



# The Czech Republic: 2014 - 2016 End of term Report

All commitments were either completed or substantially completed by the end of term. While implementation was strong in this action plan, most of commitments focused on internal steps with minor influence on open government practices.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Independent Reporting Mechanism (IRM) carries out a review of the activities of each OGP participating country. This report summarizes the results of the period July 2014 to June 2016.

The Office of the Government coordinated OGP procedures and tasks, including developing the action plans and self-assessment reports. In the relevant reporting period, the Anti-Corruption Unit, under the authority of the Minister for Human Rights, Equal Opportunities and Legislation, coordinated the procedures.<sup>2</sup>

The Ministry of the Interior oversaw the majority of the second action plan's implementation. However, other ministries and central agencies did assist with certain commitment implementation.

In general, the Czech Government and other agencies consider the commitments in the OGP action plan to be part of, or complimentary to, their anti-corruption strategy. In the view of IRM

Table I: At a	Glance		
		Mid- term	End- of- term
Number of com	mitments	9	9
Le	evel of comple	tion	
Completed		3	5
Substantial		4	4
Limited		2	0
Not started		0	0
Numbe	r of commitme	ents with:	
Clear relevance	to OGP values	4	
Transformative impact	potential	2	
Substantial or co	omplete	7	9
All three (3)		0	0
Did it open	Major		0
government?	Outstanding		0
	Moving forwa	rd	
Number of com carried over to plan:		4	

researchers, this has led to OGP garnering little attention from both government agencies and civil society, as illustrated by the insufficient role for public participation in the development and implementation of the action plan. Nevertheless, all relevant stakeholders have agreed that the commitments contained in the action plans are important.

The Czech Government approved the Action Plan of the Czech Republic Open Government Partnership for 2016 to 2018 (hereinafter the "Third Action Plan") on 22 June 2016 through Resolution No. 566. The Third Action Plan contains three main themes: (1) implementing the adopted Act on Civil Service, thereby realizing the depoliticization, professionalization and stabilization of public administration; (2) improving access to data and information and (3) creating safer communities.

The first and second themes contain commitments stemming from the first and second action plans. The third theme of the Third Action Plan is completely new and has no connection with the previous action plans.

# Consultation with civil society during implementation

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

Consultations on implementing the Czech Republic's second national action plan took place within the Government's Anti-Corruption Council and its working committees.<sup>4</sup> The Council and its working committees are comprised of members of government ministries, academic institutions, professional associations and civil society organizations. It is chaired by the Minister for Human Rights, Equal Opportunities and Legislation, and vice-chairs include the Minister of Finance, Minister of Interior, Minister of Justice, Minister of Science, Research and Innovations.

The Government Anti-Corruption Council was established in July 2014 and met approximately once every two months. Council meetings were not open to the general public but meeting records show the primary focus was implementing the new Act on Civil Service, a main topic of the action plan.<sup>5</sup> The Council did not discuss the other two commitment areas in the action plan: amending the Free Access to Information Act and publishing data in open formats. The Council also dealt with draft laws of the Declaration of the Origin of Ownership, internal control in the public administration, conflicts of interest and public procurement. On 8 September 2015, the Council discussed the draft of the government's self-assessment report.

Civil society representatives were only involved in consultations on implementing the action plan if they were members of the Council. CSO representatives that did not belong to the Council were not actively involved in the consultations, but did have the opportunity to comment on the *End of term Self-Assessment OGP Action Plan Report* that was submitted for public consultation on July 29, 2016.6

The public consultation process lasted two weeks, from 29 July to 12 August 2016. Both the Czech Government's webpage (<a href="www.vlada.cz">www.vlada.cz</a>) and the Government Anti-Corruption Council's site (<a href="www.korupce.cz">www.korupce.cz</a>) announced the consultation process. Non-government actors made several comments. Following the public consultation period, the Council met and addressed feedback on the report.

Table 2: Action Plan Consultation Process

Phase of Action Plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement
During Implementation	Regular forum for consultation during implementation?	Yes
	Consultations: Open or Invitation-only?	Invitation-only
	Consultations on IAP2 spectrum	Consult

<sup>&</sup>lt;sup>1</sup> Office of the Government, "Description of the Powers and Activities" (Prague: Government of the Czech Republic), <a href="http://bit.ly/1gUzorf">http://bit.ly/1gUzorf</a>, [English] <a href="http://bit.ly/1guzorf">http://bit.ly/1guzorf</a>, [Englis

<sup>&</sup>lt;sup>2</sup> Office of the Government's Division for Fighting Corruption, "Description of the Powers and Activities" (Prague: Government of the Czech Republic), http://bit.ly/lgUARhs.

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<sup>&</sup>lt;sup>3</sup> Office of the Government, "Action Plan of the Czech Republic Open Government Partnership for 2016 to 2018" [English] <a href="https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Action-Plan-of-the-Czech-Republic-Open-Governemt-Partnership-for-2016-to-2018.pdf">www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Action-Plan-of-the-Czech-Republic-Open-Governemt-Partnership-for-2016-to-2018.pdf</a>.

<sup>&</sup>lt;sup>4</sup> Government of the Czech Republic, "Government's Council for Coordination of the Fight against Corruption," <a href="http://www.korupce.cz/cz/rada-vlady/rada-vlady-pro-koordinaci-boje-s-korupci-121697/">http://www.korupce.cz/cz/rada-vlady/rada-vlady-pro-koordinaci-boje-s-korupci-121697/</a>.

<sup>&</sup>lt;sup>5</sup> Records from meetings of the Government's Council for Coordination of the Fight against Corruption, http://www.korupce.cz/scripts/detail.php?pgid=1059.

<sup>&</sup>lt;sup>6</sup> Government of the Czech republic, End of term Self-Asssesment OGP Action Plan Report of the Czech republic 2014-2016, [Czech], <a href="https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf">https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf</a>.

# **Progress in commitment implementation**

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

- I. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have "medium" or "high" specificity.
- 2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of Access to Information, Civic Participation, or Public Accountability.
- 3. The commitment would have a "transformative" potential impact if completely implemented.
- 4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of "substantial" or "complete" implementation.

Based on these criteria, at the midterm report, the Czech Republic action plan contained 0 starred commitments.

Commitments assessed as star commitments in the midterm report can lose their starred status if at the end of the action plan implementation cycle, their completion falls short of substantial or full completion, which would mean they have an overall limited completion at the end of term, per commitment language.

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for the Czech Republic, see the OGP Explorer at www.opengovpartnership.org/explorer.

# **About "Did it Open Government?"**

Often, OGP commitments are vaguely worded or not clearly related to opening government, but they actually achieve significant political reforms. Other times, commitments with significant progress may appear relevant and ambitious, but fail to open government. In an attempt to capture these subtleties and, more importantly, actual changes in government practice, the IRM introduced a new variable 'did it open government?' in End-of-Term Reports. This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice has changed as a result of the commitment's implementation. This can be contrasted to the IRM's "Starred commitments" which describe potential impact.

IRM Researchers assess the "Did it open government?" with regard to each of the OGP values that this commitment is relevant to. It asks, did it stretch the government practice beyond business as usual? The scale for assessment is as follows:

- Worsened: worsens government openness as a result of the measures taken by commitment.
- Did not change: did not change status quo of government practice.
- Marginal: some change, but minor in terms of its impact over level of openness.
- Major: a step forward for government openness in the relevant policy area, but remains limited in scope or scale
- Outstanding: a reform that has transformed 'business as usual' in the relevant policy area by opening government.

To assess this variable, researchers establish the status quo at the outset of the action plan. They then assess outcomes as implemented for changes in government openness. Readers should keep in mind limitations. IRM End-of-Term Reports are prepared only a few months after the implementation cycle is completed. The variable focus on outcomes that can be observed on government openness

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practices at the end of the two-year implementation period. The report and the variable do not intend to assess impact because of the complex methodological implications and the time frame of the report.

Table 3. Overview: assessment of progress by commitment

	Sp	ecific	ity			SP Va writt		elevance	Pot	entia	ıl İmp	act	Comp	oletion	Mid n End ter	n d of	Did it gover				
Commitment Overview	None	Low	Medium	High	Access to Information	Access to Information  Civic Participation  Public Accountability  Technology & Innovation for Transparency & Accountability				Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Adoption of the new Act on Civil Service				,			Uncle	ear				•				•		•			
2. Implementing legislation for the new Act on Civil Service			,				Uncle	ear				•			·			•			
3. Institutional measures to implement the new Act on Civil Service			1				Uncle	ear		•						, ,		•			
<ol> <li>Selection, recruitment and appointment of civil high-ranking civil servants</li> </ol>				•			Uncle	ear			•			•	•			•			
5. Systemization of service positions and the service authorities			,				Uncle	ear			•				,			•			
6. Streamline the free access to information system			,		Unclear					•					•	•			✓		
7. Support for open data publishing			1		,					•					•	•			/		
8. Open data catalogue			,		1			•			<b>✓</b>					, ,			✓		
9. Open data legal framework			1		1			•			1			•	1				/		

#### **General overview of commitments**

As part of OGP, countries are required to make commitments in a two-year action plan. End of term reports assess an additional metric, 'did it open government?' The tables below summarize the completion level at the end of term and progress on this metric. Note for commitments that were already complete at the midterm, the report will provide a summary of the Progress Report findings but focus on analysis of the 'did it open government' variable. For additional information on previously completed commitments, please see the Czech Republic IRM mid-term progress report.

