detective, counterintelligence activities, in the field of national defence of the country

Expected result: a relevant resolution adopted by the Cabinet of Ministers of Ukraine

Lead institution: State Archive Service

Supporting institution(s): Ministry of Justice, Ministry of Internal Affairs, Ministry of Defence, Security Service, Administration of the State Service for Special Communications and Information Protection, State Committee on TV and Radio Broadcasting, Ministry of Finance, Ministry of Economic Development, Service of Foreign Intelligence, unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 January 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
5.1. Establish rules on processing official information				✔	✔					✔					✔	

What happened?

A new Law of Ukraine on Access to Public Information was enacted in May 2011. It revised the legal framework concerning access to information held by public authorities. In particular, the law changed the classification of information with restricted access. A new classification for such information was introduced—"official information." At the same time, the parliament passed a new Law on Information, which removed the legal authorisation for the government to regulate the processing of official information through its by-laws. The government had to align its regulations to this law, but failed to do so. Instead, the government made technical amendments in its regulations on official information and started drafting new rules.

In March 2014, the parliament passed Law #1170-VII which, among other provisions, instructed the government to adopt regulations referred to in the OGP commitment within six months after enactment of the law—by 19 October 2014.[1] The government failed to fulfil this instruction on time.

The State Archive Service was responsible for development of the relevant regulations. It prepared several versions of the text and published them for public consultations, but the regulations have not yet been adopted. The service also sought input from civil society on the draft regulations and discussed the draft document with the ombudsman office. Both the civil society and the ombudsman office criticised the draft text, as it did not fully align with the Law on Access to Public Information. In particular, it did not incorporate the harm and public interest tests used by the law for situations where access to information is restricted. The latest draft document was submitted to the government in August 2015.

Meanwhile, a group of MPs introduced new draft amendments to the Law on Access to Public Information that would affect implementation of this commitment.[2] The draft amendments aim to improve provisions on access to information, taking into account the practice of their implementation. It was developed by civil society experts. Proposed changes also concern the processing of official information. If the new amendments are adopted, the government will have to again revise its regulations on official information.

Did it matter?
The government regulations ("Instructions") on official information is an important, albeit technical, document that regulates in detail how public agencies deal with the so-called official information (a type of information with restricted access). In the Ukrainian context, public agencies closely follow such regulations and pay them more attention than even relevant law.

It is therefore essential that the regulations are in line with the law and reflect its progressive provisions. This is especially the case with regard to the rules on denying or restricting access to requested information—when the law requires the public authorities to apply public interest and harm tests. The authority that holds information has to justify any access restriction with legitimate reasons, including the substantial harm that may be caused by disclosure. It also must prove that such harm outweighs the public interest in disclosure. This requirement has to be embedded in the rules on treatment of official information.

The draft regulations, which the State Archive Service developed, failed to properly reflect relevant provisions of the law. Some regulations on the processing of official information did not comply with the access to information law.

The delay in the development and adoption of the regulations may lead to a situation— before or shortly after adoption—in which the regulations become obsolete and need to be revised again. This would be the result of new amendments to the access to information law currently pending in the parliament.

Moving forward
The commitment remains valid and the government should adopt the regulations on the processing of official information in line with the access to information law. The IRM researcher also recommends that the government, jointly with civil society organisations and the office of the ombudsman, organise training for public officials on the application of the new regulations in light of the access to information law requirements.

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[1] See text of the law at: http://bit.ly/1Vrnx6S.
[2] "Draft Law #2913," http://bit.ly/1jy74C7.

5.2 Access to urban planning documents

Commitment Text:

5.2. Ensuring citizens' unhindered access to public information by means of: ensuring free public access to urban planning documentation and geo-information data (including in electronic form)

Expected result: practices of using the "For internal use only" classification revised concerning urban planning documentation, particularly general urban development plans; general urban development plans published according to the Law of Ukraine on Regulation of Urban Planning Activities; central executive authorities' regulatory legal acts, particularly lists of data constituting restricted information, brought into conformity with the Law of Ukraine on Access to Public Information, the Law of Ukraine on Amending Some Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine on Information and the Law of Ukraine on Access to Public Information to ensure citizens' access to geo-information data created at the state budget expense, particularly large-scale maps and plans

Lead institution: Ministry of Regional Development

Supporting institution(s): Ministry of Ecology and Natural Resources, Ministry of Defence, Ministry of Agrarian Policy, State Agency of Land Resources, State Agency of Forest Resources, regional state administrations, Kyiv City State Administration, NGO Eastern Ukrainian Centre for Civic Initiatives, unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 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
5.2.Access to urban planning documents				✔	✔			✔				✔		✔		

What happened?

The Law of Ukraine on Regulation of the Urban Planning Activity[1] provides that all urban planning documents ("general urban plans," "detailed territory plans," etc.) should be open to the public. However, in practice this provision is not properly enforced as often relevant documentation or its parts are classified. In most cases, such classification was assigned before the new Law on Access to Public Information was enacted in 2011 (sometimes even dating back to the Soviet period). The Law #1170-VII[2] adopted in March 2014, reinforced relevant provisions by explicitly prohibiting inclusion in the urban planning documentation information of restricted access.

The non-compliance with the new laws and failure to align various by-laws with the access to information legislation explains why there is still no effective access to urban planning documentation. The issue cannot be solved only at the central level, as it requires relevant decisions (e.g., declassification) to be made at the local level, often by various institutions.

In its self-assessment report, the government stated that the Ministry of Regional Development issued recommendations to the regional state administrations concerning implementation of the Law on Regulation of the Urban Planning Activity as amended by the Law #1170-VII. Also, the State Land Agency approved in March 2015 information on spatial objects and their characteristics which should not be depicted and signed on topographical maps intended for public disclosure. According to the government's report, this allows developers of the urban planning documents and geo-information data to exclude official (confidential) information from map materials, which would result in their disclosure to the public.

The civil society representatives are not satisfied with the government's efforts in this regard. One of the leading NGOs in this area noted in its written submission[3] that the local authorities and entities responsible for map development failed to comply with the requirement of the Law #1170-VII to review classification of urban planning documents in line with the new legal framework. Those who did review relevant documents, in most cases, automatically extended classification contrary to the law.

The NGO also stated that in some cases, local self-government authorities refuse to execute court decisions that order disclosure of urban planning documentation. In many cases, when denying access to relevant documents, the information-holders (city councils, entities that develop and store urban plans) rely on government regulations concerning the processing of official information, even though it is out-of-date and lacks legal grounds (see description of the previous OGP commitment).

Another obstacle for effective access to urban plans and declassification of the relevant documents is a lack of understanding and guidance of the holders of relevant documents with regard to the procedure for such declassification.

In the meeting of the working group set up under the OGP Coordination Council, the Ministry of Regional Development also stated that the current legal framework cannot be implemented and that, in practice, materials with restricted access (e.g., layout of water supply networks and civil defence objects) cannot be separated from the rest of the urban planning maps. The ministry proposed to amend the law to reverse relevant provisions and allow inclusion of classified information in the urban planning documents.[4]

The ministry also explained that it focused on the legal framework and that the main responsibility for disclosure of urban plans laid with the local councils, which are not subordinate to the government. There is also an issue of funding as redrawing of urban plans is costly. In the new urban planning documents that are developed through electronic means, separation of restricted parts from the rest of the urban planning materials is easy (because such electronic documents allow multi-layering). Achieving the same result in the hard-copy paper plans requires a significant investment of time and money.

According to the ministry's representatives, there are more than 20,000 cities and other dwellings which have urban planning documents overall. From them, only about 1,800 plans have been published online, including about 1,500 general plans.

Did it matter?
The commitment aimed to support the process of disclosure of urban planning documentation and set an ambitious goal of ensuring free public access to urban

planning documentation and geo-information data (including in electronic form). If implemented to the full extent, the commitment would be transformative—it would transform "business as usual" in the relevant area.

Implementation of the commitment faced practical difficulties related to the lack of coordination, political leadership, technical expertise, and funding. The government also has limited powers to ensure full implementation, because implementation to a large extent depends on the local self-government authorities (a separate portion of public authorities not subordinate to the government). The civil society representatives were not satisfied with the government's efforts.

The commitment is an example of a complex measure that should be broken down into several stand-alone tasks, each requiring involvement of a number of stakeholders.

Moving forward
The NGO specializing in the topic (East-Ukrainian Center for Civic Initiatives) proposed several recommendations for the government to ensure proper implementation of the commitment, including:

- Encourage the local self-government authorities, together with the local state administrations and developers of urban planning documentation, to step up declassification measures;
- Allocate budgetary funding to update and digitise urban planning documentation in line with the new access to information legislation;
- Revise the government regulations on the processing of official information and include therein instructions on how restricted-in-access materials should be separated within the graphical documents;
- Set up a coordination mechanism to ensure collaboration of the local self-government authorities with the local state administrations and developers of urban planning documentation with regard to disclosure of urban planning documentation.

The IRM researcher supports these recommendations and also recommends that the government conduct extensive public consultations on the topic as well as any new draft proposals to amend the legislation that is being developed within the government. Ensuring effective access to urban plans is an area that requires the collective effort of a number of stakeholders, including different branches of public authorities. The OGP process, therefore, presents a perfect platform for such collaboration. The IRM researcher recommends setting up a separate working group under the Coordination Council to oversee and support implementation of this commitment.

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[1] http://bit.ly/1O2mNof.
[2] http://bit.ly/1Vrnx6S.
[3] Written submission by the NGO East-Ukrainian Center for Civic Initiatives, 23 September 2015. Available on file with the IRM researcher. This point of view was shared by other NGO representatives during the meeting of the OGP working group on the commitments related to access to information. The meeting was held in preparation of the self-assessment report.
[4] http://bit.ly/1FiuIWu.

5.3 Access to Communist-era archives ✪

Commitment Text:

5.3. Ensuring citizens' unhindered access to public information by means of: developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law regulating the procedure and conditions of access to archives of the USSR internal affairs bodies and secret services of 1917-1991

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Lead institution: Ukrainian Institute of National Remembrance

Supporting institution(s): Ministry of Culture, State Archive Service, Ministry of Justice, NGO "Centre for Researching Liberation Movement," other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 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
5.3. Access to Communist-era archives				✔	✔							✔				✔

Editorial note: This commitment is a starred commitment because it is clearly relevant to OGP values as written, has transformative potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

Access to the files of the Soviet period secret services and law enforcement agencies remains a sensitive issue. Many of the archives remain closed for researchers or difficult to access. The General Law of Ukraine on Archives does not provide effective mechanisms for accessing these files. The archives are spread out among different institutions and are not properly administered. New management of the relevant state agencies appointed in 2014 has promoted open access policy, but there were legal obstacles that hindered effective access and management of these documents of significant public interest. Prior to adoption of the OGP action plan, several NGOs started working on the relevant draft law, but the OGP action plan became the first official commitment to proceed in this direction.

The government exceeded the planned implementation of the commitment. The government submitted the draft law developed by NGOs and the Ukrainian Institute of National Remembrance to the parliament in the beginning of April 2015 and days later (on 9 April 2015) the parliament adopted the law in the first and final reading.[1]

The Law on Access to Archives of Repressive Bodies of the Communist Totalitarian Regime of 1917-1991 determines special procedure for accessing relevant archives and

lists grounds for restricting such access. The law mandates that the law enforcement, security, and other agencies transfer relevant archives they possess to a special state archive to be set up and managed by the Ukrainian Institute of National Remembrance.

Did it matter?

The commitment set an ambitious goal to establish effective access to documents that were kept secret for many years under the previous Soviet regime, but also those during the period of Ukraine's independence since 1991. It aimed to break from the totalitarian past by allowing researchers and others to examine archives that document crimes of the previous regime and enforce the right to truth.

The new law covers information about the struggle for Ukraine's independence in the 20th century, political persecutions carried out by Soviet repressive bodies on Ukraine's territory in 1917-1991, human rights violations committed by Soviet agencies, the World War II events on Ukraine's territory, and technological incidents and catastrophes in Ukraine in 1917-1991. All this information is of high public interest and had been suppressed for a long time.[2]

Previous practice of access to archives in Ukraine did not allow effective access due to various obstacles: frequent denial of access because information had the classified status; illegal classifying of documents; use of classified status assigned by Soviet agencies; excessive and unjustified restriction of access; etc. Also, a large part of relevant archives was stored in internal archives of various public agencies, including the Ministry of Interior, the Security Service, and the Foreign Intelligence Agency. Such archives are regulated by special by-laws that tend to restrict access as much as possible.

The law takes into account the practice of legal regulation of this matter in other European countries: Bulgaria, Estonia, Latvia, Germany, Poland, Romania, Hungary, the Czech Republic, and Slovakia.

Moving forward

Next steps should include implementation of the law and, notably, setting up the special archive under the Ukrainian Institute of National Remembrance that will collect, store, and provide access to archive documents of the Soviet totalitarian regime.

