

Independent Reporting Mechanism (IRM): Germany Design Report 2017–2019

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Executive Summary: Germany

Germany’s first action plan focused on improving open data and transparency across fields such as transportation and extractives, as well as expanding civic engagement opportunities. Civil society was actively involved in the co-creation process primarily through the Open Government Network. However, most commitments represented existing initiatives. Moving forward, the Open Government Partnership process in Germany could benefit from high-level political support for its commitments. Future action plans could significantly increase in ambition by including commitments on, for example, transparency of beneficial ownership and public contracting while continuing to improve open data architecture.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Germany joined OGP in 2016. This report evaluates the design of Germany’s first action plan.

General overview of action plan

Germany started its first action plan with a strong legislative framework around accountability, anti-corruption, and civic engagement. The country had room for improvement on areas of transparency and open data. The first action plan, therefore, focused on improving open data (geo-spatial, transport, and general administrative context) as well as increasing transparency (extractives, development policy). Other commitments addressed specific social themes centered on integration, family policies, and LGBTI (lesbian, gay, bisexual, transgender and intersex people) issues.

The Federal Ministry of the Interior coordinated the co-creation process for the first action plan, and the Open Government Network (OGN), a coalition of over 100 civil society organizations and individuals, served as primary interlocutor on the civil society side and assumed coordination within its network to contribute to the action plan. Following an open consultation dialogue for stakeholders to submit commitment proposals OGN sent a report to the government with a list of recommendations. The government held cross-ministerial deliberations to determine the feasibility of the commitment proposals. Civil society

Table I. At a glance

Participating since: 2016
Action plan under review: 1
Report type: Design
Number of commitments: 15

Action plan development

Is there a multi-stakeholder forum? No
Level of public influence: Involve
Acted contrary to OGP process: No

Action plan design

Commitments relevant to OGP values: 13 (87%)
Transformative commitments: 1

Action plan implementation

Starred commitments: N/A
Completed commitments: N/A
Commitments with major DIOG:* N/A
Commitments with outstanding DIOG:* N/A

*DIOG: Did It Open Government?



stakeholders noted having limited time and opportunity to provide feedback on the government’s assessment of the proposals or to comment on the draft action plan.

Several commitments in the first action plan reflected pre-existing government activities that were given additional visibility and an additional monitoring and accountability framework through inclusion in the action plan. Some commitments were also informed by informal exchanges with civil society in the context of individual ministries and their established linkages to civil society groups that predated the OGP process. Civil society groups’ direct involvement in the co-creation process largely came from the data and transparency sectors, which influenced the thematic nature of their proposals to the action plan.

Notable commitments in Germany’s first action plan revolved around expanding open data, particularly around transport (Commitment 7) and building an open data ecosystem (Commitment 3). Other important commitments involved improved transparency in the extractives sector (Commitment 5) and strengthened public participation in environmental policy and urban development (Commitment 8).

Table 2. Noteworthy commitments

Commitment description	Moving forward	Status at the end of implementation cycle
<p>3. Promoting the open data environment</p> <p>Establish a reliable open data ecosystem by communicating with stakeholders to promote the use and quality of open data.</p>	<p>The government could outline follow-up actions. These would create accountability for the lessons learned and insights gathered for the next action plan and the federal government’s broader activities on open data. Creating follow-up actions would also build confidence in the process.</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>
<p>5. Financial transparency—implementing the Extractive Industries Transparency Initiative (EITI) standard</p> <p>Increase transparency and accountability in extractive industries and strengthen dialogue with extractive industries stakeholders.</p>	<p>Given the advanced level of disclosure around the extractives sector in Germany, the Ministry of Economic Affairs could consider advising the German EITI secretariat to make its approaches and lessons learned more broadly available to other OGP stakeholders.</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>
<p>7. Open data for intelligent mobility</p> <p>Create and promote a culture of transparency and responsiveness, as well as creative solutions,</p>	<p>Moving forward, the government could explore mechanisms and incentives to open and link mobility data across different government levels, from federal to state to local. The government could also consider expanding the types of civil society groups consulted in designing transport policy,</p>	<p>Note: this will be assessed at the end of the action plan cycle.</p>

for issues of transport policy.	such as alternative mobility and environmental groups.	
<p>8. Strengthening citizen participation in environmental policy and urban development</p> <p>Develop new forms of formal and informal participation in environmental policy.</p>	<p>The government could consider expanding this commitment to consider:</p> <ul style="list-style-type: none"> • Including underrepresented groups in participatory initiatives via segmented social media advertising, • Exploring how to link informal and formal consultation and participation mechanisms, and • Engaging more systematically at the grassroots level to receive more tailored recommendations. 	<p>Note: this will be assessed at the end of the action plan cycle.</p>

Recommendations

The IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan.

Table 3. Five key IRM recommendations

1. Improve co-creation in a holistic way
2. Invest increased resources to support civil society participation in the OGP process
3. Leverage OGP for developing new commitments beyond pre-existing initiatives
4. Use windows of opportunity for ambitious thematic commitments in the next action plan
5. Identify and work with high-level political champions or elder states-persons to raise the profile and visibility of open government inside the government.

ABOUT THE AUTHOR

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The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.



I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Germany joined OGP in 2016. This report covers the development and design of Germany's first action plan for 2017–2019.

The Independent Reporting Mechanism of OGP has partnered with Dr. Dieter Zinnbauer, who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

II. Open Government Context in Germany

Germany developed its first national action plan against the backdrop of a strong overall financial position and a political consensus for more digital, citizen-centric development. Both factors bode well for an ambitious open government agenda. With a decreasing level of public trust toward political authority, the country had room to improve in transparency and accountability.

History

Germany's OGP participation has been in the making for some time.¹ In 2011, the year OGP was founded, several German foundations and civil society groups initiated a conversation about Germany's possible involvement in the partnership. They formed a loose thematic working group: Open Government Arbeitskreis (OG AK). From 2012 onward, the OG AK generated increasing momentum among civil society for OGP membership.²

In 2013, the coalition agreement for the incoming government included the first explicit commitment to aspire to OGP membership.³ The German states formally supported and reaffirmed this intention in 2015,⁴ and the federal government reiterated the objective of membership by including it among Germany's commitments at the United Kingdom Anti-Corruption Summit (2016).⁵ The federal government also reiterated its plans by announcing the intended application in the declaration of the German-French ministerial council in April 2016.⁶

On 7 December 2016, Germany submitted its official letter of intent for participation in OGP on the occasion of the 2016 OGP Global Summit in Paris. Its submission highlighted the importance of open and transparent government in the 21st century.⁷ The government's 2018 coalition agreement reaffirmed this commitment to OGP and set out to evolve Germany into a leading international performer for open data in particular.⁸ The OG AK (renamed the Open Government Network in 2017) has not changed in role or function. It continues to act as the main coordinator for civil society engagement with the OGP process and serves as one of the primary civil society interlocutors with the government in the process.

General backdrop

A functionally differentiated and subsidiarity-based federal system of 11,000 local governments, 16 states, and an extensive system of federal government bodies provides ample opportunity for open government initiatives at different scales. The government's composition also poses coordination challenges within and across different government levels. Germany is financially sound, with room for future-oriented investments,⁹ and has a strong cross-party consensus to make Germany fit for the digital era. These factors bode well for prioritizing open government. On the one hand, the federal government is committed to open data and adoption of a digital agenda. At the same time, Germany has a particularly cautious approach to some frontier ideas of government transparency and participation. This approach is informed by the country's high data protection standards and deeply rooted administrative values of confidentiality and respect for expert judgment in administrative decision making.¹⁰

In the broader political environment, one event slowed down the early stages of moving from OGP membership to action plan implementation. National elections took place in September 2017, followed by protracted negotiations for forming a government. In addition, some observers argue that the decline in popularity of the Piraten (Pirates) political party and its ambitious platform to make political deliberation and decision making radically more open has also reduced immediate political pressure for accommodating related demands.¹¹

Meanwhile, sizeable portions of the German public raise concerns about trust in political authority and fairness. A 2018 Ipsos poll found that 47 percent of German citizens regard traditional parties as

indifferent to the average person's needs. The poll also revealed that 60 percent believe the political system favors the rich and powerful.¹² A 2018 Bertelsmann Foundation poll found that the portion of Germans claiming to be dissatisfied with democracy has grown to 19 percent.¹³ Such numbers may indicate a need to restore trust in the fairness and functionality of the political system. An agenda that makes governmental decision making more participatory and transparent could contribute to building this trust.

Fundamentals of civic rights and participation

In Germany the fundamentals of civic participation are enshrined in Articles 5, 8, and 9 of the Basic Law of the Federal Republic of Germany (Grundgesetz).¹⁴ These articles establish the freedoms of expression, assembly, and association, respectively. Article 20(2) affirms that “[a]ll state authority is derived from the people.”¹⁵ Article 17 establishes a right to petition the government.¹⁶

At the federal level, plebiscites are limited to issues about the territorial organization of the country. More specifically, formal mechanisms for civic participation are, for example, included in laws on administrative procedures. Such procedures require mandatory hearings for large public and private undertakings, such as large-scale infrastructure projects.¹⁷ Federal agencies and ministries employ more informal, nonmandatory practices of consultation and participation on a variety of policy initiatives and action plans. They used such measures, for example, for development of the 2050 climate protection plan.¹⁸

The bulk of formal mechanisms and opportunities for civic engagement exist at state and local levels.¹⁹ All German states recognize public referenda and plebiscites in their constitutions, although there are significant exclusions and limitations for financial matters.²⁰ Meanwhile a growing number of municipalities and local councils—such as Cologne,²¹ Karlsruhe,²² Leipzig,²³ and Giessen²⁴—have begun to formalize and experiment with participatory mechanisms in their decision-making processes.²⁵

Regarding civic rights and freedoms, Germany continues to rank highly, often in the top decile or quintile of countries in major assessments. As of October 2018, the nongovernmental organization (NGO) Civicus described the freedoms of association, assembly, and expression as “widely respected in both law and practice.” Civicus includes the country in its top group of “open countries.”²⁶ Similarly, the NGO Freedom House, in its assessment of political rights and civil liberties, classified Germany in the top cluster of countries labeled “free,” with an aggregate score of 94 of 100 points. Freedom House and others have raised concerns about potential pre-emptive censorship in relation to a 2017 law that tightens requirements for social media platforms to delete illegal content.²⁷ While it is too soon to assess the impact of the law, the number of removal notices has so far turned out to be lower than expected.²⁸

Germany's legislative framework and practice regarding accountability and anti-corruption are generally well developed and effective.²⁹ However, the highly decentralized federal institutional architecture at times defies standardized classification of international standards.³⁰ Transparency International's Corruption Perceptions Index 2017 puts Germany at 12 out of 180 countries, with a score of 81 of 100 possible points. The Worldwide Governance Indicators initiative placed Germany in the 95th percentile on “voice and accountability” and in the 94th percentile on “control of corruption.” The initiative noted a slight improvement in both dimensions between 2007 and 2017.³¹ The initiative also identified room for improvement regarding whistleblower protection,³² lobbying regulation, conflict-of-interest management,³³ money laundering,³⁴ and corporate sanctions.

The openness and transparency setting

Germany tends to have average or slightly below-average scores on independent assessments of transparency and openness. One of these assessments, the Global Right to Information Rating, assesses the overall strength of a legal framework along 61 indicators. In the 2018 update, Germany scored 54 of 150 possible points and ranked 116 among 123 assessed countries.³⁵ In another assessment, the World Justice Project ranked Germany 11th among 35 high-income countries. The project ranked countries on indicators including the online availability of laws and data, the right to information, civic participation, and complaint mechanisms.³⁶ The International Budget Partnership's 2017 Open Budget Index gave Germany 69 out of 100 points and found that it provides “substantial

budget information.” In budget oversight, Germany scored well (80 of 100). It received a lower score on public participation indicators (17 of 100, which is above the global average of 12 of 100).³⁷ On the 2018 Open Data Barometer, Germany scored 58 out of 100 points, an improvement of only two points since the first edition of the barometer in 2013. This places Germany 10th out of 30 leading open government countries, with room for improvement particularly in the categories of social and political impact of data.³⁸ These findings were confirmed by the 2018 Open Data Maturity Index for the EU28+³⁹ countries. On this index, Germany ranked just below average, with a score of 63 percent.⁴⁰ Germany also ranked below the median on the 2016–2017 crowdsourced Global Open Data Index (51 percent of the maximum score; ranked 24th of 94 countries).⁴¹

These findings and rankings demonstrate Germany’s relatively good scores on open data policies, quality, and oversight. However, these scores are offset by limited awareness, capacity building, and data availability in key areas such as land ownership, water quality, and government spending. A comparative assessment of transparency in German states and the federal government showed high variation. Some states lack a dedicated freedom of information law and scored zero points. The assessment revealed Hamburg as the front-runner, scoring 69 out of 100 points. The federal government ranked at the bottom of the middle tercile, with a score of 38. The assessment found the government experienced weaknesses particularly regarding information rights and the proactive disclosure of government information.⁴² The most recent official evaluation of the 2005 Federal Freedom of Information Law (Informationsfreiheitsgesetz) in 2012 found that there is room for enhancing access by, for example, demanding more comprehensive justifications for exemptions and reducing applicable fees.⁴³

This mixed performance on transparency and openness also mirrors assessments that focus on the digital dimension of government. A comparison of 35 advanced economies puts Germany at 17 regarding digital innovation such as digital infrastructure and e-government.⁴⁴ Likewise, a survey-based e-government benchmarking against Switzerland and Austria found that only 40 percent of German citizens report having used e-government services over a 12-month period. This number reflects a slight decline from previous years and is somewhat lower than the two comparison countries.⁴⁵

Windows of opportunity

The current legislative period offers many opportunities to make progress on all these dimensions. For example, the German government plans to amend the federal right to information legislation; to evaluate existing e-government and open data laws; and to create, by 2020, a register listing companies and their representatives who have been convicted of corruption and other types of corporate wrongdoing.⁴⁶ In addition, the government is translating the amended European Union Fourth Anti-Money Laundering Directive into national law. This activity requires improving the efficacy of beneficial ownership transparency.

¹ Heise Online homepage, <https://www.heise.de/newsticker/meldung/Open-Government-Partnership-stoesst-auf-Vorbehalte-1351744.htm>; and “Bundesregierung Wartet Bei Open Government Noch Ab,” Zeit Online, 6 September 2011, <https://blog.zeit.de/open-data/2011/09/06/deutschland-beteiligung-international-opengov/>.

² See, for example, the archived news feed at “Aktuelles,” Open Government Netzwerk Deutschland, <https://opengovpartnership.de/>.

³ Deutschlands Zukunft Gestalten: Koalitionsvertrag Zwischen CDU, CSU UND SPD, 2018 (coalition agreement), <https://www.cdu.de/sites/default/files/media/dokumente/koalitionsvertrag.pdf>.

⁴ For a reflection on the effort required to extract the related data and make it more usable, see, for example, Vorschlag zur Einbindung der Länder und Kommunen in den nationalen OGP-Prozess, 1 October 2018, https://www.it-planungsrat.de/SharedDocs/Downloads/DE/Entscheidungen/25_Sitzung/21_I_OGP.pdf?__blob=publicationFile&v=2.

⁵ Anti-Corruption Summit—London 2016: Germany Country Commitments, 2016, www.gov.uk/government/uploads/system/uploads/attachment_data/file/522833/Germany.pdf.

⁶ Deutsch-Französischer Ministerrat, 7 April 2016, http://www.deutschland-frankreich.diplo.de/IMG/pdf/dfmr_gemeinsame_erklarung_deu-2.pdf.

⁷ Bundesrepublik Deutschland die Bundeskanzlerin, letter of intent, 30 November 2016, http://www.opengovpartnership.org/sites/default/files/LOI_Germany.jpg.

