Independent Reporting Mechanism

Action Plan Review: Ukraine 2021–2022

Open Government Partnership

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Introduction

Starting in January 2021, the IRM began rolling out the new products that resulted from the IRM Refresh process.[1] The new approach builds on lessons from more than 350 independent, evidence-based, and robust assessments conducted by the IRM and the input from the OGP community. The IRM seeks to put forth simple, timely, fit-for-purpose, and results-oriented products that contribute to learning and accountability in key moments of the OGP action plan cycle.

The new IRM products are:

1. **Co-creation brief:** brings in lessons from previous action plans, serves a learning purpose, and informs co-creation planning and design. This product is scheduled to roll out in late 2021, beginning with countries co-creating 2022–2024 action plans.
2. **Action plan review**: an independent, quick, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This product is scheduled to roll out in early 2021 beginning with 2020–2022 action plans. Action plan reviews are delivered 3–4 months after the action plan is submitted.
3. **Results report**: an overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning. This product is scheduled to roll out in a transition phase in early 2022, beginning with 2019–2021 action plans ending implementation on 31 August 2021. Results report are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of Ukraine's 2021–2022 action plan. The action plan is made up of 14 commitments. This review emphasizes its analysis on the strength of the action plan to contribute to implementation and results. For the commitment-by-commitment data, see Annex 1. For details regarding the methodology and indicators used by the IRM for this action plan review, see Section IV: Methodology and IRM Indicators.

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[1] For more details regarding the IRM Refresh visit https://www.opengovpartnership.org/process/accountability/about-the-irm/irm-refresh/

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Section I: Overview of the 2021–2022 Action Plan

Many of Ukraine's 14 commitments build on existing transparency initiatives. The three most promising commitments have clear objectives and substantial potential for results, while some other commitments are not relevant to open government or unclear about how they would overcome past obstacles to implementation. Reinstating the multistakeholder coordination framework needs to ensure effective oversight of implementation as well as relevant and ambitious commitments in future action plans.

Ukraine's fifth action plan includes 14 commitments. Over half of the commitments focus on transparency in policy areas such as the state budget, public assets, beneficial ownership, the extractives industry, road and infrastructure projects, disability, and gender.

The plan includes three promising commitments on state budget transparency, reporting transparency in the extractives industry, and implementing a mechanism for monitoring infrastructure projects. They have substantial potential for results and are assessed in more depth in Section II.

An ad hoc oversight group of government, civil society, and international donors in Ukraine, which historically engaged in developing OGP action plans, oversaw the co-creation process. Ukraine's official multistakeholder forum, the Coordination Council, had ceased to operate effectively because many members had moved on from their jobs in government and civil society, and had not been replaced by the start of the co-creation process.[1] Further affecting the action plan development process, the COVID-19 pandemic pushed engagement and consultations online; this led to a wider number of civil society organizations participating including organizations based outside Kyiv.[2] The ad hoc oversight group received and evaluated 241 proposals received during thematic meetings held online and via an electronic form, published feedback, and prepared a draft action plan which was put out for public consultation.[3] The final version was adopted in February 2021.

AT A GLANCE

Participating since: 2011
Action plan under review: 2021–2022
IRM product: Action plan review
Number of commitments: 14

Overview of commitments:
- Commitments with an open gov. lens: 13 (93%)
- Commitments with substantial potential for results: 3 (21%)
- Promising commitments: 3

Policy areas
Carried over from previous action plans:
- Beneficial ownership transparency
- Budget transparency
- Extractives industry transparency
- Tools to digitize democracy

Emerging in this action plan:
- Participation of young people
- Gender disaggregated data

Compliance with OGP minimum requirements for co-creation:
- Acted according to OGP process: Yes

This action plan contains three commitments which the IRM assessed to have substantial potential for results, eight with modest potential, and three commitments with unclear potential for results.[4] The IRM could not establish the relevance to open government for the commitment

on setting up an online platform for patenting and innovation development, which is new to Ukraine's open government action plan.

The commitments on the verification of beneficial ownership information and on the application of e-democracy tools appear to continue and build upon unfinished actions from previous plans.

The involvement of new organizations contributed to a diversification of the thematic areas covered in the action plan, but not necessarily more ambitious commitments. These commitments on youth participation, accessibility for disabled people, training public officials on open data, and gender disaggregated data missed the opportunity to name new organizations as partners in the action plan and bring in relevant civil society organizations from sectors which have not previously engaged on open government topics. They have only modest potential for results because their objectives are unclear, or because they are standalone events or trainings.

On the other hand, commitments which have substantial potential for results have actions that clearly outline the permanent and positive impacts in their relevant policy area. The commitment on infrastructure project monitoring has an effective measure to introduce unique identifiers for infrastructure projects that would dramatically simplify their monitoring and reduce corruption risks. The extractives industry transparency commitment would expand the scope and establish real time data publication for local communities, and the digital contracting activities commitment would increase transparency and reduce corruption risks.

A strong international donor community in Ukraine supported and participated in the co-creation process. At least nine commitments explicitly have support or funding from international donors. However, as explained above, not all commitments are clearly relevant to open government or have ambitious potential for results. Commitments, including those supported by donors, need to be clearly relevant to open government, have ambitious potential for results, and be sustained by the Ukrainian government beyond the action plan cycle.

