

The Government of Ukraine has implemented fully or substantially most of its commitments under the 2014-2016 national action plan. Eight commitments had a major or outstanding impact on opening government, including measures to open communist-regime archives, disclose the assets and income of public officials online, and create e-petitions and new open data legislation. Moving forward, the government should focus on key open government commitments that are clearly relevant to OGP values, and can have a transformative impact.

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 September 2015 to November 2016.

The Government Secretariat is the lead institution in Ukraine responsible for the development and implementation of the OGP national action plan. The secretariat is headed by the Minister of Government. The OGP Coordination Council, established in June 2012, is the main coordination mechanism at the national level. The council includes 39 members, 11 of whom are independent experts or officials from various public agencies and civil society. In June 2015, the Coordination Council established six working groups to allow a more dynamic management of the OGP process.

In January 2016, the government published a schedule for developing a new action plan and launched relevant public consultations. After extensive consultations, and with some delay, the government adopted the new action plan on 30 November 2016. The third plan covers the period 2016-2018, and includes 17 commitments in various areas.

Table 1: At a Glance

	Mid-term	End-of-term
Number of commitments:	26	
Number of milestones:	26	
Level of completion		
Completed:	7	12
Substantial:	10	9
Limited:	7	4
Not started:	2	1
Number of commitments with:		
Clear relevance to OGP values:	21	
Transformative potential impact:	7	
Substantial or complete implementation:	17	21
All three (★)	3	4
Did it open government?		
Major:	3	
Outstanding:	5	
Moving forward		
Number of commitments carried over to next action plan:	8	

Consultation with civil society during implementation

Countries participating in OGP follow a process for consultation during development and implementation of their OGP action plan. The main consultation process was organised based on the National OGP Coordination Council's platform. The majority of the members of the Council are non-governmental representatives. The government, jointly with donors and NGOs, organised a number of national and regional discussions during the development of the action plan and in the preparation of the self-assessment reports. Overall, the process was participatory and inclusive, and the government reacted to feedback by adjusting the draft action plan and self-assessment reports. Summaries of public consultations were published as well. However, during implementation, the OGP Coordination Council's meetings were held intermittently, with no pre-set schedule or regularity. The IRM report recommended establishing a management body to organize meetings between the general Coordination Council and thematic working groups for commitments. Additionally, the IRM recommended appointing co-chairs from civil society to the management body and working groups involved in the process, and including the business sector in the multi-stakeholder process.

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 ¹	Collaborate

¹ IAP2 Spectrum information available here

https://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf

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 (<http://www.opengovpartnership.org/about/about-irm>). One measure deserves further explanation, due to its particular interest for readers and usefulness for encouraging a race to the top between OGP-participating countries: the “starred commitment” (★). Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

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

Based on these criteria, at the midterm report, Ukraine’s action plan contained three starred commitments. At the end of term, based on the changes in the level of completion, Ukraine’s action plan contained *four* 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 tables in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full dataset for Ukraine, 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 relevant to this commitment. 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 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.

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. For commitments that were complete already 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 further details on completed commitments at mid-term, please see Ukraine’s IRM midterm progress report.

Overall, Ukraine’s second national action plan included 26 commitments covering a broad range of issues. Most of the measures (19) were normative; they provided for the development and/or adoption of various legal acts, including 14 draft laws. The action plan was structured around five topics: (1) Enabling environment for civil society organisations’ and public participation in policy development, (2) Access to information, (3) Corruption prevention, (4) Public services, and (5) e-governance and e-democracy. The IRM researcher clustered some of the commitments to better structure the report, and combined related measures that could be better dealt with in one context. For example, measures in Chapter 1 of the national action plan were clustered into two commitments: 1) Law and regulations on public participation in policy making, and 2) Enabling environment for civil society organisations (CSOs). Commitments related to open data regulations were clustered together as well.

Table 3: Overview: Assessment of Progress by Commitment

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Mid-term	Did it Open Government?					
															End of Term						
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency &	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
Theme I: Create enabling environment for civil society engagement in public policies																					
1. Improve government rules on CSO involvement				✓		✓	✓				✓					✓			✓		
																✓					
4. Public participation law				✓		✓	✓				✓			✓					✓		
														✓		✓					
2. Financing of charities				✓		✓					✓		✓					✓			
													✓								
3. Not-for-profit status for CSOs			✓		✓	✓					✓		✓						✓		
																✓					
Theme II: Ensure access to public information																					
5.1 Establish rules on processing official information				✓	✓					✓					✓					✓	
																✓					
5.2 Access to urban planning documents				✓	✓		✓				✓			✓					✓		
														✓							
✶5.3 Access to communist-era archives				✓	✓						✓						✓				✓
																✓					
✶7. Supervisory mechanism for the right to information				✓	✓		✓				✓					✓		✓			
																✓					
8. Compliance with EITI			✓		✓	✓					✓				✓					✓	
															✓						
Theme III: Prevent and combat corruption																					

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Mid-term	Did it Open Government?					
															End of Term						
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency &	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
9. Monitoring of infrastructure projects			✓			✓	✓				✓			✓				✓			
10. Adopt regional anti-corruption programmes		✓				✓	✓			✓				✓				✓			
11. Corruption risk assessment methodology				✓		✓	✓			✓					✓			✓			
✶ 12. Asset disclosure on a single web portal				✓	✓		✓	✓				✓		✓							✓
Theme IV: Administrative and social service provision																					
13. Law on administrative procedure				✓	✓		✓					✓		✓				✓			
14. Draft law on streamlining payment of administrative fees				✓	Unclear					✓				✓				✓			
16. Draft law on decentralisation of administrative services				✓	Unclear							✓			✓			✓			
15. Administrative services portal				✓	✓			✓		✓							✓		✓		
				✓	Unclear						✓				✓			✓			

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Mid-term	Did it Open Government?					
															End of Term						
	None	Low	Medium	High	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency &	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
17. Draft law on social services															✓						
Theme V: E-governance technologies to develop e-democracy																					
18. E-government laws				✓		✓		✓		✓					✓					✓	
19. Electronic readiness assessment		✓			Unclear				✓						✓			✓			
★6: Draft law on open data				✓	✓			✓				✓				✓				✓	
20. Government regulations on open data		✓			✓			✓			✓				✓					✓	
21. Electronic democracy development roadmap		✓			✓	✓		✓			✓				✓			✓			
23. E-petitions				✓		✓	✓	✓		✓				✓				✓			
22. Open budget initiatives				✓	✓		✓	✓			✓					✓			✓		
24. E-governance training for local government			✓		Unclear					✓						✓		✓			

Theme I: Create enabling environment for civil society engagement in public policies

I. Improve government rules on CSO involvement

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

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

4. Public Participation Law

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

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

Editorial Note: The IRM researcher grouped these two commitments together, since both are related to public participation in policy making.

Responsible institution(s): Ministry of Justice

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

Start Date: Not specified

End Date: May 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Midterm	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				
1. Improve government rules on CSO involvement				✓		✓	✓				✓					✓					
																✓					
4. Law on public participation				✓		✓	✓				✓			✓					✓		
															✓						

Commitment aim

Both commitments aimed to improve civil society participation in the development and implementation of public policy by establishing new formal procedures and structures or refining existing ones. Civil society engagement is crucial for effective participatory democracy, especially in Ukraine, where the legacy of state monopoly over public policy is still strong. Commitment 1 focused on improving government rules to better facilitate public consultation in policymaking. Commitment 4 sought to draft and, ultimately, adopt a law on public participation. If implemented, this would be a major step forward in improving citizen engagement in decision making.

Status

1. Improving government rules on CSO involvement

Midterm: Complete

The government adopted several regulations with regard to CSOs involvement in the policy making process: Procedure for Consultations with the Public on Policy Development and Implementation, and Model Regulations on Public Councils to the Executive Authorities (both adopted in 2010), as well as Procedure for Facilitating Public Examination of the Executive Authorities (adopted in 2008). For a long time, CSOs advocated for revision of the above regulations to streamline and make them more effective. The first commitment was fully implemented. The Ministry of Justice set up a working group to develop amendments, and held public consultations on the draft proposals in December 2014. Draft amendments were published on the ministry's website and the government's web portal, "Civil Society and Authorities." The government enacted relevant amendments to its own regulations in April 2015. Civil society groups reported that the ministry developed the draft amendments in an open and inclusive manner, and that they (the amendments) are generally positive and significantly improve relevant procedures. The changes include simplifying and improving consultation methods, making consultations more open and inclusive, and setting clear lists of issues that require mandatory public consultation. In addition, regulations were strengthened for an accountability mechanism that allows public examination of authorities.¹

4. Public Participation Law

Midterm: Limited

The government's plan for many years included the development of a law on public participation in policy formulation and implementation. According to the government's self-assessment, the Ministry of Justice set up a working group to develop the draft law. It included representatives of CSOs and, in March 2015, the Government's Secretariat and the Ministry of Justice held public consultations on the topic. The Ministry of Justice, together with the Organisation for Security and Cooperation in Europe (OSCE) Project Coordinator's Office and the Government's Secretariat, organised six regional discussions in June and September 2015. The working group prepared a compendium of best practices and international standards in this area, and published it on the government's website. Comments on the draft law proposals were also solicited through an online form. Eventually, the scope of the draft law was narrowed to focus on "public consultations," which made it more tangible and realistic.²

End of term: Substantial

Based on the preliminary discussions, the Ministry of Justice prepared a draft law on public consultations. This was published for consultation on the websites of both the ministry and government in July-August 2016. On 31 October 2016, the ministry put out a report on the results of the consultations.³ The report described the latest consultation exercise, as well as previous discussions, and explained which proposals were taken into account and which were not. The Ministry of Justice also requested OSCE/ODIHR to examine the draft law. The OSCE/ODIHR evaluations were delivered in September 2016.⁴ As of December 2016, the draft law had not yet been submitted to Parliament.

Did it open government?**I. Improving government rules on CSO involvement****Civic participation: Marginal****Public accountability: Marginal**

The commitment aimed to improve a set of formal rules for civic participation and oversight of government decision making. Its potential was moderate, as it aimed to streamline the rules and procedures put in place between 2008 and 2010. In completing this commitment, the Ministry of Justice worked with civil society to amend three regulations: the Procedure for Consultations with the Public on Policy Development and Implementation; Model Regulations on Public Councils to the Executive Authorities; and Procedures for Facilitating Public Examination of the Executive Authorities. As reported at the midterm, the changes were brought about through an inclusive consultation process between the ministry and civil society. The activities included simplifying the consultation process and strengthening an accountability mechanism to allow public examination of authorities. However, as implemented, the commitment had only a marginal impact on changing government practice. The government used the adopted changes in the rules to re-launch civic councils that had been discredited due to their collaboration with the previous government. The new regulations attempted to address deficiencies in the older versions; the latter allowed civic participation structures to be hijacked by fake or government-affiliated NGOs (GONGOs), thereby undermining their watchdog function. Nevertheless, the changes implemented to replace the old procedures and structures did not improve their effectiveness. While this commitment marginally improved civic participation and public accountability by modernising some formal procedures of cooperation, the effect on open government was limited. This can be explained by outdated procedures and structures, for example, civic councils, whose role — to ensure collaboration with civil society and public oversight — declined further.⁵

4. Public Participation Law**Civic participation: Marginal****Public accountability: Did not change**

The commitment aimed to develop a new mechanism for involving civil society in the government decision-making process. If it provides for detailed and meaningful consultation procedures, the draft law could have a moderate impact on public engagement. However, as noted in the midterm report, the drafting process would have benefited from an analysis of the reasons behind poor enforcement of the current regulations on public consultations to identify more effective tools to address this problem. The government has yet to complete this commitment. Still, its consultation process vis-a-vis this draft law was more open than that of many other policy decisions or draft laws. This marginally opened the government with regard to civic participation.

