Waiting for Open Government

Opening Report by the Polish Open Government Coalition.
Conclusions and recommendations.

STEFAN BATORY FOUNDATION

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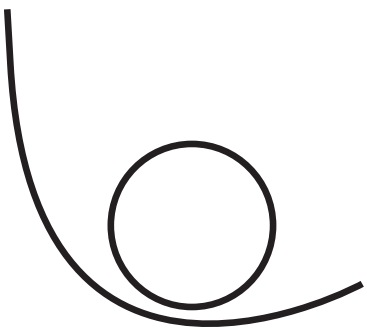

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Contents

Grażyna Czubek

1. Introduction

The Open Government Coalition was created in May 2012 by non-governmental organisations that work for transparency, accessibility, openness and accountability of the government: Centre for Civic Education, e-State Foundation, Civil Development Forum Foundation FOR, Stefan Batory Foundation, Foundation for Social Communication, Panoptykon Foundation, Centrum Cyfrowe Projekt: Polska, Helsinki Foundation for Human Rights, Citizens Network Watchdog Poland, Association 61/ IHavetheRighttoKnow.pl [MamPrawoWiedziec.pl], Unit for Social Innovation and Research - Shipyard, Klon/Jawor Association.

The objective of the Coalition is to implement in Poland the standards of responsible and open government promoted by the Open Government Partnership (OGP). In the very beginning of its activities, the Coalition encouraged the Polish Government to join the initiative.1 Despite some initial declarations, the government has not joined the Partnership, but instead promised to include in its strategy *Efficient State 2020* (accepted in 2013) activities that are in line with the objectives and the proposals of the Partnership.

Member organisations of the Coalition decided to monitor the implementation of the strategy in the four areas crucial for open government: (1) the accessibility of public information, (2) the openness of public data, (3) the anti-corruption policy, (4) the openness of decision-making processes.

In the beginning of the monitoring activities, a report "Waiting for Open Government. Opening Report by the Open Government Coalition" was prepared to describe and summarize the situation at the time when the strategy was accepted. The report was published in December 2013. It described the existing legal and institutional arrangements, and analysed the situation in the light of the requirements stated in the Open Government Declaration prepared by the Open Government Partnership. Recommendations concerning the most necessary changes and the implementation of the strategy *Efficient State 2020* were also included in the report.

For the purposes of the planned monitoring activities, a simple scale from 1 to 4 points was introduced, where 1 meant negative and 4 meant positive evaluation. This scale enables us to determine whether there is an improvement or deterioration in the monitored areas.

[1] Discussions between the Polish Government and the non-governmental organisations, and later the Open Government Coalition, is described in more detail in Appendix 1.

Krzysztof Izdebski

2. Access to public information and its re-use

2.1. Legal regulations

Some regulations in this area are in force, but they are insufficient and are very often used in a discretionary manner. Score: 2,5 points.

The right to public information in Poland is guaranteed in Article 61 of the Constitution of the Republic of Poland of 1997, and in the Act on Access to Public Information (aapi) of September 6, 2001. Not all aspects are covered by the act – e.g. land surveying, cartographic and environmental information are not regulated by the act. Separate provisions on access to public information are also scattered in many other acts of law.

A notion of the re-use of public information and a complicated procedure for access to public information intended to be re-used were introduced in the amendment to aapi of 2011, resulting in additional hindrances in the access and the re-use of public information. Thus, the amendment did not improve the situation as far as the procedures of access to public information are concerned.

2.2. Practice

Good practices can be found, but they are rare (e.g. limited to individual institutions). Score: 2 points.

Public institutions too often use a restricted interpretation of **the existing regulations, and in particular of the definition of public information** – many documents (e.g. legal agreements) from the records of public bodies (including the Supreme Court) are commonly denied the public information status.

The approach to the public information disclosure is insufficiently proactive, i.e. too few documents are published in the Public Information Bulletin (BIP) meant to be the primary vehicle for public information disclosure process. The scope of public information allowed to be published by legal provisions is much wider than what is in fact made available in BIPs. Neither the standards, nor the required format of public information publication in BIPs are clearly defined. When reading BIP, it is often hard to learn whether the information is up to date and who is the author of the information. No sanctions are foreseen when certain information are not published in BIPs. The relevant control bodies do not properly supervise their publication.