Furthermore, reinstating Ukraine's Coordination Council framework should ensure support and oversight for implementing this action plan. This will require members to find solutions to obstacles and speak up where resources or political engagement are needed. A functioning council is also necessary for preparing the design and oversight of the next action plan cycle in 2023, including drafting ambitious and relevant commitments. The council should use the format for drafting commitments provided by OGP so that the problem, actions, ambition for results, and relevance to open government are clearly articulated.

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[1] Natalia Oksha (OGP Coordination Council Secretary and Secretariat of the Cabinet of Ministers of Ukraine), interview by IRM researcher, 22 Jun. 2021.

[2] Secretariat of the Cabinet of Ministers of Ukraine, "*Зміни у впровадженні Ініціативи "Партнерство "Відкритий Уряд" у 2020 році*" [Changes in the implementation of the Open Government Partnership Initiative in 2020] (Gov. Portal, 23 Mar. 2020), https://www.kmu.gov.ua/news/zmini-u-vprovadzhenni-iniciativi-partnerstvo-vidkritij-uryad-u-2020-roci; Oksha, interview.

[3] Secretariat of the Cabinet of Ministers of Ukraine, *Звіт про врахування пропозицій, які надійшли за результатами обговорень в рамках підготовки плану дій із впровадження Ініціативи "Партнерство "Відкритий Уряд" у 2021 – 2022 роках* [Report on consideration of proposals received based on the results of discussions in the preparation of the action plan on the implementation of the Open Government Partnership Initiative in 2021-2022] (2018), https://www.kmu.gov.ua/storage/app/sites/1/17-civik-2018/partnerstvo/zvit-propo-ogp2021.pdf; Oksha, interview.

[4] The action plan for 2018–2020 was only slightly less ambitious overall than the 2020–2022 action plan, although it had more commitments.

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Section II: Promising Commitments in Ukraine's 2021–2022 Action Plan

The following review looks at the three commitments that the IRM identified as having the potential to realize the most promising results. This review will inform the IRM's assessment of implementation in the results report. The results report will build on the early identification of potential results from this review to contrast with the outcomes at the end of the action plan implementation period. This review also analyzes challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

Commitments 1 (publishing budget program indicators and e-contract modules), 8 (extractives industry transparency), and 13 (mechanisms for monitoring infrastructure projects) are analyzed further as promising commitments because they present substantial potential for results in their respective policy areas.

Commitment 2 on public asset transparency is a positive step that primarily would digitize and streamline the process of updating the Unified Register of State-Owned Assets. However, the text does not clearly outline the level of detailed information that would be published online.

Commitment 3 on creating a distance e-learning system would lead to the availability of educational materials online that are regularly updated with state educational standards and curricula. However, it is not clear from the action plan if these materials would be available via open licenses for reuse or what supporting actions would need to be taken to ensure their effective take up by students and schools.

The IRM was unable to identify a clear open government lens for Commitment 5 because it is unclear that setting up an online platform for patenting and innovation development would make public policy, institutions, or decision-making processes more transparent, participatory, or accountable.

While Commitment 4 on open science policy includes limited participatory activities with stakeholders, potentially substantial results are more likely in future action plans that commit to greater open data disclosure. This is also true for Commitment 12 that opens information on road infrastructure but could have greater results in future plans if data is made available.

Commitment 6 was carried over from the previous action plan, but no institution or public body appears to have the responsibility for implementing the verification process that is needed to improve Ukraine's beneficial ownership transparency regime. The milestone establishing and implementing the unified verification system lacks clarity on the tools to be used and additional scope or channels of information to be made publicly available. The trainings and independent audit process are a welcome but modest step that appear mainly driven by civil society.

Commitment 7 on e-democracy tools seeks to digitize and centralize some of these tools rather than engage the public to change and improve their functioning to be more open, participatory, or accountable. Reforming digital public consultations has the greatest ambition within the commitment, and notably the Ministry of Digital Transformation is particularly interested in implementing the platform for e-democracy tools. However, its potential for results is limited because stakeholders have highlighted the need for legal changes which would ensure consultations are used more broadly than just by government institutions, and that such legal

changes have been delayed multiple times in the past (even though in principle they are not a precondition to developing the tools and platform).[1]

The training activities envisaged for Commitment 9 on establishing the National Centre for Open Data Competence and Commitment 11 on facilitating more active youth participation, do not appear to institutionalize changes in government practice. Commitment 11 could show more impactful results if the training was tailored to specific policy areas or if it included direct youth engagement in specific policies or legislation.

Implementing Commitment 10 (ensuring digital accessibility for persons with disabilities) would benefit from the active inclusion of disabled people and civil society groups. This is also true of Commitment 14, which would benefit from working with local Ukrainian women's groups to establish which policy areas or datasets should be prioritized to have the greatest impact on facilitating gender equality, rather than a general and unspecific commitment to apply a gender lens to all datasets.

Table 1. Promising commitments

Promising Commitments
1. Improve budget transparency and implement e-contracts: Budget program indicators would be made more easily understandable for users of open data of local spending units. The e-contracts module would digitize the process of signing contracts with public institutions, turn them into publicly available and machine-readable data, and enable quicker analysis and public oversight of contracts in Ukraine.
8. Introducing the electronic system for reporting by extractive industries: A new online reporting system for companies would mean information submitted is published in real time. It would also provide more detailed information that could help communities to better understand how much money governments receive from extractive industries.
13. Creation of additional infrastructure project monitoring mechanisms: This would develop an algorithm to establish unique identifiers for infrastructure projects in Ukraine. Making these identifiers public would reduce opportunities for corruption and make it possible for officials and the public to accurately identify and follow the implementation of infrastructure projects.

