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

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Executive Summary

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

The Czech Republic's second action plan emphasized civil service reform. While important for the government's internal accountability, commitments related to the Act on Civil Service need to include more elements of public oversight. Future action plans would benefit from a broader scope of actions pertaining to open data initiatives, public participation, citizen oversight over reforms and transparency in public investments.

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 at the mid- and end point of the national action plan for each OGP participating country.

The Czech Republic began its participation in September 2011.

This progress report covers the first year of implementation of the Czech Republic's second action plan, from 1 July 2014 to 30 June 2015. The Anti-Corruption Unit, under the minister for human rights, equal opportunities and legislation, coordinates the OGP process in the country. In some cases, implementation of commitments is driven by the Ministry of Interior—in cooperation with other ministries and central agencies, often supported by a network of civil society organizations (CSOs) with an interest in the policy area.

OGP process

Countries participating in the OGP follow a process for consultation during both the development and implementation of their OGP action plan. Consultation to develop the second action plan was limited to ministries and some administrative authorities. According to authorities responsible for this process, public consultations were not held because commitments were taken from the first action plan, which was preceded by a public participatory process. Nevertheless, the commitments contained in the action plan have been evaluated as important by all relevant stakeholders. In general, it can be said that the commitments contained in the OGP action plan have been considered by the Czech government and other agencies as a part of, or a compliment to, anti-corruption strategies.

The government provided a mid-term self-assessment in due time. At the time of writing this report, most of the commitments have been substantially or fully implemented.

At a glance

Member since:	**2011**
Number of commitments:	**9**

Level of completion

Completed:	**3 (of 9)**
Substantial:	**4 (of 9)**
Limited:	**2 (of 9)**

Timing

On schedule:	**4 (of 9)**
Ahead of Schedule	**2 (of 9)**

Commitment emphasis:

Access to information:	**4 (of 9)**
Civic participation:	**0 (of 9)**
Public accountability:	**0 (of 9)**
Tech & innovation for transparency & accountability:	**2 (of 9)**

Number of commitments that were:

Clearly relevant to an OGP value:	**4 (of 9)**
Of transformative potential impact:	**2 (of 9)**
Substantial or complete in implementation:	**7 (of 9)**
All three (✪):	**0 (of 9)**

Commitment implementation

As part of OGP, countries are required to make commitments in a two-year action plan. The Czech Republic's Second National Action Plan 2014-2016 emphasizes three areas: (1) adoption of the new Act on Civil Service; (2) streamlining the free access to information system; and (3) improving access to data and information. The three themes contain nine commitments, some of them comprising several milestones. The following tables summarise each commitment, its level of completion, its potential impact, whether it falls within the Czech Republic's planned schedule, and the key next steps for the commitment in future OGP action plans.

The Czech Republic's action plan did not contain starred commitments. These commitments are measurable, clearly relevant to OGP values as written, of transformative potential impact, and substantially or completely implemented. Note that the IRM updated the star criteria in early 2015 in order to raise ambition for model OGP commitments. In addition to the criteria listed above, the old criteria included commitments that have moderate potential impact. Under the old criteria, the Czech Republic would have received an additional star (Commitment 8: Open Data Catalogue). See (http://www.opengovpartnership.org/node/5919) for more information.

Table 1: Assessment of Progress by Commitment

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ COMMITMENT MEASURABLE, IS CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
1. Adoption of the new Act on Civil Service									Ahead of schedule
1.1 Chamber of Deputies adopts draft amendment.									
1.2 Senate adopts amendments.									
1.3 Act enters into effect.									
2. Implementing legislation for the new Act on Civil Service									On Schedule
2.1 Time schedule of preparatory works									
2.2 Analysis and proposal of further possible use of current implementation measures									
2.3 Adoption of the implementing legislation									
3. Institutional measures to implement the new Act on Civil Service									Ahead of schedule
3.1 Establish and incorporate a body for civil service									
3.2 Establish and incorporate a section for civil service									

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION				TIMING
✪ Commitment measurable, is clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented.	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE	
4. Selection, recruitment and appointment of civil servants/high-ranking civil servants	X	X	X		X				
4.1 Recruitment of a deputy for civil service and a personal director of the SCS	X	X	X		X	X	X	X	
4.2 Recruitment of state secretaries in ministries and the Office of the Government	X	X	X			X	X		
4.3 Selection procedures for heads of the service authorities and deputies	X	X	X			X			On schedule
4.4 Selection procedures for directors of departments and heads of units	X	X	X			X			
4.5 Appointment of heads of the service authorities and deputies	X	X	X			X			
4.6 Appointment of directors of departments and heads of units	X	X	X			X			
5. Systematization of service positions and service authorities	X	X	X		X	X	X		
5.1 Draft guidance instruction of the first systematization	X	X			X	X	X	X	
5.2 Preparation of the first systematization	X	X	X			X	X		On schedule
5.3 Proposal for systematization for 2016	X	X	X			X			
5.4 Proposal for systematization for 2017	X	X	X			X			
6. Streamline the free access to information system	X	X			X	X	X		
6.1 Draft amendment of the Free Access to Information Act	X	X				X	X	X	
6.2 Methodological material on the amendment	X	X				X			Behind schedule
6.3 Amendment in legal force	X	X				X	X	X	
7. Support for open data publishing	X	X			X	X			
7.1 Commencement of the project	X	X				X	X		
7.2 Training course of the Institute for Public Administration	X	X				X	X		Behind Schedule
7.3 Open data publication methodology	X	X				X	X		
7.4 Support for data publication	X	X				X			
8. Open data catalogue	X	X	X		X	X	X	X	On schedule
9. Open data legal framework	X	X	X		X	X			Behind schedule

Table 2: Commitment summary

NAME OF COMMITMENT	SUMMARY
✪ COMMITMENT IS MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.	
1. Adoption of the new Act on Civil Service • OGP value relevance: Unclear • Potential impact: Transformative • Completion: Complete	This commitment aims to drive adoption and bring into effect the Act on Civil Service. The Parliament and Senate adopted the act on 10 September and 1 October 2014, respectively (Milestones 1.1 and 1.2), which fully entered into force on 1 January 2015 (Milestone 1.3). While this commitment is potentially transformative for state administration in the country, as written it is not clearly relevant to OGP values. Overall, it could change the status quo of civil servants towards an apolitical civil service. A number of politicians and civil society actors, however, have qualified the final version of the act as insufficient and are sceptical as to whether it will accomplish the aspired goals. Moving forward, the IRM researchers suggest actions be taken to amend weaknesses in the act and assure that the agency responsible for its implementation be independent from other government bodies.
2. Implementing legislation for the new Act on Civil Service • OGP value relevance: Unclear • Potential impact: Transformative • Completion: Substantial	Implementing legislation aims to provide a legal and institutional enabling environment for the successful enforcement of the new act. On 12 November 2014, the Ministry of Interior presented to the government a timetable for the implementation of the Act on Civil Service together with a checklist of delegated implementing acts that had to be adopted. In order to comply with the mandate of the new act, 60 other pieces of legislation were changed under Act no. 250/2014 Coll. Parts of this implementation act are not expected to be set in place until 1 June 2017. Complimentary legislation that regulates implementation could influence the success and well-functioning quality of the Act on Civil Service. The IRM researchers suggest that in future action plans, the government should engage nongovernmental actors in dialogues and the preparation of implementing measures related to the act (or other relevant legislation). Additionally, a citizen oversight mechanism could be considered to monitor implementation of the act.
3. Institutional measures to implement the new Act on Civil Service • OGP value relevance: Clear • Potential impact: Minor • Completion: Complete	This commitment seeks to establish a coordination body to regulate implementation of the Act on Civil Service. The Section for Civil Service (SCS) was established in 22 September 2014 under the Ministry of Interior. This has been one of the most controversial mandates in the act. Originally, the draft act proposed the creation of a General Directorate for Civil Service, independent from other government agencies. Although this is set out to be an efficient coordinating body, some stakeholders fear that the efficiency and impartiality of the SCS is undermined by its subordination to the Ministry of Interior. Moving forward, the IRM researchers recommend that the SCS's role be clearly framed in the Act on Civil Service to guarantee that its role and independence withstands changes in government.
4. Selection, recruitment and appointment of civil servants/high-ranking civil servants • OGP value relevance: Unclear • Potential impact: Moderate • Completion: Limited	This commitment intends to prepare selection procedures for and conduct appointments to key civil service positions. Selection procedures for four out of the eight positions were prepared while no appointments had been made at the time of writing this report. Most of the positions that remain unassigned, however, depend on completion of Commitment 5: "Systematization of service positions and authorities." Changes in the selection of both high- and low-ranking civil servants may lead to a more professional and apolitical state administration. According to a former head of the Czech Statistical Office, the influence of particular ministers on the composition of selection committees may cause problems by exerting political pressure and unwarranted tension in the future. Moving forward, safeguards should be adopted to assure an apolitical composition of the selection committees.
5. Systematization of service positions and service authorities • OGP value relevance: Unclear • Potential impact: Moderate • Completion: Substantial	The systematization of service positions sets out to provide prerequisites and criteria for recruitment and dismissal of civil servants, accompanied by remuneration scales for civil servants and other employees. In July 2015, the first systematization was adopted in accordance with the Act on Civil Service. This commitment has the potential to prevent the risk of politically motivated appointments of leadership in key agencies. In the future, the IRM researchers suggest that the SCS ensure that all changes of either the number of civil servants and other employees of the state authority or the organizational structure will be well rationalized and their impacts properly analysed.

Table 2 continued:

6. Streamlining the free access to information system • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	The general intention of the commitment is to adopt changes for the Freedom of Information Act. Parliament approved an amendment to the act and it was legally effective as of 10 September 2015. At the time of writing this report, material was being prepared to aid public authorities and municipalities apply changes to the act. The amendment only partially addresses the issues raised by civil society organizations and lack key reforms to improve access to information in the country. Moving forward, the IRM researchers suggest reconsidering the scope of reforms as originally intended in a previous draft amendment: tackling issues on the explicit definition of the public interest test to deny a request for information, the pro-active disclosure of information, specific sanctions for officials that refuse to disclose court ordered information requests and the establishment of an independent public entity with a mandate to oversee implementation of the Freedom of Information Act.
7. Support for open data publishing • OGP value relevance: Clear • Potential impact: Minor • Completion: Substantial	The commitment's aim is to develop open data publishing guidelines and provide support to institutions. At the time of writing, a working group of experts from public administration, civil society, and academia were brought together to lead the improvement process on open data. Online and in-person courses have been held for public officials from central and local government. Draft documents of guidelines and guidance have not been completed or approved, however they have been shared with representatives from various public institutions for comments. The open data agenda is still emergent in the Czech Republic and this commitment represents a positive step to drive the agenda toward more ambitious reforms. In future action plans, the IRM researchers encourage the government to open for public consultation the validation of publication plans and possible legal framework reforms needed to implement open data standards.
8. Open data catalogue • OGP value relevance: Clear • Potential impact: Moderate • Completion: Complete	The open data catalogue seeks to provide citizens with a unified, friendly, and categorized interface to search public documents. The pilot version was released in April 2015 and later finalized in June 2015. The catalogue is innovative in that it is a major step forward for changing the way public officials engage with the pro-active publication of government-held information. In future action plans, the IRM researchers suggest the tool be improved to address some of its technical limitations, reach out to a wider community outside the information technology sector, continue support and training efforts to emphasize the advantages of the tool to public authorities, increase the number of institutions using the catalogue, and seek to endorse data publishing guidelines in legal frameworks.
9. Open data legal framework • OGP value relevance: Clear • Potential impact: Moderate • Completion: Limited	This commitment aims to provide legal regulation for open data and information disclosure. Thus far, efforts have been led to adjust secondary legislation to meet open data requirements and isolated amendments have been suggested. However, work is still needed to draft a comprehensive legal framework. While regulations are important, in themselves they will not transform the open data culture unless they are enforceable. Moving forward, attention will be required to supervise open data practices across public institutions.

Recommendations

Based on the findings in the progress report, the IRM researchers made the following five "specific, measurable, accountable, relevant, and time-bound" (SMART) recommendations for improving the OGP process in the Czech Republic.

TOP FIVE 'SMART' RECOMMENDATIONS
1. All future updates of the action plan should be made in consultation with the public in a timely manner.
2. The action plan should promote (1) the independence of any top authority ensuring implementation of the Act on Civil Service (e.g., the Section for Civil Service) and (2) apolitical compositions of committees for appointing candidates to senior civil service positions.
3. The action plan should include a commitment related to finalizing the legal environment for publishing data in open formats.
4. If current commitments are finalized, the next action plan should include a commitment concerning the misuse of public resources and enhancing transparency of planning and financing of public investments.
5. Preparation of a new action plan could serve as a model for the establishment of public participation standards. The action plan should include measures with public-facing elements, such as citizen audits of performance and the inclusion of citizens in oversight mechanisms to guarantee the openness of government in the implementation of the action plan commitments.

Eligibility Requirements 2014: To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, see Section IX on eligibility requirements at the end of this report or visit http://www.opengovpartnership.org/how-it-works/eligibility-criteria.

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

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

I. National participation in OGP

History of OGP participation

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

The Czech Republic began its participation in September 2011, when the government declared the country's intention to participate in the initiative with Resolution no. 691.[1]

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of (minimum) performance criteria on key dimensions of open government that are particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. Objective, third party indicators are used to determine the extent of country progress on each of the dimensions. See Section VIII: Eligibility Requirements for more details.

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Action plans should set out governments' OGP commitments, which move government practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

The Czech Republic developed its second national action plan[2] from August to October 2014. The effective period of implementation for the second action plan submitted in November was officially September 2014 through June 2016. This report covers the first year of implementation from 1 July 2014 to 30 June 2015. The government published a draft self-assessment report[3] in August of 2015. At the time of writing (September 2015), the self-assessment report was submitted to the government for its approval. Some of the commitments contained in the action plan were already fully met, while others were in the process of fulfilment (see Section IV for details).

Basic institutional context

The Czech Republic is a unitary constitutional republic with a parliamentary system of government. Its supreme law is the Constitution of the Czech Republic together with the Charter of Fundamental Rights and Freedoms. In its current form, the Constitution has been valid since 1 January 1993—since the date the independent Czech state was established—as a result of the separation of Czechoslovakia. Power is divided into legislative (Czech Parliament), executive (Czech government and the president of the Republic), and the judicial branch. The government, with the prime minister as its head, is responsible to a Chamber of Deputies (a "lower house" of Parliament). The courts are independent; the judges are appointed by the president on the proposal of the minister of justice.

The government (executive power) is responsible for coordinating the Czech Republic's OGP commitments. The government (prime minister and ministries) decided on the Czech Republic's participation in OGP in September 2011 (see above). Consequently, the government approved the first national action plan in April 2012,[4] the self-assessment report with the update of the action plan in June 2013,[5] and the second national action plan through Resolution no. 929 of 12 November 2014. The decisions and resolutions of

the government represent the general legal mandate for the activities directly related to the OGP in the Czech Republic.

Procedures and tasks related to the OGP, including developments of the action plans and self-assessment reports have been coordinated by bodies within the Office of the Government.[6] The Section for Coordination of Fighting Corruption within the Office of the Government coordinated the preparation of the first action plan in 2012. During the first action plan cycle, the section was abolished, and all its tasks have been taken over by the Department for Coordinating the Fight against Corruption, which was under the direct authority of the prime minister. After the resignation of the Civic Democratic Party–led government and extraordinary elections in 2013, the tasks of this department were shifted again to the Division for Fighting Corruption,[7] under the authority of the minister for human rights, equal opportunities and legislation; this is a position held by Jiří Dienstbier at the time of writing.[8] The administration of the OGP was to some extent hindered by the resignation of the prime minister and ministers, the establishment of the caretaker government and extraordinary elections in 2013.

Actual implementation of the commitments contained both in the first and second action plans has been mostly under the competence of the Ministry of the Interior, in some cases in cooperation with other ministries and central agencies.

The main source for the first OGP action plan was the "Strategy of the Government in the Fight against Corruption for Years 2011 and 2012."[9] This strategy mandated that individual ministries take specific measures in the area of fighting corruption, including the commitments contained in the action plan. Similar goals and measures were also contained in the anti-corruption government strategies for subsequent years and in the second OGP action plan. These activities have been, on the strategic level, coordinated by the "Government's Committee for Coordination of the Fight against Corruption," substituted in 2014 by the "Government's Council for Coordination of the Fight against Corruption."[10]

It can therefore be concluded that OGP tasks are led by a multi-agency operation in the Czech Republic.

There are no specific budgetary items in the budgets of the Office of Government, the Ministry of Interior nor any other government agencies dedicated to OGP. There are also no staff members whose only task would be working on OGP issues. Both from the personal and budgetary perspective, these issues are considered to be an integral part of other agendas, related to anti-corruption and other tasks. The rough estimate of the working time devoted to the OGP on the Office of the Government was one-half of the working time of one staff member (in reality about 5-6 staff members working part-time on it). The estimation of budgetary expenses for the OGP in the Office of the Government was about half a million Czech korunas (USD 21,000) per year.[11]

In general, it can be said that the commitments contained in the OGP action plans have been mostly considered by the Czech Government and other agencies as a part of, or a complement to, the anti-corruption strategies. This has influenced the relatively low attentiveness devoted to the OGP as such by both the government agencies and civil society, including the insufficient scope of public participation in the development and implementation of the action plans (see Sections II and III of this report for more details). Nevertheless, the commitments contained in the action plans have been evaluated as important by all relevant stakeholders.

Methodological note

The IRM partners with experienced, independent national researchers to author and disseminate reports for each OGP participating government. In the Czech Republic, the IRM partnered with Pavel Černý and Donika Zůbková of Frank Bold Advokati, s.r.o.

(originally Advokátní kancelář Šikola a partneři, s.r.o). The IRM researchers reviewed the government's self-assessment report, gathered the views of civil society, and interviewed appropriate government officials and other stakeholders. OGP staff and a panel of experts reviewed the report.

This report follows on an earlier review of OGP performance, "Czech Republic Progress Report 2012-2013," which covered the development of the first action plan as well as implementation from 1 July 2012 to 31 July 2013.[12]

To gather the voices of multiple stakeholders, the IRM researchers organized a stakeholder meeting that took place on 21 June 2015 in the city of Bykovice and a working meeting with stakeholders who specialize in open data issues in Prague. Summaries of these forums and more detailed explanations can be found in the Annex.

