

The OGP Process
in EaP Countries and Russia:
Where are we now
and where do we go further?

This paper is developed in a framework of research conducted within the project «Strengthening capacities of the EaP civil society organizations in using Open Government Partnership as a tool for fight against corruption».

This project aims to share good practices of cooperation between the government and civil society in process of development and implementation of national OGP plans and to develop a joint vision among the CSOs of EaP region on an optimal coordination mechanisms that need to be in place in EaP countries to successfully implement their respective OGP plans.

The project is implemented by Ukrainian Institute for Public Policy (Kyiv) in cooperation with Transparency International Ukraine, Transparency International Anti-corruption Center (Armenia), Transparency International Azerbaijan, Transparency International Georgia, Transparency International Moldova, Center for Anti-Corruption Research and Initiative Transparency International Russia.

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Table of contents

5	The OGP Process in EaP Countries and Russia: Where are we now and where do we go further?
15	Analytical Paper on the National OGP Process: Armenia
21	Azerbaijan
28	Georgia
38	Moldova
47	Russia
52	Ukraine

The OGP Process in EaP Countries and Russia: Where are we now and where do we go further?

This paper is one of the products of a project implemented by the CSOs in Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Russia with the support of the Czech Ministry of Foreign Affairs. The goal of the project has been to empower CSOs in Eastern Partnership countries and Russia to hold governments transparent and accountable through the global Open Government Partnership (OGP) Initiative. Analytical papers on the national OGP process and two-day seminars on this process in our countries gave national experts a chance to discuss the opportunities and bottlenecks that exist for CSOs, governments and donors in this area. This paper is the result of these discussions. It analyses the OGP process across the six countries and suggests ways for civic activists in this area to move forward.

Executive summary

The Open Government Partnership is a global effort to make governments more transparent, effective and accountable. The initiative currently unites more than 50 governments that have endorsed an Open Government Declaration and published their country action plans.

The implementation of the OGP is very important for the countries in the post-soviet region. Their short histories of independence and the need to build democratic institutions make government accountability and transparency vital for the further development of these countries. This initiative is supposed to facilitate their transition to democracy.

The current study evaluates progress in OGP implementation in all six countries: Armenia, Azerbaijan, Georgia, Moldova, Russia, and Ukraine. Five of the six countries expressed their intent to join OGP right after the initiative was launched in September 2011. Action Plans were delivered by Armenia, Georgia, Moldova and Ukraine in April 2012 during the OGP Summit in Brasilia. Azerbaijan had to rework its National Plan, which was approved later in September 2012. Russia expressed its

intent to join OGP later than other countries of the region—in April 2012.

Based on their progress in OGP implementation, the six countries can be divided in two groups: 1) “champs” – Georgia and Moldova and 2) “slowpokes” – Armenia, Azerbaijan, Russia and Ukraine.

The OGP process in the “champs” is characterized by highly dynamic government actions, high quality legislation, and solid communication between CSOs and governments.

The “slowpokes” have a variety of obstacles hindering OGP implementation: little CSO interest in OGP (Armenia), poor communication between government and CSOs (Russia, Ukraine), lack of political will (Armenia, Azerbaijan, Ukraine and Russia), and low quality of legislation developed under the National Plan framework or legislation that is inconsistent with other legislative initiatives based on OGP principles (Azerbaijan, Ukraine).

6

Nevertheless, even the slow countries are moving forward in OGP Action Plan implementation. The further success of OGP implementation in the region will depend on how individual countries overcome three main challenges:

- **Little or no political will among top officials.** We see the negative impact of this factor in the case of Russia, where OGP-related activities were almost frozen when Dmitry Medvedev left the presidency. This factor may have a negative impact on Georgia and Azerbaijan as well, given that new governments have just been formed in those countries. The lack of political will is also evident in Ukraine, where the top officials simply do not consider OGP a major priority.
- **Poor communication mechanism.** In all six countries, there is a serious problem of communication between CSOs and governments, whether it is a selective approach to consultations with stakeholders or overly tight deadlines given to CSOs for revising drafts and getting feedback. Governments of post-soviet countries have much to do

to establish open and inclusive, not to mention properly managed dialog with their civil societies.

- **Demand for open government from voters.** Until now, the governments and CSOs in the project countries have been focusing on development plans and their implementation. But, as experts have seen in Georgia, a flagship country in the region, it is not enough to create online platforms and services: voters need to be educated in how and for what purposes to use such tools.

Timelines and dynamics

Russia is a year behind the other five countries in its OGP process, having expressed its intent to join OGP only in April 2012. Its National Plan will be presented to the OGP Steering Committee in March 2013.

All the countries that expressed their intent to join OGP in 2011, except Azerbaijan, developed Action Plans by the set deadline, April 2012, and are currently implementing them. The process of putting together the draft plan was different in each country. Moldova, Russia and Azerbaijan immediately invited NGOs to join the working groups on OGP plan development. It took a while for the Governments of Armenia, Georgia and Ukraine to establish constructive dialog with CSOs. Where in Georgia it seemed that the Government took some time—two months—to start active discussion of the draft, the Armenian Government did not make the draft National Plan public or involve other stakeholders in the work developing it between October 2011 and February 2012, giving NGOs less than two months to review the draft and negotiate its contents. Ukraine had a unique situation, caused mainly by a misunderstanding between the Government and CSOs. The Government spent November 2011–January 2012 conducting public hearings and consultations with regional authorities and public councils set up by them, but not involving the Civic Partnership in support of OGP

implementation in Ukraine in the process: this was a coalition of the most respected CSOs working on OGP. Effective communication between the Government and CSOs was established only in March 2012, which meant reworking the National Plan. Nevertheless, it was approved at the OGP Summit in Brasilia in April 2012.

Although Russia and Armenia almost immediately involved NGOs in the drafting of an OGP Plan, it should be noted that only a handful of CSOs were actually involved. In Russia, the majority of experts on the council for drafting the Action Plan consisted of individuals from state research institutions, the central government and regional officials, and businesses professionals. It is not clear at this point whether the voice of CSOs will be heard during the OGP Plan development and implementation. Armenia's Government is also working with a limited number of NGOs, although their recommendations are often accepted and highly valued by government officials.

Armenia, Azerbaijan, Georgia, Moldova and Ukraine managed to establish a working dialog between Governments and CSOs and to draft their National Plans within the deadline. It is not clear whether this will be the case with Russia, which gave significant attention to the OGP process under President Medvedev, when the intent to join the initiative was expressed and a National Plan development group was set up, including high level officials and chaired by the Presidential Chief-of-Staff. With Medvedev now Premier, OGP implementation is being coordinated by the Department for Open Government, which does not even have a full staff so far.

Interestingly, Russia's working group to draft an OGP National Plan was formed in February 2012, even before the country officially declared its intent to join OGP. By May 2012, a set of initial recommendations had been developed and sent to the President, who was then Vladimir Putin. The recommendations defined priorities for the future National Plan, as well as the main areas of activity and a road map. Since May, however, Russia has

reported no major developments in the OGP process.

National Plan implementation—development in the case of Russia—will be evaluated by the OGP Steering Committee a year after their adoption, April 2013. However, the monitoring of OGP National Plan implementation showed that, several countries spent the first six months rather unproductively: in Armenia, Azerbaijan and Ukraine, observers first saw activities related to OGP National Plan implementation only towards the end of August. In Russia, the process currently remains at the declarative level and the process of drafting the National Plan has not actually started.

Real progress in OGP implementation was observed only in Georgia and Moldova. Of course, the initiatives envisioned by their National Plans had actually been in their governments' plans previously. For instance, Moldova's Government had launched a large-scale "Governance e-Transformation Project" in 2010, funded by a US \$20mn line of credit from the World Bank and aimed at improving government transparency, improving the delivery of public services, and fighting corruption, while in 2011 it launched its first strategic program for the modernization of government. In Georgia, the Ministry of Justice had started implementing a new concept of a Public Services Center in 2011, its healthcare reform started before OGP was launched, reforms aimed at increasing the transparency of the court system were launched in 2011, and state procurement reform has been going on since 2003.

The fact that these Governments already had plans and policies consistent with OGP standards and values in their pipelines increased the efficiency of their implementation of OGP National Plans. The result is that the Governments of Georgia and Moldova also feel stronger ownership of their OGP National Plans, compared to other Governments in the region. In other countries, like Azerbaijan and Ukraine, the Governments were largely focused on anti-corruption measures, which then became part of their OGP National Plans. However, as

effectiveness of their anti-corruption policies was typically low, their progress in implementing OGP plans is likely to be modest.

Nevertheless, all countries except Russia report on the progress of their National Plan implementation, slow as they may be, some objectives envisaged by the individual National Plans have been reached.

To sum up, OGP process in any given country depends largely on three interrelated factors:

- **Whether there is political will for more openness within the government.**

As OGP is mainly about government actions and governments make no formally binding commitments to it, CSOs and donors have little to do without real political will.

- **Whether there is a political stability and/or continuity in policies from Government to Government.**

Elections slowed down National Plan implementation in Armenia while the presidential election in Russia greatly reduced the level of state engagement in OGP implementation and almost froze the process of drafting a National Plan. At the moment, there are some fears that a shift in priorities in new Georgian Government formed in early October could slow down OGP implementation in that country as well.

- **Whether the Government's agenda already included policies and measures to institute greater openness.**

Prior reform activities by Moldovan and Georgian Governments ensured their ownership of OGP Action Plans and increased the effectiveness of its implementation.

CSO involvement in drafting OGP National Plans

In all six countries, the Governments seem to be more or less open to the idea of cooperation with

CSOs in the process of drafting OGP National Plans, especially as there is a formal requirement that each OGP Action Plan should be developed in cooperation with the local civil society.

However, in the majority of cases—Armenia, Azerbaijan, Georgia and Ukraine—, the Government used untransparent mechanisms for involving NGOs in this process. One approach was to limit the number of participants in consultations. The majority of the Governments in the region—Armenia, Azerbaijan, Russia and Georgia—initially preferred to work with a handful of CSOs by directly inviting specific organizations to established working groups. Experts mention that the Governments could have been more active in promoting the opportunity for NGOs to take part in drafting the National Plan, as the small number of CSOs involved had a negative impact on the quality of the document.

Sometimes CSOs did their best to make the process more inclusive. In Georgia, for example, initially the Government invited only a limited number of organizations to provide feedback on the draft OGP National Plan. But CSOs took the initiative and invited members of Georgia's media club to participate in public discussion of the OGP National Plan and in monitoring its implementation. The same happened in Azerbaijan, where a local NGO, the National Budget Group, took the initiative to promote OGP in the NGO community and involving other CSOs in discussing the Draft National Plan. As the result, the CSO Forum for debating and implementing the OGP in Azerbaijan was set up. This Forum made consultations on drafting the OGP Plan really inclusive.

Another approach that made the process less transparent was to simulate public debate. For instance, Georgia's OGP National Plan mentions that it was “the result of a thorough consultation process with local and international NGOs, students and academia throughout the country.”¹ Georgian NGOs

¹ OGP Country Commitments. Georgia <http://www.opengovpartnership.org/countries/georgia>

are of a different opinion, particularly on the organization of the consultations with students and academia. According to Georgian Media Club attorney Tamar Gurchiani, the Ministry of Justice “began holding meetings with students, academia and the Business Association of Georgia only at the final stages of the consultation process, when the OGP action plan was basically completed. The Ministry was just presenting a finished plan, rather asking for feedback. Instead, the Government should have conducted a study of voters’ needs and concerns regarding open governance in Georgia prior to launching public consultations on the OGP and defined action plan priorities based on the findings of this study.”²

The situation in Ukraine was similar, with the Government proudly reported that “400 recommendations” had been solicited from civil society through public discussions in the regions and through the Government portal. Meanwhile, the Government never mentioned that those 400 recommendations actually came, not from independent CSOs, but from local administrations, state research institutions and NGOs affiliated with government agencies. The voice of the most respected 50 CSOs united in the Civic Partnership to support OGP implementation in Ukraine was not heard in this discussion. To become a part of the National Plan drafting process, Ukrainian CSOs had to lobby the OGP Steering Committee and international media.

Good standards of CSO involvement in the drafting process were applied in Moldova, where the consultation process was more or less inclusive and transparent. Success factors included the goodwill and openness of the Government and effective mediation by the donor community—the World Bank and Moldova’s Soros foundation—, which helped to organize and coordinate CSO involvement in drafting the National Plan. Thanks to consultations held at the World Bank offices in Chisinau and roundtables organized by the Moldova

Soros Foundation, more than 100 representatives of CSOs took part in the process. As result, 80 recommendations were offered. The only shortcoming of CSO engagement in the OGP Action Plan mentioned by Moldovan experts was the small share of CSOs outside the capital city of Chisinau.

Still, it was not only Governments who set up obstacles for open and inclusive consultations with CSOs. Experts noted that the NGO community was also weak and passive. Either the number of NGOs that were able to deliver recommendations and add value to the dialog between the Government and the Civil Society was limited (Armenia, Georgia at some periods and Russia), or negotiations among NGOs over whose recommendations are more acceptable become to complicated and fail to deliver a unified position in the dialog with Government (Ukraine in some periods). For example, although the Armenian Government invited only nine NGOs to the consultations process initially, just two of them consistently participated in working meetings with Government and provided input. In some countries, both factors may have played a part.

A serious issue was that lack of public involvement in the consultation process or its largely nominal nature could later cause a problem with ownership of the OGP, as stakeholders failed to accept the plan as their own and to support its implementation. To prevent this, Armenian NGOs included in their National Plan activities aimed at establishing “an environment conducive to the involvement of civil society organizations in the implementation of the OGP action plan.”³ CSOs in other countries suggest that a broad public awareness campaign regarding OGP should be carried out.

Apart from these problems, the results of the consultation process were actually quite positive. CSOs that took part in the consultation process in five of the six countries noted that almost all their suggestions were accepted by their Governments.

² Open Government in Georgia – Achievements and Challenges.

³ Analytical Paper on National Process in a New Member Country of the OGP-Initiative (Armenia).

The exception was Russia, where negotiations on drafting the National Plan have not yet started. In the majority of countries—Azerbaijan, Georgia, Moldova and Ukraine—, CSOs say that at the end of the consultation process, drafts that had started out vague and unspecific were transformed into documents with measurable action plans: specific actions and specific pieces of legislation that need to be adopted, with deadlines and designated executive authorities. In several cases, this kind of cooperation added entire new chapters to the National Plans: anti-corruption measures in Armenia and access to public information in Ukraine.

In short, although not all Governments in the region were ready to establish an inclusive dialog with CSO community at the beginning of the OGP process, in the majority of countries, CSOs managed to shape the conditions for this dialog.

In conclusion, three points stand out:

- **There is a room for improved cooperation between Governments and CSOs in each of the six countries.** But because the participation of CSOs was among the formal criteria for developing plans, the OGP process became a productive exercise to test mechanisms for cooperation.
- **Governments still need to be more inclusive in the process of consulting with civil society.** When they communicate only with several “loyal” NGO partners, the whole process becomes a bit artificial and the final results are poor.
- **There is a problem of poor institutional capacity in to deal with Government openness professionally.** There are few organizations interested in the OGP process per se in each country. This means there is a need to increase awareness of the process across the board. Specifically, there is also a problem of growing public demand for open information, which is one of the pillars of the OGP process in many countries. To make the whole concept of open government work, broader cooperation across different sectors needs to be established—CSOs, business and government—

as there should be systems that enable the everyday use of open information by voters, and voters should have an opportunity to make use of this data. This will spur demand for open information and will push Governments towards further openness.

The substance of OGP National Plans

Five of the six countries in this study submitted their OGP commitments to the Steering Committee. Russia is still in the process of drafting its National Plan.

Three countries—Azerbaijan, Moldova and Ukraine—chose fairly similar structures for their National Plans. The commitments of these countries address 3-4 of the major challenges defined by OGP. Each objective includes a list of specific deliverables—legislative acts, online tools, methodologies, or workshops for designated responsible state officials—and deadlines.

The Action Plans of Azerbaijan and Ukraine, although documents of sufficient quality, might raise concerns at the implementation stage. Azerbaijan’s OGP plan was approved only in September 2012. It is still not clear to what extent the Azeri Government is committed to the idea of open government and how it is going to carry out its Plan. Experts have expressed concern that, as happened with several state programs before, the Plan might just be left on paper. The same can be applied to Ukraine.

Moreover, both countries adopted legislation containing provisions that are inconsistent with open government principles at the same time as they were drafting their OGP Action Plans. For instance, there are the warning signs in the process of drafting the Bill amending the Law of Ukraine “On Public Self-Organization Bodies (Community Associations).” Although the adoption of such a law is envisaged by the OGP National Plan, CSOs have given poor marks to the way it was drafted and the norms that the Government intends to include in it.

In Azerbaijan, the Government recently amended legislation in a way that will considerably restrict access to information. According to the amendments, information about the founders and financial resources of legal entities, the amount of their charter capital, and other similar data will be accessible only to law enforcement bodies upon court decision or with the consent of the information holder. Bill was signed by Azerbaijan's President on July 6, 2012. Examples like these raise doubts as to whether Azerbaijan's and Ukraine's Governments are going to fulfill their OGP commitments.⁴

The OGP plan for Armenia has other pluses and minuses. It addresses only two major challenges: effectively managing public resources and increasing public integrity. However, the commitments taken within these two grand challenges are very broad and ambitious. For instance, the Armenian Government commits itself to institute a regulatory guillotine, to improve procurement and budget planning, and to take anti-corruption measures. Although the commitments are sound and their fulfillment is core to making Armenia's Government open and transparent, the wording used in the National Plan raises doubts about the implementation of these commitments. For one thing, the Plan lacks concrete measurable indicators. For example, with the regulatory guillotine, the National Plan includes a list of the bills submitted to the Government for consideration, but it does not specify a timeframe for their adoption or which state agencies are responsible for further legislative work in this area. In the chapter on fighting corruption, no specific legislative initiatives are envisaged, nor is it mentioned which state agency will be responsible for the public dialog proposed in the document.