Carried forward?

The first commitment on improving government rules vis-a-vis CSO involvement was not carried over to the new action plan. The fourth commitment on the Public Participation Law was included in the new plan. The Ministry of Justice, together with non-governmental partners, is to lead the development of a draft law on public consultations and submit it to the government. The commitment no longer includes the task of submitting the draft law to Parliament and following it to adoption.

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 24, http://www.opengovpartnership.org/sites/default/files/Ukraine_Second_IRM_Report_PublicComment_ENG.pdf

² Ibid, 25.

³ <http://bit.ly/2glgV3s>.

⁴ <http://bit.ly/2hkz6A7>.

⁵ Maksym Latsyba, NGO Ukrainian Independent Center for Political Research, interview with the IRM researcher, 29 September 2015.

2. Financing of charities

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

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

Start Date: Not specified

End Date: 31 March 2015

3. Obtaining not-for-profit status for CSOs

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

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

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

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

Supporting institution(s): Ministry of Social Policy, Ministry of Culture, Ministry of Justice, NGO Ukrainian Independent Centre for Political Research, unspecified NGOs and international organisations (commitment 2); Ministry of Justice, Ministry of Finance, State Fiscal Service, NGO

"Ukrainian Independent Centre for Political Research", United Nations Development Programme (UNDP), non-specified NGOs and international organisations (commitment 3).

Start Date: Not specified

End Date: 30 April 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		Midter-m 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	Worsened	Did not change	Marginal	Major	Outstanding
2. Financing of charities				✓		✓					✓		✓					✓			
3. Obtaining not-for-profit status for CSOs			✓		✓	✓					✓		✓			✓			✓		

Commitment aim

Both commitments were designed to create an enabling environment for civil society organisations. Commitment 2 focused on improving legislation to provide additional financial support to charities in Ukraine. Commitment 3 aimed to simplify the procedure for granting CSOs non-profit status. If implemented, this would be a step forward in improving conditions for the operation of charities and other non-profit organisations in Ukraine, as they would alleviate some of the administrative barriers faced by CSOs.

Status

2. Financing of charities

Midterm: Not started

After adoption of the OGP action plan, the Ministry of Finance objected to this measure and refused to implement it. The ministry was concerned that the measure, if implemented, would require additional budgetary allocations. In June 2015, the vice prime minister who chairs the OGP Coordination Council issued a formal instruction to the ministry to hold negotiations with civil society representatives, but the ministry did not do so. The issue remained unresolved, hence, the measure's implementation had not yet started.¹

End of term: Not started

Since the midterm report, implementation of the commitment has still not begun. The Ministry of Finance continued to object to the commitment. According to the Government's final self-assessment report, the ministry stated that Ukrainian law already extends sufficient support to charities in Ukraine. In particular, they can compete to obtain social services provision and public procurement contracts, and they enjoy certain tax exemptions (charity assistance and property transferred as international aid are exempt from the VAT; charities do not pay income tax).

3. Obtaining not-for-profit status for CSOs

Midterm: Not started

The procedure for obtaining non-profit tax status by NGOs and other civic associations was cumbersome and time-consuming. An NGO first had to register as a legal entity with the Ministry of Justice, then apply to the Fiscal Service for non-profit status. The Fiscal Service often rejected such applications due to problems with NGO statutory documents. These had to go back to the Ministry

of Justice for amendment. The commitment aimed to streamline procedures and introduce a one-stop shop principle for obtaining the relevant status. That is, applicant NGOs would apply to the Ministry of Justice, which would then arrange registration with the tax authorities. In its midterm self-assessment report, the government informed about a draft law adopted in the first reading in July 2015, but failed to address the issue that the OGP measure targeted. It did not provide for the one-stop procedure for civic organisations to obtain their registration as legal entities or eligibility for non-profit tax status.²

End of term: Complete

The final wording of the new law on state registration of legal entities, private entrepreneurs, and civic formations, as adopted in November 2015 (enacted in December 2015), included provisions on the one-stop procedure for obtaining non-profit status by CSOs. An applicant entity was allowed to submit, at the same time, a request for registration as a legal entity and non-profit organisation. Later, in July 2016, the government approved regulations on the Procedure for maintaining a Register of Non-Profit Organisations to reflect the new changes in the law. According to the government's self-assessment report, NGOs took part in the development of the final version of the law and government regulations. However, a CSO representative noted that the new provisions had not been implemented. State registrars refused to transfer applications to tax authorities, referring to the lack of electronic data exchange.³ This indicates that the one-stop procedure is not yet fully functioning. However, as the commitment sought only to adopt new changes in the law, which has been done, the commitment is considered complete. In addition, other parts of the commitment carried out include regulating deadlines for processing applications for obtaining non-profit status, defining grounds for denial of such status, and envisaging free online access to the Register.⁴

Did it open government?

2. Financing of charities

Civic participation: Did not change

The commitment aimed to improve the operational environment for charity organisations by broadening their funding sources. The commitment did not lead to any changes since it was not implemented, due to the position of the Ministry of Finance. It showed that the government did not really "own" and accept this OGP commitment, and was reluctant to implement it.

3. Obtaining not-for-profit status for CSOs

Access to information: Marginal

Civic participation: Marginal

The commitment sought to streamline the procedure for obtaining non-profit status by CSOs. The new law on state registration of legal entities introduced provisions for the one-stop method for registering new entities as non-profit organisations. The government adopted the necessary bylaws. However, the new legal provisions have not been fully enforced in practice. If implemented, it could have significantly simplified CSO registration, and limited their contacts with public authorities (by excluding direct interaction with tax authorities). This would have reduced the possibilities for corruption and red tape. The parts of the commitment that were implemented (regulating deadlines for processing applications for obtaining non-profit status, defining grounds for denial of such status, envisaging free online access to the Register) did improve the operational environment for CSOs, by streamlining relevant procedures and enabling better civic participation, but only marginally. They also improved access to information, as the Register of Non-profit Institutions and Organisations became available online.

Carried forward?

2. Financing of charities

The commitment was not carried over to the new action plan. It appears that, as worded, it goes against the policy priorities of the government, hence, will no longer be pursued. The government should evaluate the operational environment for CSOs regarding taxation and sources of funding in a comprehensive way, and include clear commitments on improving the environment in future action plans.

3. Obtaining not-for-profit status for CSOs

The commitment was not included in the new action plan. The government has to ensure that the adopted legal framework be enforced by taking all necessary organisational and technical measures.

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 29.

² Ibid, 29.

³ Written interview with Maksym Latsyba, NGO Ukrainian Centre for Independent Political Research.

⁴ Ibid.

Theme II: Ensure access to public information

5.1. Establishing rules on processing official information

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

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

Responsible institution(s): State Archive Service

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

Start date: Not specified

End date: 31 January 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	✓					✓					✓					✓	
																✓					

Commitment aim

This commitment attempted to improve public access to government-held information, to establish a more transparent process for handling of official information, and to reduce unjustified denials of information requests. This was to be done by improving transparency of the regulations, and transposing the progressive provisions of the Access to Public Information Law to the bylaws.

Status

Midterm: Substantial

The 2011 Law of Ukraine on Access to Public Information revised the legal framework concerning access to information held by public authorities. In particular, the law introduced a new classification of information with restricted access, including "official information." In March 2014, Parliament instructed the government to adopt regulations referred to in the OGP commitment by mid-October 2014.¹ The State Archive Service prepared several versions of the text and published them for public consultations, as well as discussed them with the ombudsman office. Both civil society and the ombudsman office criticised the draft texts, as they did not fully align with the Law on Access to Public Information. As a result, the government failed to adopt the regulations.²

End of term: Complete

After rejecting several versions of the draft regulations, the government finally adopted the document on 19 October 2016.³ The document was approved in the form of a model procedure for recording, storing, and using documents and other physical information media containing official information. This makes it recommendatory by nature. Such an approach reflects the 2011 Law on Information that removed authorisation for the government to pass binding regulations in this regard.⁴ The final text of the regulations addressed the criticism of the previous drafts raised by civil society and the ombudsman, by incorporating the harm and public interest tests⁵ for situations in which access to information is restricted.

Did it open government?**Access to information: Major**

Government regulation (“Instructions”) on official information is an important, albeit technical, document that regulates, in detail, how public agencies deal with “official information” (a type of information with restricted access). In the Ukrainian context, public agencies closely follow such regulations, paying close attention to changes. It was essential, therefore, that the regulations were in line with the law, and reflected the progressive provisions of the 2011 Law on Access to Public Information.

After several failed attempts, the final regulations did incorporate important provisions of the 2011 Law on Access to Public Information. In particular, it included the rules on denying or restricting access to requested information; the law requires public authorities to apply public interest and harm tests. The authority that holds information is required to justify any access restriction with legitimate reasons, including the substantial harm that may be caused by disclosure. It also must prove that such harm outweighs the public interest in disclosure. This requirement was embedded in the rules on the treatment of official information.

However, unlike the previous legislation, the revised 2011 Law on Information and Law on Access to Public Information did not authorise the government to issue mandatory rules for processing official information. Therefore, the final “government instructions” document must be considered a non-binding, recommendatory set of rules. This reduced its importance to some extent, but not significantly, as public authorities’ de facto practice is to follow such recommendations and implement them in their own regulations. It is important that the government model rules are enforced through the internal regulations of the relevant authorities. Therefore, the “government instructions” enhance the level of public access to official government-held information. The rules lay the groundwork for improved implementation of the 2011 Law on Access to Public Information. It does so by defining the rules for managing public information and, more importantly, requiring public and harm tests before denying a public information request.

Carried forward?

The commitment was completed, and was not carried over to the new action plan.

¹ See text of the law at: <http://bit.ly/1VrnX6S>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 31-32.

³ See text of the regulations at: <http://bit.ly/2ily5va>.

⁴ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 31.

⁵ Harm and public interest tests are used to establish whether disclosure of the requested information will harm any protected interest and, if so, whether such harm outweighs the public interest in the disclosure.

5.2 Access to urban planning documents

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

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

Lead institution(s): Ministry of Regional Development

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

Start Date: Not specified

End Date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	✓			✓				✓		✓					✓		

Commitment aim

This commitment was designed to improve public access to urban planning documentation and geo-information data, particularly in electronic and machine-readable form. It would result in better public access to government-held information, reduce possibilities for corruption in urban planning and construction, better inform local communities about local area development plans, and empower local communities to exercise more effective control over local authorities.