The IRM researchers also contacted more than 850 representatives of the private sector by email with an online questionnaire, asking for their experience and opinions with using open data databases when conducting their business and on the newly adopted Act on Civil Service. They gathered 44 responses.

The IRM researchers also reviewed two key documents prepared by the government: the Czech Republic's second action plan and the draft of the government's self-assessment report published in August 2015. Numerous references are made to these documents throughout this report.

[1] "Czech Republic's Letter of Intent to Join OGP," http://www.opengovpartnership.org/country/czech-republic.

[2] Government of the Czech Republic, *Action Plan of the Czech Republic Open Government Partnership for the years 2014 to 2016*, http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/OGP-Action-plan-Czech-republic-2014-2016.pdf.

[3] Draft of the Czech Republic's self-assessment report, http://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Prubezna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf.

[4] Government of the Czech Republic, *Action Plan of the Czech Republic "Open Government Partnership"* (Prague, 4 April 2012), http://bit.ly/19z75iR, [English] http://bit.ly/1czTzGP.

[5] Government of the Czech Republic, *Implementation Assessment of the Czech Republic Action Plan "Open Government Partnership" in 2012 and its Update* (Prague, 19 June 2013), http://bit.ly/1avvrII, [English] http://bit.ly/1mfZU2f.

[6] Office of the Government, "Description of the Powers and Activities" (Prague: Government of the Czech Republic), http://bit.ly/1gUzorf, [English] http://bit.ly/19z0BAB.

[7] Office of the Government's Division for Fighting Corruption, "Description of the Powers and Activities" (Prague: Government of the Czech Republic), http://bit.ly/1gUARhs.

[8] Internet profile of Jiří Dienstbier, Minister for Human Rights, Equal Opportunities and Legislation, http://www.vlada.cz/cz/clenove-vlady/pri-uradu-vlady/jiri-dienstbier/.

[9] Office of the Government's Department for Coordination of Fighting Corruption, *Strategy of the Government in the Fight against Corruption for Years 2011 and 2012*, (Prague: Government of the Czech Republic, 2010), http://bit.ly/1gUCRpN, [English] http://bit.ly/1kGkDya.

[10] Government of the Czech Republic, "Government's Council for Coordination of the Fight against Corruption," http://www.korupce.cz/cz/rada-vlady/rada-vlady-pro-koordinaci-boje-s-korupci-121697/.

[11] Franitšek Kučera and Dalibor Fadrný (Section for Coordination of Fighting Corruption within this Office of the Government), interview by the IRM researchers, 27 August 2015.

[12] Pavel Černý and Donika Zůbková, *Czech Republic Progress Report 2012-2013*, http://www.opengovpartnership.org/sites/default/files/Czech%20Republic_OGP_IRM_Public_Comment_%28Eng%29.pdf.

II. Action plan development

There was no public consultation with regard to the development of the second OGP action plan in the Czech Republic. Only ministries and some other administrative authorities were consulted before the government approved it. According to the authorities responsible, this approach was justified by the fact that all the commitments contained in the second action plan were taken from the first action plan, the adoption of which was preceded by the public consultation process.

Countries participating in OGP follow a set process for consultation during development of their OGP action plan. According to the OGP Articles of Governance, countries must:

- Make the details of their public consultation process and timeline available (online at minimum) prior to the consultation;
- Consult widely with the national community, including civil society and the private sector; seek out a diverse range of views; and make a summary of the public consultation and all individual written comment submissions available online;
- Undertake OGP awareness-raising activities to enhance public participation in the consultation;
- Consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage.

A fifth requirement, during consultation, is set out in the OGP Articles of Governance. This requirement is dealt with in Section III: "Consultation during implementation:"

- Countries are to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one.

This is dealt with in the next section, but evidence for consultation both before and during implementation is included here and in Table 1 for ease of reference.

Table 1: Action Plan Consultation Process

Phase of Action Plan	OGP Process Requirement (Articles of Governance Section)	Did the government meet this requirement?
During Development	Were timeline and process available prior to consultation?	No
	Was the timeline available online?	No
	Was the timeline available through other channels?	No
	Was there advance notice of the consultation?	No
	Was this notice adequate?	No
	Did the government carry out awareness-raising activities?	No
	Were consultations held online?	No
	Were in-person consultations held?	No
	Was a summary of comments provided?	No
	Were consultations open or invitation-only?	N/A
	Place the consultations on the IAP2 spectrum.[1]	N/A

During Implementation	Was there a regular forum for consultation during implementation?	No
	Were consultations open or invitation-only?	N/A
	Place the consultations on the IAP2 spectrum.	N/A

Advance notice and awareness-raising

As already summarised above, no public consultation took place before or during development of the second OGP action plan. There was also no public information available about the preparation of the new version of the action plan.

The draft of the second action plan was prepared by the Division for Fighting Corruption within the Office of the Government, in cooperation with the Ministry of the Interior. On the webpage of the Division for Fighting Corruption devoted to the Czech Republic's participation in the OGP, [2] there had been no new information about any developments since the publication of the self-assessment report and the update of the first action plan in June 2013, until the publication of the second action plan after its approval by the government in November 2014.

According to the Division for Fighting Corruption,[3] the reason why the government decided not to hold consultations or awareness raising was that the commitments in the second action plan and their basic content remained the same as in the previous one, and the development and implementation of the first OGP action plan involved a public consultation process held in 2011 and 2012. In addition, the authorities pointed out that the development and implementation of the first OGP action plan had not attracted a broad public interest, as the majority of stakeholders did not seem to consider the consultations to be meaningful. In this context, the representatives of the Division for Fighting Corruption also mentioned that the second action plan was prepared in accordance with the recommendations of the IRM report concerning implementation of the first action plan.[4]

Depth and breadth of consultation

Concerning the details of the development of the second action plan, it can be added that on 7 October 2014, the minister of interior and the minister for human rights, equal opportunities and legislation sent the draft of the second action plan to 72 government agencies and other public institutions for comments—Parliament, the Office of the President, high courts, the Supreme Auditor Office, the ombudsman, regional governments, associations of municipalities, the Business Chamber, the Agricultural Chamber, etc.—as a so-called "external consulting procedure for non-legislative materials." At the same time, the draft was inserted into the official electronic system of the government, which is not accessible to the general public. The Business Chamber of the Czech Republic published the draft on its website on 15 October 2014. [5]

A number of government agencies provided comments to the draft of the second action plan under this "external consulting procedure." Most were of a formal and organizational nature.[6] These agencies are: the Ministry of Labor and Social Affairs, the Ministry of Local Development, the Ministry of Justice, the Ministry of Education, the Ministry of Interior, the Ministry for Research and Innovations, the Statistical Office, the Office for Protection of Personal Data, and the Office for Public Property Representation.

The only civil society (nongovernmental) actor to send in comments to the draft of the second action plan was the Otakar Motejl Fund, whose representatives learned about the content of the action plan in an unofficial way. Their comments on the commitments concerning access to data and information (open data) were not taken into account before adoption of the action plan.[7]

It must therefore be concluded that the OGP requirements concerning public consultations have not been met prior to the adoption of the second OGP action plan for the period 2014-2016. A diversity of views was not represented and power was not shared with the stakeholders with respect to decision making on commitment inclusion and action areas.

While these arguments may be valid from the government's perspective, at the same time it must be concluded that the chosen approach is not in compliance with the OGP Articles of Governance, as summarised above. Additionally, the IRM researchers point out that with respect to the development of the first national action plan, the process of consultation was limited to central administrative authorities and a few civil society organizations (CSOs).[8] Therefore, it is desirable that when developing the third OGP action plan, the Czech authorities ensure broad possibilities of participation with the national community, including civil society and the private sector (e.g., by introducing awareness-raising activities concerning the OGP as a whole and the importance and possible benefits of the action plan).

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[1] "IAP2 Spectrum of Political Participation," *International Association for Public Participation*, http://bit.ly/1kMmlYC.

[2] Section for Coordination of Fighting Corruption within this Office of the Government, "Open Government Partnership (OGP)," http://www.korupce.cz/cz/partnerstvi-pro-otevrene-vladnuti/partnerstvi-pro-otevrene-vladnuti-ogp-104810/.

[3] Eva Kyzourová (Division for Fighting Corruption of the Office of the Government), phone interview by the IRM researchers, 11 December 2014.

[4] Franitšek Kučera and Dalibor Fadrný (Section for Coordination of Fighting Corruption within this Office of the Government), interview by the IRM researchers, 27 August 2015.

[5] The Business Chamber of the Czech Republic, *Progress report on the OGP Action Plan*, http://www.komora.cz/pro-podnikani/legislativa-a-normy/pripominkovani-legislativy/nove-materialy-k-pripominkam/173-14-informace-o-dosavadnim-plneni-akcniho-planu-ceske-republiky-partnerstvi-pro-otevrene-vladnuti-t-15-10-2014.aspx.

[6] Eva Kyzourová, phone interview by the IRM researchers, 11 December 2014.

[7] Michal Kubáň (Otakar Motejl Fund), interview by the IRM researchers, July 2015.

[8] Pavel Černý and Donika Zůbková, *Czech Republic Progress Report 2012-2013*, chapter II, http://www.opengovpartnership.org/sites/default/files/Czech%20Republic_OGP_IRM_Public_Comment_%28Eng%29.pdf.

III. Action plan implementation

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

Regular multi-stakeholder consultation

No new forum has been created to facilitate the implementation of the action plan. The existing forums have not involved any discussion of the implementation of either the first or the second action plan.

According to the representatives of the Division for Fighting Corruption in the Office of the Government, the commitments and the strategy of their fulfilment have been repeatedly discussed in the Government's Council for Coordination of the Fight against Corruption[1] and its working committees. The chair of this council is Jiří Dienstbier, the Minister for Human Rights, Equal Opportunities and Legislation. Vice-chairs are the ministers of finance, interior, justice, and science, research and innovations. Other members of the council, and its working committees, are representatives of other ministries, academic institutions, professional associations and civil society organizations. Only the members of the council can participate in its meetings.

The Council for Coordination of the Fight against Corruption was established in July 2014. Since then, it has been meeting approximately once every two months. It is clear from the records of the meetings[2] that it repeatedly dealt with the implementation of the new Act on Civil Service, one of the main topics of the action plan. The other two main topics of the action plan—the amendment of the Free Access to Information Act and publishing data in open formats—have not been discussed at the meetings of the council. The council also dealt with draft laws on the Declaration of the Origin of Ownership, on Internal Control in the Public Administration, on Conflicts of Interest, on Public Procurement, etc.

On 8 September 2015, the council discussed the draft of the government's self-assessment report (see Section V for more details).

In the opinion of the IRM researchers, the situation as described above is related to the fact that the commitments contained in the OGP action plans are not new or unique, but rather adopted from the anti-corruption strategies. Therefore, it is understandable that government agencies consider that creating a specific forum for consultations on OGP implementation is unnecessary. Civil society organizations have a similar reaction and have not promoted the creation of these forums for this purpose.

In the view of the IRM researchers, it would be useful if the implementation of the action plan would be subject to regular discussions in existing forums—either the Government's Council for Coordination of the Fight against Corruption or another. This could also be connected with the possibility of continuous online consultations.

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[1] Government of the Czech Republic, "Government's Council for Coordination of the Fight against Corruption," http://www.korupce.cz/cz/rada-vlady/rada-vlady-pro-koordinaci-boje-s-korupci-121697/.

[2] Records from meetings of the Government's Council for Coordination of the Fight against Corruption, http://www.korupce.cz/scripts/detail.php?pgid=1059.

IV. Analysis of action plan contents

All OGP participating governments develop OGP country action plans that elaborate concrete commitments over an initial two-year period. Governments begin their OGP country action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs. Action plans then set out governments' OGP commitments, which stretch practice beyond its current baseline. These commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area.

Commitments should be appropriate to each country's unique circumstances and policy interests. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and the Open Government Declaration signed by all OGP participating countries. The IRM uses the following guidance to evaluate relevance to core open government values:

Access to information

Commitments around access to information:
- Pertain to government-held information, as opposed to only information on government activities. As an example, releasing government-held information on pollution would be clearly relevant, although the information is not about "government activity" per se;
- Are not restricted to data but pertain to all information. For example, releasing individual construction contracts and releasing data on a large set of construction contracts;
- May include information disclosures in open data and the systems that underpin the public disclosure of data;
- May cover both proactive and/or reactive releases of information;
- May cover both making data more available and/or improving the technological readability of information;
- May pertain to mechanisms to strengthen the right to information (such as ombudsman's offices or information tribunals);
- Must provide open access to information (it should not be privileged or internal only to government);
- Should promote transparency of government decision making and carrying out of basic functions;
- May seek to lower cost of obtaining information;
- Should strive to meet the 5 Star for Open Data design (http://5stardata.info/).

Civic participation

Commitments around civic participation may pertain to formal public participation or to broader civic participation. They should generally seek to "consult," "involve," "collaborate," or "empower," as explained by the International Association for Public Participation's Public Participation Spectrum (http://bit.ly/1kMmlYC).

Commitments addressing public participation:

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

- Can include elements of access to information to ensure meaningful input of interested members of the public into decisions;

- Often include the right to have your voice heard, but do not necessarily include the right to be a formal part of a decision-making process.

Alternately, commitments may address the broader operating environment that enables participation in civic space. Examples include but are not limited to:

- Reforms increasing freedoms of assembly, expression, petition, press, or association;

- Reforms on association including trade union laws or NGO laws;

- Reforms improving the transparency and process of formal democratic processes such as citizen proposals, elections, or petitions.

The following commitments are examples of commitments that would **not** be marked as clearly relevant to the broader term, civic participation:

- Commitments that assume participation will increase due to publication of information without specifying the mechanism for such participation (although this commitment would be marked as "access to information");

- Commitments on decentralization that do not specify the mechanisms for enhanced public participation;

- Commitments that define participation as inter-agency cooperation without a mechanism for public participation.

Commitments that may be marked of "unclear relevance" also include those mechanisms where participation is limited to government-selected organizations.

Public accountability

Commitments improving accountability can include:

- Rules, regulations, and mechanisms that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and accept responsibility for failure to perform with respect to laws or commitments.

Consistent with the core goal of "Open Government," to be counted as "clearly relevant," such commitments must include a public-facing element, meaning that they are not purely internal systems of accountability. While such commitments may be laudable and may meet an OGP grand challenge, they do not, as articulated, meet the test of "clear relevance" due to their lack of openness. Where such internal-facing mechanisms are a key part of government strategy, it is recommended that governments include a public-facing element such as:

- Disclosure of non-sensitive metadata on institutional activities (following maximum disclosure principles);

- Citizen audits of performance;

- Citizen-initiated appeals processes in cases of non-performance or abuse.

Strong commitments around accountability ascribe rights, duties, or consequences for actions of officials or institutions. Formal accountability commitments include means of formally expressing grievances or reporting wrongdoing and achieving redress. Examples of strong commitments include:

- Improving or establishing appeals processes for denial of access to information;

- Improving access to justice by making justice mechanisms cheaper, faster, or easier to use;

- Improving public scrutiny of justice mechanisms;

- Creating public tracking systems for public complaints processes (such as case tracking software for police or anti-corruption hotlines).

A commitment that claims to improve accountability, but assumes that merely providing information or data without explaining what mechanism or intervention will translate that information into consequences or change, would **not** qualify as an accountability commitment. See http://bit.ly/1oWPXdl for further information.

Technology and innovation for openness and accountability

OGP aims to enhance the use of technology and innovation to enable public involvement in government. Specifically, commitments that use technology and innovation should enhance openness and accountability by:

- Promoting new technologies that offer opportunities for information sharing, public participation, and collaboration;

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

- Working to reduce costs of using these technologies.

Additionally, commitments that will be marked as technology and innovation:

- May commit to a process of engaging civil society and the business community to identify effective practices and innovative approaches for leveraging new technologies to empower people and promote transparency in government;

- May commit to supporting the ability of governments and citizens to use technology for openness and accountability;

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

Not all eGovernment reforms improve openness of government. When an eGovernment commitment is made, it needs to articulate how it enhances at least one of the following: access to information, public participation, or public accountability.

Key Variables

Recognizing that achieving open government commitments often involves a multiyear process, governments should attach time frames and benchmarks to their commitments that indicate what is to be accomplished each year, whenever possible. This report details each of the commitments that the Czech Republic included in its action plan and analyses them for the first year of implementation.

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

1. Specificity: The IRM researchers first assess the level of specificity and measurability with which each commitment or action was framed. The options are:
   - High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)
   - Medium (Commitment language describes activity that is objectively verifiable, but does not contain clearly measurable milestones or deliverables)
   - Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)
   - None (Commitment language contains no verifiable deliverables or milestones)

2. Relevance: The IRM researchers evaluated each commitment for its relevance to OGP values and OGP grand challenges.
   - OGP values: To identify OGP commitments with unclear relationships to OGP values, the IRM researcher made a judgment from a close reading of the commitment's text. This judgment reveals commitments that can better articulate a clear link to fundamental issues of openness.

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

All of the indicators and method used in the IRM research can be found in the IRM Procedures Manual, available at (http://www.opengovpartnership.org/about/about-irm). Finally, one indicator is of particular interest to readers and useful for encouraging a race to the top between OGP participating countries: the starred commitment. Starred commitments are considered to be exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:

1. It must be specific enough that a judgment can be made about its potential impact. Starred commitments will have medium or high specificity.

2. The commitment's language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of access to information, civic participation, or public accountability.

3. The commitment would have a transformative potential impact if completely implemented.

4. Finally, the commitment must see significant progress during the action plan implementation period, receiving a ranking of substantial or complete implementation.

Based on these criteria, the Czech Republic's action plan did not contain any starred commitments.

Note that the IRM updated the star criteria in early 2015 in order to raise ambition for model OGP commitments. Under the old criteria, a commitment received a star if it was measurable, clearly relevant to OGP values as written, had moderate or transformative impact, and was substantially or completely implemented.

Based on these old criteria, the Czech Republic´s action plan would have received a starred commitment (Commitment 8: Open data catalogue).

Finally, the graphs in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For the full data set for the Czech Republic and all OGP participating countries, see the OGP Explorer.[1]

General overview of the commitments

The Czech Republic's Second National Action Plan 2014-2016 emphasizes three main themes: (1) the adoption of the new Act on Civil Service ensuring de-politicisation, professionalisation and stabilisation of the state administration and its implementation

into practice; (2) streamlining the system of free access to information; and (3) improving access to data and information.

