



Monitoring and advocating open government partnership commitments in the Western Balkans

Generic methodology

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1 Objectives

The common methodology will be the starting point for addressing the framework of open government in the six countries participating in the project. The civil society organisations have diverse roles in promoting open government. They could influence and intervene in four ways, by:

- (i) *mapping* government policies in the area of openness
- (ii) contributing to Open Government Partnership (OGP) *commitments and action plan design*,
- (iii) drafting *advocacy goals* in order to support the open government programme and
- (iv) assisting the *monitoring* of the OGP action plan implementation.

The common methodology will focus on the technical issues of open government. Our starting point is that better understanding of government operation helps to improve openness. Technically sound mapping of openness drives the commitment design and influences advocacy for goal setting; implementation of future actions should be monitored in order to provide feedback for planning. So it is a cycle, because the four types of activities are interconnected. The emphasis is on the process, which is supported by the dialogue between governments and civil society organisations.

Within this overall framework our methodology has two main objectives:

1. to *identify* the technical issues and *areas of open government* by specifying approaches and providing a comprehensive *list of actions, interventions* on the five areas of Open Government Partnership Initiative;
2. to *support* the civil society organisations in the *dialogue* with the governments and other stakeholders of OGP by referring to indicators and information sources.

This technical approach is especially important for our two-year-long project, when the participating countries are in rather different positions. Presently, out of the six countries three have approved action plans and only one of them (Macedonia) covers all the five areas of OGP. The other three countries have no accepted action plans, so here first the new entry points should be specified and possible areas of intervention have to be designed.

2 Approaches to mapping, action design and monitoring

The key concept of OGP Initiative is to improve all aspects of accountability through greater openness of public sector operation. The political, administrative, fiscal and social accountability of governments very much depends on the data and information available in various areas of governance and service provision. So the focus on open data makes the OGP Initiative distinct from other programs. However, it is *not only about transparency*, because the institutional and procedural *conditions of accountability* are also integral parts of the Initiative.

Despite the fact that OGP is a global program with 55 members, its overall approach is not about international comparison through scoring and ranking. The Global Integrity program, which was one of the promoters of the Initiative, has also started to move away from creating indices. According to their latest policies the country rankings do not help specific action design and they are not the most effective tools of policy making. They can be used in the

early stages of the policy cycle, when public attention is being drawn to an issue. So the OGP Initiative's preferred approach is to initiate dialogue, to promote change through assessment, evaluation and advocacy.

Our methodology follows the overall approach of OGP Initiative: the broad topics of open government will be structured and manageable issues of openness will be specified in each area. They will be accompanied by measurement and benchmarking tools, which will help the work of the national teams during the adaptation. This common methodology partially relies on the experiences of the seven local expert groups, as they already have sound professional knowledge and expertise on selected issues of transparency and accountability.

OGP Initiative has already drafted its own monitoring tool, called Independent Reporting Mechanism. Our EU project might supplement it and cooperation would be desirable for both parties. But the two programs should work in parallel, because CSOs might have different agenda and in some respect they could be more influential than the global program.

2.1 Dimensions and subject areas of openness

The planned methodology is comprised of the accountability framework *components* specified by the OGP declaration. The focus is more on the government as an identifiable institution and less on governance, which is a process and action oriented concept of managing public affairs. The key principles of open government are, as follows:

- a) transparency of government activities and information, meeting the open data standards;
- b) active public participation in government actions;
- c) proper accountability framework with an obligation to inform and to ensure answerability, enforcement and sanctions of governments through political, administrative and social mechanisms;
- d) using modern and innovative technologies for greater openness. This is an enabling tool supporting the above mentioned instruments of openness.

These aspects of openness will be developed in the targeted five *subject areas* – called “grand challenges” - of OGP Initiative:

- 1) improvement of public services;
- 2) building public integrity institutions and increase their effectiveness
- 3) effective public resource management
- 4) creating safer communities, both from the point of view of public order and environmental risks;
- 5) increasing corporate accountability, taking into account the special position of the politically managed SOEs.

Within these broad areas some issues have already been included in the existing action plans of the participating Western Balkan countries. Country commitments tend to mix e-governance issues with the overall requirements of OGP. However, service delivery methods are only vaguely connected to openness: a computerised administrative process might limit the corruption risks, but it does not necessarily increase government accountability by making the procedures more transparent.

So for the purposes of this project the mapping exercise and the future actions should be organised along two core questions:

1. what is *relevant* from the list of already committed actions and
2. what is *missing*, what should be added for making government more opened?

2.2 Western Balkan specific issues

2.2.1 Central and local tiers

In the Balkan context the methodology should deal with the problems of diverse government tiers. The participating countries are typically centralized ones, so simply by increasing local governments' role the national government's powers can be balanced. Strengthening local government associations would also make public resource management and public service provision more effective.

As gradually wider functions are assigned to local level, new areas of government accountability should be developed, for example in the field of budgeting, local utilities, safer communities. Local governance traditions in the former Yugoslavia countries might open possibilities for community based control (for example at sub-municipal level) and will raise specific issues (e.g. the role of large cities).

The complex administrative structures, such as the role of overlapping state-entity-canton structures in Bosnia and Herzegovina or the North of Mitrovica region, the municipalities with Serbian majority in Kosovo should be also specifically addressed.

2.2.2 Multiethnic societies

Multi-ethnic characteristics of the Western Balkan countries should be incorporated in the open government action plans. Institutions ensuring peaceful cooperation among the various ethnic groups are additional requirements for effective public sector management in service provision, resource allocation or in community level decision making.

There are standard mechanisms supporting openness in this respect, such as the legislation on the use of minority language in the public administration; budgets published on all minority languages; proportional access to public media, affirmative action policies, etc..

