

Independent Reporting Mechanism

Action Plan Review:
Lithuania 2021-2023

Open
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Independent
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Mechanism

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 the lessons after more than 350 independent, evidence-based and robust assessments conducted by the IRM and the inputs 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 August 31, 2021. Results Reports are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of Lithuania's 2021-2023 action plan. The action plan is made up of three 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 III: Methodology and IRM Indicators.

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 2021-2023 Action Plan

Lithuania's fifth action plan offers commitments for three new policy areas, with promising commitments on establishing a public beneficial ownership register and opening all procurement data in open format. Ensuring there are no restrictions to accessing beneficial ownership data and creating mechanisms for reporting irregularities in public procurement would enhance implementation of these commitments.

Lithuania's fifth action plan includes three commitments that address new policy areas - beneficial ownership transparency, publishing public procurement data in open format, and standardizing how the government communicates the potential social impact of draft legislation to the public. This marks a change from the fourth action plan (2018-2020), which mostly carried forward unfinished commitments from the third plan (2016-2018).

The fifth action plan generally responds to stakeholder priorities and offers commitments that are potentially more impactful compared to the previous plan. Commitment 1 aims to develop a publicly available beneficial ownership register. Lithuania remains one of only three EU Member States that has yet to develop a beneficial ownership register open to the public (a requirement of the Fifth EU Anti-Money Laundering Directive), and this commitment would provide this information to citizens and journalists for the first time. Commitment 2 will result in the publication of all procurement data in open format, as well as significantly more data than previously available. Commitment 3 could result in a standard, user-friendly template for the government to inform the public about the potential social impact of important draft legislation.

During co-creation, an initial electronic survey received 18 proposals, 14 of which came from citizens and civil society (including the three in the action plan).¹ The proposals were discussed in detail at a consultation in May 2020, where more than 50 participants voted on which proposals to prioritize. Beneficial ownership and public procurement received the most votes, while the future Commitment 3 received the fifth most votes.² The Office of the Government organized four working group consultations in 2020 where participants discussed the five selected proposals in detail and decided on which to include as commitments.³

Compared to the previous co-creation process, the fifth action plan's process was generally more inclusive and participatory. Participants at the public consultations were able to directly vote on which proposals to prioritize, and the results were published online. However, there is still room for greater transparency around possible changes to the scope of the commitments

AT A GLANCE

Participating since: 2011
Action plan under review: 2021-2023
IRM product: Action Plan Review
Number of commitments: 3

Overview of commitments:

- Commitments with an open gov lens: 3
- Commitments with substantial potential for results: 2
- Promising commitments: 2

Policy areas carried over from previous action plans: 0

Emerging policy areas:

- Beneficial ownership transparency
- Open contracting
- Social impact of draft legislation

Compliance with OGP minimum requirements for Co-creation:

- Acted in accordance to OGP process: Yes

that were introduced following consultations with responsible institutions. For example, from publicly available information, it is unclear why the scope of Commitment 1 on beneficial ownership became narrower from Transparency International (TI) Lithuania's original proposal, if the changes were introduced unilaterally by the Ministry of Justice, or what participants of the public consultations who voted for its inclusion thought about the changes. The IRM reiterates its recommendation from the 2018-2020 Design Report to publish a written summary for stakeholders to better track the changes to commitment proposals that result from consultations and discussions with implementing agencies. The reasons for the changes should be communicated and substantiated.⁴

The relevant lead agencies all had representatives participate in the consultations. However, the Office of the Government did not ensure that senior-level representatives of these agencies knew about their roles in the commitments from the very beginning. For example, the Public Procurement Office (PPO) became aware of the action plan only when they were indicated as a responsible institution for Commitment 2, and the Ministry of Justice informed the State Enterprise Center of Registers about its responsibilities for Commitment 1 on beneficial ownership after the discussions on the scope had already taken place. For the next action plan, the IRM reiterates its recommendation from the 2018-2020 Design Report to proactively engage public sector agencies as soon as a pertinent commitment text is under discussion and ensure they are fully aware of their role in implementing commitments. This could include higher-level participation by senior-level representatives of the public in the multi-stakeholder forum.