These themes were carried over from the first national plan from 2012 to 2014 since the government was not able to complete its specific goals and commitments by the end of the first action plan implementation period. Because the action plan remains essentially the same, the government did not see necessary to organize a consultation process before its adoption (see Section II for more details).

The first theme calls for the adoption of a new Act on Civil Service and the execution of a series of milestones for the implementation of the act upon approval of the action plan. As expected, the act was adopted and entered into full force on 1 January 2015. It oversees the regulation of the status of civil servants, the organization of the civil service, the rules for systematization, the tendering process for the positions in civil service, remuneration, education, and other rights and duties of civil servants, etc. Most of the milestones delineated in the action plan relate to the implementation of the new act in practice. It includes preparing for the implementation of the legislation, establishing an organizational body for civil service, preparing end exercising tenders for leading positions in the state administration, and preparing the first systematization of the service positions and various methodological steps. Compared to the first action plan, the basic principles of the act changed considerably, taking into account some of the critical evaluations of civil society organizations. However, the scope of the first five commitments, as described in the action plan, focuses on internal systems of accountability of public authorities. The adoption and implementation of the act itself is an important step for the Czech Republic in its fight against corruption and in promoting the de-politicisation of the state administration. It sets a new framework that can positively change internal accountability procedures. Although these actions are laudable, they do not meet the test of "clear relevance" to OGP values of access to information, civic participation, or public accountability due to the lack of provisions that call for a public-facing element to accountability.[2]

The second theme relates to an amendment of the Act on Free Access to Information. The first action plan outlined a number of specific changes; some of them were criticized as *de facto* decreasing the current status of access to information. During the first action plan period, the contents of this topic were changed considerably. The second action plan withdrew most of the originally proposed specific amendments of the Act on Free Access to Information. It concentrates exclusively on the obligations arising from the EU Directive 2013/37/EU, amending Directive 2003/98/ES on the repeated use of public sector information. Therefore, it became closely related to the third area of the action plan as its specific requirements namely relate to publishing the information provided by public institutions in an open data format and, whenever possible, machine-readable form.

The third area of both the first and second action plans relates to increasing the number of public institutions that publish their data in open formats. The second action plan can be evaluated as less ambitious than the first one with respect to this topic. The first action plan generally presumed the creation of a legal, technological and methodological environment for open data publishing and making a large number of the most important public databases in open formats. In the second action plan, the emphasis is put on the adoption of legislative guarantees and methodological support for open data publishing and training of officials, while there are no specific commitments concerning individual public databases.

Clustering

The three themes described above are presented in the action plan as individual commitments, nevertheless the first and third themes are of broad scope and with

multiple aims that are disaggregated into milestones. For this reason, the IRM researchers have decided to review the action plan in nine commitments, clustering the different milestones together according to their thematic similarities and ultimate goals. They are reviewed as follows:

Theme I. Adoption of the new Act on Civil Service ensuring de-politicisation, professionalisation and stabilisation of state administration and its implementation into practice.

> Commitment 1. Adoption of the new Act on Civil Service
>
> Commitment 2. Implementing legislation for the new Act on Civil Service
>
> Commitment 3. Institutional measures to implement the new Act on Civil Service
>
> Commitment 4. Selection, recruitment and appointment of civil servants/high-ranking civil servants
>
> Commitment 5. Systematization of service positions and service authorities

Theme II. Commitment 6. Streamlining the free access to information system.

Theme III. Improving access to data and information

> Commitment 7. Support for open data publishing
>
> Commitment 8. Open data catalogue
>
> Commitment 9. Open data legal framework

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

[2] *OGP Independent Review Mechanism Procedures Manual*, http://www.opengovpartnership.org/sites/default/files/IRM%20Procedures%20Manual%20v%202.0%20PUBLIC_0.docx.

1: Adoption of the new Act on Civil Service

Commitment text:

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

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

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

<u>*Milestones:*</u>
- *Adoption of the complex **draft amendment by the Chamber of Deputies**.*
- *Adoption of **the amendment by the Senate**.*
- ***Full effectiveness of the Act** on State Service.*

Responsible Institution: Parliament (Chamber of Deputies and Senate)

Supporting Institution(s): The Ministry of Interior

Start Date: Not specified   End Date: 1 January 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
1.1 OVERALL				✔	Unclear							✔				✔
1.1.1 Chamber of Deputies adopts draft amendment				✔	Unclear							✔				✔
1.1.2 Senate adopts amendments				✔	Unclear							✔				✔
1.1.3 Act enters into effect				✔	Unclear							✔				✔

What happened?

All three milestones of this particular commitment have been accomplished in time and in accordance with the action plan.[1]

Commitment 1.1 has been fully met. The Act on Civil Service (the "act" hereafter) had already been discussed and adopted by the Chamber of Deputies in Parliament by 10 September 2014 and subsequently by the Senate on 1 October 2014, even before the adoption of the second action plan of November 2014. It overcame a presidential veto on 24 October 2014, which gave way to the act's promulgation on 6 November 2014. The act was published in the Collection of Laws under no. 234/2014 Coll.[2] and entered into full force on 1 January 2015. As outlined in the commitment, the adopted act includes provisions that aim (1) to give a clear definition of criteria for the appointment and remuneration of civil servants, (2) to lay down conditions for career advancement, and (3) to guarantee a high level of education of the civil servants.

The Czech Parliament discussed the adoption of different versions of this act long before the second OGP action plan was written. In 2012, by the time the first action plan was adopted, there was a broad consensus among political representatives and external stakeholders that the lack of effective legal regulation of the status of civil servants represented a major hindrance to the proper functioning of the state administration. Although the Act on Civil Service had been adopted in 2002, it had remained legally ineffective as its entering into legal force had been postponed five times since its adoption.

As a result, some aspects of the legal status of civil servants were regulated by other legislative measures, such as the Labor Code (regarding the hiring and remuneration of civil servants) or its subordinate legislation,[3] while some other aspects were not regulated at all (e.g., the rules on the separation of political and expert positions in state administration and whistleblower protection). The lack of unified legislation gave way to corrupt practices; politicians often abandoned their impartiality, including hiring processes and dismissal of "common" civil servants from office.

Before the adoption of the second action plan, there were several attempts to prepare a new regulation that would replace the old Act on Civil Service of 2002. However, none of them were successful. The draft prepared during the first OGP implementation period

was criticized by a vast number of stakeholders, including civil society, for not containing a transparent regulation of the remuneration of civil servants, conditions for career advancement, or protection of whistleblowers in civil service, among other reasons.

It's worth noting that the president of the Czech Republic submitted a petition for the annulment of this act to the Constitutional Court for alleged errors in the legislative procedure. As reported by different media outlets, the president believes ministers should not have the authority to appoint any "political deputies." However, this petition was rejected by the Constitutional Court on 9 July 2015.[4]

Did it matter?

The adoption of the Act on Civil Service was the first indispensable step towards the reform of the civil service in the Czech Republic which had been repeatedly postponed. The act aims to achieve the de-politicisation, professionalisation and stabilisation of the state administration sector. However, some stakeholders are skeptical of the impact of the act as adopted and whether it will accomplish the aspired goals.

According to Deputy Minister for Civil Service Josef Postranecky, the new act was needed not only to fulfil the Czech Republic´s commitment to the European Union, but most importantly to improve the country's competitiveness and social cohesion. The act regulated the status of civil servants in a way comparable with the rest of the European countries that also have a special legal regulation of the civil service. [5]

However, the adoption of the act itself does not mean that the targets declared in the action plan—de-politicisation, professionalisation and stabilisation of the state administration sector—have been accomplished. A number of politicians and civil society actors have qualified the final version of the act as insufficient, criticizing the lack of clarity and impartiality of the selection procedures in state administration, the protection of civil servants against arbitrary changes or removals of their positions, clear distinctions between political and professional (expert) positions and responsibilities, and the protection of whistleblowers.[6]

Radim Bures, Programme Director of Transparency International-Czech Republic, and Edvard Outrata, former senator and head of the Czech Statistical Office, agree that the act itself could be better than its finally adopted version.[7] The original draft of the Act on Civil Service called for the creation of an agency, independent from government, to execute the implementation of the act. However, Parliament redefined this agency, legally subordinating it to the minister of interior as a part of the ministry itself. As it is, there are no guarantees that the act will ensure sufficient levels of de-politicisation of the state administration since the lead agency in charge of its implementation and enforcement—the Section for the Civil Service (SCS)—responds to the minister of interior and therefore can be influenced by the will of the incumbent government.[8] Lenka Petrakova, an expert on state administration who worked for the Reconstruction of the State movement, considered the final act as a lost opportunity to adopt an act that may reform the current public administration significantly. From her point of view, none of the main targets that the government intended to reach (i.e., de-politicisation, efficiency, better state administration) will be fulfilled in practice, and the act could perpetuate the status quo. Furthermore, she states that it is unclear whether full de-politicisation of the civil service will be achieved, considering that the so-called political ministerial deputies could fully substitute the particular minister—meaning they have the same powers as the minister.[9]

As reported by the government, for decisions in personal matters, the "political" deputy-ministers are not regarded superior to civil servants, according to the Civil Service Act.

All their decisions are made on behalf of the minister and have to be made with his or her approval.

The IRM researchers surveyed business sector representatives asking whether they had taken notice of the adoption of the act and, if so, what their experiences were with the reformed civil service. Almost half of the 39 respondents answered that they did not notice any change in the civil service sector after the adoption of the act. However, another 31% of respondents said that they noted a change, but had a negative experience. Only 20% of respondents stated that they noticed improvements in the civil service after the adoption of the act..[10]

In terms of value relevance, the adoption of this act is an important step towards the systematization of processes in the state administration sector, providing a clearer and more objective way of operating that could lead to less political manipulation. However, for commitments to be clearly relevant they must meet the criteria set forth in the OGP Declaration of Principles as written. The IRM researcher did not find elements in the commitment language that suggest clear relevance to the OGP values of access to information, civic participation and public accountability. This last value must include a public-facing element in the wording of the commitment, showing what actions are to be taken to specifically improve the policy area.

Regarding its impact, the IRM researchers have concluded that, as a whole, this commitment could have a transformative effect on state policy if implemented as articulated, as it has the potential to change the overall status of civil servants. However, the design of the act itself appears to limit its potential impact in practice since its lead agency is still subordinated to the Ministry of Interior, and it is not clear whether it will guarantee full de-politicisation of the state administration.

Moving forward

The commitment has been achieved with the adoption of Act no. 234/2014 Coll. on Civil Service. Nevertheless, the IRM researchers suggest that the Parliament of the Czech Republic amend the act in order to achieve the goals stated in the commitment. The leading agency in charge of the implementation and enforcement of the act should be independent of the Ministry of Interior and should have the status of an autonomous agency. Additionally, the government could consider introducing further amendments to the act, as suggested by some stakeholders. These involve adding more specific and detailed mechanisms for the protection of whistleblowers, changing the composition of selection committees for the recruitment and appointment of officials for key service positions, and other proposals mentioned in commitments one through five.

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[1] Josef Postranecky, interview by the IRM researchers, 11 September 2015.

[2] Regulation no. 234/2014 Coll., Act on Civil Servants, (Prague, 1 October 2014), https://www.zakonyprolidi.cz/cs/2014-234. Articles 13, 184, 185, 186, 187, 202 and 206 entered into force on 6 November.

[3] Frank Bold, "Public Money and Corruption Risks" (Frank Bold): 23, http://frankbold.org/sites/default/files/publikace/public_money_and_corruption_risks.pdf.

[4] Jan Wirnitzer, "Služební zákon navzdory Zemanovi platí, Ústavní soud zrušil jedinou větu", iDNES.cz News, (9 July 2015), http://zpravy.idnes.cz/sluzebni-zakon-plati-ustavni-soud-zrusil-jednu-vetu-pc6-/domaci.aspx?c=A150709_090605_domaci_jw.

[5] Josef Postranecky, interview by the IRM researchers, 11 September 2015.

[6] Reconstruction of the State, *Standpoint related to complex amendatory draft of the Act on Public Servants*, [Czech] http://www.rekonstrukcestatu.cz/novinky/20140909_stanovisko-ke-komplexnimu-pn-novely-sluzebniho-zakona_9_9_2014.pdf; *Criticism of the draft of The Act on Public Servants (Petráková: It's the legitimatization of the current system)*, (Euroaktiv.cz, August

2014), [Czech] http://www.euractiv.cz/cr-v-evropske-unii/clanek/petrakova-sluzebni-zakon-je-legitimizaci-stavajiciho-systemu-012107.

[7] "Do we know what we're talking about? Where there are no questions, there are no answers", Dairy Referendum, http://denikreferendum.cz/clanek/18896-vime-o-cem-mluvime-kde-chybi-otazky-chybi-i-odpovedi.

[8] Josef Postranecky, interview by the IRM researchers, 11 September 2015.

[9] Lenka Petráková, written answers to IRM questions, 29 September 2015. See also *NGO: civil service watered down by political compromise*, Interview with Lenka Petráková, (August 2014), [English] http://www.czech.cz/en/Aktuality/NGO-civil-service-watered-down-by-political-compro

[10] IRM online survey.

2: Implementing legislation for the new Act on Civil Service

Commitment text:

During implementation of this priority the Czech Republic undertakes to realize in particular the following measures:
- *to adopt an implementing instruction for selection procedure and appointment of a deputy of the Section for public service and of state secretaries,*
- *to amend the Government Decree No 85/2003 Coll., defining areas of the state service, and Government Decree No 328/2013 Coll., on setting the extent and manner of providing data into the Informational System on Wages,*
- *to prepare a government decree on a catalogue of administrative activities and a government decree on wage conditions of state employees,*
- *to create necessary implementing regulations to ensure implementation of the Act, particularly in the area of personal and managerial administration of the administrative authorities,*

in order that the following requirements are met:
- *unambiguous definition of a boundary between the positions controlled by political parties and the apolitical bureaucratic positions, which will be occupied on the basis of open selection procedures,*
- *setting rules for depoliticisation, professionalisation and stabilisation of the state administration,*
- *setting a transparent and fair system of remuneration,*
- *securing a special protection of whistleblowers of unlawful conduct of employer,*
- *a system of obligatory training involving beside others the issue of combatting corruption.*

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

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

Responsible Institution: The Ministry of Interior

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

Start Date: None Specified   End Date: 1 July 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
2. OVERALL			✔		Unclear							✔			✔	
2.1 Time schedule of preparatory works			✔		Unclear					✔						✔
2.2 Analysis and proposal of further possible use of current implementation measures			✔		Unclear					✔					✔	
2.3 Adoption of the implementing legislation			✔		Unclear							✔			✔	

What happened?

The Czech Parliament was able to discuss the new Act on Civil Service before the adoption of the action plan, which allowed its implementation to begin right after it entered into force on 1 January 2015.

The first milestone, regarding the schedule of preparatory works, was met the same day the second action plan was adopted. On 12 November 2014, the Ministry of Interior presented to the government a time schedule for the implementation of the Act on Civil Service, together with a checklist of delegated legal regulations that had to be adopted. A complete version of this checklist was published online, but is no longer available; a summary version can now be found as a part of the Plan of Legislative Work for Year 2015.[1] Although it was accessible by any interested parties, stakeholders were mostly unaware of its existence as the government made no announcement of its publication.

The second milestone has been partially completed. The government has already adopted several decrees related to the implementation of the new Act on Civil Service. The Ministry of Interior conducted a survey to determine possible uses of the current implementation measures, which was based on several previous working papers considered during the preparation of the act itself. The outcomes of the survey were used during the preparation of secondary legislation.[2] However, the ministry has not approved of a comprehensive analysis or proposal that defines the remaining secondary legislation needed to accompany the new act. The 2015 legislative work plan of the Czech government did not specify the particular implementation measures, only generally declared that they would be adopted in 2015.

The implementation of the third milestone began immediately after the act was promulgated on 6 November 2014. In order to comply with the mandate of the new act, 60 other pieces of legislation were changed under Act no. 250/2014 Coll.

Although this parallel act has not been fully implemented and parts of it are perceived to have ambiguous language, the Act on Civil Service effectively addresses relevant policy areas through the creation of:

- A plan for the "systematization of service positions and authorities," which is the main instrument for the separation of political and apolitical positions **in the civil service.** The act limits the number of political positions in the ministries and prohibits high-ranking civil servants from exercising any function in political parties. The plan of systematization further determines the apolitical positions of civil servants and aims to prevent arbitrary decisions in this area. The issue is described in more detail under Commitment 5;
- A new **transparent remuneration system** which (1) determines the pay classes of civil servants depending on the complexity and responsibility of each position; (2) systematizes "regular pay," assigning salaries depending on the pay class and pay grade designated to the specific position in the civil service; and (3) determines the variable components of wages such as bonuses and personal allowances;
- A decree for the **protection of whistleblowers**, which upholds civil servants' rights to remain anonymous and to be informed about the results of the investigation and orders the appointment of a person of contact in charge of receiving and responding to reports;
- A system of **obligatory training of civil servants and state employees**, which outlines a transparent and unified system of education in the civil service and requires the standardization of the civil service examinations for civil servants. This part of the commitment is expected to be fully implemented by 1 June 2017.

This milestone remains incomplete since parts of this implementation act are not expected to be set in place until 1 June 2017. Therefore, Milestone 2.3 is considered to have been substantially completed.

Did it matter?

Implementing legislation is very important to provide a legal enabling environment for the successful enforcement of any new act. As strong as an act can be, there is usually room left for interpretation or legal ambiguities that can only be addressed through complimentary legislation and regulations. Although this act addresses some of the ambiguous language, other stakeholders believe there is room for improvement. The implementation of this commitment has mattered in the following way:

Separation of political and apolitical positions in the civil service

According to the Deputy Minister for Civil Service Josef Postranecky, the total number of political positions, as now limited by the act, is relatively low. He states that in some ministries, positions remained unoccupied, and there are no problems with the act regarding the de-politicisation of the civil service. On the contrary, Edvard Outrata, former senator and head of the Czech Statistical Office, has stated that even if the separation of political and apolitical positions in the civil service appears to be currently working, the new act provides no guarantee that it will hold over time with a change of government or in a moment of crisis.[3]

Additionally, an online survey conducted by the IRM researchers showed that 44% of the respondents believe that the act has made it harder for politicians to influence civil servants decision-making processes, 11% believe the act will protect civil servants from any political pressure, and 31% think that the act will have no effect. However, the IRM stakeholder meeting showed that its participants—composed by local activists and

representatives of grassroot organizations—considered civil servants to still be influenced by politicians, which remains the most important problem of the state administration in the Czech Republic.