Countries participating in the project have diverse institutions for protecting the minority rights: minority council, minority fund in Montenegro; quotas for national minorities in the local councils/assemblies in Bosnia and Herzegovina; in Macedonia employment quotas or commission on relations among communities based on the Ohrid Framework Agreement; council of national minorities in Serbia. These institutions are based on different policies for disclosing information by ethnic groups (e.g. on Roma): there is a register of civil servants by ethnicity in Macedonia, while collection of this personal information is prohibited in Montenegro.

Our project should monitor the proper operation and utilization of these institutions, while mapping and advocacy might target the missing or malfunctioning legislation, procedures and practices.

2.2.3 Routes of accountability

Beyond transparency other elements of a proper accountability system should be developed in the targeted countries. Openness is a critical condition of government accountability, but *political* mechanisms, institutions and procedures of *administrative*, financial accountability and the techniques of *social accountability* should be also in place. They will make the so called long route of accountability between citizens and governments or service organisations more transparent and controllable. (Yilmaz, 2008)

During the past decade several components of the proper legal and administrative system have been developed in the region: such as state audit offices, public procurement legislations, freedom of information laws, etc. However, the mapping and monitoring actions should *assess how active in reality* these new institutions and organisations are, how accurately the legislated procedures are followed, to what extent they support real participation and inclusion.

The other component of public sector accountability is the *direct linkage* between citizens and the service providers, including the administrative services. (WDR, 2004) This so called short route of accountability is usually weak in the transition countries. The instruments for increasing citizens' power as customers are underdeveloped. Some of the donor programs already started to build this missing link, e.g. by providing support to association of patients in Serbia or establishing complaint mechanism, customer protection systems.

2.2.4 Benchmarking

The planned methodology might also build on the increasingly available information on public services and public revenues. These comparative data and indices could be used for benchmarking purposes both domestically and in international comparison. Professional associations, chambers, local government associations are obvious centres of these types of information on service performance and public funding.

Several international datasets might be used for cross-country comparison. Some of them will be mentioned later when the specific areas of openness are discussed. These country level, national benchmarks might be supplemented by practical information shared among civic organisations and NGOs within different countries of the Western Balkan region.

2.2.5 Country differences

The six countries participating in the project are in rather different positions. According to the OGP eligibility assessment Albania, Macedonia and Montenegro have relatively higher scores in four critical areas: budget transparency, access to information, disclosure of assets by politicians and public officials, citizen involvement. Bosnia and Herzegovina, Serbia are ranked lower, primarily because of the improper or missing asset disclosure mechanisms. Kosovo has even not been ranked along these criteria, yet.

This ranking also reflects how actively these countries are involved in the OGP Initiative. Albania, Macedonia and Montenegro have joined the Initiative in its early stage. By now they have approved national OGP actions plans. Serbia has joined the OGP Initiative in March, 2012, so only a draft action plan has been prepared, so far. Bosnia and Herzegovina, Kosovo did not formally commit themselves to OGP, however CSOs from Bosnia and Herzegovina

already joined the OGP network.

These country differences should be reflected by the methodology followed. The national teams might follow a *gradual approach* proposed also by the T/AI guide for OGP, using a step-by-step method for countries at different level of openness (see Opening government, 2011). This “handbook” specifies twenty examples and best practices on how transparency and participation can be improved in selected areas of government operation. In the case of each instrument it identifies the goals and formulates specific recommendations for stakeholders. According to the country needs and possibilities the (i) initial steps, the (ii) substantial actions and the (iii) more ambitious stages of openness are specified.

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The matrix below provides a framework for the in-country analysis by identifying the dimensions and areas of openness (Table 1.). Taking into consideration all the Western Balkan specific issues, the future project activities in a country might be structured according to these cells of the table. Filling in specific information, the future actions can be prioritised and their relevance can be assessed.

Table 1. Dimensions and areas of openness

<i>II. Areas of open government</i>	<i>I. Dimensions of openness</i>			
	<i>1. Transparency</i>	<i>2. Citizen participation</i>	<i>3. Accountability</i>	<i>4. Technology and innovation</i>
1. Improved public services				
2. Enhanced public integrity				
3. Effective public resource management				
4. Safe communities				
5. Increased corporate accountability				

3 Project implementation: promoting dialogue and public consultation

This common methodology outlines the *technical aspects* of openness by components of OGP Initiative. In the section 4. and 5. below the specific sub-topics will be presented in a similar structure: (i) firstly, the main components of each topic are identified and their relevance is explained. It is followed by the identification of (ii) where and how government openness might be improved and finally (iv) making references to indicators, information sources and some past activities of the PASOS project team members.

For greater transparency and better public participation civil society organisations might launch various actions. As the PASOS project goes beyond monitoring of the actual commitments and action plans, the national teams have broader tasks in mapping needs and specifying new areas of open government. They will support action plan design and formulate goals and advocacy programs, as well.

All these interconnected jobs cannot be managed successfully in the given timeframe with the present capacities of the project. So the development of open government should be taken as a

process. The PASOS project team members should intervene only on those areas, where they might achieve the greatest progress and their impact will be the highest. This process oriented approach might include support and capacity development to other CSOs for advocating open government.

The aim of the project is to meet some criteria of openness in the areas of highest importance through gradually implemented actions. There is no ideal status of openness, but government accountability might be increased through the following steps (see also Chart 1.):

- (i) *mapping* of open government issues will help
- (ii) to identify *commitments* and specify *actions*. If they have already been included in the government OGP strategy, then
- (iii) civil society organisations should do *monitoring*. But if commitments are missing then
- (iv) *advocacy* goals should be specified and programs have to be launched.