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[1] http://bit.ly/1hKjXrb.
[2] http://bit.ly/1OB0uHW.

7. Right to information supervisory mechanism ✪

Commitment Text:

7. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on exercising state supervision over enjoyment of the right to access to public information

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Lead institution: State Committee on TV and Radio Broadcasting

Supporting institution(s): Ministry of Justice, Parliament's Ombudsman, International Renaissance Foundation, unspecified NGOs and international organisations

Start date: Not specified   **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
7. Right to information supervisory mechanism				✔	✔		✔					✔				✔

Editorial note: This commitment is a starred commitment because it is clearly relevant to OGP values as written, has transformative potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

In 2011, the parliament adopted a new Law on Access to Public Information; it entered into force in May 2011. The law did not provide for a separate mechanism for supervising its enforcement, notably through an extrajudicial review of complaints. Lack of the relevant provisions was one of the main deficiencies of the new law, which in general received a very positive assessment (see, for example, the Global Rating of the Right to Information Laws[1]). After enactment of the new law in 2011, the president of Ukraine instructed the government to prepare proposals on establishing a state control mechanism for enforcement of the right to information.[2]

While the commitment provided that the government had to develop a relevant draft law, it can be viewed as completed because a group of MPs submitted the draft law in the parliament.

The Anti-Corruption Strategy of Ukraine for 2014-2017, adopted by the law on 14 October 2014,[3] established as one of its policy directions setting up or designating a state authority to oversee implementation of the right of access to information. Such authority would have to comply with standards of effectiveness and independence. From October 2014 to April 2015, a working group at the ombudsman's office developed draft amendments to the Law on Access to Public Information, particularly in

regard to the oversight authority. A joint EU and Council of Europe project provided assistance during the drafting process.[4]

A group of MPs submitted the draft law developed by experts to the parliament in May 2015.[5] The relevant parliament's committee endorsed the draft law. The draft law awaits its consideration in the first reading.

The State Committee on TV and Radio developed its version of the draft law, but it was never submitted to the parliament.

The draft law defines the ombudsman as an oversight authority for access to information and assigns its office with a range of respective powers. Powers include those to receive and review complaints on access to information violations, obtain any information (documents) from any party including classified information, obtain explanation and other evidence, and issue binding decisions on the disclosure of requested information or on addressing any other violation of the access to information legislation. Decisions of the ombudsman in this regard will be executed by the bailiff's service like a court decision.

The ombudsman office will also be responsible for raising awareness on access to information rights, issuing guidelines and clarifications on the application of legal rules, organising trainings, monitoring and analysing enforcement and preparing relevant annual reports, proposing changes in the legislation, etc.

The ombudsman has already, in fact, started to promote compliance with the access to information legislation, particularly by designating a representative on access to information issues.

Did it matter?

The commitment aims to strengthen enforcement of the right of access to information in Ukraine by ensuring effective state oversight in this area. It is an ambitious and important task. The lack of a dedicated institution in charge of enforcement of the right of access to information has affected the level of implementation of the law, which remains low. Administrative appeal to the public agency that violated the access rights or to a superior administrative agency has proved to be ineffective, while the judicial appeal is time consuming and costly. The commitment aims to fill this gap.

The commitment is also a requirement of international standards[6] and Ukraine's commitment to its international partners. In addition to the OGP action plan, enactment of amendments on the oversight body for access to information is one of the conditions for the EU funding provided to Ukraine.

The draft law pending in the parliament proposes to assign the oversight function to the ombudsman. The ombudsman institution has necessary guarantees of independence—an essential requirement for a body responsible for enforcement of the law by government agencies, including the Cabinet of Ministers itself. At the same time, the ombudsman institution usually does not enjoy binding enforcement powers; its decisions are recommendatory in nature. Such a mandate can therefore be seen only as an interim solution, because under the current constitutional framework in Ukraine no new institution could be set up that would comply with requirements of independent status and functioning. Another argument for providing the ombudsman with such a mandate is that since 2014, the ombudsman office in Ukraine has had enforcement powers (like those proposed for access to information) in the area of personal data protection and acts as the national Data Protection Authority.

The draft law provides for a strong model of the supervisory authority to oversee proper enforcement of the access to information legislation. The draft law also

addresses a number of deficiencies in the access to information law and proposes changes to further improve it.

Moving forward

The IRM researcher recommends adopting as soon as possible the draft law pending in the parliament and ensuring its implementation. The draft law will vest significant additional powers and responsibilities with the ombudsman office, which should be matched with commensurate resources. The government will need to ensure that relevant funding is allocated in the state budget and that the ombudsman has necessary human and other capacities to implement the law and process complaints related to alleged violations of access to information legislation.

In the mid-term perspective, public authorities should explore the possibility of amending the Constitution of Ukraine to allow the establishment of a stand-alone oversight agency with enforcement powers to relieve the ombudsman of this function. Such an agency could also oversee respect for the right of personal data protection, which is often related to access to information.

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[1] www.rti-rating.org.

[2] http://bit.ly/1W0DuGI.

[3] http://bit.ly/1LvuQWk.

[4] The draft law was developed with support of the EU and Council of Europe joint project, "Strengthening Information Society in Ukraine."

[5] http://bit.ly/1jy74C7.

[6] See for example, Article 19 of the Model Freedom of Information Law, the Council of Europe Convention on Access to Official Documents, and the Right to Information Global Rating Indicators.

8. EITI Compliance

Commitment Text:

8. Taking measures for Ukraine to obtain the status of compliance with the Extractive Industries Transparency Initiative standards

Expected result: national legal framework brought into conformity with the EITI standard; a report in Ukrainian and in a foreign language prepared according to the above-mentioned standard

Lead institution: Ministry of Energy

Supporting institution(s): Ministry of Economic Development, Ministry of Finance, Ministry of Ecology and Natural Resources, International Renaissance Foundation, NGO Dixie Group, NGO Kyiv International Energy Club Q-Club, NGO Analytical Centre of Regional Cooperation, the international initiative "Publish What You Pay," other unspecified NGOs and international organisations

Start date: Not specified   **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
8. Compliance with EITI standards			✔		✔	✔	✔				✔				✔	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

In its 2012 OGP action plan, the Government of Ukraine committed to ensure, by 31 December 2012, the "implementation in Ukraine of the EITI according to its criteria." Ukraine was accepted as an Extractive Industries Transparency Initiative (EITI) candidate country in October 2013. The national multi-stakeholder group (MSG) developed terms of reference for the independent administrator for Ukraine's first EITI report to include the oil and gas sectors. The country's second report will additionally include the coal and iron ore sectors. Workshops on the workplan and communications took place in August and October 2014. The most recent MSG meeting was held on 24 February 2015.[1] The first country EITI report was scheduled to be prepared by the end of 2015.[2]

The government took a number of measures to implement the commitment. While the title of the commitment ("taking measures") was too broad, the expected outputs included bringing national law into compliance with EITI standards and preparing the report in line with those standards.

In August 2015, the MSG selected the Ernst&Young company as the independent administrator for the EITI report development. It also selected the national secretariat for the MSG through an open competition.[3]

The government also reported in its self-assessment the approval of the implementation plans for the EU Accounting Directives 2013/34/EU and Audit Directive 2006/43/EU. The parliament adopted in June 2015 the Law on Amendments in the Legislation to Ensure Transparency in the Extractive Industries. The draft law was prepared by the MSG members and civil society experts.

The government reported a number of public events dedicated to the EITI implementation in Ukraine, organised by or jointly with NGOs.

The Anti-Corruption Strategy of Ukraine for 2014-2017—adopted by the parliament as law on 14 October 2014[4]—provided as one of its measures, "ensuring active participation of Ukraine in international transparency initiatives and reaching high level of compliance with their standards, in particular by implementing standards of the initiatives of transparency of extractive industries...."

On 8 September 2015, the government adopted a plan of action to implement the EITI in Ukraine in 2015. It appears that the action plan's approval was delayed, leaving very short deadlines for implementation.

Shortly after publication of the government's final self-assessment report for the OGP, the Ministry of Energy announced that it requested postponement of Ukraine's EITI report publication until 15 January 2016. (The original due date was 16 October 2015.) The ministry explained the delay as being caused by the failure of the Ukranafta company (the majority stakeholder owned by the state) and the State Fiscal Service to provide information required for the report.[5]

Did it matter?
Ukraine's commitment to the EITI process is important to ensure transparency and prevent embezzlement of revenues received from the extractive industry. In 2011, the mining sector accounted for approximately 7% of the country's GDP and 47% of its exports; in 2013, the sector's share in overall industrial production was 27%.[6]

The EITI-related commitment in the current OGP action plan is similar to the one in the previous action plan. The latter aimed to ensure the EITI implementation in Ukraine according to the Initiative's criteria. It shows that either the previous commitment was unrealistic, it was poorly implemented, or both. One can also raise the issue of the cross–reference of commitments in different action plans, as compliance with the OGP commitment has been made contingent on progress with achieving EITI compliance.

While there was progress made in harmonizing national law with EITI standards, the recent postponement in the publication of the first EITI report by Ukraine is discouraging. This will delay achievement by Ukraine of the EITI compliance status. The compliance is reached when the country meets all EITI requirements according to the validation procedure. The requirements include timely publication of EITI reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas, and mining companies.[7]

The new Law on Transparency in the Extractive Industries raised the issue of extractive industries' transparency to such a level for the first time. In its preamble, the law directly refers to the OGP plan. It includes important changes in the Subsoil Code within the Law on Oil and Gas. It also instructs the government to develop procedures for ensuring transparency in the extractive industries and to adopt the international reporting standards by users of subsoil resources. As of mid-October 2015, the government failed to adopt the relevant regulations.

The amendments of June 2015 are seen as an interim measure. The MSG started working on a new comprehensive draft law on the transparency of extractive industries.[8]

The initiative also shows genuine multi-stakeholder dialogue within the MSG, including a number of NGOs and experts.[9]

Moving forward

The Ukrainian Government needs to ensure that the EITI report is published without any further delay. The next EITI report should also cover all material sectors, including the coal and iron ore sectors. The government should adopt without delay regulations required by the June 2015 Law on Transparency in the Extractive Industries. The government is also encouraged to develop and submit in the parliament a comprehensive law on extractive industries transparency.

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[1] https://eiti.org/ukraine.
[2] http://bit.ly/1ODYqyS.
[3] http://bit.ly/1jQx6jZ.
[4] http://bit.ly/1LvuQWk.
[5] http://bit.ly/1hNE33P. See also comments by the civil society experts at: http://bit.ly/1MTa6b8.
[6] https://eiti.org/ukraine, http://bit.ly/1MzpU3t.
[7] http://bit.ly/1S1xtUd.
[8] http://bit.ly/1hNHSWS.
[9] See for example: http://bit.ly/1Mz8Iu6, http://bit.ly/1PtUOj5.

Theme 3. Prevent and combat corruption

9. Monitor infrastructure projects

Commitment Text:

9. Preparing and submitting to the Cabinet of Ministers of Ukraine in due course a draft Model Regulation on a Monitoring Committee of Infrastructure Projects, which would envisage the procedures for establishment of supervisory boards for the implementation of infrastructure projects of national and regional levels

Expected result: relevant resolution adopted by the Cabinet of Ministers of Ukraine

Lead institution: Ministry of Infrastructure

Supporting institution(s): Ministry of Economic Development, Ministry of Finance, Ministry of Ecology and Natural Resources, NGO Transparency International Ukraine, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 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
9. Draft model regulation on monitoring infrastructure projects			✔			✔	✔				✔				✔	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

The Anti-Corruption Strategy of Ukraine for 2014-2017, adopted as law on 14 October 2014,[1] provided as one of the measures to be taken the implementation of "pilot projects of integrity pacts in infrastructure projects or other projects, which include significant budget expenses, by forming tripartite (government - business - civil society) mechanism of control over design and implementation of such projects, targeted and efficient use of relevant funds." The monitoring of infrastructure projects could be seen as implementation of this measure.

The Ministry of Infrastructure developed draft regulations in the beginning of 2015, but civil society organisations criticised the draft text, and it was twice returned for revision to the ministry. The latest revision was ordered by the government in September 2015.[2] The revised version was then cleared by the government's committee and, according to the government self-assessment report, awaits the government's consideration. However, according to NGO information, the Government Secretariat started a new

formal approval procedure for the revised draft regulations that can further delay its adoption.[3]

The draft regulations provide for setting up permanent infrastructure projects' monitoring panels (committees) at the central and local executive authority levels. The panels will comprise representatives from civil society organisations and other nongovernmental stakeholders to be selected through an open competition.

Did it matter?

The commitment sets an ambitious aim of direct involvement from non-governmental stakeholders in the process of designing and implementing infrastructure projects with the use of public funds. Such oversight will be conducted via special panels (monitoring committees) that could review budgets and designs of the projects, procedures for the selection of contractors, procurement and other related contracts, and disbursement and the use of public funds. If sufficient powers are given to such panels, it would significantly increase the transparency and integrity of project implementation, prevent corruption, and help in the detection of irregularities.