Commitment 1: Improve budget transparency and implementation of e-contracts
(Ministry of Finance, State Treasury, Open Public Finance, ProZorro, Transparency International Ukraine, and Eidos)

For a complete description, see Commitment 1 in Ukraine's 2021–2022 action plan:
https://www.opengovpartnership.org/documents/ukraine-action-plan-2020-2022/

Context and objectives:
International institutions, organizations, and donors have encouraged and supported Ukraine for a number of years to increase transparency in managing public finances.[2] Ukraine has developed public finance management strategies to strengthen state financial control and prevent financial abuse and fraud vis-à-vis public and local resources.[3] Since 2016, Ukraine's open government action plans have introduced budget transparency reforms supporting these aims by better informing the public in an accessible format about national, regional, and local budgets and spending.[4]

The 2018–2020 action plan included a commitment adding a citizens' budget module on to openbudget.gov.ua, which greatly increased access to state, regional, and local spending

information via open formats.[5] The 2020-2022 commitment builds on these advances by developing and introducing two new sets of information on the openbudget.gov.ua platform – budget program indicators (criteria for monitoring budgets) and e-contracts. The first of the two activities would publish budget program indicators containing more detailed information that would facilitate the public's understanding of how their taxes are spent via local budgets.

The second activity would create an e-contracts section on openbudget.gov.ua, which would digitize the process of signing contracts with public institutions and bodies. This aims to improve public procurement governance and enable better state and citizen oversight of public funds. This activity could have substantial results in making contracts more transparent and open to public oversight.

Government and civil society developed this commitment jointly, having collaborated on developing and improving the openbudget.gov.ua platform since 2016. The activities were also included in the latest draft of the Strategy on Public Finance Management Reform.[6]

Potential for results: Substantial
The first activity in this commitment builds upon the citizens' budget module on openbudget.gov.ua to include local state budgets in machine readable formats.[7] Currently, budget information is available on local government websites (scanned and in formats like PDF) but it is not machine readable.[8] Technical terminology and coding accompanies this data. The ambition of the commitment is to publish the technical information so that citizens can more easily understand budget information.[9] This may increase understanding of the information available, but not necessarily increase the scope or depth of budget information being published. As only the technical information will be newly available, this activity has modest, rather than substantial, potential for enhancing access to budget information.

However, the second activity has substantial potential for results. The e-contract module would digitize signing and registering contracts, make them publicly available, and make them machine readable. Contracts available as open data would therefore allow analysis within institutions and by civil society and watchdogs.

Government institutions have stated that they would find the new data from the e-contracts tool useful in tracking and forecasting payment flows. Currently, contract data are manually uploaded and not machine-readable. Open, digital contracts would therefore automate a large part of this process and make forecasting payment flows more efficient.[10]

Civil society said that the digitalization and opening of contracts would make it easier, and to an extent, automate the identification of risks such as noncompetitive payments or clauses that pose a corruption risk.[11] An API for the contracts that are open data would allow governments and watchdogs to create tools that automatically analyze and identify corruption or other risks. Civil society also posited that the API could lead to businesses being able to analyze final contracts from public institutions and judge if it is worth applying for public tenders.[12] There is strong reason to expect contract data to be used because previous examples of opening data in Ukraine has enabled investigative journalists and other watchdog organizations to analyze the data for suspicious transactions.[13]

The government also said that digitalization would make the process of signing contracts more transparent.[14] The current process of signing paper contracts means some institutions can delay the process to such an extent that they must legally reopen procurement. Ministry and CSO representatives say that there are examples of this happening so that institutions can give

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contracts to preferred contractors rather than the original winners.[15] Not only may institutions and contractors find the e-contract process more transparent, but that it is also quicker.

Opportunities, challenges, and recommendations during implementation
This commitment presents opportunities for improved and more efficient internal procedures for processing procurement contracts. Digitalization of e-contracts can reduce opportunities for institutions' manipulation and speed up the process of public contract signing in Ukraine.

Digitalization and publication of contracts in open data formats would provide further opportunities for data analysis by government and civil society watchdogs. The government has already signaled that this would improve their forecasting of payment flows.

The publication of budget program indicators has more modest opportunities in enabling greater understanding of budget information for citizens.

However, there are challenges to implementing this commitment, particularly in relation to contracts. Success of the digital process and its automated integration into other databases for analysis requires the information be inputted accurately. This requires institutions to ensure that public officials are effectively trained in using the system and that there are also measures in place to detect potential errors or verify the information before it is confirmed in the system. The system should also include, and alert users to, subsequent changes to contracts (e.g., due to unforeseen changes in contract specifications or cost overruns) as these sometimes can indicate mismanagement and corruption, even though they may occur for legitimate reasons.

The government and civil society working on this commitment expect that this newly-available data would be used.[16] While civil society are confident that past examples of investigations enabled by newly opened data would be repeated with contract data, there must be awareness raising and encouragement for civil society and the media to use and analyze this data. Doing so could encourage long-term changes in public institutions to ensure that contracts do not include suspicious payments, anticompetitive clauses, or other risky elements.