Chart 1. Proposed sequence of PASOS project activities



3.1 Cooperating with OGP independent reporting

Parallel to our project the OGP Initiative will start the first assessment through its Independent Reporting Mechanism (IRM). The Initiative already specified a protocol for the external assessment, which is supposed to complement the OGP self-evaluation. The same questionnaire will be followed in each country and peer-reviewed reports will be prepared. These drafts can be commented by the respective government and final reports will be published in English and in local language on OGP website. These IRM reports are supposed to be published in 3 months after each annual cycle of implementation. No Western Balkan countries are involved in the present pilot stage of IRM design.

According to the OGP Initiative the participating governments' success indicators will not rank countries. The primary goal is to initiate a public dialogue on IRM findings between governments and the civil society and to evaluate the progress made on previous recommendations. The actual methods will use more interviews, focus group discussions, fact finding and less on measurement or scoring techniques.

OGP Independent Reporting Mechanisms will be launched in September, 2013, one year after the effective start of the action plan implementation. A brief OGP independent reporting mechanism *research guide* has been published as a draft, so it is still at the preparatory stage¹. This draft guide has three major blocks. It starts with a *commitment analysis* and a follow-up on the OGP eligibility criteria. This will be the most specific common part of the reporting mechanism, because it measures the progress achieved according to the indicators of (i) open budget index, (ii) right to information survey, (iii) scoring on income and asset disclosure, (iv) citizen engagement.

The *national field research* is a properly documented analysis by raising two fundamental questions: what happened in the committed OGP areas and whether the implemented

¹ First draft is available on <http://www.opengovpartnership.org/independent-reporting-mechanism>

activities mattered or not? The process oriented reporting mechanism will evaluate the OGP planning methods, the quality of consultations and the awareness raising.

The third area of IRM is about the relevant actions made along the core values of transparency, participation, accountability and use of technology, which were *not covered* by the action plan. This section will help to formulate *recommendations* for the participating governments.

The PASOS project teams might cooperate primarily with the IRM local experts. They can work together in mapping and formulating recommendations for future actions. However, our project has a broader agenda, as mapping, goal setting, action design and advocacy are also parts of the planned activities. These latter ones are the main tasks in countries without formal actions plans and in countries, which have not joined OGP Initiative, yet.

3.2 *Multiplying capacities through cooperation*

The actual project implementation can be started in two ways: (i) launching the technical analysis and (ii) identifying the potential partners which would multiply the PASOS project capacities through cooperation. The analytical work should target the key conditions of open government program design:

- a) *mapping* the legal, administrative and political context of the five areas of OGP. Following the specification of issues in section 5. the key conditions of transparency, participation and accountability should be identified. Mapping will include a *stakeholder analysis*, as well, because it helps to specify the lead actors of future commitments and actions. The *survey* on trust towards government will also support the problem identification. Some items for a citizen survey on trust in government are drafted in Annex 1.
- b) *partner identification* by focusing on civil society organisations and other potential collaborators, such as think tanks, research groups, non-governmental organisations. A comprehensive view on these CSOs will help to broaden not only the in-country analytical capacity, but could strengthen the PASOS project capacity in advocacy and monitoring.

The PASOS teams can be *focal points* of OGP monitoring and action design by offering a comprehensive, but balanced analysis of the five areas of government openness. Systematic information collection through identification of open government sub-issues will help to provide a framework for action plan design and monitoring. The PASOS project partners might work as local hubs of OGP related information and expertise. Further disseminating this information and improving CSO capacities, the domestic mapping, goal setting and monitoring activities will be more effective.

4 **Openness: dimensions and assessment**

Open Government Partnership Initiative's declared values aim to utilise data and information (i) to increase *transparency* and (ii) to improve *public participation* for enhancing (iii) government *accountability*. Modern (iv) *technology* is an important instrument for achieving these goals. These four dimensions of government openness will target the five areas, outlined in Table 1. above. For making the term "open government" operational, first these four dimensions of openness will be specified. These aspects of openness are also in the focus of

OGP Initiative: the open government standards have already been drafted².

Dimensions of openness are interconnected, which is nicely shown by the fact, that the various transparency and open government related programs, institutions have started to move closer to each other in the US (<http://opengovhub.org/>). Hopefully this physical proximity of the major programs and institutions will create synergies in their actions, as well.

4.1 Transparency

Transparency is a basic condition of accountability in the public sector. It can be ensured by guaranteeing *access to information* produced by the government or by the public institutions and *pro-actively* sharing information with the general public. Governments collect information on public services, including administration and management of government activities. So data on service performance, public spending and revenues, are all critical elements of transparency.

There is a huge demand for information, which could serve various purposes. The five areas of the Open Government Partnership cover almost the entire public sector operation. During the mapping stage the main task will be to select those types of data, which help to hold governments to account, focusing on the most critical issues. So for example the various e-governance tools might make services more effective and efficient, but have limited influence on politics, administrative and financial decisions. As it was highlighted at an OGP webinar, for government transparency purposes not more electronic bus timetables are needed, but for example the costs and funding sources of a public transportation company should be made public³.

In the selected areas typically the following *classes of information* should be presented and made available for the public (based on Darbshire, 2013, page 39-41):

- a) information on the institution and organisation (the structure), such as staffing and salaries
- b) operational information on the policies, plans and procedures
- c) decisions, regulations, acts which directly affect the public, including public services provided, subsidies allocated
- d) financial information on budget expenditures and revenues, reports on implementation, audit reports, public procurement information
- e) activities, decision-making, options for public participation, information on open meetings
- f) public information: lists, registers, publications and information on the collected data and Right to Information.