The success of the action plan will partially depend on the extent to which citizens and stakeholders know of and use new information on beneficial ownership and public procurement. It may be important to carry out awareness raising and trainings for stakeholders on how to use newly available data for their work. The IRM recommends utilizing the available resources of Open Ownership⁵ when creating the beneficial ownership register and removing restrictions to accessing the register like paywalls. Lithuania could also make beneficial ownership data available in open format and verify the accuracy of the data. For Commitment 2, the IRM recommends developing feedback and complaints mechanisms for citizens to report irregularities in public procurement.

¹ Government of the Republic of Lithuania, 2021-2023 Action Plan for Lithuania's Participation in the International Initiative 'Open Government Partnership', p 6, https://www.opengovpartnership.org/wp-content/uploads/2021/06/Lithuania_Action-Plan_2021-2023_EN.pdf

² Republic of Lithuania, p 10,

https://epilietis.lrv.lt/uploads/epilietis/documents/files/Konferencijos%20ataskaita%2005_21.pdf

³ The two discarded proposals involved 1) informing NGOs operating in the areas that will be affected by the envisaged legal regulation immediately after the public announcement of the draft legal acts in the Legal Acts Information System, and 2) creating an information platform for NGO competitions. According to the action plan, these activities will be implemented outside the scope of the OGP action plan.

⁴ Open Government Partnership, IRM Lithuania Design Report 2018-2020, https://www.opengovpartnership.org/wp-content/uploads/2019/11/Lithuania_Design_Report_2018-2020_EN.pdf

⁵ Open Ownership, Guide to implementing beneficial ownership transparency, https://www.openownership.org/uploads/OO_Implementation_Guide.pdf

Section II: Promising Commitments in Lithuania 2021-2023 Action Plan

The following review looks at the two commitments that the IRM identified as having the potential to realize the most promising results. This review will inform the IRM’s research approach to assess implementation in the Results Report. The IRM Results Report will build on the early identification of potential results from this review to contrast with the outcomes at the end of the implementation period of the action plan. This review also provides an analysis of challenges, opportunities and recommendations to contribute to the learning and implementation process of this action plan.

The IRM has analyzed Commitment 1 on beneficial ownership transparency and Commitment 2 on open procurement data. These commitments were proposed by non-government stakeholders during the co-creation process and received the most votes from the participants of public consultations when determining the priorities for the action plan.⁶ They also address important gaps in Lithuania’s open government landscape. Commitment 1 would, for the first time, centralize beneficial ownership information in Lithuania in a register. This is an important goal because Lithuania was one of only three EU Member States without a beneficial ownership register at the time of adopting the fifth action plan. Commitment 2 would result in the publication of government procurement data using the Open Contracting Data Standard. It will also see the publication of significantly more data than before, as it will cover the entire procurement cycle (from planning, tendering and awarding the contract, to implementation), and all government sectors.

For Commitment 3, the Office of the Government aims to develop a standardized template to present to the public the potential benefits and consequences of draft legislation that could have a “greater impact” on society. According to the Office of the Government, government communication of this information is inconsistent, so there is a need to systematically inform citizens of the most important legal acts. However, the Office of the Government does not currently know how it will promote the information to the public.⁷ The adviser at Strategic Competencies Group (an internal body within the Office of the Government which will assist in developing the template) mentioned social media as a possible tool for promotion, but this is not yet confirmed.⁸ Even if the Office of the Government informs the public of important legal acts in a user-friendly manner, if it does not disclose its calculations, the full impact assessments or the sources it used, and the stakeholders and expert groups consulted, this commitment is unlikely to have higher than modest potential for results. For many decisions, the publication of such information should also take place much earlier than the drafting of a law so that stakeholder consultations and expert analysis are introduced at the problem identification and scenario-planning stage.

To maximize the utility of the standardized template, the IRM recommends that the Office of the Government conduct a self-evaluation to understand if changes in communication, whatever the changes eventually entail, meet their goals in practice. The IRM also recommends that the Office of the Government publish the complete impact assessments along with the simplified information from this commitment.