Status

Midterm: Limited

Ukrainian law on Regulation of the Urban Planning Activity¹ provided that all urban planning documents ("general urban plans," "detailed territory plans," etc.) be open to the public. However, in practice, this provision was not properly enforced, as relevant documentation or its parts were often classified. Such classification did not comply with the new access to information legal framework enacted since 2011. Prior to the commitment, local authorities and entities responsible for map development failed to comply with the requirement to review the classification of urban planning documents in line with the new legal framework. Those who did review relevant documents, in most

cases, automatically extended classification, contrary to the law. The Ministry of Regional Development argued that the current legal framework could not be implemented, and that materials with restricted access (e.g., layout of water supply networks and civil defence objects) could not be separated from the rest of the urban planning maps. The ministry proposed to amend the law to reverse relevant provisions.² There was also the issue of funding, as redrawing of urban plans was costly. In the new urban planning documents developed through electronic means, separation of restricted parts from the rest of the urban planning materials was easy (because such electronic documents allow multi-layering). Achieving the same result in the hard-copy paper plans required a significant investment of time and money. According to ministry representatives, more than 20,000 cities and other dwellings had urban planning documents, but only 1,800 plans had been published online, including about 1,500 general plans.³

End of term: Limited

No further progress has been achieved since the midterm report. On the contrary, the Ministry of Regional Development proposed to roll back the transparency requirement and close access to some information in the urban plans, by making public only a summary of the plan.⁴ Local authorities also continued to deny access to urban plans, despite clear provisions of the law allowing such access.⁵

Did it open government?

Access to information: Marginal

The commitment had only a marginal impact on open government. It resulted in the publication of some urban planning documents, but failed to achieve its goal of ensuring free public access to all urban planning documentation and geo-information data (including in electronic form). According to NGOs working on urban development issues, the law on free access to urban planning documents is not complied with in most cases. Very few information holders reviewed the classification of relevant documentation, which still remains under restricted status.⁶

Carried forward?

The commitment was carried over to the new action plan. The new plan aims to amend Article 18 of the Law on Urban Planning (by December 2017), align local urban planning documentation with the legal requirements for their openness (by December 2017), and develop the software and hardware system of the national urban planning cadaster and launch it in test mode (by June 2018).

¹ <http://bit.ly/1O2mNof>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 33-34.

³ Ibid, 34.

⁴ Written interview with Volodymyr Shcherbachenko, NGO East-Ukrainian Center for Civic Initiatives.

⁵ See, for example, the case of Vinnytsia: <http://bit.ly/2mSUovN>, <http://bit.ly/2oeSAXn>.

⁶ Written submission by NGO East-Ukrainian Center for Civic Initiatives.

5.3. Access to Communist-era archives

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

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

Lead institution(s): Ukrainian Institute of National Remembrance

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

Start date: Not specified

End date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		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	Worsened	Did Not change	Marginal	Major	Outstanding
				↙	↙							↙				↙					↙

Commitment aim

The commitment sought to grant access to documents the Soviet regime kept secret for many years, as well as post-independence documents from 1991 onward. It set an ambitious goal of breaking from Ukraine's totalitarian past, by allowing researchers and others to examine archives that document crimes of the previous regime, and enforce the right to truth.

Status

Midterm: Complete

The government exceeded the planned implementation of the commitment. It submitted the draft law developed by NGOs and the Ukrainian Institute of National Remembrance to Parliament in early April 2015 and, days later (on 9 April 2015), Parliament adopted the law in the first and final reading.¹ The Law on Access to Archives of Repressive Bodies of the Communist Totalitarian Regime of 1917-1991 determined special procedures for accessing relevant archives, and lists grounds for restricting such access.

The law mandated that law enforcement, security, and other agencies transfer relevant archives they possess to a special state archive, to be set up and managed by the Ukrainian Institute of National Remembrance.² The new law includes information about the struggle for Ukrainian independence in the 20th century, political persecutions carried out by repressive Soviet bodies on Ukraine's territory from 1917-1991, human rights violations committed by Soviet agencies, World War II events in Ukraine, and technological incidents and catastrophes in the country between 1917 and 1991. All this information is of high interest to the public, and was suppressed for a very long time.³

Did it open government?

Access to information: Outstanding

Since the midterm assessment, government agencies took additional steps to implement the new law. In particular, the Ministry of Justice (which is in charge of the State Archive Service) updated its procedures for the use of archives held by state bodies or local communities, to align them with the new law. Public archive institutions published on their websites information regarding the employees responsible, by law, for allowing access to the archives of repressive bodies; lists of archives of repressive bodies in their possession; as well as information about valid restrictions on access to such archives. After a significant delay, the government issued a decision, in December 2016, to set up the Sectoral State Archive of the Ukrainian Institute of National Remembrance to track, keep, restore, and provide access to the records covered by the law.⁴

The law on access to the archives of repressive bodies transformed ‘business as usual’ in the area of national archives and remembrance by opening government. It allowed dispersed archives of high public interest to be consolidated under one institution, and simplified access to such archives for researchers, relatives, and others. The law provided an effective mechanism to ensure respect for the right to truth. According to one of the drafters of the law and current head of the Security Service’s Archive, the implementation of the law resulted in a significant increase in the number of access requests addressed to archives. It also resulted in the proactive publication by archives of the descriptive list of relevant collections and documents they hold. Another result was the increase in the number of requests to obtain rehabilitation of persons whose rights were infringed by the totalitarian communist system.⁵ According to the head of the Security Services Archive, more than 87,000 individuals accessed the archive in 2015. Compared to the first quarter of 2014, the number of requests in the first quarter of 2016 increased threefold.⁶

The law also permits citizens to copy archives free of charge, which furthered access and interest in the archives.⁷

Carried forward?

The commitment was completed, hence, was not carried over to the new action plan.

¹ <http://bit.ly/1hKjXrb>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 36-37.

³ Ibid, 37.

⁴ See text of the decision at <http://bit.ly/2iw7HPY>.

⁵ Written interview with Andriy Kohut, head of the specialised archive of the Security Service of Ukraine. See also reports and analytics on the access to archives following adoption of the Law: <http://bit.ly/2nw0nUg>, <http://bit.ly/2nhlp7u>, <http://bit.ly/2nMFOVP>.

⁶ Ukraine Crisis Media Center, Open Access to Archives Allows Citizens to Learn about their Families, 20 April 2016, <http://uacrisis.org/ua/42323-dostup-do-arhiviv>.

⁷ Written interview with Andriy Kohut.

7. Right to information supervisory mechanism

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

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

Lead institution(s): State Committee on TV and Radio Broadcasting

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

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact		Completion		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	Worsened	Did Not change	Marginal	Major	Outstanding
				✔	✔		✔					✔				✔		✔			

Commitment aim

In 2011, Parliament adopted a new Law on Access to Public Information. It did not provide for a separate mechanism for supervising its enforcement, notably through an extrajudicial review of complaints. Lack of the relevant provisions was one of the main deficiencies of the new law. The commitment aimed to address this deficiency by establishing a supervisory mechanism for enforcing the access to information provisions. This would enhance the right to access information, increase accountability of public authorities, and make the government more transparent.

Status

Midterm: Complete

The 2014 Law on Anti-Corruption Strategy of Ukraine for 2014-2017¹ established as one of its policy directions setting up or designating a state authority to oversee implementation of the right to access information. Such authority would have to comply with standards of effectiveness and independence. From October 2014 to April 2015, a working group at the ombudsman's office developed draft amendments to the Law on Access to Public Information, particularly in regard to the oversight authority. A joint EU and Council of Europe project provided assistance during the drafting process.² The commitment reflected international standards³ and Ukraine's commitment to its international partners. In addition to the OGP action plan, the enactment of amendments to the body overseeing access to information was one of the conditions for EU funding for Ukraine.⁴

A group of MPs submitted the draft law, developed by experts, to Parliament in May 2015.⁵ The relevant committee endorsed it, and the draft law awaited its consideration in the first reading. While the commitment stated that the government had to develop a relevant draft law, it can be viewed as completed because a group of MPs submitted the draft law to Parliament. The commitment did not require adoption or enforcement of the law.

The draft law identifies the ombudsman as an oversight authority for access to information, and assigns a range of powers to that office. Those powers include receiving and reviewing complaints on access to information violations; obtaining any information (documents) from any party, including classified information; obtaining explanation and other evidence; and issuing binding decisions on the disclosure of requested information or on addressing any other violation of the access to information legislation. Decisions of the ombudsman in this regard will be executed by the bailiff's service, much like a court decision.

As written, the commitment was complete at the midterm. This is because the scope of the commitment did not include adoption or enforcement of the law. Since the midterm, there has been no further progress on the draft law in parliament.

Did it open government?

Access to information: Did not change

Public accountability: Did not change

The law was not adopted and, as such, did not change the status of government practice. If adopted, it could have a significant impact in terms of strengthening enforcement of the right of access to information in Ukraine. Citizens continue to face limited options for challenging access to information restrictions through administrative appeals to the public agency that violated the access rights. Appeals to a superior administrative agency have also proved ineffective, while judicial appeals are time consuming and costly. The supervisory mechanism envisioned by the draft law would fill this gap if it were passed into law.

Carried forward?

The commitment was not carried over to the new action plan. The IRM researcher recommends adopting as soon as possible the draft law pending in Parliament, and ensuring its implementation. The draft law will vest significant additional powers and responsibilities in the ombudsman office, which should be matched with commensurate resources. The government will need to ensure that relevant funding is allocated in the state budget, and that the ombudsman has the necessary human and other capacities to implement the law and process complaints related to alleged violations of the access to information legislation. In the midterm, public authorities should explore the possibility of amending the Constitution of Ukraine to allow the establishment of a stand-alone oversight agency with enforcement powers to relieve the ombudsman of this function. Such an agency could also oversee respect for the right of personal data protection, which is often related to access to information.

¹ <http://bit.ly/1LvuQWk>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 38-39.

³ See, for example, Article 19 of the Model Freedom of Information Law, the Council of Europe Convention on Access to Official Documents, and the Right to Information Global Rating Indicators.

⁴ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 39.

⁵ <http://bit.ly/1jy74C7>.

8. EITI Compliance

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

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

Lead institution(s): Ministry of Energy

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

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
			✓		✓	✓	✓				✓				✓					✓	

Commitment aim

In October 2013, prior to the commitment period, Ukraine was accepted as an Extractive Industries Transparency Initiative (EITI) candidate country. This commitment aimed to advance Ukraine’s compliance with EITI standards, which was an important step for ensuring transparency and preventing embezzlement of revenues received from the extractive industry. While the title of the commitment (“taking measures”) was too broad, the expected outputs included bringing national law into compliance with EITI standards, and preparing a report in line with those standards. A similar commitment was included in the previous OGP action plan. According to the State Statistics Service, the oil and gas sector’s contribution to Ukraine’s GDP is about 1.3%. The 2013 EITI report documented USD 3.3 billion of payments by oil and gas companies (including oil and gas transportation companies).¹

Status

Midterm: Substantial

The national multi-stakeholder group (MSG) developed the terms of reference for the independent administrator for Ukraine’s first EITI report. The report was to include the oil and gas sectors. The first country EITI report was scheduled to be prepared by the end of 2015.² In August 2015, the MSG selected the company, Ernst & Young, to independently develop the EITI report. It also selected the national secretariat for the MSG through an open competition.³ The report was eventually delayed due to the failure of the Ukranafta company (majority stake owned by the state) and the State Fiscal Service to provide information required for the report.⁴

In addition, in June 2015, Parliament adopted the Law on Amendments in the Legislation to Ensure Transparency in the Extractive Industries. The draft law was prepared by MSG members and civil society experts. In its preamble, the law directly refers to the OGP plan. It includes important changes in the Subsoil Code within the Law on Oil and Gas. It also instructs the government to develop procedures for ensuring transparency in the extractive industries, and to adopt the international reporting standards by users of subsoil resources. The amendments of June 2015 were seen as an interim measure. The MSG started working on a new comprehensive draft law on the transparency of extractive industries.⁵

End of term: Substantial

Ukraine's first EITI report for 2013 was published in November 2015. The country's validation against the EITI Standard will commence on 1 July 2017.⁶ According to the government's self-assessment report, the preparation of the second national report has begun; based on the tender, the government selected an independent administrator to prepare the report, which was due in December 2016.⁷ The country's second report will include the coal and iron ore sectors. In December 2015, the government adopted regulations on ensuring transparency in the extractive industries in accordance with the 2015 law. It also reported on a number of awareness-raising activities with civil society involvement.