The Open Government Partnership Initiative puts a high emphasis on *how* information is produced and made available. Following the learning period on legislating the freedom of information and access to information regulations, now the main goal is to *pro-actively* provide information for the general public. That means governments at all levels – from municipalities to the European Union – are expected to present data in an understandable format, on time and in a way, which is easy to use and search. Raw data are expected to be presented in a “machine readable” format, so e.g. budget documents in Excel and not in pdf files. Data on the internet should be made available free of charge and they can be re-used without restrictions, even for business purposes. Governments might levy charges only on

² See http://www.opengovstandards.org/?page_id=60, produced by Access Info Europe

³ H. Darbshire’s presentation at <http://www.opengovpartnership.org/resources> on February 19, 2013

delivery of these data and on the special preparatory work.

Open government procedures should establish *enforcement* mechanisms, which guarantee that in the practice all these requirements are met. So there are set deadlines, options for remedies and sanctions used by independent bodies, such as supervisory organs or an information ombudsman.

Indicators:

OGP minimum eligibility criteria:

Budget transparency: <http://internationalbudget.org/publications/data-tables-open-budget-survey-2010/>

Access to information: <http://right2info.org/access-to-information-laws>

Asset and income disclosure:

<http://www.freedominfo.org/wp-content/uploads/documents/WBI-Djankov.pdf>

<http://www.cmi.no/publications/file/3396-income-and-assets-declarations.pdf>

OECD: Government at a Glance, 2011

http://www.oecd-ilibrary.org/sites/gov_glance-2011-en/08/04/index.html;jsessionid=4mmnpq1vcq1g5.x-oecd-live-02?contentType=&itemId=/content/chapter/gov_glance-2011-44-en&containerItemId=/content/serial/22214399&accessItemIds=/content/book/gov_glance-2011-en&mimeType=text/html

PASOS team activities:

Montenegro (CEDEM): Citizens' attitudes towards media freedoms in Montenegro

Bosnia and Herzegovina: adherence of municipalities to access to information laws; availability of budgets and financial reports on official municipal websites

4.2 Public participation

Public decisions are about assessing the needs, defining management methods and specifying financing options for responding on them; monitoring and evaluating implementation. Participation of stakeholders in this process will make these decisions more accurate and consequently will increase citizens and customers more satisfied. It will also increase public service efficiency by finding alternative methods and identifying new resources. Obviously participatory public decision making has its costs in terms of slower procedures, greater efforts for coordination and consensus building. However, in the long run it will make the government operation and the public sector in general more efficient and responsive.

Public participation is needed in *all areas of open government* operation. In public service provision policy making, measurement of service performance and customer satisfaction are critical. National integrity systems are built on institutions guaranteeing participation, such as boards and commissions. Public resource management is primarily driven by budgeting, where public engagement is critical in all stages of decision making. Community level environmental issues and planning or the control over public corporations also need input from the general public. The actors are not only the ordinary citizens, but their representative civil society organisation or lobbying groups, professionals, non-governmental organisations

and the media, as well.

Mobilization of all these players for promoting open government is based on various mechanisms and instruments. *Open public decision making* is essential during legislation, in government policy design and when major government projects are planned. This latter group includes among others capital investments in the public sector, land development, such as changing agricultural land to urban use. Re-zoning is an especially important issue presently in the Western Balkan countries, where local property ownership and management techniques are under development. They are related to urban and regional planning, as well. Decisions on the utilisation of natural resources and projects with environmental impact (road building, private investments, etc.) should be prepared with public involvement.

Public engagement has different *forms, according to the stages of decision making* and implementation. So it goes beyond the use of tools and options provided in the initial phase, when public hearings, civic forums are to be organised. The actual implementation, service delivery can be controlled by the public through customer feedbacks, surveys, complaint mechanisms. For providing these inputs diverse channels should be in place, where all stakeholders, such as minorities and special groups are represented, as well. As some of these public participation forms influence complex decisions, sufficient *time* and *technical information* should be allocated for getting professional responses.

During *implementation* public participation might help designing alternative solutions and offer methods through empowerment and civic involvement. They are primarily voluntary, philanthropic organisations or NGOs enabled for service provision. Governments should be prepared for this type of cooperation with procedures to choose among these new options, through contracts and by establishing inspection capacity. Finally, government decisions might be assisted by independent *evaluation*, if sufficient data are available for the public.

There are several conditions which determine how effectively civic groups and NGOs are able to take part in these government actions. Technical expertise is a basic condition of successful participation in most of the policy decisions. Obviously it requires sufficient funds, broad range of activities and often physical presence of these think tanks or civic groups in government decision making. On the government side the partner CSOs should be selected in a representative way, avoiding those disproportional situations when only a few favoured organisations, equipped with sufficient information monopolize the entire participatory process.

Indicators:

OGP minimum eligibility criterion on citizen engagement:
http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf

PASOS team activities:

Albania: Civil Society Index for Albania
BiH: Effective and Sustainable Citizen Participation

4.3 Government accountability

There are three main mechanisms for holding governments to account. The ultimate responsibility of governments is exercised through the elections and other *political*

mechanisms (e.g. transparency, which is a critical condition of holding elected leaders accountable). The other practical mechanism of accountability is exercised through the *administration*: inspectors, supervisory bodies, service and financial regulators or auditors have the legal power to influence government operation. Finally, *social* accountability is exercised primarily through feedback mechanisms, civic oversight and monitoring. However, the role of CSOs goes beyond it, as they should support the proper operation of all these above forms of accountability: democratic functioning of the government, exercising administrative powers in a transparent and responsive way.