Table 1. Promising commitments

Promising Commitments

Commitment 1. Ensuring **public access to beneficial ownership information**. This commitment would provide, for the first time, civil society and journalists with information on the beneficial ownership of companies registered in Lithuania. This information could be used to identify suspicious trends in ownership and reduce the risks of money laundering.

Commitment 2. Opening up **public procurement data**. This commitment would provide, for the first time, standardized open data covering all government sectors and the full cycle of procurement. Civil society, journalists, and citizens will be better equipped to monitor the integrity, fairness, and efficiency of government spending.

Commitment 1: Ensuring public access to beneficial ownership information [Lead agency: State Enterprise Centre of Registers with support from the Ministry of Justice]

For a complete description of the commitment, see Commitment 1 in Lithuania's 2021-2023 action plan [here](#).

Context and objectives

Under this commitment, the State Enterprise Centre of Registers will create a public register with information on the ultimate beneficial owners of companies in Lithuania. The Fourth EU Anti-Money Laundering Directive (AMLD) of 2015 required all EU Member States to establish beneficial ownership registers, while the Fifth EU AMLD of 2018 required Member States to open their registers to the public. As of May 2021, Lithuania was one of only three EU Member States that had not yet established any type of beneficial ownership register.⁹ Amendments in 2019 to Lithuania's Law on Prevention of Money Laundering and Terrorist Financing mandated the creation of a public register as a sub-system of the Information System of Members of Legal Entities (JADIS).¹⁰ Lithuania was previously unable to create a register because no state budget was allocated for the task. However, the 2021 state budget earmarked funds for the creation of the JADIS sub-system, thus enabling Lithuania to transpose the Fifth EU AMLD.¹¹

Past involvement of Lithuanian banks in money-laundering schemes have raised the importance of beneficial ownership transparency in the country. A Lithuanian bank was suspected of being linked to the so-called "Troika Laundromat", a collection of 70 offshore shell companies used to move around US\$4.6bn from Russia.¹² According to investigations in 2019, the registered beneficial owners for many of these companies were proxies who were used to hide the true owners.¹³ The State Tax Inspectorate (STI) notes that the lack of a beneficial ownership register hinders tax-related investigations in Lithuania.¹⁴ The importance of beneficial ownership transparency is also illustrated by global data leaks. After the revelations of the Panama Papers in 2016, STI opened a dozen tax-related investigations which resulted in the return of approximately 400,000 euros to Lithuania's budget.¹⁵ According to the CEO of the investigative journalism center Siena, the lack of a public beneficial ownership register in Lithuania has made it difficult for journalists to effectively analyze the flow of money and corporate relationships.¹⁶

The milestones of this commitment mainly address the technical aspects of preparing the JADIS register, including designing and testing the software. The final launch is scheduled for January 2022. Transparency International (TI) Lithuania proposed the commitment during the public consultation period. The topic of beneficial ownership received the most votes from stakeholders among all submitted proposals. However, TI Lithuania's original proposal included additional activities to provide beneficial ownership information as open data and ensure free

access to information on the register.¹⁷ These activities were ultimately not taken up by the Ministry of Justice, which is responsible for setting policies toward Lithuanian registries.

The JADIS register will be interoperable with the EU's Beneficial Ownership Registers Interconnection System (BORIS). This will harmonize the data JADIS register with the registers of Member States and better facilitate the exchange of information.¹⁸ The 2019 amendments to the Law on Prevention of Money Laundering and Terrorist Financing requires that companies disclose all beneficial owners at a shareholding threshold of 25 percent or higher.¹⁹ The 25 percent threshold would comply with the Fifth EU AMLD and is the most common among OGP countries with beneficial ownership registers.²⁰ In case companies are late or do not provide information on their beneficial owners, the Law on the Approval, Entry into Force and Implementation of the Code of Administrative Offences is applied. For these offenses, there is a fine ranging from 30 to 1,400 euros.²¹

