INDEPENDENT REPORTING MECHANISM: SPAIN PROGRESS REPORT 2012-2013

Mr. César Nicandro Cruz-Rubio. Policy Researcher, *Grupo de Investigación en Gobierno, Administración y Políticas Públicas* (GIGAPP)

Content

NOTE: This is the unofficial English translation of the original Spanish-language report. As such, this document may contain inaccuracies or outdated information. Please refer to the original Spanish-language report for any citations or other official use.

Open
Government
Partnership

gigapp

Grupo de Investigación en
Gobierno, Administración
y Políticas Públicas

EXECUTIVE SUMMARY

Independent Reporting Mechanism (IRM) Progress Report 2012-13

The passing of the new Transparency Law, though with defects, was the most important achievement of the first OGP process that, despite its challenges, provided many lessons for improving future processes. The second plan would be strengthened by including new and measurable activities and by more clearly linking commitments to the values of open government. Such a plan would have greater potential to improve public integrity, a necessary change given the current Spanish national context.

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

Spain began participating in OGP in April 2011. It formalised its participation on 20 September of that year.

The body responsible for the design, drafting, presentation, and monitoring of commitments in the plan is the Secretariat of State of Court Relations and its Subdirector General of Parliamentary Documentation and Normative Proposals, both of which fall under the Ministry of the Presidency. This Secretariat was responsible for creating both the action plan and the self-assessment.

OGP PROCESS

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

The Spanish government prepared the first action plan without undertaking a public consultation process, thereby not complying with the OGP guidelines.

Authorship of the plan resided fully with the Ministry of the Presidency, who has indicated that this shortcoming resulted from a lack of time for a recently installed government whose staff took their position at the end of 2011.

Later, the Spanish government still did not open space for participation during implementation of the plan. The IRM researcher could not find evidence of government efforts designed to promote OGP awareness in citizens, nor to involve civil society, the private sector, or other relevant stakeholders.

Even though there was a period for public comments on the draft self-assessment, the results of this consultation were limited given the lack of publicity and citizen awareness of the Government's actions on open government matters.

At a glance

Participating since:	2011
Number of commitments:	13
(Number of milestones:	16)

Level of Completion:

Completed:	5 of 13
Substantial:	4 of 13
Limited:	3 of 13
Not started:	1 of 13

Timing:

On schedule:	6 **of 13**

Commitment emphasis:

Access to information:	6 of 13
Participation:	3 of 13
Accountability:	1 of 13
Tech & innovation for transparency & accountability:	3 of 13
Unclear:	5 of 13

Number of commitments with:

Clear relevance to an OGP Value:	8 of 13
Moderate or transformative potential impact:	8 of 13
Substantial or complete implementation:	9 of 13
All three (⊙):	4 of 13

COMMITMENT IMPLEMENTATION

As part of OGP, countries are required to make commitments in a two-year action plan. Table 1 summarises each commitment, its level of completion, its potential impact, whether it falls within Spain's planned schedule, and the key next steps for the commitment in future OGP action plans. Table 2 summarizes the IRM researcher's evaluation of each commitment. Civil society has shown interest in the Transparency Law commitment, but little interest in the remaining initiatives. Spain completed 5 of its 13 commitments (7 of 16 milestones). But as they were written in the Plan, 5 of the 13 appear to lack clear relevance to the values of open government.

Table 1: Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING	NEXT STEPS
✪=COMMITMENT IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS SIGNIFICANT POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE		
✪ **1. Law of Transparency, Access to Information, and Good Government**										
Overall	■	■	■	■	■	■	■		Behind schedule	
1.a) Approval of the Law: Definitively approve the final text of the law.	■	■	■	■	■	■	■		Behind Schedule	**New commitment** based on existing implementation
1.b) Transparency Portal: Make government information available, with all guarantee of accessibility.	■	■	■	■	■	■			Behind Schedule	**Further work** on basic implementation
✪ **2. Transparency and Accountability in Official Development Aid**										
Overall	■	■	■	■	■	■	■		Behind Schedule	
2.a) info@OD: Improve the information system with a consultation mechanism and rapid and periodic publications.	■	■	■		■	■	■		Behind Schedule	**New commitment**
2.b) Spanish Agency of International Development Cooperation Annual Report: Publish it, with budget management information.	■	■	■		■	■	■	■	On time	**New commitment**
2.c) Total transparency: Require all recipients of Spanish public funds to be open and transparent.	■	■	■	■	■	■	■		Behind Schedule	Further work
3. Organic Act of Budgetary Stability and Financial Sustainability: Approve the Lay for more rigorous administrational information.	■	■	■		■	■	■	■	On time	New commitment
4. Reform the Subsidy Law: Eliminate general-character subsidies to make subsidy management and concession more transparent.	■	■			■		■		Behind Schedule	Further work
5. e-Justice: Create the Electronic Justice Administration Agency to support compatibility and the exchange of information between administrations.	■	■			■		■		Behind Schedule	**Revision of the commitment** to make it more measurable or achievable
✪ **6. Use of Social Networks:** Develop projects for citizen participation, including local security councils.	■	■	■		■	■			Behind Schedule	New commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING	NEXT STEPS
✪=Commitment is clearly relevant to OGP values as written, has significant potential impact, and is substantially or completely implemented.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE		
7. Publication of criminal statistic data: Publish, at least every trimester, the measurements for the last 12 months, by type of crime and location.	■	■			■	■	■	■	On time	New commitment
8. Regulation Revision and Simplification: Require administrations to eliminate obsolete rules.	■	■	■		■				On time	Revision of the commitment
✪ **9. e-Health:** Make the Digital Medical History System universal, to boost compatibility and reduce bureaucratic delays.	■	■	■	■	■	■	■		Behind Schedule	New commitment
10. RED System: Generalise use of the Social Security Electronic Data Transmission System.	■	■			■	■	■	■	On time	None: **Completed implementation**
11. Simplification of environmental evaluation procedures: Improve time spent on procedures and make decision-making process more participatory.	■	■	■		■	■	■	■	On time	Completed implementation
12. Optimise business creation procedures: Empower via law the advisory network and simplify requirements.	■	■	■		■	■	■	■	On time	Completed implementation
13. Reduce administrative requirements for farmers and agriculturalists: Optimise and make transparent the direct assistance application process.	■	■	■		■	■			Behind Schedule	Further work

Table 2: Summary of Progress by Commitment

NAME OF COMMITMENT	SUMMARY OF RESULTS
✪ Commitment is clearly relevant to OGP values as written, has significant potential impact, and is substantially or completely implemented.	
✪ 1. Transparency Law • OGP Value Relevance: Clear • Potential impact: Transformative • Completion: Substantial	This was the most important commitment of the first plan, and its approval overcame a historical shortcoming. Its creation involved a citizen consultation process with many flaws, characterised by haste, lack of transparency, and weak consultation formats. The approved law does not meet international standards and does not recognise access to public information as a fundamental right. The Transparency Portal is still not operative. Regarding the Law, it is important to apply it throughout the country, clarifying its jurisdiction, without impeding that the communities supplement their own transparency commitments, and recognising binding powers of the National Board of Transparency. Limiting the maximum requirements for information access is also recommended. Regarding the transparency website, the IRM researcher recommends additional efforts to comply with an ambitious strategy of transparency, opening the portal in 2014 and promoting interaction and participation with it. For example, virtual discussion forums on topics citizen interest could be provided, as well as making open and accessible the administrative records of the Transparency Council, or by incorporating periodic reports on requests for information made by the public, etc. In order to improve public consultation as a tool for citizen participation in the creation of laws, the consultation processes to receive comments on the proposed law should provide information that allows for the adequate design and integration of those procedures in the future. Furthermore, they could be applied systematically to the legislative agenda of the central government, carrying out the consultations widely, with adequate notice, with bidirectional communication between government and citizen, and with transparency and accountability mechanisms *a posteriori*.
✪ 2. Development aid transparency and accountability • OGP Value Relevance: Clear • Potential impact: Transformative • Completion: Substantial	The info@OD system is a budgetary management program for cooperation programs. Although integrating information from various entities and unifying it in single system is progress, this commitment only limitedly supports transparency since use of it is restricted to project managers. Info@OD's "informant" module is operational, but restricted, while the "Analyst" module, designed to allow dynamic queries, is available for public access without request username and password. The AECID published its 2012 Annual Report as it committed, but not a calendar of publications. The criteria for requiring transparency among partner entities did not improve. Nor did access to reports and project documentation, although progress was made in greater transparency (active publication) in grants awarded by the AECID as well as improvements in evaluation criteria used for NGOs Calls and project ratings. It is recommended that efforts continue to carry out these commitments and to open the Spanish cooperation portal and make info@OD completely public therein, in order to provide access to all the information that system contains.
3. Organic Act of Budgetary Stability and Financial Sustainability • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Complete	This act was approved in 2012. Requiring publication in the official state bulletin (BOE) of the annual accounts and hearings of public bodies facilitates access to information about the budgetary situation of those entities. At the same time, many documents are published in PDF, which complicates their analysis, and there is no specific website to consult annual accounts. The IRM researcher recommends new commitments to improve transparency in public administrations that go further than obligatory budgetary stability and account information publication.
4. Subsidy Law reform • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Limited	The process for reforming the law has not begun. As a first step, the online database of aid and subsidies for small and medium-sized businesses was enhanced, in order to have a unified repository. But it is unclear how this database relates to improving transparency, since the primary problem is not access to information but rather the divergence of resources as a result of "nominative general-character subsidies" whose abuse has been permitted. The IRM researcher recommends beginning the reform process, including in the new lay mechanisms of active transparency.

5. e-Justice • OGP Value Relevance: Unclear • Potential impact: Minor • Completion: Limited	The Agency will not be created, due to budgetary restrictions. Instead, the Technical State Committee of Electronic Justice Administration (CTEAJE) will work toward interoperability. This committee does not have a plan of action or roadmap to initiate its work. That stage is planned for the first semester of 2014. But, being internally oriented, it is unclear how the commitment involves the values of open government. It is recommended to invigorate the role of the Centre of Judiciary Documentation (CENDOJ) in order to stimulate its use and to be able to make open data strategies.
✪ 6. Use of social networks • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Substantial	The various campaigns organised as part of this commitment are informative in nature, except for the collaborative campaigns around public security. The reactivation of the local security councils has still not occurred. The IRM researcher recommends defining new initiatives on the theme of public security that would effectively develop mechanisms of citizen participation. These mechanisms could be supported by existing social media strategies and profiles or by new ones.
7. Publication of criminal statistic data • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	This achievement filled a void, as demanded by citizens, although it is not clear if the implementation meets citizens' expectations, and the level of statistical detail is very low. As a first stage, the IRM researcher recommends consolidating the existing collection services for the trimester accounts of criminality, and analysing the possibility of reducing the time periods between publication and publishing the original data. As a second stage, the IRM researcher recommends further developing the relevance and punctuality of the information.
8. Regulation Revision and Simplification • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Not started	This commitment has not been started, although the government has indicated that it has held meetings to create the Regulation Quality and Simplification Plan that forms the base of this commitment. Although it could have a positive effect, it is unclear how this commitment can be relevant as a means of improving transparency and/or developing open government. The IRM researcher recommends reorienting the commitment to articulate this process openly and with participation.
✪ 9. e-Health • OGP Value Relevance: Clear • Potential impact: Transformative • Completion: Substantial	This commitment and its achievements involve a strategy of e-government based on the system's efficiency and quality. But these initiatives do not clearly support participation in decision-making, although they do allow patients a somewhat more simplified access to and control over personal health information. The IRM researcher recommends periodic reports on health performance, through interactive tools that allow users to know the impact of the Digital Clinic History system.
10. RED System • OGP Value Relevance: Unclear • Potential impact: Minor • Completion: Complete	The General Social Security Treasury offers this service to businesses and professionals to allow for information and document exchange online. As written, this commitment does not have a clear relevance as a means for developing open government. As a result, there are no recommendations for this commitment.
11. Simplification of environmental evaluation procedures • OGP Value Relevance: Clear • Potential impact: Minor • Completion: Complete	This law completed its parliamentary process on 28 November 2013. In the opinion of some CSOs, a correct public participation has not existed in the development of the law, and it is also unclear how the law makes the decision-making process on environmental evaluations more participatory or transparent. The next modifications to this law should take into consideration the European Directive 2011/92/EU, which explicitly supports greater transparency, participation, and accountability.
12. Optimisation of business creation procedures • OGP Value Relevance: Unclear • Potential impact: Moderate • Completion: Complete	Law 14/2013 regulates the functions of the CIRCE (Centre of Information and Network of Business Creation), although it does not have clear relevance as a means of developing open government. In order to reorient CIRCE to be about open government, and taking advantage of the social and economic potential of its standardised information, the next action plan could include new commitments more clearly connected to transparency, accountability, and participation.
13. Reduction of administrative burdens for farmers and agriculturalists • OGP Value Relevance: Clear • Potential impact: Moderate • Completion: Limited	The objective of this commitment was to develop a singular informational tool to manage direct aid applications. Defined in this way, the commitment is not clearly relevant as a means to develop open government, if it does not incorporate mechanisms for transparency in subsidy allocation. The tool could improve the information it offers to citizens in terms of the status and criteria for considering applications, not just in terms of finding out the status of the application in its bureaucratic process.

RECOMMENDATIONS

To create its second action plan, the Government not only has more time, but also the experience of the first plan, the experiences of the autonomous governments, and a Transparency Law that, even with limitations, it should implement. The Government also has progress to measure and future challenges to overcome. Therefore, the IRM researcher recommends that the Government more closely follow OGP guidelines to promote wide public consultations on the next plan. Specifically:

- *Design, to create the second action plan, a public policy strategy that is participatory, open, and integrative.* This nationally-organised strategy should:
    - Use multiple channels, and take up achievements and lessons learned,
    - Include challenges whose completion is still pending, and
    - Offer both in-person and online spaces for interaction with citizens. Mechanisms such as workshops or deliberative surveys could be very useful.
- *Clarify the territorial scope of the commitments,* so that the action plan is what both citizens and the government, in its distinct levels, together decide to propose and carry out, in order to bring open government closer to the citizens. This presupposes opening the door for autonomous governments to participate actively in the definition of commitments.
- *Implement open government as a transversal policy* oriented toward:
    - The institutionalisation of more and better participation,
    - Regulatory improvements that expand legislative transparency.
    - The promotion of wellbeing and equity through open social policies,
    - The generation of more knowledge through open government via the use of informational applications,
    - The promotion of holistic and global transparency via active publication,
    - Transparency in management procedures and strategic planning,
    - The connection of open government with accountability and policy evaluation.

Proposals for content or themes to be included as commitments within the next action plan:
- The installation and regulation of open systems of public contracting for the AGE.
- Develop a radical presence of government ministration where the citizens are, as a key value in AGE's public policy planning and evaluation.
- The creation of a Global Plan for the development of Open Data, that allows society to offer solutions, with the support of an entity to coordinate these initiatives.
- Training and capacitation in open government, in order to endow government workers and citizens with the knowledge and capabilities to understand open government's values and tools.

Eligibility Requirements 2012: To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, visit http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria. Raw data has been recoded by OGP staff into a four-point scale, listed in parentheses below.

Budget Transparency: Both relevant budget documents public   (4 of 4)   **Access to Information:** Draft law   (1 of 4)

Asset Disclosure: Elected officials: public / bureaucrats: internal (3 of 4)   **Civic Participation:** 9.41 of 10   (4 of 4)

GIGAPP is an academic initiative created in 2010, based on the values of openness, rigor, applied knowledge, and innovation. GIGAPP is led by a team of Spanish and Latin American researchers, doctoral students, and academics. Its primary goal is to contribute to social debate and generate new knowledge, concepts, focuses, tools, and analytical frameworks under three thematic axes: government, institutions, and political behaviour; public administration; and analysis and evaluation of public policies. (www.gigapp.org)

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

I. BACKGROUND

Introduction

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

Spain is one of the 39 countries of the OGP's second cohort and formalized its participation on 31 August 2011 with the presentation of its letter of intent. Spain was formally included as an OGP participating country on 20 September.

To participate in OGP, national governments must demonstrate commitment to open government by meeting a minimum set of performance criteria on key dimensions of open government that increase government responsiveness, strengthen citizen engagement, and fight corruption. These indicators are produced by organizations other than OGP, and determine country progress on each of the dimensions, with points awarded for each category.

Spain entered the partnership exceeding the minimal requirements for eligibility, with a high score in each criterion. Spain had the highest possible ranking in the categories of "open budgets,"[1] (4 out of 4), a draft access to information law as of 2012[2] (1 out of 4) and received a high score (3 out of 4) for "asset disclosure for senior officials,[3] requiring elected officials to disclose their assets publicly but civil servants only internally. It also had a score of 9.41 out of 10 on the Economist Intelligence Unit's Democracy Index civil liberties subscore, for the highest possible score in that regard (4 out of 4).[4]

All participating governments must develop action plans that elaborate their commitments over a two-year time period. Governments begin their action plans by sharing their open government efforts to date. The country action plans then set out each government's OGP commitments, related to a set of five "grand challenges."[5] (See Section IV for a list of the grand challenges.) These commitments should stretch government practice beyond its current baseline by building on current efforts, taking new steps to complete ongoing reforms, or initiating action in new areas.