To overcome some of these challenges and make the most of opportunities from this commitment, the IRM recommends:

- **The government train public officials who would use the new contract system**. This training must ensure that officials can input contract data accurately. It should also ensure that e-signing contracts is properly understood and effectively executed to prevent delays and recalls for tender. Training should include monitoring and evaluation of the system, and authorities should regularly publish evaluation reports.

- **The government encourage the use and analysis of data by third parties (e.g., investigative journalists, civil society watchdogs, and citizen activists) and facilitate reporting of suspicious contracts or suspected corruption**. Ensuring effective mechanisms, such as DoZorro, for reporting suspicious contracts, payments, or clauses would also aid public authorities with their own investigations for potential corruption. Using the DoZorro system may help ensure oversight of e-contracts by the public and their reports to public authorities.

- **The government guarantee that public authorities have the resources necessary to monitor and analyze the data and conduct investigations on suspicious contracts.**

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Commitment 8: Introduce the electronic system for reporting by extractive industries
(Ministry of Energy, Ministry of Ecology and Natural Resources, International Renaissance
Foundation, German Agency for International Cooperation, Energy Transparency Association,
Stakeholder Group for Implementing the Extractive Industries Transparency Initiative, and DiXi
Group)

For a complete description, see Commitment 8 in Ukraine's 2021–2022 action plan:
https://www.opengovpartnership.org/documents/ukraine-action-plan-2020-2022/

Context and objectives:
Aiming to strengthen governance and reduce corruption in its extractive sector, Ukraine joined
the Extractives Industry Transparency Initiative (EITI) in 2013. The country has produced four
EITI reports analyzing the extractive sector, covering 2013–2017. The extractive sector makes
up about 5.9% of GDP in Ukraine and contributes a large percentage of income for the state
budget. The largest extractive companies are in gas, oil, and coal but there are companies that
also extract numerous minerals and metals.[17]

Ukraine has included EITI commitments in its open government action plans. This commitment
continues a previous commitment to develop an online portal for submitting primary information
from companies for the drafting of national EITI reports.[18] Unlike previous EITI commitments
that had outstanding impacts on opening government, this 2018–2020 commitment saw only
limited implementation, with the online portal ready and tested but not fully published as
promised.[19] This new commitment would finally launch the portal online, train staff, enable
companies to make submissions, publish the submitted data, and ensure compliance with
updated EITI standards by adopting legal acts to ensure the functioning of the online platform.
It also includes a milestone to bring together extractive companies and local civil society
organizations, in a similar fashion to the EITI multistakeholder forum format.

The commitment was developed from collaboration between the government and civil society
groups like the International Renaissance Foundation.[20] This builds on partnerships that have
continued since 2013 when the first EITI commitment was included in Ukraine's open
government action plan. It is also noted that in December 2020, the Ministry of Energy renewed
the composition of the Multi-Stakeholder Group for Implementing the Extractive Industries
Transparency Initiative,[21] an issue which had previously been deadlocked.[22]

Potential for results: Substantial
As explained in the design report for the 2018–2020 action plan,[23] this commitment anticipates
multiple transparency-related results, including collecting data in real time, reducing the time
for submitting and processing data within the EITI framework, disclosing relevant data in open
data format, timely publication of EITI reports, and reducing the cost of report production.

The milestone adopting amendments to legal acts (such as the law ensuring extractive industry
transparency)[24] would generate binding, institutionalized changes requiring the collection and
publication of new information from extractive industries, including environment, gender,
commodity sale, and contract data as required by the new EITI standards updated in 2019.[25]
This would then require technical changes to the platform for submitting and publicly disclosing
this data. Legislative amendments have been delayed multiple times since 2014, although civil
society continues to advocate for them, supported by international donor organizations.[26]

A main result of the commitment would be the publication of new information in real time such
as company audits or budgets disaggregated at the community level. Civil society
representatives say this would give local communities access to financial information that is

essential for budget planning, as a September 2018 law requires 5% of rent payments from extraction profits to go toward local self-government budgets.[27] The State Service of Geology and Mineral Resources has also emphasized the importance of tax earnings for local communities' strategic development planning.[28] Finally, the 2019 changes to the EITI standard increases the scope of published information to include environmental, gender, commodity sales, and contract data.[29]

The platform did not launch by the end of the 2018–2020 action plan cycle, but it should go online early in the 2021–2022 implementation period.[30] This should allow demonstration of substantial results in disclosing extractive-sector data in Ukraine. Further results of this disclosure may include local citizens or journalists using the data to hold local or national governments accountable for money collected from the extractive industry. This is facilitated by the milestone that joins extractive industries with local communities to inform them about the impacts and financial benefits of extractive companies' activities in their local area.

Opportunities, challenges, and recommendations during implementation
The data publication from this commitment would deliver new information into the public domain. This can facilitate holding local institutions accountable for how they spend money received from extractive industries. This may be achieved through activities that join extractive industries and local communities in a multistakeholder forum. Regardless, it is important to raise awareness about the publicly available information and how to access it.

While public participation may be strengthened, the local multistakeholder groups are supported and funded by donor and civil society organizations. The absence of government-secured funding limits the sustainability of these initiatives.[31] The government needs to explore how to ensure public oversight at the local and national level. Furthermore, the government should think about how to use sanctions for failed, inaccurate, or incomplete reporting by extractive companies. This may include amending existing legislation on extractive industry transparency.