Protection of whistleblowers

According to the position paper by Transparency International-Czech Republic on 29 April 2015, there are several flaws in the current version of the governmental decree. The definition of an unlawful act does not cover acts committed by persons who are not civil servants or state employees. Therefore, a whistleblower who wants to report an unlawful act, such as a corruption attempt from a private entity, is not protected by the decree. This is also seen in the recommendation issued by the Section for the Civil Service (SCS) about whistleblowing in the civil service,[4] which also clearly limits the scope of protection on the announcements of illegal acts of civil servants in relation to the civil service.

Despite the fact that the whistleblower may send his or her report via email, it is unclear whether his or her IP address is protected or his or her identity may be revealed. Another problem is a civil servant´s duty of silence about issues he or she learned during the exercise of his or her position in the civil service required by the act, because it is unclear whether this duty may actually prevent the whistleblower from reporting the unlawful act or not. From the wording of the aforementioned article of the act, it is also unclear whether this duty of silence prevents a civil servant from informing persons outside the civil service (namely journalists) or just other civil servants and state employees.

According to Transparency International-Czech Republic, the whistleblowers should be allowed to take further steps in case they are not satisfied with the result of the investigation or with the adopted corrective measures. However, neither the decree nor the act provide the whistleblowers with additional measures or protection. Transparency International-Czech Republic assumes that, despite the improvements of the protection of whistleblowers in civil service, there are several flaws which may impede the reporting of unlawful acts or corruption.

Training of civil servants and state employees

The establishment of new standards in the education of civil servants could contribute to increased transparency and the widespread improvement of the state administration. Nevertheless, the act does not guarantee full compliance with these goals since it makes it possible for the service authority to exempt certain current civil servants from the requirements concerning their training according to their seniority and amount of years employed by the state administration.

As for the practical implementation of the civil service examinations to the civil service, it contributed mainly to the particular goal of transparency in the selection procedures of employees, as all the questions regarding both the basic and special part of the entry exam have been published and prepared in time,[5] and the first civil service examination was conducted on 15 September 2015. The terms of all the civil service examinations are regularly entered into the information system of the civil service, and thus, public control is guaranteed. However, although the information is public, it was difficult, at the time of preparation of this report, to assess the other possible impacts of the civil service examinations, namely the number of civil servants who passed it. According to Lenka Petrakova, the civil service examinations will be conducted in a formalistic way, according to current legal regulations.[6]

The third problem is the slow implementation of the additional training of civil servants. The self-evaluation report of the Czech Government does not mention any progress in this particular task, and it seems that each service body will implement the act

individually. The SCS had not yet release a statement or methodological guideline regarding the additional training of the civil servants at the time of writing. Lenka Petrakova, an expert in state administration matters from the nongovernmental organization (NGO) "Oziveni" and former member of the Reconstruction of the State movement, stated, "The training system of civil servants has not been fully finalized and, like many other measures, is to be detailed later through decrees and other instruments. So it's really difficult to assess what the outcome will be but I think that some of the original proposal's crucial parts are being left out. It basically conserves the current situation when the Ministry of the Interior is responsible for the training of civil servants. The system has been criticized for not really working and for the money spent on training being channelled to private interest groups."[7]

Although more work is still required, the above examples show that the implementation of legislation can be of great value in "setting rules for depoliticisation, professionalisation and stabilisation of the state administration" by "defining boundaries between the positions controlled by political parties and the apolitical bureaucratic positions, setting a fair system of remuneration and securing protection of whistleblowers," as outlined in the action plan. However, the commitment as written does not have clear relevance to OGP values. For commitments to be "clearly relevant" they must meet the criteria set forth in the OGP Declaration of Principles. The IRM researcher did not find elements in the commitment language that suggest clear relevance to the OGP values of access to information, civic participation and public accountability. While this is an important commitment to secure the implementation of the act, it is focused to internal accountability mechanisms and activities.

The IRM researchers consider the overall potential impact of this commitment to be transformative as it could influence the success and the possibility of starting anew with the implementation of a potentially well-functioning and high quality act on civil service. Individually, Milestones 2.1 and 2.2 are considered to have minor potential impact. The submission of the timetable served as a monitoring mechanism and allowed the government to implement the rest of the commitment in a timely fashion, therefore it has had a minor impact in the ultimate goal of the commitment. The analysis and proposal of further possible uses of the implementation measures has been coded with minor impact because it will only affect internal operations, and it is a stepping stone to achieve Milestone 2.3, which is the core element for this commitment and therefore considered to be of transformative potential impact on its own.

Moving forward

The first two milestones have been fulfilled and there is no need for additional steps or additional evaluation of those milestones, with the exception that the government should analyse the implementation of the Act on Civil Service during the next two years and suggest additional improvements of the act based on its findings. As for the third milestone, the IRM researchers suggest that in future action plans the government could engage with nongovernmental actors in the preparation of the implementing measures related to the Act of Civil Servants (or other relevant legislation) and could call for the adoption of a mechanism that would guarantee the inclusion of civil society in oversight efforts. More specifically, the government could amend the implementing legislation as follows:

- The **de-politicisation of civil service,** meaning the division of civil service positions between the political and apolitical, should be evaluated after personal changes in the current government or after the future parliamentary elections in 2017, and additional safeguards should be placed if necessary. The SCS should investigate any case of the possible violation of the ban on exercising a function in a political party. Additionally, according to stakeholders from civil society, all

elected functions should be limited to two terms to prevent the perpetuation of political functionaries in power;[8]

- **To achieve the full de-politicisation of civil service**, it seems necessary to prohibit at least heads of public offices (namely "apolitical" deputy ministers and personnel directors) to attain any function in a political party, either "active" or "passive." From the perspective of the IRM researcher, the goal of "full depoliticisation," as expressed in the action plan, requires no formal links between political parties and high positions in civil service. Therefore, the researcher recommends that high-ranking civil servants preferably have no active political party affiliation;

- During the period between 1 July 2015 and 1 July 2017, the **new system of remuneration should be prepared** by the Ministry of Labor and Social Affairs, in cooperation with other public bodies, and implemented. The current situation of a different pay for the same job should be solved;

- **As for the protection of whistleblowers**, the SCS should adopt a methodological directive in which it tackles the aforementioned problems regarding reporting on unlawful acts or corruption in the civil service. This could quickly be put into practice. In the meantime, the Act on Civil Service should be amended to be more specific about the protection of whistleblowers in civil service or a new special act on the protection of whistleblowers should be adopted. (There have been several drafts of such an act, and the aforementioned NGO´s analyses describe its possible content thoroughly.);

- **In the area of obligatory (additional) education** of civil servants, the IRM researchers agree with Edvard Outrata that the additional education of civil servants and state employees should be interlinked with their personal assessments. According to Outrata, there is no sense in sending these civil servants to regular courses that have little to do with their work in their current position in the civil service, or in furthering their education on an ad hoc basis or after their promotion. He also cannot recommend sending the civil servant to be trained outside of the civil service. Instead, one of the outcomes of the personal assessment process should be a recommendation for the additional education of the particular civil servant which may improve his or her results, or which may provide knowledge he or she currently lacks (according to the last personal assessment conducted). Also, in cases where the civil servant will get a tough task in the future, it could prove useful to prepare him or her before he or she begins working on it. The SCS should provide the public bodies with a methodological directive regarding additional education and the personal assessments of civil servants. The interconnection between the personal assessment of a civil servant and his or her additional education seems to be relevant in the near future because a large number of civil servants did not have to undergo an entry exam, and it is in the best interest of every public body to ensure that its civil servants are well-educated for their tasks. After 1 July 2017, the state should also evaluate the results of the personal assessments and the results of the selection process.

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[1]Government of the Czech Republic, *Plan of the legislative work for year 2015*, [Czech] http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Priloha-c--1_Plan-legislativnich-praci_2015.pdf, page 28

[2] Katerina Vojtová, interview by the IRM researchers, 11 September 2015.

[3] Edvard Outrata, interview by the IRM researchers, 11 September 2015.

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[4]Ministry of the Interior: Methodical directive Nr. 8 - Whistleblowing, [Czech]
http://www.mvcr.cz/sluzba/clanek/metodicky-pokyn-c-8.aspx

[5]Ministry of the Interior: Entry Exam – Exam questions and literature, [Czech]
http://www.mvcr.cz/sluzba/clanek/zkusebni-otazky-a-odborna-literatura.aspx

[6] Lenka Petráková, written answers to IRM questions, 29 September 2015.

[7]*NGO: civil service watered down by political compromise*, Interview with Lenka Petráková,
(August 2014), [Czech] http://www.czech.cz/en/Aktuality/NGO-civil-service-watered-down-by-political-compro

[8] IRM stakeholder meeting, Bykovice, 21 June 2015.

3: Institutional measures to implement the new Act on Civil Service

Commitment text:

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

Milestones:

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

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

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified   End Date: 1 January 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
3. OVERALL			✔		Unclear					✔						✔
3.1 Establish and incorporate a body for public service			✔		Unclear					✔						✔
3.2 Establish and incorporate a Section for State Service			✔		Unclear					✔						✔

What happened?

This commitment, which was not part of the first action plan, had already been accomplished even before the current action plan was approved. The Section for State Service, ultimately named the Section for the Civil Service (SCS) and referred to as such throughout the report, was established within the organizational structure of the Ministry of Interior, according to Government Decree no. 776 of 22 September 2014.[1]

The original draft of the Act on Civil Service called for the creation of the General Directorate for Civil Service, an independent agency attached to the Office of the Government, with the mandate to implement the act. However, Parliament redefined

this agency in the final version of the act, creating the SCS instead, which is legally subordinated to the minister of interior as a part of the ministry itself.

The SCS began to work immediately after the act was adopted. Its first task was to prepare the selection procedure for the position of a deputy minister for the civil service and personal director of the SCS. After this task was accomplished, the SCS started implementing the act. It began by preparing the selection procedure for the positions of state secretaries in ministries and the Office of the Government and by submitting a draft of methodological instructions for the first systematization of the service positions and the first systematization of work positions. Subsequently, it prepared and drafted the first systematization of civil service positions and the first systematization of work positions by 1 July 2015.

As mentioned before, the existence of the systematization was crucial for the implementation of the act. After the first systematization, the SCS had to prepare a proposal for the systematization in accordance with the act for the year 2016, the process of its adoption is described below under Commitment 5: "Systematization of service positions and the authorities." With the exception of the last mentioned task, all of these tasks were fulfilled by the SCS in time and in accordance with the act.

One of the continuous tasks for the SCS is its methodological support and coordination role. The SCS published six methodological directives (each of them succeeded by several more documents and templates) related to the practical application of the act[2] and eight standpoints related to the various aspects of civil service,[3] including the opinion on the protection of whistleblowers[4] to ease the implementation of Governmental Decree no. 145/2015 Coll. on the protection of whistleblowers in civil service. The SCS also organizes regular methodological meetings with other public authorities on various issues related to the civil service every month.[5]

At the time of writing, the SCS had already published 15 templates of legal acts[6] and answered numerous questions from public officials related to the civil service.[7] Despite the fact that it is difficult to assess the actual impact of its methodological and coordinating role, solely from the outputs it seems that the SCS fulfills this role.

Did it matter?

With the creation of the SCS, the government aimed to achieve the implementation of the act under the supervision of an efficient coordinating body. Although this is, on the general level, a necessary step to fulfil the overall action plan commitments related to the new Act on Civil Service, some fear that the efficiency and impartiality of the SCS is not sufficiently guaranteed in the long-term. Moreover, as worded, this commitment does not have clear relevance to OGP values, since it does not guarantee the inclusion of citizens in oversight processes, the openness of government in the implementation of the act, or any other public-facing elements.

Deputy Minister for State Service Josef Postranecky declared that the SCS fulfilled all its previous tasks in time and in accordance with the act. Edvard Outrata also confirmed this conclusion and praised the actual functioning of the SCS. In 2014, Lenka Petrakova stated the following: "In my opinion, some coordinating body, whether we call it the general directorate or the institute of public service, will be necessary. I really think this is a crucial point, and I doubt that the agreement abolishing this body and transferring its powers to the SCS within the Ministry of Interior, will yield a functional solution."[8] In 2015, she was far more critical of the deputy minister for state service and the documents produced by the SCS.[9]

The IRM researchers believe this commitment could have had a higher potential impact if executed as it was originally planned before the establishment of the SCS under the supervision of the Ministry of Interior. This change significantly reduces the

independence of the body responsible for the implementation of the Act on Civil Service. This change has been repeatedly criticized by several nongovernmental organizations (NGOs).[10] Although the SCS has almost the same competences as the General Directorate for Civil Service, in practice, other ministries will have to obey all directives issued by the SCS endowing the deputy minister for the state service the power to control other ministerial deputies as originally planned. In consequence, the Ministry of Interior obtained more power over the rest of the ministries, and the implementation of the act will depend on the minister of interior instead of having a separate and independent entity. According to Edvard Outrata,[11] the current individual holding the deputy minister position of the SCS may guarantee its proper functioning and coordination with the other service bodies; however, this may change with future parliamentary elections or a change of ministers. Outrata affirms that the constructive cooperation between the SCS and the ministries seen today is due to the goodwill of the current government and a strong and purposeful deputy minister for state service, not because it is stipulated in the act.

According to the action plan, there should be clear guidelines that guarantee the sustainability of the SCS and its impartiality, regardless of the individuals assuming positions of power within the entity or the Ministry of Interior. However, no formal rules have been enacted. Instead, the SCS established a practice of coordination and methodological support among the service bodies, aiming to increase cooperation among them. However, it does not provide any formal guarantees coded in law, which is likely to cause problems in the future.

According to Deputy Minister for State Service Josef Postranecky, the SCS is relatively independent of the Ministry of Interior, which has not intervened politically into its work. Mr. Postranecky believes there is no substantial difference between the General Directorate for Civil Service and the SCS.[12] Edvard Outrata thinks the opposite.[13] According to him, there is a substantial risk that the new minister of interior, whoever he or she may be, might try to intervene into the functioning of the SCS, because the SCS is not an independent office but a mere section of the Ministry of Interior.[14]

Moving forward

The IRM researchers recommend that the control, methodological support, and coordinating role of the SCS should be embedded in the Act on Civil Service expressly, so that the SCS will be able to fulfil all of its current roles after the change of the government in summer 2017 when parliamentary elections will take place in the Czech Republic.

The act should be amended to guarantee that the level of independence of the SCS from the Ministry of Interior continues in the same degree as seen today. The IRM researchers recommend the addition of conditions necessary for the minister of interior to intervene in matters, such as the dismissal of the deputy minister for state service and other sensitive decisions. In an ideal scenario, the SCS would obtain a position of the originally presumed General Directorate for Civil Service, which would solve the aforementioned risks of future political interventions in the SCS.

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[1] Ministry of the Interior: Civil Service – basic information [Czech] http://www.mvcr.cz/sluzba/clanek/statni-sluzba.aspx

[2] Ministry of the Interior: Methodical directives, [Czech] http://www.mvcr.cz/sluzba/clanek/dokumenty-metodicke-pokyny-metodicke-pokyny.aspx

[3] Ministry of the Interior: Standpoints, [Czech] http://www.mvcr.cz/sluzba/clanek/dokumenty-stanoviska-stanoviska.aspx

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4 Ministry of the Interior: *Standpoints and opinion on the protection of whistleblowers*, [Czech] http://www.mvcr.cz/sluzba/soubor/stanoviska-doxs-doporuceni-whistleblowing-prosetrovatel.aspx

5 Ministry of the Interior: Other documents, [Czech] http://www.mvcr.cz/sluzba/clanek/ostatni-dokumenty.aspx

6 Ministry of the Interior: Templates of legal acts, [Czech] http://www.mvcr.cz/sluzba/clanek/vzory-ukonu.aspx

7Ministry of the Interior: Frequently asked questions, [Czech] http://www.mvcr.cz/sluzba/clanek/casto-kladene-dotazy.aspx

8 *NGO: civil service watered down by political compromise*, Interview with Lenka Petráková, (August 2014), http://www.czech.cz/en/Aktuality/NGO-civil-service-watered-down-by-political-compro

9 Lenka Petráková, written answers on IRM questions, 29 September 2015.

10 Reconstruction of the State, Lenka Petráková and Radim Bureš, *Statement to discussion about the Act on Public Servants,* [Czech] http://www.rekonstrukcestatu.cz/cs/archiv-novinek/8890-vyjadreni-k-projednavani-sluzebniho-zakona; Reconstruction of the State, Lenka Petráková, *Statement to the new complex amendatory draft of the Act on Public Servants*, [Czech] http://www.rekonstrukcestatu.cz/cs/archiv-novinek/8917-stanovisko-rekonstrukce-statu-k-novemu-komplexnimu-pozmenovacimu-navrhu-sluzebniho-zakona

11 Edvard Outrata, interview by the IRM researchers, 11 September 2015.

12 Josef Postranecky, interview by the IRM researchers, 11 September 2015.

13 Interview with Edvard Outrata (Parlamentní listy, June 2014), [Czech] http://www.parlamentnilisty.cz/arena/rozhovory/At-Kalousek-nenadava-Velezkuseny-urednik-Outrata-promlouva-ke-klicovemu-zakonu-ktery-u-nas-pry-udela-poradek-324832

14 Edvard Outrata, interview by the IRM researchers, 11 September 2015.

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

Commitment text:

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

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

Milestones:

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

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

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

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

Start Date: Not Specified   End Date: 30 June 2017

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
4. OVERALL				✔	Unclear						✔			✔		
4.1 Recruitment of a deputy for state service and a personal director of the SCS				✔	Unclear						✔					✔
4.2 Recruitment of state secretaries in ministries and the Office of the Government				✔	Unclear						✔					✔
4.3 Selection procedures for heads of the service authorities and deputies				✔	Unclear					✔			✔			
4.4 Selection procedures for directors of departments and heads of units				✔	Unclear					✔			✔			
4.5 Appointment of heads of the service authorities and deputies				✔	Unclear					✔			✔			
4.6 Appointment of directors of departments and heads of units				✔	Unclear					✔			✔			

What happened?

At the time of adoption of the new OGP action plan, the Ministry of Interior was already preparing the recruitment processes for the deputy minister and the personnel director of the Section for Civil Service (SCS), as envisioned in Milestone 4.1. The government approved the prerequisites and selection criteria for these positions on 24 November 2014, as stated in decision no. 981. The selection procedure was officially announced on 28 November 2014.[1] However, the commission did not find any of the four applicants suitable,[2] which led to the establishment of a new round as outlined in the selection procedure.[3] On 28 January 2015, the government announced Josef Postranecky to be the deputy minister for the state service and was appointed on 2 February 2015.[4] For the position of personnel director of the SCS, the government appointed Iva Hrebikova on 23 February 2015.[5] The IRM researchers conclude that this particular milestone was fulfilled on time and in accordance with the action plan.