The Government of Spain made its first action plan and presented it publicly at the First OGP International Summit held 17-18 April 2012 in Brasilia. The effective start date of the action plan was June 2012. By October 7, 2013 the government of Spain published on the Ministry of the Presidency's website the draft of Self-Assessment, which was subject to public comments using a postal mailbox and a web page comments form.

At the moment of writing this independent report, the Government of Spain has fully completed five commitments of its first action plan, one has not yet begun, and 7 more are in the process of completion or under review. At the same time, the Spanish government is focused on a second action plan, with a public consultation process beginning in early 2014.

Pursuant to OGP requirements, the Independent Reporting Mechanism (IRM), has partnered with a national, independent researcher, Mr. Cesar Nicandro Cruz-Rubio, a policy researcher of the Research Group in Government, Administration and Public Policies (GIGAPP), in order to make an evaluation of the process and implementation of Spain's first action plan. It is the aim of the IRM to inform ongoing dialogue around development and implementation of future commitments in each OGP participating country. See the Annex for more details on the IRM methodology.

Institutional Context

The responsible body for the commitments of the Open Government action plan is the Office of Parliamentary Branch Relations, Policy Proposals and Parliamentary Documentation, belonging to the Ministry of the Presidency. This Office (equivalent to a vice ministry) is the body that makes regular communications between the Executive Branch (the Presidency) and the Legislative National Power (Parliament). It has the role of representation, the referral of letters and various communications sent from the Government Ministries to Parliament, the study, monitoring and coordination activities of the parliamentary procedures of the Government 's legislative program and assistance activities to Government in parliamentary control issues. The current Minister of the Presidency, Ms. Soraya Saenz de Santamaria, is at the same time Spain's Vice-president.

Regarding the action plan, this office manages the information from the Ministries, integrates and monitors reported progresses of commitments, and is the responsible body in giving reports and progress updates to the Parliament.

Although it should be clear that it is a body that is very close to the Spanish Presidency, this Ministry has no formal authority to force changes in public policies. This office was also the responsible body to the design, formulation and monitoring of the first Open Government action plan. It was also the responsible body in the drafting of the Transparency, Access to Information and Good Governance Act.

Methodological note

In order to include multiple perspectives, the IRM researcher designed and carried out (with other GIGAPP researchers and with the support of Ortega y Gasset Foundation) a Discussion Session, held in October 2013 in Madrid. This event was attended by academics, members of civil society organizations (CSOs) and public officials, to whom a questionnaire was distributed. IRM independent reporting was also supported by interviews with public officials involved in the implementation of commitments, and by in-depth interviews with policy experts and other stakeholders.

The national researcher reviewed two key documents prepared by government: Spain's first action plan[6] and the draft of self-assessment published by government in October 2013.[7] Numerous references are made to these documents. Also relevant to this report are two independent evaluations made by CSOs.[8]

Throughout this report references are made to the above documents. Methodology, sources and references are listed in the Appendix: Methodology.

[1] Open Budget Index Score, "Encuesta de Presupuesto Abierto 2010", International Budget Partnership, June 2011, http://bit.ly/1jP88ir

[2] http://www.leydetransparencia.gob.es/index.htm

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

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

[5] Improving public services, increasing public integrity, more effectively managing public resources, creating safer communities and increasing corporate accountability

[6] http://bit.ly/ITVkXx

[7] During the writing of this report, the self assessment final report was not available, just a draft version. http://bit.ly/1c1kwIH . By 28 November, the Ministry of the Presidency sent to the national IRM researcher the final self assessment report in Spanish, pn the same day that the Transparency Act was finally approved.

[8] Access Info Europe : Comentarios sobre el borrador del Plan de Acción de España para el Open Government Partnership. April 9, 2012. URL: http://goo.gl/lNJntY (Retrieved 14 november, 2013). Grupo de Debate de Evaluación del Plan de Gobierno Abierto de España en Novagob. "Comentarios al borrador del Informe de Autoevaluación del Plan de Acción de España con OGP" October 2013. URL: http://goo.gl/zSkqXP (Retrieved 28 october, 2013).

II. PROCESS: DEVELOPMENT OF ACTION PLAN

Countries participating in OGP are required to follow a process for consultation during development of their action plan. Countries must:

- Make the details of their public consultation process and timeline available (at least online) prior to the consultation.

- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views; and make a summary of the public consultation and all individual written comment submissions available online.

- Undertake OGP awareness-raising activities to enhance public participation in the consultation.

- Consult the population with sufficient forewarning and through a variety of mechanisms—including virtual and in-person meetings—to ensure the accessibility of opportunities for citizen participation.

A fifth requirement, during consultation, is set out in Section C of the OGP Articles of Governance, "Consultation during Implementation", and is addressed in the following Section III:

- Countries must identify a forum to enable regular multi-stakeholder consultation on OGP implementation through an existing or new entity.

Figure 1: Consultation Process

Phase of action plan	OGP Process Requirement (Articles of Governance)	Did the government Meet this requirement?
During development	Timeline and process: Prior availability	No
	Timeline: On line	Not applicable
	Timeline: Other Channels	Not applicable
	Timeline: Links	Not applicable
	Advance notice	No
	Advance notice: Days	Not applicable
	Advance notice: Adequacy	Not applicable
	Awareness-raising activities	No
	Awareness-Links	Not applicable
	Online consultations	No
	Consultations: Links	Not applicable
	In-person Consultations	No
	Summary of comments	No
	Summary of comments: Link	Not applicable
During implementation	Regular forum	No

Breadth of consultation

The government of Spain made no public consultation process for the development of its first action plan. There was no opportunity at this stage to define the action plan under a participatory fashion, nor to conduct discussions among government officials, members of CSOs and citizens in order to define commitments and joint tasks for implementation, monitoring and evaluation.

The formulation of the action plan occurred entirely within the Ministry of the Presidency. This Ministry argued that the absence of a consultation process occurred basically due to lack of time because all relevant government officials directly involved took up their positions at the end of December 2011.[1]

The tasks of the identification and selection of the 13 commitments, the action plan's drafting and the preparation of the final version, occurred in a span of three and a half months, between January and April 2012. According to information provided by the Ministry of the Presidency, this action plan formulation was a result of the compilation of information obtained by ministerial appearances in Parliamentary Hearings. The Ministry of the Presidency carried out all of these tasks: the coordination and communication messages with the ministries, comments collection and processing, and the selection of the action plan's commitments.[2]

Two weeks before Spain's action plan presentation in Brasilia, the Ministry of the Presidency sent the draft of the action plan to four CSOs, asking for comments. The Office of Policy Proposals and Parliamentary Documentation, a body belonging to the Ministry of the Presidency, said that:

> "Regarding civil society, our relationship has been mainly with members of the Coalition for Access (Access Info Europe, Transparency International Spain, CECU [a Consumers Confederation]) because they have been those who have maintained communication with us related with this topic (open government). However, we would like to broaden the scope of stakeholders interested in issues linked to Open Government, although, apart from this Coalition and the academy, we had no record of any other actors interested in this topic."[3]

Once completed, the final version of the action plan was formally presented to the OGP Summit in Brasilia. After that, this action plan was not published on the website of the Ministry of the Presidency, nor was information regarding action plan formulation process or CSO comments received.[4] Due to this very limited public consultation together with the fact that both the draft and final versions of the action plan are practically the same documents,[5] that the IRM researcher concluded that the process did not meet the OGP requirements regarding public consultations.

Although both the draft and the final version of action plan can be found on the Internet, only the final, English version of the action plan was available from the OGP website. This matter was corrected in late 2013 by the Government of Spain. During the preparation of this report the IRM researcher could not find the final text of the action plan on the government website of the Ministry of the Presidency, in either English or Spanish, nor a draft version.[6]

The lack of visibility of the Spanish Government's actions regarding open government has been largely due to an absence of a public dissemination strategy related to the incorporation of Spain into the OGP, and specifically, with the formulation of the OGP action plan, which mainly led to a deep lack of public knowledge about the commitments made by

the central government and the actions implemented in these years. Despite being the responsible institution in the OGP, the Ministry of the Presidency has not enabled an open government microsite or a special section on its website. The Ministry also provides no information regarding the action plan of Spain into its website, neither the commitments nor their achievements. The little OGP related-information has been published and incorporated into the Ministry of the Presidency's website not in a fixed section, but in a newsflash format with no permanent home that are deleted after a short period. For this reason, several of the URLs linked in this report land at a 404-error: page not found. This lack of information and dissemination activities relating OGP have limited the opportunities for public involvement and citizen monitoring, beyond those traditionally are developed by CSOs members who advocate for deeper transparency.

---

[1] Mariano Rajoy Brey took office as President (Prime Minister) of Spain on 21 December 2011, the Minister of the Presidency the following day, and the State Secretary for Parliamentary Relations on 26 December. See http://bit.ly/1cs1vtK (Retrieved: October 18, 2013).

[2] Personal E-mail communication: Ms. Esperanza Zambrano, responsible of The Office of Policy Proposals and Parliamentary Documentation, Ministry of the Presidency, October 17, 2013. See also: "Comentarios Sobre borrador de plan de Acción de España para el Open Government Partnership". Access Info Europe. April 09, 2013.

[3] Personal E-mail communication: Ms. Esperanza Zambrano, responsible of The Office of Policy Proposals and Parliamentary Documentation, Ministry of the Presidency, October 17, 2013. See also: "Comentarios Sobre borrador de plan de Acción de España para el Open Government Partnership". Access Info Europe. April 09, 2013.

[4] Contributions were made public via the Internet, not by the Government, but by two CSO: Access Info Europe and Civio Fundación Ciudadana.

[5] The only identified change between versions of these documents is the deletion identified in the final version of a part of a paragraph, about the Transparency Act (page 5, third paragraph of the draft and page 5, first paragraph action plan in English). A draft of this action plan is available in Spanish at URL: http://bit.ly/ITVkXx (Retrieved: October 15, 2013).

[6] Such change occurred between 24 and 27 December 2013 (after the IRM research period) and once the self-assessment report was released by government. In the IRM researcher opinion, the specific place where this document was located is far from adequate. This document and the self-assessment report are in the URL webpage that belongs to the Secretary of State for Parliamentary Relations and that informs about its main functions. See here: http://www.mpr.gob.es/mpr/secrc/index.htm (Retrieved December 27, 2013).

III. PROCESS: CONSULTATION DURING IMPLEMENTATION

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

As Figure 1 remarks, the Government of Spain did not create any forum nor identify a pre-existing one for sharing information about action plan progress. Nor did it integrate a participatory process of monitoring and consultation during implementation in which the government could engage its citizens and promote effective representation of the different relevant stakeholders. In the view of the IRM researcher, the absence of a participatory process in the formulation of the action plan was the main reason that the Government did not take any further necessary steps to opening public consultation forums during the implementation phase.

With the exception of the implementation of a public consultation process related to the draft of the Transparency Act (see Commitment 1), the IRM researcher found no evidence of government effort towards citizenry, CSOs and private sector involvement during the implementation of this action plan.[1] The IRM researcher was unable to find in any part of the action plan an explicit objective to involve citizens during implementation. The Government understood itself to be the unique responsible actor for commitment implementation, while citizens were basically seen as passive actors or as the final recipients of public services, mainly in commitments linked to transparency and e-government oriented policies.[2]

Although citizens, CSOs and the academia have shown great interest in the Transparency, Access to Public Information and Good Governance Act (commitment 1 and centerpiece of the Plan), citizens have been unable to monitor the implementation of the remaining twelve commitments. These commitments were defined without any public participation and without any Government communication about the action plan or its progress, and without opening any specific forums for its consultation and participation.

The only open forum about the action plan on Open Government in Spain was organized by GIGAPP in October 2013, in order to support the evaluation process on which this report is based.[3]

---

[1] This limited perspective has little to do with those principles related with public participation and who are included in the Open Government Declaration, and within which the participating countries (Spain included) have a compromise to promote a specific form of citizen participation that go beyond simple consultation. See http://www.opengovpartnership.org/node/2727

[2] In the action plan, there is only one commitment that makes explicit reference to a participatory process, namely the electronic public consultation regarding the Transparency Act (and this process is related to formulation rather to implementation phase). Only in commitment 4 "Promotion of social networks to facilitate citizen participation", there is a quotation regarding public participation, but it really means citizen support in police campaigns, and whose implication is aimed at the promotion of the use of a pre-designed police policy instruments, rather than citizen participation in designing, monitoring, the implementation and evaluation of police's and public security policies.

[3] Ms. Esperanza Zambrano was invited to participate as a speaker at this forum, but due to previous schedule compromises, she was unable to attend.

IV: IMPLEMENTATION OF COMMITMENTS

This section outlines the requirements of the OGP commitments, then reports on each of the 13 commitments made by Spain.

OGP commitments must be structured around a set of five "grand challenges" that governments face. They must also incorporate four core open government principles. OGP recognizes that countries start from different baselines. Countries are charged with selecting the grand challenges and related commitments that most relate to their contexts. No action plan, standard, or specific commitments are forced on any country.

The five OGP grand challenges are:

1. Improving Public Services—measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications, and any other relevant service areas by fostering public service improvement or private sector innovation.

2. Increasing Public Integrity—measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom.

3. More Effectively Managing Public Resources—measures that address budgets, procurement, natural resources, and foreign assistance.

4. Creating Safer Communities—measures that address public safety, the security sector, disaster and crisis response, and environmental threats.

5. Increasing Corporate Accountability—measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement.

Countries may focus their commitments at the national, sub-national, and/or local level—wherever they believe their open government efforts can have the greatest impact. Recognizing that achieving open government commitments often involves a multi-year process, governments should attach timeframes and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible.

While the nature of concrete commitments under any grand challenge area should be flexible and allow for each country's unique circumstances, OGP commitments should be relevant to OGP valuesl aid out in the OGP Articles of Governance and OpenGovernment Declaration signedby allOGP participating countries.

The IRM uses the following guidance to evaluate relevance to core open government values:

- Access to Information-These commitments
  - pertain to government-held information;
  - are not restricted to data but pertains to all information;
  - may cover proactive or reactive releases of information;
  - may pertain to strengthening the right to information; and

- o must provide open access to information (it should not be privileged or internal only to government).

- Citizen Participation—Governments seek to mobilize citizens to engage in public debate, provide input, and make contributions that lead to more responsive, innovative and effective governance. Commitments around access to information

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

  - o often includes elements of information access to ensure meaningful input for decision making by interested members of the public;

  - o often promotes citizens' rights to be heard, but not necessarily the right to be heeded.

- Accountability—There are rules, regulations, and mechanisms in place that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments.

  - o As part of open government, such commitments have an "open" element, meaning that they are not purely internal systems of accountability without a public face.

- Technology and Innovation—Commitments for technology and innovation

  - o promote new technologies and offer opportunities for information sharing, public participation, and collaboration.

  - o should make more information public in ways that enable people to both understand what their governments do and to influence decisions;

  - o may commit to supporting the ability of governments and citizens to use technology for transparency and accountability; and

  - o may support the use of technology by government employees and citizens alike.

This report's section details each of the commitments that were included in Spain's action plan. The 13 commitments detailed here are in the same order in which they were originally presented. Therefore its numeration matches with those of the Plan.

While most indicators given on each commitment fact sheet are self-explanatory, a number of indicators for each commitment deserve further explanation.

- Relevance: The IRM researcher evaluated each commitment for its relevance to OGP values and OGP grand challenges.

  - o OGP values: Some OGP commitments are unclear in their relationship to OGP values. To identify such cases, the IRM researcher made a judgment based on a close reading of the commitment text. This identifies commitments that can better articulate their relationship to fundamental issues of transparency.

  - o Grand challenges: While some commitments may be relevant to more than one grand challenge, the reviewer only marked those that had been

identified by government (as almost all commitments address a grand challenge).

- Ambition:

  o Potential impact: OGP countries are expected to make ambitious commitments (with new or pre-existing activities) that stretch government practice beyond an existing baseline. To contribute to a broad definition of ambition, the IRM researcher judged how potentially transformative a commitment might be in the policy area. This is based on the researcher's findings and experience as a public policy expert.

  o New or pre-existing: The IRM researcher also recorded, in a non-judgmental fashion, whether a commitment was based on an action that predated the action plan.

- Timing:

  o Projected completion: The OGP Articles of Governance encourage countries to put forth commitments with clear deliverables with suggested annual milestones. In cases where this information is not available, the IRM researcher makes a best judgment, based on the evidence of how far the commitment could possibly be at the end of the period assessed.

1: Transparency, Access to Public Information and Good Governance Act

The Government recently approved the Preliminary Draft of the Transparency, Access to Public Information and Good Governance Act.

Transparency… The scope of available information is exceptionally broad, both from the viewpoint of specific requirements for making it public and from that of those compelled to do so, which includes all public administrations as well as those individuals who provide public services or exercise administrative power. To carry out these obligations to proactively make information public, we cannot talk about transparency without providing the adequate means for providing access to the information which has been made public. For this reason, the Transparency Act includes the creation of a Transparency Portal, because in an era of new technologies, it is essential to have a website which, by ensuring full accessibility, makes all of the information readily available.

Access to Public Information: … This right shall only be limited when necessary, due to the nature of the information—under the provisions of the Spanish Constitution—or when it comes into conflict with other protected interests. In any case, the stipulated limits shall be applied proportionately. Moreover, and given that access to information may directly affect the protection of personal data, the Transparency Act clarifies the relation between these two rights by means of clear checks and balances. In order to facilitate the exercise of this right, a streamlined procedure, with short deadlines for response and a grievance mechanism that includes lodging complaints before the National Agency for Transparency, Evaluation of Public Policies and Quality of Services, as well as judicial appeals.

