Independent Reporting Mechanism (IRM): Montenegro Design Report 2018–2020

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Open Government Partnership

Executive Summary: Montenegro

Montenegro's second action plan ended a prolonged period of OGP inactivity in the country. The plan addresses budget transparency, public participation, and electronic services. Most commitments derive from the country's ongoing Public Administration Reform and the EU accession process. Moving forward, Montenegro could use the OGP process to advance long-term strategic goals, and strengthen transparency in public spending, access to information, and public participation tools.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Montenegro joined OGP in 2012. Since, Montenegro has implemented one action plan. This report evaluates the design of Montenegro's second action plan.

General overview of action plan

Montenegro's second action plan includes commitments closely related to their public administration reform and the country's EU integration process. Activities include expanding online public participation tools, improving budget transparency, and a study on whistleblower protection. Other activities involve internal administration reforms such as the national identification document, fee collection, and online tax filling; in this context, many milestones are technical portal improvements or studies for recommendations.

The cocreation process was led by the Operations Team (OT), which serves as Montenegro's multistakeholder forum. Civil society stakeholders had opportunities to participate and submit proposals during the OT meetings and through additional online consultations. However, the short timeframe of the plan's development prohibited greater engagement, an area for improvement in the future.

Notably, Commitment 2 includes the expansion of online public participation and e-petition tools. Commitment 6 involves developing visual presentations of the state and local budgets, and publishing citizen brochures, as well as conducting a comparative study on whistleblower protection.

Table 1. At a glance
Participating since: 2012
Action plan under review: Second
Report type: Design
Number of commitments: 6

Action plan development
Is there a Multistakeholder forum: Yes
Level of public influence: Involve
Acted contrary to OGP process: No

Action plan design
Commitments relevant to OGP values
                                         3 (50%)
Transformative commitments
                                         0 (0%)
Potentially starred:
                                         0 (0 %)

Action plan implementation
Starred commitments: *N/A*
Completed commitments: *N/A*
Commitments with Major DIOG*: *N/A*
Commitments with Outstanding DIOG*: *N/A*

DIOG: Did it Open Government?

Table 2. Noteworthy commitments

Commitment description	Moving forward	Status at the end of implementation cycle
Commitment 2: E-Democracy Improving online tools for public consultations	This commitment improves opportunities for citizens to submit petitions and comment on draft laws. Moving forward, it could be strengthened by increasing the degree to which government officials must incorporate e-petitions and other participatory input into policymaking.	Note: this will be assessed at the end of action plan cycle.
Commitment 6: Improved anticorruption policies Increasing budget transparency and developing whistleblower-protection recommendations	This commitment develops visual presentations of the state and local budgets and publishes citizen brochures. It also proposes a comparative study on whistleblower protection to improve the legal framework. Moving forward, the IRM recommends publishing information on every item of spending, in readable format, and on a regular basis. The IRM also recommends drafting a sperate, standalone whistleblower protection law.	Note: this will be assessed at the end of action plan cycle.

Recommendations

The IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan. Please refer to Section V: General Recommendations for more details on each of the below recommendations.

Table 3. Five KEY IRM Recommendations

Ensure high-level political support for the OGP process and use OGP to advance major strategic goals
Increase transparency in public spending and create opportunities for public oversight and participation
Improve the Law on Free Access to Information and ensure its effective enforcement
Promote institutionalization and use of newly created citizen participation tools
Improve transparency in public procurement and institutionalize open contracting

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 (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

Open
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I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Montenegro joined OGP in 2012. This report covers the development and design of Montenegro's second action plan for 2018–2020.

The Independent Reporting Mechanism of OGP has carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology please visit https://www.opengovpartnership.org/about/independent-reporting-mechanism.

II. Open Government Context in Montenegro

Montenegro presented its second action plan following six years of inactivity in OGP. Despite progress in the EU integration process, the country still faces challenges in enforcing laws on government transparency and accountability. The plan addresses budget transparency, public participation, and electronic services. Commitments include activities that are also part of Montenegro's ongoing Public Administration Reform.

Background

The OGP Steering Committee designated Montenegro as "inactive" in June 2017 following three consecutive action plan cycles where the government did not deliver an OGP action plan.[1] The country regained "active" status in November 2018, with the adoption of the second, current action plan.[2]

In 2017, Montenegro joined the North Atlantic Treaty Organization (NATO) and continued to make progress in its efforts to join the European Union (EU). The country is actively harmonizing its legislation in 35 policy areas with the EU *acquis communautaire* (EU Law). Despite progress in improving its institutional capacity to meet EU standards, Montenegro continues to face significant challenges, including the revision of its electoral framework, ensuring the sustainability of public finances, and fighting corruption.[3]

Freedom House's 2019 *Freedom of the World Report* assesses Montenegro as "partially free" with 65/100 points, while the 2018 Nations in Transit report classifies it as a "semi-consolidated democracy."[4] The same political party has been in power since 1991 (the Democratic Party of Socialists (DPS)), and according to Freedom House, there are concerns about the politicization of institutions due to lack of merit-based recruitment and promotion based on political affiliation to the leading party.

The latest report from the European Commission (EC) in May 2019, emphasizes a need to strengthen transparency, stakeholder participation, and the government's capacity to implement reforms in Montenegro. The EC report also noted that "the genuine inclusion of civil society organizations in the policy-making process remains to be ensured in practice."[5]

Access to information

Access to government-held information in Montenegro is guaranteed by its constitution and regulated by the Law on Free Access to Information, which entered into force in February 2013. Although this new law replaced the first law that was adopted in 2005, several amendments followed in 2017, introducing restrictions which were subsequently criticized by key CSOs.[6]

The amendments do not require state authorities to apply a harm test before declaring data confidential. Following a proposal by local civil society organization (CSO) MANS, leaders of five opposition parties in Parliament filed a petition to assess the constitutionality of this provision. The petition argues that cancelling the obligation of the harm test gives the government too much discretion in declaring documents confidential, which is not in line with the Montenegrin Constitution. The Constitutional Court has not yet decided on this petition.[7]

Moreover, the 2017 amendments also allow authorities to restrict access to information if it constitutes a trade or tax secret. If interpreted broadly, this amendment could limit access to data related to national and local budgets as well as the work of finance institutions, e.g., data on specific public procurement contracts.[8]

In the field of open data, Montenegro ranks among the three last countries in Europe and 83rd among 115 countries overall, according to the Open Data Barometer.[9] Civil society has advocated the transposition of EU directives on the reuse of data to national legislation.[10]

The current action plan includes a commitment to improve access to information and open data in Montenegro. It aims to review and amend the Free Access to Information Law provisions and to report on the implementation of the Law on Classified Data.

Civic participation

While Montenegro has regulations on civic participation, their practical implementation has been uneven. In July 2018, the country extended the scope of public consultations beyond draft laws to cover national strategies. The government also created an online participation platform to facilitate public consultation.[11] Despite these regulations, many national strategies concerning citizens' rights were adopted without public consultation, for example the government's Annual Working Plan and Three Year Plan.

Moreover, only two ministries out of 17 have published a list of laws and strategies for public discussion.[12] According to Institut Alternativa, only 4.6% of CSOs consider that their contributions are accepted by ministries, while 67.5% of CSOs state that they rarely or never receive feedback on their input submitted through public consultations.[13] Considering the country is reforming its laws based on EU integration, this lack of information on the government's agenda often precludes meaningful contributions.

Commitment 2 in the current plan introduces public consultation mechanisms and online petition platforms at the local level and introduces citizen satisfaction surveys to improve public service delivery.