The Czech Republic's second OGP action plan focuses on three key areas:

- I) Adopting and implementing the new Act on Civil Service ensuring depoliticization, professionalization and stabilization of the state administration;
- 2) Streamlining the system of free access to information; and
- 3) Improving access to data and information.

The three themes encompass nine commitments, some of them comprising several milestones. They are grouped as follows:

**Theme I.** Adoption of the new Act on Civil Service ensuring depoliticization, professionalization and stabilization of state administration and its implementation into practice.

Commitment I. Adoption of the new Act on Civil Service

Commitment 2. Implementing legislation for the new Act on Civil Service

Commitment 3. Institutional measures to implement the new Act on Civil Service

Commitment 4. Selection, recruitment and appointment of civil servants/high-ranking civil servants

Commitment 5. Systematization of service positions and service authorities

Theme II. Streamlining access to information

Commitment 6. Streamlining the free access to information system

Theme III. Improving access to data and information

Commitment 7. Support for open data publishing

Commitment 8. Open data catalogue

Commitment 9. Open data legal framework

As described in the midterm report, the commitments connected with the Act on Civil Service (Theme I) are not clearly relevant to OGP values. The adoption of the Act represents a vital and commendable step for improving government. However, as written it does not identify public-facing elements that address OGP criteria for improving access to information, civic participation and public accountability.

At the end of term, the researcher considered whether the changes brought about by passing the Civil Service Act led to opening government according to OGP coding criteria. Was government-held information more accessible (Access to Information)? Were new opportunities created for citizens to influence decision-making (Civic Participation)? Did a public-facing mechanism exist for citizens to hold government accountable (Public Accountability)? As implemented, the commitments related to the Act did not meet any of these criteria. For this reason, the commitments clustered under Theme I related to passing the Civil Service Act are assessed as "did not change" with respect to the 'did it open government?' variable. This should not diminish the potential these commitments have to change government practice, and IRM researchers describe the more general implications of these commitments in the "Did it open government" narrative.

**Editorial Note**: The term 'public administration' is used throughout the report and refers to central government agencies, as well as regional and local authorities that have autonomous powers in addition to carrying out tasks delegated by the central government authorities.

Theme I: Adoption of the new Act on Civil Service ensuring depoliticization, professionalization and stabilization of state administration and its implementation into practice.

# Commitment I. Adoption of the new Act on Civil Service

# **Commitment Text:**

The new coalition government has adopted the Policy Statement of the Government of the Czech Republic (February 2014), in which adoption of well-functioning and high-quality act on civil service, including its implementation has been set as one of the priorities. This Act must guarantee full depoliticisation and well-functioning of public administration, give a clear definition of criteria for appointment and remuneration of public employees, lay down conditions for career advancement and guarantee a high level of education of the officials. In the sphere of public administration this task continue to be crucial, as adoption of the act on public-law basis should ensure a clear definition of basic rights and duties of a civil servant, set principles of personal and managerial running of state administration and reduce a corruption risk of its employees.

Depoliticisation of state administration shall be achieved through transparent selection procedures both for low-rank posts and for posts of leading employees (superiors), objective rules for awarding non-entitled components of wages (extra pay for leadership and bonuses) and professionalisation shall be guaranteed by effective human resources processes – system education, examinations of officers and personal work with employees. By a clear definition of employees' rights and obligations, their development and simultaneously by professional stability even the efficiency of state administration execution will be increased.

The requirement to fill the vacancies ("hiring state employees and officials of municipal and regional offices") on the basis of a selection procedure (open competition), particularly on all levels of public administration, follows beside others from GRECO Recommendation from the 2nd Evaluation Round of 2006, which has not been fulfilled up to now. Czech Republic is going to implement into the law and implementing rules the principles of protection in case of whistleblowing an unlawful conduct and protection against political pressures, as following from the European Principles for Administration, Recommendations of OECD and GRECO.

#### Milestones:

- 1.1 Chamber of Deputies adopts draft amendment.
- 1.2 Adoption of the amendment by the Senate.
- 1.3 Act enters into effect

Responsible institution: Parliament (Chamber of Deputies and Senate)

Supporting institution(s): The Ministry of Interior

Start date: Not specified End date: I January 2015

Commitment Overview	Specificity	OGP value relevance (as written)	Potential Impact	Completi on	Midterm	Did it open government?
					End of term	

	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall				1		Unclear						•				✓ ✓		1			
1.1.1 Chamber of Deputies adopts draft amendment				•		Unclear						•			i	✓ ✓					
I.I.2 Senate adopts amendments				<b>V</b>		Unclear						<b>✓</b>				✓					
I.I.3 Act enters into effect				•		Unclear						<b>✓</b>									

#### **Commitment Aim:**

The Act is meant to address the lack of legislation regulating the civil service to professionalize and depoliticize public administration. Under the status quo, the professionalism, stability, and impartiality of the public sector was weak, and became influenced by corrupt practices and political influence. Without legal regulation and enforcement, politicians could interfere in administrative procedures, including the hiring and dismissal of civil servants.

# **Status: Complete at midterm**

The government completed the commitment in full; the Act on Civil Service was adopted in October 2014 and promulgated on 6 November 2014. The Act came into force on 1 January 2015 and includes provisions that aim:

- 1) To give a clear definition of criteria for the appointment and remuneration of civil servants;
- 2) To lay down conditions for career advancement; and
- 3) To guarantee a high level of education of the civil servants.

# Did it open government?

This commitment could have been a potentially transformative change, as the adoption of the Act on Civil Service represents an indispensable step toward reforming the civil service in the Czech Republic. The Act could provide a more transparent civil service selection process and a means of significantly reducing political manipulation in the public service sector.

Following implementation, some stakeholders were sceptical about the value of the Act as adopted, and doubted whether it could accomplish the intended goals. A number of politicians and civil society actors have deemed the final version of the Act as insufficient, criticizing the lack of clarity and impartiality defined in the selection procedures for state administration. Stakeholders also criticized the lack of protection for civil servants against arbitrary changes or removal from their positions, in addition to undefined distinctions between political and professional (expert) positions.<sup>2</sup>

This commitment as written did not have clear relevance to OGP values, and as implemented it did not include activities that could be assessed using the OGP coding criteria. While the Act is a major first step for improving government practices, it lacked public-facing elements and concentrated on

internal systems of accountability within the public administration. Although this commitment is assessed to have not changed access to information, civic participation, or public accountability, IRM researchers still consider this commitment to have the potential to eventually improve transparency and quality in public administration.

### **Carried forward?**

The commitment was accomplished with the adoption of Act no. 234/2014 Coll. on Civil Service and it is entering into force. As a result, it is not carried over to the next action plan.

However, the new action plan includes a commitment called *Implementing the Adopted Civil Service Act, Putting Depoliticization, Professionalization and Stabilization of Public Administration, into Practice,* which follows the commitments concerning the Act on Civil Service from the second OGP plan (see also the next commitments).

Act No. 234/2014 Coll., on Civil Service, <a href="https://www.zakonyprolidi.cz/cs/2014-234">https://www.zakonyprolidi.cz/cs/2014-234</a>.

<sup>&</sup>lt;sup>2</sup> Reconstruction of the State, Standpoint Related to Complex Amendatory Draft of the Act on Public Servants, [Czech] <a href="http://www.rekonstrukcestatu.cz/novinky/20140909">http://www.rekonstrukcestatu.cz/novinky/20140909</a> stanovisko-ke-komplexnimu-pn-novely-sluzebniho-zakona 9 9 2014.pdf; Criticism of the Draft of The Act on Public Servants (Petráková: It's the legitimatization of the current system), (Euroaktiv.cz, August 2014), [Czech] <a href="http://www.euractiv.cz/cr-v-evropske-unii/clanek/petrakova-sluzebni-zakon-je-legitimizaci-stavajiciho-systemu-012107">http://www.euractiv.cz/cr-v-evropske-unii/clanek/petrakova-sluzebni-zakon-je-legitimizaci-stavajiciho-systemu-012107</a>.

# Commitment 2. Implementing legislation for the new Act on Civil Service Commitment Text:

During implementation of this priority the Czech Republic undertakes to realize in particular the following measures:

- to adopt an implementing instruction for selection procedure and appointment of a deputy of the Section for public service and of state secretaries,
- to amend the Government Decree No 85/2003 Coll., defining areas of the state service, and Government Decree No 328/2013 Coll., on setting the extent and manner of providing data into the Informational System on Wages,
- to prepare a government decree on a catalogue of administrative activities and a government decree on wage conditions of state employees,
- to create necessary implementing regulations to ensure implementation of the Act, particularly in the area of personal and managerial administration of the administrative authorities, in order that the following requirements are met:
- unambiguous definition of a boundary between the positions controlled by political parties and the apolitical bureaucratic positions, which will be occupied on the basis of open selection procedures,
- setting rules for depoliticisation, professionalisation and stabilisation of the state administration.
- setting a transparent and fair system of remuneration,
- securing a special protection of whistleblowers of unlawful conduct of employer,
- a system of obligatory training involving beside others the issue of combatting corruption.

## Milestones:

- 2.1 Submitting for information of the Government members a detailed timetable for preparation of implementing legal regulations and other measures to perform the new Act on Civil Servants;
- 2.2 "Revision," analysis and proposal for further use (for legislation or for preparation of acts of administrative bodies) of the present (in preparation) implementation measures and drafts of service regulations in continuity with the approved version of the Act;
- 2.3 Preparing, discuss and publish relevant implementing legislation. Completion of the legislation process of implementing legislation to the Act.

