Independent Reporting Mechanism (IRM): Germany Design Report 2019–2021

This report was prepared in collaboration with Dieter Zinnbauer, Copenhagen Business School

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Open
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Executive Summary: Germany

Germany's second action plan continues to focus on open data and civic participation in decision-making processes. Notable commitments include improving the openness of German foreign policy, expanding public participation in rule-making, and strengthening data sovereignty in North Rhine-Westphalia. Germany's next action plan could address climate change, lobbying transparency, and expanding innovative open data practices at the state level.

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. Since, Germany has implemented one action plan. This report evaluates the design of Germany's second action plan.

General overview of action plan

Germany continues to perform strongly in most major areas of open government, and Germans continue to report high levels of trust in the federal government and in the opportunities to participate in political life. Germany's second action plan builds on the foundations established under the first plan, particularly around open data and civic participation in certain policy areas. The second action plan also includes five commitments from German *laender* (states).

Table 1. At a glance	
Participating since:	2016
Action plan under review:	Second
Report type:	Design
Number of commitments:	14
Action plan development	
Is there a multistakeholder forum:	No
Level of public influence:	Involve
Acted contrary to OGP process:	No
Action plan design	
Commitments relevant to OGP values:	14 (100%)
Transformative commitments:	1 (7%)
Potentially starred commitments:	1

The development of Germany's second action plan followed a two-track consultation process similar to that used in developing the first plan. However, the second action plan saw a deeper level of engagement with stakeholders, as well as detailed feedback on stakeholder proposals and the inclusion of state-level initiatives. Despite the deeper level of engagement, several major civil society priorities did not make it into the final action plan. To help reduce this gap in the next plan, Germany could consider an additional opportunity for participants to provide feedback on the final commitments selected. It could also consider bringing the co-creation process in the country in line with OGP's Participation and Co-creation Standards.

Noteworthy commitments in Germany's second action plan include improving the transparency of German foreign policy, including the digitization of historical documents of the Federal Foreign Office (Commitment 2). Commitment 5 builds on the improvements in transparency of development data and dialogue in development cooperation achieved during the first action plan, while Commitment 8 aims to improve public understanding and participation in the law-making process. Additionally, Commitment 12

aims to strengthen data sovereignty in North Rhine-Westphalia and could improve public access to categories of privatized data that have considerable public value.

Table 2. Noteworthy commitments

Commitment description	Moving forward	Status at the end of implementation cycle
2. Civil society dialogue on foreign policy Expand and deepen citizen engagement in foreign policymaking and continue digitizing the Federal Foreign Office's Political Archive.	During implementation, the Federal Foreign Office could actively solicit user feedback and respond with how this feedback was incorporated. The digitization of the political archive could be guided by clear targets. The Office can publish user feedback on the archive and fully explain which segments of files are not made available.	Note: this will be assessed at the end of the action plan cycle.
5. Transparency and participation in development cooperation Improve the quality and scope of data in development cooperation and establish broader dialogue on reporting in this area, as well as on greater data use and integration.	For successful implementation, the Federal Ministry of Economic Cooperation and Development (BMZ) could ensure high up-take of International Aid Transparency Initiative (IATI) standards by new reporting entities as well as transparent tracking of comments and follow-ups in the planned feedback system. BMZ could also develop customizable visualizations and integration with other development-related information systems.	Note: this will be assessed at the end of the action plan cycle.
8. Better regulation through participation and testing Expand public participation in drafting rules and make laws and regulations easily comprehensible and freely available	During implementation, the Federal Chancellery could consider adding explanatory notes to improve the comprehensibility of laws and develop user-friendly guides to the provisions of the law and its applications. The Federal Chancellery could also develop guides on how to participate in the early stages of planning new laws, namely the pre-drafting scenarios before drafting begins.	Note: this will be assessed at the end of the action plan cycle.
12. Strengthening data sovereignty in North Rhine-Westphalia Identify and address challenges for public administrations with regard to data sovereignty in North Rhine Westphalia	To maximize the impact of this commitment, the North Rhine-Westphalia Ministry of Economic Affairs could ensure that the scoping exercise and guidance materials are fully relevant to and generated in cooperation with municipalities in other German states. It could also consider expanding the current focus on data in public-private partnerships to data-sharing possibilities with other private entities whose services (such as ride or flat-sharing) intersect with essential local regulatory functions.	Note: this will be assessed at the end of the action plan cycle.

Recommendations

IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan. Please refer to Section V: General Recommendations for more details on each of the below recommendations.

Table 3. Five KEY IRM Recommendations

Add a further consultation step for the draft action plan and strengthen the institutional basis for more collaborative design and stewardship of the action plan.
Expand and systematize outreach to and involvement of actors at local and state levels, as well as parliament and the parliamentary administration.
Establish a thematic focus on climate change: the green transformation and open government.
Revisit civil society and international suggestions on lobbying (a mandatory, effectively enforced registry) and conflict-of-interest management (e.g., better reporting on assets, incomes, and interests). Include a strong commitment to maximize the efficacy of any possible regulations in these areas.
Consider expanding innovative state-level commitments on adopting open data standards and data sovereignty.

ABOUT THE IRM

OGP's Independent Reporting Mechanism (IRM) assesses the development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

Open Government Partnership

Dr. Dieter Zinnbauer collaborated with the IRM to conduct desk research and interviews to inform the findings in this report. Dr. Zinnbauer works on emerging policy issues and innovation in the areas of governance and technology. He is a research fellow at the Copenhagen Business School, holds a PhD from the London School of Economics and served as senior manager on innovation for Transparency International.

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 complete commitments. Civil society and government leaders use these evaluations to reflect on their own progress and determine if actions have impacted people's lives.

Germany joined OGP in 2016. This report covers the development and design of Germany's second action plan for 2019–2021.

The Independent Reporting Mechanism of OGP has partnered with Dr. Dieter Zinnbauer to conduct 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 continues to have favorable conditions for advancing open government, including strong civic rights, an effective rule of law and sound anticorruption policies. Germany's second action plan builds on the first plan by including more commitments on open data (at the state and local levels) and on civic participation. Areas for improvement include the user-centricity of open data regimes, the regulation and transparency of lobbying, and the deployment of anti-money laundering measures in the housing sector.

Germany's first OGP action plan (2017−2019) largely focused on laying institutional foundations for its future OGP engagement, improving transparency and open data, and expanding civic engagement. The first plan resulted in significantly greater disclosure of information in the extractive sector, foreign aid, and transportation.[1] Germany's second action plan (2019−2021) continues to improve open data but also focuses on expanding opportunities for civic participation in areas such as foreign policy, foreign aid transparency, and youth policy. The plan also includes activities for stimulating innovation and developing technology-driven solutions in public administration. Lastly, the second action plan includes five commitments from three German states (three from North Rhine-Westphalia, one from the Free State of Saxony, and one from Schleswig-Holstein).

In October 2019, the government of Germany officially begun its three-year term on the OGP Steering Committee, along with the governments of Georgia and Indonesia.[2]

Transparency and access to information (legal framework and practice)
Germany tends to have average scores in relation to comparable countries regarding transparency and openness. The World Justice Project ranked Germany 11th among 38 high-income countries in its 2019 Rule of Law Index. The Project ranked countries on the online availability of laws and data, the right to information, civic participation, and complaint mechanisms.[3] The Global Right to Information Rating assesses the overall strength of the right-to-information legal framework using 61 indicators. In its 2018 update,[4] Germany scored 54 out of 150 possible points and ranked 116th among 123 countries assessed.[5] Areas needing improvement were the establishment of clear information rights, stronger sanctions and protections, and more expansive promotion of these mechanisms. The 2019 Sustainable Governance Indicators examine 43 EU and OECD countries. It gave Germany 8 out of 10 possible points in the second-best and largest band of countries (out of four bands) regarding government transparency.[6]

A comparative assessment of transparency in German states and the federal government shows high variation.[7] For example, some states such as Bavaria and Lower Saxony lack a dedicated freedom-of-information law entirely, while Hamburg has a strong transparency law that mandates proactive disclosure of many information categories and scored 69 out of 100 points. The federal government itself ranked at the bottom of the middle tercile, with a score of 38.[8] The assessment found the federal government was particularly weak regarding information rights and the proactive disclosure of government information.[9] The most recent official evaluation of the 2005 Federal Freedom of Information Law (*Informationsfreiheitsgesetz*) in 2012 found that it could be strengthened by, for example, reducing applicable fees and demanding more comprehensive justifications for exemptions.[10] The latter issue was also reiterated as a central recommendation in the most recent activity report by the federal freedom-of-information commissioner for 2018−2019.[11]

The German government's communication about the COVID-19 pandemic and related response measures has been highly transparent, and the country has been held as an example in this regard.[12] The country has commissioned a tracing application[13] that adheres to strict privacy standards[14] and relies in large part on an open source architecture that has been extensively scrutinized.[15] However, there remains some room for improvement in the open governance of the country's COVID-19 response. Civil society groups have jointly appealed to the Robert Koch Institute, the federal government's main scientific body, to provide more timely, disaggregated, and machine-readable data that underpins its daily

pandemic assessments. One of civil society's main freedom-of-information portals saw a doubling of visits in the early phases of the pandemic,[16] as people searched for institutions' preparedness plans.[17] Furthermore, there is at least one freedom-of-information case currently in the court system, as a state government has refused to grant public access to some COVID-19 related directives.[18]

Open Data

In 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 the social and political impact of data.[19] The 2019 Open Data Maturity Index for the EU28+[20] countries placed Germany in the "follower" category, (at rank 13, just above the overall average), and identified ongoing challenges in organizational capabilities, awareness, and incorporation of data re-users.[21]

These rankings demonstrate Germany's relatively good scores on open data policies, quality, and oversight. However, there remains limited awareness inside the administration on open data issues, a need for more capacity building, and better data availability in key areas such as land ownership, water quality, and government spending.[22] In addition, the persistent lack of legally enforceable individual entitlements to open data was highlighted in 2019 by two high-profile expert commissions.[23] Civil society organizations (CSOs) continue to call for more comprehensive, rights-based, and proactive disclosure frameworks in the form of transparency laws at federal and state levels, a demand that is also strongly supported by the federal information commissioner.[24]

Germany used its first OGP action plan to strengthen the institutional framework and learning environment for open data. It expanded available open data in the transportation sector, the extractives sector, and development aid. Germany's second OGP action plan builds on these efforts. Among others, it aims to develop a national open data strategy, encourage multi-stakeholder innovation through regional open data labs, further expand open data in development aid, and deepen open data practices in several German states.

Civil Liberties and Civic Space

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*).[25] 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."[26] Article 17 establishes a right to petition the government.[27]

At the federal level, plebiscites are limited to issues about the territorial organization of the country. Other formal mechanisms for civic participation are included in laws on administrative procedures. Such procedures require mandatory hearings for large public and private undertakings, such as large-scale infrastructure projects.[28] Federal agencies and ministries also use informal, non-mandatory participation tools on a variety of policy initiatives.[29] Official processes for public input on draft laws are primarily focused on engaging organized interests in the context of the mandatory *Verbaendebeteiligung* rather than individual citizens,[30]

During the last couple of years, the federal government has continued to make these processes more transparent by posting draft bills alongside all received statements by interest groups online in more user-friendly manner.[31] Civil society and business demands in this area focus on the establishment of a mandatory lobbying register and a comprehensive so-called "legislative footprint:" a repository that allows citizens and organizations to track the development of any legislation from start to finish, including all amendments and their sponsors.[32]

Many formal mechanisms for civic engagement exist at state and local levels.[33] All German states recognize public referenda and a voting electorate in their constitutions, although there are significant limitations for financial matters.[34] A growing number of municipalities and local councils—such as Cologne,[35] Karlsruhe,[36] Leipzig,[37] and Giessen[38]—have begun to formalize and experiment with participatory mechanisms in their decision-making processes.[39]

Regarding civic rights and freedoms, Germany continues to rank highly, often in the top decile or quintile of countries in major assessments. In the World Justice Project's 2019 *Rule of Law Index*, Germany ranked 6th among 38 high-income countries assessed for fundamental rights (including freedom of assembly and association) and 3rd for civil justice (including civic participation).[40] In the *Sustainable Governance Indicator Initiative*, Germany scored 9 out of 10 points in the categories of civil and political liberties.[41]

The nongovernmental organization (NGO) Civicus includes the country in its top group of "open countries."[42] Similarly, 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 in its latest assessment for 2019/2020.[43] Freedom House has raised concerns about potential censorship risks in relation to a 2017 law that expands the requirements for social media platforms to remove illegal content, which is scheduled to be further tightened in 2020 (*NetzDG*).[44] A string of harassment, violent assaults and terrorist attacks by right wing-extremists and a persistent, incrementally growing cluster of an estimated 24,000 violence-prone right-wing extremists in the country highlight challenges to the practical exercise and protection of civic freedoms, particularly for immigrants and Germans with a migrant background.[45]

Accountability and anticorruption

Germany's legislative practices regarding accountability and anticorruption are generally well developed and effective.[46] However, the highly decentralized federal system at times defies standardized classification of international standards.[47] Transparency International's *Corruption Perceptions Index 2019* puts Germany 9th out of 180 countries, with a score of 80 of 100 possible points.[48]

The World Bank's *Worldwide Governance Indicators* placed Germany in the 95th percentile for both "voice and accountability" and "control of corruption" in 2018. The initiative noted a slight improvement in both dimensions between 2017 and 2018.[49] Other related assessments also identified room for improvement regarding whistleblower protection,[50] lobbying regulation, conflict-of-interest management,[51] and money laundering in the real estate sector.[52] As mandated by the EU's anti-money laundering framework, Germany updated its related legal provisions in 2019.[53] However, despite CSO protest, Germany charges a fee and does not anonymize public access to beneficial ownership information, a centerpiece for anti-money laundering efforts.[54]

Regarding lobbying regulation, the Council of Europe's Group of States Against Corruption (GRECO) noted in its second compliance report for 2019 that Germany has not followed through on related recommendations to strengthen the registration of lobbyists and increase transparency in the legislative process.[55] A controversy in mid-2020 about the lobbying and outside business activities by a prominent parliamentarian has generated fresh cross-party momentum for a mandatory lobbying register and broader transparency in this area.[56]

Finally, CSOs have pointed out corruption risks related to the COVID-19 pandemic. These risks relate to expedited procurement procedures at the local level, as well as the government's large economic support and stimulus package.[57]

Budget Transparency

The International Budget Partnership's *2019 Open Budget Survey* gave Germany 69 out of 100 points (compared to the OECD average of 68) and found that it provides "substantial budget information." It also scored well in budget oversight (91 out of 100 points). It received a lower score on public participation indicators: 15 of 100, compared to the OECD average of 23, an issue that is also noted by the OECD in its 2019 assessment of budgetary governance in practice.[58] While Germany is below the OECD average on gender budgeting, the country does well with regard to transparency of the budgetary impact on the environment (Germany is one of only two OECD countries to offer full disclosure).[59]

[1] Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019* (OGP, 27 Jul. 2020), https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/.

[2] OGP, 2019 Government Steering Committee Elections (14 May 2019), https://www.opengovpartnership.org/about/who-we-are/steering-committee/2019-government-steering-committee-elections-2/.

[3] World Justice Project, *World Justice Project Rule of Law Index 2019 "Germany"* (2019), https://worldjusticeproject.org/sites/default/files/documents/ROLI-2019-Reduced.pdf.

[4] The German assessment in this version was based on data collected in 2015.

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

[6] Sustainable Governance Indicators "Executive Accountability Citizens' Participatory Competence" (2019), https://www.sgi-network.org/2019/Governance/Executive_Accountability/Citizens%E2%80%99_Participatory_Competence/Open_Government.

[7] Helen Darbishire, Nicola Quarz, Arne Semsrott, and Alexander Trennheuser, *Transparenz Ranking 2017* (Open Knowledge Foundation and Mehr Demokratie, 2017), https://transparenzranking.de/static/files/ifg-ranking.pdf.

[8] *Id.*

[9] *Id.*

[10] Institut für Gesetzesfolgenabschätzung und Evaluation, *Evaluation des Gesetzes zur Regelung des Zugangs zu Informationen des Bundes—Informationsfreihtsgesetz des Bundes* [Evaluation of the Federal Freedom of Information Law] (2012), https://dopus.uni-speyer.de/frontdoor/deliver/index/docId/2771/file/AB_Informationsfreiheitsgesetz.pdf.

[11] Der Bundesbeauftragte fuer den Datenschutz und die Informationsfreiheit, "7. Tätigkeitsbericht zur Informationsfreiheit 2018 – 2019" [7th Activity Report on Freedom of Information 2018 – 2019] (17 Jun. 2020), 7, https://www.bfdi.bund.de/SharedDocs/Publikationen/Taetigkeitsberichte/TB_IFG/7TB_18_19.html?nn=5217154.

[12] Saskia Miller, "The Secret to Germany's COVID-19 Success: Angela Merkel Is a Scientist" (*The Atlantic*, 20 Apr. 2020), https://www.theatlantic.com/international/archive/2020/04/angela-merkel-germany-coronavirus-pandemic/610225/.

[13] Corona-Warn-App, "Corona-Warn-App Open Source Project Help us improve the Corona-Warn-App" (2020), https://www.coronawarn.app/en/.

[14] For example, see comments by the prominent hacker collective, Chaos Computer Club, as quoted in Simon Hurtz, "Diese App ist ein guter Anfang" [This app is a good place to start] (Süddeutsche Zeitung, 16 Jun. 2020), https://www.sueddeutsche.de/digital/corona-app-smartphone-tracing-datenschutz-1.4937957.

[15] Zeit Online, "Entwickler veröffentlichen Programmcode der Corona-Warn-App", 31 May 2020. https://www.zeit.de/digital/2020-05/corona-app-open-source-projekt-programmcode-quellcode.

[16] Arne Semsrott, "Corona und Informationsfreiheit" [Corona and Freedom of Information] (FragDenStaat, 20 Mar. 2020), https://fragdenstaat.de/blog/2020/03/20/corona-informationsfreiheit/?pk_campaign=newsletter&pk_kwd=20200329. Developers report that 7,000 responses to the beta versions of the code were received from the open source community (Die Bundesregierung, "Datenschutzhinweis" [Data Protection Notice] (accessed Jul. 2020), (https://www.bundesregierung.de/breg-de/aktuelles/pressekonferenz-zur-vorstellung-der-corona-warn-app-1761058).

[17] *See* FragDenStaat, "Pandemie-Manahmen-Plan.pdf" [Pandemic Action Plan.pdf] (Open Knowledge Foundation Deutschland, accessed Jul. 2020), https://fragdenstaat.de/dokumente/3934/.

[18] Ingo Dachwitz, "Justizministerium muss geheime Corona-Erlasse rausrücken" [Ministry of Justice has to issue secret Corona decrees] (Netzpolitik.org, 14 May 2020), https://netzpolitik.org/2020/justizministerium-muss-geheime-corona-erlasse-rausruecken/.

[19] Open Data Barometer, "Country Detail, Germany" (World Wide Web Foundation, 2017), https://opendatabarometer.org/country-detail/?_year=2017&indicator=ODB&detail=DEU.

[20] EU28 countries plus Iceland, Liechtenstein, Norway, and Switzerland.