The most technically sophisticated and ambitious OGP plan among the six countries was developed by Georgia. The reason behind this is the fact that Georgian Government had been consistently working to combat corruption, e.g. its 2010 Anti-Corruption Plan, and achieving greater transparen-

cy and openness of Government even before joining OGP. As Georgian CSOs point out, the OGP Plan initially proposed by Georgia's Government was based on measures that were already a part of implemented or ongoing reforms.

Due to the proactive position of local CSOs, the Georgian Government was pushed to raise the standards further and implement really challenging initiatives. Such commitments include a new concept of Public Services Center (www.house.gov.ge), based on the idea of a "one-stop shop," where all state agencies operate under a single roof. Rural residents would benefit from OGP through Village Development Centers (VDC), which will bring a large number of services to the local population. Specifically, VDCs will offer all local government services, the top central government services, and many critical services that are provided by the private sector. Moreover, in the context of OGP, Georgia is planning to set up a system for crime-mapping, which gives the police an efficient tool to monitor the geographic distribution of crimes and undertake tailored preventive measures targeting specific areas. The Government also plans to implement a "Safe Neighborhood" project. Individuals will be able to communicate with their local prosecutor's office online and inform them about general or specific problems in their neighborhood.⁵ Still, the change of Government in Georgia after the October Parliamentary elections raises the question whether this Plan is a priority and is going to continue to be implemented.

In short, as the result of productive cooperation with CSOs, five of the six countries have developed quality OGP National Plans with concrete sets of commitments. To implement these commitments, each country has to amend its legislative framework. However, there is a risk in some countries, such as Azerbaijan and Ukraine, that new legislation will be inconsistent with OGP values. This makes the monitoring of OGP implementation especially important in these countries.

⁴ Analytical Paper on National Process in a New Member Country of the OGP-Initiative (Azerbaijan).

⁵ OGP Country Commitments. Georgia <http://www.opengovpartnership.org/countries/georgia>

Implementing OGP National Plans

To implement OGP National Plans effectively, Governments had to set up mechanisms for coordinating this process. There is no single approach to state involvement and coordination in OGP initiatives among the six countries. All countries except Azerbaijan, where responsibility for OGP implementation is with the Presidential Administration, have put different central executive bodies (CEBs) in charge.

There is no direct link between the status of the government agency in charge of the process and the effectiveness of OGP Action Plan implementation. The smoothest and best-coordinated OGP Plan drafting and implementation has been in Moldova, where it is managed by the Center for e-Governance, a body under the Cabinet of Ministers. In Armenia, Russia and Ukraine, where the responsibility is taken by higher officials (Deputy Chief-of-Staff of the Cabinet Secretariat, the Ministry for Open Government and the Cabinet of Ministers, a Deputy Premier), the process has been less effective because it requires greater political will from individual officials to succeed, compared to dedicated subunits.

Experts point out that coordinating bodies in all participating countries lack the necessary power or are in an unstable position, except Moldova. Since Russia's presidential elections, the status of the Ministry for Open Government has been informally reduced. In Armenia, although the coordinating body has sufficient status and technical capacity, the effectiveness of its work is negatively affected by the unstable status of the Premier. In Georgia, although the Ministry of Justice has been operating effectively as the main coordinator of the OGP initiative, it lacked the power to bring a sufficient level of involvement from other CEBs to the table. In Azerbaijan, the main coordinator has still not been clearly designated.

Significant progress in OGP implementation is evident only in Georgia and Moldova. Azerbaijan

has just taken its first steps after actually developing its OGP implementation plan and adopting it in September 2012. However, as already noted, some steps actually contradict the principles of open government, giving rise to doubts about the further success of OGP implementation in the country. Ukraine and Armenia have demonstrated limited progress in the OGP implementation, and a number of questions arise regarding the process of National Plan execution in these countries.

In particular, as already noted, Armenia has a very ambitious and broad OGP plan, which includes improving the state procurement process, budget reform and widespread deregulation. In the first six months after Armenia's Plan was adopted, however, only some technical steps involving the digitization of data were made. The delay is partially due to the Parliamentary elections held in May and the subsequent change in the Cabinet of Ministers. The new Government adopted a new Action Plan for 2012-2017 and experts are currently trying to understand if and how this affects OGP implementation.

Ukraine has also fulfilled some of the steps envisaged in its OGP National Plan, although political stability here has also had a negative impact on OGP implementation. For instance, due to political controversies over free assembly, the related law was not adopted prior to the October parliamentary election. The main threat to successful OGP implementation in Ukraine is the quality of legislation being adopted. The NGO community in Ukraine is facing the problem that the Government is trying to implement steps envisioned in the OGP Plan without proper consultations with CSOs, leading to a situation where new laws contradict OGP principles and add nothing to the openness of Ukrainian government.

Compared to the other five countries, Georgia has established exemplary mechanisms for OGP implementation. In Georgia, a Forum was set up, consisting of the Ministry of Justice, which is responsible for OGP implementation on the government side, and 10 CSOs. The Ministry sets the agenda for meetings and NGOs provide feedback on the

Government's OGP-related activities, as well as recommendations as to which steps should be taken in the course of OGP implementation. The Forum meets once a month. Although the NGOs have recommended improvements in the way the Forum operates, these are mostly technical, such as that the Ministry should provide agendas earlier, that the minutes should be disseminated, and so on. The overall functioning of the Forum has been given good marks, as the Government hears the voice of the CSOs and adopts the initiatives they propose. Both sides are satisfied with the coordination of OGP implementation efforts. As noted in the national report, "The Ministry of Justice sees value in building on the expertise of NGOs and having more new ideas coming from them on different aspects of OGP."⁶ CSOs interviewed for this study consider the NGO forum a "vital information-sharing mechanism, enabling them to engage regularly and directly with the Government and to be updated on developments around the OGP."⁷

CSOs in all six countries are prepared to monitor OGP implementation and are currently developing methodologies and indicators. Although it was mentioned that CSO engagement could have been higher in Armenia, Azerbaijan, Georgia and Moldova, the existing level of involvement provides enough capacity for monitoring purposes.

In summary, successful implementation of OGP National Plans is threatened by political instability and the lack of political will in some countries. So far, the two leaders in OGP implementation are Georgia and Moldova. In both countries, the Governments started working on greater openness and transparency well before expressing any intent to join the OGP, which means that ownership of the initiative and the political will to implement it are stronger in these countries.

The Governments of Armenia, Azerbaijan and Ukraine are tending to execute the OGP initiative

⁶ Open Government in Georgia – Achievements and Challenges.

⁷ Ibid.

nominally, adopting pieces of legislation mentioned in their National Plans, but not always holding proper consultations on the content of those bills and sometimes even adopting the norms that contradict the OGP.

With Russia, it is too early to discuss OGP implementation, but the institutional arrangements, involving a minister without portfolio and a coordinating department whose staffing remains incomplete several months later, as well as the obvious loss of political will at the highest level, give reason to doubt the success of OGP implementation in Russia.

Donors support

In the majority of these countries, donor organizations are not key drivers behind the OGP process, although their support is very much valued. The biggest influence of donors on OGP implementation can be seen in Moldova; in Russia, donors are not active on this area at all for political reasons. In Azerbaijan and Georgia, the CSO communities would like to see donor organizations more engaged.

Experts say that USAID has been the key influence in driving forward the OGP agenda in Georgia and Azerbaijan. In Moldova, the Soros Foundation is mentioned as one of the most active stakeholders, and in Ukraine Soros's Renaissance Foundation was among the first supporters of the OGP as well.

In Ukraine, the main driver behind the OGP process is the Civic Partnership in Support of OGP Implementation, which consists of more than 50 local CSOs. The donor community, mainly the British Embassy and the Renaissance Foundation, supports this effort with funding, although CSOs are quite pro-active in drafting their own agenda on the issue.

The influence of donor organizations on OGP implementation is the most significant in Moldova,

where the World Bank and the local Soros foundation have invested much in the success of CSO coordination and participation in developing the OGP National Plan. Experts note that the capacity-building initiatives related to open government provided by the World Bank were critical to the success of OGP National Plan implementation in Moldova. Donor support included training, workshops and roundtables for CSOs to raise awareness of OGP, increasing IT-related expert capacities at NGOs and gathering feedback and recommendations for Moldova's OGP National Plan. Thanks to the World Bank's support, an "Open Innovation Week" was organized. The event focused on IT and approaches to working with data.

Azerbaijan's experts see potential donor input as raising expert capacity of the CSO community. International donor organizations have more experience and well-trained staff, and they can provide better expertise to government in the process of drafting OGP National Plans. Moreover, domestic CSOs would like to work more on promotion and raising public awareness of the OGP, but they lack the resources and see donor organizations as the only possible source of funding for such efforts.

Georgian CSOs also see potential added value in donor investment in capacity-building activities. Experts believe that domestic CSOs are currently restraining their involvement in OGP implementation due to the lack of knowledge of IT and open data issues. Thus, donors might find it useful to design programs aimed at raising technological literacy among Georgian CSOs. Donors are also expected to share knowledge on data disclosure, developing easily accessible web-sites and building automated digital databases. Experts also pointed out that donors could more actively use their advocacy potential, as the Georgian Government is much more open to the suggestions and recommendations of the international donor community, than to those of domestic CSOs.

Rather than lively CSO engagement in the OGP implementation process, Ukraine would like to see donor support and assistance go to the

Government. In particular, the country has a similar expectation to Georgia that donors should help in developing the IT-related tools and components of OGP, as Ukraine has limited budget capacity for this. Ukrainian experts suggest that, if donors decided to provide this kind of technical assistance to the Government, it should be in the form of easily measurable deliverables, like the development of online platforms. Experts also see potential for donor involvement in capacity-building among civil servants, such as training and coaching on partnership development and establishing constructive communications with stakeholders.

At the same time, role of donors should not be overestimated: without local CSO partners, their capacity to influence the process is limited. For example, in Armenia, the local Soros Foundation is working to establish an NGO Coalition for OGP implementation, but this initiative has not been very successful so far because of lack of interest within the NGO community itself.

Thus, active donors involvement increases the effectiveness of OGP implementation and makes dialog between Governments and the CSO community more inclusive. The potential of OGP implementation facilitation by donors lies in:

- **Capacity-building projects** aimed at increasing the technical and open data literacy of CSOs;
- **Technical assistance to Governments** to strengthen their capacity for implementing complex IT solutions for open government mechanisms;
- **Training for both Governments and CSOs** on effective partnership building and communication.

Analytical Paper on the National OGP Process: Armenia

Executive Summary

The Republic of Armenia expressed its intent to join the Open Government Partnership (OGP) on October 17, 2011. The decision to join this initiative reflects Armenia's commitment to promote greater transparency and accountability in providing public services to its citizens. By the Resolution N5-A of the Armenian Premier, dated January 27, 2012, a working group to draft an OGP Armenia Action Plan was set up, initially consisting only of state officials. This group developed the first draft of the Action Plan. In compliance with the Premier's Resolution, representatives from civil society organizations (CSOs) were invited to join the group to develop the final draft. The "extended" group worked from February 7 to March 16, 2012 and developed the final draft of the Action Plan. The document was officially presented in Armenia on April 10, 2012 and then, on April 17 its presentation took place at the OGP Summit in Brasilia, Brazil. Resolution N817-A of the Premier, dated August 24, 2012, appointed the Deputy Chief-of-Staff of the Cabinet the coordinator for the OGP Armenia Action Plan implementation.

The level of CSO involvement in drafting Armenia's OGP Action Plan was very low. Only two or three NGOs joined the working group to draft the Action Plan and only two were active in providing recommendations and making suggestions and comments on different sections of the initial draft of the Action Plan developed by the Government. Such limited participation of CSOs, a very tight timeframe—a little more than one month—, and lack of interest on the part of the donor community make difficult to genuinely assess the quality of CSO participation in the consultation process. However, the Government felt that even this level of involvement was satisfactory. At least that is what Armenian officials publicly stated during the official presentations of the Action Plan in Yerevan and Brasilia.

Armenia's OGP Action Plan follows the standard template for such Plans. Its commitments are aimed

to address two “grand challenges:” Effectively Managing Public Resources and Increasing Public Integrity. However, this OGP Action Plan was based on the 2008-12 Action Plan of the previous Government. After the last election, the new Cabinet adopted a new Action Plan for 2012-17 and it is currently not clear how the change of Government and the adoption of a new agenda will affect OGP Action Plan implementation.

The objectives set by Armenia’s OGP Action Plan correspond to the country’s needs and are realistic. However, it is too early to assess their feasibility, especially considering the history of negative experience with implementing other government programs. A serious shortcoming of the Action Plan, partly caused by the low level of NGO involvement in drafting the document, is that the Action Plan lacks concrete measures that allow for public input into the policy- and decision-making processes.

The full-fledged implementation of the Armenia OGP Action Plan has not started yet, mainly due to parliamentary elections on May 6, 2012, and the subsequent change of Government. Still, the implementation of a number of measures envisaged by the Plan is already in process.

Process Timeline

On October 17, 2011, in a letter from Armenia’s Minister of Foreign Affairs to US Secretary of State Hillary Clinton, the Armenian Government expressed its interest in formally joining the Open Government Partnership.⁸ On January 27, 2012, in accordance with the Premier’s Resolution N50-A, which entered into force January 28, a working group was set up to draft the OGP Armenia Action Plan.⁹ The group consisted of 9 officials

representing the Cabinet Secretariat and a number of Ministries, which later became the main executive agencies on the Government side. Those Ministries included: Foreign Ministry, whose Deputy Minister Ashot Hovakimyan chaired the group, the Ministry of Territorial Administration, the Ministry of Economy, the Ministry of Finance, and the Ministry of Justice. This Resolution also charged the Foreign Minister with submitting the draft of the Action Plan to the Cabinet Secretariat by March 19, 2012. The working group expanded on the first draft OGP Action Plan by February 5, 2012, but activities during this stage were not publicized.

Resolution N50-A also anticipated the involvement of civil society organizations in the activities of the working group.¹⁰ The document put the Foreign Minister in charge of establishment of dialog with CSOs on drafting the OGP Action Plan. On January 28, 2012, a number of NGOs received invitations to join the OGP working group. On February 7, 2012, the first meeting of the “extended” working group took place at the Ministry of Foreign Affairs. From February 7 to March 12, this “extended” working group produced a new draft of the OGP Armenia Action Plan, which was submitted to the Cabinet Secretariat on March 19. On April 10, the official presentation of the final OGP Armenia Action Plan revision took place at the Ministry of Foreign Affairs and on April 17 it was officially presented at the OGP Brasilia Summit.

Since the official presentation of OGP Armenia Action Plan on April 17, 2012 at the OGP Brasilia Summit, no developments took place until the end of August 2012. Only on August 24 by the Premier’s unpublished Resolution N817-A, Tigran Gevorgyan, Deputy Chief-of-Staff of the Armenian Cabinet, was appointed the coordinator of OGP Armenia Action Plan implementation.

⁸ See <http://www.opengovpartnership.org/countries/armenia>

⁹ As this resolution was an individual legal act, its publication was not required according to Armenian’s Law on Legal Acts and it was not published in the press or Official Bulletin of the Republic of Armenia. However, it

is available, in Armenian only, in the official database of Armenian legal acts at www.arlis.am

¹⁰ Notably, this Resolution does not mention the involvement of foreign and international organizations working in Armenia.

CSO Participation in the Plan: How coordination currently works

On February 7, 2012, CSOs were invited for the first time to a meeting of the OGP Action Plan working group. In addition to the members of the initial government group and the new CSO members, attendees included representatives from a research institution,¹¹ and one independent expert. The deadline for completing the final draft was initially set for March 12, but was later extended to March 16.

The coordination of the working group's activities was carried out by one of the group members, Arman Akopyan, Director of the Department of the Americas at the Ministry of Foreign Affairs.

During this first meeting, the procedure for how the working group should function was established. All participants agreed to provide their recommendations and feedback through e-mail. This communication was supplemented by regular meetings. This model of communication can be positive and productive for a working group, if the number of participants is limited.

The degree of participation of CSOs was very unsatisfactory. Only six NGOs sent representatives to the first meeting and three invited NGOs did not participate in any way.¹² Of the six attending NGOs, only two took part in developing recommendations, communicated with other members of the working group, and attended subsequent meetings: Freedom of Information Center of Armenia (FOICA) and Transparency International Anti-corruption Center (TIAC), the official

chapter of the Transparency International anti-corruption movement in Armenia.¹³

Representatives of FOICA and TIAC proposed a total of 13 recommendations and suggestions on different sections of the draft Action Plan. Notably, the initial Government draft of the Action Plan did not contain commitments to fight corruption. The TIAC representative recommended including measures to combat corruption and these recommendations were included in the final draft without any changes.

The quality of the process of drafting the Armenia OGP Action Plan can be assessed through such indicators as character of the partnership between the government and civil society, duration of the consultation process and outcomes of the process.

The extremely low number of CSOs involved and the complete absence of international organizations in the consultation process clearly had a negative impact on the quality of drafting of the Action Plan. It could be even argued that civil society sector and international organizations were virtually excluded from the process. However, it would not be fair to blame only the Government in not making sufficient efforts to involve other actors in the process, though it could definitely have been much more active in popularizing the idea of open government and its importance in the reform process in Armenia. On the other hand, especially comparing the same process in some other Eastern Partnership countries, one could definitely point to the lack of a proactive approach on the part of both CSOs and international organizations working in Armenia, especially the World Bank, USAID

¹¹ The Yerevan office of the Eurasia Foundation's Caucasus Research Resource Center.

¹² Needless to say, the Ministry did not send invitations to many well-known local NGOs, which supported claims that the Government used a selective, non-inclusive approach. The working group chair argued that those NGOs who received the invitation were able to forward it to others who hadn't received one and their participation would have been welcomed.