**Editorial Note:** The milestones describe the phases of the implementation process, while the Commitment measures describe what steps are necessary for the accomplishment of the requirements. The first two milestones are prerequisites for the third. The evaluation of the third milestone is therefore much more detailed. Specificity, measurability and relevance can be evaluated jointly for the whole commitment.

Responsible Institution: The Ministry of Interior

Supporting Institution(s): The Ministry of Labor and Social Affairs, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Education, the Office of the Government

Start date: Not specified End date: I July 2015

	Spec	cificity				P val writt		levance	Pote	ential	Impa	ct	Com	pleti	Midter End of term			l it ope ernme			
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall			1			ι	Jncle	ar				<b>✓</b>			<b>✓</b>			1			
															✓						
2.1 Time schedule of			1			ι	Jncle	ar		1						✓					
preparatory works																1					
2.2 Analysis and proposal of			1			ι	Jncle	ar		1					✓						
further possible use of current implementation measures															•						
2.3 Adoption of the implementing			1			ι	Jncle	ar				✓			<b>✓</b>						
legislation															✓						

# **Commitment Aim:**

The general rules and principles included in the new Act on Civil Service need to be specifically defined in published implementation legislation. These laws should provide the legal and institutional infrastructure for successfully enforcing the new Act, including the rules for civil servants' selection, remuneration, education, and examination requirements. In addition, these laws would ensure protection of whistleblowers from retaliation. Prior to the adoption of the new Act on Civil Service, the absence of specific rules pertaining to hiring and retaining civil servants, together with an undeveloped political culture, low attractiveness of the public sector for well educated individuals and the absence of impartial bureaucracy contributed to weakening the impartiality, professionalism and stability of public service sector.

# **Status**

# Mid-term: Substantial

The Czech Parliament began discussing the new Civil Service Act before the second action plan was adopted, which allowed implementation of the Act to begin on 1 January 2015.

On 12 November 2014, the same day the second action plan was adopted, the Ministry of Interior presented a schedule for the implementation of the Act on Civil Service, including necessary legal regulations for the new Act (Milestone 2.1) to the government.<sup>1</sup>

Revision, analysis, and proposals for further uses of the implementation regulations (Milestone 2.2) is partially complete. The government has already adopted several decrees related to implementing the Act, accompanied with analyses describing the reasoning for their adoption. However, the government has not conducted, presented, or published a comprehensive analysis defining the remaining necessary secondary legislation.

Legislation required for implementing the Act was adopted (Milestone 2.3), and was substantially completed, but some implementation rules were not expected to enter into force until 1 June 2017. The Mid-Term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016 includes a list of the implementing legislation adopted before July 2015.<sup>2</sup>

#### **End of term: Substantial**

Milestone 2.1 (Time schedule of preparatory works) was complete at the midterm.

According to the *End of Term Self-Assessment Report*, the government has completed a comprehensive analysis of remaining secondary legislation required for the Civil Service Act (Milestone 2.2).<sup>3</sup> However, this report does not cite a document containing the reported analysis. The IRM researchers did not find documentation, either public or internal, to verify this activity. Therefore, IRM researchers determine that this milestone remains substantially completed, as there is no further evidence of progress since the midterm report.

The Government has adopted new decrees since the midterm report that are necessary for implementing the Act (Milestone 2.3). These include a decree regulating diplomatic and consular positions, changes of the remuneration system for civil servants, establishment of a new examination body for the civil service, and releasing details of civil service examinations. According to the Czech government's Self-Assessment Report, only one decree remains to be adopted: a decree defining a service badge.<sup>4</sup>

Although the government established legislative framework for implementation, it is expected that the government will adopt additional legislation and the existing decrees will be subject to amendments. For example, the new remuneration system for civil servants is scheduled to come into force on I January 2017. This timeframe seems unrealistically brief to apply the changes prescribed by the law. Additionally, the financial demands of salary settlements will probably prevent a comprehensive solution for all civil servants.<sup>5</sup> Another example of impending regulation is whistleblower protection.

As for implementation of the civil service examinations, there has been progress concerning the Civil Service Information System. Since I August 2015, the Civil Service Information System contains a publicly accessible overview of their terms of examination, and a list of the exams taken. Since 22 August 2015, the public can also find a list of vacant civil service positions.<sup>6</sup>

# Did it open government?

Access to information: Marginal Civic Participation: Did not change Public accountability: Did not change

Establishing the legal framework needed to implement the new Civil Service Act represents an important step in making the Czech civil service apolitical. However, some stakeholders have criticized the implementation legislation and feel it lacks necessary aspects to depoliticize the process. Edvard Outrata, a former senator and head of the Czech Statistical Office, has stated that the distinction between political and apolitical appointments does not have any increased protection, such as anchoring appointments to the basic principle of separation of powers stated in the Constitution.<sup>7</sup> IRM researchers have not detected any significant changes since the midterm report, in which they recommended prohibiting (at minimum) the heads of public offices (namely "apolitical" deputy ministers and personnel directors) from occupying any positions in a political party. On the contrary, membership in a political party and candidacy in elections is not prohibited for any civil servants under the current application of §80 of the Act on Civil Service.<sup>8</sup>

Some stakeholders have also expressed doubts about the rules governing transparency in the Civil Service selection process, citing that present civil servants are exempt from the new regulations establishing hiring standards based on qualifying education and civil service exam scores.

CSOs including Transparency International-Czech Republic have raised concerns about vague or absent regulations for protecting whistleblowers. Decree No. 145/2015 Coll. details rights for whistleblowers in the civil service, and came into effect on 1 July 2016. However, its scope has been criticized as being limited. For example, under the current regulations, rules are missing or ambiguous regarding whistleblowers who accuse private entities of corruption. There are also missing protocols for protecting a whistleblower's IP address, protecting their right to report unlawful behaviour without breaching confidentiality agreements, and protection from retaliation. According to Transparency, regulations are still needed for an appeals process where whistleblowers can seek recourse if they are not satisfied with the results of an investigation or with the adopted corrective measures.9

The IRM researchers believe this commitment, despite the deficiencies listed above, has been a positive step toward more transparent and professional public administration. Additionally, the new legislation introduced a change in the disclosure of qualification requirements for civil service positions. Currently, the public has user-friendly, online access to new requirements. Previous requirements were also made public, however their access was not systematic. In this regard, although the commitment was written with a focus on internal changes without clear relevance to OGP values, as implemented, it produced a marginal change in government practice toward releasing information.

#### **Carried forward?**

The new action plan includes a commitment called *Implementing the Adopted Civil Service Act, Putting Depoliticization, Professionalization and Stabilization of Public Administration, into Practice,* which follows the commitments concerning the New Act on Civil Service from the second OGP plan. Its aims include:

- Completing hiring procedures for senior civil servants posts;
- Ensuring that certain civil servants take a civil service examination;
- Preparing the remaining implementing legislation for the Act;
- Monitoring the acceptance of whistleblowing measures;
- Monitoring civil servants' observation of civil service discipline and their fulfilment of ethical standards; and
- Furthering and developing the Civil Service Information System.

A complete version of this checklist was published online, but is no longer available; a summary version can now be found as a part of the Plan of Legislative Work for Year 2015: Government of the Czech Republic, *Plan of the Legislative Work for Year 2015*, [Czech] <a href="http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Priloha-c--1">http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Priloha-c--1</a> Plan-legislativnich-praci 2015.pdf, 28.

<sup>&</sup>lt;sup>2</sup> Government of the Czech Republic, Mid-Term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016 [Czech], Appendix, <a href="https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/OGP-Prubezna-sebehodnotici-zprava-CR-2014-2016.pdf">https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/OGP-Prubezna-sebehodnotici-zprava-CR-2014-2016.pdf</a>, 20.

<sup>&</sup>lt;sup>3</sup> End of term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016; Government of the Czech Republic, End of term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016 [Czech], https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf, 11.

4 Ibid.

<sup>&</sup>lt;sup>5</sup> Government Council for Information Society, "Minutes No. 1/2016 of the Meeting on 11 March 2016" [Czech], http://www.mvcr.cz/clanek/rada-vlady-pro-informacni-spolecnost.aspx?q=Y2hudW09Mg%3d%3d.

<sup>&</sup>lt;sup>6</sup> Section for Civil Service [Czech], <a href="http://konference.klub-personalistu.cz/files/5616cab664bad-Dosavadni-implementace-zakona-o-statni-sluzbe.pdf">http://konference.klub-personalistu.cz/files/5616cab664bad-Dosavadni-implementace-zakona-o-statni-sluzbe.pdf</a>, 12.

# VERSION FOR PUBLIC COMMENTS: PLEASE DO NOT CITE

 $<sup>^{7}</sup>$  Edvard Outrata, interview by the IRM researchers, 11 September 2015.

<sup>8</sup> Available at [Czech] http://www.mvcr.cz/sluzba/clanek/stanovisko-k-aplikaci-80-zakona-c-234-2014-sb-o-statni-sluzbe.aspx.
9 Transparency International-Czech Republic, Position to the Draft of a Government Decree on the Regulation of Whistleblowing in Public Administration [Czech], https://www.transparency.cz/wp-content/uploads/2015-04-29-Stanovisko-k-na%C5%99%C3%ADzen%C3%AD-vl%C3%A1dy\_WB.pdf.

# Commitment 3. Institutional measures to implement the new Act on Civil Service

#### **Commitment Text:**

A key role during transformation of state administration into state service will have a methodical and coordination body, which will be preparing service instructions and regulate their implementation. This body – Section for State Administration – will be established in the Ministry of Interior.

**Editorial Note**: The Section for State Service (SSS) was ultimately named Section for Civil Service (SCS) and is referred to as such throughout the report.

