Openness in Georgia

Open Government Partnership

The Open Government Partnership (OGP) is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. The Open Government Partnership formally launched on September 20, 2011, when the 8 founding governments (Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom and the United States) endorsed the Open Government Declaration, and announced their country action plans.

Since its initiation, the Open Government Partnership has also approved a new parliamentary engagement policy, which more clearly outlines rules for parliamentary participation in the initiative and recognizes the value of legislative engagement in open government reform efforts. Moreover, in 2016, OGP opened to subnational participants in their own right as part of a pilot program.

Georgia has had a number of significant achievements related to open governance processes in the past few years. As an OGP participating country, Georgia's success is evident by the fact that it was elected as a member of the OGP steering committee in 2014 and as a co-chair in 2016. Moreover, Georgia assumed the chairmanship of the OGP steering committee on September 19, 2017. In spite of these accomplishments, the Georgian government faces a number of shortcomings and challenges in the process of implementing the founding principles of the Open Government Partnership. The purpose of this research is to present an overview of the OGP processes in Georgia and provide recommendations for improvement for the identified shortcomings.

First steps (2011-2013)

Georgia joined the OGP in September 2011 and became one of the first countries to adopt a two-year National Action Plan (NAP) in 2012. In comparison to other countries, the Georgian NAP stood out as particularly ambitious and included such commitments such as the creation of an online petition platform and a citizen's portal, as well as increased transparency and availability of political party financing data. The latter commitment allowed citizens to have unhindered access to open data on political party financing.[1]

Nevertheless, Georgia fell short in meeting the minimal standards in the process of adopting the first NAP. While the government consulted four civil society organizations (CSOs) in-person and created a website to discuss the draft action plan, several factors appear to have limited consultation. Most notably, the government did not share the draft

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[1] The website www.politicaldonations.ge provides access to accumulated information about all donations made to Georgian political parties since 2012. In addition to that, the web-platform contains more information on business interests of political party donors.

action plan widely, but rather left that to the small number of CSOs involved in developing the action plan. Additionally, the government did not provide advance notice for consultations and failed to raise awareness of OGP activities.[2]

Moreover, the first NAP was not corroborated at the national level by a normative act, nor was there a national coordination mechanism in place. Only a few number of non-governmental organizations were involved throughout the process. The meetings held at the Ministry of Justice were largely of an impromptu nature.[3]

Second and third NAPs (2014-2018)

According to OGP Participation & Co-creation Standards, civic participation is a core component of open government, and an essential element of the national OGP cycle. Moreover, the OGP guidelines require spaces and platforms for dialogue and co-creation, including a multi-stakeholder forum that is formed to oversee the OGP process. The forum is expected to meet on a regular basis (i.e. at least every quarter) in person or remotely, as appropriate.

The government is also expected to accept inputs and representation on the NAP process from any civil society or other stakeholders at the multi-stakeholder forum. Opportunities for remote participation are to provided for at least some meetings and events to enable the inclusion of groups unable to attend in person. [4]

How does OGP work?

1) Membership

Countries that meet the eligibility criteria signal their intent to participate in OGP by sending a letter to the OGP Co-Chairs and endorsing the Open Government Declaration

2) Co-creation

With the active participation of civil society organizations and input from public consultations, a national action plan is drafted and approved by the government

3) Implementation

The respective government agencies fulfill the commitments of the NAP according to the stipulated deadlines and indicators.

4) Reporting

There are two reporting mechanisms for tracking progress of OGP processes:

1) The Independent Reporting Mechanism (IRM) - a key means by which all stakeholders can track OGP progress in participating countries. The IRM produces annual independent progress reports for each country participating in OGP;
2) Self-assessment report - during the two-year NAP cycle, governments will produce yearly Self-Assessment Reports in consultation with civil society. The development of the Self-Assessment Reports must include a two-week public consultation period.

5) Peer learning

Participating countries continuously contribute to peer exchange and sharing lessons learned, as well as identifying opportunities for targeted technical assistance and seeking consensus on priority areas of engagement.

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[2] Independent Reporting Mechanism: GEORGIA Progress Report 2012-13: https://goo.gl/woYLH3

[3] On the Adoption of the 2014-2015 National Action Plan of Georgia: https://matsne.gov.ge/ka/document/view/2510377

[4] OGP Participation & Co-creation Standards: https://www.opengovpartnership.org/ogp-participation-co-creation-standards

Following the implementation of the first National Action Plan, Transparency International Georgia, along with the active support of other non-governmental organizations, called for the creation of a permanent coordination mechanism. The Secretariat of the Anti-Corruption Council took the recommendation into account and established the permanent coordination mechanism (Forum) and devised terms of reference and rules of procedure for the Forum.

The Forum played a coordination and facilitation role in the development of the 2014-2015 OGP national action plan[5]. The composition of the Forum has been expanded to include responsible agencies and ensure better representation of local and international organizations[6]. The Forum is led by co-chairs – one of them representing the Government and another representing the civil society. NGOs jointly nominate candidacy for election to the Forum.