¹³ One or two NGOs attended some of the later meetings, however, without proposing recommendations or making comments or suggestions. By the end of the consultation process at the beginning of March the representative of the only academic institution (Country Director of Armenia office of the Caucasus Research Resources Center), who attended the first meeting of the "extended" working group, sent her recommendations to the working group. However, she didn't participate in the communication following the mentioned first meeting.

and UNDP. The lack of a proactive stance on the part of CSOs was very evident at the start of the consultation process when, after attending the first meeting of the extended working group, only two NGOs continued their active involvement in the working group's efforts.¹⁴

At the same time, interaction between government and CSOs within the working group, the CSO side consisting only of two NGOs, was quite productive and they interacted as equals. Obviously, the limited number of participating NGOs made it difficult to introduce strong functional mechanisms for civic participation in the Action Plan implementation measures, a point that is discussed further in this paper. FOICA and TIAC had to limit the scope of their recommendations, due to concerns that the civil society sector would not feel ownership of the OGP Action Plan. As a result, those recommendations were more aimed at establishing precisely an environment conducive to the involvement of CSOs in OGP Action Plan implementation, rather than suggesting specific approaches, concepts and practices that would enable the active participation of civil society.

The very limited timeframe of the consultation process was another problem that reduced the quality of the OGP Action Plan development process.¹⁵

¹⁴ One possible explanation for such a passive stance among Armenian NGOs is their negative experience with previous Government-initiated programs and strategies, such as the 2003-07 and 2009-12 Anti-Corruption Strategic Action Plans, when despite claims to the contrary and concrete measures in these programs guaranteeing the active involvement of CSOs in monitoring, implementing and evaluating, the Government took no steps to actually ensure such participation. To some extent, this could be one of the reasons for the passive position of international organizations, as well.

¹⁵ Some of the NGOs that did not show up after the first meeting stated during that meeting that the restrictive timeframe for developing the Action Plan reflected the Government wish to imitate the consultation process and that serious interaction between government and NGOs would be possible in such a limited time period.

As to the outcomes of the consultation process, it could be argued that the very limited number of CSOs participating undermined the results of the Action Plan drafting process. On one hand, most of the recommendations proposed by FOICA and TIAC were accepted and all commitments to combat corruption proposed by TIAC were welcomed by the Government, which is a positive outcome. On the other hand, the severely limited extent of CSO involvement in the OGP Action Plan drafting process meant that both the quantity and quality of the outcomes were not that significant. Broader involvement of CSOs in this process could have brought both a larger number of outcomes and outcomes that could really secure the serious, long-term involvement of CSOs in monitoring, implementing and evaluating the Armenia OGP Action Plan.

Still, the consultation process itself could be considered satisfactory, because the government was responding to FOICA and TIAC recommendations, suggestions and comments in a constructive manner. Also, most of the recommendations were included in the Action Plan.

According to the Government's official statements, the consultation process was satisfactory. So far, there have been two such statements, both of which are publicly available, both made by Deputy Foreign Minister and OGP development working group Chair Ashot Hovakimyan. He made the first statement at the ceremony of the official presentation of the Action Plan on April 10, 2012, in the Armenian Ministry of Foreign Affairs, where he emphasized the fact that the Action Plan had been developed by a working group that included CSO representatives. He also praised the involvement of CSOs in the OGP Armenia Action Plan process and underscored the productive cooperation between the government and CSOs in that process during his presentation of the Armenia OGP Action Plan at the April 17-18 OGP Summit in Brasilia.

Armenia's OGP Action Plan

The Armenian OGP Action Plan¹⁶ follows the basic template for OGP Action Plans and consists of three parts: Introduction, Open Government Efforts to Date, and OGP Commitments. Armenian OGP commitments are aimed at addressing two of the five “grand challenges” defined by OGP. Those are Effectively Managing Public Resources and Increasing Public Integrity. To address these challenges, 10 key objectives are to be pursued:

- Effectively managing public resources by:
 - Fostering open government through e-government;
 - Reviewing regulatory acts (Regulatory Guillotine Project);
 - Improving the internal audit system for the public sector;
 - Improving procurement procedures;
 - Improving budget planning and reporting systems through full utilization of program budgeting;
- Increasing public integrity by:
 - Promoting access to information;
 - Promoting transparency and objectiveness in tax administration;
 - Combating corruption.

These objectives are based on the recognition that public integrity is one of the key components of state policy.¹⁷ In order to improve public integrity, five additional priorities in conducting state policy have been set:

- Increasing of the effectiveness of central and local government activities;
- Conducting anti-corruption and public awareness campaigns;
- Improving the system of public administration;
- Establishing a business-friendly environment;
- Establishing a more effective system of government.

¹⁶ See http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country_action_plans/OGPAP_Armenia_English.pdf

¹⁷ See p. 2 of the Action Plan.

Notably, these priorities were based on the 2008-2012 Government Action Plan, which was adopted by the Armenian Government with its April 28, 2008 Decree N380-A. As required by the Armenian Constitution, that Government, formed in April 2008, resigned on May 31, 2012. After the May 6 parliamentary elections, a new Government was formed in June 2012. Also, in compliance with the country's Constitution, this new Government submitted a new 2012-17 Government Action Plan, which was adopted on June 18, 2012 through Decree N730-A.¹⁸ On the time of writing of this paper, it was impossible to determine how this change might affect OGP Armenia Action Plan implementation.

In the opinion of TIAC, the objectives set by OGP Armenia Action Plan correspond to needs of the country and are realistic. However, it is too early to assess how achievable they are. The experience of implementing several previous Action Plans, such as the Anti-Corruption Strategy for 2003-07 and the 2009-12 Action Plans, showed that the Government failed to achieve the main objectives of its programs. TIAC persistently brings up the problem with implementing such programs, when good, useful measures simply remain on paper and are never really enforced. The other TIAC criticism is that the formulation of specific actions aimed at achieving these objectives—except those related to combating corruption—lack the elements of public involvement. Reaching these objectives will only give ordinary Armenians more opportunities to access public domain data, but the mechanisms for voters to actually become involved in public administration remain unclear.

OGP Implementation

After the official presentation of Armenia OGP Action Plan, no official documents or timelines for

¹⁸ The Government Action Plan was approved by the Armenian National Assembly: see National Assembly June.

²¹ Resolution AZhO-017-N at <http://parliament.am/legislation.php?sel=show&ID=4600&lang=arm> (in Armenian).

its implementation were adopted until the end of August. Only on August 24 was Tigran Gevorgyan, Deputy Chief-of-Staff of Cabinet Secretariat, appointed the coordinator of the OGP Armenia Action Plan implementation by Premier's Resolution N817-A (unpublished).¹⁹ This “standstill” is mainly explained by the fact that, after the official presentation of the Action Plan at the Brasilia OGP April Summit on May 6 parliamentary elections were held in Armenia. The new Government received a vote of confidence on June 21. The newly appointed coordinator for OGP implementation planned to contact CSOs after his return to office September 8, to schedule a meeting to discuss setting up a working group to monitor implementation. The Deputy Minister said that a number of issues would be on the agenda: government capacities to implement the Action Plan, the mode for CSO participation in monitoring implementation, and possible ways to establishing cooperation with international donors working in Armenia.

20

Meanwhile, a number of objectives foreseen by the commitments formulated in the Action Plan are in the process of implementation:²⁰

1. Improving the state vehicle inspection; vehicle registration, issuing drivers' licenses, and an electronic system of fines and fees – implementation started on May 22;
2. Introducing a unified payment system (portal) – implementation started on April 15;
3. Implementing an electronic system for consular services – implementation started on April 15; and,
4. Regulatory Guillotine Project – implementation started on April 15.

¹⁹ The author contacted Tigran Gevorgyan on August 22 to arrange an interview and was told that he would be out of office from August 23 until September 18.

²⁰ See page on the Commitments at <http://www.opengov-partnership.org/countries/armenia>.

Analytical Paper on the National OGP Process: Azerbaijan

Executive summary

Azerbaijan expressed its intent to join the OGP initiative in September 2011 and a year later formally adopted its OGP Action Plan. At first, the Government did not see a need to have a separate OGP Action Plan and regarded this initiative as a part of its second National Anti-corruption Plan, covering approximately the same time period. However, in the process of consultations with all stakeholders, two separate documents have been adopted.

The Government put the National Anti-corruption Commission in charge of the implementation process for the OGP Action Plan. Organizing the Government's online activities—e-services, hotlines, information sharing—was delegated to a separate, newly-established agency.

The Azeri Government sought input from selected CSOs through a tested mechanism of NGO Network, as well as through international organizations, such as the OECD, OSCE and CoE. Moreover, civil society organizations took a proactive approach and established a Forum to embrace a broader range of active NGOs. The Government has accepted most of the recommendations provided by CSOs and incorporated them into the OGP Action Plan. The Forum will function as a consultative body, providing recommendations and monitoring implementation of the Action Plan on rolling basis.

The government has ambitious plan to complete reforms in all four recommended OGP areas. Given existing critical problems with corruption in public administration, the implementation process faces some serious threats: failing to meet deadlines; improper prioritizing and poor planning, leading to failure to accomplish tasks in particular areas; inconsistency with domestic legislation; and lack of human resources with suitable experience in dealing with specific anti-corruption measures. The ample funding available to the Government for this initiative should partly be used to take advantage of skills and expertise in CSOs, both local and international.

CSOs consider it necessary to launch an active advocacy campaign among all public stakeholders, to organize special events to popularize OGP values, and to engage more private citizens in this international initiative.

Process Timeline

In September 2011, the Azerbaijan Government expressed its intent to join the OGP initiative. In November 2011, the working group on Updating Legislation under the National Anti-Corruption Commission was assigned to draft proposals for the National Anti-Corruption Action Plan (NACAP). Initial recommendations for the format and content of the NACAP were accepted from CSOs in January 2012.

International organizations such as the OECD, OSCE and CoE, together with local CSOs submitted their recommendations to the Anti-Corruption Action Plan in March 2012.

In April 2012, the NACAP was publicly presented at the first high-level semi-annual summit in Brasilia, Brazil. Based on the recommendations received at the Summit, the Government made a decision to have two separate Action Plans: for the Anti-Corruption Strategy (2012-2016) and one for the OGP (2012-2015).

In May 2012, dialog with a broader coalition of civil society continued to ensure that the views of all stakeholders—civil society, government and international organizations—were taken into account in drafting the OGP Action Plan.

The Government reconfirmed its political will to join the OGP initiative in June 2012.

In July 2012, CSO input into the draft OGP Action Plan was submitted to the Government.

In September 2012, the President of Azerbaijan issued a Decree on adopting the National OGP

Action Plan and National Action Plan on Combating Corruption. That same month, the CSO Forum collected input and recommendations from civil society with regards to OGP Action Plan implementation.

CSO Participation in the Plan: How coordination currently works

Azerbaijan expressed its interest in joining the OGP initiative²¹ in September 2011. The related Government letter highlighted Azerbaijan's achievements in transparency under the Extractive Industries Transparency Initiative and Azerbaijan's progress in improving public services.

In November 2011, the working group on Updating Legislation under the National Anti-Corruption Commission²² was assigned to design a second draft Action Plan for 2012-2016 under the national Strategy for Increasing Transparency and Combating Corruption.²³ The working group consisted of professional lawyers working for various public agencies, as well as two civil society leaders.²⁴

The government-civil society dialog was launched at the first consultation of the Government, represented by the Commission, with the Information and Cooperation Network of NGOs in January 2012. The civil society side provided general

²¹ Azerbaijan sent a letter of intent dated September 8, 2011, addressed to US Secretary of State Hillary Clinton and signed by Elmar Mammedyarov, Azerbaijan's Minister of Foreign Affairs.

²² The Commission on Combating Corruption in the Republic of Azerbaijan set up on March 2, 2006, is a specialized anti-corruption agency. Of its 15 members, five each are appointed by the President, Parliament and Constitutional Court. The Commission's functions are to formulate anti-corruption policy, to coordinate the work of state bodies and other entities, and to supervise the execution of various anti-corruption programs.

²³ The first Action Plan covered 2007-2012.

²⁴ Alimamed Nuriyev of the Constitution Research Foundation and coordinator of the NGO Network, and Sabit Bagirov of the Enterprise Development Foundation.

recommendations with regards to the format and content of the Action Plan.²⁵ The NGOs emphasized the need for benchmarking and proper monitoring mechanisms.

On March 2, 2012, the Commission publicly presented the first draft of the National Anti-Corruption Action Plan for 2012-2016. At this stage, the Government saw no need to have a separate Action Plan for the Open Government Partnership and believed that activities under this initiative could be implemented under the broader NACAP.

Later in March, comments were collected from the OECD,²⁶ the OSCE office in Baku,²⁷ and the Council of Europe in Azerbaijan.²⁸

In April 2012 the Government presented its Anti-Corruption Action Plan at the first high-level semi-annual Summit in Brasilia, Brazil. The Azerbaijan delegation was led by Minister of Communications and Information Technologies Ali Abbasov. Other participants included Bahram Khalilov, Chair of the Commission on the Civil Service under the President of the Republic of Azerbaijan, members of the Presidential Administration and Milli Majlis. Civil society was represented by Galib Abbaszadeh, coordinator of the National Budget Group (NBG)²⁹. The Summit participants recommended that Azerbaijan develop a separate OGP Action Plan, in addition to the Anti-Corruption Action Plan.

²⁵ The Information and Cooperation Network of Anti-Corruption NGOs established in 2006 brings together NGOs working in combating corruption, as well as members of the Parliament and staff the National Anti-Corruption Commission Secretariat.

²⁶ Olga Savran, Manager of the Anti-Corruption Network for Eastern Europe and Central Asia, Anti-Corruption Division, OECD.

²⁷ Tillman Hoppe, long-term advisor, Council of Europe.

²⁸ Melissa Stone, Deputy Director of the OSCE Office in Baku.

²⁹ The NBG was established in February 2006 as a coalition of nine NGOs with a mission to transform initiatives on transparent and effective usage of the budget in the public interest.

The Ministry of Communications and Information Technologies was also actively involved in drafting the Action Plan and conducted consultations with the civil society over April–July 2012. The Ministry was assigned to set up a State Agency on Electronic Government to implement activities to ensure the transparency of the government agencies.³⁰ However, this decision was rescinded and the powers delegated to a newly-created State Agency for Citizen’s Services and Social Innovations.³¹

On May 15, 2012, a large event called “The Open Government Partnership and Azerbaijan” was organized by the National Budget Group, the network uniting NGOs and experts in public finance monitoring. The objectives of the event were to draw wider public attention to the OGP and to engage the Government in discussions to ensure the systematic participation of the NGO community in the implementation of this initiative. Issues discussed at the event demonstrated that there were many steps ahead to ensure proper implementation of the OGP Action Plan.

The NBG recommendations touched upon fiscal transparency, public participation, declarations of income by officials, and access to information. These recommendations were welcomed by the Government, especially by the representative of the Anti-Corruption Commission.³² The Government representative indicated that some of the recommendations suggested earlier had already been taken into account, but that broader consultations would be conducted by an inclusive group of expert CSOs to ensure more focused Government commitments under the OGP.

One of concerns voiced at the “Open Government Partnership and Azerbaijan” meeting was poor coordination between the Commission and CSOs. Many active CSOs were out of the process and had never heard of the OGP initiative.

³⁰ Presidential Decree dated April 18, 2012.

³¹ Presidential Decree dated July 13, 2012.

³² The Commission was represented by Vusal Huseynov, Acting Secretary of the National Anti-Corruption Commission.

This event organized by NBG addressed the problem, as all active CSOs joined the meeting and participated in discussions of the four OGP priority areas. One of the results was the decision to establish a CSO Forum to get input and recommendations from all active CSOs for OGP Action Plan implementation. NBG will lead this process starting September 15, 2012. The main goals of the Forum are: to act as a mechanism for the systematic, robust participation of CSOs in the implementation of the Open Government Partnership in Azerbaijan; to monitor the execution of the OGP Action Plan by government entities; to evaluate measures undertaken by the Government toward reducing corruption; to become a bridge and partner between international organizations and efforts, and local government activities intended to enhance transparency throughout public programs.

In June 2012, the political will to join the OGP initiative was reconfirmed during the official visit of US Secretary of State Hillary Clinton to Baku.

24

In July 2012, a draft OGP Action Plan was presented for public discussion. Input was collected from the NGO Network, the NBG and other NGOs, such as the Multimedia Center, which specializes in the application of IT technologies, and the Media Rights Institute, which advocates for better access to information.

Anti-Corruption Network proposed including eight key areas in the OGP Action Plan. As a result, six areas were covered by the OGP Action Plan and another two—Public Procurement and the Civil Service Code of Ethics—were included in the National Anti-Corruption Action Plan. Unfortunately, the OGP Action Plan as adopted by the Government was quite generic compared to the proposals from CSOs. Even the NACAP offered more concrete steps and measures.

On September 5, 2012, the President of Azerbaijan signed a decree adopting the National OGP Action Plan and the National Action Plan on Combating Corruption. In the process of drafting both plans, public proposals were reviewed and considered by the Government.

The drafting of the OGP Action Plan and the eventual monitoring of its implementation have been delegated to the National Anti-Corruption Commission under the President of Azerbaijan, with Inam Karimov, the Secretary of the Commission, appointed as focal point.³³ Karimov was a member of the Network and was readily available for NGOs to contact him by e-mail and phone. His temporary replacement is also accessible and well known to the NGO community. Moreover, the regular quarterly meetings of the Network serve as a mechanism to both inform the civil society of the government's actions and to collect input from the civil society regarding various Government programs.

So far, the OGP does not have a dedicated website, although the results of public consultations were covered by the press, as well as by press releases disseminated via e-mail.