#### Milestones:

- 3.1 Establishing an organizational body for public service and incorporating it into the organizational structure of the Ministry of Interior.
- 3.2 Establishing a Section for Civil Service and incorporating it into the organizational structure of the Ministry of Interior.

**Editorial Note**: Before the adoption of the second action plan, the Government of the Czech Republic had two proposals to create a regulatory body. This commitment includes both proposals, causing a duplication of milestones. In practice, both have the same meaning and therefore are analysed as one.

Responsible institution: The Ministry of Interior

Supporting institution(s): None

Start date: Not specified End date: I January 2015

Commitment Overview	Spec	cificity				P vali writte		evance	Pote	ential	Impac	t	Compon	oleti	Midter End of term			it ope ernme			
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall			1			ι	Jnclea	ar		1						1		•			
																<b>V</b>					
3.1 Establish and incorporate a body for public			1			ι	Jnclea	ar		1						<b>V</b>					
service																•					
3.2 Establish and incorporate a			1			ι	Jnclea	ar		1						/					
Section for Civil Service																<b>✓</b>					

#### **Commitment Aim:**

The commitment is aimed at creating a coordinating body within the Ministry of the Interior, responsible for carrying out civil service reforms. For example, the coordinating body would prepare selection procedures for state secretary positions, draft the first systematization of civil service positions, and publish methodological directives on applying the Act. Creating such a body could contribute to the general goal of de-politicisation, professionalization and stabilization of the state administration sector.

# **Status: Complete at midterm**

The government fulfilled this commitment even before the current action plan was approved. Government Decree no. 776 of 22 September 2014 established the Section for the Civil Service (SCS).

## Did it open government?

# Access to information: Did not change Civic Participation: Did not change Public accountability: Did not change

Creating a central coordinating body was an important element in implementing the Civil Service Act. The Section for the Civil Service (SCS), under the direction of the Ministry of the Interior, was established for this purpose, although the initial plan was to create a fully independent agency within the Office of the Government. The SCS fulfils the commitment aims, although it is difficult to assess the actual outcomes of its methodological and coordinating role. Some stakeholders have expressed concerns that long-term efficiency and impartiality could be negatively affected due to the SCS's subordination to the Ministry of Interior.<sup>2</sup>

As implemented, the commitment does not have clear relevance to OGP values and does not include public-facing elements. While IRM researchers consider this commitment to be a step forward to improve the transparency and quality of government, it focuses on internal adjustments that do not change government practice in access to information, civic participation or public accountability.

# **Carried forward?**

The government fully accomplished this commitment by establishing the Section for the Civil Service. As a result, it was not carried over to the next action plan.

Available at [Czech] www.mvcr.cz/soubor/uv-776-2014-k-mater-ope-pdf.aspx.

<sup>&</sup>lt;sup>2</sup> Edvard Outrata, interview by the IRM researchers, 11 September 2015.

# Commitment 4. Selection, recruitment and appointment of civil servants/high-ranking civil servants

#### **Commitment Text:**

Depoliticisation of the state administration shall be achieved by transparent selection procedures both for low-rank posts and for posts of leading employees (superiors), objective rules for awarding non-entitled components of wages (extra pay for leadership and bonuses) and professionalisation shall be guaranteed by effective human resources processes – system education, examinations of officers and personal work with employees. By a clear definition of employees' rights and obligations, their development and simultaneously by professional stability even the efficiency of state administration execution will be increased.

The requirement to fill the vacancies ("hiring state employees and officials of municipal and regional offices") on the basis of a selection procedure (open competition), particularly on all levels of public administration, follows beside others from GRECO Recommendation from the 2nd Evaluation Round of 2006, which has not been fulfilled up to now.

#### Milestones:

- 4.1 Preparing selection procedure for the position of a deputy for state service and a personal director of the Section for Civil Service (SCS) and propose their appointment by the Government (immediately upon declaration of the Act, not later than 30.06.2015).
- 4.2 Preparing selection procedure for the positions of state secretaries in ministries and the Office of the Government of the Czech Republic and ensure their appointment (immediately upon appointment of a secretary for the state service, not later than 30.06.2015).
- 4.3 Preparing selection procedures for the positions of heads of the service authorities and deputies for managing sections and ensure their appointment by 30.06. 2016.
- 4.4 Prepare selection procedures for the positions of directors of departments and heads of units and ensure their realization by 30.06.2017.
- 4.5 Appointing heads of administrative bodies and deputies for managing a section.
- 4.6 Appointing directors of departments and heads of units.

**Editorial Note**: The Section for State Service (SSS) was ultimately named Section for Civil Service (SCS) and is referred to as such throughout the report.

Responsible Institution: Ministry of Interior (Section for Civil Service [SCS])

Supporting Institution(s): Public authorities to which the Act on Civil Service applies

Start Date: Not Specified ... End Date: 30 June 2017

Overview					(as v	writte	en)						on		End of	term	gov	ernr	nent?		
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall				1		ι	Jnclea	ır			1			1				1			
															<b>✓</b>						
4.1 Recruitment of a deputy for state service and a personal director of the SCS				•		l	Jnclea	ır			•					1					
4.2 Recruitment of state secretaries in ministries and the Office of the Government				1		l	Jnclea	ır			•					✓ ✓					
4.3 Selection procedures for heads of the service authorities and deputies				•		l	Jnclea	ır		1			<b>✓</b>			<b>✓</b>					
4.4 Selection procedures for directors of departments and heads of units				•		l	Jnclea	ır		•			<b>✓</b>	<b>✓</b>							
4.5 Appointment of heads of the service authorities and deputies				<b>✓</b>		l	Jnclea	ır		1			<b>✓</b>			<b>y</b>					
4.6 Appointment of directors of departments and heads of units				<b>✓</b>		l	Jnclea	ır		1			<b>✓</b>	<b>✓</b>							

#### **Commitment Aim:**

The commitment is aimed at making government administration apolitical through introducing transparent selection procedures for leadership positions and for high- and low-ranking posts.

Prior to the action plan, the government lacked a universal law for selecting public service employees. Newly appointed ministers and politicians could appoint unqualified supporters to positions in the public administration, or arbitrarily fire officials appointed by an opponent's party. This practice was highly criticized, and led to frequent turnover in key civil service positions often awarded as political favours.

#### **Status**

### **Mid-term: Limited**

The Ministry of Interior recruited a deputy for state service on 2 February 2015, and a personal director of the SCS on 23 February 2015. By 30 June 2015, the government appointed all State Secretaries within the Office of Government and other ministries. IRM researchers concluded that the government completed Milestones 4.1 and 4.2 on time and in accordance with the action plan.

By the end of June 2015, the government had not begun preparations for selecting service authority heads or their deputies. Most of these positions were filled by officials with previous roles in government. The process of filling the remaining open positions had not yet started.

Overall, IRM researchers found this commitment had limited completion by the midterm.

### **End of term: Substantial**

The government completed Milestone 4.3 (selection procedures for the positions of the heads of the service authorities and their deputies) in accordance with the action plan. The government began the selection procedures in June 2015 and appointed the selected employees on time by July 2016, thereby completing Milestone 4.5.<sup>3</sup>

Although the government has started Milestone 4.4 (selection procedures for directors of departments and heads of units) it is not expected to be completed until 30 June 2017 because they depend on the completion of Commitment 5: Systematisation of service positions and the authorities.<sup>4</sup> Through this systemization, the government will establish the number of civil servants and state employees for each public office and restructure the individual positions. For this reason, it is not likely that Milestone 4.6 (appointment of directors of departments and heads of units) will be completed before 30 June 2017.

According to the self-evaluation report, the government produced service assessments of civil servants for the first time in the first quarter of 2016. Officials assessed servants who worked in the civil service during 2015 for more than two months.<sup>5</sup>

Overall, IRM researchers evaluate the completion of the commitment as substantial by the end of term.

# Did it open government?

# Access to information: Did not change Civic Participation: Did not change Public accountability: Did not change

Prior to adopting the Act, politicians could appoint and dismiss civil servants at their discretion. By establishing a transparent and merit-based selection procedure and related rules, the Government aimed to reduce corruption in the state administration and improve internal systems of accountability.

The composition of civil service authorities and other public bodies will see significant changes with the reappointment of all civil servants by I July 2017. After this date, members will have to comply with the new requirements contained in the Act on Civil Service, such as meeting a minimum level of education and passing the Professional Servants Exam. Edvard Outrata, former senator and head of the Czech Statistical Office, noted that the potential risk of political influence still remains in the selection committee. Incumbent ministers recommend members of the committee; members may therefore be biased toward recruiting and appointing officials for key service positions who are favourable to incumbent officials.<sup>6</sup>

As noted in the Progress Report, this commitment was not clearly relevant to OGP values. As implemented, it continues to lack a public-facing element for accountability, a mechanism enabling public participation or public access to information. Therefore, it did not change government practice toward openness in OGP-relevant areas.

# **Carried forward?**

The government carried forward this part of the commitment to the next action plan, setting 30 July 2017 as the completion date in the commitment *Implementing the Adopted Civil Service Act, Putting Depoliticization, Professionalization and Stabilization of Public Administration, into Practice.* The only parts of the commitment which are not yet completed are the selection procedures for department directors, the heads of unit of service authorities and their deputies.

For IRM researchers, it would be advisable to establish fully independent selection committees to carry out the work entailed in the commitment, thereby reducing the risk of bias in the selection procedures.

Government of the Czech Republic, New Deputy Minister for the State Service Appointed, (February 2015), [Czech] <a href="http://bit.ly/IPX8ggY">http://bit.ly/IPX8ggY</a>.