⁸ Ein Neuer Aufbruch für Europa, Eine Neue Dynamik für Deutschland, Ein Neuer Zusammenhalt für unser Land: Koalitionsvertrag zwischen CDU, CSU und SPD, 12 March 2018,

<https://www.bundesregierung.de/resource/blob/975226/847984/5b8bc23590d4cb2892b31c987ad672b7/2018-03-14-koalitionsvertrag-data.pdf?download=1>.

⁹ The nominal federal budget has been able to avoid taking on new public debt since 2014. "Entwicklung der Öffentlichen Finanzen," Stabilitätspolitik, Bundesministerium der Finanzen, 18 April 2018, https://www.bundesfinanzministerium.de/Web/DE/Themen/Oeffentliche_Finanzen/Stabilitaetspolitik/Entwicklung_Oeffentliche_Finanzen/entwicklung_oeffentliche_finanzen.html.

¹⁰ Bernhard W. Wegener, "Der geheime Staat: Arkantradition und Informationsfreiheitsrecht [The Secret State: Arcane Tradition and Freedom of Information Right] (Göttingen: Morango, 2006); Martin Ibler, "Zerstören die Neuen Informationszugangsgesetze die Dogmatik des Deutschen Verwaltungsrechts?" [Do the New Access to Information Laws Destroy the Dogmatics of German Administrative Law?], in *Der Wandel des Staates vor den Herausforderungen der Gegenwart: Festschrift für Winfried Brohm zum 70* (München: Beck, 2002): 405–19; Serge-Daniel Jastrow and Arne Schlattmann, *Informationsfreiheitsgesetz: Kommentar [Freedom of Information Law: Commentary]* (Heidelberg: V. Decker, 2006); and Renate Mayntz, *Soziologie der Öffentlichen Verwaltung* (Heidelberg: C.F. Müller, 1985).

¹¹ Herbert Kubicek, "Open Government—Der Zenit Ist Überschritten" [Open Government—Past Its Zenith], *Verwaltung & Management* 23, no. 4 (2017): 202–12.

¹² IPSOS, *Das Misstrauen Ist Groß. Ergebnisse Einer Internationalen Umfrage zu Vertrauen, Populismus und Politikverdrossenheit*. [The Mistrust Is Large. Results of an International Survey about Trust, Populism and Disillusion with Politics], 27 September 2018, https://www.ipsos.com/sites/default/files/ct/news/documents/2018-09/ipsos-pi_populismus_sept2018.pdf.

¹³ Bertelsmann Foundation, *Schwindendes Vertrauen in Politik und Parteien [Decreasing Trust in Politics and Parties]*, 2019.

¹⁴ Official English translation of the German Grundgesetz: <https://www.btg-bestellservice.de/pdf/80201000.pdf>.

¹⁵ More specifically, Article 20(2) states that "[a]ll state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies."

¹⁶ More specifically, Article 17 states that "[e]very person shall have the right individually or jointly with others to address written requests or complaints to competent authorities and to the legislature."

¹⁷ Administrative Procedures Act (*VwVfG*), § 25, <https://www.buzer.de/gesetz/1586/a22529.htm>.

¹⁸ See background text to Commitment 8 in Germany's action plan: https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/EN/nationaler_aktionsplan_en.pdf?__blob=publicationFile&v=1.

¹⁹ Christina Benighaus, Gisela Wachinger, and Ortwin Renn, eds. *Bürgerbeteiligung: Konzepte und Lösungswege für die Praxis [Citizen Participation: Concepts and Solutions in Practice]* (Frankfurt: Wolfgang Metzner Verlag, 2017).

²⁰ Christian Waldhoff, "Der Finanzvorbehalt" [The Finance Exception], in *Perspektiven und Grenzen "Direkter Demokratie"*, eds. Ralf Thomas Baus and Tobias Montag (Sankt Augustin: Konrad-Adenauer Stiftung, 2012), <https://waldhoff.rewi.hu-berlin.de/doc/lehre2012ws/rsr/Finanzvorbehalte-KAS-neu.pdf>; and Gebhard Kirchgässner, "Finanzpolitische Konsequenzen Direkter Demokratie" [Direct Democracy and Its Implications for Budgetary Policy], in *Direkte Demokratie*, (Nomos Verlagsgesellschaft mbH & Co. KG, 2015), 149–62.

²¹ "Guidelines Dialogue for Good Citizen Participation in Cologne," Stadt Köln, <https://leitliniendialog.stadt-koeln.de>.

²² "Citizen Participation," City and Administration, Karlsruhe, <https://www.karlsruhe.de/b4/buergerengagement/buergerbeteiligung.de>.

²³ Citizen Service and Administration, Stadt Leipzig, <https://www.leipzig.de/buergerservice-und-verwaltung/buergerbeteiligung-und-einflussnahme/leipzig-weiter-denken/informieren/>.

²⁴ "Gießen," Netzwerk Bürgerbeteiligung, <https://www.netzwerk-buergerbeteiligung.de/kommunale-beteiligungspolitik-gestalten/kommunale-leitlinien-buergerbeteiligung/sammlung-kommunale-leitlinien/einzelansicht-leitlinien/article/giessen/>.

²⁵ "Collection of Communal Guidelines and Recommendations for Citizen Participation," Netzwerk Bürgerbeteiligung, <https://www.netzwerk-buergerbeteiligung.de/kommunale-beteiligungspolitik-gestalten/kommunale-leitlinien-buergerbeteiligung/sammlung-kommunale-leitlinien/>.

²⁶ "Germany," Civicus Monitor, <https://monitor.civicus.org/country/germany/>.

²⁷ "Germany Profile," Freedom in the World 2018, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/germany>.

²⁸ Dietmar Neuerer, "Nicht Alles Perfekt, Aber Vieles Gut" [Not Everything Is Perfect, but Many Things Are Good], *Handelsblatt*, 13 December 2018, <https://www.handelsblatt.com/politik/deutschland/gesetz-gegen-hass-im-netz-nicht-alles-perfekt-aber-vieles-gut-justizministerium-zeigt-sich-zufrieden-mit-dem-netzdg/23752306.html?ticket=ST-26283-HqeFLloSDZdbHPaUJxdA-ap5>.

²⁹ For a narrative overview, see, for example, the GAN Business Anti-Corruption Portal entry for Germany: <https://www.business-anti-corruption.com/country-profiles/germany/>.

³⁰ Transparency International National Integrity System Analysis 2012.

³¹ "Worldwide Governance Indicators," 2018 update: <http://info.worldbank.org/governance/WGI/#reports>.

³² Council of Europe, *Compliance Report Germany. Fourth Evaluation Round GrecoRC4(2017)1*, 2017.

³³ "Germany Profile," Freedom in the World Report 2018, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/germany>.

³⁴ Transparency International Deutschland, *Geldwäsche bei Immobilien in Deutschland [Money Laundering in Real Estate in Germany]* (Berlin: Transparency International Germany, 2018).

³⁵ "Country Data," Global Right to Information Rating, 2018, <https://www.rti-rating.org/country-data/>. More granular comparative assessments of the freedom of information legislation across German states and at the federal level place the federal government squarely in the middle ("Transparenzranking," Open Knowledge Foundation, 2017, <https://transparenzranking.de/>).

³⁶ "Germany," World Justice Project Rule of Law Index, 2017, <http://data.worldjusticeproject.org/pdf/rule-of-law-index-DEU.pdf>.

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- ³⁷ “Germany,” Open Budget Survey, International Budget Partnership, 2017, <https://www.internationalbudget.org/open-budget-survey/results-by-country/country-info/?country=de>.
- ³⁸ “Germany,” Country Detail, Open Data Barometer, World Wide Web Foundation, 2018, https://opendatabarometer.org/country-detail/?_year=2017&indicator=ODB&detail=DEU.
- ³⁹ EU28 plus Iceland, Liechtenstein, Norway, and Switzerland.
- ⁴⁰ European Data Portal, Open Data Maturity in Europe (Brussels: European Union, 2018).
- ⁴¹ Global Open Data Index, Open Knowledge International, 2017, <https://index.okfn.org/>.
- ⁴² Open Knowledge Foundation and Mehr Demokratie. Transparenz Ranking 2017, <https://transparenzranking.de/static/files/ifg-ranking.pdf>.
- ⁴³ Institut für Gesetzesfolgenabschätzung und Evaluation, Evaluation des Gesetzes zur Regelung des Zugangs zu Informationen des Bundes—Informationsfreiheitsgesetz des Bundes [Evaluation of the Federal Freedom of Information Law], 2012, http://www.foev-speyer.de/files/de/fbpdf/vti_cnf/InGFA/Abschlussberichte/AB_Informationsfreiheitsgesetz.pdf.
- ⁴⁴ Marion A. Weissenberger-Eibl et al., Innovationsindikator 2017: Schwerpunkt Digitale Transformation [Innovation Indicator 2017: Focus Digital Transformation] (Berlin: ZEW-Gutachten und Forschungsberichte, 2017), <https://www.econstor.eu/bitstream/10419/168445/1/897044894.pdf>.
- ⁴⁵ Initiative D21, E-Government Monitor 2018, <https://www.egovernment-monitor.de/die-studie/2018.html>.
- ⁴⁶ Deutscher Bundestag, Strategie und Umsetzung der Open Government Partnership, von Open Data, Transparenz und Bürgerbeteiligung, [Strategy and Implementation of the Open Government Partnership, Open Data, Transparency and Citizen Participation], antwort der bundesregierung auf die kleine anfrage 19/3555, drucksache 19/4026 – 2708.18 (2018); and Ein Neuer Aufbruch für Europa, Eine Neue Dynamik für Deutschland, Ein Neuer Zusammenhalt für unser Land: Koalitionsvertrag zwischen CDU, CSU und SPD, 12 March 2018 (coalition agreement for the 19th legislative period), https://www.cdu.de/system/tdf/media/dokumente/koalitionsvertrag_2018.pdf?file=1.

III. Leadership and Multi-stakeholder Process

The Federal Ministry of the Interior coordinated OGP in Germany during its inception and took the lead in drafting the first action plan. In July 2018 this coordinating role for the OGP has moved to the Federal Chancellery. Though no formalized multi-stakeholder forum existed, the government carried out the consultative process in cooperation with civil society. The main civil society interlocutor in this process was the Open Government Network. While civil society provided a very long list of commitment proposals, the action plan's commitments primarily reflected activities deemed to be feasible by the government and aligned with its priorities.

3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in Germany.

The main government office and national point of contact for coordinating Germany's OGP participation is Referat 623. Referat 623 is a subunit of the *Department for Political Planning, Innovation, and Digital Policy, Strategic IT Coordination* at the Federal Chancellery (Bundeskanzleramt). The subunit assumed this role in July 2018, taking over for a subunit in the Federal Ministry of the Interior, Building and Community (BMI). The shift occurred as part of general restructuring for the new legislative period after elections in September 2017. Both government and civil society interviewees regarded the move as largely lateral and non-disruptive, since it initially did not come with any changes in staffing numbers, remit or budget.¹

The point of contact's new home in the Chancellery does not permit the same intra-ministerial proximity to the key action plan commitment bloc of open data that continues to be coordinated by the BMI. Yet, the Chancellery has a cross-ministerial coordination function and strategic outlook that make it a good fit for formulating and implementing cross-departmental and future-oriented initiatives, such as OGP action plans.

The point of contact serves as the gateway for all internal and external communication directly related to OGP. The point of contact also liaises with other federal ministries that have entered into commitments in the action plan via designated contact points at the subunit level. These contact points are identified through the name of the staffer in charge (where available) or with the subunit identifier for each action plan commitment. The listings also include the relevant contact email addresses. These contact points in other ministries contribute to the joint development and monitoring of the action plan and coordinate the implementation of commitments through their respective ministries.²

Generally, almost all interviewed government and civil society representatives regarded the internal communication between the coordinating subunit and ministerial contact points as responsive.³ The point of contact proactively participated in many of the monthly information-sharing conference calls organized by Open Government Network (OGN). (OGN serves as the main interlocutor for the OGP process on the civil society side).⁴ All government and civil society interviewees described the point of contact as highly accessible and engaged. However, the one-person staffing for coordination, the compressed timelines due to the long, post-election government formation process, and extensive intragovernmental coordination requirements all made it difficult to reach the desired level of proactivity. A robust co-creation process requires more proactive outreach and deeper involvement of civil society groups outside the open data field, as well as stakeholders outside the capital city.

German government officials regularly attend OGP and other open government events at the national and international levels. However, engagement by senior political leadership in OGP-related matters is limited. The then minister of the interior Thomas de Maizière led the German delegation to the 2016 OGP Global Summit in Paris and delivered a letter of intent to join OGP. Chancellor Angela Merkel signed that letter.⁵ A secretary of state participated in the European Open Government Leaders Forum 2018. The German cabinet approved the first action plan in August

2018⁶ and held a brief discussion on the government-produced midterm OGP self-assessment report⁷ in November 2018.⁸ Formal responsibility for Germany’s OGP participation lay with a deputy minister (Staatsekretär) when the point of contact was located in the interior ministry. In July 2018 that responsibility shifted to the federal minister for special tasks and head of the Federal Chancellery after the point of contact transferred into the Chancellery. Ministerial staff at the so-called working level (Arbeitsebene) lead and work on most OGP-related events and engagements (Referat 623).⁹

The 2018 budget directly allotted for EUR 285,000 for OGP-related activities.¹⁰ This amount is scheduled to rise significantly to EUR 1,085,000 in the 2019 federal budget, as approved on 9 November 2018.¹¹ This dedicated OGP budget line in both instances includes OGP membership fees and overall coordination of activities. Following German administrative practice, staffing costs for OGP coordination (in 2018 the equivalent of one full-time staff) are not included in this title and covered through the more general personnel budget line. The budgets of other ministries that implement OGP commitments do not have dedicated OGP budget lines, yet they have budget allotments for open data and other activities that relate to action plan-related activities.¹²

3.2 Multi-stakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP’s Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Germany **did not act** contrary to OGP process.¹³

Please see Annex I for an overview of Germany’s performance implementing the Co-Creation and Participation Standards throughout the action plan development.

Table 3.1: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.¹⁴ This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

Level of public influence		During development of action plan
Empower	The government handed decision-making power to members of the public.	
Collaborate	There was iterative dialogue AND the public helped set the agenda.	
Involve	The government gave feedback on how public inputs were considered.	✓
Consult	The public could give inputs.	
Inform	The government provided the public with information on the action plan.	
No Consultation	No consultation	

Multi-stakeholder forum

OGP-related cooperation in Germany does not strictly align with the format of a multi-stakeholder forum but can be more aptly described as a two-sided consultation process. As the following

description will highlight, beyond the point of contact, there is limited direct interaction between civil society and government representatives at OGP-dedicated events.

One of the main civil society interlocutors for the governmental point of contact is the Open Government Network (OGN). Considering that OGN coordinates a considerable portion of civil society engagement with Germany's OGP process it is worthwhile describing its operational principles and set-up in some more detail.

The OGN was formed as a loose coalition in 2011 (and, until 2017, was named the Open Government Arbeitskreis) to promote open government in Germany and advocate for OGP membership. As of late 2018, the OGN comprises more than 25 institutional and more than 130 individual members, including civil society organizations, academic and think tank representatives. Participation is free and premised on having no conflicts of interest. Participants can engage participate in online and offline meetings. New participation structures introduced in 2018 allows participants can select the five- to seven-person strategy committee (Strategiegruppe). Strategy group members serve a two-year period, represent the OGN externally, and drive the strategic orientation and expansion of the OGN.¹⁵ The OGN is guided by its bylaws.¹⁶ It has no legal incorporation and is instead hosted by one of its member organizations, the nongovernmental organization (NGO) Open Knowledge Foundation (OKF). OKF also provides a coordinator and office space. The OGN currently has no fixed rotation schedule for its hosting organization. OKF-hosted coordinator primarily carries out day-to-day coordination activities. The coordinator also manages an electronic mailing list, monthly conference calls (which at times include the point of contact; minutes are available online¹⁷), and occasional in-person network meetings within thematically related conferences and events.¹⁸ A website (<https://opengovpartnership.de/>) curates key resources on open government and OGP, and documents civil society coordination and inputs to the OGP process. The website also, alongside a dedicated Twitter account (@OpenGovGermany), supports broader public outreach and mobilization activities.