If some information is not published in BIP by a given institution the main alternative is **to apply for access to public information.** But often relevant decision-makers do not easily grant access. Another problem are **delays in processing applications for public information.** Public institutions see citizens' right to public information as a nuisance. Surveys performed by non-governmental organisations show that almost 50 percent of central and local administration institutions reply with delay or do not reply at all to applications for access to public information.

The problem lies **not only in the low level of legal competence on the part of public institution workers, but also in their inappropriate approach to the issue:** too often they are more interested in trainings on "How to deny access to public information"[2]. Even some administrative court judges take a similar stance, as if forgetting that access to public information is one of the human rights and as if the state was in need to be protected from its citizens. Perhaps, one of the reasons for the situation is the fact that **sanctions for breaking the regulations on access to public information are not clearly defined in the relevant legal acts** (e.g. it is not defined what action should be taken when there is no reply to an application, when information is unjustifiably denied on the grounds that it is processed information or that it is not public information at all, when the reply is evasive or when high fees are required to be paid for information). It is only the court ruling practice that showed that in such cases a complaint for inaction should be filed, but this procedure is not fully satisfactory.

Local government representatives call for limiting the access to public information, indicating that the procedure of replying to numerous applications generates excessive costs, but **the claim have no corroboration in surveyed records of processed applications.**

Public administration refrains from initiatives to promote access to public information. The open government principle to "seek feedback from citizens in order to identify what information is the most valuable for them and [...] to take into consideration comments presented by citizens" is not implemented.

2.3. *Efficient State 2020* strategy and the access to public information

In the government strategy *Efficient State 2020* the issue of access to public information has a prominent place. The main objective of the Open Government Partnership is in line with the declaration contained in the first objective of the strategy *Open Government* saying that the principle of full and open access to public information, including the possibility of its re-use, should be implemented, and that action will be taken to broaden the scope of information made available routinely (pro-actively).

Efficient State 2020 strategy provides for many activities in this field that in part should be implemented simultaneously, and so they are discussed in thematic blocks. The activities include:

[2] Such trainings were conducted in Katowice as a part of a "Communities" Academy.

General improvement in access to public information through enhancing relevant procedures and ensuring the real accessibility on demand of public information. It is indicated that public institutions should be legally bound to inform on planned and commissioned expert opinions and analyses, and to make them publicly available. The strategy stresses the need to promote the culture of openness in public administration institutions, based on accessibility of the institution, adequate and simple language of communication, the quality of procedures and circulation of the information, responsiveness and openness to citizens' opinions. To this end, it is said, public servants should be trained, and their social initiative should be rewarded. Promoting the citizens right to public information should also improve the situation in this field.

Development of mechanisms for proactive publication of information mainly through more effective use of Public Information Bulletins (BIPs). The strategy indicates the need to set the rules for selecting and consistent labelling pieces of information (including information publicly accessible) necessary for efficient management of electronic documentation. Automated mechanisms to make available, directly from documentation management systems, documents being public information, as early as in the stage of their creation (when they are labelled as public information) should be introduced. The strategy highlights the need to standardise and gradually integrate the Public Information Bulletin content, and to make public web pages more transparent. In addition, it emphasises the necessity to introduce general and binding standards ensuring easy access, interactivity, and the possibility for the information to be processed and searched by the users.

Real implementation of the right to information through introduction of technological measures covering data that are especially important to ordinary citizens and businessmen. The strategy indicates the need to create public data repository forming a single access point to the system of interconnected public repositories, as well as to identify categories of public data that must be made available in view of their usefulness for citizens or second or third sector organisations, to ensure real access to public data within the repository, and to create mechanisms of their regular updating.

2.4. The most important recommendations and expectations concerning the enhancement of access to public information

Proposals presented in the *Efficient State 2020* strategy concerning the access to public information are in line with the objectives of the Open Government Partnership, and the Coalition recommends their practical implementation.

