



What OGP Does for Transparency?

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List of Abbreviations

CRPM – Centre for Research and Policy Making

OGP – Open Government Partnership

IRM – Independent Reporting Mechanisms

MISA – Ministry of Information Society and Administration

FOI – Law on Freedom of Information

FOSM – Foundation Open Society Macedonia

SSO – State Statistical Office

SCPC – State Commission for the Prevention of Corruption

CSO – Civil Society Organizations

1. Overview

The Republic of Macedonia joined the Open Government Partnership initiative (OGP) in 2012 (expressing interest for membership in January and preparing the action plan by April the same year). During this short period, the action plan was prepared with little cooperation and coordination between CSOs and institutions, but with the support of the World Bank. The National Action Plan on OGP consists of 9 objectives and 35 measures. According to the Independent Reporting Mechanism (IRM) report 10 of the measures of the action plan remain unfulfilled because they were never started; two were completely, and 23 partially (substantial or limited completion) fulfilled. Due to low awareness, preparedness and coordination between institutions the action plan was not prioritized and not implemented fully. The Ministry of Information Society and Administration (MISA) led the whole process of consultations for the OGP action plan 2012-2014 with the limited engagement of other institutions.

However, for the preparation of the second action plan (2014-2016) consultations were held with a broader representation of CSOs and institutions – with the help of the regional EU funded project Advocacy for Open Government² implemented by CRPM in Macedonia. Institutions and CSOs showed ownership of the second action plan 2014-2016 as they engaged in close cooperation to draw each priority of the action plan together. Also, for the first time, CSOs asked to and were invited to take part as implementing parties of the action plan. OGP action plan 2014-2016 was adopted on 2nd May with the exact content that was agreed between CSOs and representatives of government institutions in the consultation meetings. This could be a sign of good will and efficient inter-sector coordination. The feasibility of the document will, however, become evident during the implementation period. As of November 2014, the government is informing that it is creating the inter-sector working groups for the implementation of the action plan which, if created, will be a promising step for the period to follow. Nevertheless, 2014-2016 is a period to look forward to, to analyse the impact the engagement of CSOs and the commitment of institutions will have, now that awareness about OGP values is rising significantly in the country.

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¹ Korunovska, Neda. "Independent Reporting Mechanism Macedonia: Progress Report 2012–13". Reactor -Research in Action Skopje, 2014.

² E- Democracy. "Second Action Plan on OGP 2014-2016 adopted". Skopje, 2013

2. About the Policy Brief: Defining Transparency

This policy brief looks at the National Action Plan for OGP (2012-2014) to analyse the degree to which the *commitments for transparency* have been implemented and whether the new National Action Plan on OGP 2014-2016 addresses its deficiencies. Since the four pillars of open government – transparency, participation, accountability, and open data — are interdependent and equivalent in their contribution toward good governance, to clearly define the scope of this policy brief, we will distinguish transparency from the other pillars by defining it as when the "public understands the working of their government" (as defined by Transparency Accountability Initiative). By adapting this definition to the commitments of the action plan, CRPM breaks down the definition in three central elements: (1) the obligation of public institutions to disclose public information at the request of citizens (2) the means for citizens to access proactively published information and (3) the right of citizens to receive information through services as set in the national standards for integrity. The following sections will aim to present a concise situation analysis in the three named aspects of transparency and conclude with a set of recommendations for their improvement. The analysis also uses the results of two public opinion surveys produced by CRPM in the period April 2013- September 2014.

3. Access to Public Information...

3.1 What are the challenges for full implementation of the Law on Free Access to Public Information (Law on Freedom of Information [FOI])?

The Law on FOI was put into force in September 2006 and it guarantees citizens the right to seek access to public information but also the right to be proactively informed about the work of public institutions. Since then, many of the deficiencies of the law and its implementation have been addressed with amendments of the law (in 2008, 2010, 2014) and capacity building trainings for holders of information and citizens. Yet, despite the evident progress, cases of not-responded requests, delayed responses and refusal to share the information by claiming it classified are

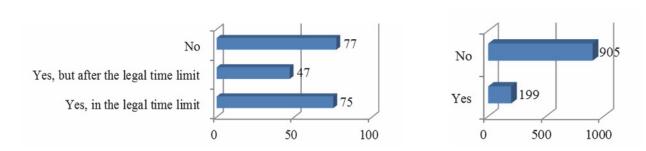
FOI in numbers

- Only 19.5% of FOI requests are from individual citizens in 2013
- 82% of citizens never filled out a formal FOI request
- 57% believe the imprecise FOI requests make the implementation difficult
- 56% believe that the expectations of citizens from FOI are not realistic to the capacities of the administration

still common.³ The annual report of the Commission for Protection of the Right to Access Information of Public Character (hereinafter: Commission for FOI) ⁴confirms that since 2006, about 76.4% of all complaints it has received were about administrative silence (similarly in 2013, 76.1% of all complaints were about administrative silence – 428 out of 564 in total⁵).