The Ministry of Infrastructure developed draft regulations in cooperation with the NGOs (in particular, TI-Ukraine and the Centre for Political Studies and Analysis). However, the draft text had to be revised twice as the original text was diluted after the approval process conducted among ministries and other involved government agencies.

It remains to be seen whether the regulations, once adopted, would assign sufficient powers to the oversight panels (monitoring committees) and provide broad access to relevant information for the panels to be effective in their work.

Moving forward

The IRM researcher recommends that the government adopt, without further delay, regulations on the monitoring committees for infrastructure projects that provide a robust mechanism of civic oversight for the implementation of large projects using public funds. The government should also ensure that all the relevant ministries and other agencies quickly adopt their own by-laws and establish such committees in an open and participatory manner. The government should also consider the possibility of establishing provisions on such oversight panels in the law to make them permanent and effective.

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[1] http://bit.ly/1LvuQWk.
[2] Oleksiy Khmara, Transparency International – Ukraine, interview with the IRM researcher, 17 September 2015.
[3] Ibid.

10. Adopt regional anti-corruption programmes

Commitment Text:

10. Developing, with the involvement of members of the public, anti-corruption regional programmes

Expected result: programmes approved by oblast city councils and Kyiv city council

Lead institution: Regional and Kyiv City State Administrations

Supporting institution(s): Ministry of Justice, NGO All-Ukrainian Special College on Combating Corruption, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 March 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
10. Adopt regional anti-corruption programmes		✔				✔	✔			✔				✔		

What happened?

The 2012 OGP action plan included a commitment to develop, with participation from civil society, regional programmes for corruption prevention and counteraction, taking into account national and international experience (with a deadline of December 2012).

According to the IRM report on implementation of the 2012 action plan, the government reported that 22 regional state administrations have developed regional programmes for corruption prevention. The Khmelnytsk and Kyiv regions had yet to develop programmes. Also, some local government bodies have included separate chapters on preventing and combating corruption as part of broader programmes. According to monitoring by civil society organisations (CSOs) however, only 13 regions have adopted the programmes. A further eight regions have developed programmes, but they still had not submitted them for adoption. The regional administrations in two more regions (Odesa and Poltava) adopted plans on preventing and combating corruption. Furthermore, CSOs outside of the civic councils were not always involved in the development of the regional programmes. Reportedly, in 2014, the Ministry of Justice was tasked to analyse those programs in cooperation with CSOs and to prepare methodological recommendations on their development as well as assess their implementation.[1]

The government in its self-assessment report mentioned programmes adopted in 13 regions and nine draft programmes that were published for public consultations. It is not clear whether these programmes are new and have been adopted since enactment of the current OGP action plan. The self-assessment report also provides no details on the substance of the regional programmes and whether they were developed in cooperation with civil society, as required by the commitment.

An NGO representative noted that there are very few new anti-corruption regional programmes, namely, a new programme in the cities of Kyiv and Dnipropetrovsk.[2] The interlocutor also doubted that the commitment should have been included in the action plan in the first place because it is too extensive and requires significant coordination efforts that the OGP mechanism cannot provide.[3]

Did it matter?

Local and regional anti-corruption programmes (action plans) can be a useful instrument for preventing and combating corruption at the sub-national level. When developed in a participatory manner, they can strengthen local anti-corruption efforts. The previous practice of development of such programs, however, has shown that they are often approved for formal reasons and do not represent a genuine commitment on behalf of the local authorities. They are also usually not developed with the involvement of civil society, with some exceptions (e.g., the 2015 anti-corruption action plan of the city of Kyiv was developed by the Anti-Corruption Council of Kyiv's city administration, composed mainly of civil society representatives).

Overall, the commitment did not contain specific milestones or deliverables and is difficult to measure. It is not clear how many regional programmes should have been developed and what, if any, are the requirements for them. Adoption of the programmes itself may represent an output that does not have any tangible effect.

The government self-assessment report includes no information on what action was taken by the government itself and its agencies to implement the commitment or facilitate implementation.

Moving forward

The IRM researcher recommends that the government either withdraw this commitment or take specific action to facilitate development of the regional anti-corruption programmes with meaningful engagement of the nongovernmental stakeholders in the process. The government could conduct trainings and provide guidance on the methodology for developing such programmes. The government could also link evaluation of the local administrations with development of the programmes in a participatory manner.

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[1] IRM report, p. 58-59, http://bit.ly/1ZXvENB.
[2] See for example, the action plan of the Kyiv City State Administration on prevention and reducing risks of corruption, adopted on 27 August 2015, available at: http://bit.ly/1GThYYj. See also: http://bit.ly/1MEpwQy.
[3] Oleksiy Khmara, Transparency International – Ukraine, interview with the IRM researcher, 17 September 2015.

11. Corruption risk assessment methodology

Commitment Text:

11. Developing, with the involvement of members of the public, methodological recommendations on identification of corruption risks in Ministry of Justice officials' work and of ways to counteract them

Expected result: methodological recommendations on identification of corruption risks in judicial officials' work approved by the Ministry of Justice

Lead institution: Ministry of Justice

Supporting institution(s): NGO Transparency International Ukraine, International Renaissance Foundation, NGO All-Ukrainian Special College on Combating Corruption, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 March 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
11. Corruption risk assessment methodology				✔		✔	✔			✔					✔	

What happened?

The commitment provided for development of a corruption risk assessment methodology for justice bodies. The new Law on Corruption Prevention (adopted in October 2014 and enacted in April 2015[1]) requires that all ministries, government agencies, and other public authorities adopt anti-corruption programmes, which should be based on a corruption risk analysis. Recommendations for corruption risk detection in the Ministry of Justice system could become a pilot project in this regard and provide a useful basis for future sectoral risk assessments.

The government reported that, according to the new Law on Corruption Prevention, the future National Agency for Corruption Prevention will oversee development of anti-corruption programmes by public agencies based on a risk assessment methodology, and the agency will have to adopt a universal methodology for corruption risk assessments. This task is also mentioned in the State Program for Implementation of the Anti-Corruption Strategy approved by the government in April 2015.[2]

The Ministry of Justice has developed the Principles for Corruption Risk Assessment and Preparing Measures to Eliminate Them. These are detailed guidelines on how to evaluate corruption risks and manage them in public institutions. A similar methodology will have to be formally approved by the yet-to-be-established National Agency for Corruption Prevention and it can be based on the ministry's text.

Another methodology was developed within the USAID-funded project FINREP-II—the Manual for Assessment of Corruption Risks and Development of Anti-Corruption Action Plans. The manual is based on the new anti-corruption law and requirements of the international standard ISO/IEC 31000:2009 risk management, as well as foreign experience.[3]

There was no information on the involvement of civil society in the development of the methodology by the Ministry of Justice or by the donor-funded project. It is not clear how the two methodologies will correlate and be used, as they duplicate each other.

Did it matter?

A risk-based approach to anti-corruption measures is a good practice which has not been used to date in the Ukrainian public sector. The new Law on Corruption Prevention embedded this approach in the anti-corruption planning and actions of individual agencies. The specialised agency for corruption prevention will develop methodology and provide guidance on the use of the risk-based approach. The documents prepared by the Ministry of Justice and by the FINREP-II project can serve as a good basis for development of the official risk assessment methodology to be approved by the anti-corruption agency.

Moving forward

The IRM researcher recommends that the Ministry of Justice review the methodology for the corruption risk assessment it has developed in view of the alternative methodology prepared by the donor-funded project. The ministry could then apply the unified methodology to the bodies under the ministry's subordination to test it empirically. The results of such a risk assessment exercise should be used to fine-tune the methodology and should be taken into account by the future National Agency for Corruption Prevention, which has to approve the general methodology for corruption risk assessments applicable to all public agencies.

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[1] http://bit.ly/1KhE3pn.
[2] http://bit.ly/1ZZEEld.
[3] http://bit.ly/1W5Xu5r.

12. Asset disclosure portal

Commitment Text:

12. Creating a unified web-portal of civil servants' declarations of income, property and expenditures for their public disclosure in open access

Expected result: web-portal created.

Lead institution: National Agency for Corruption Prevention

Supporting institution(s): State Fiscal Service, National Agency for Civil Service, Ministry of Justice, Administration of the State Service for Special Communications and Information Protection, State Agency for E-Governance, NGO Transparency International-Ukraine, International Renaissance Foundation, other unspecified NGOs and international organisations

Start date: Not specified   **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
12. Asset disclosure portal				✔	✔		✔	✔				✔		✔		

What happened?

The public online disclosure of asset declarations of public officials is an important instrument to prevent corruption and detect unexplained wealth and conflicts of interest. Ukrainian law provided for the mandatory publication of asset declarations of senior public officials since 2011.

According to the Ukrainian anti-corruption law, all public officials are supposed to file their asset and income declarations annually. "Public officials" means employees of all public agencies—whether elected or appointed—at the central or local level, for the state or local self-government. It also includes officials of public law entities (e.g., state and municipal companies, public universities, and hospitals). "Senior public officials" are defined in the anti-corruption law and include MPs, the president, ministers and their deputies, senior civil servants, judges of higher courts, prosecutors, etc.

At first, the law allowed the publication of declarations either online or in the Official Gazette. The latter was hard to obtain and made public access ineffective.

According to amendments of April 2014, asset declarations have to be published on the websites of the relevant authorities (and only if such websites are absent, in the print media). However, the amended obligation still covered only selected senior officials.

The new Law on Corruption Prevention (adopted in October 2014 and enacted in April 2015[1]) ordered the establishment of a central government web portal which will be used for submission and disclosure of asset declarations of all public officials. A new

anti-corruption institution—the National Agency for Corruption Prevention (NACP)—has to establish the web portal.

As of October 2015, the web portal for disclosure of public officials' asset declarations has not been set up. The government delayed selection of the NACP members, and the agency has not been created. The competitive selection for the NACP members will be finalised between the end of October and beginning of November 2015. It will take several months for the new agency to recruit staff and become functional. The NACP will then have to develop the necessary regulations for asset disclosure and launch the web portal.

Meanwhile, the Ministry of Justice, with support from the United Nations Development Programme (UNDP) and the World Bank, started preparing the future system for electronic asset disclosure. In September 2015, the UNDP launched a tender to select a contractor to develop e-declarations software according to the terms of reference developed by the World Bank. The World Bank has also developed a draft blank form of the asset declaration in accordance with the new law. (The NACP will have to adopt the form.)

Since October 2014, the parliament has introduced several changes to the Law on Corruption Prevention to extend the scope of the asset declarations by adding new elements subject to disclosure (e.g., beneficiary ownership of legal persons or assets and real estate of unfinished construction).

Did it matter?

The commitment set an ambitious aim of making public all declarations of public officials on a single web portal. Under the anti-corruption legislation of Ukraine, all public officials have an obligation to file a declaration of their and their close relatives' assets, income, expenditures, and financial liabilities annually, as well as when entering and leaving public service. The new anti-corruption law of 2014 requires that all such declarations be filed electronically through one web portal where they will also be automatically published and stored.

This will significantly streamline the process of submitting declarations and ensure unprecedented public access to declarations of all public officials. An estimate of the number of declarants under the new system is 700,000 – 1,000,000 persons. This will also facilitate verification of the information submitted in the declarations and help in the detection of unjustified wealth and conflicts of interest of officials. The NACP is supposed to maintain the web portal and verify declarations of high-level officials and officials with high corruption risk duties. The NACP will adopt methodology for verification and control of submissions.

Establishment of such an electronic asset disclosure system is not only a requirement of the Law on Corruption Prevention, but also of the Anti-Corruption Strategy for 2014-2017, and is a part of Ukraine's commitments to international partners (in particular, the IMF, the EU, and the World Bank).

Due to delays in the establishment of the new NACP, the work on setting up the e-declarations system is in its initial stage. It will require significant further efforts. The new electronic system is quite ambitious in itself and is probably not matched by anything existing in other countries. It will provide for the annual submission of more than one million declarations and notifications of significant changes in assets; will allow online access to all declarations, including open data formats through an Application Programme Interface (API); will store each declaration for at least five years; and will allow cross-checks with other public registers (e.g., real estate property and vehicle registers, company registers, tax payments databases, etc.). The new system will allow effective monitoring of the lifestyle of public officials and detection of

increases in assets that cannot be justified by legal income sources. It will also facilitate prevention and detection of conflicts of interest, because officials will also have to disclose their interests.

The new e-declarations system will not only provide for public access to information in asset and interest disclosures, but also their verification by the dedicated agency—the NACP. The NACP will have sufficient tools to verify information, particularly through access to all other public registers and government-held information. The law provides for criminal sanctions for non-submission of the declaration or for submission of false information therein and administrative sanctions for late submission.

The government's assessment of limited progress in implementation of the commitment appears to be correct.