Accountability means, first of all, the obligation on governments to validate their actions. So *rules and procedures* should be in place to provide information about the plans, decisions, resources and actions of the elected and appointed officials, the institutions they represent. These public figures are answerable, that is they have to respond on questions and criticisms. Independent enforcement mechanisms, with power of sanctioning are integral parts of a proper accountability system.

The political mechanisms, the institutions and procedures of administrative accountability together with the techniques of social accountability create the so called “*long route of accountability*”. It connects the citizens or customers and the ultimate service producers through the government operation. The long route of accountability comprises of the political institutions and public participatory mechanism, which connects the citizens and the elected governments (the “voice”). The other element of this loop is the “compact”, which consists of several administrative accountability components, the financing mechanisms, the contracting with service producers. There are numerous internal regulations, which improve government accountability such as the rules and standards on conflict of interest, public officials’ declaration of assets, legislation on lobbying, whistleblower protection, etc.

Primarily in public service provision there is another accountability mechanism, which is built upon a different logic by connecting citizens and service organisations *directly*. This so called “short route of accountability” might include the public awareness tools, complaint mechanisms, customer councils, etc. NGOs can also enter this field by collecting information on government services, doing assessment through benchmarking, providing feedback on service quality and this way partially substituting or supplementing the proper regulatory agencies.

Indicators:

Global Initiative on Fiscal Transparency: Defining the Technical Content of Global Norms: Synthesis and Analytic Review (the Annexes): <http://fiscaltransparency.net/>

Corruption Perception Index (as flipside of accountability): <http://www.transparency.org/cpi2012>

Government at a glance (OECD):

<http://www.oecd.org/gov/governmentataglance2011.htm#indicators>

PASOS team activities:

Albania: Monitoring the Implementation of the Anti-Corruption Strategy in Albania

BiH: Indicators of Good Local Governance in BiH

4.4 Use of technology

The Open Government Partnership focuses on data and information, so on one hand it is a *technology driven* initiative. On the other hand, OGP aims to improve accountability, so the public data are regarded as necessary, but not sufficient conditions of open government. The original idea was to make data available for the public in a manageable, usable and open format in a short time on all the relevant issues: contracting, campaign financing, urban plans, property management, capital investments, service performance, funding decisions, etc. So this is the reason behind putting the use of technology as a key dimension of government openness.

The OGP declaration claims that accessible and secure online spaces are platforms for delivering services, engaging the public and sharing information for increased accountability. In order to equip citizens with open access to governments the minimum requirement is to operate a *contact point*, as an infrastructure for approaching documents, reports, government records, etc. For making this website operational sufficient resources (human capacity and funding) are needed. A *government information policy* should be in place managing and presenting this information both at national and local level.

There are specific technical requirements for making the government produced data accessible by all the potential stakeholders. The information should be preferably *digital* and the disseminated data should be based on *open standards*, without limiting their management. The governments should have comprehensive strategies on the interoperability of the information produced. For supporting the users the public data are preferably accessible through a *single entry point* (e.g. the “data.gov.uk”) with the possibility to *bulk download* and *search* or categorisation options.

Indicator, cases:

Web connectivity, infrastructure, impact (World Wide Web Foundation): http://thewebindex.org/
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Open Government Data: http://okfn.org/opendata/ ; http://opengovernmentdata.org/

PASOS team activities:

<u>BiH</u> : Protecting Information vs. Protecting Public Interest
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Development of Local E-Governance in BiH
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5 Open governance: areas and issues

The main dimensions of open government discussed above, should be managed on the five areas of government operation. The areas defined by OGP Initiative are rather broad ones: they include public service provision, public resource management, corporate accountability and deal with selected issues of government integrity and safe communities.

This section will provide a list of those major topics, which are relevant from openness point of view. It is not a comprehensive inventory of all the issues related to open government operation from transparency, public participation and accountability point of view. We try to follow the main characteristic of OGP, that is to concentrate on data and information specific

aspects of government openness.

The checklist below is definitely broader than the national commitments and activities of the present action plans in the Western Balkan countries. So it aims to go beyond monitoring the already agreed actions and helps structuring the local mapping, goal setting and advocacy design. Our approach is that more technical knowledge and expertise on these five areas of OGP will support the local teams to identify (i) what is important from openness point of view, (ii) where intervention is possible and (iii) how openness can be improved.

5.1 Public services

National and local governments provide a wide range of services: general government expenditures range from 28% of GDP (Albania) to 46% in Bosnia and Herzegovina. So openness in this field is critical both from economic point of view and for guaranteeing affordable level of public services. For promoting openness the public services should be grouped into four broad categories, because the possible specific actions will be rather different by types of services.

The service area specific issues of openness will be discussed along the factors deciding the main components of *service responsibility assignment*. Clarity beyond the basic constitutional-legal regulations on the ultimate responsibilities for public service provision will make governments opened. The actual control over services depends on the *organisational forms* of service delivery, because public, private or other intermediary forms allow different options for intervention. The *service performance and outputs* are set during the planning process, where several actors are involved. Conditions of public service provision depend on the *human conditions* and the *physical assets* made available. All these elements of service provision depend on the *financing schemes*, that is the sources of funding, budgeting and financial management. The control over service provision is influenced by the *eligibility criteria* of the potential beneficiaries. The options of *customer feedback* is an effective tool if is accompanied with the procedures on *sanctions* and legal remedies.

5.1.1 Merit based personal services

Education, health care, social-welfare services are typical public services, which should be made available at a standard (minimum) level for eligible citizens. They should be made available close to the place of residence and to some extent should respond on the specific needs of the users. So they are typically decentralized public services to some degree, consequently openness is influenced by the forms and tiers of government.