Nevertheless, in the last two years, although the percentage of complaints about administrative silence remains the same, there is a decline in the total number of complaints received by the Commission for FOI and a relatively growing number of complaints submitted by individuals rather than CSOs (19.5% of all complaints in 2013 were submitted by individual citizens). This is noteworthy as since 2006 the Commission for FOI receives a large number of complaints only from a small pool of experienced CSOs while the majority of citizens remained largely uninformed of this right. The rising number of complaints received from citizens indicates a rising public awareness about the legally guaranteed right to seek access to information although, generally, public awareness about the right for FOI remains low in Macedonia, as shows a public perception survey conducted by CRPM in April 2013 (82% of respondents never filled out a formal request for information of public character) but, of those who say they have used this right (18%), most received a response (61.6%), and also mainly within the legal time limit (61.2%)).

Figure 1. Have you ever filled out formal request for information of public character?



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³ Foundation Open Society Macedonia (2012), "Six Years Later: Is the Wall of Silence Cracking?"; Macedonian Young Lawyers' Association (2012), "Macedonia: Serious Challenges For Access to Public Information," *edri.org*. ⁴ Commission for Protection of the Right to Free Access to Public Information (2013),"Annual Report for the Work of the Commission for Protection of the Right to Free Access to Public Information from 1 January to 31 December 2012". Skopje, March 2013.

⁵ Commission for Protection of the Right to Free Access to Public Information (2014),"Annual Report for the Work of the Commission for Protection of the Right to Free Access to Public Information from 1 January to 31 December 2013". Skopje, March 2014.

⁶ Ibid

On the other hand, holders of public information are also aware of the low awareness about FOI among citizens⁷. In consequence, they also see the imprecise requests they receive from citizens as the main reason for the difficulties in implementing the law on FOI (57%).⁸

This suggest that more focus should be put on raising awareness of citizens to use the FOI mechanism as well as to invest in further education on, not just how but also what information the citizens can request from a public institution. So far the training and awareness raising activities were targeting active citizens that are organized in civil society organizations and advocating for certain interests. However, as the implementation of the law shows the real results are achieved when individual citizens use the FOI mechanisms. The campaigns were led by the Commission for free access of information in partnership with civil society organizations, but it should be explored the possibility for each governmental institution and/or body to take part in awareness raising by publicizing (at the entrance of the institution, on the bulletin board and on the web page) the focal point for FOI and the request form citizens may use for seeking information from the governmental institution/body.

Furthermore, the survey of holders of public information showed that 56% of them believe that the expectations of citizens derived from the Law on FOI are not realistic for the implementing capacities of their institutions. The amount of requests and amount of information requested overpasses the capacities of the institutions to respond to them. This coincides with the arguments why we need open data. Namely, if public institutions publicize all information and data sets they hold the number of FOI requests will decrease as well as the requirement to respond to them will match the capacity of the civil service.

3.1.1 Do measures in the OGP Action Plan 2012-2014 related to FOI respond to the challenges?

Considering the existing challenges regarding the right to access public information, as well as the fact that this right is the backbone of institutional transparency, the 2012-2014 national action plan for OGP rightfully made many commitments that aimed to improve the enforcement of the law on FOI.

As is evident, the 2012-2014 action plan for OGP under transparency and FOI enlists number of actions which are more focused on improvement of the legal framework (i.e. actions under 4.1., 4.2. and 4.3); and on improvement of the capacity of institutions (i.e. technical capacity 4.4. and human capacity 4.5. and 8.2). Neither of the measures planned responds to the identified gap of awareness of individual citizens about the FOI mechanism.

⁷ About 40% of respondent in a survey conducted by Foundation Open Society Macedonia (FOSM) say citizens have very little knowledge about this right

⁸State Statistical Office. "Usage of information and communication technologies in households and by individuals, 2013". No: 8.1.13.28, October, 2013.

Table1. Measures in the OGP Action Plan 2012-2014 related to FOI

Nr of measure	Measure	Description	Status
4.1	Advance access to information of public character	Publish information in simple and ready to use formats	Not achieved
4.2	Improve implementation of the Law on Free Access by	(a) applying the harm test in accordance to the law and (b) publish responses that are being processed by the Commission for access to information of public character for all to see (by protecting personal and classified information)	Partially achieved
4.3	Law on the Ratification of the Council of Europe Convention on Access to Public Documents	The Convention was signed in 2009 but it has not been ratified yet.	Not achieved
4.4	Enable electronic requests for access to information	Allow electronic submission of requests for access to information; and upgrade the existing webpage of the Commission for Protection of the Right to Free Access to Information or make a new one for handling records, statistics and other in a timely manner.	Not achieved
4.5	Capacity-building at the central level governance	Trainings for all officials responsible for offering access to information	Partially achieved
8.2	Capacity-building at the local level governance	Training officials and secretaries in the municipalities to improve implementation of the law on FOI at the local level	Partially achieved

It can be also noticed that the little inter-institutional coordination and consultation with CSOs during the process of drafting the action plan on OGP 2012-2014 has made the measures on FOI hardly feasible. Many commitments present efforts to achieve rights already guaranteed by law. Indeed, most measures are stipulated in the form of the optimal objective aimed (not as means of reaching that objective) – hence not clear as to *how* the action plan will achieve what the law has not provided for so far. Therefore, listed commitments have been, at best, partially achieved.