Finally, it's worth noting that any delay in parliament adopting necessary legal amendments could scupper implementation of this commitment.[32] The main change between previous attempts at amending the law and now is that there is a public commitment to introducing the necessary amendments. Legislative amendments need to be adopted in good time to ensure binding changes to the wider scope and accuracy of extractive industry reporting.

Given these challenges, the IRM recommends:

- **The government actively support the timely passage of necessary legislative amendments** in parliament to ensure that the platform can be updated to collect and publish information in line with current EITI standards.

- The legislative amendments could include **requirements on companies to submit accurate data** that is made available in real time via the portal. This could also be **coupled with appropriate sanctions** for failure to provide such information, including the new information required under the 2019 EITI standards.

- **The government raises awareness and ensures the sustained engagement of local communities in the multistakeholder forums**. These should enable civil society to hold local governments to account for funding received, as well as enable them to scrutinize the work of extractives and government in this policy area.

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Commitment 13: Creation of additional infrastructure project monitoring mechanisms
(Ministry of Infrastructure and the Construction Sector Transparency Initiative in Ukraine)

For a complete description, see Commitment 13 in Ukraine's 2021–2022 action plan:
https://www.opengovpartnership.org/documents/ukraine-action-plan-2020-2022/

Context and objectives:
Upgrading Ukraine's deteriorating physical infrastructure (such as road and transport systems or the energy sector) is a key national challenge, which if unresolved, prevents stronger economic growth.[33] Ukraine's "Drive Ukraine 2030" national transport strategy includes USD $60 billion worth of infrastructure investments.[34] The modernization and reform of infrastructure in Ukraine is also an important element of Ukraine's EU Association Agreement.[35] However, despite huge investment in Ukraine, the management, oversight, and monitoring of infrastructure projects is complex, making it easy for corruption to occur. According to the OECD, the mismanagement of public investments and governance issues (including corruption) mean that comparable construction projects cost 22% more in Ukraine than in the European Union.[36]

Tackling these problems, commitments in Ukrainian action plans have successfully increased transparency in spending and procurement in Ukraine, such as through the Prozorro public electronic procurement system and spending.gov.ua.[37] However, none of these systems use standard identifiers, which would make easier to monitor a single infrastructure project and increase the visibility of potential or actual corruption.[38] In an extreme case that demonstrates this need, a local authority broke down a 1.5km stretch of road into 150 individual infrastructure contracts (to avoid a contract size that would trigger public procurement processes) in order to give the contracts to a preferred company.[39] A single identifier for the infrastructure project could have prevented this by facilitating better monitoring.

This commitment therefore seeks to develop a system to give infrastructure projects a single identifier for all related contracts that can be used across platforms and publish the identifiers in a public register.

The close cooperation between the government and the Construction Sector Transparency (CoST) initiative during previous action plans meant there was already close partnership between those working on this topic. CoST Ukraine, the Ministry of Infrastructure, and teams within the Ministry of Economy developed the commitment together after joint discussions.[40]

Potential for results: Substantial
There is currently no system to create unique identifiers for infrastructure projects and apply these across databases. Infrastructure projects involve multiple contracts with different identifiers depending on the platform (Prozorro, spending.gov.ua, CoST's "Transparent Infrastructure" portal, transport services, the web portal of the Ministry of Infrastructure, or the electronic services web portal). Both the government and civil society agree that this makes it difficult to monitor projects' progress.[41] Applying a single, unique identifier for projects across databases would make it much easier to track the different contracts for individual projects, regardless of the name or the number of contracts needed for the project.[42] Simplifying identifying and monitoring projects enables better oversight of implementation and reduces the risk of corruption. Oversight can be done by public authorities, but publishing the identifier information would also enable oversight by citizens, civil society watchdogs, and others.

As part of "Drive Ukraine 2030" (encompassing at least 39 infrastructure projects),[43] Ukraine created a public, centralized register of infrastructure projects that would be the basis for other portals to extract information regarding infrastructure projects.[44] The register would contain the

unique identifiers, and CoST Ukraine confirmed that road infrastructure would be the first category to pilot unique identifiers via CoST's platform. The Prozorro platform already can integrate the unique project identifiers into their online system.[45] These are two key platforms that promote infrastructure project transparency and are used by civil society and others in their monitoring.

While the commitment aims to prevent corruption, the number of investigations may initially rise as new information is uncovered due to the usefulness of unique identifiers in monitoring projects, investigating suspicious contracts, and prosecuting corruption. Therefore, cases that might otherwise go unnoticed or take years to investigate are made evident more quickly because of the unique identifiers.

As explained above, publicly available unique identifiers can increase the risk of being caught for abuse or corrupt practices in public spending. The opportunities for public oversight through the publication of unique identifiers reduces the incentive to bend the rules around procurement or inflate costs, and might lead to a short-term reduction in the number of contracts per project that have not gone to public tender because they are below certain thresholds (at least in relation to road infrastructure where this will be deployed first).