The main functions of the Forum:

- Devising recommendations and proposals on the national level related to the Open Government processes, supporting the engagement of CSOs in the drafting of the NAP, planning and conducting public consultations
- Supporting and monitoring the implementation of the NAP. Preparing and presenting respective recommendations and opinions to the Secretariat.
- Raising public awareness on Open Government Partnership processes

The consultation phase for the drafting of the second NAP was broader than during the previous NAP phase and the public was notified earlier of the consultations to be held. Nevertheless, the Prime Minister's office, Parliament and the private sector were not engaged in the consultations. The public awareness of the OGP was also insignificant.[7]

Moreover, the second NAP significantly improved on its predecessor by including commitments with relevance to the OGP principles, as well as specific indicators for implementation[8]. It is important to note the commitments related to bolstering citizen engagement mechanisms and providing access to open data, namely the creation of the online petition portal (ichange.ge), adoption of the new Freedom of Information Act and establishment of a monitoring system for asset declarations of public officials.

Out of 29 commitments in the second NAP, 20 were fulfilled and 9 stayed unfulfilled. Amongst the unfulfilled commitments was the creation of the online petition portal, Freedom of Information Act and the monitoring system for public asset declarations. In some cases of the unfulfilled commitments, the responsible agencies for were unable to properly evaluate and estimate their resources and capabilities.[9]

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[5] Georgia: 2014-2016 End of term Report: http://www.opengovpartnership.org/sites/default/files/Georgia_EOTR_2014-2016_for-public-comment_ENG.pdf

[6] Decree by the Government of Georgia №539: https://matsne.gov.ge/ka/document/view/3456448

[7] Independent Reporting Mechanism (IRM) Progress Report 2014–15: Georgia: https://www.opengovpartnership.org/sites/default/files/1.%20Georgia_OGP_IRM%20Progress%20Report_%202014-2015%20%281%29_0.pdf

[8] .ibid

[9] OGP Georgia Action Plan for 2014-2015 – Completed and Unfulfilled Commitments: https://idfi.ge/en/ogp-2014-2015-action-plan-accomplished-and-non-accomplished-obligations

On November 11, 2016, the third 2016-2017 NAP was approved by the government[10], which included 24 commitments. The third NAP was broadened in terms of the areas its commitments touched on, with 5 main challenges:

- Challenge I: Improving Public Services;
- Challenge II: Increasing Public Integrity;
- Challenge III: More Effectively Managing Public Resources;
- Challenge IV: Creating Safer Communities;
- Challenge V: Increasing Corporate Accountability[11].

The third NAP also includes the commitment on the drafting and adoption of a new Freedom of Information Act, which had been unfulfilled under the previous NAP.

Open Parliament (2015-2018)

The OGP initiative was initially intended to strengthen the openness, accountability and responsiveness of the executive branches of participating government, but since 2014 the OGP platform began to spill over to legislative branches. In 2015, Georgia became the first country to draft and approve the Open Parliament Action Plan, as well as sign up to the Declaration on Parliamentary Openness[12].

The 2015-2016 Open Parliament Georgia Action Plan consisted of 18 commitments and was drafted by the Inter-Factional Group of the Parliament of Georgia, which was comprised of CSOs and deputies from each parliamentary faction. 15 out of the 18 commitments in the OP Action Plan were proposed by the civil society organizations that are members of the Consultative Group. The remaining three commitments were proposed by the Georgian Parliament's office and an individual MP.

Moreover, in September 2015 the Parliament, in cooperation with the Open Government Partnership's Legislative Openness Working Group, hosted a conference, entitled Committing to Openness: Parliamentary Action Plans, Standards, and Tools, that focused on assisting parliaments in adopting new international standards of openness and to commit to greater citizen engagement.

While the formulation and deliberation part of the Action Plan 2015-2016 was a success, there have been serious errors and failures on part of the state legislature to deliver due and proper implementation. The negligence and improper approaches by the state legislature has resulted in majority of commitments being left unfulfilled, and the majority of the fulfilled commitments being delivered late[13].

Out of 18 commitments in the first Open Parliament Action Plan, only 5 were fully fulfilled, while 9 were fulfilled partially. Amongst the unfulfilled commitments there were several ambitious commitments, including the drafting and adoption of Code of Ethics for MPs and the improvement of explanatory note for draft laws[14].