Good Governance: … Good governance provisions shall be applicable to all those whose conduct, regardless of which public administration they serve, and precisely due to the functions they perform, must be exemplary. In addition, a series of infringements are specified, resulting from noncompliance with the following: legislation regarding conflict of interests; obligations regarding management of public funds; and the disciplinary regime which, it is understood, must be applicable to high-ranking officials. Moreover, new infringements are defined, arising from noncompliance with budget stability regulations. Committing such infringements shall lead to sanctions such as removal from public office, loss of compensatory benefits, obligation to return the amounts unduly received, obligation to pay compensation to the Public Treasury, or disqualification from holding public office.

… The Government has opened a public e-consultation process whereby any individual may make observations regarding the proposed text of the Act, and provide any suggestions considered appropriate. We understand that these contributions will help to ensure that the final version of our Transparency Act responds to the issues that are of most concern to our citizens.

The public e-consultation has lasted fifteen days, finishing on 10 April. Contributions that receive majority support shall be analysed with a view to incorporating them into the text. Moreover, the Government shall make available to Parliament all the suggestions made, in order to support the passing of the Act.

The definitive approval of the text is expected before the end of 2012.[1]

Commitment description						
Answerability	**Lead Institution**	Ministry of the Presidency				
	Supporting institutions	None specified				
	Point of contact specified?	None specified				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Relevance	**OGP grand challenges**	Increasing public integrity				
	OGP values	**Access to information**	**Civic participation**	**Accountability**	**Tech & innovation for trans. & acc.**	**None**
	1.Transparency Act	✔	✔	✔		
	2. Transparency website	✔			✔	

Ambition		
Milestone	**New vs. pre-existing?**	**Potential impact:**
1.Transparency Act	New	Transformative (the commitment entails a reform that could potentially transform "business as usual" in the relevant policy area)
2. Transparency website	New	Transformative (the commitment entails a reform that could potentially transform "business as usual" in the relevant policy area)

Level of Completion			
Milestone 1. Transparency Act			
Start date: March 2012	**End date:** December 2012	**Actual completion**	Substantial
		Projected completion	Complete
Milestone 2. Transparency website			
Start date: March 2012	**End date:** December 2012	**Actual completion**	Not started
		Projected completion	Complete

Next steps	
1.Transparency Act	New commitment building on existing implementation
2. Transparency website	Further work on basic implementation

What happened?

This is the most important commitment of the action plan, and it is the commitment about which the most details are known. It can be said that it was the most important commitment for the government, the best known by the general public and the only one that involved a dedicated consultation process.

This commitment had two milestones: the adoption of the Transparency, Access to Information and Good Governance Act (hereinafter "Transparency Act" or "Act") and the development and implementation of the Transparency website. The Act completed its passage through Parliament on November 28, 2013 and the Transparency website is not yet operational, although according to recent information, the Ministry of the Presidency is

already working on it and will be operational during 2014 as projected. Additionally, it should be noted that Commitment 8 included in this action plan "Revising and streamlining regulations" also depends on this Transparency Act.

However, due that the first milestone was achieved more than three months after the period covered by this independent report (and one year after established date for compliance in its action plan), this report can rate its progress only as substantial complete. Similarly, information about progress of the second milestone also came after the period covered of this report.

Transparency Act

The Minister of the Presidency, Ms. Soraya Saenz de Santamaría presented on March 23, 2012 the Transparency Preliminary draft, as one of the most important initiatives of the Parliamentary period.

Before beginning its parliamentary process, the Council of Ministries submitted the Transparency preliminary draft for public consultation. This consultation was conducted through an electronic form published on the website of the Ministry of the Presidency from March 26 until April 11, 2012. 3683 comments were received. The Government remarked that "it was the first time in Spain[2] that a public consultation process was opened to citizens."[3] Its outputs were also considered by government as "very positive" due the quantity of comments received and the 80,000 website visits during that period.[4]

The Government remarked that all public comments were subjected to analysis and taken into account, but only "those comments aligned with the philosophy of the Act" were included into consideration.[5] This consultation process was characterized by pros and cons: while there was high citizen involvement, there was also a lack of transparency, the use of weak consultation formats, and no broad call for participation nor clear accountability mechanisms. Further, the government 'fast-tracked' the passing of the Bill, a hurry that was justified by a previous presidential commitment to pass the draft during the first Parliamentary year. In May 2012, the Cabinet endorsed the bill, and in doing so did not wait for the opinion of the 38 experts of a Committee of Political and Constitutional Studies Center CEPC (an entity who depends to the Ministry of the Presidency) specifically created to discuss its content.[6] As the reporter María Fabra noted in reference to the received comments, the Government "claimed to have collected some of the recommendations, although it makes no mention of what recommendations were effectively taken into account, nor did the [3683] citizen comments become of public domain."[7]

Regarding these early changes included in the preliminary draft, organizations such as the OSCE (Organization for Security and Co-operation in Europe, in which Spain is a member) and others like Access Info Europe, described these changes as minor or as cosmetic ones, indicating that, as written, this law "does not follow the rules and principles set out by the Human Rights Tribunals or other international organizations, including the Council of Europe Convention on Access to Official Documents."[8]

The Bill was presented to the Spanish Congress in August 2012 and was published in the Bulletin of the Parliament in September, and began its parliamentary process. Public comments of consultation were not made public at this stage either. On this issue, the Ministry of Parliamentary Relations made a report of the consultation process. This document was included in the files submitted to Congress. However, this report was not made public, neither by government nor Parliament. In fact, to the date of making of this

report, this document is not available at either Ministry of the Presidency website or Congress's website. However, this document was eventually leaked, which is how it is known to the public.[9]

In addition, not only were the almost 3,700 public comments received requested by interested citizens and CSO's, but also by congressmen. During this period, a congresswoman complained about this issue, and as a response she only received a report made by the Ministry of the Presidency. She continued to insist with her request and the response from the Parliamentary Relations Office was to invite her to go in person to the Moncloa (headquarters of the Ministry of the Presidency) to consult that information,[10] explaining their refusal to deliver this information as due to the fact that during consultation the government did not include the caveat that the information could be made public, and therefore (…) is keeping secret in order to observe Spanish Data Protection laws.[11] With this action, Spanish Government failed to properly "…make available to Parliament all the suggestions made, in order to support the passing of the Act" as it declared in the last paragraph of this commitment.

During April 2013 a congressional committee held a series of hearings with the participation of 24 experts from the academia, public sector and some CSOs. In the Government's view, those hearings "served to contribute a parliamentary debate."[12] The government argues that due to this process many improvements were incorporated into the original text, including: an extension of the "subjective application" of the law; technical requirements that must take into account publication of information issues; increasing functions of the Transparency Council;[13] the enforcement of obligations related with active publication, and complaints resolution issues.

The Act ended its process in Congress by July 2013 and passed with amendments to the Spanish Senate in September 2013. Finally, on November 28, 2013, Parliament and the Senate voted on the amendments, and the Transparency Law was formally adopted and approved with some modifications. Congress passed the Law with the majority support of Popular Party (PP) Deputies and two nationalist groups support, while the remaining political parties voted against.[14] The law was published in the Official Gazette BOE (Ley 19/2013 del 9 de Diciembre) and came into force the following day.[15]

The Act provides a moratorium period of one year with respect to the Transparency section and a maximum two-year moratorium delay in the case of autonomous regions and municipalities, which will not be forced to abide by the Law until December 2015. The section about Good Governance has legal force from the date of its publication.

Did it matter?

According to Access Info Europe, for many years Spain was the only European country with a population of more than a million without a transparency and access to public information law.[16] With this Act a historic delay was finally overcome. As well, citizens and CSOs recognized that between the first draft and the passed Transparency Act there are many positive changes and inclusions.

However, several transparency CSOs agree about the improvable character of the approved Law and some of its constraints, as well as some of its negative or inaccurate elements with regard to its scope and approach.[17] Others argue that this law is incomplete because lobbying was not included or regulated in it as a practice. It has also been suggested that the Good

Governance section of the approved Law must preferably be part of another specific Act. Several OSC consider that the Transparency Law does not meet international standards.[18]

The debate between OSC, citizens, and experts over this issue has been based on four elements:

1. Transparency and access to public information as a fundamental right;

2. "Negative administrative silence;"

3. The scope of "subjective application" of Law and its exceptions; and

4. The independent character of the Council for Transparency.

1. The Act recognizes access to public information as an ordinary-level right rather than a human-basic right. According to the analysis of the Centre for Law and Democracy with Access Info Europe (based in turn on the use of indicators of Global Right to Information Rating) the Act "disregards judgments of the European Court of Human Rights and the treaties and agreements already signed by Spain."[19] The implications of such a question have practical relevance. For example, in case of conflict with other basic rights, access to public information could in practice be subordinate to other rights previously considered as basic or fundamental.[20]

2. Transparency International Spain (hereinafter TI-Spain) argues that the Act defines "a negative administrative silence regime that does not adequately support the right of citizens to have an explicit answer by public administration body, which in turn means that, if public servants do not want to answer to information requests, they simply keep silent and the request is considered denied in the elapsed deadline of one month."[21] Under this Act, the "negative administrative silence" can occur twice. That is because in case of inconformity, citizens can complain to the Transparency Council, a body that can also keep "negative administrative silence." Hence the public administration may remain silent without any legal consequences and without necessity to give any kind of explanation. Regarding the government's position on this issue, the Deputy Prime Minister Soraya Saenz de Santamaria said that "citizens have claimed to change "negative administrative silence" into a positive silence, but this claim was rejected because (...) there are sensitive issues of public security and national defense, whose change would harm the public's (or third parties') interests that we understand we must preserve."[22]

3. During this Act's parliamentary proceedings, new public and private entities who receive important amounts of economic resources from public funds, such as the Royal Family, political parties, entrepreneurship organizations and unions, were covered by transparency requirements. However, the Act indicates several exceptions, and although all public organizations are required to publish institutional and organizational information (in terms of proactive publication), many other organizations have no obligation to publish information regarding:

- Annual plans and programs, legal information and assets, (obligations by Law that only apply to entities of public administration)

- Contracts, agreements, or grants, if not held with Government.

Consequently, political parties, trade unions and business organizations as well as private entities that receive during the one year period in aid or subsidies exceeding €100,000 shall publish information on their contracts and grant agreements only if they are with a

governmental body. This excludes, for example, access to information about contracts of political parties or unions signed with private companies.

Furthermore, this Act has 13 exceptions by which public organizations may refuse to provide information, which in the opinion of some specialists should not be a problem if the Act is properly implemented, while others argue that it may favor a high level of discretion[23] or, depending on how it may be interpreted, could even become a useless Law.[24] Public officials could limit access to public information simply by arguing to preserve "the guarantee of confidentiality or secrecy required during the decision-making processes." However the Law (Article 14) indicates that these criteria "… will be justified and appropriate to their object and purpose of information protection, and will seek to address the circumstances of each case (…)" Access Info Europe argues that the Act contains a number of very relevant exceptions related to complementary or support information, like notes, drafts, reviews, summaries, and internal communications between administrative bodies or public agencies, whose access is not covered by law and whose requests can be rejected simply through a written "reasoned decision".

4. Finally, the independent character of the Council for Transparency is questioned. As TI Spain argues:

> "In reference with the Council for Transparency and Good Governance, we believe that it is a body that is born with lack of autonomy. Firstly, this is because the Council's president is appointed directly by government, and its parliamentary endorsement requires the mere application of a simple parliamentary majority. It would be appropriate, in order to ensure an adequate level of consensus, that these appointments should be approved by a qualified majority rule in Parliament. Secondly, is created a Council for Transparency with no powers, whose only task given its nature and composition, seems to be to give control capabilities to the President (Prime Minister)."[25]

Moving forward

Since the parliamentary process is finished, the Law is now adopted and this commitment is completed. There are no proposals linked to the Act.

However, and taking into account TI-Spain's comments, it is important to note that all Act accomplishment measures must consider all Spanish territory. It is recommended to clarify its territorial jurisdiction, with no exceptions, and with no prejudice to complementary laws of autonomous regions adopted in this area, recognizing the binding decisions made by Council for Transparency. Additionally, taking into account Access Info Europe's comments, it may be useful to include some specific improvements in the regulation phase of this Act, aimed at reducing as much as possible the requirements for requesting access to public information.

Regarding the second milestone, Government should redouble its efforts to effectively release the transparency website during 2014, as Government has previously committed. In doing so, Government may articulate an ambitious strategy of opening up this website by publishing for example, data about received complaints and their resolutions, or bu incorporating periodic reports on access to information requests from the citizens, or by publishing in this website the released public information as a result of citizen requests, in order to make public and accessible the requested information for all citizens. This action would require that the administrative units responsible from Public Administration that attend to those requests be able to update the records of its proceedings into the

Transparency website. That the citizens be able to know what public information is requested by citizens and how the Council for Transparency conducts its duties, are both tasks of a paramount importance to guarantee transparency of this Council. It is also recommended to promote citizen interaction and participation in this website by using, for example, virtual discussion forums on transparency related topics.

On the other hand, assuming that public consultation is relevant as a tool to engage citizens in law-making, the Transparency Act's preliminary draft consultation experience should provide the government with relevant information and knowledge that is useful in making improvements for the design and integration of these participatory methods for further consultation process.

The IRM researcher agrees with TI-Spain's assertion that the new Transparency Law implies "a major social breakthrough and a key way to improving citizen participation and the quality of democracy in Spain." In any case, given the moratorium of one to two years to entry into force, it may be useful to monitor the implementation process as well as the "active transparency" measures of the responsible institutions affected by the Act. This implies to not only make efforts in tracking progress, but also to carry out advising, information and training activities.

[1] In this case, for space limitations, the report has abridged the original text of the commitment.

[2] Although there is a similar previous experience in the use of the public consultation, not for a law, but for a Royal Decree for the implementation of the Law 37/2007 on the Reuse of Public Information. http://goo.gl/dJY2S

[3] Consejo de Ministros. Ministerio de la Presidencia. "El Gobierno presenta la Ley de Transparencia." March 23, 2012. URL: http://goo.gl/HpZ8x4 (Retrieved: november 29, 2013)

[4] According to some members of Pro-Access Coalition, this broad participation was given not because of the outreach work make by government but mostly by the work of public awareness and dissemination made by members of CSOs.

[5] Consejo de Ministros. Ministerio de la Presidencia. "El Gobierno incorpora a la Ley de Transparencia las aportaciones de los ciudadanos" May 18, 2012. URL: http://goo.gl/KAIGB6 (Retrieved: november, 29 2013)

[6] During 2012, CEPC held five meetings with expert groups, where main features of this Act were discussed and some recommendations were offered. More at CEPC. Transparency Bill Panel. URL: http://bit.ly/1gvcRV7 (Retrieved: October 20, 2013)

[7] Fabra, María: "El Gobierno 'esconde' las sugerencias ciudadanas a la Ley de Transparencia" News From elpais.com September 10, 2012. URL: http://goo.gl/oQOxC7 (Retrieved: October 20, 2013).

[8] OSCE. Comments on the second draft of the Law on Transparency, Access to Information and Good Governance. June 2012. URL: http://www.osce.org/es/fom/91312 (Retrieved Octuber 30, 2013)

[9] Cabra, Mar: Los informes ocultos de la Ley de Transparencia . http://goo.gl/Ev19K eldiario.es . September 10, 2012 (Retrieved: October 30, 2013). See also Access Info Europe : Comentarios sobre el borrador del Plan de Acción de España para el Open Government Partnership. April 9, 2012. URL: http://goo.gl/lNJntY (Retrieved: November 14, 2013). See also document made by the Ministry of the Presidency: Informe sobre la Consulta Pública Electrónica del Anteproyecto de Ley de Transparencia, Acceso a la Información Pública y Buen Gobierno. No date: (Date of registry: August 3, 2012. Num: 25865). URL: http://bit.ly/1h6AxfR

[10] In the view of some CSOs, the government could simply dissociate data in order to make these comments public and without any harm to privacy. See also: Fabra, María "Si insiste, venga usted a La Moncloa". News from elpais.com. October 15, 2012. URL: http://goo.gl/OGvotf (Retrieved: October, 30 2013).

[11] Fabra, María "Si insiste, venga usted a La Moncloa". News from elpais.com. October 15, 2012. URL: http://goo.gl/OGvotf (Retrieved: October, 30 2013).

[12]Ministery of the Presidency. Borrador del Informe de Autoevaluación. Plan de Acción de España en Gobierno Abierto. URL: http://www.mpr.gob.es/servicios/ogp/index (Retrieved: October 22, 2013.)

[13] Originally it was suggested in the Transparency draft that an existing body (AEVAL - The Spanish National Policy Evaluation Agency) will make these tasks into practice. But further changes in the draft expressly established a specific body to develop these tasks, namely, the Council for Transparency.

[14] In July 14, 2013, due to corruption scandal about irregular funding by the Popular Party, or "Barcenas Case" and the publication of several SMS exchanged between President Mariano Rajoy and the Popular Party's treasurer, the leader of the Socialist Party (PSOE the major oppositional party) formally broke relations with government, a support withdrawal strategy to legislative initiatives, and specifically about Transparency Act. As a consequence, the Popular Party could not find consensus with any party during final stages in parlamentary process, and hence they could not obtain the majoritarian support for the Parliament. The Law was approved based on majority rule of the Popular Party with only the support of the Nationalist Basque Party (PNV) and the Catalonian party (CiU). On the other side, Socialist Party (PSOE), the Left Coalition (Izquierda Plural) and UPD Party voted against.