Major conditions of openness are, as follows:

- a) *rules of establishment*: beyond the general rules of assigning service responsibilities the procedures and specific conditions of issuing licenses for service organisations will guarantee equal and fair treatment of public and private, community based or other non-governmental organisations. A complete and open registry of the service organisations will support any future monitoring.
- b) *policy design and planning*: at national level sectoral strategies and local programs for service management set the framework of public service provision. Public participation in planning, programming and accessibility of approved plans are the critical conditions of

- openness.
- c) *control over the service performance*: any assessment of effectiveness and efficiency requires information on service quantity and quality. They can be measured by focusing on inputs (labour, capital, technology, management) and the service performance, either quantifying outputs or the impact of services (the outcomes). Data for tracking these elements of service management should be available in a user friendly format for program evaluation, primarily through benchmarking. The institutional capacities for service assessment should be in place, as well. Here CSOs might initiate and perhaps substitute regulatory organisations by providing comparative information on health care, education and social services.
 - d) *financing*: all the public and private sources of funding these services should be made available in a comparative format, especially when private contractors are involved service delivery. The budgeting methods and fiscal planning practices are critical conditions of openness. Financial management rules, such as control over public assets, own source revenue raising options, disbursement regulations, reporting forms and methods, etc. all define government accountability.
 - e) *supervision and audit*: organisational conditions of inspection over service entitlements, performance, service management practices should be in place. Mechanisms of administrative and social accountability should be established by exercising external and internal audit, making inspection and audit reports public.
 - f) *customer feedback*: for strengthening the direct linkages between users/beneficiaries and producers of public services, mechanisms of the so called short route of accountability should be in place. The openness of government operation very much depends on the options and mechanisms available for complaints, customer feedback, evidence based service monitoring (e.g. citizen surveys, scorecards) and also offering options for legal and administrative remedies.

PASOS team activities:

Albania: Civil Society to Map and Monitor Security System Reform in the Western Balkans 2009-2011

Macedonia:

Analysis of the Policy and the Budgetary Implications of “Equitable and Appropriate Representation of Communities”

Information Access in Health and Education Service Delivery: Pilot Project Report on Macedonia

Good governance in education

5.1.2 Infrastructure

Urban services (water, waste management, communal services), public transportation, energy and power distribution, telecommunication fit into this group of services. Their common characteristic is that most of these services are typically monopolies (natural, regional or economic) and they are capital intensive service with relatively high involvement of the private sector. National standards and regulations are enforced through various channels: inspection and regulatory agencies, competition supervision, price setting authority, etc.. But as they are typically funded by user charges, the mechanisms of direct control through service

contracts, payments, complaint mechanisms are also effective tools of accountability.

In the case of infrastructure services openness might be improved through various channels:

- a) *rules of establishment*: the regulations and actual procedures for entering this market of the natural monopolies are critical conditions of openness. So information should be available on the ways how permits and licenses are issued; the list of registered service organisations has to be publicly accessible.
- b) *development planning*: these infrastructure services have high capital investment costs, which are usually funded by various sources (donors, national and local governments, users, banks, private investors) So the development plans of short to long terms are important elements of open governments. Participation in designing sectoral strategies, regional and local development plans, investment programs should be ensured by a regulated process. The public monitoring is conditioned on the access to approved plans, technical and financial reports.
- c) *service contracts*: with the increasing private sector participation and under the EU rules on services of general public interest, contracts should specify all the service conditions. These agreements between the service organisation and the client government should be made public regardless of the potential business interest of the contractors. So the service outputs, duration, ownership, finances and quality control mechanisms can be followed and monitored externally.
- d) *environmental impact*: utilities and urban services directly influence the environment either by using natural resources or because they discharge pollutants. So the open data on emissions should be publicly available at the government inspectorates. These institutions should preferably enjoy some level of autonomy from the acting government, with clear reporting mechanisms and compliance procedures.
- e) *service performance*: external monitoring of infrastructure service performance, failures (e.g. blackouts, leakages), use of energy, funding (e.g. level of user charges) is based on quantifiable data, which is usually produced by the service organisations and the regulatory bodies. These indicators should be made available for benchmarking as a key condition of openness.
- f) *customer feedback options*: for supporting the “short route of accountability” the mechanisms for complaining on service quality, such as failures, the time used for repair and any aspects of revenue administration (metering, collection, social subsidies, etc.) should be in place. The statistical information and reports in a comparable format should be available for ensuring openness in this sector⁴.

PASOS team activities:

Bosnia and Herzegovina: “Managing Public Spaces at the Neighbourhood Level through Greater Citizen Engagement”

5.1.3 Public administration

Administrative services are related to other areas of government openness, so here primarily the basic condition of transparent civil service will be highlighted. They can be grouped along three major issues:

⁴ Often used approach in healthcare services: http://english.skl.se/activities/open_comparisons or for benchmarking clubs: <http://www.cipfabenchmarking.net/>

- a) *recruitment and employment*: civil service laws and government regulations should specify the appointment of civil servants, promotion rules and career options. From open government point of view these rules, together with the actual employment data by types and categories of civil service should be made public.
- b) *assets disclosure*: one of the key conditions for minimising of corruption risk is to establish rules and practices of regular personal asset disclosure. These regulations encompass the accessibility, content, frequency, control mechanisms on checking the validity of the data and possible sanctions.
- c) *operation and management*: civil service should operate in a neutral and professional manner. So the conflict of interest regulations and codes of conduct, ethical standards, the conditions of civil servants' political activities should be all regulated and enforced. Professional development and training is typically provided by a centralized Civil Service Agency, which also defines professional qualification, manages performance evaluation. If there is a market for capacity development, then accreditation and contracting rules are important for fair and open management.