Potential for results: Substantial

This commitment could have substantial potential for results in the area of beneficial ownership transparency in Lithuania. For the first time, civil society and journalists in Lithuania and elsewhere will have access to basic information on the beneficial owners of companies registered in Lithuania.²² The register can help stakeholders identify suspicious trends in company ownership that would not have been possible without having access to the information. The register could also help improve public trust in Lithuania's financial sector, whose reputation was damaged by the involvement in the "Troika Laundromat" money-laundering scheme and the Panama Papers revelations. According to the CEO of the investigative journalism center Siena, publicly available beneficial ownership information is crucial for building and preserving trust in business and financial systems. Access to this data can help investigative journalists and civil society to more easily research and analyze money flows and corporate relationships.²³

Although the creation of a public beneficial ownership register will be a significant step for Lithuania, several important questions regarding access to the data and the format in which the data is published, have not been decided yet. The action plan notes that "any interested party" will be able to access the information on beneficial owners on the JADIS register. Currently, the Ministry of Justice foresees that the public will have access to information on the register after providing one's identity and logging in to the State Enterprise Centre of Registers website. However, it has not yet decided if users will be required to pay a fee to access the register. Users will be able to check legal entities one by one but, at this time, will not have the possibility to search by natural person or download data in bulk. The Ministry of Justice saw these restrictions as a proportionate balance between maintaining privacy and promoting transparency. According to the Deputy Minister of Justice, the ministry will wait for the Court of Justice of the European Union (CJEU) to issue a ruling on the validity of public registers of beneficial ownership.²⁴ The deputy minister noted that the CJEU ruling may change the current course of openness and accessibility for Lithuania's register, but at this stage, some limitations in access may be necessary in order to guarantee the compatibility of a public register with individuals' privacy rights.²⁵

Opportunities, challenges and recommendations during implementation

According to the State Enterprise Centre of Registers, the success of the JADIS register will largely depend on the willingness of companies to provide accurate information on their

beneficial owners on time.²⁶ In addition, the success will also depend on the application of credible sanctions for failure to do so. TI Lithuania, Siena, and Media4change remain optimistic that companies will submit their beneficial ownership information on time and that the registry will be finalized by January 2022, as set out in the action plan. Both the Ministry of Justice and the State Enterprise Centre of Registers stressed to the IRM that a risk to implementation is the limited human resources available to create a complicated system. A representative of the State Enterprise Centre of Registers said that, despite maximum efforts, there is still a risk of being 'slightly late' in delivering the JADIS register on time.²⁷

This commitment is an important step toward addressing a major gap in Lithuania's open government landscape. Civil society in Lithuania widely acknowledges that having a register that is open to the public is crucial for preserving trust in the country's business and financial systems. However, key decisions related to the transparency and accessibility of the register are yet to be determined while the Ministry of Justice waits for clarity from the CJEU. Putting the register behind a paywall or disclosing data that is not user-friendly could limit its utility for investigations by civil society and watchdogs. Despite legal uncertainties, several EU Members States already offer the information on their registers as open data, free of charge, and without barriers to access. For Lithuania to maximize the usefulness of the new register for stakeholders and the public, the IRM recommends taking the following steps:

- Ensure maximum transparency by making information on the JADIS register available free of charge and without barriers to access.** Ideally, data on the JADIS register should be available without administrative obstacles such as having to log in to the register. Open Ownership notes that charging a fee for every request often prevents journalists, researchers, and NGOs from being able to access data. This can negate potential benefits of a register, such as being able to conduct thorough investigations into financial irregularities.²⁸ The IRM recommends that the State Enterprise Centre of Registers follows, as closely as possible, the Open Ownership Principles when creating the JADIS register.²⁹ These principles state that data should be accessible without barriers such as payment, identification, or registration, and that the use of "legitimate interest" restrictions be limited.
- Make data available in open format.** The Ministry of Justice could revisit TI Lithuania's original proposal to publish information as open data. Open data is important as it would enable cross-searching with other open databases, for instance public officials' assets disclosure data. In particular, the IRM recommends using the Beneficial Ownership Data Standard (BODS) to maximize the interoperability of the information and meet global best practice.³⁰ Open Ownership offers technical guidance for collecting, sharing, and using data on beneficial ownership, including implementing the BODS.³¹ It also offers tools to help convert paper-based information to a digital format and a visualizer that can be embedded in websites to display company ownership. The Ministry of Justice could also consult the examples of Denmark³² and Latvia.³³ Both countries offer the information in their registers as structured data and in machine-readable format.³⁴ Portugal will also implement the BODS in its second action plan (2021-2023), which could provide learning opportunities and peer exchange for Lithuania.³⁵
- Enable the ability to search by natural persons.** Currently, the JADIS register does not envision to offer the possibility to search the data by natural person. However, Šarūnas Černiauskas of Siena notes that enabling searching by natural persons is