Azerbaijan's OGP Action Plan

The OGP Action Plan builds off the accomplishments and failures of the first National Anti-Corruption Plan for 2007-2011. Access to information was facilitated by proactive sharing of closed information by national public agencies through websites and the long-awaited adoption of supporting legislation to make the 2005 Access to Information Law functional. E-government principles were introduced under the framework of the second Electron Azerbaijan program and 27 public agencies are in the process of establishing—with varying degrees of speed and success—284 types of online services. The “one-stop shop” principle was introduced for registering business entities, registering

³³ As this paper was being finalized, Karimov was appointed September 7, 2012, to head a new agency, the Agency for Public Services and Social Innovations. It will, most probably, be delegated with assisting the public administration system to carry out obligations under a number of state programs, including OGP. Until an official replacement is appointed, Vusal Huseynov, Acting Secretary of the National Anti-Corruption Commission, is acting focal point for both the OGP and Anti-Corruption Action Plans.

migrants and importing vehicles. Recently, the Government made an important decision to create one-stop shop service centers for the public and to delegate supervision of electronic services to a single public agency.³⁴ Last, but not the least, the Government of Azerbaijan made tangible progress in the disclosure of its oil revenues within EITI.

The OGP Action Plan is divided into nine inter-related areas:

- Providing access to information;
- Regular reporting by state bodies on their activities to the general public;
- Upgrading the single electronic legislative base;
- Increasing voter participation in the activities of the public sector;
- Improving e-services;
- Increasing the transparency of state bodies that oversee public finances;
- Increasing the transparency of tax agencies and tax audits;
- Increasing the transparency of mineral resources extraction;
- Educating the general public on OGP activities and cooperating with all stakeholders.

The fourth area of the OGP Action Plan is devoted to strengthening the participation of the general public in the activities of the public sector and requires that CEBs and other government bodies:

- organize public hearings of socially important legislation;
- establish permanent cooperation councils/networks with civil society through public agencies rendering services to the public;
- organize public hearings of socially important decisions;

³⁴ Presidential Decree dated July 13, 2012, on establishing a State Agency for Public Service and Social Innovations that will be responsible for organizing and overseeing e-services and one-stop-shop service centers where individual can receive most of the services provided by various public agencies.

- organize Open Door forums with the general public.

The ninth area of the OGP Action Plan, Educating the general public on OGP activities and cooperating with all stakeholders envisions funding for NGOs through the Cabinet of Ministers, CEBs and LEBs, State Council for Support to NGOs, and the National Anti-Corruption Commission.

OGP Implementation

a) Existing coordination mechanisms

The Government of Azerbaijan selected the option of full involvement in the OGP, that is, participating and improving transparency and accountability in all spheres covered by the initiative. The Anti-Corruption Commission under the Presidential Administration is the flagship of the process in Azerbaijan. It is in charge of Action Plan implementation and the coordination of all related activities with CSOs.

b) Existing capacities to implement the Plan

Azerbaijan's CSOs consider it necessary to launch an active advocacy campaign among all public stakeholders, to organize special events to popularize OGP values, and to engage more private citizens in this international initiative. This means providing CSOs with sufficient funds to organize such events and activities with the involvement and active participation of those Government experts who are closely involved in the OGP Action Plan implementation process.

The National Budget Group will continue to apply its oversight expertise to the gradual, consistent implementation of the commitments outlined in the OGP Action Plan and provide its recommendations for improving the means and mechanisms, both in strategic approaches and in tactical methods, to ensure added value and effective collaboration between government structures and CSOs.

Considering that the Azerbaijan Government's OGP Action Plan covers all the four "grand challenges," CSOs need to actively offer a proper strategic approach to collaborate with government counterparts in related areas. Two grand challenges, Access to Information and Citizen Engagement, possibly deserve special attention, as these areas are the least developed in Azerbaijan. But these challenges are interdependent with access to information and public participation in the decision-making process in the public sphere. So Azerbaijan should work to implement all four grand challenges.

Transparency Azerbaijan, in partnership with the National Budget Group, is working to design a solid methodology, based on indicators and benchmarks, to monitor and assess Government implementation of its commitments under the OGP Action Plan for the next four years. The Action Plan, like all the Government's Action Plans,³⁵ lacks benchmarking and proper monitoring mechanisms. There are also no concrete timetables and specific objectives and financial and human resources needs to implement the measures have not been assessed.

In short, the Plan is painted in very broad strokes. Such an approach is likely to undermine local ownership of anti-corruption efforts and reforms. By monitoring the Government's initiative, CSOs should increase local accountability, where organizations and groups representing ordinary Azeris, will hold their Government accountable. Four annual reports will be used as advocacy tools for policy reforms: media discussions will be organized locally and internationally with the help of TI Brussels/EU, providing a higher profile and greater transparency in the Government's progress.

Based on an independent review by NBG and other independent experts, the final Action Plan met the main requirements for such a document. Overall, Azerbaijan's Action Plan addresses the

³⁵ Including the first Anti-Corruption Action Plan for 2007-2012, European Neighborhood Policy Action Plan, both previously monitored by TA.

distinctive problems existing in the public sector in terms of anti-corruption measures and it could be considered a good strategic plan to increase OGP values in Azerbaijan in all four areas: Fiscal Transparency, Access to Information, Income Disclosure by Public Officials, and Citizen Engagement. It is also assumed that the Government has sufficient financial resources to implement OGP principles and to launch anti-corruption reform.

However, lack of trained specialists and little will to apply OGP values at the local level, both in the regions and within CEBs, could become a serious impediment to the success of implementation. On the other hand, NGOs involved in the OGP process in Azerbaijan have strong political motivation and suitable experts to deal with anti-corruption challenges. Their main limitation is financial resources to strengthen OGP anti-corruption measures in Azerbaijan. A combination of public funds and CSO expertise could become the driver to ensure the successful implementation of the OGP Action Plan.

c) Where donors or CSOs can help implement OGP better

The Government took on the ambitious task of implementing reforms in all four OGP grand challenge areas within two years. Considering the current level of corruption in the public sector, implementing such a challenge will be difficult, at best. In particular, the Government will face four serious threats: failing to meet deadlines; improper prioritizing with the result that certain tasks will not be completed; inconsistency with domestic legislation; and lack of human resources with suitable experience in dealing with specific anti-corruption measures. All of these issues will increase the Government's need for assistance from CSOs and international organizations and their cooperation in implementing the OGP Action Plan.

The key donors in Azerbaijan interested in OGP are USAID, OSCE and the EU. The mandate of these donors is to promote economic growth and democratic governance in Azerbaijan. The OGP Action

Plan will make it possible to increase Government responsiveness to voter demands for transparency, accountability and integrity, to promote the rule of law, and to reduce corruption. The OGP activities that address increasing the level of engagement of civil society and ordinary voters in Government initiatives and at the same time more effectively tackling corruption are of great interest to all these donors.

access to information.

http://www.eap-csf.eu/assets/files/Downloads/english/Azerbaijan_statement_attachment.pdf

<http://president.az/articles/5416>.

Special remarks

Recent amendments to legislation

On June 12, 2012, the Azeri Parliament amended several pieces of legislation that will considerably restrict access to information. For instance, the amendments restrict access to information about the founders and financial resources of legal entities, the volume of charter capital and similar data to law enforcement bodies, upon court decision or with the consent of the information holder. The bill was signed by the President on July 6, 2012. This is in contradiction to OGP principles of transparent and open government and the rationale behind this decision is unclear.

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Analytical Paper **Executive Summary** on the National OGP Process: **Georgia**

Georgia was among the first countries to join the OGP and to commit to upholding its core principles of transparency, citizen participation, accountability and technological innovation. By April 2012, the country's Government had to deliver a concrete Action Plan highlighting the main steps to institute these principles in the public sector. The adoption of the OGP Action Plan was preceded by a series of consultations with Civil Society Organizations (CSOs), which played a crucial role in aligning the final document with their needs as well as with the OGP's basic requirements. The Georgian Government showed both the political will and the capacity to implement OGP principles in the country.

The Ministry of Justice (MoJ), the main OGP implementing agency in Georgia, started public consultations belatedly by holding separate meetings with a few CSOs only. This caused the whole consultation process to be flawed by exclusiveness, inconsistency and fragmentation. The MoJ's first two drafts of the OGP Action Plan did not reflect CSO feedback and was a simple repetition of Georgia's existing reforms to combat corruption. It fell far short of any new commitments, as required by the OGP.

CSO efforts to develop joint recommendations on the draft Action Plan by involving more NGOs in the coalition yielded tangible results when the three leading CSOs in the field—Transparency International Georgia (TI Georgia), the Institute for Development of Freedom of Information (IDFI), and JumpStart Georgia—took hold of the drafting process. The final OGP Action Plan was largely based on CSO recommendations and presented a marked improvement from its previous two versions. Besides promoting existing reforms, it also mentioned a number of new commitments that were in line with the main principles and activities of the OGP. The lack of clear benchmarks against which to measure progress in implementing Georgia's OGP Action Plan is the major weakness of the document.

The NGO forum under the MoJ, which serves as a working group to coordinate implementation of the Georgian Government's OGP commitments, is mostly attended by the same CSOs that played a key role in the consultation process. Most people in Georgia and local CSOs have little knowledge, proficiency or interest in OGP, which makes it a kind of "luxury" policy of an exclusive club of organizations only.

Our recommendations concern key elements that the Government, CSOs and donors need to consider in order to improve the implementation and coordination of open governance principles in Georgia:

- The Government needs to promote the OGP better, using the media as an effective channel of communication to reach a broader audience across the whole of Georgia.
- The Government should consider publishing more information as a public good. Specifically, it needs to disclose more sector-specific data sets in significant detail and in easily usable formats. This should also include providing contextual information on what the purpose of this raw data is and how people can benefit from using it.
- Donors need to do more to help the Government raise its standards of data disclosure by presenting best practice from their own disclosure policies. In addition, donors could provide the Government with necessary expertise and assistance to develop more accessible websites and to build digital databases that are automated, comprehensive, up-to-date, and easy to use.
- The Government should care more about increasing corporate accountability standards in Georgia. Its relations with business should be more transparent, including publishing data on beneficial owners of off-shore companies that have high market shares in the country's major sectors.
- The MoJ should engage businesses and NGOs from different sectors in the work of the NGO forum. The latter would enrich the agenda of forum meetings and would also benefit from having easier access to more public data and services to help the country's economy.
- The agenda of the NGO forum meetings should be shared at least a week prior to their taking place. In addition, MoJ should post the minutes of these meetings, together with a status update on specific OGP commitments each month on its website. This would keep the public regularly informed about the main developments in OGP implementation and attract more organizations to join the NGO forum.
- CSOs in the NGO forum should be more proactive in generating new, interesting ideas on specific OGP topics and presenting them constructively to MoJ. For their part, the non-forum organizations should have stronger incentive to join forum meetings and share their knowledge and experience with other stakeholders.
- Donors should focus more on building up OGP expertise among local NGOs that are not specifically working in the field. This would help them better monitor how the Government is complying with the standards of openness and technological innovation.
- The Government, in close collaboration with CSOs, needs to elaborate a set of clear benchmarks against which to measure the progress of OGP Action Plan implementation.

TI Georgia will continue to be actively involved in the implementation of OGP goals and activities in Georgia, including helping the NGO forum become a more effective mechanism of coordination and a valuable source of innovative ideas on open governance.

Process Timeline

Georgia has been participating in the OGP since its very inception and its Government presented a proper Action Plan at the OGP annual Summit in Brazil on April 17, 2012.

Georgia's Ministry of Justice was made responsible for developing the country's draft OGP Action Plan. On November 14, 2011, MoJ and the Ministry of Foreign Affairs (MFA) approached TI

Georgia to ask for its feedback on a concept for Georgia's OGP Action Plan. TI Georgia shared the Draft Action Plan with two of its partner NGOs, the Institute for Development of Freedom of Information and JumpStart Georgia. Collective feedback and recommendations from these CSOs were then submitted to MoJ. On November 27, the second draft Action Plan was prepared and made public by MoJ.

As the second draft did not really differ from the first and many of the suggestions made by the NGOs were ignored, broader discussion of the document was needed.

Over March 12-26, 2012, public consultations were held in the six different cities in Georgia: Telavi, Gori, Akhaltsikhe, Kutaisi, Batumi, and Tbilisi.

On April 5, 2012, a few days before submitting its Action Plan to the OGP, MoJ posted the final version of the OGP Action Plan on its website. This version at last reflected most of the feedback provided by CSOs.

In April 2012, soon after the adoption of the OGP Action Plan, MoJ, with TI Georgia's initiative, formed an NGO forum as a regular coordinating mechanism to work on OGP Action Plan implementation.

CSO Participation in the Plan: How coordination currently works

The Georgian Government had no specific plan to engage civil society and the private sector in determining its OGP commitments. In fact, the public consultation process started quite spontaneously a good two months after the Government had first endorsed the OGP initiative. On November 14, 2011, MoJ and MFA approached TI Georgia to ask for its feedback on the concept of Georgia's OGP Action Plan. While aware of the Government's plans to join the OGP, TI Georgia was unaware of any concrete commitments undertaken and a call

from the two Ministries was a good opportunity to engage in the process. Two days later, TI Georgia met with MoJ and MFA officials, along with a representative from an NGO called the Liberty Institute. At the meeting, Otar Kakhidze, director of MoJ's Analytical Department, and Tamta Kupradze, an MFA official, briefed TI Georgia and the Liberty Institute on the anticipated content of the OGP Action Plan and the timeframe for drafting it.

According to Kakhidze, the Government's OGP commitments were to be largely based on Georgia's 2010 Anti-Corruption Action Plan, a 45-page document serving as a lynchpin for the country's anti-corruption reforms.³⁶ That document contains a number of provisions to ensure more openness and accountability in the public sector. Based on these provisions, Kakhidze presented a preliminary list of information that all public agencies would be under the obligation to release proactively on their official websites. This included information on each agency's budget, structure, decision-making procedures, and staff responsibilities, as well as all legislation, policy documents and activities guiding the agency's work. At the same time, public agencies would have to proactively publish audit results and court judgments that involved them directly. For any additional inquiries, they would also release contact details for the individuals in their agency handling Freedom of Information (FoI) requests.

On November 18, MoJ sent the first draft of the OGP Action Plan to TI Georgia, asking for feedback within a week. TI Georgia forwarded the draft, along with other important information and materials from the MoJ meeting to two other NGOs working closely in the field—the Institute for Development of Freedom of Information (IDFI) and JumpStart Georgia—, who later submitted their own feedback on the draft to MoJ.

³⁶ Georgia's National Action Plan for the Implementation of the Anti-Corruption Strategy 2010-2013, http://www.justice.gov.ge/files/Departments/Analytical/Georgia/corruption_docs/legislation/Action_Plan_for_Anti-Corruption_Strategy_of_Georgia.pdf (last consulted on September 7, 2012).

The first draft was a one-page document that included a selection of points from the Anti-Corruption Action Plan. It touched on improving public services, transparency of public procurement and expenditures, and integrity in the private sector. Yet, these were part of the government's already implemented or ongoing reforms to fight corruption, and hence lacked any new OGP-specific commitments. TI Georgia sent its preliminary comments on the draft to MoJ, asking the Ministry to remove all elements that Georgia had already committed to in other documents and suggesting that it add appropriate new commitments instead.

On November 27, MoJ provided TI Georgia with a second draft of the OGP Action Plan, which differed little from the first one and did not really reflect the feedback provided by TI Georgia, IDFI or JumpStart Georgia. MoJ simply added a few points to the previous list, including two new sections on improving the administration of justice and transparency in party financing. But the structure of the document was still very similar to its original version and contained no new commitments on open data or civic participation, which led the NGOs to increase their advocacy efforts.

The updated draft was later shared in a specially-created OGP section on MoJ's website, together with a brief description of the open government initiative itself. By this time, the number of NGOs who were aware of the OGP drafting process in Georgia had increased and more and more organizations were expressing an interest in joining the consultation process.

As a consequence, in December 2011, the OGP issue was raised for the first time at the meeting of a media coalition that unites 13 organizations³⁷

³⁷ As of August 2012, the members of the media coalition are: the Civic Development Institute, the Open Society Georgia Foundation, Transparency International Georgia, the Georgian Charter of Journalistic Ethics, the Georgian Young Lawyers' Association (GYLA), the Institute for Development of Freedom of Information, the Levan Mikeladze Foundation, the Georgian Association of Regional Broadcasters, the Press Association, the Media

Club, For Civil Society, the Eurasia Partnership Foundation, and the Network of Regional Broadcasters. According to Tamar Gurchiani, who was very active in promoting OGP discussions within that platform, the main idea was to integrate OGP into the wider media agenda of the coalition and to come up with a list of common issues and recommendations.³⁸ This led to problems with planning, organizing and coordinating OGP discussions among a dozen NGOs that all had their own distinct perspectives. As Eric Barrett, JumpStart Georgia's Executive Director described the process, "Everyone was throwing too many things around and it did not fall into categories."³⁹ This is why the first draft of the coalition's recommendations was a very long feedback document that MoJ would not accept until it was abridged. TI Georgia, IDFI and Jumpstart Georgia took the lead in revising the recommendations, capitalizing on their knowledge and experience in dealing with OGP issues.⁴⁰

The final text of the CSO recommendations was a six-page document that all members of the media coalition had agreed to. According to their main findings, the draft OGP Action Plan was "only an itemized listing" of the Government's implemented actions or activities already in the pipeline, without any mention of what legislative and practical steps would be undertaken to ensure more openness, accountability and civic engagement. In response, the CSOs presented a list of specific recommendations that the updated OGP Action Plan should include: making proactive publication of information legally binding on all government agencies, improving accessibility of officials' declarations of income and assets, engaging more citizens in policy-making, and providing more information about budget planning and judicial processes. To that end, the CSOs recommended that the Government set up online platforms integrating all public data in usable

Club, For Civil Society, the Eurasia Partnership Foundation, and the Network of Regional Broadcasters.

³⁸ TI Georgia's Skype call with Tamar Gurchiani, a lawyer from the Media Club, August 11, 2012.