5.1.4 Security and defence

Police, intelligence and military services are special subsectors of public services. Due to the nature of these services some internal regulations have to be adjusted to the specialities of this sector. As general public oversight is usually exercised through special bodies and elected committees the general laws and procedures are the points of intervention and control for the general public. They should have access to detailed information on personnel, the special units and their equipment, weapons. The public procurement rules in this sector require confidentiality, so here the internal control mechanisms have greater importance.

In the actual service provision there are some basic requirements, such as clear chain of command made public, identifiable police personnel, etc. Information on service performance includes statistics with identifiable cases on crimes, arrests, which should be reported in public documents. Accountability in security and police services is enhanced by establishing procedures for registering and responding on complaints.

PASOS team activities

<u>Montenegro (CEDEM):</u>

Attitudes of citizens on police and security issues

Security sector reform in Montenegro

5.2 Public integrity

National integrity systems comprise of various institutions, such as judiciary, professional public administration, government oversight and audit organisations, independent media, free civil society. The supporting regulations are in place, such as election laws, transparent political party financing rules, anti-corruption practices, effective regulations on conflict of interest, whistleblowers' protection, etc.

During the past decade several components of a proper legal and administrative system have

been developed in the Western Balkan region: state audit offices were established, public procurement, freedom of information laws, etc. were legislated. However, the mapping and monitoring actions should go beyond the recognition of these new pieces of legislation and evaluation of the newly created institutions. It should be also assessed *how active* in reality these organisations are, *how effectively* the legislated procedures are followed and whether they are *powerful enough* to support real transparency and inclusion.

OGP declaration does not highlight all the elements of a proper national integrity system, because it would make the Initiative less focused. Primary objective of the OGP Initiative is to increase government accountability, which can be achieved by greater transparency and through other anti-corruption mechanisms. The main aspects of transparency were discussed in the section 4.1 above and in section 4.4 on the use of technology.

So our methodology will focus on those elements of a properly functioning national integrity system, which support the *access to information*. The right to information is guaranteed by legal regulations and procedures on publishing and responding on requests for information at all branches of government. There are obviously exceptions, which protect the national security, international relations, public order and economic interest, such as monetary or exchange rate policies. Government has the possibility to withhold information before its decisions are made (“space to think”) or during investigations. Business interests should be protected only for supporting competition (technology, trade secrets) and not for using public funds. Privacy should be guaranteed, so for example no personal tax information can be disclosed.

Those specific instruments of the national integrity systems are mentioned in this part of the OGP declaration, which affect *public finances* and financial management; guarantee the *disclosure of income* and assets of public officials and *protect whistleblowers*. The emphasis is on the *institutional conditions* of open government, such as the organisational guarantees of anti-corruption.

Indicators:

Global Integrity Index: <http://www.globalintegrity.org/report>; <http://local.globalintegrity.org/>
Right to Information international instruments and standards:
<http://www.right2info.org/international-standards>

PASOS team activities:

Albania: Social Trust and Law Enforcement in Post Communist Albania
Montenegro (CEDEM):
Democracy index in Montenegro
Corruption Risks in Court System and Business Sector
Public Opinion Research on corruption
Justice System Monitoring Project

5.3 *Public resource management*

In a broad sense public resource management comprises of several components of public finances and financial management. Here from this broad topic only those critical elements will be discussed, which are relevant from accountability point of view. So they are either

critical fiscal decisions, such as budgeting, public procurement or components of transparency (e.g. accounting rules, resource management).

- a) *fiscal policy governance*: public finances are regulated by a hierarchy of laws, decrees and standards. All these rules should be made public, otherwise the actual constraints in fiscal decision making and the real incentives of budget users cannot be identified and assessed. In a multi-tier government system the revenue raising powers are also critical, because the intermediary governments might influence the tax base, rate, tax reliefs or the allocation rules of intergovernmental fiscal transfers.

The public sector accounting is typically cash or modified accrual based, with limited information on the actual commitments and liabilities. So budget reports should be evaluated either for a longer period or by collecting additional information by program and project accruals. In this process the independent audit institutions and internal audit procedures might support transparency and accuracy of fiscal information.

- b) *open and participatory budgeting*: public budget has three main functions: it is an economic policy tool, an allocation instrument through public spending and revenue raising, a mechanism to control the actual implementation of the budget. So transparency of all budget documents and public participation are highly needed for accountability purposes. The executive budgets should present expenditures and revenues by administrative, functional and economic classification; preferably in a medium term period (3-5 years); with details on macro forecasts, public debt, loan repayment and balance sheets; showing the fiscal relationship with extra-budgetary funds and state owned enterprises (e.g. the subsidies, contingent liabilities). The regulation on the budget process is critical for public engagement allowing sufficient time for dialogue.

Access to information on budgets should be guaranteed at all stages of budgeting: in pre-budget statement, by the enacted and executive budget, through publishing citizens' budget and in the various reporting steps. Effective control over fiscal plans by the legislative can be exercised only if the parliaments, local councils have sufficient analytical capacity or they are supported by independent institutions, such as a fiscal council or a pro-active state audit institution.