The most important task is to standardise the system of applying for public information – procedures (described in other acts of law) different from those introduced by aapi should be abandoned and fees for information charged based on additional regulations should be abolished. Effective appeals procedure should also be introduced.

It is necessary to **change the functioning of Public Information Bulletins** (and to define the deadlines for and the extent of public information publication, as well as sanctions for not publishing re-

quired information) so that they become compatible with the basic regulations rather than being only an additional source of information on public institution activities.

It is also necessary to **change the legal regulations concerning the re-use** of public information, in particular in order to make the procedure of public information re-use less complicated. Proposal to transfer the provisions on the re-use of public information from the Act on Access to Public Information to a separate act of law should be given serious consideration, especially in the light of the need to implement the directive changing the principles of re-use of public information.

The preceding recommendations cannot be implemented without higher awareness on how important it is to proactively make available the information on the part of public servants and their openness in sharing information. Thus, **a strategy to disseminate the knowledge on the access to public information among public servants and citizens should be developed and implemented.** Comprehensive solutions to **promote openness among civil servants of all ranks** should be introduced. Additionally, **a method to identify information especially valuable for the society need to be developed**, and **mechanisms for securing the feedback from citizens need to be implemented.**

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Łukasz Jachowicz in cooperation with Alek Tarkowski

3. Openness of public data

3.1. Legal regulations

Some regulations in this area are in force, but they are insufficient and are very often used in a discretionary manner. Score: 2 points.

No special act of law regulates the standards for public data openness in Poland. The Act on computerisation of the activities of bodies implementing public tasks of February 17, 2005, contains provisions on technical aspects of making public data available in public IT systems. They were made more specific by the Ordinance of the Council of Ministers on the National Interoperability Framework, minimum requirements for public registers and exchange of information in electronic form, and minimum requirements for ICT systems of April 12, 2012.

Some issues concerning public data openness are regulated in aapi. The act says that every citizen has unlimited access to public data, and everyone may define the format he or she would like the data to be made available in. The act includes a requirement that the Central Repository for Public Information (CRIP) should be created, gathering among others data important for innovation and the development of information society[3].

3.2. Practice

(Almost) total lack of good practice examples or isolated good practices. Score: 1.5 point.

Public data should be available to all interested persons and meet the following criteria: they must be **complete; published in raw form; up-to-date; published in formats allowing for their re-use, no matter what software is used; suitable for machine processing; made available in non-discriminatory manner, i.e. available without the need to register or to sign an agreement; available without licensing limitations; published using open and public formats that do not limit their re-use.** The requirements are not met in Poland. Openness of data is mentioned in many government strategic documents (including the *Efficient State 2020* strategy) and drafts of legal regulations, but they ignore many important issues such as keeping data up-to-date, publishing raw data, or completeness of published data. There is no comprehensive strategy for opening public data.

3 Ordinances regulating the basic principles of the system and indicating the first sets of data required to be placed in the repository were accepted by the Council of Ministers in March 2014 (after publication of the report by the Coalition).

Problems concerning access to public information (described in the chapter on aapi) are accompanied by **technical deficiencies. The requirement to publish data in open formats that allow reading, editing and analysing data, enumerated in the ordinance on the National Interoperability Framework (e.g. html, txt, odt) is still not being met.** Public institutions, even if they make data available, do it **in a manner that hampers their automatic analysis and computerised processing** (e.g. they often present only a scanned copy of a document). For example, financial disclosures of public servants are published in the form of scans of handwritten documents. In addition, **the system of electronic circulation of documents is often not in place in public institutions**. As a result, public servants cannot present a document in a format suitable for machine processing.

Concerns about possible commercial use of data. Some institutions that have public data at their disposal fear that making them open will enable other entities to use them for commercial purposes. But limiting access to public data is detrimental to small businesses that could use them to offer new services, and to all citizens who want to know, for example, how tax revenues are used by the authorities.