In June 2016, a group of MPs submitted to Parliament a draft law on the disclosure of information in extractive industries. The draft law builds on the 2015 amendments, and suggests a comprehensive framework for transparency in the sector. It was developed by the Ukrainian multi-stakeholder group, together with external experts and Members of Parliament, in line with recommendations from the first EITI Report. It institutionalises the EITI national coordination and reporting mechanism, aligns Ukrainian legislation with the relevant EU law, and establishes detailed requirements on disclosure of information in the sector, including beneficial ownership.

Did it open government?

Access to information: Major

Civic Participation: Major

Public accountability: No change

The commitment sought to continue working toward compliance with international standards on transparency in extractive industries. If the overall goal of the commitment (i.e., obtain status of compliance) is achieved, it could have a transformative effect. Following a delay, the government published its first national EITI report, which has become an important milestone. The report discloses information about key Ukrainian oil and gas fields, license holders, production volumes, as well as the payments companies made to budgets of all levels.

The government also began preparing the second national report. Additionally, Parliament passed important amendments in the legislation to introduce transparency instruments in the extractive industries and government policy. A comprehensive law on transparency in the extractives sector has been developed, and is pending in Parliament. The EITI process in Ukraine was the first to involve genuine multi-stakeholder dialogue within the MSG, including with a number of NGOs and experts.

The Multi-Stakeholder Group is composed of six CSOs (International Renaissance Foundation; "Centre of Globalistics Strategy XXI," DIXI Group, Sustainable Development Institute, Analytical Centre of Regional Cooperation, Chapter in Donetsk Oblast of the NGO "All-Ukrainian People's Control"), six private enterprises, and six government ministries. As members of the MSG, civil society groups play an active role in monitoring and evaluating EITI compliance. The MSG oversees EITI reporting, including selecting and managing the Independent Administrator in charge of carrying out evaluations. CSOs share an equal level of decision-making power as all other MSG members, and directly influence and decide policies related to EITI activities.⁸ During its meeting in November 2016, the MSG decided to train local NGO representatives on how to use the EITI report data and monitor implementation of recommendations.⁹

All these activities have strongly improved progress toward full EITI compliance as envisioned by the commitment. The cooperative process has also increased access to information and civic participation in a major way.

Carried forward?

The commitment was carried over to the new action plan. It provides for the adoption of the law on the disclosure of information in extractive industries, and publication of the second and third national reports (in December 2016 and December 2017, respectively). The commitment no longer aims to achieve Ukraine's compliance with the EITI Standard, a factor that diminishes the commitment's ambition.

¹ <https://eiti.org/ukraine>.

² <http://bit.ly/1ODYqyS>.

³ <http://bit.ly/1jQx6jZ>.

⁴ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 42.

⁵ Ibid, 42-43.

⁶ <https://eiti.org/ukraine>.

⁷ Text of the report available at <http://bit.ly/2nAPbaw>.

⁸ Main UA EITI Work Plan 2015-2016 https://eiti.org/sites/default/files/documents/2015_ukraine_work_plan.pdf.

⁹ Institute for Budgetary and Socio-economic Research, 16 November 2016, <http://www.ibser.org.ua/en/news/msg-meeting-covering-operational-results-ukraines-extractive-industries-2014-2015>.

Theme III. Prevent and combat corruption

9. Monitor infrastructure projects

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

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

Lead institution(s): Ministry of Infrastructure

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

Start Date: Not specified

End Date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not change	Marginal	Major	Outstanding
			✓			✓	✓				✓			✓	✓			✓			

Commitment aim

This commitment aimed to enhance transparency, civic oversight, and public accountability in national and regional infrastructure projects. Such projects often use significant public funds, and lack transparency at the design and implementation stages. As this is also an area in which there is widespread corruption, a monitoring mechanism with civil society involvement would help reduce corruption.

Status

Midterm: Substantial

The 2014 Law on Anti-Corruption Strategy of Ukraine for 2014-2017¹ provided, as one of the measures to be taken, the implementation of “pilot projects of integrity pacts in infrastructure projects or other projects, which include significant budget expenses, by forming tripartite (government-business-civil society) mechanism of control over design and implementation of such projects, targeted and efficient use of relevant funds.” The monitoring of infrastructure projects can be seen as implementation of this measure. The Ministry of Infrastructure developed several versions of the draft regulations in 2015, but CSOs criticised the drafts because they did not grant sufficient power to the monitoring structures. The draft regulations allowed the setting up of permanent monitoring panels (committees) for infrastructure projects at the central and local executive authority levels. The panels would comprise representatives from CSOs and other non-governmental stakeholders selected through an open competition. Despite much effort to develop the regulations, none of its versions reached the government meeting.²

End of term: Limited

Since the midterm report, no progress has been made to adopt the regulations. On the contrary, from the government self-assessment report, it appears that the commitment's implementation has been halted, and no further attempts to finalise and adopt relevant regulations have been made. The government reported that the Ministry of Infrastructure is reviewing whether they should continue to implement this commitment.

The Ministry of Infrastructure developed draft regulations in cooperation with NGOs (in particular, TI-Ukraine and the Centre for Political Studies and Analysis). However, the draft text had to be revised twice, and the original text was weakened after the approval process was conducted among ministries and other government agencies. Due to ministry and agency reluctance to endorse the regulations to provide citizens with meaningful oversight instruments, the draft regulation was stopped.

Did it open government?

Civic Participation: Did not change

Public accountability: Did not change

The commitment set an ambitious aim of direct involvement of non-governmental stakeholders in the process of designing and implementing infrastructure projects with the use of public funds. Such oversight would be conducted via special panels (monitoring committees) to review budgets and designs of the projects, procedures for selection of contractors, procurement and other related contracts, and disbursement and use of public funds. However, as implemented, this commitment did not lead to any change in government practice.

Carried forward?

The commitment was not carried over to the new action plan. The new plan contains a commitment on implementation of the Construction Sector Transparency Initiative (COST), but the latter focuses on disclosure of information, and does not include instruments for civic oversight in specific projects. The IRM researcher recommends that the government adopt, without further delay, regulations that provide a robust mechanism of civic oversight for the implementation of large infrastructure projects using public funds. The government should also consider the possibility of establishing provisions on such oversight panels in the law to make them permanent and effective.

¹ <http://bit.ly/1LvuQWk>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 44-45.

10. Adopt regional anti-corruption programmes

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

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

Lead institution(s): Regional and Kyiv City State Administrations

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

Start Date: Not specified

End Date: 31 March 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
		✓			✓	✓			✓					✓				✓			
															✓						

Commitment aim

The commitment attempted to improve anti-corruption actions at the sub-national level by developing regional anti-corruption programmes. In Ukraine, corruption is widespread at the local and regional levels, and national policy measures are insufficient to tackle that corruption. Regional programmes could become an important anti-corruption tool if developed in a participatory manner and effectively implemented.

Status

Midterm: Limited

In its self-assessment report, the government mentioned programmes adopted in 13 regions, and nine draft programmes that were published for public consultations. It was not clear whether the programmes were new or had been adopted since the enactment of the 2014-2015 OGP action plan. The previous OGP plan included a similar commitment. The self-assessment report provided no details on the substance of the regional programmes or whether they were developed in cooperation with civil society, as required by the commitment. An NGO representative noted that there were very few new anti-corruption regional programmes, such as a new programme in the cities of Kyiv and Dnipropetrovsk. There was also doubt about the inclusion of the commitment in the action plan in the first place because it was too extensive, and required significant coordination efforts the OGP mechanism could not provide.¹

End of term: Substantial

In its self-assessment report, the government states that 17 out of 24 Oblasts have approved anti-corruption programmes (as a standalone document or as part of programmes on law enforcement). Of these, 10 administrations have further adopted measures to implement the national anti-corruption strategy for 2014-2017. In December 2016, the Kyiv city council adopted a Framework Programme of Governance Reform and Measures to Prevent Corruption. It was developed jointly by

civil society experts and groups and the Kyiv City State Administration. However, it is unclear how many of these programmes were created as a direct result of the commitment. Many of the anti-corruption programmes were developed prior to the implementation of the action plan as part of ongoing anti-corruption policies.

It should be noted further that, in 2014, a Law on Corruption Prevention was passed (and enacted in April 2015). The law required that all executive-level authorities in Oblasts adopt anti-corruption programmes. The law described what such programmes should include, and required their endorsement by the National Agency on Corruption Prevention. Although the OGP commitment related to a different set of regional authorities — the regional representative bodies (oblast councils) — it remains unclear which activities were carried out as part of the implementation of the law, and which were the results of the commitment.

Did it open government?

Civic Participation: Did not change

Public accountability: Did not change

Local and regional anti-corruption programmes (action plans) can be a useful instrument for preventing and combating corruption at the sub-national level. However, similar programmes developed in the past have shown that they are often approved formally, but do not represent a genuine commitment to change on the part of local authorities. In general, plans are not developed with civil society involvement, although there are some exceptions (e.g., the 2015 anti-corruption action plan of the city of Kyiv, and the 2016 Framework Governance and Anti-Corruption Programme of the city of Kyiv). Government practice with regard to civic participation has not, therefore, changed beyond the baseline level that pre-existed this commitment.² The government's self-assessment report specifies which regions have adopted anti-corruption programmes, but include no information on what actions have been taken by ministries and agencies to implement the adopted programmes. There has been no change in practice resulting from the commitment.

Carried forward?

This commitment was not carried over to the new action plan.

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 46-47.

² Ibid, 47.

11. Corruption risk assessment methodology

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

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

Lead institution(s): Ministry of Justice

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

Start Date: Not specified

End Date: 31 March 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✔		✔	✔			✔					✔			✔			
															✔						

Commitment aim

The commitment sought to develop a methodology for assessing the risk of corruption in the Ministry of Justice. Such a methodology could be used to identify and manage risks in the justice bodies, as well as prepare actions to prevent corruption in the sector. The commitment was very limited in scope, as it concerned a single ministry. Moreover, it became irrelevant following the enactment of the new corruption prevention law and the establishment of the National Agency for Corruption Prevention. The latter has developed a universal methodology for assessing corruption risk in all public authorities.

Status

Midterm: Substantial

According to the government, the Law on Corruption Prevention (adopted in October 2014 and enacted in April 2015¹) mandated the National Agency for Corruption Prevention to oversee the development of anti-corruption programmes by public agencies, using a risk assessment methodology, and adopt a universal methodology for corruption risk assessments. This task was also mentioned in the State Program for Implementation of the Anti-Corruption Strategy approved by the government in April 2015.² The Ministry of Justice has developed the Principles for Corruption Risk Assessment and Preparing Measures to Eliminate Them. These are detailed guidelines on how to evaluate corruption risks and manage them in public institutions.³ Another methodology — the Manual for Assessment of Corruption Risks and Development of Anti-Corruption Action Plans — was developed by the USAID-funded project, FINREP-II. The manual was based on the new anti-corruption law, requirements of the international standard ISO/IEC 31000:2009 risk management, as well as foreign experience.⁴ There was no information on civil society's involvement in the

development of the methodology by the Ministry of Justice or by the donor-funded project. It was not clear how the two methodologies correlate and would be used, especially since they duplicated one other.⁵

End of term: Substantial

At the start of December 2016, the NACP adopted the methodology for assessing corruption risks in the activities of public authorities.⁶ Development of such a methodology is required by the Law on Corruption Prevention. The draft methodology was discussed with the public,⁷ and reviewed by the Council of Europe experts. It will come into force after its registration and publication by the Ministry of Justice. The commitment concerned approval by the Ministry of Justice of the methodological recommendations identifying corruption risks in the work of justice officials. The government's self-assessment reported that such recommendations could be developed based on the NACP general risk assessment methodology.