The recruitment processes for the positions of the state secretaries began immediately after the appointment of the deputy minister for the state service. All positions were assigned between the months of April and June, and by 30 June 2015 all state secretaries had been appointed. According to the self-evaluation report of the Czech Government, the recruitment process for the positions of the state secretaries ended in June 2015. The IRM researchers conclude that this particular milestone was fulfilled on time and in accordance with the action plan.

By the end of June 2015, the preparation of the selection procedures for the positions of the heads of the service authorities and their deputies had not yet started since it is scheduled to be announced by 30 June 2016. Nevertheless, most positions of the heads of the service authorities have been appointed based on their previous role in government, in accordance to the law. The process to appoint the few remaining unoccupied positions has not yet started according to the self-evaluation report of the Czech Government and the information publicly available on the website of the Ministry of Interior.[6] Therefore, the IRM researchers believe Milestone 4.3 has limited completion.

Milestones 4.4 and 4.5 have not been started. Department directors, the heads of unit of service authorities and their deputies are being occupied by the current civil servants, and selection procedures are not expected to be completed until 30 June 2017.

It is important to note that service positions could currently be assigned under the existing selection system. However, if the government aims to carry out the selection process using the new systematisation, most of the positions that remain unassigned depend on the completion of Commitment 5: "Systematisation of service positions and the authorities." The number of civil servants and state employees for each public office and the restructuring of the positions themselves will be set by the systematization. Without it, the government cannot designate any other positions. For this reason, Commitment 4 is not expected to be completed until 30 June 2017.

Did it matter?

The IRM researchers believe that, by establishing a transparent and merit-based selection procedure, the government improves the internal systems of accountability, becoming more efficient overall. For this reason, as articulated, this commitment is of moderate potential impact.

Regarding its relevance to OGP values, this commitment does not include any public-facing element with respect to the recruitment process or preparation of selection procedures. Therefore, it does not meet any OGP value relevance. The act requires that the information about the selection procedures for a position of a civil servant is published on the website and that there is public notice of the respective public authority. The act also requires that the conditions stated by the act itself must be included in the announcement. However, the commitment itself, as worded, does not explain what mechanism or intervention will translate this information into consequences or change, and therefore it does not qualify as a public accountability commitment.

The necessary precondition to increase transparency in the appointment of officials was the adoption of the systematization of positions in civil service. The implementation of the act, although still ongoing, has managed to decrease the turnover of public officials and might ultimately stabilize the civil service. The significant changes in composition of the civil service authorities and other public bodies will be accomplished when all of the civil servants and state employees are reappointed by 1 July 2017, in accordance with the act. After this date, they will have to comply with the new requirements contained in

the act (e.g., have completed a minimum level of education, pass the Professional Servants Exam and the personal assessment, etc.). However, some categories of civil servants who were in their positions before the adoption of the act can be exempted from both requirements of attaining a minimum level of education and passing the Professional Servants Exam if approved by their superior officials.

The changes in the selection of both high- and low-ranking civil servants may lead to a more professional and apolitical state administration. According to Edvard Outrata, the influence of particular ministers on the composition of selection committees—whose task is to select new state secretaries—may cause problems by exerting political pressure and creating unwarranted tension in the future. The selection committee is composed of four people who are appointed and withdrawn by the deputy minister for state service. However, three of the members of the committee are recommended by the incumbent minister. This may lead to a politicisation of the selection committee and may result in a biased selection of a state secretary, depending on the preference of the minister. The risk of politicisation also exists in the selection of heads of the service authorities and other less prominent positions, albeit to a lower degree.[7]

Additionally, the new selection procedures have not succeeded in making civil servant positions accessible to the wider public. Current civil servants have explicit priority in the recruitment process and new regulations allow their direct appointment, with positions being advertised publicly. Lenka Petrakova, an expert in state administration matters from the nongovernmental organization (NGO) "Oziveni" and former member of the Reconstruction of the State movement, has been critical of recent changes, stating that new regulations do not address the issue of highly restricted access to jobs in the public service, which will prevent the professionalisation and stabilisation of the state administration. According to the IRM online survey, more than half of the respondents (61%) do not think that the new legal regulation of civil service will attract highly qualified experts outside the civil service to become civil servants. Only 21% of respondents think it will, while 18% have no opinion on the matter. Participants of the stakeholder meetings, including representatives from grassroots NGOs and local activists, have a higher level of scepticism.[8]

According to government, the rules to apply to the civil service are open and clearly defined within the Civil Service Act. The preference to select civil servants that are already in service should lead to stabilisation and allow professionalisation and career growth.

Moving forward

This commitment is not expected to be completed until 30 June 2017. The Czech Government should continue its implementation and finish the selection procedures and final appointments of heads of the service authorities, their deputies, directors of departments and heads of units.

Additionally, the IRM researchers recommend that the government amend the Act on Civil Service in order to guarantee an apolitical composition of the selection committees. Instead of a particular minister who appoints and withdraws more than half of the members of the selection committees, such power should be transferred to the state secretaries or other apolitical civil servants.

The recruitment and appointment process could also be more inclusive and allow the competitive participation of experts who are not currently part of the civil service. Such experts should be able to apply for any position in the civil service, and the act or delegated legislation should guarantee equal opportunities to all candidates who apply to the state administration. It should also specify the conditions under which the

experience, knowledge and practice of such experts should be considered to be an equivalent of previous experience in the civil service.

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[1] Ministry of the Interior, *Announcement of the selection procedure (for Personnel Director of the Section for State Service)*, [Czech] http://bit.ly/1UOlgnc

[2] Ministry of the Interior*, New selection procedures for the Deputy Minister for the State Service and for the Personnel Director of the Section for State Service*, [Czech] http://bit.ly/23LJGne

[3] Ministry of the Interior, *Announcement of the selection procedure (for the Deputy Minister for the State Service),* [Czech] http://bit.ly/23LJGnt

[4] Government of the Czech Republic, *New Deputy Minister for the State service appointed*, (February 2015), [Czech] http://bit.ly/1PX8ggY

[5] Government of the Czech Republic, *New Personnel Director of the Section for State Service appointed*, (February 2015), [Czech] http://bit.ly/1Plx2Sl

[6] Ministry of the Interior: Information on selection procedures and evidence of service positions, [Czech] http://bit.ly/20cp3fx

[7] Edvard Outrata, interview by the IRM researchers, 11 September 2015.

[8] IRM stakeholder meeting, Bykovice, 21 June 2015.

5: Systematization of service positions and the service authorities

Commitment text:

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

Milestones:

- *submitting a draft of methodical instruction for preparation of the first systemization of the service positions and the first systemization of work positions*
- *preparing and drafting the first systemization of the service positions and the first systemization of work positions*
- *submitting to the Government a proposal for systemization of the service authorities in accordance with the Act on Civil Servants for the year 2016 and*
- *submitting to the Government the draft of the service authorities systemization in accordance with the Service Act for the year 2017.*

Responsible Institution: The Ministry of Interior

Supporting Institution(s): The Ministry of Finance

Start Date: Not Specified   End Date: 30 June 2016

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
5. OVERALL			✔		Unclear						✔				✔	
5.1 Draft guidance instruction of first systematization			✔		Unclear					✔						✔
5.2 Preparation of a first systematization			✔		Unclear						✔					✔
5.3 Proposal for systematization for 2016			✔		Unclear						✔			✔		
5.4 Proposal for systematization for 2017			✔		Unclear						✔		✔			

What happened?

At the time of adoption of the second action plan, the Ministry of Interior was preparing the draft for the first systematization of the officials' positions within the state administration, which was scheduled to be accomplished by 1 July 2015. In essence, the systematisation provides a set of prerequisites and qualification criteria for the recruitment and dismissal of civil servants as well as the remuneration schemes for civil servants and other state employees.

In order to achieve the systematization, the Act on Civil Service outlines a set of preconditions that must be met before implementing this commitment. First, the government adopted the Catalogue of Administrative Activities in December 2014, under Decree no. 302/2014 Coll., which provides a specification of remuneration levels of civil servants, based upon the detailed description of administrative activities. The second condition was the adoption of legally binding organizational rules of public bodies to guarantee that their agencies will be administrated properly. This condition was fulfilled by Governmental Decree no. 92/2015 Coll. in April 2015. After the adoption of these decrees, the different public bodies had until 30 June 2015 to adjust their organizational structure. With the fulfilment of these conditions, the first systematization was adopted with Governmental Decision no. 465 and entered into force on 1 July 2015,[1] in accordance with the Act on Civil Service and fulfilling the first two milestones of this commitment. It is important to note that these milestones, which aimed to prepare and present the first systematization of the service positions and authorities in 2015, were meant to be a provisional system prepared by the directors and heads of the public bodies, created with the goal of adopting the already existing organizational structure of the public authorities in order to meet the requirements of the new act.

After the first systematization entered into force, the Section for Civil Service (SCS), in cooperation with the Ministry of Finance, prepared a proposal for systematization for the year 2016, which was published on the SCS webpage along with its timetable.[2] The SCS has the responsibility to submit a draft systematization based on the total amount of financial assistance intended for the remuneration and wages of civil servants and state employees. The systematization therefore depends on the adoption of the national budget for year 2016.

According to the last milestone, the SCS must submit to the government a draft of the systematization for year 2017 by 30 June 2016, in accordance with the act.

Did it matter?

The requirements of the act concerning the systematization of officials' positions and the implementation steps described above have the potential to mitigate the risk of politically motivated changes in the organizational structure of public authorities. In the past, heads of ministries have made arbitrary changes in the leadership of key departments or agencies, gaining control over them. The act aims to prevent small groups of public officials from manipulating state entities for personal political gain.[3] However, the current strategy for the systematization of positions has been criticized for the following reasons:

- **The Ministry of Interior has a significant influence in decision-making processes.** After 1 January 2016, the government will be required to approve any future changes to the systematization plan, which could include a complete change of the organizational structure of a public body. According to Edvard Outrata, former senator and head of the Czech Statistical Office, this could be seen as an opportunity for state secretaries to approve changes in the organizational structure in response to political pressure.[4] The risk of future

changes of systematization being motivated by an effort to replace as many civil servants as possible or to change the organizational structure of a public body, described above, seems low now. The Deputy Minister for State Service Josef Postranecky suggests that the SCS should play a significant role in the discussion of these heavily impactful changes, as it understands the role they play in the prevention of any hidden inner changes that are inconsistent with principles of the systematization.[5] Currently, as stipulated in the act, the SCS is only authorized to approve changes if they have an individual impact on civil servants (i.e., dismissal of a civil servant). However, it should be noted that the act prevents the use of the budget established for wages and remuneration of civil servants, or the civil servant positions in a particular public body, for any other purpose. This also decreases the risk of future politically motivated changes in the civil service.

- There are no guarantees that future systematisation plans will prevent the politicisation of the state administration or ensure its stabilisation. Currently, the act stipulates that systematizations shall be drafted and adopted every year, which means that the stabilisation of civil service is achieved for a very short period of time, and we may expect a political struggle against frequent changes. The reason for this annual approval of a systematization is that the systematization is interconnected together with the national budget. The Ministry of Finance will therefore play a significant role in deciding the specific contents of the systematization. Besides the regular changes of the systematization for the next year, there is also a risk of changes to the already adopted systematization during the year because of "the substantial changes of the conditions in which the systematization was adopted," particularly a change of government.

The majority of participants in the stakeholder meetings conducted by the IRM team (i.e., grassroots nongovernmental organizations [NGOs] and local activists) believe that, despite the adoption of the Act of Civil Servants (or even due to it), unprofessional civil servants will keep their current positions.[6] In the IRM online survey, more than two-thirds of the respondents shared this opinion.

The IRM researchers believe that the first milestone has minor potential impact, since it does not directly tackle the policy area in question. The preparation of a draft would not yield significant changes to the state administration reform. The three remaining milestones have a moderate potential impact since the systematization of officials' positions within the public authorities represents an important, though partial, step towards the general goals of de-politicisation, professionalisation, and stabilisation of the state administration.

Regarding its relevance to OGP values, this commitment does not include a public-facing element with respect to the systematisation of service positions and authorities.

Moving forward

After the national budget for year 2016 is adopted, the public bodies are required to propose new changes to the current systematization of positions. On the basis of these proposals, the SCS is to prepare a draft of the systematization plan that includes an analysis of the proportion of officials who have the status of civil servants and those who don't, among other data. The final proposal of the systematization plan with all changes included is to be submitted by the minister of interior to the government by 20 November 2015.

Possible changes to the already adopted systematization plan are limited by the reasons enumerated in the Act on Civil Service. This should contribute to achieving the stabilisation of the civil service and prevent the fluctuation of civil servants after

changes in government, as often happened in the past. Dismissal of civil servants should no longer depend on the personal or political preferences of the minister or the head of the service authority.

As for the annual cycle of preparing new systematizations, the IRM researchers suggest that the SCS should ensure that all changes to either the number of civil servants and state employees or the organizational structure be well-rationalized and their impacts properly analysed. The problem with the involvement of the Ministry of Finance (and a risk that it may lead to abuse of power) has no easy solution as the involvement is based on the legal regulation of the adoption of the national budget.

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[1] *Governmental decision Nr. 465 on the first systematization*, (15 June 2015), [Czech] http://bit.ly/20u7tJf

[2] Government of the Interior, *Information and schedule of the proposals of the amendment of the first systematization,* [Czech] http://bit.ly/1HlmIeD

[3] Frank Bold and others, *Public money and corruption risks*, [Czech] http://bit.ly/20Jy4ig, page 21.

[4] Edvard Outrata, interview by the IRM researchers, 11 September 2015.

[5] Josef Postranecky, interview by the IRM researchers, 11 September 2015.

[6] IRM stakeholder meeting, Bykovice, 21 June 2015.

6: Streamline the free access to information system

Commitment text:

Streamlining the system of free access to information

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

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

<u>Milestones:</u>

- *Submission of the Draft Act to the Government*
- *Creating of methodical material on modifications of the Act on Free Access to Information made by the amendment*
- *Coming into force of the amendment*

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified   End Date: 1 July 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
6. OVERALL			✔		✔					✔					✔	
6.1. Draft amendment of the Free Access to Information Act			✔		✔					✔						✔
6.2. Methodological material on the amendment			✔		✔					✔				✔		
6.3. Amendment in legal force			✔		✔					✔						✔

What happened?

The Free Access to Information Act of 1999 regulates access to information held by public institutions in the Czech Republic that is available to citizens upon request or by active dissemination in accordance with the principle of publicity. The general intention of the commitment is to adopt amendments to this act in order to improve its functioning in practice. For the second action plan, the three main recommendations for amending the Free Access to Information Act broadly regarded the following themes: (1) the introduction of an obligation to publish all information in an easily accessible format, (2) the removal of the right to refuse the provision of information requested by citizens in the Library Act, and (3) the introduction of new and more efficient ways to provide information, such as data sharing through the interface of an information system or enabling remote access to information.[1]

The new action plan concentrated on the obligations arising from the EU Directive 2013/37/EU, amending Directive 2003/98/ES on the repeated use of public sector information.

Since the implementation period of the first action plan, the content of the amendments has been changed a number of times in response to criticisms of civil society organizations (CSOs). However, most of these suggestions have not been taken into consideration in the final text.

A draft amendment of the Free Access to Information Act, prepared by the Ministry of Interior, was published in July 2014 before the second action plan was approved by the government. According to two CSOs, who made extensive comments on this draft amendment (Oživení and Otevřená společnost), it included a number of provisions that could potentially worsen the current standards of public access to information. These included possibilities to extend the deadline for authorities to respond to information requests and to increase costs of information requests. The CSOs also criticized some aspects of the proposed means of transposing the EU Directive 2013/37/EU.[2] According to government, the deadline for authorities to respond to information requests was still within the 40 days recommended in the PSI Directive. As to the criticisms on the costs, government also noted that the original draft law proposal would ultimately lead to a reduction in the capacity of most authorities to recover costs from information requests. However, the draft amendment was subject to change according to stakeholders' view.

In October 2014, again before approval of the second action plan, a new version of the draft amendment of the Free Access to Information Act was published. Compared to the previous draft, it did not include the provisions subject to the most serious criticisms and was mostly limited to changes aimed at transposing the EU Directive 2013/37/EU. It concentrated on ensuring that the information is provided by public institutions in open formats and in machine-readable form if possible, both in respect to the proactive disclosure of information by public authorities and to providing information upon request. This, in general, corresponded to the goals expressed in the commitment as defined in the second action plan (see above). The scope of the information provided proactively has not changed with the amendment. The only provisions beyond the transposition requirements were:

- The possibility of the authority to provide the information in electronic form, despite requests for a different format, in cases where the information is available online and the request was made in an electronic form;
- A new possible reason for refusing the requested information if "the information concerns the stability of the financial system."

Parliament approved the amendment in the version submitted by the government. After being signed by the president, the amendment entered into legal force on 10 September 2015. Both the first and third milestones have therefore been fully accomplished.

The Ministry of Interior prepared the the methodological material on the changes made to the amendment. It was made public for general use by 18 November 2015 in section three of the government website: www.mvcr.cz/odk. Since it was not published within the period covered by this progress report (1 July 2014 to 30 June 2015), Milestone 6.2 has been coded with limited completion. The material was not submitted for public comment prior to its publication. However, stakeholders may now comment on their use through an open website.[3]

Did it matter?

Originally, the general ambition of the commitment was to identify and address the most serious problems related to the free access to information held by public authorities (e.g., insufficient enforcement of the right to free access to information when the right is illegally denied by public institutions, an unsatisfactory degree of proactive publication of information by public institutions, a lack of explicit expression of "public interest test" in the act). The Ministry of Interior deals with issues on the implementation of the Free Access to Information Act continuously. Additionally, they found necessary to prepare an amendment of the Free Access to Information Act. This was an ambitious and desirable goal. The participants of the stakeholder meetings (grassroots nongovernmental organization [NGOs] and local activists) expressed their view that free access to information is the most serious deficiency of current legal regulation. [4]

The Ministry of Interior opted to tackle this issue by adopting an amendment limited to the transposition of the EU Directive 2013/37/EU, amending Directive 2003/98/ES on the repeated use of public sector information.