Analysis of the planed measures in the 2012-2014 plan also show that emphasis is put on the use of ICT in FOI. Namely the focus is to create mechanisms to submit request for FOI online and to publish responses to concrete requests of FOI online (measures 4.1 and 4.4). As foreseen by the action plan, the Commission for FOI disseminated a questionnaire to all institutions – holders of public information. The Commission for FOI found out that: (1) some of the holders of information think that publishing responses online will ease their job by reducing the workload with future requests for the same information; that (2) many of them had never received a request for FOI hence would not know the difference between online and paper communication regarding FOI; and that (3) most of these institutions don't even have webpages

where they could publish the information. So far, the only way that responses to requests for FOI get published online is through projects of CSOs sustained by foreign donations which publish a collection of requests and responses of FOI as are www.freeinfo.mk, www.spinfo.mk, www.slobodenpristap.mk. Although they are not in open formats they free the holders of information from responding to multiple requests for the same information and spare the seekers of information the waiting time to access it – in cases when the information seeker is aware of the existence of these webpages. Failure to back up these measures with feasibility studies regarding the financial and human capacities of institutions to switch most of their work regarding FOI online, makes many of them unattainable.

On the other hand, according to the law on FOI, the harm test (measure 4.2 (a)), is also expected to be applied to all requests, and the action plan has not managed to increase its enforcement. It would be appropriate to consider this issue jointly with the two other commitments that call for training staff in institutions at the central and local level (measures 4.5, 8.2), as the annual report of the Commission shows that less complaints for failure to apply the harm test arrive from institutions whose staff has received specific trainings about it. However, besides the insufficient capacity building programs, the rotating/changing staff in municipalities and other local public institutions after local elections 2013 (when trained staff was often replaced by untrained ones) further inhibited the expected speed of growth of the capacities to professionally handle requests for access to public information. ¹⁰ Generally, the Commission for FOI has an allocated budget for trainings, and international organizations and donors also offer significant financial and educational support for the cause of raising awareness about FOI. On the other hand, the Commission for FOI is faced with uncooperative institutions (holders of public information) which fail to submit their annual reports, however, 2013 marks significant progress as it is the year with most submitted annual reports by registered holders of public information (78.6% -- growing from 66% in 2012). 11

The ratification of the Convention of the Council of Europe on Access to Public Documents (measure 4.3) has also been postponed since 2009. Although it would not introduce any substantial change in the legislative framework for FOI in Macedonia, it has symbolic value as it would list Macedonia among the countries that have ratified such an important international document.

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⁹ Annual Report on the work of the Commission for Protection of the Right to Access Information of Public Character from 1st of January to 31st December 2013. Commission for Protection of the Right to Access Information of Public Character. Skopje, 2013 pp. 33-34.

¹⁰ In general, the Commission has verified through the constantly small number of annual reports received from municipalities (for instance, 71% of them submitted annual reports in 2012) and the complaints for administrative silence that local level governance has greater needs for capacity-building trainings.

Annual Report on the work of the Commission for Protection of the Right to Access Information of Public Character from 1st of January to 31st December 2013. Commission for Protection of the Right to Access Information of Public Character. Skopje, 2013 pp. 33-34.

3.1.2 Does the OGP Action Plan 2014-2016 address the remaining challenges?

The commitments of the OGP Action Plan 2014-2016 toward improving the conditions for access to information of public character mainly focus on raising awareness and improving capacities of citizens, representatives of CSOs, journalists, the Commission and public servants regarding FOI and on how these public information should be sought and provided. In this regard the planned activities respond to the remaining challenges for public access to information as identified at the beginning of this chapter. A part of these commitments are ongoing since the 2012-2014 action plan. The biggest novelty this action plan brings to the OGP activities of the country is the commitment to initiate the process of evaluating whether the Law on FOI needs to be amended; and begin the process of amending it if such a need will be deduced.

3.2 What are the Challenges for Access to **Public Information through Webpages?**

The Government has shown interest in improving the inclusion of people on the internet and offering eservices to them, materialized in the strategies for the Development of Information Society (2005), for the Communication Development of Electronic Information Technology (2007), for E-Governance (2010-

E – inclusion in numbers

- 65% of all households are connected to internet
- 99.8% of students use internet regularly
- Only 62% of the gov.mk web pages are functional
- Only 17% of gov.mk web pages publish official gazettes or any other news bulletin
- Only 24% of gov.mk web pages have indicated a FOI person and email address to submit your request for information

²⁰¹²⁾ and E-Inclusion (2011-2014). This ambition relies on the information that 65.1% of all households in the country are connected to internet (with a 6.8% growth in the number since 2012) and that 99.8% of pupils and students report to use the internet regularly. 12 As the most efficient form of communication (cheaper and faster), webpages present a significant space for institutional transparency and are, therefore, also considered in the action plan for OGP 2012-2014 and in the subsequent plan for the period 2014-2016. However, although most state institutions in Macedonia do have webpages, not all of them are regularly updated or used optimally for the services they could potentially offer. Certainly, the fact that there still are public institutions that do not have webpages also remains a consequential problem.