Did it open government?

Civic participation: Did not change

Public accountability: Did not change

This commitment did not lead to a change in government practice because it concerned only the Ministry of Justice, and became irrelevant after a new corruption prevention law was enacted in April 2015. The new law sets up a National Agency for Corruption Prevention, which broadened the requirement for assessing corruption risks to all public agencies. A risk-based approach to anti-corruption measures is a good practice which had not been used in the Ukrainian public sector. The Law on Corruption Prevention embedded this approach in the anti-corruption planning and actions of all individual agencies. The specialised agency for corruption prevention developed a methodology, and will provide guidance on the use of the risk-based approach. Based on the general methodology, the Ministry of Justice can prepare guidelines on risk assessment in the justice bodies. In this case, the commitment did not change government practice because it was quickly rendered irrelevant following the passage of the new anti-corruption measures, which included and surpassed the provisions of the commitment.

Carried forward?

The commitment was not carried forward to the new action plan. The IRM researcher recommends that the Ministry of Justice apply the general risk-assessment methodology to the bodies under the ministry's subordination to test it empirically.

¹ <http://bit.ly/1KhE3pn>.

² <http://bit.ly/1ZZEEld>.

³ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 48-49.

⁴ <http://bit.ly/1W5Xu5r>.

⁵ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 49.

⁶ <http://bit.ly/2hOdtLs>.

⁷ <http://bit.ly/2i5QzNy>, <http://bit.ly/2iz59y0>.

12. Asset disclosure portal

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

Expected result: web-portal created.

Lead institution(s): National Agency for Corruption Prevention

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

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		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	Worsened	Did Not Change	Marginal	Major	Outstanding	
				✓	✓		✓	✓				✓		✓								✓

Commitment aim

Online disclosure of the asset declarations of public officials is an important instrument with which to prevent corruption and detect unexplained wealth and conflicts of interest. The commitment aimed to introduce a new system of financial disclosure by setting up an online system for the submission and automatic publication of the asset declarations of public officials. The previous system of asset disclosure in Ukraine was ineffective, as it was paper-based and limited the public's access to the declarations of officials.

Status

Midterm: Limited

The new Law on Corruption Prevention (enacted in April 2015¹) replaced the paper-based declarations filed by officials at their workplace with an online system that provides public access to all declarations. It ordered the new anti-corruption institution, the National Agency for Corruption Prevention (NACP), to set up a central government web portal for all public officials to submit and disclose their asset declarations. The government's delay in selecting members of the NACP also delayed the launch of the new e-declarations system (the NACP was responsible for developing the necessary regulations for asset disclosures, and launching the web portal).²

Meanwhile, the Ministry of Justice, with support from the United Nations Development Programme (UNDP) and the World Bank, began preparing the future system for electronic asset disclosures. In September 2015, the UNDP launched a tender to select a contractor to develop e-declarations software according to the terms of reference developed by the World Bank.³

Since adoption of the Law on Corruption Prevention, the Ukrainian Parliament has introduced several changes to it to extend the scope of the asset declarations by adding new elements (e.g., beneficiary ownership of legal persons or assets, and real estate of unfinished construction).⁴

End of term: Complete

Between December 2015 and March 2016, the government appointed four (out of five) NACP members. From an open tender, the UNDP selected a contractor in December 2015 to develop the e-declarations software, and presented the prototype system the following March. During May-June 2016, the software was transferred to the NACP. In June 2016, the NACP adopted the e-declarations form and other necessary bylaws, and also decided on the timing of the new system's launch. The first stage, which involved high and upper-middle level public officials, was to be launched on 15 August 2016, while all other declarants were included in the second stage beginning 1 January 2017. A delay in the data security certification of the software postponed the start date, which was changed to 1 September 2016. The UNDP covered the expenses related to the e-system's hosting during the initial period. The system was launched successfully on 1 September 2016, despite technical issues related to the declarants' authorisation in the system, saving of data, and revised e-declaration form. During the first stage (1 September to 30 October), more than 100,000 declarants filed their first annual electronic declarations for 2015. As of the end of December 2016, the public web portal contained more than 135,000 electronic documents (declarations of different types, notifications of significant changes in declarant's assets) for public scrutiny, including in machine-readable format.

Did it open government?

Access to information: Outstanding

Public accountability: Outstanding

The new electronic asset disclosure system for public officials replaced the previous ineffective paper-based system, and allowed an unprecedented level of transparency of public officials' assets. It is a powerful tool against corruption by making it easier to detect and prosecute illicit enrichment and conflicts of interests. The new system was launched 1 September 2016, and drew enormous media and public attention. It resulted in numerous journalist investigations and media reports in the national and foreign press.⁵ The portal has helped create greater public demand for accountability of public officials whose wealth was revealed by the e-declaration system. Declarations are automatically made public once submitted, and NGOs, media watchdogs, and citizens can report irregularities detected in the declarations to authorities. Under the corruption prevention law (Article 50),⁶ the NACP is required to investigate irregularities or complaints of fraudulent asset declarations. The verification process can result in a criminal investigation (under criminal procedure code (Article 214)),⁷ thereby creating an accountability mechanism for following up on irregularities discovered through increased transparency. The National Anti-Corruption Bureau started several criminal investigations into unjustified wealth and false statements, based on the new e-declarations.⁸ International organisations and foreign governments recognised the new e-declarations system as a major breakthrough.⁹ According to the December 2016 national poll, Ukrainian citizens also considered the e-declarations system launch to be the fourth most successful event of 2016.¹⁰

Carried forward?

The commitment was carried over to the new action plan. It is important to ensure that the system operates smoothly after 1 January 2017, and that an effective procedure for verification of the submitted declarations by the NACP is introduced. For this to occur, the NACP has to adopt, and the Ministry of Justice register and publish, relevant bylaws; the NACP has to obtain direct and automated access to registers and databases held by various public authorities; and the e-declarations software has to be upgraded to allow integration with external registers and automated verification of declarations. The NACP should be granted sufficient funds to build the capacity to host and run the system securely within the NACP. The NACP should also continue conducting an extensive awareness-raising campaign and train public officials on how to use the e-declarations system.

¹ <http://bit.ly/1KhE3pn>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 50-51.

³ Ibid, 51.

⁴ Ibid, 51.

⁵ See, among others, <http://bit.ly/2f65C9J>, <http://dailym.ai/2hNQtxN>, <http://reut.rs/2dVY6QQ>, <http://bit.ly/2iXzRQe>, <http://bit.ly/2fWzyc2>, <http://bit.ly/2eefvto>, <http://bit.ly/2jl6P6o>.

⁶ Ukrainian Parliament: Corruption Prevention Law (Article 50) <http://zakon2.rada.gov.ua/laws/show/1700-18/print1486668593628465>.

⁷ Criminal Procedure Code, Article 214: <http://zakon2.rada.gov.ua/laws/show/4651-17/print1486668593628465>

⁸ <http://bit.ly/2grkaPw>.

⁹ See, among others, <http://bit.ly/2fysVZJ>, <http://bit.ly/2i3aHQg>, <http://bit.ly/2irbCwJ>, <http://bit.ly/2irosLt>.

¹⁰ <http://bit.ly/2hlb0Poю>.

Theme IV. Administrative and social service provision

13. Law on administrative procedure

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

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

Lead institution(s): Ministry of Justice

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

Start Date: Not specified

End Date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	✓		✓					✓		✓				✓			
														✓							

Commitment aim

The commitment sought to establish a legal framework for the operation of the public administration. The Law on Administrative Procedure is supposed to regulate how the public administration and its officials perform their functions. The act is important for establishing the rule of law and accountability of public officials, thereby reducing corruption by limiting discretion and ensuring legal certainty. It is also essential for good governance. Currently, administrative procedures in Ukraine are regulated mainly by secondary legislation, and do not provide necessary safeguards.

Status

Midterm: Limited

Adoption of the Code of Administrative Procedure (later named the Law on Administrative Procedure) has been a long-standing government commitment. The government submitted its first draft text to parliament in 2001; subsequent governments resubmitted the draft a number of times. International anti-corruption monitoring mechanisms (Council of Europe's Group of States against Corruption, OECD's Anti-Corruption Network for Eastern Europe and Central Asia under the Istanbul Action Plan¹) recommended that Ukraine adopt a clear set of rules

governing the administrative process and decision making.² A number of official action plans included commitments to develop and adopt an administrative procedures law.³

The government reported that the Ministry of Justice had prepared a draft law on administrative procedure, which took into account international practice, comments of the EU/OECD SIGMA Programme, and comments from members of the working group set up by the ministry in 2014. The ministry submitted the draft law to the government in January 2015, but it was returned for revision in March 2015. In August 2015, the ministry re-submitted the draft law to the government, but it was again returned to the ministry.⁴

End of term: Limited

The government failed to achieve progress in implementing this commitment since the midterm report. In June 2016, it adopted the Strategy for Reforming Public Governance in Ukraine in 2016-2020, and an action plan to implement the strategy. The action plan postponed the development of the Law on Administrative Procedure until mid-2018.

Did it open government?

Access to information: Did not change

Public accountability: Did not change

The Law on Administrative Procedure is an important piece of legislation that regulates the interaction between public officials and individuals and legal entities, the processing of administrative cases, administrative appeals, etc. The law is essential for ensuring legal certainty and safeguarding the rights of persons in their interaction with the public administration, including facilitating access to information and providing procedures for challenging administrative decisions. The law is also important to ensuring the accountability of public authorities, and limiting administrative discretion that fosters corruption. However, the draft law has a long and unsuccessful history in Ukraine. As noted in the IRM progress report, there appears to be a lack of understanding among high-level officials about the law's importance as a basic legal act for public administration operations. Its history also shows that the government lacks genuine commitment and political will to adopt the law, and deliberately delays its consideration.⁵ The latest government decision to postpone preparation of the draft law until 2018 confirms this assessment.

Carried forward?

The commitment was not carried over to the new action plan.

¹ Istanbul Action Plan, <http://www.oecd.org/corruption/acn/istanbulactionplan/>

² See <http://bit.ly/1MTDPVZ>, <http://bit.ly/1PAC9IL>.

³ Law on the Anti-Corruption Strategy of Ukraine for 2014-2017 (adopted in 2014), Government's Plan of Urgent Measures to Eradicate Corruption (adopted in July 2014). See: <http://bit.ly/1XcMgyv>, <http://bit.ly/1Lo4l7y>.

⁴ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 53-54.

⁵ Ibid, 54.