Data are often incomplete and outdated. Not only a standard method for publishing public data is lacking, but also there is no standardised method to inform about updates of the published data. Public entities usually do not publish complete sets of data. Public Information Bulletins, being a kind of online "notice boards", are designed for reviewing rather than re-using of the published data.

3.3. *Efficient State 2020* strategy and the openness of public data

Two main objectives of the *Efficient State 2020* strategy are implementation of open government and optimum state models for public administration. Declarations, included in the strategy, related to making data openly available are in line with the principles of the Open Government Partnership, but are very sketchy. Improvement in the field of openness depends, according to the strategy, more on implementing the existing solutions than on introducing new ones. Activities indicated in the strategy include:

Opening the resources of public sector through implementing open standards for publishing public information, enabling their machine-based processing, and introducing common standards that ensure in particular easy access to data, interactivity and possibility to search and process information by the user. Creating a public data repository, a point of access to interconnected public repositories. Identifying data for publication and setting standards ensuring transparency, interoperability and possibility to re-use the information resources that would be binding for all public administration entities. Making available to the greatest possible extent information resources of public sector in digital form, and in particular reference data (land surveying, statistical, economic) that can be re-used.

Creating legal safeguards for publishers and receivers of public resources. To this end, legal solutions are envisaged to ensure availability and re-usability of "other kinds" of public resources that are financed from public funds. It is emphasised that financing entities should own intellectual property rights to resources fully financed from public funds and that fair balance should be struck between intellectual property rights and access to knowledge.

Technical improvements would cover enhancing the Public Information Bulletin system through developing the system of electronic document circulation, including automatic publication of documents labelled as public information. As a necessary condition, it is seen that a high level of interoperability of all IT systems and public registers should be ensured.

Educational activities, or promoting the culture of openness in public institutions and popularising the right of access to public information.

3.4. The most important recommendations and expectations concerning the openness of public data

Ensuring openness of public administration is one of the eight goals indicated in the *Efficient State 2020* strategy. Fulfilling this goal requires providing open access to public data and other types of resources owned by the public sector. In addition, legal safeguards for publishers and users of public resources, technical enhancements and education need to be provided.

In order to implement the objectives, the Coalition recommends:

Introducing clear general regulations concerning access to public data resources. The number of separate provisions forbidding access to data should be limited, and regulations should contain a legal requirement to prepare inventories of all available sets of data, as well as to keep the updated lists publicly available. Un-published sets of data from entities being liquidated should be transferred to the archives in the form existing at the date of their liquidation, and a catalogue of archived sets of data should be publicly available. All data must be available in the central data repository, together with information on the liquidation of the entity responsible for their upkeep and updating.

Enforcement of the minimum requirements for public registers and for electronic exchange of information, as well as the minimum requirements for ICT systems. That would help to solve serious current problems; ensure that data is published in standardised formats enumerated in the ordinance; ensure interoperability of IT systems and public registers, as well as improve the functioning of the Public Information Bulletin system and the electronic circulation of documents.

Creating the Central Repository for Public Information, ensuring **the possibility to present public data** both in a form ready to be copied, and through programmers' interface (API). The repository should gather all data produced by the entities covered by aapi.

Opening and making available for re-use data that is at the disposal of public administration, notwithstanding the possibility of their commercial use.

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Grażyna Czubek

4. Anti-corruption policy

4.1. Legal regulations

In general, relevant regulations are in place, but some of them are insufficient (legal gaps) and require to be amended or supplemented (e.g. in order to make them in line with the international requirements). Score: 3 points.

Legal framework to develop and implement anti-corruption policy is in place. Poland acceded to six international conventions aiming at preventing corruption. The Polish Penal Code covers the main corruption offences: passive bribery in connection with holding public office, active bribery – offering bribes, favouritism, abuse of power (unauthorised action or failure to comply with an obligation by public servant), attestation of an untruth in a document to gain a profit, corruption offences connected with insolvency or bankruptcy, hindering or thwarting public tender to gain a profit, electoral bribery and corruption, business corruption.