[15] Ley 19/2013, de 9 de diciembre, de Transparencia, Acceso a la Información Pública y Buen Gobierno. Boletín Oficial del Estado. December 13, 2013 URL: http://goo.gl/nY6da9 (Retrieved: January 25, 2014). A significant finding: In the preamble of this Act, that is, the definitve text published by Official Spanish Gazette BOE, there is no mention about the public consultation process to improve the preliminary draft.

[16] Access Info Europe : Comentarios sobre el borrador del Plan de Acción de España para el Open Government Partnership. April 9, 2012. URL: http://goo.gl/lNJntY (Retrieved: November 14, 2013).

[17] For example, congressman Joan Josep Nuet said that the approved Transparency Law does not solve the participation and transparency challenges of the country "because of an antiquated, old, and limited Law, in any case it is perhaps a good Act for XX Century, but not for XXI Century." November 28, 2013.

[18] According to a preliminary study made by Access Info Europe with the Center for Law and Democracy and reviewed by international experts "... with the approval of the bill as is written, Spain would get 68 points out of 150 and stay in position 75 out of 95 countries." See "Global Right to Information Rating". URL: http://www.rti-rating.org/ (Retrieved: October 30, 2013)

[19] Centre of Law and Democracy and Access Info Europe (2013) Análisis del Proyecto de Ley de Transparencia y Buen Gobierno. September 10, 2013. URL: http://goo.gl/aNgYdP (Retrieved: Octuber 10, 2013)

[20]As Government itself remarks, in the Spanish legal system "... the regulation of a matter by Organic (general) Law does not imply a hierarchical supremacy over other Laws. The use of one or another instrument depends on the subject to be regulated, being regulated by a General Law only those fundamental rights recognized by the Constitution. The right of access to information is not part of the catalog of fundamental rights that are summarized in Section 1 of Chapter II of Part I of Spanish Constitution."

[21] Transparencia Internacional España (2013). Posición y consideraciones de Transparencia Internacional España sobre el nuevo proyecto de Ley de Transparencia (aprobado en el Congreso de los Diputados el 12 de septiembre 2013.) URL: http://goo.gl/VTZATL

[22] Consejo de Ministros. Ministerio de la Presidencia. "El Gobierno incorpora a la Ley de Transparencia las aportaciones de los ciudadanos" May 18, 2012. URL: http://goo.gl/KAIGB6 (Retrieved: Novernber 29, 2013).

[23] OSCE. Comments on the second draft of the Law on Transparency, Access to Information and Good Governance. June 2012. URL: http://www.osce.org/es/fom/91312 (Retrieved: October 29, 2013)

[24] Martín, Patricia: "El Congreso aprueba la ley de transparencia con el único apoyo de los nacionalistas". News from elperiodico.com. November 28, 2013. URL: http://goo.gl/Zdaiuy (Retrieved: november 28, 2013).

[25] Transparencia Internacional España (2013). Posición y consideraciones de Transparencia Internacional España sobre el nuevo proyecto de Ley de Transparencia (aprobado en el Congreso de los Diputados el 12 de septiembre 2013.) URL: http://goo.gl/VTZATL

2: Transparency and Accountability of Official Development Assistance.

The Spanish Government considers that the transparency and accountability of international development assistance must become one of the pillars of Spain's cooperation policy. Therefore, we are committed to establishing a system that fully ensures transparency in Spanish Cooperation's funding and actions. The system shall be implemented gradually, designing targets whose scope and quality may be broadened over time.

a) To this end, progress will continue on Spain's Official Development Assistance information system (info@OD), incorporating, over the course of 2012, a tool for information access and analysis, accessible to any institution or citizen. Likewise, work shall be done to publish, through info@OD, regular information updates on Spanish Cooperation, and to shorten the deadlines for making available to the public data on the Annual International Cooperation Plan and its monitoring.

b) In addition, Spain shall work to continue fulfilling the commitments undertaken within the framework of the International Aid Transparency Initiative, publishing information in accordance with its standards and increasing the frequency of updates.

c) Moreover, the Spanish Agency for International Development Cooperation (AECID) has taken on the commitment to create a plan covering the documents to be published on its website, the deadlines and mechanisms for requesting information, and citizen participation. In the first quarter of 2013, and for the first time, an annual report will be published, containing information on implementation of the previous year's budget, the monitoring of the planning, and a report on the actions carried out.

d) With regard to all the subsidies granted by the Spanish Agency for International Development Cooperation (AECID),the obligation of total transparency shall be implemented; not only regarding announcements of subsidies and decisions taken, but also the criteria for evaluation thereof. To this end, all actors receiving Spanish public funds, whether DNGOs, multilateral organizations or governments, shall be required to act following the same principles of greater openness and transparency, providing information on the financing and implementation of the projects approved.

e) As for evaluation, there is a commitment to improve publication of and access to all the evaluation reports on cooperation policies, strategies, programmes and projects, as well as to promote access to evaluations of funds and programmes financed by Spanish contributions and carried out by other actors.

Commitment description		
An sw er abi lit y	**Lead Institution**	Ministry of International Affairs and Cooperation (MAEC)
	Supporting institutions	Spanish Agency of International Development Cooperation (AECID)
	Point of contact specified?	No
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)
Re lev an ce	**OGP grand challenges**	Increasing public integrity

	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
	1. info@OD	✔			✔	
	2. Annual Report	✔				
	3. Total transparency	✔				

Ambition		
Milestone	**New vs. pre-existing?**	**Potential impact:**
1. info@OD	Preexisting	Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)
2. Annual Report	New	Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)
3. Total transparency	New	Transformative (the commitment entails a reform that could potentially transform "business as usual" in the relevant policy area)

Level of Completion			
Milestone 1: info@OD			
Start date: Not specified	**End date:** 2012	**Actual completion**	Substantial
		Projected completion	Complete
Milestone 2: Annual Report			
Start date: 2012	**End date:** First Quarter 2013	**Actual completion**	Complete
		Projected completion	Complete
Milestone3: Total transparency			
Start date: 2012	**End date:** 2012	**Actual completion**	Substantial
		Projected completion	Complete

Next steps	
1. info@OD	New commitment building on existing implementation
2. Annual Report	New commitment building on existing implementation
3. Total transparency	Further work on basic implementation

What happened?

info@OD System

According to the draft self-assessment, in 2012 the government put in place the info@OD information system, an economic and financial development assistance application, through which it is possible to have a set of unified financial management and budget information of all projects related with Spanish aid as a whole. Info@D system has two modules, the "Informant" (https://infoaod-info.maec.es/) module and the "Analyst" module (https://infoaod.maec.es/). Both modules have different specifications as well as target users.

The Informant module is used to get and update information about cooperation projects. To access the Informant module it is necessary to have a username and password. The Analyst module in which current transparency strategy is rooted, allows all web visitors to download data and make dynamic queries about Spanish official development assistance projects. During the making of this report, the researcher has confirmed "informant" is a restricted access module, while "Analyst" module was not yet operational to the public. However, during the review period to this independent report, Government reported that info@OD system was favorably received by an auditor of the General Comptroller of the State Administration, and that since December 2013 the Analyst module is available for 2011 and 2012 using several filters (types of actors, donor institutions, geographic area, tools and aid development areas, etc.). This undoubtedly represents a substantial advance the transparency of Official Development Assistance. Custom queries can be sorted and exported in XLS format. Also, Analyst module has a section that allows users to export to XLS the Annual Plan for International Cooperation (PACI) from 2000-2012, and includes thousands of detailed records with complete information on PACI projects and the amounts of committed and disbursed aid.

An unmentioned but quite relevant milestone of this commitment is the active publication website project for the Spanish cooperation (http://www.cooperacionespañola.es). As an "in progress" project, it was presented internally to public servants in October 2013. This website will seek to integrate all information about efforts of the various Spanish actors linked to development cooperation as a whole. On this website government will create a direct link to the info@OD Analyst module and, according to the Head of the Statistical Service of the General Bureau for Development Aid of MAEC, the government will also publish the most important development cooperation documents, as a way to open up and improve communication venues between these cooperation actors and the general public.[1]

Publication of the annual report and Plan covering the documents to be published

The publication schedule had not been defined, with the AECID Annual Report 2012 only 'prepared. During a meeting with the Planning, Efficiency and Quality Chief Unit (UPEC), it was reported that they were improving the website process, and soon they will publish the annual report to coincide with the 25 anniversary of AECID, and with the renewed AECID website launching. Since November 2013, this report from 2012 is available and offers, in PDF format, information about budget implementation as well as a statistical annex.[2]

Active publication

There was no progress on improving standards of transparency obligations for official aid counterpart entities, nor did government improve the access to reports and project documentation. On the other hand, there have been advances around greater transparency

(via active publication) in grants awarded by the AECID, specifically related with improvements in assessment criteria. For example, the 2011 "Orden de Bases"[3] defined standards relating to the allocation of grants in a competitive basis, and established criteria by which proposals will be selected. More importantly, for the first time this mechanism requires the specification of who the evaluators will be, as well as their specific functions. As well, this order requires to makes public in an ordered list all submitted proposals, according to the obtained score as a result of this assessment, sorted by countries or areas (art. 11). The first Public Call that was implemented under these new rules was the 2012 NGOs projects and the scores publication was available on the AECID website.[4]

Did it Matter?

In a decentralized cooperation system as in the Spanish case, it is of paramount importance to integrate the scattered information from various entities and unify it, and to develop an information system that was non-existent in the past. The launching of info@OD analyst modules is a step forward, allowing that this important public information be accessible, and downloadable in file formats for citizen monitoring and control actions.

In the Annual report of the International Aid Transparency Institute, Spain has sent its standardized information that is available since 2011. This report also pointed out that Spain has made a greater commitment to transparency in official development assistance, through the development of its info@OD system.[5] However, according to ATI Index, Spain does no tinclude updated information[6] and is far from meeting IATI standards, standing at position 29 of 49, with a 17.4% rating.[7]

Moving forward

Echoing the ATI Index, the IRM researcher recommends that information on aid development must be updated every four months. The researcher also recommends updating the timetable for implementation in early 2014 to make it more ambitious and including full implementation of the IATI standard in late 2015.

Regarding the publication of the annual report on implementation of the budget by the AECID, the IRM researcher recommends standardizing information into open data formats to allow its reuse. This information may be released as part (or annex) to the already published reports.

It is strongly recommended to redouble efforts to launch the www.cooperacionespañola.es website, as an open and effective platform for assessment of cooperation strategies, programs and projects and to give access to assessment funds and programs financed by Spanish contributions. The IRM researcher also recommends redoubling efforts to make involved entities transparent counterparts in the use of cooperation funds as a regular and standardized practice. Due to its importance to effectively increase transparency in development assistance, it is also recommended to carry out outreach activities for info@OD analyst module tool, so that citizens may know it and access it as an open system of economic and financial cooperation projects.

---

[1] Personal Communication. Ana Henche Cuesta. Jefe del Servicio de Estadística de la Subdirección General de Políticas de desarrollo. Secretaria de Estado de Cooperación Internacional y para Iberoamérica. MAEC. (November 5, 2013).

[2] See Press Release. "La AECID publica su Memoria 2012" October 30, 2013. URL: http://goo.gl/q8Vjnk

[3] Orden AEC/2909/2011, de 21 de octubre, por la que se establecen las bases para la concesión de subvenciones de cooperación internacional para el desarrollo http://goo.gl/bUvDk9

[4] See http://goo.gl/TrTL3 (Preliminar list of proposal projects for approval)

[5]IATI. "International Aid Transparency Institute Annual Report 2013". URL: http://goo.gl/deegJO (Retrieved: December 2, 2013) pag. 86.

[6] Referring to IAT Index, government argues that "… too many experts are critical about the index configuration. This index is based primarily on the availability and the information in the IATI databases, hence, prioritizing criterion for the quality of this information. (…) Spain considers that the information reported to the Committee on Development Aid is equally transparent CAD and of a much higher quality".

[7] ATI Aid Transparency Index 2013 http://ati.publishwhatyoufund.org/donor/spain/ (Retrieved November 1, 2013); Memoria de Actividad 2012. AECID. URL: http://goo.gl/VhRJn3 (Retrieved December 2, 2013).

3: Organic Law on Budget Stability and Financial Sustainability.

This Organic Law fullfils the mandate set forth in Article 135 of the Spanish Constitution, and is to be the legal and economic foundation of the budget policies of all Public Administrations. Thus, Spain is leading the way as one of the first countries to incorporate the European Union's budget discipline rules into a text of the highest legal rank.

The draft Organic Law—the basic aims of which are to ensure the budget sustainability of all Public Administrations and achieve greater rigor in budget information and the implementation and monitoring of the budget of the Public Administrations—is based on the European Union's regulations regarding fiscal discipline, and is currently being debated in Parliament. Its definitive approval is expected for the first half of 2012.

Commitment description						
An sw er abi lit y	**Lead Institution**	Ministry of Finance and Public Administration				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	**OGP grand challenges**	More effectively managing public resources				
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
						✔
Ambition						
New vs. pre-existing? Pre-existing		**Potential impact:** Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)				
Level of Completion						
Start date: Already in process		**End date:** April 2012		**Actual completion**	Complete	
				Projected completion	Complete	
Next steps						
New commitment building on existing implementation						

What happened?

The self-assessment described this commitment, known as the "Budget Stability Act," as fully achieved. On 27 April 2012, the Organic Law on Budget Stability and Financial Sustainability[1] was approved. Its scope includes the public administration at all levels (central government, state government, local government) as well as social security system offices.

According to some stakeholders, these kinds of laws have no direct relevance to improve transparency.[2] As written, it was not clear or explicit if this commitment was adequately related to OGP values.

Related to but not included in this commitment (and perhaps a more important feature in improving transparency of public administrations) are the advancements regarding 2013 State's Budget Law. The Act of 3 June 2013 requires by law all public sector organizations who have no legal obligation to publish their annual accounts in the Commercial Registry, to publish in the Official Gazette BOE their auditing reports, along with information of their annual budgets and expenditures.[3] This also implies "to make public the auditor's opinion to citizens in connection with the asset, financial and budgetary situation of those entities." This law also established the procedure for the publication of auditing reports and financial statements.[4]

Did it Matter?

This law has its origins in a previous political agreement of 2011 between the two main political parties that established, under highest legal authority, budget discipline through financial spending limitations. This law aims to give greater assurance of stability and control over budgetary expenditure, with the aim of achieving greater outward confidence and supporting previous commitments by the Government to Europe. Therefore, this is not a law of transparency or accountability oriented to citizens.

The second milestone, not included in the first action plan (but included in the self assessment) is a very important achievement. The mandatory publication of the annual accounts and audits of all public entities facilitates the access to information over asset, financial and budgetary situations of those entities, constituting a significant improvement for public administration transparency as a whole.

Despite this progress, the publication of this information is in PDF format, thus hindering data processing and analysis. There is no specific website to consult these financial statements and audits. The search engine of BOE Gazette is not intuitive and requires using exactly the right words in the search filters available.

According to some stakeholders, simply releasing accounts and audit summaries is not enough to attain budget transparency of public institutions. Deepening budget transparency also requires publishing detailed information about the implementation of budgets and the expenditure forecasts, all in raw data formats as demanded by stakeholders and political parties in Congress.[5]

Moving forward

Based on stakeholder recommendations, the IRM researcher recommends that further steps linked to this commitment go beyond the imperative of budgetary stability and provide information on the accounts, that is, the definition of new commitments to greater transparency of public administrations. Specifically:

- Improve quantity and accessibility of information of government accounts, centralizing all this information into the planned new transparency website.

- Improve the type and quality of information provided, beyond public accounts and their audits to include detailed budget execution reports, action plans and programs, and detailed expenditure forecast information.

- Use open data standardized file formats that allow computer processing for analysis.

---

[1] Ley Orgánica 2/2012 de Estabilidad Presupuestaria y Sostenibilidad Financiera. 27 de abril de 2013. http://goo.gl/eVyXDB Retrieved October 28, 2013.

[2] Acess Info Europe Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto. October 2013. Pag 3. http://goo.gl/7e6ahD Retrieved October 28, 2013.

[3] Cruz-Rubio, César Nicandro. "Corroboración del Compromiso 3 Ley Orgánica de Estabilidad Presupuestaria y Sostenibilidad Financiera incluido en el Borrador del Informe de Autoevaluación" October 21, 2013. http://www.screenr.com/IozH (Retrieved October 21, 2013).

[4] Ministerio de Hacienda y Administraciones Públicas. "El BOE publica por primera vez los informes de auditoría de las cuentas anuales de todas las entidades del sector público". Press Release. September 16, 2013. http://goo.gl/9jI7tW (Retrieved October 27, 2013)

[5] Acess Info Europe. Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto. October 2013. Pag. 3. http://goo.gl/7e6ahD Retrieved October 28, 2013.