<sup>&</sup>lt;sup>2</sup> Government of the Czech Republic, New Personnel Director of the Section for Civil Service Appointed, (February 2015), [Czech] http://bit.ly/1Plx2SI.

<sup>&</sup>lt;sup>3</sup> Government of the Czech Republic, End of Term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016 [Czech], https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf, 11.

<sup>4</sup> Ibid.

<sup>&</sup>lt;sup>5</sup> Ibid., 10.

<sup>&</sup>lt;sup>6</sup> Edvard Outrata, interview by the IRM researchers, 11 September 2015.

# Commitment 5: Systemization of service positions and the service authorities Commitment text:

During implementation of this priority the Czech Republic undertakes to realize in particular the following measures...to prepare a government decree on a catalogue of administrative activities and a government decree on wage conditions of state employees...in order that the following requirements are met...unambiguous definition of a boundary between the positions controlled by political parties and the apolitical bureaucratic positions, which will be occupied on the basis of open selection procedures, setting rules for depoliticisation, professionalisation and stabilisation of the state administration.

#### Milestones:

- 5.1 Submitting a draft of methodical instruction for preparation of the first systemization of the service positions and the first systemization of work positions
- 5.2 Preparing and drafting the first systemization of the service positions and the first systemization of work positions.
- 5.3 Submitting to the Government a proposal for systemization of the service authorities in accordance with the Act on Civil Servants for the year 2016 and
- 5.4 Submitting to the Government the draft of the service authorities systemization in accordance with the Service Act for the year 2017.

Responsible Institution: The Ministry of Interior

Supporting Institution(s): The Ministry of Finance

Start Date: Not Specified ..... End Date: 30 June 2016

Commitment Overview	Spec	ificity				P valu writte		evance	Pote	ntial	Impac	t	Comp	oleti	Midter End of		Did	it opei	n gover	nme	nt?
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Fransformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall	Z	ŭ	Σ	I	∢	_	Jncle:		Z	Σ	Σ	F	Z	=	<i>√</i>	O	>	□	Σ	Σ	O
															•						
5.1 Draft guidance instruction of first			<b>V</b>			ι	Jnclea	ar		<b>✓</b>						✓					
systematization																<b>√</b>					
5.2 Preparation of a first			1			ι	Jnclea	ar			1					<b>✓</b>					
systematization																<b>✓</b>					

5.3 Proposal for systematization	1	Unclear	•		✓	
for 2016						<b>✓</b>
5.4 Proposal for systematization	1	Unclear	1	✓		
for 2017					1	

#### **Commitment Aim:**

The commitment is aimed toward increasing consistency and efficiency within public administration by providing prerequisites and qualification criteria for recruiting and dismissing civil servants, as well as regulating the remuneration schemes for public servants and other state employees. By adopting a system of rules, this commitment offers a solution to mitigate the risk of politically motivated changes in the organizational structure of public authorities.

#### **Status**

# Mid-term: Substantial

When the Czech government adopted the second action plan, the Ministry of Interior was drafting a guide for systematically regulating positions within the state administration. The first systematization was adopted through Governmental Decision no. 465 and entered into force on 1 July 2015 in accordance with the Act on Civil Service, thus fulfilling Milestones 5.1 and 5.2.

After the first systematization entered into force, the Section for Civil Service (SCS), in cooperation with the Ministry of Finance, prepared a systematization proposal for the year 2016, completing commitment 5.3.<sup>2</sup>

# **End of term: Substantial**

Adoption of the systemization for the year 2016 depended on the adoption of the national budget for 2016; systemization is based on the total amount of financial assistance intended for civil servants and state employees. On 7 December 2015, the Government adopted the second systemization with Governmental Decision No. 1006 which entered into force on 1 January 2016.<sup>3</sup> This act regulates the total numbers of civil servant positions of senior officials and of positions in civil administration with specific security requirements, the budget needed for civil servants remunerations and the remuneration tariffs for the governmental agencies. The Parliament adopted the budget on 9 December 2015, therefore fulfilling Milestone 5.3 on time.<sup>4</sup>

According to Methodical Directive No. 2 of the Deputy Minister for the State Service, the Ministry of Interior has the responsibility to submit a draft systemization for year 2017 by 16 September 2016.<sup>5</sup> The directive requires that the draft systemization shall be prepared together with the draft of state budget for 2017. The Directive further specifies the annexes of the draft systemization (e.g. suggested number of civil servants their wages) and it also includes a procedure for approving drafts for individual government agencies and detail procedures for Ministry of Finance negotiations concerning budgetary requirements. It also requires justification for proposed changes to the 2016 systemization.

As a result, IRM researchers assess the commitment as substantially completed.

# Did it open government?

# Access to information: Did not change Civic Participation: Did not change Public accountability: Did not change

The commitment is intended to stabilize the civil service and prevent fluctuation in hiring and firing civil servants due to regime changes. These practices often happened in the past, particularly with appointing unqualified officials as political favours or arbitrarily dismissing officials appointed by opponent politicians. Systemization of officials' positions within the public sector has an important, though limited, potential impact on reaching the general goals of depoliticization, professionalization, and stabilization within state administration.

The commitment has the potential to improve internal accountability within public administration, as it provides clearer criteria for creating civil servant positions and remuneration schemes. However, as noted in the IRM Progress Report, this commitment is not clearly relevant to OGP values since it lacks a public-facing element. Therefore, it did not change government practice toward openness in areas relevant to OGP values.

# **Carried forward?**

The government did not carry over this commitment to the next action plan. However, the new plan contains a commitment entitled *Implementing the Adopted Civil Service Act, Putting Depoliticization, Professionalization and Stabilization of Public Administration, into Practice.* A related milestone addresses the observance of the systemization of civil service posts.

Government of the Czech Republic, "Governmental Decision Nr. 465 on the First Systematization," (15 June 2015), [Czech] <a href="http://bit.ly/20u7t]f.">http://bit.ly/20u7t]f.</a>

<sup>&</sup>lt;sup>2</sup> Government of the Interior, "Information and Schedule of the Proposals of the Amendment of the First Systematization," [Czech] <a href="http://bit.ly/1HlmleD">http://bit.ly/1HlmleD</a>.

<sup>&</sup>lt;sup>3</sup> Government of the Czech Republic, *Governmental Decision Nr. 1006 on the Second Systematization*, (7 December 2015), [Czech] https://apps.odok.cz/attachment/-/down/VPRAA57AUVPY.

<sup>&</sup>lt;sup>4</sup> Ministry of Finance: Act No. 400/2015 on State Budget of 2016, [Czech] <a href="http://www.mfcr.cz/cs/legislativa/legislativni-dokumenty/2016/zakon-c-400-2015-sb-23454">http://www.mfcr.cz/cs/legislativa/legislativni-dokumenty/2016/zakon-c-400-2015-sb-23454</a>.

<sup>&</sup>lt;sup>5</sup> Ministry of Interior: Methodical Directive Nr. 2 Laying Down Rules for the Drafting of Systematization of Civil Service and Working Positions in the Service Office with Effect from 1 January 2017, [Czech] <a href="http://www.mvcr.cz/sluzba/clanek/metodicky-pokyn-c-2-2016.aspx">http://www.mvcr.cz/sluzba/clanek/metodicky-pokyn-c-2-2016.aspx</a>.

# Theme II: Streamlining access to information

# Commitment 6. Streamline the free access to information system

#### Commitment text:

The amendment to the Act No 106/1999 Coll., on Free Access to Information, as amended, is to be made thanks to the obligation to perform a transposition of the European Parliament and Council Directive No 2013/37/EU of 26 June 2013, amending the Directive 2003/98/ES on repeated use of public sector information. This Directive stipulates a minimum package of the rules for repeated use of documents kept by the public sector subjects, and at the same sets down the rules for facilitating access to such documents.

Current requests made in this area prove that as the key and strategic direction of transparency development in public administration the principle RE-USE, i.e. a repeated use of information and "open data" has been perceived. In this conception the amended law should involve a specification of repeated use of information (RE-USE principle), the provider's obligation to accommodate the recipients of information technologically and organizationally (as usually applied abroad), or confirm the same importance of a form request and an information request, providing certain defined databases in a form of open data and setting powers of a supervisory body to formulate the data structures, data catalogue and arrangement of information disclosure through the open data and the related process.

Setting and application of such principles should result in further integration of the related data or removing multiplication. The principle of publication and availability should be leading, the aspect of affiliation or connection with factual subject agenda (public procurement, property treatment) should be secondary. The aim is to enable working with such data compoundly and in continuity, without necessity to combine incompatible data from various departmental systems.

Transposition performance of the Directive should support an increased efficiency of the public administration as to its openess towards citizens and strenghtening transparency and ensure a quicker and more efficient access of the public to information.

# Milestones:

6.1 Submission of the Draft Act to the Government

6.2 Creating of methodical material on modifications of the Act on Free Access to Information made by the amendment

6.3 Coming into force of the amendment

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified End Date: 1 July 2015

Commitment Overview	Spe	cificity				writte	en)	Technology & Innovation for B Transparency & Accountability 6	Pote	ential	lmpac d		Com	pleti	1	End of	Midterm End of term	End of term	End of term	End of term	End of term	End of term
	None	Low	Medium	High	Access to Inf	Civic Participation	Public Accountability	Technology & Transparency	None	Minor	Moderate	Transformative	Not started	Limited		Substantial	Substantial	Substantial Completed Worsens	Substantial Completed Worsens did not change	Substantial Completed Worsens did not chang	Substantial Completed Worsens did not chang Marginal	Substantial Completed Worsens did not chang Marginal

Overall	•	•		•			•	·		•	
6.1. Draft amendment of the Free Access to	1	<b>✓</b>		1				•			
Information Act								1			
6.2. Methodological	1	1		1		1					
material on the amendment								1			
6.3. Amendment in legal force	1	1		1				1			
<b>9</b>								1			

#### **Commitment Aim**

This commitment aims to amend the Free Access to Information Act of 1999, thereby improving open data and re-use regulations. The action plan concentrated on the obligations arising from the EU Directive 2013/37/EU, amending Directive 2003/98/ES on the repeated use of public sector information to enable greater access to information through open data.