¹² Ibid

Foundation Metamorphosis in 2014 conducted research on the use of .gov.mk domain as a tool for transparency, accountability, and e-participation, and found out that of the total 373 web-pages registered as .gov.mk, 210 (62%) are functional and they also identified 10 webpages of government institutions registered with a different domain. 13 Of the functioning .gov.mk webpages (including central and local level institutions in total) most of them provide a general contact email of the institution (63%); but less than half of them provide contact information of each department of the institution (37%), a standard contact form (41%), or emails of the management of institution (i.e. cabinets of mayors and/or ministers) (29%). 14 However, email communication with institutions is not always efficient, especially through the general contact email as messages do not always reach the staff member in charge for the issue at hand – mainly due to inappropriate email communication within the institutions. In CRPM's experience, inviting municipalities to cooperate in a project has required additional telephone communication as most did not respond to the email sent. 15 Metamorphosis confirms this as of the 179 institutions (at the local and national level) invited to participate in their research via email only 8 responded in the same way. 16 Nevertheless, this does not necessarily indicate poor communication of institutions with citizens rather disinterest to join given projects, yet interviews conducted with the LOTOS project researchers (whose job is to evaluate the communication of municipalities with citizens about services and information they are obliged to provide)¹⁷ show similar experiences. During May 2014 when municipalities were approached by citizens (mystery shopper researchers in the LOTOS project) through emails to request particular information or documents, they often faced one of the following problems: emails were not returned or were delayed; the contact forms on the web were non-functioning, or they received two different answers for the same question.¹⁸

Regarding the content of the webpages, as to the amount of information they provide proactively, only 17% of the functioning webpages on .gov.mk have official gazettes or newsletters, while only 10% enable subscribing to these newsletters. Indeed, official gazettes are a legal obligation only for municipalities but ministries and other institutions that publish newsletter show good will to inform citizens of their work in this format. On the other hand,

¹³ Metamorphosis (2014), "Increasing the Use of .gov.mk Websites as Tools for Transparency, Accountability and e-Participation". June 2014, Skopie.

¹⁴ Ibid.

¹⁵ Interview with Aleksandar Cekov, Senior Researcher on the LOTOS project, CRPM, 19 June, 2014.

¹⁶ Metamorphosis (2014), "Increasing the Use of .gov.mk Websites as Tools for Transparency, Accountability and e-Participation". June 2014, Skopje.

¹⁷ LOTOS aims to foster anticorruption and good governance practices at local level that will enable sustainable environment for social, economic and environmental development. By training on methodology for systematic review of transparency and accountability mechanisms at local level, designing LOTOS study (pilot systematic review on anticorruption policy implementation in 26 targeted municipalities) and providing appropriate policy recommendations, the project will produce strengthen capacities for anticorruption monitoring at local level and generate data and analysis on corruption on municipal level by piloting systematic review of mechanisms for transparency and accountability at local self-government level; raising awareness on anticorruption and good governance practices is also foreseen in this project.

18 Interview with anonymous 'mystery shopper' researchers of the LOTOS project.

what is a legal obligation for all holders of public information, but only 33% of the functioning .gov.mk webpages fulfil is the availability of a visible or easy to find section in the webpage dedicated to information of public character. Metamorphosis evaluated that 24% of the functioning .gov.mk webpages contain all the required information as are: contact person for FOI and list of documents that can be sought as information of public character. This is certainly a small number and as such it partially reflects the existing irregularities with accessing information of public character.

Among the main challenges that limit the value that webpages contribute toward institutional transparency and OGP are (1) the incomplete accommodation of the webpages to the needs of persons (citizens) with disabilities and (2) the inconsistency of languages used in all .gov.mk webpages. Most .gov.mk webpages are hardly accessible by persons with disabilities as prescribed by the WCAG 2.0 standards that the Government has committed to achieve in the National Strategy for E-inclusion (2011-2014). Even the webpages that intend to apply the WCAG 2.0 standards show many mistakes which cause obstacles in their use. On the other hand 95% of the .gov.mk webpages are in Macedonian, 50% in English and 30% in Albanian, with no consistency in the language(s) used. This is certainly the consequence of non-existent standards about what languages institutions need to use in the websites; hence it is left to depend completely on the good will of the leadership of the institutions. These two characteristics of the webpages cut out sections of society from the communication and public information of institutions and, as such, are contrary to the objectives of openness and transparency.