OGN participation among NGOs and experts from the transparency, open data, and technology communities is strong, while civil society actors from other communities are less prominent. Online interviews with representatives of three German NGOs—two of them among the largest in the country—revealed possible reasons for the low representation from other communities. They noted limited awareness and a lack of easily identifiable thematic linkages. The interviewees emphasized that aspects of open data and open government are potentially of great importance to their programming. However, none of the three professed to know much about international or national OGP activities.¹⁹ A broad spectrum of interviewees from both civil society and government expressed similar sentiments. They noted a need to reach across these, so far, disconnected issue communities and make a compelling, practical case for how open government intersects with their missions and how they can engage.²⁰

The OGN depends on volunteer input and pro bono donations from its members. Interviewed network members report being satisfied with OGN communication and coordination, given its resource situation.²¹ However, interviewees identified a lack of dedicated, adequate resourcing and staffing²² as a principal obstacle to both scaling up the OGN's ambitions and expanding outreach beyond Berlin and other regional hot spots. (For example, these hot spots exist in North Rhine-Westphalia and Baden-Württemberg, where open government and OGP-networking events and activities regularly take place.) They noted that these activities would work to fully connect the vast pool of potential open government stakeholders dispersed across Germany.

Participation and engagement throughout action plan development

The development of Germany's action plan coincided with the run-up to the 2017 national election. This election came with a prolonged period of political uncertainty and imminent reorganization—and thus a lower appetite for expedited decisions, far-reaching commitments, or new institutional mechanisms. Considering also the limited staffing and resources available, the government developed the first action plan through established mechanisms of intra-government and civil society consultation. This course of action was deemed the most feasible option by the government given

the circumstances, yet it also came against the backdrop of long-standing, detailed, and constructive suggestions for the institutional design of co-creation mechanisms.²³

The point of contact initiated a stakeholder dialogue on 17 February 2017. Actively approaching more than a hundred organizations and individuals in civil society, it posted an open invite on the its related website and social media account. The Open Government Network (OGN) supported the outreach and helped coordinate the collection and bundling of civil society input. The OGN collected feedback from around 60 participants who had self-selected into 12 thematic groups.²⁴ According to interviews with major civil society stakeholders involved in the process, the recommendations were synthesized under considerable time pressure. Thus, it was difficult to agree on the merged list of recommendations.

On 23 March 2017, the OGN sent a 97-page report with 270 recommendations to the government. All interviewees, both on the civil society and government sides, considered the list of recommendations rather long and difficult to convert into prioritized action in its current form. However, some civil society representatives pointed out that it was useful to capture such an extensive catalog of recommendations in this first consultation. They saw the process as a necessary big-picture mapping of civil society interests that would provide the basis for the OGP process in a more targeted manner.²⁵

On 30 May, the point of contact sent a letter to the OGN with a short synthesis of the government's internal assessment of the civil society suggestions. It classified them according to their perceived immediate relevance for inclusion, conformity with the federal remit, and whether they required legislative change or further clarification. The document came with an annex of further explanations regarding civil society suggestions that the government assessed as existing already.²⁶ Two days later, on 1 June, the point of contact granted civil society the opportunity to discuss the assessment in a 2.5-hour meeting.²⁷ The OGN openly advertised this meeting ten days earlier on its website as it had only learned about the meeting on short notice.²⁸ Following intra-governmental deliberation and coordination, the cabinet approved the final action plan, which was publicly presented on 16 August 2017.

As this timeline indicates, civil society had limited time and opportunity to provide feedback on the governmental assessment of their submitted recommendations. Nor did they have opportunity to comment on a draft version of the first action plan. Because of this and the limited participation of government representatives in the civil society consultations, the design process for the first action plan can be described as a two-track consultation convened by the point of contact. One side entailed dialogue among civil society stakeholders, while the other involved internal, cross-ministerial deliberation and coordination, with the latter taking precedence in commitment selection and decision making.

It should also be noted, however, that interviews with "commitment holders" (i.e., the contact points in the respective federal ministries) indicated that some of the submitted and final commitments were at least partially motivated by long-standing conversations with civil society groups active in the particular thematic areas.²⁹ These discussions occurred outside the OGP process and first action plan development. Thus, there exist substantive, additional elements of civil society input, some of which are also institutionalized in a multi-stakeholder fashion. An example of the latter is the Extractive Industries Transparency Initiative multi-stakeholder group in Commitment 5, a group that predates the OGP process. Yet, these consultation processes at the ministerial or thematic level remain implicitly integrated into the action plan formulation process, where their role goes largely unformalized and undocumented.

The approach of a two-sided consultation for developing the action plan coincided, as mentioned earlier, with the end of the legislative period, which made more ambitious, political commitments less likely. This resulted in a set of commitments that reflect activities and intentions that were already being planned by the respective ministries. The government gave such activities additional visibility and a complementary monitoring and accountability framework through inclusion in the action plan.

Co-creation and participation recommendations throughout development

Germany showed evidence of achievement and strong performance in areas of point-of-contact accessibility and communication with civil society, given resource constraints and the broader context of pre- and post-election uncertainties. Similarly, civil society's coordination and consultation, as well as public documentation, were relatively strong, given resource constraints and the complexity of coordinating across a federated system.

Some areas where Germany can improve include a better integration of government-side involvement in civil society consultations and dialogue. The government could also engage in more expansive efforts to reach out to civil society outside the technology, data, and transparency communities. Finally, the government could ensure a longer timeline and more rounds of feedback in the action plan drafting process.

In order to improve performance on these areas the IRM researcher suggests that moving forward, the following actions be taken:

Improve the co-creation process, but in a distributed, pragmatic way

As mentioned earlier, the current action plan design process currently relies on a two-sided consultation process. However, the IRM researcher does not suggest establishing an additional all-encompassing multi-stakeholder forum. This will likely be a time-consuming endeavor with uncertain prospects for success and limited added value. Instead, consider focused interventions with a four-track strategy to move the existing consultation architecture in thematic sub-areas closer to true co-creation:

- Strengthen and harness pre-existing consultations and civil society dialogues: Several of the commitments are underpinned by (non-open-government focused) consultation processes and ongoing conversations between the related ministry and the thematic stakeholder community (e.g., extractives transparency, aid transparency, gender policies, geo-information). The IRM researcher encourages participating ministries to a) advertise their civil society consultations and other engagement events via OGP channels, even if open government is not the focus of the event; b) offer a speaking slot to open government experts at such events, to incorporate open government into the thematic conversation; and c) establish an OGP-related consultation mechanism in their specific thematic issue areas.
- Substantively expand efforts to bring representatives from ministries directly into the OGP dialogue process with civil society. This should not supplant the intra-governmental deliberation and coordination; that should continue. However, such efforts can broaden the conversation between governmental and nongovernmental stakeholders.
- Devise a more accommodating timeline and OGP action plan consultation process that allows for at least one (ideally, two or more) round of feedback or consultation on draft commitments. The government provided brief feedback on how the 270 civil society suggestions were incorporated into 26. This incorporation warranted closer examination. It must be acknowledged that the very large number of proposals made a deeper engagement difficult. However, there was no additional opportunity for civil society to provide input to the government on its selection process. Nor was it possible to give meaningful input on the final 15 commitments yielded by the intra-governmental process and included in the action plan.
- Consider practical ways to broaden geographic inclusion beyond Berlin during all outreach and engagement efforts.

Shift from “inviting in” to “going out”

As with many cross-cutting, thematic communities, the open government field faces a dilemma between overspecialization (resulting in a small, introspective group of specialists) and overstretch (applying itself across too many areas of thematic engagement). This particularly reflects the situation

in a large country such as Germany, with a highly diverse policy and civil society engagement landscape.

Maximizing the open government potential of appealing to broader segments of civil society requires engaging with more tangible ends-driven, thematic communities—for example, in health, education, and the environment.³⁰ It also requires bringing OGP-relevant experiences and ideas from these communities into an OGP-centric learning and reflection process. Such a process can then drive further development of open government as a field—both at conceptual and practical levels.

Currently, the OGP community in Germany seems anchored on the overspecialization side. The community took advantage of the enthusiasm of those working in technology and data to gain a foothold in the policy agenda and in high-profile information and communications technology–focused government reform projects. However, the future for OGP in Germany may lie in deeper engagement with social, economic, and political issues. More specifically, it may be worthwhile to

- re-orient strategic thinking on the OGP process (and on opening government more broadly) toward connecting open government aspects to other thematic areas and stakeholder communities, rather than trying to pull these other stakeholders into a generic open government process.

To support this broader approach, it might be advisable to

- transition from a thematically all-encompassing open government consultation process to a set of thematically focused dialogue tracks. For example, these could focus on health, environmental, social, and anti-corruption issues, among others. This will likely make it easier to secure involvement from major German civil society organizations outside the technology and open data communities. With the new focus, these newly engaged groups would not have to put scarce resources toward a process or series of OGP events that overlap only partially with their thematic interests.

¹ In-person interview with civil society representative, two telephone interviews with civil society representatives, two telephone interviews with government representatives. The budget has more recently been significantly increased however as explained in later sections.

² As the government has made clear in response to a parliamentary inquiry, however, these contact points do not have the formal status of coordination units. Deutscher Bundestag), Strategie und Umsetzung der Open Government Partnership, von Open Data, Transparenz und Bürgerbeteiligung, antwort der bundesregierung auf die kleine anfrage 19/3555, drucksache 19/4026 – 2708.18 (2018).

³ More than 10 interviews with and online responses from government and civil society representatives.

⁴ For more information on OGN, see Section 3.2.

⁵ Bundesrepublik Deutschland die Bundeskanzlerin, letter of intent, 30 November 2016, http://www.opengovpartnership.org/sites/default/files/LOI_Germany.jpg.

⁶ “Signal für offenes Regierungs- und Verwaltungshandeln,” Bundesministerium des Innern, für Bau und Heimat, 16 August 2017, <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2017/08/ogp-aktionsplan.html>.

⁷ “Interim Report by the Federal Government on the Implementation of the First National Action Plan (NAP) for 2017–19 in the Framework of Germany’s Participation in the Open Government Partnership (OGP),” Die Bundesregierung, https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/Internationales/Zwischenbericht_OGP_engl_Fassung.html?nn=10171370.

⁸ “Chancen für Bürger, Unternehmen und Verwaltung Nutzen,” Gemeinsame Digitalpolitik, Die Bundesregierung, <https://www.bundesregierung.de/breg-de/aktuelles/chancen-fuer-buerger-unternehmen-und-verwaltung-nutzen-1550004>.

⁹ Federal Government of Germany, Mid-term Report on the Implementation of the First National Action Plan 2017-2019 in the Context of Germany’s Participation in the Open Government Partnership (OGP), 2018, https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/Internationales/Zwischenbericht_OGP_engl_Fassung.pdf?__blob=publicationFile&v=2

¹⁰ Item 532 39-011 in Deutscher Bundestag, Haushaltsgesetz 2018,

https://www.bundshaushalt.de/fileadmin/de.bundshaushalt/content_de/dokumente/2018/soll/Bundshaushaltsplan-2018-Haushaltsgesetz-2018.pdf.

¹¹ Item 532 05-011 in Deutscher Bundestag, Haushaltsgesetz 2019, drucksache 19/3400, <http://dip21.bundestag.de/dip21/btd/19/034/1903400.pdf>.

¹² Ibid. See also Deutscher Bundestag, Strategie und Umsetzung der Open Government Partnership, von Open Data, Transparenz und Bürgerbeteiligung [Strategy and Implementation of the Open Government Partnership, Open Data,

Transparency and Citizen Participation], antwort der bundesregierung auf die kleine anfrage 19/3555, drucksache 19/4026 – 2708.18 (2018).

¹³ “Acting contrary to process” means that the country did not meet a) the “involve” or “inform” requirements during development and implementation, respectively, of the action plan and that b) the government fails to collect, publish, and document a repository of the national OGP website or webpage, in line with IRM guidance.

¹⁴ “IAP2’s Public Participation Spectrum,” IAP2, 2014,

http://c.yimcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf.

¹⁵ “Strategiegruppe des Netzwerks,” Open Government Netzwerk Deutschland,

<https://opengovpartnership.de/strategiegruppe-des-netzwerks/>.

¹⁶ Open Government Netzwerk Deutschland (OGN): Statuten, 2017, <https://opengovpartnership.de/files/2018/05/Statuten-Open-Government-Netzwerk.pdf>.

¹⁷ Archived calls are available at <https://pad.okfn.org/p/public-community-partnership>. The current version can be found at <https://pad.okfn.de/p/akogpde>.

¹⁸ For example, the network meeting in Cologne during the North Rhine-Westphalia (NRW) Local Open Government Conference, 4 September 2018, <http://oknrw.info/>.

¹⁹ Online questionnaire, snowballed outreach to large civil society organizations.

²⁰ Unsolicited suggestions alluded to by five interviewees.

²¹ All interviewees registered their satisfaction with the communication provided by both the OGN and point of contact coordinators.

²² Most civil society interviewees stressed that their engagement is extremely time and resource constrained (including limited ability to cover travel costs to attend events) and carried out pro bono in the midst of busy professional lives.

²³ Arbeitskreis Open Government Partnership Deutschland, Gemeinsames Umsetzungskonzept für die Open Government Partnership Deutschland für die Zeit nach der Bundestagswahl 2013/14, 30 September 2013, <http://cdn.prepublish.org/img/ogp/OGP-DE-Umsetzungskonzept-2013-14.pdf>.

²⁴ Herbert Kubicek, “Open Government—Der Zenit Ist Überschritten,” *Verwaltung & Management* 23, no. 4 (2017): 202–12.

²⁵ Interviews with two civil society representatives.

²⁶ Bundesministerium des Innern, Ideen der Zivilgesellschaft zum OGP-Aktionsplan, 30 May 2017, https://opengovpartnership.de/files/2017/06/Antwort_Bewertungsergebnis_OGP_Ideen_ZivilG_170530.pdf.

²⁷ “BMI Bewertung der Zivilgesellschaftlichen Empfehlungen für den Nationalen Aktionsplan OGP,” Open Government Netzwerk Deutschland, 2 June 2017, <https://opengovpartnership.de/bmi-bewertung-der-zivilgesellschaftlichen-empfehlungen-fuer-den-nationalen-aktionsplan-ogp/>.

²⁸ “Fortführung des Dialogs zum Nationalen Aktionsplan OGP – Veranstaltung am 1. Juni 2017 im Bundesinnenministerium,” Open Government Netzwerk Deutschland, 22 May 2017,

<https://opengovpartnership.de/fortfuehrung-des-dialogs-zum-nationalen-aktionsplan-ogp-veranstaltung-am-1-juni-2017-im-bundesinnenministerium>.

²⁹ One interviewee mentioned an upcoming event as an example of the types of informal conversations with civil society groups that regularly help inform policy priorities. This event was the Digital Social Summit, <https://digital-social-summit.de>.

³⁰ For more on the discussion between framing related policy goals as “ends versus means,” see, for example, David Pozen, “Transparency’s Ideological Drift,” *Yale Law Journal* 128, no. 1, (2018): 100–115.