Freedom of expression, association and assembly
While citizens in Montenegro generally enjoy freedom of expression, association, and freedom of assembly, there have been setbacks concerning civil liberties in recent years, including attacks against journalists who reported on corruption and organized crime. From 2004 to 2018, the police recorded 85 attacks against journalists or their property, including six verbal threats, several attempted murders, and the murder of one journalist.[14] In 2019, the EC noted only "very limited" investigations into cases of violence against journalists.[15] A variety of independent media operate in Montenegro, but self-censorship exists due to the potential for costly defamation lawsuits.[16] According to the 2019 Freedom House report, authorities have attempted to limit public protests organized by opposition parties.[17]

Citizens are free to form political parties which, currently, operate without political interference in the country. However, the ruling DPS enjoys significant structural advantages. While numerous political parties compete in elections, the opposition is "fragmented" and "weak" and frequently boycotts the political process. Observers have noted that the line between the governing party and institutional structures has blurred, further disadvantaging the opposition.[18]

In general, CSOs play an important role in Montenegro's public space. Their contributions toward improving transparency of state institutions, the fight against corruption, and bolstering the integrity of the electoral process remain of great importance.[19] Their investigative work in recent years has shed light on corruption and played an essential role in holding the government accountable in the absence of active political opposition.[20] Although most CSOs operate without interference, organizations that investigate corruption or criticize the government often face pressure or are subject to hostile statements by high-ranking government officials.

In December 2018, the government drafted a "Strategy for enhancing conducive environment for activities of the non-governmental organizations, 2018-2020"[21] to improve the legal and institutional framework for CSOs as well as strengthen cooperation between the public administration and CSOs in policy implementation. Despite these efforts, several CSOs argue that the government's draft "does not provide clear strategic guidelines for the role of the government in this area, while being ambiguous with regard to a clear strategy or mechanisms for the sustainable development of the civil sector."[22]

Transparency and accountability
Corruption is prevalent in many areas and remains an issue of ongoing concern. EC reports cite the need for improvements in financial investigations, and effective response to high-level corruption. Corruption remains prevalent in public procurement and construction contracts, as well as in the agriculture and the ICT sectors.[23] According to the 2018 SIGMA monitoring report, Montenegro's Public Procurement Law is only partially aligned with the EU framework and e-procurement is still at an early stage of implementation.[24]

Montenegro has a high-quality, standard asset declaration law that requires data from the Register of Income and Assets to be published on the website of the Agency for Prevention of Corruption;

however, according to TransparenCEE, the site is often down.[25] Through advocacy and technical assistance from the Center for Democratic Transition and TransparenCEE, and the support of the Ukrainian NGO Texty.org.ua, there have been improvements to the quality of asset declarations now available to Montenegrin citizens.[26]

There have been some attempts to reform electoral legislation following recommendations from election observation missions by the OSCE's Office for Democratic Institutions and Human Rights.[27] However, the cross-party parliamentary body in charge lacks quorum due to opposition boycott.[28] Moreover, according to the EC report, performance of the Agency for Prevention of Corruption and the State Audit Institution, in charge of monitoring political party financing, remains limited. However, in early 2019, allegations of corruption and illegal political party financing did lead to peaceful protests.

The 2014 Law on Prevention of Corruption includes provisions to protect whistleblowers in the public and private sectors.[29] However, the European Commission has noted that the protection of whistleblowers remain limited, with a continued decrease in requests for protection of individuals reporting threats to the public interest.[30] Commitment 6 in the current action plan proposes a comparative study on whistleblower protection and provide recommendations for further improvement of the legal framework.

Budget transparency
The government provides some budget transparency by publishing the budget proposal, the final budget, and their execution reports.[31] However, line ministries do not proactively offer budget information and there is no citizen's budget available at the state level.

It is worth mentioning two projects set up by Institut Alternativa with the support of the Think Tank Fund and Information Programme: "My City platform"[32] and "My Money Platform."[33] The first explains complicated budget terms and data for Montenegrin citizens, and fosters public involvement in different municipalities. This project publishes online audits and data of municipality accounts, including their debt, allowing comparison across budget years. The "My Money" platform was launched in 2017 and offers visualizations of the state budget in Montenegro.[34] The portal contains a budget dictionary and all annual budgets since 2011. Budget data can be searched by different categories and allows citizens to check implementation of the Public Finance Management Reform Program.

Public administration reform
Montenegro is currently undergoing a major public administration reform. The 2016–2020 reform strategy aims to improve the efficiency and effectiveness of administrative services, increase the number of e-services, and increase citizen satisfaction with service quality.[35] A public financial management reform program also accompanies this strategy.

According to the 2019 SIGMA monitoring report, Montenegro improved the policy framework for delivering citizen services and improved interoperability among selected state registers.[36] However, the Law on Administrative Procedures (LAP) is not yet implemented consistently, and there continues to be insufficient data on public procurement. Moreover, the reforms face delays and remain dependent on external donor funding.[37]

Some commitments in this action plan are part of the public administration reform and the LAP.[38] Examples include Commitment 1, which aims to introduce a National Identification Document, and Commitment 2, which aims to standardize local government data portals and collect user satisfaction surveys to improve service delivery.

1 Open Government Partnership, "Resolution of the OGP Steering Committee regarding the status of the Government of Montenegro's participation in OGP," (28 Jun. 2017), https://bit.ly/394AFxx.
2 Sanjay Pradhan (Chief Executive Officer of OGP), letter to the Honourable Suzana Pribilovic (Minister of Public Administration, Montenegro), 7 Dec. 2018; Robin Hodess (OGP Dir. of Governance & Transparency) and Stefano Pizzicannella (OGP Depart. for Public Administration), letter to the Honourable Suzana Pribilovic, 28 Jun. 2018, https://bit.ly/391suSU.
3 European Commission, "Commission Staff Working Document, Montenegro 2019 Report" (29 May 2019), https://bit.ly/2s0h3KB.