4: Amending the Subsidies Act

The procedure for granting public subsidies must respond to specific criteria set forth in an announcement governed by the principles of publicity, transparency, competitive concurrence, objectivity, equality and non-discrimination, complemented by the necessary effectiveness in meeting the goals set and efficiency in the use of public resources. The existence of nominative subsidies has led to an abusive use of such grants, aimed at sidestepping the guiding principles that should regulate them. We are committed to the rational use of public funds, and therefore during 2013 an amendment will be introduced to eliminate nominative subsidies as a general rule in legislation on subsidies, to increase transparency regardinghow they are granted and in their implementation and impact evaluation, and to define standard granting criteria.

Commitment description						
An sw er abi lit y	Lead Institution	Ministry of Finance and Public Administration				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	OGP grand challenges	More effectively managing public resources				
	OGP values	Access to information	Civic participa tion	Accountabil ity	Tech & innovation for trans. & acc.	None
		✔				
Ambition						
New vs. pre-existing? New		Potential impact: Minor (the commitment is an incremental but positive step in the relevant policy area)				
Level of Completion						
Start date: Not specified		End date: 2013		Actual completion	Limited	
				Projected completion	Complete	
Next steps						
Further work on basic implementation						

What happened?

The self-assessment rated this commitment as "partially complete". Some stakeholders disagreed, considering this commitment as "not started." They argued that no progress was made because the publishing and implementation of a single web repository of subsidies for small and medium enterprises (SMEs) does not imply a more transparent system for awarding grants, since the explicit objective in the action plan is to generate mechanisms to increase transparency in the granting, execution and evaluation of the impact of subsidies.[1]

The Amending of the Subsidies Act[2] has not yet started its legislative process. The Government reports that, while there is no progress advancing the committed legal reform, "specific measures have been taken to comply with the proposed objective." For example,

the initiative of the Ministry of Industry, Tourism and Trade to broaden database of grants and subsidies for SMEs, and thus to have in a single repository the grants and subsidies from government and its agencies, accessible to all citizens." This tool is currently operational[3] as outlined in the self-assessment, and has more than 900 active records about aid and incentives.

Therefore, the IRM researcher has rated this commitment's progress as limited.

Did it Matter?

Having in a single web repository all grants for SMEs is an important step. But it is unclear how this relates to greater transparency in the grant allocation processes, either in competitive or direct grant schemes, or as the management procedure and justification of public subsidy granted. SMEs are not the only possible beneficiaries of grants. As it is declared in the commitment, the main detected problem is not transparency by itself, but the diversion of resources as a result of the use and abuse of "general subsidies grants."

Moving forward

The IRM researcher recommends that the government begin the legislative process, and to include in the law active transparency mechanisms[4] that force government to observe public standards for information, allow citizens to know and get access from a single web repository, to the entire information on grants and subsidies. This should include information from either public or from 'Business Angels' networks and for all types of entities (individuals, SMEs, associations, foundations).

These active transparency mechanisms could be integrated into the amended act, and may depend on the Internet. They could also help to publicize in detail the status of the processing of each and every public grant and the executed budget.

---

[1] Acess Info Europe: "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October, 2013. Pag. 3. http://goo.gl/7e6ahD (Retrieved October 28, 2013). See also: Grupo de Debate de Evaluación del Plan de Gobierno Abierto de España en Novagob. "Comentarios al borrador del Informe de Autoevaluación del Plan de Acción de España con OGP" October, 2013. URL: http://goo.gl/zSkqXP (Retrieved: October 28 2013).

[2] Ley 38/2003, de 17 de noviembre, General de Subvenciones. BOE. URL: http://bit.ly/1hQXUwJ (Retrieved: November 24, 2013)

[3] Cruz-Rubio, César Nicandro. "Corroboración del Compromiso 4 Reforma a la Ley de Subvenciones incluido en el Borrador del Informe de Autoevaluación" November 24, 2013. http://www.screenr.com/CrPH (Retrieved November 24, 2013).

[4] Active transparency is here understood as "... an obligation of public administration to publish the information. (...) A routine administrative work. This is to say, all that is produced by public Administration should be visible, easily located and clearly expressed. See Ortiz de Zárate, Alberto "Tres tipos de transparencia" Blog Administraciones en Red. March 28, 2012. URL: http://eadminblog.net/2012/03/28/tres-tipos-de-transparencia/ (Retrieved November 24, 2013)

5: E-Justice Administration

The Government shall create an agency specifically dedicated to justice information sharing among the relevant public administrations, to facilitate interoperability through an IT system enabling immediate online access to judicial data and information contained in public registries relating to the administration of justice. The aim of this agency will be to collaborate with the new European agency for the management of IT systems in the area of freedom, security and justice, and in safeguarding the security of judicial information.

Commitment description						
An sw er abi lit y	**Lead Institution**	Ministry of Justice				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	**OGP grand challenges**	Improving public services				
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
						✔
Ambition						
New vs. pre-existing? New		**Potential impact:** Minor (the commitment is an incremental but positive step in the relevant policy area)				
Level of Completion						
Start date: Not specified		**End date:** Not specified		**Actual completion**	Limited	
				Projected completion	Substantial	
Next steps						
Revision of the commitment to be more achievable or measurable						

What happened?

The self-assessment described this commitment as a "partially complete" initiative, while some stakeholders consulted did not agree with the level of progress reported by government.[1] According to government, they have been unable to begin the process to comply with commitment and with the creation of this agency, given existing legal and budgetary constraints. Moreover, during the comments period for this report, the government informed that the agency would definitely not be created, and hence, the achievement of this commitment depends on actions within another distinct body.

To this end, the most relevant actions were the approved internal rules of the State Technical Committee on e-Justice Administration (CTEAJE), according to the Royal Decree 396/13, 7 June 2013.The origins of this committee comes from 2011, with Law 18/11 of 5 July, which regulates the use of ICT in e-justice. CTEAJE's mission is to coordinate the actions of all justice

operators (General Council of the Judiciary, the Ministry of Justice, the General Attorney and the Autonomous Communities) to ensure both interoperability and the security of the information systems of e-justice administration, in order to have "full capacity to share data and to enable the exchange of information between them",[2] "avoiding duplication and reducing problems linked to slow procedures and at the same time, obtaining important cost reductions."[3]

The CTEAJE Standing Committee held its first meeting on 17 September 2013.[4] As noted by the Ministry of Justice, CTEAJE will be not able to hold the attributions and powers of an Agency, due to a lack of independent financial resources. Although it is already formed and its internal norms are approved,[5] CTEAJE guidelines have not yet been defined. This will occur in the first half of 2014.

Did it Matter?

This commitment focused on developing an e-government strategy to promote a more effective and efficient internal management information system of justice, linking judicial systems and making e-justice administration data interoperable. As such, it is not clear how this commitment may involve core values of open government, because it does not imply involving citizens in decision-making process, policy implementation or evaluation, nor is it seen as a useful tool to deepen transparency or make e-justice more accountable.

Moving forward

If the government wishes to incorporate open government and transparency values into this area, the IRM researcher recommends revising the commitment. The creation of the interoperability agency should not be a goal by itself, but rather the development through another entity, or CTEAJE, of a clear strategy aimed at opening public information about court records relating to the administration of justice.[6] In this regard, this commitment may be reoriented to expand and enhance resources and goals of the Court Documentation Centre (CENDOJ), which, despite being operational, does not yet include all sentences and orders of the High Courts. Furthermore, the justice administration system currently has to rent or purchase private web services for their judges, instead of improving CENDOJ, which is a public and free access information system.[7]

---

[1] Access Info Europe : "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October, 2013. Pag. 3-4. http://goo.gl/7e6ahD (Retrieved October 28, 2013).

[2] Ministerio de la Presidencia. Borrador del Informe de Autoevaluación. Plan de Acción de España en Gobierno Abierto. URL: http://www.mpr.gob.es/servicios/ogp/index (Retrieved October 22, 2013.)

[3] Ministerio de Justicia. "El Ministerio pone en marcha la Comisión Permanente del Comité estatal que evitará duplicidades en los sistemas informáticos". http://goo.gl/qN54cB Press Release: September 17, 2013 (Retrieved: Novermber 24, 2013).

[4] Ministerio de Justicia. "El Ministerio pone en marcha la Comisión Permanente del Comité estatal que evitará duplicidades en los sistemas informáticos". http://goo.gl/qN54cB Press Release: September 17, 2013 (Retrieved: Novermber 24, 2013)

[5] See algo CTEAJE website into Justice Administration website. Ministry of Justice. http://goo.gl/BbvTbA (REtrieved: January, 25 2014)

[6]Closely related, another key challenge in this area is to make make justice administration more transparent as a whole. Remember that Transparency Act does not include all Justice administration entities.

[7] Belmonte, Eva: "El CGPJ pagará 123 euros al año por cada licencia de buscadores privados de sentencias y leyes para los jueces". http://goo.gl/iS1uNk El BOE nuestro de cada día. 24 September 1013. (Retrieved: January 25, 2014).

6: Promoting social networks to facilitate citizen participation

During 2012, IT projects shall be implemented, to enable citizen interaction through social networks, web-based technology and specific mobile phone applications. Local Security Councils will be revamped as a means for channeling relations between security forces and the public.

Moreover, our aim is to work on developing an initiative, launched last 26 January, by means of which citizens may use Twitter to report information related to drug trafficking. This will make it possible to provide a more immediate and approachable response to citizens' concerns in this regard.

Commitment description						
An sw er abi lit y	**Lead Institution**	Ministry of the Interior				
	Supporting institutions	National Police Department – National Traffic Department				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	**OGP grand challenges**	Improving public services				
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
			✔		✔	
Ambition						
New vs. pre-existing? Pre-existing		**Potential impact:** Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)				
Level of Completion						
Start date: 2012		**End date:** No end date specified		**Actual completion**	Substantial	
				Projected completion	Complete	
Next steps						
New commitment building on existing implementation						

What happened?

The government, through the Ministry of Home Affairs and Police's and Civil Guard and Traffic's General Offices, has implemented several citizen security initiatives based on the use of social networks.

- The National Police and Civil Guard have several active profiles on main social networks used in Spain (Facebook, Twitter, Myspace), as a means exchange all kinds of relevant citizen security information. Through these profiles the police receive information from citizens, which is filtered and sent to the relevant security unit. The Twitter account @policia is the most successful,[1] due not only to the plain language

used by its operators, but for establishing communication parameters that convey trust and proximity.[2]

- One of the most famous and successful police campaigns was "Tweetredada" (#tweetredada), designed to obtain police information from citizens related with drug trafficking and related illegal activity. The Tweetredada format was also used in September 2013 (albeit with less success) to request information about vandalism.[3]

- Another useful traffic and police initiative is the information provided about traffic status on roads and highways. In July 2013, the Traffic's General Office (DGT) opened two new Twitter profiles @informacionDGT and @DGTes for providing advice, information and tips on road safety.[4] To date, these profiles together reach 19,000 followers and also support the existing web profile in Facebook.[5]

- In the self-assessment, government announced that before the end of 2013 the SIMASC App would be launched. With SIMASC it will be easy to report incidents of police interest in a multi-channel format and will establish an effective communication tool with security authorities. There are similar apps to SIMASC already operating in other countries (for example in Mexico City, "Mi Policía" App).

- Finally, "Mi Casa a Salvo" (My Home Safe) was a security campaign to prevent burglary carried out during summer holidays of 2013. Through the use of website and with the support of social networks, dissemination of activities open to public participation was carried out, in order to receive and publish advice recommended by citizens themselves.

The self-assessment also highlighted the "update" or "reactivation" of Local Safety Councils. In this regard, there was no progress. When the IRM researcher requested information, the Ministry of Home Affairs reported that there is no new policy measures adopted regarding this issue,[6] and that the Ministry of Home Affairs does not know how many Safety Councils are currently operational.[7] As was noted by the advisory member of the Technical Office-Undersecretary of the Ministry of Home Affairs, "this information [related to the active Local Security Councils] should be gathered in any case, through Government Subdelegations by the Ministry of Finance and Public Administration."[8]

Did it Matter?

The commitment's progresses regarding the use of online social networks are quite clear. The campaigns implemented have demonstrated the importance of social networks as effective interaction venues with citizens. However, it is debatable whether these initiatives have "facilitated citizen participation" as the title of this commitment indicates, due that these initiatives are aimed in fact at obtaining from the citizens security-relevant information[9] (as #tweetredada and SIMASC App cases) or aimed at the use of social networks to provide real-time information (as DGT Traffic's related information).[10]

In both cases, the use of social networks expanded state capabilities and encouraged active support of police activities by the public. It also had a very positive effect in public perception of police effectiveness and greater proximity with security-related public organizations.[11] To deepen interaction, the best option at this stage seems to be through public participation

mechanisms. For example, from the identified milestones, only "Mi casa a Salvo" campaign featured real citizen participation.

Moving forward

Besides continuing these successful initiatives, the IRM researcher recommends defining new initiatives for public safety that effectively develop mechanisms for citizen participation. These mechanisms, based on existing social networks as well as current profiles and strategies, could support the development of specific campaigns and allow consultation and citizen involvement in order to prevent crime, react on criminal offenses or improve public safety.

Similarly, IRM researcher recommends initiating reactivation of the Local Safety Councils. This implies first to identify those active Councils, their problems and challenges, carrying out for example something similar to the so-called Security Audits.[12] The IRM researcher also suggests opening a national discussion or consultation process in order to use local government authorities and citizens' experiences to make a local–based national security strategy. In this scenario, Local Security Councils should be key entities as a preferred venue for participation.

---

[1] Last update December 3, 2013. See: Martínez de la Mata, Ángel: "La gestión que lleva a cabo la Policía Nacional en redes sociales ha resultado ser un éxito, hasta el punto de estar cerca del FBI en número de seguidores". October 14, 2013. Blog post. Think Big. URL: http://goo.gl/Jhw7D5 . (Retrieved December 3, 2013).

[2] Dans, Enrique "La policía y su uso de Twitter". June 13, 2013. URL: http://goo.gl/dxR8HO (Retrieved October 30, 2013)

[3] eleconomista.es Septiember 20, 2013 "Tweetredada de la Policía Nacional contra el vandalismo en las calles" URL: http://goo.gl/j8C1Xp (Retrieved October 28, 2013).

[4] Cáceres, Luis Carlos: "La DGT abre nuevos perfiles en Twitter y Facebook". July 18, 2013. URL: http://goo.gl/x9ZX90 . (Retrieved November 28,2013).

[5] Last update December 3, 2013

[6] Personal Communication. Clara Mapelli Marchena (Advisory Member of the Technical Office - Undersecretary of the Ministry of Home Affairs) Reply. URL: http://goo.gl/2xCtyZ (Retrieved October 30, 2013)

[7] Local Security Boards have the task of promoting security cooperation with various social sectors, organizations and institutions who have incidence over local public safety. To do this, its Article 13 stated that "(c) in order of achieving maximum public participation levels in improving public safety, it may establish Local Councils of Safety, to which it will be invited representatives of CSO, business organizations, unions and other institutions of various social sectors. "

[8] Personal Communication. Clara Mapelli Marchena (Advisory Member of the Technical Office - Undersecretary of the Ministry of Home Affairs) Reply. URL: http://goo.gl/2xCtyZ (Retrieved October 30, 2013)

[9] Grupo de Debate de Evaluación del Plan de Gobierno Abierto de España en Novagob. "Comentarios al borrador del Informe de Autoevaluación del Plan de Acción de España con OGP" October 2013. URL: http://goo.gl/zSkqXP (Retrieved November 28, 2013).

[10] Access Info Europe : "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October 2013. Pag. 3. http://goo.gl/7e6ahD (Retrieved November 28, 2013).

[11] "La gestión que lleva a cabo la Policía Nacional en redes sociales ha resultado ser un éxito, hasta el punto de estar cerca del FBI en número de seguidores". October 14, 2013. Blog post. Think Big. URL: http://goo.gl/Jhw7D5 . (Retrieved December 03, 2013).

[12] Rodríguez-Herrera, Manuel; Salafranca-Barreda, Daniel (2013): "Políticas urbanas de seguridad del Siglo XXI: modelo policial SDIK." Paper presented at IV Congreso Internacional en Gobierno, Administración y Políticas Públicas GIGAPP IUIOG. Madrid, España. September 2013. Pag. 11. URL: http://goo.gl/LShwhf (Retrieved November 30, 2013).

7: Publishing crime statistics

As of next April, citizens will be able to access statistical data on crime, to be published at least quarterly. This data will refer to the average of the preceding 12 months for each type of offence, and for each of Spain's provinces and autonomous cities. These statistics will also include data from the police forces of the autonomous communities, which must be standardised according to the Ministry of Home Affair's Criminal Statistics System.

<table>
<tr><td colspan="7">Commitment description</td></tr>
<tr><td rowspan="3">An sw er abi lit y</td><td>Lead Institution</td><td colspan="5">Ministry of the Interior</td></tr>
<tr><td>Supporting institutions</td><td colspan="5">None specified</td></tr>
<tr><td>Point of contact specified?</td><td colspan="5">No</td></tr>
<tr><td colspan="2">Specificity and measurability</td><td colspan="5">High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)</td></tr>
<tr><td rowspan="4">Re lev an ce</td><td>OGP grand challenges</td><td colspan="5">Improving public services</td></tr>
<tr><td>OGP values</td><td>Access to information</td><td>Civic participa tion</td><td>Accountabil ity</td><td>Tech & innovation for trans. & acc.</td><td>None</td></tr>
<tr><td></td><td>✔</td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="7">Ambition</td></tr>
<tr><td colspan="2">New vs. pre-existing?
Pre-existing</td><td colspan="5">Potential impact:
Minor (the commitment is an incremental but positive step in the relevant policy area)</td></tr>
<tr><td colspan="7">Level of Completion</td></tr>
<tr><td colspan="2">Start date:
2012</td><td colspan="2">End date:
April 2013</td><td colspan="2">Actual completion</td><td>Complete</td></tr>
<tr><td colspan="2"></td><td colspan="2"></td><td colspan="2">Projected completion</td><td>Complete</td></tr>
<tr><td colspan="7">Next steps</td></tr>
<tr><td colspan="7">New commitment building on existing implementation</td></tr>
</table>

What happened?