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.¹ The indicators and method used in the IRM research can be found in the IRM Procedures Manual.² A summary of key indicators the IRM assesses is below:

- **Verifiability:**
 - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
 - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
 - **Access to Information:** Will the government disclose more information or improve the quality of the information disclosed to the public?
 - **Civic Participation:** Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
 - **Public Accountability:** Will the government create or improve public facing opportunities to hold officials answerable for their actions?
 - **Technology & Innovation for Transparency and Accountability:** Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
 - Identify the social, economic, political, or environmental problem;
 - Establish the status quo at the outset of the action plan; and
 - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.

What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem? Rather than describing an administrative issue or tool (e.g., 'Misallocation of welfare funds' is more helpful than 'lacking a website.').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26 percent of judicial corruption complaints are not processed currently.")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")?

Based on these criteria, Germany has one potentially starred commitment:

- Commitment 7:

Starred commitments

One measure, the “starred commitment” (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment’s design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the *Implementation IRM report*.

General Overview of the Commitments

Germany’s first action plan of 15 commitments focuses on open data and access, transparency, and social issues. Eight commitments concentrate on open data and access (e.g., regarding geo-spatial data, transport data, and academic literature in journals, as well as awareness of such data’s availability) and on transparency (extractives, development, gender ratio in leadership positions). A second, smaller cluster involves expanding government–civil society interfaces and engagement opportunities around integration, family policies, and LGBTI issues.

¹ “Open Government Partnership: Articles of Governance,” OGP, June 2012 (updated March 2014 and April 2015), https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf.

² “IRM Procedures Manual,” OGP, <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

I. Creating Framework Conditions for OGP Participation

Language of the commitment as it appears in the action plan:¹

“Creating the basis to promote open government and formalize OGP participation in Germany.”

Milestones:

- I.1. Commissioning a study to analyse the potential of open government in the Federal Government across policy areas
- I.2. Developing a **strategy** for drafting and evaluating future OGP action plans, including
 - schedule and coordination structures
 - assessment of needs and efforts
 - consulting stakeholders
 - taking into account state and local authorities (decision of the IT Planning Council at its 22nd meeting)
 - public relations
- I.3. Setting up an official German OGP website, including a newsletter, online participation and information
- I.4. **Implementing** the strategy (I.2) at the beginning of the drafting period of the second action plan
- I.5. Developing guidelines on how open government works at local level on the basis of the Modellkommune Open Government project
- I.6. Carrying out information events (for government officials and stakeholders)
- I.7. Participating in events (e.g. OGP Global Summit) and relevant bodies (e.g. OGP Anti-Corruption Working Group) to introduce the German action plan and engage in expert dialogue at national and international level

Start Date: July 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
I. Overall		✓	✓	✓				✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

According to the action plan, “there is a need for definitions and information on what OGP participation means for public administrations and stakeholders.” Several interviewees confirmed a lack of German-language promotional and training materials on open government.²

The commitment seeks to lay the foundation for institutionalizing the OGP structure and processes in Germany. This commitment highlights room for improvement in achieving a fully participatory action plan design process. It also generates visibility and accountability for steps in this direction.

The proposed activities cover background research, strategy development, implementation, and communication activities. A study to be commissioned will provide input on a strategy for further action plan design and implementation procedures. Upgrading the website and expanding other outreach activities will provide more visibility for engagement opportunities. These actions will also produce more OGP information at local levels and lay the foundation for bringing states and local-level governments into the action plan process. Because it seeks to make the OGP process more visible, understandable, and accessible, the commitment is relevant to the OGP values of access to information and civic participation. Consulting stakeholders to develop a strategy for the next action plan makes the commitment relevant to civic participation.

The milestones are generally verifiable—i.e., one can check whether a strategy document has been produced or a website has been set up. Yet they are not specific enough. They do not include implementation-related quality parameters that would make it easier to render a reliable judgment on their potential impact. For example, they do not include impact-oriented baselines or results, or stakeholder assessment criteria (for Milestones 1.1 and 1.3). It is not clear whether the envisaged milestones, even if fully implemented, in aggregate would be sufficient to achieve a fully inclusive OGP process. Full realization of the commitment would represent a minor impact in opening government, as the ambition of this commitment is limited to the OGP process. However, through OGP participation, Germany should already adhere to OGP’s co-creation standards, which entail a formalized, co-creative process.

Next steps

The IRM researcher recommends that a set of implementation, outcome, and impact-oriented performance indicators be defined and tracked as part of the internal monitoring and learning regarding this commitment.

- Indicators that could be considered include:
 - percentage increase of unique year-on-year monthly visitors or rolling three-month average change of visitors versus a baseline;
 - number of key strategy elements judged as fully implemented by a majority of surveyed stakeholders; and
 - increase in number of government representatives and local- and state-level participants in second action plan process.
- During the implementation of all milestones, adhere to the OGP spirit and open draft deliverables for feedback or consultation with civil society.
- As visibility with and active engagement by senior political leadership has been widely described as an area requiring further attention,³ specify and include involvement by senior-level officials as explicit elements in Milestones 1.6 and 1.7.
- For the next action plan, commitments to improve the OGP process need not be included in the action plan, as process improvements should occur automatically.

¹ The direct quotes from the commitment text reproduced here, and for all subsequent commitments, cover the general description of the commitment and its milestones. Due to space constraints, the direct quotes do not include other sections. The unabridged English version of the first national action plan is available at https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² Three interviews with government representatives, two interviews with civil society. To ensure widespread buy-in and an open, conversational atmosphere, all interviews were conducted under the default condition that no direct attribution to specific persons, ministries, or other institutions would be used.

³ Four interviews with government officials, four interviews with civil society.

2. Implementing Open Data in Administrative Practice

Language of the commitment as it appears in the action plan:

“With its open data legislation, the Federal Government has implemented a key element of the G8 action plan. The E-Government Act creates the basis for actively providing open data of federal authorities. However, the act’s success will strongly depend on effective implementation. To this end, knowledge about open data in the federal administration will be enhanced to ensure that data are provided in a consistent manner. Provision of open data will be tailored to the users’ needs.”

Milestones:

- 2.1. Evaluation and implementation plan of pending commitments of the G8 Open Data Action Plan
- 2.2. Strategy for consistent data provision for the federal administration
- 2.3. Creating an advisory service for the federal administration
- 2.4. Developing tools to assist federal authorities in identifying and publishing suitable data
- 2.5. Developing open data guidelines (e.g. on data protection, publication process)

Start Date: June 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
2. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

According to the action plan, “[t]he Federal Government wants to become a pioneer in the field of open data.” The government’s vision states that “[p]ublishing data as open data will become common administrative practice. This will generate an ecosystem of public administration data which will serve as a basis for transparency and innovation and satisfy the users’ needs.” This ambition predates Germany’s involvement in OGP. The country’s binding commitments and related activities reflect this ambition. These activities include the adoption of the G8 Open Data Charter in 2013¹ and the subsequent development of a national action plan to implement the charter in 2014.² They also include the federal Open Data Act (formerly the first amendment of the E-Government Act), adopted in May 2017.³

Germany’s OGP participation is thus contextualized as a complementary opportunity to reaffirm and further expand ambitions related to open data. Related commitments in OGP action plans could create momentum. Germany’s comparative performance in this area leaves room for improvement.⁴

This commitment focuses on “strengthening the shared basis of knowledge and identifying consistent criteria for implementing open data in the federal administration to arrive at a common

understanding for putting the idea of open data into practice.” Consequently, the ambition of the commitment is directly relevant to the OGP value of access to information.

The proposed activities focus primarily on the development of guidelines, capacities, and support functions to aid the implementation of open data across the federal administration. Based on the G8 Open Data Action Plan commitments and activities,⁵ this commitment comprises the creation of tools, guidelines, an advisory service, and a strategy in support of open data practices in the federal administration.

Milestones 2.1–2.4 are verifiable. Milestone 2.5 lacks a specific timeline, but one can confirm the production of the actions. All activities lack specific parameters. Thus, verifiability pertains only to the production of an “implementation plan” (2.1), “strategy” (2.2), and “tools” (2.4). The commitment text provides no further specifications of quality parameters for the production process, the deliverables, and/or their reception and use in the stakeholder community.

The commitment and its activities aim to establish prerequisites for a consistent, sustainable open data environment at the federal level. They are thus necessary components for a successful open data ecosystem and target observed shortcomings in the current open data landscape.⁶ However, they are not sufficient to create a direct impact on expanding access to information. They also do not address what many civil society observers have identified as central roadblocks to substantive improvements in open data. Such improvements include a stronger right to information law and default cost-free, machine-readable availability of a core set of high-value datasets.⁷ In the absence of these improvements, this commitment is coded as having a minor potential impact. This assessment also results from a lack of specificity for the envisaged milestones.

Next steps

The IRM researcher recommends that the government augment the implementation process with a set of clear, demonstrable quality criteria in relation to

- the production processes of some of the envisaged deliverables (e.g. by basing it on close consultation with stakeholders);
- the outputs, e.g. by working towards an advisory service that guarantees a certain service scope and level; and
- the expected performance and outcomes, e.g., including a strategy that has been endorsed by a certain number of major civil society stakeholders, tools that meet certain download and adoption targets, etc.

For the next action plan, the IRM researcher recommends including commitments that build on the work of this action plan, as these actions represent key first steps in this policy area.

¹ “2013 Lough Erne G8 Leaders’ Communique,” Publications, Gov.UK, 18 June 2013, <https://www.gov.uk/government/publications/2013-lough-erne-g8-leaders-communique>.

² “The Federal Government’s National Action Plan to Implement the G8 Open Data Charter,” Federal Ministry of the Interior, Building and Community, 3 December 2014, <https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2014/national-action-plan-open-data.pdf>.

³ “Law for the Promotion of Electronic Administration (E-Government Law—EGovG) § 12a Open Data of the Authorities of the Direct Federal Administration,” Bundesministerium der Justiz und für Verbraucherschutz and Bundesamt für Justiz, http://www.gesetze-im-internet.de/egovg/_12a.html.

⁴ See discussion supra Section II.

⁵ Federal Ministry of the Interior, The Federal Government’s National Action Plan to Implement the G8 Open Data Charter, September 2014, https://www.cio.bund.de/SharedDocs/Publikationen/DE/Aktuelles/20140918_nationeler_aktionsplan_open_data_englisch.pdf?__blob=publicationFile.

⁶ See Section II of this report.

⁷ Deutscher Bundestag, Open Data Bus und Bahn—Bedeutung der Richtlinie über die Weiterverwendung von Informationen des öffentlichen Sektors (PSI-Richtlinie) für den Öffentlichen Personennahverkehr, Antwort der Bundesregierung auf die kleine Anfrage 19/6966, Drucksache 19/7498 (2019); and Stefan Krempel, “Bundesregierung Kommt bei Open Data und Open Source Nicht Voran,” Heise Online, 25 August 2018,

<https://www.heise.de/newsticker/meldung/Bundesregierung-kommt-bei-Open-Data-und-Open-Source-nicht-voran-4145803.html>.

3. Promoting the Open Data Environment

Language of the commitment as it appears in the action plan:

“Identifying and reducing shortcomings and unresolved questions to establish a reliable open data ecosystem. Communicating with stakeholders to promote the use and quality of open data.”

Milestones:

- 3.1 Evaluating the recommendations for action made in the study “Open Government Data Deutschland” (Klessmann et al., July 2012)
- 3.2 Establishing an informal dialogue to discuss legal, technical and organizational challenges when publishing government data
- 3.3 Analysing possibilities to improve open data rankings, e.g. OD Barometer (World Wide Web Foundation), Open Data Index (OKF), OURData Index (OECD) and ODIN (Open Data Watch)
- 3.4 Carrying out or participating in workshops with civil society, associations, journalists, start-ups and researchers to promote re-use, assess needs and improve data quality
- 3.5 Analysing the International Open Data Charter from a German perspective
- 3.6 International experience-sharing, e.g. by contributing to the OGP Open Data Working Group and continuing DACHLi (Germany, Austria, Switzerland, Liechtenstein) talks

Start Date: July 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
3. Overall		✓	✓	✓				✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.					

Context and Objectives

This commitment aims to “promote the provision of open data, intensifying dialogue with the research community, civil society, businesses and international partners by discussing the need for open data, improving the quality of publication and sharing experiences.”¹ This action is premised on the view that “dialogue with civil society and international exchange . . . play an important role”² in enhancing the quality and user-centric nature of data provided using international best practice in this area. Civil society and international policy actors are carrying out robust diagnostic exercises and cross-country open data performance assessments. It is sensible to ensure that Germany fully benefits from the evidence collected and from the experience and expertise of civil society.

The commitment’s premises and ambitions make it relevant to OGP values. It aims for civil society and the broader community of practice to engage with the government and administration on open data. The commitment adopts an eco-system approach that acknowledges the indispensable—and, if

approached well, synergistic—interplay between open data users and providers. This approach aligns with evolving thinking on how to make open government and open data most effective and impactful. The international and comparative outlook is, in the IRM researcher’s view, well suited to maximize learning and cross-fertilization opportunities. Additionally, the commitment could help identify gaps in data provision and other shortcomings. These characteristics make the commitment relevant not only to access to information, but also to civic participation.

The milestones comprise many important activities. They cover the review of practical action taken in response to an analysis of the technical, organizational, and legal environment of open data in Germany (3.1). In addition, they outline several activities to analyze and engage actively with exercises that evaluate and help advance the open government and open data agenda (3.2–3.5). The milestones also reaffirm the commitment to cross-country dialogue (3.6). However, the milestones lack specific implementation details, such as specific output formats or quality parameters.

If executed to high standards of rigor and quality, and if translated into effective follow-up action to fill the identified gaps and shortcomings, this commitment could be a building block for transformative impact. As it stands, however, it is rated as moderate due to the lack of specificity and a missing pathway for taking follow-up action.

Next steps

The IRM researcher recommends making these commitments and their follow-up an integral part of the next action plan. In the short term, the IRM researcher suggests adding output formats (e.g., a publicly available and discussable synthesis report that outlines learnings, priorities for improvement, and concrete recommendations on how to address them). This inclusion should also entail outlining follow-up actions. Such action should create confidence in and accountability for the full consideration of lessons learned and insights gathered in the next action plan and the federal government’s broader activities on open data. For example, these follow-up items can be listed in the form of a “next-steps” brief with a timeline.

¹ Federal Government of Germany, *First National Action Plan 2017–2019*, July 2017, 13, https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² Ibid.

4. Better Access to and Easy Use of Spatial Data

Language of the commitment as it appears in the action plan:

“Spatial data are data which link information to a location or space. They permeate all areas of life and are an essential resource of a digital society. To tap the full potential of spatial data, the Federal Government seeks to ensure the basic supply and make available a broad range of such data for spatial decision-making. Another aim is to make spatial data easier to use. Innovation is to be promoted by encouraging, testing and supporting the implementation of new services.”

Milestones:

- 4.1 Promoting implementation of INSPIRE in Germany by connecting the GDI network to federal and state bodies through contact points of the conferences of specialized ministers and mentors from GDI-DE
- 4.2 Carrying out expert conferences and discussions e.g. “Knowing where” event of the Federal Agency for Cartography and Geodesy, National Forum for Remote Sensing and Copernicus (March 2019)
- 4.3 Providing Copernicus data/services via the IT platform CODE-DE
- 4.4 Transition of the IT platform CODE-DE from pilot to effective operation
- 4.5 Developing a recommendation on how to handle crowdsourcing data for use within the federal administration

Start Date: July 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
4. Overall		✓	✓	✓		✓					Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

Spatial data has long been a centerpiece of open data legislation and practice. The 2007 European Union (EU) INSPIRE Directive¹ and related initiatives, for example, call for public access to spatial data services as a central theme. EU member countries, including Germany, have, for quite some time, worked toward expanding access to spatial information. As a result, Germany’s access to spatial data is rated at 100 percent and identified as the best-performing open data area in the country.²

Against this backdrop, this commitment captures some ongoing work to address shortcomings in interoperability and uptake. Monitoring related to the EU INSPIRE Directive revealed that Germany’s provision of geospatial data (geo-data) could improve in conformity and interoperability.³ The commitment directly addresses some of these issues. In addition, the most recent (2016) detailed monitoring report raised concerns about the lack of uptake and use of open geo-data.⁴

Specific milestones of this commitment, focused on outreach and induction (4.1 and 4.2), also reflect these concerns. Milestones 4.1–4.3 directly respond to some of these shortcomings. Milestone 4.1 aims to strengthen the internal institutional mechanisms that underpin Germany’s main platform for interlinking geo-information across all levels of government and providing access to this data. Milestone 4.2 supports outreach activities to the related practitioner community. Milestones 4.3 and 4.4 seek to broaden access to geo-data from the European Copernicus network of satellites and other data sources, Europe’s main Earth-observation initiative. Milestone 4.5 could build stronger linkages to user-generated data from community mapping to bottom-up environmental quality measurements, as this is a major area of crowdsourced data.