In general, publishing the information in open data format and machine-readable form (whenever possible), along with the related metadata, can be seen as a relatively ambitious goal, which is interrelated with the action plan commitments concerning open data. The Ministry of Interior emphasized that the final formulation of the law, as amended, goes further than the EU directive, which requires publication in open format "if possible and suitable," while the amended act includes "whenever possible" and also in machinereadable form.[5]

The CSOs commenting on the draft amendment agreed that the last version of the draft, later approved by Parliament was a relatively good transposition of the EU directive. Some NGO representatives expressed, however, that the new amendment is not transformative, as it does not significantly change what the previous Free Access to Information Act already stated (in regards to the right of applicants to receive information in the format that they require).[6] The Ministry of Interior has stated that the amendment expressly granted the applicants the right to obtain information in open-data format whenever possible, which should be considered as an important step forward. Nevertheless, since the amendment has entered into legal force only in September 2015, it is still not possible to evaluate its practical implementation.

As the scope of changes of the act, as presumed in the second action plan and as finally approved, are only partial and do not address many of the problematic areas in access to information, the potential impact of the commitment is evaluated as minor by the IRM researchers.

Moving forward

To fulfil the commitment as formulated in the second action plan, the only remaining task is the preparation and adoption of the methodological material on the changes made by the amendment.

However, for meeting the general goal of "streamlining" the system of free access to information (or in other words, making the system more effective), there are many possible steps which could be taken. Some of them were already included in previous versions of the OGP action plan as well as in the draft amendments of the Free Access to Information Act which never reached the legislative process in Parliament. These possible measures could include:

- Introducing the "information order" by which a superior authority could mandate a subordinate to provide the requested information where there is no legal reason for refusal;
- The explicit establishment of the "public interest test" according to which the information could be provided even if, formally, one of the legal reasons for refusing the request for information would apply, but there would be a prevailing public interest in disclosing the information;
- The compulsory publication of internal regulations of public authorities and other information about their actions, including details about their expenditures online;
- Establishing specific sanctions for officials refusing to provide information when it is a clear breach of law (e.g., where there is a court order to provide the information);
- Establishment of "information commissioners" or another independent institution mandated to promote correct implementation of the Free Access to Information Act, both on the general level (methodologically) and in specific cases.

At the same time, it seems to be a clear position of the Ministry of Interior that it is not realistic to prepare another amendment of the act shortly after the last one entered into legal force in September 2015.

In this situation, the IRM researchers suggest that for the next OGP action plan, the most suitable solution would be merging the commitment concerning free access to information with commitments relating to open data. In the scope of such a merged commitment, an analysis of the application of the Free Access to Information Act, as amended in September 2015, should be carried out. This analysis should deal with both the implementation of the new provisions on publishing the information in open data format and, whenever possible, machine-readable form as well as other experiences with the application of the act, taking into account the above-mentioned concrete proposals of civil society.

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[1]*Evaluation of the fulfillment of the Action plan „OGP" in 2012*, [Czech] http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Zhodnoceni-AP-OGP-2012.pdf

[2]*The Amendment may worsen the access to information, comments to the draft*, (21 September 2014), [Czech] http://stary.otevrete.cz/novinky/novela-mv-ma-zhorsit-pristup-k-informacim-610.html

[3] *Podrobná analýza novely Infozákona 2015* [Czech] http://www.otevrenaspolecnost.cz/uz-jste-to-slyseli/3257-podrobna-analyza-novely-infozakona-2015

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[4] IRM stakeholder meeting, Bykovice, 21 June 2015.

[5] Tomáš Jirovec, phone interview by the IRM researchers, 25 September 2015.

[6] Jiří Skruhrovec, interview by the IRM researchers, August 2015.

7: Support for open data publishing

Commitment text:

Methodical support for open data publishing

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

<u>*Milestones:*</u>

- *Commencement of the project*
- *Training course of the Institute for Public Administration*
- *Creating a methodology for publication of open data of the public administration*
- *Providing methodical support to the respective institutions for publication of their data*

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not specified   End Date: 30 November 2014

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
7. OVERALL			✔		✔					✔					✔	
7.1 Commencement of the project			✔		✔					✔						✔
7.2 Training course of the Institute for Public Administration			✔		✔					✔				✔		
7.3 Open data publication methodology		✔			✔					✔					✔	
7.4 Support for data publication		✔			✔			✔		✔				✔		

What happened?

The Ministry of Interior decided to improve access to data and information with the creation of a project that would provide financial support to several awareness-raising activities related to opening data of public administration. To achieve this goal, the ministry submitted a project application for EU funds—the *Challenge D9 of the Operational Programme Human Resources and Employment*—which was successful. Its implementation consists of four milestones which are analysed separately in this report.

Milestone 7.1. Commencement of the project

According to the action plan's timetable, the project referred to as the "Implementation of strategies in the field of public administration's open data of the Czech Republic" was scheduled to start on 30 November 2014. With two months of delay, it started on 1 February 2015. The working group of experts responsible for the elaboration of the project was composed by representatives with different backgrounds coming from public administration, civil society organizations, and universities. The group has practically constituted a special platform for the implementation of this commitment on the improvement of open data and information.

The outcomes of activities held within the scope of the project went beyond methodological support of the public authorities. The working group proposed a legal framework for public sector open data. Milestone 7.1 was completed successfully.[1] With respect to specificity of the topic, milestone concerning the legal framework is described under Commitment 9.

Milestone 7.2. Training course of the Institute for Public Administration

According to the action plan, the training course was to take place before 31 December 2014. Martin Tajtl, a member of the project working group and the Czech Trade Inspection Authority, stated that the first course announced did not take place due to the low interest of the target group—public authorities.[2] Instead, a free e-learning course for public administration was offered. Nevertheless, there is no official data on the amount of officials who participated in the online course.

In October and November 2015, the Ministry of Interior carried out 10 day-long courses in various regions of the Czech Republic in order to share know-how regarding open data in public administration with different offices and municipalities. All civil servants who pass the course should be capable of initiating an open data publication process in their respective institutions. [3] The completion of this milestone is therefore coded limited, as it was not completed in the period being reviewed. It has, however, been completed at the moment of writing the report.

Milestone 7.3. Creating a methodology for publication of open data of the public administration

In order to motivate public institutions to engage in open data practices, the Ministry of Interior initiated a set of activities providing them with methodological guidance. For example, the ministry drafted model publication plans, suggesting data sets of public offices and municipalities that should be opened.[4] The ministry also drafted instructions with the technical procedures to follow for publishing data in an open format. Finally, the methodological draft advises on where data should be published; public authorities can choose between publishing in a national catalogue or creating a separate local catalogue.

According to the action plan, the methodology was supposed to be finished by 31 March 2015. The goal was not accomplished; drafts of methodological documents were not commented on until 1 July 2015. Several public authorities were asked to make comments on the completed draft documents. The project demanded the involvement of

32 representatives from various public institutions (ministries, regional authorities, municipalities). They were expected to share their views on open data publishing, which data sets they were able to open, and to describe both the benefits and risks from their point of view.[5]

The comment period was expected to end in October 2015. The government self-assessment report from September 2015 estimates that the final version of the methodology and standards for open data publication shall be finished by 30 November 2015.

Milestone 7.4. Providing methodological support to the respective institutions for publication of their data

Continuous methodological support is closely linked to the above-mentioned milestones. Authorities who provided their comments to the methodological documents were given the benefit of individual consultations from the project team, leading to more effective implementation of open data processes in their offices.

The action plan does not specify the character of the continuously provided methodological support. Since the consultations are happening individually and not in public, it is not possible to assess their final impact. The official project website[6] does not provide information on the amount or content of provided consultations.

Regardless of the validation (comments) phase, all interested officials can get know-how on the project website. Detailed instructions on how to make open data public are thus freely available, accessible for the public as well.

Tomáš Kroupa, head of the project team at the Ministry of Interior, intended that all the supporting and educational activities will go on after the termination of the project (after 30 November 2015).[7] Nevertheless, he expects the methodological support to be limited. The project team therefore plans to submit one more request for additional funding for the operational programme during the next funding cycle.

Did it matter?

The second action plan focuses primarily on the preparatory phase of open data publishing. This is to be expected, since the Czech society and public authorities are still exploring the benefits of open data publishing and starting to get acquainted with the basic know-how. According to Martin Tajtl, the view of administrative bodies toward open data publishing has been developing.[8] Central authorities have been expressing interest to open data as a consequence of the growing importance the topic has garnered.

Generally, it can be observed that the importance of open data is growing in the Czech Republic. Not only have public authorities become interested, but nongovernmental organizations (NGOs) focusing on transparency issues, as well as academia, have incorporated open data in their agendas.

Open data has started to become a recognized sign of progress in the public administration. However, since the open data standards and concrete technical procedures are not well-known by the public so far, what should be expected of any democratic government can be confused with progress. For instance, the Ministry of Justice—which presents itself as an open entity—mainly publishes contracts and invoices and only in an insufficient technical standard, while judicial data remains inaccessible to the public.[9]

In the view of Michal Kubáň, open data expert of Otakar Motejl Fund, there is often a lack of motivation of local authorities to publish their data. As he experienced, the instructions coming from the central authorities are usually not accepted with

enthusiasm; data publication requires a lot of internal changes in the functional processes of local authorities, and local authorities need publication guidelines and financial support from the government.[10]

Feedback received on suggested publication methods will contribute to furthering the discussion about a legal framework for open data in the public sector. According to Martin Tajtl, a legal solution should be constituted in a realistic way, considering the limitations and capabilities of public authorities. The legal framework should not require the opening of data sets that can be published only with difficulties.[11] The IRM researchers believe this strategy can be risky and might lead to a situation where public authorities will only be willing to publish data considered "harmless" and less significant.

All the activities under the commitment aimed to give public authorities an insight into the benefits of open data publishing. If successfully implemented, the commitment would have an impact of spreading know-how among the public officials to make public administration data accessible in open format. The impact of the above-mentioned milestones, however, depend on the interest level of public officials concerning the open data agenda. Taking into account the conservative character of the Czech administrative environment and the emergent open data agenda, this goal seems to be a positive incremental step forward to increase access to information. The existence of the catalogue should make government-held information more accessible for the public providing an easier way to navigate through the data and allowing a better understanding of it, enabling civil society participation in public matters.

Moving forward

So far, creating the methodology seems to be only one step toward the desired level of open data publishing. The ministry leading the process will have to make a greater effort to motivate the public authorities to take part in achieving this common goal. Focus groups, workshops, meetings and consultation offers are an essential part of the effort.

The created methodological documents are sophisticated as far as the methods and procedures of publishing are concerned. Nevertheless, in using these documents, public institutions shall be aware of what exactly is to be published according to the desired approach. Open data is still understood in a varied way among public institutions (including the publication of contracts and invoices in a PDF format). The methodological support shall also focus on addressing this potential problem.

One of the most difficult problems moving forward is how to motivate the municipalities (mainly the smaller ones) to join in project efforts. They are usually afraid of administrative burdens that new tasks can bring. A newly-launched national catalogue of open data shall facilitate the publishing procedures and reduce the costs and resources spent on it.

The IRM researchers suggest making the process of the validation of publication plans public; thereby civil society can review whether and in which way the comments of institutions were taken into account. The suggested publication of the validation process will enable civil society actors to evaluate how the comments influence the future legal solution of open data publishing and the final version of drafted methodology and standards.

The IRM researchers also propose that the ministry consider building up a stable expert team with an appropriate budget. A satisfactory implementation of open data standards among the Czech public authorities will definitely require self-sufficient staffing and medium-term vision.

[1] Ministry of the Interior, *Open Data*, [Czech] http://www.mvcr.cz/clanek/otevrena-data.aspx?q=Y2hudW09NA%3d%3d

[2] Tomáš Kroupa, Martin Tajtl and David Hemala (project team of the Ministry of Interior), interview by the IRM researchers, August 2015.

[3] Open Data, Official project website, [Czech] http://opendata.gov.cz/edu:start

[4] Open Data, *Model publication plans,* [Czech] http://opendata.gov.cz/vzor:start

[5] Dušan Chlapek, Tomáš Kroupa, Martin Nečaský, *Open and interconnectible data in public administration – National index of the Open data*, [Czech] http://www.nku.cz/cz/konference-seminare/konference-edata/media/prezentace/3_CHLAPEK_NECASKY.pdf

[6] Open Data, Official project website, [Czech] http://opendata.gov.cz/start

[7] Tomáš Kroupa, Martin Tajtl and David Hemala, interview by the IRM researchers, August 2015.

[8] Ibid.

[9] Michal Kubáň (Otakar Motejl Fund), interview by the IRM researchers, July 2015.

[10] Ibid.

[11] Tomáš Kroupa, Martin Tajtl and David Hemala, interview by the IRM researchers, August 2015.

8: Open data catalogue

Commitment text:

Putting into operation the catalogue of the public administration open data

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

The commitment contains only one milestone.

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified   End Date: 30 June 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
			✔		✔			✔			✔					✔

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

What happened?

Commitment 8 aims to improve access to data and information by creating a catalogue for searchable information held by the public administration. The first action plan included a similar commitment intended to create a central data catalogue that would be a primary source of information with public administration data sets. Contrary to this original intention, the catalogue described in the second action plan is to serve as a "guidepost" to search for open data resources and not as a repository of information.

The government used an existing portal of the public administration as the platform for the catalogue which is to collect data sets produced or administrated by public authorities as well as provide information for civil society to oversee public activities and to facilitate the development of several data applications for better services.[1]

The Ministry of Interior managed to create the catalogue on time as was stipulated in the action plan; a pilot version of the national catalogue of public administration open data was launched in April 2015 (with additional adjustments submitted by June 2015).[2] However, only eight institutions have opted to publish their data sets in the catalogue so far: the Ministry of Finance, the Ministry of Interior, the Czech Trade Inspection

Authority, the Supreme Audit Office, the Czech Statistical Office, the Czech Telecommunication Office and two local authorities (Statutory City of Děčín and Region Vysočina).[3]

Once data sets are published, the ministry does not guarantee their authenticity nor whether the information is correct and complete.[4] The publishing institution itself takes responsibility for the information.[5] The IRM researchers have found that the national catalogue collects data without a clear structure or specific order. Thus far, the information published in the catalogue was previously available on the institutions' official websites.

The team from the Ministry of Interior working on the completion of this commitment is considering further development of the catalogue. However, this will depend on whether they are able to secure the funds to finance the work.[6] In addition, the government plans to connect the national catalogue with a European catalogue as expressed in the self-assessment report of the Office of Government. Although no specific details are shared in the mid-term self-assessment report, the IRM researchers believe it is possible that the government intends to develop a pan-European open data portal.[7]

Did it matter?

The national open data catalogue provided a platform for the proactive publication of data produced by the public administration, which is the first step to facilitating both commercial and non-commercial use of government–held data. However, the government has not communicated the benefits of the catalogue sufficiently to potential publishers of open data sets, and the commitment does not provide an explicit list of what data should be made public.

No efforts to raise awareness and encourage public servants to participate have been recorded.[8] All public authorities should be informed about the possibility to publish their data in a very convenient way—without additional costs, with an open licence and with an option to get expert methodological assistance. No separate catalogue is needed if they want to provide their data in open formats. Additionally, the capacities, motivation and enthusiasm of public authorities to open their data differ significantly. For example, open data of the Czech Trade Inspection Authority (CTIA) are often presented as an inspiration to follow. CTIA provides the public with data relevant to its field of activity and classifies them among the most important links on the website. According to Martin Tajtl from CTIA, the high level of the data available is influenced by his experience as a former journalist investigating authorities and looking for important public data.[9]

On the other hand, not all public institutions meet the conditions necessary for launching open data, as in the case of the Ministry of Labour and Social Affairs. According to David Hemala from this ministry, its information technology (IT) department is still recovering from a crisis caused by the IT public procurement policy of the former management.[10] Nevertheless, the ministry plans to publish its open data in the national catalogue as soon as the new basic environment is created. The Ministry of Labour and Social Affairs also joined the validation process of model publication plans.[11]

Additionally, in comparison with the previous action plan, experts believe that the second action plan is less ambitious as it does not specify what data sets and register lists should be available in the catalogue and in open format, especially with regard to the commercial register and public procurement data. Jiří Skuhrovec, the external consultant who was responsible for publishing the Ministry of Finance's catalogue, states that creating the catalogue is not as time-consuming as the work on

administrative approvals, agreements and the preparation of a publication schedule (which takes a minimum of three months).[12]

This commitment calls for the creation of a platform to publish government-held data for public use through innovative, technological means; therefore, it is clearly relevant to OGP values. Additionally, this commitment aims to change the way public officials currently engage with the publication of government data, which is a major step in the policy area. For this reason, it has moderate potential impact.

Moving forward

The IRM researchers believe that the next action plan could address the weaknesses this commitment has as currently articulated. The following suggestions should be implemented so that the catalogue has a bigger impact in providing the data held by public administration in open formats and promoting transparency in government decision making and interactions with the general public.

- This commitment's target group is the IT sector, which can use the raw open data for developing various applications. According to Dušan Chlapek, a faculty member of the Informatics and Statistics department at the University of Economics in Prague, the Ministry of Interior should consider revamping the catalogue's interface for it to be more user-friendly and reach the wider community as well;[13]
- The ministry should further emphasize the advantages of using a national open data catalogue, highlighting the simplicity of the process and the resulting low costs of spreading know-how among public authorities. This should be connected with continuous methodological support and expert consultations on the type of data that should be published;
- Open data also represents a possibility for the private sector to be more involved in public sector matters. According to the online survey conducted by the IRM researchers, only 18 % of addressed commercial entities have noticed the launch of the national catalogue. However, the survey shows that businesses are interested in public administration data as it relates to public procurement, grants and subsidies, or the public budget in open data format. Companies and self-employed professionals are potential visitors of the national catalogue; therefore, the informational campaign should cover this target group as well.
- All principles regarding the publishing of data in the catalogue should be anchored legislatively (e.g., a ministerial decree which would follow the bill of the Act no. 365/2000 Coll. on Public Administration Information Systems.

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

[2] Tomáš Kroupa, Martin Tajtl and David Hemala (project team of the Ministry of Interior), interview by the IRM researchers, August 2015.

[3] Updated to 29th September 2015; For details see the National catalogue website: Portal of Public Administration, *National Catalogue of Open Data*, [Czech] https://portal.gov.cz/portal/rejstriky/data/97898/2015-04.html

[4] For details see the National Catalogue website: Portal of Public Administration, *Open Data,* [Czech] http://portal.gov.cz/portal/obcan/rejstriky/data/

[5] Tomáš Kroupa, Martin Tajtl and David Hemala, interview by the IRM researchers, August 2015.