[10] Georgia National Action Plan 2016-2017: https://www.opengovpartnership.org/sites/default/files/Georgia_NAP_2016-2018_ENG.docx

[11] On the adoption of the Georgia National Action Plan 2016-2017: https://matsne.gov.ge/ka/document/view/3456448

[12] Benchmarking Analysis of the Performance of the Parliament of Georgia – Based on the Declaration of Parliamentary Openness: http://www.transparency.ge/en/post/report/benchmarking-analysis-performance-parliament-georgia-based-declaration-parliamentary-openness

[13] Open Parliament Action Plan Second Monitoring Report: http://ogp.ge/sites/default/files/open-parliament-action-plan-second-monitoring-report-eng.pdf

[14] Overview Of The Second Open Parliament Action Plan: http://www.chemiparlamenti.ge/en/publication/overview-second-open-parliament-action-plan

On January 16, 2017, the Permanent Council on Open Governance and Transparency was established by the order of the Parliamentary Chairperson. The Council's work is supported by the consultative group, which consists of representatives of both international and local organizations. The consultative group is tasked with providing recommendations and proposals throughout all stages of the process, as well as overseeing the implementation process of the commitments.

On May 16, 2017, the second Open Parliament Action Plan (2017-2018) was approved by the Parliament[15]. The Action Plan includes 28 commitments, including 16 which were included in the previous Action Plan but were not completely fulfilled.

OGP Subnational Program (2016-2017)

In 2016, OGP opened to subnational participants in their own right as part of a pilot program. Tbilisi was selected as one of the 15 cities to participate in this pilot. Participation in the program implies the commitment of the Tbilisi City Hall to conduct necessary reforms within the OGP with the active cooperation of the civil society.

The first consultations with CSOs related to the drafting the first Subnational Action Plan (2016-2017) began in May 2016. On November 2017 the Action Plan was adopted by the City Hall. It is noteworthy that unlike the Open Parliament and National Action Plans, the Subnational Action Plan contains only 5 commitments. This is conditioned by the recommendation of OGP to focus on quality over quantity and ensuring relevance of the commitments

with the principles of open governance. The commitments of the Subnational Action Plan:

- Commitment 1 – Multi-Discipline Mechanism Of Open Government And Civic Participation – Information And Civic Activities Portal "Smart Map"
- Commitment 2 – Introduction Of Petition To Tbilisi City Hall, Electronic Petition
- Commitment 3 – Implementation Of Participatory Budget Planning Mechanism
- Commitment 4 – Interactive Accessibility To Budget Spending And Introduction Of Civic Control Mechanisms
- Commitment 5 – Introduction Of Civic Control And Accessibility Mechanisms For Municipal Services

Georgia and OGP Steering Committee

The Open Government Partnership Steering Committee is comprised of government and civil society representatives that together guide the ongoing development and direction of OGP. Georgia became a member of the Steering Committee in 2014. In May 2016, Georgia was elected as the co-chair of the Steering Committee. On September 19 2017, Georgia assumed chairpersonship for a one year period.

Georgia will assume significant responsibilities as part of its chairpersonship of OGP. As part of its duties, Georgia will be involved in defining the strategic direction of OGP and supporting the cooperation of all participating countries in the priority areas. Georgia will also have the spotlight to present its

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[15] Open Parliament Action Plan: http://www.parliament.ge/uploads/other/37/37370.pdf

achievements in the field of open governance. As the chair country, Georgia will be looked upon as a role model and scrutinized for its progress in the fulfilment of ongoing commitments under its Parliamentary, National and Subnational Action Plans.

Recommendations

1. Georgia should seek to avoid including commitments loosely related to OGP principles in its Action Plans, as well as avoiding commitments that entail minor or insignificant improvements or changes to already existing mechanisms. Instead, Georgia should seek to prioritize on delivering new initiatives on bolstering citizen engagement in government processes, access and availability of open data and raising of the level of transparency.

2. During the chairmanship period, Georgia should ensure the high-level involvement from the government into the fulfillment of the commitments of its Action Plans. For this purpose it is recommended for the Open Government processes to be managed and coordinated at a higher level, at the level of the administration of the Government of Georgia. The Prime Minister of Georgia should personally ensure the effective coordination of all government agencies for the fulfilment of the open government commitments, as well as supporting the raising of public awareness towards those goals.

3. The OGP Action Plans adopted by Georgia should be inspirational and exemplary for all other OGP participating countries. In this regard it is important for Georgia to timely and duly implement all the significant and ambitious commitments included in its parliamentary, government and subnational Action Plans.

4. In order to address the shortcomings in the existing anti-corruption system and its prevention mechanisms, it is expedient for the Georgian government to prioritize efforts against corruption. Within the framework of the OGP, the Government of Georgia should support the creation of an independent anti-corruption agency. It is important for the government to take into account the recommendations and opinions of the CSOs in this matter. [16]

5. Increasing the transparency, accountability and openness of the Parliament is a systematic process. In the formulation of the next Open Parliament Action Plan, it is imperative to focus on increasing access to legislative activity, bolstering engagement of the civil society into the legislative discussions and increasing the availability of information related to the activities of the legislature.

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[16] Anti-Corruption Agencies: International Experience and Reform Options for Georgian Agencies:
http://www.transparency.ge/en/post/report/anti-corruption-agencies-international-experience-and-reform-options-georgian-agencies ;
Independent Anti-Corruption Agency – Georgia and International Standards:
http://www.idfi.ge/en/independent_anti_corruption_structure_creation_needs_georgia