[4] Freedom House, *Freedom in the World 2019* (2019),
https://freedomhouse.org/country/montenegro/freedom-world/2019; and Freedom House, *Nations in Transit: Confronting the False Promise of Populism* (2017), https://freedomhouse.org/report/nations-transit/2017/false-promise-populism.
[5] European Commission, "Commission Staff Working Document, Montenegro 2019 Report," 4.
[6] Access Info, "Right of access to information at risk in Montenegro" (31 Oct. 2019), https://www.access-info.org/blog/2019/10/31/right-of-access-to-information-at-risk-in-montenegro/; *see also* Transparency International Secretariat, "Proposed Law in Montenegro Is an Unconstitutional Attack on Freedom of Information" (18 Mar. 2019), https://bit.ly/2Mjseol.
[7] Access Info, "Right of access to information at risk in Montenegro."
[8] *See* Institut Alternativa, "Toward a better administration in Montenegro: Good progress or modest preparation?" (May 2018), http://media.institut-alternativa.org/2018/06/par_monitoring_izvjestaj_eng.pdf.
[9] Open Data Barometer, "Country Detail: Montenegro" (2016), https://opendatabarometer.org/4thedition/detail-country/?_year=2016&indicator=ODB&detail=MNE.
[10] Institut Alternativa, "Montenegro at the bottom of open data ranking" (13 Jun. 2017), https://institut-alternativa.org/en/montenegro-at-the-bottom-of-open-data-ranking/.
[11] European Commission, "Commission Staff Working Document, Montenegro 2019 Report," 9−10.
[12] *Id.*
[13] Ana Đurnić and Marko Sošić, "National PAR Monitor Montenegro 2017/2018" (Institut Alternativa, Dec. 2018), http://media.institut-alternativa.org/2019/06/weber_par_monitor_eng.pdf, 27−28.
[14] Daily Newspaper, "Danas se obilježava Međunarodni dan okončanje nekažnjivosti zločina nad medijskih" (2 Nov. 2018) https://www.dan.co.me/?nivo=3&rubrika=Drustvo&clanak=669621&datum=2018-11-02.
[15] European Commission, "Commission Staff Working Document, Montenegro 2019 Report," 4.
[16] Freedom House, *Nations in Transit.*
[17] Freedom House, *Freedom in the World 2019.*
[18] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[19] *Id.*
[20] *Id.*
[21] Ministry of Public Administration (Montenegro), *Strategy for Enhancing Conducive Environment for Activities of the Non-Governmental Organizations 2018 – 2020* (Dec. 2018), http://bit.ly/37GynDV.
[22] Freedom House, Nations in Transit 2018 - Montenegro (11 Apr. 2018), https://www.refworld.org/docid/5b3cc278a.html#_ftn27.
[23] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[24] OECD, *Monitoring Report: The Principles of Public Administration* (May 2019), http://www.sigmaweb.org/publications/Monitoring-Report-2019-Montenegro.pdf.
[25] Transparencee, "Asset Declarations of Montenegrin politicians" (2016), https://transparencee.org/scaled-tool/asset-declarations-montenegrin-politicians/.
[26] *Id.*
[27] OECD, *Monitoring Report: The Principles of Public Administration.*
[28] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[29] Mark Worth, *Whistleblower Protection in Southeast Europe* (Regional Anti-corruption Initiative, 2015), https://rm.coe.int/16806fffb0.
[30] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[31] *Id.*
[32] Available at http://mojgrad.me/.
[33] Available at http://mojnovac.me/web/budzet-institucija.
[34] Insitutut Alternativa, Conference: "Where Does Our Money Go? – Transparency and Accountability of the National Budget" (28 Mar. 2017), https://institut-alternativa.org/en/conference-where-does-our-money-go-transparency-and-accountability-of-the-national-budget/.
[35] OECD, *Monitoring Report: The Principles of Public Administration.*
[36] Results compared to 2017. European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[37] OECD, *Monitoring Report: The Principles of Public Administration.*
[38] Government of Montenegro, *Montenegro: Law No. 056/14, Law on Administrative Procedure* (National Legislative Bodies / National Authorities, 24 Dec. 2014), http://bit.ly/2OrYVkC.

III. Leadership and Multistakeholder Process

Development of Montenegro's second action plan was led by the Operations Team (OT), the country's OGP multistakeholder forum. Although civil society participated in public consultation during the OT meeting and could submit proposals, the process took place in a limited timeframe and lacked wider public visibility. The action plan mostly reflects priorities of the Ministry of Public Administration, which leads four out of six commitments.

3.1 Leadership

This subsection describes the leadership and institutional context for OGP in Montenegro.

Formally, OGP in Montenegro is led by the Operational Team (OT), which also serves as the national OGP multistakeholder forum. All OT members have the same rights and duties, which are regulated by the June 2018 Decision of the Government of Montenegro, a legally binding document issued by the Ministry of Public Administration (MPA) and approved by the government.[1] This Decision established the OT and determined its mandate to coordinate the OGP process. Previously, the OT was placed in the Cabinet of the Prime Minister as the informal coordinating body for OGP. The head of the government, the prime minister, was not involved in official OGP activities.

On 14 June 2018, the government decided that the MPA would prepare Montenegro's second OGP action plan by the end of 2018.[2] This MPA is the only institution that has two members in the OT (the Minister of Public Administration as a Chair and State Secretary of the MPA as a Deputy), which informally makes it the leading governing body for OGP in Montenegro. The State Secretary of the MPA is the point of contact for OGP. No other document regulates the ministry's coordination of OGP, and it does not have any formal tasks that differentiate it from other members. Additional staff were not allocated beyond a secretary. Following the government's Decision, the MPA provides administrative and technical support, and operating funds to the OT.

The MPA has limited authority over the other two ministries present in the OT, as each ministry has a final say over the inclusion and implementation of commitments related to their jurisdiction. Moreover, the MPA is relatively new. It was established after the October 2016 parliamentary elections to enhance the overall functioning of public administration in Montenegro. Nonetheless, the MPA's leading role strongly affected the content of the second action plan and it oversees four out of the six commitments. As a result, the action plan is heavily oriented toward digitalization and other technical improvements that are the focus of the MPA's ongoing public administration reform efforts.

Each commitment in the action plan has a budget projection. The total implementation cost is 827,150 EURO, to come from the national budget and the IPA (EU pre-accession assistance funds).[3] Although the 2018 Decision stated that the budget would be allocated under the budget of the Ministry of Public Administration, the 2019 budget does not have a budgetary line specific to OGP.

The OT did not include the other two branches of the government (judiciary and legislature) nor independent institutions (such as the Anticorruption Agency or the Access to Information Agency).

3.2 Multistakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Montenegro **did not** act contrary to OGP process.[4]

Please see Annex I for an overview of Montenegro's performance implementing the Co-Creation and Participation Standards throughout the action plan development.

Table 3.2: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) "Spectrum of Participation" to apply to OGP.[5] This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for "collaborate."

Level of public influence		During development of action plan
Empower	The government handed decision-making power to members of the public.	
Collaborate	There was iterative dialogue AND the public helped set the agenda.	
Involve	The government gave feedback on how public inputs were considered.	✔
Consult	The public could give inputs.	
Inform	The government provided the public with information on the action plan.	
No Consultation	No consultation	

Multistakeholder forum

As outlined above, the Montenegro's multistakeholder forum is called the Operational Team (OT). The OT organizes the cocreation process, drafts the action plan, and submits it to the government for adoption. The OT reports to the government at least once a year on implementation of the action plan. The OT has 13 members: seven governmental, five nongovernmental, and one from the Chamber of Commerce. There are six women and seven men in the OT and each have a four-year mandate. Both the Chair of the OT and Deputy are government members from the same ministry, so civil society are not involved in the leadership structure. The Decision of the Government of Montenegro[6] stated that the OT would have five representatives from civil society organizations (CSOs) whose areas of activity would be: 1) improving public services; 2) increasing public integrity; 3) efficient management of public resources; 4) establishing safer communities; and 5) increasing corporate accountability. These areas are former OGP grand challenges from 2011, but they limited other interested parties to participate actively in the process, particularly CSOs working on sectoral policies.[7]

After the Decision was adopted, the Ministry of Public Administration (MPA) published a competitive open call for NGOs to fulfill OT positions. Most prominent Montenegrin CSOs boycotted the process and did not apply. Institut Alternativa and MANS had participated in the previous OT during the six years of Montenegro's inactivity in OGP. During that period, they continuously stated publicly that Montenegro was not fulfilling its OGP obligations, and that the OT participation was time and resource-intensive. However, they received no response from the government.

According to a CSO representative in the current OT, the CSO representation from the previous OT provided more visibility to OGP in the country and it would be better if more long-standing NGOs had contributed to developing the second action plan.[8] The State Secretary of the MPA said that he expected members of the former OT to apply, but they did not.[9] Two ministries (other than the MPA) were selected based on previous experience in the OGP process in Montenegro. [10] A team of eight government members was considered the most optimal size for the new OT.[11] The Chamber of Commerce was included upon direct invitation by the government, without an open call. Although independent, the function of the Chamber of Commerce is regulated by law and works closely with the government.

The OT does not have formal rules of procedure, although the Decision includes guidelines. All members of the OT have equal rights to propose commitments and their proposals are available on

Montenegro's OGP website.[12] While representatives of other public authorities can be invited to attend meetings, only formal members can vote or make decisions.

Participation and engagement throughout action plan development
The OT held three meetings to prepare the second action plan.[13]

- The OT held its first meeting on 14 July 2018, with the conclusion that all members would submit their proposals for the action plan in August 2018.