important for strengthening the utility of the JADIS register for journalists.³⁶ Searching only by legal entities can complicate investigations and can hide connections or money flows related to a particular politician, businessperson, or other person of interest. It can also create barriers for cooperation between journalists in different countries, when teams exchange information and missing data about specific persons to each other. Several EU Member States offer the possibility to search by both legal entity and natural person, such as Denmark and France.³⁷

- Introduce mechanisms to verify the accuracy of the information on the JADIS register and apply robust sanctions for companies that fail to provide accurate information on their beneficial owners on time.** Once the JADIS register is operational, an important next step will be to verify the accuracy of the information that companies have submitted. Ideally, the State Enterprise Center of Registers should be sufficiently resourced and staffed to ensure it can effectively verify the submitted data. Lithuania could also learn from other EU Member States which have developed verification mechanisms for their registers. For example, Denmark automatically cross-checks submitted information with various governmental registers, including the civil register and the Danish address register, to prevent the registration of deceased persons.³⁸ Also, the Slovak Republic uses third parties such as lawyers, notaries, banks, and auditors to check all information on its register, and companies can be held liable if found to be providing false information.³⁹ The State Enterprise Centre of Registers and the Ministry of Justice could organize information campaigns, hold trainings, and publish guidelines on how to submit information fully and accurately. Lastly, it will be important to apply robust and credible sanctions for companies that fail to submit accurate information on their beneficial owners on time.
- Engage journalists, civil society, and citizens to monitor and report improprieties on the JADIS register, and train stakeholders and citizens to actively use the data.** The utility of the JADIS register to journalists and civil society will largely depend on their knowledge of how to use the register. As Šarūnas Černiauskas notes, active use of the register by media, civil society, and citizens will be crucial to support law enforcement in uncovering possible violations (given law enforcement's limited capacity).⁴⁰ Once the JADIS register is online, the IRM recommends the Ministry of Justice and the State Enterprise Center of Registers work with expert civil society stakeholders to carry out awareness raising and trainings for interested stakeholders on how to use the information in their work. Non-government stakeholders can also be trained to assist the State Enterprise Centre of Registers in cross-checking information and reporting errors or missing information to the authorities.

Commitment 2: Opening up public procurement data [Lead agency: Public Procurement Office]

For a complete description of the commitment, see Commitment 2 in Lithuania's 2021-2023 action plan [here](#).

Context and objectives

Under this commitment, the Public Procurement Office (PPO) aims to open up all of its historical procurement data in open format. Specifically, the PPO will adopt the Open Contracting

Partnership (OCP)'s Open Contracting Data Standard (OCDS) to create raw public procurement datasets and their metadata. This proposal received the second greatest number of votes among working group members during the co-creation process (after beneficial ownership).

Although Lithuania has taken steps in recent years to increase the availability and transparency of public procurement, there remains room for improvement. The PPO maintains a Central Public Procurement Information System (CPP-IS) which has had a publicly accessible contract register since 2016.⁴¹ However, TI Lithuania noted in a 2019 report that information published to CPP-IS is only available in PDF and DOCX formats.⁴² In addition, the head of e-procurement at the PPO notes that access to the CPP-IS is not convenient for users and is often missing key data on procurement plans, calls, and the overall reports for certain sectors or years.⁴³

Favorable contracting awards for politically affiliated companies remains a concern. For example, TI Lithuania found out that every fifth euro from state and municipal budgets (1.4m euros) and every seventh euro from EU investments (10,6000 euros) from 2015 to 2018 was allocated to politician-affiliated companies by municipalities to cover publicity costs.⁴⁴