I4. Streamline payment of administrative fees

5-B) Streamlining Payment of Administrative Services Fee

Commitment Text: *I 4. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on streamlining of relations concerning payment for administrative services.*

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

I6. Decentralise administrative services

5-C) Decentralisation of Administrative Services

Commitment Text: *I 6. Developing and submitting to the Cabinet of Ministers of Ukraine in due course a draft law on decentralisation of powers concerning the provision of administrative services, most important to citizens, in particular to ensure their provision through Administrative Service Provision Centres, namely:*

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

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

Lead institution(s): Ministry of Economic Development (commitment I4); Ministry of Regional Development (Commitment I6)

Supporting institution(s): Ministry of Justice, Ministry of Regional Development, NGO Centre for Political and Legal Reforms, other non-specified NGOs and international organisations (commitment I4); Ministry of Justice, Ministry of Internal Affairs, Ministry of Agricultural Policy, Ministry of Economic Development, State Registration Service, State Migration Service, State Agency for Land Resources, unspecified NGOs and international organisations (Commitment I6)

Start Date: Not specified

End Date: 30 June 2015 (Commitment I4);
31 December 2015 (Commitment I6)

Commitment Overview	Specificity				OGP Value Relevance (as written)	Potential Impact				Comple-tion	Midterm		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	Worsened	Did Not Change	Marginal
14. Streamline payment of administrative fees				✓	Unclear					✓				✓					✓			
16. Decentralise administrative services				✓	Unclear							✓				✓			✓			

Commitment aim

14. Streamline payment of administrative fees

This commitment attempted to draft a law to streamline fees for administrative services. Streamlining the provision of administrative services by public authorities is important to ensuring good governance and the services of the state. The uncoordinated practice of charging administrative fees presents a barrier to effective service provision, and affects citizens' satisfaction. If implemented, the law would ensure legal certainty and transparency, and reduce corruption risks in the area of administrative services.

16. Decentralise administrative services

The commitment aimed to develop a draft law on the decentralisation of powers concerning the provision of administrative services. These included registration of residence (stay); issuance of identity documents; state registration of legal entities, citizens' associations, and civil status; movable and immovable property; and issuance of driver's licences. In Ukraine, where administrative services have been highly centralised, it is generally perceived that decentralisation is crucial for reducing corruption and ensuring better quality of public services. Decentralisation of public functions has become an important public policy issue in Ukraine since 2014.

Status

14. Streamline payment of administrative fees

Midterm: Limited

The Ministry of Economic Development put together a draft law on administrative services and their fees. The law proposed to unify names of administrative services, establish fees for their provision, and prohibit the provision of services not included in the law. In August 2015, the government endorsed the draft law. However, it instructed the ministry to make it clear that the Cabinet of Ministers, not the law, would define the fees for the provision of administrative services. On 15 September 2015, the ministry resubmitted the draft law to the government, which sent it to parliament on 12 October 2015.¹ It lists 563 administrative services (some composed of several items), and delegates the power to establish fees to the government. Civil society experts criticised the draft law; their view was that the list of administrative services did not have to be established by the law, but could have been published in the Register of Administrative Services. The leading civil society expert in this area noted that the law could not exhaustively define all the services, and that the list should be flexible.²

Overall, the government failed to implement the commitment. The draft law contradicted the commitment, insofar as it included no provisions for streamlining payment for administrative services. On the contrary, it effectively removed regulation of this issue from the law.³

End of term: Limited

According to the government's final self-assessment report, the draft law submitted to Parliament was later recalled and not re-submitted. Meanwhile, in December 2015, Parliament adopted amendments stating that fees for administrative services should be established by laws regulating those services. During implementation, the government effectively changed its position and abandoned the idea of having a unified list of administrative services approved in the law. This position was criticised by civil society experts.⁴ The new legal amendments introduced in December 2015 recognised the need to regulate payment of administrative fees in the law, and not by government fiat. This also contradicted the government's position. Therefore, the commitment remained valid, but has not been implemented. According to the leading civil society expert in this area, Parliament should pass a framework law to regulate administrative fees, and establish in the law the fees for basic administrative services.⁵

16. Decentralise administrative services

Midterm: Substantial

The government substantially implemented the commitment by preparing and submitting, directly or through members of Parliament, draft laws to decentralise the following administrative services: state registration of legal entities, individual entrepreneurs, and citizens' associations; registration of real estate possession rights and their encumbrances; state registration of land plots; entry and issuance of data from the State Land Cadastre; and registration of residence (stay). The government proposed to decentralise the registration of vehicles and the issuing of driver's licences in 2018. No draft law was prepared to decentralise the issuing of identity documents, including for travelling abroad, and registration of civil status.⁶

In July 2015, the Ukrainian Parliament adopted several draft laws⁷ to decentralise certain services by delegating their provision to local self-government bodies. Regarding registration of vehicles and issuing of driver's licenses, the government reported that it submitted the relevant draft law to the parliament.⁸

End of term: Substantial

Since the progress report, the Ukrainian Parliament adopted a number of draft laws mentioned above: #2982 (State Registration of Property Rights) and #2983 (State Registration of Legal Persons) were adopted in November 2015 and enacted in December 2015; and #2984

(Delegating Registration Functions from the State Land Cadastre) was adopted and enacted in December 2015. Draft law #2567 (Decentralize Vehicle Registration Service Centres) was adopted in the first reading in July 2015. Finally, the Ministry of Justice developed a draft law to reform the system of registration of civil status acts.

Did it open government?

I4. Streamline payment of administrative fees

Access to Information: Did not change

Civic Participation: Did not change

Public Accountability: Did not change

The commitment's relevance to OGP values was unclear. While it represented an important step toward ensuring better public service provision, it was not clear how its implementation would lead to improved access to information, better civic participation, or greater public accountability. The commitment was an incremental step in the right direction toward decentralising services, but did not produce major changes.

I6. Decentralise administrative services

Access to Information: Did not change

Civic Participation: Did not change

Public Accountability: Did not change

This commitment did not result in changes in government practice relevant to the OGP values of access to information, civic participation, or public accountability. Decentralisation of administrative services is viewed as important to reducing national level corruption in Ukraine, and improving public accountability, since local authorities are now responsible for the quality of service provision. Since 2014, Ukrainian authorities have implemented a number of reforms to devolve powers and responsibilities to the local level. In line with the commitment, laws were passed to decentralise the following services: state registration of legal entities, individual entrepreneurs, and citizens' associations; registration of real estate possession rights and their encumbrances; entry and issuance of data from the State Land Cadastre; issuing of ID documents; state registration of land plots; and registration of residence (stay). However, not all of the new legal provisions have been implemented. According to the civil society expert, for various technical and logistical reasons, there is effectively no decentralisation of the following services: issuing of IDs, including passports to travel abroad (local self-government bodies and Administrative Service Provision Centres have the right to install relevant equipment, but this has been done only in few cities across Ukraine); state registration of land plots; and entry and issuance of data from the State Land Cadastre.⁹

Carried forward?

Commitment I4, to streamline payment of administrative fees, was not carried over to the new action plan. Commitment I6, to decentralise administrative services, was carried forward partially. The new commitment provides measures to delegate to local self-government bodies basic administrative services and/or their provision through Administrative Services Provision Centres. This regards the following services: issuing of national passports and passports for travelling abroad, state registration of land plots, entry and issuance of data from the State Land

Cadastre, and state registration of civil status acts. The new action plan also seeks to create an information system to monitor the performance of those centres, and to execute an awareness-raising campaign for the provision of administrative services.

¹ <http://bit.ly/1OUX0yJ>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 56.

³ Ibid, 56.

⁴ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 57.

⁵ Interview with Viktor Tymoshchuk, NGO Centre for Political and Legal Reforms.

⁶ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 56-57.

⁷ #2982 on state registration of property rights to real estate and their liens; #2983 on state registration of legal persons, individual entrepreneurs, and civic formations; #2984 on delegating functions of registration of place of residence, receiving information from the State Land Cadastre.

⁸ Draft law #2567 on service centres of the Ministry of Interior. It provided for the establishment of separate service provision centres under the ministry and stipulated decentralisation of the relevant function only starting from 2018.

⁹ Interview with Viktor Tymoshchuk, NGO Centre for Political and Legal Reforms.

15. Administrative services portal

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

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

Lead institution(s): Ministry of Economy

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

Start Date: Not specified

End Date: 31 October 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	✓			✓	✓							✓			✓		
																✓					

Commitment aim

The commitment sought to launch the online portal with information on administrative services. It built on a similar commitment included in the OGP action plan of 2012. Such a web portal of administrative services was set up in 2012 (<http://poslugy.gov.ua>). However, it was not fully functional, and provided very limited information and no possibility of obtaining actual services. The 2014 commitment repeated the language of the previous action plan, as it did not mention the actual provision of services by electronic means.

Status

Midterm: Completed

The government reported that it re-launched the Unified State Portal of Administrative Services (<http://poslugy.gov.ua>) in September 2015. The web portal included information on services provided by the central executive authorities, and an updated list of agencies providing services. It further reported that the Ministry of Economic Development was conducting an analysis of the business processes involved in providing administrative services to determine ways to simplify and digitise them. Supposedly, once services are digitised they can be moved to the web portal. The Ministry of Economic Development noted that, since the State Budget for 2015 did not include funding for maintaining the portal, the ministry could not expand its functionalities.¹ For further information, see the 2014-15 IRM Progress Report.

According to the government's final self-assessment report, the portal includes information about the administrative services provided by executive authorities (over 1,000 services by 48 agencies), legal acts that regulate them, information on 600 Administrative Service Provision Centres, and electronic forms and other documents required to obtain specific services. According to the report, a user can create a personal account on the portal by using a digital signature or BankID, and fill in or upload an application and other documents to obtain services. The researcher verified these functions on the portal in late 2016. Since March 2016, users can order and obtain through the portal 12 services provided by the Ministry of Economy, as well as four integrated services provided by the State Architecture and Construction Inspection.

Did it open government?

Access to information: Marginal

This commitment lacked ambition, as the web portal provides access only to information on administrative services, not actual delivery of any of the services listed. It built on a similar commitment included in the previous OGP action plan, but did not mention the actual provision of services by electronic means. The government should be commended for attempting to go beyond the original commitment, and providing certain services in electronic form through the portal by piloting several of them. This, however, did not alter the conclusion that the commitment has had only a minor impact.

Carried forward?

The commitment was carried forward to the new action plan and extended. It broadens the portal's functionalities, in particular, by integrating it with other information systems, making available the full cycle of administrative services provision in electronic form through the portal (15 services in 2016, 20 in 2017, and 25 in 2018).

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 59-60.

17. Social services draft law

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

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

Lead institution(s): Ministry of Social Policy

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

Start Date: Not specified

End Date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	Unclear						✓				✓		✓				
															✓						

Commitment aim

The commitment attempted to improve the provision of social services by revising legal regulation in the area. The Law on Social Services regulates the provision of services to individuals and families affected by difficult life situations, who cannot overcome them or minimise their effects on their own. A number of official action plans, including that of the OGP, provided for the revision of the Law on Social Services. Others included the government's Program of Activity, Sustainable Development Strategy "Ukraine-2020," and the 2013-2016 action plan to implement the Strategy for Reforming the System of Social Services Provision.

Status

Midterm: Substantial

The Ministry of Social Policy developed, and the government submitted to Parliament on 18 September 2015, a draft with new wording for the Law on Social Services.¹ The draft law proposed to revise the Law on Social Services and amend eight other laws. It aimed to protect persons receiving social services, create a market for social services, and improve their quality. It would also allow aligning relevant legislation with EU standards, particularly regarding payment policy. (Social services will be provided based on a person's income, not on the basis of whether

he/she has any relatives or guardians). The draft law also suggested involving non-state entities in the provision of social services through social contracting on a competitive basis. This was supposed to significantly broaden the range of social services providers and improve the quality of services. The draft law further provided for decentralisation of regulations in the area of social services provision.²

End of term: Substantial

No progress was made since the midterm report. In May 2016, the draft law was re-submitted to Parliament due to a change in government. Its consideration is pending.