- The second meeting was in September 2018, when the OT reviewed submitted proposals of OT members without voting. The draft was then published for comment with an open call for public discussion. There were no public consultations before the start of drafting.

- The third meeting was held in October 2018, when the OT reviewed the public feedback. The government adopted the action plan in November 2018.

All three meetings were held in the capital Podgorica. Meetings and agendas were not announced in advance, and minutes of the sessions were not proactively published on the OT website. An NGO member of the OT, the Center for Democratic Transition, submitted five proposals at the second meeting but only part of one proposal was included in the draft.[14] The representative noted that the OT was mainly interested in including activities that focused on public service delivery.[15]

Public consultation on the draft started in September 2018 and lasted 20 days, which is the minimum period time according to the Montenegrin Regulation on Public Debates. Some OT members thought this timeframe was too brief.[16] The public could send comments and proposals by either email or questionnaire on the government's e-portal.

In total, five entities participated in the public consultation. Two NGOs submitted proposals via email: Institut Alternativa (15 proposals) and the Center for Democratic Transition (five proposals). Almost all recommendations were rejected, and both NGOs expressed dissatisfaction with the review process and the quality of the government's argumentation.[17] Although Montenegro is a small country with only 620 000 citizens, participation by only two NGOs shows that the process is not recognized as a potential opportunity to advance open government priorities in the country.[18] Three citizens submitted proposals via the questionnaire; two were former employees of prominent NGOs and one was a current government employee.

Members of the government expressed dissatisfaction with the lack of public participation. The State Secretary of the MPA stated that he expected more NGOs to take part in the public consultation, particularly NGOs with significant experience in open government.

The MPA organized one consultative meeting in the capital Podgorica on 15 October 2018, in cooperation with UNDP. This was the only in-person public consultation event and it focused only on the two commitments proposed by the MPA (Commitment 1 on the National Identification Document and Commitment 2 on e-democracy). In addition to the OT, four members of the private sector attended as well as three NGOs. However, only a general overview of the meeting was paraphrased in the official Report on Public Debate.[19] Participants' comments and suggestions were not incorporated into the final action plan.

Institut Alternativa officially asked to monitor the third and final session of the OT held on 17 October, which was allowed by the MPA. During that meeting, proposals from citizens and NGOs were reviewed by the OT. Out of 23 submitted proposals, only two were partially incorporated into the action plan: the monitoring of the implementation of Guidelines for Electronically Readable Documents in Commitment 3 and the preparation of the citizens' budget in Commitment 6.[20] The NGO Institute of Certified Accountants was chosen to be responsible for implementing a Commitment 6 milestone which calls for a comparative study on whistleblower protection (6.3). According to the Institute of Certified Accountants, the organization submitted proposals related to public procurement, but they were rejected without proper justification.[21] Government feedback is obligatory, per the Regulation on Public Debates, and it was provided in the official report on public debate, which was proactively published.[22]

The government adopted the final action plan on 15 November 2018. According to one civil society member of the OT, the commitments in the final action plan will likely not significantly improve the

public administration's functioning.[23] Another civil society member of the OT explained that the commitments were adopted based on their practicality for implementation as opposed to level of ambition.[24] While areas like community safety and corporative accountability were discussed by the OT, they were are not included in the final action plan, and none of the adopted commitments deal with these issues.

Cocreation and participation recommendations throughout development
Montenegro showed evidence of achievement in clear procedures and feedback. For example:

- The procedure for selecting NGO representatives was clear and implemented properly, since there were few interested NGOs.
- In accordance with regulations, the Ministry provided written feedback for each proposal. However, most of the proposals were still rejected, which discourages the public from participating and recognizing the process as a possibility to make a significant change.

To improve the cocreation process of the next action plan, the IRM suggests the following:

- The OT and the Ministry of Public Administration could allow more time for stakeholders to submit proposals and more time for dialogue about the action plan.
- The OT could organize consultations with civil society, media, and other branches of the government to promote OGP in order to regain trust, create a constructive environment, and have spillover reform effects on other institutions.
- The government could invite more NGOs to participate in the cocreation process, particularly those that work in sectoral policies. Currently, the multistakeholder forum (OT) does not include an even balance of governmental and nongovernmental representatives, which should be changed.
- Announcements of sessions, and session minutes, should be published proactively, to enable parties to monitor the work of the OT.
- The OT could adopt procedural rules, especially regarding data collection, for monitoring implementation of action plan.
- The OT could hold meetings outside the capital city to spread the values of accountability and transparency, to bring OGP closer to all citizens, and to help gather commitment proposals from the subnational level.
- The OT could use remote communication methods, such as conference calls, in its meetings and public events. If technology and logistics allow, the OT may want to live-stream its events and make video recordings available on Montenegro's OGP webpage as well as use social networks.

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[1] Government of Montenegro, "Decision on establishing OGP Operational Team" (21 Jun. 2018), https://www.otvorenauprava.me/wp-content/uploads/2018/10/Odluka_o_obrazovanju_i_sastavu_Operativnog_tima_Partnerstva_za_otvorenu_upravu.pdf.
[2] Government of Montenegro, "Governments' Information on further activities of Montenegro in OGP with proposal of activities that should be taken by 2019" (21 Jun. 2018), https://www.otvorenauprava.me/wp-content/uploads/2018/10/Informacija-o-OGPu-21.6.2018.-na-vladi.pdf.
[3] National Action Plan for Implementing the Open Government Partnership in Montenegro 2018-2020, 38. https://www.opengovpartnership.org/wp-content/uploads/2018/11/Montenegro_Action-Plan_2018-2020_EN.pdf.
[4] Acting Contrary to Process - Country did not meet (1) "involve" during the development or "inform" during implementation of the NAP (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.
[5] "IAP2's Public Participation Spectrum" (IAP2, 2014), http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf.
[6] Government of Montenegro, "Decision on establishing OGP Operational Team."
[7] Representative of NGO Institut Alternativa, interview by IRM researcher, 11 Sept. 2019.
[8] Representative of NGO member of the OT, interview by IRM researcher, 12 Sept. 2019.
[9] State Secretary of Ministry of Public Administration (OGP Contact Point and Deputy Chair), interview by IRM researcher, 10 Sept. 2019.
[10] Id.
[11] State Secretary of Ministry of Public Administration (OGP Contact Point and Deputy Chair), interview.
[12] Available at https://www.otvorenauprava.me/wp-content/uploads/2018/10/Predlozi-OT.pdf.
[13] Further information is available on the OGP portal at https://www.otvorenauprava.me/en/consultations/.
[14] Representative of NGO Center for Democratic Transition, interview by IRM researcher, 12 Sept. 2019.

[15] *Id.*

[16] Representatives of the state institution and two NGOs, interview by IRM researcher, 10−14 Sept. 2019

[17] Representative of NGO Center for Democratic Transition, interview by IRM researcher, 12 Sept. 2019, and representative of NGO Institut Alternativa, interview by IRM researcher, 11 Sept. 2019.

[18] Representative of NGO Institut Alternativa, interview by IRM researcher, 11 Sept. 2019.

[19] Ministry of Public Administration (Montenegro), "Izvještaj o Sprovedenoj Javnoj Raspravi" (Official Report on Public Debate) (19 Oct. 2019), https://www.otvorenauprava.me/wp-content/uploads/2018/10/Izvje%C5%A1taj-o-javnoj-raspravi-o-Nacrtu-Nacionalnog-akcionog-plana-za-OGP.pdf.

[20] The complete review by Institut Alternativa is available here at https://docdro.id/diSB0L1.