[21] European Data Portal, *Open Data Maturity 2019: Germany* (Brussels: European Union, 29 Nov. 2019). https://www.europeandataportal.eu/sites/default/files/country-factsheet_germany_2019.pdf.

[22] A summary of major issues highlighted by more detailed assessments are included in the aforementioned rankings and analyses.

[23] Datenethikkommission, *Gutachen der Datenethikkommission* [Expertise from the Data Ethics Committee] (Oct. 2019), https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/it-digitalpolitik/gutachten-datenethikkommission.pdf?__blob=publicationFile&v=5; Bundesministerium für Wirtschaft und Energie, *Ein neuer Wettbewerbsrahmen für die Digitalwirtschaft* [A New Competition Framework for the Digital Economy] (Sept. 2019), https://www.bmwi.de/Redaktion/DE/Publikationen/Wirtschaft/bericht-der-kommission-wettbewerbsrecht-4-0.pdf?__blob=publicationFile&v=12.

[24] *See* the initiative for a public referendum on a transparency law for the state of Berlin. Volksentscheid Transparenz Berlin, "9 Gründe für ein Transparenzgesetz in Berlin" [9 reasons for a transparency law in Berlin] (2020), https://volksentscheid-transparenz.de/gruende/; Der Bundesbeauftragte fuer den Datenschutz und die Informationsfreiheit.

[25] The official English translation of the German Grundgesetz is available at: https://www.btg-bestellservice.de/pdf/80201000.pdf.

[26] 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."

[27] 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."

[28] Government of Germany, "§ 25 - Verwaltungsverfahrensgesetz (VwVfG)" [Administrative Procedures Act (VwVfG)], § 25] (buzer.de, 21 Jun. 2019), https://www.buzer.de/gesetz/1586/a22529.htm.

29 Examples include the development of the 2050 climate protection plan (*see* background text to Commitment 8 in Germany's first action plan, available at: https://www.verwaltung-innovativ.de/SharedDocs/Publikationen/EN/nationaler_aktionsplan_en.pdf?__blob=publicationFile&v=1) and a consultation on noise issues along major railroad lines (See *Dieter Zinnbauer, Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019 (OGP, 27 Jul. 2020), 21–23,* https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/.)

30 Nationaler Normenkontrollrat, *Erst der Inhalt, dann die Paragrafen. Gesetze wirksam und praxistauglich gestalten* [First the content, then the paragraphs. Make laws effective and practical] (McKinsey & Company, Oct. 2019). It should be noted that individual citizens also have a general right to petition the government.

31 Bundesregierung, "Vereinbarung zur Erhöhung der Transparenz in Gesetzgebungsverfahren" [Agreement to increase transparency in legislative procedures] (accessed Jul. 2020), https://www.bundesregierung.de/resource/blob/975226/1557560/3eb272d7adece1680649212178782fdb/2018-11-15-transparenz-gesetzgebungsverfahren-data.pdf?download=1.

32 See the demands by a high-profile business-civil society coalition (https://www.transparency.de/aktuelles/detail/article/allianz-fuer-lobbytransparenz-fordert-interessenvertretungsgesetz/) and related submissions to the second national action plan development (https://opengovpartnership.de/wp-content/uploads/2019/05/NAP2-Ergebnisse-Konsultation.pdf).

33 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); Frank Rehmet, "Volksbegehrensbericht 2019" [Referendum report 2019] (Mehr Demokratie 2019), https://www.mehr-demokratie.de/volksbegehrensbericht/.

34 Dr. 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.

35 Stadt Koeln, "Leitlinienprozess zur Beteiligung von Bürgerinnen und Bürgern" [Guidelines Dialogue for Good Citizen Participation in Cologne], https://www.stadt-koeln.de/politik-und-verwaltung/mitwirkung/leitlinien-buergerbeteiligung/index.html..

36 Karlsruhe, "Bürgerbeteiligung" [Citizen Participation] (7 Aug. 2019), https://www.karlsruhe.de/b4/buergerengagement/buergerbeteiligung.de.

37 City of Leipzig, "Search Results Web results Bürgerservice und Verwaltung" [Citizen Service and Administration] (accessed Jul. 2020), https://www.leipzig.de/buergerservice-und-verwaltung/buergerbeteiligung-und-einflussnahme/leipzig-weiter-denken/informieren/.

38 Netzwerk Burgerbeteiligung, "Gießen" [To Water] (19 Jun. 2018), https://www.netzwerk-buergerbeteiligung.de/kommunale-beteiligungspolitik-gestalten/kommunale-leitlinien-buergerbeteiligung/sammlung-kommunale-leitlinien/einzelansicht-leitlinien/article/giessen/.

39 Netzwerk Burgerbeteiligung, "Sammlung kommunaler Leitlinien und Handlungsempfehlungen für die Bürgerbeteiligung" [Collection of Communal Guidelines and Recommendations for Citizen Participation] (accessed Jul. 2020), https://www.netzwerk-buergerbeteiligung.de/kommunale-beteiligungspolitik-gestalten/kommunale-leitlinien-buergerbeteiligung/sammlung-kommunale-leitlinien/.

40 World Justice Project, *World Justice Project Rule of Law Index 2019* "Germany."

41 Friedbert Rub and Friedrich Heinemann, *Germany Report* (Sustainable Governance Indicators, 2019), https://www.sgi-network.org/docs/2019/country/SGI2019_Germany.pdf.

42 Civicus Monitor, "Germany" (9 Jul. 2020), https://monitor.civicus.org/country/germany/.

43 Freedom House, *Freedom in the World 2020* "Germany: Political Rights A Electoral Process" (2020) https://freedomhouse.org/country/germany/freedom-world/2020#PR.

44 Freedom House, *Freedom on the Net 2019* "Germany" (2019), https://freedomhouse.org/country/germany/freedom-net/2019.

45 Federal Ministry of the Interior, *Verfassungsschutzbericht 2018*: *Fakten und Tendenzen* [Office for the Protection of the Constitution: Facts and Trends] (24 Jan. 2019), [https://www.verfassungsschutz.de/embed/vsbericht-2018-kurzzusammenfassung.pdf.

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

47 Transparency International National Integrity System Analysis 2012.

48 Transparency International, *Corruption Perceptions Index* (2019) https://www.transparency.org/cpi2019.

49 The World Bank, "Worldwide Governance Indicators" (2019), https://info.worldbank.org/governance/wgi/Home/Reports.

50 Whistleblower Netzwerk and Transparency International Germany, *Umsetzung der EUR-Richtlinie zum Hinweisgeberschutz* [Implementation of the EUR directive on whistleblower protection] (Positionspaper 2019).

51 Freedom House, *Freedom in the World Report 2018* "Germany Profile" (2018) https://freedomhouse.org/country/germany/freedom-world/2018; Council of Europe, *Second Compliance Report Germany* Fourth Evaluation Round GrecoRC4 (2019), 1.

52 Transparency International Deutschland, *Geldwäsche bei Immobilien in Deutschland* [Money Laundering in Real Estate in Germany] (Berlin: Transparency International Germany, 2018); Tax Justice Network, *Financial Secrecy Index 2020: Narrative Report on Germany* (2020), https://www.netzwerk-steuergerechtigkeit.de/publikationen/schattenfinanzindex/.

53 Bundesanzeiger Verlag, "Gesetz zur Umsetzung der Änderungsrichtlinie zur Vierten EU-Geldwäscherichtlinie" [Law implementing the amending directive to the fourth EU money laundering directive] (12 Dec. 2019),

https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&start=//*[@attr_id=%27bgbl119s2602.pdf%27]#__bgbl__%2F%2F*%5B%40attr_id%3D%27bgbl119s2602.pdf%27%5D__1589266268573.

[54] See Transparency International Deutschland, WEED, and Netzwerk Steuergerechtigkeit, "Stellungnahme von Transparency International Deutschland e.V., WEED e.V. und Netzwerk Steuergerechtigkeit zum Referentenentwurf eines Gesetzes zur Umsetzung der Änderungsrichtlinie zur Vierten EU-Geldwäscherichtlinie (Richtlinie (EU) 2018/843) und anderer Gesetze" [Opinion by Transparency International Deutschland e.V., WEED e.V. and Network Tax Justice on the draft bill for a law implementing the amending directive to the fourth EU Money Laundering Directive (Directive (EU) 2018/843) and other laws] (31 May 2019), https://www.transparency.de/fileadmin/Redaktion/Aktuelles/Stellungnahmen/2019/19-05-31_Stellungnahme_5.EU-Geldwaesche-Richtlinie.pdf; Arne Semsrott,Transparenzregister gegen Steuerhinterziehung: Nebelkerze statt Offenheit [Transparency register against tax evasion: fog candle instead of openness] (Netzpolitik.org, 21 May, 2019), https://netzpolitik.org/2019/transparenzregister-gegen-steuerhinterziehung-nebelkerze-statt-offenheit/.

[55] See Section II. See also Council of Europe, Second Compliance Report Germany Fourth Evaluation Round GrecoRC4 (2019), 1.

[56] See Der Spiegel, "CDU-Generalsekretär will Lobbyregister noch in dieser Legislaturperiode" [CDU general secretary wants lobby register this legislative period] (21 Jun. 2020), https://www.spiegel.de/politik/deutschland/paul-ziemiak-cdu-generalsekretaer-will-lobby-register-nach-fall-philipp-amthor-noch-in-dieser-legislatur-a-03ccbd8d-a86e-47fd-a1a8-7f167fc4ec40.

[57] International Monetary Fund, "Policy Responses to COVID-19 Policy Tracker" (accessed Jul. 2020), https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#G; Transparency International Deutschland, "Die Corona-Krise – ein Katalysator für Korruption?" [The Corona Crisis - A Catalyst for Corruption] (Jun. 2020), [https://www.transparency.de/fileadmin/Redaktion/Publikationen/2020/Positionspapier_Korruptionspraevention_Corona_Juni_2020.pdf.

[58] International Budget Partnership, "Open Budget Survey 2019: Germany," (2019), https://www.internationalbudget.org/open-budget-survey/country-results/2019/germany; OECD, Budgeting and Public Expenditures in OECD Countries 2019 "Budgetary Governance in Practice: Germany" https://www.oecd.org/gov/budgeting/budgeting-and-public-expenditures-2019-germany.pdf.

[59] OECD, Government at a Glance 2019 "Country Fact Sheet: Germany" (2019), https://www.oecd.org/gov/gov-at-a-glance-2019-germany.pdf.

III. Leadership and Multistakeholder Process

The co-creation of Germany's second action plan saw significantly greater levels of stakeholder engagement and input opportunities compared to the first plan. The government's feedback to civil society proposals was more detailed and the government expanded the process to include state-level commitments. Civil society's voice in the OGP process could be strengthened by allowing greater opportunity for civil society to provide feedback on the suggested commitments before the action plan is officially adopted.

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 the Division Digital State (Referat 623). Division Digital State is a subunit of the Department for Political Planning, Innovation, and Digital Policy, Strategic IT Coordination at the Federal Chancellery (Bundeskanzleramt).

The Chancellery is a good institutional home for the OGP point of contact, due to the importance of coordinating and liaising between many ministries and other federal government entities involved in the OGP action plan. Unlike Germany's first action plan, the second plan includes five commitments proposed and independently coordinated by German states.
 This is an important development, as many open government activities in Germany take place at the state and local level.

The OGP point of contact coordinated outreach to the states and incorporated their proposals into the second action plan as a self-standing addendum. The terms for including German states into the OGP process are based on a decision by the IT Planning Council, a body that coordinates information and communications technology issues with the federal government and German states.[1]

Several developments suggest that political support for Germany's OGP engagement has increased since the country joined the Partnership. A video message by Chancellor Merkel on 31 August 2019 accompanied the finalization of the second action plan design phase [2] and the plan itself contains a foreword by the Chancellor.

In addition, the German government successfully applied to join the OGP Secretariat Steering Committee in 2019.[3] The German delegation to the 2019 OGP Global Summit in Ottawa included representatives of several federal ministries and was led at the ministerial level by the Minister of State for Digitization, Dorothee Baer.[4] More visibility of Germany's involvement in OGP is also evident in the political discourse, with the government and opposition parties invoking Germany's commitment to OGP principles in discussions about issues of transparency and openness.[5]

The financial allocation for core OGP-related activities rose from EUR 285,000 in 2018 to EUR 1,085,000 in 2019. It remains at a similar level for 2020 and is, according to several interviewed sources, sufficient for core OGP coordination costs.[67] The budgets of other ministries that implement OGP commitments do not have dedicated OGP budget lines, but they have budget allotments for open data and other programs that relate to action plan activities.[8]

3.2 Action plan co-creation process

The development of Germany's second action plan took place during more favorable political conditions than during the development of the first plan. For example, the design phase did not fall into an election period and the applicable coalition agreement for the 19th legislative period contains an explicit reaffirmation of Germany's OGP engagement.[9]

More time was provided for developing the second plan, both in terms of the entire process as well as better advance notice for individual events. Also, the level of awareness and knowledge about OGP was generally higher among all participating stakeholders due to their experience with the first action plan.[10] An interactive online platform facilitated the collection and deliberation of ideas, which made it easier to follow and engage.[11] Additionally, a new website maintained by the point of contact provided comprehensive background information on OGP for participating stakeholders.[12]

The co-creation process for Germany's second action plan involved more diverse opportunities for deliberation compared to the first plan.[13] These opportunities included:
- a pre-consultation information meeting in October 2018,
- a public kick-off meeting in March 2019 with a preliminary discussion of possible thematic priorities for the new action plan,
- a month-long online consultation in April 2019 that allowed for a higher level of engagement with proposals than was the case during the previous action plan,
- facilitation of civil-society driven workshops to deepen formation of thematic areas, and
- a concluding workshop in May 2019.

The synthesis and prioritization of civil society proposals occurred during a meeting focused on a clear, time-bound outcome of a sorted list of received suggestions. This meeting involved civil society and the OGP point of contact and was based on a set of transparent criteria.[14] The government's feedback on civil society proposals for commitments was more detailed than that of the first plan.[15] Furthermore, new stakeholders, were involved in the second plan's co-creation beyond the core group of open data and open governance stakeholders, such as an NGO working on disability and inclusion issues and an association of development NGOs.[16]

The second action plan includes five commitments by three German states. This is a positive first step toward expanding the OGP process to the subnational level, where many initiatives and engagement around open government occurs.[17] The design process of these state-level commitments differed between the states. In North Rhine-Westphalia, a number of meetings and workshops with civil society were held to develop the commitments.[18] The commitments for Saxony and Schleswig Holstein are continuations and expansions of ongoing initiatives and are anchored in the respective coalition agreements of the parties in power in both states.[19]

The overall approach taken to develop the second action plan can still be described as a two-track consultation process, rather than an iterative co-creation exercise, and largely mirrored the approach taken during the first.[20] The point of contact for OGP coordinated outreach to civil society and consolidated their input into the action plan. Simultaneously, the point of contact consulted in-house with ministries and other federal bodies to identify ongoing and planned activities that fit within the plan's themes and merited inclusion in the action plan. This two-sided approach is not a significant structural shortcoming per se. It remains perhaps the most feasible format for organizing such a multistakeholder process at the federal level, given the highly-differentiated nature of the administrative system and the logistical challenges of federalism.[21]

Despite stronger interaction between government and civil society, there is still room for improvement in attracting more stakeholders from other policy areas and reflect the cross-cutting nature of open government and mainstream open government into other policy domains.[22] Involving the subnational level in open governance is only in a nascent state. The IT Planungsrat (the main forum for coordinating federal-state relations on technology and OGP issues) views this as an area for improvement and describes current interactions as conducted in a mostly voluntary and ad-hoc manner.[23]

Adding one more feedback and deliberation step could significantly enhance this process. There was no substantive opportunity for civil society stakeholders to provide feedback or engage in a conversation around the commitments selected for inclusion by the government in the draft action plan. Adding such a step could help refine commitments and incorporate more civil society input

This is particularly important given widespread perception from civil society that the second plan could have benefited from a higher level of ambition and that the increased consultation and engagement did not yield a more tangible civil society imprint on the final commitments.[24] Other suggested improvements from civil society participants include: a longer online consultation process, earlier notification of deadlines, a lower entry threshold by removing the registration requirements,[25] holding meetings outside Berlin, and financial support for civil society participation.[26]

Only a few proposals from civil society were included as commitments in the final action plan, namely regional open government labs and open data issues.[27] Some major civil society priorities such as the establishment of a mandatory lobby register and a repository to track changes in draft legislation (its "legislative footprint"), were not included.[28] However, the government compiled an 18-page public note with detailed reasons on why specific proposals were considered or not prioritized.[29]

Table 4: Level of Public Influence
The IRM has adapted the International Association for Public Participation's (IAP2) "Spectrum of Participation" to apply to OGP.[30] 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[31]	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	

OGP Participation and Co-creation Standards

In 2017, OGP adopted OGP Participation and Co-Creation Standards 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.

The following table provides an overview of Germany's performance implementing the Co-Creation and Participation Standards throughout the 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

Multistakeholder Forum	Status
1a. Forum established: The Open Government Network (OGN) coordinates the OGP process among civil society stakeholders and serves as a main interlocutor between civil society and the OGP point of contact to.[32]	Green
1b. Regularity: Consultations with civil society and government ministries organized by the point of contact are held at least every quarter, in person or remotely.	Green
1c. Collaborative mandate development: There is substantive engagement by civil society, but the mandate of Germany's participation in OGP is largely developed by the OGP point of contact in the Chancellery in collaboration with relevant government actors.	Yellow
1d. Mandate public: Information on the remit, membership and governance structure for Germany's involvement in OGP is available on the OGP webpage.[33]	Green
2a. Multistakeholder: The OGN coordinates civil society's involvement in the OGP process. It is run by and consists only of civil society stakeholders and does not include formal representation from government stakeholders. However, the overall co-creation process for the second action plan saw multi-stakeholder engagement between civil society and government.	Red
2b**. Parity**: A substantive number of civil society actors engaged in the action plan's development process through the OGN.	Yellow
2c. Transparent selection: Steering group members of the main civil society collective engaging on the OGP process are selected through a fair and transparent process.	Green
2d. High-level government representation: The co-creation of the second action plan included unit leads from the Chancellery, and ministers and state secretaries attended meetings when their presence was warranted.	Green
3a. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum.	Green
3b. **Remote participation**: There are opportunities for remote participation in some OGP meetings and events.	Green
3c. **Minute**s: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders.[34]	Green

Action Plan Development	
4a. Process transparency: There is a national OGP website where information on all aspects of the OGP process is proactively published.	Green
4b. Documentation in advance: When useful, the government shares pertinent information in advance.	Green

4c. Awareness-raising: The government conducted outreach and awareness-raising activities with relevant stakeholders to inform them of the OGP process.	Green
4d. Communication channels: The government facilitated direct communication with stakeholders to respond to action plan process questions.	Green
4e. Reasoned response: The government compiled an 18-page public note with detailed reasons on why specific proposals were considered or not prioritized. However, a public consultation and feedback on the draft action plan was absent.	Green
5a. Repository: The government documented, collected, and published a repository on the domestic OGP website[35] in line with IRM guidance.	Green

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[1] Open Government Deutschland, "Open Government in Germany" (12 Sept. 2019), https://www.open-government-deutschland.de/opengov-en/content/open-government-in-germany-1685492.