Moving forward
The government needs to ensure the appointment of the five members of the NACP selected by the selection panel through an open and fair competitive process without further delay. The government should also determine the schedule and a roadmap for setting up the agency and launching the e-declarations system.

The government needs to facilitate development and testing of the software necessary for running the new e-declarations system. It includes taking measures to provide e-signatures to as many public officials as possible, because e-signatures will be used as a main authorisation tool for accessing the e-declarations system by declarants.

The state budget for 2016 should provide for sufficient funding to set up the NACP, including funding necessary to launch the e-declarations system (e.g., to purchase hardware, install information technology security, ensure maintenance, etc.). The NACP will need to conduct a wide awareness campaign and trainings to teach public officials how to use the e-declarations system.

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[1] http://bit.ly/1KhE3pn.

Theme 4. Administrative and social service provision

13. Law on administrative procedure

Commitment Text:

13. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft Law of Ukraine on the Administrative Procedure

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Lead institution: Ministry of Justice

Supporting institution(s): NGO Centre for Political and Legal Reforms, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 2014

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
13. Law on administrative procedure				✔	✔		✔					✔		✔		

What happened?

The commitment aims to establish a legal framework for the operation of the public administration. The legal act on administrative procedure is supposed to regulate how the public administration and its officials perform their functions.

Adoption of the Code of Administrative Procedure (later named a Law on Administrative Procedure) has been a long-standing government commitment. The first draft text was submitted to the parliament by the government in 2001 and was then resubmitted a number of times by different governments (in 2004, 2008, and 2012). The last time the draft code was sent to the parliament by the government was in December 2012, but it was withdrawn shortly thereafter.

The Council of Europe's Group of States against Corruption recommended that Ukraine adopt a clear set of rules governing administrative process and decision making in 2006.[1] In December 2010, the peer review under the Organisation for Economic Cooperation and Development (OECD) Anti-Corruption Network for Eastern Europe and Central Asia's Istanbul Action Plan recommended that Ukraine develop and adopt the Code of Administrative Procedures without delay, based on best international practice.[2] The OECD/EU programme SIGMA conducted several evaluations of the draft code, the latest in November 2014.

A number of official action plans included commitments to develop and adopt an administrative procedures law: the Law on the Anti-Corruption Strategy of Ukraine for

2014-2017 (adopted in 2014),[3] and the Government's Plan of Urgent Measures to Eradicate Corruption (adopted in July 2014).[4]

The government reported that the Ministry of Justice had prepared the draft law on administrative procedure taking into account international practice, comments of SIGMA experts, and comments of members of the working group which the ministry set up in April 2014. The ministry submitted the draft law to the government in January 2015, but it was returned to the ministry for revision in March 2015. In August, the ministry re-submitted the draft law to the government, but it was again returned to the ministry.

Did it matter?

The Law of Administrative Procedure is an important piece of legislation regulating the interaction of the public administration with individuals and legal entities, the processing of administrative cases, administrative appeals, etc. The law is essential for ensuring legal certainty and guaranteeing rights of persons in their interaction with the public administration. The law is also important to ensure the accountability of public authorities and limit administrative discretion that fosters corruption.

The draft law has a long and quite unsuccessful history in Ukraine. There appears to be a lack of understanding among high-level officials about the law's importance as a basic legal act for public administration operations. Its history also shows that the government lacks genuine commitment and political will in adopting the law and deliberately delays its consideration.[5]

Moving forward

The IRM researcher recommends the government approve the draft law on administrative procedure without any further delay, publicly explain its failure to endorse the draft law, and submit it to the parliament as previously planned.

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[1] See GRECO report on Joint First and Second Evaluation Rounds of Ukraine at: http://bit.ly/1MTDPVZ.
[2] http://bit.ly/1PAC9lL.
[3] http://bit.ly/1XcMgyv.
[4] http://bit.ly/1Lo4l7y.
[5] Viktor Tymoshchuk, Centre for Political and Legal Studies, interview with the IRM researcher, 29 September 2015.

14 & 16. Streamline payment of administrative fees; Decentralise administrative services.

Commitment Text:

Streamlining Payment of Administrative Services Fee

14. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on streamlining of relations concerning payment for administrative services

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Decentralisation of Administrative Services

16. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on decentralisation of powers concerning the provision of administrative services, most important to citizens, in particular to ensure their provision through Administrative Service Provision Centres, namely:

- *registration of residence (stay), issuing of identity documents, including for leaving abroad;*
- *state registration of legal entities and individual entrepreneurs, real estate rights and their encumbrances, citizens' associations, and civil status;*
- *state registration of land plots, entry and issuance of data from the State Land Cadastre;*
- *registration of vehicles, execution of driver's licences.*

Expected result: powers in question delegated to local self-governance bodies and local executive authorities

Lead institution: Ministry of Economic Development (commitment 14); Ministry of Regional Development (commitment 16)

Supporting institution(s): Ministry of Justice, Ministry of Regional Development, NGO Centre for Political and Legal Reforms, other non-specified NGOs and international organisations (commitment 14); Ministry of Justice, Ministry of Internal Affairs, Ministry of Agricultural Policy, Ministry of Economic Development, State Registration Service, State Migration Service, State Agency for Land Resources, unspecified NGOs and international organisations (commitment 16)

Start date: Not specified

End date: 30 June 2015 (commitment 14); 31 December 2015 (commitment 16)

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
14. Streamline payment of				✔	Unclear					✔				✔		

administrative service fees														
16. Decentralise administrative services			✔	Unclear				✔			✔			

What happened?

Streamline payment of administrative services fee

This commitment aims to draft the law to streamline fees for administrative services. According to the government's report, the Ministry of Economic Development developed a draft law on the list of administrative services and fees for their provision. The law proposes to unify names of administrative services, establish the amount of the fee for their provision, and stop the provision of services not included in the law.

In August 2015, the government endorsed the draft law but instructed the ministry to finalise it, particularly by establishing that the Cabinet of Ministers, not the law, would define the fee for the provision of administrative services. On 15 September 2015, the ministry resubmitted the draft law to the government.

The government submitted the draft law to the parliament on 12 October 2015.[1] It lists 563 administrative services (some composed of several items) and delegates the power to establish the fee for the provision of services to the government.

Civil society experts criticised the draft law as they considered that the list of administrative services does not have to be established by the law, but can be published in the Register of Administrative Services. The leading civil society expert in this area noted that the law could not exhaustively define all the services and the list should be flexible.[2]

Overall, the government failed to implement the commitment. In fact, the draft law it developed contradicts the commitment, as it includes no provisions for streamlining payment for administrative services. On the contrary, the draft law effectively removes regulation of this issue from the law.

Decentralisation of administrative services

The commitment provided for the development of a draft law on the decentralisation of powers concerning the provision of administrative services, including registration of residence (stay); issuance of identity documents; state registration of legal entities, citizens' associations, and civil status; movable and immovable property; and issuance of driver's licences.

The ministries developed several draft laws aimed at implementation of the commitment. They were submitted to the parliament by MPs. The government substantially implemented the commitment by preparing and submitting, directly or through members of the parliament, draft laws to decentralise the following administrative services: state registration of legal entities, individual entrepreneurs, and citizens' associations; registration of real estate possession rights and their encumbrances; state registration of land plots; entry and issuance of data from the State Land Cadastre; and registration of residence (stay). The government proposed to decentralise services of registration of vehicles and issuing of driver's licences in 2018. It appears that no draft law was prepared to decentralise services of issuing identity documents, including for travelling abroad, and registration of civil status.

1. Draft law #2982 on state registration of property rights to real estate and their liens.[3]

2. Draft law #2983 on state registration of legal persons, individual entrepreneurs, and civic formations.[4]
3. Draft law #2984 on amendments in laws to extend powers of the local self-government bodies and optimise provision of administrative services.[5]

All the above draft laws were adopted in the first reading on 14 July 2015. Draft laws #2982 and #2983 provide for the decentralisation of the relevant services by delegating their provision to local self-government bodies starting 1 January 2016. The draft law #2984 delegates functions of registration of place of residence, receiving information from the State Land Cadastre.

As to the registration of vehicles and issuing of driver's licenses, the government reported that it submitted to the parliament a draft law #2567 on service centres of the Ministry of Interior.[6] It provides for the establishment of separate service provision centres under the ministry and stipulates decentralisation of the relevant function only starting from 2018.

The government also reported that the law adopted on 12 February 2015 in particular provided for the possibility of assigning the function of state registrators to include receiving documents for the provision of administrative services and issuing relevant documents to officials of local self-government and administrators of Administrative Service Centres.[7]

Did it matter?
Streamlining payment of administrative services fee

Streamlining administrative services provisions by public authorities is important to ensure good governance and the services of the state. The uncoordinated practice of charging administrative fees presents a barrier for effective service provision and affects citizen satisfaction. If implemented, the law will ensure legal certainty and transparency while reducing corruption risks in the area of administrative services.

At the same time, the commitment's relevance to OGP values is unclear. While it represents an important step for ensuring better public service provision, it is not clear how its implementation will lead to improved access to information, better civic participation, or more public accountability. The commitment is an incremental step in the right direction, but cannot cause major changes.

Civil society experts criticised the government's approach to implementation of this commitment. They noted that the list of administrative services should not be fixed by a law. The government's draft law contains a list more than 200 pages long with about 570 services, some divided into several items. Fixing it in the law makes the list very unflexible and will require frequent legislative amendments.[8]

According to the experts, the draft law should have focused on the payment of the administrative service fee, as the OGP action plan commitment required. It should determine criteria for defining whether a service should be subject to the payment of a fee or not, the procedure to determine the amount of the fee, the maximum amount of the fee, the procedure for its payment, the possibility of accepting payments by public officials, etc. The law, according to the experts, should explicitly determine the amount of the fee for some of the basic and most popular administrative services (e.g., civil acts registration; issuing of identity documents; registration of vehicles, real estate, and companies). The law should also regulate the devolution of powers for the provision of administrative services to the local self-government authorities. Overall, experts recommended withdrawing the draft law and focusing on the amendments concerning modalities for payment of the administrative fee.[9]

Experts also criticised the proposal to delegate to the government the setting of the fee amount. In their opinion, this will result in arbitrary decision making and will facilitate corruption. An example is a case concerning the issuance of identity documents, where the government allowed the payment of excessive fees not mentioned in the law and collection of the payments by a state enterprise, with only part of the revenues going to the budget.[10]

Decentralisation of administrative services

In Ukraine where administrative services have been highly centralised, it is generally perceived that decentralisation is crucial for reducing corruption and ensuring better quality of public services. Decentralisation of public functions has become an important issue in the policy debate in Ukraine since 2014.

Civil society experts criticised the position of the government with regard to the introduction of service centres under the Ministry of Interior. Such centres, in their opinion, will duplicate the unified Administrative Service Centres that have been set up in most of the regions and will postpone decentralisation of a number of services provided by the Ministry of Interior.[11]

Moving forward
The IRM researcher recommends that the government reconsider, in consultation with civil society, its position on the regulation of payments for administrative services to come up with a solution in line with the commitment.

The government should also develop, in consultation with civil society, draft laws necessary to decentralise the remaining administrative services covered by the commitment and not included in the draft laws pending in the parliament.

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[1] http://bit.ly/1OUX0yJ.
[2] Viktor Tymoshchuk, Centre for Political and Legal Studies, interview with the IRM researcher, 29 September 2015.
[3] http://bit.ly/1McisjO.
[4] http://bit.ly/1YOkGtf.
[5] http://bit.ly/1W7S1Aq.
[6] http://bit.ly/1F8E5Zx.
[7] http://bit.ly/1kwMLp4.
[8] Viktor Tymoshchuk, Centre for Political and Legal Studies, interview with the IRM researcher, 29 September 2015. See also analysis of the law at: http://bit.ly/1GkARbK.
[9] Interview with Viktor Tymoshchuk.
[10] See for example: http://bit.ly/1MVwEws.
[11] Viktor Tymoshchuk, Centre for Political and Legal Studies, interview with the IRM researcher, 29 September 2015. Additionally, a discussion during the OGP Coordination Council meeting on 25 September 2015. See also: http://bit.ly/1PDXATd.

15. Administrative services portal

Commitment Text:

15. Implementing a pilot version of a Unified State Portal of Administrative Services to ensure access to information on administrative services and on entities providing them

Expected result: pilot version of a Unified State Portal of Administrative Services implemented (given necessary funding)

Lead institution: Ministry of Economy

Supporting institution(s): Ministry of Finance, State Agency for E-Governance, unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 October 2015

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
15. Unified portal of administrative services pilot				✔	✔			✔		✔						✔

What happened?

This commitment aimed to launch the online portal with information on administrative services. The government reported that in September 2015 it launched the Unified State Portal of Administrative Services (http://poslugy.gov.ua). The web portal includes information on services provided by the central executive authorities and an updated list of agencies providing services. The government also reported that the Ministry of Economic Development has been conducting an analysis of the business processes of administrative services provision to find ways to simplify and digitise them. Supposedly, once services are digitised they can be moved to the web portal.