The Act on limitations to business activity of persons holding public office (called the anti-corruption act) regulates issues related to conflict of interests among persons serving public offices. But the legal act, being one of the most important tools to prevent corruption, has long been criticised for its poor effectiveness – e.g. inefficient mechanisms to control financial disclosures of public servants and absence of provisions directly defining the conflict of interests. Its amendment or even proposing a new act has long been recommended.

Also **the regulations on civil service** are not the best tool to prevent corruption in public administration – mainly when preventing politicising civil servant posts of highest ranks is concerned.

Another important legal gap **is the lack of solutions to protect so-called whistleblowers** (persons acting in good faith and reporting irregularities that occur in their workplace). Relevant provisions are too scattered or insufficient, covering only people employed on permanent contract. The protection of the identity of a whistleblower is limited. There are no regulations motivating employers to introduce internal whistleblowing systems.

Legal basis for the activities of the Central Anti-corruption Bureau (CBA), the institution specially created to prevent corruption, is questionable. When explaining the creation of the service, the provisions of the United Nations convention against corruption (Art. 6) were quoted, requiring from ratifying countries to establish an independent institution acting to prevent corruption. But the scope of powers given to the Bureau is not consistent with the provisions of Article 6 of the convention. Ac-

cording to the CBA Act, the Bureau is a "special service for fighting corruption in public and economic life", directly supervised by the prime minister, and may perform secret operational control, use police provocation, prepare false documents, perform controlled purchases, and through access to sensitive data interfere with the private life of citizens. In addition, the Bureau should pursue analytical activity. The Bureau does not coordinate activities in the field of corruption prevention. There is a risk that such powerful special service might be used instrumentally in political struggle.

4.2. Practice

Good practices exist, but they are rare (they are isolated – e.g. limited to individual institutions). Score: 2 points.

The real extent of corruption is unknown. As a result, it is hard to measure how effective the fight against corruption is based on the number of cases exposed and people sentenced by courts or data from surveys. But analysis of the existing legal and institutional framework, and the practice of preventing corruption reveals at least several important problems.

It is indicated that **the Act on limitations to business activity of persons holding public office** (called the anti-corruption act) lacks clear provisions concerning conflict of interests and introduces ineffective controls for financial disclosures of public servants.

The protection of whistleblowers (i.e. persons who inform about irregularities in their workplace) **from retaliation is poor.** Such persons are often dismissed from their work, allegedly on quite different grounds, e.g. liquidation of their post or their frequent absenteeism. The termination of employment contract is examined by labour courts based on the reasons given by the employer, and statements such as "I was fired in retaliation" are not taken as a pertinent argument. Then, it is the whistleblower who must prove that he or she was sacked in connection with his or her role in revealing irregularities. He or she is often required to prove that the irregularities had in fact taken place. Persons employed based on appointment contract or fixed-term employment contract or commission contract are not protected at all.

No strategic document on preventing and fighting corruption is presently in force. In 2002, the first strategic program for 2002-2004 was introduced, and then another for 2005-2009. Since 2009, Poland has remained without any relevant document indicating government priorities in the field of preventing and fighting corruption, though its preparation started in 2010[4].

Government administration has no **consistent supervision policy.** After-control conclusions presented by the **Supreme Audit Office** are not fully used by institutions such as the government, the public administration or the parliament.

4 During translation of this document (April 2014) the Council of Ministers adopted the "Government Programme for Preventing Corruption for 2014-19".

Activities in the field of preventing corruption, i.e. implementing solutions to protect public institutions against corruption, **are insufficient.** Prevention should form the most prominent part of any long-term anti-corruption policy, but the relevant provisions in the existing legal regulations are sketchy and insufficient. As an example, we can quote only one-year prohibition for public servants to seek employment with the businessman for whom they personally had taken important official decisions. Public institutions usually adopt "soft", fragmentary solutions, such as ethical codes, and trainings to enhance the knowledge and the awareness of public employees. Public institutions planning to introduce anti-corruption safeguards have to search for the relevant programs, tools, and methods of their implementation, for so far "no model and commonly accepted rules for building anti-corruption safeguards in public institutions have been developed". There is no coordinating centre for introducing such solutions.