The commitment is thus relevant to the OGP values of access to information and civic participation. This commitment is also relevant to technology and innovation, due to its focus on interoperability and alternative, crowdsourced geo-data.

Overall, this commitment could have a minor impact on enhancing the accessibility and use of spatial data. The commitment focuses on tighter integration and standardization of already available data. The milestones are verifiable but lack the specificity to more effectively track the quality of their design and implementation. This is particularly the case for Milestones 4.2 and 4.5, which are the most important for expanding linkages with alternative data providers and users. The commitment could benefit from clearer outputs and more concrete follow-up steps, such as a joint conference declaration and a memorandum of understanding for collaboration.

Next steps

The IRM researcher recommends that milestones be linked to clearer quality and performance criteria (e.g., specific criteria for effective operation in Milestone 4.4). Such clarification will make a significantly improve the commitment design and the impact of opening government.

If a commitment in this area is retained in the next action plan, it would benefit from moving beyond ongoing activities under INSPIRE to expanding the interactions and linkages with citizen-generated data. It would be worthwhile, in this regard, to give specific attention to Milestone 4.5, exploring how the milestone could be expanded and leveraged for such purposes.⁵

Moreover, future commitments in this area could focus on interlinkages with adjacent data spaces, such as real-time mobility or environmental data. Such commitments could explore new modalities of public-private-civil collaborations, including data collectives or data trusts. And they could include explorations of the governance and societal challenges related to geo-tracking, location-guided information interventions, and advanced remote-sensing capabilities.

¹ “Acts Adopted under the EC Treaty/Euratom Treaty Whose Publication Is Obligatory,” Official Journal of the European Union 50 (25 April 2017), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:L:2007:108:TOC>.

² “Germany,” Country Detail, Open Data Barometer and World Wide Web Foundation, 2017, https://opendatabarometer.org/country-detail/?_year=2017&indicator=ODB&detail=DEU.

³ “INSPIRE Monitoring-DE,” Coordination Office SDI Germany, http://cdr.eionet.europa.eu/de/eu/inspire/monitoring/envvwlqgg/EN_gdi-de.html.

⁴ INSPIRE, Bericht Mitgliedstaat: Deutschland, 2016, http://cdr.eionet.europa.eu/de/eu/inspire/reporting/envvzxbw/INSPIRE_Bericht_Mitgliedstaat_DE_2016.pdf.

⁵ For an overview of recent developments and thinking in this area, see, for example, the collection by Gloria Bordogna, “Geoinformatics in Citizen Science,” ISPRS International Journal of Geo-Information 7 (2018): 474.

5. Financial Transparency—Implementing the EITI Standard

Language of the commitment as it appears in the action plan:

“To meet the standard of the international Extractive Industries Transparency Initiative (EITI) in Germany, we are working with a multi-stakeholder group (MSG) composed of the ministries concerned, the federal states, municipalities, civil society and businesses. The progress of national efforts (D-EITI) will be tracked in particular in an annual report which compares payments by extractive enterprises with the corresponding revenues of government agencies. Moreover, the D-EITI report will include comprehensive and understandable explanations on Germany’s extractive industries (e.g. legal framework, extracted resources, system of taxes and duties, and data on production and export) and address several special issues (e.g. intervention regulation under nature conservation law, renewable energy resources, etc.). In addition, information about mining rights will also be made public.”

Milestones:

- 5.1 Publishing government data on the German extractive industries in the first EITI report
- 5.2 Creating the legal basis for public access to certain information about mining rights by amending Section 76 of the Federal Mining Act (Bundesberggesetz, BBergG)
- 5.3 Providing government and business information and data on the German extractive industries on a public online portal and as open data
- 5.4 Discussing with stakeholders of the German extractive industries at MSG meetings on further promoting transparency in the sector and continuing EITI reporting
- 5.5 Publishing updated and possibly more government data on the German extractive industries in the second EITI report

Start Date: June 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
5. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

The Extractive Industries Transparency Initiative (EITI) is the first large multi-stakeholder initiative to promote transparency and accountability regarding extractive resource management.¹ Since its inception, it has been an important conduit for mainstreaming new modes of transparency, such as country-by-country reporting or beneficial ownership disclosure. It has also modeled new multi-stakeholder mechanisms to advance collective action in this area.

Having been a strong early supporter of the initiative, Germany decided in 2014 to adhere to the EITI standard for its own extractives sector (Deutschland-EITI, D-EITI).² The country has

undertaken the necessary steps for full implementation of the EITI standard. It established a multi-stakeholder forum in 2015³ and compiled its first EITI report in 2017.⁴ (Given that EITI inspired and served as a reference point for key ambitions and modes at OGP, EITI activities and setup are closely aligned with OGP values and mechanisms.) In addition, prior to Germany joining the EITI, information in the country on extractive industry operations and payments was highly fragmented in scale and scope across states and local communities. Related financial information held by companies was typically not publicly available.⁵

The commitment focuses on “[i]ncreasing transparency and accountability in extractive industries and strengthening dialogue with extractive industries stakeholders.” This also includes “[i]ncreasing accessibility and usability of government and business data and information on German extractive industries by publishing it on a public online portal and as open data.”⁶

The milestones are verifiable yet formulated in rather general terms. However, the milestones relate to activities that are well specified in the EITI framework. This applies, for example, to activities that focus on “[p]ublishing government data.” For such activities, the EITI prescribes a template, which this commitment implies that it follows. The listed milestones and activities are directly relevant to the OGP values of access to information (5.1 and 5.3) and civic participation (5.4). Given that reporting under the EITI also covers information on corporations’ tax payments, this commitment constitutes a significant expansion of transparency into areas of taxation and tax payments. In Germany, strong public norms and legal protections typically guard these areas for tax secrecy (Steuergeheimnis).⁷

Some of the related activities qualify as interesting institutional innovation. D-EITI has successfully navigated toward required changes in law (Milestone 5.2) and organized collective action on extractives transparency across all levels of government. D-EITI also continues its transition from producing expensive, time-lagged, stand-alone reports to systemically interlinking and curating real-time, dispersed data streams made available to public and private stakeholders. As a result, D-EITI has already made substantive inroads on key challenges to open government action. This makes D-EITI an interesting learning case for instituting incremental, yet highly important, institutional innovations as opposed to headline-grabbing technical integration efforts. These inroads warrant relevance to technology and innovation.

Implementation of this commitment could be important to incentivizing open government in other areas. Overall, the commitment could have a moderate potential impact on transparency in the extractives sector.

Next steps

The IRM researcher recommends that the Federal Ministry of Economic Affairs and Energy as the commitment holder encourages the D-EITI secretariat to make some information on institutional innovations and lessons learnt available to other OGP stakeholders. This information sharing would also benefit the broader action plan development and implementation process. Given the mature status of the transparency and disclosure architectures around extractives, the D-EITI could explore cutting-edge disclosure practices. For example, it could investigate practical mechanisms to move from periodic, stand-alone, consolidated reporting to distributed systems of continuous updates and interfaces with enterprise information systems.

¹ Extractive Industries Transparency Initiative, “The Global Standard for the Good Governance of Oil, Gas and Mineral Resources,” March 2019, https://eiti.org/sites/default/files/documents/eiti_factsheet_en_oct2018_0.pdf.

² Deutschland Extractive Industries Transparency Initiative, EITI Candidature Application, 22 December 2015, https://www.d-eiti.de/wp-content/uploads/2015/12/Candidature-Application-Germany_22-12-2015.pdf.

³ Deutschland Extractive Industries Transparency Initiative, Protokoll: Konstituierende Sitzung der Multi-Stakeholder-Gruppe (MSG) zur Implementierung der Extractive Industries Transparency Initiative (EITI) in Deutschland (D-EITI), 10 March 2015, https://www.d-eiti.de/wp-content/uploads/2017/09/1_Protokoll_MSG_Sitzung.pdf.

⁴ Deutschland Extractive Industries Transparency Initiative, Report for 2016, August 2017, https://www.d-eiti.de/wp-content/uploads/2017/10/D_EITI_Report_2016.pdf.

⁵ Interview with government representative.

⁶ Federal Government of Germany, First National Action Plan 2017–2019, 15, https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

⁷ The guiding principle of tax secrecy is enshrined in § 30 Deutsche Abgabenordnung [German Tax Law], https://www.gesetze-im-internet.de/ao_1977/index.html. The fundamental shift that the EITI reporting on tax payments constitutes in this regard has also been pointed out by an interviewee from the government.

6. Transparency in Development Policy

Language of the commitment as it appears in the action plan:

“To meet international transparency requirements in Germany’s development cooperation, the Federal Ministry for Economic Cooperation and Development (BMZ) will carry out consultations and improve data quality.”

Milestones:

- 6.1 Carrying out at least two events/workshops
- 6.2 Optimizing data quality and quantity of the IATI record published by the BMZ
- 6.3 Publishing an updated and detailed BMZ IATI record monthly
- 6.4 Setting up an expert group (of the federal administration) to discuss issues of open development policy, also with civil society

Start Date: June 2017

End Date: May 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
6. Overall		✓	✓	✓				✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

According to the action plan, “[t]ransparency and accountability are key concerns of Germany’s development policy.”¹ In 2012, Germany developed a national action plan to implement a 2011 commitment by major development donors to work toward a common standard for the transparency of development services. Since 2013, the Federal Ministry for Economic Cooperation and Development, has published an increased amount of information on its aid programming. Its reporting aligns with the reporting formats of the International Aid Transparency Initiative (IATI).

This commitment seeks to help further improve the quality and usability of this reporting, in close consultation with civil society. Milestone 6.4 calls for establishing an expert group with civil society to discuss issues of open data.

Publish What You Fund, a nongovernmental organization specializing in aid transparency, welcomes the move. The group rates Germany’s aid transparency performance as “good” and “fair,” respectively, for its technical cooperation as implemented by GIZ (Deutsche Gesellschaft fuer Technische Zusammenarbeit) and for its financial cooperation as implemented by KfW Entwicklungsbank. The group also identified room for improvement, for example, regarding subnational granularity, local feedback loops, performance-related information, and promotion of the disclosure efforts.²

Granular, comprehensive, and timely reporting of aid flows stand as prerequisites for transparency and accountability. These characteristics enable both recipients and donors to follow the money,

identify if articulated policy priorities match actual financial allocations, and explore how the latter do or do not translate into outcomes, impact, and local stakeholder engagement.

Milestone 6.4 calls for setting up an expert group within the federal government to discuss issues of open data and exchange with civil society. The commitment is relevant to access to information and civic participation. However, the commitment is not relevant to technology and innovation, as online publishing alone does not meet the qualifications for this area.

The milestones are verifiable but only generally. Plans to optimize data quality (6.2) or carry out workshops (6.1) do not explain in sufficient detail how these measures would open government beyond what IATI already affords. While adequate data quality is a critical issue for all IATI participants it is part of already existing IATI expectations and upgrades are unlikely to exceed these expectations. Switching to a monthly updating cycle (6.3), as opposed to the current practice of updating every six months, is a noteworthy improvement with which the ministry joins around fifty other IATI participants committed to such a target. The overall potential impact of this commitment on opening government is however judged as minor, absent more details on envisioned targets for the milestones.

Next steps

Development aid transparency is an important policy area and therefore could be carried forward to the next action plan. The IRM researcher recommends that:

- activities and milestones be linked to more specific targets and performance criteria in terms of improving data quality and civil society participation in the International Aid Transparency Initiative implementation context;
- amended and/or additional milestones in this area for the second action plan explicitly consider the shortcomings and priorities identified by leading civil society's aid transparency assessments (such as those from Publish What You Fund);³ and
- forward-looking commitments in this area explore and work toward responses to the emerging challenges of aid transparency in the context of blended-finance mechanisms.⁴

¹ Federal Government of Germany. *First National Action Plan 2017–2019*, 17, https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² "Germany," Publish What You Fund, <http://www.publishwhatyoufund.org/donors/germany/#>.

³ Publish What You Fund homepage, <http://www.publishwhatyoufund.org/>.

⁴ "Better Blending: Making the Case for Transparency and Accountability in Blended Finance," Transparency International, 18 December 2018, https://www.transparency.org/whatwedo/publication/better_blending.

7. Open Data for Intelligent Mobility

Language of the commitment as it appears in the action plan:

“Making available the data of the Federal Ministry of Transport and Digital Infrastructure (BMVI), linking them with third-party data and funding data-related application development will create an ecosystem for intelligent mobility.”

Milestones:

7.1 Applying the mFUND programme

7.2 Connecting the various stakeholders through events and innovation competitions:

- networking meetings
- BMVI Data Run (hackathon)
- Startup pitch
- dialogue with civil society (e.g. 2017 Data Summit)
- Contest Deutscher Mobilitätspreis (German Mobility Award)

7.3 Adding the technical component “user dialogue” to the open data portal mCLOUD

7.4 Adding more data to the open data portal mCLOUD

7.5 Connecting mCLOUD to the federal GovData portal

7.6 Integrating open data approaches in the ministry’s laws (e.g. for the spatial data offered by the German Meteorological Service (DWD); amending the DWD Act)

7.7 Involving the public in developing noise maps for the rail infrastructure

Start Date: July 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
7. Overall		✓	✓	✓		✓				✓	Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

Within the field of open data in Germany, the development of innovative, data-driven mobility solutions has been earmarked for the largest amount of government funding.¹ For example, 20 percent of funded projects under the EUR 150 million mFUND initiative, the federal government’s main funding program to support future mobility innovations, directly relate to the provision of open data, while many others support the broader open data ecosystem.²

According to the action plan, the Federal Ministry of Transport and Digital Infrastructure “wants to create and specifically promote a culture of transparency and responsiveness as well as creative solutions for issues of transport policy.” The ministry is the coordinating commitment implementer.

Milestones 7.4, 7.5, and 7.6 in particular make this commitment relevant for transparency. They aim to expand open data availability related to mobility issues (7.4) and link the main government data portals on mobility (mCLOUD) and administrative information (GovData). The milestones also seek to strengthen the legislative basis for further opening up related datasets, such as official weather data and statistics (7.6). The mFUND funding program referenced in Milestone 7.1 also aims to support data initiatives that embrace an ecosystem approach and practices of co-creation. That milestone makes this commitment relevant for technology and innovation. The milestones' activities also speak to the value of civic participation. Milestone 7.2 outlines networking and stakeholder dialogue activities. Milestone 7.3 calls for designing a more interactive interface for the mCLOUD data portal, and Milestone 7.7 involves the public in mapping the noise footprint of the railway network.

The milestones are verifiable, yet some (7.4, 7.7) need more specificity. The range of different yet complementary initiatives closely aligns with the envisaged ecosystem development. These activities include creating the necessary legal foundation (7.6), providing seed funding (7.2), networking stakeholders (7.2), populating the data repository (7.7), and conducting trials of collaborative data production efforts (7.7).