The Ministry of Economic Development also reported that since the State Budget for 2015 did not include funding for maintaining the portal, the ministry could not expand the current functionalities of the portal.

A civil society expert noted that the portal still lacks a lot of information and will have to be completed.[1] The IRM researcher confirmed this.

Did it matter?

This commitment lacks ambition as the web portal provides access only to information on administrative services and falls short of actual delivery of any of the listed services. This commitment builds on a similar commitment included in the OGP action plan of 2012. In fact, such a web portal of administrative services was set up in 2012 (http://poslugy.gov.ua); however, it has not been fully functioning and provides only very limited information and no possibility of obtaining actual services. The 2014

commitment repeats the language of the previous action plan and does not mention the actual provision of services by electronic means.

Moving forward

The IRM researcher recommends extending the scope of the web portal of administrative services to delivering services through the portal as soon as possible.

17. Social services draft law

Commitment Text:

17. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft Law of Ukraine on Amending the Law of Ukraine on Social Services (new wording) to ensure equal treatment in the provision of social services to members of different social groups

Expected result: relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Lead institution: Ministry of Social Policy

Supporting institution(s): Charity Coalition of HIV-Service Organisations, Charity Caritas Ukraine, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 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
17. Draft law on social services				✔	Unclear						✔				✔	

What happened?

The Law on Social Services regulates the provision of services aimed to render assistance to individuals and families who are affected by difficult life situations and cannot overcome them on their own or minimise their effects.

A number of official action plans, including that of the OGP, provided for revision of the Law on Social Services. Others include the Government's Program of Activity, Sustainable Development Strategy "Ukraine-2020," and the 2013-2016 action plan to implement the Strategy for Reforming the System of Social Services Provision.

The Ministry of Social Policy developed, and the government submitted on 18 September 2015 in the parliament, a draft of new wording for the Law on Social Services.[1]

According to official reports, the draft law will revise the Law on Social Services and amend eight other laws. The draft law aims to protect persons receiving social services, create a market of social services, and improve their quality. It will also allow aligning relevant legislation with EU standards, particularly in regard to payment policy. (Social services will be provided depending on the person's income, not on that of relatives.)

The draft law proposes to unify terms used in this area of regulation, to determine main policy directions as well as the rights and duties of service receivers, to outline a mechanism for ensuring free choice and transparency in the provision of social services (i.e., setting up a Register of Social Services Providers), to define grounds for recognizing individuals and families as requiring social services, to specify procedure for providing

social services, to create a new classification of social services, to outline a new approach to payment for the provision of services, etc.[2]

The draft law also suggests involving non-state entities in the provision of social services through social contracting on a competitive basis. This is supposed to significantly broaden the range of social services providers and improve the quality of services. The draft law will also result in the decentralisation of regulations in the area of social services provision.[3]

Did it matter?

The government completed implementation of the commitment by not only developing, but also submitting the draft Law on Social Services to the parliament.

While the law is an important step forward in improving the provision of social services, this commitment does not contain elements that could further OGP values of access to information, civic participation, or public accountability. Therefore, its relevance to OGP values is unclear.

Moving forward

The government should support adoption of the new Law on Social Services and its implementation by the timely development of necessary by-laws. It may also be pertinent to remove this commitment from future OGP action plans, unless it is made clearly relevant to OGP values.

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[1] http://bit.ly/1PFyZxa.
[2] http://bit.ly/1jXY2OE.
[3] Ibid.

Theme 5. E-governance technologies to develop e-democracy

18. E-governance laws

Commitment Text:

18. Developing and submitting to the Cabinet of Ministers of Ukraine in due course the draft laws of Ukraine of top priority for bringing the national legal framework into conformity with the European legislation:

> *- On Amending Some Legislative Acts (to envisage the possible certification by a requesting person of his digital signature of validity of a package of electronic copies of scanned documents required to obtain an administrative service and to establish the requesting person's liability for submission of false documents and data);*

> *- On Amending the Law of Ukraine on the Electronic Digital Signature (to improve the procedure of state regulation in the field of electronic digital signature services, supervise compliance with the electronic digital signature legislation, reform the legislation on the use of public key infrastructure and provision of electronic trust services taking into account the European Union experience);*

> *- On Amending the Law of Ukraine on Citizens' Petitions;*

> *- On Amending the Law of Ukraine on Protection of Personal Data.*

Expected result: relevant draft laws endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

Lead institution: Ministry of Justice

Supporting institution(s): State Agency for E-Governance, Ministry of Regional Development, Ministry of Economic Development, Administration of the State Service for Special Communications and Information Protection, National Commission for Regulation of Communications, State Archive Service of Ukraine, non-specified NGOs and international organisations

Start date: Not specified   **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
18. E-governance laws				✔		✔		✔		✔					✔	

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

This commitment required amending a number of legislative acts without clearly explaining the overall goals or cohesion between different legal amendments. It could be seen as an example of a poorly-worded commitment lacking focus and a clear objective as well as including too many different elements. As a result, the government revoked one part of the commitment and found that another part did not require any action.

The government reported that the draft law for allowing digital signatures for administrative service provision was excluded from the action plan in August 2015 because relevant issues had been covered in the draft of the Law on Electronic Trust Services.[1]

The Ministry of Justice announced that no amendments would be made to the Law on Protection of Personal Data as the law is in line with European standards.

The Ministry of Justice developed a new draft of the Law on Electronic Trust Services, replacing previous draft legislation in this area. This was connected with the revision of the EU legal framework, namely the new Regulation #910/2014 of the European Parliament and of the European Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market, repealing Directive 1999/93/EC. The government submitted the draft law in the parliament in August 2015.[2] The ministry had conducted a number of public consultations on the draft law.

Out of all the proposed legal amendments, major progress was achieved with regard to citizens' petitions. A law adopted in July 2015 allows for the submission of regular petitions by electronic means (Previously the law allowed only the submission of hard-copy paper petitions.) Also the amendments introduced a new type of petitions, so called e-petitions, that can be addressed to the parliament, the government, the president, or local self-government bodies and require the collection of a certain number of signatures to support a cause and make the petition valid. The e-petition, once it collects the required number of signatures, receives priority treatment from the authority to which it is addressed and the reply to such petitions are published online.

The amendments were developed by civil society organisations (CSOs)—coordinated by the "Reanimation Package of Reforms" coalition of NGOs and experts—and submitted to the parliament by the president of Ukraine.

A minimum of 25,000 signatures is required to address an e-petition to the parliament, the government, or the president, while the statutes of local communities should determine the minimum number of signatures for petitions addressed to the local self-government bodies. (Until such a number is determined, the law set an interim requirement as to the number of signatures for different levels of local authorities.) The law on e-petitions allows the collection of signatures to support an e-petition not only through official websites of public authorities, but also through websites of CSOs. This will help civil society engagement as various civic coalitions can promote and advocate an issue through e-petitions.

Did it matter?

This commitment lacks a clear focus and goals, making it hard to ascertain to what extent it would result in major potential impact.

The new e-petitions provisions have already proved effective. The President of Ukraine's Office launched the first web resource to collect e-petitions and had great success. During just the first 11 days after the web resource launched, more than 540,000 unique users visited it and submitted or supported more than 3,800 e-petitions on various topics. As of mid-October 2015, 25 e-petitions addressed to the president

passed the threshold of 25,000 signatures. On several petitions, the president has already provided a public response.

The Government Agency on E-Governance launched, on 1 October 2015, an electronic system for submission of local e-petitions (e-dem.in.ua). It provides a platform for local self-government bodies to receive e-petitions in accordance with the new law. At least 13 cities have already endorsed the system and will take part in testing the platform. The system was developed under the E-Governance for Accountability and Participation (E-GAP) project funded by the Swiss Confederation and implemented by the East Europe Foundation, Foundation Innova Bridge.[3]

Moving forward

The IRM researcher recommends that the government further promote adoption of the Law on Electronic Trust Services. As regards e-petitions, the government and the parliament should launch their own websites to receive and process e-petitions as soon as possible. The government and other stakeholders should promote and support widespread use of the platform for local e-petitions.

This commitment also shows that in the future the government should ensure that its OGP commitments are coherent with different deliverables clearly related to the overarching goal.

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[1] "Draft law #2544a," 31 August 2015, http://bit.ly/1JSndaS.
[2] Ibid.
[3] http://bit.ly/1OWdaYt.

19. Electronic readiness assessment

Commitment Text:

19. Establishing the Assessment of Electronic Readiness of Ukraine interactive system, and conducting the assessment

Expected result: Assessment of Electronic Readiness of Ukraine interactive system established, assessment conducted

Lead institution: State Agency for E-Governance

Supporting institution(s): Ministry of Regional Development, National Centre for E-Governance of the State Company Derzhinformresurs, the United Nations Development Programme (UNDP), International Renaissance Foundation, other unspecified NGOs and international organisations

Start date: Not specified   **End date:** 31 December 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
19. Electronic readiness assessment		✔			Unclear				✔						✔	

What happened?

The e-readiness assessment aims to evaluate the readiness of public authorities to provide high-quality electronic public services in order to develop e-governance policies and e-democracy. The assessment is supposed to provide a snapshot of e-governance in the country on the national and regional level and to assist in the development of measures to introduce information and communications technology (ICT) in public administration and governance.

According to the government's self-assessment report, the State Agency for E-Governance, with support from the Organisation for Security and Cooperation in Europe (OSCE) Project Coordinator Office in Ukraine, created an interactive system for the e-readiness assessment. The system allows collecting, structuring, storing, and processing data to conduct an analysis of e-readiness in Ukraine. The agency has started preparation of the assessment itself.

Did it matter?

There are a number of e-readiness assessment models promoted by different organisations throughout the world.[1] E-readiness is an important policy instrument that promotes good governance and economic and social transformation. It is a continuous work which governments should pursue. However, the relevance of this commitment to OGP values is unclear. It may result in measures that will promote access to information, civic participation, or public accountability, but this is technically not covered by the commitment which is limited to an evaluation of the status quo.

In Ukraine, the first assessment of e-readiness was conducted back in 2002.[2] The National Centre for E-Governance carried out a new assessment in 2013 and presented its results in October 2013.[3] The 2014 OGP action plan commitment builds on this previous work and aims to develop an interactive tool to conduct and update the assessment.[4] However, it is not expected to lead to any impact as it mainly preserves the status quo.

The government prepared the interactive tool to use during the assessment, but did not conduct the assessment itself.

Moving forward

The government should carry out a new assessment of Ukraine's e-readiness using the interactive tool. It is also recommended that the government extend the assessment to local government and public agencies that are not part of the executive or belong to other branches of power.

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[1] See an overview at: http://bit.ly/1RsqQtk.
[2] http://bit.ly/1KtKyzG.
[3] Ibid.
[4] Olesya Arkhypska, Transparency International-Ukraine, interview with the IRM researcher, 17 September 2015.

6. Open data draft law ✪

20. Open data regulations

Commitment Text:

6. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on amending some legislative acts of Ukraine on access to information in the form of open data and reuse of information

Expected result: a relevant draft law endorsed by the Cabinet of Ministers of Ukraine, submitted to the Verkhovna Rada of Ukraine, and followed up until adoption

20. Preparing and submitting to the Cabinet of Ministers of Ukraine in due course proposals on the development of a procedure for disclosure of open governmental data on the Internet

Expected result: the issue of disclosure of open governmental data on the Internet settled

Editorial Note: These two commitments are evaluated together here as they concern the same subject.

Lead institution: State Committee on TV and Radio Broadcasting (commitment 6); State Agency on E-Governance (commitment 20)

Supporting institution(s): Ministry of Justice, Ministry of Regional Development, State Statistics Committee, Administration of the State Service for Special Communications and Information Protection, State Agency on E-Governance, the United Nations Development Programme (UNDP), International Renaissance Foundation, other unspecified NGOs and international organisations (commitment 6); Ministry of Regional Development, State Committee on TV and Radio Broadcasting, State Archive Service, National Centre for E-Governance of the State Company Derzhinformresurs, UNDP, International Renaissance Foundation, other unspecified NGOs and international organisations (commitment 20)

Start date: Not specified **End date:** 31 December 2015 (commitment 6); 31 May 2015 (commitment 20)

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
6. Open data draft law				✔	✔			✔				✔				✔
20. Open data regulations		✔			✔			✔			✔				✔	

Editorial note: Commitment six is a starred commitment because it is clearly relevant to OGP values as written, has transformative potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).   Under the old criteria of starred commitments,

commitment twenty would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?

Both commitments aimed to develop a legal framework for public access to information held by public authorities in an open data form and in machine-readable formats.

The commitment to develop a draft of the Law on Access to Public Information in Open Data Form is fully completed. The draft law was developed with the support of the UNDP before the end of 2014. The president submitted the draft law[1] to the parliament in February 2015, and the parliament passed the law on 9 April 2015. (It came into force on 1 May 2015.)