#### **Status**

#### Mid-term: Substantial

The Czech government fully accomplished Milestone 6.1 (a draft amendment to the Free Access to Information Act) and Milestone 6.3 (the amendment providing legal force). In October 2014, before approval of the second action plan, the government published a new version of the draft amendment to the Free Access to Information Act. Compared to the prior July 2014 draft, it was limited mostly to transposing the EU Directive 2013/37/EU. The October version concentrated on ensuring public institutions provide information in open formats and if possible, in machine-readable form, both with respect to proactive information disclosures and responses to information requests. This, in general, corresponded to the commitment goals as defined in the second action plan (see above).

Parliament approved this October version of the amendment. The President signed the amendment and the legislation entered into legal force on 10 September 2015, completing Milestone 6.3.

The Ministry of Interior prepared the methodological material on the amendment changes (Milestone 6.2). However, since the Ministry did not publish the material within the period covered by the Midterm Report (1 July 2014 to 30 June 2015), IRM researchers coded Milestone 6.2 with limited completion.

# **End of term: Complete**

The Ministry of the Interior prepared methodological material on the amendment (Milestone 6.2) and made it publicly available for general use in section three of the government website on 18 November 2015. Therefore, IRM researchers consider the commitment completed.

#### Did it open government?

# Access to information: Marginal

The scope of the adopted amendments was limited, and applied to a narrow set of issues, thus reducing their ability to stretch government practice. There are several serious problems related to freely accessing information held by public authorities in the Czech Republic, namely insufficient

enforcement of the Free Access to Information Act (namely by not respecting the laws in force and the court decisions by some of the authorities). This challenge was not fully addressed by the adopted amendment. As written and implemented, there are several main issues with enforcing the Act. For example, if a government official refuses to provide information requested, there is no clearly delineated and enforceable appeals process. The information request may move up the chain of command, and the highest authority may declare that the information must be provided under the law, but there is currently no enforcement mechanism to compel the information to be released, unless the issue is taken to court.

Another key issue is a limited degree of proactive publication by public institutions. Under the current law, there is no clear standard for applying a "public interest test" to determine information that should be made publicly accessible. There are also no sanctions for officials refusing to provide information as required by the law.

As it was implemented, the original ambition of the commitment was diminished, which had intended to address a broad range of these problems and amend the Free Access to Information Act accordingly. However, by proposing an amendment limited to the transposition of the EU Directive on the repeated use of public sector information, the changes do not address the full range of issues involved in improving access to information. Although this commitment was complete, further activities to address the Act's limitations should be taken in future commitment relevant to access to information.

As a consequence of adopting the amendment, government held information will have to be published in open data format and machine-readable form whenever possible, along with the related metadata, as the EU Directive requires. This will increase the quality and possible further use of the information provided both actively by the authorities and upon request. However, the IRM researchers consider the impact of the commitment on opening the government as marginal because, as the analysis of CSO Otevrená spolecnost also confirms, the amendment did not address problematic areas such as recourse for illegal denials of information access, and missing sanctions for officials refusing to provide information in accordance with the Act. It can be also pointed out that the adopted amendment addresses the commitment indirectly with regards to setting a supervisory body for open data processes. The amendment does establish the general compentence of the supervisory bodies to review the duties of the public authorities. They are also closely connected to commitments 8 (open data catallogue) and 9 (open data legal framework).

# **Carried forward?**

The government fully accomplished the commitment as formulated in the second action plan and therefore did not carry the commitment to the next action plan.

<sup>&</sup>lt;sup>1</sup> Ministry of Interior: Methodical Recommendation No. 3 on the Procedure of Legally Bound Persons Under the Act no. 106/1999 Coll., On Free Access to Information - a) Transposing Amendment b) Practical Guide to Dealing with Requests for Information, [Czech] <a href="http://www.mvcr.cz/odk2/clanek/odbor-verejne-spravy-dozoru-a-kontroly.aspx?q=Y2hudW09Mw%3d%3d">http://www.mvcr.cz/odk2/clanek/odbor-verejne-spravy-dozoru-a-kontroly.aspx?q=Y2hudW09Mw%3d%3d</a>.

# Theme III: Improving access to data and information

# Commitment 7. Support for open data publishing

#### **Commitment Text:**

Ministry of Interior has submitted a project request into the Challenge D9 of the Operational Programme Human Resources and Employment. In the framework of this project particularly the issue of creating methodology for publication of public administration open data will be dealt, putting into operation the catalogue of public administration open data in the framework of the Portal of Public Administration and, last but not least, providing the necessary methodological support for other relevant institutions for publication of their data.

#### Milestones:

- 7.1 Commencement of the project
- 7.2 Training course of the Institute for Public Administration
- 7.3 Creating a methodology for publication of open data of the public administration

7.4 Providing methodical support to the respective institutions for publication of their data

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not specified End Date: 30 November 2014

Commitment Overview	Specificity				OG (as v		evance	Potential Impact				Completi on		Midterm End of term		Did it open government?					
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	Did not change	Marginal	Major	Outstanding
Overall			1				•					/	•			•					
7.1 Commencement			/		1					/						<b>/</b>					
of the project 7.2 Training														<b>√</b>		•					
course of the Institute for Public Administration			/		1					/				•		<b>✓</b>					
7.3 Open data publication		1			1					1					✓						
methodology																•					
7.4		1			✓					1				1							

Methodological support for data publication

#### **Commitment Aim:**

This commitment addresses open data challenges within public administration, such as insufficient public funding or limited technical skills for supporting data development at national, regional and local levels. As stated in the action plan, the public administration must publish its data to the "professional and general public in a manner that will enable repeated use of the data for various purposes and in a number of various software applications." If realized, the commitment could enhance information transparency. The commitment is intended to educate public officials, create a methodological support framework for publishing open data, and ensure necessary funding.

#### **Status**

#### **Midterm: Substantial**

The government began the project, referred to as the "Implementation of strategies in the field of public administration's open data of the Czech Republic," on time (Milestone 7.1) and has since completed the project.<sup>2</sup>

IRM researchers coded Milestone 7.2, initiating a training course by the Institute for Public Administration, as limited since the government did not complete the milestone by the midterm review.

Establishing an open data publication methodology (Milestone 7.3,) should have been completed by 31 March 2015. The government did not meet this goal. However, IRM researchers coded the completion of this milestone as substantial since the methodology was already in the pre-final phase and was open for comments.

The official project website did not provide information on the amount or content of completed consultations regarding developing methodological support for data publication (Milestone 7.4).<sup>3</sup> Interested officials may access detailed guides on the project website. This functionality therefore provides publically available instruction on how to make open data public. However, IRM researchers coded the completion of this milestone as limited since the Ministry of Interior's ability to continue providing support, and the degree of methodological support offered was unverifiable.

# **End of term: Completed**

The government completed two additional training courses from the Institute for Public Administration since the midterm (Milestone 7.2).

The final version of the open data publishing methodology was finished before 30 November 2015 (Milestone 7.3).<sup>4</sup> Since then, the government has held negotiations concerning proposed methodological adjustments and the provision of additional open data support.<sup>5</sup> The current methodology describes the entire process for publication and cataloguing of open data, including a detailed description of necessary steps for authorities to take. It also offers "sample publishing plans" for the different types of public authorities. To date, authorities have standardized 75 data sets.<sup>6</sup>

Support for data publishing has been an ongoing process as the action plan lacks specific terms for completion (Milestone 7.4). In April 2016, the government established a new position within the Ministry of Interior: the National Coordinator of Open Data. The National Coordinator consults with public authorities individually. As cited in the government self-assessment report, the government has already trained 415 persons from 206 public administration institutions (10 ministries, 8 central institutions, 9 regional government bodies, 69 cities and 112 local municipalities) have been trained in publication and cataloguing of open data.

Since the activity proceeded until the end of the second action plan period, IRM researchers evaluate the milestone, and thus the commitment, as complete.

# Did it open government?

# Access to information: Marginal

The commitment aimed to give public authorities insight into the benefits of open data publishing and to ensure public finance for this area. If successfully implemented, the commitment could positively affect knowledge sharing among public officials to make government data more accessible and open. This commitment was formed in an environment in which open data publishing has been of growing importance to the Czech government. Although some progress has been made, its full extent has yet to be seen.

This commitment is timely given increasing interest in open data in the Czech Republic.

According to a government representative from the D9 programme, the government view of publishing open data is developing, but remains dependent on the personal interests of individual officials.<sup>7</sup> There have been some positive improvements where several public authorities (ministries, regional authorities or public institutions) started to open their data – directly on their websites or in an open data catalogue. In addition, the Association of Opened cities, a local government working group, was established to promote open data publishing and transparency in local decision-making. Government officials are beginning to recognize open data as a sign of progress in public administration.