[21] Representative of the Operational Team member, NGO Institute of Certified Accountants, interview by IRM researcher, 12 Sept. 2019.

[22] See https://www.otvorenauprava.me/wp-content/uploads/2018/10/Izvje%C5%A1taj-o-javnoj-raspravi-o-Nacrtu-Nacionalnog-akcionog-plana-za-OGP.pdf.

[23] Representative of NGO Member of the OT, interview by IRM researcher, 12 Sept. 2019.

[24] Representative of the OT member, NGO Institute of Certified Accountants, interview.

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.[1] The indicators and method used in the IRM research can be found in the IRM Procedures Manual.[2] A summary of key indicators the IRM assesses is below:

- **Verifiability:**
  - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
  - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
  - Access to Information: Will the government disclose more information or improve the quality of the information disclosed to the public?
  - Civic Participation: Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
  - Public Accountability: Will the government create or improve public facing opportunities to hold officials answerable for their actions?
  - Technology & Innovation for Transparency and Accountability: Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report.*
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report.*

What makes a potentially starred commitment?
A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:
1. **Problem:** Describe the economic, social, political, or environmental problem rather than describing an administrative issue or tool (e.g., "misallocation of welfare funds" is more helpful than "lacking a website.").
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26% of judicial corruption complaints are not processed currently")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "doubling response rates to information requests" is a stronger goal than "publishing a protocol for response")?

Starred commitments

One measure, the "starred commitment" (✪), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment's design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.

General Overview of the Commitments

Montenegro's action plan has six commitments, most of which are either fully or partially taken from existing strategic documents and action plans. The commitments focus on public services, e-democracy, proactive publication of information, collection of fees, budget visualizations, and whistleblower protection. Some of the commitments have milestones that are not fully interconnected or do not cumulatively lead to the fulfillment of the commitment.

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[1] "Open Government Partnership: Articles of Governance" (OGP, Jun. 2012 (Updated Mar. 2014 and Apr. 2015)), https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf.
[2] "IRM Procedures Manual" (OGP), https://www.opengovpartnership.org/documents/irm-procedures-manual.
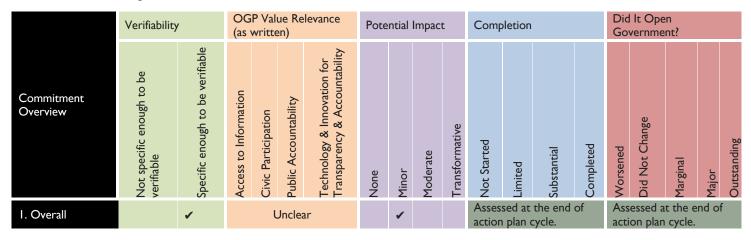
1. National Identification Document (NID)

Language of the commitment as it appears in the action plan:
"The main assumption for the NID introduction is the adoption of the National Identity Scheme, and putting in place the legal framework to govern *citizen identification number*, that may be used in future as an identifier and which must assure personal data protection while ensuring transparency in sharing information of public relevance."

Milestones:
1.1. Purchase of the system for introducing the NID
1.2. National Identity Scheme s conceptual architecture and design relying on unique NID
1.3. Holding expert panels for counseling authorities and citizens on benefits from data integration and sharing, and on the ways how authorities use collected data and protect personal data
1.4. Development and issuance of multifunctional e-ID to citizens

Start Date: November 2018

End Date: August 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
1. Overall		✔	Unclear					✔			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment aims to introduce a National Identification Document (NID) and adopt a corresponding National Identity Scheme. The purpose of the new NID is to increase efficiency and safety in using e-services by providing citizens with unique identification codes for online identification. In addition to the introduction of the NID, the commitment also calls for the government to hold three expert panels to discuss best practices on using citizens' data while protecting personal data. The commitment's activities are verifiable and measurable, such as the expert panels under Milestone 1.3.

This commitment is not directly relevant to OGP values, despite the commitment costing almost two-thirds of Montenegro's overall OGP budget. Although Ministry of Public Administration (MPA) representatives noted the importance of decreasing falsification and misuse of identities in public services,[1] the implementation of new NIDs would not directly lead to the government disclosing more information to the public. Moreover, the commitment does not increase opportunities for the public to inform or influence decisions and policies, and it does not directly address the accountability of public officials.

According to a representative from the State Secretary of the MPA, the introduction of the NID could significantly improve public service delivery in Montenegro by facilitating access to e-services and connecting the services provided by various state and local authorities.[2] Furthermore, most public services in Montenegro are currently facilitated offline because of poor connectivity and inaccuracy of state and local databases. Therefore, the commitment is an important but preliminary step. However, while a new NID might modernize public administration services, it will not change any rights or obligations of citizens, nor will it automatically introduce any further services.

Next steps

The IRM does not recommend carrying it forward to the next action plan unless additional elements of transparency, participation, or public accountability are added. However, this commitment could be continued as part of Montenegro's Public Administration Reform Strategy.

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[1] Representatives of Ministry of Public Administration, interview by IRM researcher, 13 Jun. 2019.
[2] State Secretary of Ministry of Public Administration (OGP Contact Point and Deputy Chair), interview by IRM researcher, 10 Sept. 2019.

2. E-Democracy

Language of the commitment as it appears in the action plan:

"The above commitment requires opening new online tools for public consultations in policy-making process a user- friendly and quick means of interactions between the public administration and business association, CSOs, the academia and the general public. It is expected that e-Participation and e-Petitions tools will be used more by individuals and institutions in developing and revising policies, and for filing petitions at the local and central levels.

Standardization of web-based portals facilitates communication processes, creates a relevant online information and service tools at the local level aimed at achieving greater consistency.

Measuring customer satisfaction with public services implies assessing expectations, service quality and effects of service delivery in different areas of customer experience to give timely feedback to public institutions by examining citizen attitudes in service efficiency, staff approachability, usefulness of the information obtained, etc.

Does "Your Employer Pay Contributions?" online service and mobile app will ensure timely information and response by workers to protect their labor rights through inspection of data on payments of mandatory contributions, registration/deregistration dates, updating of other data and preliminary checks of M4 forms without any need physically visit the relevant service provider."

Milestones:

2.1. e-Participation (online public consultations on Governments portal).
2.2. e-Petitions.
2.3. Standardization of local self-governments web portals.
2.4. Customer satisfaction surveys at the point of service, and result analysis using appropriate tools.
2.5. Ensure citizen participation in detection and addressing infrastructure issues at the local and central levels.
2.6. Set up the "Does Your Employer Pay Contributions?" application and the online tool for checking M4 forms.

Start Date: November 2018

End Date: August 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
2. Overall		✔		✔		✔			✔		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

The commitment enhances public participation in different cycles of policy-making in Montenegro. Firstly, it introduces public consultation mechanisms and online petitions at the local level. Secondly, it standardizes local government data portals and government data on tax spending to comply with international standards. Finally, it includes customer satisfaction surveys to inform public service delivery and detect infrastructure issues through an online public participation tool.

Montenegro adopted a decree on public consultations in July 2018 and created an online participation platform to facilitate public consultations.[1] However, citizens still face difficulties in accessing data on local government services and tax spending. Moreover, according to a 2019

SIGMA monitoring report on public services in Montenegro, there is currently no consistent practice for collecting data on user satisfaction to improve service delivery.[2] Furthermore, the 2019 Balkan Barometer indicates that Montenegrins are less satisfied with public service accessibility via digital channels than with public services in general.[3]

The commitment proposes several activities to address these issues. It commits to publish at least 60 calls for public consultations and receive at least 100 public comments in 2019. It also calls for extending the government's e-petition portal (Citizen's Voice e-Petition) to include local self-governments units. Lastly, the government plans to conduct citizen satisfaction surveys to identify recommendations in four institutions and introduce a new online tool for reporting infrastructure issues at the local and central levels.