³⁹ TI Georgia's interview with Eric Barrett, Executive Director of Jumpstart Georgia, August 13, 2012.

⁴⁰ Gurchiani, op cit.

formats, but also allowing individuals to express ideas, submit FoI requests, or initiate e-petitions that the government would then be under obligation to consider and react to.⁴¹

This time around, MoJ reacted positively to the CSO feedback and pledged to incorporate most of the recommendations in the final version of the OGP Action Plan. At a meeting held on February 1, 2012 between MoJ, TI Georgia and Jumpstart Georgia, Otar Kakhidze pointed out that the list of information to be proactively published on government websites had already been approved by the Anti-Corruption Council, making it mandatory for all public agencies in Georgia. Kakhidze also mentioned that MoJ was planning to launch a web portal that would integrate the necessary public data sets from different sectors.

In early March 2012, MoJ unveiled a schedule of public consultation meetings to be held from March 12 through 26 in the six different cities: Telavi, Gori, Akhaltsikhe, Kutaisi, Batumi, and Tbilisi. All these consultations, except one with the Business Association of Georgia, were hosted by universities or schools, and hence mostly attended by students and academics. TI Georgia attended one such meeting held on March 16 at the Free University of Tbilisi. The meeting was led by Andro Gigauri, MoJ's Chief-of-Staff, and Ketii Abashidze, Legal Adviser of MoJ's Analytical Department, who presented the Georgian Government's main priorities in the OGP Action Plan. The presentation primarily took the form of promoting the Government's existing OGP plan rather than soliciting feedback from the participants. Of particular interest was whether MoJ was going to publish people's comments on the Action Plan online, in accordance with OGP consultation guidelines. Gigauri responded that people could submit all OGP-related comments on the MoJ website but there was no plan to publish these comments online.

⁴¹ Comments on Georgia's Draft Open Government Partnership Commitments, prepared by Transparency International Georgia, GYLA, IDFI, Jumpstart Georgia and the Media Coalition, 4 February 2012.

Georgia's OGP Action Plan

On April 5, 2012, a few days before submitting it to the OGP, the MoJ posted the final version of the OGP Action Plan on its website. The final Action Plan indeed reflected most of the feedback provided by CSOs and was a substantial improvement over the previous two versions. While still building on the Government's existing reform efforts, such as introducing jury trials in courts, building modern public services centers, and setting up e-procurement, e-auction and e-declaration platforms, it also included a number of new commitments that responded to the CSO recommendations. In addition, MoJ provided short descriptions of each commitment and information about executing agencies and general timelines for accomplishing concrete tasks.

Georgia's OGP Action Plan is structured around four grand challenges: improving public services, increasing public integrity, managing public resources more effectively, and creating safer communities. The OGP requires countries to undertake at least one grand challenge of its list of five grand challenges, so by undertaking four Georgia was going well beyond this requirement.⁴²

The Action Plan presents "one-stop shops" as a new flagship concept underpinning Georgia's public services reform. The Government has undertaken to build modern public services centers across the whole country. At these centers, people are able to receive prompt services, ranging from obtaining personal ID documents and notarizing documents to enforcing court judgments and registering businesses and titles to property. As of September 2012, the Government planned to add two new components to the system, Just Drive and Just Café, allowing people to benefit from these services while in the car or while treating themselves to snacks and drinks in a café.

Better provision of services to the regions is another major component of Georgia's public services

⁴² Open Government Partnership, OGP Participation, <http://www.opengovpartnership.org/ogp-participation>

reform. To that end, it is planned to integrate local municipalities into the e-governance system, thus giving them direct access to all public databases in the country. In addition, the Government is going to build village development centers in remote areas so that locals receive integrated services from both the public and private sectors.⁴³

The government is also prioritizing giving people more access to public information and more opportunities to engage in decision-making. Under the OGP Action Plan, all public agencies will be required to proactively publish key data regarding their budgets, staff, decision-making processes, policies and activities. This information will then be integrated on a single web portal (data.gov.ge), where data would be sorted by thematic sections. It will also allow people to send FOI requests in case they have any additional questions. Another online portal (ichange.ge) will give the opportunity to express individual ideas or submit e-petitions on issues that concern voters the most. The related agencies will be obligated to react to an e-petition if it reaches a certain threshold of signatures. Ordinary citizens will also be able to engage in policy-making processes through the already existing platform of Georgia's legislative herald (matsne.gov.ge). A new special section in this platform will give people a chance to comment on bills of law, as well as on existing laws and other regulations. MoJ has pledged to monitor these comments, systematize the most popular topics, and provide Parliament with new legal initiatives if there is clear and overwhelming public interest.⁴⁴

Another OGP Action Plan priority is related to crime prevention in Georgia. Under a new project called Safe Neighborhoods, the Government will set up a system for crime mapping across different regions of the country. The relevant information

⁴³ Open Government Partnership, Georgia Action Plan 2012-2013, April 2012, pp 2-4, available at: http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country_action_plans/OGP_AP_Final_eng.pdf (last consulted on September 7, 2012).

⁴⁴ Ibid, pp.4-7.

will be provided by residents themselves, who will have an opportunity to contact their local prosecutor's offices online and inform them promptly about specific incidents occurring in their own neighborhoods.⁴⁵

The Georgian Government is confident that it can deliver on all these commitments, as their implementation had already been coordinated with the responsible agencies. According to MoJ's Ketii Abashidze, the development of e-services is the area where the Government is most likely to succeed, given its strong political will to modernize the work of the public sector.⁴⁶ The Government is also firmly committed to improving public access to government information and there are already some positive signs in that area. For instance, Georgia's Premier has pledged that the country's state agencies will start to proactively publish the necessary information online even before the date when this becomes mandatory—September 1, 2013.⁴⁷

Still, Government officials see challenges with engaging a broad spectrum of the public in the implementation of OGP commitments since most Georgian voters have little knowledge, proficiency or interest in OGP.⁴⁸

The local CSOs generally assess Georgia's OGP Action Plan positively, in that the final document is largely in line with their recommendations. They think the Action Plan contains fairly realistic commitments, the implementation of which is a question of the Government's political will rather than of its resources and capacity.⁴⁹ Yet, the respondents in this study had higher expectations of the inclu-

⁴⁵ Ibid, p.9.

⁴⁶ TI Georgia's interview with Ketii Abashidze, Legal Adviser of Analytical Department at the Ministry of Justice of Georgia, August 22, 2012.

⁴⁷ TI Georgia's email correspondence with Zaur Abashvili, Head of the Local Office of the Department of Legal Drafting, Ministry of Justice of Georgia, August 31, 2012

⁴⁸ Abashidze, op cit.

⁴⁹ TI Georgia's interview with Derek Dohler, Project Manager of TI Georgia, August 8, 2012.

siveness of preliminary consultations, as well as of the novelty, measurability and legislative entrenchment of the commitments undertaken.

The CSOs are concerned that the Action Plan does not reflect a diverse array of feedback that could have been generated from different businesses, sector-specific NGOs and individual citizens. According to Jumpstart's Eric Barrett, there should have been a broad-based awareness campaign on OGP, with even the President promoting the platform to ordinary Georgians across the country. That would have given MoJ a real mandate to push the activities and goals of the OGP Action Plan.⁵⁰

Media Club attorney Tamar Gurchiani thinks that the Georgian Government had a limited understanding of the concept of public consultations, which hampered the entire process through exclusiveness, impulsiveness and fragmentation. According to Gurchiani, it was MoJ's mistake to engage individually with only a handful of NGOs that the Government deemed frontrunners in OGP issues.⁵¹ Such an approach was also contrary to the spirit of OGP consultation guidelines, which are explicit about requiring countries to "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."⁵² MoJ began holding meetings with students, academia and the Business Association of Georgia only at the last stages of the consultation process, when the OGP Action Plan had basically been drafted and finalized, and the Ministry was just presenting a *fait accompli* rather than asking for feedback.

Instead, prior to launching public consultations on the OGP Action Plan, the Government should have conducted a study of voter needs and concerns regarding open government in Georgia and

⁵⁰ Barrett, op cit.

⁵¹ Gurchiani, op cit.

⁵² Open Government Partnership, Consultation, <http://www.opengovpartnership.org/consultation>

defined Action Plan priorities based on the findings of the survey.⁵³ The next step would have been to set up a specific coordination unit to facilitate dialog between the Government and civil society. Setting up an online group, for instance, might allow everyone involved in the preliminary consultations to save time, discussing most problematic issues first and contributing more productively to the drafting of the Action Plan.⁵⁴

On the other hand, the Action Plan commitments fall short of identifying new ways to ensure more openness and to give Georgians more choices about what data and services they want from their Government—and which agencies might provide them.

The Government has, in fact, committed to what it already planned earlier and most of these commitments relate to good governance, digitization and better service delivery, but less so to open government as such, says Barrett.⁵⁵ Openness in the OGP context means publishing online "an extensive set of information, [...] in significant detail and in original form." This also presumes that the data is published "in open, user-friendly, [and] machine-readable formats."⁵⁶ The OGP goals are seen as twofold by Barrett: people's right to information and the country's prospects for economic development. Accordingly, he says, the Georgian Government sees e-governance through the same lens as open governance and is thus more focused on digitizing already existing data rather than building and releasing new data sets in usable formats.⁵⁷ For instance, there are important types of data that are kept out of the public domain in Georgia, such as new addressing data, geographic data in the public registry, raw statistics about tourism, environmental data, topographic data, and geological data.

⁵³ Gurchiani, op cit.

⁵⁴ Barrett, op cit.

⁵⁵ Ibid.

⁵⁶ Open Government Partnership, OGP Disclosure Policy, <http://www.opengovpartnership.org/ogp-disclosure-policy> (last consulted on September 7, 2012)

⁵⁷ Barrett, op cit.

Releasing this data is not seen by the Government as a public good and so it is not part of Georgia's OGP commitments. This could be detrimental to the country's economic development prospects, however, since not only the general public, but also key interest groups like business owners, investors, tourists, and scientists would greatly benefit from having a wide array of sector-specific data on Georgia.⁵⁸

On a similar note, IDFI's Director Giorgi Kldiashvili thinks that the Government could have taken on more new commitments within the OGP and focused on their implementation rather on improving the existing efforts.⁵⁹ As one example, Georgia's Action Plan could have made it clear that OGP's core principles have specific reference in domestic legislation and that the Government has or will develop the institutional capacity to implement these in practice. Kldiashvili is also concerned that the Action Plan is not addressing the issue of greater corporate accountability in the country. He says that relations between the Government and the private sector should be transparent, which means, in the first place, that information about corporate ownership, including full data on beneficial owners of off-shore companies, is publicly available so that people know who owns and finances big business in Georgia.⁶⁰

Derek Dohler of TI Georgia thinks that the Government could be more concrete about dates and indicators to measure success or failure in the implementation of the Action Plan. Without clear benchmarks, monitoring CSOs will find it difficult to draw any conclusions about the impact of the Government's OGP policies and activities.⁶¹ This is, in fact, a major weakness in Georgia's Action Plan that was also noted by Global Integrity, a non-profit organization tracking government openness

and accountability standards around the world.⁶² Dohler reckons that one viable option for CSOs in this case would be to compare Georgia's efforts with best international practice, such as data.gov or data.gov.uk. However, such an approach to measurement could also have major flaws, since Georgia's resources and local context are likely very different from those of other countries, and there may be some elements in Georgia's Action Plan that have no direct parallels elsewhere. Given these caveats, it would make more sense to identify areas where Georgia needs improvement or where it seems to be ahead of other countries.⁶³

OGP Implementation

a) Existing coordination mechanisms

In April 2012, soon after the adoption of the OGP Action Plan, MoJ, with TI Georgia's initiative, formed an NGO forum as a regular coordinating mechanism to work on implementation. The current members of this forum are:

- TI Georgia
- IDFI
- Georgian Young Lawyers' Association (GYLA)
- Media Coalition
- Coalition for a European Georgia
- New Vision Georgia
- JumpStart Georgia
- US Agency for International Development (USAID)⁶⁴

The NGO forum is a very informal structure, open to any interested organization, both local and

⁵⁸ Ibid.

⁵⁹ TI Georgia's interview with Giorgi Kldiashvili, Director of IDFI, August 17, 2012

⁶⁰ Ibid.

⁶¹ Dohler, op cit.

⁶² Global Integrity, Assessing OGP Action Plans, June 21, 2012, <http://www.globalintegrity.org/blog/ogp-action-plan-assessments> (last consulted on September 7, 2012).

⁶³ Dohler, op cit.

⁶⁴ Ministry of Justice of Georgia, Open Government Partnership Implementation, http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=828 (last consulted on September 7, 2012).

international. For instance, two organizations, Open Society Georgia Foundation (OSGF) and Management Systems International (MSI), joined the meetings for the first time in July 2012. The forum meets once a month and its agenda is set by MoJ's Analytical Department. The meetings normally last for one hour, during which MoJ representatives update forum members on recent developments and the members are able to raise questions, present their own initiatives and stimulate discussions.

MoJ sees great value in building on the expertise of NGOs and having more new ideas coming from them on different aspects of OGP. For instance, the Ministry is going to involve NGOs in developing guidelines for FoI officers and complementing data.gov.ge, which was scheduled to be launched in September 2012, with new data sets. Clearly, MoJ has high expectations of the NGO forum members being more active and creative in proposing new initiatives.⁶⁵

For their part, the CSOs interviewed for this study consider the NGO forum a vital information-sharing mechanism that allows them to engage regularly and directly with the Government and to stay updated on main developments on OGP issues. At the same time, however, they see room for improvement in this mechanism. Firstly, MoJ needs to make it a regular practice to circulate the agenda and any documents that need to be reviewed and considered by the forum members at least a week before a meeting. Secondly, the Ministry should designate a person in charge of keeping minutes and sharing them with the group afterwards, so that everyone is on the same page and knows what is happening in OGP. A related suggestion would be to post a status update on a specific point in the Action Plan each month on the MoJ website. Thirdly, MoJ needs to pay more attention to involving business and NGOs from different sectors in the implementation of OGP commitments and in the work of the NGO forum in particular.

⁶⁵ Abashidze, op cit.

Derek Dohler says that CSOs should be more proactive in pushing for all these points, but also with new proposals that are likely to kindle strong interest in the Government. "OGP is really very much what CSOs make it, so they should put their ideas out proactively and constructively," says Dohler.⁶⁶

b) Where donors or CSOs can help implement OGP better

Apart from CSOs, donors could also play a greater role in helping the Government to implement OGP commitments better. The Georgian Government tends to be more sensitive to scrutiny from international donor organizations than from local NGOs. This gives major donors like the World Bank and USAID leverage to provide the Government with useful guidance on open data standards using their own data disclosure policies as examples of best practice. Such recommendations from donors should be in a public document to spotlight OGP goals and activities.⁶⁷

In addition, donors could help improve the Government's capacity to generate comprehensive and easily accessible data sets that are automated and up-to-date. Irakli Gvenetadze, director of the Data Exchange Agency in charge of developing the e-government system in Georgia, pointed out that the main challenge facing public agencies in Georgia is to build the actual data sets, since they do not have enough human resources to perform this task.⁶⁸ Then there is also an issue with designing Government websites so that they look more accessible and engaging to ordinary people. Recognizing the importance of this issue, the Government has partnered with a well-known US-based web design firm called Cleverbirds to begin overhauling many government websites. One of the first results of this effort is a new website for the Tbilisi Mayor's Office called ChemiTbilisi.com (My Tbilisi), through which voters can submit e-petitions to the city au-

⁶⁶ Dohler, op cit.

⁶⁷ Barrett, op cit.

⁶⁸ TI Georgia's interview with Irakli Gvenetadze, director of the Data Exchange Agency, August 16, 2012.

thorities. TI Georgia found the website “impressively well designed and easy to use,” which shows that the Government’s commitment to improving public websites through cooperation with leading firms is yielding positive results.⁶⁹

Another important focus of donors operating in Georgia should be on assisting local NGOs in their monitoring activities and on building their technological capacity. The OGP often involves very specific technical issues related to data disclosure, website development and data security standards, for instance, that require high level of knowledge and expertise in the field. In Georgia, there is only a handful of NGOs that are technically proficient and have adequate know-how and experience in dealing with OGP’s technological aspects. This, in turn, may put other interested but less able NGOs in an inferior position, excluding them from the NGO forum meetings or making them feel discouraged about participating in OGP discussions out of fear that they might not understand a specific technical issue being discussed. It is quite telling that, of all NGO forum members, only TI Georgia, IDFI and Jumpstart Georgia regularly attend the meetings with MoJ and provide feedback on the Ministry’s new initiatives. For instance, the OGP ceased to be a relevant topic of discussion for the media coalition after the Government adopted the final Action Plan. The focus of that coalition has since switched to more specific media issues that have dominated the political discourse in Georgia in the run up to the parliamentary elections in October 2012.

It should be said, however, that many non-forum NGOs have expressed no particular interest in joining the forum or contributing to its work in any other way. CSOs in Georgia possibly find it onerous to provide constructive feedback on Government policies and to consistently engage in advocacy and consultations with other stakeholders. This may

be a place where donors can work to empower local NGOs to make meaningfully contributions to and engage in the development of OGP standards in Georgia. Once empowered, these NGOs could serve as conduits for communicating the Government’s new OGP policies to the general public and the media—and to be the first to identify any unforeseen drawbacks in those policies.

⁶⁹ Derek Dohler, “Tbilisi’s new petition website a positive step,” July 6, 2012, <http://www.transparency.ge/en/blog/tbilisi-s-new-petition-website-positive-step> (last consulted on September 7, 2012).