[2] Open Government Deutschland, "Chancellor Merkel announcing the 2nd National Action Plan in the framework of Germany's participation in the OGP" (31 Aug. 2019), https://www.open-government-deutschland.de/opengov-en/content/chancellor-announces-national-action-plan-1685508.

[3] Open Government Deutschland, "Open Government in Germany."

[4] Open Government Deutschland, "Delegation attended the OGP Global Summit 2019" (6 Jun. 2019), https://www.open-government-deutschland.de/opengov-en/content/delegation-attended-the-ogp-global-summit-2019-1685490.

[5] OGP was mentioned more than 20 times in parliamentary communications during the current legislative period (search on http://dipbt.bundestag.de/dip21.web/searchDocuments/simple_search.do); for example, *see* German Parliament, "Kleine Anfrage der Abgeordneten Tabea Rößner et al." [Small request by Tabea Roessner et al.] Drucksache 19/16638 (20 Jan. 2020), http://dip21.bundestag.de/dip21/btd/19/166/1916638.pdf.

[6] Direct OGP budget allocations are not itemized as such in the 2020 budget but subsumed under two different budget titles. OGP point of contact, email to IRM researcher, Dec. 2019.

[7] German Parliament, "Gesetzentwurf
der Bundesregierung" [Bill of the Federal Government] Drucksache 19/3400 (10 Aug. 2018), Item 532 05-011, http://dip21.bundestag.de/dip21/btd/19/034/1903400.pdf.

[8] *Id. See also* German Parliament, "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], Drucksache 19/4026 – 2708.18 (2018), https://kleineanfragen.de/bundestag/19/4026-strategie-und-umsetzung-der-open-government-partnership-von-open-data-transparenz-und-buergerbeteiligung.

[9] Koalitionsvertrag zwischen CDU, CSU und SPD (2018), "*Ein neuer Aufbruch für Europa Eine neue Dynamik für Deutschland Ein neuer Zusammenhalt für unser Land* "[Coalition Agreement between CDU, CSU and SPD: A new departure for Europe A new dynamic for Germany A new cohesion for our country] https://www.cdu.de/system/tdf/media/dokumente/koalitionsvertrag_2018.pdf?file=1.

[10] Participant observation by IRM researcher during two consultation meetings, 6 March 2019 and 15 May 2019 (see Section VI for details).

[11] Open Government Deutschland, "Online-Konsultation zum 2. NAP" [Online consultation on 2nd NAP] (accessed Aug. 2020), https://ogpde.yrpri.org/community/940.

[12] Open Government Deutschland, "OGP: 'Open Response + Open recovery'" (2020), https://www.open-government-deutschland.de/.

[13] *Compare* documentation of the design phase in Section V of the second action plan with the documentation of the design phase for the first action plan included in the IRM design report (2017−2019). For more details about the consultation process *see also* https://www.open-government-deutschland.de/opengov-de/mitmachen/machen-sie-mit--1591044; for a timeline of consultation events see https://www.open-government-deutschland.de/opengov-de/termine/zeitleiste-1591046, and for the repository of meeting protocols etc. see https://bscw.bund.de/pub/bscw.cgi/71118924.

[14] For synthesis see https://opengovpartnership.de/wp-content/uploads/2019/05/NAP2-Ergebnisse-Konsultation.pdf, for participants' list see https://bscw.bund.de/pub/bscw.cgi/72498481?op=preview&back_url=72254815; for the applied quality criteria see https://bscw.bund.de/pub/bscw.cgi/72254826?op=preview&back_url=72254815.

[15] *Compare* the 18-page letter by the government with detailed discussions of the suggestions (https://www.open-government-deutschland.de/resource/blob/1591100/1659374/6df5c9d56a89546d87dde35c98c8f6c6/antwortideen-data.pdf?download=1) with the 3-page letter by the government Plent for the first action plan (https://opengovpartnership.de/wp-content/uploads/2017/06/Antwort_Bewertungsergebnis_OGP_Ideen_ZivilG_170530.pdf).

[16] See the participants' list for the kick-off meeting for the action plan design https://www.open-government-deutschland.de/resource/blob/1591100/1591246/0823f40a5711aae640eb4e18fc525263/teilnehmerliste-data.xlsx?download=1. Only 40% of participants during the kick-off meeting described themselves as open government experts; more than 50% indicated that they are somewhat familiar with the concept but would like to learn more (Open Government Deutschland,

"Bildschirmfotos Teilnehmerumfrage Auftakt 6. März" [Screenshots Participant survey kicks off March 6th] (2020), https://www.open-government-deutschland.de/opengov-de/mitmachen/bildschirmfotos-teilnehmerumfrage-auftakt-6-maerz-1596006).

[17] For constitutional reasons, these commitments are subject to the action plan reporting requirement but are fully owned and accounted for by the respective German states, not the federal government. For the legal and practical details of federal versus state-level commitments see the introduction to the *laender* section of *Germany Action Plan 2019-2021* (page 52).

[18] Offene Kommunen.nrw, "Open Government bei uns – NRW beim 2. Nationalen Aktionsplan" [Open Government with us - NRW in the 2nd National Action Plan] (20 Aug. 2019), https://oknrw.de/open-government-bei-uns-nrw-beim-2-nationalen-aktionsplan/; Michael Peters, "Open Government in Deutschland: mehr zivilgesellschaftliche Beteiligung" [Open government in Germany: more civil society participation] (Open Government Netzwerk Deutschland, 26 Feb. 2019), https://opengovpartnership.de/open-government-in-deutschland-mehr-zivilgesellschaftliche-beteiligung/.

[19] Mitteldeutscher Rundfunk, "Koalitionsvertrag Sachsen für die Jahre 2019 bis 2024" [Coalition agreement Saxony for the years 2019 to 2024] (accessed Aug. 2020), https://www.mdr.de/sachsen/politik/koalitionsvertrag-sachsen-104.html (expansion of participation platform); The Christian Democratic Union of Germany State Association of Schleswig-Holstein, Alliance 90 / The Greens State Association of Schleswig-Holstein, and the Free Democratic Party State Association of Schleswig-Holstein, *Koalitionsvertrag für die 19. Wahlperiode des Schleswig-Holsteinischen Landtages (2017-2022)* [Coalition agreement for the 19th parliamentary term of the Schleswig-Holstein Landtag (2017-2022)] (2017), https://www.schleswig-holstein.de/DE/Landesregierung/_documents/koalitionsvertrag2017_2022.pdf?__blob=publicationFile&v=1 (promotion of open source software use in public administration).

[20] For more on the two-sided consultation process, *see* Section III of the first design report (Dr. Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Design Report 2017– 2019* (OGP, 2019), https://www.opengovpartnership.org/wp-content/uploads/2019/06/Germany_Design-Report_2017-2019_EN_for-public-comment_rev.pdf.

[21] *See* related discussion, *id*.

[22] Numbers in subsequent meetings during the design phase dropped off somewhat. *Compare* the participants' list for subsequent meetings during design process https://www.open-government-deutschland.de/resource/blob/1591100/1599260/f65937dd113c696c05f81b497a1a2bcb/teilnehmerliste-9april-data.pdf?download=1 (working meeting 9 May 2019) with https://www.open-government-deutschland.de/resource/blob/1591100/1599260/f65937dd113c696c05f81b497a1a2bcb/teilnehmerliste-9april-data.pdf?download=1 (workshop 15 May 2019).

[23] IT-Planungsrat, *Bericht des IT-Planungsrats für die Jahre 2019 und 2020 an die Besprechung des Chefs des Bundeskanzleramts mit den Chefinnen und Chefs der Staats- und Senatskanzleien der Länder* [Report of the IT Planning Council for the years 2019 and 2020 to the discussion between the head of the Federal Chancellery and the heads of the state and senate offices of the federal states] (29 Oct. 2019), https://www.it-planungsrat.de/SharedDocs/Downloads/DE/Entscheidungen/30_Sitzung/Bericht_ITPLR_2019-2020.pdf?__blob=publicationFile&v=1.

[24] Michael Peters, "Is Germany ready for the OGP Steering Committee?" (Medium, 8 Nov. 2019), https://voices.transparency.org/is-germany-ready-for-the-ogp-steering-committee-167822526c16.

[25] Registration was open to everyone, which helped logistic arrangements for onsite meetings and processing entry to government premises.

[26] Semi-structured survey to civil society (circulated via Open Government Netzwerk Deutschland) with questions about consultation process (eight responses), 27 November–5 December 2019.

[27] *See* this statement by the main civil society network accompanying the action plan creation: Michael Peters, "Bundesregierung macht kleine Fortschritte auf großer Baustelle" [Federal government is making small progress on a large construction site] (Open Government Netzwerk Deutschland, 4 Sept. 2019), https://opengovpartnership.de/zweiter-nationale-aktionsplan/; Dr. Jörn von Lucke, *Open Government Nationaler Aktionsplan, Kommune21* [Open Government National Action Plan, Municipality21] (5 Dec. 2019), https://www.kommune21.de/meldung_32905_Nationaler+Aktionsplan.pdf; *Deutscher Bundestag (2019) Drucksache 19/14596, Antrag der Abgeordneten Dr. Konstantin von Notz et al. Transparenz bei Regierung und Behörden stärken, Informationsfreiheitsgesetz des Bundes zu einem Transparenzgesetz weiterentwickeln* [German Bundestag printed matter 19/14596, motion by MP Konstantin von Notz et al. Strengthen transparency for government and authorities, further develop the federal freedom-of-information law into a transparency law], https://dip21.bundestag.de/dip21/btd/19/145/1914596.pdf.

[28] For the consolidated list of civil society suggestions see https://docs.google.com/document/d/1s5wNsAjNKpwFwf5SmJ9hxka2NO8L43uNiZYH4EWRthg/edit#heading=h.rwizln64j3cn; for the detailed feedback by the government on civil society suggestions and reasons for non-inclusion *see* https://www.open-government-deutschland.de/resource/blob/1591100/1659374/6df5c9d56a89546d87dde35c98c8f6c6/antwortideen-data.pdf?download=1.

[29] "Rückmeldung der Bundesregierung zu den Vorschlägen aus dem Konsultationsprozess im Rahmen der Erarbeitung eines 2. Nationalen Aktionsplans zur Teilnahme an der Open Government Partnership (OGP)" [Feedback from the Federal Government on the proposals from the consultation process as part of the development of a 2nd National Action Plan for participation in the Open Government Partnership (OGP)] (https://www.open-government-deutschland.de/resource/blob/1591100/1659374/6df5c9d56a89546d87dde35c98c8f6c6/antwortideen-data.pdf?download=1.

[30] "IAP2's Public Participation Spectrum" (IAP2, 2014), https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf.

[31] OGP's *Articles of Governance* also establish participation and co-creation requirements a country must meet in their action plan development and implementation to act according to OGP process. Based on these requirements, Germany did not act contrary to OGP process during the development of the 2019−2021 action plan.

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[32] The OGN is an open network for civil society groups and individuals, which facilitates civil society exchange on OGP issues primarily via a coordinator, an elected strategy group, and online and onsite meetings. For more see Section III in the IRM's design report for Germany's first action plan, https://www.opengovpartnership.org/wp-content/uploads/2019/08/Germany_Design-Report_2017-2019_EN.pdf.

[33] See https://opengovpartnership.de/netzwerk/

[34] Protocols are available at: https://bscw.bund.de/pub/bscw.cgi/71118924.

[35] Open Government Deutschland, "Teilnahme an der OGP Berichtswesen" [Participation in the OGP Reporting] (19 Feb. 2019), https://www.open-government-deutschland.de/opengov-de/aktionsplaene-und-berichte/berichtswesen-1591026.

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 circumstances and challenges. OGP commitments should also be relevant to OGP values detailed in the *OGP Articles of Governance and Open Government Declaration* signed by all OGP-participating countries.[1] Indicators and methods used in the IRM research can be found in the IRM Procedures Manual.[2] A summary of key indicators the IRM assesses can be found in the Annex of this report.

General Overview of the Commitments

Germany's second action plan covers a variety of topics. Several commitments seek to advance innovative, technology-driven practices in the public sector, such the creation of regional open government laboratories (regOGLs) in Commitment 1 and a Digital Innovation Team (Commitment 4). Some commitments build on the theme of open data, which featured prominently in the first action plan. Other commitments are dedicated to strengthening existing participation channels and creating new ones. Examples include seeking public input on foreign policy (Commitment 2), participation in the federal government's youth strategy (Commitment 3) and facilitating participation in the general law-making process (Commitment 8). Commitment 5 directly builds off of a commitment in the first action plan by seeking to further promote transparency and dialogue in Germany's foreign aid policy.

The second action plan also includes five commitments from German states as self-standing activities in the action plan. Among these are three for North Rhine-Westphalia, one for the Free State of Saxony, and one for Schleswig-Holstein. Thematically, these state-level commitments address similar policy areas as the federal commitments, such as open data, civic engagement, and the use of digital innovation.

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[1] OGP, *Open Government Partnership: Articles of Governance* (17 Jun. 2019), https://www.opengovpartnership.org/articles-of-governance/.
[2] OGP, "IRM Procedures Manual" (16 Sept. 2017), https://www.opengovpartnership.org/documents/irm-procedures-manual.

1. Regional Open Government Labs

Main Objective
"The BMI will support up to 16 Regional Open Government Labs (regOGL) throughout Germany. Regional Open Government Labs will provide a framework for cooperation between local administrations, local politics and civil society, with the participation of academia and local businesses where appropriate. The initiative for the regOGLs is to arise from the regions where they are to be located."

Milestones
1.1. Application phase and selection of up to 16 regOGLs
1.2. Assignment of the following tasks to a research capacity: Ensuring exchange among the regOGLs; generalizing the findings; managing public relations work
1.3. Developing and establishing the labs' work
1.4. Preparing interim conclusions for second NAP OGP and regional conference
1.5. Preparing outcome documents and presenting at final conference

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic Participation
Potential impact:	Minor

Commitment Analysis
A deeper integration of open government in Germany requires a further cultural change inside the public administrative and political system.[1] Open government is often not recognized as a strategic investment and it can take a backseat to values of efficiency and effectiveness inside the administration.[2] This is also the case at regional and local levels.[3] For example, a survey of 600 local administrations perceive a significant gap between the potential relevance of open government and the actual degree of realizing the concept in practice.[4]

This commitment seeks to catalyze this cultural change by establishing up to 16 regional open government laboratories (regOGLs). The regOGLs will facilitate practical open government initiatives and co-creation between civil society and local governments.

The process of establishing the regOGLs will be conducted in a participatory manner. Local governments, civil society stakeholders, and the business sector will jointly develop and propose initiatives to be considered for support by the regOGLs. Both government bodies as well as civil society groups can initiate applications and the quality of civil society-government cooperation envisaged for the project was the most important selection criteria with a weight of 20%.[5] The commitment is therefore relevant to the OGP value of civic participation. The concrete work programs and activities for each individual lab will only be determined during commitment implementation.

Existing open government initiatives inside local administrations contain limited mechanisms for co-creation. A prior pilot initiative, on which regOGL directly builds, contained projects that were primarily driven by the local administrations. These projects experienced varying and often gradually decreasing degrees of buy-in and engagement over time by nongovernmental stakeholders.

The extent to which the new regOGLs promote a culture of participation and openness at the local level can only be determined when the specific activities that will receive support have been selected.

The prescribed process for selecting the activities puts a clear focus on co-creation, which could facilitate an important shift in administrative practice and culture. The regOGL initiative currently enjoys a high level of political visibility, as it has been explicitly mentioned in the top-level coalition agreement between the governing parties.[6] At the same time, the regOGLs are a small-scale pilot initiative that will only fund up to 16 projects.

Special regard for including groups in new engagement formats,[7] although not explicitly recognized in the commitment, could enhance their impact if mainstreamed into the programming.[8] Similarly, linking the piloting of the regOGLs to actionable and monitorable targets could help strengthen their results.

Overall, the new regOGLs could lead to minor but positive improvements in cooperation and openness in local administration, especially in changing the culture of the administration for engaging civil society in decision-making and agenda-setting for priority programs. The commitment has the potential to establish good examples and templates for genuine partnerships between local administrations and civil society around open government themes.[9] Furthermore, if successfully carried out, the regOGLs could be expanded to other local administrations in the country.

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[1] Dr. Joachim Beck and Dr. Jürgen Stember, *Modellkommune Open Government – Projektbericht* [Model commune Open government Project report] (BMI, Aug. 2019), https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/moderne-verwaltung/projektbericht-modellkommune-open-government.pdf.

[2] *Id.*

[3] *See* the survey among federal agencies included in Deutscher Bundestag, *Erster Bericht der Bundesregierung über die Fortschritte bei der Bereitstellung von Daten, Drucksache 19/14140* (10 Oct. 2019), http://dip21.bundestag.de/dip21/btd/19/141/1914140.pdf; *see also* a survey of local officials that included BMI (Beck and Stember, *Modellkommune Open Government – Projektbericht*).

[4] *Id.* at 62.

[5] Federal Ministry of the Interior, "Regionale Open Government Labore" [Regional open government laboratories] (accessed Aug. 2020), http://open-government-kommunen.de/?page_id=2389.

[6] CDU, CSU und SPD, *Ein neuer Aufbruch für Europa Eine neue Dynamik für Deutschland Ein neuer Zusammenhalt für unser Land* [First report by the federal government on the progress made in the provision of data] 19/14140 (accessed Aug. 2020), 45, https://www.cdu.de/system/tdf/media/dokumente/koalitionsvertrag_2018.pdf?file=1.

[7] This includes, for example, co-creation formats or deliberative mechanisms such as citizen juries.

[8] For an analysis of structural challenges for inclusive engagement see for example BMFSFJ, *Zweiter Bericht über die Entwicklung des bürgerschaftlichen Engagements in der Bundesrepublik Deutschland, Drucksache* [Second report on the development of civic engagement in the Federal Republic of Germany] 18/11800 (2017), https://www.bmfsfj.de/blob/115658/1080633f687d3f9c462a0432401c09d7/zweiter-engagementbericht---bundestagsdrucksache-data.pdf.

[9] As the drafting period of this design report overlaps with the initial stages of the commitment implementation, it can already be noted that thirteen projects have been selected for funding. Judging from a brief project list, at least ten of these projects will directly focus on civic engagement and one will focus on open data. (Representative from relevant government unit (BMI, Unit H II 1), email to IRM researcher, 9 March 2020).

2. Civil society dialogue on foreign policy

Main Objective

"The Federal Foreign Office will increase the visibility of many existing formats and activities in the area of foreign policy that correspond to the guiding principle of open government, and will make greater use of the potential for further measures.

The civil society dialogue with think tanks and civil society organizations as well as with the general public is to be continued in a variety of formats, including formats related to the Federal Foreign Office's 150th anniversary. These dialogue events are informative in nature and take place both on- and offline. In consultative formats such as blog-based debates and a hackathon, civil society is to be given the opportunity for more input of opinions and ideas for shaping German foreign policy.

Furthermore, via social media, those who are interested can contact the Federal Foreign Office and the Federal Foreign Minister and ask questions and make comments – for example, through formats like the Instagram question sticker – which will then receive responses. The Federal Foreign Office is digitizing some of the holdings of its Political Archive, and will put these online for free, non-commercial use. Metadata on approximately 20 km of paper files and approximately 18 million digital images, some of them in machine-readable form, will be put online in downloadable form for free research."