4.3. *Efficient State 2020* Strategy and the anti-corruption policy

The strategy *Efficient State 2020* contains only very general declarations (objective 7 – ensuring high level of public security and order) concerning the need to implement a coordinated anti-corruption policy based on a consistent national anti-corruption program. When the report was published (December 2013) the Government Programme for Preventing Corruption had been for three years in preparation.

4.4. The most important recommendations and expectations concerning the implementation of anti-corruption policy

Refining, adopting, and implementing a long-term national anti-corruption strategy that would include specific commitments, financial framework, and mechanisms to control its implementation[5].

Developing a model solution for implementation of preventive programs in public institutions and creating a unit to support implementation of such programs in public institutions.

Amending the Act on limitations to business activity of persons holding public office (called the anti-corruption act) **or preparing a wholly new act.** It should comprehensively resolve the issues related to conflict of interests (including filing, openness, and verifying financial disclosures of public servants).

Thoroughly changing legal regulations to **ensure better protection for whistleblowers** (e.g. preparation of a separate act of law in this field).

Strengthening the civil service to de-politicise the process of appointing people to higher public posts.

5 As mentioned above during translation of this document (April 2014) the Council of Ministers adopted the „Government Program for Preventing Corruption for 2014-19".

Strengthening and enforcing the principles of management control, institutional control and internal audit (including strengthening the role of Supreme Audit Office, e.g. through a requirement of an obligatory response to its conclusions).

Making the regulations on the organisation and the role of the Central Anti-Corruption Bureau more specific, strengthening its political independence, and changing the procedure of appointing its head.

Strengthening the role of anti-corruption education for public institution employees.

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Grzegorz Makowski

5. Openness of decision-making processes

5.1. Legal regulations

In general, relevant regulations exist, but sometimes they are deficient (legal gaps) and should be amended or supplemented (e.g. in order to harmonise them with international requirements). Score: 3 points.

Legal framework enabling citizens to participate in decision-making processes exists. But since the relevant provisions are scattered in different regulations – the constitution, many acts of law and ordinances – it is hard for a common citizen to master them, and as a result they are not too effective.

Low quality of regulations is another problem. As an example, the act on lobbying activity can be cited. It was intended to regulate the activities of professional and non-professional lobbyists, and to enable different groups of stakeholders to join the law-making process in a transparent way. In practice, the act is defunct and does not serve the objectives for which it was created.

Rules of Procedure of the Council of Ministers (with the latest amendments of October 29, 2013) concerning the consultation process of government legal drafts also require additional refining. Public consultations are still only discretionary rather than obligatory step in the government law-making and decision-making processes.

5.2. Practice

Good practices can be found, but they are not common (they are isolated – e.g. limited to individual institutions). Score: 2 points.

Formally, at the level of ministries and other central institutions there are plenty of opportunities for citizens to participate in decision-making processes, including **public consultations.** A special legislative platform (rcl.gov.pl) created in 2011 where all drafts of acts of law together with relevant documentation are presented makes it easier to obtain information on proposed legal regulations. But in spite of this, the law-making process has not become more accessible.

The quality of consultations is hampered by numerous problems, such as **mistakenly identifying giving information on decisions taken with consultations, rare use of interactive, advanced consul-**

tation techniques (only the Ministry of Economy uses e-conslutation platform created in 2011), not answering to opinions from citizens by public institution representatives.

The consultations and their results are also flawed by inadequate information activities, and by confining consultations to a "closed" group of participants invited on the basis of a predetermined criteria. **Institutions are reluctant to actively look for other groups or entities** that may be interested in a given issue, and individual citizens not associated with any organisation have little chance to take part in consultation processes. Also the social side often lacks relevant expertise to enable them to usefully participate in consultations.

An example of not so common good practice can be the *Consultation Code* developed by the Ministry of Administration and Digitization, unfortunately used only in this one ministry. In the beginning of 2013 the government accepted a program titled *Better Regulations 2015* envisaging "numerous enhancements concerning opening the legislative process".