Analytical Paper on the National OGP Process: Moldova

Executive Summary

The Republic of Moldova expressed its commitment and interest in joining the Open Government Partnership on August 16, 2011. Through the Government Resolution №195m dated April 4, 2012, Moldova approved its National OGP Action Plan for 2012-2013.⁷⁰

The OGP Action Plan for Moldova embraces the idea of working proactively to make government more open and transparent through:

- Strengthening public integrity by ensuring a participative decision-making process that encourages citizen participation and increasing transparency in governance;
- Managing public resources efficiently by increasing transparency in public spending;
- Improving the quality of delivery of public services.

The drafting of the Action Plan involved consultations through a multi-stakeholder process, with the active engagement of civil society. There are monitoring instruments in place that will allow key stakeholders to contribute to a better, more efficient implementation of Moldova's proposed objectives. The OGP initiative will become an institution in Moldova through the work of e-Transformation Units within each Ministry and government agency, whose e-Transformation coordinators or chief information officers (CIOs)⁷¹ are responsible for e-transformation in their particular sector, as well as open government/open data focal points from these agencies.

Open Government is at its very inception in Moldova. The fact that the Government provides its citizens with instruments to shape public services means that there is considerable potential in Moldova. According to the e-Government Center, by 2016, at least one quarter of Moldovans will be ac-

⁷⁰ <http://opengovpartners.org/md/files/2012/04/Moldova-Open-Government-Action-Plan-2012-2013.pdf>

⁷¹ Chief information officers.

cessing public services online or through mobile devices, thanks to the Government's e-Transformation Agenda.⁷² By harnessing the power of technology, Moldova can achieve the standards of open government, which should significantly improve the quality of life of millions of Moldovans.

In line with these commitments, Moldova's Open Government initiatives for the upcoming 2-3 years should:

- Ensure ownership of both process and outcome amongst key stakeholders involved;
- Actively involve existing networks, organizations and structures, and seek diverse participants to provide more input into the content.
- Provide the skills and tools for making better use of data at the national and local levels;
- Diversify the consultation process by introducing innovative strategies and formats for this purpose;
- Continue the effort of building an ecosystem around open data and data in general, through capacity-building, school and university curricula, exchange visits, and the piloting of different tools and models;
- Integrate Open Government-related actions into long-term national strategies for development, and indicate how Open Government will support the achievement of broader country-level objectives;
- Strengthen monitoring and evaluation mechanisms for the Moldova OGP Action Plan, in order to contribute to the effectiveness of the implementation process.

Process Timeline

OGP implementation in Moldova can be divided into five phases:

⁷² <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22972658~pagePK:64257043~piPK:437376~theSitePK:-4607,00.html>

Phase: August 16, 2011 - November 2011

*Moldova pre-OGP adherence phase*⁷³

Main results: Moldova expresses its interest in formally joining the Open Government Partnership, committing itself to the principles of Open Government: to take full advantage of information technologies; to enhance collaboration between voters, civil society, the private sector and government in promoting and ensuring openness and innovation in government.

Phase: December 2011 – January 2012

Elaboration of the preliminary Moldova OGP Action Plan

Main results: A draft OGP Action Plan is drafted by the e-Government Center.⁷⁴

Phase: January – March 2012

Consultations with CSOs on Moldova OGP Action Plan

Main results: The draft OGP Action Plan is discussed with CSOs through consultative meetings and online platforms.

Phase: April 4, 2012

Approval of Moldova OGP Action Plan

Main results: The OGP Action Plan is approved by Cabinet Resolution №195. The Plan has 3 main objectives and 10 key activities to complete by the end of 2013.

Phase: April 2012—

Implementation of Moldova OGP Action Plan

Main results: Some of the proposed actions are already being implemented, while others will start only in 2013. Since the Action Plan does not stipulate frequency of progress reports, the first tangible

⁷³ Letter from Moldova's Premier addressed to Jorge Hage Sobrinho, Minister of State Office of the Comptroller General of Brazil, and Maria Otero, Undersecretary of State for Democracy and Global Affairs of the US.

⁷⁴ The e-Government Center is a public institution, part of the State Chancellery, founded by the Government of Moldova in August 2010, for Moldovans to benefit around the clock from information and public services and for the government to ensure transparency by using and promoting IT in the public sector.

results will be made public by all the involved Ministries and Agencies at the end of the third semester of 2012.

CSO Participation in the Plan: How coordination currently works

Being part of the State Chancellery, the e-Government Center took the initiative to elaborate Moldova's OGP Action Plan over December 2011–January 2012. Consultations with CSOs were held from January through March.

The e-Government Center coordinated the consultation process with the World Bank's Open Innovation Fund initiative for Moldova.⁷⁵ As part of this initiative, the World Bank supported four consultation meetings, which took place at its premises in Chisinau and facilitated the participation of about 100 CSOs in discussing the OGP Action Plan.

The Good Governance project of Moldova's Soros Foundation also joined the effort to ensure the proper involvement of CSOs in discussing the OGP Action Plan, inviting key civil society leaders to a roundtable. The involvement of regional CSOs was ensured through the Moldova Civil Society Strengthening Program of FHI 360.⁷⁶

Around 130 CSOs took part in consultation meetings on the OGP Action Plan, including the National Council for Participation,⁷⁷ the National Council of NGO,⁷⁸ think-tanks, and other national and local NGOs. As a result, the e-Government Center team received more than 80 comments and recommendations for their initial draft Action Plan. In addition, the Action Plan received some

25 comments and recommendations from the international community via LinkedIn and e-mail.

The dynamics of the involvement of CSOs in the consultation process was satisfactory, although most of the meetings were attended by the same participants all the time—around 40% of the total number of CSOs that took part in consultations.

Overall, the consultation process on Moldova's OGP Action Plan was based on a number of important principles and values, which contributed, in turn, to an effective consultation process and a comprehensive Action Plan.

The key principles and values of Moldova's OGP consultation process, as well as opportunities for further developing the process are presented here.

Partnership between e-Government Center, civil society and Moldova's partners in development: All sides acted as equals in the consultation process. The e-Government Center provided the draft of the OGP Action Plan and set up priorities based on the broader Governmental Agenda on e-Transformation, as well as other national priorities, while CSOs provided the knowledge of techniques, ways of thinking and different practices that could solve the issues raised. In addition, institutions such as the World Bank, the Moldova Soros Foundation and FHI 360 got involved and supported the process through different means, acknowledging once again the importance of the Open Government Partnership and the Action Plan for the future developments in Moldova.

Opportunities for strengthening partnership during future consultations on OGP: The current partnership can generate more space for contributions and input, especially from local civil society networks outside the capital, through focus groups, citizen advisory committees in selected locations, surveys, and so on. This should boost trust in public institutions, make ordinary Moldovans better informed, and encourage greater ownership of national Action Plans among local organizations. Partnership could also be set up among the

⁷⁵ Initiative implemented in Moldova over January–June 2012.

⁷⁶ <http://fhi360.md/index.php/en.html>

⁷⁷ The NCP was set up at the initiative of the Government of Moldova as an advisory body and is working according to the Government Resolution №11 of January 19, 2010. <http://www.cnp.md/en/about-npc/overview>

⁷⁸ <http://consiliulong.md/en/page/1>

Government, civil society, the press, business, and the developer community for future consultations on the OGP Action Plan. As part of this partnership, the Government can discuss and share with all key stakeholders how OGP-related actions are integrated into long-term national development strategies and indicate how Open Government will support the achievement of broader country-level objectives.

Timeframe for OGP consultation process: In less than three months, around 150 Action Plan recommendations were submitted by civil society, public institutions and the international community and six consultation meetings were organized, bringing together around 150 participants.

Opportunities for the future: More time could be allocated for the consultation process on the OGP Action Plan in future. The time frame should be divided into three phases: pre-consultation, consultation and post-consultation or follow-up. This is particularly important because response to the Plan should be sought from the broader community, both in the capital and in the regions.

Win-win results of consultation process: While the e-Government Center team leading the consultation process obtained the results it anticipated, CSOs were able to become familiar with new, emerging issues, to identify the problems they face as part of their daily work, and to learn about IT-related solutions to those problems. Participants left the consultation meetings with a sense that they gained considerably from the process. CSOs stated that they valued the consultation process, especially the meetings that brought in international experts.

More Win-Win opportunities in the consultation process: A broader range of consultation tools and strategies could have been applied, especially to promote the OGP Action Plan as a “common good”. Citizen panels, focus groups, consensus-building exercises, and visioning are just few approaches that might be used in future OGP consultations. This would provide opportunities to introduce new

perspectives and challenge existing ones, and to conduct a more careful examination of local needs and of the main issues being addressed. It would also promote communication between the government and the governed and encourage consensus-building in an open, inclusive and effective way.

It is important to ensure ownership of the consultation process and its outcomes, particularly by following up with key stakeholders on the decisions made and recommendations considered for further implementation as part of the Action Plan. In addition to this, next to each action in the Action Plan it should state either what resources currently available for implementation or the estimated cost, and which actions still require resources. CSOs say that this would bring greater effectiveness into the consultation process, by allowing them to provide much more efficient feedback based on very specific and realistic plans.

Another element that might ensure the more active engagement of civil society in the Open Government movement in Moldova is to include in future Action Plans on Open Government specific objectives and actions that can be implemented by CSOs themselves, in close collaboration with the Government. In this way, not only the Government will be committed to Open Government principles, but civil society as well.

Moldova's OGP Action Plan

The Open Government Agenda for Moldova embraces the idea of working proactively to advance a culture of Open Government through:

- Objective 1: Strengthening public integrity by ensuring a participative decision-making process that encourages citizen participation and increasing transparency in governance;
- Objective 2: Managing public resources efficiently by increasing transparency in public spending;
- Objective 3: Improving the quality of delivery of public services.

The concept of Open Government for Moldova goes beyond merely releasing information or data. It is about harnessing the competencies of ordinary Moldovans, establishing greater collaboration between the Government and its citizens, and ensuring that taxpayers' money is efficiently spent. For Moldova, Open Government is also about changing the thinking paradigm, both of the country's voters and of their Government.

The Open Government Partnership is different from existing multilateral initiatives to fight corruption, promote transparency, and so on. The use of technology allows voters to work with data by interpreting it, and applying it to create applications and social value tools. It allows individuals to analyze data and identify further opportunities and solutions for the gaps in the system.

“Openness” is one of the core values of Moldova's OGP Action Plan. It meshes with the country's broader e-Transformation Agenda, an ambitious project to embrace ICT, including an Open Data Agenda, the migration of e-Government services to cloud computing, and the participation of civil society in application development for the delivery of public services.

Moldova's OGP Action Plan is based on feedback and reviews from both CSOs and think-tanks, as well as public officials. Fully 23 Ministries and government agencies reviewed and offered feedback on the Action Plan, with 45 comments and recommendations received from seven institutions, while the rest endorsed the proposed actions.

There has been no independent evaluation of Moldova's OGP Action Plan. However, the first exercise to analyze the proposed objectives and actions in detail took place on July 25, when 38 CSOs, businesses, reporters, government officials, donor organizations and developers participating in a workshop called, “The Open Government Agenda for Moldova: The roles and responsibilities of key stakeholders and future opportunities for development.”⁷⁹

Workshop participants analyzed a list of actions from Moldova's OGP Action Plan, including:

- Ensuring transparency in the activity of public administration and public access to information;
- Setting up an online petition platform www.petitii.gov.md;
- Developing an open government data portal www.date.gov.md as a single access point;
- Providing a window to all government data and ensuring the re-use of public sector information;
- Ensuring transparency of information on the income and assets of senior officials, judges, prosecutors, and civil servants;
- Using the potential of social networking for effective communication between the central government and its citizens; fostering participatory policy-making;
- Increasing the transparency of decision-making processes at the local level;
- Ensuring transparency in the judicial system;
- Ensuring budget transparency.

Participants agreed that there were several opportunities that the Action Plan could bring in, which more specifically relate to the implementation of projects aiming to raise awareness among voters about open data and open government-related issues.

The key issues to be addressed as part of such initiatives in the immediate future are:

- explaining to the public the concept of open data;
- promoting the benefits of more open data and the ways that open data can be used;
- selecting tools and a methodology for interpreting and analyzing data;
- defining the methods of open data utilization for the public decision-making process.

⁷⁹ This event was organized with support from the Pontis Foundation, within the “Consolidating the sectoral dialog between Moldova's civil society and its Government” project, implemented by the Pontis Foundation in partnership with the East-European Foundation, with funding from SlovakAid.

Workshop participants also shared the thought that, in order to successfully implement the Action Plan, it is necessary to collect success stories. These stories should illustrate how the opening up of data by central and local administrations contributed to a better dialog between civil servants and citizens, how data has contributed to increased individual participation, and how data has contributed to solving existing community problems.

Participants also proposed that each action included in the Action Plan have:

- Performance indicators;
- Name of the individual, unit or department within each institution that responsible for implementation;
- Ministerial/Agency self-assessment procedures, including frequency of reporting.

Work on the content of the Moldova OGP Action Plan will continue through a series of workshops over September–November 2012.

OGP Implementation

a. Existing coordination mechanisms

Moldova's OGP Action Plan was in the full process of implementation as of September 2012. The main coordination mechanism set up for CSOs to monitor Action Plan implementation is the Working Group on Open Government under the National Council for Participation. The working group consists of 10 CSOs, and aims at "contributing to better implementation of the National OGP Action Plan, and monitoring the implementation of specific objectives and actions, as well as raising awareness vis-à-vis the utility and value of open public data that are a potential tool for promoting transparency, civic engagement, and the design of new services and innovations."⁸⁰ The biggest challenge associated with implementing the objectives of this Working Group is the limited participation,

⁸⁰ <http://codd.md/activitatea-grupului-tematic/>

contribution and input from members of the group who are at the same time members of the National Council for Participation (NCP), as well as members of other working groups within this NCP. Often, even the work inside the group itself is limited to the contributions of 1-2 members. In order to address this challenge and to open up for a wider involvement of the Moldovan community in the monitoring the OGP Action Plan, a multi-stakeholder Open Government platform will be launched in September 2012.⁸¹

This platform will allow the broader public, businesses, academia, think-tanks, public institutions, the developer community, and the donor community to actively engage in monitoring the Action Plan, and to contribute to effective implementation by coming up with constructive solutions and approaches in this process. In addition, the multi-stakeholder partnership will offer opportunities to discuss various topics around open government, open data, e-government and government interaction with its citizens.

The biggest advantages of this platform will be its multi-stakeholder, inclusive and open nature, and its constructive approach to the engagement of practitioners, experts and ordinary citizens in providing feedback, input and contributions to make implementation of the Open Government agenda in Moldova more effective. This structure will be the key platform for monitoring and evaluating the Action Plan, it will report on specific efforts and measures, and will provide constructive recommendations. Members of this platform will also play an active role in supporting the implementation of the OGP Action Plan by identifying resources and experts, organizing debates and discussions of the most appropriate solutions, and so on.

In addition to coordination mechanisms, Open Government capacity-building initiatives, provided

⁸¹ Veronica Cretu, President of the CMB Training Center, an NGO, is the initiator and leader of this platform. More details on this should be available through www.codd.md by the end of September 2012.

with the support of the World Bank, have been crucial for the current Action Plan implementation phase. This program included a comprehensive capacity-building series of knowledge exchanges, coaching and training events for over 1,000 participants. It culminated in Open Innovation Week in May 2012, with about 500 participants attending a Data Journalism Boot-Camp, a PFM Training and Data Analysis workshop, Smart Government Day, the Digital Moldova 2020 Roundtable with the Premier, an Intelligent IT Investments workshop, the Moldova Open Data Case Study workshop, an Open Data TechCamp, and an Open Innovation Hackathon.

In addition, the program included the “Apps for Moldova” competition, developing three showcase apps (alerte.md, buget.md, and afla.md), a community of practice (www.codd.md), and a strategic partnership on Open Data in Moldova that includes several organizations and several banking units, such as ICT, WBI, ECA and CTR.

44

Among the key outcomes were:

- increased engagement and awareness of Open Data among key stakeholder groups;
- more open data sets on the data.gov.md portal—from 150 to 427;
- more apps using Open Government Data: in addition to the three showcase apps, 18 other apps were incubated during the Hackathon and pre-cooking phase, of which 5-6 are expected to become fully operational and will be available in open source for replication in other countries;
- greater South-South collaboration, e.g. between Kenya and Moldova.

As a result, Moldova became one of the few countries that not only invested in opening a large number of datasets—going on 500—, but it started to develop a vibrant, locally-driven ecosystem that includes NGOs, developers and journalists actively reusing this data.

In July 2012, a 13-member from Moldova including Government, civil society and the press took

part in the International Conference on Open Government Data, where they were able to share with other conference participants Moldova’s progress in implementing the OGP Action Plan.

b. Existing capacities to implement the Plan

Moldova’s OGP Action meshes with one of the most important nationwide initiatives, the Government e-Transformation Project, which was launched in 2010. Funded by a US \$20 million credit from the World Bank, this project’s aim is “increasing transparency, improving government efficiency and public services delivery and fighting corruption by harnessing the power of information technologies.” In September 2011, the Government of Moldova approved the first Strategic Program for Modernizing Government Technologically (e-Transformation), which provides a unified vision of how to modernize and improve public services and increase government efficiency.

Moldova’s Government e-Transformation Agenda aligns with and supports the Government Program for 2012–2015, which highlights e-government as a priority area in moving towards economic integration with the European Union.⁸² According to this Government Program, the Law “On Access to Information and Transparency in Decision-making” needs to be enforced by making open government data publicly available online. This would allow for such data to be used by other electronic systems and to adopt the Access to Open Government Data Initiative, that will apply to all public agencies in Moldova.

In addition, the Government Program for 2012–2015 aims to improve cooperation between the public sector and civil society. Two main objectives for the upcoming years are:

- Setting up a proper legal framework for the development of civil society as a mediator of the public

⁸² Government Activity Program of Moldova for 2012–2015, Government Resolution №289 dated May 07, 2012. <http://lex.justice.md/md/343206/>

interests and as a partner of public agencies in the public policy process;

- Developing an institutional framework for effective collaboration between public agencies and civil society.