The draft self-assessment described this commitment as "fully completed." Some stakeholders consulted disagreed with this classification, evaluating this commitment as "partially complete." They argued that although the government made some significant progress, the type of published statistical data is very poor, and with a very low level of detail.[1] The IRM researcher considers the commitment completed.

In January 2008, the Statistical System on Crime, under the Cabinet of Homeland Security Studies (GESI), came online. Gradually this system has taken steps towards improving the presentation and scope of the information provided. With the 2012 Royal Decree 400/2012, of 17 February, GESI became the Cabinet of Coordination and Studies. Among its tasks was:

- To prepare, monitor, and implement operational plans of public safety;

- To periodically prepare and submit crime statistics;

- To design and develop common training activities for members of the Security Forces; and

- To assist the Secretary of State for Security in its responsibility for the National Critical Infrastructure Protection System.

The Crime Statistics System, which previously had not been subject to any particular regulation, was regulated via Regulation 1/2013. This regulation indicates "a series of methodological and technical changes that facilitate qualitative improvements about data of crime statistics,"[2] identifying points of contact and establishing their roles and the specific coordination measures.[3] As a standardization measure, it adopted the same security indicators from the European Statistical Office (EUROSTAT), which are more specific and detailed than the information contained in the Annual Reports.

This commitment is therefore complete.[4] Statistics on crime "... are published in PDF, Flash, Excel and CSV formats. (...) Breaks down the data by criminal offenses, crimes and misdemeanors, not only retrieved at national level but also by regions and provinces".[5] This data is posted on the Ministry website and in www.datos.gob.es open data portal. Since 2013, quarterly balances are published, in reusable formats. This also includes data provided by regional and local police forces, which is previously adapted to make it compatible with standards of the Crime Statistics System. As a work in progress, as reported by the Ministry of Home Affairs, during 2013 data from other local police bodies and 71 municipalities have been incorporated. The government is making necessary technical changes to allow further incorporation of local level data.

Did it Matter?

With the aforementioned achievements, citizen demand was effectively attended. However, despite this progress, it is unclear whether the statistical crime data fully comply with citizens' expectations. Therefore it is a necessary task to evaluate (and deepen) the principles of relevance, clarity and accessibility.

Moving forward

The IRM researcher recommends that further actions must be taken, not only towards greater transparency of crime information statistics, but toward the definition of new commitments aimed at consolidating progress and deepening open data strategies in this area. These activities should take into account the principles of relevance, accessibility and clarity of statistical information, in accordance with the European Statistics Code of Practice.

As first steps, the IRM researcher specifically recommends consolidating existing publication of quarterly crime data information, and incorporating gradually the information from local police forces, as well assessing the potential usefulness and technical feasibility of reducing the timespan between publishing periods.

In a second phase deepening the relevance, timeliness and accuracy of statistical crime information is recommended, featuring improvements such as raw data and / or real-time updates, and giving specific police information linked to unsafe neighborhoods and / or villages. This information may not only provide aggregate data categorized and associated with each specific event; it could include geolocation of the event, or other information that allows identify the authority or police officer responsible to attend the event, the time of occurrence, the type of measures provided, and the activated protocols.

Using this information and making it public will presumably improve stewardship and citizen oversight of police action. It could deepen transparency by favoring collaborative citizen security strategies, and it could support designing and evaluating tasks in the operational Civic Security Plans of the Cabinet of Coordination and Studies.

---

[1] Access Info Europe : "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October 2013. Pag, 5. http://goo.gl/7e6ahD (Retrieved October 25, 2013).

[2] "Interior regula el sistema de estadísticas sobre criminalidad" Press Release: Europa Press. URL http://goo.gl/brP3ni (Retrieved: November 24, 2013)

[3] Ministerio del Interior "Anuario Estadístico 2012". URL: http://bit.ly/1cEvX7y Pag. 146. (Retrieved November 24, 2013).

[4] Cruz-Rubio, César Nicandro. "Corroboración del Compromiso 7. Publicidad de datos estadísticos sobre criminalidad incluido en el Borrador del Informe de Autoevaluación" October 11, 2013. http://www.screenr.com/FqqH (Retrieved October 11, 2013).

[5] See Ministerio del Interior "Anuario Estadístico 2012". URL: http://bit.ly/1cEvX7y Pag. 146. (Retrieved November 24, 2013).

8: Revising and streamlining regulations

The Transparency, Access to Public Information and Good Governance Act stipulates that all public administrations must conduct an exercise in revising, streamlining and consolidating regulations. The aim is to eliminate obsolete regulations from the legal system and to consolidate those that are dispersed. This measure strengthens legal certainty in the relations between citizens and the public administration.

Commitment description					
An sw er abi lit y	**Lead Institution**	Ministry of the Presidency			
	Supporting institutions	None specified			
	Point of contact specified?	No			
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)			
Re lev an ce	**OGP grand challenges**	Improving public services			
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
						✔
Ambition					
New vs. pre-existing? New		**Potential impact:** Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)			
Level of Completion					
Start date: Early 2014		**End date:** Not specified	**Actual completion**	Not started	
			Projected completion	Not started	
Next steps					
Revision of the commitment to be more achievable or measurable					

What happened?

This commitment depends on the Transparency Act. Although it completed its parliamentary process on 28 November 2013, at the time of preparation of this report it had not yet entered into force. This law is the regulatory context in which the implementation of this commitment would be based. Although stated in the self-assessment that the government had already held meetings with participation of academic experts, these meetings were not disclosed to the public. There is no record of such advances beyond what is reported in this self-assessment.

Did it Matter?

So defined, this commitment is oriented to update the existing legal framework in Spain. As such it has much to do with legal certainty and with changes in the legal and administrative Spanish Systems and in an indirect way, with the effectiveness and efficiency of public administrations as a whole. It certainly could be very positive that these developments, once

achieved, may make improvements in public services, reduce costs and provide greater legal certainty. At the same time, it is unclear how this commitment may be relevant as a means to improve transparency or to further open government. A regulatory simplification policy at a national level cannot be understood as part of a strategy of open government, if it is not accompanied by actions that seek to deepen transparency and accountability or implicate (with or without use of ICTs) citizenship in its formulation, implementation, or evaluation.

Moving forward

If government wants to keep this commitment in the action plan, the IRM researcher recommends revising it in order to articulate this process in an open and participatory fashion, through public consultations, discussion forums, workshops, and other alternatives for citizen involvement. Otherwise, it is recommended to leave this commitment and withdraw it from the action plan.

9: Information technologies at the service of health management: e-health

In December 2012, the first phase of the technological platform that will ensure interoperability of digital medical records will be launched. The aim is for patients to be treated with the same ease and speed, regardless of where in Spain they may need healthcare, and to eliminate red tape, while making care delivery safer and faster.

Commitment description						
An sw er abi lit y	**Lead Institution**	Ministry of Health, Social Services and Equality				
	Supporting institutions	Red.es				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	**OGP grand challenges**	Improving public services				
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
		✔				
Ambition						
New vs. pre-existing? Pre-existing		**Potential impact:** Transformative (the commitment entails a reform that could potentially transform "business as usual" in the relevant policy area)				
Level of Completion						
Start date: Not specified		**End date:** December 2012		**Actual completion**	Substantial	
				Projected completion	Complete	
Next steps						
Revision of the commitment to be more achievable or measurable						

What happened?

The Project of Medical Records (HCD) of Spain's National Health System (SNS) began in early 2006. HDCSNS aims to ensure healthcare professionals have access to relevant health care medical records of each patient. In HCDSNS medical records are available electronically in any SNS venue.

During HCDSNS's early stages (2006-2007), the medical record design was defined. Further, three specific working groups were formed to advance interoperability (2008-2009). By the first quarter of 2009 a preliminary study was launched. The public entity Red.es, a collaborator for this project, reports that the second phase of the "Healthcare Online" Project linked to HCDSNS began in 2010 and its completion is scheduled for 2013.[1]

Most importantly from an open government view, through this interoperability, citizens have key access to their own personal data and through the website get access to their personal health data, see the access logs produced in their data sets, and can select data sets that they do not want to be visible (for example, concealment of personal clinical reports). This is

a very important feature because it allows citizens to decide on these issues directly and freely. Although there are no official reports updated to 2013, according to the self-assessment, nine autonomous communities and the autonomous cities of Ceuta and Melilla are already sending and receiving medical records under the HCDSNS platform. In other words, 19 million Spaniards (41% of total) currently have their clinical records in this interoperability system.

Did it Matter?

With HCDSNS, an interoperable information system allows citizens to effectively access highly sensitive personal data, and to limit the access to those sensitive data. The HCDSNS system is a part of a series of previous actions towards interoperability of local and regional health systems. Undoubtedly, these systems and technology platforms represent a substantial advance in the national health service, and this commitment and its achievements clearly focus on improvements to e-government, constituting an advance in access to personal information.

Moving forward

Taking advantage of the social and economic potential of the standardized and concentrated information HCDSNS platform, the IRM researcher recommends designing a complementary open data strategy, with a previous data dissociation process, that provides citizens with relevant, raw, in time information included in the HCDSNS. This could favor citizen responsibility and monitoring SNS performance as a whole, which will also generate economic and social value as a result of the potential reuse of this information.

---

[1] Red.es: "Sanidad en Linea Fase II" URL: http://goo.gl/S5CmME . (Retrieved October 24, 2013)

10: Generalizing use of the RED (Electronic Data Sending) system

Generalising use of the RED system aims to streamline citizens' dealings with the Social Security bureaucracy through centralising management by means of a single system, which makes it possible to reduce the use of paper documents and to conduct formalities and submit information at any time via the Internet. The objective is to generalise the use and implementation of RED within the entire Social Security system at every level. This will take at least two years, in order to expand RED's scope to groups that have yet to be incorporated into the system.

Commitment description						
Answerability	**Lead Institution**	Ministry of Employment and Social Security				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Relevance	**OGP grand challenges**	Improving public services				
	OGP values	**Access to information**	**Civic participation**	**Accountability**	**Tech & innovation for trans. & acc.**	**None**
						✔
Ambition						
New vs. pre-existing? No (pre-existing)		**Potential impact:** Minor (the commitment is an incremental but positive step in the relevant policy area)				
Level of Completion						
Start date: Not specified		**End date:** March 2013		**Actual completion**	Complete	
				Projected completion	Complete	
Next steps						
None: complete implementation						

What happened?

The RED system originated on 3 April 1995. RED is a service provided by Social Security's General Treasury (Social Security Fund, TGSS) to companies and professionals to enable the exchange of information and documents through the Internet. With the RED system, citizens can contact the Social Security Fund directly to secure access to company and worker data. RED target areas are: affiliation (additions, deletions, changes in employee data), labor breakdowns, and labor dispensation management. The user submits information and receives messages from TGSS without requiring in-person requests and without the constraint of normal business hours.

Recently, Order ESS/484/2013 Order redefined RED's current scope. It established electronic social security data submission as a service managed by TGSS. It obligates companies,

grouping of companies, and all legal entities required to pay social security insurance, to join the RED system, regardless of the number of workers already registered in the system.

The self-assessment reports that the commitment was completed, but does not indicate whether the universal service has been achieved. However, it does note that would have specific exceptions in which people could decide whether or not to use the RED system.

Did it Matter?

As written, the IRM researcher notes that this commitment does not have clear relevance as a means to develop open government.[1] To centralize information into a web platform that enable administrative procedures and information sharing is an e-government that is certainly positive in its scope. But it cannot be understood as open government strategy if it is not accompanied by actions that seek to move towards greater participation, transparency and accountability.

Moving forward

Due a complete implementation and a lack of clear relevance, there are no recommendations for this commitment.

---

[1] See also: Access Info Europe. Comentarios sobre el borrador del Plan de Acción de España para el Open Government Partnership. April 9, 2012. URL: http://goo.gl/INJntY (Retrieved November 14, 2013).

11: Simplification of environmental evaluation procedures

This measure seeks to shorten the timelines for conducting evaluations of specific plans, programmes and projects that are subject to environmental evaluation, shortening resolution periods, incorporating available technological improvements, and making decision-making processes even more participatory, both for public administrations and for stakeholders. The approximate deadline for its adoption will be one year, bearing in mind that guarantees must be provided for the principles of legal certainty and the effective participation of public administrations, civil society and the main Spanish professional and environmental protection associations.

Commitment description						
An sw er abi lit y	**Lead Institution**	Ministry of Agriculture, Food and Environment (MAGARMA)				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	**OGP grand challenges**	Improving public services				
	OGP values	**Access to information**	**Civic participa tion**	**Accountabil ity**	**Tech & innovation for trans. & acc.**	**None**
			✔			
Ambition						
New vs. pre-existing? New		**Potential impact:** Minor (the commitment is an incremental but positive step in the relevant policy area)				
Level of Completion						
Start date: Not specified		**End date:** End of 2013		**Actual completion**	Complete	
				Projected completion	Complete	
Next steps						
None: complete implementation						

What happened?

The Council of Ministers approved the draft Environmental Assessment Act on 30 August 2013, and parliament passed the Act on 28 November 2013 (by way of urgency) and approved text amendments from the Senate. This Act incorporates some new and controversial topics such as subjecting to environmental assessment subjecting those projects involving hydraulic fracturing (fracking); agreement of the Tajo-Segura's basins; the creation of "Wildlife conservation banks;" and the establishment of penalties for "bunkering" through permanent anchoring of tanker ships and unofficial fills.

This rule will regulate the viability of livestock, energy, construction, etc. projects, in relation to their environmental impacts, and especially seeks to integrate into a single body of law the rules of the strategic environmental assessment and environmental impact assessment. To

do this, it unifies terminology in use and establishes a similar scheme for both procedures,[1] and shortens resolution periods to 4 to 6 months, compared to the previous average of 3 to 4 years.[2]

Did it Matter?

Although the act passed parliamentary proceedings and, in the opinion of the Ministry of Agriculture, Food and Environment (MAGRAMA), "is consistent with regulatory trends in the European Union," representatives of environmental CSOs in Spain have warned that "the new Environmental Assessment Act (…) will have to be modified in less than two years, in order to incorporate changes to the European Directive 2011/92/EU on environmental impact assessment"[3] currently being elaborated.[4]

The action plan noted that government "will seek the effective participation of professional and environmental associations in its development," and again, according to MAGRAMA, this Act "has had the participation of all stakeholders and environmental organizations." But the formation of this Act was carried out with haste and by way of urgency. The government highlighted several actions, such as submitting the draft for public comment via an email account for sending comments for a one month period, and that the draft was widely discussed in June 2013 during a special session of the Environmental Advisory Council CAMA. But the related press release for this meeting is in fact a briefing on the draft and does not indicate which CSOs were involved in this Council,[5] and in the view of some involved CSOs, there has not been a proper public participation with the main actors: autonomous communities, environmental evaluation's advocates, consultants, etc.[6]

While some stakeholders say that this new law will unify into a single standard the legal framework for environmental evaluation of plans, programs and projects,[7] others say that the new act "is a reductionist law that only seeks to shorten and speed up procedures." In government's perspective, a complex and less agile process does not imply greater environmental protection, and to reduce procedure periods is consistent with the idea of environmental protection. But according to CSOs, this reduction in procedure times will make it harder to meet deadlines and threaten the quality of environmental impact studies, a situation which can benefit economic interests involved instead of environmental protection.[8] Some environmental CSOs noted that the reform "does not solve the [former] problems," and that it in fact "will sharpen it even more" and "will promote greater legal uncertainty" for both the state and developers, suggesting that the "real government objective" with this commitment was the processing and removal of "thousands of record files accumulated on the table."[9]

The self-assessment Report indicates that the government endows these procedures more transparent and closeness. With the new Environmental Assessment Act, consultations to interested persons who previously had optional in character, becomes mandatory.

In addition, the Act seeks the creation of a Interested People Registry in order to "facilitate their participation in the foreseen evaluation process." Even with this progress, it is unclear how this kind of registration tool, which can facilitate consultation and contact activities for government, can make by itself a more inclusive, open, transparent environmental decision-making process. That is, it is unclear whether the registry can ask public authorities to publicly justify their granting decisions on projects, or to force them to publish this information in a proactive way. For example, Access Info Europe noted that there are disclosure obligations of environmental and participation information in the previous law

27/2006, which were not enforced.[10] Even political actors doubt if the new Environmental Assessment Act will progress on transparency and citizen participation.[11]

Moving forward

Since parliamentary proceedings are complete, the Law is adopted and the commitment is now complete, there are no specific proposals for this commitment.