Indicators are clear and use specific targets to measure the effects of the new tools. The commitment is relevant to the OGP value of civic participation, as it creates new possibilities for the public to engage in policymaking by extending the e-petitions portal to include local self-government units.

Overall, this commitment has a moderate potential impact on public participation in Montenegro. Importantly, this commitment prioritizes local government, which according to a study of Civic Alliance, has proven to be the "natural start" for citizen participation processes in Montenegro.[4] This commitment could improve opportunities for citizens to submit petitions and comment on draft laws. The government's Citizen's Voice e-Petition[5] portal was created in 2012 with the support of UNDP, but has seen limited use.[6] The proposed reduction of the minimum number of votes a petition must receive in order to require the government to respond (from 6,000 to 3,000) could reinvigorate use of the portal.[7] Furthermore, the extension of the portal to include local self-government units could improve opportunities for participation at the local level.

However, many of the initiatives proposed in the commitment (such as the standardization of data and the use of services to improve service delivery) are already part of public administration reforms and the Law of Administrative Procedures.[8] Additionally, the government's reluctance to address authentic public initiatives in the past causes doubts about the government's intention to address public initiatives going forward.[9] A representative of the Center of Democratic Transition supported this statement and provided an example of a previous petition from civil society that proposed the government remove the secrecy classification from the Housing Commission Act, which was dismissed.[10] Furthermore, according to a representative of the Institute of Certified Accountants (ISRCG), currently only citizens with electronic certificates can access the information under Milestone 2.6, and in next three years, a new IT system will provide this information. Parallel with this new IT system, the planned introduction of a new ID system will include electronic certificates. At the moment, without these two components, the Tax Administration will not allow access to such information due to the EU's General Data Protection Regulation (GDPR).[11]

Next steps
Given the potential impact of this commitment to improving citizen participation, the IRM recommends carrying it forward to the next action plan. However, it is important that the government responds to all e-petitions that meet the minimum threshold of votes. Moreover, the government could conduct citizen dialogue or communication campaigns to promote trust, as some reports and NGO representatives have identified a lack of confidence in models of public participation.[12] Lastly, the IRM recommends rolling out legally required consultations on all draft laws and cover bylaws.

[1] European Commission, "Commission Staff Working Document, Montenegro 2019 Report" (29 May 2019), https://bit.ly/2s0h3KB, 9–10.
[2] OECD, *Monitoring Report: The Principles of Public Administration* (May 2019), http://www.sigmaweb.org/publications/Monitoring-Report-2019-Montenegro.pdf.
[3] Regional Cooperation Council, *Balkan Barometer 201 – Infographics* (2019), https://www.rcc.int/pubs/87/balkan-barometer-2019--infographics.
[4] Edin Koljenović, *Analysis: Implementation of online tools for e-Participation in Montenegro* (Boris Raonić, Apr. 2015), http://www.gamn.org/images/docs/en/Analysis-Implementation-of-online-tools-for-e-Participation-in-Montenegro.pdf.
[5] PR Service, "'Citizen's Voice e-Petition' platform is active again" (2 Apr. 2019), http://www.mju.gov.me/en/search/197879/Citizen-s-Voice-e-Petition-portal-is-active-again.html.

[6] UNDP Montenegro, "Democratic society & accountable institutions" (accessed 4 Feb. 2020), https://www.me.undp.org/content/montenegro/en/home/ourwork/democraticgovernance/in_depth.html.

[7] PR Service, "'Citizen's Voice e-Petition' platform is active again."

[8] Government of Montenegro, "Montenegro: Law No. 056/14, Law on Administrative Procedure" (National Legislative Bodies / National Authorities, 24 Dec. 2014), http://bit.ly/2OrYVkC.

[9] Representative of NGO Institut Alternativa, interview by IRM researcher, 11 Sept. 2019.

[10] Milena Gvozdenovic, Centre for Democratic Transition, emails with IRM staff, 14 Feb. 2020.

[11] Information provided to the IRM by Igor Pavicevic, Institute of Certified Accountants, during the pre-publication period of this report, 19 March 2020.

[12] Edin Koljenović, *Analysis: Implementation of online tools for e-Participation in Montenegro*.

3. Proactive publication of information

Language of the commitment as it appears in the action plan:

"This commitment implies the creation of more open data to foster intra- and inter-sector communications, particularly to provide better public information in various areas of public interest.

A survey of business start-ups is needed to understand the type and structure of data to be posted on the open data portal that would facilitate the process of starting a business, add value at the market and share information with other stakeholders. Set up a separate section for start-ups as generators of future growth and strengthening of the MSME sector.

To deliver on this commitment the amendments to the Decree on State Administration Setup and Method of Operation are needed to set the criteria/standards to have consistent openness of the executive branch horizontally and vertically in reference to: regular and consistent date publication and updates in the open data format, greater budget transparency, user-friendliness and accessibility. Public administration integrity and public trust in institutions will be enhanced through preparation and publication of electronically readable publications.

Accessible contents at webpages of state institutions, i.e. e-services they offer and the e-document available online, are important steps towards digital equity.

Legal review of free access to information provisions, with guides for improvements in terms of both legislation and implementation to be subsequently used for drafting amendments to the Free Access to Information Law."

Milestones:
3.1 Amendments to the Decree on State Administration Setup and Method of Operation
3.2 Greater use of the open data portal www.data.gov.me
3.3 Use of open data to support business start-ups
3.4 Develop an online platform to support SMEs
3.5 Ensure the publication of electronically readable materials from GoM sessions
3.6 Monitor the implementation of Guidelines for Electronically Readable Documents in line with e-accessibility standards
3.7 Amendments to the Free Access to Information Law
3.8 Report on the implementation of the Law on Classified Data over the last 3 years

Start Date: November 2018

End Date: August 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
3. Overall		✔	✔			✔		✔			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment aims to proactively improve access to information and open data in Montenegro by conducting internal and external public administration reforms. First, the commitment seeks to amend the Decree on State Administration Setup and Method Operation to provide clear rules for opening data in Montenegro. The government has committed to increase available datasets by 30%

and to release information on five new data themes. Secondly, the commitment aims to support business start-ups through open data hackathons and mentorship tools. The government also plans to publish information on incentives and grants for small and medium sized enterprises (SMEs) and ensure publication of electronically readable materials from government sessions in line with accessibility standards. Finally, the commitment aims to legally review and amend provisions of the Free Access to Information (FOI) Law and to report on the implementation of the Law on Classified Data.

The commitment's activities are verifiable. However, the planned activities involve many different themes and do not list expected outcomes or milestone indicators. For example, the commitment envisages an analysis of the FOI Law's practical implementation but does not provide concrete steps to improve the law. Also, it is unclear how many electronically readable documents will be published after the adoption of the guidelines under Milestone 3.6. According to the Center for Democratic Transition, the report on the implementation of the Law of Classified Data could allow citizens to review possibly unjustified classifications of documents.[1] However, the completion of the commitment does not guarantee any changes in government practices or promise more proactively published documents on state websites. According to the State Secretary of the Ministry of Public Administration (MPA), the Operational Team cannot impose legal solutions to the Working Group that is going to prepare changes for the FOI Law.[2] As a result, the commitment's potential impact is minor

Next steps
Moving forward, the IRM suggest the following:
- The government could publish more data on specific areas. For example, the Ministry of Finance could publish data on government-spending on a regular basis and in readable format.
- The target group of the MPA could be extended from SMEs to include CSOs. Civil society needs open data, not only for greater accountability of public authorities but also because CSOs in Montenegro create many applications.
- This government could specify a target number of documents that will be published each month. This number could continuously increase until every report prepared for the governments' session is electronically readable. All materials could be electronically readable in a three-year period of time.
- The government could clarify how the FOI law will be amended and what measures will be taken to continuously and proactively increase published documents of all public authorities.
- On the Law on Classified Data, the government could incentivize public authorities to re-examine data that is currently classified as secret and publish data no longer secret, in accordance with the law.