Opportunities, challenges, and recommendations during implementation
Implementing this commitment would make it much easier and quicker to find various contracts related to one infrastructure project. CoST Ukraine recognized that this could benefit the numerous organizations, activists, and investigative journalists monitoring road infrastructure procurement processes, particularly those under "Drive Ukraine 2030."[46] CoST explained that in the past, state institutions have investigated cases of corruption in road building that civil society initially investigated and reported. They said that whereas it currently takes months to build such cases, an identifier would significantly reduce that time.[47]

Road infrastructure reform is a major spending area in Ukraine, and so focusing the commitment initially to this area is an astute use of resources. However, it would be necessary to begin expansion to other areas of infrastructure and procurement as part of Drive Ukraine 2030 (or beyond) as soon as possible. Civil society groups have already identified social infrastructure contracts as another priority area for unique identifiers, which could be explored.[48]

Expanding unique identifiers may require changes and updates to existing registers. While the Prozorro platform has empty fields that are ready to be populated with unique identifiers for contracts, other databases might need technical updates. This would require further resources but would reduce the risks of corruption by facilitating project monitoring.

While the commitment focuses on transparency, it could also incorporate public accountability tools for effective public feedback and corruption reporting to better ensure tangible results from using single identifiers. This may require expanding systems like DoZorro to other databases and portals, which could better ensure corruption is reported.

With these challenges in mind, the IRM recommends the following during implementation:

- Institutions should identify major areas of infrastructure other than roads which have the highest risk of corruption. They should then **ensure that infrastructure projects with the highest risk of corruption are prioritized when deciding which new projects would receive unique identifiers**.

- Institutions should ensure that **unique identifiers are applied to all infrastructure projects that are currently in process, not only new infrastructure projects**.

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Contracts from finished infrastructure projects should also be given unique identifiers. **Unique identifiers should be applied beyond the CoST and Prozorro portals to all relevant databases and portals,** which would increase transparency and oversight of infrastructure projects.

- Implementation of this commitment could consider how to **enable whistleblowers, activists, and citizens to monitor and report potential corruption**. Mechanisms need to ensure that the public can report wrongdoing or suspicious contracts and empower institutions to investigate thoroughly.

[1] Oksana Mizik (Ukrainian Center for Independent Political Research), interview by IRM researcher, 19 Jul. 2021

[2] Ministry of Finance, "Прозорий бюджет" [Transparent Budget] (accessed 28 Jul. 2021), https://mof.gov.ua/uk/open-budget.

[3] European Commission, *Joint Staff Working Document: Association Implementation Report on Ukraine*, (27 Nov. 2020), https://eeas.europa.eu/sites/default/files/2020_ukraine_association_implementation_report_final.pdf.

[4] Gov. of Ukraine, *Action Plan for the Implementation of the Open Government Partnership Initiative in 2016-2018* (OGP, 20 Dec. 2016), https://www.opengovpartnership.org/documents/ukraine-third-national-action-plan-2016-2018/.

[5] Dmytro Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Transitional Results Report 2018–2020*, (OGP, 23 Jun. 2021), https://www.opengovpartnership.org/documents/ukraine-transitional-results-report-2018-2020/.

[6] Volodymyr Tarnay and Olga Budnyk (Ctr. for Political Studies and Analysis (Eidos)), interview by IRM researcher, 23 Jun. 2021

[7] Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Transitional Results Report 2018–2020*.

[8] Mikola Matiushenko (Min. of Finance) interview by IRM researcher, 17 Jun. 2021; Tarnay and Budnyk, interview.

[9] Matiushenko, interview.

[10] *Id.*

[11] Tarnay and Budnyk, interview.

[12] *Id.*

[13] *Id.*

[14] Matiushenko, interview.

[15] Matiushenko, interview; Tarnay and Budnyk, interview.

[16] Matiushenko, interview; Tarnay and Budnyk, interview.

[17] Extractive Industry Transparency Initiative (EITI), "Ukraine" (5 Jul. 2021), https://eiti.org/ukraine.

[18] Gov. of Ukraine, *Action Plan on Implementation of the Open Government Partnership in 2018-2020*, (OGP, 3 Jan. 2019), https://www.opengovpartnership.org/documents/ukraine-action-plan-2018-2020/.

[19] Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Transitional Results Report 2018–2020*.

[20] Oleksiy Orlovsky (International Renaissance Foundation), interview by IRM researcher, 2 Jul. 2021.

[21] Cabinet of Ministers of Ukraine, *Action Plan for the Implementation of the Open Government Partnership Initiative, 2021–2022* (OGP, 3 Mar. 2021), https://www.opengovpartnership.org/documents/ukraine-action-plan-2020-2022/.

[22] Dmytro Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Design Report 2018–2020* (21 Feb. 2020), https://www.opengovpartnership.org/documents/ukraine-design-report-2018-2020/.

[23] Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Design Report 2018–2020*.

[24] EITI, "Law of Ukraine #2545-VIII 'On ensuring transparency in extractive industries' (translation)" (accessed 21 Sep. 2021), https://eiti.org/document/law-of-ukraine-2545viii-on-ensuring-transparency-in-extractive-industries-translation.

[25] EITI, "Presentation on changes to the EITI Standard (2016 to 2019)" (accessed 21 Sep. 2021), https://eiti.org/document/presentation-on-changes-to-eiti-standard-2016-to-2019.

[26] Orlovsky, interview.

[27] Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Design Report 2018–2020*; Orlovsky, interview.

[28] Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Design Report 2018–2020*.

[29] EITI, "Presentation on changes to the EITI Standard (2016 to 2019)."

[30] Natalia Oksha (OGP Coordination Council Secretary and Secretariat of the Cabinet of Ministers of Ukraine), interview by IRM researcher, 22 Jun. 2021.