Regulation of open data by law was first mentioned in the Anti-Corruption Strategy of Ukraine for 2014-2017, adopted by the parliament on 14 October 2014.[2] As the president sent the relevant draft law to the parliament, the government abandoned its plan to develop its own draft law on the subject and supported adoption of the existing draft law.

Initially, the government planned to develop its own regulations on open data to cover executive authorities and provide access to machine-readable data held by the ministries and other agencies even before adoption of the relevant amendments in the law. However, since the law was passed swiftly, the government had to develop instead relevant regulations to implement the new provisions. The work on the regulations started in May 2015 and finished with their adoption on 21 October 2015. The government was late in adopting the regulations as under the law they were supposed to be adopted within three months after enactment of the law—by 1 August 2015.

The government regulations define the minimum list of datasets (more than 300) to be disclosed by various public agencies (not only those subordinated to the government, but also to the parliament, judiciary, and the national bank) on their websites and on the government open data web portal. The regulations also determine procedure for publication of open data and the requirements for the data formats.

Did it matter?

The commitments aimed to introduce in Ukrainian law regulation of the reuse of public sector information in open data formats. The law on open data carries a transformative potential impact as it establishes the basic legal framework for public access to open data datasets—to information in machine-readable formats—and allows for their free reuse. Regulations providing procedures of open data disclosure also represent a major step in implementing the newly passed law.

In addition to general regulation of open data and its reuse, the amendments of April 2015 changed the Law on Access to Public Information and some additional laws to stipulate the disclosure in open data form of specific government-held information: the company register, information on licenced TV and radio broadcasters, the public property register, city planning data, the civic associations register, information on public procurement, etc. Therefore, not only did the law set the main principles of open data disclosure, but it also directly mandated that the government publish a number of databases/registers that constitute high public interest. The list of priority databases to be opened through the law was determined in consultations with civil society representatives during preparation of the relevant draft law.

The law provided for both passive and active access to open data information. Any person can submit a request to obtain certain datasets available from a public agency. The agencies also have to proactively publish information they possess in open data format on their websites and simultaneously submit it to the central depository—the

government-operated web portal of open data. The State Agency on E-Governance will maintain the open data central web portal which will be developed based on the data.gov.ua website that was developed by civil society actors.

The law introduced important principles for open data reuse allowing any further use of the open data datasets free of charge and for any purpose, provided the source of information is mentioned. Unlike many other countries, Ukrainian law allows a free, non-paid commercial use of government-held open data information. This is supposed to boost investment and create a new data-driven sector of the economy.

The law also clearly defined the modality of the publication of datasets containing the personal data of natural persons. To respect the human right for personal data protection, the law stipulates that such datasets can be published (provided on request) if at least one of the following conditions is met:

- Personal data has been anonymised;
- Concerned data subjects (i.e., natural persons) provided consent for the publication of their personal data;
- Publication of the specific dataset is mandated by the law; or
- The law forbids restricting access to certain information.

Such an approach allows datasets to be published in open data formats—including personal data—when a law specifically authorises it. An example is public interest data which includes information on real estate ownership, asset and income declarations of public officials, information on persons mentioned in the company register, participants in public procurement, etc. Such a regulation is important to ensure access to information of public interest where public interest outweighs personal data protection considerations. It is also important for anti-corruption purposes, as such information is a valuable source of detection of possible illicit enrichment or conflicts of interest.

As to government regulations on open data, the initial plan to develop in parallel two sets of regulations did not seem to be justified. If the law were to be developed, the government regulations should have aimed to elaborate on it, not provide for alternative regulation. This could be seen as a deficiency of the initial action plan. Ultimately, the quick development and adoption of the law meant that the government had to adapt and develop regulations based on the law. The government adopted such regulations in October 2015, and they are crucial for enforcing the system of open data disclosure and reuse.

Moving forward
The IRM researcher recommends ensuring swift implementation of the government regulations aimed to enforce the open data law of April 2015. The researcher also recommends speeding up the launching of the central government web portal of open data and including its proper operation and population with datasets in the next OGP action plan. The government should also assign the coordination role in the area of open data to one of the government agencies, such as the State Agency on E-Governance, and ensure regular assessment of the enforcement of the law. To promote better enforcement, the government could hold regular reviews of the open data framework and its implementation at government meetings. The coordinating agency should collect reports from the public agencies and monitor compliance with the law. It should also provide guidelines and recommendations to the agencies on how to design their document system to be compliant with open data standards (e.g., implementing the "open data by default" principle), how to follow set requirements on the publication of open data, and its provision upon request.

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[1] http://bit.ly/1MwZ63f.

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[2] http://bit.ly/1XcMgyv.

21. E-democracy roadmap

23. E-petitions

Commitment Text:

21. Preparing the Roadmap for Development of Electronic Democracy

Expected result: proposals developed for identifying the ways of realising the potential of e-democracy instruments as means to ensure the possibility of citizens' impact upon state decision-making and supervision over authorities

23. Preparing and submitting to the Cabinet of Ministers of Ukraine in due course a draft resolution on the approval of the Procedure for Processing of Citizens' Electronic Petitions

Expected result: relevant resolution adopted by the Cabinet of Ministers of Ukraine

Editorial Note: These two commitments were combined because they contain interrelated activities.

Lead institution: State Agency for E-Governance

Supporting institution(s): Ministry of Regional Development, Ministry of Justice, National Centre for E-Governance of the State Company Derzhinformresurs, NGO Transparency International-Ukraine, International Renaissance Foundation, the United Nations Development Programme (UNDP), Association of Local Self-Government Bodies "Cities of E-Governance," NGO "Podil Agency for Regional Development," other non-specified NGOs and international organisations (commitment 21); Ministry of Regional Development, Ministry of Justice, Administration of the State Service for Special Communications and Information Protection, UNDP, other non-specified NGOs and international organisations (commitment 23)

Start date: Not specified **End date:** 30 June 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
21. E-democracy roadmap		✔			✔	✔		✔			✔				✔	
23. E-petitions				✔		✔	✔	✔		✔				✔		

Editorial note: Under the old criteria of starred commitments, commitment twenty one would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?
Roadmap for Development of Electronic Democracy

The commitment envisaged the development of proposals on ways to realise the potential of e-democracy tools, which will ensure citizens' ability to influence public authorities' decisions and to provide public oversight of these authorities.

The government reported on an outline of the proposals submitted to the government by the State Agency on E-Governance in May 2015,[1] which was required by the commitment's deliverable.

Government regulation of e-petitions

Until recently, the Law of Ukraine on Citizens' Petitions (the Law on Petitions) did not include procedures for processing petitions submitted by electronic means. The government planned to fill this gap by regulating procedure for processing electronic petitions in its by-laws. This was supposed to introduce a new way for citizens' communication with the authorities by submission of petitions (complaints, requests, proposals, etc.) through electronic means.

However, in July 2015, the parliament adopted amendments in the Law on Petitions which allowed petitions to be submitted via electronic means and introduced a special form of petitions—e-petitions (see the description under OGP commitment 18).

The government reported that the State Agency on E-Governance has set up a working group to develop a procedure for processing e-petitions in line with the commitment. The group has developed draft regulations.

Did it matter?

Roadmap for Development of Electronic Democracy

The title of the commitment refers to the development of a Roadmap for E-Democracy Development, while the expected output only mentions development of "proposals on how to determine ways of realizing potential of the e-democracy instruments." While the first is quite ambitious and potentially transformative, the latter is not. This caused confusion during discussion of the government's self-assessment report.

Civil society organisations criticised the government for trying to exaggerate progress achieved under this commitment, while the government reported delivery of the output that was mentioned in the commitment.[2]

The government failed to hold public consultations on the document that was developed and published it only after it had already been submitted to the government. The result of the document's submission to the government is not clear. The proposals prepared by the State Agency on E-Governance include a definition of e-democracy, a detailed overview of the Council of Europe Recommendation CM/Rec(2009)1 on e-democracy, an overview of the main instruments of e-democracy in Ukraine, and a proposal for three alternative scenarios for e-democracy development in Ukraine.

Government regulation of e-petitions

The commitment aimed to expand the tools available for persons to address public authorities with requests, complaints, or proposals by allowing petitions not only in paper, but also in electronic form. The commitment was limited to government-level regulations. However, at the time of the action plan development, the commitment lacked the necessary legal basis as the law did not authorise the government to develop such regulations and extend the scope of the law which allowed only paper-form petitions at the time. For the same reason, the government may not adopt regulations as mentioned in the commitment even after the passing of amendments in the Law on Petitions that allow e-petitions. Therefore, it appears that the commitment has no point at all.

The Law on Petitions authorises the government to approve regulations on records management in regard to all petitions (Article 13 of the law), and such regulations have in fact been adopted in 1997 (with the latest update in 2011).[3] The amendments on e-petitions adopted in July 2015 mandated that the government (as well as the president and the parliament) approve regulations on the procedure for consideration of e-petitions addressed to relevant authorities (Article 23-1 of the Law on Petitions). These regulations are different from those the government planned to develop under the OGP action plan, because they will cover only the government itself (the Cabinet of Ministers in a narrow sense and e-petitions addressed to it) and will not establish general rules on the processing of e-petitions applicable to all public institutions.

Moving forward

The IRM researcher recommends that the government take measures to promote the e-democracy tools and, at a certain stage, develop a roadmap for e-democracy—an outline of specific steps to be taken by the national and local authorities to introduce e-democracy elements in the governance of Ukraine. The roadmap could be based on one of the scenarios for e-democracy development outlined in the proposals prepared by the government under the current action plan. The roadmap could also include an analysis of how information and communication technology (ICT) is used in Ukraine in supporting and enhancing democracy, democratic institutions, and democratic processes.

Civil society should lead the development of such a roadmap, which in itself could become an experiment in e-democracy. The government should facilitate the process. It is also important to raise awareness and inform the public about the concept of e-democracy and the possibilities it brings.

Concerning e-petitions, the government needs to update its 1997 regulations on records management in regard to petitions and approve the procedure for consideration of e-petitions addressed to the Cabinet of Ministers as required by the amended Law on Petitions.

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[1] http://bit.ly/1jYVTlV.
[2] OGP Coordination Council meeting, 25 September 2015; Olesya Arkhypska, Tranparency International-Ukraine, interview with the IRM researcher, 17 September 2015.
[3] http://bit.ly/1PIv4zO.

22. Open budget initiatives

Commitment Text:

22. Partner implementation of pilot initiatives related to provision of budget information in an open and accessible form on the national, oblast and local levels

Expected result: "How much does the State cost?" web-portal created; Open City platform implemented in 15 administrative-territorial units; at least 5 pilot initiatives implemented for public awareness-raising on budgeting and creating user-friendly budget information

Lead institution: Ministry of Finance

Supporting institution(s): Derzhinformresurs National Centre for e-Governance, East Europe Foundation, Delegation of the European Commission to Ukraine, other civil society institutions and international organisations, local self-governance bodies (by consent)

Start date: Not specified   **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
22. Implementing open budget initiatives				✔	✔		✔	✔			✔					✔

Editorial note: Under the old criteria of starred commitments, this commitment would have received a star because it is clearly relevant to OGP values as written, has moderate potential impact, and has been substantially or completely implemented (note that IRM updated the star criteria in early 2015).

What happened?
NGOs in Ukraine pioneered preparing and publishing information on local budgets and their execution in a user-friendly manner. In the OGP action plan, the government committed to support this work and to make budget information available in an accessible format for the first time, including through data visualisation.

The commitment has been successfully implemented and even exceeded targeted results. In its self-assessment report, the government referred to two accomplishments.

First, in February 2015, the parliament passed an advanced Law on the Openness of Use of Public Funds. The law requires publication of all data related to public expenses on a single web portal, including real-time data on treasury transactions. This would allow the public to follow all transactions and budgetary expenses. In September 2015, the government adopted regulations required for the launch of the relevant web portal.[1] The government also allocated the necessary funding for the web portal. On 15 September 2015, the Ministry of Finance, with support from NGOs and donors, launched the web portal in a test mode (http://edata.gov.ua).[2]

Secondly, the government reported that an NGO—the Center for Political Studies and Analytics—with donor support, launched a website and developed an open budget

software tool for local self-government authorities (www.openbudget.in.ua). The web portal allows for the creation of an interactive visualisation of local budgets based on the financial and statistical data of local authorities and for their publication on local councils' websites. A number of local authorities joined the project in 2015.[3]

Information about the open budget website is the only relevant one in the self-assessment report, although the remaining tasks also appear to have been implemented.

The website, "The Price of the State" (http://costua.com), has been successfully launched and administered by the NGO CASE-Ukraine with donor support. It provides visualised, accessible data on state budget revenues and expenses, debt, taxes paid, etc. The project states that its mission is "to paint a clear picture of how the government spends your tax money by breaking down incomprehensible economic figures and providing them in a manner that the average citizen can understand."[4]

The platform, "Open City" (http://opencity.in.ua), functions as well, and as of October 2015, it reported about 18 cities included in the system (with more than 30,000 reports per year and about 300 improvements per month as a result of citizen reports). The project is implemented by the East Europe Foundation with donor support.[5] The platform allows users (citizens) to report local problems related to city infrastructure through interactive and mobile tools with details on the location of the problem. This allows the city administration to receive electronic notifications of the problems that need to be fixed. The platform also generates an interactive city map with reported problems and information on official feedback.