The commitment is closely related to Lithuania's forthcoming SAULĖ IS e-procurement system, which will replace the current CPP-IS by 2023.⁴⁵ SAULĖ IS will include more detailed, standardized information across the whole procurement cycle in open format.⁴⁶ However, as a PPO representative notes, SAULĖ IS will contain only new data from 2023 onwards, excluding historical public procurement records.⁴⁷ In order to keep historical data open during and after the transition to SAULĖ IS, this commitment will entail the PPO opening its data from the time period starting in 2017 until SAULĖ IS is launched. Until the launch, PPO's data will be stored at <https://atviriduomenys.vpt.lt/> in the OCDS format.

The commitment also includes a milestone specifically dedicated to opening data for procurement in the defense sector. Defense procurement in Lithuania is regulated under a different law (the Law on Public Procurement in Defence and Security) from other procurement (the Law on Public Procurement). According to the PPO, there is a lack of knowledge on the legal grounds for public procurement in defense spending, which can lead to questions about defense procurement being excluded from public procurement analyses or datasets.⁴⁸ For this reason, the action plan specifically mentions the defense sector to clarify that procurement from all sectors will be opened, regardless of the particular governing legislation.

Potential for results: Substantial

If successfully implemented, this commitment has substantial potential for results in public procurement transparency. This is because it will fundamentally change the accessibility of public procurement data, by aligning it with the OCDS, and is comprehensive in scope, covering all data that the PPO possesses and across all sectors. Adopting the OCDS will enable citizens to search and access any public procurement data, regardless of its sector, time, or type. It will also result in the publication of significantly more data than was available before the action plan related to the entire procurement lifecycle, including data on procurement notices, reports, annual procurement plans, and contracts. In addition to supporting anti-corruption, stakeholders can use the new data from this commitment to assist the government in improving the efficiency of Lithuania's procurement and improve the quality goods, works, and services for citizens.

According to OCP, access to standardized open data across the full cycle of all procurements will give civil society the tools and necessary information to monitor the integrity, fairness, and efficiency of public procurement markets.⁴⁹ Lithuania has a vibrant data community who can use the data from this commitment to assist in their work on anti-corruption and good governance.⁵⁰ OCP notes that there are three key thematic areas where having access to open procurement data could be the most valuable: a) the environmental transition in Lithuania (related to the EU's Green Deal⁵¹), b) spending related to the EU's Recovery and Resilience Plan for Lithuania, and c) health sector spending. On environmental procurement specifically, the Ministry of Environment will work with OCP on using the newly available data for securing and measuring green procurement as part of Lithuania's green transition.⁵²

The publication of open data on defense sector procurement could also yield important results. A 2020 report by Transparency International found that open competition accounted for as little as 0.5 percent of defense procurement procedures, with upwards of 93 percent of defense procurement conducted through restricted tenders and negotiated procedures.⁵³ Lithuania increased its military spending by 232 percent between 2010 and 2019.⁵⁴ The report also notes that the PPO and the National Audit Office are understaffed and lack the technical expertise to effectively monitor defense procurement.⁵⁵ Greater public access to defense sector procurement could help alleviate some of the limited capacity faced by the PPO and audit office and could improve public scrutiny and flag any possible corruption risks in the sector.

Opportunities, challenges and recommendations during implementation

The commitment has an ambitious goal to open all public procurement data within a limited time. This is the main concern for the PPO, given its limited staffing and resources.⁵⁶ Another possible challenge is public communication once the commitment is implemented. Currently there is no strategy or concrete measures to guarantee citizens are aware of the data that will be opened from this commitment.

Apart from the defense sector, this commitment could offer enhanced public monitoring of government spending as related to the COVID-19 pandemic recovery. The PPO already gained experience in opening relevant sector-specific data during the pandemic in 2020. After it became evident that COVID-19-related procurement might be prone to corruption, the PPO opened its data worth more than 80m euros in emergency contracts.⁵⁷ Going forward, it will be important to focus on opening procurement related to the EU's Green Deal and Lithuania's Recovery and Resilience Plan (from EU Structural and Investment Funds).