[6] Ibid.

[7]For details see: European Commission, Digital Agenda for Europe, *Developement of the pan-European Open Data portal and Related Services*, (9 June 2015), http://ec.europa.eu/digital-agenda/en/news/development-pan-european-open-data-portal-and-related-services-presentation-wendy-carrara

[8] Michal Kubáň (Otakar Motejl Fund), interview by IRM researchers, July 2015.

[9] Martin Tajlt during Tomáš Kroupa, Martin Tajtl and David Hemala, interview by the IRM researchers, August 2015.

[10] *Chaos on the IT Departement of the Ministry of Labour and Social Affairs,* (idnes.cz, April 2014), [Czech] http://zpravy.idnes.cz/audit-technologii-za-drabka-dfl-/domaci.aspx?c=A140414_171539_domaci_jj

[11] Tomáš Kroupa, Martin Tajtl and David Hemala, interview by the IRM researchers, August 2015.

[12] Jiří Skuhrovec, interview by the IRM researchers, August 2015.

[13] Dušan Chlapek (Faculty of Informatics and Statistics, University of Economics, Prague), written consultation to the IRM researchers, July 2015.

9: Open data legal framework

Commitment text:

Creating a legal milieu for open licensing of using open data

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

Responsible Institution: The Ministry of Interior

Supporting Institution(s): None

Start Date: Not Specified   End Date: 30 September 2015

Commitment Overview	Specificity				OGP value relevance				Potential impact				Completion			
	None	Low	Medium	High	Access to information	Civic participation	Public accountability	Tech. and innov. for transparency and accountability	None	Minor	Moderate	Transformative	Not started	Limited	Substantial	Complete
			✔		✔			✔			✔			✔		

What happened?

The lack of legal regulations for open data was repeatedly declared as a reason why public authorities hesitated to open their data in the past. Questions concerning the possibilities of open licensing, the protection of certain types of data (e.g., confidential data), and the lack of legal authorization of the authorities to publish specific data were heavily discussed by experts, without common agreement. To address this issue, the Czech Republic included the creation of a legal framework to regulate the publication of data into the action plan.

This commitment was also part of the first action plan entitled, "Identification and removal of legal and technical obstacles for opening of the public databases in open data format." Although the general goal of the commitment remains the same, the current action plan proposes a different approach to reach it. Instead of general analysis, it proposed the amendment of two specific acts.

First, the ministry decided to amend Act no. 106/1999 Coll. on Free Access to Information to create the legal framework for providing information, both upon request and by means of active publication in open data formats. This also reflects the European Union law requirements (Directive 2013/37/EU of the European Parliament and of the

Council of 26 June 2013, amending Directive 2003/98/EC on the re-use of public sector information). The act serves as a tool for citizens to request public sector information in a desirable format. The amendment was already approved by legislative bodies and entered into force in September 2015 (see Section VI).

Additionally, although it is not mentioned in the action plan commitment itself, the Ministry of Interior has suggested amending Act no. 365/2000 Coll. on Information Systems of the Public Administration. This amendment should legally establish the "national catalogue of open data," define the duties of public authorities to publish their data in this catalogue, and describe related technical procedures. The amendment is being developed by the Ministry of Interior and should be incorporated into the Government Plan of Legislative Works for 2016. Legislative changes are expected to be approved in 2016 as well.[1] With respect to technical procedures connected with open data publishing, the act will probably be followed by an implementing ministerial decree. The project team expects to submit the amendment for discussion within the ministry by the end of September 2015. [2] As a matter of fact, the date was presumed to be the deadline for the complete implementation of the milestone, according to the action plan. Both IRM interviews and the governmental mid-term self-assessment report confirm that an amendment of this act should play a pivotal role in completing the legal implementation of public administration open data.

With respect to the licensing issue, the government decided in the first action plan to use the Creative Commons 4.0 licence. Although the new action plan does not explicitly mention any concrete type of licence for the publication of open data, experts agree on using the Creative Commons 4.0 licence as outlined in the first plan, which should solve the problem of copyright protection, right of database maker or employee work.[3] Civil society still waits for an official Czech translation of the licence; the period for commenting on the draft translation expired in August 2015.[4]

The IRM researchers conclude that the completion of the commitment is limited. As follows from the above facts, not all rules needed to create the legal milieu for publishing public administration data in open formats have been adopted yet.

Did it matter?

There are several administrative bodies and local governments that chose a proactive approach to open data publication; nevertheless, the vast majority of the public administration has not done so and requests the creation of an exact legal framework regulating the publication of data. This legal regulation could establish better conditions for access to information and enhance civic participation.

Experts and public authorities have different opinions regarding the need to create a legal framework that regulates the publication of open data. Jan Cibulka, a data journalist, claims that the laws, in many cases, do not sufficiently specify what information should be provided. Because of that, in his experience, authorities tend to refuse requests of information when the legal situation is unclear without judging for themselves if there is any real reason for it.[5] According to Jiří Skuhrovec, the amendment to the Act on Free Access to Information does not increase the possibilities of receiving requested data in an open format as the previous wording of the act enabled the authorities to choose the required format of information.[6]

From the perspective of the IRM researchers, the most significant change presumed by the amendment applies to the information published obligatorily by the public administration. The amendment regulates that this information should be published in a format which is open and (if possible) machine-readable. The amendment also introduced the term "metadata" into the Czech legal system. Institutions providing information with metadata can benefit from more protection against potential misuse.

Generally, public institutions keep their broad discretion when replying to citizens' requests for information. They can refuse to provide information in open data formats in cases where it would be extremely burdensome. Finally, it will be a question for a judicial review to assess the decision of a public authority.

The IRM researchers evaluate the potential impact of the commitment as moderate for two reasons. First, the changes in the legal regulation of open data publishing, though very important, cannot alone have transformative impact. Sufficient methodology, capacities and commitment of the responsible public authorities are also necessary. Second, it is not fully clear if the legislative amendments, as adopted and proposed, would be sufficiently enforceable as they do not include any sanctions or other means of correction for cases in which the imposed duties are not followed.

Moving forward

The government self-assessment report identifies the largest risk of the fulfilment of the commitment to be the uncertainties of the legislative process since it is "very easy to implement considerable changes into the bill during the debates in the Parliament."[7] Creating a legal environment seems to be the most complicated task. It will require an agreement among legislators and political compromise. Jiří Skuhrovec identifies the most serious obstacle in the unwillingness of the authorities to expose their working methods—they are afraid they will be found to be incompetent and lacking the ability to gather data. Administrative bodies are allegedly aware of the "clearing effect" of open data as a means of public control. They are therefore not motivated to accept such a duty.[8]

From the point of view of the IRM researchers, if the insufficient legal definition of open data really caused the low effort of public bodies to publish it, the enactment of such a definition could culminate in a "boom" of data opening. The legislative processes are to be further monitored and evaluated, as well as how legal rules are implemented in practice by Czech officials.

In the case that both amendments are successfully passed, it is recommended to control the authorities in their practices. The Czech Free Access to Information Act is known for its complicated enforceability. Czech citizens cannot rely on support from an information commissioner's office, as is the case in the United Kingdom. There is no similar special institution for this purpose nor a standard appeal system, which poses a long-term challenge to the effectiveness of the system. In addition, the system of open data publishing should be accompanied by a specific control mechanism to check whether the public administrative bodies open their data in a way mandated by law.

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[1] Office of the Government, *Self-Assessment Report of the Action Plan of the Czech Republic 2014-2016*, [Czech] http://www.korupce.cz/assets/dokumenty/tiskove-zpravy/Prubezna-sebehodnotici-zprava-Akcniho-planu-Ceske-republiky-Partnerstvi-pro-otevrene-vladnuti-na-obdobi-let-2014-az-2016.pdf

[2] Tomáš Kroupa, Martin Tajtl and David Hemala (project team of the Ministry of the Interior), interview by the IRM researchers, August 2015.

[3] Fond Otakara Motejla, *How to open the data,* (2014), [Czech] http://www.otevrenadata.cz/res/data/001/003498.pdf, page 37

[4] Creative Commons Czech Republic, *Invitation to public commenting of the Czech version of Creative Commons 4.0*, (July 2015), [Czech] http://www.creativecommons.cz/verejne-pripominkovani-prekladu-ceske-verze-creative-commons-4-0/

[5] Jan Cibulka, written consultation to the IRM researchers, July 2015.

[6] Jiří Skuhrovec, interview by the IRM researchers, August 2015.

[7] Office of the Government of the Czech Republic, *Mid-Term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016*, http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf

[8] Jiří Skuhrovec, interview by the IRM researchers, August 2015.

V. Process: Self-Assessment

The draft self-assessment report was published on 31 August 2015 for a two-week period of public comments. The report was approved by the government on 12 October 2015.[1] It contains more detailed, accurate and exact information about the fulfilment of the individual commitments than previous self-assessments by the government.

V.1: Self-assessment checklist

Was the annual progress report published?	Yes
Was it done according to schedule? (Due 30 Sept. for most governments, 30 March for Cohort 1.)	No
Is the report available in the administrative language(s)?	Yes
Is the report available in English?	Yes
Did the government provide a two-week public comment period on draft self-assessment reports?	Yes
Were any public comments received?	No
Is the report deposited in the OGP portal?	Yes
Did the self-assessment report include review of consultation efforts during action plan development?	Yes
Did the self-assessment report include review of consultation efforts during action plan implementation?	No
Did the self-assessment report include a description of the public comment period during the development of the self-assessment?	Yes
Did the report cover all of the commitments?	Yes
Did it assess completion of each commitment according to the timeline and milestones in the action plan?	No
Did the report respond to the IRM key recommendations (2015+ only)?	Yes

Summary of Additional Information

The draft of the self-assessment report was prepared by the Anti-Corruption Unit, the Regulatory Impact Assessment Department and the Government Legislative Council Section under the Ministry for Human Rights, Equal Opportunities and Legislation, with input from the Ministry of Interior.[2]

The draft was published for comments on the webpages of the Government Anti-Corruption Council[3] and of the government, together with a press release,[4] on 31 August 2015. At the same time, the draft was sent to the government agencies and other public institutions as a so-called "external consulting procedure for non-legislative materials."

There was a two-week public comment period after the draft was published and, simultaneously, public institutions could also send their comments. This opportunity was used by six ministries, two regional governments, the city of Prague, the Supreme Audit Office, and the Office for Government Representation in Property Affairs. No members of the public sent any comments.

According to the original plan, the self-assessment report should have been discussed and approved by the government on 30 September 2015. The term was however postponed, and the report was approved on 12 October 2015.

The self-assessment report begins with a short introduction of the OGP initiative and a summary of the Czech Republic's involvement in it. In this respect, the draft states that the adoption of the first action plan in 2012 was preceded by a "thorough consultative process." (According to the IRM report of 2014, the number of stakeholders participating in the consultations was relatively low.)[5] The self-assessment report states that, as it was decided to keep the original commitments in the second action plan, no consultation process took place before its adoption. The report does not mention the absence of any consultation efforts during current action plan implementation.

According to the self-assessment report, the second action plan was created based on IRM recommendations. This issue is discussed in more detail below.

According to the overall evaluation of the self-assessment report, the level of completion of all the commitments is "substantial," although deadlines for meeting some of the milestones "may be slightly prolonged." Specific evaluations of individual commitments are detailed, listing the broad scale of tasks accomplished so far as well as those which are yet to be fulfilled. However, not all individual milestones, and the whole timeline for them, are included and assessed.

The report extensively describes the relationship of each of the commitments to all of the OGP values (but not to the OGP grand challenge).

The report also mentions, under the headline "Peer Exchange and Learning," the participation of representatives of the government in the Conference of European National OGP Focal Points in Tbilisi, Georgia; the negotiations of the representatives of the Ministry of Interior with the EU Commission concerning the implementation of the Act on Civil Service; and the conference "Access to Information contra their Protection," organized by the Ministry of Interior.

In the conclusion, the report repeats that most of the specific commitments have been met while some are delayed. It presumes that for the next period, the emphasis should be on a more realistic timeline for all commitments, making possible the proper consultation process in the course of implementation. Finally, the report mentions the relationship between the OGP action plans and other strategic documents—namely the Government Anti-Corruption Conception for the Years 2015 to 2017—which shall also be maintained in the future. It highlights the generally positive impact of the OGP initiative on legislative changes in the area of transparency of public administration and access to information.

According to the IRM researchers, the self-assessment report contains more accurate and exact information about the fulfilment of the individual commitments than previous versions. It also includes some specific plans for the future, including the improvement of public consultation procedures. It would be useful to include the complete timeline from the original action plan and indicate which of the proposed milestones have not been accomplished in time. Also, there could be more specific information about the reasons for which some of the commitments were not fulfilled in time in the action plan.

Follow-up on Previous IRM Recommendations (2015 +)

The previous IRM report included specific recommendations with respect to all three areas of commitments. The key ones were:

1. Adoption of the Act on Civil Service

- To revise the whole commitment, so that the general objectives (de-politicisation, professionalisation, and stabilisation of the state administration) are more clearly linked with the OGP commitment of improving accountability and are reflected in the new regulation;
- To add a number of specific goals, namely:
  o A clear separation of political and bureaucratic positions;
  o Create rules for unified systematization;
  o Introduce transparency in the personnel policy and the civil servants' remuneration system;
  o Increase the accountability of civil servants by instituting rules and regulations that call upon public officials to explain their actions, act on criticism, and accept responsibility for failure.

2. Amendment of the Free Access to Information Act

- Keep in the new action plan the specific commitments contained in the updated version of the first action plan (see Commitment 6 above);
- Establish the "information order" instrument in the Free Access to Information Act;
- Consider the establishment of an institution or designation of a commissioner responsible for the implementation of the Free Access to Information Act.

3. Reaching the Open Data Standards

- Develop a legislative framework for publishing data held by the public administration in open format;
- Incorporate a clear set of objectives and a related timeframe into the action plan;
- Revise and possibly broaden the proposed list of data sets that should meet open data standards (including the central legislative database).

In the general recommendations, the IRM report suggested keeping the original commitments in the action plan until they are fulfilled, and extending the possibilities of public consultations with respect to both the preparation and implementation of the action plan. The report also recommended improving the inter-departmental and ministerial communications and division of tasks.

Both the second action plan and self-assessment report mention the IRM report recommendations in general terms, not quoting them specifically. Both documents also generally claim that the recommendations were "as much as possible" reflected in the second action plan. The self-assessment report also endorses, with regard to the above-listed areas, some of the recommendations which were followed in the action plan.

More specifically, the level of consideration of the above recommendations varied by the individual milestones and commitments. With regard to the Act on Civil Service, most of the key commitments were followed, at least on the principal level. On the contrary, with regard to the amendment of the Free Access to Information Act, the specific recommendations were not followed at all. Recommendations concerning open data were partially followed, as well as the general recommendations where the original commitments were kept as topics. Public consultations did not take place with respect to the second action plan until the preparation of the self-assessment report. Communications and the division of tasks, at least between the Anti-Corruption Unit within the Office of the Government and the Ministry of Interior, seem to have improved.

[1] Office of the Government of the Czech Republic, *Mid-Term Self-Assessment OGP Action Plan Report of the Czech Republic 2014-2016,* http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Mid-Term-Self-Assessment-OGP-Report-2014-2016.pdf

[2] Franitšek Kučera and Dalibor Fadrný (Section for Coordination of Fighting Corruption within this Office of the Government), interview by the IRM researchers, 27 August 2015.

[3] Government's Council for Coordination of the Fight against Corruption, *Public consultations on the Self-Assessment report OGP,* (publication of the report, 31 August 2015), [Czech] http://www.korupce.cz/cz/dokumenty/tiskove-zpravy/dvoutydenni-verejne-konzultace-k-prubezne-sebehodnotici-zprave-ogp-133983/

[4] Government of the Czech Republic, *Public consultation on the Self-Assessment report OGP,* (publication of the report, 1 September 2015), [Czech] http://www.vlada.cz/cz/clenove-vlady/pri-uradu-vlady/jiri-dienstbier/aktualne/verejnost-muze-v-pristich-dvou-tydnech-davat-pripominky-k-prubezne-sebehodnotici-zprave-ogp-134064/

[5] Government's Council for Coordination of the Fight against Corruption, *Public consultation on the Self-Assessment report OGP*, (publication of the report, 31 August 2015), [Czech] http://www.korupce.cz/cz/dokumenty/tiskove-zpravy/dvoutydenni-verejne-konzultace-k-prubezne-sebehodnotici-zprave-ogp-133983/

VI. Country Context

The Czech Republic has seen slight improvements in regards to the fight for transparency in public administration, and the issue of corruption has been less prominent in public debate. Nevertheless, the general situation regarding OGP values continues to be contradictory, as described in the first IRM progress report.[1] Although the institutional and regulatory framework provides some important guarantees of rights related to access to information, civic participation and public accountability, there are significant drawbacks that many stakeholders attribute to a systemic misuse of public resources (or "systemic corruption"). This section provides a general context analysing where the Czech Republic currently stands in regards to each OGP value.

Access to information

There has been a continuous trend to use the Free Access to Information Act and the progressive court jurisprudence to broaden the scope of the information that should be provided by public institutions. The national annual competition organized by Open Society, with the aim of identifying best and worst practices in the publication of public administration information, confirmed this trend.[2] The administration in the region of Zlin is considered to have the worst recorded practice regarding open data, since the regional government has refused to provide any data regarding the yearly bonuses for public officials in the past three years. The regional courts and the Ministry of Interior have requested the government of Zlin to publish information on bonuses, basing their legal claim in the Free Access to Information Act. At the same time, the judge of the District Court of Zlin was given the award for the best recorded practice, due to the judgment which declared this practice illegal and, for the first time in such a case, granted the applicant pecuniary compensation for the suffered damage. [3]

Additionally, the Reconstruction of the State Coalition has continuously attempted to promote one of the nine specific anti-corruption laws known as the Act on Register of Contracts, which aims to make all contracts of the state and public institutions easily accessible by the general public. This information has been defined by Transparency International's "Study on National Integrity"[4] as "hard to get," along with information on the use of public funds, public procurement or investments, among others. The basic idea of the proposed act is that each contract, whose party is a public institution, becomes effective only after it is published online in the so-called "registry of contracts." Several town councils in the Czech Republic have already voluntarily adopted this practice. The draft of the act, although presented with some substantial limitations, was adopted by the Parliament in November 2015 and should enter into force in 2016. [5]

Public participation

Regarding the value of public participation, the Czech Republic again shows contradictions in its attempt to enable citizen participation in the governmental decision-making process. This is clearly seen through initiatives regarding environmental decision making and land use planning. The government introduced the Nature and Landscape Protection Act and Environmental Impact Assessment Act in 1992—laws used quite extensively by nongovernmental organizations (NGOs) and local initiatives that work on environmental issues—which provide a clearer outline on the participation of civil society. At the municipal level, the possibility of a local referendum is granted, and its outcome binds regional and local authorities. Citizens have the right to participate in the sessions of assemblies and enable public debate. However, the Aarhus Convention Compliance Committee concluded in its 2012 findings that both the legal regulation and practice of public participation in the area of environmental decision-making procedures do not fully meet the standards required by international

commitments of the Czech Republic and by the European Union (EU) law.[6] Consequently, the EU Commission started an infringement procedure against the Czech Republic for incorrect transposition and application of the public participation requirements of the Environment Impact Assessment (EIA) Directive. This lead to the amendment of the EIA Act that entered into force in April 2015, considerably changing both the possibilities of public participation and the system of environmental decision making as a whole.