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[1] Interview by IRM researcher, Sept. 2019.
[2] Interview by IRM researcher, Sept. 2019.

4. Efficient collection of administrative fees

Language of the commitment as it appears in the action plan:

"The National Administrative Fee Collection system (NS-NAT) would remove current problems experienced in administrative and judicial fee collection by introducing a centralised control point and electronic payment by using commercial bank cards and electronic transfers.

The main aims the system pursues are as follows: enable monitoring and easy checks of all transactions regarding administrative and judicial fee collection; reduce the misuse currently present in this type of transactions; enable electronic payments, regardless of who bears the commission costs, the service provider or the customer."

Milestones:
4.1 Establish the national Administrative Fee Collection system

Start Date: January 2019

End Date: December 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
4. Overall		✔	Unclear					✔			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment addresses the collection of administrative and judicial fees for public services. Its main aim is to facilitate review of administrative and judicial fees and thus reduce the misuse of these transactions and enable electronic payments. The National Administrative Fee Collection (NS-NAT) system will enable monitoring and easy review of all transactions related to the collection of administrative and court fees, reduce the number of abuses occurring through this payment system, and enable electronic payments.[1]

This commitment could be important for national and local budgets and improve internal procedures for authorities. However, it mostly involves the digitization of public authorities' internal work and thus is not directly relevant to OGP values. While it is verifiable and specific, it is only a minor improvement for collecting national and local fees.

Next steps

The IRM does not recommend carrying this commitment forward to the next action plan. Instead, this commitment could be part of the Public Finance Management Strategy. Moving forward, the government could include commitments that more directly address budget transparency. For example, the European Commission notes that line institutions still do not proactively publish budget information, and that mechanisms could be put into place to ensure their publication.[2]

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[1] European Commission, "Digital Government Factsheet 2019 — Montenegro" (2019), http://bit.ly/36Z3Olf.
[2] European Commission, "Commission Staff Working Document, Montenegro 2019 Report" (29 May 2019), https://bit.ly/2s0h3KB.

5. Electronic delivery of Property Tax returns - a pilot project

Language of the commitment as it appears in the action plan:

"Create electronic access to property tax returns database, held by the local revenues collection offices, and the possibility to download the tax return."

Milestones:
5.1 Establish e-access to the database of Property Tax Returns for the current year

Start Date: January 2019

End Date: December 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
5. Overall		✔	Unclear					✔			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

Similar to Commitment 4, this commitment deals with digitizing revenue collection. The government plans to create a database of all property taxes to local revenue collection offices, so each citizen can download their tax return in order to pay taxes.

The commitment includes two milestones that are specific enough to be verified: developing the Tax Administration's portal and increasing the number of server users by 20%. Individuals will now have electronic access to their own tax information through the portal. However, the commitment will not disclose any additional information, and thus is not directly relevant to OGP values. This commitment could improve tax collection and positively impact national and local budgets. It could also improve the accessibility of personal tax information for citizens. Overall, however, this commitment represents a minor improvement to current tax collection practices.

Next steps

As with the previous commitment, the IRM recommends including this commitment in Montenegro's Public Finance Management Strategy. The government could add a tool to monitor public authorities to the Tax Administration portal and also share information on budgets and how they are spent.

6. Improved anticorruption policies

Language of the commitment as it appears in the action plan:

"In line with the OGP principles, budget transparency may prove to be a significant step forward in overall openness of institutions and open new scope for interactions with citizens.

Opening of budgets poses a particular challenge in the context of public participation in policy development, implementation and monitoring. In reference to his, this measure is expected to address in quite a simple manner the need of citizens and target groups to have a more direct insight into financial performance of municipalities and country at large. This will enable continuous broader assessments and analyses of public finance management efficiency and cost-effectiveness.
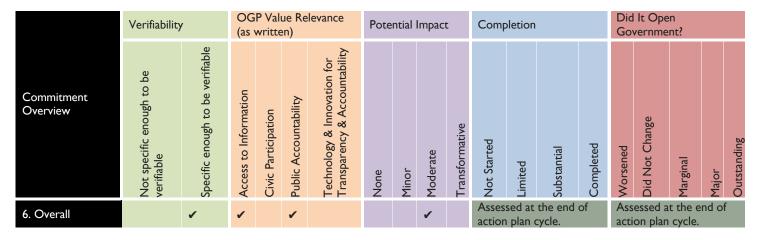
A functional portal with easily searchable databases and sets of data providing insights into specific sections of the budget is an appealing and efficient channel for familiarisation with the decisions on revenue collection and allocation.

Development of budget brochures for citizens and of brochures on whistle-blowers fall under public education and information activities to raise awareness of transparency and accountability among individuals, institutions and society at large."

Milestones:
6.1. Visual presentations of state and local budgets
6.2. Budget for Citizens brochure
6.3. Comparative review/study on whistle-blower protection Whistle- blower Cases

Start Date: November 2018

End Date: December 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
6. Overall		✔	✔		✔				✔		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment addresses budget transparency and whistleblower protection. It calls for visual presentations of the state and local budgets and publishing citizen brochures. It also proposes a comparative study on whistleblower protection to provide recommendations for the legal framework.

A framework to implement program budgeting has been in place in Montenegro since the 2018 Public Financial Management action plan.[1] However, its implementation remains behind schedule because line institutions do not proactively publish budget information and there is no mechanism to ensure quality checks of published data.[2] Furthermore, Montenegro does not participate in the International Budget Partnership's Open Budget Index survey, making it difficult to establish a baseline of what budget areas need improvement.[3]

Montenegro's 2014 Law on Prevention of Corruption includes provisions to protect whistleblowers in the public and private sectors.[4] However, the European Commission has noted that results remain limited, with a continued decrease in requests for protection of individuals reporting threats

to the public interest.[5] Several high-profile whistleblower cases attracted media attention in recent years, which caused public authorities to engage in a variety of citizen awareness-raising campaigns.[6]

The commitment is verifiable, as most of its milestones provide specific activities and a timeline for implementation (such as an annually updated visual presentation of the national and local budgets and the development of a citizens brochure). However, Milestone 6.3 (comparative study on whistleblower protection) could be more specific, as it is not clear how this study will inform the current legal framework.

The commitment is relevant to access to information and public accountability. The visual presentation of the national and local budgets can inform citizens about the budgetary cycle. Furthermore, the citizens brochures for local governments (Milestone 6.2) can help citizens better understand local budgets. It should be noted, however, that Montenegrin regulations and practices only allow citizens to participate in public budgeting at the local level and not at the national level.

Regarding whistleblower protection, it is not clear what changes are expected after the preparation of the comparative study under Milestone 6.3. Notably, however, this is the only activity in the action plan that will be implemented by an NGO (Institute of Certified Accountants).[7] According to a representative of the Institute of Certified Accountants, Montenegro aims to adopt the provisions of the EU's 2019 Directive on Whistle-blower Protection, which will cover all legal entities (state owned and private) with more than 50 employees.[8]

Together, the activities under his commitment could have a moderate potential impact, particularly on budget transparency at the local level.