To maximize the results of this commitment, the IRM recommends the following:

- **Utilize OCP's resources when adopting the OCDS.** In addition to consulting OCP staff, the PPO could utilize OCP's various online resources on adopting the OCDS. For example, OCP has developed a list of indicators aligned to the end use for contracting data⁵⁸ and guidance on how best to link indicators to data in OCDS format.⁵⁹ The OCP has also developed user guides,⁶⁰ a tools directory,⁶¹ and a new tool to collect and analyze OCDS data.⁶² More recent OCP publications include a "quick start guide" for open contracting⁶³ and strategic recommendations for regulating open contracting.⁶⁴
- **Train stakeholders on how to use contracting data for impact.** Ultimately, the success of this commitment will largely depend on the level of usage of the newly

opened data by stakeholders. In addition, usage of the data by the public is critical, as the PPO may not have the capacity to monitor all procurement and ensure that public funds are being spent efficiently and fairly. To encourage data re-use, the PPO could train stakeholders on using procurement data. For example, in its third action plan (2016-2018), the Republic of Moldova carried out trainings for small and medium enterprises, civil society, and software developers on using new e-procurement system MTender.⁶⁵ Also, in its fifth action plan (2019-2022), the Philippines committed to hold trainings for CSOs and government officials on using the OCDS in the new e-procurement system, as well as data literacy and prioritization workshops for CSOs.⁶⁶

- Include citizen feedback mechanisms.** The PPO could establish a feedback mechanism and opportunities for the public to act on the procurement data, such as by filing complaints, reporting irregularities, or suggesting improvements.⁶⁷ It will also be important for the PPO to respond to and act on the feedback received. As an example of a feedback mechanism, Ukraine launched DoZorro during its third action plan (2016-2018), which enables citizens to submit feedback, including alerts of possible irregularities and violations, on the ProZorro e-procurement system.⁶⁸ In addition, in Georgia, any individual can file online complaints on the country's e-procurement platform if there has been a violation of the law. A complaint can put a tender on hold for up to 10 days, until a dispute review board has discussed the complaint and decided how to proceed. All complaints and decisions are published online.⁶⁹
- Focus on publishing procurement data for the EU's Recovery and Resilience Plan and data for the largest procurement sectors in the country.** Lithuania, along with other EU Member States, will need to invest the funds from the EU's COVID-19 Recovery and Resilience Plan through public contracting projects. To minimize risks of fraud and corruption in the investment of these funds, specific attention could be paid to ensuring transparency and public oversight over the procurement process. As an example, Portugal has a commitment in its second action plan (2021-2023) to publish information on the implementation of its EU recovery funds, including developing public procurement data visualization dashboards.⁷⁰ OGP also offers resources and recommendations to support an open recovery from the pandemic, including in public procurement.⁷¹ In addition, the PPO could focus on publishing data in the sectors which have the highest value procurement contracts, namely infrastructure, transport, and construction.
- Make public procurement data interoperable with beneficial ownership data and disclosures of public officials' asset declarations.** The creation of the beneficial ownership registry (under Commitment 1 in this action plan) presents an opportunity to link beneficial ownership information with public procurement data. For example, data on procurement contractors could be tied to the beneficial ownership register.

⁶ Republic of Lithuania, p 10 (in Lithuanian),

https://epilietis.lrv.lt/uploads/epilietis/documents/files/Konferencijos%20ataskaita%2005_21.pdf. The top five topics during the voting were: 1) beneficial ownership registry, 2) open public procurement, 3) a system informing NGOs about new legal acts being adopted in the Parliament, 4) a platform to publish all calls for funding for NGOs, and 5) impact assessments for government decisions.

⁷ Daiva Žaromskytė-Rastėnė, Head of Strategic Competencies Group, interview with IRM researcher, 22 October 2021.

