

Towards Transparency Newsletter

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Open Government is not an option but a way forward

Founded in 2011, the Open Government Partnership (OGP) is an international, voluntary effort to secure concrete commitments from governments to promote transparency, encourage civic participation, fight corruption, and enhance government responsiveness to people. By participating in OGP, a country can deliver a strong message to its citizens and to the international community that it commits to strengthening openness, transparency, accountability and anti-corruption. Currently, Vietnam is non-eligible for OGP; however, the country is not too far away from meeting the minimum eligibility criteria and from joining the league of current 75 OGP member countries. Towards Transparency (TT) and other interested CSOs have been promoting OGP as a platform for government, civil society and the private sector to cooperate in advancing the key open government issues and principles.

Vietnam in OGP landscape

OGP has yet to be on the policy agenda of Vietnam. The knowledge of government agencies and local CSOs on OGP remains very limited. There are development partners who support Vietnam to build good governance grounded in transparency, accountability and people's participation – all key elements of OGP – but none use directly OGP as a framework to work within.

A country is eligible for OGP membership if it earns at least 75% of the applicable

points (12 out of 16) based on the following four criteria: (i) Fiscal Transparency, (ii) Access to Information, (iii) Asset Disclosure, and (iv) Citizen Engagement. Each criterion is assessed with a maximum of 4 possible points. Noticeably, since September 2017, countries also need to pass additional eligibility criteria (i.e. "Values Check") which are primarily focused on civic space and civil liberties before they are allowed to participate in OGP. This is an effort to improve the alignment between participating OGP countries and OGP's core values, particularly it is considered a timely response by the OGP Steering Committee to the worrisome

shrinking civic space observed in OGP member countries as well as across the globe.

Vietnam's current eligibility score is 8/16 (OGP, 2016), which means that Vietnam needs to obtain four more scores to meet minimum eligibility requirement (i.e. 12/16) and concurrently pass "Values Check" (see Table on the next page).

TT's 2016 feasibility study on Vietnam's prospect of OGP participation indicates that OGP is neither alien from nor conflictive with the existing guidelines, policies and legislations on governance promulgated by the Vietnamese Communist Party and the State.

"Vietnam's score is

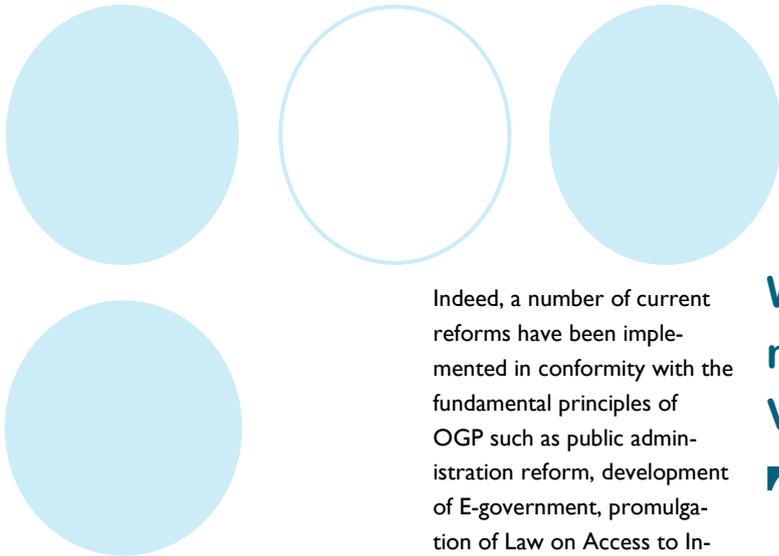
8/16 and only needs

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OGP"



Indeed, a number of current reforms have been implemented in conformity with the fundamental principles of OGP such as public administration reform, development of E-government, promulgation of Law on Access to In-

Vietnam's OGP eligibility scores		
1	Fiscal Transparency	0/4
2	Access to Information	4/4
3	Asset Disclosure	2/4
4	Citizen Engagement	2/4
Total		8/16

(Source: OGP data updated in November 2017)

formation, Law on Anti-Corruption, or participation in the United Nations Convention on Anti-Corruption (UNCAC).

Civic engagement is at the heart of OGP. In signing the Open Government Declaration, OGP members commit to engaging citizens in the development, implementation, and monitoring of their National Action Plans. TT's study also shows that in recent times Vietnamese CSOs have made remarkable contributions to promoting transparency, accountability and citizen engagement, which have received increasing attention from both the government and society. This implies that they are prepared to engage further with the government towards improving eligibility scores for Vietnam and developing the National Action Plan in accordance with OGP guidelines.

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Why OGP matters for Vietnam

TT's study on Vietnam's prospects of OGP participation identifies the relevance as well as the significance of Open Government to the local context of Vietnam.

First, OGP helps to increase people's trust in the country leadership

Corruption is rampant in Vietnam. According to the Vietnam's Global Corruption Barometer (GCB) 2017 Re-

and promote good governance, which resultantly leads to increased social trust in the country leadership.

Second, OGP helps to accelerate institutional reforms

Vietnam is undertaking a number of significant institutional reforms to strengthen the quality of social management by the state including improvement of relationships among the state, citizens and private sector. Yet, state management in practice has been unable to meet the developmental needs of the market economy and international integration. Administrative reforms and capacities in de-



TT's Executive Director Nguyen Thi Kieu Vien at the High-Level Regional Conference on Open Government (August 14-15, 2017 in Manila, the Philippines)

port by Transparency International and Towards Transparency, three quarters of Vietnamese citizens believe that corruption in the public sector is a serious or very serious problem and paying bribes is most observed in the sectors such as police, health and education. Given that corruption undermines public trust in the government, OGP participation can provide a new mechanism to fight corruption

veloping institutional arrangements for enterprises and citizens to freely do business and equally compete in the market economy have been lagging behind. Promoting transparency, accountability, and citizen participation in state management, OGP will substantially contribute to addressing the prime weaknesses of the current governing institutions in Vietnam, including commercialization of

state institutions, excessive fragmentation in institutions' power, lack of checks and balances within the government and limited participation of citizens in policy domains.