The linkage to data held by the private sector constitutes a promising innovation in the commitment.³ Linking this data could be a first step toward creating a data collaborative to stand as a promising model for more equitable and problem-centric data sharing templates beyond the transport policy area.⁴ The mCLOUD portal already actively invites business and other nongovernmental data holders to add links to their data.⁵ With this multi-level approach to fostering an entire open data ecosystem and the gradual move toward a data collaborative model, this commitment could serve as a lighthouse project and have a transformational impact on opening government.

Next steps

The IRM researcher recommends that future commitments in this area:

- consider more strongly the co-creation potential and the targeted inclusion of civil society stakeholders in the networking mechanisms—for example, consider groups from the alternative mobility, environmental, and data justice spheres;
- explore mechanisms and incentives to open and interlink mobility data across levels of government, from federal to state to local; and
- explore desirability and ability regarding implementation of public-private data trusts in this area, particularly regarding the importance of training data for autonomous vehicle; data rights; privacy and competition considerations; and sharing obligations in the context of data capture by ride-hailing and ride-sharing, public transport providers, and original equipment manufacturers in the automotive sector.⁶

¹ Interview with civil society representative; view confirmed by scan of 2019 budget allocations to open data issues.

² Of the 133 project entries on the mFUND portal, 28 are tagged for the open data portal (<https://www.bmvi.de/DE/Themen/Digitales/mFund/Projekte/mfund-projekte.html>).

³ Included in the narrative for this commitment in the mid-term self-assessment report, issued by the federal government in November 2018 (https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/Internationales/Zwischenbericht_OGP_engl_Fassung.pdf?__blob=publicationFile&__e=2).

⁴ See Stefaan Verhulst, "Corporate Social Responsibility for a Data Age," Stanford Social Innovation Review, 15 February 2017, https://ssir.org/articles/entry/corporate_social_responsibility_for_a_data_age.

⁵ "FAQ," mCLOUD, <https://www.mcloud.de/web/guest/faq>.

⁶ Some of these related issues have, for example, been flagged in the following two recent parliamentary inquiries: Deutscher Bundestag, Standards und Rahmenbedingungen bei Fahrzeugdaten für die Mobilität des 21. Jahrhunderts [Standards and Framework Conditions for Vehicle Data for 21st Century Mobility], Antwort der Bundesregierung auf die Kleine Anfrage 19/6736, Drucksache 19/7312 (2019); Deutscher Bundestag, Open Data Bus und Bahn—Bedeutung der Richtlinie über die Weiterverwendung, von Informationen des Öffentlichen Sektors (PSI-Richtlinie) für den Öffentlichen Personennahverkehr, Antwort der Bundesregierung auf die Kleine Anfrage 19/6966, Drucksache 19/7498 (2019).

8. Strengthening Citizen Participation in Environmental Policy and Urban Development

Language of the commitment as it appears in the action plan:

“Strengthening citizen participation in decision-making in the field of environmental and urban development policy. Promoting citizen participation at federal level, among other things by expanding informal participation processes, e.g. update of the Climate Action Plan 2050, resource efficiency programme ProgRes III, implementing the Integrated Environmental Programme 2030 (IUP), participating in the 2017 UN Climate Conference (inviting young people, including school children); by organizing new dialogues to advise policy-makers on relevant decisions in the 19th legislative term; by participating in networks and bodies; by carrying out events.

“Aim: Further strengthening and expanding public participation in environmental.”

Milestones:

8.1 Starting or carrying out citizen participation processes for at least four relevant decision-making procedures in the field of environmental policy and urban development (e.g. youth participation in the 2017 UN Climate Conference, update of the Climate Action Plan 2050, ProgRes III, implementing the National Programme for Sustainable Consumption)

8.2 Carrying out at least three cross-cutting public events on citizen participation such as Beteiligung auf Bundesebene –Erfolge und Perspektiven (Participation at federal level – progress and opportunities)

8.3 Exploring and developing tools for better citizen participation (e.g. new forms of online participation; guidelines)

8.4 Participating in at least four national or international bodies or networks on citizen participation (e.g. in the alliance for more democracy, in the Conference of Environmental Ministers, and in the OECD)

8.5 Competition with citizens in the jury for exemplary participation processes in spatial matters, in policy-making and in the legislative procedure

Start Date: July 2017

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
8. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment aims to build on an existing vast repository of practical experience and formal institutionalized mechanisms for civic participation in environmental decision making. During the previous legislative period (2013–2017), the Federal Ministry for the Environment, Nature Conservation, and Nuclear Safety (BMU) established a citizen participation division. BMU also

carried out a number of informal citizen participation initiatives around the development of key environmental and climate policies.¹ This action plan commitment reflects the efforts of the BMU to use, systematically learn from, improve, and encourage the adoption in other ministries of “state-of-the-art and sophisticated citizen participation processes.” It focused on “developing new forms of online participation and better interlocking formal and informal participation.”

The milestones cover policy-relevant research and pilots for civic participation (8.3) and outreach events to enhance the visibility of and engagement with participation mechanisms (8.2). They also address the actual implementation of civic participation processes on four issues related to environmental policies (8.1). Milestone 8.4 affirms Germany’s participation in related international peer exchange fora. Milestone 8.5 seeks to incentivize innovation in and diffusion of civic participation practices through an award competition that will involve citizens as jury members.

The proposed actions are not linked to enforceable rights or specific public complaints and redress mechanisms, in case the envisaged participation processes fail to be inclusive or have procedural shortcomings. Thus, the actions cannot be coded as relevant to the OGP value of public accountability.

The milestones are verifiable and provide some specific targets (e.g., 8.1, 8.2, and 8.4 include the number of envisaged activities or events). Yet they could still benefit from more specificity—e.g., targets for diversity in participation or uptake of published materials.

The commitment could produce learnings and inspiration to scale up and innovate around informal citizen participation in other ministries. It also introducing citizen participation processes in at least four decision-making procedures. Thus, it could have a potentially moderate impact on participation. A civil society member observed that it could lead to deeper cultural change and openness and that it is anchored in the administration and not just hosted by a specific ministry.²

Next steps

An expansion and more ambitious formulation of this commitment could turn it into a centerpiece of the next action plan, as it could help facilitate opening up government for participation and engagement. The IRM researcher therefore recommends:

- testing some innovative consultation processes for developing a related commitment for the next action plan, preferably involving a wider range of ministries and policy-making processes;
- considering exploration of targeted outreach to underrepresented groups in participatory initiatives via segmented social media advertising, to boost inclusion;
- moving beyond input and directed participation and putting a stronger exploratory focus on co-creation processes and how to integrate bottom-up initiatives into decision making;
- exploring how to evolve episodic input into continuous feedback systems and how to interlink informal and formal consultation and participation mechanisms;
- exploring how to support and cultivate the demand side for civic participation—e.g., helping to build competencies and capabilities for civic participation; and
- exploring to what extent government officials can engage more systematically at the grassroots level to get exposed to recommendations and feedback where they emerge and are articulated.

¹ See Federal Government of Germany. *First National Action Plan 2017–2019*, 20, https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² Interview with civil society representative.

9. ElterngeldDigital/Electronic Procedures for Family Benefits

Language of the commitment as it appears in the action plan:

“Effectively ensuring modern and transparent access to information and application processes for parental allowance and other family benefits. In the future, parents can use an online platform to find information, in particular on the parental allowance, more easily and to be guided through the application process by an application wizard. We are also examining for which other family benefits an electronic application would be suitable.”

Milestones:

- 9.1 Study on electronic procedures for family benefits (Digitalisierung familienbezogener Leistungen), available
- 9.2 Preparations for creating more electronic procedures for family benefits
- 9.3 Start of ElterngeldDigital roll-out in pilot federal states
- 9.4 Rolling out ElterngeldDigital in more federal states
- 9.5 New information portal for families

Start Date: May 2016

End Date: December 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
9. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

Germany is committed to offering online more than 500 administrative services from the local to federal level by 2022.¹ This commitment aims to provide transparent and easily understandable access to information about family benefits and parental allowances (financial support to new parents engaged in childcare). According to the action plan, the commitment seeks to “use new technologies (application wizard) as well as legally secure language that is easy to understand... to make applying for benefits easier and more transparent for citizens. The goal is to streamline the application process for family benefits.”

In Germany, state-level governments handle applications for parental allowances. Many rules govern receipt of the benefits, which are income dependent. Thus, the extensive application requires the submission of several supporting documents and certificates. While many states allow submissions to be mailed, the relative complexity of the application often requires additional visits to the respective local office and involves long processing times.² Also, prior to the commitment, only three German states had established online application systems.³

The main milestones (9.3, 9.4, and 9.5) are generally verifiable, although they lack some specificity. For example, the milestones do not provide the number of federal states in which the

ElterngeldDigital portal will be piloted (9.3) or a detailed description of the “new information portal for families” (9.5).

This commitment aims to streamline administrative services. Additionally, the commitment calls for the creation of a new portal that would provide information regarding parental benefits and how to apply for benefits. If fully implemented, the new portal could improve access to information on family benefits and parental allowances. However, the description of the pilot portal is vague, and the commitment is difficult to assess. Thus, the potential impact of the commitment is considered minor.

Next steps

The IRM researcher recommends pursuing this goal outside the framework of OGP and not carrying this commitment forward to future action plans.

¹ “Flächendeckende Digitalisierung der Verwaltung Deutschlands bis 2022,” IT-Planungsrat, https://www.it-planungsrat.de/DE/ITPlanungsrat/OZG-Umsetzung/OZG_Umsetzung_node.html.

² For examples see Berlin: Rainer W. During, “Elterngeld-Anträge Bleiben Monate in Bezirken Liegen,” Der Tagesspiegel, 11 December 2012, <https://www.tagesspiegel.de/berlin/chaos-in-bearbeitungsstellen-elterngeld-antraege-bleiben-monate-in-bezirken-liegen/7502674.html>; Bavaria: Susanne Holl, Saarbrücken, and Mike Szymanski, “Warum die SPD so Dunnhautig auf den Juso-Chef Reagiert,” Süddeutsche Zeitung, <https://www.sueddeutsche.de/bayern/sparpolitik-langes-warten-auf-elterngeld-1.3481664>; and Hamburg: Andreas Dey, “Mutter und Vater Müssen Lange auf Elterngeld Warten,” Hamburger Abendblatt, 1 February 2019, <https://www.abendblatt.de/hamburg/article216342785/Muetter-und-Vaeter-muessen-lange-auf-Elterngeld-warten.html>. For a citizen report from across Germany, see (outdated) platform at <http://www.wartenaufelterngeld.de/>.

³ Sabine Menkens, “Geld fürs Baby Ohne Lastigen Gang zum Amt,” Welt, 16 October 2018, <https://www.welt.de/politik/deutschland/article182209578/Elterngeld-digital-Geld-fuers-Baby-ohne-laestigen-Gang-zum-Amt.html>.

10. Knowledge Network for Lesbian, Gay, Bisexual, Transgender, and Intersex people

Language of the commitment as it appears in the action plan:

“The online information portal will provide interested citizens, experts as well as persons concerned and their families with information about gender diversity and same-sex ways of life. The portal will also be accompanied by public relations activities. By providing efficient access, the overall project will have a strong social impact and contribute to further awareness-raising in society in order to promote acceptance of LGBTI people (lesbian, gay, bisexual, transgender and intersex people).

“Aim: The Federal Government’s aim is to provide persons concerned, their families and the public with information (here the LGBTI knowledge network) about existing legal provisions and about where to find advice and further support. It also seeks to increase acceptance, use the possibilities of new technologies, raise awareness, improve the quality of data on research and social questions concerning gender identity and samesex ways of life, encourage participation and involve NGOs.”

Milestones:

- 10.1 Deploying the information portal with initial topics TI (= trans*, inter)
- 10.2 Adding information on LSB (= lesbian, gay, bi) topics
- 10.3 Uploading all basic and background information on the portal, continuously updating the content, recommending local advisory services through an advisory database

Start Date: July 2017

End Date: December 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
10. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

According to the status quo described in the action plan, lesbian, gay, bisexual, transgender, and intersex (LGBTI) people “still face discrimination in our society” and related support information and services “are not always available . . . [e]specially in rural and sparsely populated areas.”¹

Currently, official information for the LGBTI community on their rights, entitlements, and support services is fragmented. This fragmentation has a geographic dimension, with available information varying significantly across German states (North Rhine-Westphalia being one of the better examples: <https://www.mkffi.nrw/lsbti>). The fragmentation also has a thematic dimension, with information tailored to transgender and intersex people being even less available.²

The commitment seeks to “provide persons concerned, their families and the public with information (here the LGBTI knowledge network) about existing legal provisions and about where to find advice and further support. It also seeks to increase acceptance, use the possibilities of new technologies, raise awareness, improve the quality of data on research and social questions

concerning gender identity and same-sex ways of life, encourage participation and involve NGOs.”³ The commitment aims to do this through the deployment of an online information portal of LGBTI topics, particularly gender identity and available support services.⁴ Consequently, it is relevant to the OGP value of access to information.

Targeting specific beneficiary groups for open government efforts can be important for addressing priorities that align with practical needs and for achieving the necessary traction, uptake, and sustainability in related efforts. Such targeting is even more relevant if it is geared toward segments of the population that face discrimination and are at risk of falling through the cracks of existing outreach and engagement efforts. As a result, tailoring a commitment to the LGBTI community can be considered an important step toward more inclusive government and governance.

The commitment is verifiable, but some activities lack specificity. For example, it is not clear what qualifies as basic information to be included on the portal. The commitment also does not make clear how deploying the information portal and populating it with LGBTI topics constitutes action beyond consolidating existing information in a more accessible manner. Given its general potential, however, to make relevant information more accessible and actionable—and thus contribute to the inclusion of a particularly marginalized community—the potential impact is rated as minor.

Next steps

The IRM researcher recommends retaining the intent of this commitment because it involves tailoring a commitment to a community at risk of discrimination and exclusion. However, the IRM researcher recommends rethinking the commitment’s formulation to increase access to this information or citizen participation in identifying the information needs of this community. If this is done successfully, such a commitment could underscore Germany’s broader ambition to take a leadership role in the open government space. The commitment could serve as an important and inspiring example for action plans in other countries, since LGBTI discrimination is a global concern.

More concretely, a new commitment could include actions that help assess, monitor, and transparently track the scale and scope of discrimination. A new commitment could also provide targeted mechanisms for engaging LGBTI stakeholders in co-creating related information, services and policies. Another goal would be to strengthen the visibility and accessibility of targeted accountability mechanisms, such as dedicated feedback and complaint channels to report and remedy discrimination. These accountability mechanisms could also include information on the performance of state authorities in responding to discrimination claims or data on the scale and scope of public sector training activities on related issues.

¹ Federal Government of Germany, First National Action Plan 2017–2019, 23,

https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² See Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Situation von Trans- und Intersexuellen Menschen im Fokus. [Situation of Trans- and Intersexual People in Focus], 2016, 23,

<https://www.bmfsfj.de/blob/112092/f199e9c4b77f89d0a5aa825228384e08/imag-band-5-situation-von-trans-und-intersexuellen-menschen-data.pdf>.

³ Ibid.

⁴ The updated project name of the portal is *Regenbogenportal* (rainbow portal).

II. Local Alliances for Family Initiative

Language of the commitment as it appears in the action plan:

“Local alliances bring together policy-makers, businesses and civil society to discuss how work and family commitments can be combined and develop measures to support families.

“Aim: Expanding family-friendly measures at local level, also by using more digital information formats.”

Milestone:

II.1 Further connecting local alliances with local businesses in cooperation with the Success Factor Family network through a series of forums on reconciling family and work. Six events planned across Germany. One event took place in May 2017, three events are planned for autumn 2017, two are still pending.