- ⁸ Asta Petkevičienė, Adviser, Strategic Competencies Group, interview with IRM researcher, 22 October 2021.
- ⁹ Transparency International, Access Denied? Availability and Accessibility of Beneficial Ownership Data in the European Union, p 5, <https://images.transparencycdn.org/images/2021-Report-Access-denied-Availability-and-accessibility-of-beneficial-ownership-data-in-the-European-Union.pdf>
- ¹⁰ Transparency International, Open Data and Political Integrity in the Nordic Region, p 57, https://www.transparency.lt/wp-content/uploads/2019/11/Open_Data_Report.pdf
- ¹¹ The Baltic Course, Lithuania expects to launch register of beneficial ownership in 2021, http://www.baltic-course.com/eng/markets_and_companies/?doc=152108
- ¹² Transparency International, Lithuania's Money Laundering Problem, <https://www.transparency.org/en/blog/lithuanias-money-laundering-problem>
- ¹³ Ibid.
- ¹⁴ The most recent interview was broadcast on public radio, <https://bit.ly/3FV7nBS>
- ¹⁵ 15 min, Panama Papers, <https://www.15min.lt/naujiena/aktualu/lietuva/oficialu-panama-papers-tyrimas-lietuvos-biudzeta-papilde-ketvirciu-milijono-euru-56-878180>
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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 use as reference the 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 the objectives stated and actions proposed are 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, institutions 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 as a reference 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 legal, policy or institutional frameworks 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 indication of the added value or enhanced open government approach in contrast with existing practice.

- **Modest:** a positive but standalone initiative or changes to process, practice or policies. Commitments that do not generate binding or institutionalized changes across government or institutions that govern a policy area. For example, tools like websites, or 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 and/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 Rugile Trumpyte 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 I. Commitment by Commitment Data

Commitment 1: Public access to beneficial ownership information

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

Commitment 2: Public procurement data

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

Commitment 3: Impact assessments of draft legislation

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

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's Participation & Co-creation Standards. The IRM will assess whether the country complied with the following aspects of the standards 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 multi-stakeholder:** Both government and civil society participate in it.
3. **Reasoned response:** The government or multi-stakeholder forum documents or is able to 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's 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

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

<i>OGP Standard</i>	<i>Was the standard met?</i>
A forum exists. In Lithuania, the Open Government Network serves as the multi-stakeholder forum. It is an informal pool of 93 open government experts who participate in working group meetings and activities related to the action plan. The network is open to everyone but does not organize its work independently of the Office of the Government and does not have any decision-making powers. For the fifth action plan, key decisions on the content of the fifth action plan were made by participants of the public consultations, and not by the multi-stakeholder forum.	Green
The forum is multi-stakeholder. The Open Government Network currently has 93 members. About 20	Green

<p>percent of the members come from academia and 20 percent from NGOs and civil society, while 15 members are from the public sector and 10 from the private sector. The majority are from Vilnius (50), and the rest from Kaunas and other regional towns.</p>	
<p>The government provided reasoned response on how stakeholder proposals were prioritized for inclusion in the action plan. The Office of the Government did not give written responses to stakeholders individually, but the consultations' papers explain how the selection process worked, what proposals were received, and how the participants at the public consultations voted on which proposals to prioritize.⁷² This suggests that stakeholders could see the outcome of the consultations and if their proposal reached the next round. The proposals that did not receive enough votes were not included, which was explained in the consultation reports. Implementing agencies did provide feedback to the Office of the Government and the working group about individual proposals, but not in written form. For example, for Commitment 1, the Ministry of Justice explained its reasoning for excluding some aspects of TI Lithuania's original proposal to publish beneficial ownership information as open data. Overall, the selection process for the fifth action plan was more transparent compared to the previous plan, but the IRM reiterates a recommendation from the 2018-2020 Design Report to provide a detailed written summary of how the results of consultations between stakeholders and implementing agencies impact the final scale of the commitments.</p> <p>According to the point of contact at the Office of the Government, most people who submit proposals do not indicate their email or contact information, which can make giving personalized written feedback difficult.⁷³</p>	<p>Yellow</p>

⁷² Republic of Lithuania, https://epilietis.lrv.lt/uploads/epilietis/documents/files/Konferencijos%20ataskaita%2005_21.pdf

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