Milestones

2.1. Explaining and discussing German foreign policy: Informative formats with think tanks and citizens, on- and offline

- o Broad-ranging informational events on 150 years of the Federal Foreign Office
- o Ongoing citizens' dialogues
- o Annual citizens' workshop on foreign policy
- o Regular Open Situation Rooms

2.2. Having a say in German foreign policy: Consultative formats

- o An additional blog-based debate on peacelab.blog, the results of which will be taken into account in implementing the Federal Foreign Office's crisis guidelines
- o Organization of a hackathon to improve models for early recognition of crises and early warning tools with academic experts

2.3. Digitizing and publishing selected parts of the FFO Political Archive: Making files accessible online for everyone

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information, civic participation
Potential impact:	Transformative

Commitment Analysis

This commitment aims to make Germany's foreign policy more accessible and open. The first set of activities will expand and deepen citizen engagement in foreign policymaking. This will include holding information events on the occasion of the 150th anniversary of the Federal Foreign Office's founding, as well as citizen dialogues, open situation rooms, and a hackathon. The commitment also focuses on the ongoing digitization and opening of the main documentary archive of the Foreign Office (*Politisches Archiv*[1]) to online access. The commitment is directly relevant to the OGP values of access to

information (online availability of the Political Archive) and civic participation (interactive elements contained in the planned communication formats and events).

Recent surveys indicate that public interest in foreign policy is high in Germany, with 69% of surveyed Germans indicating that they have a strong or very strong interest in this policy area. This is accompanied by a desire for more engagement and communication but tempered by concerns about the complexity of the issues.[2] As of 2018, over 190 organizations are actively engaging the public on foreign policy issues in Germany and more than 70% of these groups are already collaborating with the Federal Foreign Office in citizen outreach. However, the exercise also identified a number of significant challenges. Most of these organizations are NGOs with small budgets for these activities. Attention is focused on a narrow set of topics, leaving many thematic blind spots, for example on UN-related issues. Only 20% of the assessed organizations use innovative and interactive formats. Outreach is focused on citizens who are already politically engaged, and most events are hosted in either Berlin or Bonn.[3]

As of early 2020, more than 18-million archival records of the Federal Foreign Office's Political Archive have been converted to digital formats and the process is ongoing. However, access to these records is only possible onsite, and only to paper documents and microfiche-based holdings. Access is also primarily geared toward servicing specialized scholars. A 2012 assessment of access did not find any evidence for discriminatory or politically-shaped access, which was a potential concern given that the archive is part of and operated by the Foreign Office, and not hosted by a national archive with a higher degree of institutional independence. The assessment also found high levels of satisfaction among the primarily academic onsite users with the service and support available through archival staff, but also pointed to the desirability of more electronic search tools and options.[4]

Digitizing and publishing the main archive of German foreign policy is an arcane scholarly concern but rather potentially a centerpiece of a more holistic opening of government. Open access to the historical work of Germany's foreign policy and diplomatic service could ensure that historical characterizations are not selectively filtered but open to public scrutiny. It could also enable broader scrutiny of how Germany has approached and navigated its historical responsibilities. Furthermore, it could strengthen public engagement with Germany's current role in the world and foreign policy going forward.[5] However, while the commitment mentions that access will be open to everyone, it does not specify how many archival materials will be digitized and opened.

The move from onsite to online access represents a considerable improvement in access. More than 18-million records that have already been digitized will become instantly accessible.[6] Digitization will make it much easier for the considerable number of interested foreign policy scholars to access these resources[7] and for nonacademic organizations and citizens to undertake their own explorations, provided that usability standards are high and exceptions for disclosure are defined narrowly.

The engagement activities under this commitment could also further expand and diversify public interest in this area. However, these improvements will depend on how ambitiously the engagement is implemented, and with what degree of transparency and determination received suggestions are integrated into foreign policy and its practice. An email interview with the incumbent government unit indicates that the commitment will focus on outreach beyond Bonn and Berlin and will include a credible intention for experimenting with innovative engagement formats.[8] Prior suggestions from citizen engagement have influenced diplomatic practices, such as making more female diplomats available as contact points for women in patriarchal societies.

Overall, the digitization of historical documents and the planned engagement activities could be a significant step toward greater openness and accessibility of historical German foreign policy materials. Several complementary activities could further enhance the ambition, including: clearly defined performance targets for both publication of archives and public engagement; maximizing interactivity by enabling public input in the design phase; and actively soliciting user feedback. The government could also close the feedback loop by communicating how suggestions are incorporated. The digitization of the political archive could be guided by clear targets. Lastly, the Federal Foreign Office could also openly display user feedback and fully explain which segments of files are not made available.

[1] Federal Foreign Office, "Politisches Archiv des Auswärtigen Amts" [Political archive of the federal foreign office] (2020), https://archiv.diplo.de/.

[2] *See* surveys and empirics quoted in Sarah Brockmeier and Heiko Nitzschke, *Internationale Politik* "Mehr Marktplatz, weniger Papier" [More marketplace, less paper] (Nov.–Dec. 2017), https://internationalepolitik.de/system/files/article_pdfs/ip_06-2017_brockmeier-nitzschke_s-30-35_o.pdf; Sarah Borckmeier, "Raus aus der Berliner Blasé" [Get out of the Berlin bubble] (*Frankfurter Allgemeine Zeitung*, 29 Dec. 2017), https://www.faz.net/aktuell/politik/deutsche-aussenpolitik-raus-aus-der-berliner-blase-15364894.html; Koerber-Stiftung, "*Einmischen oder zurückhalten?* [Intervene or hold back?] (Oct. 2017), https://www.koerber-stiftung.de/fileadmin/user_upload/koerber-stiftung/redaktion/handlungsfeld_internationale-verstaendigung/pdf/2017/Einmischen-oder-zurueckhalten-2017_deutsch.pdf.

[3] Cornelius Adebahr, Sarah Brockmeier, and Melissa Li, *Stärkung von Bürgerdialog zu Außenpolitik in Deutschland* [Strengthening citizen dialogue Foreign policy in Germany] (Global Public Policy Institute, 2018), https://www.gppi.net/media/GPPi_Buergerdialog_zu_Aussenpolitik.pdf.

[4] K. Schwarz, "Die Evaluierung des Politischen Archivs im Auswärtigen Amt durch die FH Potsdam" vol. 65, no. 3, (*Archivar* , 2012), 288–291; *see also* survey results in detail at: https://www.fh-potsdam.de/fileadmin/user_upload/fb-informationswissenschaften/dokumente/forschung/projekte/Benutzerumfragepolarchiv.pdf.

[5] The rather recent establishment of an expert group to examine the history of the Foreign Office during and after the Third Reich and the high visibility of its work, struggle to gain effective archival access, and findings is a good example of relevant and contested research supported by this archive. (*See* Von Majid Sattar, "Das Erbe der Herren von der Wilhelmstraße" [The legacy of the gentlemen from Wilhelmstrasse] (*Frankfurter Allgemeine Zeitung*, 21 May 2010), https://www.faz.net/aktuell/politik/inland/auswaertiges-amt-das-erbe-der-herren-von-der-wilhelmstrasse-1578198.html; Von Eckart Conze, Norbert Frei, Peter Hayes, and Moshe Zimmermann, "Panzerschrank der Schande" [Armory of shame] (*Frankfurter Allgemeine Zeitung*, 5 May 2012), https://www.faz.net/aktuell/politik/panzerschrank-der-schande-11740633.html?printPagedArticle=true#pageIndex_2.

[6] Email interview with responsible government unit (AA, 611), 16 March 2020.

[7] Close to half of all current users are foreigners. (Dr. Karin Schwarz, "Evaluierung des Politischen Archivs im Auswärtigen Amt " [Evaluation of the political archive in the Federal Foreign Office] (Fachhochschule Potsdam University of Applied Sciences, 13 Mar. 2012), https://www.fh-potsdam.de/forschen/projekte/projekt-detailansicht/project-action/evaluierung-des-politischen-archivs-im-auswaertigen-amt/.)

[8] Email interview with responsible government unit (AA, 611), 16 March 2020.

3. Youth participation in the Federal Government's joint youth strategy

Main Objective
"To develop and implement a joint youth strategy, the Federal Government will involve young people in as broad and substantive a way as possible through different formats, as young people should be able to help shape "their" youth strategy themselves. The quality standards for effective youth participation that were formulated as part of the National Action Plan "For a Germany Fit for Children 2005-2010" apply to all of these formats. The results of the participatory processes will be integrated into the implementation of the strategy via the interministerial working group on youth. This will improve the substantive quality and long-term impact of the interministerial youth strategy."

Milestones
3.1. Cabinet decision on the joint youth strategy of the Federal Government
3.2. A youth conference as an interim review of the implementation of the youth strategy to date as well as its design
3.3. The JugendPolitikTage 2021 (Youth Politics Days; form is yet to be determined) take stock of the youth strategy from the perspective of the younger generation and derive additional prospects for effective youth participation formats at federal level, among other things

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation
Potential impact:	Minor

Commitment Analysis
This commitment seeks to actively involve young people in the development and implementation of the federal government's youth strategy. Specifically, it calls for holding a youth conference in 2020 as an interim review of the design and implementation of the youth strategy as well as a Youth Politics Days in 2021. The action plan also states that feedback will be provided on the participation in the youth strategy. The focus on strengthening youth participation makes this commitment relevant to the OGP value of civic participation.

Political interest among young people in Germany is rising and engagement practices are increasingly diverse, reaching beyond conventional institutional forms of political involvement.[1] 77% of young people between ages 12 and 25 report that they are satisfied with democracy in Germany. 59% describe Germany as overall fair, although the approval ratings are lower for children growing up in precarious circumstances.[2] Expert assessments however also find that children and young people have a comparatively limited influence on how their rights are promoted and upheld.[3] Participation is an essential right for children and young people, enshrined in human rights treaties. Meaningful participation is empirically positively associated with well-being and life satisfaction of young people and helps build skills for political engagement later in adult life.[4]

Young people between the ages of 12 and 27 account for 14 million people or 17% of the overall population in Germany, yet their share of the population eligible to vote is only 8%.[5] As young people below the age of 18 are not able to vote or run for political office in federal elections, alternative

formats for youth engagement (such as this commitment) are important. The potential scope for engagement under this commitment is quite large, as the federal government's youth strategy cuts across all policy fields and already lists more than 160 measures.[6] In addition, the commitment designates a specific inter-ministerial working group (Interministerielle Arbeitsgruppe Jugend)[7] as the point of contact for receiving feedback and explaining how this feedback was incorporated into the strategy. This could further support effective participation.

Overall, success of this commitment will largely depend on the extent to which young people are able to influence the design and implementation of the youth strategy, as well as how the two main activities (the youth conference in 2020 and the Youth Politics Day in 2021) are conducted. The responsible unit in the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provided the IRM researcher with additional details that suggest an expansion of ongoing youth engagement and higher visibility across all ministries during this programming.[8] This further corroborates the prospect for tangible results. However, considering that the commitment is confined to two events and does not provide clear, measurable targets, it's overall potential impact is assessed as minor.

[1] BMFSFJ, *Kinder- und Jugendbericht Bericht über die Lebenssituation junger Menschen und die Leistungen der Kinder- und Jugendhilfe in Deutschland* [Children's and youth report on the living situation of young people and the services of child and youth welfare in Germany] (2017), 15.

[2] BMFSFJ, *In gemeinsamer Verantwortung: Politik für, mit und von Jugend. Die Jugendstrategie der Bundesregierung* [Shared responsibility: Politics for, with and by youth. The federal government's youth strategy] (2019), https://www.bmfsfj.de/blob/141940/a9789d196ec8313b0b6bda4d5fd18eae/in-gemeinsamer-verantwortung-politik-fuer-mit-und-von-jugend-data.pdf.

[3] *See* literature referenced in Sabine Andresen und Renate Möller, Children's Worlds+ Eine Studie zu Bedarfen von Kindern und Jugendlichen in Deutschland, Bertelsmann Stiftung, (2019), https://www.bertelsmann-stiftung.de/fileadmin/files/Projekte/Familie_und_Bildung/Studie_WB_Children_s_Worlds__Gesamtauswertung_2019.pdf.

[4] Sabine Andresen and Renate Möller, *Children's Worlds+ Eine Studie zu Bedarfen von Kindern und Jugendlichen in Deutschland* (Bertelsmann Stiftung, 2019), https://www.bertelsmann-stiftung.de/fileadmin/files/Projekte/Familie_und_Bildung/Studie_WB_Children_s_Worlds__Gesamtauswertung_2019.pdf.

[5] BMFSFJ, *In gemeinsamer Verantwortung: Politik für, mit und von Jugend. Die Jugendstrategie der Bundesregierung*.

[6] *Id.*

[7] BMFSFJ, "Jugend beteiligen, Jugend sichtbar machen" [Involve youth, make youth visible] (25 Oct. 2018), https://www.bmfsfj.de/bmfsfj/jugend-beteiligen--jugend-sichtbar-machen/130136.

[8] BMFSFJ Unit 501, 13 March 2020, email to IRM researcher.

4. Establishment of an e-government agency as a Digital Innovation Team of the federal administration

Main Objective
"The BMI will set up a Digital Innovation Team that acts as a "think & do tank", establishing structured innovation management in the federal administration and disseminating and embedding methods from design thinking, service design and agile working in the administration. The Digital Innovation Team will thus create space to shape innovative solutions for government, including outside the usual administrative structures and thinking patterns (outside the box), and to develop these solutions and implement them in a moderated way. The Digital Innovation Team will be responsible for setting up and running a suitable working environment as well as for networking and communication among all of the relevant participating players.

Partners from business, public administration and civil society will be brought together in a network to jointly work on innovative solutions. The aim is to gain new kinds of working experiences in administration, learn from one another and grow together. The Digital Innovation Team will thus serve as a support, consulting and coaching unit, which will empower others to find and implement innovative solutions."

Milestones
4.1. Setting up a workshop space for project partners from the federal administration to carry out workshops on innovation, design thinking and similar themes
4.2. Transparent testing of the innovation process at two federal agencies
4.3. Transparent testing of the – if necessary, redesigned – innovation process in at least four additional projects
4.4. Carrying out of at least three advanced-training events (workshops, lunch lectures, etc.) for federal administrative agencies per year

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation
Potential impact:	Minor

Commitment Analysis
This commitment aims to make federal administrative practice and culture more open and innovative by creating a Digital Innovation Team.[1] This team will raise awareness about innovative management methods, establish pilot projects inside ministries and federal agencies, and provide government training. Although the commitment is primarily internal administrative reform, the Digital Innovation Team will engage with civil society and the business community. The commitment is therefore relevant to the OGP value of civic participation.

Public demands for administrative reforms in the era of digitalization are high in Germany. Both citizens and businesses welcome progress with regard to more user-friendly and digitized public services. Fifty-seven percent of citizens expect that digitalization will significantly change, mainly for the better, the public administration in Germany with the next three to five years.[2] Two-thirds want the government to

operate more via digitization with handling of administrative tasks online as a priority.[3] Overall e-government use and satisfaction levels are rising, though they are still at relatively low level in international comparison.[4]

Inside the administration, recognition that the modernization of administrative practices must expand is growing. In a 2019 survey among over 300 administrative units in Germany, respondents selected e-government and digitization of the administration by a wide margin as the most important challenge for their organizations, while 60% found current progress at federal level insufficient. Over 57% considered innovation and digitalization labs as important reform mechanisms, but few respondents saw the need to prioritize citizen engagement (8%), transparency (6%), or open data (2.9%).[5] Therefore, harnessing the appetite for digitization and innovation labs in order to improve openness and participation could prove challenging.

While this commitment is a positive step toward facilitating greater innovation within the public administration, its scale and scope are limited. Branded as a "think and do tank," the Digital Innovation Team officially started work in April 2019. It is currently comprised of a small team of five people on secondment from ministries and federal agencies and has budget of EUR 4.9 million for 2020. The team's ability to improve user-centricity and responsiveness (which underpin many of the promoted design methods[6]) will largely depend on how its work methods are implemented. Even if implemented at a large scale, the conversion of innovative design principles into effective civil participation or transparency is not guaranteed.[7] Future refinements of this commitment could include more specific activities, targets, and milestones that directly seek to realize these open government values.

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[1] DIT, "Hallo Welt. DIT sind wir" [Hello world. We are DIT] (accessed Aug. 2020), http://dit.bund.de/.

[2] Initiative D21, " D21-DIGITAL-INDEX 2019 / 2020" [D21-DIGITAL-INDEX 2019/202] (2020), https://initiatived21.de/publikationen/d21-digital-index-2019-2020/.

[3] Institut für Demoskopie Allensbach, *Die Auswirkungen von Digitalisierung und Vernetzung aus der Sicht der Bürger* [The effects of digitization and Networking from the perspective of the citizens] (2018), https://nbn-resolving.org/urn:nbn:de:0168-ssoar-60008-5.

[4] See for example Fortiss, *eGovernment Monitor 2019* (2019), https://initiatived21.de/app/uploads/2019/10/egovernment-monitor-2019.pdf; EU, *eGovernment Benchmark 2019* "Country Fact Sheets" (2019), https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=62368.

[5] Center for Digital Governance, *Ergebnisse des Zukunftspanels Staat & Verwaltung* [Results of the State & Administration Future Panel] (Hertie School of Governance, 2019), https://www.zukunftskongress.info/sites/default/files/2019-11/Ergebnisse%20Zukunftspanel%202019.pdf.

[6] The latter point merits a special emphasis as user-centricity and responsiveness are not synonymous with or sufficient conditions for effective participation and accountability. *See also* the disparity in the prioritization of innovation labs versus citizen engagement and openness as reported in the survey referenced in Section IV.

[7] The first set of pilot projects underway do not have a strong focus on civic participation or external transparency and thus further confirm the challenge to translate innovative design approaches into new participation formats.

5. Promotion of transparency and participation in development cooperation

Main Objective

"Building on the dialogue process that was started with the first NAP, structured formats with German stakeholders in development cooperation, civil society and ministries will be expanded within the framework of the ODA transparency expert group that was founded in 2018. These formats serve the goal of implementing and using the IATI Standard and facilitating the coordination of basic guidelines regarding the publication of information. The BMZ will set up a management system to optimize and safeguard data quality and to expand German IATI reporting.

An IATI visualization portal of the BMZ is intended to improve the usability of IATI data. A strategy will be created to encourage the use of IATI data, especially in partner countries and for donor coordination but also by the German public; workshops in partner countries will be used to develop clear courses of action."

Milestones

5.1. Utilization concept: Specifying potential for use and obstacles to use regarding IATI data. Conceptualizing and implementing support measures

5.2. Coordinating strategic steps with ministries and civil society to implement principles of open data (especially from the G8 Open Data Charter) and open government in the context of development cooperation as well as expanding IATI data reporting (regarding current data reporters and potentially additional ones)

5.3. Developing an advanced training format

5.4. Carrying out training events on the IATI Standard and IATI data for development policy players from German civil society

5.5. Introducing an IATI data QA system (especially a feedback mechanism) and expanding the BMZ's IATA data (project reports, impact data, etc.)