- c) *public procurement*: public sector spending is managed within a market environment. So the legal regulations on selecting suppliers, contractors and procurement of goods should be in place. However, public procurement laws can only define the overall framework and will leave high discretion to the client public administration and elected bodies. For enhancing accountability information should be made public on all tenders and contracts of significant value. This database preferably includes information on the national and local government procurements, as well, because increasing portion of capital investments and services are decentralised. Electronic procurement procedures minimise the corruption risks and could make the decisions more objective. Conflict of interest regulations, declarations on proper conduct of businesses from the contractors' side might also improve the quality of procurement procedures. In more developed systems or for selected major projects CSO participation in the process will enhance accountability.
- d) *resource management*: natural resources and urban or agricultural land are important conditions of development and growth. So transparency in licensing and concessions, on the revenues raised for the general budget and the use of special public reserve funds, the role of state owned mining companies and national or local asset management bodies is critical. Audited reports should be made public as a minimum, but independent oversight bodies and involvement of CSOs would in planning and monitoring are also needed.
- e) *aid transparency*: foreign technical and financial assistance is a significant contribution to government operation and budgets, to effective public service provision. So transparency

both in the donor and the recipient governments' side improves accountability. Regular publication on aid, with comprehensive registers will support public use of this information for monitoring government development policies and for planning and coordinating donor strategies and programs.

Indicators, comparative reports:

IBP/Open Budget Index questionnaire: http://internationalbudget.org/wp-content/uploads/Open-Budget-Questionnaire_Final_081120112.pdf

Public Expenditure and Fiscal Accountability (PEFA):

http://www.pefa.org/en/assessment_search

Reports of the Observance of Standards and Codes" (ROSCs):

<http://www.imf.org/external/NP/rosc/rosc.aspx>; <http://www.worldbank.org/ifa/rosc.html>

Public Internal Financial Control mechanisms in the EU (A Compendium):

http://ec.europa.eu/budget/library/biblio/publications/2011/compendium_27_countries_en.pdf

Revenue Watch Index on extractive industries:

<http://www.revenuwatch.org/rwindex2010/methodology.html>

Technical Mapping of Global Norms on Fiscal Transparency (a compilation of the GIFT project):<http://fiscaltransparency.net/wp-content/uploads/2012/04/GIFT-Phase-1-Table-1.pdf>

PASOS team activities:

BiH: Public Access to Local Budgets

Assessment of Local Fiscal Transparency in BiH

Managing Public Spaces at the Neighborhood Level through Greater Citizen Engagement

Kosovo:

IMPROVING TRANSPARENCY AND GOVERNANCE OF PUBLIC FUNDS PUBLIC PROCUREMENT PROCESS IN KOSOVO

Macedonia: Public finance transparency in Macedonia

5.4 Safe communities

Depending on the scope of decentralisation local governments might have a role in protecting their residents and ensuring basic conditions of key services, such as public safety and environmental disaster management. The local government powers in this respect are defined by the national legislation. However, municipalities can go beyond these legal minimums and standards, do more or respond quickly on urgent needs. They are all potentially positive government actions, but transparency is needed also on these areas through regular consultations with the special local safety committees with ordinary residents as members.

Accountability is especially critical, when *civil protection* and *local security services* are organised by supplementing the national police services. The local regulations on managing these private services, the agreement with the local government, the potential public funding and purchases should be carefully monitored in order to limit any misuse of these local forces.

Local governments usually have special powers in *emergency situations*. These local actions can be supported by the non-governmental organisations in the case of environmental

disasters or any major accidents. CSOs are able to respond on crisis situations by assessing the losses and planning potential assistance. In cooperation with public bodies they could provide targeted interventions at a lower cost.

All these actions will be more effective if the local government plans, procedures, funds are known by those NGOs, which are specialized on disaster management. NGOs could also contribute to design of local actions for responding on potential consequences of climate change, by advising urban planners with alternative solutions (e.g. in access to remote or blocked areas, flood prevention) and implementing programs.

Information sources:

Global Facility for Disaster Reduction and Recovery: <https://www.gfdr.org/node/1>

Voice and choice: Opening the Door to Environmental Democracy

<http://www.wri.org/publication/voice-and-choice>

5.5 Corporate accountability

There are several aspects of corporate accountability, which are critical from open government point of view. First of all companies should be identifiable in a searchable register. Secondly, from open government point of view the connections with the public budget are critical. Finally, the actual activities and management of the state owned companies and the corporations should be made transparent from those aspects which are relevant for the public.

- a) *company identification*: four types of information are needed for making corporations transparent: identification by name, registration number and location; directors responsible for operation; statutory documents with turnover, balance sheets and the significant owners. Information on dissolved companies might be also available.
- b) *public sector connections*: from open government point of view the relationship between the public and the private sector matters. So information on public contracts should be available in a procurement roaster. The state owned or public enterprises have diverse connections with the government entities exercising ownership rights or contracting and supervising them. In this case the political interference can be monitored if information on public assets invested, subsidies, subventions and other forms of intervention is available. The control and supervision of SOEs should especially target the procedures on appointing the managers, privatisation plans, procedures on equal treatment of all stakeholders, access to information and conflict of interest regulations to minimise the risks of political capture and spoils.
- c) *management*: openness of the corporations' actual operation depends on guaranteeing equal rights of shareholders and transparency of board operation rules. Regular activities and operation can be monitored if the company strategies are disclosed, accounting policies are made public; there are financial audit reports and compliance of environmental regulations is assessed. Consumer protection policies should be available at companies with direct contacts with the general public.

Information sources:

OECD Principles of Corporate Governance

<http://www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf>

http://www.keepeek.com/Digital-Asset-Management/oecd/governance/accountability-and-transparency-a-guide-for-state-ownership_9789264056640-en

OGP country assessment: <http://www.access-info.org/en/open-government-data/242-closed-world-corporate-transparency>

Open Database of the Corporate World: <http://opencorporates.com/>

Observatory of corporate lobbying in the EU: <http://corporateeurope.org/>

PASOS team activities:

Kosovo:

IMPROVING THE CORPORATE GOVERNANCE AND TRANSPARENCY IN BANKS
AND INSURANCE COMPANIES IN KOSOVA

CORPORATE GOVERNANCE IN PUBLICLY OWNED ENTERPRISES IN KOSOVO

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