[31] Orlovsky, interview.

[32] *Id.*

[33] OECD, "6. Trends in Ukraine's sustainable infrastructure investments," in *Sustainable Infrastructure for Low-carbon Development in the EU Eastern Partnership: Hotspot Analysis and Needs Assessment* (24 Mar. 2021), https://www.oecd-ilibrary.org/sites/67569623-en/index.html?itemId=/content/component/67569623-en.

[34] Ministry of Infrastructure, "Volodymyr Omelyan presented the National Transportation Strategy - 2030 «Drive Ukraine 2030»" (22 Jun. 2018), https://mtu.gov.ua/en/news/29923.html.

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[35] European Commission, *Joint Staff Working Document: Association Implementation Report on Ukraine*.

[36] OECD, "6. Trends in Ukraine's sustainable infrastructure investments," in *Sustainable Infrastructure for Low-carbon Development in the EU Eastern Partnership: Hotspot Analysis and Needs Assessment*.

[37] For example, see commitments in Khutkyy, *Independent Reporting Mechanism (IRM): Ukraine Design Report 2018–2020*.

[38] Farid Safarov (Min. of Infrastructure of Ukraine), interview by IRM researcher, 10 Jun. 2021; Sviatoslav Abramov (CoST Ukraine), interview by IRM researcher, 10 Jun. 2021.

[39] Safarov, interview.

[40] *Id.*

[41] *Id.*; Abramov, interview.

[42] Safarov, interview.

[43] Min. of Infrastructure, "39 Ukrainian infrastructure projects envisaged by 'Drive Ukraine 2030' included in the Indicative trans-European Transport Network (TEN-T) Investment Action Plan, -Volodymyr Omelyan" (18 Jan. 2019), https://mtu.gov.ua/en/news/30611.html.

[44] Safarov, interview.

[45] Abramov, interview.

[46] *Id.*

[47] *Id.*

[48] *Id.*

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Section III: Methodology and IRM Indicators

The purpose of this review is not an evaluation as former IRM reports. It is intended as an independent quick technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This approach allows the IRM to highlight the strongest and most promising commitments in the action plan based on an assessment of the commitment per the key IRM indicators, particularly commitments with the highest potential for results, the priority of the commitment for country stakeholders, and the priorities in the national open government context.

To determine which reforms or commitments the IRM identifies as promising, the IRM follows a filtering and clustering process:

> **Step 1:** Determine what is reviewable and what is not based on the verifiability of the commitment as written in the action plan.
> **Step 2:** Determine if the commitment has an open government lens. Is it relevant to OGP values?
> **Step 3:** Commitments that are verifiable and have an open government lens are reviewed to identify if certain commitments need to be clustered. Commitments that have a common policy objective or commitments that contribute to the same reform or policy issue should be clustered and its "potential for results" should be reviewed as a whole. The clustering process is conducted by IRM staff, following the steps below:
>> a. Determine overarching themes. They may be as stated in the action plan or if the action plan is not already grouped by themes, IRM staff may refer to thematic tagging done by OGP.
>> b. Review objectives of commitments to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
>> c. Organize commitments by clusters as needed. Commitments may already be organized in the action plan under specific policy or government reforms or may be standalone and therefore not clustered.
> **Step 4:** assess the potential for results of the cluster or standalone commitment.

The filtering process is an internal process and data for individual commitments is available in Annex I below. In addition, during the internal review process of this product the IRM verifies the accuracy of findings and collects further input through peer review, the OGP Support Unit feedback as needed, interviews and validation with country stakeholders, and sign-off by the IRM's International Experts Panel (IEP).

As described in the filtering process above, the IRM relies on **three key indicators** for this review:

I. Verifiability
- "Yes" Specific enough to review. As written in the action plan, are the objectives stated and actions proposed sufficiently clear and include objectively verifiable activities to assess implementation?

- "No": Not specific enough to review. As written in the action plan the objectives stated and proposed actions lack clarity and do not include explicit verifiable activities to assess implementation.

*Commitments that are not verifiable will be considered "not reviewable," and further assessment will not be carried out.

II. Does it have an open government lens? (Relevant)

This indicator determines if the commitment relates to open government values of transparency, civic participation, or public accountability as defined by the Open Government Declaration, the OGP Articles of Governance, and by responding to the guiding questions below. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institution, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP values as defined in the Articles of Governance. In addition, the following questions for each OGP value may be used to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation**: Will government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability**: Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable a legal, policy, or institutional framework to foster accountability of public officials?

III. Potential for results

Formerly known as the "potential impact" indicator, it was adjusted taking into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, this indicator was modified so that in this first review it laid out the expected results and potential that would later be verified in the IRM results report after implementation. Given the purpose of this action plan review, the assessment of "potential for results" is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** The commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indicating the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** A positive but standalone initiative or change to process, practice, or policies. These commitments do not generate binding or institutionalized changes across government or institutions that govern a policy area (e.g., tools like websites, data release, training, or pilot projects).
- **Substantial:** A possible game changer to the rules of the game (or the creation of new ones), practices, policies, or institutions that govern a policy area, public sector, or

relationship between citizens and state. The commitment generates binding and institutionalized changes across government.