3.2.1. Measures in the OGP Action Plan 2012-2014 Related to Transparency through the Webpage

Now that we have a general overview of how well websites serve the purpose of institutional transparency we will turn to the OGP national action plan to evaluate the implementation of its measures on transparency through webpages. This paper has identified three such measures which generally aim to increase the quantity of information the format of the documents published on the webpages of the State Statistical Office, inspectorates, and municipalities. To make a distinction from open data, this section will focus on aspects of the following measures that aim for an increased volume of information published on the webpage as opposed to their format.

¹⁹ Metamorphosis (2014), "Increasing the Use of .gov.mk Websites as Tools for Transparency, Accountability and e-Participation". June 2014, Skopje.

²⁰ Ibid

²¹ Ibid

Table 2. Measures in the OGP Action Plan 2012-2014 Related to Transparency through the Webpage

Nr of measure	Measure	Description	Status
5.3	Publishing data from the State Statistics Office (SSO) which will allow researchers to download and additionally process data.	Publishing data in formats that can be processed, publishing methodologies and databases	Partially achieved
6.1	Increasing the number of information that inspectorates publish on the internet and determining the information that would prove useful to businesses and citizens	Mapping the procedure, decisions, solutions throughout; changing of forms that inspectorates fill in to broaden its scope with data that they need to contain	Not achieved
8.1	Opening up information by the municipalities	Opening up data which will stimulate a better development among municipalities (better schools, living environment, safety, etc)	Not achieved

The statistics published by State Statistical Office are of great significance to the citizens, the media, and particularly scholars who analyse these information to support their studies. The commitment of the SSO to register all the statistics it produces in a database is a new one as is the possibility to request (and sometimes readily find) some statistics in excel (open) format.²² The 2012 Annual Report²³ of State Statistical Office reports that there has been a 27% decline of written requests for information produced by SSO due to the increased volume of published data on the webpage in combination with an intensive dissemination strategy which involves closer communication with the media. Not all available statistics on the SSO database are offered in open format but progress has been noted during the duration of this action plan and it is now possible to request statistics in open format— what classifies measure 5.3 as partially achieved.

As with the SSO, inspectorates also hold information of significance to citizens and businesses – for instance, where the best services can be received and where violation of the law has occurred. Certainly, opening up a larger amount of information that inspectorates hold is a significant step toward transparency; however, the fact that of the 14 inspectorates of the central government only 4 have webpages²⁴, makes measure 6.1 infeasible. Of the inspectorates that do

²² State Statistical Office. "Report on the Work of State Statistical Office for 2012". Skopje, July 2012.

²³ Commission for Protection of the Right to Free Access to Public Information (2013),"Annual Report for the Work of the Commission for Protection of the Right to Free Access to Public Information from 1 January to 31 December 2012". Skopje, March 2013.

²⁴ Inspectorates that have webpages or a dedicated space on the hosting ministry: State Sanitary and Health Inspectorate; State Market Inspectorate; State Administrative Inspectorate.

not have webpages only one publishes information on opendata.gov.mk.²⁵ As a kick-start of this measure, a study of what information citizens and businesses would find useful and need to be published was expected to be conducted, but no evidence that it was ever undertaken exists. Generally, the information that inspectorates make available relate to decisions/measures taken, lists of check-ups conducted, complaints received and the relevant legislative framework. During the duration of the action plan there has not been an increase in the number of inspectorates with webpages nor in the volume of information published in the already existing webpages.

Unlike the inspectorates, all municipalities in Macedonia have webpages, yet the quantity of information and opportunities for communication that each give vary greatly. Measure 8.1 also refers to some substantial information that citizens would like to know as they concern them directly, yet the varying capacities of the municipalities that already reflect huge differences in the other basic services and information they provide on their webpages, explains that it is an objective (more than a measure) that cannot realistically be achieved in the near future. Using webpages to transparently reveal the work of public institutions is a positive move that should be further encouraged. However, speaking of transparency, institutions must be aware of the fact that there are sections of society that do not have access to internet, and should there be tendencies to invest efforts only toward focusing these activities online, marginalized sections of society and citizens older than 55 (69.9% of citizens older than 55 say they never used a computer in their life)²⁶ are additionally, although indirectly, discriminated against. Therefore, local institutions as well as the central government should simultaneously intend to provide these information via other tangible means and tools such as information points, info-boards and other visible solutions which are accessible and available for those categories of citizens that do not know how to, or simply do not, use internet. Tendencies to open up the government should particularly target citizens that have most troubles accessing information that should otherwise be public. Additionally, Macedonia lacks guideline or a rulebook for transparency in terms of the minimal (amount and type of) information that must be made available to citizens especially regarding the competencies of the municipalities. The fact that municipalities are the prime line where citizens demand information and services makes this change of utmost importance. The guideline for transparency would contribute toward intensified communication between citizens and local administration, what could in turn result in increased trust and mutual understanding.