Thirdly, OGP helps promote Vietnam's profile to boost investor confidence and attract high quality FDI

The entrenched corruption in Vietnam has left negative influences upon the country profile in the international arena. With regard to business, corruption discourages foreign investors and generates an unhealthy local business environment. Improving investors' confidence in the government



Members of Vietnam CSO working group on OGP at the Asia Pacific Leaders Forum on Open Government on 13-14 December 2017 in Jakarta, Indonesia

efficiency and law on business and competition becomes therefore an urgent need. Pursuing core values of open government contributes to creating favourable business conditions that enable for triggering domestic and foreign investment. This indeed conforms to the government policy that perceives enterprises as a driving force for the national development.

Furthermore, the mission of OGP is to share the vision and deepen the depth of democracy and good governance for people's interests – these elements will bolster soft power of the country in the international community, whereby Vietnam's image will be globally improved.

Forth, OGP assists the Vietnamese Government to implement effectively international treaties and domestic legal documents on anti-corruption

The Open Government central values and principles closely align with Article 10

and Article 13 of the UNCAC and the 2005 Law on Anti-Corruption (Chapter I, Chapter VI) as well as other regulations on society and people's participation in anti-corruption. Therefore, once applied, Open Government will be instrumental to advancing the implementation of these laws and regulations.

Last, joining OGP will open an official plat-

form for state-society collaboration in improving policy decisions and governance

Citizen engagement is brought to the fore in open government as one of the major eligibility criteria that needs to be met. The participation of civil society in the development of the National Action Plan becomes a requisite for OGP members, which is considered as a mechanism to accelerate cooperation between state and civil society in policy decisions and achieving inclusive development. For the time being, the Fatherland Front (FF) and its affiliated members are constitutionally tasked with supervising operations of the state apparatus and making social criticisms. Given this, OGP will therefore provide an official mechanism for the Fatherland Front and CSOs to directly influence and supervise the state agencies performing social management in accordance with principles of openness, transparency and accountability. As a result, supervisory role and social criticism conducted by the FF and CSOs will become legitimized and more efficient.

Vietnam's potentials to join OGP

As indicated above, OGP principles and values strongly align with the existing guidelines, policy and law on governance promulgated by the Vietnam-

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ese Communist Party and the State. With respect to the eligibility criteria and under current situation, Vietnam is likely to increase its eligibility scores.

Access to Information: Vietnam has received maximum points on this front since it has put the Law on Access to Information in place in 2017 and this Law will take effect as of July 2018.

Asset Disclosure: the Government Inspectorate is now drafting the amended Law on Anti-Corruption that will be reviewed and approved in the National Assembly’s plenary sessions in 2018. The most recent draft introduces a new article on providing information of asset declaration, which extends the regulations to cadres, public servants and state employees. The current development combined with increasing pressures from people demanding the state to enhance anti-corruption effectiveness may raise the hope that there will be newer and more practical regulations on asset disclosure to be enshrined in the amended Law on AC. On this front, Vietnam will obtain at least one more point.

Fiscal transparency: Vietnam will most likely score two more points on this front in the time to come. Currently, due to the delay in the publishing of Vietnam’s Audit Report and the inaccessibility of the Executive’s Budget, Vietnam receives ‘zero’ score for ‘fiscal transparency’. However, it is observed that increasing scores for Vietnam in this respect seems possible since the time limit for the Audit Report to be published coincides with that stipulated in the 2015 Law on State

Budget. Specifically, Clause 7 of Article 7 of this Law states that “the National Assembly shall consider approving the statement of central government budget within 18 months from the end of the fiscal year and Clause 1 of Article 71 requires “State Audit of Vietnam shall audit the statement of central government budget before submitting it to the National Assembly for consideration and approval”. The Audit Report of the statement of the government budget 2013 was released by the State Auditor at the press conference on 10/07/2015, only 18 months and 10 days after the end of the fiscal year 2013. In this

and Law on Press 2016 introduce new regulations that are instrumental to producing positive results. This progress illustrates a noticeable trend in which people’s participation in governance is more observed.

In summary, OGP is in line with Vietnam’s current legal and policy framework. It helps the country strengthen the implementation of the existing laws and policies. This also implies that OGP is neither an institution threatening to the political system nor a burden for the State. In addition, OGP is not an international treaty, but an international institution (or a platform), where the governing rules are simpler and



TT’s OGP Advocacy Project funded by the Belgium Ministry of Foreign Affairs launched on 24 November 2017

context and under pressure of the new Law on State Budget, Vietnam is highly likely to meet the 18-month target. As a result, Vietnam will gain two more points in this regard.

Citizen engagement: Among the criteria, this criterion is most challenging in Vietnam since it deals with civil liberties-related issues. However, there is a likelihood in increasing its score for a number of newly promulgated laws such as Law on Access to Information, Law on Referendum,

more flexible than those of other institutions and international treaties, for example UNCAC.

In the coming time, TT and other interested CSOs look forward to continued engagement from interested parties such as the state, development partners, non-state actors towards achieving greater openness and improved anti-corruption in Vietnam.

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