5.6. Developing a BMZ visualization portal to improve the presentation of data

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information, civic participation
Potential impact:	Moderate

Commitment Analysis

This commitment aims to further expand the quality and scope of data on Germany's international aid. It seeks to establish a broader dialogue with civil society and partner countries on reporting in this area, as well as on strategies for greater data use and integration. This commitment builds on Commitment 6 from Germany's first action plan (2017−2019). This previous commitment resulted in the publication of more granular and more frequent reporting within the framework of Germany's participation in the International Aid Transparency Initiative (IATI). It also saw constructive dialogue with civil society through international workshops on aid transparency.[1]

This current commitment is relevant to the OGP value of access to information, as it promises to expand transparency of Germany's development sector. It is also relevant to civic participation as it will engage civil society in evolving aid transparency and work with partner countries to develop measures for uptake and data integration.

While the government began conversations with German and international civil society groups around aid transparency during the first action plan, there remained considerable potential for expanding, deepening, and systematizing these efforts.[2] The government could also improve data presentation, usability, and usage.[3] This new commitment directly addresses some shortcomings in IATI implementation and data use. For example, producing a utilization concept (Milestone 5.1) lays the foundation for more targeted measures to promote data use and re-use. Additionally, a quality management system with a feedback function (Milestone 5.5) addresses a significant issue raised by the IATI community. More than 90% of publishers find feedback desirable but less than half solicit feedback on their platforms.[4]

The inclusion of data on impact could enable users to trace the results of projects and thus lay foundations for enhanced accountability of aid. It is also noteworthy that measures to promote data use are not confined to international or German development actors but extend to stakeholders in partner countries and the integration of reported data with information systems in host countries.

Efforts to encourage other development stakeholders inside and outside the government to adopt IATI-level reporting are important given that the current reporting landscape in the German development community is diverse and characterized by variable levels of ambition. The coordination of strategic steps with civil society could explicitly include public participation and transcend the consultative remit of the internal expert group established during the first action plan.[5] Implementing this commitment could also benefit from the considerable momentum and senior-level support for expanded aid transparency that the preceding commitment generated.[6] Finally, this implementation comes when IATI-style reporting is evolving into an important building block for integrated, high-quality information systems around humanitarian emergencies, monitoring Sustainable Development Goals, and managing partner country administrative information.[7]

For greater impact, the IRM researcher recommends ensuring high uptake of IATI standards by new reporting entities as well as transparent tracking of comments and follow-ups in the feedback system. It is also recommended to develop customizable visualization features, as well as seamless integration with other development information systems. Finally, it could be beneficial to harness the momentum around aid data to invite greater transparency in the broader aid community, including the Reconstruction Credit Institute (Kreditanstalt fuer Wiederaufbau).[8]

[1] *See* Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019* (OGP, 27 Jul. 2020), 17−19, https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/.
[2] Related government department, interview with IRM researcher (18 Dec. 2019) and email (16 Jan. 2020).
[3] *Id.*
[4] IATI, "Strengthening IATI data quality: towards a comprehensive user feedback system" (1 Apr. 2020), https://iatistandard.org/en/news/strengthening-iati-data-quality-towards-comprehensive-user-feedback-system/.
[5] Publication of *Aid Transparency Index 2020* by Publish What You Fund in mid-2020 will provide a good reference for assessing progress relative to other countries and identify further areas for improvement.
[6] Related government department, interview and email.
[7] *See* IATI, *IATI Strategic Plan 2020−2025* (2019), https://iatistandard.org/en/governance/iati-strategic-plan-2020-2025/#:~:text=IATI%20Strategic%20Plan%202020%2D2025%20(ES%20%2F%20FR)%20sets,towards%20achieving%20sustainable%20development%20outcomes..
[8] The German Federal Access to Information Commissioner noted the government-owned KfW development bank's reluctance to entertain freedom-of-information requests (Ulrich Kelber, *Tätigkeitsbericht 2018–2019 7. Tätigkeitsbericht zur Informationsfreiheit* [Activity report 2018-2019 7. Activity report on freedom of information] (BFDI, 2019), https://www.bfdi.bund.de/SharedDocs/Publikationen/Taetigkeitsberichte/TB_IFG/7TB_18_19.pdf?__blob= publicationFile&v=4.

6. Further development and promotion of the open data environment

Main Objective
"Strengthening the shared knowledge base and developing coherent criteria for the implementation of open data in the federal administration in order to achieve a common understanding in the implementation of the open data concept and promote cultural change within the public administration."

Milestones
6.1. Open data strategy of the federal administration
6.2. Organizing or participating in a workshop on exchange with stakeholders in the context of creating an open data strategy
6.3. Declaration on the implementation of the International Open Data Charter principles
6.4. Involvement of civil society organizations, journalists, start-ups and scholars in regularly occurring federal administration events on the topic of open data
6.5. Holding or participating in international events, including in the framework of the 2020–2021 European Council Presidency year
6.6. Holding an open data conference with federal and Land participation to bolster the coordinated and standardized provision of open data at the federal, Land and local levels
6.7. Expanding knowledge management through the creation of a central open data information website
6.8. Creating a central directory for open data applications

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information, Civic participation
Potential impact:	Moderate

Commitment Analysis[1]
This commitment has a number of measures to support a more public-focused orientation in how authorities handle data obtained through their duties. It builds upon commitments 2 and 3 from Germany's first action plan, during which the Federal Ministry of the Interior conducted events to promote the use of open data.[2] By expanding and deepening the provision of open data across the federal government, the commitment is relevant to the OGP value of access to information. It is also relevant to civic participation by emphasizing the enhancement of data use, user needs, and engagement with civil society.

The recognition in this commitment of the need for a cultural change echoes the conclusions of the government's open data progress report published in October 2019, which also points to challenges of awareness, capacity, and support resources.[3] As described above in Section II, Germany has average scores in comparative open data assessments, with shortcomings in the areas of impact, usage, and usability. Two expert commissions on digital governance noted the need to develop clear, legally enforceable rights to open data.[4] Other observers have identified a fragmentation in legal rules and organizational responsibilities as a structural obstacle for maximizing the potential of open data.[5]

The design of an open data strategy for the federal administration (Milestone 6.1) underpinned by consultations with civil society (Milestone 6.2) could provide an opportunity to invest political capital and generate momentum for improvements in open data culture, context, and content.

Also, the implementation of the Open Data Charter principles (Milestone 6.3) could give these principles more visibility both inside and outside the administration. The conference for stakeholders from federal, state, and local levels could provide a useful exchange across levels of governments that are actively involved, yet not always fully interlinked, in open data work (Milestone 6.6). Milestones 6.4 and 6.5 include outreach and international engagement that are similar to activities from the first action plan. The remaining milestones (6.7 and 6.8) consolidate the underlying knowledge management and access-to-open-data applications and will likely yield incremental improvements.

The potential improvements to the open-data environment in Germany through these activities will mostly depend on the content and implementation of the broader overall data strategy of the federal government that was also still under development at the writing of this report. The guiding principles for that broader strategy do not provide any indications for a substantive increase in ambition.[6] However, taken together, this commitment could build upon the achievements in open data carried out under the previous action plan and provide the federal government with its first all-encompassing open data strategy, eventually imbedded in a broader strategic data framework.

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[1] This analysis was conducted prior to the conclusion of the open data strategy process.

[2] *See* Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019* (OGP, 27 Jul. 2020), 13–14, https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/.

[3] *Bericht der Bundesregierung über die Fortschritte bei der Bereitstellung von Daten* [Federal government report on progress in data provision] 19/14140 (10 Oct. 2019).

[4] *See* Section II.

[5] Andreas Wiebe, "Open Data in Deutschland und Europa" (Konrad-Adenauer Stiftung, 2020), https://www.kas.de/de/einzeltitel/-/content/open-data-in-deutschland-und-europa-1; with regard to organisational fragmentation, *see also* the ongoing discussion about establishing an open data institute for Germany (Antonia Schmidt, Dr. Frank Termer, Rebekka Weiß, *10-Punkte für Open Government Data* [10 points for Open Government Data] (bitkom, Mar. 2020), https://www.bitkom.org/sites/default/files/2020-03/20200331_10_punkte_fur_open_government_data_final.pdf) or Tagesspiegel Background Digitalisierung & KI [
Tagesspiegel Background Digitization & AI] (2 Feb. 2020).

[6] Published in November 2019, these so-called cornerstones include an ambition to establish the government as a lead example on data practices and include a short reference to open data but no further specifics. *See Eckpunkte einer Datenstrategie der Bundesregierung* [Key points of a data strategy of the federal government] (18 Nov. 2019), https://www.bundesregierung.de/resource/blob/997532/1693626/e617eb58f3464ed13b8ded65c7d3d5a1/2019-11-18-pdf-datenstrategie-data.pdf.

7. Participatory process to develop research and innovation policy further in the framework of the 2025 High-Tech Strategy

Main Objective
"The goal of the participatory process is to initiate a dialogue between the participants and the Federal Government on the future of research and innovation.

In roughly six to eight regional dialogue events at a variety of locations within the innovation system (at universities or other venues, depending on the regional focus), ideas for content are to be developed jointly, as are concrete activities. The events will be supplemented by online features to prepare the events, provide input and contribute to the collation of findings. A further goal of the participation process is to activate local potential and create projects and networks.

At the end of the process, the Federal Government will give the participants feedback (as part of an event or in writing) on how the results are to be translated into government action."

Milestones
7.1. Six to eight dialogue events supplemented by online participation
7.2. Discussion and categorization of the results by the High-Tech Forum panel of experts
7.3. Submission of results to Federal Government. Decision on implementation in the state secretaries working group on HTS 2025
7.4. Feedback to participants

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation
Potential impact:	Minor

Commitment Analysis
The commitment aims to expand and deepen citizen participation in the development of Germany's High Tech Strategy 2025 (HTS 2025),[1] one of the main strategic frameworks for the federal government's support to research and development. A set of geographically distributed events and online fora will gather perspectives which will then be synthesized and communicated to the government by an expert advisory committee (High Tech Forum – HTF).[2] Expanding opportunities for participating in developing a major strategic policy framework (with an annual budget of over 15 billion Euro) makes the commitment relevant to the OGP value of civic participation.

The expert advisory committee has already identified stronger involvement of civil society and citizens in HTS as an important objective.[3] Such ambitions also feature prominently in the HTS 2025 strategy document, progress report, and various related government communication. The initial development of HTS 2025 was primarily an internal governmental process.[4] Input included recommendations of the previous HTF and public feedback, for example, on visions for cities of the future or how citizens want to live.[5] Public participation in refining HTS 2025 has been organized in two ways. First, the HTF convenes workshops with civil society on focal themes, e.g., sustainability or social innovation. Then, the resulting discussion papers are published online for comment. So far, two such papers have been

published and a combined total of three comments have been received.[6] A variety of online and offline consultations are being deployed at program and project level.[7]

Combining online and offline engagement, broadening outreach beyond Berlin, and providing feedback on how suggestions were considered are noteworthy endeavors. However, several factors suggest that this commitment might not reach its intended result of strengthening civic participation. The feedback flow is rather unidirectional and filtered. The HTF is tasked with synthesizing and communicating outcomes of the various engagement to the government. Selection criteria, synthesis formats, and transparency parameters are not specified, nor is the mode of government feedback on how suggestions will be incorporated. In addition, the time the government grants itself to provide feedback is rather long (within six months) which could undermine the consultation's momentum. The commitment does not offer opportunities for public feedback on revised draft strategies or on government responses to implementation. Perhaps most importantly, there is limited representation by civil society beyond science associations on the current HTF, which represents a step back in terms of diversity compared to the previous HTF.[8]

In its current form, this commitment focuses on a narrow concept of participation that does not fully align with the broader innovation concept adopted by the government for HTS 2025.[9] There is a widely recognized need for not only technical, but multilevel innovation in addressing major societal challenges.[10] There is also recurring government discussion of a need for participatory agenda-setting and a broad societal consensus.[11] This commitment's potential to improve and expand public participation in the development of HTS 2025 is therefore assessed as minor.[12]

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[1] Federal Government (Germany), "The High-Tech Strategy 2025" (accessed Aug. 2020) https://www.hightech-strategie.de/en/index.html.

[2] "Hightech Forum" (accessed Aug. 2020), https://www.hightech-forum.de/.

[3] *See* Hightech Forum and Fachforum Partizipation und Transparenz, *Partizipatives Agenda-Setting Gesellschaft an Forschung und Innovation Beteiligen* [Participative agenda-setting society participate in research and innovation] (2017), https://www.stifterverband.org/download/file/fid/7110.

[4] Deutscher Bundestag, *Antwort der Bundesergierung auf die Kleine Anfrage der Abgeordneten Dr. Anna Christmann et al. Entwicklung und Umsetzung der Hightech-Strategie 2025* [The Federal Government's Reply to the Small Question by Dr. Anna Christmann et al. Development and implementation of the high-tech strategy 2025] 19/9420 (12 Apr. 2019).

[5] BMBF, *Grundsatzpaper des Bundeministeriums fuer Bildung unf Forschung zur Partizipation* [Policy paper by the Federal Ministry of Education and Research on Participation] (2016), https://www.nabu.de/imperia/md/content/nabude/nachhaltigkeit/160905-nabu-grundsatzpapier_bmbf-partizipation.pdf.

[6] Hightech Strategie 2025, "Publikationen" [Publications] (accessed Aug. 2020), https://www.hightech-forum.de/publikationen/.

[7] Deutscher Bundestag, *Antwort der Bundesergierung auf die Kleine Anfrage der Abgeordneten Dr. Anna Christmann et al. Entwicklung und Umsetzung der Hightech-Strategie 2025.*

[8] It should be acknowledged that a small number of HTF members are involved in civil society work but not in their main professional capacity (*see* note 7, questions 32−34). The current acting HTF includes less civil society voices than its predecessor (*id.*).

[9] *Id.*

[10] *See* Georg Metzger, *Social Entrepeneurs in Deutschland: Raus aus der Nische – 154.000 „junge" Sozialunternehmer im Jahr 2017.* KfW Research Nr. 238. 6. (Jan. 2019), S. 2.

[11] *See* BMBF, *Fortschrittsbericht zur Hightech-Strategie 2025* [Progress report on the 2025 high-tech strategy] (2019), https://www.bmbf.de/upload_filestore/pub/Fortschrittsbericht_zur_Hightech_Strategie_2025.pdf.

[12] This does not exclude the possibility of more expansive public participation at the project level, but this is not the subject of the commitment, which focusses on the strategy development level.

8. Better regulation through participation and testing

Main Objective
"The Federal Government wants to listen from an earlier stage, work together more closely with people affected by measures, and test out measures before adopting them. The Federal Government's steadfast aim must be to understand clearly what its new regulations mean in terms of the effort they require from individuals, companies and authorities (e.g. practicability and efficacy). It also wants to make regulations more comprehensible and more accessible (e.g. the editorial staff for legal language should be involved at an earlier stage)."

Milestones
8.1. Development of a strategy to strengthen early participation in policy initiatives and legislation on the basis of positive practical examples such as the establishment of central consulting hours to advise ministries on participation projects and an interministerial network on participation in legislation to facilitate experience sharing.

8.2. Practical testing of regulatory alternatives in suitable cases with affected individuals, companies and participating agencies or bodies responsible for self-administration tasks. At least five practical tests or pilot projects (e.g. to make laws comprehensible in cooperation with the legal editorial office of the Federal Ministry of Justice and Consumer Protection)

8.3. At least eight training courses for employees on early participation and testing (including on "Understanding, Developing, Testing" – Division 612, Citizen-Centred Government – and on early participation)

8.4. Evaluation of the results of the 3rd Life Situation Survey of the Federal Statistical Office on behalf of the Federal Government and derivation of suggestions for improvement together with experts, practitioners and affected people; publication of the results (online and offline)

8.5. Electronic promulgation of laws and free digital access to the Federal Law Gazette are in the process of implementation

8.6. Improvement of information about participation processes at federal level via an online presence and preparations for a Federal Government participation platform that serves the transparent participation of citizens and associations

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information, Civic participation
Potential impact:	Moderate

Commitment Analysis
This commitment consists of activities selected from the federal government's 2018 Work Program on Better Regulation and Bureaucracy Reduction.[1] It seeks to improve the accessibility and user friendliness of laws, as well as the timeliness and inclusivity of public participation in the rule-making process.[2] Expanding public participation in rule making is directly relevant to the OGP value of civic participation. Moreover, making laws and regulations more comprehensible and freely available online is relevant to access to information.

Citizens and businesses in Germany report a relatively high level of satisfaction about the integrity, trustworthiness, and fairness of administrative services. However, they are rather critical about the understandability of laws, regulations, and administrative processes.[3] Additionally, national and

international observers note that Germany can do more to involve stakeholders in the early stages of the rule-making process and work toward a more inclusive and participatory policy-formation process.[4] In comparative assessments of regulatory processes in 2018, referring to the state of play in 2017, the country scores above the OECD average on impact assessments and ex-post evaluations, but below the OECD average on stakeholder engagement in developing regulations.[5] The joint discussion with stakeholders of results from the 3rd Life Situation survey (Milestone 8.4) repeat an activity that was conducted between December 2017 and June 2018 when multistakeholder workshops discussed results of the 2nd Life Situation survey. Six concrete suggestions from the workshops were adopted by the government.[6]

As outlined above, the comprehensibility of rules and administrative processes is important for both citizens and business in Germany. Beyond streamlining administrative procedures, simplifying laws is a prerequisite for inclusive democracy. When laws and regulations are incomprehensible to all but specialized experts, trust in democracy can drop[7] and the practicality of their legislative outputs suffers.[8] Forty-percent of Germans report that they consult the texts of laws when they face a legal issue.[9] Developing a strategy for early participation in policy initiatives (Milestone 8.1), and training government officials on public participation (Milestone 8.3) could improve public involvement in policymaking.

It is important to test public comprehension of draft rules and simplify legal language (Milestone 8.2) as well as use public feedback to improve the user-friendliness of administrative procedures (Milestone 8.4). However, any improvements will depend on the scale of the planned activities. The stipulation of a minimum of eight training programmes are unlikely to affect large-scale change.

Currently, the full text of enacted laws and regulations are available online at a number of different official and unofficial websites, but related cross-links and amendments can be difficult to trace. Free electronic access to the Federal Law Gazette is an important step toward improving accessibility to a comprehensive source of the official laws of Germany, provided the focus of implementation is on user-friendliness (Milestone 8.5).

Taken together, these activities could improve participation in rule-making as well as in access to and usability of legal information. It could also strengthen the institutional capacity to adopt public comprehension as a tenet for forming rules and regulations and thus build on the recent trend to subject a growing set of draft rules and regulations to a readability check.[10] While most of the commitment's activities are pilots, they could lay the foundation for expansive improvements in the future. Also, if the participation platform not only facilitates participation but does so in a way that enables public consultations earlier and in a more inclusive manner, the possible changes from the commitment could be significant.

During implementation, the Federal Chancellery could encourage ministries to add explanatory notes to legal texts and develop user-friendly guides on the scope of laws. It could also encourage ministries to develop their own guides on how to participate in the early stages of planning new laws, particularly during the pre-drafting time.

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[1] Available at: https://www.bundesregierung.de/resource/blob/975232/1560386/a5004f6046edb6a8ce916b411c8c3e43/2018-12-12-arbeitsprogramm-bessere-rechtsetzung-data.pdf?download=1.