Thus, Moldova's OGP Action Plan has the necessary resources for implementation and will directly contribute to fulfilling the objectives stipulated in the Government's Program for 2012–2015, the Central Public Administration Reform Strategy, the National Strategy on Preventing and Combating Corruption, the e-Moldova National Strategy on Building an Information Society, the e-Government Concept, the Law "On transparency in the decision-making process," the Law "On access to information," and the institutional development plans of central executive bodies (CEBs).

On the other hand, CSOs still need to rethink how they use available resources to engage more actively and effectively in the Open Government movement in Moldova. It is crucial to create a supportive community of like-minded reformers from both the Government and civil society. And for this, efforts should concentrate around initiatives such as the Small Grants Fund on Open Government, Innovation Funds, and so on, that can stimulate increased engagement of CSOs in generating research, analytical papers, practical recommendations, workable solutions, risk assessments, applications based on public open data, and so on.

c. Where donors or CSOs can help implement OGP better

A needs assessment of Moldova's OGP Action Plan has not been carried out since the Plan's approval in April 2012. However, during the consultation phase over January–March 2012, all Ministries and government agencies reviewed the proposed actions and analyzed the degree to which the resources of their institutions were sufficient.

In addition, the State Chancellery of Moldova, which is one of the most important implementers of the OGP Action Plan, is conducting a needs

assessment of the Government's Action Plan for 2012–2015. The document contains several objectives related to the Open Government Agenda for 2012–2013. The results of this assessment will be made available in Fall 2012.

Future actions related to assessing the needs of key stakeholders should include:

- Analyzing the OGP Action Plan from the perspective of the resources needed for effective implementation: financial, human, infrastructure, capacity building, and so on;
- Assessing needs among CSOs related to the implementation of Open Government-related initiatives, projects, interventions, and so on;
- Sharing the results of both kinds of assessments with the Government, CSOs and the donor community, and encouraging key stakeholders to join efforts in implementing Moldova's OGP Agenda;
- Mapping donors' strategic plans for Moldova through 2020 and identifying future efforts aimed at supporting Moldova's Open Government Agenda directly or indirectly;
- Maintaining tight communication within Moldova among key stakeholders in order to ensure dynamic, open and transparent collaboration among all parties involved in the Open Government Agenda.

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Analytical Paper on the National OGP Process: Russia

Executive Summary

In April 2012 Russia joined Open Government Partnership and needs to present its National Action Plan by March 2013 in order to become full-fledged member.

A working group was set up in February 2012 to draft the OGP Action Plan and was functioning by May. During this period, the priorities for the future OGP Action Plan were defined and a road map developed.

Since July 2012 Mikhail Abyzov is the main state official responsible for forming an Open Government System (OGS) in Russia. Unfortunately, as of September 2012 he had no portfolio, because the Department for the Open Government System was still being organized.

The Government Commission for Coordinating the Open Government System has already identified its priorities: anti-corruption, competition, human resources, and systemic mechanisms.

In the period between May and September 2012, the Russian Government did little to develop a National OGP Action Plan. Input from the CSO side came with the launch of a dedicated OGP website, <http://www.ogp-russia.ru/>, developed by the Foundation for Freedom of Information.

Experts in transparency note that the current concept of Open Government used by Russian officials has little in common with world standards of open government. They note the lack of trust and poor involvement of CSOs and the broader public in the discussion of OGP.

Russia's CSOs and its Government have differing visions of the priorities in OGP implementation. Where officials see the Open Government System as a tool for new economic and social policy, CSOs such as the Foundation for Freedom of Information, TI Russia and Informational Culture put access to information and anti-corruption policy at the top of the OGP agenda.

In general, there is a lot of pessimism around the OGP process in Russia.

Process Timeline

In April 2012, the Russian Federation declared its intent to join Open Government Partnership and sent an official letter in that regard to the US Department of State for Civilian Security, Democracy and Human Rights.⁸³

According to the Decree by the Chief-of-Staff of the Presidential Administration “On the activity of the working group preparing offers to form an Open Government System” dated February, 17 2012,⁸⁴ a special Working Group for drafting Russia’s OGP Action Plan was set up, before Russia even officially joined the Partnership. Sergei Ivanov, the Presidential Chief-of-Staff was appointed chair of the working group, which consisted of representatives of the Federal Government, Regional Governments, business, academia, and the NGO sector.⁸⁵

On May 5, 2012, the Working group delivered a report to the President⁸⁶ outlining the priorities in developing an Open Government System, recommendations for key areas of activity, and a road map.

Currently, Russia’s participation in the Open Government Partnership is coordinated by the Department for the Open Government System under the Federal Government Personnel Administration, in accordance with the June 4 Decree.⁸⁷ As of September 2012, department staff still had not been hired.

The Department for the Open Government System is a base for the Government Commission for

coordinating the OGS. Both institutions are headed by Mikhail Abyzov, the Minister for the Open Government System. As of September 2012, the Commission staff had also not been completed yet. The dilatory organization of the Department and Commission is slowing down the development of the National OGP Action Plan.

In order to become a full-fledged member of the Partnership, however, Russia must present its National OGP Action Plan in March 2013, at the 2nd Annual High-Level Conference of the Open Government Partnership in London.

Drafting the OGP Action Plan

a) Government efforts

Before describing process of drafting the National OGP Action Plan, it is important to note that as of September 2012, nothing had been done in relation to this Plan. Certain activities consistent with OGP priorities are going on, but officially, the Action Plan is not being drawn up.

Developing an Open Government System in Russia was the initiative of former President Dmitry Medvedev, who publicly mentioned OGP for the first time in October 2011. The working group for the Open Government System (OGS) was set up in February, before Russia joined the OGP, and had existed for three months by then. President Medvedev actively participated in working group activities, which ended simultaneously with the end of his presidential term. The personal involvement of the President was the key to the success of the working group.

The final report to the President about overall results said, in part: “As a part of working group’s activities, more than 200 meetings of thematic subgroups were organized, with more than 400 experts participating. Public opinion and expectations as to future systemic mechanisms were identified through an online poll. Working group efforts

⁸³ <http://www.opengovpartnership.org/countries/russia>

⁸⁴ <http://news.kremlin.ru/media/events/files/41d3cf9aece17c2d16a0.pdf>

⁸⁵ <http://большоеправительство.рф/workgroup/>

⁸⁶ <http://большоеправительство.рф/upload/iblock/799/799cb9208867131fa42490ea92e6613e.docx>

⁸⁷ <http://правительство.рф/gov/results/19179/>

was actively responded to by both experts and the general public. Some 8,000 articles related to the Open Government System were published and the website www.большоеправительство.рф [big-government.rf] was visited by more than a million people, who left 37,000 requests and proposals. Social network users also took part: more than 3,500 Facebook uses have “liked” this and bloggers have devoted over 9,000 posts to the topic.

The main result of the working group’s efforts has been the definition of four priority areas for developing the Open Government System:

- Control of corruption;
- Competitiveness and entrepreneurship development;
- Development of personnel potential and human capital, including to improve the government management system;
- Mechanisms for the functioning of the Open Government System.

The final report contained many new proposals that had never been mentioned before by senior representatives of Russia’s Government. For example, among the priorities for 2013-2015, a new suggestion was included of embedding in Russian legislation the regulations of Art. 20 of the UN Coalition Against Corruption about embezzlement.

The report divides Open Government System mechanisms into three groups:

1) Institutional arrangements:

- Expert Council under the Russian Premier
- Commission for the Development of Open Government
- A new format for the system of community councils in the executive branch at the federal and regional level, including the public councils with special powers
- Expert council and groups
- Self-regulatory organizations (SROs) and other professional associations
- Standards of information and public activities for federal executive bodies (FEBs)

- Performance contracts for ministries and agencies
- A foundation to support civil initiatives
- Regulatory impact assessment
- Anti-corruption audits of legal acts
- National report on the Open Government System
- Competition commission on the appointment of civil servants
- Mechanisms to define performance targets and performance values

2) Mechanisms of involvement

- mechanism of complaints and petitions
- Elections, referendums, polls, contests of ideas
- Increased role and involvement of the press
- Increased public oversight of closed institutions

3) Informational and technological mechanisms

- e-Government, including e-budget
- Electronic processing of mail, complaints and queries
- Annual reports on various Open Government mechanisms and report of Human Rights Ombudsman
- FEB portals
- Sites on crucial public issues
- Video surveillance at agencies and institutions
- A system of electronic identification of citizens
- Electronic government services

The last part of the report is key, containing objectives related to the process of building an Open Government System, which is assumed to be rather flexible.

The 2012 Road Map includes five key tasks:

- Set up an Expert Council under the Office of the Premier, the State Commission for the Open Government System, that includes public representatives, and a new format Civic Council under FEBs and REBs;
- Develop and begin implementing performance contracts for federal and regional agencies;
- Develop and run the targeted Open Budget program;

- Set up a technological and administrative platform called the Open Government System or OGS;
- Establish a foundation to support socially-oriented civic initiatives.

By September 2012, only the Expert Council under the Russian Government had been established by a Cabinet Decree of July 26, 2012. Mikhail Abyzov, the Minister for the Open Government System, stated that “Through first months of operation, it became apparent that one of the main difficulties is the blurring of Open Government concepts, and the lack of knowledge and understanding of the principles, goals and objectives on the part of nearly all target audiences.” In order to change the situation, he proposes to establish clearly the nature of FEB’s public meetings under the auspices of Open Government and to focus public efforts on three key issues: anti-corruption, competition and personnel, systemic and coordinated between the federal government and regions public awareness campaign on these topics.⁸⁸

approach to forming the Open Government System, which is in itself nonsense. Meanwhile, different stakeholders have different views on the priorities of the Open Government System and CSOs are not confident that their opinion will be heard by the Government. For example, when reports on thematic subgroup actions were published, people noticed that some proposals that were discussed during the work were excluded from the report.

b) CSO Participation in drafting the Plan

The three key Russian CSOs that are taking part in Open Government Partnership process are the Foundation for Freedom of Information as the main driver of Russia’s accession to OGP, Transparency International Russia as the main promoter of some crucial anti-corruption initiatives like protection for whistleblowers, in Open Government, and Informational Culture the only Russian CSO that has directly joined OGP.⁹⁰ All CSOs agree on the priorities for drafting the National OGP Action Plan, putting access to information and anti-corruption policy at the top of the agenda.

For example, they propose a single portal where all income and assets declarations will be published. TI Russia and Informational Culture have already developed their own portals with a base of declarations.

Ivan Begtin, Director of Informational Culture, considers two main reasons why the Open Government System and National Plan development have been unsuccessful so far. Firstly, he points to the low level of involvement, even among CSOs. Secondly, the Government’s concept of the Open Government System has little in common with international concepts. The last point he explains in two ways:⁹¹

“1. Terminology trap. Different officials behind this initiative called it ‘big,’ ‘extended’ or ‘open,’ and

As it was noticed earlier, the Department for the Open Government System and the Government Commission for Coordinating the Open Government System has no proper staff. Since Medvedev’s presidential term ended, he has lost the power or the will to support the Open Government initiative. Minister without portfolio Abyzov only talks about the concept of Open Government, with openness and transparency of government information, dialog and engagement with stakeholders, shared responsibility of government and society, and continuous improvement of the system:⁸⁹

There is a great gap between theoretical concepts and practical implementation. On one hand, people do not trust the government and its sincere desire to change relations between agencies and the public. On the other hand, the active role of the previous President underscored the centralized

⁸⁸ http://большоеправительство.рф/ministr_rf/reports/

⁸⁹ <http://большоеправительство.рф/upload/iblock/799/799cb9208867131fa42490ea92e6613e.docx>

⁹⁰ <http://www.opengovpartnership.org/suppliers/infoculture>

⁹¹ http://polit.ru/article/2012/06/28/open_gov/

each time the term seems to mean something different and sometimes all three terms are used in a single speech. If 'open' is more-or-less clear to people who know what's going on in the world, 'big' and 'extended' are Russia-specific inventions of unknown origin.

"2. Government with a capital letter. This is a particular government agency, not the totality of all the top authorities. This refers precisely to the issue of terminological differences in names. Now it turns out that the 'open/big/extended government' is a form of expert council under the Russian government. But expert groups are not human rights groups, nor do they replace extensive public consultations. This communication model built, at best, on civilized lobbying, at worst, for legitimizing decisions taken earlier by the expert council. They have no power to solve something by themselves.

"I have read all the public documents of [the OGP] working group, and the result is depressing. Instead of a clear focus on the issues of transparency, in fact, the materials can show that it is an attempt to form a kind of new economic and social policies. And it is evident even from the initial division of the group to "sub," each of which had no relation to openness."

Tatyana Tolsteneva,⁹² Development Manager of the Foundation for Freedom of Information, adds that her organization works in close connection with Open Government and they can see the enthusiasm of, for example, Mikhail Abyzov, but she notes that Abyzov is a Minister without portfolio because the necessary department the Russian Government is still not up and running.

Ivan Ninenko,⁹³ Deputy Director of TI Russia, agrees with his CSO colleagues. He adds that, given the situation formed in Russia since Vladimir Putin began his third presidential term, and especially after new amendments to NGO legislation, there is a little hope that the Russian Government

is really interested in implementing the OGP initiative.

Russia's OGP Action Plan

Russia has not yet started to develop its National OGP Action Plan and public interest in the OGP is low.

In August 2012, the Foundation for Freedom of Information, a Saint-Petersburg CSO, launched a website dedicated to the process of Russia's accession to the Open Government Partnership, <http://www.ogp-russia.ru/>. It contains general information, news from central OGP website,⁹⁴ a few official opinions and a section intended for the publication and discussion of proposals and recommendations for the preparation of the Action Plan. The same section is also on the official Open Government website,⁹⁵ where visitors can contact Abyzov directly via e-mail. Website sections for the publication and discussion of proposals and recommendations generate little enthusiasm among voters. Almost all proposals are presented by CSO experts, while comments about the recommendations are almost absent.

⁹² Skype interview.

⁹³ Personal interview.

⁹⁴ <http://www.opengovpartnership.org/>

⁹⁵ <http://большоеправительство.рф/>

Analytical Paper on the National OGP Process: Ukraine

Executive summary

Ukraine joined Open Government Partnership right after its inception. Its National OGP Action Plan was developed on time by the Government with CSO involvement. After the Action Plan was approved, the Government decided to develop an Implementation Plan for the Action Plan, which took an additional three months and slowed the dynamic of OGP implementation in Ukraine.

CSOs played a crucial role developing the OGP Action Plan. The evolution of the document between the first draft proposed by the Government and the final version delivered at the OGP meeting in Brazil was drastic. Up to 80% of the measures proposed by CSOs were included in the final plan. Nevertheless, the process of CSO involvement in this process was not smooth.

The Action Plan covers four dimensions that are important for Ukraine: 1) engaging civil society in state policy-making; 2) promoting access to public information; 3) preventing and combating corruption; and 4) promoting good governance through better administrative services and the introduction of e-government. The majority of legislative actions proposed by the Plan have already been on the Government's agenda for several years and OGP simply gave additional impetus for their adoption, rather than imposing new requirements. However, the Plan is quite ambitious, in particular in terms of introducing e-government, which involves a number of resource-heavy and organizationally challenging projects.

There are three main threats to OGP Action Plan implementation in Ukraine:

- No effective coordination mechanism among the government bodies responsible for OGP implementation and between the government and CSOs;
- The poor quality of adopted legislation;
- Lack of the budget funds, an issue that is particularly significant for the e-governance component;

- Failure to meet the deadlines.

To overcome the challenges, the Government and CSOs have to set up a communication mechanism that works and the Government should properly supervise and manage the OGP implementation process. Currently, Ukraine's Government suffers from lack of experience in developing an open and transparent public dialog, so it needs additional assistance and guidance in developing this communication mechanism. The other option to increase efficiency of OGP implementation is some kind of technical assistance to the Government to develop IT tools for e-government implementation.

Process Timeline

Ukraine announced its intent to join the Open Government Initiative at the September 20, 2011 session of the UN General Assembly, where the inauguration ceremony of the Open Government Partnership took place. Besides meeting eligibility criteria and a formal declaration of its willingness to participate, a country that hopes to join the initiative is expected to put together an OGP Action Plan with concrete commitments on open government and to establish a multi-stakeholder forum for regular public consultation on OGP implementation.

In October 2011, the Civic Partnership for the Open Government Implementation Process (CPOGIP) in Ukraine was established. A total of 60 CSOs joined the Partnership. To ensure the involvement of civil society, the expert community and NGOs from all regions of Ukraine, CPOGIP set up a network of regional coordinators responsible for gathering feedback and proposals for the Action Plan.

In November 2011, the Cabinet of Ministers developed and made public the first Draft National OGP Action Plan for Ukraine. Discussion of the Action Plan took place by the end of March 2012.

On March 17, 2012, a Premierial Resolution put Vice Premier Valeriy Khoroshkovskiy and State Agency for Science, Innovations and Computerization Director Volodymyr Semynozhenko in charge of coordinating OGP implementation. On March 27, 2012, the working group to develop and implement the National OGP Action Plan was set up. The group represents donor organizations, international NGOs, Ukrainian CSOs and state agencies.

On March 30, 2012, CSOs, members of the Coordinating Council, Cabinet Members and Premier Mykola Azarov met at a roundtable to discuss the Draft Action Plan. The Plan was approved by the Cabinet of Ministers on April 5, 2012. Ukraine's National OGP Action Plan consists of four sections and 30 tasks that should be implemented within two years, that is, by mid-2014.

Over May–July 2012, the OGP Action Plan Implementation Plan was being developed. This plan was approved by Cabinet Decree on July 18.

To coordinate the efforts of executive bodies, Cabinet Decree №671 dated June 13, 2012, established the OGP Implementation Coordinating Council, whose first meeting took place on September 10.