In April 2016, the Ministry of Interior established a new position: the National Coordinator of Open Data. For this position, the Czech government appointed Michal Kubán, the former open data expert of the NGO Otakar Moteil Fund.<sup>8</sup>

The commitment focused on a preparatory phase of open data publishing, which is a necessary step for future releases of data. As written, this commitment did not have requirements for releasing new data or improving the quality of already available data. However, during implementation, public authorities opened access to previously unavailable data both through their websites and in open data catalogues. While it is unclear if this was a direct result of the commitment or part of a general trend toward opening data, this commitment plays an important role in facilitating access to information and as implemented had a marginal affect on improving administrative knowledge for open data publishing.

### **Carried forward?**

The government did not carry forward this commitment. However, the new commitment *Improving Access to Data and Information*, and specifically its subtheme, *Supporting the Development of the Public Administration of the Czech Republic's Open Data Ecosystem*, develop and follow the current commitment. Relevant milestones from this subtheme include:

- public administration employee training on publishing and cataloguing open data; and
- providing assistance to public administration authorities on opening data.

<sup>&</sup>lt;sup>2</sup> Ministry of the Interior, Open Data, [Czech] http://www.mvcr.cz/clanek/otevrena-data.aspx?q=Y2hudW09NA%3d%3d.

<sup>&</sup>lt;sup>3</sup> Open Data, Official project website, [Czech] http://opendata.gov.cz/edu:start.

<sup>&</sup>lt;sup>4</sup> Dušan Chlapek et al., Methodology for Publication of Open Data of the Public Administration, [Czech] <a href="http://opendata.vse.cz/tacr/mf/TD020277">http://opendata.vse.cz/tacr/mf/TD020277</a> Metodika publikace otevrenych a propojitelnych dat.pdf.

<sup>&</sup>lt;sup>5</sup> Michal Tošovský (Otakar Motejl Fund), interview by IRM researchers, August 2016.

<sup>&</sup>lt;sup>6</sup> Government of the Czech Republic, *End of term Self-*Assessment *OGP Action Plan* Report of the Czech Republic 2014-2016 [Czech], <a href="https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf">https://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Zaverecna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf</a>, 20.

<sup>&</sup>lt;sup>7</sup> Tomáš Kroupa, Martin Tajtl and David Hemala, interview by IRM researchers, August 2015.

# VERSION FOR PUBLIC COMMENTS: PLEASE DO NOT CITE

<sup>&</sup>lt;sup>8</sup> Tošovský, interview, August 2016.

# Commitment 8. Open data catalogue

#### **Commitment Text:**

# Putting into operation the catalogue of the public administration open data

The catalogue of open data should not constitute a central data repository, but only a guidepost providing seeking services. The data will be placed on the servers of data administrators, who will be able to place links into the catalogue and will be responsible for correctness of the catalogue data. Public administration bodies will thus gain a possibility to create in the catalogue records on their data describing the data and indicating their availability for downloading. The public will gain a possibility to seek in the catalogized records in a unified manner with the help of various criteria in friendly user interface. The public (but even the public administration itself) will gain a survey of open data published by the public administration of the Czech Republic in one place.

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified End Date: 30 June 2015

Commitment Overview	Spe	cificity		OGP value relevance (as written)					entia	l Impa	act	Complet		Midterm End of term		Did it open government?					
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	did not change	Marginal	Major	Outstanding
			•		•			•			•					✓ ✓			•		

#### **Commitment Aim:**

The commitment aims to improve access to data and information by creating an open data catalogue of government-held information at the national, regional, and local levels. The national catalogue will provide a platform for proactively publishing data produced by the public administration. The intention is to enable the public to easily access open data. It is also the first step for facilitating both commercial and non-commercial use of government-held data.

# **Status: Complete at midterm**

The Ministry of Interior created the catalogue on time as was stipulated in the action plan. The government launched a pilot version of the national catalogue of public administration open data in April 2015 (with additional adjustments submitted by June 2015). However, only eight institutions have opted to publish their data sets in the catalogue thus far. Once data sets are published, the Ministry does not guarantee their authenticity nor whether the information is correct and complete.

The publishing institution itself takes responsibility for the information. <sup>5</sup> For more information, please see the 2014-2016 Midterm IRM report.

Although this commitment was complete at midterm, there has been additional progress as the amount of data sets published in the catalogue has expanded. There are six new institutions publishing their data sets in the catalogue.<sup>6</sup> According to the decree, less than 1% of public institutions are obliged to publish data in the open data catalogue (central governmental institutions as Ministry of the Interior, Ministry of Finance, among others). The catalogue covers only data registers listed in the decree. For this reason, the majority of public institutions and local authorities do not publish their data sets in the catalogue because they are not legally obligated to do so.

The situation shall be changed by an amendment of Act no. 106/1999 Coll. on Free Access to Information, providing a legislative obligation for selected public institutions to publish the data in the catalogue of public administration. According to the amendment, central governmental institutions like the Ministry of the Interior, Ministry of Finance etc. will be required to publish their data in the catalogue. Data sets that shall be included in the open data catalogue are specified in an accompaning implementation decree.<sup>7</sup> The amendment was published in the Collection of Laws on 19 September 2016 and will come into effect on 1 January 2017.<sup>8</sup>

As for the decree, it has only progressed through internal comment procedures in the government and therefore has yet to be adopted.9

# Did it open government?

# Access to information: Marginal

At the time the government adopted the commitment, data published by the public administration did not often fulfil essential open data requirements, such as machine readability. The commitment aims to change the way authorities publish government-held information in order to enable easy public access to the open data catalogue. The open data catalogue was intended to benefit both CSOs and the general public by providing access to information necessary for monitoring government activities, and developing new data applications for better public service delivery.

However, as implemented, a significant number of authorities still have yet to begin publishing information in the catalogue. This could be attributed to several factors. The public administration used an existing government web portal as the platform for the catalogue, and has not sufficiently communicated the benefits of the catalogue to potential publishers of open data sets. The commitment itself also did not provide an explicit list of data that should be made public.

As a representative from Otakar Motejl Fund explains, the decree will apply only to data collected by central authorities and does not require local authorities to publish their data sets. <sup>10</sup> Additionally, the representative states that the commitment is lacking criteria for ensuring that useful, usable information for civil society and the commercial sector is published in the catalogue.

To address the need for legislation defining what data should be made public, the Czech government passed an amendment of Act no. 106/1999 Coll. on Free Access to Information, providing a legislative obligation for selected public institutions to publish data in the catallogue of public administration. This amendment will take effect in January 2017, and the IRM researchers consider the following publication requirements from the draft decree as most important:

- publishing data about economic entities (containing data from the commercial, insolvency and trade register);
- publishing data contained in the information system on public procurement and subsidies; and
- Including data published in the public register of contracts.

IRM researchers consider this decree requiring the publishing of specific data sets to be a positive step toward ensuring open data. Some of the data sets included in the decree are highly valuable and

useful for the public, and this will encourage releasing additional data in the future. However, IRM researchers feel that the current draft decree could have required even more data be released, such as environmental data or records on government spending. Researchers view this as a missed opportunity to apply statutory authorization to mandate broader data publishing requirements. In addition, the lists of data sets in the draft decree do not fully correspond to those set out in the action plan's Appendix to Commitment 4.2.1.

As a result of this commitment's implementation, publishing data sets in the national catalogue has been voluntary as there is still no legislative obligation to do so in force. Taking into account the fact that only a fraction of public institutions and local authorities have published their data in the catalogue, IRM researchers consider the impact on opening government as marginal.

#### Carried forward?

Instituting the catalogue of the public administration open data, which is the aim of this commitment, remains to be a significant theme of the next action plan. The action plan for 2016 - 2018 deals with the problem in its second theme, specifically in its first and second commitment. These commitments include the following milestones:

- Publish priority data sets in an open form and update them regularly to ensure that they are as current as possible;
- Catalogue the priority data sets in the National Open Data Catalogue;
- Develop open and interconnected data standards; and
- Develop the National Open Data Catalogue (NODC).

The list of priority data sets given in the action plan's Appendix includes several data sets that are expected to be mandatory for publication according to the governmental draft decree (related to the new amendment of Act no. 106/1999 Coll. on Free Access to Information).

IRM researchers consider that consultation with CSOs might be useful to maximize the usefulness and applicability of the open data. Additionally, data catalogues could be more coherent in order to direct the use of such data.

Portal of Public Administration, *National Catalogue of Open Data*, [Czech] <a href="http://portal.gov.cz/portal/obcan/rejstriky/data/97898/2015-04.html">http://portal.gov.cz/portal/obcan/rejstriky/data/97898/2015-04.html</a>.

<sup>&</sup>lt;sup>2</sup> Tomáš Kroupa, Martin Tajtl and David Hemala (project team of the Ministry of Interior), interview by IRM researchers, August 2015.

<sup>&</sup>lt;sup>3</sup> Government of the Czech Republic, *Mid-term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016* [English], <a href="https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf">https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf</a>, 16.

<sup>&</sup>lt;sup>4</sup> For details, see the National Catalogue website: Portal of Public Administration, *Open Data*, [Czech] <a href="http://portal.gov.cz/portal/obcan/rejstriky/data/">http://portal.gov.cz/portal/obcan/rejstriky/data/</a>.

<sup>&</sup>lt;sup>5</sup> Kroupa, Tajtl and Hemala, interview, August 2015.

<sup>&</sup>lt;sup>6</sup> Office of the Government of the Czech Republic: Action Plan of the Czech Republic Open Government Partnership for 2016 to 2018 [English], <a href="https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Action-Plan-of-the-Czech-Republic-Open-Government-Partnership-for-2016-to-2018.pdf">https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Action-Plan-of-the-Czech-Republic-Open-Government-Partnership-for-2016-to-2018.pdf</a>, 15.