An NGO representative also mentioned the important practice of local authorities adopting special rules regulating procedure for engaging the public in the budgetary process and for reporting on budget execution.[6]

Did it matter?
The commitment and its deliverables, as originally worded, did not provide for transformative reforms. They included some important steps and pilot projects. However, the government managed to exceed its plan and launch a far-reaching initiative to open up information on all budgetary transactions.

This commitment provided an example of effective partnership between civil society and public authorities, both on national and local levels. Civil society organisations in Ukraine were originally behind the idea to open up budgetary information, but to do it in a user-friendly manner through visualisation and explanation and not just disclose it in bulk. The local self-government authorities and national government followed suit and supported this by providing access to the data and publishing visualised data on official websites.

The open budget movement is still in its inception and only a few local authorities have joined, but the trend is evident and promising. For example, the Kyiv City Administration launched its own web portal with detailed information on city revenues and expenditures, including the breakdown for each agency and department and any other institution financed from the city budget (e.g., hospitals, schools).[7] The Kyiv City Administration also launched public participatory consultations on the draft 2016 city budget using the citizen budget platform (www.citizenbudget.com).[8]

The OGP process also promoted innovative tools under this commitment, including the websites "The Price of the State" and "Open City." The first aims to educate citizens about their taxes and how they are spent by the state, while the second allows real-time reporting of local problems and alerting relevant municipal services.

The government went beyond the initial commitment and reported about the web portal on public expenditures that was recently launched based on the special law

adopted in February 2015. The Law on the Openness of the Use of Public Funds is transformative and requires publication of detailed information on public funds expenditures by every budgetary unit, including real-time data on treasury transactions. This is a commendable achievement, although it is not part of the OGP action plan.

Another important measure was the adoption of amendments in the Budgetary Code that provided for publication of budgetary programs' descriptions in an open data format.[9]

The NGO interlocutor noted that the Ministry of Regional Development, which was determined to be a responsible agency for this commitment, has in fact no relation to policy development and implementation of budget transparency. The Ministry of Finance should have been the proper implementing agency.[10]

Moving forward

The IRM researcher recommends further narrowing the implementation of the commitment on specific measures. Examples include rolling out open budget and citizen budget platforms to as many municipalities as possible and achieving full-scale functioning of the government portal on the use of public funds. The government could also promote the use of participatory consultation mechanisms and the opening of budgetary information on the local level by linking performance to budget subsidies received from the central budget.

The NGO interlocutor also recommended focusing future OGP measures on improving Ukraine's standing in the Open Budget Index, promoting the widest possible use of citizen budgets, ensuring publication of financial reports of publicly-owned companies, increasing transparency in Ukraine's use of international technical assistance, and regularly updating the database of technical assistance projects.[11]

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[1] Instruction of 14 September 2015 #911 on the set up and functioning of the single web portal on public money use, http://bit.ly/1KQGltn; Resolution of 14 September 2015 #694 on the procedure for administering the single web portal on public money use, http://bit.ly/1hfJBE4; and Resolution of 14 September 2015 #676 on the procedure for publication on the single web portal on public money use of information on payment transactions of the treasury account, http://bit.ly/1Ocw9zf.

[2] See official announcement about the launch of the portal at: http://bit.ly/1YucqYM.

[3] See links to the visualised budget data:
- City of Cherkasy: http://bit.ly/1NkfOWk
- City of Lviv: http://bit.ly/1BnCOvW
- City of Ivano-Frankivsk: http://bit.ly/1KvBeiE
- City of Ternopil: http://bit.ly/1gcC09k
- City of Kherson: http://bit.ly/1K4GVke
- City of Artemivsk: http://bit.ly/1MySgKx
- Lviv Regional Council: http://bit.ly/1GemUMy
- City of Vinnytsia: http://bit.ly/1KSm35n
- City of Berdyansk: http://bit.ly/1NQfd1N
- City of Dolyna: http://bit.ly/1LK8i8t
- City of Kakhovka: http://bit.ly/1Xf0DSV.

[4] http://costua.com/en/about.

[5] http://www.eef.org.ua/en; http://opencity.in.ua/help#r=UA.

[6] Volodymyr Tarnay, NGO Centre for Political Studies and Analytics, interview with the IRM researcher. Examples of such budgetary rules of procedure provided by the expert: city of Khmilnyk, http://bit.ly/1MySYYd; city of Lebedyn http://bit.ly/1ZQWgQ8; city of Romny, http://bit.ly/1LyxWZH; city of Okhtyrka, http://bit.ly/1W2eyyF.

[7] http://bit.ly/1iR6Xkl, http://new.kievcity.gov.ua.

[8] https://budget.kievcity.gov.ua.

[9] Law of 9 April 2015, http://bit.ly/1Nkfx5Q.

[10] Volodymyr Tarnay, NGO Centre for Political Studies and Analytics, interview with the IRM researcher.

[11] Ibid.

24. E-government training for local governments

Commitment Text:

24. Conducting a national awareness-raising campaign "Public Libraries as Bridges to e-Governance"

Expected result: e-Governance Basics distance training course developed; training provided to members of district and settlement councils

Lead institution: Ministry of Culture

Supporting institution(s): Ministry of Regional Development, National Centre for E-Governance of the State Company Derzhinformresurs, "Bibliomist" Programme, Ukrainian Library Association, other unspecified NGOs and international organisations

Start date: Not specified   **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
24. E-government training for local governments			✔		Unclear					✔						✔

What happened?

The government reported that the Ministry of Culture developed a distance learning course, "Basics of E-Governance," that was disseminated on CD-ROMs to all regional and district libraries, as well as to regional and district state administrations, to be used during local trainings on e-governance. The course was also uploaded on the web portal of the Ukrainian Association of Libraries and is available to the public.

The ministry conducted 303 trainings for more than 2,300 participants. It also created three local online portals for e-governance services (in Shepetivka, Dymytriv, and Lutsk).

Did it matter?

The 2012 OGP action plan mentioned a similar initiative entitled, "Public Libraries as Bridges to e-Governance." The new commitment specifies, among its expected results, the development of a distance learning course—"Basics of E-Governance"—and training for officials of district and village local councils.

The activities under the commitment did not actually include an awareness-raising campaign on how the public libraries can be used to promote e-governance.

Due to the limited scope of the commitment, its impact can be evaluated as minor; it did not represent a major step.

It appears from the government report that the commitment has been implemented. A civil society expert confirmed full implementation.[1]

Moving forward

Future trainings of local government officials could include not just e-governance tools, but also concrete guidance on how to use these tools to advance OGP values.

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[1] Olesya Arkhypska, Transparency International-Ukraine, interview with the IRM researcher, 17 September 2015.

V. Process: Self-assessment

The government submitted its self-assessment report on time following a two-week consultation period. The consultations period included discussion in the working groups and submission of written comments by stakeholders. The report covered main elements of the self-assessment report but failed to provide sufficient information under a number of commitments. The report has a separate section explaining how the previous recommendations of the IRM were taken into account.

Self-assessment checklist

Was the annual progress report published?	Y
Was it done according to schedule? (Due 30 September for most governments, 30 March for Cohort 1.)	Y
Is the report available in the administrative language(s)?	Y
Is the report available in English?	N
Did the government provide a two-week public comment period on draft self-assessment reports?	Y
Were any public comments received?	Y
Is the report deposited in the OGP portal?	N
Did the self-assessment report include review of consultation efforts during action plan development?	Y
Did the self-assessment report include review of consultation efforts during action plan implementation?	Y
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	Y
Did the report cover all of the commitments?	Y
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	Y
Did the report respond to the IRM key recommendations (2015+ only)?	N

Quality of the public comment period. The government published its self-assessment report on 9 September 2015[1] with feedback requested within two weeks. The working groups set up under the Coordination Council for the OGP process to cover five sections of the action plan held their meetings (one meeting per group) prior to the Coordination Council meeting on 25 September 2015. The working groups included civil society representatives (each group was co-chaired by such a representative) and discussed the draft self-assessment report. Civil society organisations also submitted a number of written comments to the report; some of the report's provisions were also discussed on Facebook. The final discussion took place on 25 September 2015 during the meeting of the OGP Coordination Council.[2] Several issues were raised with regard to the contents of the report. The final text of the self-assessment report was published on 28 September

2015. Overall, the government conducted extensive consultations on the text of the draft self-assessment report and amended the final report based on the consultations.

Quality of the self-assessment report. The self-assessment report covers all issues required by the methodology, including review of consultation efforts during action plan development and implementation and a short description of the public comment period during the development of the self-assessment. It also covers all commitments using the OGP suggested format. The part of the report explaining progress under each of the commitments is, however, too succinct. On many commitments, the implementation information provided is insufficient and does not allow for drawing conclusions on the actual state of implementation. Some commitments lack essential information or the information provided covers actions that are not directly related to the commitment.

Follow-up on previous IRM recommendations (2015+)

The previous IRM report made a number of recommendations for the focus of the next national action plan under the OGP. For civil society engagement, the report recommended coming up with a new approach for communication with civil society. The current action plan does include the commitment to develop a draft law on civil society participation in decision making which transformed into a draft law on public consultations during implementation.

With regard to access to information, the previous IRM report recommended focusing on opening up public registers and adopting the draft law #0947 that was pending in the parliament at the time. The current OGP action plan did not include measures with regard to opening access to public registers (e.g., land cadaster and real estate ownership), although in practice a lot of progress was achieved in this area. The draft law #0947, which amended more than 50 laws to align them with the new Access to Information Law, was in fact adopted in April 2014 before the OGP action plan was finalised.

In the area of combating corruption, the previous IRM report recommended providing access to asset declarations of senior public officials, particularly by introducing an electronic database of such declarations. This commitment was indeed included in the current OGP action plan.

For reforming administrative services, the previous IRM report recommended transforming the unified state portal of administrative services into a working instrument of administrative services delivery and approving a list of administrative services to be delivered through administrative service centers. The government failed to implement the first part of the recommendation; the current action plan repeated the commitment from the previous action plan providing only for static access to information on administrative services on the web portal. As to the second part of the recommendation, it was implemented before the action plan was finalised.

In the area of e-governance, the previous IRM report recommended introducing a mechanism for data exchange among existing public registers. It was not included in the current action plan (although the government made some progress in this regard in practice, namely, the State Agency on E-Governance developed draft regulations and technical specifications for inter-agency electronic data exchange).

Overall, the current action plan reflects about half of the previous IRM recommendations.

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[1] http://bit.ly/1O5U7ME.
[2] Report on the meeting available at: http://bit.ly/1Lt0GFp.

VI. Country context

The past two years in Ukraine were marked by turbulent events. In the winter of 2013-2014, the kleptocratic regime of former president Viktor Yanukovych was toppled by the popular protests called the Revolution of Dignity or Euromaidan. Massive corruption, human rights violations, and police brutality, allegedly ordered by President Yanukovych and his close allies after what started as peaceful protests in November 2013, resulted in a popular uprising and the overthrow of the Yanukovych administration in late February 2014. During these events in Kyiv, more than 100 protesters were killed by police forces. Viktor Yanukovych himself and many of his allies fled to Russia or elsewhere, while being prosecuted in Ukraine for numerous serious crimes.[1]

Early elections of the parliament and the president were held in 2014, and a new government was eventually formed. The parliament amended the Constitution in February 2014 to shift the balance of power in its favor. The new, post-Maidan public administration pledged to implement sweeping reforms, including eradicating corruption, raising accountability and transparency, delivering better public services, and decentralising power to the local level.

Meanwhile, from March to April 2014, the Russian Federation illegally annexed part of the Ukrainian territory[2] and instigated a military conflict in Eastern Ukraine which still continues and has resulted in thousands of casualties—including many civilians[3]—and about one million internally displaced persons and refugees.[4] This has also affected the pace of reforms.

Despite serious challenges to its sovereignty and economic development, a number of legal reforms have been implemented. Many of them furthered the OGP values and were covered by the OGP action plan, as described in this report. However, many observers believe that this has yet to render tangible results in practice.[5] Public trust in government institutions remains low, while perception of corruption remains very high.[6]

OGP process

Civil society stakeholders raised concerns regarding a lack of genuine political commitment to the OGP process on the part of the government. There are a number of obligations and commitments the Government of Ukraine undertook in recent years, including to its international partners. Often such commitments are directly linked to the funding the government receives. Furthermore, Ukraine joined the OGP during the Yanukovych regime, and this affects the level of ownership expressed by post-Maidan governments.

OGP management on the national level lacks political leadership from the government. OGP management is a formal duty placed on one of the high-level government officials who often does not have sufficient time or interest to invest in implementation.