Did it open government?

Access to Information: Did not change

Civic Participation: Did not change

Public Accountability: Did not change

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

Carried forward?

The commitment was not carried over to the new action plan.

¹ <http://bit.ly/IPFyZxa>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 61-62.

Theme V: E-governance technologies to develop e-democracy

18. E-governance laws

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

- On Amending Some Legislative Acts (to envisage the possible certification by a requesting person of his digital signature of validity of a package of electronic copies of scanned documents required to obtain an administrative service and to establish the requesting person's liability for submission of false documents and data);
- On Amending the Law of Ukraine on the Electronic Digital Signature (to improve the procedure of state regulation in the field of electronic digital signature services, supervise compliance with the electronic digital signature legislation, reform the legislation on the use of public key infrastructure and provision of electronic trust services taking into account the European Union experience);
- On Amending the Law of Ukraine on Citizens' Petitions;
- On Amending the Law of Ukraine on Protection of Personal Data.

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

Lead institution(s): Ministry of Justice

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

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✓	✓	✓	✓	✓	✓	✓					✓	✓					✓

Commitment aim

The commitment sought to amend a number of legislative acts, without clearly explaining the overall goals or cohesion between different legal amendments. It is an example of a commitment

that lacks a clear objective and includes too many different elements. Eventually, the government revoked one part of the commitment, and found that another part did not require action. Overall, the different measures mentioned in the commitment aimed to develop e-governance by improving the legal framework.

Status

Midterm: Substantial

The government reported that the draft law to allow digital signatures for the provision of administrative services was excluded from the action plan in August 2015, as those measures were already covered in the draft of the Law on Electronic Trust Services.¹ The Ministry of Justice announced that no amendments would be made to the Law on Protection of Personal Data, since it is already in line with European standards.

The Ministry of Justice developed a new draft of the Law on Electronic Trust Services, replacing previous draft legislation in this area. This was connected to the revision of the EU legal framework. The government submitted the draft to Parliament in August 2015.² The ministry had conducted a number of public consultations on the draft law.³

Of all the proposed legal amendments, the introduction of a new type of petition achieved the most progress. A law adopted in July 2015 allowed regular petitions to be submitted electronically (the previous law allowed only the submission of hard-copy paper petitions). The law also introduced, for the first time, e-petitions, which can be addressed to Parliament, the government, the president, or local self-government bodies. An e-petition requires a certain number of signatures⁴ to support and validate it. Once this is done, the relevant authority gives it priority treatment and replies to it online. The amendments were developed by civil society organisations and submitted to Parliament by the president of Ukraine.⁵

In October 2015, the Government Agency on E-Governance launched an electronic system for submitting local e-petitions (e-dem.in.ua). It provided a platform for local self-government bodies to receive e-petitions in accordance with the new law. The system was developed under the E-Governance for Accountability and Participation (E-GAP) project funded by the Swiss Confederation and implemented by InnovaBridge Foundation.⁶

End of term: Substantial

The government submitted the draft Law on Electronic Trust Services to Parliament in August 2015. A new government re-submitted it in May 2016.⁷ By September 2016, Parliament approved the draft law in the first reading.

In August 2015, the president of Ukraine adopted rules on consideration of e-petitions addressed to the president.⁸ Parliament and the government adopted their respective regulations in October 2015 and July 2016 accordingly.⁹ This allowed for implementation of provisions on submission and consideration of e-petitions addressed to the highest national authorities. A number of local councils approved regulations on e-petitions addressed to them.¹⁰ An electronic system for submitting local e-petitions (e-dem.in.ua), launched in 2015 by the E-Governance Agency in co-operation with international partners (see above), extended its scope from 11 cities to more than 100 local communities, and has accepted more than 7,000 e-petitions.¹¹

Did it open government?

Civic Participation: Major

The original commitment lacked a clear focus and goals, making it difficult to ascertain its potential impact. However, implementation exceeded original plans, and the e-petition system had a major impact. This new e-democracy tool has been implemented by the highest national authorities (president, government, parliament) and several local authorities. Thousands of petitions have been submitted, and a number of them considered after receiving the minimum support required. For example, the e-petitions website of the Ukrainian president has received over 28,000 petitions so far, and more than 870,000 people signed at least one petition. At the same time, only 40 petitions overcame the threshold of 25,000 signatures.¹² Some of the petitions that have passed the required threshold for official consideration include restricting bails for officials accused of corruption crimes, increasing penalties for civil servants taking bribes, and cancellation of excise taxes on imported automobiles.

The e-petitions instrument changed the way government gathers citizen input. Previously, collective petitions were very rare and did not attract much public attention. Citizens could only petition government through written complaints. This limited their ability to take collective action, whereas the new online portal allows the public to leverage the Internet to gather a wide variety of views quicker, and without the limitations of geography. E-petitions introduced a new means for citizens to demand action, and fostered civic participation and enhanced opportunities for public control over how their petitions are considered and acted upon. However, it is not entirely clear to what extent e-petitions with the required number of signatures have affected the decision-making process of government actors. While submitted petitions have helped shape the public dialogue by shining a spotlight on issues of public interest, at the time of the assessment, there was no evidence to indicate that the submitted petitions had meaningfully influenced government decision-making.

Carried forward?

The commitment was not carried over to the new action plan.

¹ "Draft law #2544a," 31 August 2015, <http://bit.ly/1JSndaS>.

² Ibid.

³ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 64.

⁴ The number of signatures required varies depending on whether the authority is local or national.

⁵ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 64.

⁶ Ibid, 65.

⁷ <http://bit.ly/2iPCCUr>.

⁸ <http://bit.ly/2iAomBB>.

⁹ <http://bit.ly/2iAgMqw>, <http://bit.ly/2j4GTmr>.

¹⁰ See, for example, regulations approved by the Kyiv city council <http://bit.ly/2j4BGLr>.

¹¹ <http://bit.ly/2j9mGAI>.

¹² <http://petition.president.gov.ua>.

19. Electronic readiness assessment

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

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

Lead institution(s): State Agency for E-Governance

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

Start Date: Not specified

End Date: 31 December 2014

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
		✓			Unclear				✓						✓			✓			
															✓						

Commitment aim

The e-readiness assessment was an effort to evaluate how ready public authorities were to provide high-quality electronic public services to develop e-governance policies and e-democracy. The assessment was intended to provide a snapshot of e-governance at the national and regional levels, and to assist in the development of measures to introduce information and communications technology (ICT) in public administration and governance. In Ukraine, the first assessment of e-readiness was conducted in 2002.¹ The National Centre for E-Governance carried out a new assessment in 2013.² The OGP action plan commitment built on this previous work, and aimed to develop an interactive tool to conduct and update the assessment.

Status

Midterm: Substantial

According to the government's self-assessment report, the State Agency for E-Governance, with support from the Organisation for Security and Cooperation in Europe (OSCE) Project Coordinator Office in Ukraine, created an interactive system for the e-readiness assessment. The system allows for the collection, structuring, storing, and processing of data to conduct an analysis of e-readiness in Ukraine. The agency has started preparing the assessment itself.³

End of term: Substantial

No progress has been made since the previous report, and the assessment has not been conducted.

Did it open government?

Access to Information: Did not change

Civic Participation: Did not change

Public Accountability: Did not change

E-readiness is an important policy instrument to promote good governance and economic and social transformation. It is a continuous work that governments should pursue. However, the relevance of this commitment to OGP values is unclear. It may yield measures to promote access to information, civic participation, and public accountability, but, technically, this is not covered by the commitment, which is limited to an evaluation of the status quo. It was not expected to produce any impact, as it mainly preserved the status quo. The government prepared the interactive tool to use during the assessment, but did not conduct the assessment itself.

Carried forward?

The commitment was not carried forward to the new action plan.

¹ <http://bit.ly/1KtKyzG>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 66-67.

³ Ibid, 66.

★6. Open data draft law

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

Commitment 20. Open data regulations

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

Editorial Note: These two commitments are evaluated together since they relate to the same subject.

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

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

Start Date: Not specified

End Date: 31 December 2015 (Commitment 6);
31 May 2015 (Commitment 20)

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Completion		Midterm	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				
★6: Draft law on open data				✔	✔			✔				✔				✔					✔
20. Government regulations on open data		✔			✔			✔			✔				✔						✔

Commitment aim

Prior to the commitment, Ukrainian legislation lacked provisions for machine-readable data as well as their proactive publication by authorities and re-use by private actors. Both commitments aimed to develop a legal framework for public access to information held by public authorities in an open data form and in machine-readable formats. This was supposed to boost investment and create a new data-driven sector of the economy.

Status

Midterm: Completed

The commitment to develop a draft of the Law on Access to Public Information in Open Data Form was fully completed. The draft law was developed with the support of the UNDP at the end of 2014. The president submitted the draft law¹ to Parliament, which passed the law in April 2015. Initially, the government planned to develop its own regulations on open data. However, since the law was passed swiftly, it developed, instead, relevant regulations to implement the new provisions. Government regulations (adopted in October 2015) defined the minimum list of datasets (more than 300) to be disclosed by various public agencies (not only those subordinated to the government, but also the parliament, judiciary, and national bank) on their websites and the government's open data web portal. They also determined the procedure for publishing open data and the requirements for data formats.²

End of term: Completed

In October 2015, the government adopted regulations on open datasets and procedures for their publication. In September 2016, the government agreed to adhere to the International Open Data Charter,³ and instructed the E-Governance Agency to develop an action plan to implement the Charter. In November 2016, the government assumed regulations on the Unified State Open Data Web Portal,⁴ and the Ministry of Regional Development adopted a Roadmap for Open Data Development in February 2016.⁵ As of December 2016, the government open data web portal (<http://data.gov.ua>) contained more than 9,700 datasets, all of which were uploaded by some 1,000 public authorities that hold information.

Did it open government?

Access to Information: Outstanding

The commitments aimed to introduce in Ukrainian law, for the first time, regulations on the reuse of public sector information in open data formats. The law on open data was potentially transformative insofar as it established the basic legal framework for public access to open datasets (i.e., information in machine-readable formats), and allowed for their free reuse. Regulations providing procedures of open data disclosure also represented a major step in implementing the new law.

The law provided for both passive and active access to open data information. Any person can submit a request to obtain certain datasets available from a public agency. Agencies also proactively began publishing information in open data format on their websites, which simultaneously submitted it to a central depository (i.e., the government-operated web portal of open data, <http://data.gov.ua/>). The law introduced important principles for open data reuse. That is, it allowed further use of open datasets free of charge and for any purpose, provided the source of information is cited. Unlike in many other countries, Ukrainian law allows free, non-paid commercial use of government-held open data information.

The State Agency on E-Governance maintains the central open data web portal.⁶ This portal was created from a website developed by civil society actors. In addition to the central government's

deposits of open datasets, several public authorities have started publishing information they hold in machine-readable formats. For example, Parliament posted material on its open data web portal, <http://opendata.rada.gov.ua>; the Ministry of Justice published a number of public registers it maintains;⁷ Tax Administration publicised various tax-related datasets;⁸ and the register of e-declarations of public officials⁹ and public finances and their use (see <http://spending.gov.ua>; etc.) are available online. Civil society organisations and government agencies have organised several public contests (hackathons, etc.) to develop IT tools using available government open data (e.g., <http://egap-challenge.in.ua>).