<sup>&</sup>lt;sup>7</sup> Government of The Czech Republic: *Parliamentary Print 764/0, part no. 1/6* [Czech], http://www.psp.cz/sqw/text/tiskt.sqw?O=7&CT=764&CT1=0.

<sup>&</sup>lt;sup>8</sup> Government of the Czech Republic: Act no. 298/2016 Coll. [Czech]: https://www.psp.cz/sgw/sbirka.sgw?cz=298&r=2016.

<sup>&</sup>lt;sup>9</sup> Government of the Czech Republic: Governmental Proposal of Decree Establishing a List of Obligatorily Published Information as Open Data [Czech]: https://apps.odok.cz/veklep-

detail?p\_p\_id=material\_WAR\_odokkpl&p\_p\_lifecycle=0&p\_p\_state=normal&p\_p\_mode=view&p\_p\_col\_id=column-l&p\_p\_col\_count=3&\_material\_WAR\_odokkpl\_pid=KORNAD3DQ8Hl&tab=detail.

# Commitment 9. Open data legal framework

#### **Commitment Text:**

# Creating a legal milieu for open licensing of using open data

Creation of rules for publishing information on data sets of open data is currently envisaged on the one hand within the catalogue of open data so that the subjects, publishing information in the form of open data, have at disposal an instructive methodology, and on the other hand a creation of legal environment for open licensing of using open data, which will in particular consist in involvement into the Act on Free Access to Information and preparing sample license agreements. This constitutes preparation of a solution that will ensure data openess, but at the same time must be convenient (non-discrimination, non-favouring, investment protection, etc.) for all groups concerned (creators, commercial users, non-commercial users, etc.) and refrain from any conflict with the Czech law (Act on Free Access to Information and Copyright Act), nor with EU regulations (Directive 2013, Directive INSPIRE etc.).

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified End Date: 30 September 2015

Commitment Overview	Spe	cificity		OGP value relevance (as written)				Potential Impact				Completi on		Midterm End of term		Did it open government?					
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Completed	Worsens	did not change	Marginal	Major	Outstanding
			•		•			•			•			•	1				•		

# **Commitment Aim:**

This commitment aims to provide public administrators with a clear legal framework guiding data publication. This is to ensure government data (both national and local) is published in open formats and disclosed through legal regulations. Government representatives repeatedly cited the lack of law covering the release of public information as a reason they have hesitated to open their data in the past.

## **Status**

# **Midterm: Limited**

Legislative bodies had already approved the amendment to Act no. 106/1999 Coll. on Free Access to Information; it entered into force in September 2015 (see Commitment 6).

The Ministry of Interior was developing the amendment to Act no. 365/2000 Coll. on Information Systems of the Public Administration and should have incorporated the amendment into the Government Plan of Legislative Works for 2016. Legislative changes were expected to be approved in 2016 as well. IRM researchers concluded that the completion of the commitment was limited. Because the amendment to Act no. 365/2000 Coll. had not been adopted yet, the government has only adopted some prerequisites of the legal requirements for publishing public administration data in open format.

#### **End of term: Substantial**

The government decided to incorporate the legal background of the National Catalogue of Open Data into second amendment of Act no. 106/1999 Coll. on Free Access to Information; they did this instead of amending the Act no. 365/2000 Coll. on Information Systems of the Public Administration which had been prepared previously. As a consequence of this change, the government's legislative strategy has become confusing for civil society observers; it was not clear if the proposed changes concerned the right to information or conditions for publishing information in open data formats. In addition, the change has slowed the process of enacting the legislation.

#### The amedment contains:

- A definition of "open data;"
- The legal establishment of the National Catalogue of Open Data as a public administration information system and central resource of open data in the Czech Republic;
- The enactment of new obligations for responsible public authorities to provide certain information as open data; and
- The authorization for the Government to issue implementing decrees to formulate concrete data sets that should to be published in the catalogue.<sup>2</sup>

Compared to the previous draft, the second amendment of Act no. 106/1999 Coll. on Free Access to Information provides a broader and more flexible definition of open data. Data is expected to be remotely accessible, open and machine readable, published in the national open data catalogue and released without limitations on usage. All these characteristics must be fullfilled to designate the data as "open."

Implementing the governmental draft decree establishes the list of information (data sets) the government is obligated to publish as open data.<sup>3</sup>

On September 2016, the amendment was signed by the president and published in the Collection of Laws.<sup>4</sup> This was completed three months after the conclusion of the second action plan implementation period. The amendment will come into effect on I January 2017 and the obligation to publish the data must be fulfilled by 2018.<sup>5</sup> The draft decree has concluded the comment procedure (within the ministries, regions, and other designated institutions) and it has not been adopted yet.<sup>6</sup> The decree will apply only to data collected by central authorities and does not require local authorities to publish data sets.<sup>7</sup>

In the IRM researchers opinion, the amendment of Act no. 106/1999 Coll. on Free Access to Informations should play a major role in completing the legal implementation of public administration open data.

# Did it open government?

# Access to information: Marginal

The commitment aimed to legally regulate the government to publish open data. It was intended to require public authorities to open their data for public access, and thus strengthen transparency, improve administrative efficiency, and simplify citizens' participation in decision making.

The most significant change of the first amendment to the Act no. 106/1999 Coll. on Free Access to Information was requiring government-held information to be published and publicly available. The amendment stipulates that this information should be published in an open format and (if possible) machine-readable. In the context of the whole issue of open data, IRM researchers consider the impact of this amendment as only a small step toward a complex solution.

The second amendment to the Act (coming into effect in January 2017), provides a legislative definition of "open data," establishes a national data catalogue and designates the Ministry of Interior as administrator of the catalogue. The second amendment also includes a decree defining which datasets must be published. Together, these amendments create the necessary legal background for effectively opening data and increasing user-friendly access to information for commercial and non-commercial use.

There are some remaining open data challenges the new legislation does not specifically address. Michal Tošovský, an open data expert of Otakar Motejl Fund, mentions that the legal obligation to publish information in an open data format will apply only to central authorities. As mandated, it will not apply to data collected by local authorities. In addition, the amendment does not impose any accountability mechanisms in cases where public authorities do not comply with data publishing standards.<sup>8</sup> As a result, it is not clear if the new legislation, as adopted, would be enforceable.

The changes in the legal regulation of open data publishing have only an indirect effect on increasing public access to information. Based on these issues described above, IRM researchers code the overall effect of this commitment on improving access to information as marginal.

#### **Carried forward?**

The action plan for 2016 – 2018 deals with the issue of open data legislation in a more comprehensive way and develops the commitments from the previous action plans. Among other things, it aims at publishing priority data sets in open data format and contains a list of priority data sets in its Appendix.

IRM researchers recommend that the system of open data publishing be accompanied by a specific control mechanism to verify public administrative bodies open their data according to legal requirements. The newly appointed National Coordinator of Open Data could have a role in this control mechanism.

Office of the Government, Self-Assessment Report of the Action Plan of the Czech Republic 2014-2016, [English] <a href="https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf">https://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf</a>.

<sup>&</sup>lt;sup>2</sup> Government of The Czech Republic: *Parliamentary Print 764/0, part no. 1/6* [Czech], http://www.psp.cz/sqw/text/tiskt.sqw?O=7&CT=764&CT1=0,

<sup>&</sup>lt;sup>3</sup> Government of the Czech Republic: Governmental Proposal of Decree Establishing a List of Obligatorily Published Information as Open Data [Czech]: <a href="https://apps.odok.cz/veklep-">https://apps.odok.cz/veklep-</a>

detail?p p id=material WAR odokkpl&p p lifecycle=0&p p state=normal&p p mode=view&p p col id=column-1&p p col count=3& material WAR odokkpl pid=KORNAD3DQ8Hl&tab=detail.

<sup>4</sup> Government of the Czech Republic: Act no. 298/2016 Coll. [Czech]: https://www.psp.cz/sqw/sbirka.sqw?cz=298&r=2016.

<sup>&</sup>lt;sup>5</sup> Government of The Czech Republic: *Parliamentary Print 764/0, part no. 1/6* [Czech], http://www.psp.cz/sqw/text/tiskt.sqw?O=7&CT=764&CT1=0.

<sup>&</sup>lt;sup>6</sup> Government of the Czech Republic: Governmental Proposal of Decree Establishing a List of Obligatorily Published Information as Open Data [Czech]: <a href="https://apps.odok.cz/veklep-">https://apps.odok.cz/veklep-</a>

detail?p p id=material WAR odokkpl&p p lifecycle=0&p p state=normal&p p mode=view&p p col id=column-1&p p col count=3& material WAR odokkpl pid=KORNAD3DQ8Hl&tab=detail.

<sup>&</sup>lt;sup>7</sup> Michal Tošovský (Otakar Motejl Fund), interview by IRM researchers, August 2016.

<sup>&</sup>lt;sup>9</sup> Ibid.

#### **METHODOLOGICAL NOTE**

Commitments are clustered based on the original OGP action plan, as described in the chapter General overview of commitments. This report is based on a desk review of governmental programmes, draft laws and regulations, governmental decrees, review of the government self-assessment report, analysis of the commitments, as well as on monitoring the process of elaboration of the 3nd Action Plan. The IRM researcher also relied upon written consultation with Otakar Motejl Fund to evaluate completion and impact of the commitments concerning open data.

Frank Bold Advokati, s.r.o. is a law firm active in the fields of corporate, administrative, environmental, energy, and construction law. They also have broad experience in areas of government transparency and accountability.

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