[2] For the online presentation of the overall work program, see: https://www.bundesregierung.de/breg-de/themen/wirksam-regieren.

[3] Destatis, "Lebenslagenbefragung 2019: 83 % der Bürgerinnen und Bürger sowie Unternehmen mit Behörden zufrieden" [Life situation survey 2019: 83% of citizens and companies satisfied with authorities] (2020), https://www.destatis.de/DE/Presse/Pressemitteilungen/2019/12/PD19_461_p001.html.

[4] OECD, *Regulatory Policy Outlook 2018* "Germany" (2018), http://www.oecd.org/gov/regulatory-policy/germany-country-note-regulatory-policy-2018.pdf; Nationaler Normenkontrollrat and McKinsey & Company, *Erst der Inhalt, dann die Paragrafen. Gesetze wirksam und praxistauglich gestalten* [First the content, then the paragraphs. Make laws effective and practical] (Oct. 2019); *see also* Section II of this report; *see also* Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019* (OGP, 27 Jul. 2020), 23–24, https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/.

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[5] OECD, *Regulatory Policy Outlook 2018* "Germany" (2018), http://www.oecd.org/gov/regulatory-policy/germany-country-note-regulatory-policy-2018.pdf.

[6] Bundesregierung, *Bessere Werkzeuge für besseres Recht* [Better tools for better right] (Jun. 2019), 16–17, https://www.bundesregierung.de/resource/blob/997532/1638896/2c78a8f4b56441947308ac354339315e/2019-0619-bericht-buerokratieabbau-data.pdf?download=1.

[7] B. Lutz, "Plain language: an important basis of e-democracy and open government" in *Conference for E-Democracy and Open Government* (May 2016), 165.

[8] Ruth Sullivan, "The promise of plain language drafting," *McGill Law Journal* 47, no. 1 (Nov. 2001): 47, 97.

[9] Bundeskanzleramt, "Recht verständlich machen Untersuchung zur Verständlichkeit von Rechtstexten Zwischenergebnisse – Bevölkerungsrepräsentative Befragung" [Make it understandable Examination of the comprehensibility of legal texts Interim results - population representative survey] (2017), https://www.bundesregierung.de/resource/blob/975272/317254/03239f11929ea4f421f76f599a439362/de-verstaendlich-download-bericht-online-data.pdf?download=1.

[10] Bundesregierung, "Gutes Recht von Anfang an", July 2020 [Good legislation from the beginning], https://www.bundesregierung.de/resource/blob/975232/1767166/e5ae24f62f81952336b054eafd206d75/2020-07-08-bericht-gute-rechtsetzung-data.pdf?download=1

9. *Smarte LandRegion*: A pilot project for smart rural regions

Main Objective

Over the course of four years, the Federal Ministry of Food and Agriculture (BMEL) will provide funds to seven districts in which digital solutions (e.g. apps) seeking to improve everyday life in rural areas in response to identified need are developed and tried out in cooperation with a research institute. These endeavors will be supported by the development and study of a nationwide digital platform that will connect new prototype services with existing ones. The districts will also be assisted in developing strategies for the digital revolution, enhancing expertise in this area within their administrations and raising public awareness of the issues. Research will also be undertaken into the possibility of integrating additional districts – which are not receiving funding – into this digital ecosystem, so that they too can use the services and the networking potential of the platform in future.

Milestones

9.1. Approval of research project
9.2. Call for bids to districts
9.3. Selection and funding of seven districts (pilot regions)
9.4. Launch of digital platform; development and testing of digital services (four central services and 21 additional, less complex services)
9.5. Funding of digital projects by regional players (e.g. businesses, associations, etc.) in the seven districts
9.6. At least once a year: publication of project results

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation
Potential impact:	Minor

Commitment Analysis

This commitment supports using digital technology for public service delivery in rural districts. As part of its "smarte LandRegion'" initiative, the Federal Ministry of Food and Agriculture will support the launch of context-specific digital service applications in seven pilot districts and build a knowledge-sharing platform for rural districts. The ultimate objective is to help narrow the urban-rural gap and provide equivalent living conditions as mandated by Germany's Basic Law.

Digitization does not automatically lead to more administrative transparency or citizen engagement. However, the commitment mentions that people living in rural areas and other local stakeholders will participate in the implementation of the smarte LandRegion project,[1] and one of the main criteria for project selection is citizen and stakeholder participation.[2] Therefore, the commitment is relevant to the OGP value of civic participation.

Around 90% of Germany's surface area is rural[3] and around a quarter of its population live in rural districts.[4] Rural communities in Germany face distinctive challenges in digitalization of services. Only slightly more than half of rural households can access broadband speeds of 100 Mbits/s or more compared to more than 90% of urban households.[5] As of 2019, 90% of German districts regard the development of a digital strategy for their community as important and 80% are in the process of developing or implementing one, However, only 20% of districts with less than 20,000 residents have a

digital strategy.[6] Furthermore, even where communities have started implementing digital strategies, the focus is on building basic architecture for administrative operations, and do not include citizen-centric applications in health, energy, mobility, etc.[7] Two-thirds of local districts forming a digital strategy mention unclear external funding opportunities as a challenge; 39% of these "designers" say they would like to enlist citizen support for strategy development while the same portion of districts that are already implementing strategies have harnessed citizen support for designing them.[8]

Civic engagement in public service delivery is important in rural communities with shrinking, ageing populations.[9] Expanding these efforts is promising, as civic engagement in rural communities is considered higher than in urban areas.[10]

With its built-in research and assessment dimension and a learning platform, the smarte LandRegion initiative could improve transparency and learning, which are missing in many rural digital projects.[11] However, this commitment's scale of seven pilot projects is small. While it provides a first step toward greater digitization and participation, any larger impact depends on whether other rural districts follow suit. Moreover, a substantial number of digital innovation projects are already being tested in Germany and many of these contain significant elements of citizen participation.[12] Overall, this commitment is a minor but positive step for citizen participation in public services at the rural level. However, it should be noted that some activities are scheduled to conclude in 2023 and 2024, well after the second action plan's 2019–2021 implementation period.

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[1] See for example the emphasis on supporting the ideas of citizens in BMEL, *Ländliche Räume warden "smarter",* Pressemitteilung Nr. 242, (28 Nov. 2019);

[2] Bundesanstalt für Landwirtschaft und Ernährung, *Häufig gestellte Fragen (FAQ) zur Bekanntmachung für Landkreise als Teil des bundesweiten Modellvorhabens „Smarte LandRegionen"* [Frequently asked questions (FAQ) about the announcement for counties as part of the nationwide pilot project "Smart country regions"] (17 Dec. 2019), https://www.ble.de/SharedDocs/Downloads/DE/Projektfoerderung/LaendlicheRaeume/Smarte-Landregionen_ FAQ.pdf;jsessionid=8278D15ACD5738081AE9DB760DC695C6.2_cid325?__blob=publicationFile&v=2.

[3] BMEL, "Laendliche Regionen Verstehen" [Understand rural regions] (2019), https://www.bmel.de/SharedDocs/Downloads/DE/Broschueren/LaendlicheRegionen-verstehen.pdf?__blob=publicationFile&v=7.

[4] Bettina Williger, Annemarie Wojtech, *Digitalisierung im ländlichen Raum. Status Quo & Chancen für Gemeinden* [Digitization in rural areas. Status quo & opportunities for communities] (Fraunhofer SCS, 25 Apr. 2018), https://www.scs.fraunhofer.de/content/dam/scs/DE/download/studien/Digitalisierung_im_L%C3%A4ndlichen_Raum_WhitePaper _FraunhoferSCS.pdf.

[5] BMEL, *Kurzbericht zum Breitbandatlas Ende 2019 im Auftrag des Bundesministeriums für Verkehr und digitale Infrastruktur (BMVI)* [Brief report on the broadband atlas at the end of 2019 on behalf of the Federal Ministry of Transport and Digital Infrastructure] (Bundesministerium für Verkehr und digitale Infrastruktur, 2019), https://www.bmvi.de/SharedDocs/DE/Publikationen/DG/breitband-verfuegbarkeit-ende-2019.html.

[6] Initiative Stadt.Land.Digital!, *Update Digitalisierung: Wie smart sind Deutschlands Kommunen?* [Update digitization: How smart are German municipalities?] (Mar. 2020), https://www.de.digital/DIGITAL/Redaktion/DE/Publikation/stadt-land-digital-update- digitalisierung.html.

[7] *Id.*

[8] *Id.*

[9] Rolf Heinze and Anja Orth, "Bürgerschaftliches Engagement als Teil der kommunalen Governance" [Civic engagement as part of local governance] in *Die Zukunft der Regionen in Deutschland Zwischen Vielfalt und Gleichwertigkeit*, eds. M. Heuther *et al.* (Institut der deutschen Wirtschaft Köln Medien GmbH, 2019), https://www.iwkoeln.de/fileadmin/user_upload/Studien/Externe_Studien/2019/IW-Regionalstudie_2019.pdf; Berlin-Institut für Bevölkerung und Entwicklung, "Von Kirchtürmen und Netzwerken: Wie engagierte Bürger das Emsland voranbringen" [Church towers and networks: How committed citizens are promoting Emsland] (2017), https://www.berlin- institut.org/fileadmin/user_upload/Von_Kirchtuermen_Und_Netzwerken/Von_Kirchtuermen_Und_Netzwerken_Online.pdf.

[10] Nicole Hameister and Clemens Tesch-Römer, "Landkreise und kreisfreie Städte: Regionale Unterschiede im freiwilligen Engagement" [Counties and independent cities: regional differences in volunteering] in *Freiwilliges Engagement in Deutschland. Der Deutsche Freiwilligensurvey*, eds. Julia Simonson *et al.* (2014), 549–571.

[11] Basanta Thapa, Nicole Opiela, and Michel Stephan Rothe, *Ländlich, digital, attraktiv – Digitale Lösungsansätze für ländliche Räume* [Rural, digital, attractive - digital solutions for rural areas] (Öffentliche IT, 2020), https://www.oeffentliche- it.de/documents/10181/14412/L%C3%A4ndlich,+digital,+attraktiv+- +Digitale+L%C3%B6sungsans%C3%A4tze+f%C3%BCr+l%C3%A4ndliche+R%C3%A4ume.

[12] *Id.*

10. Developing infrastructure and framework conditions for open government in North Rhine-Westphalia

Main Objective
"The goal is to create the conditions required for open government in North Rhine-Westphalia to become firmly anchored in all areas and for the long term. Priorities here include avoiding redundant effort, boosting synergies and signposting the onward evolution of open government.

The primary aim of this commitment is to provide access to technological means of simplifying open government. This includes creating open standards for APIs and making open data easier to provide and to find. In addition, the introduction of an open government label is intended to create an incentive for more administrations to join open government initiatives."

Milestones
10.1. Recommending OParl standard for use across North Rhine-Westphalia (NRW)
- o   Concept development
- o   Implementation

10.2. Recommending OffenerHaushalt standard for use across NRW
- o   Concept development
- o   Testing and release of the platform
- o   Implementation

10.3. Recommending Open311 standard for use across NRW

10.4. Recommending XErleben standard

10.5. Creating easier options for municipal authorities to make data available via central Land metadata portal Open.NRW

10.6. Enhancing accessibility of data via search engine

10.7. Expanding model data catalogue for North Rhine-Westphalia

10.8. Developing and testing prototype open government label

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information
Potential impact:	Minor

Commitment Analysis
This commitment will standardize major transparency and open data practices in North Rhine-Westphalia. It will expand the use of the OParl, Open311, XErleben, and OffenerHaushalt standards among land and municipal authorities throughout North Rhine-Westphalia. It calls for facilitating data publishing by land and municipal authorities on the Open.NRW portal. Finally, it will test an open government seal to incentivize local data publishing. The commitment is relevant to the OGP value of access to information because it seeks to enhance the availability, accessibility, interoperability, and reuse of open data in public policy.

North Rhine-Westphalia is Germany's most populous state with 17.9 million inhabitants[1] and has long been a driving force for open government in the country. It was the first state to explicitly embrace open government as a guiding principle in policymaking[2] and serves as the staging ground for a

considerable number of open government experiments.[3] In 2015, it submitted a legislative motion for Germany to join OGP. In 2017, it launched a multistakeholder working group on open government (Arbeitskreis Open Government NRW) that includes state and local government representatives as well as civil society and businesses.[4] In addition, North Rhine-Westphalia amended its e-government law in July 2020 to make an "open data by default" principle mandatory.[5]

OParl, the standard for parliamentary information systems, was first published in 2016 and as of late 2019, the aggregator site[6] provides updates from more than 50 German cities.[7] A total of 27 local districts in North Rhine-Westphalia participated in the OParl pilot project.[8] As of October 2019, the federal government, ten states, and 39 districts have open budget initiatives that provide granular budget information online in easily understandable format.[9] However, some of these initiatives are not based on standardized open data formats. As of 2017 forty-three use the OParl standard and are accessible through the portal https://offenerhaushalt.de/, including the state government of North Rhine-Westphalia and 14 local districts.[10]

The incident-reporting standard, Open311, is used by seven cities in Germany, including four in North Rhine-Westphalia, and by a total of 23 cities worldwide as of late 2019.[11] The Open.NRW portal has over 3,900 datasets from over 45 local authorities, as of July 2020.[12] Creating an open government seal to incentivize, promote, and safeguard the quality of open government policies has been discussed since the inception of open government,[13] yet few seals have found traction in other countries.[14] There are currently no comparable initiatives in place in Germany.[15]

The activities regarding search-engine accessibility, model catalogue expansion, and easier publishing of open data are important, albeit incremental, improvements. If widely adopted, the promoted standards could enhance the transparency and comparative research value of core government functions in budgeting and local decision-making in North Rhine-Westphalia. The increased use of open standards in North Rhine-Westphalia could also serve as an example for other federal states and bring about improvements there.

Efforts to adopt open standard applications across the state could also be enhanced and serve as examples for other states. However, this commitment does not include activities to ensure widespread adoption of these standards, and therefore will not change the status quo significantly. Also, it should be noted that previous initiatives to promote widespread adoption of these standards yielded mixed results. For example, the platform for consolidated access to OffenerHaushalt data was relaunched in 2017 but has only modest growth in reporting entities.[16] This suggests that extra effort is required for widespread adoption. Similarly, a successful seal for local administrations requires substantive investments into a credible methodology and certification process; even then, improving local government behavior with a seal remains untested.[17] As the commitment lacks any concrete activities on how these challenges will be addressed, the potential changes to open data and transparency in North Rhine-Westphalia are minor.

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[1] Ministerium für Heimat, Kommunales, Bau und Gleichstellung des Landes NRW, "Land und Stadt gestalten" [Design the country and city] (2020), https://www.mhkbg.nrw/themen/kommunales/unsere-gemeinden-gewachsene-europaeische-staedte; Wikipedia, "List of municipalities in North Rhine-Westphalia" (accessed Aug. 2020), https://de.wikipedia.org/wiki/Liste_der_Gemeinden_in_Nordrhein-Westfalen.

[2] Göttrik Wewer and Till Wewer, *Open Government: Stärkung oder Schwächung der Demokratie?* [Strengthening or weakening democracy?] (Springer VS, 2019); *see* OpenNRW, "Open Government Pakt" [Open government pact] (2020), https://open.nrw/node/19.

[3] OpenNRW, "Open Government Pakt."

[4] *Id.*

[5] See OpenNRW, "Eine Open Data-Regelung für NRW", (14 July 2020), https://open.nrw/eine-open-data-regelung-fuer-nrw.

[6] Politik bei uns, "Was macht Ihre Politik vor Ort?" [What is your local policy doing?] (accessed Aug. 2020), https://politik-bei-uns.de/.

[7] *See* the implementation of OParl at city level (Munich Transparent, "So Funktioniert Stadtpolitik" [This is how city politics works] (accessed Aug. 2020), https://www.muenchen-transparent.de).

8 Ministerium für Wirtschaft, Innovation, Digitalisierung und Energie NRW, *Kommunales Open Government in NRW* [municipal open government in NRW] (2018), https://open.nrw/system/files/media/document/file/Best-Practice-Beispiele%20Kommunales%20Open%20Government%20in%20NRW.pdf.

9 HaushaltsSteuerung, "Offene Haushalte" [Open households] (accessed Aug. 2020), https://www.haushaltssteuerung.de/akteure-offene-haushalte.html.

10 Search by state on Offener Hauhalt, "Haushaltsdaten einfach verständlich präsentieren" [Present household data in an easily understandable way] (accessed Aug. 2020), https://offenerhaushalt.de/.

11 Open311, "GeoReport v2 Servers" (accessed Aug. 2020), http://wiki.open311.org/GeoReport_v2/Servers/.

12 German Federal Chancellery, *Second National Action Plan 2019–2021* (OGP, Sept. 2019), 54, https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

13 Beth Noveck and Michael Baldwin, "Wrap-Up of the Open Government Brainstorming: Collaboration" (The White House, 16, Jun. 2009), https://obamawhitehouse.archives.gov/blog/2009/06/16/wrap-open-government-brainstorming-collaboration; AmericaSpeaks *et al.*, "Working Together to Strengthen our Nation's Democracy: Ten Recommendations" from the second conference on "Strengthening Our Nation's Democracy" (Washington, DC: 2--4, 2009) https://www.demos.org/sites/default/files/publications/stronger_democracy_10_5.pdf.

14 Austria uses a label for Good Governance and Innovation in local government (KDZ, "Label für Good Governance (LfGGI)" [Good Governance Label (LfGGI)] (accessed Aug. 2020), https://www.kdz.eu/de/label-good-governance). The Philippines have a "Seal of Good Housekeeping," a Seal of "Excellence on Citizen's Satisfaction," and a "Seal of Good Local Governance," and have related commitments in their OGP action plans (NAP2 (Commitment 1), NAP 3 (Commitments 8 and 9). ISO 9001 certifications on quality management are also available for local communities but are only tangentially related to open government values See ISO, "ISO 18091:2019(en)
Quality management systems — Guidelines for the application of ISO 9001 in local government" https://www.iso.org/obp/ui#iso:std:iso:18091:ed-2:v1:en .

15 German local communities use a number of labels and seals that attest to certain features or qualities of the administration. These are often initiated at the local level. *See* Wirtschaftsforderung Zukunftsregion Nordschwarzwald, *Kommunale Kompetenz - ein Qualitatssiegel fur die Verwaltung* [Municipal competence - a seal of quality for the administration] (accessed Aug. 2020), https://www.enzkreis.de/media/custom/179_639_1.PDF); *see also* Quality Label "Unternehmerfreundliche Verwaltung" [Entrepreneur-friendly administration] (https://www.forum-thueringer-wald.de/project/verwaltung/)

16 Heinrich Böll Stiftung Kommunalwiki, "Offener Haushalt" [Open Household" (Jan. 2020), http://kommunalwiki.boell.de/index.php/Offener_Haushalt#cite_note-1.

17 *See* the implementation and credibility problems that plague even well-established certification systems such as ISO 9001 when used on local government units (Neven Klepo, *Statebuilding Von Unten* [Statebuilding From Below] (Springer VS, 2019).