However, if there is a desire to advance open government in environmental evaluation, the next amendments to this Act must take into account modifications recently proposed to the above European Directive, which strongly support greater transparency, participation and accountability. These modifications include, " with a view to ensuring transparency and accountability, [that] the competent authority should be required to substantiate its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered." The most recent amendments adopted by the European Parliament on this directive states that:

> "Members adopted amendments to ensure that the public would be informed and consulted. The public should have the contact information of and easy and quick access to the authority or authorities responsible for performing the duties arising from the directive. Due attention must be paid to the comments made and opinions expressed by the public (…) With a view to strengthening public access and transparency, a central portal providing timely environmental information with regard to the implementation of this Directive electronically should be made available in each Member State"[12]

---

[1] Campanario, Ana: "Anatomía" del Proyecto de Ley de Evaluación Ambiental". September 12, 2013. URL: http://goo.gl/SBqf13 (Retrieved November 30, 2013)

[2] RTVE News. "El Congreso aprueba la Ley de Evaluación Ambiental, que modifica el Trasvase Tajo-Segura" November 28, 2013. URL: http://goo.gl/f9LyzR (Retrieved November 30, 2013).

[3] Europa Press. "ONG ambientales advierten de que la Ley de Evaluación Ambiental tendrá que ser modificada en menos de dos años" URL: http://goo.gl/ZZ5TFI (Retrieved: November 28, 2013)

[4] Nevertheless, as highlighted by Government, "(…) the proposed amendment of the EIA Directive has not yet been formally approved (and where) will have to wait for final approval and entry into force, which could be delayed due to the European Parliamentary elections 2014. "

[5] During the review period of this independent report, the government also reported having held meetings with trade unions (CCOO and UGT) and a bilateral meeting with SEO BirdLife CSO. See MAGARMA. Press Release: El Consejo Asesor de Medio Ambiente (CAMA) debate los anteproyectos de Ley de Parques Nacionales y de Evaluación Ambiental URL: http://goo.gl/umX7or (Retrieved: January 25, 2014).

[6] SEO/Bird Life: "La nueva Ley de Evaluación Ambiental no resuelve los problemas" August 30, 2013. URL: http://goo.gl/aqw17b (Retrieved: October 30, 2013)

[7] Coordinadora Estatal de Ciencias Ambientales CECCAA: "Comentarios CECCAA al Anteproyecto de Ley de Evaluación Ambiental." URL: http://goo.gl/BllGAM (Retrieved, October 30, 2013)

[8] SEO/Bird Life: "La nueva Ley de Evaluación Ambiental no resuelve los problemas" 30 agosto 2013. URL: http://goo.gl/aqw17b (Retrieved, October 30, 2013)

[9] Europa Press. "ONG ambientales advierten de que la Ley de Evaluación Ambiental tendrá que ser modificada en menos de dos años" URL: http://goo.gl/ZZ5TFI (Retrieved, October 28, 2013)

[10] Access Info Europe : "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October 2013. Pags 7-8 . http://goo.gl/7e6ahD (Retrieved, October 28, 2013).

[11] In this regard, a congresswoman said in Parliament that the Act "is a law that serves opacity due because it hampers civil society to access information". See Ortiz Castellvi. Diputada GIP. Intervención en el Congreso de los Diputados. Pleno 28 noviembre 2013, sobre enmiendas del Senado al Proyecto de Ley de Evaluación Ambiental. (121/000059). URL: http://goo.gl/w1uw50(Retrieved, December 1, 2013)

[12] The European Parliament: Amendments to the proposal for a directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment 2012/0297(COD) - 09/10/2013 Summary Text adopted by Parliament . URL: http://bit.ly/1bZSSMk (Retrieved, October 30, 2013)

12: Speeding up the procedures to create new enterprises

We understand that no entrepreneurial idea can be rejected due to administrative burdens. The Government will favour the creation of companies in a short period of time, 24 hrs., by promoting the network of centres created to advise enterprising and small and medium enterprises and by reducing the administrative requirements currently requested. These measures will form part of the Act to support enterprising that will be approved during 2012 and that will favour new entrepreneurial ideas and the creation of job positions through tax advantages.

Commitment description						
An sw er abi lit y	Lead Institution	Ministry of Industry, Energy, and Tourism				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Re lev an ce	OGP grand challenges	Improving public services				
	OGP values	Access to information	Civic participa tion	Accountabil ity	Tech & innovation for trans. & acc.	None
						✔
Ambition						
New vs. pre-existing? Pre-existing		Potential impact: Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)				
Level of Completion						
Start date: Not specified		End date: 2012		Actual completion	Complete	
				Projected completion	Complete	
Next steps						
None: complete implementation						

What happened?

The New Entrepreneurship Support 14/2013 Law of 27 September defined the functions of the Information Center and Network for Entrepreneurship Creation (CIRCE). This Law established new stimulus and administrative simplification measures, created new corporate subtypes, provided tax incentives for the reusing of benefits, reduced legal requirements for access to public contracting, and regulated Business Angels activity, tax deferral policies until effective invoice payment, extrajudicial debt agreements, funding support, enterprise internationalization requirements.

The Act also extended the capabilities of CIRCE to perform procedures relating to cessation of entrepreneurial exercise and activity, although both services were not yet operational on the CIRCE website. CIRCE is a set of services and tools for the General Office of Industry and Small and Medium Enterprises (DGIPYME) of the Ministry of Industry, Energy and Tourism.

This body has developed and launched CIRCE since 2011 to inform and facilitate business creation processes. CIRCE provides entrepreneurs with a web search engine of notaries and Entrepreneur Care Points (PAE) located throughout the country.[1] Additionally, it is important to note that CIRCE links to an updated statistics section about the electronically processed companies,[2] which also reports those PAE with most records managed.

Additionally, using CIRCE one can access two external relevant databases. The first is a database SME developed by the Spanish National Statistics Institute (INE) and published by the Central Companies Directory (DIRCE). Using DIRCE's selection form, information is collected in the form of tables and graphs about Spanish companies sorted on variables like size, status, economic sector, level of income and territorial and temporal scope. This database app allows one to filter data from one year or more, as well as to make comparisons between data and sectors. Users can export this information in various reusable file formats (XLM, CSV, etc.).[3] The second database is of grants and subsidies for SMEs, which is a national level repository of government and all its agencies (see also Commitment 4: Amending the Subsidies Act).

Did it Matter?

This commitment is a continuation of several previously implemented actions to consolidate the establishment of a nationally integrated telematics services for business creation, and Law 14/2013 effectively incorporates these advances.

But while this progress is certainly laudable, the IRM researcher agrees with some CSO opinions that this commitment does not have clear relevance as a means to further open government. Removing bureaucratic barriers or speeding up a process using telematics platforms are e-government strategies towards efficiency, but not necessarily open government strategies, if they are not accompanied by actions that seek to involve citizens (with or without use of ICTs) in policy formulation, implementation or evaluation, or move towards greater transparency and accountability.

Moving forward

Due its completion, this commitment does not require further action. However, if the government wishes to reorient this commitment towards open government, and taking into account the social and economic potential of the CIRCE and standardized information on DIRCE, if could include new related commitments into the next action plan. To move towards a greater transparency in SME development, the IRM researcher recommends:

- Opening up the Spanish Mercantile Registry's information, to make it free and open access.

- Including in existing SMEs' monthly progress reports[4] indicators about CIRCE's use and its impacts on business development.

- Analyzing and comparing DIRCEs' changes in key indicators between regions and SME sectors and CIRCE's use percentage in creating SMEs regarding traditional procedures, which would give CIRCE's impact information.

- Promoting the development of apps to allow citizens to know with graphical information and in real time about the Business Registry SMEs creation, integrating

into this apps information about grants and subsidies adjudication by localities, sectors, types of SMEs, etc.

- Offering this information in raw data, to allow monitoring overall entrepreneurial efforts, CIRCE and DIRCE systems performance, and open data reuse in increasing economic and public value.

---

[1] For the creation of Limited Liability Companies (SRL) and New Enterprise's Liability Limited Company (SLNE) it is necessary to go to a notary and sign the Articles of Incorporation.

[2] See "Servicios CIRCE" into DGIPYME's website. Ministry of Industry, Energy and Tourism. URL: http://goo.gl/CN625x . (Retrieved: November 10, 2013)

[3] See Statistics area website of DGIPYME. URL: http://bit.ly/1joZkGG (Retrieved November 01, 2013)

[4] This montly reports may also consulted at the URL http://goo.gl/3lchXQ (Retrieved: November 20, 2013)

13: Reduction of administrative burdens for farmers and livestock breeders

The objective is to streamline the process of applying for direct aid under the Common Agricultural Policy, standardising the software of all 17 of Spain's autonomous communities for collecting and managing these applications. This will make it possible to cut red tape; processing applications will be more transparent; beneficiaries will be able to consult their files' status; and moreover, there will be a significant cost reduction for the public administrations, as since there will be no need for developing 17 different kinds of software. It is expected to be adopted within eight months.

Commitment description						
Answerability	Lead Institution	Ministry of Agriculture, Food and Environment (MAGARMA)				
	Supporting institutions	None specified				
	Point of contact specified?	No				
Specificity and measurability		High (commitment language provides clear, measurable, verifiable milestones for achievement of the goal)				
Relevance	OGP grand challenges	Improving public services				
	OGP values	Access to information	Civic participation	Accountability	Tech & innovation for trans. & acc.	None
		✔				
Ambition						
New vs. pre-existing? New	Potential impact: Moderate (the commitment is a major step forward in the relevant policy area, but remains limited in scale or scope)					
Level of Completion						
Start date: Not specified	End date: End of 2012		Actual completion	Limited		
			Projected completion	Complete		
Next steps						
Further work on basic implementation						

What happened?

This commitment aimed to develop a software tool, available nationally, to manage agricultural and cattle grant requests with one single IT support, saving administrative costs and reducing red tape. Its current progress is considered as limited, as the self-assessment mentioned that it has not been possible to complete the project, although there are some applications developed for this purpose and that the termination is expected "before the end" of 2013.

Currently, MAGARMA has a database repository that contains information about calls for grants and subsidies, at both the central and regional levels, and in the environmental, food

and fisheries sectors. The information is sorted by area (central or regional), by type of aid or group intervals and dates of publication of the calls for aid.[1]

Did it Matter?

Although it is important as a means to support grant application procedures and cut red tape, some stakeholders consider that this commitment does not have a substantial effect as a way to develop open government in Spain.[2] Removing bureaucratic barriers or speeding up a process by computer platforms can not be understood by itself as open government, if it is not accompanied by actions seeking to involve (with or without use of ICTs) citizens in policy formulation, implementation, or evaluation activities, or move towards greater transparency and accountability. Although stated as important part of the commitment, it is unclear how a simple application for managing direct grants could potentially serve as a trigger for a greater transparency.

Moving forward

The IRM researcher recommends further basic work for this commitment's implementation. To truly guide this commitment toward open government values and transparency, it is necessary to deepen the information made public regarding the status of all requests for aid. Not only would this promote awareness of the processing status of each specific record, but it could also make transparent the criteria by which the decision to allocate grants was made, reporting to the public beyond the publication of the decisions taken and the authorities responsible for the allocation of such aid. This will increase responsibility and strengthen effective citizen control over the use of public resources, facilitating measuring the relevance and impact for transparency and open government of those instruments.

---

[1] MAGARMA Ministerio de Agricultura, Alimentación y Medio Ambiente "Base de datos de ayudas a los sectores agroalimentario, pesquero y medioambiental. URL: http://bit.ly/18XEjZk (Retrieved November 30, 2013)

[2] Access Info Europe : Comentarios sobre el borrador del Plan de Acción de España para el Open Government Partnership. April 9, 2012. URL: http://bit.ly/1joYF83 (Retrieved November 14, 2013). See also Access Info Europe : "Valoración de la implementación del Plan de Acción de España sobre políticas de gobierno abierto". October 2013. Pag. 5. http://goo.gl/7e6ahD (Retrieved October 28, 2013).

V. PROCESS: SELF-ASSESSMENT

The government of Spain published the draft self-assessment on 7 October 2013, and on 28 November 2013, government sent to IRM researcher the final self-assessment report written in Spanish. This delivery coincided with the day in which the final adoption of the Transparency Law occurred. The government also reported that day that as soon as the translation into English of the self-assessment report was finalized, it would send both documents to OGP authorities.

The draft self-assessment was available for public comments on a web form (in HTML format) during 3 weeks, from 7 to 28 October 2013. After October 28, this draft was still available, but it was later removed from Ministry of the Presidency's website. According to government, only 3 comments were received despite almost 900 website visits to self-assessment. These figures are far from those obtained in the consultation process of the Preliminary Draft of the Transparency Act (Commitment 1).

Taking into account the wording of the 13 commitments, both the Draft and Final Report of Self-Evaluation are virtually the same documents. However, the final self-assessment has an extended introduction and a section that incorporates the assessment of civil society on the process, having as a main source the Report of the Discussion Session held on 23 October 2013 and organized by the IRM researcher in collaboration with Ortega y Gasset Fundation's researchers, and the two documents of CSO's comments relating the draft of the self-assessment already cited.

Figure 2: Self- Assessment Checklist

Was annual progress report published?	Yes
Was it done according to schedule?	No
Is the report available in the local language(s)?	Yes
According to stakeholders, was this adequate?	Yes
Is the report available in English?	Yes
Did the government provide a two-week public comment period on draft self-assessment reports?	3 weeks
Were any public comments received?	Yes
Is the report deposited in the OGP portal?	Yes
Did the self-assessment report include review of consultation efforts?	No
Did the report cover all of the commitments?	Yes
Did it assess completion according to schedule?	Yes
Does the report reaffirm responsibility for openness?	Yes
Does the report describe the relationship of the action plan with Grand Challenge Areas?	Yes

VI: MOVING FORWARD

This section contextualizes the action plan within the specific national scenario and highlights the potential next steps and recommendations, resulting from the previous analysis together with the identification of stakeholders' priorities.

Spanish national context

Since 2008, Spain has faced a severe economic crisis, which, linked to other structural problems, has created a strong and persistent crisis situation, and whose effects have also made evident both a pronounced political crisis as well as an institutional crisis. From 2008 to date, these crises and their effects have deeply conditioned the governmental agenda.

In the context of rising unemployment (which has reached over 26% of EAP), social citizen protest movements like the 15M movement emerged to give voice to social dissatisfaction. After the 2012 bank bailout, the main government actions have focused on economic deficit reduction and cuts in public spending. Due to the adverse results of the aforementioned situation, Spanish families lost significant purchasing power, poverty rose, and public budgets and the budgetary allocation to autonomous regions have been significantly reduced. This has in some cases deepened political and nationalist tensions.

The economic crisis has mixed with political corruption scandals that have come to light, linked to (alleged or proven) illegal urban land adjudication and speculation practices, irregular financing of political parties and trade union formations, abuses of huge public works, and other political corruption on several fronts at the local, subnational, and national levels. Public officials, prominent members of the main political parties, regional presidents and even members of the Royal Family have all been implicated, which has forced an increasing political disaffection and an erosion of public trust in the political class and political institutions. In this context, TI-Spain recently reported that in 2013 Spain had dropped 10 places into the Corruption Perception Index, to move from number 30 to 40 in just one year.[1]

The Government reacted to such events by seeking the approval of a package of legal measures of "democratic regeneration," a draft law for the control of the economic and financial activity of political parties, and a draft law regulating the exercise of senior officers of the National State Administration (AGE). These legal instruments seek to include financial controls over political parties and rules for Senior Public Officials at the national government level.

Related to the administrative front, government has reacted to these financial constraints with the measures led by the Virtual Commission on the Reform of Public Administration (CORA) based on the reduction of procedures, public sector spending and making profound legal and administrative simplifications. Relating with e-government strategies, it can be said that e-government acceptance by the public is quite considerable, and there are a growing number of transactions and users. Furthermore, the open data reuse policy is also implemented with the support and work of organizations like www.datos.gob.es

It is therefore useful to ask: how does all of this knowledge and progress impact or influence the development of open government strategies? Clearly, these actions on e-government and efficiency of public administrations could result in a significant improvement in public services, but by themselves do not provide guidelines to properly articulate approaches and long-term open government strategies. In the words of Alberto Ortiz de Zarate, former

director of Citizen Participation of the Basque Government and specialist in the field of open government, this situation may be the result "of the inheritance of past work based on the contributions of e-government, with the result that in Spain, when formulating the OGP action plan, several e-government related objectives came as commitments, which do not necessarily fall into the category of open government since they do not involve participation, collaboration and transparency."[2]

Spain has a high degree of administrative decentralization, where all 17 autonomous communities and the autonomous cities of Ceuta and Melilla have a high degree of decision-making power, in some cases having exclusive jurisdiction over formulation and implementation of policies, regulations, and public services. At the sub-national level, Spain has made great progress on transparency and open government. Before the central government, several provinces and autonomous regions had opened their transparency, open data, or open government's websites (i.e. Basque Country, Catalonia, Cantabria, La Rioja, Asturias, Aragon), some of which have been pioneer projects and successful cases at national and international level (as in the case of the Basque Country's IREKIA). Some other regions also have specific laws related with transparency and open government (as Navarra Community and more recently Extremadura), while other communities are in the public consultation process phase for the making of their own transparency law (Andalucía, Canary Islands and Murcia). Although very significant, these advances and experiences have not been considered in the framework of the action plan.

In the view of the IRM researcher, civil society, academia, civil servants, sub-national governments, the private sector, and the general public are all very relevant stakeholders and actors, who were virtually absent during the process of defining the first action plan. They have a very important role to play in developing the next action plan, in order to define and monitor in an informed and participatory fashion the next open government strategies.