This review was prepared by the IRM in collaboration with Tatevik Margaryan, an independent researcher, and overseen by the IRM's International Experts Panel (IEP). The current IEP membership includes:
- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Juanita Olaya

For more information about the IRM, refer to the **"About IRM" section of the OGP website** available here.

Annex 1: Commitment-by-Commitment Data[1]

Commitment 1: Improve budget transparency and implementation of e-contracts[2]
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 2: Ensuring transparency in public asset accounting
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 3: Creation of a distance learning system on the Unified State Web-Portal of Digital Education for general high school students and teachers
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 4: Implementing the state open science policy
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Unclear

Commitment 5: Set up an online platform on patenting & innovation development
- Verifiable: Yes
- Does it have an open government lens? No
- Potential for results: Unclear

Commitment 6: Application of a unified approach to the verification of beneficiary holders
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 7: Application of e-democracy instruments for interactions between executive authorities, the public, and civil society
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 8: Introducing the electronic system for extractive industry reporting
- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 9: Establishing the National Centre for Open Data Competence

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 10: Ensuring digital accessibility for persons with disabilities

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 11: Facilitating more active participation by the youth in forming and implementing state policy and addressing local issues

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Unclear

Commitment 12: Opening access to information on general-use roads of national and local importance

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

Commitment 13: Creation of additional infrastructure project monitoring mechanisms

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Substantial

Commitment 14: Ensuring open access to gender-disaggregated data

- Verifiable: Yes
- Does it have an open government lens? Yes
- Potential for results: Modest

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[1] For commitments that are clustered: the assessment of potential for results is conducted at the cluster level, rather than the individual commitments.

[2] Commitment short titles may have been edited for brevity. For the complete text of commitments, please see Ukraine's action plan: https://www.opengovpartnership.org/documents/ukraine-action-plan-2020-2022/.

Annex 2: Minimum Requirements for Acting According to OGP Process

According to OGP's Procedural Review Policy, during development of an action plan, OGP participating countries must meet the "involve" level of public influence per the IRM's assessment of the co-creation process.

To determine whether a country falls within the category of "involve" on the spectrum, the IRM assesses different elements from OGP Participation and Co-creation Standards. The IRM will assess whether the country complied with the following aspects during the development of the action plan, which constitute the minimum threshold:

1. **A forum exists:** There is a forum to oversee the OGP process;
2. **The forum is multistakeholder:** Both government and civil society participate in it.
3. **Reasoned response:** The government or multistakeholder forum documents or can demonstrate how they provided feedback during the co-creation process. This may include a summary of major categories and/or themes proposed for inclusion, amendment, or rejection.

The table below summarizes the IRM assessment of the three standards that apply for purposes of the procedural review. The purpose of this summary is to verify compliance with procedural review minimum requirements, and it is not a full assessment of performance under OGP Co-creation and Participation Standards. A full assessment of co-creation and participation throughout the OGP cycle will be provided in the results report.

Table 2. Summary of minimum requirements to act according to OGP Process

OGP Standard	*Was the standard met?*
A forum exists. While the Coordination Council did not operate during the co-creation process, a working group of government, civil society, and international donors that historically engaged in developing OGP action plans organized and oversaw the development of the action plan process.[1] Moving forward, Ukraine needs to ensure that its multistakeholder forum adheres to OGP cocreation and participation standards as was practiced under the Coordination Council.	Yellow
The forum is multistakeholder. Government, civil society, and international donor organizations that are already familiar with the OGP process were part of the working group.[2] Discussions conducted online were	Green

organized around Sustainable Development Goal themes.[3] Many new civil society organizations engaged in consultations and made proposals but it is unclear if any of these new organizations are included as leads for any of the commitments.[4]	
The government provided a reasoned response on how the public's feedback was used to shape the action plan. Written feedback outlining the issue raised, solutions suggested, expected results, and decision made, was published online for the 241 proposals.[5] Furthermore, the cocreation process included meetings where the draft plan was presented and those who had originally made proposals received feedback.	Green

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[1] Natalia Oksha (OGP Coordination Council Secretary and Secretariat of the Cabinet of Ministers of Ukraine), interview by IRM researcher, 22 Jun. 2021.

[2] *Id.*

[3] Development of action plans for the implementation of the Open Government Partnership in 2020 - 2022 in Ukraine's key stages and developments, Secretariat of the Cabinet of Ministers of Ukraine, https://www.kmu.gov.ua/storage/app/sites/1/17-civik-2018/partnerstvo/ogpproject-plan-21-22.pdf (last accessed 27 July 2021)

[4] Secretariat of the Cabinet of Ministers of Ukraine, "Пропозиції до плану дій із впровадження Ініціативи "Партнерство "Відкритий Уряд" у 2020 - 2022 роках" [Proposals for the action plan for the implementation of the Open Government Partnership Initiative in 2020 – 2022] (accessed 27 Jul. 2021), https://docs.google.com/forms/d/e/1FAIpQLSe0U9vRRxYPi3FE2vYsB5e0hivtjA_nSVv0JvmMPkVW4I3QtQ/closedform.

[5] Secretariat of the Cabinet of Ministers of Ukraine, [Report on consideration of proposals received based on the results of discussions in the preparation of the action plan on the implementation of the Open Government Partnership Initiative in 2021-2022] (accessed 27 Jul. 2021), https://www.kmu.gov.ua/storage/app/sites/1/17-civik-2018/partnerstvo/zvit-propo-ogp2021.pdf.

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