The procedure of regulatory impact assessment (so-called RIA), and in particular consultations accompanying the preparation of assessments, forms one of the instruments enabling citizens to participate in decision-making processes, but it is rarely used due to non-transparent and defective provisions regulating preparation of such assessments.

For the purpose of pursuing dialogue with citizens, many forums have been created enabling people to influence decisions, but not everyone may participate in them for several reasons, such as technical competence, permission or willingness to take part in the proceedings of such bodies, and relatively low level of knowledge on their activities and of ability to use them.

Social dialogue (between employee organisations, employer organisations and the government) is pursued within the Tri-Party Committee. In recent years, it has been heavily criticised, and trade-union representatives boycott the Tri-Party Committee saying that it is a façade institution. The crisis in the committee functioning has also resulted from other factors, such as low representativeness of participating parties, low culture of dialogue, low level of professionalism, and devaluation of the decisions made within the Tri-Party Committee.

5.3. *Efficient State 2020* Strategy and the openness of decision-making processes

The *Efficient State 2020* strategy contains many declarations indicating that the government plans to take action in order to increase the openness of decision-making processes, in line with the proposals presented by the Open Government Partnership. The activities described in the strategic document include:

Introducing open consultation mechanisms as a standard step in decision-making process.

It is indicated that a transparent consultation model needs to be created and that consultations or the principle of civil participation should be formalised (it is not exactly said how it should be formalised). It is indicated that the existing regulations should be reviewed and that action should be taken in order to more strongly motivate the government administration units to broader presentation of information on drafted legal acts and to complying with the principles of consultations. It is planned to develop the mechanisms of cooperation with non-governmental organisations and to monitor consultations, as well as to foster and promote social and civil dialogue.

Improving the standards of law enforcement. Implementation of the declaration to **refine the regulatory impact assessment procedure** would lead to wider civil access to the legislative process, for social consultations form an integral part of the regulatory impact assessment. It is proposed that the assessment should be performed in early stages of drafting normative acts or other documents covered by the procedure (programs or plans), or that it should be obligatory to present the impact of a regulation before its draft is discussed within the Council of Ministers Permanent Committee and the Council of Ministers itself, and that the procedure of *ex post* evaluation of a regulation should be a norm.

Using various dialogue tools. The document indicates the need to launch an internet platform for consulting government drafts of legal acts, programs, and other strategic documents, and to create systems "aggregating citizens opinions", as well as digital tools enabling citizens to report problems in public administration functioning.

It is indicated that a program supporting development, testing, and broad implementation of participatory management techniques (e.g. participatory budgets) need to be launched, and that modern electronic techniques enabling greater civil engagement should be developed.

It is important to develop other e-participation tools "strengthening participation of citizens in social and political life", and preventing corruption and other irregularities in public administration functioning.

Implementing education and information activities directed to citizens and civil servants. It is indicated that civil servants should be educated in the field of participation, that their own initiatives leading to better cooperation with groups interested in participation in decision-making processes should be rewarded, and that social campaigns and public debates should be organised and supported.

Permanent monitoring of the public participation level is planned.

5.4. The most important recommendations and expectations concerning the openness of decision-making processes

One of the main challenges for the Open Government Partnership is to secure broad access of citizens to the decision-making processes influencing different policies, and in particular to the law-making processes. Thus, the following activities are recommended:

Making the regulations concerning different forms of civil participation in decision-making processes **more systematic** – thorough review of the existing legal solutions is needed.

Passing an act of law on the modalities for public consultations when drafting government proposals of legal acts and other important documents, such as strategies, plans, and programs.

Popularising the knowledge on and actively encouraging citizens to use the existing solutions that enable them to take part in decision-making processes, such as public consultation e-platform created by the Ministry of Economy. Systematic improvement and development of the tools is equally important.

Specifying and implementing the proposals contained in the strategy on education and information activities concerning participatory management for public institution employees.

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Appendices

Appendix 1

Activities taken by Polish non-governmental organisations for Polish participation in the Open Government Partnership.