11. Creating spaces for exchange and cooperation in North Rhine-Westphalia

Main Objective
"The goal is to drive forward the continued and targeted opening of North Rhine-Westphalia's administration to collaborative and co-creative processes in the interests of cultivating innovative projects, user-friendly services and solutions to identifiable challenges facing the administration.

This commitment is intended to create spaces in North Rhine-Westphalia for exchange and cooperation with the administration. Providing central physical spaces fosters regular exchange among the Land and municipal administrations, start-ups and civil society and encourages goal-oriented collaboration – unrestricted by boundaries between disciplines, official remits or levels of responsibility for implementation."

Milestones
11.1. Creating Land Government space [a physical location provided by the Government of the State of North Rhine-Westphalia] for exchange and agile cooperation
11.2. Developing a plan for a GovTech initiative and testing in a pilot project
11.3. Holding start-up pitches at administrative offices

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation
Potential impact:	Minor

Commitment Analysis
This commitment will establish a physical space for innovative solutions for North Rhine-Westphalia's public administration. It seeks to join government, civil society, and business stakeholders using innovation labs and gov-tech initiatives. By focusing on new ways to collaborate between government and civil society while designing public services, the commitment is relevant to the OGP value of civic participation.

Germany has several initiatives to advance innovative, technology-driven practices in the public sector (e.g., the regOGLs discussed in Commitment 1 and the Digital Innovation Team discussed in Commitment 4). Tech4Germany[1] and Work4 Germany[2] offer fellowships for technical and civil society innovators to work within the public sector. Similar initiatives exist in other countries, some of which are well-established. Estimates suggest that there are around 20 civic innovation labs in the US alone.[3] In the UK, Nesta[4] and the Government Digital Service[5] command substantive resources to promote civic and digital innovation in the government. Germany has also established physical spaces for co-creating innovation in government and societal use of technology.[6]

Established civic and technology labs in the public sector have catalyzed innovation.[7] Likewise, it is believed that physical proximity and creative spaces can spur more innovation within and between organizations.[8] Successful early experience with the Tech4Germany program has generated fresh ideas

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for improving government services through initiatives that connect civil servants and tech entrepreneurs.[9]

However, there has been increased reflection on the early initiatives' progress and some have been scaled back or disbanded entirely.[10] Challenges include achieving a truly inclusive and balanced multistakeholder commitment; productively combining civic and technical innovation; and integrating innovations into everyday government practice. In addition, it is unclear whether the ideas produced from this commitment will contribute directly to values of open government and inclusive participation or only target a narrow band of highly-skilled tech entrepreneurs. The potential impact of this commitment is therefore minor.

The commitment leaves open whether the establishment of a collaboration space for government, civil society, and technical experts will also be accompanied by a multi-stakeholder governance model. Equitable co-hosting could invigorate this area and promise new experiences and learning.[11] An interesting reference point could be the Hague Humanity Hub, which joins representatives from the public sector, civil society, and academia to work on humanitarian issues.[12]

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[1] Available at: https://tech.4germany.org/.

[2] Available at: https://work.4germany.org/.

[3] Available at: https://apolitical.co/government-innovation-lab-directory/.

[4] Available at: https://www.nesta.org.uk/.

[5] Available at: https://gds.blog.gov.uk/about/.

[6] *See* the Verschwoer Haus in the city of Ulm (https://verschwoerhaus.de/en/das-verschwoerhaus/).

[7] *See* for H.V. Carstensen and C. Bason, "Powering collaborative policy innovation: Can innovation labs help?" in *The Public Sector Innovation Journal*, 17 no.1 (2012): 1−26, https://www.innovation.cc/scholarly-style/2012_17_1_4_christian_bason_innovate-labs.pdf.

[8] M. Gross and A. Krellmann, "Etnwicklungsfelder fuer das kommunale Management in der Digitalen Verwaltung" [Development areas for municipal management in digital administration] in *Handbuch Digitale Verwaltung* H. Lühr, R. Jabkowski, and S. Smentek, eds. (Kommunal-und Schul-Verlag, 2019).

[9] Reports that the government may bring this independent initiative in-house and scale it up attest to its success (see Tagesspiegel Background, Digitalisierung &KI, (8 Apr. 2020)).

[10] Tamlin Magee and Tom Macaulay, "The major milestones of the Government Digital Service (GDS)" (ComputerWorld, 8 Jan. 2020), https://www.computerworld.com/article/3412240/the-major-milestones-of-the-government-digital-service-gds.html (concerns over the UK's GDS); Jennifer Guay, "How Denmark lost its MindLab: the inside story" (apolitical, 5 Jun. 2018), https://apolitical.co/en/solution_article/how-denmark-lost-its-mindlab-the-inside-story (MindLab, one of the first civic innovation labs for government, offers a cautious account about the challenge of fusing civic and technology innovation approaches to government reform).

[11] Many existing initiatives appear to be hosted by either a government or a civil entity, with limited dedicated co-working arrangements, e.g., the First Office Hub in London (https://www.firstofficehub.com/office-space/united-kingdom/westminster/westminster/public-hall/1052) and the OpenGov Hub in Washington, D.C. (http://opengovhub.org/). The San Francisco-based Superpublic attracted both public and private actors working to upgrade government services. However, it closed after just one year due to financial difficulties (Katya Schwenk, "Innovation labs take a gamble to improve city government" (StateScoop, 5 Jul. 2019), https://statescoop.com/innovation-labs-government-cities-successful/).

[12] Available at: https://www.humanityhub.net/.

12. Strengthening data sovereignty in North Rhine Westphalia

Main Objective

"This commitment is meant to promote the comprehensive provision of open data by the administrative authorities. Obstacles to publication – such as copyrights, protections favoring third parties and usage agreements – are to be reduced as much as possible so that data may be comprehensively used inside and outside the administration. This has the potential to assist and facilitate data-based decision-making at the administrative and political levels. It will give the public improved means of acquiring information on the basis of open data. What is more, it may give rise to new business models and an expansion in the use of artificial intelligence."

Milestones

12.1. Taking stock of data sovereignty in municipalities

12.2. Writing guidelines on ensuring administrative authorities' data ownership and data sovereignty

12.3. Publishing and recommending guidelines

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information
Potential impact:	Moderate

Commitment Analysis

The commitment aims to identify and address challenges for public administrations regarding data sovereignty in North Rhine-Westphalia. Data sovereignty pertains to access to and control by public administrations over the data that it generates during governmental functions. It also refers to data that third parties generate when working on behalf of public authorities.[1] Once governments achieve data sovereignty, they are free to publish and open data to the public. Therefore, it is relevant to the OGP value for access to information.

Data sovereignty is a relatively new policy area with considerable potential for mutual learning and capacity building at local and state levels.[2] Capitalizing on big data and open data often involves mixing data held by private and public actors. Similarly, transparent and accountable public service performance often requires data generated by private businesses as many government services are outsourced to private companies.[3] Furthermore, the rise of the "gig" and "platform" economies[4] has created regulatory challenges, which in Germany must often be addressed by state or local governments. Therefore, access to privately-held information is needed for meaningful regulatory oversight and essential service optimization.

Legal frameworks, procurement rules, and licensing practices also need to be adapted to facilitate data sovereignty and accommodate information sharing between governments and businesses, data collaboratives, and mandatory reporting regimes. Because of limited awareness, subnational governments often must fend for themselves when negotiating data sharing with companies or designing procurement and public-private partnership agreements that protect public access to important data. This threatens public access to data.

This commitment could directly address deficiencies around awareness and capacity regarding data sovereignty.[5] Examining data sovereignty in municipalities in North Rhine-Westphalia (Milestone 12.1) can determine where awareness and capacity challenges exist. This analysis could go beyond third-party service providers to broader data sovereignty issues like how communities structure private business licensing; this information can assist data-sharing for regulatory and governance purposes. Globally, high-profile examples include Barcelona's integration of data-sharing clauses into its contracts with suppliers and service providers;[6] Los Angeles' negotiation with a micro-mobility provider over access to real-time trip data;[7] and London's, Munich's, and Copenhagen's efforts to obtain data from an apartment-sharing platform.[8] Compiling and promoting guidance materials (Milestones 12.2 and 12.3) can benefit subnational governments in North Rhine-Westphalia, as well as across Germany and beyond.

By taking stock and reflecting on data sovereignty, this commitment invites a timely discussion on how privacy concerns can be addressed alongside publishing data that has value for transparency or economic-reuse.[9] Given this, and the potential to build governments' capacity, the commitment's impact on data sovereignty could be significant. It may not directly generate better access to information, but it could enable governments to secure public access to privately held data that has substantial public value.

To maximize the impact of this commitment, the North Rhine-Westphalia Ministry of Economic Affairs could ensure that the scoping exercise and guidance materials are relevant to and generated in cooperation with other German municipalities. It could also consider expanding the current focus on data from public-private partnerships to data-sharing possibilities with private entities who intersect with local regulations and public service issues (such as new platform businesses in the area of mobility or housing).

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[1] Data sovereignty is understood differently in different contexts. Often, it refers to the control of data by national states with strong territorial aspects of physical data location and crossborder data flows (e.g., the Gaia-X initiative of a European data cloud (http://dipbt.bundestag.de/dip21/btd/19/168/1916816.pdf)). Other times it refers to data control at individual level (e.g., Deutscher Ethikrat, *Big Data und Gesundheit – Datensouveränität als informationelle Freiheitsgestaltung. Stellungnahme.* (Berlin: Deutscher Ethikrat, 2017)). Given the commitment content, the IRM researcher has defined it as data holding and control by public authorities with a focus on subnational level administrative entities.

[2] For further reading on data sovereignty, consult: European Commission, *Towards a European strategy on business-to-government data sharing for the public interest, Final Report, High-Level Expert Group on Business-to-Government Data Sharing* (2020); B. Martens and N. Duch-Brown, "The economics of Business to Government data sharing, JRC Digital Economy Working Paper" (Apr. 2020); Esther Huyer, *Analytical Report 12: Business-to-Government Data Sharing* (European Data Portal, 15 Jul. 2020), https://www.europeandataportal.eu/sites/default/files/analytical_report_12_business_government_data_sharing.pdf.

[3] *See* Andreas Wiebe, "Open Data in Deutschland und Europa" (Konrad Adenauer Stiftung, 5. Feb. 2020), https://www.kas.de/de/einzeltitel/-/content/open-data-in-deutschland-und-europa-1.

[4] For an explanation of these concepts, *see* J. Manyika, *et al.*, *Independent work: Choice, necessity, and the gig economy* (McKinsey Global Institute, 2016), 1–16; M. Kenney and J. Zysman, "The rise of the platform economy" in *Issues in science and technology* 32 no.3 (2016): 61.

[5] For an example of a recent and rare parliamentary discussion that touches upon data sovereignty in the context of local communities, *see* Deutscher Bundestag, *Beschlussempfehlung und Bericht des Ausschusses für Bau, Wohnen, Stadtentwicklung und Kommunen* [Decision recommendation and report of the Committee for Construction, Housing, Urban Development and Municipalities] 19/15364, (21 Nov. 2019), http://dipbt.bundestag.de/dip21/btd/19/153/1915364.pdf.

[6] Thomas Graham, "Barcelona is leading the fightback against smart city surveillance" (Wired, 18 May, 2018) https://www.wired.co.uk/article/barcelona-decidim-ada-colau-francesca-bria-decode.

[7] Laura Nelson, "Uber sues L.A. over real-time location data for scooters and bikes" (*L.A. Times*, 25 Mar. 2020) https://www.latimes.com/california/story/2020-03-25/uber-sues-los-angeles-scooters-data-privacy.

[8] M. Ferreri and R. Sanyal, "Platform economies and urban planning: Airbnb and regulated deregulation in London" in *Urban Studies* 55 no.15 (2018): 3353–3368, https://www.sueddeutsche.de/muenchen/airbnb-muenchen-klage-1.4249813; Emil Gjerding Nielson, "Airbnb to report homeowners' income to Danish tax authorities" (Reuters, 17 May 2018), https://www.reuters.com/article/us-airbnb-denmark/airbnb-to-report-homeowners-income-to-danish-tax-authorities-idUSKCN1II1HV; Sueddeutsche Zeitung, "Airbnb muss Daten zu Vermietern in München preisgeben" (13 Dec. 2018).

[9] For example, discussions about access to mobility data generated by public transport involves privacy concerns.

13. Further developing and establishing the participation portal of the Free State of Saxony

Main Objective

"The Free State of Saxony's Beteiligungsportal, or participation portal, is just the kind of instrument required [for involving citizens in decision-making processes]. This application will facilitate various forms of civic involvement to be undertaken online. People can engage in discussion on free-ranging subjects, in formal types of participation like planning procedures, and in online surveys."

Milestones

13.1. General ongoing evolution

13.2. Urban land-use planning 2.0

13.3. App for specialized reporting procedures

13.4. Assuring interoperability in planning procedures by means of XPlanung standard

13.5. Repeating BITV test to check accessibility

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Civic participation, access to information
Potential impact:	Moderate

Commitment Analysis

This commitment will expand opportunities for civic engagement in the Free State of Saxony by further developing the state's citizen participation portal (*Buergerbeteiligungsportal*).[1] Among the planned improvements are applications for formal participation (including in urban planning), collective reporting channels (e.g. for reporting problems with hiking trails), information interoperability, accessibility standards. The commitment is directly relevant to the OGP value of civic participation. The portal also enhances access to information by making district development plans available and searchable online, and hosting crowd-reporting mechanisms that transparently disclose feedback and follow-up measures.

Initiated in 2014, Saxony's participation portal hosts 150 regional or thematic sub-portals[2] and has supported over 5,400 participation processes as of early 2020.[3] At the start of this commitment in September 2019, 346 administrative entities at state and local levels actively used the portal and conducted an average 400 participation and information events per month.[4]

As the commitment plans to continuously develop the platform without specifying the intended improvements in the action plan, it is difficult to accurately assess its level of ambition. However, several considerations suggest that tangible improvements can be expected. The portal already has a large user base of local government units, so even incremental improvements in user engagement interfaces would be immediately available across all participating municipalities and provide cumulative benefits at scale. This amplification is likely to grow, as other German states have entered into discussion with Saxony on how they can join or license the platform.[5]

Expanding participation around urban planning (Milestone 13.2, *Bauleitplanung* 2.0)[6] is highly relevant to the challenge of climate change mitigation and adaptation.[7]

Urban planning already has a rich history of civic engagement.[8] Efforts in this area are most likely related to enhancing current participation through digital tools and online channels.[9] These efforts can also build on an existing sub-portal that provides access to district-level land development masterplans. Achieving full interoperability across different planning procedures (Milestone 13.4) is quite ambitious, as this can involve different information systems and actors, and accessibility must be protected to ensure inclusive participation (Milestone 13.5).

Finally, the broader political environment appears to be conducive for the successful implementation of this commitment. Active development of the portal in combination with the development of a transparency law for the state is included in the 2019−2024 coalition agreement by the state's three ruling parties.[10] The overall potential to expand civic engagement in Saxony is therefore assessed as moderate, despite the lack of specific targets in the milestones.

[1] Saxon State Chancellory, "Bürgerbeteiligung in Sachsen - Gestalten Sie mit!" [Citizen participation in Saxony - help shape it!] (accessed Aug. 2020),https://buergerbeteiligung.sachsen.de/.
[2] Information by the developer; Xima, "Projekte: Beteiligungsportal Sachsen Digitaler Bürgerdialog" [Projects: Participation portal Saxony Digital citizen dialogue] (accessed Aug. 2020), https://www.xima.de/projekte/beteiligungsportal-sachsen.
[3] Thomas Popp and Manfred Klein, "Mitmachen, 'Mitreden ausdrücklich erwünscht'" [Get involved, expressly encouraged to have a say] (eGovernment Computing, 2 Mar. 2020), https://www.egovernment-computing.de/mitmachen-mitreden-ausdruecklich-erwuenscht-a-909975/ (Op-ed by the state government's CIO).
[4] Ralph Schreiber, "Medieninformation Sächsische Staatskanzlei: Regierungs- und Verwaltungshandeln offener gestalten – Sachsen ist dabei" [Media information Saxon State Chancellery Make government and administrative action more open - Saxony is there] (4 Sept. 2019), https://opera.foev-speyer.de/opus4/frontdoor/deliver/index/docId/97/file/Beteiligungsportal+Sachsen.pdf.
[5] Popp and Klein, "Mitmachen, 'Mitreden ausdrücklich erwünscht.'"
[6] Saxon State Chancellory, "Bauleitplanung in Sachsen - Gestalten Sie mit!" [Site planning in Saxony - help shape it!] (accessed Aug. 2020), https://buergerbeteiligung.sachsen.de/portal/bplan/startseite.
[7] This link is exemplified by an explicit reference in the current coalition agreement, *Koalitionsvertrag Sachsen für die Jahre 2019 bis 2024*, https://www.mdr.de/sachsen/politik/koalitionsvertrag-sachsen-104.html.
[8] Urban planning has included large-scale, innovative civic engagement since the 1960s and is thus a leading example for civic engagement more broadly. *See* L. Winter, *Bauleitplanung und Internet: Beteiligungsverfahren des Baugesetzbuches" im Wandel* vol.16 [Urban land use planning and the internet: participation procedures in the building code are changing] (Vandenhoeck & Ruprecht, 2013); S. R. Arnstein, "A Ladder Of Citizen Participation" in *Journal of the American Institute of Planners*, 35 no.4 (1969): 216.
[9] This is speculation by the IRM researcher, as more detailed background information could not be procured.
[10] CDU, Bündnis 90/Die Grünen, und SPD, *Koalitionsvertrag Sachsen für die Jahre 2019 bis 2024* [Background coalition agreement Saxony for the years 2019 to 2024] (Mitteldeutsche Rundfunk, accessed Aug. 2020), https://www.mdr.de/sachsen/politik/koalitionsvertrag-sachsen-104.html.

14. Schleswig-Holstein- Open-source software in public administrations

Main Objective

"When it comes to developing software for specialist applications, the goal is open-source development. To achieve that ambition, we will revise the relevant procurement conditions, among other activities. Schleswig-Holstein will provide access to an online platform on which members of the public can examine, comment on and discuss software the Land has commissioned.

In data centers, the use of open-source software (OSS) technologies will be tested and implemented. This will chiefly affect server systems and databases set up with or replaced by OSS. In piloting an OSS-equipped workstation for administrative bodies, we are seizing the opportunity to avoid contractual and financial dependence (on, for instance, commercially available cloud infrastructure), prevent undesirable data leakage and reduce licensing costs."

Milestones

14.1. Launch of platform for publishing and collaborating

14.2. Pilot on use of Open Document format and LibreOffice as standards in administrative posts

14.3. Release of source code for five specialist procedures

14.4. Release of source code for another five specialist procedures

Editorial Note: For the complete text of this commitment, please see Germany's action plan at: https://www.opengovpartnership.org/wp-content/uploads/2019/09/Germany_Action-Plan_2019-2021_EN.pdf.

IRM Design Report Assessment	
Verifiable:	Yes
Relevant:	Access to information, civic participation
Potential impact:	Moderate

Commitment Analysis

The commitment promotes the use of open-source software across the public administration in the state of Schleswig-Holstein. The focus of the commitment is on using open-source software in data centers and on office software programs for specific administrative functions. The possibility for civic technology entrepreneurs to shape the design of ICT infrastructure and build novel applications for the public sector makes the commitment relevant to the OGP value of civic participation. The commitment also calls for creating an online platform where the state will publish the software that it has commissioned. It is therefore also relevant to the OGP value access to information.