Start Date: N/A

End Date: March 2018

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
II. Overall		✓	Unclear				✓				Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

The following constitutes the commitment background, according to the action plan:

“About 620 local alliances for family offer specific measures for businesses and families to reconcile family and work commitments at [the] local level. Since the federal Local Alliances for Family initiative launched in 2004, these local alliances between municipalities, businesses, employment agencies, care facilities, free initiatives and engaged citizens have been created and have noticeably improved the compatibility of family and work, e.g. through online family guidebooks, holiday care for children and advisory services for businesses.”¹

The commitment focuses on “[f]urther strengthening public awareness of the issue of combining family and work commitments, providing more professional communication channels for stakeholders and addressees (online community) and expanding cooperation.”²

The proposed milestone seeks to further expand the Success Factor family network. A collective action initiative, the network convenes businesses and civil society in local alliances to help companies adopt more family friendly policies. The milestone is verifiable, particularly in the number of planned events to take place. However, it lacks specific quality or performance criteria for more effective assessment and monitoring.

The commitment provides more awareness and more visibility for existing services—important and laudable outcomes. However, it is difficult to see how this commitment engages processes of government. The commitment does not outline how it helps open up government in the context of

transparency, accountability, and civic participation, as espoused by OGP. A deeper, post-implementation assessment of the related outcomes could possibly find some linkages—for example, instances of collective advocacy that informed specific policy designs in this area. But given the ambition and activities outlined, such impacts would be a by-product and not an intended objective. As a result, the commitment is assessed as having no impact on opening government.

Next steps

The IRM researcher suggests considering the following two options:

discontinue the commitment in the next action plan, as it is not sufficiently linked to ambitions for opening up government; or

fully rework the commitment to make linkages to opening government in this area explicit in ambition, objectives, and actions—for example, by establishing an information and advisory service on legal entitlements in this area and including key performance indicators on its impact.

In either case, it might be worthwhile to assess whether this pool of more than 600 local-level multi-stakeholder alliances has created interfaces and linkages to formal policy-making processes. This exercise may offer interesting insights and inspiration for the ambitions expressed elsewhere (e.g., in Commitment 8) to strengthen the integration of formal and informal participation processes. And in a broader context, the assessment might yield interesting findings regarding the formulation of a pragmatic approach and practical, enabling environment for co-creation.

¹ Federal Government of Germany, *First National Action Plan 2017–2019*, 24, https://www.opengovpartnership.org/sites/default/files/Germany_NAP_2017-2019_ENG-transl.pdf.

² Ibid.

12. Monitoring the Share of Women and Men in Leadership Positions, Private Sector Bodies, and the Public Service

Language of the commitment as it appears in the action plan:

“Regular monitoring reports on the development of the share of women and men in leadership positions and in private sector bodies and the public service in the framework of implementing the Act on Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector (Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen in der Privatwirtschaft und im öffentlichen Dienst, FÜPoG).”

Milestones:

12.1 Information of the Federal Government about the development of the share of women and men in leadership positions, private and public sector bodies; Report to the Federal Statistical Office about the composition of the bodies in accordance with the Act on the Participation of the Federation in Appointments to Bodies (Gesetz über die Mitwirkung des Bundes an der Besetzung von Gremien, BGremBG)

12.2 Report to the German Bundestag about the share of women and men in leadership positions, private and public sector bodies

12.3 Generating an index of the share of women in supreme federal authorities (gender equality index)

12.4. Statistics about the share of women in the entire federal administration (gender equality statistics)

12.5 Presenting an overview and evaluation of the composition of bodies to the German Bundestag

12.6. Report on the Federal Act on Gender Equality (Bundesgleichstellungsgesetz) to the German Bundestag

12.7. Evaluation of the act

Start Date: July 2017 (continuous since 2015)

End Date: June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
12. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

This commitment focuses on “[c]hanging corporate culture over the long term to get more women into leadership positions by giving the topic more prominence in public discourse in order to encourage companies to do more to ensure equal participation of women and men.”

Since 2012, in Germany, the share of women in managerial positions has more or less stalled. This percentage stood at around 29 percent in 2017.¹ The share of women in the German Parliament has declined from 36 percent in the 2013–2017 legislative period to 31 percent in the current one.² Reporting the overall share of women in leadership positions is recognized as an important indicator. The United Nations' Sustainable Development Goals (SDG) Reporting Framework (target 5.5, indicator 5.5.2) recognizes it. In Germany, this indicator's importance is reflected through the Act on Equal Participation of Women and Men in Leadership Positions in the Private and the Public Sector, which took effect in 2015.³

This commitment covers the reporting requirements of the aforementioned act. Its individual activities and milestones cover the entire sequence from reporting, to synthesis and public presentation, to eventual evaluation of the related practice and underlying legislation.

The milestones are verifiable. The commitment is relevant to the OGP value of transparency. It compiles publicly available information on gender parity in the federal administration in detail that goes beyond general SDG reporting requirements. For example, the commitment provides transparency on the gender-related composition of the federal administration. The commitment also entails reporting on and enabling the tracking of indicators that measure at least partially attributable outcomes of government action on creating more gender parity. Thus, it is relevant to access to information. The milestones that cover reporting activities (12.1, 12.2, 12.4, and 12.5), as well as the milestone evaluating the related act (12.7), directly correspond with the specific assessment and reporting requirements embedded in existing legislation.⁴ The additional impact on opening government is rated as minor primarily because the related legal commitments were stipulated through a 2015 law, before Germany's participation in OGP.

Next steps

The IRM researcher recommends complementing the commitment milestones with a set of performance targets and indicators attached to Milestones 12.1–12.6. The overall goal involves generating more visibility and awareness for gender parity issues. Thus, metrics around the visibility and uptake of the published information would make the milestones substantially more monitorable and ambitious. These metrics could include download numbers, media mentions, and benchmarking references in sustainability reports and other public organizational communication.

¹ Statistisches Bundesamt homepage,

<https://www.destatis.de/DE/ZahlenFakten/Indikatoren/QualitaetArbeit/QualitaetArbeit.html>.

² https://www.bpb.de/system/files/dokument_pdf/dr2018_bf_pdf_ganzes_buch_online.pdf

³ "Law for the Equal Participation of Women and Men in Leadership Positions in the Private Sector and the Public Services," Bundesanzeiger Verlag,

http://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl115s0642.pdf.

⁴ Artikel 23 and Artikel 24, Gesetz für die Gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen in der Privatwirtschaft und im Öffentlichen Dienst, FüPoG.

13. Promoting Open Access to Academic Literature

Language of the commitment as it appears in the action plan:

“In Germany, science and research frequently receive public funding. Citizens wish to share in the results of such research. This can be achieved by making academic literature available free of charge on the Internet, for example. Researchers make their papers available on websites or in databases under the keyword “open access” without any legal or financial obstacles to the public. In addition to this simple access to academic literature, open access allows for new ways of disseminating scientific knowledge. The Federal Ministry of Education and Research (BMBF) has launched a competition to fund innovative projects for further promoting the open access principle at universities and research institutes. The projects are intended to overcome existing reservations and obstacles for researchers to publish their literature on the Internet free of charge.”

Milestones:

13.1 Collecting and reviewing the project proposals submitted for the competition to implement open access

13.2 Start of project funding

Start Date: June 2017

End Date: July 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
13. Overall		✓	✓					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

The commitment focuses on “[m]aking open access to academic literature a standard for academic publishing so that the public can better share in the results of government-funded research.” The commitment builds on momentum in the science community and beyond to work toward more open access to scientific publications and broader research outputs. More specifically, the commitment focuses on providing financial support for initiatives that seek to create an enabling environment for open access publishing. It covers the implementation of a competition that the Federal Ministry of Education and Research launched in May 2017 to fund innovative projects that promote the open access principle.¹

The milestones are generally verifiable. However, they lack specific links to the outlined ambition.

The commitment provides financial support for projects that seek to make it easier for scientists to publish their work via open access. Thus, it is relevant to the OGP value of access to information—in this case, for publicly funded research. Boosting open access in Germany is important, as it is estimated that up to 30 percent of scientific publications are currently made available in open access formats.² The commitment does not include provisions to directly support civic participation and therefore cannot be coded as directly supporting this OGP value. However, it should be noted that expanding public access to research is also a prerequisite for informed and effective civic

participation. Even larger civil society groups focused on research and evidence-based advocacy can hardly afford sufficient access to the latest research outputs in journal databases or academic libraries.³

Despite the importance of open access and its explicit recognition by the government the direct, practical impact of the commitment is rated as minor. The commitment complements other initiatives by stakeholders across Europe that directly incentivise open access publishing. Those initiatives include the 2018 Plan S, supported by the European Commission, the European Research Council and over 10 large private and national public research funders from across Europe to open access to all published research they fund by 2020.⁴

Next steps

For future commitment design, the IRM researcher suggests adding the following:

- performance targets and indicators to the funding scheme, which would help track outcomes and impact more directly. This could also entail front-loading aspects of the target to achieve 70 percent open access by 2025 as put forward in the ministry's digital strategy in April 2019.⁵
- a project evaluation and learning component to the funding scheme as a stand-alone action or milestone—if a commitment on open access is carried over in the next action plan;
- an exploratory component that would assess collaboratively the open access needs of evidence-reliant civil society stakeholders, with the goal of incubating targeted initiatives in this area; and
- activities to engage and involve stakeholders at the subnational state level.

¹ "Bekanntmachung," Federal Ministry of Education and Research, <https://www.bmbf.de/foerderungen/bekanntmachung-1369.html>.

² Bundesverband Deutscher Industrie, Fraunhofer ISI, and Zentrum für Europäische Wirtschaftsforschung GmbH, Innovations Indikator, 2018 http://www.innovationsindikator.de/fileadmin/content/2018/pdf/ausgaben/Innovationsindikator_2018.pdf; European Commission, Open Science Monitor: Trends for open access to publications, https://ec.europa.eu/info/research-and-innovation/strategy/goals-research-and-innovation-policy/open-science/open-science-monitor/trends-open-access-publications_en

³ Participant observation by IRM researcher (who worked for more than 10 years as research manager for an NGO that is consistently ranked among the top 10 governance think tanks globally but cannot afford subscriptions to more than one or two journal databases).

⁴ Plan S homepage, <https://www.coalition-s.org>.

⁵ See https://www.bildung-forschung.digital/files/BMBF_Digitalstrategie_web.pdf.

14. Science Year 2018—Working Life of the Future

Language of the commitment as it appears in the action plan:

“Science Years are intended to strengthen the public’s interest in science and research and to involve society in academic developments. The aim is to highlight the role of science and research in shaping our future. The Science Year 2018 will focus on the future of work. During that year, many activities will be organized for the interested public: large national hands-on campaigns, exhibitions, competitions, discussions and innovative online formats. This will give citizens and civil-society organizations manifold opportunities to learn, participate and discuss with researchers, policy-makers and representatives from business and industry.

“Aim: The Science Year 2018 will highlight how science and research contribute to shaping the way we work by illustrating and encouraging discussion about the variety of opportunities and challenges in the future of work. The activities are intended to increase citizens’ appreciation of the role of research and of scientific jobs and encourage them to share their work experiences.”

Milestones:

- 14.1 Publishing the call for proposals for funded projects in the Science Year
- 14.2 Public opening of the Science Year
- 14.3 Tour of the exhibition ship “MS Wissenschaft” (on behalf of the BMBF)

Start Date: July 2017

End Date: December 2018

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
14. Overall		✓		✓			✓				Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

The governmental initiative Science Years intends to “strengthen the public’s interest in science and research and to involve society in academic developments, with the aim to highlight the role of science and research in shaping our future.” Related activities include presentations and participatory activities, such as discussions, interactive exhibitions, competitions, hands-on campaigns, and citizen science projects. A related funding stream seeks to “contribute to developing and implementing new forms of dialogue and events.” Milestone 14.1 will open the call for proposals under this funding mechanism. Milestone 14.2 refers to the public opening of the Science Year, and Milestone 14.3 covers the tour of a ship that hosts a science exhibition.

This commitment could be valuable for encouraging political deliberation and broader societal discourse around how research and technology can respond to central policy challenges of our time. The call for science proposals makes the commitment relevant to civic participation.

The proposed milestones are verifiable. However, they lack the specificity to assess how they relate to and advance engagement with the public. Some of the projects that receive funding might well contribute to these objectives, yet there are no specific actions or measures that ensure that this is the case. Because of the lack of specificity, it is difficult to determine what potential impact this commitment could have on improving the ability of the public to participate in science beyond the project proposals.

Next steps

The IRM researcher recommends that this commitment not be taken forward to the next action plan. However, the government could consider more outreach to citizens regarding the science projects and could present or exhibit the funded projects at schools and in communities.

15. Federal Competition: Living Together Hand in Hand

Language of the commitment as it appears in the action plan:

“We are carrying out the federal competition ‘Living Together Hand in Hand – Shaping Local Communities’ (Zusammen leben Hand in Hand – Kommunen gestalten) aimed at identifying, initiating, rewarding and making known local activities to integrate immigrants and to foster engagement with the local community. The competition started with a kick-off event and will conclude with a local government conference.”

Milestones:

- 15.1 Calling for submissions to the competition
- 15.2 Collecting and reviewing the ideas submitted by participants
- 15.3 Local government conference and awarding prizes for the best ideas

Start Date: May 2017

End Date: July 2018

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
15. Overall		✓	Unclear					✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Context and Objectives

Integration of new immigrants and refugees constitutes a key societal challenge for Germany. This commitment focuses on “carrying out a country-wide competition ‘Living Together Hand in Hand—Shaping Local Communities’ (*Zusammenleben Hand in Hand – Kommunen gestalten*).” The competition will award up to EUR 1 million to both newly proposed and existing local projects that seek to further scale their activities. The competition is “aimed at identifying, initiating, rewarding and making known local activities to integrate immigrants and to foster engagement with the local community.” Furthermore, the competition hopes to inspire other communities to adopt similar ideas.

The commitment seeks to deepen immigrant integration into civic life, activate social support infrastructures, and familiarize immigrants with government services and interfaces beyond immediate contact with immigration authorities. These activities can be considered first steps toward broadening civic engagement and more inclusive modes of government, key OGP values. They can also make government interfaces more inclusive and accommodating to newcomers. These possible indirect and longer-term effects notwithstanding, the direct relevance of the commitment as written to OGP values is unclear. The commitment outlines no direct linkages to transparency, civic engagement, or public accountability. Civic organizations are not directly able to participate in the competition, but can only be part of submissions by their local councils. The funding criteria do not focus on projects that would directly establish new channels for civic participation, accountability, or

transparency. The milestones are verifiable but do not include quality or performance targets and indicators.

The commitment is important, as it targets communal-level activities, lighthouse projects, and joint learning around these projects. It could thus provide interesting insights and inspiration for designing similar mechanisms to link local-level initiatives for opening government. It could therefore establish essential principles for making government more inclusive in the long run, with a focus on immigrants as an important and often disadvantaged stakeholder group. However, it remains unclear to what extent the proposals will improve the integration of immigrants into local communities. Therefore, the commitment's overall potential impact is considered minor.

Next steps

The IRM researcher recommends not carrying this commitment forward to future action plans or alternatively re-think its content substantively to link its activities more directly to OGP values.

V. General Recommendations

This section aims to inform development of the next action plan and guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Recommendations

The following recommendations by the IRM researcher, in combination with more process-oriented recommendations presented in Section III, are perhaps more detailed or far-reaching than those usually presented in such an assessment report. They are therefore offered in the spirit of enriching the conversation around future pathways of action plan development, rather than as suggestions to be followed and reported on in the most literal way.

Invest increased resources to support civil society participation in the OGP process

The government could consider using a portion of the almost four-fold increase in Germany's OGP budget to directly support existing civil society coordination and co-creation functions. A possible approach could include funding four key outreach areas (e.g., in academia; subnational outreach; engagement with small and medium-sized businesses); and a thematic priority outside the open data, technology, and transparency fields) plus the full-time network coordinator.