In the beginning, when the Open Government Partnership was created non-governmental organisations encouraged the Polish government to join the initiative. In February 2012, a letter calling for activating procedure to join the initiative was sent to the prime minister. The reply said that the initiative was worth joining and asked the organisations to present their comments concerning the future modalities of Polish participation in the Partnership. In March 2012, the organisations sent their reply containing a catalogue of proposed activities for the Polish government to declare when joining the Partnership.

In the beginning, it seemed that the decision to join the initiative by Poland would be promptly taken. The Ministry of Administration and Digitization started preparations in this field, and the Council of Ministers Permanent Committee recommended joining the partnership to the government. The agenda for the Council of Ministers meeting of April 10, 2012 featured the proposal of a declaration of accession to the partnership. But it was not accepted. The webpage of the Office of the Prime Minister presented no explanation why it was not accepted.

As there was still no official information from the government, at the end of April 2012 again a question was sent to the prime minister on when (if at all) Poland would join the Open Government Partnership. The letter also asked for a competent answer concerning the catalogue of proposed activities to be implemented within the partnership.

On May 15, 2012, on the webpage of the Ministry of Administration and Digitization an information appeared saying that "before Poland will be ready to join the Open Government Partnership, a detailed plan of activities must be prepared". That was the only official information given on this matter by the government side.

At the end of May the organisations decided to create the Open Government Coalition. Its members assumed that Polish accession to the Partnership is the most important objective. In July 2012 a member organisation of the newly created Coalition sent another letter to the Prime Minister asking for an answer to the preceding communications. Such answer, drafted by the representative of the Ministry of Administration and Digitization, was received only in October.

The answer was rather vague. The representative of the government only informed about the recommendation to join the OGP given by the Permanent Committee and about preparations con-

cerning the government *Efficient State 2020* strategy and its objectives that were in line with the objectives of the Partnership. The Coalition concluded that there were no reasons to believe that Poland would soon join the OGP. The Coalition also decided that since the *Efficient State 2020* strategy was meant to be the only government document concerning activities related to OGP objectives, it should wait till the document was accepted by the government, and then start to monitor its implementation, at the same time emphasising that Polish accession to OGP can enhance the process.

Media and the issue of Polish accession to OGP

From the beginning, the non-governmental organisations have extensively informed general public on their activities concerning Polish accession to the Partnership. On their web pages, they informed general public and media about the content of their letters to the government, and published special press releases. Representatives of different media, such as papers, radio stations, internet portals, and independent bloggers have been interested in the initiative and the issue of Polish government accession to it. From February to July 2012, numerous materials on the objectives of OGP, as well as on the Polish government and non-governmental organisations activities in this field were published. Representatives of the Coalition have been frequently asked for statements, comments and opinions.

Support of MPs

In the meantime, three MPs asked the Prime Minster in the Parliament about Polish accession to the Partnership. When in February 2012 Anna Grodzka, MP, asked a question on this matter at a session of the Parliament, she received an answer that procedural preparations were under way – that the proposal had to be accepted by the Council of Ministers, and then an action plan would be worked out together with social partners. When in July 2012 Łukasz Gibała and Michał Jaros, MPs, asked whether Poland would join the Partnership and why – despite the positive recommendation by the Council of Ministers Permanent Committee – the government had so far not taken decision on the accession to OGP, they received a similarly evasive answer as those received by the members of the Coalition. It was said that the Council of Ministers Permanent Committee had recommended to the government joining the Partnership, and that work on the national *Efficient State 2020* strategy that was in line with the objectives of the Partnership was under way.

The Open Government Coalition was created in May 2012 by non-governmental organisations that work for transparency, accessibility, openness and accountability of the government: Centre for Civic Education, e-State Foundation, Civil Development Forum Foundation FOR, Stefan Batory Foundation, Foundation for Social Communication, Panoptykon Foundation, Digital Centre Project Poland, Helsinki Foundation for Human Rights, Citizens Network Watchdog Poland, Association 61/IHavetheRighttoKnow.pl [MamPrawoWiedziec.pl], Unit for Social Innovation and Research – Shipyard, Klon/Jawor Association.

The objective of the Coalition is to implement in Poland the standards of responsible and open government promoted by the Open Government Partnership (OGP).

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