Additionally, besides the high internet penetration in Macedonia, especially among the youngsters, a CRPM survey shows that online means of getting informed about the work of the government and seeking services are barely used (85.6% never visited the webpage of their

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²⁵ Inspectorates that do not have webpages but publish information on opendata.gov.mk: State Educational Inspectorate, State Labour Inspectorate, State Agricultural Inspectorate.

²⁶ State Statistical Office. "Usage of information and communication technologies in households and by individuals, 2013". No: 8.1.13.28, October, 2013.

municipality).²⁷ This fact can be explained partially by the low awareness of citizens, and partially by the inconsistency of municipalities in updating the information in their webpages (many of which contain no relevant information). Hence, any objectives that aim to enhance transparency through webpages need to offer manifold measures with many variables in mind. Most municipalities' webpages lack information about the previous budgets and the degree of their realization, as well as data about the ongoing budget and official annual municipal programs. Moreover, the multilingual webpages are not consistent: "2/3 of the multilingual municipalities did not provide the possibility for all its citizens to read the content on the official municipal website on their mother tongue". In other words, these pages contain up-to-date information just in one language, but not in all official languages in the respective municipalities. 28 Alongside the limited usage of internet among the population older than 55, the above mentioned problem could be a reason why just around 10% of the Macedonian population acquires information about the work of the municipalities via visiting their webpages, and 31,32% of them get informed through their acquaintances.²⁹

3.2.2. Does the OGP Action Plan 2014-2016 address the remaining challenges?

Compared to the measures in the previous action plan, the Action Plan 2014-2016 foresees more technical and administrative improvements. Despite the permanent measures such as timely update of the official webpages, new measure on establishing a database of contact persons from the public institutions responsible for timely update and upload of data on www.otvorenipodatoci.gov.mk is foreseen as well as an exclusive webpage on educating the citizens with concrete examples and more consistent uploads on e-dmeokratija.mk. In addition, the document provides steps towards designing a dashboard for informing citizens about municipal draft budgets, official budgets and stages of their realizations as well as a platform showing the status of local service delivery. Furthermore, the action plan also calls for media campaigns, open days, projects, and the construction of a webpage which will serve as an educational tool for awareness-raising about the right to access information. The Ministry of Finance is urged to develop civil budgets – a simplified version of the official budget (which will be reader friendly and easy to navigate) uploaded at the official webpage of the ministry. The respective Action Plan also comprehends increasing the number of e-services at local level as well as their adjustment as mobile services where possible. Most of these measures are rather ambitious but what leaves hope for their realistic implementation is the partnership of the government with civil society and international organizations (e.g. UNDP) which have committed to implementing and financially supporting some of them. Nevertheless, both action

²⁷ Center for Research and Policy Making (2013), Open Government Mapping Report. Skopje, Macedonia. http://www.crpm.org.mk/wp-content/uploads/2013/11/Mapping-report-final-with-visibility-standards.pdf

²⁸ Context Watch 2013 Survey.

²⁹ Ibid.

plans, in their sections about transparency through the internet, do not make any commitments toward improving access to information for citizens with disabilities.

4. Systems of Integrity

The public debate on systems of integrity is relatively recent in Macedonia. The State Commission for Prevention from Corruption - SCPC in its annual report for 2013 admits that additional legal clarifications and provisions are necessary in terms of the public administration legal framework, especially regarding the operation and management with the public finances and human and material resources. The Commission also highlights that the lack of integrity and the sense for avoiding corruption are among the reasons for some of the 2.815 cases that it has processed last year. Furthermore, SCPC claims that this reform is at its initial stage and that additional efforts are necessary from all stakeholders and urges for higher attention to this issue during 2014. The SCPC suggests not just adopting a national system, but also strengthening the individual capacitates of the public servants in order to generate effective results.³⁰ For this aim, the Ministry of Justice proposed amendments of the existing Law on Prevention of Corruption which are completely devoted to the system of integrity. The amendments are still in parliamentarian procedure, though their adoption was expected in the spring of 2014. The delay is due to the early elections this year when the work of the Macedonian Parliament was suspended. The amendments stipulate including the system of integrity as part of the existing Law. Besides defining the system, the amendments call for internal and external notification on corruption, procedures for processing such notifications as well as protection of whistle blowers. 31 The proposed changes to the Law were criticized by some experts in this domain. The head of Transparency International – Zero Corruption, Ms. Slagiana Taseva in several cases stated that the most recent amendments do not correspond with the international standards. She claimed that the amendments do not provide sufficient guard for whistle blowers, and that some of the new provisions are too rigorous foreseeing punishments for cases when reported corruption based on suspicion proves erroneous.³² However, promising steps toward introducing systems of integrity on local and national level are noticeable. With the close support of UNDP, mayors and staff of nine municipalities were offered trainings on the concept of integrity. The respective municipalities adopted anticorruption polices which define Code(s) of Ethics of the municipal staff and the measures that will be taken against the failure to comply with the set of rules. They also adopted procedures of denouncing corruption and conflict of interest by citizens, public and civil servants, as well as appointed staff members in the municipalities responsible for the treatment of the disclosures of cases of corruption and conflict of interest. A similar project in the frames of the EU twining project program started in the first half of 2014 – the German

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³⁰ State Commission for Prevention of Corruption. "Annual Report on the Work of the State Commission for Prevention of Corruption for 2013". 2014.Skopje.