Next steps

Moving forward, the IRM recommends continuing to focus on budget transparency and whistleblower protection, but as two separate commitments. The government could consider the anticorruption proposals from Operations Team members[9] such as expanding opportunities for parliament and the public to scrutinize the budget, and improving participatory budgeting. Also, the European Commission notes that line institutions still do not proactively publish budget information, and that mechanisms could be put into place to ensure their publication.[10] The IRM recommends publishing information on every item of spending, in readable format, and on a regular basis.

On whistleblower protection, the IRM recommends drafting a standalone whistleblower protection law (separate from the 2014 Law on Corruption Prevention) with enforcement mechanisms.

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[1] European Commission, "Commission Staff Working Document, Montenegro 2019 Report" (29 May 2019), https://bit.ly/2s0h3KB.

[2] *Id.*

[3] International Budget Partnership, *The Open Budget Survey*, (2017), https://www.internationalbudget.org/open-budget-survey/open-budget-index-rankings/.

[4] Mark Worth, *Whistleblower Protection in Southeast Europe* (Regional Anti-corruption Initiative, 2015), https://rm.coe.int/16806fffb0.

[5] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."

[6] Tina Popović and Mila Radulović Podgorica, "Montenegro, how not to protect whistleblowers" (Daily Newspaper, 15 Dec. 2017), https://www.balcanicaucaso.org/eng/Areas/Montenegro/Montenegro-how-not-to-protect-whistleblowers-184622.

[7] Representative of the Operational Team member, NGO Institute of Certified Accountants, interview by IRM researcher, 12 Sept. 2019.

[8] Information provided to the IRM by Igor Pavicevic, Institute of Certified Accountants, during the pre-publication period of this report, 19 March 2020.

[9] "Pregled Komentara, Prijedloga I Sugestija Članova Operativnog Tima Za Sadržaja Nacionalnog Akcionog Plana Partnerstva Za Otorenu Upravu Za 2019" (2018), https://www.otvorenauprava.me/wp-content/uploads/2018/10/Predlozi-OT.pdf.

[10] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."

V. General Recommendations

This section aims to inform development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve the OGP process and action plans in the country and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Recommendations

Ensure high-level political support for the OGP process and use OGP to advance major strategic goals

The cocreation process for Montenegro's second action plan received little attention from public administration and civil society, despite Montenegro's six years of inactivity in OGP. For the next action plan, the government could use the OGP framework to further Montenegro's major long-term policy goals. The Center for Democratic Transition also stressed the importance of raising awareness to promote the open government portal and to involve other government stakeholders in the OGP process, such as the Montenegrin parliament.[1]

Increase transparency of public spending

A top priority for the next action plan could be to increase the transparency of public spending, particularly noting discretionary spending in Montenegro. Building on the current commitment to disclose more budget data, the next action plan could focus on expanding opportunities for parliament and the public to scrutinize the budget and promote participatory budgeting. It is important to conduct awareness-raising activities, as budgeting efforts remain unknown at the local level.[2]

Improve the Law on Free Access to Information

The Law on Free Access to Information has not ensured more accountability in public administration.[3] Administrative silence continues to be a major concern, as authorities continue to declare requested information as classified. The IRM suggests retracting the law's latest amendments in October 2019 and review the law thoroughly in line with international standards, following the recommendations of Access to Info Europe, the EU progress report, freedom of information advocates, and the Montenegrin civil society.[4] Court decisions on providing access to information should also be enforced.[5] The IRM also recommends involving relevant stakeholders (including the Agency for Personal Data Protection and Free Access to Information) to ensure that data protection legislation is not interpreted to undermine access to information.

Promote further institutionalization and use of newly created citizen consultation and participation tools

It is important that the government of Montenegro continues to promote the institutionalization of citizen consultation and participation mechanisms, with a particular focus on implementation, and ensure that all proposals and e-petitions are taken into account by the public administration. Moreover, the government could invest more technical and communicational resources to adequately present and promote participative tools to Montenegrins. Awareness-raising campaigns can also promote trust, as some reports and NGO representatives identify a lack of citizen confidence in public participation tools with Montenegrins feeling discouraged that their engagement will provide a concrete result.[6]

Improve transparency of public procurement and institutionalize open contracting

In accordance with the European Commission's 2019 Progress Report for Montenegro,[7] the government of Montenegro could improve legal provisions for contract management and transparency, and advance implementation of the standardization of data and e-procurement, following international standards.

Table 5.1: Five Key Recommendations

1	Ensure high-level political support for the OGP process and use OGP to advance major strategic goals
2	Increase transparency in public spending and create opportunities for public oversight and participation
3	Improve the Law on Free Access to Information and ensure effective enforcement
4	Promote further institutionalization and use of newly created citizen consultation and participation tools
5	Improve transparency of public procurement and institutionalize open contracting

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[1] Milena Gvozdenovic (Center for Democratic Transition), email with IRM staff, 14 Feb. 2020.
[2] *Id.*
[3] European Commission, "Commission Staff Working Document, Montenegro 2019 Report" (29 May 2019), https://bit.ly/2s0h3KB.
[4] Access Info, "Right of access to information at risk in Montenegro" (31 Oct. 2019), https://www.access-info.org/blog/2019/10/31/right-of-access-to-information-at-risk-in-montenegro/.
[5] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."
[6] Edin Koljenović, *Analysis: Implementation of online tools for e-Participation in Montenegro* (Boris Raonić, Apr. 2015), http://www.gamn.org/images/docs/en/Analysis-Implementation-of-online-tools-for-e-Participation-in-Montenegro.pdf.
[7] European Commission, "Commission Staff Working Document, Montenegro 2019 Report."

VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country. All IRM reports undergo a process of quality control 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, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available on Montenegro's OGP online tracker,[1] findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.[2]

Interviews and stakeholder input

Interviewed government and civil society stakeholders were selected based on their activity in the Operational Team (OT). Both civil society stakeholders who participated in the public discussion were interviewed, as well as a third CSO who is a member of the OT and oversees part of Commitment 6. IRM staff sent follow-up emails in February 2020 to Igor Pavicevic from the Institute of Certified Accountants, Gordana Djurovic from the Montenegrin Pan-European Union, and Milena Gvozdenovic from the Centre for Democratic Transition. Only Gvozdenovic replied.

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries. The International Experts Panel (IEP) oversees quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M'Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

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

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[1] Available at https://www.otvorenauprava.me/.

[2] OGP, "IRM Procedures Manual, V.3" (16 Nov. 2015), https://www.opengovpartnership.org/documents/irm-procedures-manual.

Annex I. Overview of Montenegro's performance throughout action plan development

Key:
Green= Meets standard
Yellow= In progress (steps have been taken to meet this standard, but standard is not met)
Red= No evidence of action

Multistakeholder Forum	
1a. Forum established: There is a forum to oversee the OGP process.	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely.	Red
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure.	Red
1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page.	Green
2a. Multistakeholder: The forum includes both governmental and nongovernment representatives.	Green
2b. Parity: The forum includes an even balance of governmental and non-governmental representatives.	Red
2c. Transparent selection: Nongovernmental members of the forum are selected through a fair and transparent process.	Green
2d. High-level government representation: The forum includes high-level representatives with decision making authority from government.	Yellow
3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum.	Green
3e. Remote participation: There are opportunities for remote participation in at least some meetings and events.	Red
3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders.	Yellow

Key:
Green= Meets standard
Yellow= In progress (steps have been taken to meet this standard, but standard is not met)
Red= No evidence of action

Action Plan Development	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published.	Green
4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process.	Green
4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process.	Yellow
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity.	Green
4e. Reasoned response: The multistakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment.	Yellow
5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g., links to databases, evidence of meetings, publications)	Yellow

Editorial note: *If a country "meets" the six standards in bold, the IRM will recognize the country's process as a* <u>Starred Process.</u>