This support would be advantageous for several reasons. It would ensure the budget certainty and time availability for civil society to effectively expand outreach. It would also help develop and prioritize more strategic and targeted civil society asks that are easier for the government to consider. In addition, it would expand the communication channels between civil society and the government on different levels and topics. Importantly, this support would also enable the creation of new interfaces with and expand the mobilization of public and private stakeholders at state and local levels. As has been pointed out by both government and civil society interviewees, it might not be easy to establish a funding model that safeguards legitimate selection, independence, and accountability. Therefore, the government could consider engaging expert help (through a specialist) to devise such a funding model.

Leverage OGP for more ambitious commitments

Almost all interviewees from civil society and government indicated that the 15 commitments of the first action plan and most of the milestones were planned even without the OGP process. The IRM researcher credits the OGP framework with providing some additional visibility and accountability for these initiatives. However, none of the respondents indicated that inclusion in the OGP action plan offered significant additional political momentum to these initiatives. Nor are there any substantive new activities in this action plan (outside of Commitment I, which is internal to OGP) that would be attributable exclusively to OGP participation. To an extent, this is a positive sign. It shows that certain activities in the federal government already align with the open government agenda. However, a high proportion of the commitments raise questions about their ambition level. A way forward might include a combination of commitments that provide continuity, building sustainable open government policies, and new, high-ambition commitments (even if it takes several action plans to see their impact).

To make future action plans more ambitious, the IRM researcher recommends the following:

For civil society

Civil society can further cultivate its role as a critical partner and leverage its informal convening advantage. In a country as large and diverse as Germany, the action plan process can reflect only a small segment of ongoing and upcoming open government activities. Many important developments regarding opening government do not make it into what is understandably a limited number of commitments.

During the consultation process, the government's midterm self-assessment report received only one formal comment from civil society.¹ This suggests that a broader, more flexible format for commentary on progress might be useful. For example, the Open Government Network and the government could jointly explore including a civil society–authored chapter or viewpoints page in the official OGP monitoring and reporting communications. This could further instill a culture of co-creation.

Another civil society engagement opportunity could be less structured and without as much direction by the formal OGP process. It would involve further expanding the already substantive engagement around regional and local open government activities. The subnational level hosts some of the most compelling open government thinking and innovations. However, these actors are difficult to involve in the OGP process administered by the federal government in a direct and a timely manner. This difficulty is a result of the established subsidiaristic communication and coordination guidelines that must be followed and that allow for only indirect engagement with local level actors via state governments. Where cross-level coordination mechanisms are in place and harnessed for OGP purposes, they reach only a narrow segment of the open government community. This is the case for the IT-Planning Council (IT-Planungsrat), that assumes important coordination tasks between different levels of government, but which comes with a distinctive technology and information and communications technology focus in its remit and sphere of outreach.

Civil society, on the other hand, can fully leverage its informality advantage and build bridges to local open government stakeholders. Many such efforts are already underway but could further be expanded, if more resources become available.

For the government

A concrete first step toward bolder commitments could involve revisiting the civil society recommendations that the government thought required more clarification, legislative change, or coordination beyond the federal government. The innovative, boundary-pushing OGP spirit complements the growing momentum for experimentation that has begun to inspire the policy debate in Germany. This can be seen, for example, around *Experimentierklauseln* (clauses for experimental exemptions in administrative law)² and the establishment of *Reallabore* (real-world laboratories).³ The design of the first action plan has been a useful learning opportunity for the government, and that plan should make it possible to switch to the next gear regarding open government in Germany.

Use existing windows of opportunity to make progress on key themes in open government

As described in the context section of this report, several existing government initiatives in Germany can incorporate and benefit from open government solutions. For example, the government could strengthen federal right to information provisions. It could also think proactively about e-government and open data architectures to support openness by default in a more targeted and accountable manner and expand effective access to key information and data categories. Recent civil society initiatives to make information from the German company register (<https://offeneregister.de/>) and information about public procurement

(<https://opentender.eu/de/>) more accessible provide practical inspiration for government improvement in these areas.⁴

Similarly, forthcoming legislative amendments on money laundering (to execute the European Union Fourth Anti-Money Laundering Directive) need to be implemented by 2020. Implementation of these amendments offers a great opportunity to follow the example of the other 15 OGP participating countries doing so.⁵ Such execution could involve creating a commitment that brings more substantive, effective, and accessible transparency to beneficial ownership registries. This transparency is a key pillar in addressing money laundering, tax evasion, and many forms of corruption.⁶

The next example highlights the state level, which is intended to be featured more prominently in the next action plan. The joint initiative to introduce a harmonized online property register (*Datenbankgrundbuch*) could bring more transparency to the real estate sector, which is considered at high risk for money laundering. Expanding access to this property register, linking it to a transparency register on beneficial ownership, and facilitating the related data exchange internationally could significantly advance the open agenda in a high-corruption risk sector.⁷ More generally, given the size and global significance of its economy, Germany could become a leader in developing standardized, interlinked, and open international information architectures around public contracts and procurement. It could also achieve such a feat regarding the beneficial ownership of companies and property. This could improve Germany’s potential to take open government and OGP to the next level.

These constitute opportunities for Germany to implement its stated ambitions to significantly improve open data⁸ and contribute to the further development of OGP.⁹ These actions could be integrated into future action plans by making existing commitments more ambitious and by adding new ones.

Strengthen senior-level visibility and buy-in

The government could explore ways to generate more visibility and engagement by senior-level governmental leadership. This could involve recruiting an elder statesperson as an open government champion. This individual could help open doors at the senior government level. The international OGP network already engages several such influencers who could be called on.

Another possibility could be to foster higher level exchanges on open government by inviting senior officials from peer countries or international organizations and pairing them with their counterparts from German ministries. The international OGP network could facilitate such events and help identify and invite senior open government champions who fit this profile.

Table 5.1: Five Key Recommendations

1	<p>Improve co-creation in a holistic way¹⁰ Employ a three-track strategy of co-creation that a) links to pre-existing public consultations and dialogues with civil society; b) expands the participation of government ministers and senior officials in the OGP design process, and designates a champion for open government or establishes high-level international peer exchanges; and c) allows more time for public consultation and feedback rounds on draft commitments.</p>
2	<p>Invest increased resources to support civil society participation in the OGP process Use dedicated OGP funds to support both the point of contact and enable more civil society coordination and co-production. This will expand the scope of</p>

	engagement and channels of communication with government throughout the OGP process.
3	Leverage OGP for developing new commitments beyond pre-existing initiatives Make OGP action plans more ambitious, extending beyond pre-existing and ongoing projects that already exhibit elements of open government.
4	Use windows of opportunity for ambitious thematic commitments in the next action plan Take advantage of ongoing legislative processes, evolving national policy priorities and opening policy spaces for more experimentation to develop a number of high-ambition commitments. Commitments can include public contracting and beneficial ownership transparency.
5	Identify and work with high-level political champions or elder states-persons to raise the profile and visibility of open government inside the government.

¹ Open Knowledge Foundation Deutschland, Stellungnahme der Open Knowledge Foundation Deutschland zum Vorentwurf der Bundesregierung für den Zwischenbericht zur Umsetzung des ersten Nationalen Aktionsplans im Rahmen der Teilnahme an der Open Government Partnership, 1 October 2018, https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/Internationales/Stellungnahme_OGP.pdf?__blob=publicationFile&v=2.

² Maßnahme des IT-Planungsrats, Anforderungen an die Ausgestaltung von Experimentierklauseln im E-Government, https://www.it-planungsrat.de/SharedDocs/Downloads/DE/Entscheidungen/23_Sitzung/Experimentierklauseln-Anlage.pdf?__blob=publicationFile&v=2.

³ “Real Laboratories—Test Rooms for Innovation and Regulation,” Federal Ministry for Economic Affairs and Energy, <https://www.bmwi.de/Redaktion/DE/Dossier/reallabore-testraeume-fuer-innovation-und-regulierung.html>.

⁴ Mollie Hanley, “German Company Data Now Open for All,” Open Corporates, 5 February 2019, <https://blog.opencorporates.com/2019/02/05/german-company-data-now-open-for-all/>.

⁵ Open Government Partnership, Beneficial Ownership Commitments Fact Sheet, https://www.opengovpartnership.org/sites/default/files/OGP_Fact-Sheet_Beneficial-Ownership_November2018.pdf.

⁶ Transparency International, Recommendations on Beneficial Ownership Transparency for Open Government Partnership National Action Plans, 17 July 2018, https://www.transparency.org/whatwedo/publication/recommendations_on_beneficial_ownership_transparency_for_ogp_national_actio.

⁷ Deutscher Bundestag, Geldwaesche im Immobiliensektor, Antwort der Bundesregierung auf die Kleine Anfrage 19/1956, Drucksache 19/2449 (2018).

⁸ Deutschlands Zukunft Gestalten: Koalitionsvertrag Zwischen CDU, CSU UND SPD, <https://www.cdu.de/sites/default/files/media/dokumente/koalitionsvertrag.pdf>.

⁹ “Germany Letter of Intent to Join OGP,” Documents, Open Government Partnership, <https://www.opengovpartnership.org/documents/germany-letter-of-intent-join-ogp>.

¹⁰ See Section III, 3.2 for details on this recommendation.

VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in Germany's OGP repository,¹ website,² findings in the government's own self-assessment report,³ and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reserves the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.⁴

Interviews and stakeholder input

The research strategy for collecting stakeholder views and inputs involved reaching out to three different stakeholder groups and addressing tailored sets of semi-structured questions to them. These groups involved civil society (Set 1), potentially interested civil society (Set 2), and government (Set 3). Reaching beyond Sets 1 and 3 and inviting input from civil society groups outside the participating open government community seemed particularly relevant to gauge the efficacy of outreach and awareness efforts. Doing so also helped assess the potential to further expand and institutionalize OGP co-creation and the potential to address issues beyond its current manifestation.

Semi-structured questionnaire to Open Government Network participants

Outreach to civil society organizations and individuals already engaged in the OGP process was facilitated by the OGP Netzwerk coordinator, Michael Peters. Peters shared with the full Open Government Network (OGN) mailing list a link to an online questionnaire with 10 semi-structured questions (22 November 2018).

Responses received:

- Georg Neumann, Open Contracting Partnership and individual member
- Thomas Tursics, individual member
- Johanna zum Felde, former OGN coordinator
- Joern von Lucke, Gesellschaft für Informatik and Zeppelin University
- Representative from Offene Kommune NRW Institut
- Representative from Humboldt Institute for Internet and Society

Semi-structured questionnaire to all contact points within federal ministries engaged with OGP

Outreach was facilitated by the point of contact, Sebastian Haselbeck, who shared a link to the online questionnaire on 30 November 2018. Responses were relayed back via Haselbeck, and the following responses were received:

- Referat IVB2, Federal Ministry for Economic Affairs and Energy
- Referat 513, Federal Ministry for Economic Cooperation and Development
- Referat Zb3, Federal Ministry of Labor and Social Affairs
- Referat 110, Federal Press Office (renamed Referat 104 in 2019)
- Referat K13, Federal Government Commissioner for Culture and the Media
- Referat Z15, Federal Ministry of Education and Research
- Referat Z13/DG3, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (DG3 renamed to Z26)
- Referat H111, Federal Ministry of the Interior, Building and Community
- Referat H115, Federal Ministry of the Interior, Building and Community
- Referat DG 21, Federal Ministry of Transport and Digital Infrastructure

On 13 November 2018, the IRM researcher's semi-structured questionnaire as purposive sample snowballed to more than 30 personal contacts in German civil society outside the OGP process. The following responses were received:

- Representative from large development nongovernmental organization (NGO), received 25 November 2018
- Representative from large development NGO, received 20 November 2018
- Representative from NGO, received 14 November 2018
- Information technology service provider, received 14 November 2018

The following are in-person interviews that were conducted in Berlin (in parentheses is the corresponding set to which the interviewee belongs):

- Michael Peters (1), coordinator of the Open Government Netzwerk and representative of the Open Knowledge Foundation (OKFN), 12 October 2018 (@OKFN office), various follow-up conversations via email until 18 December 2018
- Sebastian Haselbeck (2) OGP point of contact, Referat 623, Federal Chancellery, 12 October 2018, various follow-up conversations by phone and email until 20 December 2018
- Dr. Tobias Knobloch (1), Stiftung Neue Verantwortung, 11 October 2018, (@ Fraunhofer Fokus)
- Benjamin Seibel (2), Technologiestiftung Berlin, 12 October 2018 (@ Technologiestiftung)
- Helen Turek (other), OGP international secretariat and country contact point for Germany, 12 October (@WeWork Berlin)

The following are in-depth, semi-structured interviews that were conducted by phone (between 30 minutes and 1.5 hours; in parentheses is the corresponding set to which the interviewee belongs):

- Walter Palmeshofer (1), OKFN and OGN strategy group member, 23 November 2018
- Gabriele C. Klug (1), OGN strategy group member, 20 November 2018
- Representative of Capgemini Germany (other), 17 November 2018
- Dr. Ansgar Klein (1), OGN strategy group member, 26 November 2018
- Prof. Jörn von Lucke (1), Zeppelin University and OGN strategy group member, 20 November 2018
- Representative of Federal Ministry of Transport and Digital Infrastructure (2), 7 November 2018
- Representative of GIZ (2), 12 November 2018

- Representative of Federal Ministry for Family Affairs, Senior Citizens, Women and Youth

Email exchange: Gerald Swarat, Fraunhofer Institut für Experimentelles Software Engineering and OGN strategy group member

Event – participant observation

- Observation and various conversations with OGP-related focus with participants at Berlin Open Data Day 2018, 11 October 2018, Fraunhofer

All interviewees agreed that information received would not be attributed to individuals, to create a more open environment for conversation. Several participants opted for higher levels of confidentiality and are thus only listed with general reference to their organization or type of organization. For the same reasons, aural interviews were not recorded but captured through extensive notetaking.

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M’Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researchers. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org.

¹ “Berichtswesen,” OGP, Die Bundesregierung, https://www.verwaltung-innovativ.de/DE/Internationales/OGP/berichtswesen/berichtswesen_node.html.

² “Open Government Partnership,” Internationales, Die Bundesregierung, https://www.verwaltung-innovativ.de/DE/Internationales/OGP/OGP_node.html.

³ “Interim Report by the Federal Government on the Implementation of the First National Action Plan (NAP) for 2017–19 in the Framework of Germany’s Participation in the Open Government Partnership (OGP),” Die Bundesregierung, 16 November 2018, https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/Internationales/Zwischenbericht_OGP_engl_Fassung.html;jsessionid=C22630D4FF05296F69C04BAACA170AA6.2_cid322?nn=10171370.

⁴ “IRM Procedures Manual, V.3,” Open Government Partnership, <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

Annex I. Overview of Germany's performance throughout action plan development

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

Multi-stakeholder Forum	
1a. Forum established: There is a forum to oversee the OGP process	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely	Green
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure.	Yellow
1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page.	Green
2a. Multi-stakeholder: The forum includes both governmental and non-government representatives	Red
2b. Parity: The forum includes an even balance of governmental and non-governmental representatives	Yellow
2c. Transparent selection: Non-governmental members of the forum are selected through a fair and transparent process.	Green
2d. High-level government representation: The forum includes high-level representatives with decision making authority from government	Yellow
3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum	Green
3e. Remote participation: There are opportunities for remote participation in at least some meetings and events	Green
3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders	Green

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

Action Plan Development	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published.	Green
4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process.	Yellow
4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process.	Green
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity.	Green
4e. Reasoned response: The multi-stakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment.	Yellow
5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g links to databases, evidence of meetings, publications)	Green

Editorial note: If a country “meets” the six standards in bold, the IRM will recognize the country’s process as a Starred Process.