CSO Participation in the Plan: How coordination currently works

After the official announcement of Ukraine's intent to join the OGP initiative, the Government and the Presidential Administration worked together to develop a Draft Action Plan in November 2011. The document was made public, and central and local executive bodies (CEBs and LEBs) were invited to discuss it and provide feedback by the end of January 2012. The Draft was made available at the Government website called "Civil Society and the Government."

By the deadline, the Government had received some 400 proposals for the Draft Action Plan. The proposals were submitted by regional administrations

and advisory councils operating under CEBs and LEBs. However, the Government did not set up a working group to draft the Action Plan and the Civic Partnership for OGP implementation was not invited to the public discussion of the Draft.

Having analyzed the Draft Action Plan and proposals gathered from advisory councils and LEBs, experts at the Civic Partnership came to the conclusion that the Government approach was largely declarative and both the Draft and the proposals submitted for it were of poor quality.

Communication between CSOs and the Government was complicated by the absence of a single state body responsible for OGP implementation. There were at least four institutions on the Government side competing for the role of “responsible for the OGP”: the Ministry of Justice, the Secretariat of the Cabinet of Ministers, the Presidential Administration, and the State Agency for Science, Innovations and Computerization. Members of the Civic Partnership found themselves having to approach all the bodies participating in the OGP process.

As the Government wasn't very responsive to requests from the Civic Partnership to continue work on the Draft Action Plan and amend the text, CPOGIP appealed directly to President Viktor Yanukovich through an open letter. In the letter, CPOGIP stressed that the members of the Partnership, 60 of Ukraine's most respected CSOs, had developed proposals for the Action Plan and were ready to discuss them with the Government. Indeed, the letter pointed out, the CPOGIP proposals had been given high marks by international experts. The President was asked to facilitate real discussion of the Action Plan with the real involvement of CSOs. Members of the Partnerships even proposed an alternative platform for such discussion, the Coordinating Council for Civil Society Development under the Office of the President.

However, the appeal to the President did little to change the situation. The Government, based on its own ideas and proposals received from local

authorities and advisory boards, drafted a very vague plan, wording the tasks to be implemented in a way that was not very demanding of the responsible officials. At that point, the Government clearly demonstrated that it had little or no intention of looking for a compromise with the Civic Partnership.

The way out of the deadlock was found within the format of the OGP itself. Firstly, OGP procedures allow a country's civil society representatives to submit an alternate report on the process and procedures for developing the Action Plan. Such a report can have a substantial impact on the final decision regarding the country. Thus, the Civic Partnership developed an alternate National OGP Action Plan for Ukraine that fully met OGP requirements and launched an advocacy campaign, involving the OGP Steering Committee and other stakeholders in making the Azarov Government realize that a plan developed without consultation with the most respected Ukrainian CSOs would not be accepted by the OGP. Meanwhile, the Civic Partnership was in regular dialog with the OGP Steering Committee. As a result, Ukraine and the oddities of the way its Action Plan was being developed were regularly mentioned in OGP Steering Committee's public communication and reports. This put additional pressure on the Government to respect OGP principles and procedures.

This strategy appeared successful. In the end, the Government accepted nearly 80% of the proposals submitted by the Civic Partnership. A new Action Plan was developed within the deadline and accepted by the OGP Steering Committee.

Thus, the process was productive and the approved National OGP Action Plan for Ukraine is of high quality, based on best international practice. and has the favorable opinion of civil society. It is a unique case in the history of Ukraine, when an official document such as a Decree or Law is 80% based on norms proposed by the country's CSOs.

However, this success was possible not because of the good will of Ukraine's own Government or its

openness and transparency, but because Ukraine's CSOs ran a successful advocacy campaign involving international stakeholders. This demonstrates the growing capacity of Ukraine's civil society, but is also clear evidence that Ukraine's government has much to change to become really open.

Considering all this, Ukraine's CSO community was not exactly satisfied with the Action Plan development process. The 60 CSOs in the Civic Partnership had to fight for the right to have input into the Plan. Initially, the Government's approach was declarative and untransparent: it preferred to involve only executive bodies and NGOs that were easy to control, to make sure that the discussion of the Draft would go smoothly and that only actions that the Government was comfortable with would be included.

The reasons for the absence of public-government dialog during the OGP Action Plan drafting process are twofold. At the top, the lack of openness on the Government side was due to the fact that OGP implementation and establishing real dialog were not a top priority. At the middle level, the process was hampered by bureaucracy, the absence of a single decision-making center, and responsibilities that had not been clearly divided among executive bodies.

There were also issues on the NGO side, of course. At the beginning of the process, NGOs did not really understand how the OGP might become useful for Ukraine's development. CSOs were often unable to formulate the practical legislative steps that had to be included in the Action Plan. Last, but not least, was rivalry among CSOs: they spent more time discussing whose idea or proposal was better, than working with the Government to get any idea included in the Plan. Looking back on the communication among CSOs, members of the Civic Partnership point out that there is no tradition of dialog in Ukraine, even among NGOs, which complicates projects where CSOs need to have a united front to succeed in negotiations with the Government.

At the end of the day, CSOs have seen the value of the advocacy campaign for Ukraine's National OGP Action Plan, not only in terms of the content of the Plan itself, but also in terms of the lessons learned for the country's CSOs. The case was unique, as Ukrainian CSOs were not used to such determined advocacy efforts and only the most persistent went through to the end. Fortunately, this strategy worked.

Looking back, Government officials evaluate the coordination process as effective and smooth, without focusing on the controversial process during the Draft Action Plan development and public discussion.

Ukraine's OGP Action Plan

Both the Government and CSOs agree that the Action Plan is the document of great quality. Ukraine's National OGP Action Plan also received high marks from the OGP Steering Committee. It covers four very important components: 1) engaging civil society in state policy-making; 2) promoting access to public information; 3) preventing and combating corruption; and 4) promoting good governance through better administrative services and the introduction of e-government. These tasks had been in the Ukraine's reforms agenda before, as well as in the advocacy priorities of Ukrainian CSOs. The OGP Action Plan did not invent the wheel, but rather gave the Government additional impetus to implement the necessary steps.

Ukraine's National OGP Action Plan contains clear, measurable steps in each of its four sections. Compared to the first draft developed in November 2011, the final document clearly shows major progress.

In the initial version of the document, the section on engaging civil society in state policy-making consisted only of declarations and had no references to any related Bills that needed to be adopted. By contrast, the final Action Plan presents a clear list

of deliverables for engaging civil society in policy-making, requiring the adoption of Laws:

- On charity and charitable institutions;
- On peaceful assemblies;
- On local referendums;
- Amending certain laws of Ukraine on the participation of the public in formulation and implementation of state policy and addressing issues of local importance.
- Amending the Law “On Public Self-Organizing Bodies (Community Associations)”

The initial Draft did not contain a separate section on providing access to public information. In the final Action Plan, this section envisions three key steps that are important for the transparency of the Government:

- Amending the Laws of Ukraine “On Information” and “On Access to Public Information;”
- Developing guidelines for classifying data restricted by government agencies and local government bodies;
- Implementing the Extractive Industries Transparency Initiative in Ukraine, in compliance with EITI criteria.

The section on preventing and combating corruption was probably the strongest in the initial draft and it did not undergo substantial changes. The majority of the measures proposed in the section had been already included in the National Anti-Corruption Strategy for 2011-2015. The main new element in the final OGP Action Plan was in the requirement to develop regional programs for preventing and combating corruption based on best domestic and international practices and in collaboration with the public. The final OGP Action Plan also specifically emphasizes that Ukraine needs to implement the recommendations of the 3rd round of GRECO monitoring and monitoring under the OECD Istanbul Action Plan with regard to: the criminalization of corrupt actions; party financing; improved provisions regulating forfeiture of property; the establishment of the liability of legal entities for corrupt actions; and better

safeguards for protection of persons reporting offences, that is, whistle-blowers.

The sections on promoting good governance through better administrative services and the introduction of e-government did not evolve substantially from the initial draft, but the final wording was made more specific and the steps concretized, such as a pilot “e-Region” project called Electronic Dnipropetrovsk Oblast.

The priorities set by Ukraine’s National OGP Action Plan are realistic and achievable, but imposing strict deadlines for the implementation of each step has both positive and negative implications.

On one hand, the implementation plan approved by the Cabinet of Ministers with deadlines for each piece of legislation has forced CEBs to start working and really developing initiatives that had been on hold for a long time. As a result, four major steps have been taken:

- The Bill harmonizing legislation with the Laws of Ukraine “On Information” and “On Access to Public Information” passed first reading on September 6.
- The Bill on peaceful assembly, reflecting recommendations by the Venice Commission and the bill on freedom of peaceful assembly prepared by the Presidential Commission for Strengthening Democracy and the Rule of Law, was drafted and approved by the Committee of Verkhovna Rada. The Bill is scheduled to be adopted by the end of current Verkhovna Rada session.
- The process of implementing the Extractive Industries Transparency Initiative in Ukraine in line with EITI criteria has started.
- An electronic system for collaboration among government agencies has been developed and will be tested soon.

On the other hand, implementation of many of these initiatives lacks transparency. For instance, according to the OGP Action Plan, the Government was to develop and the Rada to approve amendments to the Law “On Public Self-Organizing

Bodies (Community Associations).” The document changes regulations concerning how self-organizing bodies are set up and their activities in order to streamline procedures for establishing community associations, to expand their financial and material resource base, to introduce safeguards for their operation, and so on. The Bill also introduces amendments to a law regulating how general assemblies or conferences of local community members may be organized and held locally.

The Bill amending the Community Associations Law was developed by CSOs and publicly discussed at a series of roundtables involving public officials and other stakeholders. Instead of taking this draft as the basis for the law, however, the Cabinet of Ministers drafted a completely new document. Having analyzed the proposed Cabinet bill, CSO experts came to the conclusion that the Cabinet version does not meet the needs of public self-organization bodies, as it contains a procedure for registering public self-organization bodies that is even more complicated than the existing one and undermines the financial self-sustainability of such organizations as well.

Public debate of the Cabinet bill is also being conducted untransparently. The Ministry for Regional Development, which was responsible for drafting the bill, wet up a special working group and invited CSOs to join, but the group has never met. Meanwhile the Ministry organized a roundtable at which its Bill was heavily criticized. Participants recommended substantially rewriting the Ministry’s document. Still, the Ministry disseminated an unchanged version to regional executive bodies (REBs), giving them only three days to provide input. At the time of the writing this report, the Ministry was planning to submit the bill to the Cabinet of Ministers for approval.

The other weak aspect of the OGP Action Plan is that it contains ambitious ideas, but the Government has no funds to implement them. The Plan was adopted in April, when it was too late to amend the 2012 State Budget. Now the 2013 Budget process is underway, but there are signs that next year’s

State Budget will not have any provisions for the OGP Action Plan, either. The issue is especially sensitive for the e-government component of the Plan, as this requires setting up e-platforms, government-society interaction mechanisms, and so on, all of which require funds in order to be implemented.

In summary, Ukraine’s National OGP Action Plan covers four dimensions that are pertinent and even urgent for Ukraine: ensuring the engagement of civil society in state policy-making; promoting access to public information; preventing and combating corruption; and promoting good governance through better administrative services and the introduction of e-government. The Plan sets clear priorities and steps, and the actions it requires are measurable. But there are already certain reservations as to its implementation. Formally, the Government is executing the Plan, but it is developing some needed legislation untransparently, which threatens the quality of OGP implementation in Ukraine.

OGP Implementation

a) Existing coordination mechanisms

After the Action Plan was approved and presented at the April 2012 OGP Summit in Brazil, it took Ukraine’s Government more than two months to set up the Coordinating Council—the Coordinating Council and the list of its members were approved by Cabinet Decree on June 13—and another month to approve the Implementation Plan for the National OGP Action Plan: Cabinet Decree №514-p was only issued on July 18.

The first meeting of the Coordinating Council was scheduled for September 10, 2012, which is why it was impossible to evaluate the effectiveness of this mechanism. Nearly six months have been wasted since the Action Plan was approved: hardly any real work was done in this period.

Members of the Civic Partnership for the Open Government Implementation Process (CPO-

GIP) have reservations regarding the coordination mechanism as well. Firstly, they point out that the membership in the Coordinating Council is not balanced among stakeholders: there are many more members from government bodies, than from CSOs. The way that members are recruited to the Coordinating Council is also unclear. Moreover, the rights of the Secretariat of the Coordinating Council are too broad: it can make decisions without consulting with the members of the Coordinating Council.

Initially, CSOs proposed a slightly different concept for the Coordinating Council: smaller, with basically three representatives for each of the four components of the Action Plan. The Council would have served as the platform for monitoring OGP implementation and providing rapid reaction and adjustments of actions among implementing government bodies. Also, CPOGIP members proposed setting up a special bureau under the Office of the Premier for more efficient coordination and the proper level of decision-making.

Another warning sign is that, even after the establishment of the Coordinating Council, jockeying among government agencies for the right to implement the OGP Action Plan continues. Clearly, there are too many CEBs involved. Technical issues were given to the Secretariat of the Cabinet of Ministers, which has a reputation for being opaque. The level of Government oversight in the Council is also insufficient. Although the Coordinating Council is officially headed by Vice Premier Khoroshkovskiy, all the work on the Government's side is actually carried out by the Deputy Chair of the Council and Director of the State Agency for Science, Innovations and Computerization, Volodymyr Semynozhenko.

Due to the nature of Ukraine's National OGP Action Plan, implementation involves a number of Ministries, as well as the Verkhovna Rada, Ukraine's legislature. The State Agency for Science, Innovations and Computerization is a CSB, but the status of the director of this institution is not high enough to make officials in the Ministries carry

out his assignments. The Vice Premier is in a much better position to do so and his orders would have been executed by the Ministries and other CEBs much better. Thus, the Civic Partnership considers the fact that Khoroshkovskiy delegated real coordination of the Council to Semynozhenko a bad sign that speaks of the ultimate ineffectiveness of this body.

Without the proper coordination and supervision, OGP Action Plan implementation risks either being executed largely as a formality, where the norms established in new legislation do not really reflect the needs of society, or having its deadlines missed, or not having necessary budget allocations provided.

Thus, although it is too early to evaluate the effectiveness of the coordination mechanism, a number of threats to its success are evident. The Coordinating Council membership is not balanced, the powers of its Secretariat are too broad, and the level of day-by-day supervision of the Council is too marginal to ensure its proper functioning.

b) Existing capacities

The Government has sufficient capacity to implement the OGP Action Plan. However, to produce documents and initiatives of high quality, the Government has to apply effective supervision and monitoring mechanisms, as mid-ranked officials are likely to lack the necessary vision and understanding to fulfill their tasks properly. The Government should also ensure the broad participation of CSOs in the development process. Previous experience shows that the participation of CSOs extends the capacities of state agencies in drafting legislation, as CSOs bring expertise in best international practice and approaches.

Another threat that could reduce the effectiveness of implementation is the process of adopting legislation in the Verkhovna Rada. Bills are often held up for long periods of time in the legislature, even those submitted by the Cabinet of Ministers and marked as a priority. Moreover, the work of Rada is highly politicized, which has already led, for

instance, to the Bill on peaceful assembly envisaged by the OGP Action Plan being blocked. The October VR election has only added to the instability of the legislature and will further slow down its work.

Currently CSOs, in particular those that form Civic Partnership for Open Government Implementation, see their role as providing quality monitoring of OGP Action Plan implementation. The monitoring methodology is planned to be developed by the end of 2012.

The other role of the Civic Partnership is to work with local government agencies in advocating the proper implementation of OGP-related decisions by the central government. The network of regional coordinators set up by the Civic Partnership is monitoring the activities of local governments and communicating about their progress to a wider audience.

However, CSOs lack the instruments to advocate for a transparent coordination and consultation mechanism during OGP Action Plan implementation. During the development of the Plan, CSOs had to appeal to the international OGP mechanism to make sure that the proposals and positions of civil society were taken into account at home. During the implementation process, the Government could easily adopt legislation with regressive norms and not hold any real consultations with the public. In this case, OGP implementation will bring little added value to Ukraine's further development, let alone adding transparency or accountability to the country's Government.

At this stage, CSOs are planning to work closely with the OGP Steering Committee to push their Government to provide high-quality implementation of the National OGP Action Plan. One year after the Action Plan is approved, a mission from the Steering Committee comes to the country for monitoring. Local CSOs are supposed to provide an independent evaluation of the implementation process. Civic partnerships use this instrument as an advocacy tool in further negotiations with the Government on the implementation.

The Government is currently meeting the deadlines imposed by the Action Plan but it has started implementing some actions without proper consultations with civil society, which could result in merely formal fulfillment of the Plan. In other words, the necessary legislation will be adopted, but the content of these laws will not be an asset for Ukraine's development.

The Open Government Partnership aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The drafting of Ukraine's National OGP Action Plan and the first stages of implementation demonstrate that Ukraine's government lacks transparency and shows little interest in empowering its citizens. CSOs have enough expert capacity to provide qualitative input, to participate in coordination bodies, and to monitor and evaluate the process of implementation, but they also need to work on coordinating efforts and having a consistent dialog with the Government.

c) Where donors or CSOs can help implement OGP better

The Government has two major weak points in the OGP implementation process: developing a meaningful dialog with stakeholders and finding the necessary funding.

To address the first issue, government officials should be trained in partnership-building and communication. A closer look at OGP Action Plan development in Ukraine shows that the Government failed to establish effective platforms for dialog, which has led to conflict situations between the Government and CSOs, and doubts about the effectiveness of the OGP for Ukraine. It is clear that, in the majority of cases, the Government failed to establish the dialog not through intent, but more due to bureaucracy, lack of coordination, lack of understanding of the CSO environment, and so on. With proper training, government officials might make the process of communication between public institutions and CSOs smoother.

As for the second issue, lack of funds, donors might consider the opportunity to fund initiatives related to the introduction of e-government, preferably towards software development for the steps indicated in the OGP Action Plan. In this case, the effectiveness of fund usage can be easily monitored and evaluated.

TRANSITION

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