Ministry of Justice." Proposal for Amending the Law on Prevention of Corruption". December, 2013. Skopje Pavlovska, Verica. Alsat-M. "Taseva with critics regarding the Law on Anti-corruption"., June, 2014. Skopje

Federal Bureau on Administration will transfer its experiences in implementing the system of integrity in the public and private sector, among other anticorruption activities.³³

4.1. Measures in OGP Action Plan 2012-2014 related to Institutional Integrity

The fact that the Action Plan 2012-2014 has only two measures on this domain illustrates that Macedonia is in the early stage of adopting systems of integrity. Both measures are setting ground activities for the local and central institutions.

Table 3. Measures in OGP Action Plan 2012-2014 related to Institutional Integrity

Nr of	Measure	Description	Status
measure			
6.2	Introducing Integrity systems in the public administration, including though adequate e-tools	Defining procedures for introducing integrity/anti-corruption policies in the institutions and adopting a methodology for the introduction of systems of integrity in the public administration	Barely started
8.3	Introducing systems of integrity at the local level and using open to serve the systems of integrity	Defining a methodology for introducing systems of integrity at the local level Piloting of systems of integrity in at least 10 municipalities	Achieved

Measure 6.2 is devoted to the public administration and projects defining procedures for introducing this system in the central institutions as well as adopting respective methodology for that matter; measure 8.3 foresees similar initiating activates at local level in at least 10 municipalities. Considering the already mentioned actions implemented among local units, we can conclude that measure 8.3 is fully achieved with significant support from UNDP. At first stage, nine municipalities were acquainted with the system of integrity at local level. Then, this activity triggered a rise in the number of the municipalities involved so the total number of local units participating in this project is now 24. However, it is yet to be seen whether, without the direct support of foreign donors the system of integrity at local level can be sustained, monitored and updated at least once a year (as was expected) and adopted in the remaining municipalities.

On the other hand, the activities for introducing the system of integrity in the public administration (6.2) compared to those undertaken for the municipalities, seem to be rarer. The public administration apparatus still lacks more in-depth involvement and training about this reform. Despite several workshops with government institutions such as the Public Revenue

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³³ State Commission for Prevention of Corruption. "Annual Report on the Work of the State Commission for Prevention of Corruption for 2013". 2014.Skopje,.

Office³⁴, the number of activities in the period 2012-2014 aiming to introduce the system of integrity at national level remains low. However, some of the institutions in collaboration with foreign experts made some tangible steps forward. The Ministry of Interior Affairs in April 2012 presented the guideline for integrity in the Police as set by the Geneva Centre for the Democratic Control of Armed Forces. According to the Minister of Interior, the document will serve as a good base for further improvement and fostering the level of implementation of the respective system within the ministry. ³⁵ Evidently, there is a significant discrepancy in the developments toward systems of integrity between the municipalities and the public administration at the central level. However, the absence of official legal provisions and framework for establishing a system of integrity is not an obstacle to establishing the same at the central level. For systems of integrity to produce outputs, they require serious enforcement that will consequently gain the trust and cooperation of citizens. A precise evaluation of the impact of the systems of integrity will require surveying the degree to which citizens use this mechanism of reacting to cases of corruption and conflict of interest.

4.2 Does the OGP Action Plan 2014-2016 address the remaining challenges?

The respective plan touches on several issues regarding the system of integrity and compared to that of 2012-2014, it is more detailed and concrete. Despite incorporating the system within the existing Law on Prevention of Corruption, which is in the final stage, the 2014-2016 action plan foresees further involvement of municipalities and governmental institution in the ongoing projects for introducing the system of integrity. The action plan also projects designing a methodology for risk assessment on corruption which will strengthen the national system and its provision. Among the measures in this action plan, the development of methodology for progress assessment of the system of integrity in the municipalities is also planned, as well as a methodology for the national level – commitment in the action plan made by CSOs.

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³⁴ State Commission for Prevention of Corruption." Workshop Participation". May,2013. Skopje

³⁵ Government of Republic of Macedonia." Presentation of Guidebook on Police Integrity". April, 2012. Skopje

Conclusion

Activities toward better institutional transparency in Macedonia, from the side of the institutions as well as the CSOs, predate the national action plans on OGP. These efforts have produced significant impact in terms of quality legal provisions and awareness-raising. Hence, most commitments in both action plans for OGP are measures/activities already planned in the agenda/annual programs of the participating institutions, CSOs and international organizations. However, the value and novelty of OGP with regard to transparency (and its other pillar values), mainly lies in the joint engagement it calls for, rather than the distinctiveness of the commitments made. It serves as a platform offering a significant unified space where responsibilities about openness are shared between all stakeholders, state and non-state actors, pushing toward better implementation of measures on transparency that have been promoted for years now.