As already stated, during 2012 the problem in designing the action plan under a participatory fashion was a lack of time. By now, the Government does not have this problem; not only is there enough time, but the government also the previous lessons from the first action plan experiences and the outstanding experiences at the regional level. It also has to assess current progress and some future challenges identified in the previous action plan. No matter its current limitations, Spain has also a new Transparency Act which government must develop further in order to provide adequate tools and mechanisms for its effective implementation.

Stakeholder priorities

Citizens and stakeholders have overwhelmingly considered the first commitment (the Transparency, Access to Information and Good Governance Act), as the most important of the thirteen commitments included in this first action plan. The Act received much attention from CSOs and the media. In contrast, a generalized lack of knowledge about Spain's 12 remaining commitments was very evident.

Besides the Transparency Act, taking into account the current commitments, the Discussion Session, and the in-depth interviews with key stakeholders, there are many other priorities and proposals that are not included into the action plan, but are here identified for inclusion in future plans. Implicitly these priorities focus on rules, skills and strategies at the national government level. They might be defined as rules for general compliance and joint action

strategies at different levels of government to regulate and formalize the involvement of the Public Administration in open government, namely:

1. Establishing and regulating open contracting systems for the National Government.

2. Incorporating initiatives based on a "radical presence of government in social networks," in order to be where citizens are and interact, as a key value in all public policy strategic planning.[3]

3. Creating a general plan for open data development, enabling citizens to offer solutions and encouraging an integration process and greater democratic legitimacy[4] through "radical data openness." This proposal may require the creation of a coordinating and integrating body with the support of the datos.gob.es initiative or the Ministry of Industry, Energy and Tourism and the Ministry of Finance and Public Administration, and managed by the State Office of Telecommunications and Information Society (SETSI). This proposed new body should include citizens in its governance structure, as well as members of the private sector and CSOs, in order to not only to advise and monitor decisions, but also to wield decision-making powers in defining priorities and standards.

4. Carrying out education and training activities on open government subjects. To support central government openness implies involving public officials in training processes to promote greater knowledge, skills and abilities. This is essential for open government since "open government is almost never a governance technique matter, but a political and administrative culture shift matter. If there is no knowledge learning and training, it is very difficult to make change happens."[5]

Recommendations

The following recommendations are intended to make progress in the development of open government in Spain and allow a proper integration of citizen needs, priorities, preferences and aspirations. Those recommendations also seek to involve and engage capacities of sub national governments. As noted, these stakeholders learned very important lessons from experience in open government.

It is recommended that the Government of Spain fully attend OGP requirements to enable and promote extensive public consultations (Section II of this document). In this regard, it is not enough, as quoted flatly in the self-assessment, to do "a broader consultation process" (p. 22). Instead, effectively reflecting citizen dialogue and deliberation processes is required, to ensure feasibility, sustainability and appropriateness of the second action plan. In so doing so, three key issues must be considered:

1. Before any step towards second action plan was taken, the Government should effectively design a participatory public policy strategy, oriented to achieve a collaborative definition of the upcoming commitments. As a prerequisite, this strategy requires that the government not consider citizens as merely recipients of public services or as information providers, but as active stakeholders with aspirations, ideas, and energies. This strategy must include a number of specific actions, such as promotion campaigns organized nationally in the media and on social networks, in various social media profiles and platforms. The strategy should resume progress made, take into account lessons learned so far, address the remaining challenges for compliance, and provide opportunities for interaction with the public through the Internet and other tools for physical citizen involvement. The "My Home

Safe" project's lessons and other related to Commitment 6 included here might be useful to this end, but their development should include joint activities that encourage interaction. The strategies under this preliminary design should not use only one type of participation based on web forms, but also techniques and tools that enable appropriate involvement of associations and citizens, ensuring that public concerns and aspirations are consistently understood and considered. Mechanisms such as workshops or deliberative polls could be very useful for this purpose, and where it is possible Autonomous Communities should be included as key partners in these processes.

2. The new OGP action plan should belong to Spain, and must take into account Spain as a whole. The territorial scope of commitments should be clarified, to "redefine the backbone axis of action plan" to transform it "from an inside-out vision to a comprehensive approach".[6] The strategy of designing this new action plan means that open government must not to be understood as "what should the Government or the General State Administration (AGE) understand as open government", but as "all that both citizens and government into its various levels have jointly decided to make, in order to bring government to its citizens and make government more transparent and participatory".[7] For example, it means to make regional governments responsible for achieving one or more milestones in the context of a commitment, based on their own leadership and capabilities, or collaborating in defining more commitments within the next action plan. In this sense, it could be very useful to use intergovernmental conference forums, and specifically, the Conference of Autonomous Communities, a horizontal working group of the regional governments. The main weakness of the first action plan was not taking into account that open government may occur (as indeed happens) beyond central government, and where several autonomous communities have made progress on open government, and can therefore offer lessons from there experiences.

3. The new action plan must lay the groundwork for establishing open government as a crosscutting public policy for all policy sectors. According to experts like Manuel Villoria Mendieta, Professor of Political Science and Public Administration on Universidad Rey Juan Carlos,[8] open government in Spain must be oriented towards:

- Institutionalizing better citizen participation,

- Improving regulations to allow the inclusion of citizen opinions and deepening legislative transparency,

- Improving welfare through the development of open social policies,

- Promoting equity through compensatory policies and service delivery,

- Acquiring a better understanding of open government through using and sharing knowledge, mainly via web applications,

- Promoting holistic transparency through active publication and incorporating transparency in management processes and strategic planning,

- Linking open government with accountability, as participation and transparency in policy evaluation is a key dimension for openness.

This strategy would define open government in Spain as a transversal approach for the formulation, implementation and evaluation of public policies.

[1] García Pedraz, Javier: "España es el segundo país donde más aumenta la percepción de corrupción" El Pais.com URL: http://goo.gl/SQSr8J (Retrieved: December 04, 2013)

[2] Entrevista a Alberto Ortiz de Zárate: October 9, 2013. (Interview with Cruz Rubio, César). URL: http://www.screenr.com/odqH.

[3] Entrevista a Guzmán Garmendia. October 18, 2013. (Interview with Cruz Rubio, César). URL: http://goo.gl/FMrYwF .

[4] Entrevista a Jordi Graells. October 11, 2013. (Interview with Cruz Rubio, César). URL: http://goo.gl/FMrYwF .

[5] Entrevista a Antoni Gutiérrez Rubí. October 14, 2013. (Interview with Cruz Rubio, César). URL: http://goo.gl/FMrYwF .

[6] Using Antoni Gutiérrez Rubí's words. See Entrevista a Antoni Gutiérrez Rubí. October 14, 2013. (Interview with Cruz Rubio, César). URL: http://goo.gl/FMrYwF.

[7] Using Antoni Gutiérrez Rubí's words. See Entrevista a Antoni Gutiérrez Rubí. October 14, 2013. (Interview with Cruz Rubio, César). URL: http://goo.gl/FMrYwF.

[8] Memoria Jornada de Debate Plan de Acción de España en Gobierno Abierto: avances, desaciertos, cuestiones pendientes y propuestas". October 23, 2013. URL: http://goo.gl/JeRgcn (Retrieved: November 05, 2013)

ANNEX: METHODOLOGY

Introduction

As a complement to the participating government's self-assessment, OGP requires an independent assessment report written by well-respected governance researchers, preferably from each OGP participating country. These experts, using an OGP questionnaire and guidelines, perform a desk analysis of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organizations; conduct stakeholder meetings according to OGP guidelines to solicit local opinion on progress towards the commitments and conduct interviews with local OGP stakeholders, including government.

The local expert's report is reviewed by a small international expert panel appointed by the OGP Steering Committee to ensure high standards of research and due diligence. Given budgetary and time constraints, the IRM cannot consult all interested or affected parties. Consequently, it strives for methodological transparency, and therefore, where possible, makes public the process of stakeholder engagement in research. In national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM will protect the anonymity of sources.

This independent report was reviewed by IRM Expert Panel members to assure that it meets the highest research standards. The IRM strongly encourages commentary on public drafts of each report upon publication.

Participant selection

It was clear that civil society in Spain was largely unaware of OGP activities, mainly attributed to the lack of visibility and outreach actions around the OGP action plan. Additionally, this lack of awareness can also be attributed in part to the fact that citizens and CSOs in Spain are more worried about local issues, and less focused on national issues. There are exceptions, as some CSOs have an international focus that addresses issues related to transparency and access to information in Spain, many of which are clustered in the "Coalición Pro Acceso" led by Access-Access Info Europe. Due the aforementioned, the possibilities of citizen involvement and CSOs involvement were limited.

In fact, CSOs like Access Info Europe, the Open Knowledge Foundation Spain, CIVIO Citizen Foundation, Transparency International Spain, all belonging to the Coalition Pro-Accesso, had a prominent presence and active participation during the development process of the Transparency Act, but their involvement and knowledge of the remaining action plan was limited. As can be seen in this report, only Access-Info Europe and the citizen group organized in the Novagob social network addressed other action plan commitments in order to analyze the involvement of Spain in the OGP.

Due the absence of open forums during implementation of the action plan and the absence of relevant information regarding participation of CSOs into this process, the IRM researcher chose a qualitative methodological strategy for gathering information whose primarily source came from the Discussion Session, by creating a specific microsite, conducting in-

depth interviews with key stakeholders, and making video checks, corroborations, and questionnaires/surveys.

In the IRM researchers training held in Panama City in September 2013, the IRM researcher presented to the IRM staff this methodological scheme, including general actions to be taken.[1] This methodological proposal received approval. Details about the use of these tools and their results are detailed below.

Finally, to certify the level of compliance in several parts of the 13 commitments, it was necessary to make some web corroborations. To this end, the researcher has documented such corroborations in video format, included in the report in order to support statements and conclusions.

In-depth interviews: October 2013

As a result of discussions with CSO and other relevant actors, the IRM researcher made appointments with key informants, saving into a video format six in-depth interviews, whose web links are published at www.gigapp.org.

- *Alberto Abella,* CEO Rooter Spain. President of the Open Knowledge Foundation (OKF) Spain.

- *Jordi Graells,* open data expert from the Generalitat de Catalunya

- *Antoni Gutiérrez Rubí,* Political Communication consultant and columnist.

- *Marc Garriga,* expert consultant on smart-cities and open data.

- *Guzmán Garmendia, Former CEO Open Government of the Government of Navarra, Open Government Consultant. OKF-Spain member*

- *Alberto Ortiz de Zárate,* former CEO Citizen Participation of Basque Government, expert consultanton Open Government

In addition to these in-depth interviews, the IRM researcher held meetings with public officials responsible for monitoring some of the commitments, (mainly at the ministries of the Presidency, Interior, Foreign Affairs and Cooperation and of the Spanish Development Cooperation Agency). These meetings were arranged to discuss commitment progress levels and to get information about some of the milestones.

Discussion Session on action plan's progresses: October 23, 2013

Along with the support of several GIGAPP researchers, the IRM researcher made and promoted a Discussion Session about action plan progress. This Discussion Session, with a 100 participant maximum capacity, was held in Madrid at the Ortega y Gasset Foundation on 23 October 2013.[2]I t was attended by academic specialists, CSO members, public officials, and citizens. During the session, a questionnaire was delivered to be completed under an anonymous and voluntary basis. Although it was a short period (only 10 days) for outreach activities, the event was promoted through the email newsletters of GIGAPP, Ortega y Gasset Foundation and the Spanish Political Science Association's email contacts, and also by using several Twitter profiles.

66 people were registered as participants, and 49 attended the discussion session. All participants obtained a copy of the questionnaire. From the collected questionnaires, 18 have

been validated. With this information, the IRM researcher obtained qualitative diagnostic's information and also proposals, much of which are in the "Moving Forward" section.

During this Discussion Session, the IRM researcher was careful to assure the participation of representative CSO members and citizens. To that end, the IRM researcher included in the session program the participation of academic specialists and major CSO actors and members of the Coalition for Access, in order to facilitate a forum for comments and observations about the draft of the self-assessment, thereby obtaining relevant information from these stakeholders regarding the above process and their specific view points.

The session began at 9:40 and ended at 14:20. All invited speakers attended the event. There was no time for viewing interviews recorded on the Youtube channel, as originally proposed in the program. As a general perception participants considered the activity to be very positive, although some attendees asked for more time dedicated to discussions, and for a better distribution of time between participants.

As scheduled, Cesar Cruz-Rubio, the GIGAPP and IRM researcher responsible for the Discussion Session organization, thanked all participants and informed them about what OGP and the Independent Review Mechanism functions are, as well as the basic structure of a IRM country progress report. He then explained the objectives and the work plan for the Discussion Session.

The first session speaker was Mr. Jesús Lizcano, professor at the Autonomous University of Madrid and President of Transparency International Spain (TI-Spain). Prof. Lizcano spoke on tools, reports and indicators that this organization is developing and publishing as well as the position of TI-Spain about the contents of the Transparency Act.

Ms. Victoria Anderica, from Access Info Europe, participated as speaker with a presentation "Is Spain moving towards open government?" Giving a critical assessment related with the 13 commitments included into action plan, she offered a critical report about the self-assessment findings and suggested major changes to the level of completion of several commitments as originally stated by government into its draft self-assessment report.

Mr. David Cabo, from CIVIO Citizen Foundation, participated as speaker with a presentation called "Progress and status of Open Data in Spain." He gave a brief talk about potential benefits of open data strategies implementation for countries like Spain, making an assessment of the situation of Spain and making direct comparisons of international experiences and various rankings designed for this purpose.

After a break, Mr. Felix Ontañon and Mr. Ignacio Criado, from Openkratio and Novagob, participated on behalf of the largest citizen group composed of independent scholars, citizens, academics and public officials, who operated in the Novagob social network in a collaborative fashion in order to make a citizen assessment of the progress report. This collaborative work was made via the internet, where participants identified and analyzed almost all the 13 commitments. This group identified formal and in depth corrections related to the self-assessment, mainly concerning the level of completion reported by government. The group authors submitted this citizen report to the Ministry of the Presidency.

Mr. Manuel Villoria, Professor of Political Science at Rey Juan Carlos University, finished this round of speakers and discussed the future of open government and its collateral potential effects. He also offered a set of open government proposals for Spain.

During a second round, an open discussion and debate raised several concerns and doubts, not only related to the action plan proposals and their completion, but more importantly about what should be understood as open government, and the crucial role of public officials as key change actors in all these processes. Many of these contributions and concerns were included in the questionnaires.

Microsite

Previously, the IRM researcher created a special microsite on www.gigapp.org domain in order to support a Discussion Session, and to inform participants about the IRM assessment process implemented in Spain. The IRM researcher also created in this microsite an on-line questionnaire that emulated the printed version and a virtual debate forum. Included into this microsite was a repository of supplementary relevant documentation (www.gigapp.org/gobiernoabierto).

Data from the questionnaire

From the 18 questionnaires, qualitative information was gathered and includes diagnostic observations. In this section three remarks are highlighted.

1. *Which of the action plan commitments do you think are the most relevant? You can choose one or more, according your understanding of which is the most important.* In response, the Transparency Law was selected 16 times, followed by Commitment 3 Organic Law of Budgetary Stability and Financial Sustainability and 6, the promotion of social networks to facilitate citizen participation (both 8 times scored).

2. *In asking about ambition level of each commitment, respondents replied as follows*: About the Transparency Act, half of the respondents felt that the level of ambition was moderate, compared to the rest who were divided equally (i.e., 22% considered as transformative government ambition and an equal percentage considered it minimal). On Commitment 6, promotion of social networks to facilitate citizen participation, half of respondents considered ambition as moderate, with remaining opinions either minimal or transformative. Qualitative information about this is included in the section entitled "Moving Forward".

3. Following the Discussion Session, the IRM researcher prepared a summary[3] reporting some relevant quantitative results of the validated questionnaires[4] and picked up qualitative information gathered about perceptions and proposals from participants, grouped thematically. This document was sent to all participants and was shared with Ms. Esperanza Zambrano, from the Ministry of the Presidency in order to include this summary into public comments period, due that at that time it was still open the web form of comments and opinions.

In order to facilitate consultation, downloadable data from questionnaires in CSV file format are available from the www.gigapp.org website.

About the Independent Reporting Mechanism (IRM)

The OGP IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the

International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel is:

• Yamini Aiyar

• Debbie Budlender

• Jonathan Fox

• Rosemary McGee

• Gerardo Munck

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

---

[1] Cruz-Rubio, César Nicandro (2013): Propuesta Plan de Trabajo. Elaboración del reporte independiente de los avances del Plan de Acción en Gobierno Abierto de España. URL: http://goo.gl/blHfTq

[2] The IRM researcher wants to thank to the Foundation Ortega y Gasset's support as the Session's Venue. The IRM researcher also wants to thanks the GIGAPP researchers Mr. Álvaro Ramírez-Alujas, Ms. Cecilia Güemes, Mr. José A. Hernández-Bonivento, Ms. Palmira Chavero, and Mr. Juan Enrique Gutiérrez for all their support before and during Session.

[3] Memoria Jornada de Debate Plan de Acción de España en Gobierno Abierto: avances, desaciertos, cuestiones pendientes y propuestas". October 23, 2013. URL: http://goo.gl/JeRgcn (Retrieved: November 05, 2013)

[4] Jornada de Debate Plan de Acción de España en Gobierno Abierto: Cuestionario sobre el Plan de Acción. URL: http://goo.gl/d8lfqh(Retrieved: November 05, 2013)