Similarly, there is a lack of leadership in the implementation of different parts of the action plan or sometimes even acceptance of the measures from government agencies. For example, the Ministry of Finance turned out to be responsible for several actions in the section on civil society development, but the ministry *de facto* refused to implement relevant measures. Poor leadership was also noted with regard to the Ministry of Economy and the State Agency on E-Governance, each of which were responsible for whole sections of the action plan. While the action plan assigns formal responsibility for each measure to a specific agency, it proved insufficient to ensure genuine ownership and commitment to the process. This could be addressed, for example, by assigning

blocs of commitments to a specific agency and ensuring their better involvement in designing and promoting the measures throughout the whole action plan cycle.

OGP action plan

The national OGP action plan in Ukraine covers a broad range of issues with differing levels of complexity and reach. While covering all the main OGP values, the action plan lacks a clear focus. Also, many actions provided for in the OGP action plan have been duplicated in other official action plans. Therefore, even when an OGP commitment is implemented there is no reference or recognition of the OGP. This affected the OGP implementation in general.

The OGP action plan captured many of the issues relevant to the country's context. The action plan was extensive and covered most of the actions included in the reform agenda pursued by the authorities and civil society in Ukraine since 2014. It covered the new open data legislation, introduction of e-petitions, establishing an oversight mechanism for access to information, a new electronic system of assets disclosure for public officials, devolution of administrative services to the local level, regulating administrative procedures, supporting the open budget movement, and promoting the disclosure of Soviet-era repressive agencies' archives. However, several areas of the OGP values are missing from the action plan in which significant or breakthrough results were achieved during the past two years.

First, action to introduce or extend public access to property registers is missing from the action plan. During 2014-2015, the parliament passed several sets of amendments to open up public registers of immovable property rights, the land cadaster, the register of vehicles, and the company register that includes information on beneficial ownership in legal entities. These amendments have had a great impact on the level of access to information, openness, and accountability in the country. These far-reaching changes allowed widespread access of any person to information about property rights, which helps to detect corruption, conflicts of interest, and any unjustified wealth of public officials as well as secure ownership rights and prevent their abuse.

Second, another area where the action plan is suboptimal is in e-governance. E-governance has been high on the country's agenda recently and will have a cross-cutting effect on various sectors and activities. The action plan only covered the issue of electronic authentication but failed to address other issues, including the framework for electronic interaction among public authorities, as was recommended in the previous IRM report. The commitment to develop an outline of future possible work on the e-democracy concept lacked ambition and faced disapproval from civil society actors with regard to its implementation.

Third, in the area of anti-corruption, the action plan did not address the reform of political finances. Reforms were launched in 2014 and passed an important milestone when in October 2015 the parliament of Ukraine adopted a law to overhaul regulations on political parties and electoral campaigns financing, particularly by introducing direct state funding of political parties.

Fourth, the action plan also did not address the issue of transparent media ownership, which is essential for freedom of expression and the democratic oversight of public authorities, particularly in exposing corruption and government misconduct. In this area, the parliament adopted an important law on media ownership transparency in September 2015.[7]

Finally, a major area absent from the action plan is public procurement where the Ministry of Economy, in an effective partnership and collaboration with civil society and the private sector, has introduced new electronic tools to ensure better transparency and accountability. The ministry launched and rolled out to a number of public agencies an open-source internet technology (IT) platform "Prozorro" for low-cost public

procurement (http://prozorro.org). It allows different commercial auction platforms to participate in the platform, provides transparency and simplicity to the process, and reduces risks of corruption and bid rigging. It was launched in February 2015 and has already become a case study in the use of IT solutions for better accountability and transparency in the public sector.

Overall, while the action plan does not have to cover all reform measures in the country relevant to OGP values, the next action plan would benefit from better prioritisation of actions and include the commitments where significant outcomes can be achieved under each of the OGP values.

Stakeholder priorities

A number of stakeholders were involved in the OGP process. They took an active part in the action plan drafting and had a great impact on shaping the final action plan. Different civil society actors were responsible for various parts of the action plan and most of them continued to be closely involved in the implementation of the relevant commitments.

A number of commitments received high interest from stakeholders. These included the enactment of the open data legislation, compliance with the EITI standards, the disclosure of urban planning documents, designing a civil society oversight mechanism for large infrastructure projects, improving regulations on access to information, introducing e-petitions, and improving access to budget information.

Out of these commitments, e-petitions, open data, and open budget issues received perhaps the most attention. These were also among the areas where Ukraine achieved significant progress. In April 2015, the parliament adopted amendments introducing the notion of open data and setting basic requirements for its publication by public authorities. In October 2015, the government approved regulations to enforce the amendments and set up infrastructure for open data in the country. This will have a transformative effect for public accountability, open access, and economic development. However, it will take time for civil society and the business sector to start using newly available data and produce added value from it.

Similar progress was achieved in the area of budgetary transparency. The parliament adopted a far-reaching and ambitious law requiring the online disclosure of public expenditures and of all treasury transactions. The draft law was developed by civil society representatives and has already been partially implemented by the government, providing access to a wealth of information and facilitating public oversight of the use of public money. While the law adopted in February 2015 was not mentioned among the OGP action plan outputs, it conformed to the commitment of implementing open budget initiatives in cooperation with civil society.

The action plan also supported the introduction of an important e-democracy tool—e-petitions. It did not specifically mention e-petitions as a form of collective address supported by a certain number of people, but facilitated the adoption of changes in the Law on Petitions in this direction.

In the cases of e-petitions and open budgets, the implementation of the action plan has in fact exceeded the expectation of the commitments as they were originally written.

Stakeholders mentioned the following priorities in the development of the next action plan:

- Facilitating further disclosure of various public registers through online access, ensuring their integration and inter-operability to provide public services and accountability mechanisms, and setting up the open data infrastructure;

- Extending the electronic procurement platform to all public authorities and all procurement actions;
- Continuing the decentralisation and streamlining of administrative services;
- Developing and adopting a roadmap for e-democracy in Ukraine;
- Promoting anti-corruption standards and compliance procedures in the business sector; and
- Expanding the OGP process to other branches of government, such as the justice sector, including the judiciary.

Scope of action plan in relation to national context

The Ukrainian action plan and its commitments generally reflected the OGP values of transparency, accountability, and civic participation as articulated in the OGP Declaration of Principles and the Articles of Governance. The next action plan could prove to be more effective if it focused on several priority commitments and provided a detailed roadmap for their implementation. Such commitments could target, for example, the issues of full enforcement of the electronic disclosure and verification of asset declarations of public officials, ensuring wide adoption of integrity (anti-corruption) plans among public authorities based on the corruption risk assessment, the setting up of the open data system, and moving the entire public procurement cycle to the electronic platform.

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[1] Organisation for Economic Cooperation and Development (OECD), "Anti-Corruption Reforms in Ukraine" (OECD, March 2015), p. 10-11, http://bit.ly/2042hJx.

[2] See for example, UN General Assembly Resolution no. 68/262, adopted on 27 March 2014, http://bit.ly/1BPFWQ9; and EU documents, http://bit.ly/19wwzP3.

[3] See, among many other accounts: EU Council Conclusions, 29 January 2015, http://bit.ly/1OdPcqq.

[4] http://bit.ly/1s7iaLR.

[5] See for example, "2015 Index of Economic Freedom," *Heritage Foundation*, http://herit.ag/1S1S8ra. "Pro-Western Ukrainians hoped their 2014 Euromaidan revolution would dismantle the oligarchic politics and deeply rooted cronyism that allowed business owners to amass wealth by exploiting their access to those in power rather than through efficient management, but that corrupt system is still largely in place under the Poroshenko government. The judiciary remains weak, and contracts may not be well enforced."

[6] See, among others: "Survey of public perception of reforms," Democratic Initiatives Foundation, 2015, http://bit.ly/1MzPEws; "Survey of public trust in institutions," Democratic Initiatives Foundation, Razumkov Centre, 2015, http://bit.ly/1SWdJ54; "Surveys of corruption perceptions," IRI, 2015, http://bit.ly/1KlNbZH; and TI, 2015, http://corruption-index.org.ua.

[7] See text of the law at: http://bit.ly/1NjC18E.

VII. General recommendations

Crosscutting recommendations[1]

OGP implementation

- To ensure high-level ownership of the OGP process in Ukraine, the government needs to renew its commitment to the OGP process on the highest political level.
- To promote higher visibility of the OGP and its commitments, the government could issue statements on the progress of each of the commitments, clearly attributing it to the OGP process.
- To raise the level of leadership of the initiative on its end, the government could assign the coordination role to the prime minister's office, requiring and reviewing regular reports for the Cabinet of Ministers from the OGP multi-stakeholder coordination mechanism, both from government and civil society.
- The government could ensure ownership and better leadership of action plan implementation from the ministries and other responsible agencies. The government could ensure an effective collaboration with civil society during implementation of each of the commitments.

Multi-stakeholder consultation

- The government could reform the coordination mechanism by ensuring better operational management of the initiative. This can be achieved by establishing a management body responsible for coordination in between the general Coordination Council meetings and thematic working groups for sets of commitments. Such a body should consist of representatives of all stakeholders included in the OGP process.
- To better share responsibility for OGP management with nongovernmental partners, the government could appoint co-chairs from civil society to each management or working body involved in the process. It has to be recognised that civil society has been the driving force behind the reforms during the past two years, and this calls for an increased role of civil society in the process.
- The business sector is missing from the multi-stakeholder process. The government should involve business associations and other private sector representatives in the OGP process as partners.

Scope of the action plan

It is recommended that the government narrow down and prioritise the commitments included in the next action plan. For each section, the action plan could include one or two ambitious commitments and provide a short roadmap for their implementation. Such commitments could be the most transformative ones (defined in consultations with stakeholders) and those requiring partnership with civil society in enforcement.

Key recommendations

1. Renew high-level political involvement in the OGP through the government's renewed commitment to the OGP process on the highest political level, giving better visibility to the OGP and its commitments.
2. **Ensure an effective collaboration** with civil society during implementation of each of the commitments and involve private sector representatives in the OGP process.
3. **Reform the OGP coordination mechanism** by ensuring better operational management of the initiative and sharing responsibility for the initiative's management with civil society actors. Ensure ownership from the implementing agencies through a formal process for coordination and collaboration.
4. **Narrow the scope of the action plan and prioritise commitments** in the next action plan. For each section, the action plan could include one to two ambitious commitments and provide a short roadmap for their implementation. Such commitments could be the most transformative ones that require clear partnerships with civil society.
5. **Focus on ambitious, feasible priorities**, such as enforcing the system of electronic disclosure and verification of asset declarations of public officials, further disclosure and integration of various public registers through online and open data access, moving the entire public procurement cycle to the electronic platform, and developing a roadmap for e-democracy in Ukraine.

[1] Recommendations are based on stakeholder consultations which the IRM researcher conducted or took part in (i.e., interviews with Olesya Arkhypska, Oleksiy Khmara, Maksym Latsyba, Ivan Presniakov, discussion during OGP Coordination Council meetings, and the June 2015 multi-stakeholder consultations organised by TI-Ukraine and the UNDP).

VIII. Methodology and Sources

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

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

The IRM researcher conducted personal and email-based interviews with a number of stakeholders (mentioned throughout the report). Results of two stakeholder consultations were used in preparation of this report.

First, in June 2015, Transparency International-Ukraine and the United Nations Development Programme (UNDP) organised a national roundtable discussion to take stock of the progress of the OGP action plan implementation and collect stakeholder views on how it could be improved. More than 100 participants took part in the discussion, including civil society representatives from regions of Ukraine, government representatives, and international organisations.[2]

Second, in September 2015, the government organised a meeting of the OGP Coordination Council attended by more than 30 participants representing different stakeholders, including public officials, civil society representatives, and international organisations. The participants discussed the government's self-assessment report and implementation of the OGP in Ukraine in general.

As the Coordination Council and the preceding thematic working group meetings provided a forum for sharing multi-stakeholder views on the OGP implementation, separate consultations were not organised.

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 is:

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

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

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[1] Full research guidance can be found in the IRM Procedures Manual, available at:
http://www.opengovpartnership.org/about/about-irm
[2] See reports about the event at: http://bit.ly/1cXUCl2, http://bit.ly/1PZaZVO.

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.[11] 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]	4	4	No change	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]	3	2	⬇	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (7.94)[5]	3 (6.76)[6]	⬇	*EIU Citizen Engagement Index* raw score: 1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total / Possible (Percent)	15/16 (94%)	13/16 (81%)	⬇	75% of possible points to be eligible

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[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), http://bit.ly/19nDEfK; Organisation 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),

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http://bit.ly/13vGtqS; Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009), http://bit.ly/1cIokyf; 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), http://bit.ly/eLC1rE.

[6] Economist Intelligence Unit, "Democracy Index 2014: Democracy and its Discontents" (London: Economist, 2014), http://bit.ly/18kEzCt.