Carried forward?

The commitments were completed, and were not carried over to the next action plan.

¹ <http://bit.ly/1MwZ63f>.

² Ibid, 68.

³ <http://bit.ly/2jadLON>.

⁴ <http://bit.ly/2iEA9g8>.

⁵ <http://bit.ly/1XnhtPa>.

⁶ Data.gov.ua.

⁷ <http://bit.ly/2hTrLux>.

⁸ <http://bit.ly/2j5vzqg>.

⁹ <http://bit.ly/2ij8qgz>.

21. E-democracy roadmap

Commitment Text: 21. Preparing the Roadmap for Development of Electronic Democracy.

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

23. E-petitions

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

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

Editorial Note: These two commitments were combined as they involve interrelated activities.

Lead institution(s): State Agency for E-Governance

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

Start Date: Not specified

End Date: 30 June 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact		Comple-tion		Midterm	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			
21. Electronic democracy development roadmap		✓			✓	✓		✓			✓				✓			✓		

23. E-petitions				✓		✓	✓	✓		✓				✓					✓		

Commitment aim

21. Roadmap for Development of Electronic Democracy

The commitment aimed to develop proposals on ways to realise the potential of e-democracy tools. Such tools would ensure citizens' ability to influence public authorities' decisions, and provide public oversight of these authorities.

23. Government regulation of e-petitions

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

Status

21. Roadmap for Development of Electronic Democracy

Midterm: Substantial

The title of the commitment referred to the development of a Roadmap for E-Democracy, although the expected output mentioned only the development of “proposals on how to determine ways of realizing potential of the e-democracy instruments.” The government reported on an outline of the proposals submitted to the government by the State Agency on E-Governance in May 2015,¹ which was required by the commitment’s deliverable.²

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

End of term: Complete

No further proposals were developed since the midterm. However, given the low specificity of this commitment as written, it can be considered complete. The State Agency on E-Governance reported on proposal outlines, and published the document online, thereby fulfilling the only requirement specified in the commitment text.

23. Government regulation of e-petitions

Midterm: Limited

In July 2015, Ukraine's Parliament amended the Law on Petitions to allow petitions to be submitted electronically, and introduced a special form of petitions—e-petitions (see the description under OGP commitment 18). The government reported that the State Agency on E-

Governance has set up a working group to develop a procedure for processing e-petitions in line with the commitment. The group has also developed draft regulations.³

End of term: Completed

In February 2016, the government adopted a resolution to amend the government bylaws to regulate processing of electronic petitions in line with the new law.⁴

Did it open government?

21. Roadmap for Development of Electronic Democracy

Access to Information: Did not change

Civic Participation: Did not change

The expected output of the commitment was to develop “proposals on how to determine ways of realizing potential of the e-democracy instruments.” The government developed such proposals, but they had no tangible impact, and could not be considered a roadmap for development of e-democracy (as intended in the title of the commitment).

23. Government regulation of e-petitions

Civic Participation: Marginal

Public Accountability: Did not change

The commitment aimed to improve the implementation of new tools for citizens to address public authorities with requests, complaints, or proposals. This was done by developing a system for the government to review and respond to submissions from the newly authorized e-petitioning system. This commitment is related to commitment 18 (see previous), which had an outstanding impact on opening government, since it legally authorized and implemented an e-petition system at all levels and offices of government. The commitment, to establish a system for processing e-petition submissions, represented a largely internal government procedural change.

In 2016, the government updated its regulations to reflect new changes in the Law on Petitions. This was a positive step, as it aligned government bylaws with the new requirements. However, it had only a marginal effect on open government. While amending the law to permit regulations for responding to online petitions is a necessary component of responding to citizens, this commitment was technical in nature, and did not represent more than a marginal change in practice.

Carried forward?

The commitment on the development of e-democracy was carried over to the new action plan. The new plan requires preparation of a concept paper on the development of e-democracy (by May 2017) and an action plan to implement the concept paper (both documents must be approved by the government).

¹ <http://bit.ly/1jYVTIV>.

² Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 73.

³ Ibid, p. 73.

⁴ <http://bit.ly/2ifuWKH>.

22. Open budget initiatives

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

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

Lead institution(s): Ministry of Finance

Supporting institution(s): Ministry of Regional Development

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact		Comple-tion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
				✔	✔		✔	✔			✔					✔				✔	

Commitment aim

This commitment attempted to pilot initiatives on open budgets at different levels using online instruments. NGOs in Ukraine pioneered the preparation and publication of information on local budgets and their execution in a user-friendly manner. In the OGP action plan, the government committed to supporting this work and making budget information available in an accessible format for the first time, including through data visualisation.

Status

Midterm: Completed

The commitment and its deliverables, as originally worded, did not produce transformative reforms. They included some important steps and pilot projects. However, the government managed to exceed its plan and launch a far-reaching initiative to open up information on all budgetary transactions. Civil society organisations in Ukraine originally supported the idea of opening budgetary information, but in a user-friendly manner through visualisation and explanation, not just in bulk disclosure. The local self-government authorities and national government followed suit, providing access to data and publishing visualised data on official websites. The OGP process further promoted innovative tools under this commitment, for example, “The Price of the State” and “Open City” websites.

The commitment was successfully implemented, and even exceeded targeted results. The government reported that an NGO—the Centre for Political Studies and Analytics—with donor support, launched a website and developed an open budget software tool for local self-government authorities (www.openbudget.in.ua). The web portal allowed for the creation of an interactive visualisation of local budgets, based on the financial and statistical data of local authorities, and their publication on the websites of local councils. A number of local authorities joined the project in 2015.¹

The website, “The Price of the State” (<http://costua.com>), was successfully launched and administered by the NGO, CASE-Ukraine, with donor support. It provided visualised, accessible data on state budget revenues and expenses, debt, taxes paid, etc. As of October 2015, the platform, “Open City” (<http://opencity.in.ua>), contained about 18 cities, with more than 30,000 reports per year and about 300 improvements per month as a result of citizen reports.²

Also, in February 2015, Parliament passed an advanced Law on the Openness of Use of Public Funds. The law required publication of all data related to public expenses on a single web portal, including real-time data on treasury transactions. In September 2015, the government adopted regulations required for the launch of the relevant web portal,³ and allocated funds. On 15 September 2015, the Ministry of Finance, with support from NGOs and donors, launched a test of the web portal (<http://edata.gov.ua>).⁴

Initiatives described in the previous report have been further developed. According to the website, <http://opencity.in.ua>, 27 cities are connected to the platform, 34 messages are posted weekly, 414 improvements are accomplished monthly, and more than 29,000 comments are left on the website each year. The Open Budget IT tools to visualise local budgets (available at www.openbudget.in.ua) has been used by 50 cities and regions.⁵

Did it open government?

Access to information: Major

Public Accountability: Did not change

The website, “The Price of the State,” educated citizens about their taxes and how they are spent by the state, thereby providing information in user-friendly format and explaining complex financial concepts. According to a representative of the Centre for Political Studies and Analytics Eidos, the ability to track public finances through the portal has provided citizens with usable, quality information about state spending.⁶ The website, “Open City,” led to real-time reporting of hundreds of local problems, and identified the relevant municipal services that resolved the issues.

The 2015 Law on the Openness of the Use of Public Funds was transformative as it required publication of detailed information on public expenditures by every budgetary unit, including real-time data on treasury transactions. This was a commendable achievement, though it was not part of the OGP action plan. A significant amount of budgetary data has been published, which resulted in a much higher level of openness and public scrutiny over the use of public funds. For example, open data introduced through the public finances web portal have been useful to journalists and private sector organizations, such as Youcontrol and Liga. It was also important that the Ministry of Finance introduce access to data through APIs. This allowed the development of further services from the open data available on the portal.⁷ The government has yet to ensure full compliance with the law’s requirement.

Carried forward?

The commitment was carried over to the new action plan as a more specific task focused on the Transparent Budget information system.

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 69.

² Ibid, 69.

³ Instruction of 14 September 2015 #911 on the set up and functioning of the single web portal on public money use, <http://bit.ly/1KQGltN>; Resolution of 14 September 2015 #694 on the procedure for administering the single web portal on public money use, <http://bit.ly/1hfjBE4>; and Resolution of 14 September 2015 #676 on the procedure for publication on the single web portal on public money use of information on payment transactions of the treasury account, <http://bit.ly/1Ocw9zf>.

⁴ See official announcement about the launch of the portal at: <http://bit.ly/1YucqYM>.

⁵ <http://openbudget.in.ua/?locale=uk>.

⁶ Interview with Volodymyr Tarnay, Centre for Political Studies and Analytics Eidos, 20 June 2017.

⁷ Ibid.

24. E-government training for local governments

Commitment Text: 24. Conducting a national awareness-raising campaign “Public Libraries as Bridges to e-Governance.”

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

Lead institution(s): Ministry of Culture

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

Start Date: Not specified

End Date: 31 December 2015

Commitment Overview	Specificity				OGP Value Relevance (as written)				Potential Impact				Comple-tion		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	Worsened	Did Not Change	Marginal	Major	Outstanding
			↙		Unclear					↙						↙		↙			
																	↙				

Commitment aim

The commitment sought to raise awareness on e-governance by developing an e-Governance Basics distance training course and training members of local councils.

Status

Midterm: Completed

The Ministry of Culture developed a distance learning course, “Basics of E-Governance,” that was disseminated on CD-ROMs to all regional and district libraries, as well as regional and district state administrations. This was to be used during local trainings on e-governance. The course was also uploaded to the web portal of the Ukrainian Association of Libraries and made available to the public. The ministry conducted 303 trainings for more than 2,300 members of local councils. It further created three local online portals for e-governance services (in Shepetivka, Dmytriv, and Lutsk).¹

In its final self-assessment report, the government stated that some 25 training centres were set up at the regional academic libraries, and 303 trainings held (the number of participants increased to 5,393, compared with the number reported in the previous self-assessment report).

Did it open government?

Access to Information: Did not change

Civic Participation: Did not change

Public Accountability: Did not change

The 2012 OGP action plan mentioned a similar initiative entitled, “Public Libraries as Bridges to e-Governance.” The new commitment specified, among its expected results, the development of a distance learning course — “Basics of E-Governance” — and training for officials of district and village local councils. The activities under the commitment did not actually include an awareness-raising campaign on how the public libraries can be used to promote e-governance.² The commitment did not clearly promote any of the OGP core values, and, as implemented, did not lead to any changes in opening government.

Carried forward?

The commitment was not carried over to the next action plan.

¹ Independent Reporting Mechanism (IRM) Progress Report 2014-15: Ukraine, 78.

² Ibid, 78-79.

METHODOLOGICAL NOTE

Commitments are clustered based on the original OGP action plan. This report is based on a desk review of governmental programmes, draft laws and regulations, governmental decrees, a review of the government's self-assessment report, analysis of the commitments, as well as on monitoring the process of elaboration of the second action plan. The IRM researcher also relied upon written consultations with civil society experts and reports from the media to evaluate completion of the action plan.

Dmytro Kotlyar is an independent researcher who specializes in issues of open governance and anti-corruption. The report on commitments 7 (Supervisory mechanism for the right to information), 12 (Asset disclosure on a single web portal), and 6 (Draft law on open data) was prepared by the independent researcher, Denys Kovryzhenko.

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, to empower citizens, to fight corruption, and to 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.