Accountability and integrity

According to the Act on Responsibility for Damages Caused by Illegal Performance of Public Authority, public authorities are financially responsible for damages caused by the illegal use of their powers. Furthermore, the law enables the public to ensure compliance of the duties of public representatives covered by the act. In practice, personal responsibility for damages caused by the illegal exercise of administrative powers is rarely invoked.[7]

Based on the opinion of the "enlarged senate" of the Supreme Administrative Court of 2013, the judgments of administrative courts have shifted the interpretation of the so-called "systemic partiality" of the officials of municipal and regional authorities. According to these decisions, whenever there is a legitimate concern of a conflict of interest, the case should be referred to a different authority.

The level of accountability in the public administration should be adapted according to the stipulations in the new Act on Civil Service (see Section IV, Commitments 1-5).

Technology and innovation

There is general support for government efforts to establish comprehensive open data standards for all data published by public institutions (see Section IV, Commitments 7-9). However, most of the legal and technical conditions for meeting this goal have yet to be agreed upon or implemented.

The project of electronic "data boxes" for official communications between all public authorities (as well as voluntary communications between public authorities and private subjects) has been established, and it is working without significant deficiencies. The Ministry of Justice plans to digitize court files and all information related to the administration in coming years.

According to the prime minister, one of the priorities of the Czech government in succeeding years is the digitization of the public administration, namely promoting electronic means of communication between the public authorities and private subjects. This is one of the goals of the "action plan for the development of a digital market," approved by the government in August 2015.[8]

Stakeholder priorities

For the majority of the stakeholders, the most important issue in the current action plan was the enactment of the Act on Civil Service. This was the result of the online consultations before the first action plan was adopted[9] and of the simultaneous online questionnaire prepared by the Open Society Foundation.[10] The participants of the IRM stakeholder meetings reiterated the same priority.[11]

A citizen's initiative, Reconstruction of the State, shared the same goal.[12] With regard to the evaluation of the specific content of the adopted act, there are different views among the stakeholders (see Section IV, Commitment 1 for details). Most of them, however, again agree that the practical implementation of the act is a high priority issue for the quality of public administration in the Czech Republic.

The commitment of reaching open data standards with respect to the information published by the authorities is considered as very important by a more limited, but active group of stakeholders working on open data.[13]

With respect to the next action plan, no strong priorities have been identified among the stakeholders. The civil society organizations and specialists active in the open data sphere insist on keeping this topic in future plans as they still see a lot of space for improvements in this area to which the OGP action plan could contribute. Some respondents would opt for an extension of the principles of the Act on Civil Service on the municipal and regional authorities and officials. Others mentioned issues of more transparent financing of political parties, the regulation of appointments to the organs of state-owned companies, or rules ensuring the independence of public prosecutors.

Scope of action plan in relation to national context

Commitments included in the current action plan reflect the OGP values of transparency, public accountability, and technology and innovation. It is likely that the commitments related to the implementation of the Act on Civil Service and the Free Access to Information Act amendment (see Section IV, Commitments 1-6) will be either fully or to a large extent fulfilled during the second action plan implementation period. On the other hand, the commitments related to the legal regulation of open data will probably not be fulfilled in this period. If this estimation is correct, then the IRM researchers suggest that open data remain one of the areas of commitment in the next action plan.

According to the IRM researchers, other possible topics (themes) for the next action plan—reflecting the OGP values in the national context—could be:

- The application of the principles of de-politicisation, professionalisation, and stabilization of the public administration with respect to the municipal and regional authorities;
- Stronger protection of whistleblowers;
- Transparent financing of political parties;
- Enhancing transparency of planning and financing of public investments;
- The regulation of appointments to the organs of state-owned companies.

The number of topics (themes) included in the action plan should not, according to the IRM researchers' opinion, exceed three. The IRM researchers also believe that the preparation of a new action plan could serve as one of the models for the establishment of public participation standards in areas other than environmental protection and land use planning, where such standards are defined by law.

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[1]Pavel Černý and Donika Zůbková, Advokátní kancelář Šikola a partneři, s.r.o, *IRM: Czech Republic: Progress Report 2012-13*,
http://www.opengovpartnership.org/sites/default/files/Czech%20Republic_OGP_IRM_Public_Comment_%28Eng%29.pdf

[2] Open Society, *Competition Open x Closed,* [Czech] http://oz.otevrenaspolecnost.cz/

[3] Open Society: Press releases, [Czech] http://www.otevrenaspolecnost.cz/pro-media

[4] Transparency International Czech Republic, *Study of National Integrity*, by Petra Jansy and Radim Bureše (Report, Prague, 2011), pages 19-20, [Czech] http://www.transparency.cz/studie-narodni-integrity/

[5] Reconstruction of the State, The *Act on the Register of Contracts finally passed*, (24 November 2015), [Czech] http://www.rekonstrukcestatu.cz/cs/archiv-novinek/9540--odtemneni-bylo-definitivne-schvaleno; Reconstruction of the State, *Newsletter: Register of Contracts finally passed*, (23 September 2015), http://www.rekonstrukcestatu.cz/en/news-archive/9504-newsletter-register-of-contracts-finally-passed-congratulations-

[6] United Nations Economic and Social Council, Economic Commission for Europe, Compliance Committee, *Findings and Recommendations with regard to Communication ACCC/C/2010/50 Concerning Compliance by the Czech Republic*, by the United Nations Economic and Social Council, (Report, Geneva, 11-14 December 2012), paragraphs 68-70, 89(a), http://bit.ly/1dEj7Hm

[7] Environmental Law Service, Pavel Černý and Karolina Klanicová, *Clientelism or Rule of Law? Reasons of Insufficient Responsibility of Officials for Illegal Decisions,* (Report, Prague, 2010), [Czech] http://bit.ly/1mbPjTo

[8] Government of the Czech Republic, *Digital Agenda is going to be the pillar of Czech economy*, (26 August 2015), [Czech] http://www.vlada.cz/cz/media-centrum/aktualne/vlada-vyslala-jasny-signal--ze-digitalni-agenda-bude-pilirem-ceske-ekonomiky-133815/

[9] Government of the Czech Republic, *Public Discussion over the Introductory Propositions to the Action Plan*, (January 2012), [Czech] http://bit.ly/17hyzGA

[10] Open Society Fund, Jakub Mráček, *Prioritisation questionnaire results*, (Prague, January 2012) [Czech], http://bit.ly/1jgTHlk, accessed 11 June 2015

[11] IRM stakeholder meeting, Bykovice, 21 June 2015.

[12] Reconstruction of the State, "9 Laws Which We Enforce, 6: Depoliticisation of the Public Administration," http://bit.ly/19eOD9q.

[13] Open Data, *Initiative for Transparent Data Infrastructure*, (OpenData.cz), [English] http://opendata.cz/en, [Czech] http://opendata.cz/; Datablog, *About the Project*, (Datablog.cz), [Czech] http://www.datablog.cz/o-projektu

VII. General recommendations

This section recommends possible steps for the Czech Republic's participation in the OGP project in general.

Crosscutting recommendations

On the basis of the above observations and findings, the IRM researchers suggest that the government adopt the following crosscutting recommendations, which are divided into three categories: basic role of the action plan, new commitments, and process.

Basic role of the action plan

In the previous progress report, the IRM researchers already suggested that it would be helpful to further clarify and openly declare whether the OGP action plan should have a limited and/or complementary role with regard to the goals related to the OGP basic values, or a more ambitious role, functioning as an inspiring platform for new ideas and commitments.

Although the current approach of the relevant authorities (the Section for Coordination of Fighting Corruption within the Office of the Government and the Ministry of Interior) indicates that so far they have chosen the first approach, it still could be further clarified if this will be the long-term strategy for the Czech Republic. If so, the commitments for the next action plans should not be selected only according to their social importance, or the likelihood of fulfilment, but also after analysing what added value the inclusion of a commitment gives to the action plan and open government goals. The officials repeatedly mentioned that the possibility of referencing the OGP initiative streamlined the viability of legislative proposals related to the action plan commitments (i.e., the Act on Civil Service, the amendment of the Free Access to Information Act, and their implementing legislation).[1] This should be taken into account when making a choice between a number of similarly important and valid options.

Proposed list of new topics for the next action plan

All existing commitments related to open data that have not yet been fulfilled should be reintroduced in a future action plan until the goals have been achieved. All commitments that are successfully completed should be replaced with other commitments still needed to increase the transparency of the government in the Czech Republic, with a particular focus on (1) tackling the misuse of public resources, (2) enhancing transparency of planning and financing of public investments, and (3) regulating appointments to the organs of state-owned companies.

The selection of new commitments should result from broad public debate and consultations.

Process

Any future updates of the action plan should be discussed with the broader public in a timely manner. Clear timelines should be set to give the stakeholders sufficient time to prepare and participate in both the deliberations about amendments to the plan and regular evaluations of whether the commitments were met.

The responsible authority (the Office of the Government) could also consider broadening the scope of information about OGP on the specialized website—not only the basic documents, but also more frequent information about how the commitments are fulfilled and if there are possibilities for the public to participate in related procedures.

Top SMART recommendations

Beginning in 2014, all OGP IRM reports should include five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments.

Based on the above, the top five SMART recommendations are as follows:

TOP FIVE 'SMART' RECOMMENDATIONS
1. All future updates of the action plan should be consulted with the public in a timely manner.
2. The action plan should promote (1) the independence of any top authority ensuring implementation of the Act on Civil Service (for example the Section for Civil Service) and (2) apolitical compositions of committees for candidates to to senior civil service positions.
3. The action plan should include a commitment related to finalizing the legal environment for publishing data in open formats.
4. If current commitments are finalized, the next action plan should include a commitment concerning the misuse of public resources and enhancing transparency of planning and financing of public investments.
5. Preparation of a new action plan could serve as a model for the establishment of public participation standards. The action plan should include measures with public-facing elements, such as citizen audits of performance and the inclusion of citizens in oversight mechanisms to guarantee the openness of government in the implementation of the action plan commitments.

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[1] Franitšek Kučera and Dalibor Fadrný (Section for Coordination of Fighting Corruption), interview by the IRM researchers, 27 August 2015; Tomá Jírovec, interview by the IRM researchers, 25 September 2015.

VIII. Methodology and Sources

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

These experts use a common OGP independent report questionnaire and guidelines,[1] based on a combination of interviews with local OGP stakeholders as well as desk-based analysis. This report is shared with a small International Expert Panel (appointed by the OGP Steering Committee) for peer review to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other assessments of progress put out by civil society, the private sector, or international organizations.

Each local researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, makes public the process of stakeholder engagement in research (detailed later in this section.) In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the ability to protect the anonymity of informants. Additionally, because of the necessary limitations of the method, the IRM strongly encourages commentary on public drafts of each national document.

Interviews and focus groups

Each national researcher carries out at least one public information-gathering event. Care should be taken in inviting stakeholders outside of the "usual suspects" list of invitees already participating in existing processes. Supplementary means may be needed to gather the inputs of stakeholders in a more meaningful way (e.g., online surveys, written responses, follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in the self-assessment or accessible online.

Due to the derivative character of its commitments (with the partial exception of the commitment concerning the open data standards), the action plan so far has not been perceived as an attractive platform in which to participate by civil society actors, although they consider the commitments to be very important. In addition, the topics of the action plan have been discussed with a number of relevant stakeholders in the scope of preparing the previous action plans. This has influenced the willingness of organizations working on related issues to participate in the IRM process. At the same time, the IRM researchers considered individual or small group interviews to be a more appropriate means for gathering relevant information. Relevant stakeholders include:

- Representatives of nongovernmental organizations (NGOs) working on the issue of transparency and specifically on the topics related to the Act on Civil Service and the Act on Free Access to information;
- NGO specialists and academics promoting the open data standards;
- Local activists and grassroot NGO representatives in public interest work in their municipalities (the Service for Citizens Programme), supported by the Frank Bold Society (formerly the Environmental Law Service);
- Officials of different administrative authorities responsible for the action plan commitments.

Stakeholder Meeting

Stakeholder Meeting on the Status of the Civil Service and Access to Information (Local NGOs)

21 June 2015

The IRM researcher introduced the OGP initiative and the content of the action plan, about which most of the participants were unaware prior to the IRM stakeholder meeting. Participants presented their practical experience concerning their interactions with civil servants and public authorities in general, and with respect to access to information. Further, they discussed how recent legislative proposals in these areas could change the situation. The participants emphasized the crucial importance of the situation of municipal authorities for whom the current proposals do not apply. Further, they expressed concerns about the possibility of "fixing" current officials in their positions as a result of the proposed legislative changes. The participants also discussed the possibilities of networking amongst their organizations to enhance their influence on the future OGP action plans in the Czech Republic.

List of participants

- Petr Medřický (SOS Souš)
- Pavla Oborníková (Otevřeno o 106)
- Martina Nimrichterová (PRO REGION)
- Michal Voda (Naši politici)
- Laďka Filipová (Stop tunelům)
- Saša Lehmann (Pražské fórum)
- Jan Linhart (Zelená)
- Pavel Hájek (Zaostřeno na 10)
- Libor Jarmič (Frak Bold Society)
- Aneta Valasová (Zdravý Rožnov)
- Ivana Kubíčková (Otevřeno o 106)
- Pavel Černý (IRM researcher)

Working Meeting with Stakeholders specialized in Open Data

18 August 2015

Participants analysed the current situation of the data published by the public administration in the Czech Republic with regard to the open data standards in general and with specific reference to the individual databases subject to the government's commitment in the action plan. It was noted that the action plan failed to develop standards and suitable formats of open data that should be reached. Participants also emphasized the benefits that meeting the open data standards would bring to the private sector and business.

List of participants

- Tomáš Kroupa (Ministry of the Interior)
- Martin Tajtl (Czech Trade Inspection Authority)
- David Hemala (Ministry of Labor and Social Affairs).
- Donika Zůbková, IRM researcher

Interviews with other relevant stakeholders and officials

Interviews were held considering stakeholder's expertise in different topics:

Act on the Civil Servants

- Interview with Eva Kyzourová, Division for Fighting Corruption of the Office of the Government, 11 December 2014
- Interview with Franitšek Kučera and Dalibor Fadrný, Section for Coordination of Fighting Corruption within this Office of the Government, 27 August 2015
- Interview with Josef Postranecky, Deputy Minister for State Service, 11 September 2015
- Interview with Katerina Vojtová, Ministry of Interior, 11 September 2015
- Interview with Edvard Outrata, former senator and head of the Czech Statistical Office, 11 September 2015

Access to Information

- Email communication with Oldrich Kuzilek, Open Society, 2 December 2014
- Interview with Tomáš Jírovec, Ministry of Interior, 25 September 2015

Open Data

- Interview with Michal Kubáň, Otakar Motejl Fund, July 2015
- Written consultation with Dušan Chlapek (Faculty of Informatics and Statistics
- University of Economics, Prague), July 2015
- Written consultation with Jan Cibulka (freelance data journalist), July 2015

C. Survey-based data (optional)

The IRM researchers arranged for an online survey, a link to which was sent to 867 persons out of a list of business partners and clients. They were asked to anonymously respond to ten questions, seven of which concerned open data and three of which concerned the Act on Civil Service. Four hundred forty-five (445) responders participated in the survey.

Survey: (https://docs.google.com/a/frankbold.org/forms/d/1nXdTMsTcD0NE-xJ7tlGlzdFwvKjyzhZ6Ak1_8lmVMtY/viewform)

Outcomes:
(http://frankbold.org/sites/default/files/zpravodaj/ogp_vysledky_ankety.pdf)

About the Independent Reporting Mechanism

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts' Panel is:

- Anuradha Joshi
- Debbie Budlender
- Ernesto Velasco-Sánchez
- Gerardo Munck
- Hazel Feigenblatt
- Hille Hinsberg

- Jonathan Fox
- Liliane Corrêa de Oliveira Klaus
- Rosemary McGee
- Yamini Aiyar

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

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[1] Full research guidance can be found in the IRM Procedures Manual, available at http://www.opengovpartnership.org/about/about-irm.

IX. Eligibility Requirements Annex

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below. [1] When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

Criteria	2011	Current	Change	Explanation
Budget transparency[2]	4	4	No change	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information[3]	4	4	No change	4 = Access to information (ATI) Law 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration[4]	4	4	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	4 (9.41) [5]	4 (9.41) [6]	No change	*EIU Citizen Engagement Index* raw score: 1 > 0 2 > 2.5 3 > 5 4 > 7.5
Total / Possible **(Percent)**	16/16 (100%)	16/16 (100%)	No change	75% of possible points to be eligible

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[1] For more information, see http://www.opengovpartnership.org/how-it-works/eligibility-criteria

[2] For more information, see Table 1 in http://internationalbudget.org/what-we-do/open-budget-survey/. For up-to-date assessments, see http://www.obstracker.org/

[3] The two databases used are Constitutional Provisions at http://www.right2info.org/constitutional-protections and Laws and draft laws http://www.right2info.org/access-to-information-laws

[4] Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," (Tuck School of Business Working Paper 2009-60, 2009): ://bit.ly/19nDEfK; Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (OECD, 2009). ://bit.ly/13vGtqS; Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009). ://bit.ly/1cIokyf; For more recent information, see http://publicofficialsfinancialdisclosure.worldbank.org. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and *de facto* public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at http://bit.ly/1EjLJ4Y

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

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