Open source within public administrations has acquired renewed salience with the proliferation of information security and surveillance issues[1] and concerns over digital sovereignty.[2] There are also a growing number of essential public digital infrastructures, such as smart electricity grids, electronic voting systems,[3] and algorithm-aided decision-making in public administrations.[4] The possibility of subjecting these systems to public scrutiny is important both for improving trust in the architectural integrity of basic ICT infrastructures, and for reassuring citizens that public service applications respect and protect essential civic rights.

Efforts to expand the role of open source software in the German administration at the local and federal levels have already led to a number of projects. The overall experience has so far been mixed.[5] Even

administrations that have not yet made a concerted push for open source software typically already use a number of open source products, albeit often in a fragmented manner.[6]

While aggregated numbers are difficult to come by, it is estimated that the overall market share (by turnover) of open source office applications in Germany remains well below 10%, while MS Office increased its market share to 84% by 2017. Similarly, open source desktop operating systems have only incrementally grown to account for 4% of the market by 2017, while MS Windows accounts for more than 80% of the market.[7] A study commissioned by the Federal Ministry of the Interior identified vulnerabilities resulting from this substantive dependence on proprietary applications and dominant vendors. These vulnerabilities relate to issues around information security, legal certainty, and bargaining power for the federal public administration.[8] Similar implications likely also apply to public administration at the state level. Finally, none of the more than 50 specialized software applications that Schleswig-Holstein has commissioned or developed between 2005 and 2015 have their source code disclosed.[9]

Milestones 14.1 and 14.2 incrementally expand on some of the numerous open source initiatives in the German administration referenced above. The commitment refers to a pilot implementation project but lacks any specific distribution targets. However, against the backdrop of digital sovereignty and algorithmic accountability issues mentioned above, the planned disclosure of the source codes for a total of ten specialized administrative applications (Milestones 14.3 and 14.4) is noteworthy and goes beyond previous efforts to introduce open standards and applications for general office applications. Although the commitment does not specify which applications will be opened, the potential reference point that comes with this disclosure could lead to moderate improvements in the use of open source software.

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[1] Deutscher Bundestag, *Öffentliche Anhörung des Ausschusses Digitale Agenda zum Thema „IT-Sicherheit von Hard- und Software als Voraussetzung für Digitale Souveränität"* [Public hearing of the Digital Agenda Committee on IT security of hardware and software as a prerequisite for digital sovereignty] 19(23)077 (11 Dec. 2019), https://www.bundestag.de/resource/blob/672400/73e2e0ada780bf000e838c320ca5eb7f/Stellungnahme-BSI-data.pdf; UP Kritis, *Best-Practice-Empfehlungen für Anforderungen an Lieferanten zur Gewährleistung der Informationssicherheit in Kritischen Infrastrukturen* [Best practice recommendations for requirements for suppliers to ensure information security in critical infrastructures] Version 2.0 (6 Nov. 2019), https://www.bbk.bund.de/SharedDocs/Downloads/Kritis/DE/Anforderungen_an_Lieferanten.pdf?__blob=publicationFile.

[2] Plattform Innovative Digitalisierung der Wirtschaft, *Digitale Souveränität und Künstliche Intelligenz – Voraussetzungen, Verantwortlichkeiten und Handlungsempfehlungen* [Digital sovereignty and artificial Intelligence - prerequisites, Responsibilities and recommendations for action] (Digital Gipfel Nuernberg, 2018), https://www.de.digital/DIGITAL/Redaktion/DE/Digital-Gipfel/Download/2018/p2-digitale-souveraenitaet-und-kuenstliche-intelligenz.pdf?__blob=publicationFile&v=5; Deutscher Bundestag, *Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Manuel Höferlin et al* [The Federal Government's Answer to the Small Question by Manuel Höferlin et al] 19/11445 (9 Jul. 2019), http://dipbt.bundestag.de/dip21/btd/19/114/1911445.pdf) (https://www.de.digital/DIGITAL/Redaktion/DE/Digital-Gipfel/Download/2018/p2-digitale-souveraenitaet-und-kuenstliche-intelligenz.pdf?__blob=publicationFile&v=5.

[3] AG Kritis, "Politische Forderungen" [Political Demands] (accessed Aug. 2020), https://ag.kritis.info/politische-forderungen/.

[4] See for example Datenethikkommission, *Gutachten der Datenethikkommission* [Expert opinion of the Data Ethics Committee] (Oct. 2019), https://www.bmi.bund.de/SharedDocs/downloads/DE/publikationen/themen/it-digitalpolitik/gutachten-datenethikkommission.pdf?__blob=publicationFile&v=6.

[5] For an overview, *see* Wikipedia, "Operating costs of individualized solutions" in "Open source software in public institutions" (accessed Aug. 2020), https://de.wikipedia.org/wiki/Open-Source-Software_in_%C3%B6ffentlichen_Einrichtungen#Deutschland; PwC Strategy&, *Strategische Marktanalyse zur Reduzierung von Abhängigkeiten von einzelnen Software-Anbietern* [Strategic Market analysis for Reduction of Dependencies from individual Software providers] (Aug. 2019), https://www.cio.bund.de/SharedDocs/Publikationen/DE/Aktuelles/20190919_strategische_marktanalyse.pdf?__blob=publicationFile (Munich moved into open source and controversially reversed course).

[6] The city of Dortmund counted more than 170 open source products in use across the city administration in 2019 (Stadt Dortmund, *Untersuchung der Potenziale von Freier Software und Offenen Standards* [Investigation of the potential of free software and open standards] (Dec. 2019), https://projekt.do-foss.de/attachments/649/2019-12_-_AG_FS_-_Untersuchung_der_Potenziale_von_Freier_Software_und_Offenen_Standards_-_Sachstandsbericht_inkl._Anhaengen.pdf).

[7] Statistics refer to the entire country (public, business, and private users). PwC Strategy&, *Strategische Marktanalyse zur Reduzierung von Abhängigkeiten von einzelnen Software-Anbietern*.

[8] *Id.*

[9] Schleswig-Holsteinischer Landtag, *Kleine Anfrage des Abgeordneten Uli König (PIRATEN) und Antwort der Landesregierung* [Small request from the MP Uli König (PIRATES) and response from the state government] 18/3998 (Aug. 2020), https://kleineanfragen.de/schleswig-holstein/18/3998-lizenzbedingungen-von-software-die-im-auftrag-des-landes-programmiert-wurde-und-moegliche-freigabe-als-open-source.

V. General Recommendations

This section aims to inform the 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 and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Five Key Recommendations

Recommendations for the next action plan's development process	
1	Add a further consultation step for the draft action plan and strengthen the institutional basis for more collaborative design and stewardship of the action plan.
2	Expand and systematize outreach to and involvement of actors at local and state levels, as well as the parliamentary administration.

Add a further consultation step on the draft action plan and strengthen the institutional basis for more collaborative design and stewardship of the action plan.
The design process for Germany's second action plan saw significant improvements compared to the first action plan's process. These improvements included more public engagement opportunities, a more interactive and differentiated online consultation process, and more extensive feedback by the government on civil society proposals. However, there is still room for broadening the range of stakeholders that partake in the OGP process. In addition, there was no opportunity for public input on the draft action plan itself, leaving a substantive disconnect between civil society suggestions and the ultimate action plan commitments. Introducing an additional opportunity for stakeholders to provide feedback at the finalization stage could help refine commitments, incorporate more civil society suggestions and overall enhance meaningful engagement and co-ownership.[1]

Furthermore it would be important to continue exploring options to further bring the OGP process in Germany in line with OGP's Participation and Co-creation Standards.[2] In this respect, the IRM researcher reiterates a recommendation from the 2017−2019 action plan to consider transitioning from an all-encompassing open government consultation process to a set of thematically focused dialogues.

Such dialogues could allow specialized civil society stakeholders and relevant ministries to jointly develop commitments based on shared thematic interests. This could also help formalize and standardize the cooperation between civil society and ministerial representatives and ensure more collaborative ownership of the action plan.

Expand and systematize outreach to and involvement of actors at local and state levels, as well as the parliamentary administration.
The inclusion of five commitments by German states in the second action plan is an encouraging development. Germany has a vibrant open government community focused on local and state activities, and standardizing the inclusion of this community into the OGP process could bring new and innovative initiatives into future action plans.[3] Some of the included state-level commitments already exhibit an above average level of ambition and innovation and could be expanded going forward. As the related coordination body emphasized, these outreach and subnational inclusion efforts can be further improved and integrated.[4]

In addition, convening, outreach and / or engagement efforts could be expanded to political parties, and the parliamentary administration. Where the executive faces legal and practical limitations to do so, it could encourage and facilitate outreach to these stakeholders via civil society, for example by co-hosting joint events on related topics. This could further enhance the visibility of OGP, broaden engagement, and make it easier to deliberate commitments that cut across responsibilities of these different actors, such as money in politics, risks of undue influence, and conflict-of-interest management.[5]

Recommendations for the next action plan's design[6]	
3	Establish a thematic focus on climate change: the green transformation and open government.
4	Revisit civil society and international suggestions on lobbying (a mandatory, effectively enforced registry) and conflict-of-interest management (e.g., better reporting of assets, incomes, and interests) in order to improve regulation in these areas. Include a strong commitment to maximize the efficacy of any possible regulations in these areas.
5	Consider expanding innovative state-level commitments on adopting open data standards, and data sovereignty.

Establish a thematic focus on climate change: the green transformation and open government.

Climate change presents perhaps the most formidable policy challenge of our time and the transformation of economic and governance structures is gaining momentum. Steering these processes requires upgrading and establishing new frameworks for data access, transparency, accountability, and participation. To date, none of the action plan commitments have directly focused on climate change. Potential commitments in this area could build on Germany's leadership in environmental transparency by accounting for environmental impacts of the federal budget and the extractives sector.[7] This debate can also leverage previous OGP commitments, such as developing quality standards for participation in environmental policy-making (Commitment 8 in the first action plan) and improving extractive industry transparency (Commitment 5 in the first action plan). This commitment would be timely, as the EU prioritized development data pools regarding the environment in its new data strategy published in early 2020. Also, the German federal government recognizes data as a key factor for climate protection in the principles of its own data strategy currently in development.[8]

Revisit civil society and international suggestions on lobbying (a mandatory, effectively enforced registry) and conflict-of-interest management (e.g., better reporting of assets, incomes, and interests). Include a strong commitment to maximize the efficacy of any possible regulations in these areas.

Improving transparency in lobbying and conflict-of-interest management has been a priority for civil society both in the first and second action plans and has been repeatedly flagged as a concern in international expert reviews.[9] Currently, there lacks a mandatory, comprehensive lobbying register and granularity in asset, income, and interest reporting by senior office holders. Revisiting this issue must go beyond increasing administrative efforts and requires political leadership and capital. At the same time, such a move could substantively raise the ambition of the next action plan and underscore Germany's leadership in open government both at the national and international level, particularly when shrinking civil society space and the role of special interests is a growing concern.

Equally important, it could help re-energize engagement of German civil society in the OGP process, as it currently is at risk of being eroded due to a growing perception that invested time and resources does not yield results. Finally, the political will to reconsider these issues by the government could also incentivize civil society to expand its advocacy beyond the OGP process and engage ministries and stakeholders on these issues to better prepare the public for embracing the next action plan.

Consider expanding innovative state-level commitments on adopting open data standards, and data sovereignty.

In order to harness the potential of big data, there must be effective collaboratives of public and private data, particularly when needed for public oversight. Commitment 12 helps local communities act as data stewards vis-à-vis third party service providers. This stewardship and data sovereignty could be broadened to update data-sharing obligations and privacy protections for businesses who have large implications for communities and local governments, such as the mobility or housing sectors. Data sovereignty broaches a highly topical and timely policy issue that should be of relevance across the

government and also intersects with civil society interests in the area of open data, corporate governance and technology governance. It could therefore merit development into a federal level commitment.

5.2 Response to Previous IRM Key Recommendations
Previous IRM Report Key Recommendations

	Recommendation	Did it inform the OGP Process?
1	1. Improve co-creation in a holistic way	✓
2	2. Invest increased resources to support civil society participation in the OGP process	✓
3	3. Leverage OGP for developing new commitments beyond pre-existing initiatives	✗
4	4. Use windows of opportunity for ambitious thematic commitments in the next action plan	✓
5	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.	✓

The government incorporated most of the Key Recommendations from the 2017−2019 IRM Design Report. For Recommendation 1, the co-creation process for the second action plan involved more engagement and online interaction, yet still lacked feedback for the full action plan draft. The OGP budget increased over the first action plan (Recommendation 2) and can support more proactive interaction with civil society. However, no mechanism exists to directly support civil society engagement and participation in the OGP process. The second action plan continues to cover mostly already existing or planned activities (Recommendation 3).

For Recommendation 4, the ambition of federal commitments is comparable with the first plan and continues to have room for improvement. However, state initiatives and the inclusion of five state-led commitments generated additional momentum. This has yielded noteworthy initiatives in open data and expands on related open data commitments at the federal level from the first action plan. Senior-level endorsement of Germany's OGP participation has become more visible and the high profile that Germany has decided to assume in the international OGP process further strengthens senior government commitment (Recommendation 5).

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[1] *See Section III of this report for more details.*

[2] Available at: https://www.opengovpartnership.org/ogp-participation-co-creation-standards/.

[3] The inclusion of a broader range of open government activities in the context section of the second national action plan is another welcome development in this regard.

[4] IT-Planungsrat, *Bericht des IT-Planungsrats für die Jahre 2019 und 2020 an die Besprechung des Chefs des Bundeskanzleramts mit den Chefinnen und Chefs der Staats- und Senatskanzleien der Länder* [IT Planning Council report for 2019 and 2020 to the meeting of the boss of the Federal Chancellery with the bosses of the state and senate offices of the federal states] (29 Oct. 2019), https://www.it-planungsrat.de/SharedDocs/Downloads/DE/Entscheidungen/30_Sitzung/Bericht_ITPLR_2019-2020.pdf?__blob=publicationFile&v=1.

[5] Stronger involvement by parliament and parties would also address concerns by OGP critics that the entire process is too focused on cooperation between the executive and civil society and somewhat neglects the central role of the legislative in parliamentary democracies (Göttrik Wewer and Till Wewer, *Open Government: Stärkung oder Schwächung der Demokratie?* [Strengthening or weakening democracy?] (Springer VS, 2019), 244).

[6] This review was drafted in the early stages of the Covid-19 pandemic. Given the rapidly evolving situation and uncertainty, the IRM researcher deliberately did not try to capture any implications for the open government process and content at this early stage. However, such implications will be highly relevant for the next action plan.

[7] See Dieter Zinnbauer, *Independent Reporting Mechanism (IRM): Germany Implementation Report 2017–2019* (OGP, 27 Jul. 2020), 17−18, https://www.opengovpartnership.org/documents/germany-implementation-report-2017-2019/ (Germany's exemplary environmental reporting in extractives). See also OECD, Government at a Glance 2019 "Country Fact Sheet: Germany" (2019),

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114, https://www.oecd.org/gov/gov-at-a-glance-2019-germany.pdf (Germany's exemplary reporting of environmental and climate implications in budgeting).

8 European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European strategy for data* (19 Feb. 2020), https://ec.europa.eu/info/sites/info/files/communication-european-strategy-data-19feb2020_en.pdf; Bundesregierung, *Eckpunkte einer Datenstrategie der Bundesregierung* [Key points of a data strategy of the federal government] (2019), https://www.bundesregierung.de/resource/blob/997532/1693626/e617eb58f3464ed13b8ded65c7d3d5a1/2019-11-18-pdf-datenstrategie-data.pdf.

9 *See* Section II. *See also* Council of Europe, *Second Compliance Report Germany* Fourth Evaluation Round GrecoRC4 (2019), 1.

VI. Methodology and Sources

IRM reports are written in collaboration with researchers for each OGP-participating country. 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, findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations.

Each IRM researcher conducts 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.[2]

Interviews and stakeholder input

The IRM researcher gathered information through the following activities

- Onsite participant observation at two consultation events that were part of the second action plan co-creation process
    - Consultation kick-off workshop, 6 March 2019[3]
    - Brainstorm workshop, 15 May 2019[4]
- Onsite interview with the coordinator of Open Government Network, Berlin and OGP-side local liaison persons, 25 October 2019
- Observation of online consultation forum (March−April 2019)
- Semi-structured email interviews with government commitment owners, March and April 2020 (by 15 April 2020, received eight replies from eleven individuals contacted)
- Follow-up interviews with government and civil society representatives (questions related to the first action plan's implementation and the second action plan's design)
    - Interview with OGP point of contact (two persons): 10 December 2019 and various follow-ups by email
    - Interview with government representative,18 December 2019
    - Interview with civil society representative, 5 December 2019
    - Interview with civil society representative, 6 December 2019
    - Interview with civil society representative, 29 November 2019
    - Interview with civil society representative, 29 November 2019
    - Interview with academic expert, 17 December 2019
- Semi-structured survey to civil society with questions about the consultation process (eight responses), 27 November 2019–5 December 2019
- Extensive desk research of primary and secondary sources

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.

Current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Juanita Olaya

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.

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[1] Open Government Deutschland, "Teilnahme an der OGP: Berichtswesen" [Participation in the OGP: Reporting] (accessed Aug. 2020), https://www.open-government-deutschland.de/opengov-de/aktionsplaene-und-berichte/berichtswesen-1591026.

[2] OGP, *IRM Procedures Manual* (16 Sept. 2017), https://www.opengovpartnership.org/documents/irm-procedures-manual.

[3] Open Government Deutschland, "Startschuss für mehr Open Government Konsultationsphase für den zweiten Aktionsplan gestartet" [Starting signal for more open government Consultation phase started for the second action plan] (accessed Aug. 2020), https://www.open-government-deutschland.de/opengov-de/konsultationsphase-fuer-den-zweiten-aktionsplan-gestartet-1591314.

[4] https://bscw.bund.de/pub/bscw.cgi/72645422.

Annex I. Commitment Indicators

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 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:**
  - o Not specific enough to verify: Do the written objectives and proposed actions lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment?
  - o Specific enough to verify: Are the written objectives and proposed actions sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment?

- **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 relevance are:
  - o Access to Information: Will the government disclose more information or improve the quality of the information disclosed to the public?
  - o Civic Participation: Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
  - o Public Accountability: Will the government create or improve public-facing opportunities to hold officials answerable for their actions?

- **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:
  - o Identify the social, economic, political, or environmental problem;
  - o Establish the status quo at the outset of the action plan; and
  - o 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 country's 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 country's IRM Implementation Report.

What makes a results-oriented commitment?

A results-oriented commitment has more potential to be ambitious and be implemented. It 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% 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.")

Starred commitments

One measure, the "starred commitment" (✪), deserves further explanation due to its 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.

These variables are assessed at the end of the action plan cycle in Germany's IRM Implementation Report.

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[1] OGP, "Open Government Partnership: Articles of Governance" (17 June 2019), https://www.opengovpartnership.org/articles-of-governance/.
[2] OGP, *IRM Procedures Manual* (16 Sept. 2017), https://www.opengovpartnership.org/documents/irm-procedures-manual.