For instance, the Law on FOI is a well-written, modern law that has been promoted as a significant tool of transparency and accountability since 2006. However, besides the strong legal foundation, it still encounters challenges in implementation. Nevertheless, the growing number of institutions that cooperate and report to the Commission for FOI annually, hand in hand with the rising percentage of complaints for FOI filed by citizens, are encouraging data that speak about a gradual process of advancement, despite the consistent need for improvement. OGP has allowed all stakeholders to coordinate their agendas and make joint commitments toward further improvement of the implementation of the Law on FOI. The impact of these commitments is yet to be seen, and with them the role of the OGP as well.

On the other hand, the utilization of internet as an efficient means of institutional openness and transparency is a fast growing avenue in Macedonia, with high potential, although still underexplored and underused. The more consistent the updating of the official webpages and the larger the amount of information published there, the faster internet will become an acceptable means of communication and institutional transparency for citizens. There are many persisting challenges institutional transparency through the internet, and these challenges are mainly a consequence of inadequate coordination and regulations within institutions rather than intentional contention to share information – and therefore should also be addressed from another perspective.

Systems of integrity are an important part of what is expected to improve institutional transparency and integrity on the internet as well as in other means of communication with citizens, by introducing a code that will regulate the behavior of public officials and servants. The process of monitoring and evaluating these systems of integrity that are still in the making requires serious commitment to ensure their effectiveness – and as such the creation of a

methodology for the progress assessment of the systems of integrity is one of the most important measures of the 2014-2016 action plan for transparency.

However, bottom line of all issues with transparency and integrity is improving law enforcement. Better law enforcement would generate more transparency and, henceforth, trust in institutions and active citizenship by increasing the trust in their ability to impact the environment around them with their activities and reactions against lack of transparency and integrity.

Will the OGP action plan 2014-2016 be a more successful one? The second action plan certainly allowed a more cooperative environment for stakeholders to transparently name problems and shape commitments. It also significantly raised the awareness of CSOs about what the OGP is, as the first action plan 2012-2014 was passed mainly unnoticed by the civil society. As the number of implementing parties in this action plan has increased significantly, there are hopes that more commitments will be achieved, however, considering that there is still limited coordination between government institutions and civil society (the work groups have still not been established) no drastic differences from the first action plan 2012-2014 are expected.

Recommendations

To the government

- Create an inter-institutional working group for the measures on transparency, which will also include representatives of the civil society working in the field of OGP, to meet at least quarterly to (1) discuss the progressing of the implementations of the measures foreseen and (2) draft proposal for measures to be undertaken in the next action plan well in advance;
- The number of measures should be reduced and they must be realistically attainable within the period of the duration of the actual action plans;
- For the implementation of each measure appoint one person from the responsible implementing institution to monitor and report to the national coordinator and the working group about the progress done;
- Conduct realistic assessment of the capacity of the institution to undertake the measure prior to inserting it in the future action plan;
- Engage in cross-border/international cooperation and exchange of experiences for the implementation of the action plan.
- Institutions must invest (from their allocated budgets or absorbed donations) in the improvement of online communication and awareness raising of citizens about it, while also ensuring means to sustain it (employing web masters);

- Timely plan the allocation of funding to sustain activities sponsored by foreign donors once the donation ends;
- Timely update with real time content the web pages and raisw the awareness of government institutions on issuing reports on their activities in a given period of time;
- Enforce penalties on the violation of FOI, the fight against corruption, and conflict of interest more consistently (1) to improve institutional transparency (2) and reduce the likelihood of rotation/change of trained staff on FOI and the concept of integrity.
- Make webpages user-friendly for people with disabilities.
- Develop standards about (1) the minimal amount and type of information that each official webpage must publish regularly and (2) in what language information should be published in each institution (at the national and local level).

To the municipalities:

- Engage in cross-border/international cooperation and exchange of experiences in the domain of system of integrity. The municipalities which have participated in project related to this issue, can be a good base for it.
- Show effort toward introducing systems of integrity and progress assessment methods for the same;
- Coordinate and exchange experience with one another regarding the transparency mechanisms and system of integrity;
- Besides the internet, consistently develop tools of communication with citizens, such as info-spots, info-boards and regular open days;
- Timely update the content of web pages and increase the number of e-services;
- Make webpages user-friendly for people with disabilities.

To CSOs:

- Show ownership of OGP as a platform and use it as a means of improving cooperation with institutions and advocating for policy improvement
- Advocate for the inclusion of municipalities—as primary public service providers to citizens in the OGP activities in the country.
- Independently assess the implementation of the OGP action plan and coordinate for the commitments made.



IMPLEMENTING PARTNERS















